

CARLETON UNIVERSITY

Department of Law and Legal Studies

LAWS 3307 C/V: YOUTH AND CRIMINAL LAW WINTER 2019

**INSTRUCTOR
(CONTRACT)** **John Hale, B.Sc., LL.B., B.C.L.** (Contract Instructor, criminal lawyer)

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 (I check messages daily and will respond promptly)

OFFICE HOURS **Office hours** are by appointment only.

LECTURE SCHEDULE Wednesdays, 6:05 – 8:55 PM, Location to be announced (please check
Carleton Central for current room location; as of January 2, 2019 the on-
campus lecture is scheduled for Southam 624)

PREREQUISITE LAWS 2301 and LAWS 2302, or permission of instructor

WEB SITE See [cuLearn](#)

REQUIRED TEXT **None**

**SUPPLEMENTARY
TEXTS** **Lee Tustin and Robert Lutes, *A Guide to the Youth Criminal Justice
Act, 2019 Edition* (LexisNexis Canada, 2018)**

Or...

Any version of the Criminal Code (Martin's or Tremear's Annotated Criminal Code, or the Pocket Criminal Code)

**METHOD OF EVALUA-
TION** (1) **Mid-Term Exam:** this 3-hour open-book exam is scheduled for
Friday, February 15, 2019 from 6-9 PM, and will cover the first 6
lectures.

- (2) **Final examination**, 3-hour open-book, to be held in the final examination period (April 12-27), covers Lectures 7-12.

“Open book”, for the purpose of the exam, means that the following materials may be brought into the examination room: (1) any textbook; (2) any version of the *Criminal Code* or *YCJA*; (3) your lecture notes (or any notes that you shared with a study group or that you have with the permission of their author), and (4) any material downloaded from the course website (cuLearn), including the instructor’s lecture notes and PowerPoint/Keynote slides; (5) any e-mails sent by the instructor. You may make use of a computer, laptop or other device during the exams, as long as it is in airplane mode – i.e., wifi, Bluetooth and cellular are disconnected, and the device is not connected to the internet or to another person’s device..

Grade breakdown: the exam that you do best in will be worth 60% of your final grade; the other exam will be worth 40% of your final grade.

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

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.

TEACHING ASSISTANTS / MARKERS

Once teaching assistants are assigned and confirmed, I will provide you with their contact information.

CALENDAR AND COURSE DESCRIPTION

CALENDAR DESCRIPTION

A review of the Youth Criminal Justice Act within the framework of the Canadian justice system, with particular emphasis on historical and philosophical developments and objectives. Current topics include: constitutional issues, procedure, confessions, transfers, sentencing options, alternative measures, reviews, and possible amendments.

COURSE DESCRIPTION

Students who have taken my section of Criminal Justice System (Laws 2301) or Criminal Law (Laws 2302) know already that I am a criminal defense lawyer who teaches from a practical perspective, as if it were a law school course. I consider this course, which I am teaching for the 14th time, to be an extension of the introductory criminal law courses. The focus will continue to be on jurisprudence and legal principles, i.e., the tools that lawyers use when defending or prosecuting young persons accused of crime, and the tools available to Judges who deal with youths. I will rely to a great degree on guest lecturers to help put the readings and statutory provisions into real-life context.

There is NO REQUIRED TEXT. However I have asked both main bookstores (Carleton and Haven) to make the Tustin and Lutes *Guide to the Youth Criminal Justice Act 2019 Edition*, and the *Criminal Code*, available as recommended reading. These are entirely optional texts. If you have a recent copy of the *Criminal Code*, then you already have a copy of the *Youth Criminal Justice Act* and do not need this text, although you may find the annotations helpful. The *Youth Criminal Justice Act* is available as a PDF download from the Justice Canada website: <https://laws-lois.justice.gc.ca/PDF/Y-1.5.pdf>.

You may wish to have a copy of the *Criminal Code*, which you can download (<https://laws-lois.justice.gc.ca/PDF/C-46.pdf>) or which you can purchase in the form of an unannotated or annotated Code. If you buy a *Criminal Code*, it will have included in the same book the *YCJA*, the *Charter of Rights* and other legislation. It is not necessary to buy a *Criminal Code*. However, if you are taking other criminal law courses you will want to have one. Buy one that is a 2018 or 2019 edition.

Because the *YCJA* is a relatively new piece of legislation that is still in the early stages of being interpreted by the courts (and reacted to by politicians), you will need to read various recent cases from the Supreme Court of Canada as well as provincial appellate courts, likely some of which have not yet been decided. I will direct you throughout the term to a number of recent decisions. In addition, I will rely on information available on the internet, including background papers at the Department of Justice (Canada) website, and statistics available there or at the Statistics Canada website.

