

## *Innocence Clinic – Syllabus*

### *Spring Semester, 2010*

This clinical course is a two semester undertaking. The course contains both a substantive and “hands on” component. The substantive component is comprised of standard law school fare - court opinions, legislative enactments, journal articles, government documents - and any information imparted from guest speakers who may appear. The “hands on” component is the work performed on behalf of inmates who are claiming actual innocence of the crimes for which they are serving prison time.

A clinical course is, by its nature, a flexible undertaking. In order to maintain progress on the investigation of an inmate’s claim of actual innocence, adjustments may be necessary in the schedule that is published here. Also, the reading materials may change, depending upon the issuance of new, pertinent court decisions, legislative activity, secondary sources, and the like. With all that in mind, here are some rules and the syllabus.

#### 1) Required, Recommended, and Supplemental Readings

Readings will be assigned from the materials listed in the following pages. All of the materials that are assigned will eventually be posted on the TWEN board for this clinic. The materials will be posted under the Course Materials link.

#### 2) Statement of Goals and Objectives

This clinic will teach students about the causes of wrongful convictions and will provide students with the hands-on opportunity to attempt to remedy those wrongful convictions. Over the two semesters, the reading material will cover such topics as Minnesota post conviction remedies, ineffective assistance of counsel, innocence commissions, racial bias in the court system, eyewitness identification, false confessions, snitch testimony, and forensic evidence. There may also be guest speakers from various areas of expertise. The hands-on opportunity is arduous work; it requires fearless, dogged persistence, a somewhat flexible schedule, a little bit of travel, and fearless, dogged persistence.

While acquiring this basis of knowledge, students will then work on actual cases submitted by inmates who are claiming innocence. Students will obtain source material – police reports, forensic reports, court pleadings, transcripts, appellate briefs and opinions - and read them to present for discussion during class. Based on classroom discussion, students will then have the opportunity

to correspond with or visit the inmate, interview potential witness, talk with defense attorneys, prosecutors and police officers, and do any other investigation necessary. Once this investigation is done, students will be instrumental in deciding whether the inmate's claim should be rejected or litigated.

### 3) Attendance Policy

Academic Rule 1-110 establishes faculty prerogatives within its framework of required regular, punctual, and prepared attendance. *Syllabus Policy:* I do keep track of who is in attendance at each week's class. I will consider two absences that occur without a reasonable explanation and advance notice to be "excessive." In as much as class participation is a component of your grade it is all the more important that you be able to attend. At the same time, it is neither prudent nor desired that students attend class when sick, especially if contagious. Please provide as much advance notice as possible of any anticipated absence.

There is the possibility, on an ad hoc basis, of combining this class with either the Wrongful Convictions Course or the Innocence Clinic offered at the University Of Minnesota School Of Law to accommodate a guest speaker. If these combined sessions occur on a day and time different from the scheduled class then attendance is hoped and encouraged but not required.

### 4) Testing and Grading

There is no written final examination. This is not to say that there will be no writing "assignments" on materials that you are assigned to read. Students will also likely draft and send correspondence to inmates, prosecutors, defense attorneys and others; these "public" writings must be approved before sent. Students may also draft pleadings for submission to various courts, which must also be approved before submitted. Students will be expected to contribute to the Discussion Board on TWEN; such postings are intended first as an informational tool and secondarily as a legal writing exercise.

The grading criteria are posted on the TWEN board, under the Course Materials link. The focus of the criteria is on student activities on behalf of inmates whose claims of actual innocence they are pursuing. However, in addition to direct activities on inmate files, "indirect activities," such as class attendance, class preparation, class participation, and TWEN postings are included. Please also keep in mind that it will not go unnoticed if it appears that students have chronically not become familiar with any weekly "required" reading assignment.

There is a requirement of seventy (70) documented hours of case work for each of the semesters. Each semester's required hours must be completed during that particular semester. Students are certainly not prohibited from exceeding this amount, but there are no bonus points for exceeding it. On the other hand, the failure to achieve seventy hours will be factored into the final grade.

5) Class use of Computers

You will find it useful to have your laptop with you during class. We look things up. Reading materials are posted on TWEN; you may or may not print out a paper copy of those materials depending upon your preference. You may have posted a summary of your activity on a particular file on TWEN in which case you may find it helpful to refer to it during a class discussion of that file. On the other hand, playing video games, checking Email, posting photographs to Flickr, twittering, or engaging in other unrelated computer-based activities are not permitted.

