

**LAKEHEAD UNIVERISTY**  
**DEPARTMENT OF POLITICAL SCIENCE**  
**CRIMINAL LAW**  
**POLI 2311**

Course Director: Faye Fraser  
Class Location: OA 2014  
Days: Tuesday & Thursday 10:00-11:30 a.m.

Office Location: Simcoe Hall Office, Third Floor Desk: #3

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Office Hours: Tuesday 11:30-12:30 pm

**Course Description:**

This course examines criminal law in Canada. It's starting point locates criminal law within a larger political context that understands it as a site of gendered, racialized, and class struggle. It maintains that for students of law to be able to engage criminal justice legal discourse in a critical manner, they must also analyze and appreciate its institutional components—the state, the structure of the courts, policing, and the prison—and their response to, or the production of, crime and criminality. In addition to introducing students to procedural and substantive aspects of Canadian criminal law by focusing on the historical context of criminal justice in Canada, the impact of the Charter of Rights and Freedoms, popular trials and legal precedents, processes of criminalization, and power, this course will also raise important questions about criminal law's relationship to violence and (un)freedom.

To this end, the objective of this course is two-fold, to introduce to students to the general principles of criminal law, its conceptual language, and its structure and operation, and it is to provide students with a framework through which they might more better understand criminal law's networks of power and the politics of criminalization.

**Course Materials:**

Verdun-Jones, S. N. (2016). *Criminal Law in Canada: Cases, Questions, and the Code*. Nelson Publishing. **(required text)**

Other readings will include journal articles and book chapters that will be available via the library catalogue, D2L, or library reserve.

**Format:**

This course will consist of weekly lectures and in-class participation. Weekly lectures will focus on identified topics and will often use videos or documentary films to illustrate the conceptual material. Lectures complement assigned readings and are not meant to be summaries. Students must do the assigned reading prior to the lecture, as the class will use active learning approaches

throughout. Students are responsible for lecture material, required readings, films and other material covered in class.

### **Course Requirements:**

1. Participation (10%): Attendance & contribution in class.
2. In-class presentation (10%).
3. Assignment # 1 (20%): Students will be asked to critically analyse and apply theories taken up in class and lecture. Analysis must be roughly five pages in length, not including title page, bibliography, etc. (approx. 1,000-1,500 words). I will provide detailed instructions for this assignment on a separate document.
4. Final Term Paper (30%): Student will be required to submit a final essay. Analysis must be roughly 8-10 pages in length, not including title page, bibliography, etc. (approx. 2,000-2,500 words). The instructor will provide detailed instructions for this assignment on a separate document.
5. Final Exam (30%) – To be held during exam period.

### **Important Dates:**

1. *October 16: Assignment #1 due (in class)\*\**
2. *November 22: Final paper due (in class)\*\**

### **E-mail:**

E-mail will be answered within two business days. Do not submit any class assignments by e-mail, unless instructed to do so. Please use e-mail only for quick queries and to set up appointments out of regularly scheduled office hours.

All students are required to have a valid Lakehead e-mail address. It is your responsibility to maintain your e-mail address in good working order. The University expects you to correspond with me through your official e-mail address, and not through a commercial e-mail account. Failure to receive important class announcements and messages from me because of a faulty e-mail account (for example, an account which screens out my e-mails as junk mail; bounced messages because of overloaded caches) are not legitimate excuses.

Forwarding your Lakehead email to a Hotmail, Gmail, Yahoo or other type of e-mail account is not advisable. In some cases, messages from your Lakehead addresses sent to Hotmail, Gmail or Yahoo accounts are filtered as junk mail, which means that e-mails from me may end up in your spam or junk mail folder.

### **Accessibility:**

Students with diverse learning styles and needs are welcome in this course. In particular, if you have a disability/health consideration that may require accommodations, please feel free to approach me, and/or Accessibility Services. The sooner you let us know your needs, the quicker we can assist you in achieving your learning goals in this course.

