

Course Outline

COURSE:	LAWS 3907 J – Legal Research Methods
TERM:	Winter 2007-08
PREREQUISITES:	LAWS 1000 and Honours standing
CLASS:	Day & Time: Monday, 6:00-9:00 pm Room: 447 TB (Tory)
INSTRUCTOR: (CONTRACT)	Craig McFarlane
CONTACT:	Office: C476 LA (Loeb) Office Hrs: Monday 5:30-6:00pm & Tuesday 11:00-11:30 am or by appointment Email: teaching@theoria.ca

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 March 14, 2008 for April examinations. For further information, please see, http://www.carleton.ca/pmc/students/accm_policy.html

CALENDAR DESCRIPTION

Basic methods in the design and execution of research projects in law in a social sciences context. Research principles; theoretical approaches; law-related materials and research procedures. Computer-assisted legal research; problem solving, bibliographic and citation skills.

Students may take this course in their second year.

COURSE OVERVIEW

'Method' is all too often thought of as a set of technical procedures that are mechanically 'applied' to data in order to automatically produce 'results,' 'research,' or 'knowledge.' This course resists such an understanding of research. In this course, research is not understood as a 'thing' or 'technology' to be applied, but, rather, as a process; that is, as an *activity*. The specific activity that constitutes research is *enquiry*. Research *qua* enquiry is thus a process of questioning and reflection. The aim of this course, therefore, is to provide the skills, knowledge and tools that will enable students to seek answers to the questions that interest them.

To this end, the course is divided into two 'Parts.' The first part involves theoretical, philosophical and disciplinary considerations. Accordingly, six weeks are spent discussing the relation between legal studies and the law, the various philosophies of law that have attempted to constitute law as a domain of analysis, the relation between knowledge and power, and the relation between research and social change (i.e., politics). The second part introduces aspects of the research process itself understood as 'tools' rather than as 'methods.' In the same way that the application of a hammer to a nail in wood will not produce a piece of furniture, the application of method to data will not produce research. Thus, in the second part of the course students are introduced the process of formulating a research question, the problem of ethics in legal research, the tools and resources available in both libraries and in databases, and, finally, the course concludes with a workshop in which your final projects will be discussed.

As research is an ongoing process - indeed, for the researcher, research never ends - the course is structured around a set of short weekly written assignments ranging in length from one sentence to a couple of pages. It is the view of the instructor that research skills must be 'embodied' in the researcher *via* practice and repetition. Research, understood as the ongoing process of enquiry, can only be motivated by interest. Hence, the final assignment in the course is structured around topics of interest to each individual student.

REQUIRED TEXTS

- All readings are available on WebCT in PDF.

RECOMMENDED TEXTS

The following is not required for coursework, but it is recommended for those who have yet to obtain a style manual for legal studies. The book has been ordered at the Carleton University Bookstore:

- Iosipescu, Michael J., and Philip Whitehead. *Legal Writing and Research Manual*. 6th ed. Markham, ON: LexisNexis Butterworths, 2004.

The following texts are not required for the class and have not been ordered at the Carleton University Bookstore. However, they are recommended for those who intend to follow a career in research, including graduate or law school.

- Booth, Wayne C. *The Craft of Research*. 2nd ed. Chicago: University of Chicago Press, 2003.
- Hughes, William, and Jonathan Lavery. *Critical Thinking: An Introduction to the Basic Skills*. 4th ed. Peterborough, ON: Broadview, 2004.
- Pearsall, Judy, (ed.) *The Concise Oxford Dictionary*. 10th ed. Oxford: Oxford UP, 1999.
- Lipson, Charles. *Cite Right: A Quick Guide to Citation Styles--MLA, APA, Chicago, the Sciences, Professions, and More*. Chicago: University of Chicago Press, 2006.

EVALUATION

Participation	10%
Commentaries	25% (5 x 5%)
Theory Paper	25%
Research Process	15%
Research Proposal	25%

- You **must** complete each component of the course in order to receive a passing grade.

Course Components

Participation (10%) - This course is organized as a seminar. Hence, in order to guarantee the proper functioning of the class, it is incumbent upon students that they come to class prepared to engage in discussion. Thus, it is expected that students will attend *all* classes and complete *all* the readings. It is not necessary that every student speak in every class as it is simply just not the case that you will have something to say every week. Questions are as integral to participation as are insightful comments and answers.

