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<b>COURSE:</b>	<b>LAWS 3306 A and V - Crime, Law, Process and Politics</b>
<b>TERM:</b>	<b>Winter 2015</b>
<b>PREREQUISITES:</b>	<b>LAWS 2301, LAWS 2302</b>
<b>CLASS:</b>	<b>Day &amp; Time: Section A – Thursday 18:05 – 20:55</b> <b>Room: Please check with Carleton Central for current room location</b> <b>Broadcast: Section V – Video-On-Demand or Rogers Digital Cable Channel 243</b>
<b>INSTRUCTOR:</b> <b>(CONTRACT)</b>	<b>Chris McNaught</b>
<b>CONTACT:</b>	<b>Office: B442 Loeb Building</b> <b>Office Hrs: The preferred route of contact is via business phone or email</b> <b>Telephone: 613-236-8026</b> <b>*****Email: ckmcnaugh@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://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/>

### **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://www.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://www.carleton.ca/law/student-resources/department-policies/>

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### **OBJECTIVES & CONTENT:**

***This course has extraordinary resonance with current national and international events, societal issues, and government 'tough on crime' legislative initiatives.*** The consistent rebuke or failure of the current government's crime legislation at all levels of the court system does not deter or alter government ideology: is it well-guided or just politically arrogant?

The course also focuses on the politics inherent in the use of the criminal justice system to maintain – or 'create' ? - social order. Students will explore the (non-)use of conventional criminal sanctions against the politically motivated offender – 'terrorism' is prominent in this current discussion. The course will identify current issues focusing on the shift of mores and power in western society, and examine approaches to 'reform' of the criminal justice system and the 'dominant discourse' of media and politics. Frequent comparison with American judicial and political experience will be explored.

### **REQUIRED READING:**

There is **NO COURSE PACK** - Please check course web site for directed sources, resources, articles, editorials, and items expanding on lecture discussions. As well, other readings will be referred to or suggested in class on a regular basis. **\*\* *The more reading and independent pursuit of topics covered in lectures, the better prepared students will be, both to participate in lecture discussions and to provide informative content in essay responses on the exams.***

Pocket Criminal Code. [ any current edition ] would be useful reference.

Suggested supplement to course: Verdun-Jones, Simon. Criminal Law in Canada: Cases, Questions and the Code, 5th ed. Toronto: Harcourt Canada, 2002.

### **EVALUATION: Midterm Exam - 30% Final Exam - 70%**

**Note:** Both sections write the same exam at the same time. The midterm is arranged by the CUOL office for both sections.

1. **Midterm Exam** - closed book, 1.5 hrs – **Saturday, February 28, 2015 at 9:00am**. The location will be announced on the CUOL website early in the term. The exam will consist of an essay chosen from several topics.

**Please note: It is your responsibility to pick up from the graded midterm from the CUOL office (D299 Loeb). I cannot tell a student his or her mark over the phone or by email.**

2. **Final Exam** - The final exam will be a university scheduled closed book exam of **2.5 hrs** in the final exam period (April 11-23, 2015). The final exam may consist of a fact situation and also contain essay-style questions, with choices. Details will be discussed in the class. Final exams are not returned to the student but are retained by the Department. If you wish to see your exam after it has been marked, please contact the department and you can arrange a time to do so.

**IMPORTANT NOTE:** Failure to complete any portion of the required evaluation will result in an F grade. Students who fail to meet this course's requirements, ie. complete the midterm exam, may be assigned an **FND** grade on the FGR. A deferral granted by the Registrar's Office *prior* to receipt of the FGR may be rescinded if this grade is assigned.

**PLEASE NOTE:** Reading is considered a foundation source which enables class discussion, and is not required to be done in any particular sequence, but you are entrusted with doing that reading. **I do not provide electronic notes;** please pay attention to the class lectures & discussions to absorb the key themes. HAVE FAITH ! Apparent vagueness in material discussed or sequence referenced will resolve itself as lectures progress; **you will be invited to think, analyze, and be critical, rather than regurgitate notes.**

