

## Course Outline

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<b>COURSE:</b>	<b>LAWS 4504A – Indigenous Criminal Justice</b>
<b>TERM:</b>	Fall 2021
<b>PREREQUISITES:</b>	<a href="#">LAWS 2908</a> , <a href="#">CRCJ 3001</a> or <a href="#">CRCJ 3002</a> , and <a href="#">LAWS 2301</a> , <a href="#">LAWS 2302</a> , and fourth-year Honours standing
<b>CLASS:</b>	<b>Day &amp; Time:</b> Fridays, from September 10 to December 3, 2021, 8:35 a.m.-11:25 a.m. EST.  <b>Room:</b> Please check Carleton Central for current Class Schedule. <i>This is an online, blended course. A synchronous hour and a half seminar will take place via Zoom each week at 8:35 a.m. EST, and the asynchronous portion of the course will be available on Brightspace.</i>
<b>INSTRUCTOR:</b>	Jo-Anne Lawless, BA (Hon), Contemporary Studies (Option in Indigenous Studies); MA (Hon), Cultural Analysis and Social Theory; PhD candidate in Law and Legal Studies
<b>CONTACT:</b>	<b>Office Hours:</b> Online, via Zoom, by appointment. <u>Please arrange for a five-minute introductory Zoom meeting with the professor between Tuesday, September 7, 2021 and Thursday, September 9, 2021, anytime from 9 a.m. to 3 p.m. EST.</u>  <b>Email:</b> <a href="mailto:joanne.lawless@carleton.ca">joanne.lawless@carleton.ca</a>

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### CALENDAR COURSE DESCRIPTION

Indigenous peoples and the administration of Canadian criminal justice including policing, courts, corrections, and aftercare. Content and effects of past and present policies, processes, and laws. Alternatives such as self-government and self-determination; potential approaches to an appropriate justice system for Indigenous peoples.

## **COURSE DESCRIPTION**

This blended (synchronous and asynchronous) course critically explores the relationship between Indigenous peoples in Canada and the criminal justice system. We consider the causes and ramifications of offending amongst the Indigenous population, and their over-representation in a western-based system. The course offers a critique of policy approaches aimed at ameliorating the effects of over-incarceration and repairing the relationship between Indigenous peoples and the state, as well as an examination of the Crown's coercive apparatus.

## **REQUIRED TEXTS**

All required reading will be **available online**, using the ARES link on Brightspace. No textbook is required.

## **WEBSITE**

Course information, ARES links to the weekly readings, links to the asynchronous lecture, summary slides, updates, and other important materials will be posted on the course website **on Brightspace**. Links to attend the weekly synchronous lecture (that is, our one-hour-and-a-half face-to-face Friday seminars) using **Zoom** will also be available on Brightspace, along with any announcements and grades. Students are strongly encouraged to **regularly check the website, along with their Carleton email**, for any communication from the professor regarding the course. You must be registered in LAWS 4504 A to access the course website.

## **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.

Evaluation will be based on the following five elements:

- Attendance and participation in weekly one-hour-and-a-half seminar: **10%**
- In-class presentation: **20%**
- Annotated bibliography: **15%** (Due **October 22, 2021**)
- Weekly reading synthesis: **20% (8 minimum required)**
- Research Essay **35%** (Due **December 8, 2021**)

**Attendance and Participation in Seminar:** worth **10%** of final course grade. As there is no final exam in this course, our focus will lie in close engagement with weekly readings, the online asynchronous lecture, and with your colleagues' presentations. *Participation in all elements of the course is expected and encouraged* in order for you to fully understand core concepts which will be incorporated into your weekly reading syntheses, in-class presentations, and the final research essay.

**In-Class Presentation:** worth **20%** of the final grade. Each week, two pairs of students will be required, separately, to **locate and report on one or two recent, good-quality research articles or reports** which are *directly relevant* to the subject covered in that day's seminar. Students will be required to facilitate discussion by presenting a *critical summary* of the article or report they have found and **contextualizing those studies within the week's assigned readings and asynchronous lecture (10%)**. The short presentations (**20 minutes**), given during the seminar, will be based on a **4 to 5-page paper** you write on the topic (**10%**) that will be submitted on Brightspace *before the presentation*. Topics will be chosen during our introductory Zoom one-on-one.

**Weekly Reading Synthesis:** worth **20%** of the final course grade. Students will create a **250-word reading synthesis**, to be submitted in Word doc format on Brightspace, outlining the overarching elements of **the two readings for the week and the online asynchronous lecture**. **A minimum of eight (8) and up to a maximum of ten (10) submissions are required, in total**. The weekly reading synthesis must be submitted no later than the day before the seminar which addresses the topic (ie: Thursday by midnight, EST) to receive a mark. It is strongly recommended that you begin submitting these early on in the course.

