

**University of Manitoba - Department of Sociology**

**Sociology 3720, Section A01: Criminal Law & Procedure  
Winter Term 2010, 3 credit hrs**

**Instructor: Dr. David Milward**

**Classroom: 214 Tier**

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**Office Hours: Tuesdays and Thursdays, 2:00 p.m. to 3:00 p.m., in Room #300F of Robson Hall or by appointment**

**Last Day for Voluntary Withdrawal: March 19, 2010**

**Time:**

Mondays, 6:30 p.m. to 9:30 p.m.

**Required Readings:** Posted on Angel

**Course Objectives:**

The course is designed for two types of students. For those students who are contemplating entering law school and becoming lawyers, this course will offer an introduction to legal philosophy and legal reasoning. For those students who want to work in fields such as sociology, criminology, or public policy, this course is also designed to facilitate not just an appreciation of legal doctrine, but also how to analyze legal doctrine with reference to its effects on and relationship to society.

**Method of Evaluation:**

25% Mid-term on February 8th

25% Class presentation following Reading Week

50% 12 to 15 page term paper, due on April 9th by 4:00 p.m.

**Cut-off points for Converting Percentage Grades into Letter Grades:**

A+ = 90-100 %      B+ = 76-79 %      C+ = 66-69 %      D = 50-59 %

A = 80-89 %      B = 70-75 %      C = 60-65 %      F = 0-49 %

**\*Note\*** Missing the deadlines, whether it is attending the mid-term or handing in the term paper, may result in a reduction of the mark for that component or even a zero on that component.

Please also note the following:

**University of Manitoba Senate Policy #1307** requires "a post-examination review of final grades in multi-sectioned courses that will ensure an equitable correspondence between grades and level of performance of all sections." Accordingly, the final grade distribution in this course may be raised or lowered to achieve this equity and, therefore, your final grade may be changed.

And also the following as it concerns your academic integrity as a student:

Students should acquaint themselves with the University's policy on personation at examinations (Section 4.2.8) and 'Plagiarism and Cheating' (Section 7.1) found in the Undergraduate Calendar.

### **January 11 - Sources of Criminal Law and Procedural Overview**

Peter Hogg & Cara Zwibel, "The Rule of Law in the Supreme Court of Canada" (2005) 55:3 University of Toronto Law Journal 715.

### **January 18 - Actus Reus**

Isabel Grant, "The Boundaries of the Criminal Law: The Criminalization of Non-Disclosure of HIV" (2008) 31 Dalhousie Law Journal 123.

Dennis Klimchuk, "Causation, Thin Skulls, and Equality" (1998) 11 Canadian Journal of Law and Jurisprudence 115.

Mark Strasser, "Holmes on Law and Morality" (2006) 44 Alberta Law Review 377.

### **January 25 - Mens Rea**

Lucinda Vandervoort, "Honest Beliefs, Credible Lies, and Culpable Awareness: Rhetoric, Inequality and *Mens Rea* in Sexual Assault" (2004) 42 Osgoode Hall Law Journal 625.

David Paciocco, "Objective and Subjective Standards of Fault for Offences and Defences" (1995) 59 Saskatchewan Law Review 271.

Joanne Klineberg, "Anger and Intent for Murder: The Supreme Court Decision in *R. v. Parent*" (2003) 41 Osgoode Hall Law Journal 37.

### **February 1 - Punishment and Sentencing**

Simon Young, "Kant's Theory of Punishment in a Canadian Setting" (1997) 22 Queen's Law Journal 347.

Mirko Bagaric & John Morss, "International Sentencing Law: In Search of a Justification and a Coherent Framework" (2006) 6:2 Int'l Crim. L. Rev. 191.

Megan Stephens, "Lessons from the Front Lines in Canada's Restorative Justice Experiment: The Experience of Sentencing Judges" (2007) 33 Queen's Law Journal 19.

### **February 8 - Mid Term Test**

### **February 15 - Reading Week**

No Classes

### **February 22 - The Presumption of Innocence**

Mark Hereema, "Uncovering the Presumption of Factual Innocence in Canadian Law: A Theoretical Model for the "Pre-Charge Presumption of Innocence" (2005) 28 Dalhousie Law Journal 443.

George P. Fletcher, "The Meaning of Innocence" 48 University of Toronto Law Journal 157.

Rinat Kitai, "Protecting the Guilty" (2003) 6 Buffalo Criminal Law Review 1163.

### **March 1 - Crime Control vs. Due Process**

Herbert Packer, The Limits of the Criminal Sanction, Chapter 8.

Conor Gearty, "Reflections on Civil Liberties in an Age of Counterterrorism" (2003) 41 Osgoode Hall Law Journal 185.

Kent Roach, "Four Models of the Criminal Process" (1999) Journal of Criminal Law & Criminology 671.

### **March 8 - The Charter and Criminal Law: Part 1**

David Tanovich, "Using The Charter To Stop Racial Profiling: The Development Of An Equality Based Conception Of Arbitrary Detention (2002) 40 Osgoode Hall Law Journal" 145.

James Stibopoulos, "In Search of Dialogue" (2005) 31 Queen's Law Journal 1.

Lee Stuesser, "The Accused's Right to Silence: No Doesn't Mean No" (2002) 29 Manitoba Law Journal 149.

### **March 15 - The Charter and Criminal Law: Part 2**

Ted Carlton, "A Principled Approach to the Constitutional Requirement of Fault" (1992) 24 Ottawa Law Review 613.

Alan Young, "Adversarial Justice and the Charter of Rights: Stunting the Growth of the 'Living Tree'" (1997) 39 Criminal L.Q. 362.

Daniel C. Santaro, "The Unprincipled Use of Originalism and Section 24(2) of the Charter" (2007) 45 Alberta Law Review 1.

### **March 22 - Defences to Criminal Charges: Part 1**

Martha B. Schaffer, "The Battered Widow Syndrome Revisited: Five Years After *R. v. Lavallee*" (1997) 47 University of Toronto Law Journal 1.

Paul Guy, "*R. v. Latimer* and the Defence of Necessity: One Step Forward, Two Steps Back" (2003) 66 Saskatchewan Law Review 485.

Benjamin L. Berger, "Emotions and the Veil of Voluntarism: The Loss of Judgment in Canadian Criminal Defences" (2006) 51 McGill Law Journal 99.

### **March 29 - Defences to Criminal Charges: Part 2**

George Mousarakis, "Reason, Passion, and Self-Control: Understanding the Moral Basis of the Provocation Defence" (2007) 38 Revue de Droit, Université de Sherbrooke 115.

Ray Kuzselewski & Dianne L. Martin, "The Perils of Poverty: Prostitutes' Rights, Police Misconduct, and Poverty Law" (1997) 35 Osgoode Hall 835.

Glen Luther & Michael Mansfield, "The Top Ten Issues in Law and Psychiatry" (2006) 69 Saskatchewan Law Review 401.

### **April 5 - Youth Criminal Justice**

Julian Roberts & Nicolas Bala, "Understanding Sentencing Under the Youth Justice Criminal Act" (2003) 41 Alberta Law Review 395.

Bryan Hogeveen, "If we are tough on crime, if we punish crime, then people get the message: Constructing and punishing the young offender in Canada during the late 1990s" (2005) 7:1 Punishment and Society 73.