

Course Outline

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| <b>COURSE:</b>        | <b>LAWS 4504B - Indigenous Criminal Justice</b>   |
| <b>TERM:</b>          | <b>Winter 2021</b>  |
| <b>PREREQUISITES:</b> | <b><u>LAWS 2908</u>, <u>CRCJ 3001</u> or <u>CRCJ 3002</u> and <u>LAWS 2301</u>, <u>LAWS 2302</u> and fourth-year Honours standing</b>   |
| <b>CLASS:</b>         | <b>Tuesdays 6:05 pm-7:05 pm, Eastern Standard Time</b>  |
| <b>ROOM:</b>          | <b><i>This is an online, blended course. One live/synchronous seminar hour will take place via Zoom each week, and the asynchronous portion of the course will be available on cuLearn.</i></b>   |
| <b>INSTRUCTOR:</b>    | <b>Jo-Anne Lawless, BA, Contemporary Studies (Option in Indigenous Studies); MA, Cultural Analysis and Social Theory; PhD candidate in Law and Legal Studies</b>  |
| <b>CONTACT:</b>       | <b>Office Online, via Zoom, by appointment. **As soon as possible, please<br/>Hours: email the professor to arrange for a five-minute introductory Zoom meeting with her on <b>Tuesday, January 12, 2021</b> anytime between 9 am and 3 pm EST<br/><br/>Email: <a href="mailto:joanne.lawless@carleton.ca">joanne.lawless@carleton.ca</a></b> |

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**CALENDAR COURSE DESCRIPTION**

Indigenous peoples and the administration of Canadian criminal justice including policing, courts, corrections, and aftercare. Content and effects of past and present policies, processes, and laws. Alternatives such as self-government and self-determination; potential approaches to an appropriate justice system for Indigenous peoples.

**COURSE DESCRIPTION**

This blended (synchronous and asynchronous) course critically explores the relationship between Indigenous peoples in Canada and the criminal justice system. We consider the causes and ramifications of offending amongst the Indigenous population, and their over-representation in a western-based system. The course offers a critique of policy approaches aimed at ameliorating the effects of over-incarceration and repairing the relationship between Indigenous peoples and the state, as well as an examination of the Crown's coercive apparatus.

**Lectures/Seminars:** Students will be expected to attend a one-hour synchronous weekly seminar, using Zoom, at 6:05 pm EST on Tuesdays. An additional online asynchronous lecture will be posted weekly on cuLearn.

By the end of the course, students will be expected to:

- Demonstrate an understanding of the ways in which colonization has affected the Indigenous experience in Canada's criminal justice system;
- Illustrate their comprehension of how Canada's current criminal justice regime exists in a changing, post-colonial, and social context and be able to critically analyze how that context affects the operation of criminal justice law in relation to Indigenous populations;
- Identify and explain other avenues to address criminal offending with reference to historical approaches in Canada and current restorative justice processes; and
- Critically analyze the efficacy of western-based criminal justice systems in light of the intergenerational trauma experienced by First Nations, Metis, and Inuit people.

### **REQUIRED TEXTS**

All required reading will be **available online**, using the ARES link on cuLearn. No textbook is required.

### **WEBSITE**

Course information, ARES links to the weekly readings, links to the asynchronous lecture, summary slides, updates, and other important materials will be posted on the course website **on cuLearn**. Links to attend the weekly synchronous lecture (that is, our one-hour face-to-face Tuesday seminar) using **Zoom** will also be available on cuLearn, along with any announcements and grades. Students are strongly encouraged to *regularly check* the website, along with their Carleton email. Visit <https://culearn.carleton.ca>, and log in using the same username and password that you use for your email or Connect accounts. You must be registered in LAWS 4504 B to access the course cuLearn website.

### **EXTENSION POLICY**

The granting of extensions is determined by the instructor who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

**Extensions for longer than 7 days will normally not be granted.** In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

## **EVALUATION**

Evaluation will be based on the following five elements:

- Attendance and participation in weekly one-hour seminar: **10%**
- In-class presentation: **20%**
- Annotated bibliography: **15% (Due Monday, February 22nd)**
- Weekly blog entry: **20%**
- Research Essay **35%** (Due **Monday, March 29th**)

**Attendance and Participation in Lecture:** worth **10%** of final course grade. As there is no final exam in this course, our focus will lie in close engagement with weekly readings, the online asynchronous lecture, and with your colleagues' presentations. *Participation in the weekly live seminar is expected and encouraged* in order for you to fully understand course concepts which will be incorporated into your weekly blog posts, in-class presentations, and the final research essay.

**In-Class Presentation:** worth **20%** of the final grade. Each week, one or two pairs of students will be required, separately, to **locate and report on one or two recent, good-quality research articles or reports** which are *directly relevant* to the subject covered in that day's seminar. Students will be required to facilitate discussion by **presenting a critical summary of the article or report** and *contextualize those studies* within the assigned readings for the week (**10%**). The short presentations (**20 minutes**), given during the seminar, will be based on a **4 to 5-page paper** you write on the topic (**10%**) that will be submitted *on the date of the in-class presentation*. **Topics will be chosen during our five-minute introductory Zoom calls on January 12th.**

**Weekly Blog Entry:** worth **20%** of the final course grade. Students will create a **250-word blog entry** on cuLearn, synthesizing the main elements of **the two readings for the week and the online asynchronous lecture**. **Six of eight blog posts** in total are required. Blog posts must be submitted no later than the day before the seminar which addresses the topic (ie: Monday by midnight, EST) to receive a mark.

