

LAWS 4904 Advanced Legal Topics

Law and the Senses

COURSE:	LAWS 4904 A – Advanced Legal Topics: Law and the Senses
TERM:	Fall 2023
PREREQUISITES:	4th Year Honours Standing
CLASS:	Day & Time: Thursdays 11:35 am – 2:25 pm
	Room: RB 1201
	The course is in-person only and we will use Brightspace for course management
INSTRUCTOR:	Sheryl Hamilton (she/her/hers)
CONTACT:	Office: Richcraft Hall 2306 and Loeb Building 463C
	Office Hrs: by appointment, in person or by Zoom
	Telephone: 613-520-2600 X 1178 and X 1975 (I recommend contacting me by email as I check my phone messages irregularly)
	Email: sheryl.hamilton@carleton.ca

CALENDAR COURSE DESCRIPTION

The topics of this course may vary from year to year and are announced well in advance of the period of registration.

COURSE DESCRIPTION

A landlord brings an eviction proceeding against a tenant because of the smells emanating from their apartment. Police deploy “long range acoustic devices,” colloquially described as sound cannons to control, deter and harm protestors. Recent changes to Canadian trademark legislation permit the taste of a product to be protected as intellectual property. Eye-witness testimony is valued in a sexual assault trial, but what about haptic, sonic or olfactory testimony?

In short, law and the senses intersect in powerful ways that shape how we live, whether we realize it or not. Sensory experience, always translated, becomes evidence in a trial. Excesses of sensation fall afoul of law’s norms and get certain sensing bodies into trouble. Regulatory

systems know and act on their subjects through the embodied experiences of their senses. We experience the law as sensual subjects.

The law is notoriously ocular centric, consistently privileging vision and to a lesser degree sound, while denigrating the 'lower' senses, such as smell, touch, and taste. This course will examine the ways in which law understands and engages with *all* types of sensible experience and how we interact with legal and regulatory systems through our entire sensorium.

COURSE DELIVERY

LAWS 4904 Law and the Senses will be conducted in person. Lectures will not be recorded. If you miss a class, please arrange with a classmate to borrow notes. Powerpoint decks will be posted to the Brightspace portal.

STATEMENT ON USE OF GENERATIVE ARTIFICIAL INTELLIGENCE TOOLS

Any use of generative AI tools (such as ChatGPT and others) to produce assessed content is considered a violation of academic integrity standards. You must author your own work.

REQUIRED TEXTS

All readings are available through the course Brightspace page.

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.

All components except the Introduction Recording must be successfully completed in order to get a passing grade.

If, at any point in the term, you have any questions pertaining to evaluation, please contact me as quickly as possible for clarification.

All written assignments should be submitted in Word, not in pdf format. You can obtain Word for free from the university; I have provided a link to the relevant webpage in the Course Tools Module of the Brightspace Portal.

There will be five major types of evaluation in this class worth the following percentage of your final grade:

1. Introduction Recording: 5%
2. Discussion Participation and Engagement: 20%
3. Readings Annotations: 30%
4. Discussion Prompt: 10%
5. Final Project comprised of the following:
 - Project abstract (pass/fail)
 - Meeting with professor re Abstract 5%
 - Project Proposal 5%
 - Final Project 25%

Introduction Recording

Please make a brief, casual video recording introducing yourself to me and upload it to the Brightspace portal by **SEPTEMBER 14**. Recordings should be three minutes or fewer and should tell me a little bit about who you are, how you're doing, why you are taking this class, and what you would like to get out of it. I would prefer a video recording, but if you are not comfortable with that for any reason, a sound-only recording is fine and will not impact your grade.

Recordings will not be evaluated for quality, production values, lighting, camera work, special effects, etc.. No need to add a soundtrack. If you complete and submit a recording that meets the requirements of the assignment, you will receive full grades. If you submit after the deadline, you will have one further week to submit for ½ marks. If you do not submit by September 21, you will receive 0 points. As it is essentially a “freebie” intended to help me get to know you a bit better at the beginning of the course, there will be no extensions granted.

Discussion Participation and Engagement

This course will operate as a hybrid lecture/seminar course. The seminar component is more self-directed than in earlier years of university and is driven by your engagement with course materials, in particular, the readings. **The expectation is that every week you will have completed all of the readings in a careful manner that enables you to participate in their critical discussion.** You are also expected to participate fully in the two sensory workshops.

