

CRIMINAL LAW AND PROCEDURE
&
LEGAL RESEARCH AND WRITING

CML1203D

SYLLABUS

Professor: Natasha Bakht
Office: Room 330, Fauteux Hall
Telephone: 562-5800 ext. 2916
E-mail: nbakht@uottawa.ca
Office Hours: Thursdays 1:30-3pm or by appointment

A. TIMETABLE:

Class:	Mondays	11:30am – 1pm	FTX 316
	Thursdays	10am – 11:30am	FTX 316
Legal Writing:	Thursdays	11:30am – 12:30pm	FTX 316

B. MATERIALS:

J. Abell, E. Sheehy & N. Bakht, *Criminal Law and Procedure: Proof, Defences and Beyond* (4th ed) (Toronto: Captus Press, 2008) available from Benjamin Books

*Criminal Law & Procedure has been cut by 1 credit hour per week this year for the first time; therefore, the following chapters have been eliminated from the course: Chapter Four: **Case Study on Corporate Homicide**; Chapter Five: **Proof of Inchoate Crimes**; Chapter Six: **Trial Process**; Chapter Eleven: **Incapacity**; Chapter Eighteen: **Broadening the Defences**; and Chapter Nineteen: **Entrapment**. I have also eliminated the following topics from the readings: *Mens Rea* and Party Liability; Post-conviction Review Based on *Charter* Rulings; Defence of *De Minimis*.

Supplementary Materials will be made available by either email or in class.

Additional materials are on reserve in the law library under CML 1223 (Criminal Law and Procedure) and CML 1111 (Legal Research and Writing).

C. OBJECTIVES:

In this course students will be introduced to the basic concepts, legal institutions, and governing principles for Criminal Procedure and Criminal Law in Canada. They will be required to use the *Criminal Code*, the *Charter of Rights and Freedoms*, the common law, and secondary sources such as law review articles, books, and reports from commissions of inquiry, in order to develop their capacity to think analytically and

critically about the Criminal Law.

In the Winter Term, students in this course will study the elements of proof by the prosecution in a criminal case: *Actus Reus* and *Mens Rea*. They will examine a Case Study in Assault, looking in more depth at the specific difficulties of proof and defence inherent in these charges. They will then study Defences to criminal charges, including Mistake of Fact; Mistake of Law; Colour of Right; Mental Disorder; Automatism; Intoxication; Extreme Intoxication; Provocation; Self-Defence; Necessity; Duress; and Entrapment.

In the Legal Writing part of the Winter Term, students will write a factum and they will present an oral argument in a moot court format.

D. EVALUATION:

Fall term:	Due:	Value:
Class participation:		5%
Factum:	Mar. 6 th	15%
Moot:	Mar. 26 th	10%
Final Exam:	April 27 th 1:30pm	<u>20%</u>
Total		50%

NOTE: This course is taught in a Small Group format in part to enable students to participate actively in the course. The course objectives depend upon regular class preparation and engagement with the teaching materials by students. Some of these materials are challenging and may tread upon personal experiences, strongly held beliefs, and indeed your prior academic background. In order to create a learning environment that is intellectual, respectful, and supportive of new ideas and challenges, please:

- Do the assigned readings and base your comments and questions upon the readings so that we have a common base for class discussion.
- Anticipate that your classmates may have experienced sexual assault, racial profiling, homophobia, or other forms of systemic bias that we discuss in class and use appropriate language and care in discussing these issues.
- Treat your professor and colleagues with respect and professionalism: you are now entering the legal profession, where your classmates will be your lifelong colleagues and your reputation for integrity, open-mindedness and generosity of spirit will be forged here in your classrooms.
- Be prepared to re-think your views, share your knowledge from your experience and prior academic preparation, and to ask for help, from your professor and your colleagues, when you need it.

Student participation is evaluated on the basis of attendance and participation that demonstrates class preparation.

