

Carleton University**Department of Law****Course Outline**

COURSE:	LAWS 2301C The Criminal Justice System
TERM:	Fall 2010
PREREQUISITES:	LAWS 1000
CLASS:	Day & Time: Friday – 2:35-5:25 pm Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Professor Diana Young
CONTACT:	Office: D498 LA Office Hrs: Wednesdays, 10 a.m. to 11 a.m. or by appointment Telephone: 613-520-2600 x 1981 Email: Diana.Young@carleton.ca

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: http://www.carleton.ca/pmc/students/accom_policy.html . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **November 15, 2010 for Fall exams and March 12, 2011 for Winter exams**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

This is an introductory course that is designed to provide students with an overview of criminal law and the criminal justice system, and to encourage critical thought about the processes that lead to the criminalization of individuals. The course aims to provide students with a grasp of first principles and a foundation for further study of issues and problems in criminal law. This includes basic concepts of criminal liability, the effect of the Charter of Rights and Freedoms and sentencing.

The course will also involve a consideration of the human dimensions of the criminal justice system, and how political pressures, police practices, discretionary powers of the Crown, defence attorneys and adjudicators affect outcomes in the prosecution process. We will consider how these factors 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

Students will be required to purchase a copy of *The Criminal Justice System* (4th ed.) by Kent Roach, and a course pack that will be available in the bookstore

EVALUATION - All components must be completed to pass this course**Take-Home Assignment – 40%:**

- Students will be asked to complete a take-home assignment, which will be distributed in class on October 29 and due on November 12

Reading Comment – 10%

- Students will be asked to select one or more of the readings contained in the course pack and provide a 2 - 3 page comment on it.

Final Exam – 50%

- There will be a final exam during the formal examination period in December.

SCHEDULE**Part I: The Criminal Justice as an Institution – Sites of Discretion, Administrative Realities and the Decision to Criminalize**

Sep 10 Readings: Textbook; Chapter 1

Introduction to the course

Sep 17 Readings: Coursepack; *Nassiah v. Peel Regional Police* [2007] O.H.R.T.D. No. 14;
Excerpt from Richard V. Ericson & Kevin D. Haggerty, *Policing the Risk Society* (Toronto: University of Toronto Press, 1997) 256-281.

Implementing the Law and Discretionary Power

- Stages of the Criminal Justice System
- Role of the Police

Role of Counsel:

- Crown's relationship with police and courts
- Crown discretion
- Defence Counsel: Ethics and the duty to advocate

- Sep 24** Readings: *Coursepack; Laureen Snider, “Crimes Against Capital: Discovering Theft of Time” (2001) 28 Social Justice 105.*
R. v. Butler, [1992] 1 S.C.R. 452 (headnote);
 Lara Karaian, “Troubling the Definition of Pornography: Little Sisters, and New Defining Moment in Feminists’ Engagement with the Law?” (2005) 17 Canadian J. of Women and the Law 117.

Implementing the Law and Discretionary Power Cont'd

Role of Counsel:

- What is a Crime? The decision to criminalize
- The definition of crime, social context and the law of obscenity

- Oct 1** Readings: *Coursepack: Excerpt from R. v. Cuerrier [1998] 2 S.C.R. 371*

Implementing the Law and Discretionary Power Cont'd

Policy and the judicial function:

- Judges - Interpreting the law or creating the law?
- Criminalizing HIV transmission

Victims and Offenders

- Role of the victims in the process and ownership of disputes
- Who commits crimes? Who is convicted? Who is incarcerated?

- Oct 8** *****University Day, No Class*****

Part II: Basic Elements of Criminal Responsibility

- Oct 15** Readings:: Textbook: Chapter 3, pp. 99 – 113, Chapter 5
 Coursepack: Excerpt from *R. v. Jorgensen* [1995] 4 S.C.R. 55.

Actus Reus and *Mens Rea*: guilty acts, guilty minds

- Mistakes of law and mistakes of fact
- Objective and Subjective Standards of Liability

- Oct 22** **TBA**

- Oct 29** Readings: *Coursepack; R. v. Ewanchuk [1999] 1 S.C.R. 330;*
 Elizabeth Stanko, “Warnings to Women: Police Advice and Women’s Safety in Britain” in Pat O’Malley, ed., *Crime and the Risk Society* (Dartmouth: Ashgate Publishing Limited, 1998)

Further Aspects of Mens Rea

- Sexual Assault, *mens rea*, and risk
- Intent vs. motive – blameworthiness in criminal law and the *Latimer* case

- Nov 5** Readings: Textbook; Chapter 2

Constitutional Issues

- Division of powers
- The Charter and police
- The Charter and the Criminal Trial Process
- Fault Requirements

Nov 12 Readings: Textbook; Chapter 4

Unfulfilled Crimes and Participation in Crimes

- *Actus reus* where a crime is not committed – attempts
- Participation – aiding and abetting, conspiracy, counseling and common Intention.

Nov 19 Readings: Textbook; Chapter 6
Coursepack; Laureen Snider, “But They’re Not Real Criminals:
Downsizing Corporate Crime” in Bernard
Schissel and Carolyn Brooks, eds., *Marginality
and Condemnation: An Introduction to Critical
Criminology*, 215.

Prosecuting corporations

- Institutional guilty minds and scapegoats: problems with applying the doctrine of *mens rea* in the corporate context
- Alternatives to criminalization: regulation, civil actions, internal surveillance and public pressure

Part III: Sentencing

Nov 26 Readings: *Textbook; Chapter 11*

- Mandatory minimum sentences
- Legislative framework of sentencing
- Purposes and principles of sentencing
- Sentencing as a means of addressing social inequality
- Political agendas and the manipulation of narrative

More on Crown Discretion

- Plea bargaining: negotiated justice as risk management, resource management

Dec 3 **Review for Exam**