

**COURSE:** LAWS 51.4504A Aboriginal Criminal Justice

**TERM:** Winter 2018

**PREREQUISITES:** *Fourth year standing; Laws 2301, Laws 2302*

**CLASS:** **Day & Time:** Wednesdays, 11:35-2:25  
**Room:** D492 Loeb

**INSTRUCTOR:** Jane Dickson, PhD (Law)

**CONTACT:** **Office:** D592 Loeb Bldg.  
**Office Hrs:** Mondays, 10:30-12:00 or by appointment only  
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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/>

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*).

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 Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source.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.

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<http://carleton.ca/studentaffairs/academic-integrity/>

## **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 explores the relationship between Indigenous peoples in Canada and the criminal justice system, turning a critical lens on the causes and consequences of Indigenous offending, over-representation and over-incarceration. Policy approaches aimed at ameliorating the latter and repairing the relationship between Indigenous people, the state and its coercive apparatus are critiqued.

## **REQUIRED TEXTS**

All required readings in this course are available electronically, either through MacOdrum Library or Google Scholar.

## **EVALUATION**

**There are three evaluation components in this course:**

**I. Group Presentation: 30%**

Students will self-select or be placed in groups of 3-4 to research and present on a topic of their own choosing; scheduling of presentations will be dependent upon the number of students, but will ideally begin in the third week of classes. Selection of topics and scheduling will be determined in collaboration with the group and the professor, but students are encouraged to pursue alternative topics of their own interest, and to be creative and thoughtful in crafting their presentations. Presentations will be assessed for depth of research, organization, clarity and measure of engagement.

**II. Participation: 30%**

This course requires students to engage with the material and to demonstrate that engagement through participation in class discussions. Please note that weekly attendance at class will account for up to 15% of the participation grade; the balance of the participation grade will be determined by the quantity and quality of contributions to class discussions and debates.

**III. Final Examination: 40%**

A final examination consisting of short answer and essay questions will be held following completion of the course.

**Please Note:**

Failure to complete any aspect of the course requirements will result in a grade of 'F' for this course. 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.

## **CLASS SCHEDULE AND READINGS**

### **Week 1: Course Introduction**

No Readings

### **Week 2: Framing the Context of Indigenous Criminal Justice: History, Colonization and Trauma**

#### **Readings:**

- Maria Yellowhorse Braveheart, 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.
- Les B. Whitlock, Gary W. Adams, Dan R Hoyt & Xiaojin Chen (2004) Conceptualizing and Measuring Historical Trauma Among American Indian People. *American Journal of Community Psychology*, 33(3/4) 119-130.
- 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.

### **Week 3: The impacts of Trauma: Offending Patterns and Over-Representation**

#### **Readings:**

- Statistics Canada, 'Victimization of Aboriginal People in Canada, 2014, *The Daily*, Tuesday, June 28, 2016.
- Harold R. Johnson, "Four Models", in *How Alcohol is Killing My People (And Yours)*, University of Regina Press, 2016, pp.33-55.
- 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.

### **Week 4: The Role of the System: Policing**

#### **Readings:**

- Nicholas Jones, Rick Ruddell, Robe Nestor, Kaitlan Quinn & Breeann Phillips, 'First Nations Policing in Canada: Issues and Challenges', and 'Policing Arrangements', in Jones et al, *First Nations Policing: A Review of the Literature*, University of Regina: Collaborative Centre for Justice and Safety, 2010: 49-65.
- Amanda Nettelbeck & Russell Smandych, 'Policing Indigenous People on Two Colonial Frontiers: Australia's Mounted Police and Canada's Northwest Mounted Police', 43 *Australian and New Zealand Journal of Criminology* (2010):356-375.
- Savvas Lithopoulos & Rick Ruddell, 'Policing isolated Aboriginal communities: perspectives of Canadian officers', 34(3) *Policing: An International Journal of Police Strategies & Management* (2010):434-453.

