

**Course Outline**

<b>COURSE:</b>	<b>LAWS 2301C The Criminal Justice System</b>
<b>TERM:</b>	<b>Fall 2011</b>
<b>PREREQUISITES:</b>	<b>LAWS 1000</b>
<b>CLASS:</b>	<b>Day &amp; Time: Monday, 2:35 – 5:25</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR:</b>	<b>Professor Diana Young</b>
<b>CONTACT:</b>	<b>Office: Loeb D498</b> <b>Office Hrs: Mondays from 12:00–1:00 p.m. or by appointment</b> <b>Telephone: 613-520-2600 ex. 1981</b> <b>Email: <a href="mailto:Diana_Young@carleton.ca">Diana_Young@carleton.ca</a></b>

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"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://www2.carleton.ca/pmc/students/accommodations> . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 11 November 2011 for December exams and 7 March 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: [www.carleton.ca/equity](http://www.carleton.ca/equity)

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**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 material focuses 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**

A course pack will be available at the bookstore. There may be some additional reading which will be made available on WebCT.

**EVALUATION**

**40% Take-Home assignment:** Students will be asked to complete a take-home assignment which will be distributed in class on October 31 and will be due on November 14.

**10% Reading Comment:** Students will be asked to complete a comment, 2 to 3 pages in length, on any one of the readings assigned during the semester. The reading comment can be handed in at any time during the semester but must be submitted on November 28th at the latest.

**50% Final Exam:** 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 12**

## Introduction to the Course

## The Structure of the Criminal Justice System

- Courts
- Division of powers
- Stages of a prosecution

**September 19**Readings:

*Nassiah v. Peel Regional Police* [2007] O.H.R.T.D. No. 14.

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

Craig Brannagan, *Police Misconduct and Public Accountability: Recent Trends in the Canadian Justice System* (2011) 30 Windsor Review of Legal and Social Issues 61.

Richard Ericson and Kevin Haggerty, "Identities" in *Policing the Risk Society* (Toronto: University of Toronto Press, 1997)

## Implementing the Law and Discretionary Power

## Role of the Police:

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

## Role of Counsel:

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

**September 26**Readings:

Christopher Sherrin, *Guilty Pleas From the Innocent* (2011) 30 Windsor Review of Legal and Social Issues 1

Denise Ryan, *Family Flees Home after Son's Vancouver Riot Apology* National Post, June 20, 2011

Randy L. Christensen, "Canada's Drinking Problem: Walkerton, Water Contamination and Public Policy" in Susan C. Boyd et al., *Toxic Criminology: Environment, Law and the State in Canada* (Halifax: Fernwood Publishing, 2002)

Kate Harris, *Stan Koebel Gets One Year in Jail* Toronto Star, December 21, 2004, p. A01. Excerpt from *R. v. Cuerrier* [1998] 2 S.C.R. 371.

## Implementing the Law and Discretionary Power Cont'd

- Guilty pleas from innocent accused: the role of police, courts, counsel and resource allocation
- Prosecutions, the media, and the social network

## 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 3**Readings:

- 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.  
*R. v. Jorgensen* [1995] 4 S.C.R. 55.

Implementing the Law and Discretionary Power Cont'd

- The definition of crime
- Social context and the law of obscenity

**October 10**

\*\*\*\*\*THANKSGIVING – NO CLASS\*\*\*\*\*

**October 17**Readings:

- 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).  
 Alfred J.C. O'Marra, *The Impact of Inquests on the Criminal Justice System in Ontario: A Decade of Change (Part 2)* (2006) 10 Can. Crim. L.R. 237.  
 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.

Victims

- Role of the victims in the process and ownership of disputes

**October 24**Readings:

- Laureen Snider, "But They're not Real Criminals: Downsizing Corporate Crime" in Bernard Schissel, Carolyn Brooks, eds., *Marginality and Condemnation* (Black Point, N.S.: Fernwood Publishing, 2002)  
 Kelly Hannah-Moffat, "Re-Forming the Prison: Rethinking Our Ideals" in *An Ideal Prison? Critical Essays on Women's Imprisonment in Canada* (Kelly Hannah-Moffat and Margaret Shaw, eds., (Halifax: Fernwood Publishing, 2000).

Prosecuting corporations:

- Institutional guilty minds and scapegoats: problems with applying the doctrine of *mens rea* in the corporate context

The Prison Population:

- Offenders as victims

**October 31**Readings:

- Dale Anne Freed, *How Our Legal System Fails the Mentally Ill*, Toronto Star, December 5, 2009, p. IN 3.  
 Simon Davis, *Community Mental Health in Canada: Policy, Theory and Practice*, (Vancouver: UBC Press, 2006) ch 9.

Mental Disorder

- The NCR defence and conceptions of moral agency
  - Mentally ill offenders in the criminal justice system
- Intoxication, addiction, and criminal responsibility

**November 7**Readings:

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

Paul Bentley, *Problem Solving Courts and Sentencing* (2007) C.R. 6<sup>th</sup> 212

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 14**Readings:

*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 and criminal identities
- Failures to investigate and victim identities

**November 21**Readings:

Excerpts from the *Inquiry into Forensic Pathology in Ontario Report* and the *Report of the Commission on Proceedings Involving Guy Paul Morin*

- Wrongful Convictions continued

**November 28**Readings:

*R. v. R.(D.S.)* [1997] 2 S.C.R. 484, 188 C.C.C. (3d) 353

*R. v. Williams* [1998] 1 S.C.R. 1128.

Fact Finding: Juries, Judges, and conceptions of impartiality in Criminal Law

- Jury selection and social context
- Judges' experience, credibility of witnesses and perspectives on evidence

**December 5**

Review for Exam