

Course Outline

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<b>COURSE:</b>	<b>LAWS 4306: Criminal Law Issues – National Security</b>
<b>TERM:</b>	<b>Winter 2018</b>
<b>PREREQUISITES:</b>	<b>Fourth-year Honours standing and LAWS 2301, LAWS 2302</b>
<b>CLASS:</b>	<b>Day &amp; Time: Thursdays, 6:05 pm – 8:55pm</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Michael S. Purcell, B.A. (Hons.), J.D.</b> <b>Assistant Crown Attorney</b> <b>Ministry of the Attorney General</b> <b>Criminal Law Division</b>
<b>CONTACT:</b>	<b>Office: Upon Request</b> <b>Office Hrs: TBA</b> <b>Telephone: (613) 314-1449</b> <b>Email: <a href="mailto:msplitigation@gmail.com">msplitigation@gmail.com</a></b>

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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:** 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](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*). **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](http://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 4<sup>th</sup> floor of MacOdrum Library or online at [carleton.ca/csas](http://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/>

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### **COURSE DESCRIPTION**

This course will explore contemporary issues in criminal law through the lens of national security.

Over the last fifteen years, Parliament has passed several laws to respond to the threat of terrorism. Some argue that the effect of these laws is the unnecessary infringement of *Charter* rights without any appreciable gain in national security. Others argue that neutering certain *Charter* rights is justifiable to support anti-terrorism objectives and effective law enforcement. One thing is certain: the relationship between citizen and state will be shaped by this debate for decades to come.

In an effort to find answers, this course will focus on three central questions: (1) When should personal privacy yield to state security? (2) When should thought become criminal? and (3) To what degree is rehabilitation an effective tool to combat extremism? In answering these questions, the law surrounding state surveillance, inchoate offences (acts that have yet to be committed), and forensic risk assessment will be explored with a comparative view to national security blueprints and criminal law in other countries.

**Please note:** *Any views or opinions expressed during the course are personal to the Instructor 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 at least two weeks in advance.

**SUPPLEMENTARY TEXTS**

For additional context and analysis, I encourage you to consult this text:

Forcese, Craig & Kent Roach, *False Security: The Radicalization of Canadian Anti-terrorism*, (Toronto: Irwin Law, 2015)

**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.

<b>PARTICIPATION</b>	<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>	<b>20%</b>
<b>IN-CLASS FACILITATION</b>	<p>At the beginning of each class, selected students will be expected to facilitate a 10-20 minute discussion based on at least one of the assigned readings. This should include a summary of the context, issues and themes raised in the material.</p> <p>Additional information about class facilitations will be provided during Week 2.</p>	<b>20%</b>
<b>FINAL EXAM (Take-Home)</b>	<p>Exams will be distributed <u>in-person</u> at the <u>end of class</u> on <b><u>March 29, 2018.</u></b></p> <p><b>Due:</b> Printed, <u>in-person</u> at the <u>beginning of class</u> (6:30 p.m.) on <b><u>April 5, 2018</u></b></p>	<b>60%</b>

**IN-CLASS FACILITATION**

At the end of each class, 2-4 volunteers (or selected students) will be assigned to facilitate an in-class discussion about the following week's readings. The number of students will be determined by the quantity of readings, as well as their scope.

**Objective**

The in-class facilitation should encourage meaningful engagement with the themes and issues of this course, as contained in the weekly readings. Every student, irrespective of whether it is your assigned week, is expected to attend class having completed the readings.

Each week's readings contain different views and perspectives on one or more issues. The readings may be criminal cases that analyze one or more legal issues. The readings may critique certain policies, or be the policies themselves. They may be about something that has happened, or will happen. In any event, your task is to (a) identify, (b) explain, and (c) distinguish the views from each other and articulate what you do or do not agree with.

In doing so, it is important that you identify the competing interests – privacy vs. security, prevention vs. reaction, etc.

