

CARLETON UNIVERSITY

Department of Law

LAWS 3307 B/T: YOUTH AND CRIMINAL LAW

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| INSTRUCTOR (CONTRACT) | John Hale , B.Sc., LL.B., B.C.L. (Criminal lawyer) |
| HOW TO REACH ME | Phone: (613) 233-7747 Office: c/o Shore Davis Hale, Barristers-at-Law Suite 800, 200 Elgin Street Ottawa, K2P 1L5 At Carleton: Deliver any mail or messages to the Department of Law, 4 th floor Loeb Building Fax: (613) 233-2374 e-mail: jhhale@mac.com (I check messages daily and will respond promptly) |
| OFFICE HOURS | Office hours are by appointment only. |
| SCHEDULE – CLASS: BROADCAST: | Tuesdays - 2:35 – 5:25 PM, in Loeb C264; Wednesdays - 11:30 – 2:30 PM |
| PREREQUISITE | Laws 2004, or permission of instructor |
| WEB SITE | http://homepage.mac.com/jhhale/Menu23.html |
| REQUIRED READING | As assigned by the instructor through the course; none to purchase |
| RECOMMENDED READING | Tustin, Lee and Robert E. Lutes: <i>A Guide to the Youth Criminal Justice Act (2009 Edition)</i> (LexisNex- is/Butterworths, 2008). This is a <i>recommended purchase</i> . It is or will be available at the University bookstore. This text is being used for the second time, and should be easy to find used. Bala, Nicholas: <i>Youth Criminal Justice Law (Irwin Law Inc., 2003)</i> This text was used in other sections of this course; it is good on the history of the <i>YCJA</i> , but is out of date in other respects. |

A 2009 *Criminal Code* (including the *Charter of Rights*), such as:

- *Pocket Criminal Code 2009* (Carswell, 2008)
- *Tremear's Annotated Criminal Code 2009* (Carswell, 2008)
- *Martin's Annotated Criminal Code 2009 (Student Edition)* (Canada Law Book, 2008)
- *The Practitioner's Criminal Code 2009 (Student Edition)* (Alan Gold, ed.; LexisNexis/Butterworths, 2008)
- Any other copy of the *Criminal Code* and the *Charter of Rights*, including downloadable versions from the Department of Justice website

Used copies of the 2008 *Criminal Code* are adequate; earlier editions are useful but in many respects obsolete, and you may purchase them at your own risk. You are permitted to bring copies of these required and recommended readings to the exams in October and December.

METHOD OF EVALUATION

- (1) **Mid-Term Exam:** this open-book exam is scheduled for Saturday, October 18, 2008 from 3:00 – 5:00 PM, and will cover the first 6 lectures
- (2) **Final examination,** 2-hour open-book, to be held in the December examination period (December 4-20), 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 required or recommended text, including an annotated *Criminal Code*; (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 slides; (4) any e-mails sent by the instructor. You may NOT make use of a computer during the exams.

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.

DESCRIPTION OF THE COURSE

Students who have taken my section of Introduction to Criminal Law, Laws 2004, 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 teaching for the fourth time, to be an extension of the introductory criminal law course. 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.

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), the recommended textbooks are just a starting point for readings. To be prepared for class (and exams), you will need to read various cases from the Supreme Court of Canada as well as provincial appellate courts, likely some of

which have not yet been decided. I will direct you throughout the term to various 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.

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 CUTV courses. It is wonderful that university courses can be provided to students other than via the traditional classroom lecture. This enables students who, because of distance, employment, family responsibilities or disability to take courses that would otherwise be inaccessible to them. 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 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 OUTLINE¹

| <u>Class No.</u> | <u>Readings</u> | <u>Topic(s)</u> |
|----------------------------------------------------|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 September 9, 2008 TV: September 10 | | 1. Introductory comments 2. Criminal procedure in a nutshell 3. Responding to youth crime in Canada: History of the <i>YCJA</i> |
| 2 September 16, 2008 TV: September 17 | TBA | 3. History of the <i>YCJA</i> (cont'd) 4. Principles for responding to youth offending |
| 3 September 23, 2008 TV: September 24 | <i>R. v. C. (R.)</i> | 5. Case study: <i>TBA</i> 6. Youth Court records |
| 4 September 30, 2008 TV: October 1 | ss. 13, 14, 16, 89, 142, 148; TBA | 6. Jurisdiction of the Youth Justice Court |
| 5 October 7, 2008 TV: October 9 | TBA | 8. Arrest, police questioning and pre-trial detention |
| 6 October 14, 2008 TV: October 15 | | 9. Tentative guest lecture : Youth Justice Court Judge |
| October 18, 2008 3:00 – 5:00 PM | Location TBA | Mid-Term Exam covers Lectures 1-6 |
| 7 October 21, 2008 TV: October 22 | TBA; s. 146 | 7. Arrest etc. (cont'd): Case studies re legality of searches; tentative guest lecture (police officer) |
| 8 October 28, 2008 TV: October 29 | pp. 21-9; ss. 18, 19; TBA | 8. Diversion and Extra-Judicial Measures 9. Lawyers in the youth justice process (tentative guest lecture : Crown Attorney) |
| 9 November 4, 2008 TV: November 5 | ss. 142, 38, 39; TBA | 10. The Youth Justice Court process 11. Case studies: The law of Assault 12. Mental health issues (fitness and criminal responsibility) 13. Sentencing |
| 10 November 11, 2008 TV: November 12 | pp. 68-133; TBA | 14. Sentencing under the <i>YCJA</i> (cont'd) (tentative guest lecture : Probation Officer) |
| 11 November 18, 2008 TV: November 19 | pp. 134-172; TBA | 14. Sentencing under the <i>YCJA</i> (cont'd) (tentative guest lecture : detention centre staff) |
| 12 November 25, 2008 TV: November 26 | TBA | 14. Adult sentencing for youths (tentative guest lecture : TBA) |
| December 4-20, 2008 | | FINAL EXAMINATION (Date, time and location TBA) |

¹ Tentative outline, subject to change depending on the release of noteworthy cases throughout the year and on the availability of guest lecturers