

LAW 202: Wrongful Convictions
Dan Simon, Professor of Law & Psychology

Semester: Spring 2022
Location: VPD 105
Time: Tuesdays and Thursdays, 4:00-5:50 pm

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Office hours: TBD (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

Convicting a person and stripping away their most fundamental freedoms—if not taking their life—is a most momentous exercise of state power. This unleashing of power is 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 influence of public media, non-governmental organizations, and civic engagement on criminal policy making.

The course materials include a textbook (downloadable at no cost) 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, consequences, and avenues to more precisely convict the guilty and spare the innocent.

Learning Objectives and Outcomes

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

- A general understanding of the criminal justice process
- The goal of factual accuracy and its constraints
- The contribution of faulty evidence to wrongful convictions: mistaken witnesses, coerced confessions, informant testimony, flawed forensic science
- The contribution of criminal process to wrongful convictions: plea bargaining, police misconduct, prosecutorial misconduct, excessive adversarialism
- The intersection of race and wrongful convictions
- Recommendations for reforming the criminal process

Course Materials:

The course textbook is:

Wrongful Convictions and Miscarriages of Justice: Causes and Remedies in North American and European Criminal Justice Systems, Edited By C. Ronald Huff, Martin Killias (2013)

* This book can be downloaded (at no cost) from the USC Library website

* 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, 1.5 spacing). 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. You can receive up to a 10% bonus for thoughtful participation.
4. Reflection papers (optional). You can receive up to a 10% bonus for reflection papers. The papers will be incorporated into your final grade only to the extent that they improve upon the other grade components.

Exam dates:

Midterm: TBD

Final: TBD

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

(Revised on Dec. 10, 2021, and subject to future minor changes)

I. Introduction

1. Wrongful Convictions: Introduction and Overview (weeks 1-4)

- a. *Wrongful Convictions and Miscarriages of Justice* (Huff & Killias): Chapters 1, 2, 3
- b. 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]
- c. Simon, D. (2012). *In Doubt: The Psychology of the Criminal Process*. Chapter 1.
- d. Jean-Xavier de Lestrade (director): *Murder on a Sunday Morning* (documentary video, 2001)

II. Causes of Wrongful Convictions -- Faulty Evidence

2. Eyewitness Misidentification

- a. *When Justice Fails* (Norris et al.): Ch. 2

3. False Confessions

- a. *When Justice Fails* (Norris et al.): Ch. 3
- b. *Wrongful Convictions and Miscarriages of Justice* (Huff & Killias): Ch. 10

4. Forensic Evidence

- a. *Wrongful Convictions and Miscarriages of Justice* (Huff & Killias): Ch. 7

5. Incentivized Informants and Snitches

- a. *When Justice Fails* (Norris et al., 2018): Chapter 5
- b. Natapoff, A. (2006). *Beyond Unreliable: How Snitches contribute to wrongful convictions*. *Golden Gate Law Review*, 37, 107.

III. Causes of Wrongful Convictions –The Criminal Process

6. The Criminal Process

- a. *Wrongful Convictions and Miscarriages of Justice* (Huff & Killias): Chs. 4, 5
- b. Ofra Bickel (director). *The Plea* (frontline documentary, 2004)

7. Government Actors: Police and Prosecutors

- a. *Wrongful Convictions and Miscarriages of Justice* (Huff & Killias): Ch. 6
- b. *When Justice Fails* (Norris et al., 2018): Chapter 6

IV. Race and Wrongful Convictions

8. Race and Wrongful Convictions

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

V. Looking Forward

9. Future Challenges and Reform

- a. *Wrongful Convictions and Miscarriages of Justice* (Huff & Killias): Chs. 15, 16, 18
- c. *When Justice Fails* (Norris et al., 2018): Chapter 12
- d. *In Doubt* (Dan Simon): Chapter 8