

Course Outline

COURSE:	LAWS 4307A – Medical Criminal Law Issues
TERM:	Winter 2023
PREREQUISITES:	LAWS 2908, CRCJ 3001 or CRCJ 3002 and LAWS 2301, LAWS 2302 and 4th year Honours standing
CLASS:	Day & Time: Wednesday 6:05pm – 8:55pm
	Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Kelly Lauzon
CONTACT:	Office: Room B442 Loeb Building
	Office Hrs: By appointment
	Email: kelly.lauzon@carleton.ca

CALENDAR COURSE DESCRIPTION

Legal-medical issues, conflicts and relationships in the field of social control. Topics include mental disorder and criminal liability, diversion of offenders to civil commitment in hospital, insanity, automatism, fitness to stand trial, prediction of dangerousness, regulation of psychoactive drugs.

COURSE DESCRIPTION

In this class, we will look closely at one factor that has been linked to wrongful conviction cases. We will use this knowledge to study known cases of wrongful conviction within the Canadian and American justice systems to help us consider the implications that a wrongful conviction has for the accused person who is subsequently exonerated as well as for the justice system as a whole. In doing so, we will attempt to answer a variety of questions such as: What is the role of forensic science in criminal cases? What is the role of the expert witness in relation to these cases? What role do forensics play in the criminal justice system? What are the differences between junk science, pseudo-science and forensic science? What makes something a junk or a good science?

Upon successful completion of the course, student should be able to:

- identify the role that forensic science plays in wrongful conviction cases.
- appreciate the human side of science and the impact this has on its objectivity.
- understand the impact that expert witnesses have in a criminal case.

- identify avenues of redress as well as mechanisms that can be introduced to reduce or prevent forensics from contributing to wrongful convictions in the future.
- to be able to critically look at and think about this area of the criminal justice system.

REQUIRED TEXTS

The assigned readings for each week are listed in the lecture schedule below. These readings will be available via Brightspace.

COMMUNICATION

The primary means of communication for this class will be through Brightspace. However, I am always happy to answer any questions you may have or to discuss the class material further. If you would like to talk to me in person, we can set up an appointment to meet via Big Blue Button. If you would like to communicate via email, please be sure to use your Carleton email account.

Email policy: I check my email regularly from 8 am to 4pm (Monday to Friday) and aim to reply the same day. I do not check my e-mail regularly after these hours during the week or on the weekend/holidays; if you send your email during these times, I will aim to reply by the next business day.

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.

NOTE: All components must be successfully completed in order to get a passing grade

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%.
- Attendance will be taken at the beginning of each class. Attendance grades will not be given retroactively.
- In accordance with the [Student Rights and Responsibilities Policy](#), discrimination and harassment will not be tolerated.

2. Presentation (30%)

- Presentations will take place during the last 4 weeks of class.
- Groups of 2-3 students will be required to prepare slides and lead class discussion for their chosen topic.
- Presentations will last approximately 30 minutes (including discussion) and will not last longer than 40 minutes as we must ensure enough time is dedicated to each group.
- 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 sixth week of class (Feb 15), I will assign your topic/week (and partners)
- The presentation should address the following:
 - Pick a case to highlight how forensics were improperly used to gain a conviction.
 - Each presentation must use a different case example.
 - What questions does this case raise?
 - Has the conviction been overturned? If so, how?
 - What have we learned from this case?
- In addition to the presentation, you are required to:
 - conduct research beyond the assigned readings.
 - 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 1 week in advance).
 - circulate your slides 1 week in advance of your presentation to allow the class time to review your material (you will **lose marks** if it is not circulated at least 1 week in advance).
 - develop at least 3 questions to guide class discussion. The questions should draw upon the main points of your presentation and foster lively academic debate. The discussion period should last approximately 15-20 minutes (you may want to prepare a few extra questions to ensure the discussion period is adequately covered).

