

**Course Outline**

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**COURSE:** LAWS 4504  
**TERM:** Summer 2012  
**PREREQUISITES:** LAWS 1000  
**CLASS:** Day & Time: 11:30-2:30  
Room: Loeb D490  
**INSTRUCTOR:** Jane Dickson-Gilmore  
**CONTACT:** Office: D592 Loeb  
Office Hrs: Mondays, 1:00-2:30 p.m.  
Telephone: 613-520-2600 x3686  
Email: jane-dickson-gilmore@carleton.ca

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Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities (PMC) for a formal evaluation of disability-related needs. Documented disabilities could include but are not limited to mobility/physical impairments, specific Learning Disabilities (LD), psychiatric/psychological disabilities, sensory disabilities, Attention Deficit Hyperactivity Disorder (ADHD), and chronic medical conditions. Registered PMC students are required to contact the PMC, **613-520-6608**, every term to ensure that I receive your Letter of Accommodation, no later than two weeks before the first in-class test/midterm requiring accommodations. If you only require accommodations for your formally scheduled exam(s) in this course, please submit your request for accommodations to PMC by the deadlines published on the PMC website. <http://www1.carleton.ca/pmc/students/dates-and-deadlines/>. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: [www.carleton.ca/equity](http://www.carleton.ca/equity)

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**COURSE DESCRIPTION**

There can be little doubt that the relationship between the Canadian criminal justice system and First Nations peoples is, and long has been, fraught with conflict, tension and for many, an absence of the justice the system claims to embody. It is the goal of this course to deconstruct that relationship and attempt to come to grips with the range of factors which have fed into this fractious relationship and, most importantly, the over-representation of Aboriginal people within Canadian criminal courts and correctional system. Here, analysis will focus upon institutional efforts to ameliorate over-representation as well as the rise of traditional and restorative justice initiatives which exist primarily as amendments to, or outside of, the dominant system. Among those initiatives studied will be sentencing circles, family group/community conferencing, and healing circles.

**REQUIRED TEXTS**

All readings and resources for this course are located online or may be accessed through MacOdrum Library.

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

Your course grade will be based upon three components which focus upon research, critical analysis and class contribution. These components are (1) presentation of research; (2) opinion papers; and (3) participation/attendance.

**(1) Presentation of Research: 15%**

To facilitate this debate, each week 2-3 students will come to class armed with 2 current, topical pieces of research and/or commentary which they will have summarized and critiqued, and which they will present to the class and incorporate into class discussion. Each student should be prepared to speak for approximately 10-15 minutes, as well as to actively participate in class discussions.

The research must come from credible academic sources (i.e., refereed journals; scholarly texts) or quality sources (independent research organizations, government documents, the quality press, etc.) and presentations should be cogent, critical summaries and be clearly and explicitly integrated into the week's seminar topic. Presentations which are intellectually weak, draw upon questionable sources, or are not clearly linked with the course materials, are unlikely to be well-received.

These presentations will begin in the third class (May 14, 2012). The schedule for presentations will be determined in class.

**(2) Opinion Papers: 60% (3 @ 20% each)**

This course may be roughly divided into three sections (week 4; week 8; week 12), at the end of each section of the term, students will be required to submit 'opinion papers' of approximately 7-10 pages in length, dealing with an issue raised and discussed in the preceding section of the term. Topics will be suggested in class, but it is expected that students will seize upon an issue and, drawing upon the assigned and presented readings, as well as any additional, but limited, additional research, will compose brief, compelling analyses of their chosen topic.

Paper 1: Topics drawn from seminars/readings w1-4. Due May 23, 2012 in class.

Paper 2: Topics drawn from seminars/readings w5-9. Due June 6, 2012 in class.

Paper 3: Topics drawn from seminars/readings w10-13. Due June 18, in class.

