

## Course Outline

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<b>COURSE:</b>	<b>Gladue in the Criminal Process - 33855 - LAWS 4306A</b>
<b>TERM:</b>	<b>Fall 2022</b>
<b>PREREQUISITES:</b>	<b>Laws 2908, CRCJ 3001 or CRCJ 3002 and Laws 2301, Laws 2302 and fourth-year Honours standing</b>
<b>CLASS:</b>	<b>Day &amp; Time: Mondays, 2:35-5:25 p.m. Room: Southam Hall 314</b>
<b>INSTRUCTOR:</b>	<b>Dr. Jane Dickson</b>
<b>CONTACT:</b>	<b>Office: D592 Loeb Building  Office Hours: Virtual or in-person office hours will be held by appointment only; please contact the instructor via email to arrange an appointment  Telephone: 613-520-2600, ext. 3686; please note that the best (and often only) way to reach the instructor is via email.  Email: jane.dickson@carleton.ca</b>

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### **CALENDAR COURSE DESCRIPTION**

Selected issues and problems in the area of criminal law.

### **COURSE DESCRIPTION**

This course will provide students with foundational knowledge of the Gladue requirements, their legal, historical and cultural basis and impact on the criminal law process, how the requirements are met at different points in the system with special emphasis on sentencing. Students will be expected to engage critically with the course materials and should come to the course with a solid foundation in criminal procedure and sentencing and the impacts of colonialism on Indigenous peoples within Canada.

### **REQUIRED TEXTS**

All course readings are available online.

**EVALUATION**

There are three formal evaluation components in this course, as follows:

- **Research Summary (25%)**

Students will be asked to locate 5 research articles (exclusive of the assigned course readings) relevant to the seminar topic of the week of their presentation and compile a short, critical review of the research and integrate the articles into the assigned readings. Papers will be no more than 6-8 pages and will briefly summarize the research question, methodology, findings/discussion of each article and close with a critical summary bringing their research together with the assigned readings. Research summaries are due on the date of the presentation of the Research Summary.

- **Presentation of Research Summary (25%)**

Students will present their research summary to the class in a presentation of no less or more than 20 minutes on the date that corresponds with the topic of their summary. Students are **STRONGLY** encouraged to connect with others presenting on their day to ensure there is no overlap of research articles and that each presenter brings distinct content to the seminar.

Please note: Given the enrolment in this course, students who are absent the date of their presentation may not be accommodated with another opportunity to present. If you are unable to attend on your presentation date, please contact the instructor at your earliest opportunity. If you drop the course, please advise the instructor asap so that another student can be offered your presentation date.

- **Observational Report: Ottawa Indigenous Peoples' Court Visit (10%)**

Students will be required to attend and observe the Ottawa IPC on or before the week of November 14 and provide a 2-4 page report specifying the date of attendance, the presiding judge and the student's observations of the IPC process. The report is due November 25th by 4:30 p.m.

- **Participation: (40%)**

Students will be assessed for their contributions to weekly class discussions; those who are not comfortable speaking out in class may request an opportunity to provide written comments and questions that will be due at the end of each class. ***No marks are provided for attendance.***

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.

**LATE PENALTIES AND REQUESTS FOR EXTENSIONS**

Deadlines for submission of assignments are set prior to the start of term and clearly communicated in class and in this course outline. **Students encountering unforeseen and unforeseeable difficulties meeting a deadline should communicate their request for an extension to the instructor via email and within 24 hours or as soon as possible of becoming aware of the need for an extension.** Please note:

- The **penalty for late papers is two marks for each day** elapsing between the due date and the submission of an assignment (including weekend days), subject to the discretion of the TA and/or the professor.
- As a general rule, **extensions will be granted only in extreme circumstances** and must be supported by appropriate, official documentation. Extensions which are not supported with relevant documentation will not, as a rule, be granted; in no cases will an extension be granted for more than 7 days.
- Computer failure, conflicts with work schedule or similar problems do not constitute valid excuses for accommodations of course requirements, deadlines or examination schedules (but if you think you can make a case, go for it).
- Students are reminded that all course requirements must be met in order to pass the course; thus where an assignment is submitted so late that a grade of '0' is inevitable, the assignment must be submitted or the student will be unable to pass the course.

**Grade Appeals: Students who have questions about the grade they receive on an assignment or who wish to challenge the grade must do so within one week of the posting of the disputed mark on BS.** Requests for grade reviews must be in writing and must clearly outline the grounds upon which the student is seeking the review. Appeals submitted in any other fashion or outside the one week timeline will not be accepted or considered.

**Carleton University assumes all students will conform to the University's Academic Integrity Policy.** Please be mindful of that policy, especially as regards plagiarism.

**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.

**CLASS SCHEDULE AND ASSIGNED READINGS:**

Please note that the course schedule may be altered to accommodate guest speakers; students will be advised of any changes at the earliest possible day.