### **(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.

## **COURSE OUTLINE**

**Note: Winter break is February 16 – 20, 2015. No in-class session will take place during this week.**

1. **Introduction:** the *political state of things*, media impact on perceptions, national security & the rule of law, the current government's 'tough on crime' branding and its crime 'reform' approach; this will shape a core discussion-focus of the course as there are immediate rippling impacts.
2. **'common sense' vs sociology** ('committing sociology'), ideology vs evidence/expertise, politics vs street logistics. Judicial 'activism', ethics, role of Minister of Justice, the media – the apparent folly of '*Wars on... drugs, terror, crime, etc.* More detailed examination of legal 'reform': mandatory minimums, victim surcharges, corrections, mental health inside prison, aboriginal issues, gun control
3. **An emerging** ( in Canada at any rate—already in place in many other countries ) issue illustrating the 'politics' of criminal law administration: *start/ end of life issues* ( assisted suicide/euthanasia
1. ***Prostitution and marijuana:*** can Canada ignore the world around it ? legalization vs decriminalization, affirmative action & protections vs (in)effective addressing of societal back-alleys
- ..
5. **'Political' Offences :** Treason-Sedition, Louis Riel, the FLQ, societal mania

**Suggested Readings:** Criminal Code of Canada, s. 46.

Toni Pickard and Phil Goldman, The Trial of Louis Riel in Dimensions of Criminal

Law, 2d ed. Emond Montgomery, 1996.

6. **State Crime, War Crimes, 'Just War' – Nuremburg, Vietnam, the former Yugoslavia, the U.N., international ethics, the advent of drones, interventionism, torture, child soldiers**
7. **Women & the Law- historical & contemporary perspective, 'battered spouse syndrome' implications**
8. **State Surveillance: shifting the Balance Between Citizen and State, the slippery slope, national security vs civil liberty, shifting status of the rule of law, whistleblowers & wikileaks (Snowden—traitor or hero ? )- the integrity of our post-9/11 responses**

Suggested Reading: **Privacy and New Media**, Valerie Steeves, in *Mass Communication: A Reader*. Edited by Leslie Shade and Paul Attallah. Nelson, 2002

**\*\* strongly recommend** seeing current documentary: “ **Citizenfour** ” –the Snowden revelations on NSA & western data collection; Part real-life thriller, part sobering examination of 21st century civil liberties, *Citizenfour* transcends ideology

- 9 **The war on terrorism. what's wrong with our Criminal Code that we have to create an Anti-terrorism Act to 'combat' the 'phenomenon' ? What exactly is terrorism anyway; does it demand the priorities or paranoia currently afforde it ? Home-grown or nothing new at all ?**

Suggested Readings: .

**The Lesser Evil: Political Ethics in an Age of Terror**, Michael Ignatieff, Princeton University Press, 2003  
**Weapons of Mass Persuasion : Marketing the War Against Iraq**, Paul Rutherford, U. of Toronto Press, 2004

11. **Corrections—end of the road – Ashley Smith & Snowshoe cases ( cutbacks, nobody cares, double-bunking, solitary confinement, women & mental illness in prison ) or new directions ( eg. Scandinavia ) ?**

12. **Review/Exam Preparation**

### 'ECLECTIC' READING LIST

**A Bright Shining Lie: John Paul Vann and America in Vietnam**, Neil Sheehan, Vintage, 1988

**Augusto Pinochet and International Law**, Wedgewood, R., (2000) 46 McGill Law Journal 241

**Beyond Jihad vs McWorld**, Benjamin Barber, *The Nation*, 2002 Issue, January 21

**Christians and War: Thomas Aquinas refines the "Just War" Theory**

[http://olympia.anglican.org/churches/B/stdunstan/Beliefs/Christians\\_War/Christians\\_War\\_2.htm](http://olympia.anglican.org/churches/B/stdunstan/Beliefs/Christians_War/Christians_War_2.htm)

**Dark Days: The Story of Four Canadians Tortured in the Name of Fighting Terror**, Kerry Pither, Penguin, 2006

**Global Organized Crime and International Security**, Viano, E, ed. Vermont: Ashgate Publishing Co, 1999.

**Guantanamo's Child: The Untold Story of Omar Khadr**, Michelle Shephard, 2008, John Wiley & Sons

**Human Rights and Terrorism**, Paul Hoffman, *Human Rights Quarterly*, vol. 26, Number 4, Nov. 2004, pp.932-955

**International Justice and the International Criminal Court: Between Sovereignty and the Rule of Law**, Bruce Broomhall, Oxford Monographs, 2003

**Jihad vs McWorld, How Globalism and Tribalism are Reshaping the World**, Benjamin R. Barber, New York, Ballantine, 1996

**Keynote Address** presented at the Campus Progress National Student Conference. Clinton, Bill. (2005). Swarthmore College, Swarthmore, PA. CampusProgress.org Online transcript:  
<http://campusprogress.org/common/388>

**Media Ethics: Cases and Moral Reasoning**, Christians, Clifford G.; et al. (2004). *7th edition*. Allyn & Bacon. ISBN 0-205-41845-7.

