Law & Psychology: Examining the Criminal Justice Process

Course: **Law 404**
Semester: **Fall 2021**
Location: **TBD**
Time: **Mondays and Wednesdays, 10:00-11:40**

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Office hours: Mondays and Wednesdays (times TBD), (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 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.

Learning Objectives and Outcomes:
Having taken the course, students are expected to gain a fundamental understanding and command over:
1. A general understanding of the criminal justice process
2. The goal of factual accuracy in criminal convictions and the prospect of error
3. The function of human psychology and the prospect of error and bias in:
    o police investigations

- eyewitness testimony
- Police interrogations and suspect confessions
- Jury decision making
4. The function of legal mechanisms designed to prevent mistaken verdicts
5. The impact of legal procedure on criminal outcomes
6. Recommendations for reforming the criminal process

There are no prerequisites to take this course, though 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.

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 of the assigned readings. 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; 1.5 spaced). 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 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 date for the midterm will be around week 8 (October 13, 2021; subject to change).

2. Final exam: accounting for 60% of the grade.

3. Participation. About 10% of the grade will be based on (thoughtful!) participation.

4. Reflection papers (optional). You may submit up to 4 reflection papers. The grades of the papers (each worth 5% of the total 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 (dps.usc.edu, emergency.usc.edu), and non-emergency public safety assistance (dps.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
[skip sections II.B (758-763), section III (763-769), and section IV.B.B. (773-778)]

3. Kozinski, Hon. Alex. CRIMINAL LAW 2.0. *Geo. L. J. Ann. Rev. Crim. Proc.* 44 (2015): iii-xliv
[**read sections I and II, pp. iii-xviii**].

2: Police Investigations (weeks 3-4)
1. *In Doubt,* Chapter 2: Investigation Dynamics.

2. Kassin, S. M., Bogart, D., & Kerner, J. (2012). Confessions that corrupt: Evidence from the DNA exoneration case files. *Psychological science, 23*(1), 41-45

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. Bull Kovera, M., & Evelo, A. J. (2020). Improving Eyewitness-Identification Evidence Through Double-Blind Lineup Administration. *Current Directions in Psychological Science, 29*(6), 563-568.

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

5. Interrogations and Confessions (weeks 8-9)
1. *In Doubt*, Chapter 5: Interrogating Suspects (skim pp. 120-132)).

2. Frazier v. Cupp, 394 U.S. 731 (1969) (excerpted).

3. Narchet, F.M., F. M, Russano, M. B. & Meissner, C.A. (2011). Modeling the Influence of Investigator Bias on the Elicitation of True and False Confessions. *Law & Human Behavior, 35*, 452-465.

4. 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 10-11)
1. *In Doubt*, Chapter 6: Fact-Finding at Trial.

2. 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.

3. 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.

4. Rassin, E. (2017). Initial evidence for the assimilation hypothesis. *Psychology, Crime & Law, 23*(10), 1010-1020

7: The Trial: Legal Safeguards (weeks 12-13)
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: The Impact of Procedure (week 14)
1. Fuller, L. L. (1971). The Adversarial System, in TALKS ON AMERICAN LAW (H. Berman rev. ed. 1971).

2. Babcock, B. A. (1982). Fair Play: Evidence Favorable to an Accused and Effective Assistance of Counsel. *Stanford Law Review*, 1133-1182 (skip 1175-1182).

3. Simon et al. (2020). The Adversarial Mindset. *Psychology, Public Policy & Law.*

9: Towards Accuracy (week 15)

1. *In Doubt*, Chapter 8: Towards Accuracy.

2. *Perry v. New Hampshire*, 132 S. Ct. 716 (2012).