

Course Outline

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<b>COURSE:</b>	<b>LAWS 4307B - Medical Criminal Law Issues</b>
<b>TERM:</b>	<b>Winter 2015</b>
<b>PREREQUISITES:</b>	<b>LAWS 2301, LAWS 2302 and fourth-year Honours standing</b>
<b>CLASS:</b>	<b>Day &amp; Time: Mondays 6:05 – 8:55 pm</b>
	<b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Amy Conroy</b>
<b>CONTACT:</b>	<b>Office: Loeb B442</b>
	<b>Hours: Tuesdays 3:00pm – 4:30pm</b>
	<b>Email: Amy.Conroy@carleton.ca</b>

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***Academic Accommodations***

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Academic Accommodations for Students with Disabilities:** The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the

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deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

### ***Plagiarism***

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at: <http://www.carleton.ca/studentaffairs/academic-integrity/>

### ***Department Policy***

The Department of Law and Legal Studies operates in association with certain policies and procedures.

Please review these documents to ensure that your practices meet our Department's expectations.

<http://www.carleton.ca/law/student-resources/department-policies/>

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## **COURSE DESCRIPTION**

This course examines the intersection of medicine and the criminal law through a variety of topics and current issues, including historical developments in the criminal law as a mechanism of social control, medical and particularly psychiatric treatment within the prison system, laws on assisted death, reproductive rights, and a number of issues relating to mental illness and the offender population. The class will be primarily delivered through seminar discussions. Active participation will be a crucial part of this course.

## **REQUIRED TEXTS**

There is no required textbook. Course readings will be available online and/or through cuLearn. Cases can be accessed on CanLii or through Carleton's library resources.

**EVALUATION**

Please note:

\*All components must be completed in order to get a passing grade

\*\*You are responsible for checking our course website on a regular basis. Any updates to be communicated outside of class hours will be posted on cuLearn. Please note that attendance in this course is crucial and that not all course content reviewed in class will be posted online.

\*\*\*Standing in a course is determined by the course instructor subject to the approval of the Department and the Faculty Dean. Grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean. You are responsible for keeping all graded assignments until after grades have been finalized.

Attendance and Class Participation	Ongoing, taken in most or all lectures. Students must be present when attendance is taken in order to receive credit for being present that day. Class participation will be evaluated throughout the term, and will require active engagement in class discussions.	20%
Case Comment	Due in class February 9 <sup>th</sup> (see rules on in-class submissions below*). I will identify the case to be used in the assignment on January 26 <sup>th</sup> along with instructions on format and expectations for content.	20%
Position Paper	Due in class March 23 <sup>rd</sup> (see rules on in-class submissions below*). I will identify the assignment topic on March 9 <sup>th</sup> . You will have two weeks to form a position and write a short paper to advance your argument on the issue. Details on format and additional requirements will be given in class when the topic is identified.	20%
Take Home Examination	Instructions for this exam will be given out in the final class on April 6 <sup>th</sup> . Responses are due April 23 <sup>rd</sup> in the drop box at the Department of Law and Legal Studies. Late submissions must be supported by a formal extension (for which you must contact the University registrar). Feel free to reference all course materials and any additional works you wish to include in your submission.	40%

**\*For all assignments:** Please note that no email submissions will be accepted (for any of the assignments). A penalty of 10% per day (including weekends) will be applied to all late assignments. For assignments that are due in lecture, the firm deadline will be 6:15pm on the day of class. Any assignments handed in after that time will be considered 1 day late. If getting to

class on time on submission day is an issue, you must make arrangements to submit your assignment at an earlier date. Note that for all assignments submitted in the Department drop box, the date stamp affixed by the office will be taken as the date of submission (if submitted after office closing hours, the assignment will be stamped the following business day morning). Extensions will only be granted in extreme circumstances. Please do not assume that an extension will be granted, regardless of the circumstances: contact me as soon as possible to explain your need for an extension. I will request third party documentation for all extensions. If you are requesting an extension on or after the due date, please come to me prepared to show evidence of having worked on the assignment up to that point (in addition to documentation for the extenuating circumstances). Please note that extensions will not be granted for computer failure or for conflicts with work schedules.

