

## Course Outline

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<b>COURSE:</b>	LAWS 4308 B – Sentencing
<b>TERM:</b>	Fall 2023
<b>PREREQUISITES:</b>	LAWS 2908, CRCJ 3001, or CRCJ 3002 and LAWS 2301, LAWS 2302 and fourth-year Honours standing
<b>CLASS:</b>	<b>Day &amp; Time:</b> Monday, 18:05 – 20:55 p.m.
	<b>Room:</b> Online via zoom
<b>INSTRUCTOR:</b>	Mary McCluskey
<b>CONTACT:</b>	<b>Office Hrs:</b> By Appointment <b>Telephone:</b> 613-204-8910 <b>Email:</b> marymcluskey@cunet.carleton.ca

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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.

### **COURSE DESCRIPTION**

This course is designed to provide students with knowledge regarding sentencing practices and laws in Canada, such as juridical discretion and the enforcement of mandatory minimums. Throughout the term, there will be class discussion regarding the sentencing of specific offenders, including youth, Indigenous peoples', women, and those deemed not criminally responsible. The goal of this course is to explore the benefits and drawbacks of modern-day sentencing procedures within Canada and its effects on certain populations.

### **REQUIRED TEXTS**

Manson, A. (2001). The law of sentencing. Irwin Law.

\*Hard copy available at the bookstore

\*Online version available via MacOdrum Library

All additional readings will be posted on BrightSpace under each week.

### **STUDENT 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.

	DUE DATE	PERCENTAGE (of overall grade)	CONTENT
Participation	Every Week	15%	See the 'Attendance/Participation' Description and Requirements' section of this outline
In-class Discussant	*Refer to class schedule*	25%	See the 'In-class Discussant' Description and Requirements' section of this outline
Proposal	Oct 16	15%	See the 'Proposal' Description and Requirements' section of this outline
Peer-review Proposal	Oct 30	10%	See the 'Peer-review' Description and Requirements' section of this outline
Final Paper	Dec 11	35%	Details released closer to date

#### **Attendance/Participation - 15%**

While attendance is important for this class, you will also be graded on your participation. This includes showing up to lectures prepared to discuss the readings and/or engaging with your peers who are leading the in-class discussion. Failure to attend class will result in a lower participation grade.

#### **In-class Discussant - 25 %**

During the term, students will choose a week in which they will lead a class discussion. This assignment is composed of **two** parts:

- 1) Submitting a 1-page summary of an assigned reading AND 2 critical discussion questions (Due the night before class) (15%)

- 2) Leading a breakout room: Each discussant will review the reading and their discussion questions with their peers before coming back to discuss as a class (10%)

Students will be graded on their ability to summarize the main arguments of the reading, posing two critical questions about the reading/to the author, and lastly, the ability to lead a small group discussion in class.

### **Final Paper Assignment**

The main assignment of the course is a 10-page paper on a topic of your choosing. The topic should be related to a sentencing issue or concept. Some examples include:

- Overrepresentation of Indigenous Peoples
- Sentencing of People with Mental Illness
- Mandatory Minimums
- Wrongful Convictions
- Treatment of Women in the CJS

#### **a. Proposal – 15%**

The proposal requires an outline of your proposed topic and annotations of FIVE academic sources you will be using in your paper. Your outline should consist of:

- 1) An introduction to your topic
  - a. Describe your topic and why it is important.
  - b. State your thesis or research question.
- 2) Body Paragraphs
  - a. List at least three main arguments you will be using in your body paragraphs of your paper.
  - b. Please use sources when writing your arguments.
- 3) Annotated bibliography
  - a. Annotation of FIVE academic sources related to your topic.
  - b. One paragraph per annotation - briefly summarize and state the usefulness of the source to your topic.
  - c. Follow APA formatting.

