

LAWS 2908D – Winter 2024

Course Title:	Methodological Approaches in Legal Studies I
Course Date and Time	Tuesday, 8:35am – 11:25am
Location:	Please confirm on Carleton Central.
Instructor:	Sylva Sheridan PhD Candidate, MA, BA (Hon.)
Contact:	sylva.sheridan@carleton.ca
Office Hours:	Drop in Zoom Office Hours on Wednesdays: 10:00-12:00. I usually arrive to the classroom by 8:00am, so you can certainly speak to me before class if you wish.
Prerequisites:	LAWS 1001 and 1002 (formerly LAWS 1000 – no longer offered)
Brightspace:	Students must be able to access and use Brightspace for this course. Email to instructor, lecture slides, assignments and many video resources are available <u>only</u> through this modality. Contact ITS for assistance if required at https://carleton.ca/its .

Calendar Course Description:

Introduction to the legal research process and analysis of legal methodology; finding and analyzing primary and secondary legal sources. Students are strongly encouraged to take this course in the second year of their program.

Course Description:

The Law Program at the Department of Law and Legal Studies at Carleton University is firmly grounded in a “legal studies” approach which situates law in its social, economic, political, and historical contexts. As such, courses focus not just on ‘what the law is’ in a particular area but also on a range of academic and practical considerations: How does the law ‘as it is’ reflect particular (normative) visions of society and distributions of power within it? How and why does law change? How is the law ‘on the books’ operationalized (e.g., by the police or businesspeople) and experienced by ordinary people in everyday life? How do the narratives of law (e.g., judicial decisions) communicate cultural meanings in our society? How do law and legal processes interact with other institutions in our society? Who creates law – and is all ‘law’ (in the sense of regulation of conduct) formally prescribed law? Engaging with questions such as these requires that students are able to deploy a range of effective research skills and strategies.

The Department offers two research courses to assist students to master their law discipline. This course, LAWS 2908, introduces students to legal materials in legal studies research. By this we mean judicial decisions (cases), legislative instruments (statutes and regulations), government documents (including Parliamentary materials and policy), and secondary sources published in academic journals. It also addresses ‘legal method’ in comprehending and working with these materials. This course is compulsory for all students majoring in a Law or Law Honours programs. A second course, LAWS 3908, offered at the 3000 level, introduces students to a variety of

interdisciplinary approaches, including the use of social science research sources and methods in legal studies and more advanced consideration of theory in legal research.

Course Theme: This course will examine concepts and theory relating to historical and intergenerational trauma to assess the ongoing overrepresentation of Indigenous peoples in the Criminal Justice System. As part of Carleton's commitment to reconciliation and the strategic plan, assignments will include the incorporation of Carleton University's Collaborating Indigenous Learning Bundles.

Reminder: Please make use of my office hours, schedule an appointment with me, or email me with any questions. I am here to help you understand the course concepts, themes and ideas, and be successful in the course.

Course Materials

Recommended Text: McGill Law Journal, *Canadian Guide to Uniform Legal Citation*, 10th ed (Toronto, Ontario: Thomson Reuters, 2023) [The *McGill Guide*]. This text explains the basic rules of legal citation. It is an essential reference text for anyone conducting research concerning legal issues. You will use it as a resource in other courses as you progress in the law program. **If you plan to pursue graduate studies or law school, I highly recommend purchasing a copy.**

Required Readings: Other required readings will include articles and cases. These will be made available through a link on the Brightspace home page. We will also be going through rules of legal citation in class.

Course Format

Lectures:

The lectures in this course are designed to introduce students to the important role of research and the approaches to research that may be engaged in the field of legal studies. Lectures will also provide foundations for effective analysis of different types of primary and secondary sources in law.

Tutorials:

Tutorials are used to provide hands-on-instruction of research skills and training on electronic resources. Tutorials will also give you the space and time to work on your assignments and ask questions of the instructor and work in collaboration with your colleagues.

Evaluation:

This course is demanding and intensive. It will require considerable ongoing attention every week. These components are explained in detail below. Please review carefully and note all requirements and due dates.

We know that this is a lot of work for you (and for us) and that the course may seem heavier than your other courses. However, this course is foundational in your Law Program. It is designed to provide you with the opportunity to develop research skills and understanding that will serve you well in your other law courses. The course is also designed to encourage you to stay engaged with the material covered each week. Notably, the evaluation of the course is weighted to reward those students who stay engaged, submit the exercises on time, attend and participate in tutorial exercises.

Attendance and Participation

Attendance is mandatory and tutorials cover the details of legal research and databases as well as specialized themes to analyze legal material and writing. We will also be discussing the parameters of each assignment in detail during class.

