

COURSE OUTLINE

COURSE NAME: LAW I: AN INTRODUCTION TO THE CANADIAN LEGAL SYSTEM

INSTRUCTOR: LINDSAY HONSBERGER

PROGRAM: LAW AND SECURITY ADMINISTRATION/CORRECTIONAL WORKER
DIPLOMA PROGRAM

SEMESTER: I YEAR: I DATE: SEPT. 1983

INTRODUCTION

"The lawmaker must not pursue a variety of purposes interchangeably, without a clear specification of the exact end to be reached *by* a particular role or institution, on the apparent assumption that if one purposes fails, another may perhaps be achieved."

Thomas, C. "Constituent Elements of Crime" from Crime and Its Treatment in Canada. W.T. McGrath ed., MacMillan-Hunter Press, Toronto, 1976.

This course is designed to provide those students enrolled in the first semester Law & Security Administration/Correctional Worker Diploma Program with a conceptual framework in law and the Canadian Legal System.

The framework will focus on the nature of law and its function in a complex, industrial society. The course will also examine the relationship that exists between law and other social disciplines such as sociology, philosophy and psychology.

The framework will also include an introduction to the structure and operating philosophy of the Canadian Legal System, plus a primary examination of crime and criminology.

GENERAL OBJECTIVES

1. An understanding of the nature of law as a mechanism of organized social control.
2. To introduce the structures, names, institutions and individuals involved with the administration of justice in Canada (specifically) and Western industrialized society (generally).
3. To introduce the concept of crime as a social phenomena and examine the nature of crime plus methodologies utilized in an effort to control it.

SPECIFIC OBJECTIVES

The student will be able to:

1. provide a conceptual definition of law including:
 - what it is
 - why does it exist
 - who makes law and why
2. define jurisprudence and differentiate between the three (3) schools of judicial thought (i.e.: positivist, naturalist, realist)
3. provide a practical example which serves as an illustration of the fact that there may be differences in the interpretation of law ("The Speluncian Explorers)
4. differentiate between the several sources of law
5. illustrate an appreciation for the "nature of control" the law exerts over human affairs using the "Hohfeldian Analysis"
6. comment on the primary divisions of law (i.e.: positive, private, public)
7. define the Canadian Legal System as a function of the British Legal Tradition
8. differentiate between criminal and civil law models
9. trace the history of the acceptance of the common law in Canada
10. define the concept of the "law of equity"
11. outline the function of those institutions within the Canada Legal System known as "courts"
12. differentiate between accusatorial/adversarial/inquisitorial judicial systems
13. comment on the effectiveness of the courts as a vehicle by which justice is served within society
14. describe the judicial hierarchy of courts
15. comment on the role of judges and lawyers
16. differentiate between civil/criminal law and comment on the difference in terms of judicial procedures
17. apply the concept of stare decisis in terms of judicial decision making
18. describe status as formal, codified law
19. identify various problems with statutory interpretation including complexity and ambiguity with respect to judicial intent

20. describe a crime in terms of its basic components
21. describe the Criminal Code as the "DOCTRINE" of Criminal Law in Canada
22. conceptualize an "accused" as a recipient of legislative control
23. define the trial process in terms of its purpose and method
24. define sentencing and outline the various factors involved including deterrence, retribution and rehabilitation
25. describe the appeal process as a continuation of the judicial process
26. comment on the overall effectiveness of the Canadian Legal System in terms of its intent and result

METHODOLY

One (!) lecture/week: Monday, 7-9 p.m., Room ^{EiS0} - on occasion the day and time might have to change to accommodate emergencies that arise in the instructor's work environment.

Lectures will introduce new material as outlined in the lecture/reading schedule attached.

One (I) seminar/week: Tuesday, 9:30 - 10:30 - Group A, 10:30 - 11:30 - Group B, Room

Seminars will be an opportunity to discuss/apply lecture material, clarify problems that may periodically arise, discuss assigned readings, etc.

EVALUATION

Test #1.....	25%
Test #2.....	25%
Seminar.....	20%
Court Attendance Report.....	5%
Final Exam.....	25%

All tests are objective in nature (M/C, T/F)

REQUIRED READINGS

Gail, G. The Canadian Legal System, 2nd Ed., Carswell, Toronto, 1983.

