

CARLETON UNIVERSITY

Department of Law and Legal Studies

LAWS 3307T: YOUTH AND CRIMINAL LAW SUMMER 2013

INSTRUCTOR **John Hale, B.Sc., LL.B., B.C.L.** (Contract Instructor, criminal lawyer)

HOW TO REACH ME **Phone:** (613) 695-4253

Office: **c/o Hale Criminal Law Office**
Suite 101, 116 Lisgar Street
Ottawa, K2P 0C2

At Carleton: Deliver any mail or messages to the Department of Law, 4th floor Loeb Building

Fax: (613) 695-8500

e-mail: john@halelaw.ca
(I check messages daily and will respond promptly)

OFFICE HOURS **Office hours** are by appointment only.

BROADCAST Tuesdays and Fridays, 5:00 PM – 8:00 PM

PREREQUISITE LAWS 2301 & LAWS 2302, or permission of instructor

WEB SITE See cuLearn

RECOMMENDED READING **Lee Tustin and Robert Lutes, *A Guide to the Youth Criminal Justice Act, 2013 Edition* (LexisNexis Canada, 2012)**

Any version of the *Criminal Code* that also includes the *Youth Criminal Justice Act* and the *Charter of Rights*

METHOD OF EVALUATION (1) **Mid-Term Exam:** this 3-hour open-book exam is scheduled for Friday, May 31, 2013 from 6:00 – 9:00 PM, and will cover the first 6 lectures.
(2) **Final examination,** 3-hour open-book, to be held in the June examination period (June 21-26), covers Lectures 7-12.

“**Open book**”, for the purpose of the exam, means that the following materials may be brought into the examination room: (1) any version of the *Criminal Code* or *YCJA*, including the Tustin and Lutes text; (2) your lecture notes (or any notes that you shared with a study group or that you have with the permission of their author), and (3) any material downloaded from the course website, including the instructor’s lecture notes and PowerPoint/Keynote slides; (4) any e-mails sent by the instructor. You may **NOT** make use of a computer during the exams, except with permission of the Paul Menton Center.

Grade breakdown: the exam that you do best in will be worth 60% of your final grade; the other exam will be worth 40% of your final grade.

N.B. All components must be completed in order to get a passing grade

TEACHING ASSISTANTS / MARKERS

The TA has not been assigned as of the date of this handout, but I will provide contact information once I have it.

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 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/>

DESCRIPTION OF THE COURSE

Students who have taken my section of Introduction to Criminal Law, Laws 2004 (or more recently, Laws 2301 and 2302), know already that I am a criminal defense lawyer who teaches from a practical perspective, as if it were a law school course. I consider this course, which I am taught in the Fall of 2012 for the 8th time, to be an extension of the introductory criminal law courses. The focus will continue to be on jurisprudence and legal principles, i.e., the tools that lawyers use when defending or prosecuting young persons accused of crime, and the tools available to Judges who deal with youths. I will rely heavily on guest lecturers to help put the reading materials into real-life context.

I am experimenting this year with having no required textbook, other than the Tustin and Lutes text which is just an annotated version of the *YCJA*. Having said that, feel free to purchase a copy of Sherri Davis-Barron's excellent recent text that I two years ago, or Nicholas Bala's equally authoritative text which I have also used in past years. Because the *YCJA* is such a new piece of legislation that is still in the early stages of being interpreted by the courts (and reacted to by politicians), you will need to read various recent cases from the Supreme Court of Canada as well as provincial appellate courts, some of which were decided during the course. I will direct you throughout the term to a number of recent decisions. In addition, I will rely on information available on the internet, including background papers at the Department of Justice (Canada) website, and statistics available there or at the Statistics Canada website. Finally, we will spend a significant amount of time on *Sebastien's Law*, which was originally Bill C-10, and was finally passed recently as part of the omnibus crime bill, Bill C-10.

