

Law & Psychology: Examining the Criminal Justice Process

Course: Law 404
Semester: Spring 2019
Location: TBD
Time: Mondays and Wednesdays, 2:00-3:40

Professor: Dan Simon

Office: Law #446. Mail code: 0071

email: dsimon@law.usc.edu

Phone: (213) 740-0168

Office hours: Mondays and Wednesdays, 3:45-5:00 PM (in my office at the Law School #466). You are welcome to contact me to arrange an appointment at other times.

Assistant: Maria Chan, mchan@law.usc.edu, 213 740-2537

Course description and goals:

This course examines the workings of the criminal justice process. The primary focus will be the potential of the process to make accurate factual findings and reach correct verdicts. Specifically, we will apply experimental psychological research towards a better understanding of the cognitive, social and motivational factors that lead the process towards accurate determinations under some circumstances, but faulty conclusions under others.

The research covered will examine the performance of the major players who participate in the process—witnesses, investigators, attorneys, judges, and jurors. Topics include the police investigation, eyewitness identification, witness memory for events, police interrogation, detection of deceit, and jury decision-making. Special attention will be devoted to discrepancies between how human behavior is viewed from the legal and psychological perspectives. The research will help understand why mistakes can lead to both wrongful acquittals and wrongful convictions.

The course seeks also to explore the connection between the psychological research and real-life cases. In that vein, the class will incorporate video material from actual cases, including *Making A murderer*, *Murder on a Sunday Morning*, and *The Confessions*.

Learning Objectives and Outcomes:

Having taken the course, students are expected to gain knowledge about the following:

- A general understanding of the criminal justice process
- The function of human psychology in the operation of the process and the prospect of error
- The goal of factual accuracy in criminal convictions and the prospect of error

- Distinction between spontaneous errors and errors that are induced by the criminal process
- Errors and biases in police investigations
- The function of eyewitness identification and the prospect of error
- The function of witnesses' memory for the criminal event and the prospect of error
- Lie detection and the prospect of error
- Police interrogation methods and their potential to generate true and false confessions
- The function of jury decision making and the prospect of error
- The function of mechanisms designed to prevent mistaken verdicts and the prospect of error
- Recommendations for reforming the criminal process

There are no prerequisites to take this course, though some prior study in the field of psychology is recommended.

Expectations from students:

Students are expected to:

1. Read the assigned materials closely
2. Attend class meetings
3. Be engaged during class
4. Conduct themselves in an academically honest manner

Students are also encouraged to participate thoughtfully. Participation will be taken into consideration in grading.

Students are not expected to have a command over data analysis or statistical methods. When reading experimental materials, students may skip the statistical analyses, and suffice with the verbal descriptions of the findings.

Reflection papers:

Students are offered the option to submit up to 4 reflection papers. The papers should be based on the assigned readings, and they can focus on any one assigned reading or on an entire unit. The papers should include at least one page describing the readings and at least one page of reflections on the readings (in total, no longer than 3 pages). You should feel free to reflect on any aspect of the reading, such as: what you learned, what you found surprising, critical thoughts, and ways to extend or improve the research.

The papers should be emailed to the professor in advance of the respective class, listing the student's name and unit in the subject line. The papers will be returned within 2 weeks, graded and with comments. The paper grades will never hurt your overall grade. They will be incorporated into your final grade only to the extent that they improve upon the other components of the grade.

Readings:

The book assigned for this class is *In Doubt: The Psychology of the Criminal Justice Process* (Harvard University Press, 2012).

A selection of additional materials will be assigned throughout the course and announced at least one week before the respective class meeting. These materials comprise of a variety of sources, including primary and secondary psychological research, and some legal materials. The additional materials will be made available for download from Blackboard.

Grading:

Grades will be based on the following assignments:

1. Midterm exam: accounting for 40% of the grade. The midterm will be held on February 20th 2019 (subject to change).
2. Final exam: accounting for 60% of the grade.
3. Participation. Students may receive up to 10 extra points for thoughtful participation.
4. Reflection papers (optional). You may submit up to 4 reflection papers. The grades of the papers (each worth up to 10% of the grade) will be incorporated into your final grade only to the extent that they improve upon the other grade components.

