



CLS Capstone: Wrongful Convictions

CRIM 495-004; 495-307, Spring 2017

Mon: 12:00-1:15pm [495-004]: East Building, Rm. 122

Wed: 12:00-1:15pm [495-307]: East Building, Rm. 122

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Resources

Required Readings:

1. Scheck, B., Neufeld, P. and Dwyer, J. (2003). *Actual innocence: When justice goes wrong and how to make it right*. New York, NY: Penguin.

2. Weekly Readings Posted on Blackboard

Recommended Readings:

Students interested in further reading may consider the following resources:

Cutler, B.L. (ed.) (2012). *Conviction of the innocent: Lessons from psychological research*. Washington, DC: American Psychological Association.

Garrett, B.L. (2011). *Convicting the innocent: Where criminal prosecutions go wrong*. Cambridge, MA: Harvard University Press.

Gould, J.B. (2008). *The innocence commission: Preventing wrongful convictions and restoring the criminal justice system*. New York: New York University Press.

Huff, C. R. & Killias, M. (eds.) (2010). *Wrongful conviction: International perspectives on miscarriages of justice*. Philadelphia, PA: Temple Univ. Press.

Redlich, A.D., Acker, J., Norris, R. J., & Bonventre, C. (2014). (Eds). *Examining wrongful convictions: Stepping back, moving forward*. Durham, NC: Carolina Academic Press.

Internet resources: The Internet offers many sites with a variety of legal resources, including primary legal authorities (constitutions, statutes, administrative regulations, and judicial decisions) and secondary legal authorities (law review articles, encyclopedia articles, American Law Report annotations, and others). Such references are available,

for example, at Findlaw: www.findlaw.com, and through LexisNexis, and LegalTrac. Relevant information on wrongful convictions can be found at Web sites, as well, including those of the Innocence Project (<http://www.innocenceproject.org>), which also links to many other projects and exoneree Web sites; Northwestern University's Center on Wrongful Convictions (<http://www.law.northwestern.edu/cwc/>); the Justice Project (<http://www.thejusticeproject.org/>); and the Death Penalty Information Center (<http://deathpenaltyinfo.org/>).

Description & Objectives

This capstone course is designed to offer an overview of wrongful convictions. We will examine the prevalence of wrongful convictions, how wrongful arrests and convictions occur (contributing factors), how the criminal justice system responds (through court decisions, legislation, and administrative initiatives), and how legal decisions affect the direction of scientific research and vice versa. This is an interdisciplinary course for students who are interested in criminal justice, psychology, and legal issues. At the end of the course, students will have acquired an understanding of case law and research on wrongful convictions, and specific knowledge about eyewitness accuracy, expert witness issues, false confessions, snitches, the roles of the police, prosecutors, defense counsel, and courts in helping cause, prevent, and correct wrongful convictions, forensic evidence issues, and the consequences of wrongful convictions, among other issues.

This class is also a Students as Scholars Scholarly Inquiry course, which means that you will be learning about the process of conducting research in Criminology, Law and Society through multiple assignments. We will learn how to ask and answer worthwhile research questions using a wrongful conviction case and the academic literature. We will also concentrate on how to evaluate, integrate, and use academic literature throughout the class. Specifically, you'll meet the following learning outcomes:

- Articulate and refine a research question
- Follow ethical principles
- Apply appropriate scholarly conventions when reporting or performing (using the American Psychological Association (APA) style guide), and
- Situate the scholarly inquiry within a broader context

To find out more about Students as Scholars initiative, please go to OSCAR.gmu.edu or stop by the Office of Student Scholarship, Creative Activities, and Research.

The university requires students to complete a Synthesis course. According to the university catalog: "The purpose of the synthesis course is to provide students with the opportunity to synthesize the knowledge, skills and values gained from the general education curriculum. Synthesis courses strive to expand students' ability to master new content, think critically, and develop life-long learning skills across the disciplines. . ." Upon completing a synthesis course, students will be able to:

1. Communicate effectively in both oral and written forms, applying appropriate rhetorical standards (e.g., audience adaptation, language, argument, organization, evidence, etc.)
2. Using perspectives from two or more disciplines, connect issues in a given field to wider intellectual, community or societal concerns

3. Apply critical thinking skills to evaluate the quality, credibility and limitations of an argument or a solution using appropriate evidence or resources”

Therefore, this course focuses on development of critical thinking skills, use of empirical methods to evaluate and compare different approaches to justice, and communication of your analysis and conclusions.

