

Course Syllabus

[Jump to Today](#)

[Edit](#)

Wrongful Convictions
Spring 2023

Faculty: Justin Brooks (jpb@cwsl.edu) Louise Hewitt (louise.hewitt@greenwich.ac.uk)

Course Description

Since the 1990s innocence projects have developed around the world to address the wrongful conviction of innocent people. As there is no such thing as a perfect criminal justice system, this is a global problem.

Justin Brooks and Louise Hewitt have been leaders in the battle against wrongful convictions on both sides of the Atlantic through their work as directors and professors at the California and London Innocence Projects. Their projects investigate and litigate claims of innocence, along with law and criminology students enrolled as students in their projects.

Students in this course will learn about the causes of wrongful conviction and the work being done around the world to remedy the problem. They will learn a great deal of comparative substantive and procedural law from both the U.S. and British perspective.

Course Aims

This course is ideal for students interested in human rights and is a great course for students interested in attending law school as it will be taught by two law professors using law school teaching methods. The course is suitable for those who do not come from a legal background. While there will be some formal lecturing, the course will be taught interactively with students engaging in exercises, debates, and presentations. The goal of this course is that students gain an understanding of this dynamic and ever-growing area of law.

Requirements and Prerequisites:

There are no prerequisites and all students interested in this topic are invited to participate.

Learning Outcomes

On the completion of this course students should be able to:

Course learning outcome	CAPA learning outcome

<p>1. State the basic procedural process for litigating a wrongful conviction in both the USA and UK.</p>	<p>Urban Environments: Students will be able to explore and analyze the spaces they inhabit and the processes that are transforming them and reflect on differences and similarities between their home and other environments.</p> <p>Diversity: Students will be able to describe, interpret, and respect the differences and similarities within their student community and between their home country and the host country.</p>
<p>2. State the leading causes of wrongful convictions from the perspective of both the USA and UK</p>	<p>Social Dynamics: Students will be able to understand concepts of, and implications of, the realities of power, privilege, and inequality in urban environments.</p> <p>Diversity: Students will be able to describe, interpret, and respect the differences and similarities within their student community and between their home country and the host country.</p>
<p>3. Debate the policy issues behind police investigation procedures in both the USA and UK.</p>	<p>Globalization: Students will be able to recognize, describe, and interpret examples of the impact of globalization in the urban environment.</p> <p>Personal and Professional Development:</p> <p>Networking: The ability to intentionally and purposefully connect and interact with others in order to develop professional and social relationships;</p> <p>Communications: The ability to receive, interpret, and articulate information and ideas effectively;</p> <p>Global Perspective: The skills required to live and work in an interdependent world through forming an understanding of connections between one’s own life and those of people across the globe;</p>

	<p>Cultural Awareness: The understanding of oneself, others and the ability to embrace and appreciate diverse and complex perspectives, values, and beliefs;</p> <p>Career-based or Vocational Skills: The development of specific knowledge or abilities related to an occupation.</p>
<p>4. Draft basic case briefs.</p>	<p>Social Dynamics: Students will be able to understand concepts of, and implications of, the realities of power, privilege, and inequality in urban environments.</p> <p>Personal and Professional Development:</p> <p>Communications: The ability to receive, interpret, and articulate information and ideas effectively;</p> <p>Career-based or Vocational Skills: The development of specific knowledge or abilities related to an occupation</p>
<p>5. Argue both sides of a wrongful conviction case.</p>	<p>Personal and Professional Development:</p> <p>Communications: The ability to receive, interpret, and articulate information and ideas effectively;</p> <p>Global Perspective: The skills required to live and work in an interdependent world through forming an understanding of connections between one's own life and those of people across the globe;</p> <p>Problem Solving: The ability to find solutions to difficult or complex issues and to manage moments of uncertainty or ambiguity;</p> <p>Adaptability: The ability to adjust oneself readily to different conditions and environments;</p> <p>Career-based or Vocational Skills: The development of specific knowledge or abilities related to an occupation.</p>

