

Course Outline

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<b>COURSE:</b>	<b>LAWS 4307A</b>
<b>TERM:</b>	<b>FALL 2018</b>
<b>PREREQUISITES:</b>	<b>LAWS 208, LAWS 2301, LAWS 2302 and Fourth-Year Honours standing</b>
<b>CLASS:</b>	<b>Day &amp; Time: Wednesdays 6:04pm – 8:55pm</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Dr. Hembadoon L. Oguanobi</b>
<b>CONTACT:</b>	<b>Office: B442 Loeb Building (Contract Instructor's Office)</b> <b>Office Hrs: By appointment only</b>  <b>Email: Hemba.oguanobi@carleton.ca</b>

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**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](http://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](http://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](mailto: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](http://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](http://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](http://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/>

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## **CALENDAR COURSE DESCRIPTION**

Legal-medical issues, conflicts and relationships in the field of social control. Topics include mental disorder and criminal liability, diversion of offenders to civil commitment in hospital, insanity, automatism, fitness to stand trial, prediction of dangerousness, regulation of psychoactive drugs.

### **COURSE DESCRIPTION**

Should mental illness be treated as a crime or a public health problem? These are the kinds of dialogue we will engage in throughout the course. As a class, we will unwrap, query, rationalize and seek to understand the intersections between medicine and the criminal justice system. More so today than ever before, there appears to be tensions around the criminalization of medical malpractice, transmission of HIV, and some will argue the disproportionate penalization of the mentally ill in marginalized communities. Some of the topics we will unpack include the legalization of cannabis, the criminalization of women's

bodies when it comes to abortion, medically assisted deaths, prison systems and sentencing that split the discourse between where criminal laws and medicine coincide.

## **OBJECTIVES**

Upon completion of the course, students will:

1. Develop a socio-legal lens in analyzing how the criminal justice system intervenes in medical issues and the problems with intervention
2. Develop an ability to apply creative and persuasive solutions to current and impending problems
3. Develop an appreciation of how nations address the crossings between medical and criminal law issues
4. Dissect scholarly writings from a variety of sources and present it to colleagues in collaborative ways
5. Develop critical thinking, academic and creative writing skills

## **REQUIRED TEXT**

There are no required textbooks for this course. Readings will be posted online through cuLearn or the University library's journal database.

## **COURSE EXPECTATIONS**

- ❖ Students are expected to engage critically with the course material and to participate actively in all activities, namely, individual reading, research, in class discussions and completion of individual and group assignments
- ❖ Students should carefully read and follow the instructions for assignments
- ❖ All deadlines for assignments need to be respected, exceptions will be granted only in extraordinary cases

## **EVALUATION**

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.

## **SUMMARY OF ASSIGNMENTS.**

The grade for this course is comprised of **THREE** components:

ASSIGNMENTS	DUE DATES	PERCENTAGE (%)
Individual Assignment Choose to write on one of the following: 1. A Critical Incident involving "when doctors go wrong"  <u>or</u> 2. Case study on the legalization of Cannabis	10 October  31 October	30%
Group Leadership Inquiry	Various Dates	30%
Final Paper	5 December	40%

### **1. INDIVIDUAL ASSIGNMENT 30%**

- 1 Watch "When Doctors go Wrong: Robert Downey's Story" <https://youtu.be/iJvDhQsSy7Q>,
  - Analyze Robert Downey's story from your own perspective, and from the perspective of the other actors in the video.
  - Draw from the readings in the course to write an opinion
  - Make sure you use appropriate citations and reference from your weekly readings
  - This assignment should not exceed six pages (1500 words, double-spaced, 12-point print).
  - It is worth 30% of your marks
  - Due Date: 10 October
  
- 2 Read case study. In the mid-1980's, a government reduced the supply of amphetamine precursors successfully interrupting the amphetamine market, interrupting a trajectory of increasing usage and illegal drug trade. The price of amphetamine tripled and purity declined from 80 % to 20%.