Exam policies:

Exams are closed book. Exams must be taken on the scheduled day, at the scheduled time. Exceptions will be made only in cases of substantial family hardship or verifiable and serious medical problems. Exceptions require approval from the professor.

Academic honesty:

Any form of academic dishonesty will be taken very seriously and addressed vigorously. Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in SCampus in Part B, Section 11, “Behavior Violating University Standards” policy.usc.edu/scampus-part-b. Other forms of academic dishonesty are equally unacceptable. See additional information in SCampus and university policies on scientific misconduct, policy.usc.edu/scientific-misconduct.

Students Support Services:

For the wide range of support services and systems, students are encouraged to refer to: <https://arr.usc.edu/forms/StatementAcademicConductSupportSystems.docx>. That document includes advice about contacting support services for personal counseling (engemannshc.usc.edu/counseling), suicide prevention (suicidepreventionlifeline.org), relationship and sexual violence prevention (engemannshc.usc.edu/rsvp), harassment and discrimination (equity.usc.edu, titleix.usc.edu), bias assessment response and support (studentaffairs.usc.edu/bias-assessment-response-support), disability services and programs

(dsp.usc.edu), personal support and advocacy (studentaffairs.usc.edu/ssa), diversity and inclusion (diversity.usc.edu), emergency assistance (dsp.usc.edu, emergency.usc.edu), and non-emergency public safety assistance (dsp.usc.edu).

Syllabus

1: Introduction (weeks 1-2)

1. *In Doubt*, Chapter 1: Introduction.
2. Gross, S. R. (2017). What we think, what we know and what we think we know about false convictions. *Ohio St. J. Crim. L.*, 14, 753-786
3. Kozinski, Hon. Alex. CRIMINAL LAW 2.0. *Geo. L. J. Ann. Rev. Crim. Proc.* 44 (2015): iii-xliv [skim Parts I and II, pp. iii-xviii].

2: Police Investigations (weeks 3-4)

1. *In Doubt*, Chapter 2: Investigation Dynamics.
2. Charman, S. D., Kavetski, M., & Mueller, D. H. (2017). Cognitive bias in the legal system: Police officers evaluate ambiguous evidence in a belief-consistent manner. *Journal of Applied Research in Memory and Cognition*, 6(2), 193-202
3. Kassin, S. M., Bogart, D., & Kerner, J. (2012). Confessions that corrupt: Evidence from the DNA exoneration case files. *Psychological science*, 23(1), 41-45
4. Innes, M. (2002). The 'process structures' of police homicide investigations. *British journal of criminology*, 42(4), 669-688.

3: Identifying Perpetrators (weeks 5-6)

1. *In Doubt*, Chapter 3: Eyewitness Identification of Perpetrators.
2. *Manson v. Brathwaite*, 2 U.S. 98 (1977) (majority opinion only, excerpted)
3. Pigott, M. A., Brigham, J. C., & Bothwell, R. K. (1990). A field study on the relationship between quality of eyewitnesses' descriptions and identification accuracy. *Journal of Police science and Administration*, 17, 84-88.3.
4. Wixted, J. T., Mickes, L., & Fisher, R. P. (2018). Rethinking the reliability of eyewitness memory. *Perspectives on Psychological Science*, 13(3), 324-335
5. Smalarz, L., & Wells, G. L. (2015). Contamination of Eyewitness Self-Reports and the Mistaken-Identification Problem. *Current Directions in Psychological Science*, 24(2), 120-124.

