

Course Outline

COURSE:	LAWS 3307C – Youth and Criminal Law
TERM:	Winter 2018
PREREQUISITES:	LAWS 2301, LAWS 2302
CLASS:	Day & Time: Wednesdays 6:05–8:55 pm Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Michael S. Purcell, B.A. (Hons.), J.D. Assistant Crown Attorney Ministry of the Attorney General Criminal Law Division
CONTACT:	Office: Upon Request Office Hrs: TBA Telephone: (613) 314-1449 Email: msplitigation@gmail.com

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 more details visit the Equity Services website: <http://carleton.ca/equity/>

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: <http://carleton.ca/equity/>

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. 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*). **Requests made within two weeks will be reviewed on a case-by-case basis.** After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website (www.carleton.ca/pmc) for the deadline to request accommodations for the formally-scheduled exam (*if applicable*).

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://carleton.ca/equity/>

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/>

Student Services: 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

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/>

COURSE DESCRIPTION

This course will explore the *Youth Criminal Justice Act* and introduce students to its history, underlying philosophy and framework. It will also engage students in critical analyses of contemporary issues surrounding youth criminal justice in Canada. This course will be divided into three parts:

First, we will review the policy rationales behind the *YCJA* and the problems that it was intended to address. We will examine its antecedents (such as the *Young Offenders Act* and the *Juvenile Delinquents Act*) to trace and compare the changing philosophies in Canada with respect to youth crime.

Second, we will closely examine the *YCJA*'s provisions and how they differ from those governing adults, as prescribed by the *Criminal Code*. In doing so, we will review the many procedural and evidentiary differences between the *YCJA* and the *Code*, with a particular focus on detention, arrest, police questioning, the provision and use of statements, bail (pre-trial detention), sentencing, and disclosure and retention of records, and privacy.

Third, we will review and analyze past and present controversies surrounding the youth criminal justice system in Canada, such as the tension between punitive and rehabilitative measures, the use of adult sentences, and the proper role and scope of criminal law as a social measure.

Throughout the course, we will be visited by guest speakers who hold special expertise in youth criminal justice. Those speakers and their dates of attendance will be confirmed as the course progresses.

Please note: Any views or opinions expressed during the course are personal to the instructors and do not represent the views or opinions of the Ministry of the Attorney General, Crown Law Criminal, or the Government of Ontario.

REQUIRED TEXTS

There are no required texts for this course. All readings will be posted to CuLearn or hyperlinked several weeks in advance of their respective topic.

You should have a copy of the *Criminal Code*, which you can download or view online (<http://laws-lois.justice.gc.ca/eng/acts/C-46/index.html>) or which you can purchase in the form of an unannotated or annotated Code. If you buy a *Criminal Code*, it will have included in the same book the YCJA, the *Charter of Rights* and other legislation. It is not necessary to buy a *Criminal Code*. However, if you are taking other criminal law courses you will want to have one. Buy one that is a 2017 or 2018 edition.

SUPPLEMENTARY TEXTS

N/A

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.

PARTICIPATION	<p>This course is intended to facilitate and promote critical thinking and the meaningful exchange of ideas. For that to happen, students are expected to complete the assigned readings. Students are encouraged to share their comments and opinions, but they should be relevant to the themes and subject-matter of the course, clearly articulated and substantiated. There is no right or wrong answer or perspective.</p> <p>Attendance will be taken each class. Absences and lateness will result in deductions from your participation grade</p>	20%
YCJA REFORM PAPER	3-4 page paper suggesting one or more changes to the YCJA	30%
FINAL EXAM (TAKE-HOME)	<p>→ Value: 50% of final grade</p> <p>→ Details: Exams will be distributed <u>in-person</u> at the <u>end of class</u> on <u>March 29, 2018</u>.</p> <p>The exam will consist of short-answer and multiple-choice questions.</p> <p>→ Due: Printed, <u>in-person</u> at the <u>beginning of class</u> (6:30 p.m.) on <u>April 4, 2018</u></p>	50%

YCJA REFORM PAPER

→ **Value:** 30% of final grade

→ **Due:** In-person at 6:00 in-class on March 15, 2018 in printed form

→ Papers will not be accepted by email, or at any location other than our classroom on the date referenced immediately above, except with prior approval and in exceptional circumstances

→ **Length:** 3-4 pages ***exclusive of title page. The page count refers to your writing content only

→ **Format:** 12-point Arial font, double-spaced.

Instructions:

You are free to write about any issue related to the *Youth Criminal Justice Act* that interests you, so long as you are proposing to reform one or more aspects of it. The purpose of your paper is to:

- Provide a clear and coherent thesis that is
- Developed using logical arguments, and
- Supported by relevant and reliable sources.

Your paper MUST contain the following, in this order:

- 1) **Thesis statement:** This is the main point or statement of your paper from which all else will flow.

Your thesis statement should not exceed one sentence. It need not be profound, revolutionary or provocative. Rather, it should take a position on an issue or controversy.

- 2) **Framework:** This is how you will advance, prove or support your thesis through relevant arguments.

Your framework is the roadmap of *why* your thesis is correct. It should logically develop your argument that either support your thesis or distinguish the counterpoint(s). Anything contained in your paper that is not relevant to its thesis should be removed.

