Foreword from *The Innocents*

Taryn Simon

I was asked to come down and look at the photo array of different men. I picked Ron's photo because in my mind it most closely resembled the man who attacked me. But really what happened was that, because I had made a composite sketch, he actually most closely resembled my sketch as opposed to the actual attacker. By the time we went to do a physical lineup, they asked if I could physically identify the person. I picked out Ronald because, subconsciously, in my mind, he resembled the photo, which resembled the composite, which resembled the attacker. All the images became enmeshed to one image that became Ron, and Ron became my attacker.

–Jennifer Thompson, on the process to identify the man who raped her

From 2000–2002, I traveled across the United States photographing and interviewing men and women convicted of crimes they did not commit. In each case, photography offered the criminal justice system a tool that transformed innocent citizens into criminals, assisted officers in obtaining erroneous eyewitness identifications, and aided prosecutors in securing convictions. The criminal justice system had failed to recognize the limitations of relying on photographic images.

For the men and women in this book, the primary cause of wrongful conviction was mistaken identification. A victim or eyewitness identifies a suspected perpetrator through law enforcement's use of photographs and lineups. These identifications rely on the assumption of precise visual memory. But through exposure to composite sketches, mugshots, Polaroids, and lineups, eyewitness memory can change. Police officers and prosecutors influence memory—both unintentionally and intentionally—through the ways in which they conduct the identification process. They can shape, and even generate, what comes to be known as eyewitness testimony.

Jennifer Thompson's account of the process by which she misidentified her attacker illustrates the malleability of memory. A domino effect ensues in which victims do remember a face, but not necessarily the face they saw during the commission of the crime. 'All the images became enmeshed to one image that became Ron, and Ron became my attacker.'

In the case of Marvin Anderson, convicted of rape, forcible sodomy, abduction, and robbery, the victim was shown a photographic array of six similar black-and-white mugshots and one color photo. The face that stood out to the victim was the color photo of Anderson. After the victim picked Anderson from the photo array, she identified him in a live lineup. Of the seven men in the photo array, Anderson was the only one who was also in the lineup. Marvin Anderson served 15 years of a 210-year sentence.

In the case of Troy Webb, convicted of rape, kidnapping, and robbery, the victim was shown a photo array. She tentatively identified Webb's photo, but said that he looked too old. The police then presented another photo of Webb taken four years before the crime occurred. He was positively identified. Troy Webb served 7 years of a 47-year sentence.

The high stakes of the criminal justice system underscore the importance of a photographic image's history and context. The photographs in this book rely upon supporting materials—captions, case profiles, and interviews—in an effort to construct a more adequate account of these cases. This project stresses the cost of ignoring the limitations of photography and minimizing the context in which photographic images are presented. Nowhere are the material effects of ignoring a photograph's context as profound as in the misidentification that leads to the imprisonment or execution of an innocent person.
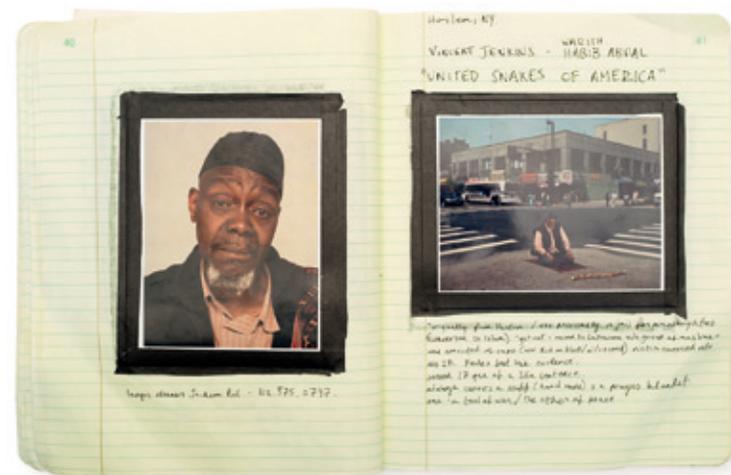
Project journals of large-format Polaroids and notes, 2000–2002
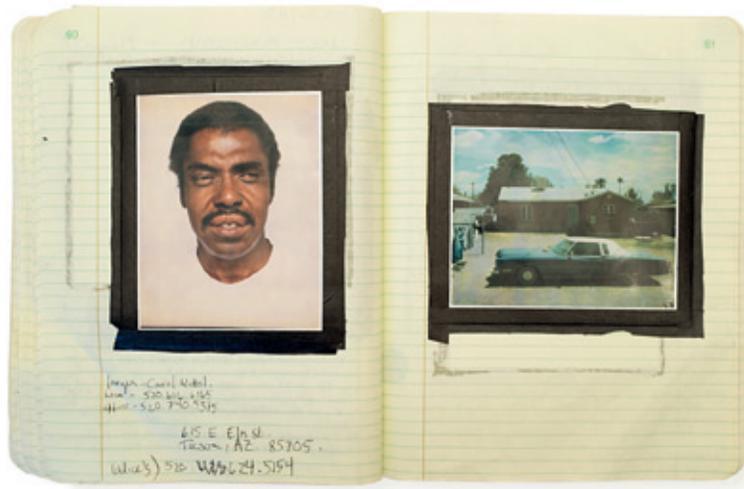
Project journals of large-format Polaroids and notes, 2000–2002

Photography's ability to blur truth and fiction is one of its most compelling qualities. But when misused as part of a prosecutor's arsenal, this ambiguity can have severe, even lethal consequences. Photographs in the criminal justice system, and elsewhere, can turn fiction into fact. As I got to know the men and women in this book, I saw that photography's ambiguity, beautiful in one context, can be devastating in another.

I photographed each innocent person at a site that came to assume particular significance following his wrongful conviction: the scene of misidentification, the scene of arrest, the alibi location, or the scene of the crime. In the history of these legal cases, these locations have been assigned contradictory meanings. The scene of arrest marks the starting point of a reality that is based in fiction. The scene of the crime, for the wrongfully convicted, is at once arbitrary and crucial; a place that changed their lives forever, but to which they had never been. Photographing the wrongfully convicted in these environments brings to the surface the attenuated relationship between truth and fiction, and efficiency and injustice.

The wrongfully convicted in this book were exonerated through the use of DNA evidence. Only in recent years have eyewitness identification and testimony been forced to meet the test of DNA corroboration. Eyewitness testimony is no longer the most powerful and persuasive form of evidence presented to juries. Because of its accuracy, DNA allows a level of assurance that other forms of evidence do not offer. In the exoneration process, DNA evidence pressures the justice system and the public to concede that a convicted person is indeed innocent. In our reliance upon these new technologies, we marginalize the majority of the wrongfully convicted, for whom there is no DNA evidence, or those for whom the cost of DNA testing is prohibitive. Even in cases in which it was collected, DNA evidence must be handled and stored and is therefore prey to human error and corruption. Evidence does not exist in a closed system. Like photography, it cannot exist apart from its context, or outside of the modes by which it circulates.