

Course Outline

COURSE:	LAWS 2301C The Criminal Justice System
TERM:	Fall 2012
PREREQUISITES:	LAWS 1000
CLASS:	Day & Time: Thursdays, 2:35 – 5:25 Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Diana Young
CONTACT:	Office: Loeb D498 Office Hrs: Thursdays from 12:00 – 1:00 p.m. or by appointment Telephone: 613-520-2600 ex. 1981 Email: Diana_Young@carleton.ca

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Academic Accommodations for Students with Disabilities: The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

COURSE DESCRIPTION

This is an introductory course that is designed to provide students with an overview of the criminal justice system, and to encourage critical thought about the processes that lead to the criminalization of individuals. The course materials focus on the criminal justice system as an institution rather than legal rules and doctrine, and will examine the various actors in the system – professionals such as police, Crown Attorneys, corrections officials and judges – whose exercise of discretion affects outcomes in the prosecution process. The course will also involve a consideration of the involvement of non-professionals such as victims, the media, and the general public, and the politics of criminal justice. We will discuss these factors in light of some contemporary issues in criminal justice, including addictions, mental illness, victims'

rights and wrongful convictions, and how they might affect our understanding of the concept of the rule of law, and the extent to which the public face of the criminal law is consistent with its practical realities.

REQUIRED TEXTS

Karim Ismaili *et al.*, *Canadian Criminal Justice Policy: Contemporary Perspectives* (Toronto: Oxford University Press Canada, 2012), available at the Carleton University Bookstore. Additional materials will be available through the library reserves and on WebCT.

EVALUATION

Reading Comment – 10%: Students will be asked to write a comment on one of the readings included in the course materials. The comment can be submitted at any time during the semester, but must be handed in on November 15 at the latest.

Take-Home assignment – 40%: A take-home assignment will be distributed in class on October 25, and will be due on November 8. The assignment will be based on the material covered in class

Final Exam – 50%: There will be a final exam during the formal examination period in December. Students will be responsible for all the material covered in the course readings and in the lectures during the semester.

SCHEDULE

September 6

Introduction to the Course

The Structure of the Criminal Justice System

- Courts
- Division of powers
- Stages of a prosecution

September 13

Readings:

Textbook:

Chapter 1, Christopher Murphy, *Canadian Police and Policing Policy*

WebCT:

Hill v. Hamilton-Wentworth Police Services Board [2007] S.C.J. No. 41; (2007) 285 D.L.R. (4th) 620 (headnote)

Implementing the Law and Discretionary Power

Role of the Police:

- Policing and Risk Management
- Discretion and the Duty to Investigate

The Limits of Police Power and Accountability

- Police Response to Toronto's G-20 Demonstrations
- Mechanisms of Accountability – Courts, Politics and social media

September 20

Readings:

Textbook:

Chapter 2, Anthony Doob and Cheryl Marie Webster, *Back to the Future? Policy Development in Pre-trial Detention*

On Reserve:

John Brooks, *Ethical Obligations of the Crown Attorney – Some Guiding Thoughts and Principles* (2001) 50 UNBLJ 229.

Implementing the Law and Discretionary Power Cont'd

Pretrial detention

- Equality and the presumption of innocence

Role of Counsel:

- Crown's relationship with police and courts
- Crown discretion

September 27

Readings:

On Reserve:

David Layton, *The Criminal Defence Lawyer's Role* (2004) 27 Dalhousie L.J., 379

Austin M. Cooper, *The Ken Murray Case: Defence Counsel's Dilemma* (2003) 22 Advocates' Soc. J. 3, 11

On WebCT:

Excerpt from *R. v. Cuerrier*

Role of Counsel Cont'd:

- Defence Counsel: Ethics and the duty to advocate

Policy and the judicial function:

- Judges - Interpreting the law or creating the law?
- What is a Crime? Other options for social control.
- Criminalizing HIV transmission

October 4

Readings:

On Reserve:

Karen Stanbridge and J. Scott Kenney, *Emotions and the Campaign for Victims' Rights in Canada* (2009) 51 *Canadian Journal of Criminology and Criminal Justice* 4, 473.

Kevin D. Haggerty, "From Risk to Precaution: The Rationalities of Personal Crime Prevention" in *Risk and Morality* (Toronto: University of Toronto Press, 2003) pp. 193-214.

Victims

- The role of the victims in the process and ownership of disputes
- Victims and social transformation
- Fear of crime: Risk, the responsible citizen, and consumerism

October 11*Readings:*

Textbook:

Chapter 8; Benedikt Fischer *et al.*, *Drug Law and Policy in Canada: Torn Between Criminal Justice and Public Health*

WebCT:

Except from *Canada (Attorney General) v. PHS Community Services Society* [2011], SCC 44; 3 S.C.R. 134

Intoxication, addiction, and criminal responsibility

- Law, policy, and the decision to criminalize

October 18*Readings:*

Textbook:

Chapter 4; Cheryl Marie Webster and Anthony N. Doob, *Maintaining Our Balance: Trends in Imprisonment Policies in Canada*

Sentencing Options

- Retribution, rehabilitation, and mechanisms of punishment

Corrections

- Imprisonment and the prison population
- Parole; risk management and reintegration

October 25

*****Take-home assignment distributed******Readings:*

Textbook:

Chapter 5, Richard Barnhorst, *Youth Justice Policy Reform: The Youth Criminal Justice Act*

On Reserve:

Jane B. Sprott, *The Persistence of Status Offences in the Youth Justice System* (2012) CJCCJ 310

Youth Justice

- Models of youth justice in Canada
- Due process and paternalism

November 1*Readings:*

Textbook:

Chapter 7, E. Jane Ursell, *Domestic Violence and Problem-Solving Courts*

On Reserve:

Dawn Moore, *Translating Justice and Therapy: The Drug Treatment Court Networks*, 47 Brit. J. Criminology 1, 42.

Specialized Courts: Mental Health Court, Drug Treatment Court, Domestic Assault Court

- Therapeutic jurisprudence and problem solving
- The criminal law and extra-legal forms of knowledge

November 8*****Take-home assignment due******Readings:*

Textbook: Chapter 6, Scott Clark and Tammy Landau, *Aboriginal Justice Policy in Canada*

Aboriginals and the Canadian Criminal Justice System

- Addressing overincarceration
- Community involvement and essentialism
- "Gladue" courts

November 15

Readings:

On Reserve:

Bruce McFarlane, *Convicting the Innocent: A Triple Failure of the Justice System* (2006) 31 Manitoba L.J., 403 (**note you are only required to read pp. 10-43 of this article**)

On WebCT:

Excerpt from *Jane Doe v. Metropolitan Toronto Police* [1998], O.J. No. 487, (1998) 39 O.R. (3d) 487.

Misreading Facts and Miscarriages of Justice

- Wrongful convictions: Criminal identities and the causes of wrongful convictions
- Failures to investigate and victim identities

November 22

Readings:

Textbook – Chapter 9, Kent Roach, "Terrorism and National Security Policy-Making in Canada"
Chapter 11, Anna Pratt, "Immigration Penalty and the Crime-Security Nexus"

The Criminal Law and Terrorism

- Terrorism related offences, security and symbolism
- Circumventing criminal law and procedure: Criminal offences and immigration law

November 29

Review for Exam