### **Presentations:**

Students will also be responsible for weekly presentations. In groups of two (or in special cases three), students will be expected to sign up for an in-class presentation. A presentation list will be circulated at the beginning of the first class. It is first come first serve. However, it is required that there is an in-class presentation every week.

**NOTE:** In these presentations you are not expected to be an expert on the material. Student are to simply lead a 10 to 15 minute discussion that demonstrates their active engagement with the material. Please feel free to get creative with your presentations. SHORT videos, technology, popular culture, and current events are welcome so long as they are in conversation with the material.

For class presentations, students are required to submit summary of the relevant information from the readings at the beginning of class. Information should include the main themes and concepts, important theories, what the author's main argument(s) are, what supporting evidence/argument(s) do they use (you should include the cases that they cite and the reason that particular case is used). What does the author conclude?

I am flexible on how you organize the material, as long as it is typed in a size 12 font, includes your names, student numbers, week of presentation and topic. Finally, you need to include three discussion questions at the end of your summary. These will be used to facilitate class discussions. This can include questions relating to aspects of the material that you did not understand, questions about specific areas of the material that you found interesting and would like to know more about, or questions about the material that you think the author left out and should be considered.

**The following includes five key areas of interest that I will use to evaluate your presentation.**

- a) Are you present?
- b) Did you complete the readings? Were you able to understand the material, and to what degree?
  - What are the key themes/points?
  - Why are these important?
- c) Can you make connections across the material?
  - What are the connections?
  - Does the material relate to previous topics discussed in class? How?
- d) How engaged are you with the presentation?
  - Are you actively participating?
  - Have you and your group member(s) presented the material in a way that you are both fairly and equally actively engaged?

e) Fluidity?

- Did the presentation flow?
- How is the presentation in terms of clarity? Was in the formation presented in a clear and coherent manner that is easily understood by all?

### **Essays:**

You are to complete two essay formal assignments. The goal of these written assignments is to provide a clear, response (argument) to the research question backed by rational consideration of the evidence. Essay topics will be distributed in class.

Summarize your response (argument) in a sentence or two. The thesis statement should appear in the first paragraph of your essay. Be explicit. The reader should be clear on what you are arguing. Do not spend more than a few paragraphs providing background information. Focus on providing information that advances your argument. While the balance of the paper will defend your argument, you should also acknowledge counterarguments and seek to demonstrate that your argument is superior.

*Formatting bibliographies, references:*

The written assignments will all be in APA format, using 12 pt Times New Roman font with standard margins. Essays should be free of spelling and grammatical errors. They must include appropriate citations and complete bibliography.

Include a title page with your name, the date, the course number, and my name.

In completing the written assignments, students must cite all facts and figures that are not common knowledge and must cite all ideas that are borrowed from other authors. Students must use APA formatting correctly in their bibliographies, and references. *Failure to do so will result in substantial penalty in calculating your assignment grade.*

The University takes instructional offences (including plagiarism) very seriously. Please make sure that you are familiar with the regulations regarding instructional offences. Also, it is not acceptable to submit the same assignment in two different courses.

**Below is a quick link to APA guidelines:**

[https://owl.purdue.edu/owl/research\\_and\\_citation/apa\\_style/apa\\_formatting\\_and\\_style\\_guide/general\\_format.html](https://owl.purdue.edu/owl/research_and_citation/apa_style/apa_formatting_and_style_guide/general_format.html)

For further guidance please see the Lakehead University writing assistance centre.

### **\*\*\* Late Penalties**

Assignments are due on the dates specified in the course outline. Late papers will be subject to a penalty of 2% a day including weekends. Assignments will not be accepted two weeks after the due date.

No retroactive extensions will be permitted. Exceptions will be made only in those cases of special circumstances, (e.g. illness, bereavement) and where the student has verifiable documentation.