E. SCHEDULE:

- Tues. Feb. 2:** **Burden of proof**, CB 9-22: *Oakes*
- Thurs. Feb. 5:** *Actus reus*, CB 23-44: *Instan, Urbanovich, Thornton, Nette*
LW: Factum Assignment
- Mon. Feb. 9:** *Mens rea*, CB 45-55: *Sault Ste. Marie*
- Thurs. Feb. 12:** *Mens rea*, CB 55-77 *Re BC Motor Vehicles; Wholesale Travel Group Inc.*
- Mon. Feb. 16:** **No Class—Family Day—Ontario holiday**
- Thurs. Feb. 19:** **Note Class room change: FTX 147A**
Mens Rea, CB 77-97, 101: *Creighton; Vaillancourt*
- Mon. Feb. 23:** **Introduction to Defences: Case Study on Assault: Consent:** CB 171-197: *Jobidon, Cuerrier, Ewanchuk*
- Thurs. Feb. 26:** **Introduction to Defences: Case Study on Assault: Consent and Correction:** CB 198-222: *Cey, Leclerc, Ogg-Moss, Dupperon, Canadian Foundation for Children, Youth and the Law*
- Mon. March 2:** **Mistake of Fact:** CB 237-260: *Pappajohn*, majority judgment in *Seaboyer*
- Thurs. March 5:** **No Class—Career Day**
- MAKE-UP CLASS: Mistake of Fact: CB 260-288: dissent in Seaboyer, Ewanchuk**
Tues. March 3: FTX 136 5pm to 6:30pm
- Mon. March 9:** **Mistake of Law and Colour of Right:** CB 289-299; 308-316: *Campbell, Stevenson, Ashini, Watson*
- Thurs. March 12:** **Note Class room change: FTX 147A with Prof. Sheehy**
Intoxication; Extreme Intoxication: CB 326-340: *Daviault*
- Mon. March 16:** **Automatism**, CB 341-364: *Stone*
- Thurs. March 19:** **Provocation**, CB 365-404: *Camplin, Hill, Thibert, Humaid, Parent, Malott*
LW: VIDEO: *Provocation: The Fifth Estate*

- Mon. March 23:** **Self-Defence:** CB 405-427 *Whynot, Lavallee*;
 VIDEO: *Life With Billy*
- Thurs. March 26:** Moots
- Mon. March 30:** **Self-Defence:** CB 427-446: *McConnell, N.C.*
- Thurs. April 2:** **Duress:** CB 447-450; 456-471: *Gardiner, Ruzic, Hibbert*
- Mon. April 6:** **Necessity:** CB 472-490: *Perka, Langdon*
- Thurs. April 9:** **Exam Review**

F. ACCESS SERVICES:

Students who require accommodations or academic support because of a physical or learning disability, or any condition that affects their ability to learn, are invited to register with **ACCESS SERVICE:**

In person:	UCU 339
Telephone:	562-5976
TTY:	562-5214
E-mail:	adapt@uottawa.ca
Web:	www.sass.uottawa.ca/access/

Students can then meet with an Access Service specialist to identify their individual needs and to discuss appropriate interventions.

Deadlines to request accommodations for final exams:

Winter Semester: *before 15 March*

G. RULES FOR COMPLETING ASSIGNMENTS:

1. All assignments must be handed in to the Secretariat (FTX 105) no later than the date and time specified in the assignment. You must sign off on a class list provided and the assignment will be stamped with the date and time received.
2. All requests for extensions, as provided for in the Faculty Regulations, must be processed through the office of the Assistant Dean, Stéphane Émard-Chabot. Neither professors nor staff at the Secretariat can accept late assignments and assignments handed in late without the appropriate authorization will neither be accepted nor graded.
3. All work that is handed in must be your own. You are urged to familiarize yourself with the University Regulations on Academic Fraud, which are reproduced in the Faculty Calendar. Academic fraud will implicate the student in the University disciplinary process, which may culminate in penalties ranging from loss of credits for the course to expulsion. Academic fraud will also be reported to the Law Society

- of Upper Canada, which in turn may refuse admission to practice law in the province.
4. All assignments must be typed using 12 point Times New Roman font, one inch margins, and double spacing of the lines. The page length for each assignment will be specified. Failure to comply with the length or format requirements will result in:
 - a. Rejection of the assignment in its entirety and entry of a grade of zero for the assignment; or
 - b. Refusal by the professor to grade those portions of the assignment that fail to comply with the length or format requirements; or
 - c. Imposition of a grade penalty reflecting the failure to comply with the length or format requirements;
as determined by the professor in her discretion, having regard to the nature and extent of the non-compliance
 5. All grades on assignments are provisional only and are subject to adjustment prior to or consequent upon submission of final grades to Faculty Council for approval in accordance with the Faculty Regulations. The GPA guideline for first year courses is 6.0.