<p>6. Analyze statutory reforms in the wrongful conviction area from both the USA and UK perspective.</p>	<p>Globalization: Students will be able to recognize, describe, and interpret examples of the impact of globalization in the urban environment.</p> <p>Urban Environments: Students will be able to explore and analyze the spaces they inhabit and the processes that are transforming them and reflect on differences and similarities between their home and other environments.</p> <p>Diversity: Students will be able to describe, interpret, and respect the differences and similarities within their student community and between their home country and the host country.</p>
<p>7. Explain current best practices for identifications and obtaining confessions in the USA and UK.</p>	<p>Urban Environments: Students will be able to explore and analyze the spaces they inhabit and the processes that are transforming them and reflect on differences and similarities between their home and other environments.</p> <p>Diversity: Students will be able to describe, interpret, and respect the differences and similarities within their student community and between their home country and the host country.</p>
<p>8. Present a Supreme Court oral argument.</p>	<p>Personal and Professional Development:</p> <p>Communications: The ability to receive, interpret, and articulate information and ideas effectively;</p> <p>Organization, Time Management and Prioritization Skills: The ability to achieve identified outcomes by using time, energy and resources in an effective and productive manner;</p> <p>Problem Solving: The ability to find solutions to difficult or complex issues and to manage moments of uncertainty or ambiguity;</p> <p>Adaptability: The ability to adjust oneself readily to different conditions and environments;</p>

	<p>Career-based or Vocational Skills: The development of specific knowledge or abilities related to an occupation.</p>
<p>9. Explain the leading cases of wrongful conviction in the USA and UK.</p>	<p>Personal and Professional Development:</p> <p>Communications: The ability to receive, interpret, and articulate information and ideas effectively;</p> <p>Global Perspective: The skills required to live and work in an interdependent world through forming an understanding of connections between one’s own life and those of people across the globe;</p> <p>Cultural Awareness: The understanding of oneself, others and the ability to embrace and appreciate diverse and complex perspectives, values, and beliefs;</p> <p>Career-based or Vocational Skills: The development of specific knowledge or abilities related to an occupation.</p>
<p>10. Explain major distinctions and similarities between the USA and the UK criminal justice systems</p>	<p>Urban Environments: Students will be able to explore and analyze the spaces they inhabit and the processes that are transforming them and reflect on differences and similarities between their home and other environments.</p> <p>Diversity: Students will be able to describe, interpret, and respect the differences and similarities within their student community and between their home country and the host country.</p>

Class Methodology:

This course will employ diverse techniques to facilitate learning. Students will be assigned readings, online tasks, and video presentations. The courses aim to develop skills and knowledge through flexible delivery which will include formal lectures, guest

lectures, active learning, collaborative group work, facilitated group discussion, field activities, and other structured activities. Questioning, discussion and interactive activities such as presentations and debates will be integral to the delivery of lectures.

Assessment/Grading Policy

Descriptor Alpha UK US GPA

Descriptor	Alpha	UK	US	GPA
Excellent	A	75+	93+	4.0
	A-	70-74	90-92	3.7
Good	B+	66-69	87-89	3.3
	B	63-65	83-86	3.0
	B-	60-62	80-82	2.7
Average	C+		77-79	
	C	56-59	73-76	2.3
		53-55		2.0
Below Average / Poor	C-	50-52	70-72	1.7
	D+	46-49	67-69	1.3
	D	40-45	60-66	0.7
				1.0
Fail	F	<40	<60	0

Grade Breakdown and Assessment of Learning Outcomes:

Method of assessment	Outcomes assessed	Grading	Weight	Due date
Class participation/Small group discussion	1, 2, 4 and 6	%	20%	Weekly

Oral Presentations	3,5 and 8	%	40%	Weekly
Quizzes	7, 9,10	%	40%	Bi-weekly

Course Materials

Textbook: Wrongful Convictions: Cases and Materials, Third Revised Edition, Brooks (Vandeplas Publishing 2018). Available at www.Amazon.com

