

CRIMINAL LAW

PUB 2 111 (001)

Professor Angela Campbell

Summer 2009 Syllabus

- Office: New Chancellor Day Hall, Room 615
- Telephone: 398-6694
- Classes: Monday-Thursday 14:30-16:30
- E-mail: angela.campbell@mcgill.ca
- Office Hours: I am in my office daily but my timing throughout the month of our course will vary. Please make an appointment to see me.
- Required Materials: * Kent Roach, Patrick Healy & Gary Trotter, *Criminal Law and Procedure, Cases and Materials*, 9th ed., (Toronto: Emond Montgomery, 2004).
(Referred to in the course plan below, as “**Text**”)
- * Supplementary Materials for Criminal Law (Campbell) Fall 2008, available on WebCT (referred to in the course plan below as “**SM**”).
- * *Criminal Code*

Course Objectives

This course is designed to introduce you to central doctrines within the criminal law of Canada. We will consider the substantive principles of criminal liability developed by the *Criminal Code*, the *Canadian Charter of Rights and Freedoms* and the common law. More specifically, we will explore the central elements of a crime (*actus reus* and *mens rea*), specific offences, and legal defences for the exclusion of liability.

While our focus will be on developing a rich and thorough understanding of the key principles of criminal law, this course also invites you to critique and challenge existing juridical frameworks that form our criminal justice system. Thus, in exploring the substantive doctrines indicated above, you will be encouraged to reflect – and we will discuss collectively – the rationale underpinning law’s labelling of particular acts as “offences”, and of particular persons as “offenders”.

In this connection, we shall consider how factors such as: cultural context, class and gender might affect perceptions of criminality and victimization. Our course thus begins with an investigation into the identity of Canadian “victims” and “offenders”. We also focus, in the early stages of the course, on the objectives of criminal law and the rationales for prohibiting certain types of conduct. We will further consider limits on the reach of Canadian criminal law. Although issues of criminal evidence and procedure lie beyond the ambit of this course (separate courses are offered at the Faculty on each of these topics, and I encourage you to enrol in them!), they invariably surface in criminal law jurisprudence, and so we will touch upon them from time to time. In addition, we will examine the concepts of burden of proof, and the presumption of innocence.

While the main basis of evaluation in this course is a final examination, students will also have the opportunity to complete an optional assignment, which will involve the writing of a reflective essay and an op-ed assignment. This assignment is meant to allow students to explore and connect different issues in criminal law. It also aims to deepen the quality of students’ learning by prompting critical perspectives and attempting to foster students’ personal ownership over learning processes. The details of this optional assignment are set out below.

Finally, although this is a large class, a main objective is to create an atmosphere of comfort, collegiality and familiarity in order to generate active student participation. We will strive to achieve this end through the use of a “panel” system. Students named to the panel on a particular week will be required to have read assigned materials more in-depth than usual, and to come to class prepared with specific questions and ideas for discussion. Students will be named to the panel according to the first letter of their family names, according to the following schedule:

Week 1 (week of May 4):	A-C
Week 2 (week of May 11):	D-J
Week 3 (week of May 18):	K-M
Week 4 (week of May 25):	N-Q
Week 5 (week of June 1):	R-Z

Method of Instruction

Given our numbers, I plan to lead this class by way of lecture format. That said, I will be calling on the students who are on panel each week to engage their classmates in a discussion premised on their own reflections. Although I anticipate that class discussions

will be led by the panelists for the given week, I also invite and encourage each of you to participate at any time.

In my lectures, I often make use of Power Point presentations. This helps keep me and the students on track over the course of the class. The slides for each presentation will be posted onto WebCT in Power Point and Rich Text formats.

Last, criminal law is a course that is conducive to learning through small-group interaction. From time-to-time, I will ask you to form small break-out groups to discuss a particular issue or problem that I present to the class. This will allow you to work through the problem by making use of the sources that we will read and discuss in class.

