

## Course Outline

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<b>COURSE:</b>	<b>LAWS 4802B – Criminal Jury Trials</b>
<b>TERM:</b>	<b>Winter 2018</b>
<b>PREREQUISITES:</b>	<b>LAWS 2301 AND LAWS 2302</b>
<b>CLASS:</b>	<b>Day &amp; Time: Thursday, 6:05pm – 8:55pm</b> <b>Room:</b> Please check Carleton Central for current room location
<b>INSTRUCTOR:</b> <b>(CONTRACT)</b>	<b>Dr. Patrick McCaffery</b>
<b>CONTACT:</b>	<b>Office:</b> Contract Instructors' Office – B442 LA (Loeb) <b>Office Hrs:</b> By Appointment <b>Telephone:</b> Cell 613 619-4895 <b>Email:</b> <a href="mailto:p_mccaffery@hotmail.com">p_mccaffery@hotmail.com</a>

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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 is a critical analysis of the criminal jury trial system. There will be an examination of historical alternatives, development and modern alternatives. Topics may include accused election, the reasons for electing judge and jury, juror qualification, jury selection, challenge for cause, change of venue, opening addresses, trial process, closing addresses, and charging the jury. This will involve an analysis of how and why the trial process came into being, why it survives and how it has evolved as well as the function of the judge, the jury dynamic and jury composition. This course is a sequel to LAWS 2004 (no longer offered) 2301, 2302. The roles of the accused, victims, police, defense counsel, Crown attorney, judges, juries, media, politicians and the public will all be touched upon. Current issues before the courts, legislatures and the media will also be discussed. Students are encouraged to follow the media reports on current issues dealing with the jury trials so that they can participate in class discussions.

Reference will be made to the text, specific readings, the *Jury Act*, the *Criminal Code* and case law. The course will be taught through lectures, discussions and guest lecturers. Students will be encouraged to participate by applying and critiquing the various institutions, concepts, and case law. A detailed course outline as well as weekly assigned readings will be given on the first day of class.

### **REQUIRED TEXTS**

Tanovich, David M., David M. Paciocco and Steven Skurka, *Jury Selection in Criminal Trials: Skills, Science and the Law*. Concord, Ont.: Irwin Law, 1997. (Has been ordered at the Carleton Bookstore.)

A recent Criminal Code edition (e.g. Martin's Annotated Criminal Code, Tremear's Annotated Criminal Code, Carswell's Pocket edition).

### **SUPPLEMENTARY TEXTS**

A list of additional readings will be supplied.

## **EVALUATION**

### **(All components must be completed in order to get a passing grade)**

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.

The grade in this course will be based on the following:

1. 20% - Midterm examination: in class multiple-choice, short answer, closed book – February 15, 2018
2. 20% - In class presentation, course attendance, preparedness, participation and contribution to class discussion. (Actual in class presentations to be conducted between March 15-29, 2018.)
3. 30% - Final examination: multiple-choice, short answer, essay question, closed book to be held during formal exam period at the end of the 2017 Winter term (April 14-26, 2018)
4. 30% - Essay

### **IN CLASS PRESENTATION: 20 Marks**

Students will work in groups of two or three to present on a relevant Canadian jury topic. Presentations should be approximately 20-30 minutes in length and must include a one to two page handout including references and open-ended discussion questions. Students are expected to lead a discussion around the significance of the topic and provide thoughtful answers to the questions they have posed.

### **ESSAY: 30 Marks**

Essays must be about 10 typewritten pages double-spaced (approximately 2,500 words), excluding bibliography, and should not exceed 12 pages, double-spaced, excluding bibliography. If you exceed the maximum length, your paper may be returned for shortening prior to marking.

Hard copy essays are due at the beginning of class on Thursday, March 8, 2018. Late assignments will be deducted marks and can be dropped through the Drop Slot in the corridor outside C-473 Loeb. Note the rules concerning the submission of assignments through the drop slot; these rules are clearly explained in the Department of Law and Legal Studies Policy and Procedure Statement. You are responsible for the date stamped on your paper if you choose to deposit it into the drop slot. You should verify the rules with the department before opting to use this method for handing in your essay. Late essays will be penalized a one-third letter grade per day (i.e., if non penalized grade was A, after one day it would be penalized to A-, then to B+ after two days, etc.)

Only original work will be accepted. It is an instructional offence to submit work that has previously or is currently being submitted for credit in this or another course. Essays must be written specifically for Laws 4802, and cannot be submitted to another instructor. The essay will account for 30 marks, re: 30% of your final grade and will be returned in class.

#### **Essay Grading considerations include the following**

1. Writing quality (i.e. clarity of writing, as well as proper spelling, grammar, legal case citation, and footnote use) following APA referencing style or proper legal citation;
2. Presentation and structure
  - Introduction with clear research question or statement
  - Scope of inquiry
  - Arguments in favor and opposing change
  - Critical analysis
  - General conclusion;
3. Quality of Research: Have you presented the current research in the field, and cited the work and studies of the leading Canadian experts and authorities?
4. Quality of Critical Analysis: Students need to go beyond describing the current situation. Have you discussed and analyzed the research in a thorough, balanced and objective fashion?
5. Meeting deadline.

