



Université d'Ottawa | University of Ottawa

Département de criminologie | Department of Criminology

120 Université, FSS14002 / 120 University, FSS14002, Ottawa, ON K1N 6N5

Selected topics : International Social Sciences Field Research

LEGAL AND CRIMINOLOGICAL PERSPECTIVES ON WRONGFUL CONVICTION

SCS3210/4210 ECH4210
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COURSE OUTLINE

COURSE DESCRIPTION

This course will allow students to gain a greater understanding of the phenomenon of wrongful convictions, and their sequela, as they occur in Canada and in the state of Louisiana. Students' experiences in this field research course will be both pedagogical and practical. Classroom instruction will provide students with an introduction to wrongful convictions as well as provide a greater understanding of how they may occur within both Canadian and American criminal justice systems. Students will be exposed to research on the many contributing factors to wrongful conviction, including eyewitness misidentification, the role of jailhouse informants, false confessions, police/prosecutorial misconduct and faulty forensic science and expert testimony. The course will also focus on wrongful convictions as they occur in the southern United States and on the role of the death penalty. In addition to classroom instructions, students will undertake a field placement in a community organization in New Orleans Parrish that focuses on wrongful convictions, their aftermath and related issues. Combining a field placement with classroom instruction will provide the students with a theoretical and practical understanding of how the criminal justice system can both create and address miscarriages of justice.

COURSE OBJECTIVES

The objectives of this course are to provide students with a well-rounded understanding of how wrongful convictions may occur and how the system attempts to address them. By using both classroom instruction and field placement practice, students will not only be exposed to the research, case law and literature on wrongful convictions, but also to how the community attempts to rectify miscarriages of justice and provide supports for the exonerated upon release. New Orleans is an opportune setting for such a class, as it has a strong innocence project, a history of addressing wrongful convictions and a number of community agencies that support the exonerated upon release. In addition to classroom and field placement experiences, students will also be provided the opportunity to undertake educational excursions while in New Orleans to visit a prison, a courthouse to attend a trial, and an innocence project.

GENERAL

For students to:

1. Gain a better understanding of the problems related to defining what constitutes a miscarriage of justice or a wrongful conviction.
2. Situate miscarriages of justice within both legal and criminological frameworks.
3. Explore the research, literature and case law that illustrate miscarriages of justice in Canada and the state of Louisiana.

SPECIFIC

For students to:

1. Have a basic understanding of the functions of both Canadian and American criminal law.
2. Understand how particular legal and extra-legal factors contribute to wrongful convictions.
3. Understand the role of various actors in the criminal justice system (including police, prosecutors, defense counsel and judges) that play in part in contributing to wrongful convictions, but may also facilitate exonerations.
4. Be exposed to how wrongful convictions are addressed by various community organizations in New Orleans.

PROPOSED COURSE STRUCTURE

The pedagogical aspect of the course will involve meeting three times per week, for three hours each time. Students will be given instruction by myself and one or two guest lecturers on an introduction to basic criminal law in Canada and the United States, on the differing contributing factors to miscarriages of justice, on how wrongful convictions occur in the southern United States and on the role of the death penalty. The field placement aspect of the course will take place in a number of settings where issues of wrongful convictions are addressed, including the Innocence Project New Orleans, Resurrection after Exoneration, and Louisiana Capital Assistance Centre. Students are expected to do a minimum of ten hours per week in their field placement (but are free to do more) for a total of thirty hours. Finally, students will be provided the opportunity to participate in a number of educational excursions, including visits to a courthouse, a prison and an innocence project, where they will be exposed to the actual workings of the criminal justice system.

EVALUATION

Students will be evaluated according to a number of activities.

Evaluation Format	Weight
Participation/Discussion	10%
Brief Presentation	20%
Field Placement Reflections	30%
Final Essay	40%
Total	100%

1. **Participation/Discussions – 10%**

Given the seminar format of the class, students will be encouraged to actively participate during class discussion both at the pre-placement seminars in Ottawa and during class time in New Orleans.