**(3) Participation: 25%.**

Students will be expected to have prepared for class and to attend ready and able to engage critical discussions and debates about the issues raised in each weeks' readings and seminar. Please note that 10% of this grade will be awarded for attendance, while the remaining 15% will be awarded based on frequency and quality of participation in class discussions.

**COURSE SCHEDULE & ASSIGNED READINGS**

**W1: Course Introduction - No Assigned Readings**

**W2: Understanding the Context : History & Politics & Intergenerational Effects**

1. Leslie Erickson, "The Constructed and Contested Truths: Aboriginal Suicide, Law, and Colonialism in the Canadian West(s), 1823-1927". **Canadian Historical Review**, Vol. 86, no. 4, December 2005, pp. 595-618.

2. Dara Culhane, "Their Spirits Live within Us: Aboriginal Women in Downtown Eastside Vancouver Emerging into Visibility". **The American Indian Quarterly**, Vol. 27, No. 3&4, Summer/Fall 2003, pp. 593-606.

3. Jennifer Henderson and Pauline Wakeham, "Colonial Reckoning, National Reconciliation?: Aboriginal Peoples and the Culture of Redress in Canada". **English Studies in Canada**, Vol. 35, Issue 1, March 2009, pp. 1-26.

**W3: Understanding Aboriginal Offending Patterns & Over-representation**

1. Andrew Welsh and James R.P. Ogloff, "Progressive Reforms or Maintaining the Status Quo? An Empirical Evaluation of the Judicial Consideration of Aboriginal Status in Sentencing Decisions" **Canadian Journal of Criminology and Criminal Justice**, Vol.50, no.4, July 2008.
2. Christine E. W. Bond, Samantha Jeffries, Don Weatherburn, "How much time? Indigenous status and the sentenced imprisonment term decision in New South Wales". **Australian and New Zealand Journal of Criminology** 44(2), 272-290.
3. Philip Stenning and Julian V. Roberts, "Empty Promises: Parliament, The Supreme Court, and the Sentencing of Aboriginal Offenders" **Saskatchewan Law Review** 64 (2001):137-168.

**W4: Reforming the System - in whose interests, and to what end?**

1. Scott Clark, "The Nunavut Court of Justice: An Example of Challenges and Alternatives for Communities and for the Administration of Justice". **Canadian Journal of Criminology and Criminal Justice** Vol. 53, no.3, July 2011, pp. 343-370.
2. L. Jane McMillan, "Colonial traditions, Co-optations, and Mi'kmag Legal Consciousness." **Law and Social Inquiry**, 26(1) 171-200 (winter 2011).
3. Carol LaPrairie, "The 'new' justice; Some Implications for aboriginal communities", in **Canadian Journal of Criminology**, January 1998:61-79.

**W5: Gladue - Bespoke Sentencing?**

1. Kelly Hannah-Moffat, Paula Maurutto, "Re-contextualizing pre-sentence reports. Risk and race". **Punishment & Society** 12(3) 262-286.
2. Karen Whannock, "Aboriginal Courts in Canada", The Scow Institute, April 2008. Online at [www.scowinstitute.ca/library/documents/Aboriginal\\_Courts.pdf](http://www.scowinstitute.ca/library/documents/Aboriginal_Courts.pdf)
3. Aboriginal Legal Services of Toronto, Aboriginal Persons Court ("Gladue Court"). Online at [www.aboriginallegal.ca/gladue.php](http://www.aboriginallegal.ca/gladue.php)

**W6: The Rise of Community Justice - Restorative Approaches to Crime and Conflict**

1. Paul McCold, "The recent history of restorative justice: mediation, circles and conferencing" in **Handbook of Restorative Justice**, Dennis Sullivan & Larry Tift (eds.), (London: Routledge, 2008), pp.23-52.
2. Kathleen Daly, "Restorative justice: The real story" **Punishment & Society** (January 2002), 4 (1), pg. 55-79.
3. Chris Andersen, "Governing aboriginal justice in Canada: Constructing responsible individuals through 'tradition'", **Crime, Law and Social Change** 31 (1999):303-326.