In addition, two days of classes halfway through the course will be set up in a workshop format. There will be two workshops held that week: one on Tuesday May 19th and one on Wednesday May 20th You are invited to attend just one of these sessions, as the same exercise will be prepared for and completed in each. The workshop is intended to provide you with an opportunity to think and discuss the materials covered in the course until that point in an open and analytic fashion. It should therefore furnish both an occasion to review materials and to think about these critically, in the particular context of a problem-solving session.

Student Contributions and Involvement

Your involvement and participation in the classroom enriches the learning of all students. My ambition is to create a “safe” and respectful space for discussion in this class that is open to diversity of opinion and approach toward issues in criminal law. I value – as I am sure you do – the background and thoughts that each of us brings to this course, and believe that they will enhance our learning environment and experience. I therefore hope to provide you with ample opportunity to voice your thoughts in this class, in particular, through the following:

- First, you are of course welcome to ask questions and share comments at any point during our class sessions.
- Second, as indicated above, a panel structure is created to require students to engage in/prompt dialogue with the class.
- Third, I invite you to communicate with me directly outside of the class by email or in person to raise questions or comments about the course (see “Reaching the Instructor” below).
- Fourth, on the first class, I will ask two students to volunteer as **Class Representatives**. Class Representatives will have two specific tasks. First, they will be asked to make themselves open and available to students to receive feedback about this course. They should be willing to hear feedback and comments via email or through in-person communication. I will then meet with

Class Representatives mid-way through the term so that they can transmit to me information received from colleagues. This is done to encourage ongoing feedback about the course. While you should feel free to address any questions or comments to me directly, Class Reps will also allow you to communicate with me while keeping your anonymity.

Method of Evaluation:

a) Mandatory Final Exam (Thursday, June 11, 2009)

The final examination is mandatory for all students in the course. It will be an open-book exam during the examination period.

The exam will be worth:

- 100% for students who do not complete the optional assignment in full; or
- 70% for students who complete optional assignment **in full**.

b) Optional Assignment (30% of final grade in the course, if completed **in full)**

Students may complete an optional assignment submitted in two parts, due on the following dates:

Part 1 (Reflection Paper):	Thursday, May 14, 2009 (by 15h00 at SAO)
Part 2 (Op-Ed):	Thursday, May 28, 2009 (by 15h00 at SAO)

The following provides a more detailed description of these components of the assignment.

- *Reflection Paper*

The first part of this optional assignment involves the preparation of a reflective essay. This essay is intended to provide a critical analysis of a particular issue, challenge or dilemma that presents itself within the context of our Criminal Law course. You may use the essay as a space for engaging with the social, cultural and policy forces that influence juridical approaches to a topic of interest in criminal law. Papers might also address tensions or conflicts that manifest themselves in legal approaches to one or more themes in criminal law. Note, however, that the topic selected should be narrow enough to allow for a sufficiently detailed and compelling analysis within the short span of this assignment.

Students choosing to write reflection papers are not expected to complete outside research for this assignment. Instead, the analysis should be based on course materials and your own critical reflections. If the topic of your paper is one that has already been covered in class, please ensure that your work does more than reiterate points explored in our class discussions. Your reflection paper should be original and critically analytic, rather than simply descriptive of the particular issue selected. Moreover, it should be

clearly written and organized, and must substantiate arguments or recommendations advanced on the basis of more than anecdotal experience or personal opinion.

The paper must be **1200 words** in length. Please include a word count.

Should you complete the optional assignment, the reflection paper will be worth 15 percent of your final grade in this course.

The reflection paper must be submitted to the SAO by 15h00 on Friday, May 22. I will do my best to return graded papers with my comments within one week. My feedback is intended to help you write the second (op-ed) part of this assignment, described below.