You are expected to participate thoughtfully in discussions through posing questions, offering examples, sharing relevant experiences, and critically analyzing the course materials and your own position. Each student will be evaluated on their participation in, and level of engagement with, the issues, content and dynamics of the seminar. This includes having done the assigned readings every week, being prepared to discuss them in an informed manner, making constructive interventions to facilitate the production of group knowledge, and listening to colleagues with attention and respect. Effective participation is more a measure of quality of engagement than quantity alone.

Please respect the start and finish times of class. Attendance is mandatory and absences are

exceptional. Unless your cell phone needs to be on your desk for reasons of an emergency situation, it should be stowed during class time. Laptops should be used for class-relevant purposes only. I recommend using pen and paper in class and to mark up your readings. It is a material technology that acts on your memory and cognition very differently than a keyboard and screen.

We bring our selves and our life experiences into our discussions and some our topics may be intense. This is not always easy, and we will not all agree. We are, however, all expected to work to make the classroom environment a space of respect where everyone feels comfortable sharing their research, their questions, and their views. If, at any time, you are not comfortable in the class, please speak to me as soon as possible so that we can address the situation.

Readings Annotations

Over the term, you are required to *annotate* three of the selected readings. Each Reading Annotation will be scored out of 10 for a total of 30 points. Annotating is a practice that helps you to get maximum value from your readings and helps make it clear what you do and do not understand about a reading so that I can assist you. It allows you to link what you're learning in this class to issues in the world and to your other courses.

Annotations should consist of highlighting key passages and analytic terms, offering comments in the margins about particular passages, providing links to other relevant material, addressing the relationship of arguments in this reading with other relevant course readings, making observations and posing questions, indicating particularly pleasurable or frustrating passages and reflecting upon why you responded in this way, indicating where you are uncertain about something, and noting how you might apply key concepts or arguments to other situations that are being explored by the author.

All readings eligible for annotation are marked in the course outline with an asterisk. All three annotations must be from different weeks' material.

An additional guide will be posted to the Course Tools module of the Brightspace portal. As well, here is a helpful tool for learning how to do annotations:
https://research.ewu.edu/writers_c_read_study_strategies

We will work together to practice an annotation of the Paterson reading in class on **SEPTEMBER 21ST**. Please come prepared having reviewed the annotation guide, the above video, and having read the relevant reading.

If you turn in your Readings Annotations as you complete them (rather than leaving them all until the end of term), the feedback you receive will assist you in improving your subsequent submissions. The final due date for all annotations is **NOVEMBER 23**.

Discussion Prompt

In the early days of class, you will sign up for a discussion prompt. This involves bringing an example to class that will help us get started talking about the issues of that week. It can be a website, a meme, a news article, a photograph, a clip from a film, part of a podcast, a song, etc. It should be a short piece of media content that characterizes, challenges, engages with, exemplifies, points toward, some of the same kinds of issues that we see in the readings. Your Discussion Prompt and that of one of your colleagues will be the launching point of the second half of our class each week when we discuss the readings. Please ensure it is in a format/location that can be easily accessed for presentation to the class.

Final Project

The learning objective behind the final project is to engage in critical thinking about the complex intersection of law and the senses through making or doing. All projects should be grounded in a solid base of research and a bibliography of at least 10 scholarly sources actually incorporated into the Project is required. However, the knowledge you develop will be applied to an artifact or scenario or will be put into a particular form other than the formal essay.

All projects must be approved by me at our October 12 meeting scheduled to provide feedback on your Abstract.

Your final project can include:

- a mock presentation of sensory evidence to a tribunal;
- an evaluation of a technology of sensation used in policing from promotional websites;
- an analysis of the legal atmosphere of a site of law based on sensory methods;
- a sensory reading of a selected legal case;
- an analysis of the ways senses and the law intersect in a popular culture text (film, television series, art project; novel; short story);
- preparing a briefing for an organization involved in sensory legal activism;
- rewriting an already existing judgment in order to take account of the sensory;
- a proposal to the Department of Justice for expanding the concept of witnessing to address a fuller range of sensory experience;
- a board game to teach children about some element of law and the senses;
- a legal-sensory personal journal and critical reflection;
- a pitch for or against substantial similarity in a musical plagiarism case using a range of evidence you generate;
- a public service announcement in a pertinent medium that will draw attention to power dynamics in the informal social regulation of citizens through their senses; or
- anything else you can think of that will meet the learning objectives!