### **Key Approaches to Course Material:**

- Indigenous Critiques of Colonial Law
- Critical Race & Intersectional Approaches to Criminal Justice
- Feminist Critiques of Legal Discourse
- Marxist Theories of Law & Society

### **Tentative Schedule:**

#### **WEEK 1: INTRODUCTION**

**Sept 4: No readings**

**Sept 6: Historical Context & Theoretical Framework: R v. Gladue**

Burrows, J. (2002). Ch. 6: “Questioning Canada’s Title to Land: The Rule of Law, Aboriginal Peoples, and Colonialism” in *Recovering Canada: The Resurgence of Indigenous Law*. Toronto: University of Toronto Press, pp. 111-137. (on reserve)

Smith, Andrea. (2006). Ch. 5: “Heteropatriarchy and the Three Pillars of White Supremacy: Rethinking Women of Color Organizing,” in *Colour of Violence: INCITE! Women of Colour Against Violence* eds. INCITE. Cambridge MA. South End Press, pp. 1-6. (on reserve & also available: <https://www.cpt.org/files/Undoing%20Racism%20-%20Three%20Pillars%20-%20Smith.pdf> )

**Video:** Gladue Principle: Aboriginal People and Sentencing  
Available at: <http://www.achimok.tv/gladue-aboriginal-sentencing>)

#### **WEEK 2: THEROIZING LAW**

**Sept 11: ‘The official Version of the Law’ [liberal legalism]: The Structure of the Courts & Conceptions of Rights and Equality**

Hulbert, M. A. (2016). Ch. 1: “Law and Justice” in *Gender, Race, & Canadian Law*. Fernwood Publishing, pp 1-26. (on reserve)

Comack, E. & Balfour, G. (2016) Ch. 2: “Theorizing Law” in *Gender, Race, & Canadian Law*. Fernwood Publishing, pp. 31-56. (on reserve)

**Video:** Kimberly Crenshaw’s Unequal Opportunity Race [and reflections on the mythical norm]  
(available at: [https://www.youtube.com/watch?v=vX\\_Vzl-r8NY](https://www.youtube.com/watch?v=vX_Vzl-r8NY))

**Sept 13: As Above**

### **WEEK 3: THE STATE**

#### **Sept 18: Carceral Capitalism: Sentencing & The Prison Industrial Complex**

Davis, A. (2003). Ch. 5 “The Prison Industrial Complex” in *Are Prisons Obsolete? Seven Stories* Press New York, pp. 94-103. (on reserve)

Wang, J. (2018). Ch. 3: “Packing Guns Instead of Lunches: Biopower and Juvenile Delinquency” in *Carceral Capitalism*, Semiotex Invention Series, pp, 193-228. (on reserve)

**Sept 20:** As above

### **WEEK 4: POLICING**

#### **Sept 25: Surveillance & Security**

Kolia, Z. (2017). “I’m Making the Streets Safer Ma’am”: Race, Coloniality, and the Redemptive Theologies of Pastoral Police Power,” *Law, Culture, and the Humanities* (October 12), pp. 1-21. (on reserve)

Razack, S. (2016). Ch. 6: “It Happened More Than Once: Freezing Deaths in Saskatchewan” in *Dying from improvement: Inquests and inquiries into Indigenous deaths in custody*. Canada: University of Toronto Press, pp. 164-191. (on reserve)

**Sept 27:** As above

### **WEEK 5: THE CRIMINAL CODE: ACTUS RAUS & MENS RAE**

#### **Oct 2: Reflections on Ewanchuk: Criminal Offense, Implied Consent & Mistake of Fact**

Verdun-Jones, S. N. (2016). Ch. 1: “Intro to Canadian Criminal Law,” Ch. 2: “The Elements of a Criminal Offence,” pp. 1-51, & Ch. 9: “Mistake of Fact, Consent, and Mistake of Law as Defense to Criminal Charge” pp. 235-250, in *Criminal Law in Canada: Cases, Questions, and the Code*. Nelson Publishing. (required text)

**Oct 4:** As above

### **WEEK 6: READING WEEK**

### **WEEK 7: PROCEDURES AND TRIALS**

#### **Oct 16: Violence Crimes: Narratology, Whiteness & Presumption of Innocence**

Razack, S. (2002). Ch. 5: “Gendered Racial Violence and Spatialized Justice: The Murder of Pamela George” in *Race, Space, and the Law: Unmapping a White Settler Society*. Between the Lines Publishing, pp. 123-156. (on reserve)