During that time, amphetamine-related hospital and treatment admissions dropped 60 % and 40 %, respectively. Interestingly, amphetamine use among arrestees declined 60 %. Although felony amphetamine arrests fell 50 % there was no indication of substantial reductions in violent crime. The impact was mostly temporary. The price returned to its initial level within four months; purity, hospital admissions, treatment admissions, and arrests approached pre-intervention levels within twelve months.

- In light of the legalization of cannabis in Canada which will come into force on 17th October 2018, discuss the pros and cons of the government's action. Reflecting on the case study above and drawing on appropriate materials from the course (along with appropriate citations and reference) write an opinion.
- This assignment should not exceed six pages (1500 words, double-spaced, 12-point print)
- Due date: 31 October

## **2. GROUP LEADERSHIP INQUIRY 30%**

In groups of 4 or 5 colleagues, divide up tasks to lead a class inquiry into the topic taken up in one of the weekly readings. This includes:

- (a) Preparation and leadership of a 40-minute seminar session based on close readings of the articles
- (b) Provide 2-3 key questions based on the articles
- (c) Discuss the implication for practice
- (d) Provide 5 related references
- (e) Prepare 2-4 pages' summary of your inquiry to share with the class
- (f) Present your leadership inquiry to the class

I will pass along a link to a google doc that will allow you sign up for this segment of the assignment. More information on this assignment will be posted on cuLearn.

## **3. FINAL PAPER (40%)**

The final paper is worth 40% of your marks.

The criteria below should be met to get a higher mark:

- The paper should not be less than 3000, but must not exceed 3500 words. The word count must be written on the title page. The word count does not include the bibliography
- Your paper is expected to have at least 10 academic sources, which must be books and/or peer-reviewed journal articles only
- Newspaper, documentaries, films, magazine articles, web resources, blogs, governmental websites etc. may be used if properly referenced, however, they do not count towards the 10 required sources
- Wikipedia and other online encyclopedias may be used but do not count toward the 10 required sources for bibliography
- Your paper should exhibit an understanding of a critical reflection and a distinctive approach to the theories, concepts and issues addressed
- Your paper should be well-written (i.e., coherent, logically arranged, grammatically correct and free of spelling errors) and should be supported with citations of the readings and other materials that are used in their development

- The formal evaluation of written assignments will be based upon demonstration of: Knowledge, understanding and application of laws, theories, concepts, practices; Analytical and critical thinking; Integration of course content; Organization and distinctiveness of the presentation of ideas, insights, arguments
- Your style of referencing should be consistent
- You will be given several choices of essay titles to choose from, they will be posted on cuLearn
- Due date: 5 December

## **SUBMISSION**

All assignments must be submitted in **BOTH** hardcopy and electronically through cuLearn.

Students must retain a copy of all assignments submitted.

All individual assignments must be attached to an Assignment Cover Page

## **SCHEDULE**

*All readings are available on cuLearn through web-links provided or attached in cuLearn.*

**Wk 1 - September 5: Introduction**

**Wk 2 - September 12: The Intersections Between Criminal Law and Health**

1. Sarah Hean et al, "Using Social Innovation as a Theoretical Framework to Guide Future Thinking on Facilitating Collaboration Between Mental Health and Criminal Justice Services" (2015) 14:4 Int J Forensic Ment Health 280.
2. Andreas E. Tomaszewski et al, "Professional Misconduct by Registered Nurses: A Study of Regulatory Responses to White Collar Crimes in a Canadian Health Professional" (2016) 9:2 IJAS 403.

**Wk 3 - September 19: Criminal Responsibility**

1. Watch NCR: Not Criminally Responsible. Thursday< August 27, 2015.  
<http://www.cbc.ca/firsthand/m/episodes/ncr-not-criminally-responsible>
2. Stephanie R. Penney, Andrew Morgan, & Alexander IF Simpson, "Motivational Influences in Persons Found not Criminally Responsible on Account of Mental Disorder: A Review of Legislation and Research" (2013) 31:4 Behav Sci 494.
3. Michael Gulayets, "Exploring Differences Between Successful and Unsuccessful Mental Disorder Defences" (2016) 58:2 Can J Crim & Corr 161.