3. Presentation paper (10%)

- Due by 6pm the Monday following the presentation
- 5-7 pages, outline the main points of your presentation.
- Individual submissions.
- The case synopsis can be the same as your groupmates', but the focus of your submission should be on answering "***What is the take home message from this case?***"
 - Be sure to address the shortcomings of the forensic test/method used and what we have learned (if anything).
 - If it doesn't appear that anything has changed, what should we learn from this case?

4. Take Home Exam (40%)

- Instructions and information will be provided during our last scheduled class (Apr 5).
 - This information will also be posted on Brightspace the following day (Apr 6).
- Responses are due by **4pm on April 27**. Anything received after this time will require a deferral arrangement through the Registrar's Office.
- Responses are to be submitted via the drop box available in Brightspace. Emailed submissions will **not** be accepted.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

All assignments are due by via the appropriate dropbox on Brightspace. The submission deadline (date and time) is stipulated via the dropbox and on the class schedule below. **Do not** submit your assignment via email. **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. Assignments will not be accepted any later than seven days past their due date without prior instructor approval for an official extension.

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).

SCHEDULE**NOTE: Readings for weeks 9-12 will be circulated by the presenting groups.**

Week	Date	Topic & Readings (LAWS 4307A - CRN 13649)
1	Jan 11	Intro and Admin Overview of Forensics & WC
2	Jan 18	History of forensics & CSI Effect Readings: <ul style="list-style-type: none"> • Simon A. Cole, "More than Zero: Accounting for Error in Latent Fingerprint Identification" 95 The Journal of Criminal Law & Criminology (2005) pp. EXCERPT ONLY 985-996. • Strengthening Forensic Science in the United States: A Path Forward (2009) EXCERPT ONLY: Chapter 3 pp. 85-110 available at: http://www.nap.edu/catalog/12589.html. • Corey Call et.al., "Seeing is Believing: The CSI Effect Among Jurors in Malicious Wounding Cases" 7 Journal of Social, Behavioral, and Health Sciences (2013) Available at https://core.ac.uk/reader/147830760.
3	Jan 25	Pattern and matching fields: Fingerprints Readings: <ul style="list-style-type: none"> • Simon Cole, "The Prevalence and Potential Causes of Wrongful Conviction by Fingerprint Evidence" 37 Golden Gate University Law Review (2006) EXCERPT ONLY pp. 39-60. • Simon Cole, "More than Zero Accounting for Error in Latent Fingerprint Identification" 95.3 Journal of Criminal Law and Criminology (2005) EXCERPT ONLY pp. 1001-1017. • Brandon Garrett & Gregory Mitchell, "How Jurors Evaluate Fingerprint Evidence: The Relative Importance of Match Language, Method Information, and Error Acknowledgment" 10 J. Empirical Legal Stud. (2013).
4	Feb 1	Pattern and matching fields: Bite Mark Analysis Readings: <ul style="list-style-type: none"> • Bruce Rothwell, "Bite Marks in Forensic Dentistry" 126 .2 Journal of the American Dentistry Association (1995). • A. Olaborede & L. Meintjes-van der Walt, "The Dangers of Convictions Based on a Single Piece of Forensic Evidence" 23 PER (2019) available at https://www.researchgate.net/publication/341524496 The Dangers of Convictions Based on a Single Piece of Forensic Evidence. • Jonathan Jarry, "The Tooth Fairy Science of Bite Mark Comparisons" (2021) McGill Office for Science and Society weekly newsletter available at