## **SCHEDULE**

<b>Date</b>	<b>Topic</b>	<b>Readings</b>
Jan. 5 <sup>th</sup>	Introduction / Overview of the Course	N/A
Jan. 12 <sup>th</sup>	Asylums and Reformatories – the Emergence of the Prison System in Canada	Chuni Roy, “Dilemmas of Medical Ethics in the Canadian Penitentiary Service” (1976) 2 <i>Journ. of Med. Ethics</i> 180.  Carolyn Strange. “The Criminal and Fallen of Their Sex: The Establishment of Canada’s First Women’s Prison, 1874 -1901” (1985) 1 <i>Canadian Journal of Women and the Law</i> 79.
Jan. 19 <sup>th</sup>	Criminal Responsibility  *In class film: “NCR: Not Criminally Responsible” (National Film Board of Canada, 2013)	The Right Honourable Beverley McLachlin, “Medicine and the Law: The Challenges of Mental Illness” (2006) 2:3 <i>High Ct. Quarterly Review</i> 86.  Please review the facts and decision in <i>R v Lavallee</i> [1990] 1 S.C.R. 852.
Jan. 26 <sup>th</sup>	Reproductive Rights in Canadian History	Angus McLaren. “Birth Control and Abortion in Canada 1870 – 1920” (1978) 59(3) <i>Canadian Historical Review</i> 319.  Sandra Rodgers. “Women’s Reproductive Equality and the Supreme Court of Canada” in <i>Health Law at the Supreme Court of Canada</i> , Jocelyn Downie and Elaine Gibson eds. (Toronto: Irwin Law, 2007).  Please review the facts and decision in <i>R v Morgentaler</i> [1988] 1 S.C.R. 30 and <i>R v Morgentaler</i> [1993] 3 S.C.R. 463.

Feb. 2 <sup>nd</sup>	Assisted Death in Canadian Criminal Law	Martha Butler, Marlisa Tiedemann, Julia Nicol & Dominique Valiquet, "Euthanasia and Assisted Suicide in Canada" (2010) Parliamentary Information and Research Service Background Paper.  Please look through the materials on the Dalhousie "End of Life Project" online: <a href="http://eol.law.dal.ca/?page_id=221">http://eol.law.dal.ca/?page_id=221</a> .
Feb. 9 <sup>th</sup>	Forensic Psychology and the Thresholds for Mental Capacity for Child Witnesses in Criminal Trials  *Guest Lecture: Jennifer Reed, M.A. Candidate at Carleton (Forensic Psychology)	Nicholas Bala, Kang Lee, R.C.L. Lindsay and Victoria Talwar, "The Competency of Children to Testify: Psychological Research Informing Canadian Law Reform" 2010) 18 International Journal of Children's Rights 53.  Please review the facts and decision in <i>R v D.A.I.</i> , [2012] 1 S.C.R. 149.
Feb. 16 <sup>th</sup>	Winter Break – No class	N/A
Feb. 23 <sup>rd</sup>	The Disclosure of Mental Health Records in Sexual Assault Trials	Lise Gotell, "Tracking Decisions on Access to Sexual Assault Complainants' Confidential Records: The Continued Permeability of Subsections 278.1-278.9 of the <i>Criminal Code</i> " (2008) 20 Canadian Journal of Women & Law 111.  Please review the facts and decision in <i>R v Mills</i> , [1999] 3 S.C.R. 668.
Mar. 2 <sup>nd</sup>	Restorative Justice: The Social and Psychological Needs of Aboriginal Offenders  *In Class Film: "Circles" (National Film Board of Canada, 1997).	Laurence Kirmayer, Cori Simpson and Margaret Cargo, "Healing Traditions: Culture, Community and Mental Health Promotion with Canadian Aboriginal Peoples" 11 (2003) Australasian Psychiatry S15.
Mar. 9 <sup>th</sup>	The Seizure of Bodily Samples as Criminal Evidence	RCMP, "The National DNA Data Bank of Canada: Annual Report" (2012-2013) available online: <a href="http://www.rcmp-grc.gc.ca/pubs/nddb-bndg/ann-12-13/ann-12-13-eng.pdf">http://www.rcmp-grc.gc.ca/pubs/nddb-bndg/ann-12-13/ann-12-13-eng.pdf</a> .  Please review the facts of <i>R v Dyment</i> [1988] 2 S.C.R. and <i>R v Stillman</i> [1997] 1 S.C.R. 607.
Mar. 16 <sup>th</sup>	Morality and Modern Science: the	John D. Whyte "Federalism and Moral Regulation: A Comment of <i>Reference Re Assisted Human</i>

	Criminalization of Activities in Genetic Research and Reproductive Treatment	<i>Reproduction Act</i> (2011) 74 Saskatchewan Law Review 45.
Mar. 23 <sup>rd</sup>	Drug and Alcohol Regulations – From Historical Laws to Vancouver’s Safe Injection Site	R. Solomon & M. Green. "The First Century: The History of Non Medical Opiate Use and Control Policies in Canada 1870-1970" (1982) 20 University of Western Ontario Law Review, 307.  Dwight Newman, "The PHS Case and Federalism-Based Alternatives to Charter Activism" (2013) 22 Constitutional Forum 85.
Mar. 30 <sup>th</sup>	Catch-up and Full Semester Review	N/A
Apr. 6 <sup>th</sup>	Course Wrap Up and Question Period/ Distribution of Take Home Exam Questions and Instructions	N/A