Assignment 1 | Case Brief and Statutes/Government Documents Analysis

This assignment will require students to summarize and analyze a judicial decision in a case to be assigned by the instructor and to locate statutes, bills and government documents and perform a critical analysis. Further information, along with a template, will be on the Brightspace page and discussed in class. **DUE: FEBRUARY 16, 2024, at 11:59PM**

Assignment 2 | Summary and Analysis of Secondary Sources and Statutes/Government Documents

This assignment is designed to provide students with the opportunity to locate and analyze journal articles assigned by the instructor. The assignment will also require that you locate statutes, bills and government documents and perform a critical analysis. You will be reading and analyzing an article related to the course content and related government documents. Further information, along with a template, will be on the Brightspace page and discussed in class. Incorporation of Carleton's Indigenous Learning Bundles will be required for this assignment.¹ **DUE APRIL 12, 2024, at 11:59PM**

Preparatory Exercises

There are two preparatory exercises in this course which are designed to assist you in your major assignments. These are marked solely for completion; we will be taking up the answers in the following class.

Lecture Quizzes

There are 10 Lecture Quizzes that are based on the content discussed in the lectures and a designated reading for each lecture. They are posted on Brightspace. Each quiz gets activated the day the lecture for that week is scheduled in the course schedule below. Each quiz is worth two marks out of your final grade. While only your five best quizzes will be counted towards your final

¹ This course draws on Indigenous knowledge by incorporating [Collaborative Indigenous Learning Bundles](#). This inclusion is made possible because of Indigenous academics, Indigenous knowledge keepers and Teaching and Learning Services at Carleton University who have invested time and energy in preparing knowledge and delivering it to you in a culturally appropriate manner. Indigenous knowledge has been mishandled, mis-used and mis-deployed – in whole or in part – by non-Indigenous folks without the consent of Indigenous knowledge holders for centuries. It is imperative that all students engage all Indigenous knowledge bundle material provided in Brightspace.

grade, it is encouraged you complete as many as you can as they contain information that will assist your research projects.

Evaluation Grade Breakdown

Component	Value	Due Date(s)
Attendance	10%	Ongoing ²
Assignment #1 – Case Analysis	30%	Friday February 16, 2024, at 11:59pm EST
Assignment #2 – Secondary Sources	40%	Friday April 12, 2024, at 11:59pm EST
Preparatory Exercises	10%	1. Case Brief Analysis – Due Friday, January 26 at 11:59pm EST 2. Secondary Source Analysis – Due Friday, March 15 at 11:59pm EST
Lecture Quizzes	10%	1. Friday, January 19 at 11:59pm EST 2. Friday, January 26 at 11:59pm EST 3. Friday, February 2 at 11:59pm EST 4. Friday, February 9 at 11:59pm EST 5. Friday, February 16 at 11:59pm EST 6. Friday, March 1 at 11:59pm EST 7. Friday, March 8 at 11:59pm EST 8. Friday, March 15 at 11:59pm EST 9. Friday, March 22 at 11:59pm EST 10. Thursday, March 28 at 11:59pm EST
Bonus Marks	2%	Attend the research workshop on February 6th

Important Notes on Evaluation:

You must complete all components of the Evaluation to receive a passing mark in the course.³ 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. You must provide meticulously correct citations compliant with the *Canadian Guide to Uniform Legal Citation*, 10th edition (the McGill Guide) in Assignments. Marks will be deducted in each assignment if citations area not fully correct. Marks will also be allocated for effective writing.

Feedback:

You will receive a marking feedback and evaluation sheet with your marks and some comments when your marks are posted. You should wait 48 hours before emailing your TA if you have questions on your marks. Please make your queries specific and detailed so that the TA can review your points and get back to you. If necessary, your TA will set up an appointment to meet with you via Zoom.

² Please keep me informed if you register into the course late to ensure that your mark can be adjusted to account for this.

³ The exception to this is the quizzes. You only need to complete five quizzes to complete this evaluation component.

Timelines:

It will take about 14 days to mark and return Assignment 1 to you through the Assignments section on Brightspace. Assignment 2 will be marked with the same timeframe. You will receive your mark around the same time. Marks for other submissions will be inputted by your TA through Brightspace. You will know if you have obtained the associated marks in any case, by submitting on time.

Document Keeping:

Keep a copy of all assignments and other submissions until your final grade is confirmed. Please note that your TA may have to reach out to you if your assignment is formatted incorrectly on Brightspace and it is important that you have a copy you can email them immediately.

Individual work only: See later discussion of Academic Integrity.

Late Penalties:

I have every commitment to your success in the course and know that ‘life’ (and other coursework) can intervene. I also realise that it is common for students (and even professors) to work towards the ‘last minute deadline.’ As the seconds tick towards the deadline however, there seems to be a correlated ‘disaster clock’ – a computer crash, lost file etc. I urge you to set earlier ‘self-deadlines’ and to allow time for revision for major assignments. This is a very large class. Late assignments create a significant administrative burden across the team of people who work with me on the course. Accordingly, I expect and require students to get their assignments in ON TIME. I am remorseless about lateness. The Late Policy is as follows:

Assignments:

Late Assignments are not accepted in this course.