I am happy to have you dream up your own project and would be excited to hear about it and support you working on it.

As you can see, evaluation of the Final Project is scaffolded to help you begin early and work steadily on it over the course of the term. Not only will this improve the quality of the piece, it allows you to receive feedback at regular intervals, and to reduce the stress associated with an end-of-term crunch. The elements of the project are detailed below.

You should select a topic or issue within the area of law and the senses that engages your interests and prepare a project that allows you to explore that. Your final project will take a form appropriate to the project in question

Project abstract – Due **OCTOBER 5**

You should prepare an approx. 300-word Abstract detailing the topic for your final project. This will be graded pass/fail but will allow me to give you early feedback. You should consider what problem of law and the senses you are taking up, what project you have picked, and why. Consider how your project and topic relate to each other. You should have completed some preliminary research into your topic and include a bibliography of at least 2 specific sources relevant to the intellectual issues you are taking up and an additional two sources that are appropriate to the genre/form of project you have selected.

Early Feedback Meeting – By appointment during class time on **OCTOBER 12**

Working from your Abstract, we will have a brief meeting. I will provide you with feedback on your Abstract, your project's strengths and weaknesses, possible pitfalls, and the strength of your research to date. I will make additional suggestions to help you develop your ideas further. We will also set the parameters for the evaluation, specifically length and requirements for your particular project. I will send you a follow-up email summarizing those requirements.

Project Proposal – Due **NOVEMBER 2**

The Project Proposal builds on your abstract providing a more detailed articulation of your project, some contextual and background information, a synopsis of the literature on the topic and how you are engaging with it, your central argument and its points, and how you are rendering those in your chosen project form. You might include discussion of the particular elements of your project and how you are progressing on them. The proposal should be approximately 5 pages (not including bibliography) and should include a bibliography of at least 8 relevant sources.

Final Projects– Due **DECEMBER 8th**

Final projects are due on **December 8th** and should align with the parameters agreed to at our mid-October meeting. They will be evaluated for:

- the creativity demonstrated in embracing the project form;
- the persuasiveness of their arguments and the quality of evidence used;
- the coherence of form and content;

- the quality of the research in which they are anchored;
- the quality of their execution (free from errors, etc.);
- the progress that is demonstrated between the Abstract and Proposal stages until the final product; and
- their overall effectiveness in operating as the type of intervention they purport to be.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

Extensions with respect to the Introduction Video are addressed in that section above. You select the dates for Readings Annotations and they may be submitted at any point over the term. For those reasons, they will not be accepted late. If you do not attend class on the week when you are providing the Discussion Prompt, and do not have a valid reason for your absence, you will receive 0 on that component. All elements of the Final Project are subject to the following late policy. For each day late, the maximum grade possible on the assignment will drop by 1/3 of a letter grade. For example, the maximum grade on the due date is A+; if the project is one day late, the maximum grade possible is an A; the next day, A-, and so on. Keep in mind that this does not mean that the student will receive the maximum possible grade on the assignment.

Please note that assignments being due in other classes is not a valid reason to request an extension for assignments in this class. It is much better to notice such a clustering of deadlines at the beginning of term and approach me (and your other professors) at that time about possibly staggering due dates. As well, keeping up with your assignments over the course of the term helps lighten the workload at the end of term.

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).

Sheryl's informal accommodations

The formal accommodations for which you may be eligible are detailed after the course schedule below. If you have any other needs as a student not addressed or not addressed adequately by existing policies, and that would benefit from an informal accommodation for you to maximize your learning experience (employment, child or elder care, course conflicts, etc.), please speak to me at the beginning of the term so that we can arrange a mutually satisfactory approach to meeting the course requirements and objectives. This includes

examining the due dates for all of your assignments in all of your classes and, in the event of conflict or overload, asking for any modifications to the due dates in this class well in advance of the due date.

ADDITIONAL STUDENT SUPPORT

The Centre for Student Academic Support (CSAS) is a centralized collection of learning support services designed to help students achieve their goals and improve their learning both inside and outside the classroom. CSAS offers academic assistance with course content, academic writing and skills development. Visit CSAS on the 4th floor of MacOdrum Library or online at carleton.ca/csas.