It may be beneficial to frame the issues by providing some context, be it historic, political, legal or otherwise.

Although it is not required, you may refer to sources beyond the assigned readings. If you do so, please ensure that you identify those sources during your presentation. Ultimately, this exercise is about reducing issues and themes to their core. A great facilitation is one that is concise and focused.

### **Duration**

15-20 minutes

### **Evaluation**

This facilitation constitutes 20% of your final grade, to be distributed as follows:

- (a) **10% - Identification:** what are the issues, views and perspectives of the parties/ author/ government/organization, etc.
- (b) **5% - Explanation:** why does the author/government/organization prefer one approach over another, or hold a particular view?
- (c) **5% - Distinction:** in what ways does the author/government/organization's views/perspective/approach differ from others?

## **FINAL EXAM**

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→ **Value:** 60% of final grade

→ **Details:** Exams will be distributed in-person at the end of class on **March 29, 2018.**

The exam will consist of short-answer and multiple-choice questions.

\*\*\*Additional details will be provided on March 22, 2018.

→ **Due:** Printed, in-person at the beginning of class (6:30 p.m.) on **April 5, 2018**

## **SCHEDULE:**

### **WEEK 1: January 11, 2018**

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#### **TOPIC: COURSE INTRODUCTION**

- Review of course outline & expectations
- Overview of course themes
- Class structure

### **WEEK 2: January 18, 2018**

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#### **TOPIC: CRIMINAL LAW REFRESHER**

- The role of Parliament, the Courts, the Crown, and the defence

- The *Charter of Rights and Freedoms*
- Criminal offence elements
- Rules of evidence & procedure

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**WEEK 3: January 25, 2018**


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**TOPIC: THE HISTORY AND ETYMOLOGY OF TERRORISM**

- The political and philological origins of terrorism
- Legal definition(s) of terrorism

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**WEEK 4: February 1, 2018**


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**TBA: INSTRUCTOR ABSENT/GUEST LECTURE**

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**WEEK 5: February 8, 2018**


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**TOPIC: THE NATIONAL SECURITY FRAMEWORK**

- The national security apparatus in Canada
- The domestic stakeholders
- The international landscape
- Investigative tools

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**WEEK 6: February 15, 2017**


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**TOPIC: THE LEGISLATIVE FRAMEWORK**

- Counter-Terrorism Legislation
  - *Anti-Terrorism Act*
  - *Criminal Code*
  - *Canada Evidence Act*
  - *Proceeds of Crime (Money Laundering Act)*
  - *Charities Registration (security Information) Act*
  - *Security of Information Act*
  - *Immigration and Refugee Protection Act*
- Forthcoming Legislation

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**February 22, 2018**


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**\*\*\*WINTER BREAK – NO CLASS\*\*\***

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**March 1, 2018**


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**TOPIC: THE LAW APPLIED**

- Constitutionality: *R v Khawaja*, 2012 SCC 69
- Conspiracies: *R v Sher*, 2014 ONSC 4790
- Entrapment: *R v Nuttall*, 2016 BCSC 1404

**March 8, 2018**

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**TOPIC: SENTENCING TERRORISM**

- Purpose and Principles of Sentencing
- Review of sentencing decisions in Canada
- Comparative sentencing analysis
- The state of counter-radicalization in Canada
- Is rehabilitation possible?

**March 15, 2018**

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**TOPIC: THE SURVEILLANCE STATE**

- Privacy & surveillance law in Canada
- Where do rights end and prevention begin?
- Recent jurisprudence

**March 22, 2018**

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**TOPIC: SPECIAL TOPICS – INCHOATE OFFENCES & PEACE BONDS**

- When does thought become crime?
- *R. v. Hersi*, 2014 ONSC 2897
- Peace bond vs. criminal charge
- Law as a preventative tool

**March 29, 2018**

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**TOPIC: REVIEW OF THEMES & EXAM DISTRIBUTION**

**April 5, 2018**

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