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<b>COURSE:</b>	<b>LAWS 4308C- Sentencing</b>
<b>TERM:</b>	<b>Winter 2020</b>
<b>PREREQUISITES:</b>	<b>LAWS 2908, CRCJ 3001 or CRCJ 3002 and LAWS 2301, LAWS 2302 and fourth-year Honours standing. This course may not be taken by students who have completed the course as a special topics course.</b>
<b>CLASS:</b>	<b>Day &amp; Time: Wednesday - 6:05-8:55 p.m. Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Dr. Roger R. Rickwood, LL.M., LL.B.</b>
<b>CONTACT:</b>	<b>Office: Room B442 Loeb Building Office Hrs: 12:00-2:00 p.m. Telephone: Email: <a href="mailto:RogerRickwood@cunet.carleton.ca">RogerRickwood@cunet.carleton.ca</a></b>

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### **CALENDAR COURSE DESCRIPTION**

Theories of sentencing, current sentencing laws and practices, perceptions of sentencing. Data on sentencing practice across Canada. Reforms in other jurisdictions. Critical review of the Canadian Sentencing Commission. Multidisciplinary approach using research and theory in law, criminology, social psychology and sociology.

### **REQUIRED TEXTS, STATUTES AND INSTRUMENTS**

Manson, Allan S., Healy, Patrick et al -Sentencing and Penal Policy in Canada: Cases, Materials and Commentary, 3rd edition (Toronto: Emond Montgomery Publications Ltd., 2016) ISBN: 978- 1-555239-655-1, hardback (Available at Carleton University Bookstore) (A digital version is available from the publisher.) Cited as Manson & Healy in readings

Manson, Allan, The Law of Sentencing, (Toronto: Irwin Law, Inc.: 2001), ISBN 978-1-552-029-1, paperback (Available at Carleton University Bookstore) Cited as Manson in readings

*Criminal Code of Canada*, <https://laws-lois.justice.gc.ca/eng/acts/C-46/> (complete Criminal Code) or at <http://www.criminal-code.ca/criminal-code-of-canada-alphabetical-A.html> (Alphabetical, numerical and categorical listings of Criminal Code) Cited as CCC.

*Corrections and Conditional Release Act*, at <https://laws-lois.justice.gc.ca/eng/acts/C-44.6/> cited as CCRA

*Universal Declaration of Human Rights*, 1948 (UNGA) at <https://www.un.org/en/universal-declaration-human-rights/> and in handout. Cited as UDHR

*Canadian Victims Bill of Rights*, (S.C. 2015, c. 13, c. 2) at <https://laws-lois.justice.gc.ca/eng/acts/c-23.7/page-1.html>

*Youth Criminal Justice Act*, at <https://laws-lois.justice.gc.ca/eng/acts/y-1.5/> Cited as YJA

*Controlled Drugs and Substances Act*, at <https://laws-lois.justice.gc.ca/eng/acts/C-38.8/page-1.html#docCont> Cited as CDSA

Bedu, Hugo Adam and Kelly Erin, “Punishment”, *The Stanford Encyclopedia of Philosophy*, Fall 2015 edition) on line at <https://plato.stanford.edu/archives/fall2015/entries/punishment/>

*Canadian Charter of Rights and Freedoms*, Part I, CA 1982 – at <https://laws-lois.justice.gc.ca/eng/const/page-15.html>

Selected additional materials as posted on cuLearn.

All Power Point materials from Class Group Presentations as posted on cuLearn.

### **SUPPLEMENTARY TEXT**

Henein, Marie, *Martin’s Annual Criminal Code*, 2019 (Toronto: Thompson Reuters, 2018).

### **EVALUATION**

**(All components must be completed in order to get a passing grade)**

Standing in a course is determined by the course instructor subject to the approval 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.

Mid-term test (2 hours) (closed book)	25% - 5 <sup>th</sup> February, 2020
Case Study	15% - 4 <sup>th</sup> March 2020
Group Presentation	20% - During weeks 6 -12 – 12 <sup>th</sup> February- 1 <sup>st</sup> April
Final examination (3 hours) (closed book)	30% - (TBA – held in examination period 13-25 April, 2020)
Class/lecture participation	10% - (Mandatory in-class registration taken)

### **Attendance & Class Participation (Total course mark value 10%)**

Students must sign the attendance register at every class. Your participation mark is based in part on attendance and in part on active participation in class discussions. Explanation of your absence for medical and compassionate reasons will be considered in adjusting the registration

ATTENDING AN IN-CLASS EXAM WILL NOT BE CONSIDERED ATTENDANCE FOR THE PARTICIPATION MARK.

