

Course Outline

COURSE:	LAWS 4504A - Aboriginal Criminal Justice
TERM:	Winter 2019
PREREQUISITES:	Fourth year standing; Laws 2301, Laws 2302
CLASS:	Day & Time: Tuesdays, 8:35-11:25 Room: Please check Carleton Central for current room location
INSTRUCTOR:	Jane Dickson, PhD (Law)
CONTACT:	Office: D592 Loeb Building Office Hrs: Thursdays, 9:30am - 10:30am or by appointment only Telephone: 613-520-2600, ex.3686 Email: Jane.Dickson@carleton.ca

COURSE DESCRIPTION

This course explores the relationship between Indigenous peoples in Canada and the criminal justice system, turning a critical lens on the causes and consequences of Indigenous offending, over-representation and over-incarceration. Policy approaches aimed at ameliorating the latter and repairing the relationship between Indigenous people, the state and its coercive apparatus are critiqued.

REQUIRED TEXTS

All required readings in this course are available electronically.

EVALUATION

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

There are four evaluation components in this course:

I. Research Presentation: 20% (10% presentation; 10% short paper)

Each week, 2 students will be required to locate 1-2 recent, good quality research articles or reports which are directly relevant to the subject covered in that day's seminar. The presenters will be required to facilitate discussion by presenting a critical summary of the article(s) or report(s) and contextualize those studies within the assigned readings for the week. The short presentations (20 minutes) will be based on a 4-5 page paper that will be submitted to the instructor in class on the date of the presentation.

II. Ottawa Indigenous Peoples Court Report: 20%

Students are asked to attend and observe a session of the OIPC in week 6 of the term, and to compose a brief paper (4-5 pages) discussing their observations and impressions of the IPC informed by their observations, discussions in the course to date and, ideally, comparing processes in the IPC with a standard provincial court and its processes. This paper is due March 1, 2019 by 4:30 p.m. via Culearn.

Participation: 20%

This course requires students to engage with the material and to demonstrate that engagement through participation in class discussions. Please note that weekly attendance at class will account for up to 10% of the participation grade; the balance of the participation grade will be determined by the quantity and quality of contributions to class discussions and debates.

III. Final Examination: 40%

A final examination consisting of short answer and essay questions will be held following completion of the course.

Please Note: Failure to complete any aspect of the course requirements will result in a grade of 'F' for this course. 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.

CLASS SCHEDULE AND READINGS**Week 1: Course Introduction****Week 2: Framing the Context of Indigenous Criminal Justice: History, Colonization and Trauma****Readings:**

- Maria Yellowhorse Braveheart, Josephine Chase, Jennifer Elkins & Deborah Altshul, 'Historical Trauma Among the Indigenous Peoples of the Americas: Concepts, Research, and Clinical Considerations', 43(4) *Journal of Psychoactive Drugs* (2011):282-290.
- Les B. Whitlock, Gary W. Adams, Dan R Hoyt & Xiaojin Chen (2004) Conceptualizing and Measuring Historical Trauma Among American Indian People. *American Journal of Community Psychology*, 33(3/4) 119-130.
- Amy Bombay, Kim Matheson & Hymie Anisman, 'The Intergenerational effects of Indian Residential Schools: Implications for the concept of historical trauma', 51(3) *Transcultural Psychiatry* (2014):320-338.

Week 3: The impacts of Trauma: Offending Patterns and Over-Representation**Readings:**

- Statistics Canada, 'Victimization of Aboriginal People in Canada, 2014, *The Daily*, Tuesday, June 28, 2016.
- Harold R. Johnson, "Four Models", in *How Alcohol is Killing My People (And Yours)*, University of Regina Press, 2016, pp.33-55.
- Julian V. Roberts and Andrew Reid, Aboriginal Incarceration in Canada since 1978: Every Picture Tells the Same Story, 59(3) *Canadian Journal of Criminology and Criminal Justice* (2017):313-345.

Week 4: The Role of the System: Policing**Readings:**

- Nicholas Jones, Rick Ruddell, Robe Nestor, Kaitlan Quinn & Breeann Phillips, 'First Nations Policing in Canada: Issues and Challenges', and 'Policing Arrangements', in Jones et al, *First Nations Policing: A Review of the Literature*, University of Regina: Collaborative Centre for Justice and Safety, 2010: 49-65.
- Amanda Nettelbeck & Russell Smandych, 'Policing Indigenous People on Two Colonial Frontiers: Australia's Mounted Police and Canada's Northwest Mounted Police', 43 *Australian and New Zealand Journal of Criminology* (2010):356-375.
- Savvas Lithopoulos & Rick Ruddell, 'Policing isolated Aboriginal communities: perspectives of Canadian officers', 34(3) *Policing: An International Journal of Police Strategies & Management* (2010):434-453.

Week 5: Indigenous People and the Courts**Readings:**

- Samantha Jeffries & Phillip Stenning, 'Sentencing Aboriginal Offenders: Law, Policy and Practice in Three Countries', *Canadian Journal of Criminology and Criminal Justice* July (2014):447-494.
- Don Weatherburn, Jackie Fitzgerald & Jiuzhao Hua, 'Reducing Aboriginal Over-representation in Prison', *Australian Journal of Public Administration* 62(3), (2003):65-73.
- Shelley Johnson, 'Developing First Nations Courts in Canada: Elders as Foundational to Indigenous Therapeutic Jurisprudence', *Journal of Indigenous Social Development* 3(2) (2014):1-14.

