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

- Actual Innocence by Jim Dwyer, Barry Scheck and Peter Neufield
- Weekly Class Readings (outlined in syllabus below)

Recommended Resources

- Websites
  - www.innocenceproject.org (Innocence Project)
  - www.innocencenetwork.org (Innocence Network)
  - https://www.law.umich.edu/special/exoneration/Pages/about.aspx (National Registry of Exonerations)

- Books
  - Convicting the Innocent: Where Criminal Prosecutions Go Wrong by Brandon Garrett
  - Surviving Justice edited by Lola Vollen & Dave Eggers
  - The Innocent Man by John Grisham
  - False Justice by Jim and Nancy Petro
  - Picking Cotton by Jennifer Thompson & Ronald Cotton
• Videos
  ▶ After Innocence
  ▶ The Trials of Darryl Hunt
  ▶ Conviction
  ▶ A Case for Innocence
  ▶ The Exonerated

Virginia Case Studies

Marvin Anderson, David Boyce, Michael Hash, Thomas Haynesworth, Kenneth McAlister, and the Norfolk Four. We will also examine recent cases from other jurisdictions. Any materials relating to these cases will be distributed in class.

Class Meetings

Mondays and Wednesdays, 6:00-7:50pm.

Guest Speakers

To be announced.

Grading

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

Syllabus and Class Readings

Wednesday, May 20, Introduction to Wrongful Convictions, Post-Conviction Process and the Innocence Movement

Read Before Class:
  o Findley, Defining Innocence, 74 Albany L. Rev. 1157 (2011)
  o Risinger, Convicting the Innocent: An Empirically Justified Wrongful Conviction Rate, 97 J. Crim. Law & Criminology 761 (2007)

Monday, May 25, Memorial Day (no class)
Wednesday, May 27, Legal Remedies for Post-Conviction Claims of Innocence: DNA Testing Statutes, Writs of Factual Innocence and Habeas Corpus

Read Before Class:

Monday, June 1, The Police Investigation: Tunnel Vision, Preservation of Evidence and Official Misconduct

Read Before Class:
- Evans-Smith v. Taylor, 19 F.3d 899 (4th Cir. 1994)

Wednesday, June 3, Mistaken Eyewitness Identification

Read Before Class:
- Manson v. Brathwaite, 432 U.S. 98 (1977)
- Identifying the Culprit: Assessing Eyewitness Identification, National Academy of Sciences (selected sections for discussion will be provided in advance)

Monday, June 8, Flawed Forensic Evidence and Forensic Fraud

Read Before Class:
- Frye v. United States, 293 F. 1013 (D.C. Cir. 1923)
- Strengthening Forensic Science in the United States: A Path Forward, National Academy of Sciences (selected sections for discussion will be provided in advance)
Wednesday, June 10, Police Interrogations and False Confessions

Read Before Class:
- Greenwald v. Wisconsin, 390 U.S. 519 (1968)

Monday, June 15, Prosecutorial Mistakes and Misconduct: Suppression of Exculpatory Evidence and Reliance on Incentivized or Perjured Testimony

Read Before Class:
- Brady v. Maryland, 373 U.S. 83 (1963)
- 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)

Wednesday, June 17, Ineffective Defense Counsel

Read Before Class:

Monday, June 22, Post-Exoneration Issues

Read Before Class:
Wednesday, June 24, Investigating Post-Conviction Innocence Claims: The Paper Trail and The People Trail

No required reading.

Monday, June 29, Policy Reforms to Prevent Wrongful Convictions

Read Before Class:
- Innocence Project Fact Sheets (will be provided in advance)

Wednesday, July 1, The Importance of Diverse Voices and Partnerships

Read Before Class:
- Study of Victim Experiences of Wrongful Conviction, National Institute of Justice (available at https://www.ncjrs.gov/pdffiles1/nij/grants/244084.pdf)

Monday, July 6, Going Forward: Lessons from the Innocence Movement and the Future of Criminal Justice Reform

No required reading.