#### **b. Proposal Peer Review – 10 %**

Your proposal will be sent to two of your peers, where each person will make suggestions to help you with your final paper. Suggestions can be in the form of recommending different academic sources and/or arguments for the topic or reinforcing certain ideas you like! The peer review process is NOT for correcting grammar or spelling. The due date will be two weeks after the proposal is due.

### c. Final Paper – 35%

The final paper will be 10 pages, double spaced, and include at least 7 academic sources. A rubric for the final paper will be posted to Brightspace a few weeks before the deadline.

Format for all written assignments should be as follows:

- Double spaced text
- Font should be Times New Roman, 12-point font.
- Include page numbers starting on the first page of text (excluding the title page)
- Include a title page with your name, student number, name of assignment, due date and title of paper
- Start references on a new page. APA (7<sup>th</sup> edition) referencing style is preferred, but not required. Be sure whatever referencing style you use to be consistent throughout.

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

Any requests for extensions on assignments must be approved by the professor at least 1 day prior to the deadline (unless emergency). I am flexible when it comes to dates. Assignments submitted past the due date without an extension approval will be subject to late penalties. Late penalties consist of 5% per day.

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).

### **WEEKLY SCHEDULE**

Class Date	Readings	Topics
Week 1 (Sep 11)	Ch 1	Introduction
Week 2 (Sep 18)	Ch. 2, Ch. 3 & Manson, A. (1997). The Structure of the Canadian Sentencing System. <i>Federal Sentencing Reporter</i> , 9(5), 235–238. <a href="https://doi.org/10.2307/20639995">https://doi.org/10.2307/20639995</a>	History of Punishment and Justifications for Punishment
Week 3 (Sep 25)	Ch. 4, 5 & Berger, B. (2020). Judicial Discretion and the Rise of Individualization: The Canadian Sentencing Approach. P.249 – 278.	Juridical Discretion

Week 4 (Oct 2)	Ch. 6 & Chaster, S. (2018). Cruel, Unusual, And Constitutionally Infirm: Mandatory Minimum Sentences in Canada. <i>Appeal, Review of Current Law and Law Reform</i> , 23(23), 89–119	Rules of Sentencing and Mandatory Minimums
Week 5 (Oct 9)	Ch. 8 & Derwin, A. (2018). The judicial admission of flawed expert opinion evidence informing wrongful convictions. <i>WJ Legal Stud.</i> , 8, 1.	Burden of Proof & Expertise in Sentencing
Week 7 (Oct 16)	Ch. 9 p. 208-255	Sentencing Options <b>*Proposal Due</b>
<b>No Class – Study Week (October 23-27)</b>		
Week 8 (Oct 30)	Ch. 10, & Ch. 11 p. 315-335	Sentencing of Murder, Manslaughter, and Dangerous Offenders <b>*Peer Review Feedback Due</b>
Week 9 (Nov 6)	<b>GUEST SPEAKER</b>  Department of Justice Canada, The Review Board Systems in Canada: An Overview of Results from the Mentally Disordered Accused Data Collection Study, Department of Justice Canada, 2006, p. 1-41 & Slinger, E., & Roesch, R. (2010). Problem-solving courts in Canada: A review and a call for empirically-based evaluation methods. <i>International journal of law and psychiatry</i> , 33(4), 258–264. <a href="https://doi.org/10.1016/j.ijlp.2010.06.008">https://doi.org/10.1016/j.ijlp.2010.06.008</a>	Mental Illness & Healthcare
Week 10 (Nov 13)	Kerr, L. (2017). Sentencing Ashley Smith: How Prison Conditions Relate to the Aims of Punishment. <i>Canadian Journal of Law and Society</i> , 32(2), 187-207. & Bala, N. C., Carrington, P. J., & Roberts, J. V. (2009). Evaluating the Youth Criminal Justice Act after Five Years: A Qualified Success. <i>Canadian Journal of</i>	Youth Criminal Justice

