

Course Outline

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<b>COURSE:</b>	<b>LAWS 3305D – Crime and State in History</b>
<b>TERM:</b>	<b>Winter 2016</b>
<b>PREREQUISITES:</b>	<b>Third-year standing</b>
<b>CLASS:</b>	<b>Day &amp; Time: Wednesdays, 1805hrs – 2055hrs</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Leo S. Russomanno</b>
<b>CONTACT:</b>	<b>Office: B442LA – Contract Instructors’ Office</b> <b>Office Hrs: TBA</b> <b>Telephone: (613) 296-2551</b> <b>Email: leorussomanno@gmail.com</b>

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**Academic Accommodations:**

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://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://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://carleton.ca/pmc/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://carleton.ca/equity/>

### ***Plagiarism***

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at: <http://carleton.ca/studentaffairs/academic-integrity/>

### ***Department Policy***

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://carleton.ca/law/current-students/>

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## **COURSE DESCRIPTION**

This course explores dramatic, historical transformations in the perception and definition of crime and the administration of criminal law. We will trace the origins of the criminal law and highlight important developments which resulted in changes that reverberate in our modern adversarial system.

The course begins with a broad historical overview and then moves into an analysis of specific issues, always tracing the important historical context. Selected issues include the historical treatment of women under criminal law, miscarriages of justice, sentencing, and the rule of law.

## **ATTENTION**

Please pay special attention to Carleton University's rules and regulations concerning academic integrity. Please note that any suspected cases of academic dishonesty are forwarded directly to the Dean of the faculty.

**REQUIRED TEXTS**

Students require John H. Langbein, *The Origins of the Adversary Criminal Trial*. This text is available for purchase at the campus bookstore. A copy of the same is on reserve at the library. All other materials will be provided for electronically on cuLearn.

Students are expected to come to class having completed the readings and to participate in class discussions.

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

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

40% - Paper – 10 page limit – topic to be announced in class.

60% - Final exam (April 11 – 23, 2016)

**PAPER**

The paper will be due on March 7<sup>th</sup> 2016 at the start of class, in hard copy format. If you are late to class, your paper will be subject to late penalties. Please read the paper instructions document on cuLearn for details.

There will be a 10 point deduction per 24 hours of tardiness. At the start of every 24 hour lateness period, in other words, you will be deducted 10%.

The paper is to use 12 point Times New Roman font, double spaced, with one inch margins on all sides. Failure to adhere to this will result in deduction.

You will be evaluated on your writing (20 points), the substance (40 points), and the quality of your argument (40 points).

**EXAM**

The exam will include a number of multiple choice/true or false questions, as well as long answers.

This will be a close book exam, 2 hours in duration.

The date of the exam will be during the formal exam period schedule (April 11-23 2016)

Your mark on the exam will be based on your ability to reflect the principles and concepts discussed in class. Attendance is crucial to your ability to your understanding of the course materials.

**SCHEDULE** (subject to modification)**WEEK 1 – January 6<sup>th</sup>:**

## Introduction

- Introduction
- Review of course outline
- Expectations of students
- Structure of class
- Suggestions for the paper

Readings: N/A

**WEEK 2 – January 13<sup>th</sup>:**

## Origins of the Common Law system

- Towards a unified criminal law
- The advent of the adversarial system

## Readings:

TEXT: Introduction, pp. 1-9  
CuLearn reading

**WEEK 3 – January 20<sup>th</sup>:**

## Development of the Common Law system and reception in Canada

- The Quebec Act, the Criminal Code 1892

## Readings:

TEXT: Chapter 1, pp. 11-66

Michel Morin, “The Canadian Experience of Codification”, online at

<http://publications.gc.ca/collections/Collection/JL2-9-2000E.pdf> pp. 151-177

**WEEK 4 – January 27<sup>th</sup>:**

## The rule of law

## Readings:

*Roncarelli v. Duplessis*: <http://canlii.ca/en/ca/scc/doc/1959/1959canlii50/1959canlii50.html>

*The Manitoba Language Reference*:

<http://canlii.ca/en/ca/scc/doc/1985/1985canlii33/1985canlii33.html> paragraphs 55-112

WEEK 5 – February 3<sup>rd</sup>:

## Habeas Corpus

- Historical overview
- The October Crisis
- Internment of Canadians during WWII

## Readings:

Video: Apology to Japanese Canadians: online at

<http://www.youtube.com/watch?v=fxVZtQULIMQ>

Dominic Clement: The October Crisis of 1970: Human Rights Abuses under the *War Measures Act*, online at: [http://www.historyofrights.com/PDF/article\\_JCS.pdf](http://www.historyofrights.com/PDF/article_JCS.pdf)

WEEK 6 – February 10<sup>th</sup>:

## Miscarriages of criminal justice

## Readings:

TEXT: Chapter 2, pp. 68 - 101

WEEK 7 – February 24<sup>th</sup>:

## Miscarriages of criminal justice: part II

## Readings:

The Donald Marshall Inquiry Report:

[http://novascotia.ca/just/marshall\\_inquiry/docs/Royal%20Commission%20on%20the%20Donald%20Marshall%20Jr%20Prosecution\\_findings.pdf](http://novascotia.ca/just/marshall_inquiry/docs/Royal%20Commission%20on%20the%20Donald%20Marshall%20Jr%20Prosecution_findings.pdf)

WEEK 8 March 2<sup>nd</sup>:

## Criminalizing immorality

## Readings:

Roach, Healy, Berger, Stribopoulos, *Criminal Law and Procedure: Cases and Materials*, pp. 45 – 70

REFERENCE ONLY: *Bedford v. Canada*: online at

<http://www.canlii.org/en/ca/scc/doc/2013/2013scc72/2013scc72.html>

WEEK 9 – March 9<sup>th</sup>:

Women and the law

- Violence against women
- Battered Woman Syndrome – *R v. Lavallee*

Readings:

Constance Backhouse, “Petticoats and Prejudice”, pp. 80 – 111

REFERENCE: *R v. Lavalle* [1990] 1 SCR 852, online at:

<http://canlii.ca/en/ca/scc/doc/1990/1990canlii95/1990canlii95.html>

WEEK 10 – March 16<sup>th</sup> :

The development of the modern adversarial system

Readings:

TEXT: Chapter 5, pp. 252 - 310

WEEK 11 – March 23<sup>rd</sup>:

Sentencing

Readings:

Section 718 of the Criminal Code of Canada

WEEK 12 – March 30<sup>th</sup>:

Freebie Class

WEEK 13 – April 6<sup>th</sup>:

Exam Review