We will begin the course with a brief review of criminal procedure generally: it is necessary to understand the general law before examining how the law is different for youths. We will then review the history of the *Youth Criminal Justice Act*, including its antecedents such as the *Young Offenders Act* and the *Juvenile Delinquents Act*. Reviewing the history of the law will involve comparing the changing philosophy with respect to youth crime. We will also rely on statistical information in order to appreciate the true magnitude of youth crime, as well as to observe the practical impact of the *YCJA*.

The bulk of the course will be taken up with procedures and considerations that relate specifically to youths, particularly sentencing.

My objective is that students finish the course with a practical knowledge of the Canadian criminal justice system as it relates to youths, and that students be capable of critically analyzing media reports on youth crime, including its "prevalence" and the notion that young people are dealt with too leniently. I do not expect students to agree with me on all points. Exams will be structured so that you will be tested on your knowledge of facts relating to youth criminal justice in Canada, and not on your knowledge of my opinions.

One final note regarding CUOL courses. It is wonderful that university courses can be provided to students other than via the traditional classroom lecture. This enables students to take courses that would otherwise be inaccessible to them because of distance, employment, family responsibilities and/or disability. The downside, though, is that the ability to see the lectures any time at one's convenience causes many students to fall behind, saving up the lectures until just before the exam and then cramming them in during a marathon session. While this is better than nothing, I strongly discourage this strategy in this or any other course. Do your best to keep up with the lectures weekly, and avoid the temptation to fall behind. By all means, come to class whenever you like, whichever section of the course you are registered in.

I hope that you enjoy the course, and I look forward to hearing from you as we go along. Course-content-related questions sent to me by e-mail may be answered to the class as a whole so that all students have the same information.

COURSE OUTLINE

<u>Class No.</u>	<u>Topic(s)</u>
1 September 10, 2012 TV: May 7, 2013	1. Introductory comments 2. Criminal procedure in a nutshell
2 September 17, 2012 TV: May 10, 2013	3. History of the <i>YCJA</i> 4. Principles for responding to youth offending; development of the adolescent brain
3 September 24, 2012 TV: May 14, 2013	5. Discussion of Bill C-4 (“Sebastien’s Law”) 6. Bail under the <i>YCJA</i>
4 October 1, 2012 TV: May 17, 2013	6. Continued discussion of Bill C-4 (C-10) and Bail) 7. Youth Court records 8. Jurisdiction of the Youth Justice Court
5 October 15, 2012 TV: May 21, 2013	8. Jurisdiction (cont’d) 9. Arrest, police questioning and pre-trial detention 10. Diversion and Extra-Judicial Measures
6 October 22, 2012 TV: May 24, 2013	11. Lawyers in the youth justice process; s. 25 <i>YCJA</i> 12. Mental Health issues; s. 34 of the <i>YCJA</i>
7 October 29, 2012 TV: May 28, 2013	13. Sentencing: the statutory framework
8 November 5, 2012 TV: May 31, 2013	Guest lecture: Sgt. Alison Cookson (Ottawa Police Service) Guest lecture: Tom Scholberg, Manager of the Boys and Girls Club of Ottawa, Ottawa Community Youth Diversion Program Guest lecture: Fara Rupert, Assistant Crown Attorney, Ottawa
May 31, 2013 7:00 – 10:00 PM	Mid-Term Exam covers Lectures 1-6
9 November 12, 2012 TV: June 4, 2013	Guest lecture: The Hon. Dianne Nicholas, OCJ Ottawa
10 November 19, 2012 TV: June 7, 2013	Review mid-term exam Guest lecture: Probation Officer Hal Grossner
11 November 26, 2012 TV: June 11, 2013	Guest lecture: Kalee DeFrance (John Howard Society) Guest lecture: Gord Boyd, Youth Services Bureau
12 December 3, 2012 TV: June 14, 2013	13. Sentencing (cont’d) 14. Adult sentencing for youths Final exam review and prep
12 December 3, 2012 TV: June 14, 2013	Guest lecture: Emmet Q.
June 21-26, 2013	FINAL EXAMINATION (Date, time and location TBA)