The university also requires students to complete a Writing-Intensive course in their major. Writing-intensive courses must “devote significant time to instruction on writing and how to complete assignments successfully. . . Students are required to revise at least one substantive assignment in the course based on instructor feedback . . . [and that assignment should be] divided into sequenced sections that receive feedback and can be revised.” (wac.gmu.edu/wi-course-criteria).

This course fulfills the Writing Intensive requirement in the CLS major. It does so through the research paper due at the end of the semester and developed through a process of drafting, feedback, and revision. This course provides instruction on writing skills in general, and instruction, review, and revision of the specific written products required in this course (the report section drafts and the final report).

Course Requirements

Attendance and Participation

- It is very important to come to class (both Mondays and Wednesdays). Attendance for each class will be taken. If attendance becomes a problem, it will be incorporated into your final grade.
- It is also important to participate in class and be engaged in the discussions. This class will be taught like a seminar, discussion class and less like a lecture.

Weekly Reading and Annotated Bibliographies (25% of final grade)

- Students *must* read the assigned material prior to each **Monday** class and demonstrate their having done so by participating in class discussions. Students *must bring* the book and weekly reading to every class.
- Students should post an annotated bibliography for EACH (including separate chapters in the Scheck et al. book) assigned reading prior to each **Monday** class (i.e., by 11:45am at the latest). These will begin Week 2 (January 30th) and continue through the end of the semester.
- Each annotation should be around 150 words, and must include a Summary. Must also include either an Assessment OR a Reflection of the reading. You should use Summary, Assessment, and/or Reflection as headings.
- Annotations must be uploaded as **Word** documents to Blackboard (pasting into text boxes does not allow for comments). All annotations should be in **1** document and uploaded as such.
- Annotations will be graded as 0 = not done; 1 = check minus (done incorrectly or incompletely; done with little to no effort; typos and grammatical errors); 2 = check (satisfactory); 3 = check plus (excellent). EACH annotation will get a score of 0 to 3.
- Annotations will become a key resource for your research paper, parts of which are due throughout the semester.

- IF necessary, pop quizzes will be given in order to ensure that students are reading the weekly materials and coming to class.

Movie Review (25% of final grade; breakdown below)

Students will be responsible for writing a (variant on a) movie review of a wrongful conviction series that we will be watching on some of the Wed. classes.

- A portion of the Wednesday labs will be spent watching 'Making a Murderer' which is a documentary on the cases of Stephen Avery and Brandon Dassey. There are 10 episodes. Important material (e.g., grading rubrics) may be reviewed those days as well, so it is unwise to skip class.
- You will be required to take notes, using a to-be provided template, during the documentary. Note-taking is an important skill. These notes will also help you to write the final product; the movie review.
- You can hand-write or type your notes. Documentation of notes will make up 10% of your grade—**up to 1%** for each episode.
- Documentation can be fulfilled by:
 - Showing the teacher (Emily Smedley) your handwritten notes immediately after class
 - Posting your typed notes on Blackboard by 2:00pm the same day as the shown episode. Notes posted later than these times will be awarded half-credit if posted with 24 hours (i.e., 2:00pm the next day). Notes posted later than this will not receive any credit.
 - Students will earn full credit for these notes by paying attention and taking detailed notes (using the template). If the note-taking is sparse and demonstrates minimal to low effort, you will receive partial credit.
- A template for note-taking, with instructions, will be posted on Blackboard.
- The movie review is due **Monday, May 3** in class, printed out.
- The movie review will make up 15% of your final grade.
- The movie review should be 3-5 pages (double-spaced) in length. It should include the following (in the order you choose):
 - Basic information about the movie, including the title, main players, basic setting (time and place) and a brief description of the case(s). [Note, this should probably come first]
 - Review major plotlines and happenings. It is okay to reveal the ending. A recommended guideline is to review 3 major events, and to span the entire 10 episodes (i.e., do not only describe events in the first two episodes). Discuss what you liked and did not like about the movie, and why.
 - Be sure to integrate what you have learned in the class into your review. This assignment is purposely late in the semester so that you will be knowledgeable about wrongful convictions. I want to see this knowledge in your review. Were there consistencies or inconsistencies with what you learned about eyewitness misidentification, for example, in the movie? Cite from readings to support your statements (note, cite ≠ quote). Do not feel that you have to address every factor of Avery or Dassey's case. Focus in on 2 or 3 factors (such as false confessions, official misconduct, problems with forensic evidence/testimony). Depth is better here than trying to cover everything (which would not be possible in 3-5 pages).

