

Course Outline

COURSE:	LAWS 4306 B – Criminal Law Issues (Wrongful Convictions)
TERM:	Winter 2017
PREREQUISITES:	4th year Honours standing and LAWS 2301, LAWS 2302
CLASS:	Day & Time: Wednesday 6:00 – 9:00 p.m. Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Kelly Lauzon
CONTACT:	Office Hrs: By appointment Email: kellylauzon@cmail.carleton.ca

Academic Accommodations:

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://carleton.ca/equity/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://carleton.ca/equity/>

The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). **Requests made within two weeks will be reviewed on a case-by-case basis.** After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website (www.carleton.ca/pmc) for the deadline to request accommodations for the formally-scheduled exam (*if applicable*).

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://carleton.ca/equity/>

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of

calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at:

<http://carleton.ca/studentaffairs/academic-integrity/>

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://carleton.ca/law/current-students/>

COURSE DESCRIPTION

In this class, we will rely on Canadian and American research to examine and analyze the factors that have been linked to wrongful conviction cases. We will use this knowledge to study known cases of wrongful conviction within the Canadian justice system to help us consider the implications that a wrongful conviction has for the accused person who is subsequently exonerated. In doing so, we will attempt to answer a variety of questions such as: What impact do wrongful conviction cases have on the credibility of the criminal justice system? How do the state and the justice system respond when people complain that they have been wrongfully convicted? What role do police, crown attorneys, judiciary and other justice officials play in wrongful conviction cases? What impact do wrongful convictions have on the lives of the wrongfully convicted and their families? Finally, can anything be done to reduce the frequency with which people are wrongfully convicted by the criminal justice system in the future?

General Objectives

- To identify the various sociological, legal and psychological factors that contribute to wrongful convictions.
- To examine the role played by various justice officials in wrongful conviction cases.
- To try to understand the impact that wrongful conviction cases have on the lives of innocent people as well as their families and the families of the original victim.
- To identify avenues of redress for the wrongfully convicted as well as mechanisms that can be introduced to reduce or prevent wrongful convictions in the future.
- To critically look at and engage with the course material to gain a deeper appreciation of this often overlooked area of the criminal justice system.

REQUIRED TEXTS

All journal articles will be available on cuLearn.

Readings related to the cases will be available on reserve at the library.

EVALUATION

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

(All components must be successfully completed in order to get a passing grade) – this includes the attendance and participation components. If you do not receive a passing grade (50%) on *each of* the attendance and participation components, you will not receive a passing grade for this course.

A printed copy of all assignments are **due at the beginning of class**. **Do not** submit your assignment via email. If you cannot submit your assignment at the beginning of class, you must submit it to the main office in the Department of Law and Legal Studies (4th floor Loeb Building). Any assignments submitted after the beginning of class will be marked as late. All late assignments will be subject to a deduction of 3% per day, including weekends and holidays – **no exceptions**. Assignments will not be accepted any later than seven days past their due date without prior instructor approval for an official extension.

1. Attendance and Contribution to Discussion 25%

- This class will focus strongly on discussion. You are expected to come to class prepared to discuss the readings and the course material. Class attendance will only account for 10% of your grade. You need to be prepared to contribute to the class discussions to earn the additional 15%.
- Students are expected to sign in at the beginning of each class. Attendance grades will not be given retroactively.

2. Personal Reflection 20%

- Due at the beginning of class on February 15
- In 5-7 pages (double spaced), critically engage with one of the topics discussed in class.
- How has this new knowledge affected what you thought you knew? How has this challenged your assumptions of the workings of the criminal justice system?
- No secondary material is to be used for this assignment. This is a reflection upon what you have learned and how this has shaped your outlooks. You are asked to reflect on what you have learned so far, how your thinking about one of the topics discussed in class has changed since the beginning of class.