**Nemesis: The Last Days of the American Republic**, Chalmers Johnson, Metropolitan Books, 2007

**Nuremberg and Vietnam: an American Tragedy**, Telford Taylor, New York Times Books, 1970  
( also ) Quadrangle 1970

**Policing the Crisis: Mugging, the State and Law and Order** Stuart Hall, Chas. Critcher, Tony Jefferson, John Clarke and Brian Roberts, Macmillan Press, 1978.

**Reflections on the Prosecution of War Crimes by International Tribunals**, Meron, T., *American Journal of International Law*, July 2006, Vol. 100, No. 3

**Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq**. Bellamy, Alex. 2005, in *Ethics and International Affairs* 19(2), 31-53.

**Roundtable: Humanitarian Intervention after 9/11**. Farer, Tom et al. 2005. *International Relations* 19(2), 211-250.

**September 11: Consequences for Canada**, Kent Roach, Queen's/McGill U. Press, 2003

**The Just War Theory: A traditional Catholic moral view**, Benson, Richard, *The Tidings* (2006).

**The Lesser Evil: Political Ethics in an Age of Terror**, Michael Ignatieff, Princeton University Press, 2003

( Excerpts from ) **The Prince**, c. 1505, Nicolo Machiavelli,. The Modern Library, 1950

**The Return of History and the End of Dreams**, Robert Kagan, Random House, 2008

**The Sun Climbs Slow: Justice in the Age of Imperial America**, Erna Paris, Random House, 2008

**The Trial of Henry Kissinger**, Hitchens, Christopher (2002) Verso. ISBN 1859843980

**The United States and the International Criminal Court: The ICC's Jurisdiction Over the Nationals of Non-Party States: A Critique of the US Position**, Scharf, M., 64 *Law & Contemporary problems* 67 (2001)  
(also internet ) <http://www.law.duke.edu/journals/lcp/>

**Uncle Sam and Us, Globalization, Neoconservatism, and the Canadian State**, Stephen Clarkson, U. of Toronto Press, 2000,

**Universal Jurisdiction: Clarifying the Basic Concept** , O'Keefe, R., *Journal of International Criminal Justice*, 2004 2 (3): 735 [http://www.oxfordjournals.org/jicjus/awards\\_inlannual.html](http://www.oxfordjournals.org/jicjus/awards_inlannual.html)

**Violence and the Media**, Karim Karim, in **Islamic Peril: Media and Global Violence**. Black Rose Books, 2000.

**War Crimes Law, as Applied in Canada**, Joseph Rikhof, in **Modern Global Crises and War Crimes: Canada, Peacekeeping and International Humanitarian Law**. Edited by Richard Wiggers and Ann Griffiths. Centre for Foreign Policy Studies, 2002.

**Weapons of Mass Persuasion : Marketing the War Against Iraq**, Paul Rutherford, U. of Toronto Press, 2004

## **DOCUMENTS / MATERIALS**

**Current Canadian legislation related to various topics—key excerpts to appear on CUlearn website for the course ( Sex trade bills, gun control, victim surcharge, etc. )**

**Canadian Criminal Code** – provisions either proposed or recently amended regarding sentencing, time served pending trial, drug activity re ‘mandatory minimums’ issues—to be referenced on course site

**Extradition Act** ( Canada )

**International Criminal Court** *site; note under ‘Highlights’ that some hearings are streamed video...*

<http://www.icc-cpi.int/home.html&l=en> **(also) Rome Statute of the ICC**

**Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict -**

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx>

**London Charter of the International Military Tribunal** ( Nuremburg )

**The National Security Strategy of the United States of America**, White House Washington, Sept. 2002,  
<http://www.whitehouse.gov/nsc/nss.html>

## **CASES**

*A-G of the Government of Israel v Eichmann* (1961) 36 International Law Reports 5

*US v Calley* 22 USMCA 534 ( 1973 )

Materials on **Omar Khadr** and others to be referenced in class