

**CARLETON UNIVERSITY**

**Department of Law**

LAWS 2004V: INTRODUCTION TO CRIMINAL LAW  
(SPRING / SUMMER 2010)

**INSTRUCTOR  
(CONTRACT)**

**John Hale**, B.Sc., LL.B., B.C.L. (criminal lawyer)

**HOW TO REACH ME**

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**OFFICE HOURS**

**Office hours** are by appointment only.

**LECTURE SCHEDULE**

Broadcasts every Wednesday and Friday (except May 26 and 28), 1:30 to  
4:00 PM, from May 12 to June 25 inclusive

**PREREQUISITE**

Laws 1000 or permission of instructor

**WEB SITE**

[See WebCT](#)

**REQUIRED READING**

- (1) **Stuart, Don and Ronald Delisle:**  
***Learning Canadian Criminal Law* (11<sup>th</sup> ed.), Carswell, 2009**
- (2) ***Pocket Criminal Code 2010* (Carswell, 2009) OR**  
***Tremeeear's Annotated Criminal Code 2010* (Carswell, 2009) OR**  
***Martin's Annotated Criminal Code 2010 (Student Edition)***  
***Canada Law Book, 2009* OR**  
***The Practitioner's Criminal Code 2010 (Student Edition)* (Alan  
Gold, Ed.; LexisNexis/Butterworths, 2009)**

All of the above are *required purchases*. They are or will be available at the University bookstore. Used copies of the *2009 Criminal Code* are more than adequate; earlier editions are useful but in many respects obsolete, and you may purchase them at your own risk. Steer clear of used versions of the 10<sup>th</sup> Edition of the Stuart and Delisle text, no matter how cheap you find it, as the book has been substantially revised this year and page references will be very confusing. [You should be able to find a used copy, as the text was used for

the first time in the 2009-10 academic year; also, you will have no problem selling your copy, as I will be using the same text next year.] You are permitted to bring copies of these required and recommended readings to the exams in June/July and August.

In lieu of buying a *Criminal Code*, you may download the *Code* (and related statutes) from the Justice Canada website: <http://laws.justice.gc.ca/en/>.

#### METHOD OF EVALUATION

##### All components must be completed to pass this course

- (1) **Mid-course examination**, 3-hour open-book, to be held in the early summer examination period (June 30 – July 4).
- (2) **Final examination**, 3-hour open-book, to be held in August examination period (August 20-25).

“**Open book**”, for the purpose of exams, means that the following materials may be brought into the examination room: (1) any required text, including an annotated *Criminal Code*; (2) your lecture notes (or any notes that you shared with a study group or that you have with the permission of their author), and (3) any material downloaded from the course website, including the instructor's lecture notes and PowerPoint slides; (4) any e-mails sent by the instructor. You may NOT make use of a computer during the exams, except with permission of the Paul Menton Centre.

**Grade breakdown:** The exam that the student does best in will be worth 60% of the student's final grade. The other exam will be worth 40% of the final grade.

#### TEACHING ASSISTANTS / MARKERS

I expect to have 1-2 TA's assigned to this course; I will advise you of their contact information as soon as I have it.

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#### DESCRIPTION OF THE COURSE

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It is only fair to set out the instructor's bias at the outset of the course. The course is taught by a practising criminal defence lawyer who agrees with the following:

- (1) the paramouncy and necessity of the Rule of Law;
- (2) the notion that a person is presumed to be innocent of any criminal wrongdoing, subject to a guilty plea or unless proven guilty beyond a reasonable doubt, on the basis of probative and relevant evidence that is legally admissible, and following a trial which accords with the principles of fundamental justice and with the procedures set out in the *Charter of Rights*, the *Criminal Code*, and other legislation;
- (3) the statement that the Canadian criminal justice system, despite its flaws, is fundamentally sound, and that the perceived flaws within the system are attributable to individuals within the system at least as often as they are attributable to the system's inherent flaws and limitations.

The course is practice-oriented rather than theory-oriented. The instructor, recognizing his innumerable yet still growing number of limitations, tends to de-emphasize the “sociology” aspect of the course that is emphasized in other sections, and is inclined to treat the course as a “law school course”. The instructor's objective is to instill in the students a solid understanding of basic criminal law concepts, including the essential elements of crimes (*actus reus* and *mens rea*), the burden of proof, and defences to criminal charges.