Extensions for Assignments:

Students can request an extension on assignments for serious illness, Covid related reasons or family and personal emergencies. Competing workloads in other courses is not a sufficient reason for an extension. Work schedule or family schedule conflicts are not sufficient reasons for an extension. Students requesting an extension MUST contact the Course Instructor prior to the assignment deadline (sylvasheridan@cunet.carleton.ca). The granting of extensions is determined by the instructor (not Teaching Assistants) 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 Self-Declaration form (located on the course Brightspace page) and submit it to the instructor through email PRIOR to the assignment due date. 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).

Extensions will not be granted for computer problems of any kind. I urge you to back up your work as you go along. The following are suggestions:

- Email a draft to yourself whenever you finish a segment of work on it

- Copy it to a USB thumb-drive
 - Copy to an external hard drive.
 - **As a Carleton student, you have access to Microsoft Office/365 which comes with a personalized OneDrive Account; it is recommended to download these applications. This will autosave your work, whether you are working on these assignments on or off campus.**
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COURSE SCHEDULE

Week 1: January 9

Topic: Introduction to the course

Material/Reading:

- Extensive Overview of the Course Outline & Q&A on assignments

To be completed:

- *Read course outline.*

Week 2: January 16

Topic: Cases I – Judges and Judgment + Finding and Noting Up Cases (Westlaw Canada and CanLii)

Material/Readings:

- UBC Faculty of Law – Introduction to Reading and Briefing a Case
- Martin Davies, “Reading Cases” (1987) 50:4 Modern L Rev 409.

To be completed:

- Complete Quiz #1

Week 3: January 23

Topic: Cases II – Anatomy of a Case (Lexis Advance Quicklaw and International Sources)

Material/Readings:

- *Sumner-Pruden v Manitoba* [2019] 17 LP 10.⁴
- ALPN – “*Ratio decidendi* and *Obiter Dicta*”
- Note: We will be reviewing assignment one in detail today

To be completed:

- Complete Quiz #2
- **Preparatory Exercise #1 (Case Brief Exercise) Due on Friday January 26 at 11:59PM**

⁴ This is the case you will be reading/analyzing for the first preparatory assignment.

Week 4: January 30**Topic: Cases III – Precedent, Law Reporting and Citation****Material/Readings:**

- Debra Parkes, “Precedent Unbound? Contemporary Approaches to Precedent in Canada” (2007) 32 Man LJ 135.
- ALPN – “Law Reports” (focus on concepts, not details)
- ALPN – “Updating Cases”
- Start Reading: *R v Gladue* [1999] 1 SCR 688.⁵
- Note: We will be taking up the responses from your preparatory case brief exercise.

To be completed:

- Complete Quiz #3

Week 5: February 6**Topic: Starting Research in Legal Studies + Finding Secondary Sources (Library, Databases, QuickLaw, WestLawNext)****Material/Reading:**

- *Guest Speaker: Julie Lavigne – Legal Studies Librarian*
- T. Brettel Dawson, “Legal Research in Social Science Settings: The Problem of Method” (1992) 14 Dalhousie LJ 445.
- Recommended: Richard F. Devlin, “Mapping Legal Theory” (1994) 32 Alta L Rev 602.

To be completed:

- Complete Quiz #4
- See the evaluation guide for marks awarded for attending this workshop.

Week 6: February 13**Topic: Secondary Sources I + Writing/Editing and Plagiarism****Material/Reading:**

- Review Complete the Carleton University Collaborative Learning Bundle on Brightspace – *The Ethics of Research with Indigenous Peoples*.
- Amy Bombay, Kim Matheson & Hymie Anisman, “The intergenerational effects of Indian Residential Schools: Implications for the Concept of Historical Trauma” (2013) 51:3 Transcultural Psychiatry 320.⁶

To be completed:

- Complete Quiz #5
- **Assignment #1 – Case Brief Analysis Due Friday February 16 at 11:59PM**

⁵ This is the case you will be reading/analyzing for Assignment #1

⁶ This is the article you will be reading/analyzing for the second preparatory assignment.

February 19-23
Winter Break, No Class

Week 7: February 27
Topic: Secondary Sources II + Analyzing Secondary Sources and Using them in Research

Material/Reading:

- Alexandra S. Dawson, Elaine Toombs & Christopher J. Mushquash, “Indigenous Research Methods: A Systemic Review” (2017) 8:2 *The International Indigenous Policy Journal* 1.
- Eileen Pittaway, Linda Bartolemei & Richard Hugman, “‘Stop Stealing Our Stories’: The Ethics and Research with Vulnerable Groups” (2010) 2:1 *J of Human Rights Practice* 229
- *Recommended:* Vincent Kazmierski, “How Much ‘Law’ in Legal Studies/ Approaches to Teaching Legal Research and Doctrinal Analysis in a Legal Studies Program” (2014) 29:3 *Canadian Journal of Law and Society* 297.

