



Lakehead UNIVERSITY

POLI 2311 Criminal Law (Fall 2021) Mondays & Wednesdays 8:30-10 am

Instructor: Dr. Catherine Mathie

Email: cmathie@lakeheadu.ca

Office Hours: Thursday 3:00 - 4:30 pm (via Zoom), or by appointment

Course Description

This course will provide an introduction to criminal law in Canada. We will study the theory, and constitutional, common law and statutory norms and principles that govern it. Through a study of texts including Canada's constitutional documents (including the Charter), Criminal Code, and especially Supreme Court cases, students will learn about the government's powers, purposes and procedures in criminal legislation and prosecution in the country as well as the legal and procedural rights that protect those facing prosecution. Classes over Zoom will involve elements of lecture as well as discussion so that you can most effectively engage with and analyse the examples, questions, difficulties and principles raised in the study of criminal law.

Since this seminar will be offered over Zoom, some necessary adjustments may be made as we go along to the format of class sessions in order to make it possible for everyone to get the most out of it; I appreciate your flexibility.

Course Requirements

Required Texts:

For this course, we will not be using a textbook. All of the required readings are listed in the Course outline and will be found in reading packages or links provided on the course website.

Grading:

Paper: 20%

Midterm: 30%

Final Exam: 40%

Participation: 10%

Papers: Your paper topics will be distributed October 6. Papers will be due on the 8th of November. Late assignments will see a grade deduction of 2% per day. Extensions may be requested in advance of the due date, but not afterwards.

Class Participation: All students are expected to:

- 1) Read assigned material carefully.
- 2) Be prepared to discuss or answer questions about the readings over Zoom.
- 3) Have hard copies of the readings (or copies displayed on an alternate device) with them during the Zoom seminar.
- 4) Avoid: (a) excessive absences from or lateness to our seminars; (b) being or appearing inattentive to seminars; (c) engaging in conversations with others outside of the Zoom seminar during class time.

Participation marks are not free:

- Consistently meeting these expectations will earn a mark in the B range (70-79%).
- Consistently meeting these expectations AND regularly participating thoughtfully in our discussions will be required for a mark in the A range (80-100%).
- Failure to follow even one of the expectations may result in an extremely low grade.

Academic Honesty: Academic honesty is expected of all Lakehead University students. It should go without saying that cheating, collusion, and plagiarism will not be tolerated. Students are expected to make themselves fully familiar with Lakehead's policies in this area. Although all these policies will be enforced in full, it is worth emphasizing the following:

PLAGIARISM INVOLVES PRESENTING ANOTHER'S WORK, IDEAS, THEORIES, OR INTERPRETATION AS ONE'S OWN.

To avoid plagiarism, always:

- 1) Put quotation marks around any words taken from sources.
- 2) Paraphrase material completely; do not simply rearrange words from a source or change them using a thesaurus, etc.
- 3) Whether it is being quoted or paraphrased in your work, always give accurate and complete citations for all material that comes from another source.
- 4) Avoid borrowing entire arguments or ideas from another writer. Your arguments should be original to you.

Course Outline

NOTE: Readings and schedule will be adjusted as necessary at the instructor's discretion. Of course, Zoom is an imperfect forum for discussion, so as we proceed with the seminar, I may find it necessary to make some changes with the structure of class discussions. I greatly appreciate your flexibility and understanding.

Introductions to the Course and to Criminal Law in Canada

Sept 8

Introduction to the course and review of syllabus and course expectations

Sept 13 Introduction to concepts of law, crime and punishment under law

Fuller, Lon. "The Problem of the Grudge Informer."

Sept 15 The elements of a criminal offense (*actus reus* and *mens rea*); common law
Reading package

Sept 20 Criminal law under Canada's Constitution: government powers and Charter limits
Constitution Act, 1867 s. 91(27), s. 92(14), s. 96
Constitution Act, 1982 s. 1, 7-14, 24

Sept 22 Judicial review by Supreme Court under the Charter & rules of interpretation
R. v. Oakes, [1986]; Excerpts from R. v. Edwards Books & Art [1986]
Excerpts from: Perka v. The Queen, [1984]

Sept 27 Judicial review/interpretation Part II
Excerpts from R. v. D.L.W., 2016 SCC 22, [2016]; Krayzel Corp. v. Equitable Trust Co., 2016
SCC 18, [2016]

Criminal jurisdiction of the Federal government Part I
Reference Re Validity of Section 5(a) of the Dairy Industry Act [Margarine Reference], [1950]
Reference re Young Offenders Act (P.E.I.), [1991]

Sept 29 Criminal jurisdiction of the Federal government Part II
R. v. Malmo-Levine; R. v. Caine, [2003]
R. v. Lloyd, 2016 SCC 13, [2016]

Oct 4 Introduction to the federal Criminal Code
Reading package

Oct 6 Categories of Offense under the Criminal Code
Reading package

Oct 18 Actus Reus
R. v. Leech, 1972
R. v. Cooper, 1993

Oct 20 Mens Rea & Subjective Liability
Briscoe v. R, 2010
R. v. Martineau, 1990

Oct 25 Mens Rea & Objective Liability
Creighton v. R, 1993
Beatty v. R, 2008

October 27 MIDTERM

Nov. 1 Strict & Absolute Liability in Regulatory Offences
R. v. Sault Ste. Marie, 1978
Wholesale Travel Group Inc. v. R., 1991

Nov 3 Participation in Crime

Greaves v. R, 1997

Pickton v. R, 2010

Nov 8 Criminal Defenses: Automatism

Stone v. R., 1999

R. v. Fontaine., 2004

Nov 10 Partial Criminal Defenses: Provocation & Intoxication

Thibert v. R, 1996

Daviault v. R., 1994

Criminal Procedural Rights:

Nov 15-17 Section 8: Search & Seizure

Hunter v. Southam, 1984

R. v. Edwards, 1996

R. v. Tessling, 2004

R. v. Grant, 2009

Nov 22 Section 9: Arbitrary Detention or Imprisonment

R. v. Hufsky, 1988

R. v. Nolet, 2010

Nov 24-29 Section 12: Cruel & Unusual Punishment

R. v. Smith, 1987

R.v. Goltz, 1991

R. v. Nur, 2015

R. v. Boudreault, 2018

Dec 1-6 Procedural Rights for Aboriginal Offenders

R. v. Gladue, 1999

R. v. Mathewise, 2016

R. v. Sellars, 2017

R. v. Mulholland, 2014