

WRONGFUL CONVICTIONS SEMINAR

Spring Session 2024

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Course Objectives

This course will focus on systemic errors in our criminal justice system that lead to the conviction of innocent people. You will learn about the causes and consequences of wrongful convictions, as well as about legal remedies available for correcting wrongful convictions and policy reforms for preventing them. You will also be introduced to innocence case investigation and post-conviction procedure.

Specific learning goals include: (1) exposure to all aspects of post-conviction innocence claims, including substantive causes of wrongful convictions and procedural mechanisms for litigating those claims; (2) introduction to essential and transferrable lawyering skills, such as investigative methods, fact development, persuasive storytelling, identification of legal issues, and fact and theory development; and (3) basic understanding of laws and policy reforms aimed at improving the accuracy and reliability of the criminal justice process.

Required Reading

Weekly Class Readings (as listed below and assigned throughout the semester)

Recommended Resources

- **Websites**

- www.innocenceproject.org (Innocence Project)

- <https://www.law.umich.edu/special/exoneration/Pages/about.aspx> (National Registry of Exonerations)

- www.survivorservices.org (Healing Justice)

- **Books**

- Actual Innocence* by Jim Dwyer, Peter Neufeld & Barry Scheck

- Convicting the Innocent: Where Criminal Prosecutions Go Wrong* by Brandon Garrett

- Surviving Justice* edited by Lola Vollen & Dave Eggers

Virginia Case Studies

Marvin Anderson, Michael Hash, Thomas Haynesworth, Mike McAlister, and the Norfolk Four. We will also examine cases from other jurisdictions. Any materials relating to these cases will be assigned as relevant.

Class Meetings

Mondays, 6:05-8:05pm, via Zoom

Guest Speakers

TBD

Grading

Attendance and class participation – 30%; final paper – 70%

Syllabus & Class Readings

Monday, January 22 - Introduction to Wrongful Convictions, Post-Conviction Process & the Innocence Movement

Read Before Class:

- National Registry of Exonerations, *Exonerations by Contributing Factor*, <https://www.law.umich.edu/special/exoneration/Pages/ExonerationsContributeFactorsByCrime.aspx>
- National Registry of Exonerations, *The Contribution of Forensic and Expert Evidence to DNA Exonerations*, www.law.umich.edu/special/exoneration/Documents/The%20Contribution%20of%20Forensic%20and%20Expert%20Evidence%20to%20DNA%20Exoneration%20Cases%20An%20Interim%20Report.pdf
- Gross, et al., *Exonerations in the United States, 1989 through 2012*, Report by the National Registry of Exonerations (2012), https://www.law.umich.edu/special/exoneration/Documents/exonerations_us_1989_2012_full_report.pdf

Monday, January 29 - Legal Remedies for Post-Conviction Claims of Innocence: DNA Testing Statutes, Writs of Factual Innocence & Habeas Corpus

Read Before Class:

- *Herrera v. Collins*, 506 U.S. 390 (1993)
- *Schlup v. Delo*, 513 U.S. 298 (1995)
- *House v. Bell*, 126 S. Ct. 2064 (2006)

Monday, February 5 - *Impact of Wrongful Convictions on the Original Crime Victims*

Read Before Class:

- National Institute of Justice, *Addressing the Impact of Wrongful Convictions on Crime Victims*, <http://nij.gov/journals/274/pages/victim-impact-wrongful-convictions.aspx>
- National Institute of Justice, February 22, 2016 *Listening Session for Original Victims and Survivors*, <https://www.ncjrs.gov/pdffiles1/nij/249931.pdf>

Monday, February 12 - *The Police Investigation: Tunnel Vision, Preservation of Evidence, and Official Misconduct*

Read Before Class:

- *California v. Trombetta*, 467 U.S. 479 (1984)
- *Arizona v. Youngblood*, 488 U.S. 51 (1988)
- *Evans-Smith v. Taylor*, 19 F.3d 899 (4th Cir. 1994)

Monday, February 19 - *Mistaken Eyewitness Identification*

Read Before Class:

- *Manson v. Brathwaite*, 432 U.S. 98 (1977)
- *State v. Henderson*, 27 A.3d 872 (N.J. 2011)
- *2019 Report of the Third Circuit Task Force on Eyewitness Identifications*, <https://www.ca3.uscourts.gov/sites/ca3/files/2019%20Report%20of%20The%20Circuit%20Task%20Force%20on%20Eyewitness%20Identifications.pdf>

Monday, February 26 - *Flawed Forensic Evidence & Forensic Fraud*

Read Before Class:

- *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923)
- *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993)
- *Strengthening Forensic Science in the United States: A Path Forward* National Academy of Sciences (selected sections for discussion will be provided)

Monday, March 11 - *Police Interrogations & False Confessions*

Read Before Class:

- *Greenwald v. Wisconsin*, 390 U.S. 519 (1968)
- *Crane v. Kentucky*, 476 U.S. 682 (1986)
- National Registry of Exonerations, <https://www.law.umich.edu/special/exoneration/Pages/False-Confessions.aspx>

Monday, March 18 - Prosecutorial Mistakes & Misconduct: Suppression of Exculpatory Evidence & Reliance on Incentivized or Perjured Testimony

Read Before Class:

- *Brady v. Maryland*, 373 U.S. 83 (1963)
- *United States v. Bagley*, 473 U.S. 667 (1985)
- *Napue v. People*, 79 S. Ct. 1173 (1959)
- *Giglio v. United States*, 92 S. Ct. 763 (1972)
- *Connick v. Thompson*, 131 S.Ct. 1350 (2011)

Monday, March 25 - Ineffective Defense Counsel

Read Before Class:

- *Strickland v. Washington*, 467 U.S. 1267 (1984)

Monday, April 1 - Investigating Post-Conviction Innocence Claims: The People Trail & the Paper Trail

No required reading.

Monday, April 8 - Post-Exoneration Issues

Read Before Class:

- National Registry of Exonerations, 25,000 Years, www.law.umich.edu/special/exoneration/Documents/25000%20Years.pdf

Monday, April 15 - Policy Reforms

Read Before Class:

- Quattrone Center for the Fair Administration of Justice, *Guidelines for Collaboration and Engagement: Prosecutors and Defense Counsel Working Together in Joint Post-Conviction Investigations*, <https://www.law.upenn.edu/live/files/12062-guidelines-for-collaboration-and-engagement>
- Innocence Project, individual reform pages, <https://innocenceproject.org>
- *National Summit on Wrongful Convictions: Building a Systemic Approach to Prevent Wrongful Convictions*, International Association of Chiefs of Police. www.theiacp.org/portals/0/documents/pdfs/Wrongful_Convictions_Summit_Report_WEB.pdf
- *Mending Justice: Sentinel Event Reviews*, National Institute of Justice, <https://ncjrs.gov/pdffiles1/nij/247141.pdf>

Monday, April 22 – Introduction of Final Paper