Commentaries (25%) - Students are required to submit five short commentaries drawn from the readings in Part 1. There are seven different sets of readings in Part 1, hence, students have a degree of choice in which of the readings they will comment on. The commentaries *must* be submitted at the start of class the week following when they were read (i.e., a commentary on the readings from Week 2 must be submitted at the start of class on Week 3). *Late commentaries will not be read or marked and will receive a grade of zero.*

Generally,

- assignments should be short - no more than three pages long (these are, after all, *commentaries* and not *papers*);
- assignments should provide a brief overview of the readings;
- however, mere summary is not sufficient: commentaries are a place to raise unanswered/unasked questions, to reflect upon the topic, and to become familiar and comfortable with reading theoretical and philosophical texts.

Theory Paper (25%) - This assignment is intended to provide an avenue in which the student can engage in an extended, directed critique and criticism of the theoretical and philosophical issues raised in the first part of the course. Papers should be about eight to ten pages (2500 words) long. Topics and guidelines will be discussed in class. However, the following should be kept in mind:

- Failure to do the reading and attend the lectures will make receiving a satisfactory mark quite difficult, if not impossible. The material is difficult and should be treated accordingly.
- No additional or secondary reading is required or expected. The point of the assignments is to engage with the assigned texts.
- Direct quotation is acceptable, but given the length of the papers, it should be kept to a minimum.
- Marking will take the following into account:
 - Have you successfully demonstrated a basic knowledge of the readings and key concepts?
 - Have you successfully identified the important points and arguments?
 - Have you demonstrated a serious attempt to engage with the readings?
 - Is the paper well structured and logically organized?

Research Process (15%) - This course understands research as a process of questioning and reflection. In order to draw attention to the length of time involved in properly preparing and conducting research, a series of short assignments must be completed throughout the semester. These assignments will tie in with short discussions of elements of the research process at the end of each class. The short assignments include: selecting an *area* of interest (due Week 3), developing a question about that area of interest (due Week 4), determining the *sort* of sources relevant to the research (due Week 5), finding those sources (due Week 11), and creating a brief outline of the project (due Week 12). In order to properly complete the assignment, *all* components must be completed *on time*. However, it is not the individual components that will be marked, but, rather, the research process as a whole.

Research Proposal (25%) - The research proposal includes everything covered during the course of the research process, but falls short of actually completing the research itself. In the research proposal, students are expected to present a paper that discusses their topic, research question, justification for selecting that topic, as well as filling out the details of the outline. The final class will be dedicated towards 'workshopping' a draft of the research proposal. Students are invited to consult my dissertation proposal as an exemplar, which can be found online at <http://www.theoria.ca/research/files/SBC-S.pdf>.

GRADING AND ASSIGNMENT GUIDELINES

Late Policy - Late assignments are deducted one *grade point per day* (e.g., from B to B- for one day late; from B to C+ for two days late). Late assignments should be submitted to the Law Department drop box. Assignments submitted by e-mail, left under my office door, or through any other unorthodox means will not be accepted.

Grading Policy - The instructor does not make use of 'grade curving.' In addition to the marking guidelines listed under each individual assignment, it should be noted that students will not be marked on spelling and grammar, however it should be noted that spelling and grammar contributes to the general presentation of your assignments - impressions do matter! If you feel that you have received an unfair mark on your assignment, please wait one full week, send me an email outlining your concerns (i.e., you must be specific) and we will make an appointment to review your assignment.

Academic Offenses - Plagiarism and other academic offenses will not be tolerated and will result in a failing grade in the assignment and, possibly, in the class as a whole, as well as referring the matter to the relevant authorities. In order to avoid plagiarism deriving from incorrect citation practices, please consult the **Law Department Style Sheet** (http://www2.carleton.ca/law/current/Legal_Style_Sheet.pdf). Please consult Section 14 of the Carleton University Undergraduate Calendar for a complete review of the policies governing academic offenses.

Backup Copies - Students must retain a hardcopy of all assignments for at least three months following the conclusion of the class. In the case that an assignment is misplaced, the student is expected to be able to produce another copy on request.

Academic Assistance - Students are encouraged to avail themselves of the resources made available through the Writing Tutorial Service (Learning Support Services, Room 411ML.), the Student Academic Success Centre (SASC, 302 Tory) and the Learning Commons (4th Floor, Library, 613-520-2600 ext. 1125).

