

**CRI389Y0 – RIGHTS, FREEDOMS AND RESPONSIBILITIES IN CRIMINAL LAW:
HISTORICAL ORIGINS AND NEW DIRECTIONS IN ENGLAND AND CANADA
SUMMER 2023 - DRAFT**

Instructor: Dr. William Watson
E-mail: williamd.watson@utoronto.ca

GENERAL DESCRIPTION

This course traces shifts in the rights, freedoms and responsibilities of legal subjects, as they have been defined in criminal law in England and Canada, beginning with the gradual emergence of the common law in England during the Medieval period, right up to the present day, including the history of approaches to political violence in England. Close attention will be paid to recent developments which challenge traditional doctrines. The English legal system has recently adopted a number of innovations and proposals which have not been tried in Canada, including new doctrines regarding police administration, antisocial behaviour, community policing, speech supporting terrorism, and jury trials. In all these cases, there is significant modification of established legal doctrines regarding the relationship between the state and its subjects. The new Conservative government has modified some of these policies, partly in light of fiscal challenges. Canada has been at the forefront of other developments which modify that relationship, most notably regarding dangerousness assessment with a view to preventive detention, and the punishment of women offenders, where feminist theories have been influential.

Students will have the opportunity to evaluate these developments in light of the history of legal rights, freedoms and responsibilities in the common law tradition. They will present their views of the nature, causes and validity of the developments in the written assignments.

The course will be of special interest to students of Criminology, Political Science and History.

COURSE READINGS

The lectures and the student evaluations will be based on readings placed on the course Quercus site. Access to library resources will likely be limited during the course, but students will have access to University of Toronto's online resources.

EVALUATIONS

Students complete five evaluations:

Pre-course assignment: 200 - 250 word commentary on a crime news item appearing in Canada, discussing criminal justice system and media response, due Monday 7 August. 5% of course marks.

Test 1 (1 hour): held during Lecture 4, Monday 14 August. Students will answer a question on the Canadian Charter of Rights and Freedoms (see below). 15% of course marks.

Question for Test 1:

Does Canada's *Charter of Rights and Freedoms*, used to challenge government practice and legislation through judicial review, provide appropriate limits on government?

Response paper: due Thursday 24 August. Students will provide a brief response to an issue raised in our discussions of policing, and the visit by an Oxford City police officer (600-800 words). 15% of course marks.

Test 2 (1 hour): held on the morning of Thursday 31 August. Students will answer one question on **either** Canadian contributions to feminist thinking on women's corrections **or** on Robert Hare's influential work on psychopathy (see below). 25% of course marks.

Questions for Test 2:

Topic 1: Feminist criminology of women's corrections. Has the contribution of Canadian feminist research on women's corrections enhanced Canadian correctional services for women?

Topic 2: Psychopathy. Has contemporary research on psychopathy based on Robert Hare's Psychopathy Checklist – Revised (PCL-R) improved Western criminal justice systems?

Short term paper: due Thursday 31 August. Students will complete a 1,250-1500 word paper on one of the topics covered in Lectures 4-10, or another topic approved by Professor Watson: there will be some flexibility to allow students to write about another topic that interests them which can be related to the material in these lectures. All students will meet by appointment with Professor Watson during special office hours held on Monday 15 August, Tuesday 16 August, Wednesday 17 August and Thursday 18 August to discuss their choice of essay topic. They will have the opportunity to discuss the progress of their paper during the office hours held after this. 40% of course marks.

TIMETABLE

Please note, we are fitting in visits from guest speakers; Oxford Community Police, two academics and an ex-student from the U of T Criminology and Sociological Studies program. On the days when we have guest speakers, we ensure the classes for those days fit in with guest speakers' visits. This may mean lecture times, office hours or appointments may be moved on these days. This does not affect the two Visits to London or the free days.

Week 1: Monday 7 August – Sunday 13 August

Monday 7 August: Lecture 1: Introduction to the course. Origins of English law – emergence of the Feudal state and the formalization of custom: violent punishments and fines. Mens Rea. Emergence of the jury. Outlawry. Common law. Development of statute. The Crown. Regulation and the colonial state. Calvin's case. Penitentiaries.