You Might Go to Prison, Brooks (UC Press 2022)

Picking Cotton, Thomson-Cannino, Cotton, Torneo (St. Martin's Griffin 2009)

Course Schedule and Learning Outcomes

Class One

Introduction (No Reading)

At the end of this class students should be able to: state the main causes of wrongful conviction and give examples; state the problems with identification procedures; explain memory issues that impact identifications; state the problems with confessions, informant testimony, investigations, and government misconduct; and give examples of several cases of wrongful convictions from both sides of the Atlantic.

Classes Two and Three

Notorious Cases of Wrongful Conviction (Textbook pages 1-37)

- a. *Marion v. Nebraska, 20 Neb. 233 (1886).
- b. *Chamberlain v. The Queen (1984) 153 C.L.R. 521.
- c. People v. Wise, 752 N.Y.S.2d 837 (N.Y. 2002).
- d. Carter v. Rafferty, 621 F.Supp 533 (D.N.J. 1985).
- e. R v George [2007] EWCA Crim 2722 (15 November 2007)
- f. R v Hallam [2012] EWCA Crim 2011 (17 May 2012)
- g. R. v. Judith Ward (1993) 96 Cr.App.R. 1

At the end of these classes, students should be able to: begin to do fact analysis of a wrongful conviction case; begin to apply the new evidence rule to a set of facts; distinguish between an appeal and a habeas action; and state the basic appellate and habeas procedures in a criminal case in both the UK and the USA.

Class Four

Brian Banks and the Criminal Justice System.

Read Chapters 9 and 10 of "You Might Go to Prison"

At the end of these classes students should be able to: state the legal issues raised in the Brian Banks case, explain the process of plea bargaining, explain the problems with the way the plea was obtained, explain the important of investigation in a criminal case, begin to understand racial issues in the criminal justice system, explain the problems

facing habeas litigators in cases such as this and distinguish between the juvenile and adult justice systems.

Classes Five and Six

Ineffective Assistance of Counsel (Textbook pages 83-146)

Read Chapter 1 of “You Might Go to Prison”

- a. Powell v. Alabama, 287 U.S. 45 (1932).
- b. Gideon v. Wainwright, 372 U.S. 335 (1963).
- c. *Strickland v. Washington, 466 U.S. 668 (1984).
- d. *Miller v. Anderson, 255 F.3d 455 (7th Cir. 2001).

At the end of these classes, students should be able to: explain the basis for challenging police and prosecutorial procedure in the UK and USA; state the basis for the right to counsel in the UK and USA; articulate the rule of ineffective assistance of counsel in the UK and USA and apply them to a fact pattern.

Classes Seven and Eight

Police and Prosecutorial Misconduct (pages 147-191)

Visit London Innocence Project

Read Chapter 7 of “You Might Go to Prison”

- a. Chambers v. Florida, 309 U.S. 227 (1940).
- b. *Commonwealth v. Smith, 615 A.2d 321 (Pa. 1992).
- c. *Jacobsen v. United States, 503 U.S. 540 (1992).
- d. Brady v. Maryland, 373 U.S. 83 (1963).
- e. In the Matter of an Investigation of the West Virginia State Police Crime Laboratory, Serology Division, 438 S.E.2d 501 (W. Va. 1993).
- f. Christou [1992] 4 All ER 559
- g. Williams [1993] 3All ER 365

At the end of this class, students should be able to: explain the common law basis for the rules that apply to entrapment; explain the U.S. Supreme Court AND UK interpretation of those rules; explain the basis and the rules of disclosure by the prosecution in a criminal case in the UK and USA; explain the problem of forensic fraud and possible remedies.