Other Assorted Guidelines

- Students are expected to have completed the readings prior to attending the lectures as the lectures presume students have arrived prepared.
- Students should be able to answer questions in class, not limited to identifying the important concepts, the arguments underlying the concepts, general questions about the historical circumstances discussed in the readings, and connections between the various concepts and readings.
- All assignments *must be* typed using 12pt Times New Roman or Helvetica fonts. Assignments should be double-spaced and there should be no extra spaces between paragraphs. Margins should be set at 1.25" all around the page.
- While you will not be marked on spelling, grammar or style, impressions do matter. This is especially important in borderline cases. Good writing can mean the difference between a B+ and an A-!
- Assignments will *not* be accepted via email - so don't bother asking!
- Do not enclose your assignment in a duo-tang or any other sort of cover.
- All email should be sent from an account that clearly identifies your first and last name (e.g., your Connect account). Inappropriate email addresses should *not* be used (e.g., "sexxybunny69@hotmail.com" or "mack-daddy@gmail.com") under any circumstances! **The course code (LAWS 3907J) should be indicated in the subject line.** Please use standard spelling and grammar in your correspondence with me.

SCHEDULE

- 07/01/08** **Week 1 - Introduction: What is - or Why - Method?**
Feyerabend, Paul. *Against Method*, 9-19. Rev. ed. London: Verso, 1993.
Part 1 - Theoretical and Philosophical Considerations
- 14/01/08** **Week 2 - Legal Studies and Legal Research**
Dawson, T. Brettel. "Legal Research in a Social Science Setting: The Problem of Method." *Dalhousie Law Journal* 14 (1992): 445-72.
Cramton, Roger. "Demystifying Legal Scholarship." *Georgetown Law Journal* 75, no. 1 (1986): 1-17.
- 21/01/08** **Week 3 - Doctrinal Legal Theory, Two Examples**
Hart, H.L.A. "The Concept of Law." In *The Nature and Process of Law: An Introduction to Legal Philosophy*, edited by Patricia Smith, 222-38. Oxford, UK: Oxford UP, 1993.
Dworkin, Ronald A. "'Natural' Law Revisited." In *The Nature and Process of Law: An Introduction to Legal Philosophy*, edited by Patricia Smith, 239-56. Oxford, UK: Oxford UP, 1993.
- 28/01/08** **Week 4 - Law and Society, Two Examples**
Marx, Karl. "'Preface' to *A Contribution to the Critique of Political Economy*." In *The Marx-Engels Reader*, edited by Robert C. Tucker, 3-6. 2nd ed. New York: W.W. Norton, 1978.
Emile Durkheim. "Two Laws of Penal Evolution." In *Readings from Emile Durkheim*, edited by Kenneth Thompson, 48-52. Rev. ed. New York: Routledge, 2004.
- 04/02/08** **Week 5 - Disciplinary Considerations**
Posner, Richard. "The Decline of Law as an Autonomous Discipline: 1962-1987." *Harvard Law Review* 100, no. 4 (1987): 761-80.
Macaulay, Stewart. "Law and the Behavioural Sciences: Is There Any 'There' There?" *Law and Policy* 6, no. 2 (1984): 149-87.
- 11/02/08** **Week 6 - Critical Legal Studies**
Hunt, Alan. "The Critique of Law: What's 'Critical' About Critical Legal Theory?" In *Critical Legal Studies*, edited by Peter Fitzpatrick and Alan Hunt, 5-19. Oxford: Basil Blackwell, 1987.
Valverde, Mariana. *Law's Dream of a Common Knowledge*, 1-27. Princeton, NJ: Princeton UP, 2003.
- 18/02/08** **Reading Week - No Class**
- 25/02/08** **Week 7 - Knowledge and Power**
Foucault, Michel. "Truth and Power." In *The Foucault Reader*, edited by Paul Rabinow, 51-75. New York: Pantheon Books, 1984.
Foucault, Michel. *The History of Sexuality, Volume 1: An Introduction*, 81-102. New York: Vintage Books, 1990.

Part 2 - Methodological, Technical and Practical Considerations

- 03/03/08** **Week 8 - Term Paper Workshop**
Workshop with Writing Tutorial Services.
No assigned readings.
- 10/03/08** **Week 9 - Conducting Research in the Library**
Workshop with Law Subject Specialist - Room 102, Library.
No assigned readings.
» *Theory paper due.*
- 14/03/08**
» *Last day to drop winter semester classes.*
» *Last day to submit PMC accommodation forms.*
- 17/03/08** **Week 10 - Conducting Research Online**
Workshop with Law Subject Specialist - Room 102, Library.
No assigned readings.
- 24/03/08** **Week 11 - Ethical Considerations**
Workshop with Carleton University Research Office.
No assigned readings.
- 31/03/08** **Week 12 - Research Proposal Workshop**
No assigned readings.
- 09/04/08**
» *Research proposal due.*