Miscarriages of Justice

CRM 4310A

Autumn 2010

Professor: Kathryn Campbell

Hours: Tuesday 2:30- 5:30

Room: THN 123

Office Hours: Friday 11:30-1:00
Thompson Hall Rm 202 C.
Otherwise by appointment

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OFFICIAL COURSE DESCRIPTION
The phenomenon of miscarriages of justice will be explored within the Canadian context. Specifically examined will be the myriad causes of wrongful convictions, state responses and ultimately how to prevent such errors from occurring in the first place. In order to be registered in this course, you must have maintained a minimum cumulative grade point average (CGPA) of 6.0.

COURSE DESCRIPTION AND RATIONALE
This objective of this course is to allow students to gain a better understanding of the phenomenon of miscarriages of justice in Canada. In recent years, media accounts have demonstrated that wrongful convictions and imprisonments occur far too frequently and that many systemic factors contribute to their occurrence. The course is aimed at uncovering these causative factors as well as exploring how the state responds to its own errors and what are the best means at prevention.
TEXT

The text for this class will be available online. You will be instructed on how to access the readings during the first class.

COURSE REQUIREMENTS

This course will function on a seminar format, students are expected to come prepared to class (by doing the readings each week), to participate in class discussions and to participate in the online reading discussion. Students are expected to complete all the course assignments.

EVALUATION AND GRADING

The evaluation for this course is divided into three sections:

1. Wrongful Conviction Case Presentation: Students are required to make a group presentation (3 students maximum) on a specific case of a wrongly convicted and imprisoned Canadian. For the presentation (20-30 minutes), students will outline the specifics of the case, what factors caused the wrongful conviction to occur, and what developments have occurred in the case to date. High profile cases are discouraged, but rather students are asked to seek out lesser known cases. Cases may be found through various media sources and the AIDWYC website is a good starting point. Students are also asked to hand in a 10 page paper to accompany their presentation, outlining the details of the case and what factors contributed to this wrongful conviction. Presentation dates are: Last two classes WC Case Presentation is worth 40% of the final grade.

2. Case Assignment: Over the years there have been many cases in the courts that illustrate how the law is applied, how miscarriages of justice occur and how the judiciary attempt to rectify its own errors. However, there are far too many cases to be read over the course of the semester. The purpose of the assignment is for students to read, understand and summarize a specific assigned case that is related to the topic under study that week. A variety of cases will be cited and available on WebCT and also through the website. Students can choose from that list, or seek out a case on their own through Quicklaw. Students will be expected to discuss the facts of the case, issues involved in the Appeal, the final decision and the Ratio decidendi or the rationale for the decision. This will entail being completely familiar with the readings for that class and being prepared to identify issues and how they impact on that specific case. Case assignment dates: Will vary throughout the class. Case assignment is worth 40% of the final grade.

3. Class Participation: This class requires a great deal of participation from students and it is an important part of the course. It is expected that everyone will participate...
throughout the course by attending class, contributing to class discussions and making weekly online contributions regarding the readings. Participation is worth 20% of the final grade.

COURSE CALENDAR

Sept. 14th, 2010 Introduction and Overview

In this class, we begin to exam the phenomenon of miscarriages of justice by introducing some issues that we will be discussing more specifically throughout the course. We will have the opportunity to hear from a guest speaker this class.

Sept. 21st, 2010 Miscarriages of Justice: Definition, Causes and Extent

In this seminar, we explore some fundamental concepts that will remain with us throughout the course. Before embarking on our examination, we need to understand what we mean when we talk about a “miscarriage of justice.” We also confront the difficult issue of determining how common wrongful convictions are in our system and whether we can truly understand the extent of this problem.


Criminal Code of Canada, secs. 696.1-696.4

Sept. 28th, 2010 Causes of Miscarriages of Justice I: Eyewitness Identification

The class will involve an overview of the multitude of research and theory about the fallibilities of eyewitness evidence and how this can contribute to miscarriages of justice.


October 5th, 2010  Causes of Miscarriages of Justice II: Jailhouse Informants

In this seminar, we examine the dangers and problems of the state’s reliance on confessions given to jailhouse informants. This was a significant focus of the inquiry into the wrongful conviction of Guy Paul Morin. While the use of jailhouse informants may have some value, there are many problems with their use.

Readings: Kaufman Inquiry, Sophonow Inquiry, Sherrin, Trott,


October 12th, 2010  Causes of Miscarriages of Justice III: False Confessions

This seminar considers the phenomenon of false confessions in the criminal justice process. While it is impossible to estimate the actual numbers, we will examine this phenomenon, why it occurs, the different types and what happens once a false confession is retracted.