#### **Essay & Presentation Extensions**

Consistent with Legal Studies policy, extensions are granted ONLY for verifiable exceptional circumstances. A verifiable exceptional circumstance generally means a death in your immediate family, or personal illness. Personal illness requires a certificate from a doctor. To guarantee fairness to all students, this policy is strictly

enforced. **Unless you have been granted an extension, one grade point will be deducted for each day that your essay is late or presentation delayed.**

For further explanation of the regulations in this regard, see the Policy and Procedure Statement or contact the Department of Law and Legal Studies.

***Final Examinations will be scheduled April 14-26, 2018.***

## **SCHEDULE**

<b>LAWS 4802B : CRIMINAL JURY TRIALS - COURSE SCHEDULE (Winter 2017)</b>			
<b>Date</b>	<b>Class #</b>	<b>Topic</b>	<b>Readings</b>
January 11	1	Impact of group dynamics on jury deliberation ( <i>Handouts provided on course</i> )	Bornstein & Greene (2011); Kerr & MacCoun (1985); MacCoun (1989) <i>*Full reference below *</i>
January 18	2	Introduction and history of criminal jury system in Canada ( <i>Course overview; Essay &amp; presentation discussed</i> )	Ch. 1 - Tanovich, Paciocco & Skurka (1997)
January 25	3	Jury Selection – Pretrial ( <i>Presentation topics selected, dates set</i> )	Ch. 2, 3, 9 & Juries Act
February 1	4	Change of Venue – Ottawa Courthouse	
February 8	5	Jury Selection – In Court – Peremptory Challenge	Juries Act & Ch. 10, 11
February 15	6	In class exam	
February 22	7	Winter Break ( <i>Feb 19-23 no class</i> )	
March 1	8	Jury Selection – In Court – Challenge for Cause	Ch. 4, 5
March 8	9	Jury Selection – In Court – Challenge for Cause ( <i>Essay Due</i> )	Ch. 6, 7, 8
March 15	10	Presentations	
March 22	11	Presentations	
March 29	12	Presentations	
April 5	13	Course review for Examination	
April 14-26		End of Term Examination	

### **Essay**

Topic: Identify one change to the Canadian jury system you feel warrants serious consideration. In your essay, clearly identify what this change is. Be sure to discuss such fundamental issues such as why this currently exists? What attempts to change have already occurred? What would be necessary to change the status quo? What are the pros, cons, costs and opportunities associated with making the changes you have highlighted? (e.g., paying jurors minimum wage, reducing/increasing number of jurors, changing jury duty rules, etc.) Keep in mind that even a modest change can carry disproportionate impact or cost, and might require Constitutional, *Jury Act* or other legislative amendments.

Essays must be about 10 typewritten pages double-spaced (approximately 2,500 words), excluding bibliography, and should not exceed 12 pages, double-spaced, excluding bibliography. If you exceed the maximum length, your paper may be returned for shortening prior to marking.

Printed essays are due at the beginning of class on Thursday March 8, 2018. (Essays will be collected at the *start* of class.) Late assignments will be deducted marks and can be dropped through the Drop Slot in the corridor outside C-473 Loeb. Note the rules concerning the submission of assignments through the drop slot; these rules are clearly explained in the Department of Law and Legal Studies Policy and Procedure Statement. You are responsible for the date stamped on your paper if you choose to deposit it into the drop slot. You should verify the rules with the department before opting to use this method for handing in your essay. Late essays will be penalized a one-third letter grade per day (i.e., if non penalized grade was A, after one day it would be penalized to A-, then to B+ after two days, etc.)

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2. Presentation and structure
  - Introduction with clear research question or statement
  - Scope of inquiry
  - Arguments in favor and opposing change
  - Critical analysis
  - General conclusion;
3. Quality of Research: Have you presented the current research in the field, and cited the work and studies of the leading Canadian experts and authorities?
4. Quality of Critical Analysis: Students are encouraged to go beyond merely describing the current situation. Have you discussed and analyzed the research in a thorough, balanced and objective fashion?
5. Meeting deadline.

#### **Presentation**

In class presentations will take place from March 15-29, 2018.

Students will work in groups of two or three to present on a relevant Canadian jury topic. The week prior to their presentation, students shall assign a relevant reading(s) and at least three open-ended discussion questions.

Students are expected to provide a 10-15 minute overview of the topic and must include a one to two page handout including non-course references. Students are also expected to lead a 10-15 minute discussion providing thoughtful insights and/or answers to the questions they have posed. Total presentation time of approximately 20-30 minutes per group.

Topics can be selected from below. One topic per group. Groups will be selected on January 18, 2018. Additional topics can be selected if formally approved by the course instructor no later than February 1, 2018 (presentation dates will also be assigned on this date).

- i. PTSD among jurors
- ii. *R v. Gill* - juror secrecy and Sec 649CCC
- iii. Jury Nullification
- iv. Charging the jury and judges direction
- v. Historical jury-related case (more than one group can present, provided different cases)
- vi. Current jury-related case (more than one group can present, provided different cases)
- vii. Media and juries
- viii. Race and juries
- ix. Other topic with instructor approval by February 1, 2018