

## Course Outline

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<b>COURSE:</b>	<b>LAWS/HIST 3305E – Crime and State in History</b>
<b>TERM:</b>	<b>Winter 2022</b>
<b>PREREQUISITES:</b>	<i>For registrants in LAWS 3305:</i> 1.0 credit in LAWS at the 2000 level, or 0.5 credit in LAWS at the 2000 level and 0.5 credit in HIST at the 2000 level <i>For registrants in HIST 3305:</i> A 2000-level history course or third-year standing and 1.0 credit in history
<b>CLASS:</b>	<b>Day &amp; Time: Wednesdays, 6:05 pm – 8:55 pm, IN-PERSON</b>
	<b>Room: <u>Please check with Carleton Central for current room location</u></b>
<b>INSTRUCTOR:</b>	<b>Anita Grace</b>
<b>CONTACT:</b>	<b>Office: Virtual, by appointment</b> <b>Email: <a href="mailto:anita.grace@carleton.ca">anita.grace@carleton.ca</a></b>

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### CALENDAR COURSE DESCRIPTION

The history of the relationship between the criminal law system and society. Changing issues in the criminal law and the nature of institutional responses, covering medieval to early nineteenth-century England and nineteenth to early twentieth-century Canada.

### COURSE DESCRIPTION

Rooted in an understanding of crime as a socio-historical construct, this course will explore the history of criminal justice in Canada. Much of Canada's understanding of and approach to 'crime' is rooted in Britain and France and shaped by colonization. Thus, this class begins with examination of British and French approaches to crime, judgement, and punishment. It then turns to colonial developments of judicial and penal systems in Canada, with particular emphasis on historic trends in positioning certain populations and behaviours as 'criminal'.

Drawing from historical materials and academic texts, key topics in the first part of the course include Canada's adoption of British criminal law, the evolution of policing, the establishment of adversarial criminal courts, and 'reforms' in punishment. The second part of the course will consider how cultural and religious norms, colonizing ideologies, conceptions of the Canadian state informed the criminalization of activities such as drug and alcohol use, vagrancy, and sexual 'immorality'.

**Learning Outcomes**

By the end of the term, you will be able to:

1. Identify key historic influences of Canada's criminal justice system, particularly with regard to the Criminal Code, police, courts, and prisons.
2. Use specific evidence from pre-Confederation materials to analyze historic ideologies and rationalities in the understandings of, and approaches to, crime and criminal behaviour.
3. Demonstrate your ability to do historical analysis of criminal justice institutions and actors.

**REQUIRED TEXTS**

There is no required textbook for this class. Weekly required readings will be accessed through Ares and/or the course Brightspace page. For a list of the readings assigned each week, see the provisional schedule below.

**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.

**Reading Responses**

Weekly

30%

Students are required to submit **SIX** 300- to 500-word written responses to assigned weekly readings. Responses must answer the question provided in Brightspace and reference, at minimum, the two sources provided. They must be submitted electronically through Brightspace by noon on Wednesday of the week for which the readings are assigned. Each response is worth 5% of your final mark. You can choose to submit more than six responses and, if so, your best six marks will be used to calculate your final grade.

**Research Essay Proposal**

March 1

10%

Students are required to complete a major research paper for this course relevant to the criminal justice system in Canada pre-Confederation. Topic suggestions will be provided. In preparation for this assignment, and in order to receive feedback and guidance, students must submit a proposal which will include: 1) topic, 2) research question, and 3) research sources.

**Research Essay**

March 31

30%

Students are required to submit a 3,000 to 4,000-word paper on the topic of their choice, building on their previous proposal. Emphasis will be on applying analytic skills to the subject and situating the topic in its historic context.

**Final exam – Formally scheduled during the exam period**

30%

Closed book format. This exam covers the content of all lectures and required readings from the course. It includes true/false questions, multiple choice questions, and short- and long- answer questions. It must be completed in 3 hours

## **LATE PENALTIES AND REQUESTS FOR EXTENSIONS**

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).

## **EMAIL POLICY**

Students can contact the instructor by email at [anita.grace@carleton.ca](mailto:anita.grace@carleton.ca) with personal questions and issues, such as requests for extensions. You can expect a response within 12-24 hours, not including weekends. General questions about upcoming assignments and exams, as well as course content, should be posted in the Brightspace discussion group and will be responded to there.

## **SCHEDULE**

As per Carleton University guidelines and COVID-19 protocols, the first 3 weeks of classes will be conducted virtually. A combination of asynchronous and synchronous learning tools will be available in Brightspace. As of February 1, lectures will be held in-person and students are expected to attend. Lectures from week 4 onward will not be recorded. Students must submit [vaccination attestation](#) and complete COVID screening before coming to class.