The arguments in your framework should be clear, pithy and focused. While it is always helpful to have some introductory contextualization of your thesis topic, you can assume that the reader has some familiarity with the subject matter of your paper. Do not waste precious analytical space with "filler".

- 3) **References:** These are the authorities that you will rely on. As this is an undergraduate course, you are not expected to conduct your own studies, clinical or field research to gather data or opinions. Rather, your function is to find articles, reports or studies that have already conducted relevant research and either rely on or distinguish their findings. Your function is also to find existing analyses of the issues you are addressing and either agree, disagree, rely on or distinguish them.

Your paper must contain at least 4 references that relate to or advance your thesis. They **MUST** be properly cited using the Canadian Guide to Uniform Legal Citation (McGill Guide). You may request to use another citation format with prior approval. All of your **sources must be peer-reviewed academic sources, government or institutional reports, or independent studies.**

You must also attach a title page that includes:

- title of your paper
- your name
- student #
- date
- course name,
- instructor name, and
- paper length.

Evaluation: The 30% value of your paper that is applied toward your final grade will be allocated as follows:

Substance (60 points total)		
<i>Thesis & Introduction</i>	15 points	<ul style="list-style-type: none"> - Identifies topic and issue - Clearly states thesis - Provides roadmap/issue - Engages reader
<i>Argument</i>	40 points	<ul style="list-style-type: none"> - Demonstrates clear understanding of subject-matter - Identifies competing interests and perspectives - Advances arguments by referencing or distinguishing other views and perspectives - Relies on academic and other reputable sources to advance position - Engages critically with course material and references - Provides logical, reflective and concise analysis - Avoids repetition and superfluous argument - Does not resort to platitudes or clichés
<i>Conclusion</i>	5 points	<ul style="list-style-type: none"> - Summarizes argument - Leaves reader with clear understanding of issues and conclusion
Form (40 points total)		
<i>Spelling & Grammar</i>	20 points	<ul style="list-style-type: none"> - Sentences are clear, concise and pithy - Spelling and grammar are correct
<i>Overall Format</i>	20 points	<ul style="list-style-type: none"> - Follows instructions - Referencing is properly formatted - Word count is respected - Form of paper does not detract from its substance

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FINAL EXAM

- **Value:** 50% of final grade
- **Details:** Exams will be distributed in-person at the end of class on March 28, 2018.
The exam will consist of a short-answer and multiple-choice questions.
- **Due:** Printed, in-person at the beginning of class (6:30 p.m.) on April 4, 2018

SCHEDULE:

WEEK 1: January 10, 2018

TOPIC: COURSE INTRODUCTION

- Review of course outline, expectations and objectives
- Overview of course themes

WEEK 2: January 17, 2018

TOPIC: THE BASICS – CRIMINAL PROCEDURE AND EVIDENCE IN CANADA

- The *Criminal Code* & case law
- The stages of a criminal prosecution
- The role of the Crown, defence and court
- Types of evidence
- Culpability versus punishment
- The relationship between the *YCJA* & the *Criminal Code*

WEEK 3: January 24, 2018

TOPIC: THE *YOUTH CRIMINAL JUSTICE ACT* – HISTORY, PHILOSOPHY & FRAMEWORK

- The history of youth criminal justice in Canada
- The predecessors: the *Juvenile Delinquents Act* & *Young Offenders Act*
- The rationale and policy behind the *YCJA*
- The preamble & declaration of principles

WEEK 4: January 31, 2018

TOPIC: INVESTIGATING YOUTHS – DETENTION, ARREST & QUESTIONING

- Detention vs. Arrest
- Protections and “enhanced” rights
- The role of parents and guardians
- Statements: persons in authority & duress

WEEK 5: February 7, 2018

TOPIC: BAIL (JUDICIAL INTERIM RELEASE) & ITS CONSEQUENCES

- The YCJA bail regime vs. the *Criminal Code*
- The meaning of detention as a social measure
- “Responsible Person”
- *Sebastien’s Law*

WEEK 6: February 14, 2017

TOPIC: ALTERNATIVE/EXTRA-JUDICIAL MEASURES/SANCTIONS

- Role & Purpose
- Eligibility
- Implications
- The under-representation of Aboriginal youth

February 21, 2018

WINTER BREAK – NO CLASS

February 28, 2018

TOPIC: SENTENCING

- Principles & objectives of youth sentencing
- Framework & available sentences
- Custody eligibility & types of custody
- “Adult” sentences

March 7, 2018

TOPIC: CRIMINAL LAW AS A SOCIAL MEASURE

- The intersection of social services and criminal law
- Special considerations in youth justice court
- The over-representation of Aboriginal youth

March 14, 2018

PAPERS DUE

TOPIC: PRIVACY RIGHTS OF YOUTHS: RECORDS & PUBLICATION BANS

- Youth court records
 - Retention & disclosure limits
 - Publication bans (and lifting them)
 - The role of social media
-

March 21, 2018

TOPIC: CONTEMPORARY ISSUES IN CRIMINAL JUSTICE

- Adult sentences for youth offenders
- The age threshold for criminal responsibility
- Youth offenders, mental health and substance abuse

- Ethical conflicts in an adversarial system
- Recent developments

March 28, 2018

TOPIC: EXAM REVIEW, RETURN OF PAPERS & FINAL EXAM DISTRIBUTION

April 4, 2018

Exam due: Printed @ 6:30 p.m. IN CLASS