Readings: Sherrin, Sherrin, Leo et al., Sherrin.


Oct. 19th, 2010  Causes of Miscarriages of Justice IV: Forensic Evidence and DNA

In recent years, it appears as though scientific, forensic evidence seems to have played a role in producing wrongful convictions. Part of this evidence involves DNA, which has proven useful in exonerating individuals who have been wrongly convicted in cases where there is physical evidence from a crime. The strengths and limitations of this “scientific” revolution will be discussed.


**READING WEEK:** OCTOBER 25TH – 29TH, 2010

**Nov. 2nd, 2010**  
**Causes of Miscarriages of Justice V: Police**

The focus of this seminar will be on examining how the conduct of the police may impact on wrongful convictions. Specifically, we will be examining the fabrication of evidence, noble cause corruption, and tunnel vision.


**Cases:** R. v. Osmar

**Causes of Miscarriages of Justice VI: Prosecutorial and Judicial Misconduct**

The focus of this seminar will be on examining how the conduct of defense counsel, the Crown Attorney’s office and the judge may impact on wrongful convictions. Specifically, we will be examining issues around bias, disclosure of evidence and misconduct.


**Nov. 9th, 2010**  
**Addressing Miscarriages of Justice I: Appellate Review and Ministerial Interventions**
The focus of this seminar will be on how the system responds to miscarriages of justice that it has generated, specifically through appellate review and conviction review.

**Readings:** Nobles, Schiff, and Shaldon, Sinclair, Pearce, Kafman Inquiry, Braiden and Brockman, Justice Canada, Scullion, Campbell, Marshall.

**Cases:** Thatcher v. Canada (Minister of Justice), Reference re Milgaard (Can), R v. Biniaris.

**Nov. 16th, 2010**

**Responses to Miscarriages of Justice II: Commissions of Inquiry**

In this seminar, public inquiries into miscarriages of justice and their impact on the criminal justice system will be examined. We will also examine the value of an independent body tasked with the responsibility of investigating wrongful convictions. This will entail an examination of the Criminal Cases Review Commission in England.


**Cases:** Canada (Attorney General) v. Saskatchewan, Ontario (Commission on Proceedings Involving Guy Paul Morin) Re Morin, R v. Driskell.

**Nov. 23rd, 2010**

**Responses to Miscarriages of Justice III: The Role of the Media and Advocacy Groups**

For this class we will examine the role that media and other interests groups play in bringing meritorious cases into court for review. Specifically, we will examine the impact that lobby groups (such as AIDWYC and Centurion Ministries) and Innocence Projects have had on influencing public perceptions and legal response to miscarriages of justice.

**Readings:** Mellon, Stephens and Hill, Warden, McCartney, Suni.
Responses to Miscarriages of Justice IV: Compensation and Exoneration

This seminar examines the question of whether the state should (and, if so, when) compensate individuals who have been the victims of a miscarriage of justice. In this seminar we will also critically review the Department of Justice Report on the Prevention of Miscarriages of Justice.


Nov. 30th, 2010   Wrongful Conviction Case Presentations
Dec. 7th 2010     Wrongful Conviction Case Presentations

Be Aware of Academic Fraud! Academic fraud is an act committed by a student and it can negatively effect your school evaluation (with respect to assignments, tests, exams, etc.). It is not tolerated by the University. Anyone found guilty of fraud will be liable to severe penalties. Here are some examples of Academic Fraud:
- Plagiarize or cheat in any way;
- Present falsified research data;
- Submission of an assignment that, in part or in entirety, you are not the author of;
- Presentation of, without written permission of the professor(s) concerned, the same work from another course;

Over the years, the perfection of the Internet has strongly facilitated the discovery of cases of plagiarism. The tools that are at the disposal of your professors permit, with the help of only a few words, to retrace the origin of a text on the Web. For more information on fraud and how to avoid it, you can refer to the Faculty web page, which offers tips to help you with your studies and the writing process for university level projects at the following address: http://www.socialsciences.uottawa.ca/eng/ugrad_tips.asp. You can also refer to the Faculty web page for information on plagiarism and university assignments: http://www.socialsciences.uottawa.ca/eng/ethics.asp. The person who committed or attempts to commit academic fraud or who was an accomplice will be punished. Here are some examples of sanctions that could be imposed:
- The assignment or course in question will receive a grade of “F”;
- An additional requirement will be added to the program of study (3 to 30 credits);
- Suspension or expulsion from the Faculty.
Over the past session, the majority of people found guilty of fraud received an “F” in their course and will need to obtain three to twelve extra credits in their program of study. You may refer to the following address to find the regulations:
http://www.uottawa.ca/academic/info/newsletter/fraud_e.html