- *Op-Ed Exercise*

The second part this optional assignment involves the writing of an op-ed piece for a national, bilingual publication. You are encouraged to focus your op-ed on a topic, idea, question or approach that is distinct from the issue(s) broached in your reflection paper, although you might also wish to use the op-ed to elaborate on or develop a theme addressed in the earlier exercise.

Note that while the reflection paper is meant to be premised on critical introspection, the op-ed is written to share one's viewpoint and to educate the public. You should therefore base your op-ed exercise on the expertise and insights garnered over the duration of our course. Keep in mind that the best op-eds:

- wrestle with complex or controversial topics;
- revisit and question conventional wisdom/the status quo;
- express an original or alternative view; and
- raise awareness about socially relevant issues.

The op-ed must be **800 words**. Please include a word count at the end of your assignment.

This component of the optional assignment will be worth 15 percent of your final grade in the course, should you complete the optional assignment.

The op-ed assignment must be submitted to the SAO by 15h00 on Thursday June 4.

- *Importance of Completing Both Parts of the Optional Assignment*

Students who complete both parts of this optional assignment will get two benefits:

- (1) individualized feedback on their writing; and
- (2) a release from writing one question worth 30 percent on the final exam (note that all students will have the same amount of time to write the final exam).

Should a student complete only one part of the optional assignment, she/he will get just one benefit: individualized feedback on her/his writing, but will not be relieved from writing an exam question.

Electronic Access

I will make use of the WebCT internet site for this course to post information such as the Power Point lecture slides. In addition, I may inform the class of the specific legislative provisions (*Criminal Code* and otherwise) to examine for each class.

Language of Expression

Students are free to engage in class participation, and write their optional assignment and/or final examination for this course in either English or French.

General Academic Policies at McGill University

McGill University values academic integrity. Therefore, all students must understand the meaning and consequences of cheating, plagiarism and other academic offences under the *Code of Student Conduct and Disciplinary Procedures* (see www.mcgill.ca/integrity for more information). McGill's website entitled: "Student guide to avoid plagiarism" is also noteworthy (see <http://www.mcgill.ca/integrity/studentguide/>).

If you have a disability or require any accommodation, please contact me to discuss the situation. You might also contact the Office for Students with Disabilities at 398-6009.

Other policies on academic issues affecting students can be found in the *McGill Charter of Students' Rights* (online at <http://ww2.mcgill.ca/students-handbook/chapter1.html>).

Reaching the Instructor:

If you wish to discuss any substantive issue relating to the course, I encourage you to make an appointment to meet with me. If you prefer to email me with questions of a more formal nature, that is also fine. While I generally respond promptly, please note that my turn-around time for replying to messages sent electronically can be up to two weekdays.

Course Plan

Topics planned for each class are set out below. In addition to these readings, I might also ask you to read through specific legislative provisions, which I will assign on WebCT.

Recall that references to "Text" are to the Roach *et al.* textbook for the course, while "SM" refers to the supplementary materials distributed on the WebCT site for this course.

Please note the scheduling notes (i.e., cancelled classes and make-ups) indicated in the course plan, and on the calendar found on the last page of this syllabus.

Monday May 4

- Introduction – Why the Criminal Law?

Tuesday May 5

- The Objectives of Criminal Law/Rationales for Prohibiting Behaviours

Readings:

1. Text pp. 78-92
2. *R. v. Butler*, [1992] 1 S.C.R. 452, headnote, paras. 77-88. (SM)
3. Hart, H.L.A., “Prolegomenon to the Principles of Punishment” in *Punishment and Responsibility: Essays in the Philosophy of Law*, 2nd ed. (Oxford: Oxford University Press) at 6 -7. (SM)
4. Feinberg, Joel, “Harmless Wrongdoing” in *The Moral Limits of the Criminal Law*, vol. 4 (Oxford: Oxford University Press, 1988), xix-xx, 10-16. (SM)

Wednesday May 6

- Victims and Offenders

Readings:

1. Excerpts from *Dimensions of Criminal Law* (Toni Pickard, Phil Goldman and Renate Mohr, eds.) (SM)
- The Limits of Criminal Law

Readings:

2. Text pp. 49-77, 93-105

Thursday May 7

- The Presumption of Innocence and the Burden of Proof

Readings:

1. Text pp. 261-281.

- Actus Reus

Readings:

2. Text pp. 289-326

Monday May 11

- Actus Reus

Readings:

1. Text pp. 326-372

Tuesday May 12

- Mens Rea

Readings:

1. Text pp. 411-444

Wednesday May 13

- Mens Rea (con't)

Readings:

1. Text pp. 444-474

Thursday May 14

**** Part 1 of Optional Assignment (Reflection Paper) is due at the SAO ****

- Absolute and Strict Liability

Readings:

1. Text pp. 373-410

Monday May 18

Victoria Day – No Class

Tuesday May 19

- In-Class Problem-Solving Workshop (Session 1)

* No Readings Assigned. Please attend either the session on May 19 **OR** May 20

Wednesday May 20

- In-Class Problem-Solving Workshop (Session 2)

* No Readings Assigned. Please attend either the session on May 19 **OR** May 20

Thursday May 21

- Homicide

Readings:

1. Text pp. 691-745

Friday May 22 - Make-up Class to replace cancelled class on Wednesday May 27th

- Sexual Assault

Readings:

1. Text pp. 637-659 and 659-690

Monday May 25

- Defences: Necessity and Duress

Readings:

1. Text pp. 921-968

Tuesday May 26

- Defences: Self-Defence

Readings:

1. Text pp. 969-1014

Wednesday May 27

- Class Cancelled – Makeup: Friday, May 22, 14:30-16:30

Thursday May 28 – class begins today at 2h00 (30 minutes extra class time)

**** Part 2 of Optional Assignment (Op-Ed) is due at the SAO ****

- Defences: Provocation, Automatism

Readings:

1. Text pp. 749-770; 774-777; 817-834

Monday June 1– class begins today at 2h00 (30 minutes extra class time)

- Defences: Automatism (con't)

Readings:

1. Text pp. 834-885

Tuesday June 2 – class begins today at 2h00 (30 minutes extra class time)

- Defences: Mental Disorder

Readings:

1. Text pp. 779-815

- Intoxication

Readings:

2. Text 887-919

Wednesday June 3 – class begins today at 2h00 (30 minutes extra class time)

- Review Session

Thursday June 4

- Class Cancelled – Makeup held over preceding 4 classes (30 minutes extra per class)

Criminal Law Summer 2009 Calendar

Monday	Tuesday	Wednesday	Thursday	Friday
				May 1
May 4 First day of class	May 5	May 6	May 7	May 8
May 11	May 12	May 13	May 14 <u>Part 1</u> of optional assignment due at SAO by 3 p.m.	May 15
May 18 Victoria Day – no class	May 19 In-Class Problem-Solving <u>Workshop</u> (Session 1)	May 20 In-Class Problem-Solving <u>Workshop</u> (Session 2)	May 21	May 22 <u>Make-up Class</u> to replace cancelled class on Wed. May 27 th
May 25	May 26	May 27 Class cancelled	May 28 <u>Part 2</u> of optional assignment due at SAO by 3 p.m. <u>Class begins at 2 p.m.</u> instead of 2h30 p.m. (runs 2-4h30)	May 29
June 1 <u>Class begins at 2 p.m.</u> instead of 2h30 p.m. (runs 2h-4h30)	June 2 <u>Class begins at 2 p.m.</u> instead of 2h30 p.m. (runs 2h-4h30)	June 3 Last day of class <u>Class begins at 2 p.m.</u> instead of 2h30 p.m. (runs 2h-4h30) * Review class *	June 4 Class cancelled	June 5
June 8	June 9	June 10	June 11 <u>FINAL EXAM</u>	June 12