

University of Florida Levin College of Law
COURSE SYLLABUS
Wrongful Convictions and Factual Innocence:
Conviction Integrity Review
LAW 6942 (22923) - 5 credits
Fall 2024

INSTRUCTORS' CONTACT INFORMATION:

Shelley Thibodeau, Director
Conviction Integrity Review, 4th Judicial Circuit State Attorney's Office
SThibodeau@coj.net

Sarah H. Wolking, Senior Legal Skills Professor
wolking@law.ufl.edu
352-273-0815 ofc. 510-376-7837 cell
126 Bruton-Geer Hall

Office Hours: Wednesdays 1:30-3:30 p.m. Students should feel free to contact Professor Wolking anytime to discuss legal issues or ask questions. They are welcome to contact the professor via email, text, or phone.

COURSE DESCRIPTION AND OBJECTIVES:

The primary goal of this course is to educate law students about the issues that lead to wrongful convictions and to engage students directly in reviewing actual innocence claims made by individuals who have been convicted of a felony. Students will learn about the causes of wrongful convictions, review data sources and materials, and take part in efforts to address innocence claims.

This course will allow students to learn about systemic errors in our criminal justice system that lead to the conviction of innocent people. Students will also learn about complex legal remedies available for correcting wrongful convictions and policy reforms for preventing them. Actual cases and existing laws will be scrutinized during class. Specifically, students will learn how to identify, analyze, and develop a post-conviction innocence case. This aspect of the course will include learning about common elements in wrongful conviction cases: mistaken eyewitness identification, false confessions, misuse of informants, flawed forensic evidence, mistakes and misconduct by law enforcement officials, poor defense representation, legal barriers to post-conviction relief; and use of DNA and non-DNA evidence for achieving justice. We will also examine the role of racial and ethnic bias, profiling, and tunnel vision in

wrongful convictions. Students will have an opportunity to hear from police, prosecutors, defenders, exonerated individuals, and other critical stakeholders affected by wrongful convictions and involved in improving the accuracy and reliability of our criminal justice system.

The class will be divided into two components:

1. Academic class work; and
2. Out-of-class innocence review (10.5 hours per week for a total of 135 hours over the course of the semester)

Recognizing that prosecutors have a continuing, post-conviction ethical obligation to pursue justice, students will work closely with the Fourth Judicial Circuit State Attorney's Office Director of the Conviction Integrity Review (CIR) Division in Jacksonville. Established in 2018, this unit was the first created within a State Attorney's Office in Florida. It was designed to review and investigate claims of actual innocence and provide analysis and assistance to prevent errors that might lead to a miscarriage of justice. The CIR investigates and resolves claims of actual innocence arising from felony convictions obtained in the Fourth Judicial Circuit that are substantiated by credible, factual information or evidence previously not considered by the original finder of fact. Plausible claims of actual innocence are worthy of acceptance and provide a reasonable and probable likelihood that the petitioner did not participate in or commit the crime.

Students will be involved in the investigation and legal analysis of petitions, which may include reviewing agency files, reviewing trial, appellate, and post-conviction legal briefs and transcripts, conducting witness interviews and obtaining sworn statements, submitting evidence for testing or retesting, and otherwise examining and investigating the petitioner's claims.

STUDENT LEARNING OUTCOMES:

After this course, students should be able to:

- Identify the broad range of factors that contribute to wrongful conviction of the innocent, including faulty eyewitness-identification procedures; coercive and deceptive police interrogation protocols; mishandling of confidential informants, cooperating witnesses, and jailhouse snitches; junk science, disorganized crime labs, and incompetent and corrupt experts; police and prosecutorial failures to preserve and disclose exculpatory evidence; and incompetent and underfunded defense counsel;
- Analyze facts and legal arguments in transcripts;
- Document legal research, petition review, and investigative efforts in Clio (case management system);

- Orchestrate investigation, including forensic testing and interviews;
- Articulate investigative reforms that could be implemented to guard against the conviction of the innocent;
- Speak professionally with trial counsel or other witnesses;
- Write memoranda for each innocence petition reviewed, which thoughtfully outlines the facts of the case and continued investigative steps or denial of the petition;
- Identify policy changes that will reduce wrongful convictions in the future;
- Present investigative and policy reforms to stakeholders;
- Develop skills in interviewing and professionalism

MEETING TIMES AND LOCATIONS:

This course will meet on the following dates and times: Fridays, 9:30 am-1:30 pm

Class dates: 8/30, 9/13, 9/27, 10/11, 10/25, and 11/8

All classes will be via Zoom except for 10/25, which is in person at UF Law

REQUIRED READING AND VIEWING MATERIALS:

- *Justice Pursued: The Exoneration of Nathan Myers and Clifford Williams* by Bruce Horowitz
- *Gideon's Army*, documentary on YouTube, [Gideon's Army](#) (1:35:45)
- [America's Public Defense System is in Crisis](#), YouTube (12:40)
- *Bone Valley*, a podcast hosted by Gilbert King (9 episodes)
- Saul Kassin, [False Confessions - Vera Institute](#) (9:11)
- The False Confession Capital—60 minutes video [60 Minutes on False Confessions](#) (13:30)
- The Confessions, [PBS Frontline](#) (1:23:26)
- Wrongful Conviction with Jason Flom podcast, False Confessions—Norfolk 4 episode, October 5, 2020
- Summary of the Willie Veasey case:
<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5624>
- The Confession Tapes, Netflix, Episode 5, 8th and H
- Catherine Fuller case: <https://www.theguardian.com/us-news/2017/mar/23/catherine-fuller-murder-supreme-court-hidden-evidence>
- Four Black men were accused of rape in Jim Crow Florida. 72 years later, they've been exonerated.
<https://www.washingtonpost.com/nation/2021/11/23/groveland-four-exonerated-rape/>

- Frontline, The Real CSI, Season 2012, Episode 10 (53:00)
- AAFs 2018 Plenary Session Part 2, Itiel Dror, YouTube (YouTube, 42:33)
- Wrongful Conviction with Jason Flom, Junk Science, Arson episode, #149, 8.17.2020
- Wrongful Conviction with Jason Flom, Junk Science, Fingerprint episode, #156, 9.9.2020
- Review Professor Alexandra Natapoff's website—snitching.org
- FL Innocence Commission Report—[Innocence Commission Report 2012](#)
- [He's a Liar, Con-artist, and a Snitch—ProPublica Paul Skalnik article](#)
- [Convicted Based on Lies, ProPublica](#)
- PBS Nova: The Brain, Perception Deception (53:33)
- Jennifer Thompson/Ronald Cotton case—[Eyewitness Testimony part 1](#) (13:00) and [Eyewitness Testimony part 2](#) (13:06)
- Wrongful Conviction with Jason Flom podcast, Junk Science, Nov. 11, 2020, episode on eyewitness misidentification
- *Murder on a Sunday Morning* (1:51:13), YouTube, Tubi, or Prime video
- *The Marked Man*, Tampa Bay Tribune, Spata and Sullivan
<https://www.tampabay.com/news/crime/2024/05/29/florida-tampa-killer-trial-murder-dna-mystery-innocent-prison-released/>

CLASS ATTENDANCE POLICY:

Attendance in class is required by both the ABA and the law school. Attendance at each session of this course is mandatory. Any missed session will result in a 5-point reduction in a student's final grade (on the 100-point scale) for each missed session. If you have a legitimate reason for missing class, you should contact me before or soon after class ends so that your absence can be excused. The law school's policy on attendance can be found at this link: <https://www.law.ufl.edu/uf-law-student-handbook-and-academic-policies#>

UF LEVIN COLLEGE OF LAW STANDARD SYLLABUS POLICIES:

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations, can be found at this link:

<https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>

ABA OUT-OF-CLASS HOURS REQUIREMENTS:

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. This course has four "classroom hours" of in-class instruction every other week (2 hours per week), requiring at least four hours of preparation outside of class. Assignments will be emailed or posted on Canvas before the start of class, and articles on current events and other materials will be added to your assignments periodically throughout the semester.

COURSE EXPECTATIONS, CREDITS, AND GRADING EVALUATION:

For this course, you will earn five (5) total credits. Three (3) of these credits are pass/fail (Satisfactory/Unsatisfactory), and two (2) of these credits are graded.

*****STUDENTS WILL MEET/SPEAK WEEKLY WITH THE COURSE INSTRUCTORS AND SHOULD EXPECT TO SPEND A MINIMUM OF 10.5 HOURS PER WEEK ON CASEWORK*****

The class will meet six times during the semester. Students must prepare class material, write reflections, and review innocence claims. It is anticipated these will be homicide cases. The course is reading intensive as students must digest a trial transcript and case file in its entirety in addition to assigned course materials. Students may meet or talk with incarcerated individuals and with witnesses. They will be expected to do legal research and analysis. For each case, the student will create a Final Memorandum stating their findings and rationale for whether the innocence claim is viable.

In addition to their casework, students will attend class, which includes participating in case rounds involving issues raised by their petitions, preparing questions for our guest speakers, and leading discussions on the required reading/viewing course assignments. The Wrongful Conviction/Innocence Course counts toward the six-credit experiential learning requirement.

Our grading rubric is posted on Canvas, and we encourage you to review it as you begin working on your petitions. Grades will be determined as follows:

Class preparation, written reflections, and participation: 40%

Case notes in Clio and Final Memoranda: 60%

Procedure for Innocence Claim Review:

Each student will be assigned at least one petition received by the 4th Judicial Circuit State Attorney's Office Conviction Integrity Review Division. To begin, the student will review each petition to determine whether it is facially sufficient.