Class Nine

Bad Identifications

Read Chapter 4 of “You Might Go to Prison”

- a. *United States v. Wade, 388 U.S. 218 (1967).
- b. *Manson v. Braithwaite, 432 U.S. 98 (1977).
- c. State v. Henderson, 2009 WL 510409 (N.J. 2009).
- d. State v. Cotton 351 S.E.2d 277(1987).
- e. *R v George* [2007] EWCA Crim 2722
- f. *R v Thakrar* [2010] EWCA Crim (July 2010)

At the end of this class, students should be able to: articulate the constitutional basis for the right to counsel at criminal proceedings in the UK and USA; explain the rule as to when counsel is required at lineups; explain the due process rules as they apply to identification procedures; articulate the problems with identifications and apply them to a set of facts.

Class Ten

False Confessions (pages 269-313)

Read Chapter 5 of “You Might Go to Prison”

- a. *Greenwald v. Wisconsin, 390 U.S. 519 (1968).
- b. Crane v Kentucky, 476 U.S. 683 (1986).
- c. *Washington v. Commonwealth, 323 S.E.2d 577 (1984).
- d. Commonwealth v. DiGiambattista, 813 N.E.2d 516 (2004).
- e. State v. Scales, 518 N.W.2d 587 (Minn. 1994).
- f. Fulling [1987] 2 All ER 65
- g. Paris, Abdullahi and Miller [1994] Crim LR 361
- h. R v Barry (1992) 95 Cr App Rep 384

At the end of this class, students should be able to: articulate the constitutional basis and UK law for seeking the suppression of confessions; analyze a set of facts applying the principle of involuntary confessions; articulate the rule as it relates to arguing problems with confessions to a jury; articulate the problems with arson cases and apply those to a set of facts.

Class Eleven

Infant Deaths and Sex Crimes against Children

Read chapters 6 and 8 “You Might Go to Prison”

- a. *State v. Edmunds, 746 N.W.2d 590 (2008).
- b. In Re Fero 409 P.3d 214 (2018).
- c. State v. Michaels, 136 N.J. 299 (1994) ^[11] _[SEP]
- d. *Arizona v. Youngblood, 488 U.S. 51 (1988).
- e. Sally Clark [2003] EWCA Crim 1020
- f. Angela Cannings [2004] 1 WLR 2607

At the end of the class, students should be able to state the triad of symptoms in shaken baby cases, state the other known causes of the triad, explain the difficulties in litigating baby death cases in both the UK and USA, and state the facts of several of these cases.

Class Twelve,

Evidentiary Standards and Science

Read Chapter 2 and 3 “You Might Go to Prison”

- a. *Daubert v. Merrell Dow Pharmaceuticals, 509 U.S. 579 (1993).
- b. *Ragland v. Commonwealth, 191 S.W.3d 569 (Ky. 2006).
- c. Jackson v. Day, 121 F.3d 705 (1997).

- d. In re William Richards
- e. United States v. Hebshie, 754 F.Supp.2d 89 (2010).

At the end of these classes, students should be able to: explain the common law rule for admitting scientific evidence; explain the rules under the Federal Rules of Evidence for admitting scientific evidence; begin to understand problems with forensic evidence including bite mark evidence, arson, lead bullets analysis, and shaken baby syndrome.

Attendance, Participation & Student Responsibilities

Attendance: CAPA has a mandatory attendance policy. Attendance is taken at the beginning of every class. Unless otherwise expressed by your instructor, the first time a student has an unexcused absence for a class, his/her grade will not be impacted. The second time a student has an unexcused absence in that class, it will result in a 3 percent reduction of the final grade (for example: an A- [92] will become a B+ [89]). The student will be placed on academic probation at this time. Three unexcused absences per class will result in failure of the course. A pattern of three absences in more than one course will result in dismissal from the program.

Excused Absences: Absences are only excused for medical reasons, for a family emergency or for a religious holiday. To re-request an excused absence, students must contact excused.absence@capa.org ahead of time and provide evidence (e.g. a doctor's note) of the reason for his/her absence, otherwise the absence will not be excused. Even if the student knows the absence will not be excused, the student should still contact CAPA to inform CAPA they will not be in class.