**Wk 4 - September 26 Criminal Responsibility: An International Perspective**

1. Landy F. Sparr, "Personality Disorders and Criminal Law: an International Perspective" (2009) 37:2 J Am Acad Psychiatry Law 168.
2. EC Fistein et al, "Comparison of Mental Health Legislation from Diverse Commonwealth Jurisdictions" (2003) 32:3 J Am Acad Psychiatry Law 147.
3. Laura M. Grossi & Debbie Green "An international perspective on criminal responsibility and mental illness" (2017) 2:1 Practice Innovations 2.

**Wk 5 - October 3 Criminalizing Health Practitioners Errors**

1. Fiona McDonald, "The Criminalisation of Medical Mistakes in Canada: a Review" (2008)16 Health L J 1.
2. Brown R. Blake, "Canada's First Malpractice Crisis: Medical Negligence in the Late Nineteenth Century" (2016) 54 Osgoode Hall Law J 777.
3. Elizabeth Stuart-Cole, "Medical Manslaughter: The Effect of Lay Findings of (Criminal) Gross Negligence on Professional Tribunals: General Medical Council v Dr Bawa-Garba EWHC 76" (2018) 82: 3 J. Crim. L.197.

**Wk 6 - October 10 Sexual Crimes**

1. Adam Barry D et al. "Effects of the Criminalization of HIV Transmission in Cuerrier on Men Reporting Unprotected Sex with Men" (2008) 23:1-2 CJLS/ Revue Canadienne Droit et Société 143.
2. Barry D. Adam et al, "Impacts of Criminalization on the Everyday Lives of People Living with HIV in Canada" (2014) 1:11 Sex Res Social Policy 39.
3. Sophie E Patterson et al "The Impact of Criminalization of HIV Non-Disclosure on the Healthcare Engagement of Women Living with HIV in Canada: a Comprehensive Review of the Evidence" (2015) 18:1 J Int AIDS Soc 20572.

**Wk 7 - October 17: Legalizing Cannabis**

1. Daniel Bear, "From Toques to Tokes: Two challenges facing nationwide legalization of cannabis in Canada" (2017) 42 Int J Drug Policy 97.
2. Hyunjung Cheon, Scott H. Decker & Charles M. Katz, "Medical Marijuana and Crime: Substance Use and Criminal Behaviors in a Sample of Arrestees" (2018) 48:2 J Drug Issues 182.
3. Andrew D Hathaway et al, "It's Really No Big Deal": The Role of Social Supply Networks in Normalizing Use of Cannabis by Students at Canadian Universities" (2018) 17 Deviant Behavior 1.

**Access online:**

Bill C-4, Cannabis ACT - CANADIAN BAR ASSOCIATION

<https://www.cba.org/CMSPages/GetFile.aspx?guid=baad6d72-b1dc-4bc5-9531-1571326a1aa4>

**WEEK 8 - FALL BREAK - NO CLASSES****Wk 9 - October 31: Policing Women's Bodies**

1. Meda Chesney-Lind & Syeda Tonima Hadi, "Patriarchy, Abortion, and the Criminal System: Policing female bodies" (2017) 27:1 Women & Crim. J. 73.
2. Marge Berer "Abortion Law and Policy Around the World: in Search of Decriminalization" (2017) 19:1 Health Hum Rights13.
3. Cynthia Soohoo and Farah Diaz-Tello "Torture and Ill-Treatment: Forced Sterilization and Criminalization of Self-Induced Abortion" in Gender Perspectives on Torture: Law and Practice (Center for Human Rights and Humanitarian Law Anti-Torture Initiative 2018). Available at SSRN: <https://ssrn.com/abstract=3148826>

**Wk 10 - November 7: Euthanasia/Medically Assisted Death**

1. Benny Chan & Margaret Somerville, "Converting The 'Right To Life' To The 'Right To Physician-assisted Suicide And Euthanasia': An Analysis Of Carter V Canada (attorney General), Supreme Court Of Canada" (2016) 24:2 Med. Law Rev 143.
2. Golan Luzon, "The Practice of Euthanasia and Assisted Suicide Meets the Concept of Legalization" (2015) Crim. L Phil 1.
3. Suzanne Out, Euthanasia and the Defence of Necessity: Advocating a More Appropriate Legal Response, in Charles A. Erin and Suzanne Out, eds, *The Criminal Justice System and Healthcare* (London, UK: Oxford University Press, 2007) Ch 6.

