

LAWS 4308 A – SENTENCING

COURSE OUTLINE

COURSE: LAWS 4308 A – Sentencing

TERM: Fall 2012

PREREQUISITES: LAWS 2004
Fourth Year Honours Standing

CLASS: Thursday 18:05 – 20:55
Please check with Carleton Central for current location

INSTRUCTOR: Tyler R. Botten

OFFICE HOURS: By appointment

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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). For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

The aim of the course is to demonstrate how the sentencing process works in our criminal justice system. A substantive examination of sentencing will be presented with extensive reference to the *Criminal Code of Canada*, other legislation, caselaw and academic commentary. A brief overview of the historical perspective of sentencing will provide some understanding of the shift in societal values and perspectives on punishment. The focus of the course will be on the current sentencing regime in Canada with emphasis on sentencing principles and procedure, sentencing options, sentencing for particular offences and of specific offenders, and the role of victims in the sentencing process. As the class is crafted in a seminar style, there will be extensive analysis and discussion

concerning the purpose and effect of modern day sentencing practices and what they reveal about Canadian society.

REQUIRED TEXTS

Allan Manson, *The Law of Sentencing* (Toronto: Irwin Law, 2001)

Additional material for each class will be made available via WebCT and will generally be accessible through Quicklaw or the library reserve.

SUPPLEMENTARY TEXTS

Students are encouraged to have access to a copy of the Canadian *Criminal Code*.

METHOD OF EVALUATION

The final grade for the course will be based on the following components (all of which must be completed in order to receive a passing grade in the course):

- **Take-home assignment (20%)**
 - Brief written assignment requiring critical response to 2 of 3 questions, each response being 3-4 pages in length
 - Assignment to be distributed October 11th, due October 25th
- **Class lecture/presentation (30%)**
 - Students will be divided into 12 groups
 - Each group will present on a particular sentencing topic, with a class discussion to follow
- **Research paper (40%)**
 - Academic research paper on a sentencing topic of your choice
 - 10-12 pages in length
 - Outline of proposed topic must be approved by November 1st
 - Paper due December 3rd
- **Class participation (10%)**
 - As this is a seminar-style class, students are expected to be prepared to discuss the assigned readings.

Please note: Extensions to deadlines will only be granted in extenuating circumstances (e.g. family emergency, medical concerns) and only if the student requesting an extension can provide appropriate documentation.

SCHEDULE**Sep 6: Introduction to the Course**

Review of course outline, further discussion on course objectives, expectations, and evaluation components.

Readings: *Manson*, chapters 1-2*

Sep 13: Sentencing Theories and Principles

Discussion of various classical theories guiding the development of sentencing principles and legislation, both in Canada and around the world. Review of discretion granted to judges in determining appropriate sentence, as well as the impact of legislation to limit that discretion. Initial discussion on principles underlying sentencing decisions, as formalized in the Criminal Code and as developed by the courts.

Readings: *Manson*, chapters 3-5

Sep 20: No Class**Sep 27: Principles and “Rules” of Sentencing.**

Complete discussion of principles governing courts in reaching decisions on sentence. We will also look at the various “rules” that are frequently applied to various sentencing scenarios.

Readings: *Manson*, chapters 5-6

Oct 4: “Rules” and Factors of Sentencing

Thorough look at the wide variety of mitigating and aggravating factors impacting the sentence imposed. Consideration of both the aggravating factors listed in the Criminal Code, as well as factors deemed relevant by sentencing judges and appellate courts.

Readings: *Manson*, chapters 6-7

Oct 11: Factors of Sentencing and Sentencing Options

Continue discussion of aggravating/mitigating factors. Discussion of all possible sentencing options from discharges through to lengthy terms of imprisonment.

Readings: *Manson*, chapters 7, 9 & 11F

Take-home assignment to be handed out in class

* Note – additional readings for each topic will be provided in the first two weeks of class.

Oct 18: **Sentencing Math and Returning to Society**
Further discussion of terms of imprisonment, including the distinctions between reformatory and penitentiary sentences, how parole works, how sentence length is actually calculated, and what steps occur to assist offenders returning to the community.

Readings: *Manson*, chapter 9

Oct 25: **Sentencing Hearings and Appeals**
Discussion of the practical steps in the sentencing process – how sentencing hearings are conducted and what steps are available to offenders wishing to appeal their sentence following a conviction.

Readings: *Manson*, chapters 8 & 12
Take-home assignment is due in class

Nov 1: **Student Presentations**

- Homicide
- Domestic violence
- Sexual offences

Nov 8: **Student Presentations**

- Impaired driving
- Drugs
- Firearms and other weapons

Nov 15: **Student Presentations**

- Terrorism / Criminal organizations
- Young offenders
- Aboriginal offenders

Nov 22: **Student Presentations**

- Sentencing and mental health issues
- Preventive detention and DO/LTO designations
- Victims and the sentencing process

Nov 29: **Current events, Future of sentencing**
Focus on notable recent sentencing decisions and other current issues such as new legislation affecting sentencing principles. Discussion on pardons and impact of criminal records. Student course evaluation to be completed. Assistance with student papers as needed.

Reminder: Research paper due December 3rd