

Course Outline

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COURSE:	LAWS 4308B - Sentencing
TERM:	Winter 2016
PREREQUISITES:	LAWS 2302 & 4 <sup>th</sup> 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) 230-2300 Email: tyler.botten@carleton.ca

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**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://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://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](mailto: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://carleton.ca/pmc/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://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://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://carleton.ca/law/current-students/>

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## **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)

*(Available for purchase at the Carleton University Bookstore)*

*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 January 18<sup>th</sup>, due February 22<sup>nd</sup>
- **Midterm exam (20%)**
  - 2-hour closed book exam
  - Format consists of mixed variety of question types, including one longform essay
  - Will be written during the March 7<sup>th</sup> class
- **Paper outline and Annotated bibliography (10%)**
  - Confirmation of paper topic, list of research sources
  - 2-3 pages in length
  - Outline due March 14<sup>th</sup>
- **Research paper (40%)**
  - Academic research or position paper on a sentencing topic of your choice
  - 10-12 pages in length
  - Paper due April 8<sup>th</sup> (Last day of classes)
- **Class participation (10%)**
  - As this is a seminar-style class, students are expected to attend class prepared to discuss the assigned readings. In addition, each student will be expected to assist with facilitating discussion for one class 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. The grade for an assignment submitted after the above deadlines will be reduced by 10% for each day the assignment is late.*

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 11: 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 18: 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.*

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\* Additional readings for each topic will be provided on an ongoing basis

- Readings: *Manson*, chapters 2 & 3
- Policy brief assignment to be distributed in class

**Jan 25:**     **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

**Feb 1:**     **Sentencing Options**

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

- Readings: *Manson*, chapter 9

**Feb 8:**     **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

**Feb 15:**    **Winter Break**

- No class

**Feb 22:**    **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
- Policy brief assignment is due in class

**Feb 29:**    **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 7:**     **Midterm Exam**

- 2-hour closed book exam

**Mar 14:**    **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 & Annotated bibliography is due in class

**Mar 21: Special Topics on Sentencing**

- Homicide and Capital Punishment
- Preventive detention
- Dangerous Offender / Longterm Offender designations
- Readings: *Manson*, chapters 10 & 11a-e

**Mar 28: Special Topics on Sentencing**

- Sentencing and mental health
- Aboriginal offenders

**Apr 4: Special Topics on Sentencing**

- Young offenders
- Victims and the sentencing process

**Reminder: Research paper due April 8<sup>th</sup>**