Access online

Read the SCC's decision in *Carter v. Canada (Attorney General)*, 2015 SCC 5  
<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14637/index.do>

ProCon.Org - Euthanasia & Physician-Assisted Suicide (PAS) around the World. Legal Status in 28 Countries from Australia to Uruguay  
<https://euthanasia.procon.org/view.resource.php?resourceID=000136>



**Wk 11 - November 14: Vulnerable and Marginalized Populations**

1. Priscilla Ferrazzi & Terry Krupa, "Symptoms of Something all Around us": Mental Health, Inuit Culture, and Criminal Justice in Arctic Communities in Nunavut Canada. (2016) 165 Soc Sci Med 159.
2. Janne Csete & Jonathan Cohen, "Health Benefits of Legal Services for Criminalized Populations: the Case of People who use Drugs, Sex Workers and Sexual and Gender Minorities" (2010) 38:4 J. Law Med. Ethics 816.
3. Guy Coffey et al, "The Meaning and Mental Health Consequences of Long-term Immigration Detention for People Seeking Asylum" (2010) 70:2 Soc Sci Med 2070.

**Wk 12 - November 21: The Prison System**

1. Peter Scharff Smith, "The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature" (2006) 34 Crim Justice 441
2. Alexander IF Simpson, Jeffrey J. McMaster & Steven N. Cohen, "Challenges for Canada in Meeting the Needs of Persons with Serious Mental Illness in Prison" (2013) 41:4 J Am Acad Psychiatry Law 501.
3. Ralf Jürgens, Manfred Nowak & Marcus Day, "HIV and Incarceration: Prisons and Detention" (2011) 14:1 J Int AIDS Soc 26.

**Wk 13 - November 28: Sentencing and Mental Disorders**

1. Julian V Roberts & Simon Verdun-Jones, "Directing Traffic at the Crossroads of Criminal Justice and Mental Health: Conditional Sentencing after the Judgment in Knoblauch" (2001) 39 Alta. L. Rev 788.
2. Daniel Ikonov, " The Evolution of Conditional Sentencing and the Potential for Developing a System of Intermediate Sanctions" (2005) 9 Can Crim L Rev 295.
3. James D. Reardon, "Sexual Predators: Mental Illness or Abnormality-A Psychiatrist's Perspective" (1991) 15 U. Puget Sound L. Rev 849.
4. Bethany Lindsay, "B.C Judge strikes down mandatory minimum sentence for sexual interference", CBC (21 March 2018)  
<https://www.cbc.ca/news/canada/british-columbia/b-c-judge-strikes-down-mandatory-minimum-sentence-for-sexual-interference-1.4585155>

**Wk 14 - December 5: Culminating discussions and synthesis: Transforming criminal medical issues.**

1. Steven J. Lamberti & Robert L. Weisman, "Persons with severe mental disorders in the Criminal Justice System: Challenges and Opportunities" (2004) 75:2 *Psychiatr. Q.* 151.

2. Piat Myra & Judith Sabetti "Recovery in Canada: Toward Social Equality (2012)  
24:1 Int Rev Psychiatry 19
3. What We Hear: Transforming Canada's Justice System.  
<http://www.justice.gc.ca/eng/rp-pr/other-autre/tcis-tsjp/p1.html>

**Late Assignment Policy**

Assignments which are submitted after the due date without an agreed extension will be considered late assignments. The penalty on late assignment is a deduction of 5% per day up to a maximum of 10 days, after which time assignments will not be accepted.