2. **Brief Presentation – 20%**

During the second week of classes in New Orleans, students will make a brief, individual, 15-minute presentation on an American case (preferably from the state of Louisiana) that illustrates one of the contributing factors to wrongful conviction. The factors include eyewitness misidentification, the use of jailhouse informants, false confessions, police/prosecutorial/judicial misconduct, and faulty forensic science. Students will choose a case that demonstrates how one of these factors contributed to a specific wrongful conviction and present the issue to the class.

3. **Field Placement Reflection – 30%**

Students will be required to keep an ongoing journal of their field placement experience while they are in New Orleans. The journal will allow the students to keep track of the evolution of their own learning. Following completion of their placement, students will compose a 1500 word reflection on their placement, based in part on their journal entries, as well as on what they have learned throughout the course.

4. **Final Essay** – 40%

Students will be expected to research a topic related to the issue of wrongful convictions as they occur in the state of Louisiana. Further detail on this paper will be provided during the course and the paper will be due following completion of the course.

TEXT

Students will be able to purchase a bound copy of the required readings for this course prior to departure.

COURSE SCHEDULE

1. Pre-Departure Training - Ottawa

Students will be required to meet for one day each in February, March and April 2017 to review issues and expectations regarding the field research course. Each session will take approximately two-three hours and cover content related to the course, travel, expectations and living abroad for three weeks. The pre-departure classes will likely be held on the weekend so as to not conflict with class hours during the winter semester. Dates will be arranged in consultation with the students.

Date	Training
Day 1 – February – date to be determined	<ul style="list-style-type: none">- Introduction to course, professor and other students;- Orientation;- Course Requirements – academic, administrative, financial;- Teacher’s objectives and expectations;- Student’s objectives and expectations.
Day 2 – March – date to be determined	<ul style="list-style-type: none">- Review of course content;- Student performance, evaluation, marking;- Student field placements;- Information on visas, health, security.
Day 3 – April – date to be determined	<ul style="list-style-type: none">- Orientation toward the American legal system;

	<ul style="list-style-type: none"> - Viewing of a documentary film on the Louisiana State Penitentiary; - Final arrangements for flights, housing and field placements.
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2. In the Field – New Orleans, Louisiana

The New Orleans component of the course involves exposing the students to how wrongful convictions occur in this jurisdiction, and how they are addressed by the courts and by state governments. In-class sessions will focus on understanding the many causes of wrongful convictions, including eyewitness misidentification, the use of jailhouse informants, false confessions, police/prosecutorial/judicial misconduct and faulty forensic science. Throughout the three weeks, educational excursions will be arranged to visit a number of facilities, including New Orleans Innocence Project, Louisiana State Penitentiary, and Orleans Parish Criminal District Court. Students will also be expected to undertake a ten-hour per week field placement for a total of thirty hours; field placements will be arranged beforehand and take place in facilities where wrongful convictions, and related issues, are addressed. Participation in field placements will enhance the students' overall experience and will help them in developing their research papers.

Course Schedule

While on site in New Orleans, the class will meet three times per week for three hours each session, the total class room instruction time over the three weeks will be 27 hours. At the same time, students will be involved in a field placement whereby they will be working ten hours per week (total of 30 hours), for three weeks engaged in activities in the field. In addition, educational excursions will take place each week whereby the class as a whole will visit sites of interest and relevance to the course.