Using a **Review Checklist**, the student will investigate the claim, including:

- Review of the trial transcript and post-conviction motions
- Review of depositions and provide deposition summaries
- Review of police reports and forensic analyses

The student will determine what information is necessary to support the innocence claim and will devise a plan for investigation, including:

- Possible DNA testing
- Interviewing additional witnesses not called at trial
- Re-interviewing trial witnesses
- Ordering additional forensic testing, which may not have been previously available
- Evaluating whether questionable methods were used to obtain a confession or eyewitness identification

Depending on the complexity of the investigation, the student is expected to participate in investigating the innocence claims. This investigation may include internet searches, case law research, witness interviews, forensic testing submission, correspondence with the petitioner, expert witness consultation, and working with the CIR investigator on additional avenues of investigation. The student must review the case history and actively investigate the innocence claim.

For each case, the students will create a Final Memorandum stating their findings and rationale for whether or not the innocence claim is viable.

Clio (case management system) will provide remote access to case documents.

The director of the State Attorney's Office Conviction Integrity Review Division and the UF Law Senior Legal Skills Faculty member will supervise students. If permitted, students will work remotely or in person.

INSTRUCTIONS FOR COMPLETING WEEKLY TIMESHEETS:

Using a PowerApp developed by UF Law's IT team, you'll complete weekly time sheets that accurately and meaningfully describe work performed. To set up your weekly time recording, simply log in here:

<https://apps.powerapps.com/play/e/a46b10d4-09c2-ebe1-bc4b-f301cdbfab0d/a/a73974a6-5c33-4c65-a2b7-009c7953728d?tenantId=0d4da0f8-4a31-4d76-ace6-0a62331e1b84&hint=cad577a3-1595-4464-ad08-16b87f066e7e&sourcetime=1707411763848&source=portal> and follow the prompts.

You'll need to enter your supervisor's email address (wolking@law.ufl.edu) so your hours can be approved.

Please do not record time with a single, recurring description: “review trial transcript.” Instead, if possible, break down the tasks involved:

“researched law on judicial review –2 hours”

“created a timeline for homicide—3 hours”

“wrote the first section of Final Memorandum - factual summary—2 hours”

Also, think carefully about the words you use to describe your work. Use persuasive verbs. “Motion to suppress brief” is not compelling; “Researched, wrote, and revised motion to suppress brief” is better. No matter what area of law practice you enter, being able to accurately and persuasively describe your work has tremendous value, and this semester is a great time to hone these skills!

COMMUNICATION COURTESY AND CIVILITY:

Please follow the rules of common courtesy in all email messages, threaded discussions, and chats. Do not arrive late to class, leave early, or leave to take a break during class absent extenuating circumstances. Please turn off your cell phone during class. We reserve the right to lower your final grade if you engage in behavior that disrupts the learning environment for your classmates.

INTERNET USE DURING CLASS:

Use of the Internet during class is not permitted unless directed by the instructors. You may not check social media sites, email (even Clinic or career-related emails), or news sites. Think of class as an important client meeting and schedule your emailing needs accordingly. Your internet use, even for a noble purpose, violates the standards of professionalism. If you have concerns about this policy, please discuss them with us.

COURSE SCHEDULE OF TOPICS AND ASSIGNMENTS:

Class 1: 8/30/24

Overview of Wrongful Convictions and Ineffective Assistance of Counsel

Overview of the six areas/factors most commonly associated with wrongful convictions:

1. Eyewitness misidentification
2. False Confessions
3. Misapplied Forensic Science
4. Incentivized Informants
5. Government Misconduct
6. Ineffective Assistance of Counsel

Class Discussion:

- Case discussion: Clifford Williams and Nathan Myers

- The Role of Defense Attorneys
- Ineffective Assistance of Counsel Claims
- FL Innocence Commission
- The Impact of Underfunded Public Defender Offices

Out of Class Material:

- Read *Justice Pursued: The Exoneration of Nathan Myers and Clifford Williams* by Bruce Horovitz
- Watch *Gideon's Army*, a documentary on YouTube, [Gideon's Army](#) (1:35:45)
- Watch [America's Public Defense System is in Crisis](#), YouTube (12:40)
- Start listening to *Bone Valley*, a podcast hosted by Gilbert King (9 episodes)
- Sign and return the SAO Confidentiality Agreement
- Familiarize yourself with the Review Checklist and Review Guide—provided
- SAO4 CIR Wrongful Conviction case review — to be assigned

Class 2: 9/13/24

False Confessions

Class Discussion:

- Student-led discussion on the Norfolk 4
- Saul Kassin, [False Confessions - Vera Institute](#) (9:11)
- The False Confession Capital—60 minutes video [60 Minutes on False Confessions](#) (13:30)
- Interrogation techniques—Reid vs. Cognitive Interviewing
- Guest speaker: Jim Figorski

Out of Class Material:

- Watch *The Confessions*, [PBS Frontline](#) (1:23:26)
- Listen to Wrongful Conviction with Jason Flom podcast, False Confessions—Norfolk 4 episode, October 5, 2020
- Read a summary of the Willie Veasey case, handled by our guest speaker: <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5624>
- Write a 2-page reflection on the Norfolk 4 and submit three questions for our speaker based on what you've read and watched (DUE: 9/11)
- Continue with the *Bone Valley* podcast, to be completed by 10/25

Class 3: 9/27/24

Government Misconduct

Class Discussion:

- Government Misconduct and Wrongful Convictions: Gvmt Misconduct and Convicting the Innocent
- *Brady* violations, Charles Testagrossa article (resigned after *Brady* violation disclosed)
- How confirmation bias and tunnel vision impact an investigation
- Innocence Project videos (Jim Trainum)
- Guest Speaker: Tom Dybdahl

Out-of-Class Assignments:

- Watch *The Confession Tapes*, Netflix, Episode 5, 8th and H; or read The Guardian article on the Catherine Fuller case: <https://www.theguardian.com/us-news/2017/mar/23/catherine-fuller-murder-supreme-court-hidden-evidence>
- Read *Four Black men were accused of rape in Jim Crow Florida. 72 years later, they've been exonerated.* <https://www.washingtonpost.com/nation/2021/11/23/groveland-four-exonerated-rape/>
- Write a 2-page reflection on the Norfolk 4 and submit three questions for our speaker based on what you've read and watched (DUE: 9/25)

Class 4: 10/11/24

Misapplied Forensic Science

Class Discussion:

- Student presentations of next steps in CIR assigned cases (5-8 minutes each)
- Read National Academy of Science: Strengthening Forensic Science in the US (2009 report)
- Watch Innocence Project video—Confirmation Bias, Dr. Sherry Nakhaeizadeh
- Brandon Mayfield--fingerprints
- Lime Street, Jacksonville, FL—arson case
- Guest Speakers: Mike Maloney and Tom Brady

Out of Class Material:

- Watch *Frontline: The Real CSI*, Season 2012, Episode 10 (53:00)
- Watch AAFs 2018 Plenary Session Part 2, Itiel Dror, YouTube (YouTube, 42:33)
- Listen to Wrongful Conviction with Jason Flom, Junk Science, Arson episode, #149, 8.17.2020 or Wrongful Conviction with Jason Flom, Junk Science, Fingerprint episode, #156, 9.9.2020
- Write a two-page reflection and submit three questions for our speaker based on what you have read and watched (DUE: 10/9)

Class 5: 10/25/24 at UF Law

Incentivized Informants – Jailhouse Snitches

Class Discussion:

- Review Professor Alexandra Natapoff's website – snitching.org
- Read FL Innocence Commission Report – [Innocence Commission Report 2012](#)
- Systemic problems around the country – TX and CA
- Guest speakers: Gilbert King and Leo Schofield

Out-of-Class Assignments:

- Read [He's a Liar, Con-artist, and a Snitch](#) – ProPublica Paul Skalnik article
- Read [Convicted Based on Lies](#), ProPublica article
- Watch PBS Nova: The Brain, Perception Deception (53:33)
- Finish listening to *Bone Valley* podcast
- Write a two-page reflection and submit three questions for our speakers based on what you have read and watched (DUE: 10/23)

Class 6: 11/8/24

Eyewitness Misidentification

Class discussion:

- Student presentation of CIR-assigned case facts (5-8 minutes each)
- Student-led discussion on the Brenton Butler case
- Motorcycle commercial video
- Innocence Project video on human factors
 - Dr. Jennifer Dysart –eyewitness memory
 - Elizabeth Loftus –human memory
- Jennifer Thompson/Ronald Cotton case – [Eyewitness Testimony part 1](#) (13:00) and [Eyewitness Testimony part 2](#) (13:06)
- Guest Speaker: Dan Sullivan, Tampa Bay Tribune

Out of Class Material:

- Listen to Wrongful Conviction with Jason Flom podcast, Junk Science, Nov. 11, 2020, episode on eyewitness misidentification
- Watch *Murder on a Sunday Morning* (1:51:13), YouTube, Tubi, or Prime video.
- Read *The Marked Man*, Tampa Bay Tribune, Spata and Sullivan <https://www.tampabay.com/news/crime/2024/05/29/florida-tampa-killer-trial-murder-dna-mystery-innocent-prison-released/>
- Write a 2-page reflection and submit three questions for our speaker based on what you have read and watched (DUE: 11/6)