In addition to contacting excused.absence@capa.org, it is the responsibility of the student to contact his/her instructor and make up any missed assignments.

Class Participation: Students are expected to participate actively and critically in class discussions, and the participation portion of the class will be graded accordingly. Students must read assignments BEFORE the class, and come in on time. Participation is a vital part of your grade: students are expected to participate orally in seminars and in online forums and discussions in a critical and evaluative manner; to interact with the faculty and fellow students with respect and tolerance; and to actively engage in discussion. Derogatory or inflammatory comments about the cultures, perspectives or attitudes of others in the class will not be tolerated.

Any student who feels s/he may need an accommodation based on the impact of a physical, psychological, medical, or learning disability should contact the instructor and/or the director of academic affairs privately to discuss your specific needs.

Academic Integrity: A high level of responsibility and academic honesty is expected. Because the value of an academic course depends upon the absolute integrity of the work done by the student, it is imperative that a student demonstrates a high standard of individual honour in his or her scholastic work and class behaviour. Plagiarism, self-plagiarism and cheating can result in dismissal from the program.

Self-plagiarism, copying an assignment entirely or partially to submit to a different class in an attempt to receive credit twice for one piece of work is unacceptable and considered cheating by duplication. Students risk receiving an "0" for any assignments in which they have duplicated their own work.

All substantial writing assignments (typically anything worth 20% or more of the final course grade) will be run through the plagiarism checking software Turnitin when submitted via CANVAS. See CAPA's Academic Standards and Policies for more information and resources on plagiarism.

Sexual Misconduct, Required Reporting, and Title IX: CAPA: The Global Education Network is committed to encouraging a safe and healthy environment at our seven CAPA centres. This commitment includes the understanding of, and applicable adherence to, the guidelines outlined in Title IX of the Education Amendments of 1972. Title IX necessitates that US universities provide equity in all educational programs and activities without sex discrimination.

CAPA understands the implications of Title IX compliance for our institutional partners and thus endeavours to support this compliance as a vital aspect of partnership. The safety and security of all students during a program is a matter of crucial importance to CAPA. To facilitate this, CAPA encourages students to openly disclose any and all information that is Title IX relevant so that CAPA staff can provide support and connect students with appropriate resources. Because students may not understand the implications of Title IX abroad, CAPA will work to advise students about the resources available through Title IX and explain the importance of compliance in Title IX reporting. CAPA will work to build student confidence in CAPA's status as a mandated reporter by outlining the advantage of disclosure for the student, reassuring them that any information disclosed will not be used in an inappropriate manner, and stressing that individuals will only be informed on a need-to-know basis.

Use of electronic equipment in class: All devices such as laptops, i-pods, i-pads, netbooks, notebooks and tablets, smartphones, cell phones, etc. are NOT allowed unless you have express permission from the faculty, or you have been instructed to do so. If you require an accommodation to use any type of electronic equipment, inform the Associate Director of Academic Affairs at the beginning of Term.

Use of Electronic Translators: In Language courses students are NOT allowed to use electronic translators for writing texts in the target language: those submitting compositions and texts of whatever kind translated in such a fashion will receive a final F grade for the course.

Late Submission: Late submission of papers, projects, journal entries, pieces of homework and portfolios is only permitted with prior approval. A request must be made to the relevant Faculty member no later than two days prior to the due date. Late submission without prior approval will result in a full alpha grade penalty. In either case, work cannot be submitted after feedback has been provided to the rest of the class on the relevant assessment or one week after the due date whichever comes first, after which point a grade of F will be given for the assessment.

Behaviour during Examinations: During examinations, you must do your own work. Unless specifically instructed by the lecturer or instructor, talking during an exam is not permitted, nor may you compare papers, copy from others, or collaborate in any way. Any failure to abide by examination rules will result in failure of the exam and may lead to failure of the course and disciplinary action.