<b>Date:</b>	<b>Seminar Topic and Reading Assignment:</b>
Sept. 12	Course Introduction - No assigned readings
Sept. 19	<p><b>Indigenous Offending and the Genesis of Gladue</b></p> <ul style="list-style-type: none"> <li>• Julian Roberts, Andrew A. Reid, "Aboriginal Incarceration in Canada since 1976: Every Picture Tells the Same Story", (2017) 59:3 Canadian Journal of Criminology and Criminal Justice 313.</li> <li>• Teresa Evans-Campbell, "Historical Trauma in American Indian/Native Alaska Communities. A Multilevel Framework for Exploring Impacts on Individuals, Families and Communities", (2008) 23:3 Journal of Interpersonal Violence 316.</li> <li>• Maria Yellow Horse Brave Heart &amp; L. M. DeBruyn (1998) "The American Indian Holocaust: Healing historical unresolved grief" (1998) 8 American Indian and Alaska Native Mental Health Research 60.</li> </ul>
Sept.26	<p><b>The Genesis of Gladue: Sentencing reform and s.718.2(e)</b></p> <ul style="list-style-type: none"> <li>• Philip Stenning &amp; Julian V. Roberts, "Empty Promises: Parliament, The Supreme Court, and the Sentencing of Aboriginal Offenders" (2001) 64:1 Saskatchewan Law Review 137.</li> <li>• Samantha Jeffries &amp; Christine Bond, 'Does Indigeneity matter? Sentencing Indigenous offenders in South Australia's Higher Courts' 42:1 The Australian and New Zealand Journal of Criminology 47.</li> <li>• Lucy Snowball and Don Weatherburn (2007) "Does Racial Bias in Sentencing Contribute to Indigenous Overrepresentation in Prison?" <i>The Australian and New Zealand Journal of Criminology</i>, vol.40(3), pp.272-290.</li> </ul>
Oct.3	<p><b>The Foundation of the Gladue Requirements</b></p> <p><i>Reading Assignment:</i></p> <ul style="list-style-type: none"> <li>• <i>R v Gladue</i> [1999] 1 SCR 688</li> <li>• <i>R v Ipeelee</i> [2012] 1 SCR 433</li> </ul>
Oct.10	<i>Thanksgiving Monday – University Closed- No Classes</i>

Oct.17	<p><b>Gladue in the Criminal Process: where it fits, how it ‘works’</b></p> <ul style="list-style-type: none"> <li>• Samantha Jeffries &amp; Christine E.W. Bond, “The Impact of Indigenous Status on Adult Sentencing: A Review of the Statistical Research Literature from the United States, Canada and Australia”, (2012) 10 Journal of Ethnicity in Criminal Justice, 223.</li> <li>• Sebastien April &amp; Myléne Magrinelli, “Gladue Practices in the Provinces and Territories. (2013) Department of Justice Research and Services Division, <a href="https://www.justice.gc.ca/eng/rp-pr/csj-sjc/ccs-ajc/rr12_11/rr12_11.pdf">https://www.justice.gc.ca/eng/rp-pr/csj-sjc/ccs-ajc/rr12_11/rr12_11.pdf</a></li> </ul>
Oct.24	<p><i>Fall Term Break – University Closed – No Classes</i></p>
Oct.31	<p><b>Gladue Reports: Form, Structure and Access</b></p> <ul style="list-style-type: none"> <li>• Jane Dickson &amp; Kory Smith, “Exploring the Canadian Judiciary's Experiences with and Perceptions of Gladue”, (2021) 63:3-4 Canadian Journal of Criminology and Criminal Justice 23</li> <li>• Andrew Welsh &amp; James P. Ogloff, “Progressive Reforms of Maintaining the Status Quo? An Empirical Evaluation of the Judicial Consideration of Aboriginal Status in Sentencing Decisions” 50:4 Canadian Journal of Criminology and Criminal Justice 491.</li> <li>• Kelly Hannah-Moffat &amp; Paula Maurutto, “Re-contextualizing Pre-Sentence Reports: Risk and Race”, 12:3 Punishment and Society 362.</li> </ul>
Nov.7	<p><b>Gladue in Practice: Gladue in Bail and POA matters (Guest Speaker)</b></p> <p><i>Reading Assignment:</i></p> <ul style="list-style-type: none"> <li>• Kyle Coady, “Assessments and Analysis of Canada’s Bail System”, (2018) Justice Canada. <a href="https://www.justice.gc.ca/eng/rp-pr/jr/rib-reb/bail-liberte/bail-liberte.pdf">https://www.justice.gc.ca/eng/rp-pr/jr/rib-reb/bail-liberte/bail-liberte.pdf</a></li> <li>• Bressan &amp; K. Coady (2017). Guilty pleas among Indigenous people in Canada. Ottawa, ON: Research and Statistics Division, Department of Justice Canada. Available online: <a href="http://publications.gc.ca/collections/collection_2018/jus/J4-62-2017-eng.pdf">http://publications.gc.ca/collections/collection_2018/jus/J4-62-2017-eng.pdf</a></li> </ul>
Nov.14	<p><b>The Ottawa Indigenous Peoples Court</b></p> <ul style="list-style-type: none"> <li>• No readings – students are asked to attend a session of the Ottawa IPC this week (or any week of the term previously) in preparation for class in the following week. The IPC sits in Courtroom 5, Elgin Street Courts, Tuesdays and Thursdays at 2 p.m.</li> </ul>