### **Case Study on Sentencing Process (Total course mark value 15%)**

Students will produce an analysis of a case on the sentencing process. This case study will be a minimum of 5 pages of text double-spaced and no longer than 10 pages of text. In addition it must include a title page, a table of contents, page numbers and a bibliography. Noncompliance means a reduction of marks.

This assignment is due on 1<sup>st</sup> November. There will be a late penalty of 2 per cent per calendar day after 1<sup>st</sup> November. The case study will **only** be accepted for marking in **hard copy format**. An electronic copy will be accepted as the receipt date of a paper. However, this version will not be printed off or marked. A hard copy must be submitted.

Students should apply sentencing law, cases, practice principles, other relevant statute law, *Charter* law, academic studies, media reports, and government documents. You also should express your own view.

### **Group Presentations (Total course mark value 20%)**

“In class” presentations will be done in groups of students after the mid-term test using concepts, laws, practices and cases set out in the texts. Presentations will normally be based on reading topics for the selected week. However, this can be modified. Presentations can also be done on organizations that are active in sentencing and penal reform such as John Howard Society, Elizabeth Fry Society, Canadian Civil Liberties Association, Corrections Canada and the Parole Board of Canada.

The same mark will be given for all members of a group. Students failing to attend their group presentation must present appropriate documentation for their absence or be penalized.

There are 8 presentation slots. Form your group as soon as possible and e-mail me with the names of the members of your group. If you do not know anybody in class, I will assign you to a group or help you form one. Teams should be composed of 3-4 members. Registration of a date topic is on a first come basis. Time in class will be set aside to form groups.

Students requiring special equipment should notify the instructor. Each group must provide the instructor with an electronic copy of their Power Point slides and/or an *aide memoire* of at least one page summarizing the presentation. The instructor will be posting them on cuLearn. **Key content points in presentations will be tested in the final exam. Failure to provide an electronic copy of the power points and/or aide memoire means no grade will be entered for all members of the group.** Presentations should be 30 minutes long plus discussion time. Marks are awarded on content (60%), presentation style (20%) and engagement (20%) of other students in discussions, simulations or game exercises. A schedule will be drawn up. Students may hand out sample illustrative materials to their student colleagues. Students can use formats, such as panel discussions, news and talk shows, tribunal and court simulations and debates as

well as use videos from media outlets. The whole time of a presentation cannot be used up in a game. Nominal candy rewards to elicit class participation and the use of props and costumes can enhance presentations. Respect for views different from your own and use of short preambles to questions is encouraged.

## **SCHEDULE**

- Jan. 8  
Week 1
- Introduction – Course Overview – Evaluation Scheme**
- Manson, Chapter 1, Introduction, pp. 1-4, Chapter 2  
Handouts on UDHR (*UNGA 1948*) and *CCRF (CA 1982, Part 1)*
- A History of Sentencing and Punishment (Adult and Youth)**
- Bedu, Hugo Adam & Erin Kelly, “Punishment”, *The Stanford Encyclopedia of Philosophy*, (Fall, 2015 Edition) On line at:  
<https://plato.stanford.edu/archives/fall2015/entries/punishment/>  
Manson, Chapter 2, pp. 5-29 and Chapter 3, pp.31-54
- Jan. 15  
Week 2
- Justification of Legal Punishment and Corrections, Philosophy and Objectives**
- Manson, Chapters 2 & 3  
Manson & Healy, Chapter 1
- Jan. 17
- LAST DAY TO REGISTER/CHANGE COURSES OR SECTIONS**
- Jan. 22  
Week 3
- Judicial Discretion and Methodology of Sentencing; Substantive Principles**
- Criminal Code of Canada, ss. 718, 718.1 and 718.2 (handout)(on line at Justice Canada site)  
Manson, Chapter 4, pp. 56-81, Chapter 5, pp.83-97  
CED: An Overview of the Law Framework of Sentencing, (July 16, 2018), link posted on cuLearn  
DOJC, Sentencing Commissions and Guidelines, (Public Opinion Research), March 2018, link posted on cuLearn  
DOJC, Discretion in Sentencing, (P.O.R.), March 2018, link posted on cuLearn
- Discussion with EDC representative on course progress
- Jan. 29  
Week 4
- Sentencing Rules and Aggravating and Mitigating Factors**
- Manson, Chapter 6, pp. 98-129 & Chapter 7, ppp.130-161  
Manson & Healy, Chapter 3