WEEK I

DATE (subject to change)	SCHEDULE
Saturday April 29 th , 2017	Arrival - Flight: Ottawa (YOW) to New Orleans (MSY) Students arrive and will check in at the residence.
Sunday April 30 th , 2017	Free time to acclimatize to New Orleans, to commute to the classroom, etc...
Monday May 1 st , 2017.	9:00-12:00 – Seminar i. Introduction to Wrongful Convictions:

	<p>In this seminar, we will briefly explore some of the factors that contribute to miscarriages of justice.</p> <p>Readings: TBD</p>
Tuesday May 2 nd , 2017	<p>9:00-12:00 – Seminar ii. Introduction to Criminal Law: USA & Canada.</p> <p>Readings: TBD</p> <p>Guest Lecturer: TBD</p>
Wednesday May 3 rd , 2017	<p>9:00-12:00 – Seminar iii. Contributing Factors to Wrongful Conviction – Eyewitness Misidentification and the Role of Jailhouse Informants</p> <p>Readings: TBD</p>
Thursday May 4 th , 2017	<p>9:00- 12:00: Students in field placements</p> <p>1:00-5:00: Students in field placements</p>
Friday May 5 th , 2017	<p>9:00- 12:00: Field Visit to Resurrection after Exoneration</p> <p>1:00-5:00: Students in field placements</p>
Saturday May 6 th , 2017	Day off – visit sites of New Orleans
Sunday May 7 th , 2017	Day off – visit sites of New Orleans

WEEK II

DATE	SCHEDULE
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Monday May 8 th , 2017	9:00-12:00 – Seminar iv. Contributing Factors to Wrongful Conviction – False Confessions and Police Misconduct Readings: TBD
Tuesday May 9 th , 2017	9:00-12:00 – Seminar v. Contributing Factors to Wrongful Conviction – Prosecutorial Misconduct Readings: TBD
Wednesday May 10 th , 2017	9:00-12:00 – Seminar vi. Contributing Factors to Wrongful Conviction – Student 15 Minute Presentations
Thursday May 11 th , 2017	9:00- 4:00 Field Visit: Louisiana State Penitentiary, Angola, Louisiana
Friday May 12 th , 2017	9:00- 12:00: Students in field placements 1:00-5:00: Students in field placements
Saturday May 13 th , 2017	Day off – visit sites of New Orleans
Sunday May 14 th , 2017	Day off – visit sites of New Orleans

WEEK III

DATE	SCHEDULE
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Monday May 15 th , 2017	9:00-12:00 – Seminar vii. Contributing Factors to Wrongful Conviction – Faulty Forensic Science and Expert Testimony Readings: TBD
Tuesday May 16 th , 2017	9:00-12:00 – Seminar viii. Wrongful Convictions in the Southern United States: The Role of Race Readings: TBD Guest Lecturer: TBD
Wednesday May 17 th , 2017	9:00-12:00 – Seminar ix. The Death Penalty and Wrongful Convictions Readings: TBD
Thursday May 18 th , 2017	9:00- 12:00: Field Visit to Orleans Parish Criminal District Court 1:00-5:00: Students in field placements Farewell dinner
Friday May 19 th , 2017	Last day of Field Placements (wrap-up)
Saturday May 20 th , 2017	Return Home - Flight: New Orleans (MSY) to Ottawa (YOW)

Bibliography

Balko, R. (2013). The Untouchables: America's Misbehaving Prosecutors and the System that Protects them. *Huffington Post*. 08/01/2013.

Blackerby, J. C. (2003). Life after death row: Preventing wrongful capital convictions and restoring innocence after exoneration. *Vanderbilt Law Review*, 56(4), 1179-1226.

Bright, S.B. (1994). Counsel for the Poor: The Death Penalty Not for the Worst Crime but for the Worst Lawyer. *Yale Law Journal* (103), 1-51.

Campbell, K. (2011) Expert Evidence from 'Social' Scientists: Questions of Admissibility, Reliability, Context and the Impact on Miscarriages of Justice. *Canadian Criminal Law Review*, 16(1), 13-36.

Campbell, K., and Denov, M. (2015). "Wrongful Convictions in Canada: Causes, Consequences and Responses" in J. Roberts and M. Grossman (Eds.), *Criminal Justice in Canada: A Reader*, (5th Ed.) (Toronto: Harcourt Brace).

Connick v. Thompson, (No. 09-571) 578 F. 3d 293.