- Check out this website for helpful hints [must follow above guidelines though], <http://academichelp.net/academic-assignments/review/write-movie-review.html>

Research Paper (50% of final grade; breakdown below)

Students will be required to write a research paper addressing a specific known case of wrongful conviction. The paper should consist of three parts: 1) a description of the case; 2) a thorough analysis of the factors in the case that led to the wrongful conviction (i.e., an analysis of the three issues you used to choose your case; see below); and 3) development and discussion of 2 research questions that stem from your chosen case, the literature on your three factors, or both.

Case/paper topic and Keywords (5% of grade)

Due Feb. 8

Students must have their cases approved. Keywords are words you use to conduct literature searches in library databases. Your list should include 5 to 10 keywords.

Introduction and Purpose of Paper (5% of grade)

Due Feb. 22

Draft an Introduction to your paper, which includes a broad-based statement about wrongful convictions in general, the case you are analyzing, and your three chosen factors. Also include a purpose: one or two sentences about what you plan to accomplish in the paper or what you want the reader to learn by reading the paper (e.g., In this paper, I will provide a detailed analysis of the case of.....; The purpose of this paper is to fairly present.....”).

Part 1, Case Description (10% of grade)

Due Mar. 8

The description of the case should be thorough but should focus on the errors that you will analyze. [~2-3 pages double-spaced]

Part 2: Analysis of Errors (10% of grade)

Due Apr. 5

The analysis of errors should be considered the “meat” of your paper. Your analysis should be in-depth and tied to appropriate legal, scientific, and policy sources (your assigned readings and readings you find on your own). THIS ANALYSIS IS NOT ABOUT YOUR CHOSEN CASE. Rather, you are reviewing the research on your 3 chosen factors per the scholarly literature. [~4-5 pages double-spaced]

Part 3: Research Questions (10% of grade)

Due April 26

Derive two questions that need to be addressed by researchers from your case and/or the review of the literature (Parts 1 and 2 of your paper). Clearly STATE your research questions. Discuss WHY they should be addressed. That is, you will need to justify why your questions should be answered via scholarly research. One way is by determining that your questions have not already been researched (by searching google scholar and other databases), or if researched, the research base is sparse (only 1 or 2 studies; the studies were not done well, etc.). Discuss HOW you would answer these two questions. What kind of studies would need to be done? Interviewing people (who?); Analyzing criminal justice data (what kind?); Conducting an experimental study (what would be manipulated?). [~3-4 pages double-spaced]

Final Paper [revised based on feedback] (10% of grade)

Due May 10

Every day the paper is late will result in the dropping of one letter grade for the paper. Students should post final papers to Blackboard by 5pm on 5/10/17.

The paper must be based on research comprised primarily of scholarly references, including appropriate legal materials, social scientific and/or natural scientific sources, and policy materials. Newspaper and other reference sources (like Wikipedia) also may be used, as appropriate, but should be used sparingly. Papers should be approximately 10-12 double-spaced pages (not including references). DO NOT exceed 12 pages. References should be in APA format. All authorities must be appropriately cited and also included in a bibliography.

How to Choose Your Case:

The National Registry of Exonerations lists over 1,950 exonerations
<https://www.law.umich.edu/special/exoneration/Pages/about.aspx>

Go to 'Using the Registry', then 'Browse the Cases – Detailed View'
 (video tutorial on the detailed view function:

<https://www.law.umich.edu/special/exoneration/Pages/tutorialvideos.aspx#detailviewvideo>)

To choose your case, pick any combination of 3 of the following:

1. Age of the defendant (juvenile versus adult*)
2. Race of the defendant (minority*)
3. Child sex abuse hysteria case (Tag, CSH)
4. Female exoneree (Tag, F)
4. Jailhouse Informant (Tag, JI)
6. Guilty plea (Tag, P)
7. Mistaken Witness Identification (MWID)
8. False Confession (FC)
9. Perjury or False Accusation (P/FA)
10. False or Misleading Forensic Evidence (F/MFE)
11. Official Misconduct (OM)
12. Inadequate Legal Defense (ILD)
13. Death Sentence (within sentence column)

You can select on these to create a list of cases that have all of your 3 chosen factors. Within that list, you can choose the case you want to do your paper on. It would be best to select a case that has more, rather than less, information. For example, if I select Black, FC, and F/MFE, a total of 23 cases are eligible.