3. 5 Questions for Guest Speakers 5%

- Due at the beginning of class on March 8.
- You are asked to prepare at least 5 questions that you want to ask our guest speaker on March 15. This is your opportunity to ask a law enforcement agent any questions that you may have about wrongful convictions. It is best to prepare this list as we work through the class material. The questions can be about any of the factors that contribute to wrongful conviction or they can be about any of the proceedings that occurred in any of the cases we discuss in class.

4. Term Paper 50%

- Due at the beginning of class on April 5
- You are asked to write a 12-15 page paper (double spaced) that focuses on either:

- a) The comprehensive study of a wrongful conviction case (to be approved in consultation with the instructor - you are not limited to the cases discussed in class).
- Your challenge is to identify and analyze the various factors that contributed to this individual's wrongful conviction.
 - Do not simply give a synopsis of the case, but rather you are required to demonstrate a thorough understanding of the factors that led to the wrongful conviction as well as to explain how and why they were instrumental in leading to the wrongful conviction.

OR

- b) Thorough analysis of any factor that contributes to wrongful convictions (to be approved in consultation with the instructor - you are not limited to the factors discussed in class).
- You will be required to review and discuss multiple cases (i.e.: more than just one case) where this factor is present
 - Discuss how this factor is directly related to the wrongful convictions you choose to discuss.
 - Again, do not simply give a synopsis of the cases, but rather demonstrate that you understand how your chosen factor is instrumental in creating and contributing to wrongful convictions.

STATEMENT ON INTELLECTUAL PROPERTY

Student or professor materials created for this course (including presentations and posted notes, labs, case studies, assignments and exams) remain the intellectual property of the author(s). They are intended for personal use and may not be reproduced or redistributed without prior written consent of the author(s).

cuLEARN

I will use cuLearn when I need to send important messages and/or announcements to the class. Keep in mind that you are responsible for being aware of all announcements that may be presented during lectures and through cuLearn, whether or not you attend class. In case of absence, you should arrange with another student to inform you of any announcements.

SCHEDULE

Week	Date	Material
1	Jan 11	Introduction to the Course <ul style="list-style-type: none"> • Review Syllabus • Briefly discuss wrongful convictions and what they say about our justice system
2	Jan 18	The History of Wrongful Conviction <ul style="list-style-type: none"> • Kent Roach, “Wrongful Conviction in Canada” (2012) 80 University of Cincinnati Law Review pp. 1465-1476. • Jon B. Gould & Richard A. Leo, “One Hundred Years Later: Wrongful Convictions after a Century of Research” (2010) 100 The Journal of Criminal Law & Criminology pp. 825-838. • Keith A. Findley, Learning from our mistakes: A Criminal Justice Commission to Study Wrongful Conviction (2002) 38 California Western Law Review pp. 333-353.
3	Jan 25	Systemic Factors: Tunnel Vision & Public Pressure <ul style="list-style-type: none"> • Dianne L. Martin, “Lessons about Justice from the “Laboratory” of Wrongful Convictions: Tunnel Vision, the Construction of Guilt and Informer Evidence” (2002) 70 UMKC pp. 847-864. • Ronald Huff, Arye Rattner & Edward Sagarin, “Guilty Until Proved Innocent” (1986) 32 Crime and Delinquency pp.518-544.
4	Feb 1	Systemic Factors: Eyewitness Testimony <ul style="list-style-type: none"> • Sandra Guerra Thompson, “Beyond a Reasonable Doubt? Reconsidering Uncorroborated Eyewitness Identification Testimony” (2008) 41 UC Davis Law Review pp. 1506-1528. • Gary L. Wells, “Applied Eyewitness-Testimony Research: System variables and Estimator Variables” (1978) 36 Journal of Personality and Social Psychology pp.1546-1557.
5	Feb 8	Systemic Factors: Jailhouse Informants Systemic Factors: Bad Science <ul style="list-style-type: none"> • Alexandra Natapoff, “Beyond Unreliable: How Snitches Contribute to Wrongful Convictions” (2006) 37 Golden Gate University Law Review pp. 107-130. • Bruce MacFarlane, “Wrongful Convictions: The Effect of Tunnel Vision and Predisposing Circumstances in the Criminal Justice System” Prepared for the Inquiry into Pediatric Forensic Pathology in Ontario, The Honourable Stephen T. Goudge, Commissioner (2008) Part IV: Some Lessons Learned, and Their Potential Application to Forensic Pathology pp.57-86. • John M. Collins & Jay Jarvis, “The Wrongful Conviction of Forensic Science” (2009) 1 Forensic Science Policy and Management pp. 17-31.
6	Feb 15	Personal Reflection due at the beginning of class Systemic Factors: Other Systemic Factors that lead to a Wrongful Conviction (ex: False Confessions, Guilty Pleas, Prosecutorial Misconduct, Criminal Record) <ul style="list-style-type: none"> • Joan Brockman, “An Offer You Can't Refuse: Pleading Guilty When Innocent” (2010) 56 Crim. L.Q. pp.116-134. • Christopher Sherrin, “False Confessions and Admissions in Canadian Law” (2005) Queen’s Law Journal pp. 601-622.