Davenport, (2014). *Basic Criminal Law: The Constitution, Procedure, and Crimes*, (4th Ed.). New York: Prentice Hall.

District Attorney's Office for the Third Judicial District v. Osborne, 557 U.S. 52 (2009)

Dix v. Canada (A.G.), 2002 ABQB 580

Drizen, S., and Leo, R. (2004). The problem of false confessions in the Post-DNA world. *North Carolina Law Review*, 82(3), 8892-1007.

Garland, D. (2005). Capital Punishment and American Culture. *Punishment and Society*, 7(4), 347-376.

Goudge, S.T. (2008). *Inquiry into Pediatric Forensic Pathology in Ontario: Executive Summary*. Retrieved online at:

<http://www.attorneygeneral.jus.gov.on.ca/inquiries/goudge/report/index.html>

Gould, J. B. & Leo, R. A. (2010). One hundred years later: Wrongful convictions after a century of research. *Journal of Criminal Law & Criminology*, 100(3), 825-868.

Grann, D. (2009). Trial by Fire: Did Texas Execute an Innocent Man? *The New Yorker*, 11-32.

Griffiths, C.T. (2011). *Canadian Criminal Justice: A Primer*. Toronto: Nelson Education.

Gross, S., Jacoby, K., Matheson, D., Montgomery, N., Patil, S. (2005). Exonerations in the United States, 1989 through 2003. *Journal of Criminal Law and Criminology*, 95(2), 523-560.

Hill v. Hamilton-Wentworth Regional Police Service Board 2007, SCC 41 [2007] 3 S.C.R. 129.
Manson v. Braithwaite 432 U.S. 98, 114 (1977)

MacFarlane, B. (2008). *Wrongful Convictions: The Effect of Tunnel Vision and Predisposing Circumstances in the Criminal Justice System*. Paper presented for the Goudge Commission of Inquiry into Pediatric Forensic Pathology in Ontario.

Medwed, D. (2004). The Zeal Deal: Prosecutorial Resistance to Post-Conviction Claims of Innocence. *Boston University Law Review*, 84, 124-183.

National Academy of Sciences (2009). *Strengthening Forensic Sciences in the United States: A Path Forward*. The National Academies Press: Washington DC. Retrieved online at: <https://www.ncjrs.gov/pdffiles1/nij/grants/228091.pdf>

R. v. McIntosh, (1997), 117 C.C.C. (3d) 385 (Ont. C.A.)

R. v. Mohan, [1994] 2 S.C.R. 154.

R. v. Oickle, [2000] 2 S.C.R. 3.

R. v. Vetrovec (1982) 1 S.C.R. 811.

Rizer, A.L. (2002). The Race Effect on Wrongful Convictions. *William Mitchell Law Review*, 29, 845-868.

Roach, K. (2012). Wrongful convictions in Canada. *Cincinnati Law Review*, 80, 1465-1526.

Robinson, P.H., and Dubber, M.D. (2007). The American Model Penal Code: A Brief Overview. *New Criminal Law Review*, 10, 319-342.

Smith, E., and Hattery, A. (2011). Race, Wrongful Conviction and Exoneration. *Journal of African American Studies*, 15, 74-94.
State v. Adams, 609 So. 2d 894 (1992).

Stinchcombe v. The Queen, 68 C.C.C. (3d) 1, 1991.

Texas v. DeLuna, No. 83-CR-194-A (Nueces Cty., 28th Dist. Tex. July 21, 1983)

Truscott, Re, 2006 CanLII 17245 (ON CA)
United States v. Burns and Rafay, [2001] 1 S.C.R. 283

United States v. Sudikoff, 36 F.Supp. 2d 1196 (C.D. Cal 1999)

West, E. (2010). *Court Findings of Prosecutorial Misconduct Claims in Post Conviction Appeals and Civil Suits Among the First 255 DNA Exoneration Cases*. Innocence Project.