Nov.21	<p><b>Gladue in Practice: Gladue at Sentencing and in the Ottawa IPC (Guest speaker)</b></p> <p><i>Reading Assignment:</i></p> <ul style="list-style-type: none"> <li>• Paula Marutto and Kelly Hannah-Moffat (2016) “Aboriginal Knowledges in Specialized Courts: Emerging Practices in Gladue Reports”, <i>Canadian Journal of Law and Society</i>, vol.31, no.3, pp.451-471.</li> <li>• Scott Clark, “Evaluation of the Gladue Court, Old City Hall, Toronto”, report prepared for Aboriginal Legal Services (2016) (available via Google Scholar)</li> </ul>
Nov.28	<p><b>Gladue in the Correctional Context (Guest Speaker)</b></p> <ul style="list-style-type: none"> <li>• Jane Dickson, “Making an ‘ASH’ out of Gladue: The Bowden Experiment” 44(5) <i>Manitoba Law Journal</i> 1.</li> <li>• Leslie Anne Keown, Renée Gobeil, Stephanie Biro &amp; Janelle N. Beaudette, “Aboriginal social history factors in case management”, Research Report, Correctional Service Canada, <a href="https://www.publicsafety.gc.ca/cnt/rsrscs/lbrr/ctlg/dtls-en.aspx?d=PS&amp;i=95947118">https://www.publicsafety.gc.ca/cnt/rsrscs/lbrr/ctlg/dtls-en.aspx?d=PS&amp;i=95947118</a></li> </ul>
Dec.5	<p><b>Wrap Up and Course Conclusion</b></p>

<b>Fall 2022 Sessional Dates and University Closures</b>	
<p>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></p>	
<b>September 7, 2022</b>	Fall term begins.
<b>September 20, 2022</b>	Last day for registration and course changes (including auditing) in fall and fall/winter courses.
<b>October 10, 2022</b>	Statutory holiday. University closed.
<b>October 24-28, 2022</b>	Fall break, no classes.
<b>November 25, 2022</b>	Last day for summative tests or examinations, or formative tests or examinations totaling more than 15% of the final grade, in fall term or fall/winter undergraduate courses, before the official December final examination period (see examination regulations in the Academic Regulations of the University section of the

	Undergraduate Calendar/General Regulations of the Graduate Calendar).
<b>December 9, 2022</b>	Fall term ends.
	Last day of fall classes.
	Classes follow a Monday schedule (fall and fall/winter courses only).
	Last day for final take-home examinations to be assigned, 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.
	Last day for handing in term work and the last day that can be specified by a course instructor as a due date for term work for full and late fall courses.
<b>December 10-22, 2022</b>	Final examinations in fall courses and mid-term examinations in fall/winter courses will be held.

### **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**

The instructor recognizes that students may on occasion require accommodations to meet course requirements. In this course, requests for course accommodations must be made to the instructor by email within the first two weeks of the term, or as soon as possible after the need for accommodation is known to exist. Email requests must be clear about the accommodation

sought and must contain relevant documentation supporting the request. Please note that the determination of requests for accommodation are at the discretion of the instructor, subject to formal university policies regarding accommodations. Barring exceptional circumstances (i.e., an unanticipated or unforeseeable accident or injury), requests for accommodations that are not submitted in a timely manner will not be considered.

Please consult the Equity Services website to view the policies and to obtain more detailed information on academic accommodation:

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

### **COVID Update**

It is important to remember that COVID is still present in Ottawa. The situation can change at any time and the risks of new variants and outbreaks are very real. There are [a number of actions you can take](#) to lower your risk and the risk you pose to those around you including being vaccinated, wearing a mask, staying home when you're sick, washing your hands and maintaining proper respiratory and cough etiquette.

**Feeling sick?** Remaining vigilant and not attending work or school when sick or with symptoms is critically important. If you feel ill or exhibit COVID-19 symptoms do not come to class or campus. If you feel ill or exhibit symptoms while on campus or in class, please leave campus immediately. In all situations, you must follow Carleton's [symptom reporting protocols](#).

**Masks:** Carleton has paused the [COVID-19 Mask Policy](#), but continues to strongly recommend masking when indoors, particularly if physical distancing cannot be maintained. It may become necessary to quickly reinstate the mask requirement if pandemic circumstances were to change.

**Vaccines:** Further, while proof of vaccination is no longer required as of May 1 to attend campus or in-person activity, it may become necessary for the University to bring back proof of vaccination requirements on short notice if the situation and public health advice changes. Students are strongly encouraged to get a full course of vaccination, including booster doses as soon as they are eligible, and submit their booster dose information in [cuScreen](#) as soon as possible. Please note that Carleton cannot guarantee that it will be able to offer virtual or hybrid learning options for those who are unable to attend the campus.

All members of the Carleton community are required to follow requirements and guidelines regarding health and safety which may change from time to time. For the most recent information about Carleton's COVID-19 response and health and safety requirements please see the [University's COVID-19 website](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact [covidinfo@carleton.ca](mailto:covidinfo@carleton.ca).