
Course Outline

COURSE:	LAWS 4802A – Criminal Jury Trials
TERM:	FALL 2019
PREREQUISITES:	LAWS 2908, CRCJ 3001 or CRCJ 3002 and LAWS 2301, LAWS 2302 and 4th year Honours standing
CLASS:	Day & Time: Thursdays, 6:05pm – 8:55pm Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Kelly Lauzon
CONTACT:	Office: Room B442 Loeb Building (Contract Instructor’s Office) Office Hrs: By appointment only Email: kellylauzon@cmail.carleton.ca

CALENDAR COURSE DESCRIPTION

Critical analysis of the criminal jury system including its history and context, the role of the judge, jury dynamics and jury composition. Perspectives and roles of the accused, victims, police, defence counsel, Crown attorney, judges, juries, media, politicians and the public.

COURSE DESCRIPTION

This course will critically examine the criminal jury trial system. While we will look at topics such as juror qualification, jury selection, opening and closing addresses, the trial process (including deliberations and the judge’s charge to the jury), many other options for discussion are possible. The direction of this class will be guided largely by class discussions.

General Objectives:

- To introduce and acquaint students with the features of the criminal jury trial in Canada.
- To become familiar with the structure of a criminal jury trial.
- To examine the role played by many of the actors in the criminal jury trial in Canada (ex: jurors, Crown, defense attorney, expert witnesses).
- To identify some of the difficulties that may present themselves to actors within the criminal jury system.
- To critically look at and engage with the course material to gain a deeper appreciation of this area of the criminal justice system.

- To collaborate with others in order to produce an effective working relationship in order to achieve goals.

REQUIRED TEXTS

The assigned readings for each week are listed in the lecture schedule below. These readings will be available via cuLearn. In addition to these readings, the following list of supplementary texts may prove beneficial when preparing your presentations. They are available in our library.

Students are also encouraged to follow media reports on current issues dealing with jury trials so that they can be better prepared to participate in class discussions.

SUPPLEMENTARY TEXTS

Abramson, Jeffrey B., *We, the Jury* (NY: Basic Books, 1994).

Bornstein, Brian H. and Edie Greene, *The Jury Under Fire: Myth, Controversy, and Reform* (Oxford: Oxford Scholarship Online, 2017), online
<http://www.oxfordscholarship.com.proxy.library.carleton.ca/view/10.1093/acprof:oso/9780190201340.001.0001/acprof-9780190201340>.

Conrad, Clay S. *Jury nullification: The evolution of a doctrine*. Cato Institute, 2013.

Delisle, R. J. and Don Stuart, *Learning Canadian criminal procedure* (Toronto: Carswell, 2000).

Finkel, Norman J., *Commonsense justice: jurors' notions of the law* (Cambridge: Harvard UP, 1995).

Granger, Christopher, Louise Charron and Paul Chumak, *Canadian criminal jury trials* (Toronto: Carswell, 1989).

Hans, Valerie P and Neil Vidmar, *Judging the Jury* (NY: Plenum, 1986).

Hastie, Reid, Steven D. Penrod, and Nancy Pennington, *Inside the Jury* (Cambridge: Harvard UP, 1983)

Kassin, Saul M., and Lawrence S. Wrightsman. *The American jury on trial: Psychological perspectives*. Taylor & Francis, 1988.

Ogloff, James R. P., *Taking psychology and law into the twenty-first century* (NY: Kluwer Academic, 2002).

Saks, Michael J and Barbara A. Spellman, *The psychological foundations of evidence law* (NY: NYUP, 2016).

Shapiro, Barbara J., *"Beyond reasonable doubt" and "probable cause": Historical perspectives on the Anglo-American law of evidence*. Univ of California Press, 1991.

Stuart, Don, Tim Quigley, R. J. Delisle, *Learning Canadian criminal procedure* (Toronto: Carswell, 2010).

Tanovich, David M, David M. Paciocco, and Steven Skurka, *Jury selection in criminal trials: skills, science and the law* (Concord: Irwin, 1997).

Williams, Kipling D and Neil Brewer, *Psychology and law: an empirical perspective* (NY: Guilford, 2005).

