

Course Outline

COURSE:	LAWS 4306 D – Criminal Law Issues: National Security Issues
TERM:	Fall 2016
PREREQUISITES:	Fourth-year Honours standing and LAWS 2301, LAWS 2302
CLASS:	Day & Time: Tuesdays, 6:05pm – 8:55pm
	Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Michael S. Purcell
CONTACT:	Office: B442 Loeb
	Office Hrs: TBA
	Telephone: (613) 314-1449
	Email: michael@rpmlawyers.ca

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: 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: <http://carleton.ca/equity/>

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: <http://carleton.ca/equity/>

Academic Accommodations for Students with Disabilities: The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact 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 to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://carleton.ca/pmc/students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://carleton.ca/equity/>

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/>

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/>

COURSE DESCRIPTION

This course will explore contemporary issues in criminal law through the lens of national security. Over the last fifteen years, Parliament has passed several laws to respond to the threat of terrorism. Some argue that the effect of these laws has been to unnecessarily infringe on Charter rights without any appreciable gain in national security. Others argue that the infringement of certain Charter rights is justifiable to support anti-terrorism objectives and effective law enforcement. One thing is certain: the relationship between citizen and state will be shaped by this debate for decades to come.

This course will focus on three central questions: (1) When should personal privacy yield to state security? (2) When does thought become crime? and (3) To what degree is rehabilitation an effective tool to combat extremism? In answering these questions, the law surrounding state surveillance, inchoate offences (acts that have yet to be committed), and forensic risk assessment will be explored with a comparative view to national security blueprints and criminal law in other countries.

COURSE ORGANIZATION

This course will use lectures and class discussions. Students will be expected to have completed the required readings from the textbook and/or supplements made available on cuLearn, for a particular week's topic as specified in the schedule set out on the following pages.

Readings will be assigned at the end of each class.

REQUIRED TEXTS

Forcese, Craig & Kent Roach. False Security: The Radicalization of Canadian Anti-terrorism, (Toronto: Irwin Law, 2015)

Available for purchase at:

Carleton University Bookstore
125 Colonel By Drive
University Center, First Floor
Ottawa, ON K1S 5B6

SUPPLEMENTARY TEXTS

Unless otherwise specified, additional readings and course slides will be provided on cuLearn.

Please come to class having completed the readings and having reflected on the materials in order to fully participate in class discussions.

EVALUATION

All components listed below 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.

A) CLASS PARTICIPATION 10%**B) MID-TERM PAPER 45%**

→ 15 pages, due at the beginning of class, in hard-copy format on November 8, 2016

→ Topics to be provided on September 27, 2016

→ If you are late to class, your paper will be subject to late penalties. Please read the paper instructions document on cuLearn for details. There will be a 10-point deduction per 24-hours of tardiness. At the start of every 24-hour lateness period, in other words, you will be deducted 10%. The paper is to use 12-point Times New Roman font, double spaced, with one inch margins on all sides.

C) FINAL EXAM 45%

→ 3 hour open book & take-home, to be conducted on the last day of class.

→ The exam will be based on your ability to reflect the principles and concepts discussed in class and to meaningfully engage in debate. Attendance is crucial to your ability to your understanding of the course materials.

SCHEDULE**WEEK 1: September 13, 2013**

Part I: Introduction

- Review of course outline
- Expectations
- Structure of class
- Assignments
- Q & A

Part II: Brief Refresher & Legal Framework

- Legislation and the role of Parliament
- The role of courts
- The *Charter of Rights and Freedoms*

WEEK 2: September 20, 2016

Topic: History & Etymology of Terrorism

- The political and philological origins of terrorism
- Legal definition(s) of terrorism

WEEK 3: September 27, 2016

Topic: The National Security Framework

- The domestic players (CSIS, CSEC, CBSA, CRA, etc...)
- The review bodies (SIRC, OCSEC, CRCC)
- The international players (FBI, Five Eyes...)
- Investigative tools (warrants, sources, etc.)

*****Mid-term paper topics to be provided**

WEEK 4: October 4, 2016

TBA

WEEK 5: October 11, 2016

TBA

WEEK 6: October 18, 2016

Topic: The Law Part I - Legislative Framework

- Counter-Terrorism Legislation
 - *Anti-Terrorism Act*
 - *Criminal Code*
 - *Canada Evidence Act*
 - *Proceeds of Crime (Money Laundering Act)*
 - *Charities Registration (security Information) Act*
 - *Security of Information Act*
 - *Immigration and Refugee Protection Act*
- Forthcoming Legislation

WEEK 7: October 25, 2016 Fall Break – NO CLASS

WEEK 8: November 1, 2016

Topic: The Law Part II - Jurisprudence

- Constitutionality: *R v Khawaja* 2012 SCC 69
- Conspiracies: *R v Sher* 2014 ONSC 4790
- Entrapment: *R v Nuttall*, 2016 BCSC 1404

WEEK 9: November 8, 2016

Topic: Terrorism Offence Sentencing in Canada

- Purpose and Principles of Sentencing
- Review of sentencing decisions in Canada
- Comparative sentencing analysis
- The state of counter-radicalization in Canada
- Is rehabilitation possible?

WEEK 10: November 15, 2016

Special Topic: The Surveillance State

- Privacy & surveillance law in Canada
- Where do rights end and prevention begin?
- The debate surrounding Bill C-51

WEEK 11: November 22, 2016

Special Topic: Terrorism & Inchoate Offences

- When does thought become crime?
- *R. v. Hersi*, 2014 ONSC 2897

WEEK 12: November 29, 2016

Special Topic: Alternatives to the *status quo* and the future

- Peace bond vs. criminal charge
- Law as prevention
- Proportionality of the legal response

EXAM REVIEW

WEEK 13: December 6, 2016

Take-Home Exam: Details to be provided on November 29, 2016