We will begin the course with a brief review of criminal procedure generally: it is necessary to understand the general law before examining how the law is different for youths. We will then review the history of the *Youth Criminal Justice Act*, including its antecedents such as the *Young Offenders Act* and the *Juvenile Delinquents Act*. Reviewing the history of the law will involve comparing the changing philosophy with respect to youth crime. We will also rely on statistical information in order to appreciate the true magnitude of youth crime, as well as to observe the practical impact of the *YCJA*.

The bulk of the course will be taken up with procedures and considerations that relate specifically to youths, particularly sentencing. As we go through the material, we will look at recent amendments to the *YCJA*, which are an excellent example of the interplay between politics and the criminal justice system.

The second half of the course is largely taken up with guest lectures. My experience is that students truly enjoy these lectures and take advantage of the opportunity to speak with professionals who can give them practical career advice and even provide career and volunteer opportunities.

My objective is that students finish the course with a practical knowledge of the Canadian criminal justice system as it relates to youths, and that students be capable of critically analyzing media reports on youth crime, including its “prevalence” and the notion that young people are dealt with too leniently. I do not expect students to agree with me on all or even any points. Exams will be structured so that you will be tested on your knowledge of facts relating to youth criminal justice in Canada, and not on your knowledge of my opinions.

One final note regarding CUOL courses. It is wonderful that university courses can be provided to students other than via the traditional classroom lecture. This enables students to take courses that would otherwise be inaccessible to them because of distance, employment, family responsibilities and/or disability. The downside, though, is that the ability to see the lectures any time at one’s convenience causes many students to fall behind, saving up the lectures until just before the exam and then binge-watching them in a marathon session. If you are going to binge-watch, I suggest you watch *Better Call Saul* or *The Wire*. While this approach is better than nothing, I

strongly discourage this strategy in this or any other course. Do your best to keep up with the lectures weekly, and avoid the temptation to fall behind. By all means, come to class whenever you like, whichever section of the course you are registered in.

I hope that you enjoy the course, and I look forward to hearing from you as we go along. Course-content-related questions sent to me by e-mail may be answered to the class as a whole so that all students have the same information.

COURSE OUTLINE¹

<u>Class No.</u>	<u>Topic(s)</u>	<u>Readings</u>
1 January 9, 2019	1. Introductory comments 2. Criminal procedure in a nutshell	TBA
2 January 16, 2019	3. History of the <i>YCJA</i> 4. Principles for responding to youth offending; development of the adolescent brain	TBA
3 January 23, 2019	5. Jurisdiction of the Youth Justice Court 6. Arrest, police questioning and pre-trial detention; Bail	TBA
4 January 30, 2019	7. Diversion, Extrajudicial Measures and Conferences 8. Lawyers in the Youth Justice Process	TBA
5 February 6, 2019	Guest lecture: Justice Celynne Dorval – OCJ Ottawa Guest lecture: Emmet Q.	TBA
6 February 13, 2019	Guest lecture: Det. Cory McAree (Ottawa Police Service) Guest lecture: Tom Scholberg, Manager of the Boys and Girls Club of Ottawa, Ottawa Community Youth Diversion Program	TBA
February 15, 2019 6:00 – 9:00 PM	Mid-Term Exam covers Lectures 1-6	
February 20, 2019	NO LECTURE (FALL BREAK)	
7 February 27, 2019	9. Mental Health Issues 10. Youth Court records	TBA
8 March 6, 2019	Review mid-term exam 11. Sentencing: the statutory framework	TBA
9 March 13, 2019	Guest lecture: Fara Rupert and Kerry McVey, Assistant Crown Attorneys, Ottawa	TBA
10 March 20, 2019	Guest lecture: Probation Officer Hal Grossner 12. Sentencing to custody	TBA

¹ Tentative outline, subject to change depending on the release of noteworthy cases throughout the year and on the availability of guest lecturers

11 March 27, 2019	Guest lecture: Jessica Charron (John Howard Society) 13. Adult sentencing for youths	TBA
12 April 3, 2019	Guest lecture: Crystal Black, Youth Mental Health Court Guest lecture: Gord Boyd, Youth Services Bureau 13. Adult sentencing for youths (cont'd)	TBA
April 12-27, 2019	FINAL EXAMINATION Date, time and location TBA	

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: Please contact 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: carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf

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: carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf

Academic Accommodations for Students with Disabilities: If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (PMC) at 613-520-6608 or 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 as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) www.carleton.ca/pmc

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/>

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: carleton.ca/sexual-violence-support

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor 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. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: students.carleton.ca/course-outline

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/>
