



# Lakehead UNIVERSITY

## **POLI 2311 Criminal Law (Fall 2022)**

Instructor: Marc James

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### **Course Description**

This course will provide an introduction to criminal law in Canada. We will study the theoretical, constitutional, common law, and statutory norms and principles that govern it. Through a study of texts including Canada's constitutional documents (with a focus on the Charter of Rights and Freedoms), the Canadian Criminal Code, and especially Supreme Court cases, students will learn about governments' 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. We will also investigate some contemporary criticisms regarding the adequacy of the criminal law system in Canada.

### **Course Methods and Requirements**

#### **Lectures:**

A lecture will be uploaded every Friday typically by 4pm. It will provide an introduction to some of the main issues and examples under consideration that week (see the full topic schedule below), offer links to further readings or video, and introduce some proposed questions based on the material. In addition, each lecture will alert students to any upcoming assignments or requirements and offer some ongoing commentary on our progress. I also plan to offer comment upon or brief reference to issues "in the news" that are related to our investigations.

#### **Required Texts:**

There is no requirement to purchase a textbook for the class. All of the required readings are listed in the course outline or will be found in reading packages or links provided on the course website or in lecture materials.

#### **Requirements:**

Discussion forum contributions: 30%  
Midterm Quiz: 15%  
Essay: 25%  
Final Exam: 30%

### **Discussion Forums:**

### **Essays:**

**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.

### **Topic 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

Greyyes v. R, 1997  
Pickton v. R, 2010

Nov 8 Criminal Defenses: Automatism  
Stone v. R., 1999  
R. v. Fontaine., 2004  
NEW CASE

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