NOTE: Do NOT choose Steven Avery as your case

****The case descriptions provided by the National Registry are quite brief. After you choose a case that interests you, you should google the name to find out more details**

Grades

The course components (reading and annotated bibliographies, movie review, and final paper) will be weighted as described above to determine your final grade, which will be assigned according to the following scale:

A+	97-100%	(4.0)		C+	77-79%	(2.33)	
A	93-96%	(4.0)	<i>outstanding</i>	C	73-76%	(2.0)	<i>average</i>
A-	90-92%	(3.67)		C-	70-72%	(1.67)	
B+	87-89%	(3.33)		D	60-69%	(1.0)	<i>marginal</i>
B	83-86%	(3.0)	<i>good</i>	F	0-59%	(0)	<i>failing</i>
B-	80-82%	(2.67)					

Policies

****Students *must* use their MasonLive email account to receive University information, including messages related to this class.**

Student Comportment

To be courteous to others, please be on time to class and treat others with respect during class discussions (e.g., no cell phones; side conversations; early departures). Please be on time. Late arrivals are distracting, and if frequent, will not be accepted (i.e., you will not be allowed to attend class that day). *Regarding electronic devices (such as laptops, cell phones, etc.), please be respectful of your peers and your instructor and do not engage in activities that are unrelated to class. Such disruptions show a lack of professionalism and may affect your participation grade. You may use electronic devices to access the readings.*

Incompletes

Incompletes will not be given in this course except under rare circumstances that require documentation and adherence to University policies.

Academic Code

The GMU academic honor code can be found here:

http://www.gmu.edu/academics/catalog/9798/honorcod.html?_ga=1.80323223.1007567714.1430957683

The code outlines proscribed conduct with regards to cheating and plagiarism. Please note that cheating or plagiarism in this class will result in appropriate penalties that may include failing the course. Three fundamental and rather simple principles to follow at all times are that: (1) all work submitted be your own; (2) when using the work or ideas of others, including fellow students, give full credit through accurate citations; and (3) if you are uncertain about the ground rules on a particular assignment, ask for clarification. Plagiarism means using the exact words, opinions, or factual information from another person without giving the person credit. Writers give credit through accepted documentation styles, such as parenthetical citation, footnotes, or endnotes. Paraphrased material must also be cited, using APA format. If you have any doubts about what constitutes plagiarism, please see me or Ms. Smedely.

If you have a documented learning disability or other condition that may affect academic performance you should: 1) make sure this documentation is on file with

Office of Disability Services (SUB I, Rm. 4205; 993-2474; <http://ods.gmu.edu>) to determine the accommodations you need; and 2) talk with me to discuss your accommodation needs.

Fellow Students (For missed classes, assignments, etc.)

1. Name: _____; Tel/email*: _____

2. Name: _____; Tel/email: _____

3. Name: _____; Tel/email: _____

4. Name: _____; Tel/email: _____

5. Name: _____; Tel/email: _____

**email must be Mason email account*

Class Schedule and Reading Assignments

****READINGS MUST BE COMPLETED BY MONDAY OF EACH WEEK**

**All articles [not Scheck et al. chapters] are posted on Blackboard in the Week they appear

**The following are readings on content only. Readings on effective writing skills may be assigned throughout the semester.

Week 1 [1/23; 1/25]: Overview

[NO READINGS]

Week 2 [1/30; 2/1]: Prevalence of Wrongful Convictions

*WEEKLY ANNOTATED BIBLIOGRAPHIES BEGIN 1/30

1. Chapters 1 and 2 in Scheck et al. book
2. Gross, S. R. (2008). Convicting the innocent. *Annual Review of Law and Social Science*, 4, 173-192.

Week 3 [2/6; 2/8]: Eyewitness Identification

*CASES AND KEYWORDS FOR FINAL RESEARCH PAPER DUE 2/8

1. Chapter 3 in Scheck et al. book
2. Zimmerman, D.M., Austin, J.L., & Bull Kovera, M. (2011). Suggestive eyewitness identification procedures. In B. Cutler (Ed.), *Conviction of the innocent: Lessons from psychological research* (pp. 125-148). Washington, DC: APA Press.