- Jan 12**            **Introduction: Historical context of Canadian criminal justice system – On-line class 7:00 – 8:00 p.m.**  
Medieval roots of crime, judgement, and punishment
- Jan 19**            **Criminal justice up to 18<sup>th</sup> century England and France – On-line class, 7 – 8 pm.**  
Hay, Douglas. 1975. "Property, Authority and the Criminal Law." In *Albion's Fatal Tree: Crime and Society in Eighteenth Century England*, 17-64. London: Penguin Books.  
Langbein, John. 1983. "Albion's Fatal Flaws," *Past and Present* 98: 96-120.
- Jan 26**            **Early modern period - 17<sup>th</sup> century colonization of Canada - On-line class, 7 – 8 pm**  
Dickinson, John A. 1994. "Native Sovereignty and French Justice in Early Canada." In *Essays in the History of Canadian Law: Crime and Criminal Justice in Canadian History*, edited by Susan Lewthwaite, Tina Loo, and Jim Phillips, 17-40. Toronto: University of Toronto Press.  
Atherton, William Henry. 1914. "The New Reinforcement for Montreal, 1659." In *Montreal under the French Régime, 1535-1760*, 152-154. Montreal: The S.J. Clarke Publishing Company.

- Feb 2**            **Criminal justice in 19<sup>th</sup> and early 20<sup>th</sup> century England and France – In-person class, 6:05 – 8:55 pm**  
 Donovan, James. 2010. "Introduction." In *Juries and the Transformation of Criminal Justice in France in the Nineteenth and Twentieth Centuries*, 1-22. Chapel Hill, NC: University of North Carolina Press.  
 Rustigan, Michael. 1980. "A Reinterpretation of Criminal Law Reform in Nineteenth-Century England," *Journal of Criminal Justice* 8: 205-219.
- Feb 9**            **Criminal law and courts in Canada, 19<sup>th</sup> century – In-person class, 6:05 – 8:55 pm**  
 Abbott, Lyman. 1896. *How to Treat the Criminal Classes*. Toronto: Dudley & Burns.  
 Phillips, Jim. 2015. "The Criminal Trial in Nova Scotia, 1749-1815." In *Essays in the History of Canadian Law: In Honour of R.C.B. Risk*, edited by George Blaine Baker and Jim Phillips, 469-511. Toronto: University of Toronto Press.
- Feb 16**           **Evolution of policing in Canada - In-person class, 6:05 – 8:55 pm**  
 Weaver, John. 1995. "Human Agents of Civic Order." In *Crimes, Constables, and Courts: Order and Transgression in a Canadian City, 1816-1970*, 108-146. Montreal & Kingston: McGill-Queen's University Press.  
 NFB Film. 1961. 'The Days of Whiskey Gap.' <https://www.nfb.ca/film/days-of-whiskey-gap/>
- Mar 1              Research essay proposal due
- Mar 2**            **Evolution of punishment and prisons - In-person class, 6:05 – 8:55 pm**  
 Briggs, John et al. 1996. "Punishment." In *Crime and Punishment in England: An Introductory History*, edited by John Briggs, Christopher Harrison, Angus McInnes, and David Vincent, 61-73. London: UCL Press.  
 Boritch, Helen. 1994. "Crime and Punishment in Middlesex County, Ontario, 1871-1920." In *Essays in the History of Canadian Law: Crime and Criminal Justice in Canadian History*, edited by Susan Lewthwaite, Tina Loo, and Jim Phillips, 387-437. Toronto: University of Toronto Press.
- PART TWO: CRIMINALIZATION OF PERSONS AND ACTIVITIES**
- Mar 9**            **Preserving the white colony – outsiders, traitors, and undesirables - In-person class, 6:05 – 8:55 pm**  
 McLaren, John. 2015. "Race and the Criminal Justice System in British Columbia, 1892-1920: Constructing Chinese Crimes." In *Essays in the History of Canadian Law*, edited by George Blaine Baker and Jim Phillips, 398-442. Toronto: University of Toronto Press.  
 Adams, Eric. 2020. "'Equally Applicable to Scotsmen' : Racism, Equality, and Habeas Corpus in the Legal History of Japanese Canadians." In *Landscapes of Injustice*, edited by Jordan Stanger-Ross, 67-100. Montreal: McGill-Queens' University Press.  
 Teillet, Jean. 2019. "The Trial of Louis Riel." In *The North-West is Our Mother*, 363-377. Toronto: HarperCollins Publishers.