Retrieved online at:

http://www.innocenceproject.org/docs/Innocence_Project_Proc_Misconduct.pdf.

Wiseman, S.R. (2010). Innocence After Death. *Case Western Reserve Law Review*, 60(3), 687-750.

Zalman, M., Smith, B., & Kiger, A. (2008). Officials' estimates of the incidence of 'actual innocence' convictions. *Justice Quarterly*, 25, 72-100.

Resources for you

Mentoring Centre - <http://www.sciencesociales.uottawa.ca/mentor/fra/>

The goal of the Mentoring Centre is to help students with their academic and social well being during their time at the University of Ottawa. Regardless of where a student stands academically, or how far along they are in completing their degree, the mentoring centre is there to help students continue on their path to success.

A student may choose to visit the mentoring centre for very different reasons. Younger students may wish to talk to their older peers to gain insight into programs and services offered by the University, while older student may simply want to brush up on study and time management skills or learn about programs and services for students nearing the end of their degree.

In all, the Mentoring Centre offers a place for students to talk about concerns and problems that they might have in any facet of their lives. While students are able to voice their concerns and problems without fear of judgment, mentors can garner further insight in issues unique to students and find a more practical solution to better improve the services that the Faculty of Social Sciences offers, as well as the services offered by the University of Ottawa.

Academic Writing Help Centre - <http://www.sass.uottawa.ca/writing/>

At the AWHC you will learn how to identify, correct and ultimately avoid errors in your writing and become an autonomous writer. In working with our Writing Advisors, you will be able to acquire the abilities, strategies and writing tools that will enable you to:

- Master the written language of your choice
- Expand your critical thinking abilities
- Develop your argumentation skills
- Learn what the expectations are for academic writing

Career Services - <http://www.sass.uottawa.ca/careers/>

Career Services offers various services and a career development program to enable you to recognize and enhance the employability skills you need in today's world of work.

Counselling Service- <http://www.sass.uottawa.ca/personal/>

There are many reasons to take advantage of the Counselling Service. We offer:

- [Personal counselling](#)
- [Career counselling](#)
- [Study skills counselling](#)

Access Service - <http://www.sass.uottawa.ca/acces/>

The Access Service contributes to the creation of an inclusive environment by developing strategies and implementing measures that aim to reduce the barriers to learning for students who have learning disabilities, health, psychiatric or physical conditions.

Student Resources Centres - <http://www.communitylife.uottawa.ca/en/resources.php>

The Student Resources Centres aim to fulfill all sorts of students needs.

Beware of Academic Fraud!

Academic fraud is an act committed by a student to distort the marking of assignments, tests, examinations, and other forms of academic evaluation. Academic fraud is neither accepted nor tolerated by the University. Anyone found guilty of academic fraud is liable to severe academic sanctions.

Here are a few examples of academic fraud:

- engaging in any form of plagiarism or cheating;
- presenting falsified research data;
- handing in an assignment that was not authored, in whole or in part, by the student;
- submitting the same assignment in more than one course, without the written consent of the professors concerned.

In recent years, the development of the Internet has made it much easier to identify academic plagiarism. The tools available to your professors allow them to trace the exact origin of a text on the Web, using just a few words.

In cases where students are unsure whether they are at fault, it is their responsibility to consult the University's Web site at the following address:

http://www.socialsciences.uottawa.ca/eng/writing_tools.asp « *Tools for Writing Papers and Assignments* ».

Persons who have committed or attempted to commit (or have been accomplices to) academic fraud will be penalized. Here are some examples of the academic sanctions, which can be imposed:

- a grade of « F » for the assignment or course in question;
- an additional program requirement of between 3 and 30 credits;
- suspension or expulsion from the Faculty.

Last session, most of the students found guilty of fraud were given an « F » for the course and had between three and twelve credits added to their program requirement.

For more information, refer to:

http://www.uottawa.ca/academic/info/newsletter/fraud_e.html