

## Course Outline

COURSE:	LAWS 2302 C
TERM:	Winter 2013
PREREQUISITES:	LAWS 1000 LAWS 2301
CLASS:	Day & Time: Mondays 11:35-2:25 Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Diana Young
CONTACT:	Office: LA C574 Office Hrs: Wednesdays 12:00-1:00 or by appointment Telephone: 613-520-2600 ex 1981 Email: Diana_Young@carleton.ca

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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](mailto: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/>

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## COURSE DESCRIPTION

This course will provide students with an overview of basic concepts in criminal law, and draw on some of these concepts to examine some current issues such as terrorism and security, white-collar crime, and attempts to reconfigure offences such as obscenity and indecency so they will be consistent with contemporary liberal conceptions of sexual morality and individual freedom. Students will also be encouraged to critically examine assumptions underlying the way in which courts assign criminal responsibility, and consider various challenges to traditional concepts of moral agency. These include the importance of context, particularly the tension between our understanding of individual responsibility and the social conditions that give rise to disorder, and the norms that are implicated in ostensibly value-neutral judgments, including conceptions of judicial neutrality in light of the experiences, history and social location of the adjudicator.

## **REQUIRED TEXTS**

Kent Roach, *Criminal Law* (Toronto: Irwin Law Inc., 2012), 5<sup>th</sup> edition, will be available at the Carleton University bookstore.

Additional material will be posted on WebCT.

## **EVALUATION**

Midterm assignment: 40%

Reading comment: 10%

Final Exam: 50%

The midterm assignment will be distributed February 25 and due on March 11. Students will be asked to provide a response to questions relating to the course material covered to date. No additional research is required.

For the reading comment students may choose one of the readings (or part thereof) assigned for the course. Grading will be based partly on the student's understanding of the selected material but students will also be expected to provide some of their own analysis or critique of the selected reading. The comment should be three to four pages in length. Students may submit the reading comment at any time during the semester, up until **March 25 at the latest**.

The final exam will take place during the formal examination period in April. It will be three hours in length, and open book.

## **SCHEDULE**

### **January 7**

Introduction to the course

### **January 14**

*Readings:*

Textbook – Chapter 2

Overview of basic concepts of criminal law

The Constitution and the Criminal Law

- The relationship between courts and legislatures
- The maintenance of due process
- Moralizing criminal responsibility: "moral voluntariness" and the Charter

### **January 21**

*Readings:*

Textbook – Chapter 3

WebCT – Brenda Cossman, "Disciplining the Unruly: Sexual Outlaws, Little Sisters, and the Legacy of Butler", (Winter 2003) 36 U.B.C. L. Rev. 77, excerpt from *R. v. N.S.*, [2012] S.C.J. no 72; excerpt from *R. v. Labaye*, [2005] 3 S.C.R. 728; excerpt from *Bedford v. Canada (Attorney*

*General*) (2012), 109 O.R. (3d) 1.

The Charter continued

- The Charter, victims, and due process
- De-moralizing criminal responsibility: Pornography, prostitution and Indecency

Basis of criminal responsibility

- *Actus reus*: The definition of a criminal act and the rule of law

## January 28

*Readings:*

Textbook – Chapter 5

*Mens rea*

- Conceptions of moral freedom and the “guilty mind”
- Objective and subjective standards of fault and the “reasonable person”
- Harm, the reasonable person and the definition of an offence: defining an abstract rule through popular norms

## February 4

*Readings:*

Textbook – Chapter 10 **pp. 382-405 and pp. 428-452 only**

WebCT – excerpt from *R. v. Ewanchuk*, [1999] 1 S.C.R. 330

*Mens Rea Continued*

- Sexual assault, reasonableness and contested values
- Intent in homicide cases

## February 11

*Readings:*

Textbook – Chapter 6

WebCT – link to video

Regulation

- Regulatory offences and the criminal law: risk, security, and responsibility

Prosecuting corporations:

- Institutional guilty minds and scapegoats: problems with applying the doctrine of *mens rea* in the corporate context
- Legislative responses to corporate crime
- The financial crisis of 2008: free markets and regulatory failures: what is a crime?

## February 18

\*\*\*\*\***Reading Week**\*\*\*\*\*

**February 25***Readings:*

WebCT – Link to Library Reserves, Steven Bittle and Lauren Snider, *From Manslaughter to Preventable Accident: Shaping Corporate Criminal Liability* (2006) 28 Law and Pol'y 470;  
 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) chapter 6 pp. 97-111.

- Institutional guilty minds cont'd: The Westray Mine disaster and contamination of the water in Walkerton, Ontario

**\*\*\*\*\*Midterm assignment distributed\*\*\*\*\***

**March 4***Readings:*

Textbook – Chapter 8, **pp. 279-302 only**

WebCt – Link to library reserves, Simon Davis, *Community Mental Health in Canada: Policy, Theory and Practice*, (Vancouver: UBC Press, 2006) ch 9, "The Interface with the Criminal Justice System", additional reading TBA

## Mental Disorder

- The NCR defence and conceptions of moral agency
- Mentally ill offenders in the criminal justice system
- What does the term "mentally ill" tell us about a person? – Public discourse on mental illness, violence and social responsibility following the Sandy Hook killings

**March 11***Readings:*

WebCT – Excerpts from *R. v. R.(D.S.)* [1997] 2 S.C.R. 484, 188 C.C.C. (3d) 353 and *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, perspective and impartiality – contestable and uncontestable knowledge

**\*\*\*\*\*Midterm Assignment due\*\*\*\*\***

**March 18***Readings:*

Textbook – Chapter 9 and Chapter 10 **pp. 405-427 only.**

Affirmative Defences: Provocation, Self-Defence, Necessity and Duress

- Defences for intentional acts: context, cultural norms, and the concept of reasonableness

### **March 25**

*Readings:*

Textbook – Chapter 11

Sentencing

- Principles and purposes of sentencing
- The rule of law and judicial discretion – circumscribing or relocating decision-making power?
- Governing through punishment – the politics of sentencing

### **April 1**

*Readings:*

Textbook – Chapter 10, **pp. 457 to 468 only**

WebCT – Excerpt from the Report of the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar; Other readings TBA

Terrorism

- Security, policing and the limits of criminal law: the cases of Omar Khadr and Maher Arar

### **April 8**

Review for Exam