In recent years I have spent several early lectures reviewing rules of evidence (which required the purchase of a second text), but I am discarding most of that material and choosing instead to discuss the role of the various personnel within in the criminal justice system (judges, Crowns, defence counsel, police). I will also devote more time to criminal law concepts such as negligence and strict/absolute liability.

Discussion of these concepts will inevitably include discussions of the social policies that led to the creation of various offences and defences, but the approach is generally pragmatic. It is the instructor's ultimate objective that students be informed about the workings of the criminal justice system in Canada, with all its strengths and deficiencies, and that students who wish to criticize or defend the criminal justice system do so on the basis of facts rather than on emotion, gut feeling and anecdotal evidence.

The main text for the course is *Learning Canadian Criminal Law* by Stuart and Delisle. This text is intended for use by first-year law school students. Please buy the Eleventh edition (2009), as the tenth edition (2006) is out-of-date. Avoid buying used *Criminal Codes*, as recent amendments render old Codes obsolete: the current edition is 2010, although a 2009 *Code* should be satisfactory.

A schedule of topics and readings is attached (Handout 2, Course Outline). I did not adhere strictly to this schedule in the 2009-10 academic year, particularly in the first half of the course, as some topics took more or less time to discuss than originally foreseen; I also deviated from the schedule in order to discuss criminal law legislation that was at various stages of passage. Unless otherwise advised, students are responsible for reading the entire text in the order set out on the Course Outline.

Given the volume of readings expected of you, and the complexity of the material, you are strongly advised to avoid the temptation to save up the readings until the final days before the exams. Experience has shown that such a strategy monumentally backfires in the vast majority of cases. Keep up with the readings from the very beginning of the course and you will find the course material to be engaging, thought provoking and easily digestible; wait a few weeks and you will find the prospect unpleasantly daunting.

The lecture notes will be posted, in summary form, on the course website on WebCT. Review problems and sample exams will also be posted later on in the term.

One final note regarding CUTV courses. It is wonderful that university courses can be provided to students other than via the traditional classroom lecture. This enables students who, because of distance, employment, family responsibilities or disability to take courses that would otherwise be inaccessible to them. The downside, though, is that the ability to see the lectures any time at one's convenience causes many students to fall behind, saving up the lectures until just before the exam and then cramming them in during a marathon session. While this is better than nothing, I strongly discourage this strategy in this or any other course. Do your best to keep up with the lectures weekly, and avoid the temptation to fall behind. By all means, contact me with questions whenever you like.

This was my 20<sup>th</sup> year teaching this course. I hope that you enjoy the course as much as I enjoyed teaching it!

**LAWS 2004V: CRIMINAL LAW IN CONTEXT (SPRING/SUMMER 2010)****COURSE OUTLINE<sup>1</sup>**

<b><u>Class No.</u></b>	<b><u>Readings<sup>2</sup></u></b>	<b><u>Topic(s)</u></b>
<b>1 TV:</b> May 12, 2010 <sup>3</sup>	58-62	<b>I. INTRODUCTION AND OVERVIEW</b> (2) Administrative matters (3) Expectations (instructor's and students') (4) Analysis: Approaches to defining "crimes". (5) Briefing a case  <b>II. CRIMINAL PROCEDURE IN A NUTSHELL</b> A. Classification of offences
<b>2 TV:</b> May 14, 2010		B. Court structure in Ontario - overview; appeals C. Compelling attendance in Court D. Bail E. Pre-Trial procedures F. Trial procedure, including the burden of proof <ul style="list-style-type: none"> <li>• Manner of questioning</li> <li>• Presumption of innocence / Burden of proof</li> </ul>
<b>3 TV:</b> May 19, 2010		G. Sentencing H. Procedures under the <i>Youth Criminal Justice Act</i>
<b>4 TV:</b> May 21, 2010	65-92 137-175	<b>III. THE ADVERSARY SYSTEM</b> A. The presumption of innocence B. Role of the trial judge
<b>5 TV:</b> June 2, 2010	175-185 111-112	C. Role of Crown counsel D. Role of defence counsel E. Role of the victim
<b>6 TV:</b> June 4, 2010	63-5	<b>IV. RULES OF EVIDENCE</b> A. Relevance and probative value B. Weight vs. admissibility C. Similar fact evidence D. Character evidence E. The hearsay rule
<b>7 TV:</b> June 9, 2010	1-10 23-34	<b>V. SOURCES OF CRIMINAL LAW</b> A. Common Law B. Federal/provincial division of powers C. Statutory provisions, as interpreted

<sup>1</sup> This was the tentative outline for 2009-10; material is covered in the same order as set out here, but not at exactly the same pace: some topics took longer than planned, while some took less time than anticipated.

