

**LAW 102 - A02: CRIMINAL LAW PROCESS  
2010-111**

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**BASIC INFORMATION:**

Fall Term: Wednesday, 1:30-3:30, Room 158  
Winter Term: Tuesday, Thursday, 11:00-12:30, room 158  
Instructor: Rebecca Johnson  
Office: Fraser Building, Room 212  
Phone: 721-8187  
Email: [rjohnson@uvic.ca](mailto:rjohnson@uvic.ca)  
Course Moodle: [moodle.uvic.ca/](http://moodle.uvic.ca/)

**REQUIRED TEXTS:**

- J. Abell & E. Sheehy, *Criminal Law and Procedure: Cases, Context, and Critique*, 4<sup>th</sup> edition (North York: Captus Press, 2007)
- J. Abell & E. Sheehy, *Criminal Law and Procedure: Proof, Defences and Beyond*, 4<sup>th</sup> edition (North York: Captus Press, 2008)
- Annotated *Criminal Code 2011* (Martin's, Treameer's, Gold's etc.)

**DESCRIPTION:**

This course is an introduction to criminal law, both substantive and procedural. The focus in the course is on the following topics:

1. The social, political, constitutional context in which the criminal justice system operates.
2. Significant aspects of police and prosecutorial powers in pre-trial process and during trial.
3. The effect of the *Canadian Charter of Rights and Freedoms* upon both criminal procedure and substantive criminal law.
4. Substantive criminal law, including the theory and doctrine behind the concepts of *mens rea*, *actus reus* and justifications and excuses.

**OBJECTIVES:**

1. To understand (a) the social, political, statutory and constitutional framework of the criminal law process; (b) the role of police, prosecutors, defence counsel and judges in the administration of the criminal law process; and (c) the principles of criminal responsibility and punishment.
2. To know and be able to apply the assigned statutory and case law.
3. To demonstrate competence in identifying legal issues in a problem and to present, in an acceptable legal style, arguments in relation to such issues.
4. To be able to critically analyze and assess existing criminal laws and processes through a number of interdisciplinary theoretical frameworks, with particular attention to questions of gender, class, race, and colonialism.

## METHODOLOGY:

Both lecture and discussion methods will be used. Students are expected to:

1. Have read the assigned materials prior to class;
2. Be able to *identify* and state the *issues* presented by the assigned materials; and
3. Participate in class discussion of the assigned materials and any exercises relating to the assigned materials. The purpose of the discussion is to develop an understanding of the issues presented by the materials; to develop the student's ability to analyze, synthesize, and present legal material; and to enable the instructor to gain a sense of the student's understanding of the materials and the abilities referred to above.

NOTE: I have a **no-laptops** policy in my classroom [other than for disability accommodation reasons, in which case, please speak with me and/or Associate Dean Raven about alternatives]. I encourage the fulsome use of paper, and all types and colours of writing implements.

## SCHEDULE:

We will be working our way through the text in (mostly) chronological order. We will be dealing with Volume 1 of the text in the first term, and Volume 2 in the second term. The number of pages assigned for any given class may expand or contract depending on the pace with which we move, but anticipate something in the range of a chapter per class.

## EVALUATION:

- December Exam, Wednesday, December 6, 2010 (1:00-4:00): **25%** (Subject to April Exam)
- Court Journal, Due Friday, Jan 15, 2010: **pass/fail**
- **(Optional)** Review Essay, Due Monday, March 21, 2011: **25%** (Subject to April Exam)
- April Exam, TBA: **40%-90%** (Subject to December Exam and Optional Review Essay)
- Class Participation: **10%**

**DECEMBER AND APRIL EXAMINATIONS** will be 'modified closed book': students may bring in their personal copy of the Annotated *Criminal Code*, and a two page 'cheat sheet' [2 legal-sized sheets of paper on which may be written/typed anything you like]. The December exam is mandatory, but will be 'help not hurt': if your grade on the April exam is higher than your grade on the December exam, the December exam will not count towards the final grade.

**THE COURT JOURNAL** is designed primarily as an opportunity for you to observe and reflect upon criminal law and procedure in the context of remand court proceedings. The Journal, which is due **January 14, 2011** should *not* exceed 4 double-spaced pages, and will be graded on a pass/fail basis. A failing assignment will result in the deduction of a letter grade from the final course mark (ie. from B to B-).

**OPTIONAL REVIEW ESSAY:** You may choose to write a book review essay for 25% of your final grade. It, like the December exam, will be 'failsafe' (help not hurt). If your grade on the final exam is higher than your grade on the essay, the essay mark will not lower your final grade. If you do better on the essay than on the final exam, the essay grade will count for 25% of the final grade. If you choose

to do the optional review essay, it must be handed in to the front office under (second term) midterm code name by **March 22, 2010**. A longer explanation of the writing assignment will be handed out in a separate document, but in brief, you will be asked to read a book from a list of options, then write a 10 page essay responding to the book, and its connections to the themes of the course.

