

## Course Outline

<b>COURSE:</b>	<b>LAWS 4308 B – Sentencing</b>
<b>TERM:</b>	<b>Winter 2007-08</b>
<b>PREREQUISITES:</b>	<b>LAWS 2004 and fourth-year Honours standing</b>
<b>CLASS:</b>	<b>Day &amp; Time: Monday – 6:00-9:00 pm</b> <b>Room: 2143 TB (Tory)</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Tim Wightman</b>
<b>CONTACT:</b>	<b>Office Hrs: By Appointment</b> <b>Telephone: 613-239-1200</b> <b>Email: <a href="mailto:Tim.Wightman@Ontario.ca">Tim.Wightman@Ontario.ca</a></b>

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Students with disabilities needing academic accommodations in this course are required to contact a coordinator at the Paul Menton Centre to complete the necessary *letters of accommodation*. The student must then make an appointment to discuss their needs with the instructor at least two weeks prior to the first class or ITV test. This is to ensure sufficient time is available to make the necessary accommodation arrangement. Please note the deadline for submitting completed forms to the PMC for formally scheduled exam accommodations is March 14, 2008 for April examinations. For further information, please see, [http://www.carleton.ca/pmc/students/accm\\_policy.html](http://www.carleton.ca/pmc/students/accm_policy.html)

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**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:

- Student Journals (40%)** Students will responsible for crafting four short journal entries focusing on different aspects of the material. Each journal will be worth 10%. Topics will be assigned in class.
- Final Exam (60%)** Take Home Examination. Exam will be based on assigned readings, class lectures, and class presentations from the full term.

**SENTENCING TOPICS**

**Class Date      Topic**

**Part I – Introduction**

- January 7**      a)      Introduction to the Course  
Course Outline
- b)      Overview of Sentencing  
Manson, chapters 1-4
- January 14**      Overview of Sentencing (con'd)  
Manson, chapters 1-4
- January 21**      Overview of Sentencing (con'd)  
Manson, chapters 1-4
- January 28**      a)      Demonstration of a Sentencing Hearing
- b)      Overview of Sentencing (con'd)  
Manson, chapters 1-4

**Part II – Principles of Sentencing**

- February 4**      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**

- February 11**
- 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
- February 18** Reading Week
- February 25**
- a) 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**

- b) The Sentencing Hearing  
Admissibility of evidence, proving the record, pre-sentence reports, offender's right to speak, joint positions  
Manson, chapter 8
- c) Sentence Appeals  
Standard of review, deference to the sentencing judge, launching a sentence appeal, stay pending appeal  
Manson, chapter 12

**Part V – Sentencing for Particular Offences**

- March 3**
- a) Sentencing in Homicide Cases  
Life sentences, parole ineligibility, faint hope clause, manslaughter sentences  
Manson, chapter 10
  - b) Sentencing in Domestic Violence Cases  
Resolution by peace bond, New Directions program, reluctant/uncooperative victims, de minimus assaults
  - c) Sentencing in Sexual Offence Cases  
Pertinent sentencing principles, appropriateness of conditional sentences, the Kienapple principle, sexual offender registry, public place prohibitions, DNA orders
- March 10**
- a) Sentencing in Drinking and Driving Cases  
Minimum sentences, constitutional exemptions, notice of increased penalty, cases involving death or bodily harm, driving prohibitions
  - b) Sentencing in Drug Cases  
Drug offences, sentencing principles under the CDSA, effect of addiction, forfeiture of property
  - c) Sentencing in Firearms Offence Cases  
What is a firearm, firearm offences, minimum sentences where firearm is used, weapons prohibitions

**Part VI – Sentencing of Specific Offenders**

- March 17**
- a) Young Offender Dispositions  
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  
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  
Manson, chapter 13 B
- March 24**
- a) Professor Evaluation
  - b) Sentencing and Aboriginal Issues  
The Gladue decision, section 718.2(e) of the Code, disproportional representation of Aboriginals in custody, restorative justice, sentencing circles  
Manson, chapter 13 D

**Part VII – Victims and the Sentencing Process**

- c) Victims and the Sentencing Process  
Victim impact statements, victim witness assistance program, victim fine surcharge, child victims, victim interest groups (MADD)  
Manson, chapter 13 C

**Part VIII – Review**

- March 31**
- a) Discussion of Current Events  
Class discussion of sentencing cases decided during the course of the academic semester
  - b) Review of the Course  
Review of the subject material covered during the course of the academic year  
Answer student questions concerning the upon final examination