

Course Outline

COURSE:	LAWS 4308 A – Sentencing
TERM:	Fall 2009
PREREQUISITES:	LAWS 4308A
CLASS:	Day & Time: Fridays, 11:35 to 2:25 Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Professor Diana Young
CONTACT:	Office: Loeb Building, D498 Office Hrs: Mondays 12:00 to 1:00 p.m., or by appointment Telephone: (613) 520-2600 ex. 1981 Email: Diana.Young@carleton.ca

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: http://www.carleton.ca/pmc/students/accom_policy.html . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **November 16, 2009 for December examinations** and **March 12, 2010 for April examinations**.

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

COURSE DESCRIPTION

The Criminal Justice System carries a heavy burden in our society. The process of sentencing brings this burden into sharp focus. We look to punishment as a means of restoring and maintaining order, articulating society's values, recognizing the harm caused to victims and reasserting their moral worth, and perhaps affirming our own status as members of the law-abiding public through the creation of a stigmatized criminal class. But we also expect sentences to rehabilitate the offender, by encouraging a sense of personal responsibility for the harm caused by the offence and by attempting to address the underlying problems - addiction, psychological disorders, social location - that may have contributed to its commission.

This course aims to provide students with a grasp of general sentencing theory and principles, the variety of sentencing options that are available to judges and the considerations that may influence sentencing decisions. The material will also cover a discussion of some alternatives to traditional forms of punishment and their potential, if any, for reconciling the often conflicting principles and interests at stake in the sentencing process.

The course will also explore the diffuse nature of the power to punish. Legal doctrine and principle only tell part of the story with respect to sentencing practices, and we will see that a complete discussion of the realities of sentencing must include an examination of a complex web of interactions between the law, the discretionary powers exercised by such actors as police, probation officers and Crown Attorneys, and the influences flowing from other kinds of professionals and various communities in society as a whole. Finally, the course will include consideration of the offender's actual experience of punishment, particularly imprisonment, over which the sentencing court has limited control.

REQUIRED TEXTS

The required text for this course is Allan Manson, *The Law of Sentencing* (Toronto: Irwin Law, 2001), and a coursepack which will be available at the bookstore. Students should also have a recent edition of the Criminal Code.

Additional material may be distributed in class or posted on WebCT.

EVALUATION

Take-Home Assignment – 20% of final grade:

You will be given a brief take-home assignment, for which you will be required to write a response to one out of three questions. The assignment will be distributed in class on November 6 and will be due on November 20. Your response should be 4 to 5 pages in length.

Essay – 50% of final grade:

You will be required to submit a research paper dealing with a sentencing issue of your choice. Your essay should be 10-12 pages in length. You will also be asked to submit a very brief outline of your topic to the instructor for approval. This will help to ensure that your proposed topic is feasible and that it will meet the course requirements. The paper will be due on Friday, December 11.

Group Presentations - 25% of final grade:

Students will be divided into five groups, each of which will be responsible for presenting a sentencing topic to the rest of the class. Groups may distribute a handout or readings to the class the week prior to the scheduled presentations. The presentations will be 45 minutes to an hour in length, and will be followed by discussion. The rest of the class will be asked to provide brief written feedback on the presentations.

Class Participation – 5% of final grade

Extensions on assignments will only be granted in extenuating circumstances, such as a verifiable medical condition or family emergency. Students requesting extensions will be required to provide appropriate documentation.

SCHEDULE

Sep 11 Introduction to course

Readings: Course pack - Robert Cover, "Violence and the Word"

Sep 18

Readings: Text - chapter 3; Coursepack - *R. v. Brush*; *R. v. Sinclair*; Dianne Martin, "Distorting the Prosecution Process: Informers, Mandatory Minimum Sentences and Wrongful Convictions"; Canadian Centre for Justice Statistics, "Adult Criminal Court Statistics, 2006/2007"

- a) Why punish?
 - principles of sentencing: idealizing the process
 - idea of punishment
 - stigma as punishment and rehabilitation
- b) Judicial discretion
 - discretion and the rule of law
 - minimum and maximum sentencing

- c) Resource management and the public face of fairness
 - Non-judicial sites of discretion
 - i) Plea bargains: private negotiations and public consequences
 - ii) defining the offence

Sep 25 Readings: Text, chapters 4 and 5, and chapter 6, pp. 98 – 109, 123 – 129;
 Coursepack: Paul Burstein, "Sentencing Acts of Civil Disobedience: Separating Villains and Heroes"; R. v. Hamilton.

- a) Sentencing reform
 - legislative attempts to circumscribe judicial discretion and the problem of disparity
 - sentencing principles and purposes
- b) Special cases – Unusual motives and political law-breaking

Oct 2 Readings: Text, chapters 7 and 8; Coursepack: Laureen Snider, "Safety Through Punishment?"

- a) aggravating and mitigating factors
- b) fact-finding
 - the evidentiary basis for discretion
 - the role of experts

Oct 9 University Day – classes cancelled

Oct 16 TBA

Oct 23 Readings: *Text - chapters 9 and 12; Coursepack – Nicola Lacey and Lucia Zedner, "Discourses of Community in Criminal Justice; R. v. Latimer"*

Sentencing Options

- a) Sentencing options and the principles of sentencing
- b) "Community based" sentencing
 - Decreasing the prison population
 - Conditional sentences
 - Communities and the criminal justice system – policy and commitment
- c) Appeals from sentence
 - disparity and deference
- d) Charter issues in sentencing
 - the rule of law and justice

Oct 30 Readings: *Coursepack - Michael Jackson, "Administrative Segregation, The Litmus Test of Legitimacy"; Mary E. Campbell, "Gone but Not Forgotten: Should Judges Be Allowed to Remedy by Re-Sentencing?"; Martin Silverstein, "The Ties that Bind: Family Surveillance of Canadian Parolees"*

- a) Prison
 - Corrections and the legitimacy of sentencing – "Violence and the Word" and the prison experience
 - Parole as imprisonment – means of surveillance

