

Course Outline

COURSE: LAWS 4308 A – Sentencing

TERM: Summer 2008

PREREQUISITES: LAWS and Fourth year Honours standing

CLASS: Day & Time: Monday & Wednesday, 6:00-9:00 pm
Room: 309 SA (Southam Hall)

INSTRUCTOR: Tim Wightman
(CONTRACT)

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"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. Please note the deadline for submitting completed forms to the Paul Menton Centre is June 13, 2008 for first term summer courses and July 25, 2008 for second term summer courses. For further information, please see:

http://www.carleton.ca/pmc/students/acom_policy.html

COURSE DESCRIPTION

The aim of the course is to help students develop a critical understanding of the sentencing process and gain an appreciation of the important role of sentencing in the Canadian criminal justice system. A substantive examination of sentencing will be presented with extensive reference to the *Criminal Code of Canada*, other legislation, and case law.

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.

COURSE OBJECTIVES

By the end of the course students should have a solid understanding of how the sentencing process actually works in Canadian criminal cases. Students should understand and be able to critically analyze the basis upon which sentences are imposed, and feel confident to argue in favour of or against a given sentence.

MATERIALS USED

Required Text: A. Manson, *The Law of Sentencing* (Toronto, Ont.: Irwin Law, 2001)

Optional Supplemental Text: *Criminal Code of Canada*

Additional material may be distributed in class.

TEACHING METHOD

Primarily a seminar style with class discussions.

METHOD OF EVALUATION

The final grade for the course will be based on the following components:

1. **Final Exam** (100%)
 - Formal, closed book Examination
 - Exam will be based on assigned readings, class lectures, and class presentations from the full term.
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*SENTENCING TOPICS***Class Date Topic***Part I – Introduction*

1. July 2 a) **Introduction to the Course**
 - *Course Outline*
- b) **Overview of Sentencing**
 - *Manson*, chapters 1-4
2. July 9 **Overview of Sentencing (con'd)**
 - *Manson*, chapters 1-4

Part II – Principles of Sentencing

3. July 14 & 16 a) **Fundamental Principles of Sentencing**
 - Gravity of the offence, deterrence, denunciation, rehabilitation, protection of society, parity, proportionality
 - *Manson*, chapter 5
- b) **Aggravating & Mitigating Factors**
 - Existence/absence of criminal record, planning and deliberation, breach of trust, vulnerable victim, plea of guilt, remorse, provocation and duress, prior good character
 - *Manson*, chapter 7
- c) **Rules of Sentencing**
 - Multiple sentences, maximum and minimum sentences, pre-sentence custody, restrictive bail conditions
 - *Manson*, chapter 6

Part III – Sentencing Options

4. July 21 a) **Non-Custodial Dispositions**
 - Diversion, absolute and conditional discharges, fines, probation orders
 - *Manson*, chapter 9 A-E
- b) **Custodial Dispositions**
 - Conditional sentences, intermittent sentences, jail (reformatory and penitentiary)
 - *Manson*, chapter 9 H-J
- c) **Preventative Detention**
 - Dangerous offenders, long-term offenders, recognizances under section 810 of the *Code*
 - *Manson*, chapter 11

d) **Ancillary Orders**

- DNA orders, weapons prohibitions, driving prohibitions, restitution orders, forfeiture orders, public place prohibitions (*Code* s. 161)
- *Manson*, chapter 9 F-G

Part IV – Sentencing Procedure

5. July 23

b) **The Sentencing Hearing**

- Admissibility of evidence, proving the record, pre-sentence reports, offender's right to speak, joint positions
- *Manson*, chapter 8

Part V – Sentencing for Particular Offences

6. July 28

a) **Sentencing in Homicide Cases**

1. Life sentences, parole ineligibility, faint hope clause, manslaughter sentences
2. *Manson*, chapter 10

b) **Sentencing in Domestic Violence Cases**

3. Resolution by peace bond, New Directions program, reluctant/uncooperative victims, *de minimus* assaults

c) **Sentencing in Sexual Offence Cases**

4. Pertinent sentencing principles, appropriateness of conditional sentences, the *Kienapple* principle, sexual offender registry, public place prohibitions, DNA orders

7. July 30

a) **Sentencing in Drinking and Driving Cases**

1. Minimum sentences, constitutional exemptions, notice of increased penalty, cases involving death or bodily harm, driving prohibitions

b) **Sentencing in Drug Cases**

2. Drug offences, sentencing principles under the *CDSA*, effect of addiction, forfeiture of property

c) **Sentencing in Firearms Offence Cases**

3. What is a firearm, firearm offences, minimum sentences where firearm is used, weapons prohibitions

Part VI – Sentencing of Specific Offenders

8. Aug 6

a) **Young Offender Dispositions**

1. Principles in the *YCJA*, sentencing options, restrictions to custody, maximum and minimum sentences, transfer to adult court, serious violent offence designations

b) **Sentencing and Socio-Economic Factors**

2. Different justice for the rich than the poor?, legal aid, choice of counsel, inability to pay a fine and/or make restitution, sentencing white collar crime
3. *Manson*, chapter 13 B

c) **Sentencing and Aboriginal Issues**

4. The *Gladue* decision, section 718.2(e) of the *Code*, disproportional representation of Aboriginals in custody, restorative justice, sentencing circles
5. *Manson*, chapter 13 D

Part VII – Victims and the Sentencing Process

9. Aug 11 a) **Victims and the Sentencing Process**
- 6. Victim impact statements, victim witness assistance program, victim fine surcharge, child victims, victim interest groups (MADD)
 - 7. *Manson*, chapter 13 C

Part VIII – Review

10. Aug 13 a) **Discussion of Current Events**
- 1. Class discussion of sentencing cases decided during the course of the academic semester
- b) **Review of the Course**
- 2. Review of the subject material covered during the course of the academic year
 - 3. Answer student questions concerning the final examination