**Annotated Bibliography:** worth **15%** of the final grade. In preparation for your final research paper, you will present an annotated bibliography of your chosen sources, due by midnight on **October 22, 2021**. The annotated bibliography will include at least twelve (12) sources. The sources you choose **must include** legal cases, scholarly sources such as peer-reviewed journal articles, books (or book chapters), at least *two* of the assigned course readings, and up to two credible online sources. Up to three sources from Indigenous communities or organizations will be accepted.

**The Research Essay:** worth **35%** of the final grade. The essay will be written on a topic determined by the professor, and will incorporate themes from the course. The paper will be **15-18 double-spaced pages long**; no more, no less, *not* including cover page, footnotes, and bibliography, and must be written in Times New Roman 12-point font. The Law and Legal Studies research librarian will speak to the class on **September 24, 2021**, to provide guidance on conducting research and finding appropriate sources. Detailed instructions for this assignment will be posted on Brightspace in Week 3 before the seminar.

The final research essay will **be due by 4:30 pm EST, on Wednesday, December 8, 2021**, and will be **submitted online** only (no hard copies) through the LAWS 4504 A Brightspace website. You are strongly advised to save your work regularly in multiple ways, and to retain a copy of all submitted papers. Essays submitted past the due date will incur a **late penalty** of *five percent for each 24-hour period* following the deadline of 4:30 pm on December 8th, including weekends. Papers submitted beyond seven days late will be accepted towards course completion but will receive a mark of 0. Suspected incidents of plagiarism will be reported to the Dean's office, pursuant to Carleton University policy.

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

Any late submissions of the annotated bibliography or the final research paper will be penalized **five (5) percent per 24 hour period**, beginning one hour following the assignment deadline. Papers submitted beyond seven days late will be accepted towards course completion but will receive a mark of 0. Late weekly reading syntheses will not be accepted. Extensions will be granted only under the most grave circumstances, and written documentation of the reason for the request will be required.

The granting of extensions is determined by your 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 of 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 AND READINGS**

**September 10, 2021.** Week 1: Course Introduction (a synchronous hour and a half, beginning at 8:35 a.m. EST. See Zoom link on Brightspace).

**September 17, 2021.** Week 2: Framing the Context of Indigenous Criminal Justice: History, Colonization, and Trauma

#### *Readings:*

Maria Yellow Horse Brave Heart, Josephine Chase, Jennifer Elkins & Deborah Altshul, 'Historical

Trauma Among the Indigenous Peoples of the Americas: Concepts, Research, and Clinical Considerations', 43(4) *Journal of Psychoactive Drugs* (2011):282-290.

Amy Bombay, Kim Matheson & Hymie Anisman, 'The Intergenerational effects of Indian Residential Schools: Implications for the concept of historical trauma', 51(3) *Transcultural Psychiatry* (2014) 320-338.

**September 24, 2021.** Week 3: The Impacts of Trauma: Offending Patterns and Over-Representation in the Criminal Justice System

Guest speaker: Law and Legal Studies Research Librarian, Julie Lavigne

*Readings:*

Vicki Chartrand, 'Unsettled times: Indigenous incarceration and the links between colonialism and the penitentiary in Canada.' *Canadian Journal of Criminology and Criminal Justice* 61, no. 3 (2019): 67-89.

Julian V. Roberts and Andrew Reid, 'Aboriginal Incarceration in Canada since 1978: Every Picture Tells the Same Story.' 59(3) *Canadian Journal of Criminology and Criminal Justice* (2017):313-345.

**October 1, 2021.** Week 4: The Role of the System: Policing

*Readings:*

Savvas Lithopoulos, 'International comparison of Indigenous policing models'. Ottawa, ON: Public Safety Canada, 2007.

John Kiedrowski, Nicholas A. Jones & Rick Ruddell, 'Set up to fail?' An analysis of self-administered Indigenous police services in Canada.' 18(6) *Police Practice and Research* (2017): 584-598.

**October 8, 2021.** Week 5: Indigenous People and the Courts

*Readings:*

Michaela M McGuire & Danielle J Murdoch, '(In)-justice: An exploration of the dehumanization, victimization, criminalization, and over-incarceration of Indigenous women in Canada.' *Punishment & Society* 23(2) (2021).

Shelley Johnson, 'Developing First Nations Courts in Canada: Elders as Foundational to Indigenous Therapeutic Jurisprudence', *Journal of Indigenous Social Development* 3(2) (2014):1-14.