Wrightsmann, Lawrence S., Saul M. Kassin, and Cynthia E. Willis, eds. *In the jury box: Controversies in the courtroom*. Newbury Park, CA: Sage, 1987.

EVALUATION

(All components must be completed in order to get a passing grade – this includes the attendance and participation components)

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 **printed** copy of all assignments are **due at the beginning of class**. **Do not** submit your assignment via email (except where otherwise stated below). Any assignments submitted after the beginning of class will be marked as late. If you cannot submit your assignment at the beginning of class, you must submit it to the main office in the Department of Law and Legal Studies (4th floor Loeb Building) via the Drop Box by 4pm to get the same day date-stamp. Assignments will not be accepted any later than seven days past their due date without prior instructor approval for an official extension.

Extensions

Consistent with Legal Studies policy, extensions are only granted under verifiable exceptional circumstances. This generally means a death in your immediate family or personal illness. Personal illness requires a certificate from a doctor. To guarantee fairness to all students, this policy is strictly enforced. **Unless you have been granted an extension, one letter grade will be deducted for each calendar day (including weekends and holidays) that your submission is late.**

1. Attendance and Contribution to Discussion (20%)

- This class will focus strongly on discussion. You are expected to come to class prepared to discuss the readings and the course material.
- Class attendance will only account for 10% of your grade. You need to be prepared to contribute to the class discussions to earn the additional 10%.
- Students are expected to sign in at the beginning of each class. Attendance grades will not be given retroactively.

2. Student-led Presentation & Handout (35%)

- Presentations begin the fifth week of class (**October 3**) and will continue throughout the term.
- You can sign up for your week/topic/partner in class or by emailing me. Topics will be assigned on a first come-first served basis. The list of presentations will be posted on cuLearn.
 - It is your responsibility to attend the class that you have signed up for; there will not be a chance to reschedule.
 - If you haven't signed up by the third week of class, I will assign your topic (and partner).
- Groups of two or three students will be required to present their chosen topic to the class.
 - Although the presentation will be prepared and presented in pairs, you will be marked individually. This means that you may receive a different grade than your partner.
- Presentations are expected to last approximately 35-45 minutes (including discussion) and should provide an overview of the topic and a critical reflection of these points (Groups of 3 should aim for approx. 60 mins in total).
- You are required to conduct research beyond the assigned readings, and you will be required to circulate at least one reading to the class **the week prior** to your presentation. You will lose marks if it is not circulated at least one week in advance of your presentation.
- You are also required to develop at least 3 questions to guide class discussions. The questions should draw upon the main points of your presentation and foster lively academic debate. The discussion period should last approximately 15 minutes.
- A handout is to be prepared and provided at the beginning of the presentation. This should be submitted to me electronically at least 1 day before your presentation so that it can be shared on cuLearn. You will lose marks if it is not submitted at least 1 day before your presentation.
 - The handout will outline (at least) your main points and your bibliography.
- The presentation and handout will be graded using the following criteria:
 - (a) Demonstration of the students' understanding of the topic (30%)
 - (b) Ability to identify and initiate discussion on critical issues related to the topic (20%)
 - (c) Delivery of presentation (30%)
 - (d) Research and Bibliography (10%)
 - (e) Handout and assigned reading(s) (10%)

3. Peer Evaluation of Presentation (5%)

- Each group of presenters will be assigned a pair of peer evaluators.
- The list of evaluators will be posted on cuLearn.
 - It is your responsibility to attend the class that you are assigned to be an evaluator. There will not be an opportunity to be reassigned to another group.
- Evaluators will provide the student presenters with feedback on 3 main areas:
 - Quality of information imparted
 - Delivery of the presentation
 - The handout (layout, information included, etc)
- Evaluators will not assign a grade to the presenters, only comments.
- The peer evaluators will be graded on the submission of the feedback provided to their peers.