**Annotated Bibliography:** worth **15%** of the final grade. In preparation for your final research paper, you will present an annotated bibliography of your chosen sources, due by midnight on Monday, **February 22nd, 2021**. The annotated bibliography will include **at least twelve (12) sources**. The sources you choose **must include** legal cases, scholarly sources such as peer-reviewed journal articles, books (or book chapters), at least *two* of the assigned course readings, and up to two credible online sources. In addition, up to three sources from Indigenous communities or organizations will also be accepted.

**The Research Essay:** worth **35%** of the final grade. The essay will be written on a topic of your choosing, and will incorporate themes from the course. The paper will be **15-18 double-spaced pages long**; no more, no less, *not* including cover page, footnotes, and bibliography, and must be written in

Times New Roman 12-point font. The Law and Legal Studies research librarian will speak to the class on January 26th to provide guidance on conducting research and on citing sources in McGill format.

The research essay will **be due by 4:30 pm EST, on Monday, March 29th** and will be **submitted online** only (no hard copies) through the LAWS 4504 B cuLearn website. You are strongly advised to save your work regularly in multiple ways, and to retain a copy of all submitted papers. Essays submitted past the due date will incur a **late penalty** of *five percent for each 24-hour period* following the deadline of 4:30 pm on the 29th of March, including weekends. Papers submitted beyond seven days late will be accepted towards course completion but will receive a mark of 0. Suspected incidents of plagiarism will be reported to the Dean's office, pursuant to Carleton University policy.

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.

### **SCHEDULE AND READINGS**

**January 12.** Week 1: Course Introduction (synchronous: See Zoom link on cuLearn).

**January 19.** 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.

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.

**January 26.** Week 3: The Impacts of Trauma: Offending Patterns and Over-Representation

#### *Readings:*

Lynn F. Lavalley and Jennifer M. Poole, 'Beyond recovery: Colonization, health and healing for Indigenous people in Canada.' *International Journal of Mental Health and Addiction* 8, no. 2 (2010): 271-281.

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.

**February 2.** Week 4: The Role of the System: Policing*Readings:*

Savvas Lithopoulos. 'International comparison of Indigenous policing models'. Ottawa, ON: Public Safety Canada, 2007.

John Kiedrowski, Nicholas A. Jones, and Rick Ruddell, 'Set up to fail?' An analysis of self-administered Indigenous police services in Canada. 18(6) *Police Practice and Research* (2017): 584-598.

**February 9.** Week 5: Indigenous People and the Courts*Readings:*

Renee Pelletier. 'The nullification of section 718.2 (e): Aggravating Aboriginal over-representation in Canadian prisons.' *Osgoode Hall LJ* 39 (2001): 469.

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.

**February 16.** Week 6 Reading Week – No Class**February 23.** Week 7: 'Indigenizing' Justice

Guest speakers from the Ottawa Gladue Court. In preparation, **please read** *R. v. Gladue*, [1999] 1 SCR 948. \*Note that dates for guest speakers are tentative, and subject to change.

**March 2.** Week 8: Indigenous People, Social Context Evidence and Gladue*Readings:*

*R. v. Ipeelee*, [2012] 1 S.C.R. 433.

Alexandra Hebert, 'Change in Paradigm or Change in Paradox: Gladue Report Practices and Access to Justice.' *Queen's LJ* 43 (2017): 149.

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

Jen MtPleasant, "Gangs" in 'Annihilate. Assimilate. Appropriate. The Systemic Genocide of Indigenous People in "Canada."' Independently published: 257-270.

Jason Demers, 'Warehousing Prisoners in Saskatchewan: A Public Health Approach' (Regina: Canadian Centre for Policy Alternatives, 2014).

**March 16.** Week 10: Coming Home: Parole, Aftercare, and the Re-integration 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.

Wai-Yin Wan, Suzanne Poynton & Don Weatherburn, 'Does parole supervision reduce the risk of reoffending?' *Australia and New Zealand Journal of Criminology* 49(4) (2016):497-511.

**March 23.** 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.

**March 30.** Week 12: The Place of Circles in Indigenous Criminal Justice*Readings:*

Chris Cunneen, "Reviving restorative justice traditions." In *Handbook of restorative justice* (2007): 113-131.

Jennifer Friend, "Gendered Violence in Indigenous Communities: A Restorative Justice Approach." In *Proceedings of the Annual Thompson Rivers University Undergraduate Research and Innovation Conference*, vol. 10, no. 1, p. 9. 2016.

**April 6.** Week 13: The Future of Indigenous Justice Reform*Readings:*

William R. Wood and Masahiro Suzuki, 'Four Challenges in the Future of Restorative Justice.' *Victims & Offenders* 11, no. 1 (2016): 149-172.

David Milward, 'Sweating it out: Facilitating corrections and parole in Canada through Aboriginal spiritual healing.' *Windsor YB Access Just.* 29 (2011): 27.

**April 13:** Week 14: Make-up class for any missed classes.

**Note:** This course includes sessions that use video conferencing platforms, such as Zoom. This raises some important privacy considerations that all students should know. You are **not** required to turn your camera on and may decide to turn it on or off at any time. Our default in this class will be to turn video off and to only use audio when requested. Students are not permitted to take photographs, screenshots, or record other students, TAs, or instructors unless they obtain explicit permission from the professor and all other students well in advance of the session. Classes or sessions will **not** be recorded by the instructor.

### **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 intentionally 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/>