SCHEDULE OF CLASSES AND READINGS

Articles marked with an * are designated for Readings Annotations

September 7 Introduction

September 14 Sensing Law: Foundations in Sensational Jurisprudence

Howes, David and Constance Classen (2013), "The Feel of Justice: Law and the Regulation of Sensation" in *Ways of Sensing: Understanding the Senses in Society*, London: Routledge, pp. 93-122.

Vannini, Phillip, Dennis Waskul and Simon Gottschalk (2014), "The Sensory Order" in *The Senses in Self, Society and Culture: A Sociology of the Senses*, New York and London: Routledge, pp. 126-147.

Paterson, Mark (2018), "The Biopolitics of Sensation, Techniques of Quantification, and the Production of a 'New' Sensorium" in *Resilience: A Journal of the Environmental Humanities* 5(3): 67-95.

Introduction recording due

September 21 Sensologies: Ways of Sensory Knowing

*Mason, Jennifer and Katherine Davies (2009), "Coming to Our Senses? A Critical Approach to Sensory Methodology" in *Qualitative Research* 9(5): 587-603.

*McClanahan, Bill and Nigel South (2020), "'All Knowledge Begins with the Senses': Towards a Sensory Criminology" in *British Journal of Criminology* 60: 3-23.

Culhane, Dara (2017), "Sensing" in *A Different Kind of Ethnography: Imaginative Practices and Creative Methodologies* (D. Elliott and D. Culhane, eds.), Toronto: University of Toronto Press, pp.

45-68.

In-class practice annotation

September 28 Law's Vision(s) and Ocularcentrism

*Feigenson, Neal (2014), "The Visual in Law: Some Problems for Legal Theory" in *Law, Culture and the Humanities* 10(1): 13–23.

*Torresi, Ira (2014), "The Photographic Image: Truth or Sign?" in *Law, Culture and Visual Studies* (A. Wagner and R. Sherwin, eds.), Springer, pp. 125-141.

*Landry, Deborah (2019), "'Stop Calling It Graffiti': The Visual Rhetoric of Contamination, Consumption and Colonization" in *Current Sociology* 67(5): 686-704.

October 5 The Sounds of Law: Listening as Adjudication

*Mopas, Michael and Amelia Curran (2016), "Translating the Sound of Music: Forensic Musicology and Visual Evidence in Music Copyright Infringement Cases" in *Canadian Journal of Law and Society* 31(1): 25–46.

*Mulcahy, Sean (2019), "Silence and Attunement in Legal Performance" in *Canadian Journal of Law and Society* 34(2): 191-207.

*Thompson, Marie (2017), "To soothe or remove? Affect, Revanchism and the Weaponized Use of Classical Music" in *Communication and the Public*, 2(4): 272–283.

Project Abstract due

October 12 Scheduled Project Feedback Meetings with Sheryl

During this week I will meet with each of you to discuss your Project Abstract and provide you with feedback. We will agree to the parameters of your assignment together.

October 19 Seeing Like a Machine: Law, Senses and Technology

*Wilke, Christiane (2019), "High Altitude Legality: Visuality and Jurisdiction in the Adjudication of NATO Air Strikes" in *Canadian Journal of Law and Society* 34(2): 261-280.

*Stevens, Nikki, and Os Keyes (2021), "Seeing Infrastructure: Race, Facial Recognition and the Politics of Data" in *Cultural Studies*: 1–21.

*Aronson, Jay D. (2018), "Computer Vision and Machine Learning for Human Rights

Video Analysis: Case Studies, Possibilities, Concerns, and Limitations” in *Law & Social Inquiry* 43(4): 1188–1209.

October 26 **Fall Break!**

November 2 **Sensory Workshop I**

A mock copyright trial focused on how the law hears music – drawing out issues of forensic acoustics – required materials will be posted to Brightspace page.

Project Proposal due

November 9 **Smells Like Trouble: Scent as Ephemeral Evidence**

*Buhler, Sarah (2017), “Law’s Sense of Smell: Odours and Evictions at the Landlord and Tenant Board” in *Sensing Law* (S.N. Hamilton, D. Majury, D. Moore, N. Sargent & C. Wilke, eds.), London: Routledge, pp. 179-94.

*Hsu, Hsuan L. (2020), “Atmo-Orientalism: Olfactory Racialization and Environmental Health” in *The Smell of Risk: Environmental Disparities and Olfactory Aesthetics*, New York: New York University Press, pp. 113-151.

