

Course Outline

COURSE:	LAWS 2302 C - Criminal Law
TERM:	Winter 2011
PREREQUISITES:	LAWS 1000
CLASS:	Day & Time: Wednesday 11:35 – 14:25 Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Professor Diana Young
CONTACT:	Office: D498 LA Office Hrs: Wednesdays 15:00 to 16:00 or by appointment Telephone: (613) 520-2600 ex 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 course will consider some advanced issues in criminal law and the criminal justice system. Building on the material covered in LAWS 2302, the class will examine some problems with respect to the way in which courts assign criminal responsibility, and challenges that these issues pose to traditional concepts of moral agency. These include the importance of context, particularly the tension between concepts of individual responsibility and the social conditions that give rise to disorder, and the norms that are implicated in ostensibly value-neutral judgments. We will also be examining issues with respect to perceptions of evidence at various stages of the prosecution process. We will look at the social and cultural forces that shape conceptions of offenders and victims, and the effect of these conceptions on the exercise of discretionary power by police, Crowns, and other actors in the criminal justice system. In particular, we will consider some of the causes of wrongful conviction, and the failures in investigative practices that were identified in the Jane Doe and Robert Pickton cases. We will be looking at conceptions of judicial neutrality in light of the experiences, history and social location of the adjudicator. Finally, we will consider some specific offences and issues relating to terrorism, including their implications for policing, as well as the criminal justice system and the G 20 protests that took place in Toronto last June.

REQUIRED TEXTS

Kent Roach, *Criminal Law*, 4th ed., (Toronto: Irwin Law, 2009) and a course pack that will be available in the bookstore. There will also be material – mostly excerpts from cases – that will be posted on WebCT.

EVALUATION

- 25%** A take-home assignment, to be distributed in class on February 9 and due on February 16
- 25%** A research paper, 7 or 8 double-spaced pages in length, on a criminal law topic of the student's choice. Students should submit a brief outline to the instructor ahead of time in order to ensure the topic selected meets the course requirements.
- 50%** A final examination, open book format, to be written during the formal examination period in April.

SCHEDULE

- January 5**
- Introduction to Course
 - or students who did NOT take my section of LAWS 2301 last semester, I will also briefly go over some key concepts that may be needed for the material covered this semester

PART I: Controversies in Criminal Responsibility

- January 12** Readings: Ruth M. Mann et al., "Community-Based Interventions for At-Risk Youth in Ontario Under Canada's Youth Criminal Justice Act: A Case Study of a "Runaway Girl" (2007) *Canadian J. Crim. And Crim. Justice*, 37; Paula Maurutto, Kelly Hannah-Moffat, "Understanding Risk in the Context of the Youth Criminal Justice Act"

Youth and Criminal Law

- Images of innocence and a threatening underclass: youth in the popular consciousness and in public discourses of criminal law
- Historical perspectives on youth crime and the Youth Criminal Justice Act

- January 19** Readings: Textbook, chapter 7

Intoxication

- Images of addiction and loss of control
- Intoxication as a defence
- Intoxication and medical discourse in criminal law
- Intoxication and sentencing

- January 26** Readings: WebCT – TBA; Text book - Chapter 8; Course pack - Dale Anne Freed, *How Our Legal System Fails the Mentally Ill* Toronto Star, Dec. 5, 2009, p. IN 3; Megan O'Toole, *Bad Ending for "Good Boy"*; *Schizophrenic Man Allegedly Beaten to Death Over and Bag of Chips in Don Jail*, National Post, Nov 12, 2009, p. A 3; Terri Theodore, *Most Mentally Ill Offenders On Own After Release*, Globe and Mail, December 14, 2010, p. A. 6

Mental Disorder and Automatism

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

February 2 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. 6th 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

February 9 Readings: Textbook – Chapter 9; Case excerpts on WebCT

Affirmative Defences: Provocation, Self-Defence, Necessity and Duress Defences for intentional acts: context, cultural norms, and the concept of reasonableness

February 16 Readings: Case excerpt on WebCT – *R. v. Gladue*; Course pack - Toni Williams, “Intersectionality Analysis in the Sentencing of Aboriginal Women in Canada”; Jane Dickson-Gilmore and Carol La Prairie,

“Testing the “Magic”: Sentencing Circles in Aboriginal Community Restorative Justice”

Aboriginal Issues in the Criminal Law

- Systemic discrimination and overincarceration
- Aboriginal justice, cultural identity and autonomy

February 23 Winter Break – no class

PART II: Fact-Finding and the Law as a Human Process

March 2 Readings: Case excerpt on Web CT – *Jane Doe v. Metropolitan Toronto Police*

Misreading Facts and Miscarriages of Justice

- Wrongful convictions and criminal identities
- Failures to investigate and victim identities

March 9 Readings: WebCT – 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

March 16 Readings: Case excerpts on WebCT – *R. v. R.(D.S.)* and *R. v. Williams*,

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

PART III: Social and Political Pressures and the Definition of Particular Offences

March 23 Readings: Textbook – Chapter 10; Material on WebCT TBA; Coursepack:
Audrey Macklin, *From Cooperation, to Complicity, to Compensation: The War on Terror, Extraordinary Rendition, and the Cost of Torture*

Particular Offences

- Murder, manslaughter, infanticide

- Terrorism
- Criminal law and the response to terrorism
 - Collateral effects – policing, immigration, rendition

March 30 Terrorism continued

Review for Exam