<sup>2</sup> All readings are from Stuart and Delisle, *Learning Canadian Criminal Law* (11<sup>th</sup> ed.)

<sup>3</sup> The lecture was recorded September 15, 2009; the broadcast of the same lecture is May 12, 2010.

<b>8 TV:</b> June 11, 2010	34-58  92-98 396-404	D. <i>Charter</i> limits (1) Overview of the <i>Charter</i> (2) <i>Hunter v. Southam</i> — interpreting the <i>Charter</i> (3) Section 1: <i>R. v. Oakes</i> (4) Section 7: <i>Reference re the B.C. Motor Vehicles Act</i> E. Void for Vagueness F.
<b>9 TV:</b> June 16, 2010	10-23	G. Powers of the Courts: Rules of Statutory Interpretation
<b>10 TV:</b> June 18, 2010	Chapter 11; <i>Criminal Code</i> , Part XXIII	<b>VI. SENTENCING &amp; CONDITIONAL RELEASE</b> A. General principles; factors relevant to sentence B. Sentences under the <i>Young Offenders Act</i> C. Plea negotiations ("plea bargaining")
<b>11 TV:</b> June 23, 2010	189-258  258-306 306-322 323-360	D. Conditional release (parole etc.) <b>VII. ELEMENTS OF AN OFFENCE</b> A. The "Voluntary Act" Requirement ( <i>actus reus</i> ) 1) Introduction 2) " <i>Actus reus</i> " = [voluntary] activity, circumstances and consequences 3) Commission of an unlawful act 4) Omissions 5) Voluntariness 6) Causation
<b>12 TV:</b> June 25, 2010		<b>REVIEW CLASS</b>
June 30 – July 4, 2010		<b>MID-TERM EXAMINATION</b> (Date, time and location TBA)
<b>13 TV:</b> July 7, 2010	361-427	B. The Fault Requirement (mens rea or negligence) 1) Introduction 2) Subjective/objective distinction 3) Public welfare (regulatory) offences
<b>14 TV:</b> July 9, 2010	428-466 466-467 467-580	4) Crimes i. Murder and the <i>Charter</i> ii. Subjective awareness rarely required 5) 3 types of crime since <i>Creighton</i> i. Crimes requiring subjective awareness ii. Crimes of objective fault iii. Crimes based on predicate offences
<b>15 TV:</b> July 14, 2010		<b>Review of mid-course exam</b> 6) 3 types of crime since <i>Creighton</i> (cont'd)
<b>16 TV:</b> July 16, 2010	1017-1038  1039-1061	C. Parties to a Crime D. Inchoate Crimes (1) Attempts

<b>17 TV:</b> July 21, 2010	1078-1090 1061-1078  Chapter 4	(2) Counseling (3) Conspiracy  <b>VIII. RAPE AND SEXUAL ASSAULT</b> A. Lack of consent (review) B. Rape laws C. Crimes of Sexual Assault
<b>18 TV:</b> July 23, 2010		D. Crimes of sexual assault (cont'd)
<b>19 TV:</b> July 28, 2010	691-711 711-736  742-747 Part XX.1 Cr. C.	<b>IX. TRUE DEFENCES</b> A. Mistake 1. Mistake of fact 2. Mistake of law  B. Incapacity and Impairment 1. Insanity / Mental Disorder (a) Statutory provisions
<b>20 TV:</b> July 30, 2010	747-768 769-824 826-866	(b) Jurisprudence 2. Automatism 3. Intoxication
<b>21 TV:</b> August 4, 2010	867-875 876-898 901-924	<b>X. JUSTIFICATIONS AND EXCUSES</b> A. Introduction / Air of reality B. Necessity C. Duress
<b>22 TV:</b> August 6, 2010	926-955 956-962	D. Defence of Person E. Defence of Property
<b>23 TV:</b> August 11, 2010	962-990  996-1015 98-111	F. Provocation  <b>XI. POLICY DEFENCES</b> A. Entrapment B. <i>Charter</i> , s. 24
<b>24 TV:</b> August 13, 2010		<b>REVIEW CLASS</b>
August 20-25, 2010		<b>FINAL EXAMINATION</b> (Date, time and location TBA)