Week 6: 'Indigenizing Justice': The Ottawa Indigenous Peoples Court

Instead of our usual class this week, you are asked to attend and observe a session of the Ottawa Indigenous Peoples Court. The Court sits on Mondays in Courtroom 7 at 2 p.m., and on Wednesdays in Courtroom 8 at 2 p.m., at the main Ottawa Court House at 161 Elgin Street. You may attend either session. Please take note of the alterations to the usual court process (if any), and reflect on how these courts function differently (if at all) from standard courts (you are welcome to sit in on a regular court session as well, if you are concerned you lack the knowledge to make comparisons). We will be sharing your observations and thoughts about this court in our next class.

Week 7: Reading Week – No Class**Week 8: Indigenous People, Social Context Evidence and Gladue****Readings:**

- R. v. Gladue, [1999] 1 SCR 948
- R. v. Ipeelee, [2012] 1 S.C.R. 433.
- Samantha Jeffries & Christine E.W. Bond, 'The impact of Indigenous Status on Adult Sentencing: A Review of the Statistical Research Literature from the United States, Canada, and Australia', *Journal of Ethnicity in Criminal Justice* 10 (2012):223-243.
- Kelly Hannah-Moffat & Paula Maurutto, 'Re-Contextualizing pre-sentence reports: Risk and race', *Punishment and Society* 12(3) (2010):262-286.

Week 9: The Experience of Incarceration by Indigenous Offenders**Readings:**

- Julian V. Roberts & Ronald Melchers, 'The Incarceration of Aboriginal offenders: Trends from 1978-2001', *Canadian Journal of Criminology and Criminal Justice* April 2003:211-242.
- Rick Ruddell & Shannon Gottschall, 'The prison adjustment of Aboriginal offenders', *Australia and New Zealand Journal of Criminology* 47(30) (2014):336-354.
- Jason Demers, 'Warehousing Prisoners in Saskatchewan: A Public Health Approach' (Regina: Canadian Centre for Policy Alternatives, 2014).

Week 10: Coming Home: Parole, Aftercare and Reintegration of Indigenous Offenders**Readings:**

- Jason D. Brown, 'Managing the Transition from Institution to Community: A Canadian Parole Officer Perspective on the Needs of Newly Released Federal Offenders', *Western Criminology Review* 5(2) (2004):97-107.
- Matthew Willis, 'Reintegration of Indigenous prisoners: key findings', Australian Institute of Criminology, *Trends and Issues in Crime and Criminal Justice*, August 2008.
- Wai-Yin Wan, Suzanne Poynton & Don Weatherburn, 'Does parole supervision reduce the risk of re-offending?' *Australia and New Zealand Journal of Criminology* 49(4) (2016):497-511.

Week 11: Returning to the Teachings? Restorative Justice and Indigenous Justice Reform**Readings:**

- Meagan Berlin, 'Restorative Justice Practices for Aboriginal Offenders: Developing an Expectation-Led Definition for Reform', 21(3) *Appeal* (2016):3-20.
- William R. Wood, 'Why Restorative Justice will not Reduce Incarceration' 55 *British Journal of Criminology* (2015):883-900.
- Ann-Claire Larsen & Peter Milnes, 'A Cautionary Note on Therapeutic Jurisprudence for Aboriginal Offenders', *Murdoch University Electronic Journal of Law* 18 (2011):1-27.

Week 12: Circles**Readings:**

- Mary Crnkovich, 'The role of the victim in the criminal justice system: Circle sentencing in Inuit communities, paper presented at the Canadian Institute for the Administration of Justice Conference, Banff, Alberta, November 1995. Online at <http://www.casac.ca/content/role-victim-criminal-justice-system-circle-sentencing-inuit-communities-0>
- Jacqueline Fitzgerald, 'Does circle sentencing reduce Aboriginal offending?' *Crime and Justice Bulletin* No.115, May 2008.
- Native Counselling Services of Alberta, A Cost-Benefit Analysis of Hollow Water's Community Holistic Circle Healing Process. Aboriginal Healing Foundation, 2001. <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/cst-bnft-hllw-wtr/index-en.aspx>

Week 13: The Future of Indigenous Justice Reform**Readings:**

- Fiona Alison & Chris Cunneen, 'The role of Indigenous justice agreements in improving legal and social outcomes for Indigenous people', 32 *Sydney Law Review* (2010):645-669.
- Rob White, 'Communities, conferences and restorative social justice', 3(20) *Criminal Justice* (2002):139-160.

ACADEMIC ACCOMMODATIONS

The instructor recognizes that students may on occasion require accommodations to meet course requirements. In this course, requests for course accommodations must be made to the instructor by email within the first two weeks of the term, or as soon as possible after the need for accommodation is known to exist. Email requests must be clear about the accommodation sought and must contain relevant documentation supporting the request. Please note that the determination of requests for accommodation are at the discretion of the instructor, subject to formal university policies regarding accommodations. Barring exceptional circumstances (i.e., an unanticipated or unforeseeable accident or injury), requests for accommodations that are not submitted in a timely manner will not be considered. Please consult the Equity Services website at <http://carleton.ca/equity/> to view the policies and to obtain more detailed information on academic accommodation.

ACADEMIC INTEGRITY**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/>