LAW 202: Wrongful Convictions

Dan Simon, Professor of Law & Psychology

Semester:	**Fall 2019**
Location:	**VKC 203**
Time:	**Mondays and Wednesdays, 10:00-11:30am**

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Office hours: Mondays 4:45-5:30 pm, and Wednesdays, 1:15-2:30pm (in my office at the Law School #466). You are welcome to contact me to arrange an appointment at other times.

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Course Description

Convicting a person and stripping away their most fundamental freedoms—if not life—is a most momentous exercise of state power. This unleashing of power can be performed only following an elaborate process that seeks to minimize the prospect of error and bias. Yet, discoveries of erroneous convictions mount steadily, making wrongful convictions a prominent concern in the American criminal justice system.

The course offers an overview of research on wrongful convictions from a variety of scholarly fields including psychology, criminology, policing, and law. The course explores sources of error throughout the criminal process: the police investigation, the pre-trial process, the adjudicatory process, and the post-conviction process. Emphasis will be placed on the role-conceptions, motivations and cognitive limitations of individual actors (witnesses, detectives, jurors, etc.), particularly in light of the organizational and institutional functions they serve. The course will also investigate the relationship between public media and the criminal process, the role of non-governmental organizations, and the impact of civic engagement on public policy making.

The course materials include a textbook and scholarly articles, as well as media coverage and documentary films of real cases. The course is intended to be dispassionate and probing, rather than polemical. It constitutes an earnest effort to better understand the social ecology of wrongful convictions, in particular their causes and avenues to both help convict the guilty and prevent the conviction of the innocent.

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 goal of factual accuracy and its constraints
- The incidence of wrongful convictions
- The role of mistaken evidence in causing wrongful convictions (including mistaken witnesses, coerced confessions, snitch testimony, flawed forensic science)
- The role of the criminal process in causing wrongful convictions (including plea bargaining, police misconduct, prosecutorial misconduct)
- The intersection of race and wrongful convictions
- Recommendations for reforming the criminal process

Textbook and Supplementary Materials:

When Justice Fails: Causes and Consequences of Wrongful Convictions (by Robert J. Norris, Catherine L. Bonventre & James R. Acker, 2018, Carolina Academic Press).

* Additional materials will be made available for download from Blackboard.

Prerequisites:

There are no prerequisites to take this course.

Expectations from students:

Students are expected to:

1. Read the assigned materials closely
2. Attend class meetings
3. Be engaged during class
4. Participate thoughtfully. Participation will be taken into consideration in grading.
5. Conduct themselves in an academically honest manner

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 typed 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 suggestions to extend or improve the research.

The papers should be emailed to the professor in advance of the class discussion of the respective reading. Please note your name and unit in the subject line of the email. 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.

Grading:

Grades will be based on the following assignments:

1. Midterm exam: accounting for 40% of the grade.

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 (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 dates:

Midterm: Wednesday, October 16, 2019, 10am-noon

Final: Monday, December 16, 2019, 8-10am

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 (dps.usc.edu, emergency.usc.edu), and non-emergency public safety assistance (dps.usc.edu).

<u>**Syllabus**</u>

1. Wrongful Convictions: Introduction and Overview (weeks 1-3)

1. *When Justice Fails* (Norris et al., 2018): Chapter 1

2. Simon, D. (2012). *In Doubt: The Psychology of the Criminal Process*. Chapter 1.

3. Gross, S. R. (2017). What We Think, What We Know and What We Think We Know about False Convictions. *Ohio State J. Criminal Law, 14, 753-786.* [skip deleted sections]

- Jean-Xavier de Lestrade (director): *Murder on a Sunday Morning* (documentary video, 2001)

2. Eyewitness Identification and Memory for the Criminal Event (weeks 3-4)

1. *When Justice Fails* (Norris et al., 2018): Chapter 2

2. 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.

3. 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. False Admissions: Interrogations, Confessions, and Guilty Pleas (weeks 5-6)

1. *When Justice Fails* (Norris et al., 2018): Chapter 5

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.

4. Forensic Science Evidence (week 7)

1. *When Justice Fails* (Norris et al., 2018): Chapter 4

2. Cole, S. A. & Thompson, W. C. (2013). *Forensic science and wrongful convictions* (In Wrongful Convictions and Miscarriages of Justice, Huff & Killias, eds. Routledge).

<u>**Mid-term exam**</u>

5. Incentivized Informants and Snitches (week 8)

1. *When Justice Fails* (Norris et al., 2018): Chapter 5

2. Natapoff, A. (2006). *Beyond Unreliable: How Snitches contribute to wrongful convictions.* Golden Gate Law Review, 37, 107.

6. Government Actors: Police and Prosecutors (weeks 9)

1. *When Justice Fails* (Norris et al., 2018): Chapter 6

2. Petro, J. & Petro, N. (2013). *The prosecutor and wrongful convictions: Misplaced priorities, misconduct, immunity and remedies* (In Wrongful Convictions and Miscarriages of Justice, Huff & Killias, eds. Routledge).

7. Jury Decision Making and Plea Bargaining (week 10)

1. Simon, D (forthcoming). The Psychology of Jury Decision Making: An Empathic View. *Annual Review of Law & Social Science*

2. Ofra Bickel (director). *The Plea* (frontline documentary, 2004)

8. No Crime Cases (week 11)

1. *When Justice Fails* (Norris et al., 2018): Chapter 8

9. Detecting and Correcting Miscarriages of Justice (week 12)

1. *When Justice Fails* (Norris et al., 2018): Chapter 9

10. Race and Wrongful Convictions (week 13)

1. Najdowski, C. J. (2012). *Interactions between African Americans and Police Officers: How Cultural Stereotypes Create a Wrongful Conviction Pipeline for African Americans* (In Examining Wrongful Convictions, Redlich et al.)

2. Ricky Stern (director). *The Trials of Darryl Hunt* (documentary video, 2006)

11. Actual Perpetrators: Public Safety and Monetary Considerations (week 14)

1. *When Justice Fails* (Norris et al., 2018): Chapter 11

12. Future Challenges and Reform (week 15)

2. *When Justice Fails* (Norris et al., 2018): Chapter 12
3. *In Doubt* (Dan Simon): Chapter 8