4. Court House Visit (10%)

- To be completed and submitted by our last scheduled class (**December 5**).
- Be mindful of security rules (same as airport – ex: no liquids, knives, backpacks checked, etc.) and judge's rules (ex: no cell phones in court, no talking, no eating, etc.).
- Assignment details – Plan a visit to the Ottawa courthouse and complete the following:
 - Take a selfie outside the court house/room as proof of attendance
 - Identify the date, time, court room, docket, case number and number of rooms attended (information that can further validate your attendance)
 - Write 2-3 pages of observations and impressions resulting from your attendance at the court house (e.g. identify different role players, traditions/customs, appearance of accused/cops/witnesses/jurors, what surprised you most, etc.)
 - Submit electronically to kellylauzon@cmail.carleton.ca
 - Be sure to include a title page that outlines
 - Your name
 - Your student number
 - The course number
 - The date of submission

5. Take-Home Exam (30%)

- Instructions and information will be provided during our last scheduled class (**December 5**).
 - This information will also be posted on cuLearn the following day (December 6).
- Responses are due by **4pm on DECEMBER 21**. Anything received after 4pm will be stamped with the next day's date (ie: it will be late).
- Responses are to be submitted via the Department of Law and Legal Studies drop box. Emailed submissions will **not** be accepted.

STATEMENT ON INTELLECTUAL PROPERTY

Student or professor materials created for this course (including presentations and posted notes, labs, case studies, assignments and exams) remain the intellectual property of the author(s). They are intended for personal use and may not be reproduced or redistributed without prior written consent of the author(s).

cuLEARN

I will use cuLearn when I need to send important messages and/or announcements to the class. Keep in mind that you are responsible for being aware of all announcements that may be presented during lectures and through cuLearn, whether or not you attend class. In case of absence, you should arrange with another student to inform you of any announcements.

SCHEDULE

Week	Date	Material
1	Sept 5	Introduction to the Course <ul style="list-style-type: none"> Review Syllabus Brief Introduction & History
2	Sept 12	Right to a Fair Jury Trial <ul style="list-style-type: none"> Vidmar, Neil. "Pretrial prejudice in Canada: A comparative perspective on the criminal jury." <i>Judicature</i> 79 (1995): 249. Schuller, Regina, and Neil Vidmar. "The Canadian criminal jury." <i>Chi.-Kent L. Rev.</i> 86 (2011): 497-524 (excerpt only).
3	Sept 19	Pre-trial Publicity, Prejudices and Remedies (ex: change of venue, continuance, etc.) <ul style="list-style-type: none"> Freedman, Jonathan L., and Tara M. Burke. "The effect of pretrial publicity: The Bernardo case." <i>Canadian J. Criminology</i> 38 (1996): 253. Shahani, Vineet R. "Change the motion, not the venue: A critical look at the change of venue motion." <i>Am. Crim. L. Rev.</i> 42 (2005): 93.
4	Sept 26	In-Court Jury Selection Processes <ul style="list-style-type: none"> Rose, V. Gordon, and James RP Ogloff. "Challenge for cause in Canadian criminal jury trials: Legal and psychological perspectives." <i>Crim. LQ</i> 46 (2002): 210-221 + 229-234 (excerpts only). Heinz, Judith. "Peremptory Challenges in Criminal Cases: A Comparison of Regulation in the United States, England, and Canada." <i>Loy. LA Int'l & Comp. LJ</i> 16 (1993): 201-217 + 224-230 + 237-244 (excerpts only).
5	Oct 3	Role and Expectations of the Expert Witness Limits on the Expert Witness, Problems with Expert Witnesses Student Presentations Begin <ul style="list-style-type: none"> Glancy, Graham D., and J. M. Bradford. "The admissibility of expert evidence in Canada." <i>The journal of the American Academy of Psychiatry and the Law</i> 35.3 (2006): 350. Hiss, Jehuda, Maya Freund, and Tzipi Kahana. "The forensic expert witness—An issue of competency." <i>Forensic science international</i> 168.2 (2007): 89. Parrott, Caroline T., et al. "Differences in Expert Witness Knowledge: Do Mock Jurors Notice and Does It Matter?." <i>J Am Acad Psychiatry Law</i> 43 (2015): 69.
6	Oct 10	Influencing the Jury (ex: Race, Graphic Evidence, Sensational Cases, Mr. Big, Eyewitness Testimony) <ul style="list-style-type: none"> Bagby, R. Michael, et al. "Racial prejudice in the Canadian legal system: Juror decisions in a simulated rape trial." <i>Law and Human Behavior</i> 18.3 (1994): 339. Douglas, Kevin S., David R. Lyon, and James R. P. Ogloff. "The Impact of Graphic Photographic Evidence on Mock Jurors' Decisions in a Murder Trial: Probative or Prejudicial?" <i>Law and Human Behavior</i> 21.5 (1997): 485. Maeder, Evelyn M. & Susan Yamamoto, "Attributions in the courtroom: the influence of race, incentive, and witness type on jurors' perceptions of secondary confessions" <i>Psychology, Crime & Law</i>, 23 (2017) 361.