*Scott, Dayna Nadine (2017), “The Smell of Neglect: A Transcorporeal Feminism for Environmental Justice” in *Sensing Law* (S.N. Hamilton, D. Majury, D. Moore, N. Sargent & C. Wilke, eds.), London: Routledge Glass House, pp. 162-178.

November 16 **Tastes like Money: Sensory IP and Industrial Standards**

*Elliott, Charlene (2019), “Sensorium®: The Splash of Sensory Trademarks” in *Canadian Journal of Law and Society* 34(2): 243-259.

*Roth, Melissa E. (2005-6), “Something Old, Something New, Something Borrowed, Something Blue: A New Tradition in Nontraditional Trademark Registrations” in *Cardozo Law Review* 27: 45+.

*Brighenti Andrea Mubi (2019) “Tasting Wine Making Territories” in *Taste* (Volume 2 of the Law and the Senses Series), University of Westminster Press, pp. 145-174.

November 23 **Sensory Workshop II**

Thinking legal issues through sensory artifacts

Last day to hand in annotations

November 30 Touching Law: Regulating Haptics

*Grabham, Emily (2009), "Shaking Mr. Jones: Law and Touch" in *International Journal of Law in Context* 5(4): 343–353.

Hamilton, Sheryl N. (2017), "Rituals of Intimate Legal Touch: Regulating the End-of-Game Handshake in Pandemic Culture" in *The Senses and Society*, 12(1): 53-68.

*Nyffenegger Nicole (2020), "The Illicit Touch: Theorizing Narratives of Abused Human Skin" in *Touch* (Volume 3 in the Law and the Senses series) University of Westminster Press, pp. 195-234.

December 7 Law's Layered Polysensorium

*McClanahan Bill and Nigel South (2020), " 'All Knowledge Begins with the Senses': Towards a Sensory Criminology" in *British Journal of Criminology* 60: 3-23.

*Chapman, Jessica (2020) "Introducing Audio-Vision into Evidence: The Impact of Audio Recordings and Their Technical Mutations in Police Use of Force Cases" in *The Senses & Society* 15(1): 54–69.

*Ahuja, Neel (2020), "Fluid Pandemic: Disease Surveillance, Phophysical Mobility, and Privatization of Air Space in the Covid-19 Outbreak" in *ISLE: Interdisciplinary Studies in Literature and Environment* 27(4): 779-794.

Final Projects Due December 8

University and Departmental Policies

DEPARTMENT POLICIES AND REGULATIONS

Please review the following webpage to ensure that your practices meet our Department's expectations, particularly regarding standard departmental protocols and academic integrity requirements: <https://carleton.ca/law/student-experience-resources/>.

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/>.

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

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 accommodation regarding a formally-scheduled final exam, you must complete the Pregnancy Accommodation Form that can be found at:

<https://carleton.ca/equity/contact/form-pregnancy-accommodation/>

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, please go to: <https://carleton.ca/equity/focus/discrimination-harassment/religious-spiritual-observances/>

Academic Accommodations for Students with Disabilities

The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity

Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. You can find the Paul Menton Centre online at: <https://carleton.ca/pmc/>

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 to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable).

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 where 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/equity/sexual-assault-support-services>

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. Read more here:

<https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit:

<https://students.carleton.ca/services/accommodation/>.

DIVERSITY STATEMENT

Carleton University supports an inclusive learning environment where diverse communities and perspectives are recognized and respected. Our goal as a community is to always ensure a safe learning environment that welcomes open and honest dialogue. We do not allow any form of discrimination, including but not limited to those based on color, age, race, religion, disability, gender, gender identity, gender expression and sexual orientation. Faculty and students are expected to commit to creating a learning environment that encourages inquiry and self-expression, while also demonstrating diligence in respecting how other students may have different viewpoints than their own.

PRONOUNS

Each of us has the right to be addressed by whichever pronouns, or absence of them, we choose. Please see the <https://carleton.ca/trans/pronouns/> for more information. In the first class, I will be asking folks to introduce themselves. You are welcome to specify your desired pronouns at that time. Everyone in the class is requested to respect any preference specified.

LAND ACKNOWLEDGEMENT

Carleton University acknowledges the location of its campus on the traditional, unceded territories of the Algonquin Anishnabe nation.

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