

## Course Outline

<b>COURSE:</b>	<b>LAWS 3308 A - Punishment and the Law</b>
<b>PREREQUISITES:</b>	<b>LAWS LAWS 2004</b>
<b>TERM:</b>	<b>Fall 2007</b>
<b>CLASS: Day &amp; Time:</b>	<b>Mondays, 6:05 p.m. – 8:55 p.m.</b>
<b>Room:</b>	<b>518 Southam Hall</b>
<b>INSTRUCTOR:</b>	<b>Professor Kevin Phillips</b>
<b>CONTACT: Office:</b>	<b>Ottawa Crown Attorney's Office, 161 Elgin Street (613-239-1206)</b>
<b>Office Hrs:</b>	<b>By Appointment</b>
<b>Telephone:</b>	
<b>Email:</b>	<b>Kevin.Phillips@jus.gov.on.ca</b>

Students with disabilities needing academic accommodations in this course are required to contact a coordinator at the Paul Menton Centre to complete the necessary *letters of accommodation*. The student must then make an appointment to discuss their needs with the instructor at least two weeks prior to the first class or ITV test. This is to ensure sufficient time is available to make the necessary accommodation arrangement. Please note the deadline for submitting completed forms to the PMC for formally scheduled exam accommodations is November 9, 2007 for December examinations and March 14, 2008, for April examinations. With regard to accommodations for religious obligations and pregnancy, please see <http://www.carleton.ca/law/accommodations.htm>

**COURSE DESCRIPTION**

This course explores justifications and practices of punishment and social control from a socio-legal perspective. Why do we punish? Who has the right to punish? Why do we use prisons as our main tool for punishing?

Students are encouraged to explore these issues from a critical and theoretical perspective.

**EVALUATION**

Journal 1	10%
Journal 2	25%
Journal 3	30%
Final Take Home Exam	35%

**Journals**

You are expected to keep a reading journal in which you note down your thoughts on and reactions to each of the readings assigned in the class. DO NOT summarize the readings. Instead, think about the following questions:

- How does this reading make me think differently about punishment?
- Does this reading connect with other things I've been thinking about or other things going on in the world?
- What further questions are raised as a result of the reading?
- Is there anything that doesn't make sense about what the author is saying or that the author has missed?
- What other questions do I want to ask the author?

Good journals will also relate to class discussions and teaching materials. You can also incorporate into your journal news items, artistic representations of punishment, other books you've read and so on.

All assignments are to be double spaced, normal (one inch) margins and readable font (10 point is the smallest but 12 is preferred). There are FIRM page limits on all assignments as follows:

Journal 1:	2 pages
Journal 2:	6 pages
Journal 3:	7 pages
Take Home:	8 pages

### **September 10 Introduction**

#### **September 17 What is punishment?**

Tebbit, Mark (2000) "Theories of Punishment" Chapter 10 in *Philosophy of Law- An Introduction*, Routledge, London

Bagaric, Mirko (2006) "Scientific Proof that Humans Enjoy Punishing Wrongdoers: The Implications for Punishment and Sentencing", *IJPS Vol 1, No.2*.

#### **September 24 Journal 1 Due**

#### **Traditional Justifications 1: Denunciation, Retribution - The Ideas of Emile Durkheim**

Garland, David. (1991). *Punishment and Modern Society*. Ch 2

Renteln, Alison "The Use and Abuse of the Cultural Defence", *Canadian Journal of Law and Society*, Vol.20, No.1.

#### **October 1 Traditional Justifications 2: Deterrence & Incapacitation**

Beccaria, Cesare (1973). "On Crimes and Punishments." in *Theories of Punishment*. Grupp (ed)

Walker, Nigel, (1991) "Deterring Others" in *Why Punish?* New York: Oxford University Press

Doob, Marinos, Varma (1995) "Deterrence in Youth Crime and the Youth Justice System.

Doob, Webster "Sentence Severity and Crime: Accepting the Null Hypothesis

#### **October 15 Traditional Justifications 3: Rehabilitation**

Kendall, Kathleen. (2005). "Dangerous Thinking: A Critical History of Correctional Cognitive Behaviouralism." in *What Matters in Probation?* Mair (ed). London: Willan.

Cullen, Gilbert (1982) "Reaffirming Rehabilitation"

#### **October 22 The Sad Life Principle: Race and Class Bias in Sentencing**

Kaiser (2003) "Borde and Hamilton: Facing the Uncomfortable Truth About Inequality, Discrimination and General Deterrence" 8 C.R. (6<sup>th</sup>)

Ives (2003), "Sentencing the Disadvantaged" unpublished

Von Hirsh, Ashworth, "Proportionate Punishment and Social Deprivation", in *Proportionate Sentencing: Exploring the Principles* (Oxford 2005)

**October 29** Journal 2 Due

***Contemporary Issue: How Delay Corrodes Sentencing and Punishment***

McConville, Mirsky "Jury Trials and Plea Bargaining"

Di Luca "Expedient McJustice or Principled Alternative Dispute Resolution? A review of Plea Bargaining in Canada" (2005) 50 CLQ 14

Lafontaine and Rondinelli "Plea Bargaining and the Modern Criminal Defence Lawyer" (2005) 50 CLQ 108

**November 5 *The Place of Punishment 1: The Prison***

Video: Inside Canada's Prisons

Wormith, Stephen "The Controversy over the Effects of Long Term Incarceration".

Hannah-Moffat "Prisons that Empower"

**November 12 *The Place of Punishment 2: The Community***

Cavadino & Dignan "Penal Policy and Political Economy"

Braithwaite "Crime, Shame and Reintegration"

**November 19 *Alternatives to Jail – The Conditional Sentence***

Roberts et al, "Conditional Sentences of Imprisonment: An Empirical Analysis"

Judicial Attitudes to Conditional Terms of Imprisonment: Results of a National Survey

Marinos, "Thinking about Penal Equivalents"

Von Hirsh, "Principled Sentencing"

**November 26 *Some Ideas Whose Time Has Come – Restorative Justice***

Doob, "Transforming the Punishment Environment"

Roach, "Changing Punishment at the Turn of the Century"

McMahon "The Persistent Prison? Rethinking Decarceration and Penal Reform"

**December 3** Journal 3 Due

Take Home Exam Distributed