**October 15:** Week 6: 'Indigenizing' Justice*Readings:*

*R. v. Ipeelee*, [2012] 1 S.C.R. 433

Jonathan Rudin, 'Looking backward, looking forward: The Supreme Court of Canada's decision in *R. v. Ipeelee*.' *The Supreme Court Law Review: Osgoode's Annual Constitutional Cases Conference*, vol. 57, no. 1, p. 17. 2012.

**October 22, 2021.** Week 7: Indigenous People, Social Context Evidence and Gladue*Readings:*

*R. v. Gladue*, [1999] 1 SCR 948.

Alexandra Hebert, 'Change in Paradigm or Change in Paradox: Gladue Report Practices and Access to Justice.' *Queen's LJ* 43 (2017): 149.

**October 29, 2021. Week 8: NO CLASSES****November 5, 2021.** Week 9: The Experience of Incarceration by Indigenous Offenders*Readings:*

Jen MtPleasant, 'Gangs' in Jen MtPleasant, ed, *Annihilate. Assimilate. Appropriate. The Systemic Genocide of Indigenous People in "Canada."* (Independently published, 2019): 257-270.

Jason Demers, *Warehousing Prisoners in Saskatchewan: A Public Health Approach* (Regina: Canadian Centre for Policy Alternatives, 2014).

**November 12, 2021.** Week 10: Coming Home: Parole, Aftercare, and the Re-integration of Indigenous Offenders*Readings:*

Jason D. Brown, 'Managing the Transition from Institution to Community: A Canadian Parole Officer Perspective on the Needs of Newly Released Federal Offenders', *Western Criminology Review* 5(2) (2004):97-107.

Olga Marques and Lisa Monchalin, 'The Mass Incarceration of Indigenous Women in Canada: A Colonial Tactic of Control and Assimilation' in Lily George, Adele N. Norris, Antje Deckert & Juan Tauri eds, *Neo-colonial Injustice and the Mass Imprisonment of Indigenous Women*. (Cham, Switzerland: Palgrave Macmillan, 2020): 79-97.

**November 19, 2021.** Week 11: Returning to the Teachings: Restorative Justice and Indigenous Justice Reform

*Readings:*

Meagan Berlin, 'Restorative Justice Practices for Aboriginal Offenders: Developing an Expectation-Led Definition for Reform', 21(3) *Appeal* (2016):3-20.

Jane Dickson-Gilmore & Carol LaPrairie, 'The Rise of Restorative Approaches' in Jane Dickson-Gilmore & Carol LaPrairie, eds, *Will the Circle Be Unbroken?: Aboriginal Communities, Restorative Justice, and the Challenges of Conflict and Change* (Toronto: University of Toronto Press, 2005): 57.

**November 26.** Week 12: The Place of Circles in Indigenous Criminal Justice

*Readings:*

Toby S Goldbach, 'Sentencing circles, clashing worldviews, and the case of Christopher Pauchay.' *Illumine: Journal of the Centre for Studies in Religion and Society* 10, no. 1 (2011).

Kayanesenh Paul Williams, 'The Three Words: Peace, Power, and Righteousness' in Kayanesenh Paul Williams, ed, *Kayanerenkó: wa: the Great Law of peace*. (Univ. of Manitoba Press, 2018): 216-224.

**December 3, 2021.** Week 13: The Future of Indigenous Justice Reform

*Readings:*

Ashley Elizabeth Hyatt, 'Healing through culture for incarcerated aboriginal people.' *First Peoples Child & Family Review* 8, no. 2 (2013): 40-53.

Teresa Naseba Marsh, David C. Marsh, Julie Ozawagosh, & Frank Ozawagosh, 'The sweat lodge ceremony: a healing intervention for intergenerational trauma and substance use.' *International Indigenous Policy Journal* 9, no. 2 (2018).

Note: This course includes sessions that use video conferencing platforms, such as Zoom. This raises some important privacy considerations that all students should know. You are not required to turn your camera on, and may decide to turn it on or off at any time. Keep in mind that the professor or TA may call on you at random times during the synchronous seminar to confirm your presence. Students are not permitted to take photographs, screenshots, or record other students, TAs, or instructors unless they obtain explicit permission from the professor and

all other students well in advance of the session. Classes or sessions will **not** be recorded by the instructor.

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### **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**

#### **Academic Accommodation**

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 write to the professor 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:** Please write to the professor 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 your professor 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 the professor 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 your professor 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>

### **Plagiarism**

Plagiarism is presenting, whether intentionally 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/>.

### **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/>.

### **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/>.