Week 4 [2/13; 2/15]: Police Interrogation; False Confessions

1. Chapter 4 in Scheck et al. book
2. Hasel, L.E. & Kassin, S. M. (2011). False confessions. In B. Cutler (Ed.), *Conviction of the innocent: Lessons from psychological research* (pp. 53-77). Washington, DC: APA Press.

Week 5 [2/20; 2/22]: Child Victim/Witnesses

*INTRODUCTION AND PURPOSE FOR FINAL RESEARCH PAPER DUE 2/22

1. Wood, J. M., Nathan, D., Nezworski, M. T., & Uhl, E. (2009). Child sexual abuse investigations: Lessons learned from the McMartin and other daycare cases. In B. L. Bottoms, C. Nadjowski, & G. S. Goodman (Eds.), *Children as victims, witnesses, and offenders: Psychological science and the law* (pp. 81-101). NY: Guilford Press.

Week 6 [2/27; 3/1]: Forensic Evidence

1. Chapters 5 and 7 in Scheck et al.
2. Saks, M. J., & Faigman, D. L. (2008). Failed forensics: How forensic science lost its way and how it might yet find it. *Annual Review of Law and Social Science*, 4, 149-172.

Week 7 [3/6; 3/8]: Informants

*ROUGH DRAFT PART 1 OF RESEARCH PAPER DUE 3/8

1. Chapter 6 in Scheck et al.
2. Neuschatz, J.S., Jones, N., Wetmore, S.A., & McClung, J. (2011). Unreliable informant testimony. In B. Cutler (Ed.), *Conviction of the innocent: Lessons from psychological research* (pp. 213-238). Washington, DC: APA Press.
3. Johnston, R. J. (1997 Winter). Paying the witness: Why is it OK for the prosecution, but not the defense? *Criminal Justice*, pp. 21-24.

Week 8 [3/13; 3/15]: NO CLASS [SPRING BREAK]**Week 9 [3/20; 3/22]: Prosecutors; Governmental Misconduct**

1. Chapter 8 in Scheck et al.
2. Gershman, B. (2007). Litigating *Brady v. Maryland*: Games prosecutors play. *Case Western Reserve Law Review*, 57, 531-565.

Week 10 [3/27; 3/29]: Defense Attorneys; Ineffective Counsel

1. Chapter 9 in Scheck et al.
2. Bach, A. (2009). What's a defense? *Ordinary injustice: How America holds court* (pp. 11-76). NY: Henry Holt and Company.

Week 11 [4/3; 4/5]: Pre-Trial Issues and Guilty Pleas

*ROUGH DRAFT PART 2 OF FINAL PAPER DUE 4/5

1. Bach, A. (2009). A Troy champion. *Ordinary injustice: How America holds court* (pp. 77-129). NY: Henry Holt and Company.
2. Lynch, T. (2003). The case against plea bargaining. *Regulation*, 24-27.
3. Sandefur, T. (2003). In defense of plea bargaining. *Regulation*, 28-31.

Week 12 [4/10; 4/12]: Trials; Juries

1. Chapter 10 in Scheck et al.
2. Garrett, B. (2011). Innocence on trial. *Convicting the innocent: Where criminal prosecutions go wrong* (pp. 145-177). Cambridge, MA: Harvard University Press.

Week 13 [4/17; 4/19]: Death Penalty

1. Chapter 11 in Scheck et al.
2. Acker, J. R. (2009). Actual innocence: Is death is different? *Behavioral Sciences and the Law*, 27, 297-311.

Week 14 [4/24; 4/26]: Post-Conviction; Exoneration Process

****ROUGH DRAFT OF PART 3 OF FINAL PAPER DUE 4/26**

1. Garrett, B. (2011). Judging innocence. *Convicting the innocent: Where criminal prosecutions go wrong* (pp. 178-212). Cambridge, MA: Harvard University Press.
2. Garrett, B. (2011). Exoneration. *Convicting the innocent: Where criminal prosecutions go wrong* (pp. 213-240). Cambridge, MA: Harvard University Press.

Week 15 [5/1; 5/3]: Post-Exoneration; Compensation

****MOVIE REVIEW DUE 5/3**

1. Chapter 12 in Scheck et al.
2. Clow, K. A., May-Leach, A., & Ricciardelli, R. (2011). Life after wrongful conviction. In B. Cutler (Ed.), *Conviction of the innocent: Lessons from psychological research* (pp. 327-341). Washington, DC: APA Press.

***FINAL PAPERS DUE 5/10/17: posted to Blackboard by 5pm.**