### **CLASS PARTICIPATION:**

Your grade for Participation will be assessed on the basis of an “Assigned Readings Journal” and “Collective Notes”. Successful completion of the work will result in a mark

1. Assigned Readings Journal: Once a week (which means, the first term, by midnight on Tuesday evening, after completing the assigned readings, record some questions, comments or observations in your journal (on Moodle). The goal is both to track your own responses to the readings over the course of the year, and to provide a location for you to keep track of questions, concerns and insights. While I will read the journals at various points in the term (and may or may not comment back to you), **you will be assessed on the (timely) fact of your contribution, rather than on the content of your contribution.**

The exercise is designed primarily to enable you to practice reading the materials in a particular way, one which focuses attention on the process of attempting to summarize concerns, questions, and points of interest. So, for example, you may take a variety of approaches to your journal entries. You may choose to simply note down books or articles you want to follow up with, or quotes you find particularly interesting. You may also ask yourself what questions the readings raise for you. Are there words or concepts that are unclear, or words that seem to be used in unexpected contexts? What ideas seem clear or muddy? Do you agree or disagree with the positions or arguments made by various judges or scholars? Do you see connections between different topics we have discussed in class?

2. Collective Notes: You will each be assigned to a working group (North, South, East or West). Each person in your group will take their turn being responsible for providing notes on what went on in a class for your group. The notes should be no longer than two (2) pages, and are due (3) business days after the class in question. They can be handwritten or typed. Your notes are to be posted in two locations on moodle. First, they are to be submitted to me as a “Collective Notes” assignment. Second, they are to be posted on your group’s forum in moodle, so that the rest of your group can access them. This will give everyone access to a collectively produced set of "notes" from the course. Again, **you will be evaluated not on the content of your notes, but on the fact of producing them, sharing them with your colleagues, and doing so in a timely fashion.** You will also be responsible within your own groups for negotiating when each of you will take responsibility for the collective notes. Note: it is perfectly acceptable to use the notes you take in class, in their handwritten form. If you choose this option, they need to be PDF’d in order to be posted to the moodle site. My secretary Rosemary Garton will scan them into PDF form for you (put your name on your notes along with your email address. She will PDF it and email it back to you, for you to post to the site)

## **Law 102: Criminal Law Process - Professor Johnson COURT JOURNAL**

**Due:** Friday, January 14, 2011 (on moodle)

**Value:** pass/fail

**Length:** 4 pages double-spaced maximum

For this assignment, you are required to attend at least one session of **Remand** Court. You might find some of the elements of the process easier to follow if you bring your criminal code with you. You may, if you choose, supplement your observation of Remand Court with a second session of your choosing: the Supreme Court (Criminal Trial), or Provincial Court - Criminal Division, or Provincial Court - Youth Division. This may involve a preliminary inquiry, a bail hearing, a jury selection procedure, a part of a trial or a sentencing hearing. You may attend court in Victoria or elsewhere (e.g., Vancouver, Calgary, etc.).

The Journal should be a maximum of 4 pages in length, and is an opportunity for you to observe and reflect on criminal law and procedure in the context of remand court proceedings. Please include some details of what it is that you saw. (i.e. Court, date, judge, issues). The remainder of your journal is an occasion for you to reflect critically on your observations. That is, you may turn your attention to questions concerning criminal law process as it is explored in the textbook, and as it appeared during your court observations.

### **Some Victoria Courthouse (850 Burdett Street) Information:**

- You can enter the Courthouse from Courtney Street (you will be on the first floor level) or from Burdett Street (you will be on the second floor level).
- Courtroom 101 (first floor) is Remand Court (Provincial Court). Here, you will see bail hearings, guilty pleas and sentencing.
- Courtroom 103 is Justice of the Peace Court (usually provincial motor vehicles, and first appearances and remands...no need to visit it)
- Courtroom 102 and 104 are Provincial Courts (Criminal Division) where you may see preliminary inquiries, trials, sentencing, etc.
- Court Courtroom 201 (second floor) is also a Provincial Court (Criminal Division).
- Courtroom 203 is Family and Youth Court, with Tuesday A.M. as Remand Day and sometimes Wednesday and sometimes Monday as trial/sentencing days. The rest of the week Courtroom 203 is usually "family law" court.
- Courtroom 202 is usually Small Claims Court.
- The Supreme Courts are on the third floor. The two Courts closest to the elevator are often used for criminal law matters.
- The names of the cases that are proceeding each day are posted in the morning on the bulletin board in the foyer on the second floor (i.e., Burdett Street entrance). There is also a security guard who is posted nearby who is usually very helpful in telling you what type of proceedings are occurring in the various courts. The cases for each courtroom are also usually posted outside that courtroom.
- You are free to enter and leave courtrooms while they are in session, but please do so quietly.