COURSE: LAWS 4308 A – Sentencing  
TERM: Fall 2009  
PREREQUISITES: LAWS 4308A  
CLASS: Day & Time: Fridays, 11:35 to 2:25  
Room: Please check with Carleton Central for current room location  
INSTRUCTOR: Professor Diana Young  
CONTACT: Office: Loeb Building, D498  
Office Hrs: Mondays 12:00 to 1:00 p.m., or by appointment  
Telephone: (613) 520-2600 ex. 1981  
Email: Diana_Young@carleton.ca

*Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: http://www.carleton.ca/pmc/students/accom_policy.html. If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by November 16, 2009 for December examinations and March 12, 2010 for April examinations.

For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

The Criminal Justice System carries a heavy burden in our society. The process of sentencing brings this burden into sharp focus. We look to punishment as a means of restoring and maintaining order, articulating society’s values, recognizing the harm caused to victims and reasserting their moral worth, and perhaps affirming our own status as members of the law-abiding public through the creation of a stigmatized criminal class. But we also expect sentences to rehabilitate the offender, by encouraging a sense of personal responsibility for the harm caused by the offence and by attempting to address the underlying problems - addiction, psychological disorders, social location - that may have contributed to its commission.

This course aims to provide students with a grasp of general sentencing theory and principles, the variety of sentencing options that are available to judges and the considerations that may influence sentencing decisions. The material will also cover a discussion of some alternatives to traditional forms of punishment and their potential, if any, for reconciling the often conflicting principles and interests at stake in the sentencing process.

The course will also explore the diffuse nature of the power to punish. Legal doctrine and principle only tell part of the story with respect to sentencing practices, and we will see that a complete discussion of the realities of sentencing must include an examination of a complex web of interactions between the law, the discretionary powers exercised by such actors as police, probation officers and Crown Attorneys, and the influences flowing from other kinds of professionals and various communities in society as a whole. Finally, the course will include consideration of the offender’s actual experience of punishment, particularly imprisonment, over which the sentencing court has limited control.
REQUIRED TEXTS

The required text for this course is Allan Manson, *The Law of Sentencing* (Toronto: Irwin Law, 2001), and a coursepack which will be available at the bookstore. Students should also have a recent edition of the Criminal Code.

Additional material may be distributed in class or posted on WebCT.

EVALUATION

**Take-Home Assignment – 20% of final grade:**
You will be given a brief take-home assignment, for which you will be required to write a response to one out of three questions. The assignment will be distributed in class on November 6 and will be due on November 20. Your response should be 4 to 5 pages in length.

**Essay – 50% of final grade:**
You will be required to submit a research paper dealing with a sentencing issue of your choice. Your essay should be 10-12 pages in length. You will also be asked to submit a very brief outline of your topic to the instructor for approval. This will help to ensure that your proposed topic is feasible and that it will meet the course requirements. The paper will be due on Friday, December 11.

**Group Presentations - 25% of final grade:**
Students will be divided into five groups, each of which will be responsible for presenting a sentencing topic to the rest of the class. Groups may distribute a handout or readings to the class the week prior to the scheduled presentations. The presentations will be 45 minutes to an hour in length, and will be followed by discussion. The rest of the class will be asked to provide brief written feedback on the presentations.

**Class Participation – 5% of final grade**

*Extensions on assignments will only be granted in extenuating circumstances, such as a verifiable medical condition or family emergency. Students requesting extensions will be required to provide appropriate documentation.*

SCHEDULE

<table>
<thead>
<tr>
<th>Sep 11</th>
<th>Introduction to course</th>
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<tbody>
<tr>
<td><strong>Readings:</strong></td>
<td>Course pack - Robert Cover, “Violence and the Word”</td>
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<tr>
<td>a) Why punish?</td>
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<td>- principles of sentencing: idealizing the process</td>
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<td>- idea of punishment</td>
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<td>- stigma as punishment and rehabilitation</td>
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<td>b) Judicial discretion</td>
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<td>- discretion and the rule of law</td>
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<td>- minimum and maximum sentencing</td>
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c) Resource management and the public face of fairness
   - Non-judicial sites of discretion
   i) Plea bargains: private negotiations and public consequences
   ii) defining the offence


a) Sentencing reform
   - legislative attempts to circumscribe judicial discretion and the problem of disparity
   - sentencing principles and purposes
b) Special cases – Unusual motives and political law-breaking

Oct 2 Readings: Text, chapters 7 and 8; Coursepack: Laureen Snider, “Safety Through Punishment?”

a) aggravating and mitigating factors
b) fact-finding
   - the evidentiary basis for discretion
   - the role of experts

Oct 9 University Day – classes cancelled

Oct 16 TBA

Oct 23 Readings: Text - chapters 9 and 12; Coursepack – Nicola Lacey and Lucia Zedner, "Discourses of Community in Criminal Justice; R. v. Latimer

Sentencing Options

a) Sentencing options and the principles of sentencing
b) “Community based” sentencing
   - Decreasing the prison population
   - Conditional sentences
   - Communities and the criminal justice system – policy and commitment
c) Appeals from sentence
   - disparity and deference
d) Charter issues in sentencing
   - the rule of law and justice


a) Prison
   - Corrections and the legitimacy of sentencing – “Violence and the Word” and the prison experience
   - Parole as imprisonment – means of surveillance
Nov 6  

a) Aboriginal people and the criminal justice system  
   - Problems in equality and the rule of law  
   - Sentencing as a means of addressing discrimination and discrimination in sentencing

**Take-home assignment distributed**

Nov 13  
**Readings:** *Text, chapter 13; Coursepack: Murder Victims’ Families for Reconciliation, “Dignity Denied: The Experience of Murder Victims’ Family Members who Oppose the Death Penalty”; Rob White, “Restorative Justice and Social Inequality”*

a) Sentencing and the Role of Victims  
b) Restorative justice  
   - Some restorative justice initiatives – what are we restoring?  
   - Community based sentencing revisited – Who are victims and what do we mean by “community”?

***Presentation Group 1 distributes readings in class***

Nov 20  
**Readings:** Bryan R. Hogeveen, "Unsettling Youth Justice and Cultural Norms: The Youth Restorative Action Project”

a) More on Restorative Justice  
   - Other sentencing alternatives: Family Group Conferences and Victim-Offender Mediation  
   - Sentencing circles and Aboriginal justice – self-determination and the criminal justice system’s conception of Aboriginal culture

**Group Presentation:** Group 1 – Drug Treatment Courts

**Take-home assignment due**

***Presentation Groups 2 and 3 distribute readings in class***

Nov 27  
**Group Presentations:** Group 2 – Dangerous Offenders  
Group 3 – Post-sentence surveillance of sex offenders: Offender Registration programs, Criminal Code s. 810.1

***Presentation Groups 4 and 5 distribute readings in class***

Dec 4  
**Group Presentations:** Group 4 – Mentally Ill Offenders  
Group 5 – Sentencing Youth