Verdun-Jones, S. N. (2016). Ch. 3: “Causation in Criminal Law” in *Criminal Law in Canada: Cases, Questions, and the Code*. Nelson Publishing, pp. 51-74. (required text)

\*\*\*assignment #1 due\*\*\*

**Oct 18:** As above

### WEEK 8: REASONABLE PERSON

#### **Oct 23: Legal Discourse & Standards of Judgement**

Covert, R. (1986). Violence and the Word. *The Yale Law Journal*, 95, 1601-1630. (on reserve)

Verdun-Jones, S. N. (2016). Ch. 4: “The Mental Element in Criminal Law,” pp. 76-95 & Ch. 5: “What is objective Liability?” pp. 101-116 in *Criminal Law in Canada: Cases, Questions, and the Code*. Nelson Publishing. (required text)

**Oct 25:** As above

### WEEK 9: PERSUASIONAL BURDEN OF PROOF

#### **Oct 30: Innocent Until Proven Guilty? Due Diligence and the Halfway Approach**

Sarat, A. (1993). “Speaking of Death: Narratives of Violence in Capital Trials,” *Law & Society Review* 27(1), pp. 19-57. (on reserve)

Verdun-Jones, S. N. (2016). Ch. 6: “The Special Case of Regulatory Offences: Strick and Absolute Liability in Canada” Mental Element in Criminal Law,” in *Criminal Law in Canada: Cases, Questions, and the Code*. Nelson Publishing. (required text)

**Nov 1:** As Above

### WEEK 10: COGNITION AND THE LAW

#### **Nov 6: Reflections on Latimer: Automatism, Disability, Duress, & Defense of Necessity**

Ware, S., Ruza, J., & Dias, G. (2014). Ch. 9: “It’s Can’t be Fixed Because It’s Not Broken: Racism and Disability in The Prison Industrial Complex” in *Disability Incarcerated*, Palgrave McMillan, pp.163-185. (on reserve)

Verdun-Jones, S. N. (2016). Ch. 8: “Mental Impairment and Criminal Responsibility: The Defense of ‘Not Criminally Responsible on Account of Mental Disorder and Automatism,’” pp. 182-

217 & Ch. 11: “Necessity & Duress,” pp. 272-286 in *Criminal Law in Canada: Cases, Questions, and the Code*. Nelson Publishing. (required text)

**Nov 8:** As above

### **WEEK 11: PROVOCATION**

**Nov 13: Nahar (2004) & The Four Cs [Culture, Crime, the Charter & the Code]**

Verdun-Jones, S. N. (2016). Ch. 10: “Provocation and Intoxication: Partial Defenses to a Criminal Charge” in *Criminal Law in Canada: Cases, Questions, and the Code*. Nelson Publishing, pp. 249-269 (required text)

**Video:** Edward Said, Orientalism

**Available at:** [https://www.youtube.com/watch?v=fVC8EYd\\_Z\\_g](https://www.youtube.com/watch?v=fVC8EYd_Z_g)

**Video:** Reel Bad Arab

**Available at:** <https://www.youtube.com/watch?v=pIXOdCOrgG4>

**Nov 15:** As above

### **WEEK 12: PROPERTY RELATIONS & SELF-DEFENSE**

**Nov 20: R v. Lavallee & the use of Violence**

Davis, A. (1983). Ch. 1: “The Legacy of Slavery: Standards for a New Womanhood,” in *Women, race & class*, New York: Vintage Books, pp. 3-29. (on reserve)

Verdun-Jones, S. N. (2016). Ch. 12: “Self-Defense and Defense of Property” in *Criminal Law in Canada: Cases, Questions, and the Code*. Nelson Publishing, pp. 290-308.

**Nov 22:** As above \*\*\*FINAL ASSIGNMENT DUE\*\*\*

### **WEEK 13: VIOLENCE AND THE LAW**

**Nov 27:** Guest Speaker

**Nov 29:** Exam Review