There will also be readings on reserve in the Sault College Library. It is the responsibility of each student to keep par with these readings in preparation for lectures.

- a lecture/reading schedule is attached to this outline

MISCELLANEOUS

Messages will be taken by Catherine McFarlane at extension 515. This writer will attempt to return calls as promptly as possible.

Student/instructor meetings will be arranged on an individual basis.

****V S** L1 (i) Course introduction
(ii) The Nature of Social Control

<* V L2 Law (Defined)
Gall: Introduction - p. 1-2
. The Nature of Law - p. 3-6

IV
^ (r) Waddams, S., "What is Law" from Introduction to the Study of Law, 2nd ed.
Carswell, Toronto, 1983

(h) Francis, D_M "Are we Hurling towards a new Feudalism?" from The Toronto Star, 19 Sept. 1984

L3 Jurisprudence and Schools of Judicial Thought

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Gall: p. 6-li

(r) Hampstead, L. Introduction to Jurisprudence, Carswell, Toronto, J979

(h) "A New Law on Life and Death" from MacLean's, 19 Nov. 1984

(r) Speluncian Explorers

Sept 11
L4 (i) Policy Implementation
(ii) Law (review)

Gall: p. 15-16

(r) Bacherach: Baretz "A Model of the Political Process" if available

(r) Waddams, "Public Policy", op cit

Sept 20
5 L5 Division of Law

Gall: 18-25

(r) Chapman, F., "Canadian Criminal Law" from The Administration of Criminal Justice in Canada, C. Boydell ed., Holt, Rhinehart & Winston, Toronto, 1974

L6 Sources of Law

< ** **W**

Gail: 26-33, 36-40

(r) Parker, G., "The History of Criminal Law: from An Introduction to Criminal Law, 2nd ed., Methven, Toronto, 1983

L7 Precedent/Stare decisis

9* ^

Gal 218-225
233-248

(r) Waddams, S.. "The Role of Judaes". op cit

- t- L8 (i) Statutory Interpretation
- (ii) Review

Gall: 249-279

- (r) Waddams, S., *ibid* - 137-145

Test #1 **Y& WG-t_\|jt*4_

- (i) The British Legal Tradition
- (ii) The Canadian Constitution

Gall: 41-100

The Canadian Legal System
Structure: Operating Philosophy

Gall: 101-130
151-217

- (r) Griffiths, C, "The Criminal Court System" from Criminal Justice in Canada
Butterworths, Toronto, 1980

The Courts (Names/Functions)

as for LII

©cJ-^5 L13 Individual Roles (Judges/Lawyers/Police)

as for LII

^W^3«8 Criminal Law **O C J T 3 1 / & S**

Handout (pending availability)

O ^ S * LIS Crime (defined) <E> — " ^sa- * ^ — <x ^ _ • No > / <L / g £ ,

Parker, G., An Introduction to Criminal Law, op cit

Stratification ^Q y 7/fcfc

handout (pending availability)

- (r) Clinard, M., "A Typology of Criminal Behaviour Systems" from Criminal Behaviour Systems, 2nd ed. Holt, Rhinehart & Winston, Toronto, 1973

L17 Test #£, <Q UOMQI8&

* L18 Judicial Procedure K)oV. m/S9f

N' **4>P** handout (pending availability)

^ 3 L19 Review Q @ k)0 & Air/gi^

^ U L20 Te *- #3 **WV.O|/ftS**

^ > | L21 Appeals (J) S — ^ v ^ ^ ® M * V ^ / 0 &

As required

^^ [, L22 Sentencing NOV'.*?'**"

As required ^^^ /

M^{ft4^>} L23 Criminalistics*^^ : ^WV\A^-*~Y ^ |^v Iw

Pepinsky, H., "What Should we Control?" from Crime Control Strategies: An Introduction to the Study of Crime., Oxford University Press., N.Y., 1930

<J*C M / L24 Test #3 <&<-*-/**

/, -? L25 Justice: Myth or Real

-3*

As required

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<&* - u L26 Course review

Department Chairperson

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Date

Date