4. Event Memory (week 7)

1. *In Doubt*, Chapter 4: Eyewitness Memory for the Criminal Event.
2. Sharps, M. J., Janigian, J., Hess, A. B., & Hayward, B. (2009). Eyewitness memory in context: Toward a taxonomy of eyewitness error. *Journal of Police and Criminal Psychology*, 24(1), 36-44
3. Cochran, K. J., Greenspan, R. L., Bogart, D. F., & Loftus, E. F. (2016). Memory blindness: Altered memory reports lead to distortion in eyewitness memory. *Memory & Cognition*, 44(5), 717-726
4. Sharps, M. J., Herrera, M., Dunn, L., & Alcalá, E. (2012). Repetition and Reconfiguration: Demand-Based Confabulation in Initial Eyewitness Memory. *Journal of Investigative Psychology and Offender Profiling*, 9(2), 149-160.
5. Wright, D. S., Nash, R. A., & Wade, K. A. (2015). Encouraging eyewitnesses to falsely corroborate allegations: Effects of rapport-building and incriminating evidence. *Psychology, Crime & Law*, 21(7), 648-660

5.a. Lie Detection (week 8)

1. *In Doubt*, Chapter 5: Interrogating Suspects (pp. 120-132).
2. Vrij, A., & Mann, S. (2001). Who Killed my Relative? Police Officers' Ability to Detect Real-Life High-Stake Lies. *Psychology, Crime & Law*, 7, 119-132.
3. Hartwig, M., & Bond Jr, C. F. (2014). Lie detection from multiple cues: A meta-analysis. *Applied Cognitive Psychology*, 28(5), 661-676

5. b. Interrogations (weeks 9-10)

1. *In Doubt*, Chapter 5: Interrogating Suspects (pp. 132-143).
2. *Frazier v. Cupp*, 394 U.S. 731 (1969) (excerpted).
3. Russano, M. B., Meissner, C. A., Narchet, F. M., & Kassin, S. M. (2005). Investigating True and False Confessions Within a Novel Experimental Paradigm. *Psychological Science*, 16, 481-486.
4. Frenda, S. J., Berkowitz, S. R., Loftus, E. F., & Fenn, K. M. (2016). Sleep deprivation and false confessions. *Proceedings of the National Academy of Sciences*, 113(8), 2047-2050.
5. Swanner, J. K., Meissner, C. A., Atkinson, D. J., & Dianiska, R. E. (2016). Developing diagnostic, evidence-based approaches to interrogation. *Journal of Applied Research in Memory and Cognition*, 5(3), 295-301

6: The Trial: Finding Facts (weeks 11-12)

1. *In Doubt*, Chapter 6: Fact-Finding at Trial.
2. Cutler, B. L., Penrod, S. D., & Dexter, H. R. (1990). Juror sensitivity to eyewitness identification evidence. *Law and Human Behavior*, 14, 185-191.
3. Smalarz, L., & Wells, G. L. (2014). Post-identification feedback to eyewitnesses impairs evaluators' abilities to discriminate between accurate and mistaken testimony. *Law and human behavior*, 38(2), 194-202.
4. Scherr, K. C., Normile, C. J., & Putney, H. (2018). Perpetually stigmatized: False confessions prompt underlying mechanisms that motivate negative perceptions of exonerees. *Psychology, Public Policy, and Law*, 24(3), 341.
5. Appleby, S. C., Hasel, L. E., & Kassin, S. M. (2013). Police-induced confessions: An empirical analysis of their content and impact. *Psychology, Crime & Law*, 19(2), 111-128.
6. Rassin, E. (2017). Initial evidence for the assimilation hypothesis. *Psychology, Crime & Law*, 23(10), 1010-1020

7: The Trial: Legal Safeguards (weeks 13-14)

1. *In Doubt*, Chapter 7: The Trial's Fact-Finding Mechanisms.
2. Kebbell, M. R., Evans, L., & Johnson, S. D. (2010). The influence of lawyers' questions on witness accuracy, confidence, and reaction times and on mock jurors' interpretation of witness accuracy. *Journal of Investigative Psychology and Offender Profiling*, 7, 261-271.
3. Kassin, S. M., & Sommers, S. R. (1997). Inadmissible testimony, instructions to disregard, and the jury: Substantive versus procedural considerations. *Personality and Social Psychology Bulletin*, 23, 1046-1054.

8: Towards Accuracy (week 15)

1. *In Doubt*, Chapter 8: Towards Accuracy.
2. *Perry v. New Hampshire*, 132 S. Ct. 716 (2012).