	<i>Criminology and Criminal Justice</i> , 51(2), 131–167. <a href="https://doi.org/10.3138/cjccj.51.2.131">https://doi.org/10.3138/cjccj.51.2.131</a>	
Week 11 (Nov 20)	Balfour, G. (2013). Do law reforms matter? Exploring the victimization– criminalization continuum in the sentencing of Aboriginal women in Canada. <i>International Review of Victimology</i> , 19(1), 85–102. <a href="https://doi-org.proxy.library.carleton.ca/10.1177/0269758012447213">https://doi-org.proxy.library.carleton.ca/10.1177/0269758012447213</a> & Stuesser, L. (1990). The Defence of Battered Women Syndrome in Canada. <i>Man. LJ</i> , 19, 195.	Sentencing of Women
Week 12 (Nov 27)	Roach, K. (2008). One step forward, two steps back: Gladue at ten and in the courts of appeal. <i>Crim. LQ</i> , 54, 470. & Maurutto, P., & Hannah-Moffat, K. (2016). Aboriginal Knowledges in Specialized Courts: Emerging Practices in Gladue Courts. <i>Canadian Journal of Law and Society / La Revue Canadienne Droit Et Société</i> , 31(3), 451-471. doi:10.1017/cls.2016.35	Sentencing of Indigenous Peoples
Week 13 (Dec 4)	Ch 13.	Victimization and Future of Sentencing <b>*Final Paper Due Dec 11</b>

(\*) = Assignment Due

### UNIVERSITY DATES

Fall 2023 Sessional Dates and University Closures	
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>	
September 6, 2023	Fall term begins.
September 19, 2023	Last day for registration and course changes (including auditing) in fall and fall/winter courses.
September 30, 2023	Last day to withdraw from full fall and fall/winter courses with a full fee adjustment.
October 9, 2023	Statutory holiday. University closed.
October 23-27, 2023	Fall break, no classes.

November 15, 2023	Last day for academic withdrawal from full fall courses.
November 24, 2023	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).
December 8, 2023	Fall term ends.
	Last day of fall classes.
	Classes follow a Monday schedule.
	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 that can be specified by an instructor as a due date for term work for full and late fall courses.
	Last day for receipt of applications for undergraduate degree program transfers for winter term.
December 10-22, 2023	Final examinations in full fall and late fall courses and mid-term examinations in fall/winter courses will be held. Examinations are normally held all seven days of the week.
December 22, 2023	All final take-home examinations are due on this day, 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.

## **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, AND any submission prepared in whole or in part, by someone else, including the unauthorized use of generative AI tools (e.g., ChatGPT). Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>.

## STUDENT MENTAL HEALTH

As a University student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you.

**Emergency Resources (on and off campus):** <https://carleton.ca/health/emergencies-and-crisis/emergency-numbers/>

### **Carleton Resources:**

- Mental Health and Wellbeing: <https://carleton.ca/wellness/>
- Health & Counselling Services: <https://carleton.ca/health/>
- Academic Advising Centre (AAC): <https://carleton.ca/academicadvising/>
- Centre for Student Academic Support (CSAS): <https://carleton.ca/csas/>
- Equity & Inclusivity Communities: <https://carleton.ca/equity/>

### **Off Campus Resources:**

- Distress Centre of Ottawa and Region: (613) 238-3311 or TEXT: 343-306-5550, <https://www.dcottawa.on.ca/>
- Mental Health Crisis Service: (613) 722-6914, 1-866-996-0991, <http://www.crisisline.ca/>
- Empower Me: 1-844-741-6389, <https://students.carleton.ca/services/empower-me-counselling-services/>
- Good2Talk: 1-866-925-5454, <https://good2talk.ca/>

## 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 that can be found at:

<https://carleton.ca/equity/contact/form-pregnancy-accommodation/>

### **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, please go to: <https://carleton.ca/equity/focus/discrimination-harassment/religious-spiritual-observances/>

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### **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. You can find the Paul Menton Centre online at: <https://carleton.ca/pmc/>

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>