**W7: Case Study: Sentencing Circles**

1. Barry Stuart, "Sentencing Circles: Making 'Real Differences'", in Julie MacFarland, ed., **Rethinking Disputes: The Mediation Alternative** (Toronto: Edmond Montgomery Publications Ltd., 1997):201-233.
2. Cameron, Angela, "Sentencing Circles and Intimate Violence: A Canadian Feminist Perspective". **Canadian Journal of Women and the Law**, Vol.18, no 2, 2006, pp. 479-512.
3. Jacqueline Fitzgerald, "Does circle sentencing reduce Aboriginal offending?", **Crime and Justice Bulletin** No.115, May 2008:1-12.

**W8: Case Study: Conferencing**

1. Ian Hassell, "Origin and Development of Family Group Conferences", in Joe Hudson, Allison Morris, Gabrielle Maxwell and Burt Galaway (eds.), **Family Group Conferences. Perspectives on Policy and Practice** (Annandale, New South Wales: The Federation Press, 1996:17-36.)
2. John Edward Deukmedjian, "The Rise and Fall of RCMP Community Justice Forums: Restorative Justice and Public Safety Interoperability in Canada". **Canadian Journal of Criminology and Criminal Justice**, Vol. 50, no. 2, April 2008, pp. 117-151
3. Joan Pennell, Stephanie Francis, "Safety Conferencing: Toward a Coordinated and Inclusive Response to Safeguard Women and Children." **Violence Against Women** (May 2005), 11 (5), pg. 666-692.

**W9: Case Study: Healing Circles**

1. Thérèse Lajeunesse, **Community Holistic Circle Healing Hollow Water First Nation**, (unpublished paper, Ottawa: Solicitor General of Canada, 1993).
2. Joe Couture, Ted Parker, Ruth Couture, Patti Laboucane, Native Counseling Services of Alberta, "Executive Summary", "Chapter One, Research Introduction and Protocol", "Chapter Two, Hollow Water Healing - A Circle Process, Requirements, Impact", in **A Cost-Benefit Analysis of Hollow Water's Community Holistic Circle Healing Project**, (Ottawa: Solicitor General of Canada, Aboriginal Corrections Policy Unity, 2001), i-vi; 1-28.

**W10: Accountability in Community Justice: Evaluation and Follow-up**

1. Lois Presser ; Patricia Van Voorhis, Values and Evaluation: Assessing Processes and Outcomes of Restorative Justice Programs." **Crime & Delinquency** (January 2002), 48 (1), pg. 162-188.
2. Kishk Anaquot Health Research, **Taking a Pulse on the Quality of Indigenous Community life. Considerations and Challenges in Measuring Successful First Nations' Community**. Canada: First Nations and Inuit Health Branch of Health Canada, 2008.

**W11: Restorative and Transitional Justice: Indian Residential Schools, Truth and Reconciliation**

1. Jennifer J. Llewellyn, "Dealing with the Legacy of Native Residential Schooling in Canada: Litigation, ADR, and Restorative Justice." (Summer 2002) 52 **University of Toronto Law Journal** 253.
2. Ken Cooper-Stephenson, "Reparations for Residential School Abuse in Canada: Litigation, ADR and Politics" (On reserve in Chet Mitchell Reading Room, D580 Loeb).

**W12: Emerging Challenges in Aboriginal Criminal & Community Justice: Alternative Economies & Cross Border Activities**

1. Ruth Jamieson, "'Contested jurisdiction border communities' and cross-border crime: the case of Akwesasne". **Crime, Law and Social Change**, Vol.30 (1999), pp.259-272.
2. Joe Friesen, "The Ballad of Daniel Wolfe", Globe Focus, **The Globe and Mail**, Saturday, June 18, 2011.
3. Margaret Beare, "Organized Corporate Criminality: Tobacco Smuggling between Canada and the U.S." **Crime, Law & Social Change** 37: 225–243, 2002.