- Jan. 31      **LAST DAY TO WITHDRAW FROM COURSE WITH FEE ADJUSTMENT**
- Feb. 5  
Week 5      **MID-TERM EXAM (Weeks 1-4) – Based on lectures, readings and other materials from 8<sup>th</sup> January to 29<sup>th</sup> January.**  
25% of course total grade  
In two parts – Part 1 - Quiz (30 points) Part 2 – One essay on optional topics (30 points)  
Closed book – 2 hours
- Feb. 12  
Week 6      **Sentencing Process – Hearing & Sources of Information**  
  
Manson, Chapter 8  
Manson & Healy, Chapters 5 & 6  
  
PRESENTATION  
  
Discussion of Case Study on Sentencing Process – Worth 15% - 5-10 pages – Due 1<sup>st</sup> November, 2019 in class.
- Feb. 14      **APRIL EXAMINATION SCHEDULE AVAILABLE ON LINE**
- Feb. 17      **STATUTORY HOLIDAY – UNIVERSITY CLOSED – NO CLASSES – NO OFFICE HOURS**
- Feb. 17-21      **WINTER BREAK – NO CLASSES – NO OFFICE HOURS**
- Feb. 26  
Week 7      **Sentencing Process – Victim Participation, Pleas and Joint Submissions**  
  
Manson, Chapter 8  
Manson & Healy, Chapters 5 & 6  
  
PRESENTATION
- Mar. 4  
Week 8      **Sentencing Options: Diversion, Absolute & Conditional Discharges, Probation & Parole, Money Sanctions**  
  
Manson, Chapter 9, pp. 208-259  
Manson & Healy, Chapters 8, 9 & 10  
  
PRESENTATION  
**CASE STUDY DUE IN CLASS TODAY, 4<sup>th</sup> MARCH**
- Mar. 11  
Week 9      **Sentencing Options: Imprisonment, Intermittent Sentence, Conditional Sentences & Collateral Sentencing Orders**

Manson, Chapter 9, pp. 260-291  
 Manson & Healy, Chapter 11, 12, 13

PRESENTATION

Mar.13 **LAST DATE TO REQUEST FORMAL EXAM ACCOMMODATIONS  
 FOR APRIL EXAMINATIONS TO THE PAUL MENTON CENTRE.**

Mar. 18 **Sentencing Options: Murder and Manslaughter – Imprisonment Terms and  
 Week 10 Parole Eligibility**

Manson, Chapter 10  
 Manson & Healy Chapter 14  
*Criminal Code of Canada* sections on homicide (handout) (On line on Justice  
 Canada site)

**Preventative Detention & Preventative Supervision: Dangerous Offenders,  
 Long-Term Offenders and Recognizances**

Manson, Chapter 11  
 Manson & Healy Chapter 15

PRESENTATION

Mar.25 **Sentencing Issues involving Indigenous Peoples**  
 Week 11

Time for student evaluation in class. Bring your electronic devices.

Manson & Healy, Chapters 28 & 19

PRESENTATION

Apr. 1 **Sentencing Appeals, Post Appeal Sentencing Issues, and Future of  
 Week 12 Sentencing**

Manson, Chapters 12 & 13  
 Manson & Healy, Chapter 18 & 19

**Brief exam review and Conclusions**

PRESENTATION

Apr. 7 **LAST DAY FOR ACADEMIC WITHDRAWAL FROM WINTER TERM  
 COURSE**

Apr. 8-9 **NO CLASSES - NO EXAMINATIONS**

Apr. 10        **STATUTORY HOLIDAY – UNIVERSITY CLOSED**

Apr. 13-25    **FINAL EXAMINATION PERIOD**

**FINAL EXAM – DATE TBA (Date available online 14 Feb.) (Exam is based on readings, lectures, class presentations and other materials from 12<sup>th</sup> February to 1<sup>st</sup> April) Exam is in 2 parts. Part I is a quiz of 30 questions (50% of exam value) and Part II is an essay on one topic from 7 options (50% of exam value). The exam is 3 hours in length, closed book and worth 30% of total grade.**

May 15-27    **WINTER TERM DEFERRED FINAL EXAMINATIONS TO BE HELD**

May 18        **STATUTORY HOLIDAY – UNIVERSITY CLOSED – NO EXAMINATIONS**

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### **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:** Please contact 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 Department of Equity and Inclusive Communities (EIC) website – <https://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 Department of Equity and Inclusive Communities (EIC) website – <https://carleton.ca/equity/>.

**Academic Accommodations for Students with Disabilities:** If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (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 as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) <https://carleton.ca/pmc/students/accommodations/>

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**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/>

**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 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/sexual-violence-support/>

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

For more information on academic accommodation, please contact departmental administrator or visit <https://carleton.ca/equity/accommodation/academic/>

**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/>

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