	Feb 22	Fall Break – No Class
7	Mar 1	<p>Social Factors: contributing factors that reside outside of the criminal justice system (marginalization, race, SES)</p> <ul style="list-style-type: none"> • Earl Smith & Angela J. Hattery, “Race, Wrongful Conviction & Exoneration” (2011) 15 Journal of African American Studies pp.74–94. • Theodore G. Chiricos, Phillip D. Jackson, Gordon P. Waldo, “Inequality in the Imposition of a Criminal Label” (1972) 19 Social Problems pp.553-571.
8	Mar 8	<p>Questions due at the beginning of class</p> <p>Mr. Big Operations</p> <ul style="list-style-type: none"> • Kate Puddister & Troy Riddell, “The RCMP’s “Mr. Big” sting operation: A case study in police independence, accountability and oversight” (2012) 55 Canadian Public Administration pp. 385-409. • Steven M. Smith, Veronica Stinson, & Marc W. Patry, “Using the Mr. Big Technique to Elicit Confessions: Successful Innovation or Dangerous Development in the Canadian Legal System?” (2009) 15 Psychology, Public Policy, and Law pp. 168-193.
9	Mar 15	Guest Speaker: OPP Officer
10	Mar 22	<p>Case Studies: Alain Olivier & Jamie Nelson</p> <ul style="list-style-type: none"> • Victor Malarek, Chapter 11: “Seeds of Deception” in Gut Instinct: The making of an investigative journalist (Toronto: Macmillan, 1996) pp238-271. • Appellant’s Factum. Available at http://www.jdsupra.com/documents/edc27da8-4d20-4d0f-ab4c-11203e6bc857.pdf
11	Mar 29	<p>Case Study: Steven Truscott</p> <ul style="list-style-type: none"> • B. Anderson & D. Anderson, Chapter 7: “The Case of Steven Truscott” in Manufacturing guilt: Wrongful convictions in Canada (Halifax, N.S.: Fernwood, 1998) pp. 101-113. • Sydney L. Robins, “In the Matter of Steven Truscott: Advisory Opinion on the Issue of Compensation” (2008) available at https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/truscott/robins_report.pdf pp 1-33.
12	Apr 5	<p>Term Paper due at the beginning of class</p> <p>Guest Speaker: Jamie Nelson</p> <p>How do we fix wrongful convictions?</p> <ul style="list-style-type: none"> • Myriam S. Denov & Kathryn M. Campbell, “Criminal Injustice: Understanding the Causes, Effects, and Responses to Wrongful Conviction in Canada” (2005) 21 Journal of Contemporary Criminal Justice pp. 224-249. • Thomas P. Sullivan, “Preventing Wrongful Convictions” (2004) 52 Drake L.R. pp. 605-617.