

Course Outline

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| COURSE: | LAWS 4308B - Sentencing |
| TERM: | Winter 2015 |
| PREREQUISITES: | LAWS 2302 & 4 th Year Honours Standing |
| CLASS: | Day & Time: Monday – 18:05 to 20:55 Room: Please check with Carleton Central for current room location |
| INSTRUCTOR: (CONTRACT) | Tyler Botten |
| CONTACT: | Office: B442 Loeb Office Hrs: By appointment Telephone: (613) 564-0006 Email: tyler.botten@carleton.ca |

Academic Accommodations

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/>

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original

source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at:
<http://www.carleton.ca/studentaffairs/academic-integrity/>

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://www.carleton.ca/law/student-resources/department-policies/>

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. Some time will also be spent discussing 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 cuLearn and will generally be accessible through Quicklaw or the library reserve desk.

SUPPLEMENTARY TEXTS

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

EVALUATION

(All components must be completed in order to get a passing grade)

- **Policy briefing assignment (20%)**
 - Written assignment on the topic of a proposed sentencing-related bill either presently before or recently considered by Parliament
 - 4-5 pages in length
 - Assignment to be distributed February 2nd, due March 16th

- **Midterm exam (20%)**
 - 2-hour closed book exam
 - Combination of different question varieties, including one longform essay
 - Will be written during the March 2nd class
- **Research paper (40%)**
 - Academic research or position paper on a sentencing topic of your choice
 - 10-12 pages in length
 - Paper due April 8th (Last day of classes)
- **Paper outline and bibliography (5%)**
 - Confirmation of paper topic and list of research sources
 - 1-2 pages in length
 - Outline due March 9th
- **Class participation (15%)**
 - As this is a seminar-style class, students are expected to be prepared to discuss the assigned readings. In addition, each student will be called on to assist with facilitating class discussion once during the term.

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.

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

SCHEDULE

Jan 5: Introduction to the Course

Review of course outline, discussion of course objectives and evaluation components, as well as Professor and student expectations.

Readings: *Manson*, chapter 1*

Jan 12: Sentencing History and Theories

Overview of the history of punishment in Canada and abroad. Discussion of various classical theories guiding the development of sentencing principles and legislation, both in Canada and around the world.

Readings: *Manson*, chapters 2 & 3

* Additional readings for each topic will be provided in the first two weeks of class

Jan 19: Discretion and Sentencing Principles

Review of discretion granted to judges in determining appropriate sentence, as well as the impact of legislation to limit that discretion. Discussion of principles underlying sentencing decisions, as formalized in the Criminal Code and as developed by the courts.

Readings: *Manson*, chapters 4 & 5

Jan 26: Sentencing Options

Discussion of the various sentencing options available to courts, from discharges through to lengthy terms of imprisonment.

Readings: *Manson*, chapters 9 & 11f

Feb 2: Sentencing Options and “Rules” of Sentencing

Complete discussion of sentencing options. Exploration of a variety of “rules” that are frequently applied to various sentencing scenarios.

Readings: *Manson*, chapters 6, 9, & 11f

Policy brief assignment to be distributed in class

Feb 9: 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*, chapter 7

Feb 16: Reading Week Break

- No class

Feb 23: 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

Mar 2: Midterm Exam

- 2-hour closed book exam

Mar 9: 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. Also a discussion of mandatory minimum sentencing policy past, present and future.

Readings: *Manson*, chapter 9
Paper outline is due in class

Mar 16: **Special Topics on Sentencing**

- Homicide and Capital Punishment
- Preventive detention
- Designated Offender / Longterm Offender designations

Readings: *Manson*, chapters 10 & 11a-e
Policy brief assignment is due in class

Mar 23: **Special Topics on Sentencing**

- Sentencing and mental health
- Aboriginal offenders

Mar 30: **Special Topics on Sentencing**

- Young offenders
- Victims and the sentencing process

Apr 6: **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. Assistance with student papers as needed

Reminder: Research paper due April 8th