		https://www.mcgill.ca/oss/article/pseudoscience-history-general-science/tooth-fairy-science-bite-mark-comparisons .
5	Feb 8	<p>Pattern and matching fields: Hair Microscopy</p> <ul style="list-style-type: none"> • Simon Cole & Troy Duster, "Microscopic Hair Comparison and the Sociology of Science" 15.1 Contexts (2016) available at https://journals.sagepub.com/doi/pdf/10.1177/1536504216628838 • Chris Fabricant & William Carrington, "The Shifted Paradigm: Forensic Sciences's Overdue Evolution from Magic to Law" 4 <i>Va. J. Crim. L</i> (2015) EXCERPT ONLY pp. 63-93. • Laura Wilinon & Claire Gwinnett, "An international survey into the analysis and interpretation of microscopic hair evidence by forensic hair examiners" 308 <i>Forensic Science International</i> (2020).
6	Feb 15	<p>Fire Science</p> <p>Speaker - Kristine Bunch (this class will be held on Zoom via Brightspace)</p> <ul style="list-style-type: none"> • Parisa Dehghani-Tafti & Paul Bieber, "Folklore and Forensics: The Challenges of Arson Investigation and Innocence Claims" 119 <i>W. Va. L. Rev.</i> (2016) EXCERPT ONLY pp. 550-588. • Paul Gianelli, "Junk Science and the Execution of an Innocent Man" 7 <i>N.Y.U. J.L. & Liberty</i> (2013).
	FEB 22	READING WEEK – NO CLASS
7	Mar 1	<p>Lab Scandals</p> <ul style="list-style-type: none"> • Sean K Driscoll, "I Messed Up Bad" Lessons on the Confrontation Clause from the Annie Dookhan Scandal" 56 <i>Ariz. L.R.</i> (2014) 707. • Gerald Laporte, "Wrongful Convictions and DNA Exonerations: Understanding the Role of Forensic Science" 279 <i>NIJ Journal</i> (2018) 1. • Dale Chappell, "Massachusetts Supreme Court Tosses Thousands of Drug Cases After Lab Tech Scandal and Government Cover-Up" <i>Criminal Legal News</i> (2019) Available at https://www.criminallegalnews.org/news/2018/dec/28/massachusetts-supreme-court-tosses-thousands-drug-cases-after-lab-tech-scandal-and-government-cover

8	Mar 8	<p>Expert Evidence</p> <p>Speaker – Maria Shepherd (this class will be held on Zoom via Brightspace)</p> <ul style="list-style-type: none"> • Brandon L. Garrett and Peter J. Neufeld, “Invalid Forensic Science Testimony and Wrongful Convictions” (2009) 95 Virginia Law Review EXCERPT ONLY pp. 3-23. • Lena Wahlberg and Christian Dahlman, “The Role of the Expert Witness” in Dahlman, Stein & Tuzet (ed.), Philosophical Foundations of Evidence Law, Oxford University Press, 2021. Available at http://dx.doi.org/10.2139/ssrn.3758820.
9	Mar 15	<p>Presentations</p> <ul style="list-style-type: none"> • Readings to be assigned by presenters
10	Mar 22	<p>Presentations</p> <ul style="list-style-type: none"> • Readings to be assigned by presenters
11	Mar 29	<p>Presentations</p> <ul style="list-style-type: none"> • Readings to be assigned by presenters
12	Apr 5	<p>Presentations</p> <ul style="list-style-type: none"> • Readings to be assigned by presenters <p>Take Home Exam assigned</p>

Winter 2023 Sessional Dates and University Closures	
<i>Please find a full list of important academic dates on the calendar website:</i> https://calendar.carleton.ca/academicyear/	
January 9, 2023	Winter term begins.
January 20, 2023	Last day for registration and course changes (including auditing) in full winter and late winter courses.
February 20, 2023	Statutory holiday. University closed.
February 20-24, 2023	Winter break. No classes.
March 15, 2023	Last day for academic withdrawal from full winter, late winter, and fall/winter courses.
April 7, 2023	Statutory holiday. University closed.
April 12, 2023	Winter term ends. Last day of full winter, late winter, and fall/winter classes.
April 15-27, 2023	Final examinations in full winter, late winter, and fall/winter courses will be held. Examinations are normally held all seven days of the week.
April 27, 2023	All final take-home examinations are due on this day.

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](#).

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 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 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/>.