## ***SYLLABUS***

As circumstances require, this syllabus may be modified or changed. This listing is only intended to identify the reading materials that likely will be assigned. The actual assignments, and the dates of those assignments, will be provided as the semester progresses.

<b><i>Innocence Clinic – Spring Semester</i></b>		
Unit	Topic	Materials
15 - 16	Innocence & Death	15.1 Kansas v. Marsh Death Penalty Information Center: Smart on Crime: Reconsidering the Death Penalty 15.2 in a Time of Economic Crisis 15.3 Kentucky Revised Statute 532.025 Death Penalty Information Center: List of Those Freed From Death Row 15.4 Death Penalty Information Center: Innocence & the Crisis in the American 15.5 Death Penalty ProDeathPenalty.com: DPIC Innocence 15.6 Critique ProDeathPenalty.com: Death Penalty 15.7 Paper 15.8 <i>Graham v. Florida</i> Trial by Fire, David Grann, <i>The New Yorker</i> , 9/7/2009 15.9

17 - 18	Informants	<p>17.0 St. Paul Police Department: Informants Policy NPR: The Case of a Confidential Informant</p> <p>17.1 Gone Wrong NPR: Critics Blast Informant System</p> <p>17.2 Cloaked in Secrecy NPR: Retired Drug Informant Says He Was Burned</p> <p>17.3 DOJ: Confidential Informants Policy</p> <p>17.4 Northwestern University School of Law, Center on Wrngful Convictions: The Snitch System</p> <p>17.5 Sample Informants Motion</p>
19 - 20	Probability For Lawyers	<p>19.0 Elementary Concepts in Statistics</p> <p>19.1 Independent Events</p> <p>19.2 Dependent Events</p> <p>19.3 Probability</p> <p>19.4 Basic Statistics</p>
21 - 24	Forensic Evidence	<p>21.0 Investigating the CSI Effect, Shelton, et.al., 12 Vanderbilt Journal of Entertainment &amp; Technology Law, 1, Fall 2009 Using Multimedea to Support Jury Understanding of DNA Profiling Evidence,, Hewson &amp; Goodman-Delahunty, 40 Australian J. of Forensic Sciences, 55, June 2008</p> <p>21.1 Procedural Order: Trace Evidence, U.S. District Court for the District of Massachusetts, (3/8/2010)</p> <p>21.2 Can Fingerprints lie? Re-weighing Fingerprint Evidence in Criminal Jury Trials, T. Lawson, 31 Am.J.Crim.L. 1 (2004)</p> <p>21.3 Fingerprint Error Rates and Proficiency Tests: What they Are and Why They Matter, Kehler, 59 Hastings L.J. 1077 (2008).</p> <p>21.4 Strengthening Forensic Science in the United States: A Path Forward, Executive Summary, 2009</p> <p>21.5 The Central Park Jogger Case: What Went Wrong?</p> <p>21.6 Expectancy Effects in Forensic Evidence Handling: Social Psychological Perspectives, V. Springer,</p>

		Executive Summary from Final Report of the Independent Investigation for the Houston Police Department Crime Laboratory and Property Room, M. Bromwich (2007)
21.8		
25 - 28	False Confessions	Wisconsin Criminal Justice Study Commission, Position Paper on False Confessions, Bringing Reliability Back In: False Confessions and Legal Standards in The Twenty-First Century, Leo, et.al., 2006
25.0		
25.1		Wis.L.Rev. 479 1
25.2		In the Matter of the Welfare of D.S.N., Child, 611 N.W.2d 811 (Minn.Ct.App. 2000).
25.3		State v. Jones, III, 566 N.W.2d 317 (Minn. 1997)
25.4		False and Coerced Confessions, John E. Reid & Associates
25.5		Who Can Catch a Liar?, Ekman, O'Sullivan, 1991 American Psychologist 913
25.6		Verbal and Nonverbal Communication of Deception, Zuckerman, et.at., 14 Advances in Experimental Social Psychology 1 (1981)
25.7		Challenging a Confession, National Association of Criminal Defense Lawyers, State v. Jungbauer, 348 N.W.2d 344 (Minn. 1984)
25.8		Police "Science" in the Interrogation Room: Seventy Years of Pseudo-Psychological Interrogation Methods to Obtain Inadmissible Confessions, B. Gallini, 61 Hastings L.J. 529 (February 2010).
25.9		