

Criminal Justice: The Individual and the State

(Laws 1001X/Y, Section B, Small Group)

COURSE SYLLABUS

2018-2019

Professors Michelle Williams (Fall) & Leonard MacKay (Winter)

Fall Term – Prof. Williams

Office: Rm. 324, Schulich School of Law
Office Hours: 30 min. after each class; Thursdays 11:00 - 12:00 p.m. or by appointment
Office Phone: 494-1542
E-mail address: michelle.williams@dal.ca

Class Hours & Location:

Mondays 2:00 – 3:20 p.m. (Rm. 411)
Wednesdays 1:30 – 2:50 p.m. (Rm. 411)

Winter Term – Prof. MacKay

Office: 1400 - 5251 Duke Street (Duke Tower)
Office Hours: By appointment (and I will be available before and after most classes)
Office Phone: 902-426-0965 Mobile: 902-440-2530
E-mail address: Main email: lmackay@ppsc.gc.ca (for quickest response)
Dal email: leonard.mackay@dal.ca

Class Hours & Location:

Mondays 4:30 – 5:50 p.m. (Rm. 309)
Wednesdays 4:30 – 5:50 p.m. (Rm. 309)

A. Course Description

The Law School Calendar describes this course in the following terms:

"Relationships among the state, individuals and communities are considered in the context of Canadian criminal law. The legal rights provisions of the Charter of Rights and Freedoms, selected topics in criminal procedure and sentencing, and the principles of the substantive or general part of criminal law will be the main focus of this class. The latter concentrates on elements of offences, justifications, excuses, non-exculpatory defences, inchoate crimes and secondary liability for offences".

The objective is to provide a basic knowledge of substantive criminal law and an understanding of the purposes, sources and value choices underlying various aspects of criminal law and procedure. A combination of lecture, discussion, case method and problem analysis will be used throughout the course. Students are encouraged to develop their own critical assessment of the role that criminal law plays in mediating contemporary social issues and to consider how perspectives shaped by race, class, culture and gender may influence the criminal justice system.

B. AIMS AND OBJECTIVES

By the end of the course, students should be able to:

1. Identify the main sources of criminal law and criminal procedure rules;
2. Critically analyze and evaluate major questions about criminal law such as its scope, and its efficacy as a system of justice;
3. Understand the differences between true crimes, regulatory offences and civil liability (torts);
4. Recognize manifestations of systemic racism and gender stereotypes within the criminal justice system, and identify ways in which this social context can be addressed;
5. Understand the role and ethical and professional obligations of prosecutors and defence lawyers;
5. Identify the elements of offences (act and fault); and
6. Apply the main sources of criminal law rules to hypothetical fact situations.

C. Materials

1. Required Materials:

Stuart & Coughlan, *Learning Canadian Criminal Law* (14th ed.) Carswell (**Obtain immediately**).

Pocket Criminal Code (2019) Available at the University Bookstore. (**Obtain immediately**).

Handouts - it will be announced in class or by e-mail notice that supplementary "handouts" are to be obtained on-line through Dalhousie's on-line course management software (often referred to as Brightspace, D2L or OWL). If you have any questions regarding on-line course materials please contact Geordie Lounsbury in the Information Media Center.

2. Recommended Materials:

These materials will provide helpful background reading. They are on reserve at the Law Library, or can be obtained from the University Bookstore.

- (a) Don Stuart, *Canadian Criminal Law: A Treatise*, 7th ed., (Toronto: Carswell/Thompson Publishing, 2014).
- (b) Kent Roach, *Essentials of Canadian Criminal Law*, 6th ed., (2015)
- (c) Don Stuart, *Charter Justice in Canadian Criminal Law*, (7th ed.) (2018)
- (d) *Annotated Criminal Codes*
There are a number of annotated criminal codes widely used by criminal law practitioners that are on reserve in the Law Library or at the University bookstore.

D. Teaching Method

Teaching is by way of lecture, small group work, discussion of assigned reading materials, and by analysis of periodic review problems. Please read the assigned materials in advance and attend classes regularly.

E. Evaluation

In Section B, the "Criminal Justice" course is taught in a small-group rather than to the full section. It is a "non-exam" course, evaluated on the basis of written assignments and classroom participation. The breakdown of the marking components and a brief description of them is as follows:

- (a) **Fall Writing Assignment – 20%**

This assignment will consist of a hypothetical problem, an essay question or a combination, and will be a "take home" assignment. It will be distributed on October 26, 2018 and will be due on October 29, 2018. The assignment has a maximum length of 2000 words.

(b) **Moot** – 30% combined (factum 20%, oral argument 10%)

Every first year student is required to take part in a moot (a mock appeal) as part of the small group class. It requires the preparation of a factum (which is a written argument) worth 20% and the presentation of an oral argument worth 10%. The factum problem will be distributed on January 17, 2018 and the factums themselves will be due February 1, 2019. The oral advocacy exercise will be held the week of February 11, 2019, with specific dates and times to be determined.

(c) **Major Final Assignment** – 40%

The major writing assignment consists of a hypothetical problem, legal memorandum, paper, or some combination of these. It may or may not contain an independent research component. It will be assigned on March 19, 2018 and will be due on April 4, 2018. It will have a maximum length of 4250 words.

(d) **Participation** – 10%

Participation is a marked component of the course, and attendance will be taken. You are expected to do the readings and to come to the class prepared to discuss them, and, in addition to being required, we will have a much more interesting year together if you do. Sometimes our class discussions will aim at detailed analysis of each case which was assigned: on other occasions the readings will be used only as background for a discussion of more general principles.

Submission of Assignments

Assignments must be submitted in hard copy. Students should pass assignments in to the place stipulated by the instructor and ensure they are date and time stamped. Please read the law school policy on late penalties: <https://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>

Please note students may also be required to provide an identical electronic copy of their assignment to the instructor by the due date. Papers may be submitted by the instructor to a text-matching software service to check for originality. Students wishing to choose an alternative method of checking the authenticity of their work must indicate to the instructor, by no later than the add/drop date of the course, which one of the following alternative methods they choose:

- a) submit copies of multiple drafts demonstrating development of their work
- b) submit copies of sources
- c) submit an annotated bibliography

Plagiarism

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>. Any paper or assignment submitted by a student at the Schulich School of Law may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.

Please also note the Fair Dealing Guidelines <https://libraries.dal.ca/services/copyright-office/guidelines/fair-dealing-guidelines.html>

F. Grading Information:

The grading scheme and numerical and letter grade equivalents used at the JD level in the Faculty of Law (which may differ from those used elsewhere in the University) are as follows:

Letter Grade	Equivalent
A+	85-100
A	80-84
A-	78-79
B+	75-77
B	70-74
B-	68-69
C+	65-67
C	60-64
D+	55-59
D	50-54
F	0-49

In accordance with law school requirements, the marks for this course are expected to correspond to a bell curve with a median between 72-74 marks. The permissible grade distribution for first year courses is as follows:

A	10-20%
B	40-60%
A+B	60-75%
C	15-25%
D	0-15%
F	0-5%

More details on the curve and grading information and evaluation can be found in the law school regulations: <https://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>.

G. Student Requests for Accommodation

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean, Academic Michael Deturbide or the Director of Student Services and Engagement Dana-Lyn Mackenzie as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their request to the Advising and Access Services Center (AASC) at the outset of the regular academic year. Please visit www.dal.ca/access for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at (902) 494-2836.

General Academic Support is available at Dalhousie. See https://www.dal.ca/campus_life/academic-support/advising.html

Please do not hesitate to contact us with questions or concerns. We look forward to working with you this year.

Prof. Williams & Prof. MacKay