

CRIMINAL PROCEDURE: Fall Term, 2018

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This course is intended to provide a basic overview of the rules of criminal procedure. The vast majority of that material is statutory and found in the *Criminal Code*. Of necessity, therefore, a significant aspect of the course will simply be learning the sometimes detailed and finicky provisions in the *Code*. However, criminal procedure is one of the areas in which the *Charter* has had the greatest impact, and so another major aspect of the course will be *Charter* case law, particularly cases considering ss. 7, 8, 9, 10, and 11. These materials in particular (though not exclusively) will raise significant policy issues about the balance between individual liberty and the interests of the state. The materials are divided into three sections: 1) The Investigation Stage; 2) Pre-trial Procedure, and; 3) The Trial Process. This division follows that in the text, but omitting the introductory material on jurisdiction, almost all of which you will have covered in first year Criminal Law. Sometimes (especially with the materials about the investigative stage) we will consider the material in a different order from that in the book.

Class place and time

Wednesday, 2:30 - 4:20, room 207

Friday, 10:30 - 12:20, room 207

Office Hours

Thursdays, 3:30 – 4:30

I am accessible by email and tend to be a pretty quick respondent. You are also welcome to drop into my office any time outside of office hours. However, I have a four month old puppy, so I will be in my office less than I would usually be.

Materials

The primary text for this course is *Learning Canadian Criminal Procedure* (12th ed) by Stuart and Quigley. This text is available in the Bookstore or can be obtained second hand. You will also need a *Criminal Code*: a pocket one is fine, but you can use an annotated one. (There is always a bit of a risk in using an older *Code*, but there were not a lot of changes between the 2018 version and the 2019 version.) In addition there will be handouts on Brightspace. The reading list might be adjusted depending on the pace at which we move (that is, we might remove things). Finally, you might find useful my book, *Criminal Procedure* (3^d ed), which discusses the issues and most of the cases covered in this course. It is not a required text.

Evaluation

Evaluation consists of a mandatory final exam and an optional paper. The final exam will be three hours long and will be open book. If you wish, you can choose to write a paper of between 12-15 pages on some topic in criminal procedure of your choice: in that event, you will not write

a portion of the final exam (the portion you do not write will consist primarily or exclusively of essay questions) and you will only have approximately two hours for the exam. If you choose to write the paper you must submit your topic in writing and have it approved by Friday November 2: if you later decide not to do the paper you can opt out of doing so and just write the exam. The paper is due, in hard copy, at the reception desk on the first floor on the last day of classes, Tuesday December 4. The exam will be worth 100% if it is all you do. If you write the optional paper, the exam will be worth 70% and the paper worth 30%.

Although no marks are assigned for participation, you are expected to do the readings for each class and to come prepared to discuss them.

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.

Submission of Major Papers and Assignments

Major papers and assignments must be submitted in hard copy. Students should hand papers 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 paper 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.