To be completed:

- Complete Quiz #6

Week 8: March 5
Topic: Legislation I – Legislation and the Legislative Process + Tracking the Legislative Process and Locating Bills

Material/Reading:

- Jane Dickson, “Making an ‘ASH’ out of *Gladue*: The Bowden Experiment” (2021) 44:5 *Manitoba LJ* 1.⁷
- C-15, *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*, 2nd Sess, 43rd Parl, 2021, (Royal Assent 21 June 2021).⁸
- Note: We will be reviewing assignment two in detail today.

To be Completed:

- Complete Quiz #7

⁷ This is the article you will reading/analyzing for assignment #2.

⁸ You will need to review this legislation in detail for assignment #2.

Week 9: March 12**Topic: Legislation II – Interpreting Legislation and Understanding Legislative Drafters + Finding and Noting Up Legislation****Material/Reading:**

- Sullivan & Driedger on the Construction of Statutes (pdf)
- C-92, *An Act Respecting First Nations, Inuit and Métis children, youth and families*, 1st Sess, 43rd Parl, 2019 (Royal Assent 21 June 2019).⁹

To be completed:

- Complete Quiz #8
- **Preparatory Exercise #2 (Legislative Analysis) Due on Friday March 15 at 11:59PM**

Week 10: March 19**Topic: Grey Literature and Government Documents****Material/Readings:**

- Hansard Debate on Residential Schools Apology from (Former) Prime Minister Stephen Harper <<https://www.ourcommons.ca/DocumentViewer/en/39-2/house/sitting-110/hansard>>.
- Recommended: Institute of Fiscal Studies and Democracy, “Expert analysis: Federal funding and First Nations in Canada”
- Note: We will be taking up the responses from your preparatory secondary source exercise.

To be completed:

- Complete Quiz #9

Week 11: March 26**Topic: Using News Media Sources in Legal Research + Social Media and the Law****Material/Readings:**

- See Brightspace for articles on the discovery of gravesites at Residential Schools in 2021.
- Nancy Macdonald, “Canada’s prisons are the ‘new residential schools’ (18 February 2016) online: Macleans: <[**To be completed:**](https://macleans.ca/news/canada/canadas-prisons-are-the-new-residential-schools/#:~:text=And%20why%20criminologists%20have%20begun,country%27s%20%20residential%20schools.”&text=In%20some%20Prairie%20courtrooms%2C%20Indigeno us,criminal%20caseloads%2C%20defence%20lawyers%20say.>.</div><div data-bbox=)

- Complete Quiz #10

⁹ We will be doing a tutorial exercise with this piece of legislation. Please ensure that you read it prior to attending class.

Week 12: April 2**Topic: Work Session on Assignment #2****To be completed:**

- No readings
- It is encouraged to come to class with a rough draft of your second assignment.
- There will be an opportunity to ask questions.

Week 13: April 9**Open Office Hours – no readings**

- OPTIONAL drop-in class to ask questions about the final assignment
- **Assignment #2 – Secondary Source Analysis & Statutes/Government Documents Due Friday April 12 at 11:59PM**

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:

The University Academic Integrity Policy defines plagiarism as “*presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one’s own.*” This 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, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or conversations.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else, including the unauthorized use of generative AI tools (e.g., ChatGPT);
- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;

- using another's data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one's own; and
- failing to acknowledge sources through the use of proper citations when using another's work and/or failing to use quotations marks.

Plagiarism is a serious offence that cannot be resolved directly by the course's instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of "F" for the course.

Statement of 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/>
- Paul Menton Centre: <https://carleton.ca/pmc/>
- 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/>
- The Walk-In Counselling Clinic: <https://walkincounselling.com>

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:

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 about the accommodation policy, visit the [Equity and Inclusive Communities \(EIC\)](#) website.

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/>

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. 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>

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/current-students/>.

Winter 2024 Sessional Dates and University Closure

Please find a full list of important academic dates on the calendar website <https://calendar.carleton.ca/academicyear>.

January 8	Winter term begins
January 12	Last day for registration and course changes (including auditing) in early winter courses)
January 31	Last day to withdraw from full winter courses with a full fee adjustment
February 19	Statutory holiday; university closed
February 19-23	Winter break. No Classes
March 15	Last day for academic withdrawal from full winter, late winter, and fall/winter courses.
April 10	Winter term ends. Last day of full winter/late winter and fall/winter classes.
April 13-25	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 25	All final take-home examinations are due on this day.