### **Week 5: Indigenous People and the Courts**

#### **Readings:**

- Samantha Jeffries & Phillip Stenning, 'Sentencing Aboriginal Offenders: Law, Policy and Practice in Three Countries', *Canadian Journal of Criminology and Criminal Justice* July (2014):447-494.
- Don Weatherburn, Jackie Fitzgerald & Jiuzhao Hua, 'Reducing Aboriginal Over-representation in Prison', *Australian Journal of Public Administration* 62(3), (2003):65-73.
- 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.

**Week 6: Indigenous People, Social Context Evidence and Gladue****Readings:**

- R. v. Gladue, [1999] 1 SCR 948
- R. v. Ipeelee, [2012] 1 S.C.R. 433.
- Samantha Jeffries & Christine E.W. Bond, 'The impact of Indigenous Status on Adult Sentencing: A Review of the Statistical Research Literature from the United States, Canada, and Australia', *Journal of Ethnicity in Criminal Justice* 10 (2012):223-243.
- Kelly Hannah-Moffat & Paula Maurutto, 'Re-Contextualizing pre-sentence reports: Risk and race', *Punishment and Society* 12(3) (2010):262-286.

**Week 7: Reading Week (February 19-23, 2017).****Week 8: The Experience of Incarceration by Indigenous Offenders****Readings:**

- Julian V. Roberts & Ronald Melchers, 'The Incarceration of Aboriginal offenders: Trends from 1978-2001', *Canadian Journal of Criminology and Criminal Justice* April 2003:211-242.
- Rick Ruddell & Shannon Gottschall, 'The prison adjustment of Aboriginal offenders', *Australia and New Zealand Journal of Criminology* 47(30) (2014):336-354.
- Joanne Martel, Renée Brassard & Mylène Jaccoud, 'When Two Worlds Collide: Aboriginal Risk Assessment in Canadian Corrections', *British Journal of Criminology* 51 (2011):235-255.

**Week 9: Coming Home: Parole, Aftercare and Reintegration 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.
- Matthew Willis, 'Reintegration of Indigenous prisoners: key findings', *Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice*, August 2008.
- Wai-Yin Wan, Suzanne Poynton & Don Weatherburn, 'Does parole supervision reduce the risk of re-offending?' *Australia and New Zealand Journal of Criminology* 49(4) (2016):497-511.

**Week 10: 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.
- William R. Wood, 'Why Restorative Justice will not Reduce Incarceration' 55 *British Journal of Criminology* (2015):883-900.
- Ann-Claire Larsen & Peter Milnes, 'A Cautionary Note on Therapeutic Jurisprudence for Aboriginal Offenders', *Murdoch University Electronic Journal of Law* 18 (2011):1-27.

**Week 11: Sentencing Circles****Readings:**

- Mary Crnkovich, 'The role of the victim in the criminal justice system: Circle sentencing in Inuit communities, paper presented at the Canadian Institute for the Administration of Justice Conference, Banff, Alberta, November 1995. Online at <http://www.casac.ca/content/role-victim-criminal-justice-system-circle-sentencing-inuit-communities-0>
- Jacqueline Fitzgerald, 'Does circle sentencing reduce Aboriginal offending?' *Crime and Justice Bulletin* No.115, May 2008.

**Week 12: Healing and Talking Circles****Readings:**

- Native Counselling Services of Alberta, A Cost-Benefit Analysis of Hollow Water's Community Holistic Circle Healing Process. Aboriginal Healing Foundation, 2001.  
<https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/cst-bnft-hllw-wtr/index-en.aspx>

**Week 13: The Future of Indigenous Justice Reform****Readings:**

- Fiona Alison & Chris Cunneen, 'The role of Indigenous justice agreements in improving legal and social outcomes for Indigenous people', 32 *Sydney Law Review* (2010):645-669.
- Rob White, 'Communities, conferences and restorative social justice', 3(20) *Criminal Justice* (2002):139-160.