- Mar 16**      **Crimes of vice and debauchery - In-person class, 6:05 – 8:55 pm**  
 Mackay, Robin. 2018. "The Beginning of Drug Prohibition in Canada: What's Past is Prologue," *Queen's Quarterly* 125 (4): 530-539.  
 Marquis, Greg. "Vancouver Vice: The Police and the Negotiation of Morality, 1904-1935." In *Essays in the History of Canadian Law: The Legal History of British Columbia and the Yukon*, edited by Hamar Foster and John McLaren, 242-273. Toronto: University of Toronto Press.
- Mar 23**      **Linking poverty and criminality - In-person class, 6:05 – 8:55 pm**  
 Fecteau, Jean-Marie. 1994. "Between the Old Order and Modern Times: Poverty, Criminality, and Power in Quebec, 1791-1840." In *Essays in the History of Canadian Law: Crime and Criminal Justice in Canadian History*, edited by Susan Lewthwaite, Tina Loo, and Jim Phillips, 293-323. Toronto: University of Toronto Press.  
 Phillips, Jim. 2011. "Poverty, Unemployment, and the Administration of the Criminal Law: Vagrancy Laws in Halifax, 1864-1890." In *Essays in the History Canadian Law: Nova Scotia*, 128-162. Toronto: University of Toronto Press.
- Mar 30**      **Taming Indigenous and female sexuality - In-person class, 6:05 – 8:55 pm**  
 Tashchereau, Sir Henri. 190\_?. *The Crime of Prostitution*. Toronto: The Presbyterian Church in Canada, Board of Moral and Social Reform.  
 Barman, Joan. 1998. "Taming Aboriginal Sexuality: Gender, Power, and Race in British Columbia, 1850-1900," *BC Studies* 115-116: 237-266.  
 Smart, Carol. 1992. "Disruptive bodies and unruly sex." In *Regulating Womanhood: Historical Essays on Marriage, Motherhood and Sexuality*, edited by Carol Smart, 7-32. London: Routledge.
- Mar 31**      Research essay due
- Apr 6**      **Review and exam preparation - In-person class, 6:05 – 8:55 pm**  
 Smandych, Russell and Bryan Hogeveen. 1999. "On the Fragmentation of Canadian Criminal Justice History." *Canadian Journal of Criminology and Criminal Justice* 41 (2): 191–203.  
 Girard, Philip, Jim Phillips, and R. Blake Brown. "Law and Legal Institutions on the Eve of Confederation." In *A History of Law in Canada: Beginnings to 1866*, 702-707. Toronto: University of Toronto Press.

<b>Winter 2022 Sessional Dates and University Closures</b>	
<i>Please find a full list of important academic dates on the calendar website: <a href="https://calendar.carleton.ca/academicyear/">https://calendar.carleton.ca/academicyear/</a></i>	
<b>January 5, 2022</b>	University Reopens.
<b>January 10, 2022</b>	Winter term classes begin.
<b>January 31, 2022</b>	Last day for withdrawal from winter term and winter portion of fall/winter courses with full fee adjustment. Withdrawals after this date will result in a permanent notation of WDN on the official transcript.
<b>February 18, 2022</b>	April examination schedule available online.
<b>February 21, 2022</b>	Statutory holiday. University closed.
<b>February 22-25, 2022</b>	Winter break, no classes.
<b>March 29, 2022</b>	Last day for summative tests or examinations, or formative tests or examinations totaling more than 15% of the final grade before the official examination period (see examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar).
<b>April 12, 2022</b>	Winter Term Ends. Last day of fall/winter and winter term classes.
<b>April 13, 2022</b>	No classes or examinations take place.
<b>April 14- 28, 2022</b>	Final examinations in winter term and fall/winter courses may be held. Examinations are normally held all seven days of the week.
<b>April 15, 2022</b>	Statutory holiday. University closed.
<b>April 28, 2022</b>	<b>All take home examinations are due</b> on this day, with the exception of those conforming to the examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar.

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## University and Departmental Policies

### 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/>.

### **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: <https://carleton.ca/law/student-experience-resources/>.

### **COVID-19 PREVENTION MEASURES**

All members of the Carleton community are required to follow COVID-19 prevention measures and all mandatory public health requirements (e.g. wearing a mask, physical distancing, hand hygiene, respiratory and cough etiquette) and [mandatory self-screening](#) prior to coming to campus daily.

If you feel ill or exhibit COVID-19 symptoms while on campus or in class, please leave campus immediately, self-isolate, and complete the mandatory [symptom reporting tool](#). For purposes of contact tracing, attendance will be taken in all classes and labs. Participants can check in using posted QR codes through the cuScreen platform where provided. Students who do not have a smartphone will be required to complete a paper process as indicated on the [COVID-19 website](#).

All members of the Carleton community are required to follow guidelines regarding safe movement and seating on campus (e.g. directional arrows, designated entrances and exits, designated seats that maintain physical distancing). In order to avoid congestion, allow all previous occupants to fully vacate a classroom before entering. No food or drinks are permitted in any classrooms or labs. For the most recent information about Carleton's COVID-19 response and required measures, please see the [University's COVID-19 webpage](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact [covidinfo@carleton.ca](mailto:covidinfo@carleton.ca)

Please note that failure to comply with University policies and mandatory public health requirements, and endangering the safety of others are considered misconduct under the [Student Rights and Responsibilities Policy](#). Failure to comply with Carleton's COVID-19 procedures may lead to supplementary action involving Campus Safety and/or Student Affairs.

### **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.](#)

**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 [click here](#).

**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](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 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 will be provided to students who compete or perform at the national or international level. 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: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

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For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.