

Course Description

LAW 305: LAW, THEORY AND PRACTICES OF SENTENCING

Fall 2009

Professor Gerry Ferguson

A. Course Objectives

1. To provide a brief overview of the historical development of punishment and sentencing.
2. To provide a sound theoretical basis for understanding the aims, purposes and justifications for punishment.
3. To examine in detail the various sentencing options and the basic principles and rules of sentencing, including the rules governing sentencing hearings.

B. Course Materials

1. Alan Manson, *The Law of Sentencing* (Irwin Law, 2001).
2. Coursepack [CP]
(Coursepack is accessible on the Law 305 Moodle Website)
3. Canadian *Criminal Code* (while the 2010 editions of Martin's and Tremear's *Criminal Codes* are now available, a 2008 or 2009 edition is fine).

C. Course Evaluation

Mock Sentencing Hearing -- 20 marks

(Tentative date: Thursday/Friday, November 26/27: exact times to be announced)

Optional memorandum (15 pages) -- 40 marks (Due last day of classes: December 3)

[Counts only if it raises your grade]

Optional major paper requirement - 50% (topic and outline to be approved by me)

Final examination -- 30-80 marks (Open book exam)

D. Course Content

1. A brief history of punishment and sentencing
2. Justifications for punishment
3. Judicial discretion and the methodology of sentencing
4. Principles of sentencing
5. Rules of sentencing
6. Sentencing hearings
7. Restorative Justice
8. Aggravating and mitigating factors
9. Sentencing options: Discharge, Fine, Suspended Sentence, Probation, Conditional Sentence, Imprisonment
10. Plea Discussions and Joint Sentencing Submissions
11. Victim Participation in Sentencing
12. Dangerous and Long Term Offender Provisions
13. Sentencing under the *Youth Criminal Justice Act*

E. Course Credit

1.5 units (3 hours per week)

F. Methodology

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

1. Have read the assignment 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.

G. Grading Scheme

The Law Faculty uses the following marking scheme to determine your final letter grade. The "narrative description" column reflects a rough general consensus among faculty members in regard to assessing student performance. I adopt this description in my grading for this course:

Letter Grade	Grade Point Value	Percentage Value	Narrative Description	
A+	9	90-100%	Exceptional	Grades in this range are normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
A	8	85-89%	Outstanding	
A-	7	80-84%	Excellent	
B+	6	75-79%	Very Good	Grades in this range are normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
B	5	70-74%	Good	
B-	4	65-69%	Solid	

C+	3	60-64%	Satisfactory	These grades indicate a satisfactory performance and knowledge of subject matter.
C	2	55-59%	Minimally Satisfactory	
D	1	50-54%	Marginal	A student receiving this grade demonstrates a superficial grasp of subject matter.
F	0	49 and below	Unsatisfactory	

H. Other Important Notes

Regulations:

Students should obtain and review all regulations and policies contained in the University of Victoria Calendar, 2008-2009 (“U Vic Calendar”, available online at <http://web.uvic.ca/calendar2008>), both generally and specifically for the Faculty of Law.

The Undergraduate Academic Regulations (2008-2009) of the UVic Calendar (<http://web.uvic.ca/calendar2008/FACS/UnIn/UARe/PoAcI.html>) set out the University’s expectations about attendance and assignments. The Faculty of Law’s Academic Regulations can also be found in the University Calendar at <http://web.uvic.ca/calendar2008/FACS/FoLa/FARe.html>.

Classroom Climate:

An inclusive, respectful, and diverse classroom environment is crucial to our work in this course. To ensure that all class members feel welcomed and equally able to contribute to class discussions, we must all endeavor to be respectful in our language, our examples, and the manner in which we conduct our discussions and group work. We have both an ethical and legal obligation to support this kind of environment. For your reference, you may wish to consult the University’s Discrimination and Harassment Policy (<http://web.uvic.ca/uvic-policies/pol-1000/1150HPP.html>). The University of Victoria and the Faculty of Law are committed to promoting, providing and protecting a positive, supportive and safe learning and working environment for all its members. I expect all aspects of this class to be conducted with this commitment firmly in mind.

If you have any concerns about the climate of the class, please feel free to contact me or the Associate Dean.

Academic Integrity:

As part of the academic community of both the Faculty of Law and the University as a whole, academic integrity is centrally important in the work of faculty and students. Please consult the University Calendar for policies respecting paraphrasing, plagiarism, and cheating. **It is your responsibility to familiarize yourself with the university policy on academic integrity. If, after reviewing this policy, you have any concerns or questions, or require clarification, do not hesitate to drop by my office or to send me an e-mail.**

The policy on academic integrity can be found on the web at the following address:
<http://web.uvic.ca/calendar2008/FACS/UnIn/UARe/PoAcI.html>.

Accommodation, Health Concerns, and Counseling Services

If any issues arise during the course of the term that may affect your ability to complete course requirements or meet deadlines, it is your responsibility to contact me and/or the Associate Dean as soon as reasonably possible to discuss available supports and possible accommodation.

We would like you to be aware of the services offered by UVic Counselling Services (<http://www.coun.uvic.ca/>) as well as UVic Health services (<http://health.uvic.ca/>).

Accommodation for Students with a Disability:

There are support systems, resources, and forms of accommodation available to students with a disability. If you wish to access any of these supports, resources or accommodations, I encourage you to contact the Associate Dean or the Resource Centre for Students with a Disability (<http://rcsd.uvic.ca/>) and I would be more than happy to work with you to ensure your success in this course.

Accommodation of Religious Observances:

The University of Victoria and the Faculty of Law have policies guaranteeing accommodation for those students who are unable to participate in a class or an aspect of the course owing to a religious holiday or observance (<http://web.uvic.ca/calendar2006/GI/GUPo.html>). If you will be missing a class, know that you will be unable to complete an assignment or exam, or otherwise require accommodation on account of a religious holiday or observance, please speak with me (or the Associate Dean) and I will be pleased to work out some satisfactory form of accommodation.