7	Oct 17	Judge's Charge to the Jury Addresses, Deliberations and Verdicts <ul style="list-style-type: none"> • Tanford, J. Alexander. "The Law and Psychology of Jury Instructions." Nebraska L. Rev 69 (1990): 71-101 (excerpt only). • Severance, Laurence J., Edith Greene, and Elizabeth F. Loftus. "Toward criminal jury instructions that jurors can understand." The Journal of Criminal Law and Criminology 75.1 (1984): 198.
	Oct 24	FALL BREAK – NO CLASS
8	Oct 31	Jury Decision Making & Jury Nullification <ul style="list-style-type: none"> • Daftary-Kapur, Tarika, Rafaele Dumas, and Steven D. Penrod. "Jury decision-making biases and methods to counter them." Legal and Criminological Psychology 15.1 (2010): 133. • Horowitz, Irwin A. "Jury Nullification: An Empirical Perspective." N. Ill. U. L. Rev. 28 (2008): 425.
9	Nov 7	When the Jury Gets it Wrong – Wrongful Conviction <ul style="list-style-type: none"> • Kassin, Saul M., and Holly Sukel. "Coerced Confessions and the Jury: An Experimental Test of the 'Harmless Error' Rule." Law and Human Behavior (1997): 27. • Raeder, Myrna S. "See No Evil: Wrongful Convictions and the Prosecutorial Ethics of Offering Testimony by Jailhouse Informants and Dishonest Experts." Fordham L.R. 76 (2007):1413-1426 (excerpt only).
10	Nov 14	When the Jury Gets it Wrong – Wrongful Convictions (con't) & Forensic Science (CSI Effect) Guest Speaker: Jason Gilbert (Criminal Defense Lawyer) <ul style="list-style-type: none"> • Cole, Simon A. "Forensic Science and Wrongful Convictions: From Exposer to Contributor to Corrector." New Eng. L. Rev. 46 (2012): 711. • Podlas, Kimberlianne. "The CSI effect and other forensic fictions." Loy. LA Ent. L. Rev. 27 (2006): 87-106 (excerpt only).
11	Nov 21	Representation of Jury Trials in Film/Media <ul style="list-style-type: none"> • Hambley, Gwenyth E. "Images of the Jury in Popular Culture." Legal Reference Services Q. (1992): 171-190 (excerpt only). • Rafter, Nicole. "American criminal trial films: An overview of their development, 1930–2000." Journal of Law and Society 28.1 (2001): 9.
	Nov 28	NO CLASS – I will be at a conference this week
12	Dec 5	Take Home Exam Assigned Last day to submit Court House Assignment Guest Speaker: James Moretton (former jury member) Influence of Social Media on the Jury <ul style="list-style-type: none"> • St. Eve, Amy J. & Michael A Zuckerman. "Ensuring an Impartial Jury in the Age of Social Media." Duke Law and Technology Review 11 (2012): 2. • Brown, Kristin R. "Somebody Poisoned the Jury Pool: Social Media's Effect on Jury Impartiality." Tex. Wesleyan L. Rev. 19 (2013): 809. • Pearson, Mark. When jurors go 'rogue' on the internet and social media. Available at https://journalaw.com/2013/05/30/when-jurors-go-rogue-on-the-internet-and-social-media

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: <https://carleton.ca/equity/accommodation/academic/students/>

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: <https://carleton.ca/equity/accommodation/academic/students/>

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 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). <https://carleton.ca/pmc/students/accommodations/>

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:

<https://carleton.ca/registrar/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: <https://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: <https://carleton.ca/equity/accommodation/academic/>

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/>