

## Course Outline

**COURSE:** LAWS 2302D

**TERM:** Winter 2012

**PREREQUISITES:** LAWS 1000

**CLASS:**      **Day & Time:** Wednesdays 18:05 to 20:55  
                         **Room:** Please check with Carleton Central for current room location

**INSTRUCTOR:** Tyler Botten, B.Sc., LL.B.  
**(CONTRACT)**

**CONTACT:**      **Office:** Suite 4, 200 Cooper Street  
                                 Ottawa, ON K2P 0G1  
                                 OR  
                                 c/o Dept. of Law Office (C473 Loeb Building)

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                         **Telephone:** (613) 720-4185  
                         **Email:** trbotten@connect.carleton.ca

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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 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 course continues from LAWS 2301, focusing on both the legal and social dimensions of criminal liability and responsibility in Canada. Students are introduced to the requisite elements of a criminal offence (including the legal concepts of *actus reus* and *mens rea*) as well as the various ways in which such offences can be committed. Specific attention will be paid to homicide and sexual assault offences. Defences are also examined in the course, both those long recognized at common law, and some additional statutory defences and protections provided by both the *Criminal Code* and *Charter of Rights and Freedoms*.

**REQUIRED TEXTS**

- Don Stuart & Ronald Delisle, *Learning Canadian Criminal Law* (11<sup>th</sup> ed.), Carswell 2009
- An updated copy of the *Criminal Code of Canada*. A 2011 or 2012 edition is ideal, but a used copy of a 2010 edition will suffice. Any one of the following versions will do, or you can access the entire text of the *Code* at <http://laws.justice.gc.ca>:
  - Carswell, *Pocket Criminal Code*
  - Alan Gold, *The Practitioner's Criminal Code*
  - Watt & Fuerst, *Tremeeear's Criminal Code*
  - Greenspan & Rosenberg, *Martin's Annual Criminal Code*

**SUPPLEMENTARY TEXTS**

- Any supplementary material used in class will be made available through the Reserve Desk at the MacOdrum Library and/or online via WebCT.

**EVALUATION**

**(All components must be completed in order to get a passing grade)**

- 20% - Written case brief or other assignment**
  - Assigned February 1, Due February 15
- 80% - 3-Hour open book Final Exam**
  - To be held during formal exam period in April
  - Students will be permitted to bring required texts, course materials, and lecture notes to the exam. Computers are not allowed except with permission of the Paul Menton Centre (see note above)

**SCHEDULE**

	<u>Date</u>	<u>Readings</u> <sup>1</sup>	<u>Topic(s)</u>
<b>1</b>	January 4	189-258	<b>I. ELEMENTS OF AN OFFENCE</b> A. The "Voluntary Act" Requirement ( <i>actus reus</i> ) <ol style="list-style-type: none"> <li>Introduction</li> <li>"Actus reus" = [voluntary] activity, circumstances and consequences</li> <li>Commission of an unlawful act</li> </ol>
<b>2</b>	January 11	258-360	<ol style="list-style-type: none"> <li>Omissions</li> <li>Voluntariness</li> <li>Innocent Agent</li> <li>Causation</li> </ol>
<b>3</b>	January 18	361-427	B. The Fault Requirement ( <i>mens rea</i> or negligence) <ol style="list-style-type: none"> <li>Introduction</li> <li>Subjective/objective distinction</li> <li>Public welfare (regulatory) offences</li> </ol>
		428-580	<ol style="list-style-type: none"> <li>Fault for Crimes               <ol style="list-style-type: none"> <li>Murder and the <i>Charter</i></li> <li>Subjective awareness rarely required</li> </ol> </li> <li>3 types of crime since <i>Creighton</i> <ol style="list-style-type: none"> <li>Crimes requiring subjective awareness</li> <li>Crimes of objective fault</li> <li>Crimes based on predicate offences</li> </ol> </li> </ol>
<b>4</b>	January 25		<ol style="list-style-type: none"> <li>3 types of crime since <i>Creighton</i> (cont'd)</li> </ol>
<b>5</b>	February 1	1017-1090	C. Parties to a Crime <ol style="list-style-type: none"> <li>Aiding and Abetting</li> <li>Counselling</li> <li>Accessory after the fact</li> </ol> D. Inchoate Crimes <ol style="list-style-type: none"> <li>Attempts</li> <li>Conspiracy</li> <li>Liability for incomplete offences</li> </ol>
<b>6</b>	February 8	589-689	E. Crimes of Sexual Assault

<sup>1</sup> All readings are from Stuart & Delisle, *Learning Canadian Criminal Law* (11<sup>th</sup> ed.) and page numbers are subject to change based on time available in class to cover particular issues.

	<u>Date</u>	<u>Readings</u> <sup>1</sup>	<u>Topic(s)</u>
			1) Lack of consent (review) 2) History of sexual assault in Canada 3) Sexual assault and the <i>Charter</i>
<b>7</b>	February 15		E. Crimes of Sexual Assault (cont'd)
<b>Winter Break</b> <b>February 20-24</b> <b>No Lecture</b>			
<b>8</b>	February 29	691-736  742-767 Part XX.1 Cr. C.	<b>II. TRUE DEFENCES</b> A. Mistake 1) Mistake of fact 2) Mistake of law  B. Incapacity and Impairment 1) Insanity / Mental Disorder (a) Statutory provisions (b) Jurisprudence
<b>9</b>	March 7	768-866	2) Automatism 3) Intoxication
<b>10</b>	March 14	867-924	<b>III. JUSTIFICATIONS AND EXCUSES</b> A. Introduction / Air of reality B. Necessity C. Duress
<b>11</b>	March 21	926-962	D. Defence of Person E. Defence of Property
<b>12</b>	March 28	962-990  996-1015 98-111	F. Provocation  <b>IV. POLICY DEFENCES</b> A. <i>Entrapment</i> B. <i>Charter, s. 24</i>
<b>13</b>	April 4		<b>REVIEW CLASS</b>
<b>FINAL EXAMINATION PERIOD</b> <b>April 11 to 24</b> (Date, time and location of exam TBA)			