

FACULTY OF LAW, UNIVERSITY OF VICTORIA
2023-2024 COURSE REGISTRATION - PRELIMINARY COURSE INFORMATION (PCIS)

COURSE	LAW 305 Sentencing: Law, Theory and Practice
UNIT VALUE	1.5 Units (3 hours of instruction per week)
INSTRUCTOR	Patricia Barkaskas
TERM OFFERED	Fall 2023
CLASS TIMES	See schedule
PREREQUISITES/COREQUISITES	None

COURSE OBJECTIVES

1. To provide a brief overview of the historical development of punishment and sentencing in Canadian common law and as set out in the *Criminal Code of Canada*.
2. To provide a sound theoretical basis for understanding and critiquing 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 within the Canadian criminal legal system.
4. To develop a basic understanding and explore sentencing principles and options for sentencing that introduce aspects of restorative justice and/ or Indigenous laws.

COURSE CONTENT

1. A brief history of punishment and sentencing in Canadian common law/ the *Criminal Code of Canada*
2. Justifications for and critiques of punishment
3. Judicial discretion and the methodology of sentencing
4. Purposes and principles of sentencing
5. Rules of sentencing
6. Sentencing hearings
7. Aggravating and mitigating factors
8. Sentencing options: Discharge, Fine, Suspended Sentence, Probation, Conditional Sentence, Imprisonment
9. Plea Discussions and Joint Sentencing Submissions
10. Victim Participation in Sentencing
11. Dangerous and Long-Term Offender Provisions
12. Restorative Justice
13. Indigenous Courts and Indigenous laws in sentencing

METHODOLOGY

This course incorporates lectures and discussion with problem-based learning, talking circles, and reflective practice. Attendance and participation are key to engagement in the course content to support the course objectives above. Students are expected to attend class having read the assigned readings, to bring readings to class, and to be prepared to analyze and discuss the materials in class.

Over the course of completing all aspects of the course, students will identify and meet the following learning objectives (all aimed at an overall goal of promoting **reflective practice**):

- **Analysis and Critical Thinking:** Students will demonstrate an ability to assess complex legal and societal problems by identifying critical facts, the legal and policy issues, and potential options, solutions, strategies, and policy implications.
- **Communication:** Students will communicate effectively and persuasively in written and oral forms in a manner that is clear, logical, and persuasive.
- **Legal Research:** Students will demonstrate effective use of the tools of legal research, will create and carry out an effective research plan for assessing legal problems, and will demonstrate the ability to use appropriate citation form for advocacy and expositive legal writing. Legal research learning may be demonstrated by the incorporation of discussion and exposition of learning related to assignments.
- **Professionalism and Ethics:** Students will demonstrate competency in understanding the ethical standards

of conduct expected of members of the legal profession, be able to recognize ethical dilemmas and resolve them appropriately and understand the importance of law as a service profession and as a vital aspect of promoting justice in society.

- **Value Clarification:** Students will clarify and assess their beliefs and values as they apply to legal practice and the role of law in its social context.

EXPECTED EVALUATION METHODOLOGY

- Gladue submissions (12 pages) - 30%
- Mock Sentencing Hearing - P/F
- Final Paper **OR** Project - 70%

Final Research Paper

This option involves writing a final research paper that must not exceed 6000 words (excluding footnotes). Text over this word limit will not be read. Proper footnote referencing must be done in the *McGill Guide to Legal Citation* 9th ed. format.

Students who elect to complete a research paper will provide a written proposal to the professor for approval to ensure the appropriateness the proposed topic and academic rigour of the research paper.

2) Multi-disciplinary Project:

Students choosing this option will undertake a final project with at least two elements: a multi-disciplinary element and a written component, each as detailed below.

Students who elect to complete a multi-disciplinary project must provide a written proposal to the professor for discussion with and approval by the professor to ensure the academic rigour of the proposed project.

Multi-disciplinary Element

The form this element of the project takes is up to each student selecting this option, after discussion with the professor. For example, a multi-disciplinary project may incorporate:

- creative writing -- such as poetry, graphic novels, short stories, plays, etc.;
- visual arts -- such as painting, sculpture, beading, fibre, etc.;
- performing arts -- including song, dance, and theatre; and/or
- digital media -- such as film, photography, or animation.

Students electing to complete a multi-disciplinary project are encouraged to be creative, to explore the freedom to design the project in the medium(s) of their choice.

Written Component

Students who complete a multi-disciplinary project must also submit a written component as part of this option for their final assignment. The written element is to situate the submission in the broader topics of the course, to discuss and set out the metaphors, symbolism, or meaning of the creative element, and to critically reflect on how the student's final assignment relates to the course readings and discussions. The written component must be 750-1000 words (footnotes excluded). Proper footnote referencing must be done in the *McGill Guide to Legal Citation* 9th ed. format.

Note: With the Instructor's permission and upon review of the proposed paper topic for subject matter alignment and academic rigor and by approval of the Instructor, students may enrol in Law 390 – Major Research Paper in a Course to complete their major research paper requirement. Please see the requirements for the major research paper in the [Course Registration and Planning Guide](#) before contacting the Instructor about your major research paper proposal for the course.