12:00: Academic Orientation

2:00 - 3:30: Professor Watson – office hours

Tuesday 8 August: Lecture 2: Pre-confederation criminal law and policy in British North America Canada. Confederation and the Criminal Code. Differences from English tradition. Influence of US. Federal Code vs provincial justice. Emergence of Supreme Court of Canada.

2:00 - 3:30: Professor Watson – office hours

Wednesday 9 August: Lecture 3: Rights and freedoms: origins of common law rights and freedoms tradition. Hobbes and Locke. Influence of US. Charter of Rights and Freedoms. United Kingdom and European Court.

2:00 - 3:30: Professor Watson – office hours

Thursday 10 August: **Visit 1:** A visit to London to major criminal law and related landmarks: the Foundling Museum, the British Museum 'Enlightenment' gallery; the Tower of London. Evening - a 'Jack the Ripper' walk.

Friday 11 August
Free

Saturday 12 August
Free

Sunday 13 August
Free. 6:00 - 7:30 Professor Watson – office hours

Week 2: Monday 14 August – Sunday 20 August

Monday 14 August: **Test 1**. Lecture 4.1: Policing the community: origins of modern police force in England. Early history of Canadian policing. Development of 'asymmetrical federalism' in Canada's patchwork of policing arrangements. Independence of police forces. Community policing models. Police Community Support Officers. Police Commissioners.

2:00 - 3:30: Professor Watson – office hours

4:00 - 6:30: Professor Watson – appointments to discuss term paper.

Tuesday 15 August: Lecture 4.2: Policing the community: origins of modern police force in England. Early history of Canadian policing. Development of 'asymmetrical federalism' in Canada's patchwork of policing arrangements. Independence of police forces. Community policing models. Police Community Support Officers. Police Commissioners.

2:00 - 3:30: Professor Watson – office hours

4:00 - 6:30: Professor Watson – appointments to discuss term paper.

Wednesday 16 August: Lecture 5: Public order law: alcohol regulation; decarceration and drunkenness; influence of Europe on UK alcohol regulation; Antisocial Behaviour Orders/Criminal Behaviour Orders.

2:00 - 3:30: Professor Watson – office hours

4:00 - 6:30: Professor Watson – appointments to discuss term paper.

Thursday 17 August: **Test 1 returned**. Lecture 6: Security and secrecy: History of media censorship in UK. British Official Secrets Act. October crisis. Impact of Northern Ireland conflict. Canada's reaction to 9/11. Proposals to ban certain kinds of speech re: terrorism in the UK.

2:00 - 3:30: Professor Watson – office hours

4:00 - 6:30: Professor Watson – appointments to discuss term paper.

Friday 18 August
Free

Saturday 19 August
Free

Sunday 20 August
Free. 6:00 - 7:30: Professor Watson – office hours

Week 3: Monday 21 August – Sunday 27 August

Monday 21 August: Lecture 7: Homicide Law and the Death Penalty: Infanticide; diminished responsibility (hospital orders); 'life'; current UK proposals aimed at restricting discretion.

2:00 - 3:30: Professor Watson – office hours.

Tuesday 22 August: Lecture 8: Two traditions re: the jury: Influence of US in Canada. Summing up. Jury selection. Recent restrictions on availability. Deference to jury verdicts in Canada. Wrongful convictions: traditional doctrines – Lord Denning. Impact of IRA convictions in UK. Impact of US cases in Canada and UK. Compensation in UK.

2:00 - 3:30: Professor Watson - office hours.

Wednesday 23 August: Lecture 9: History of criminological theory – development of UK schools - Bentham to the present. Influence of UK and US criminology in Canada. Current schools of criminological theory in UK and Canada. Role of criminological theory in current administrations – especially the UK ('New Realism' and after).

2:00 - 3:30: Professor Watson – office hours.

Thursday 24 August: **Police Response Paper due. Visit 2:** A return visit to London to sites of major historic political violence: Smithfield Market (Peasant's Revolt 1381); Newgate and Old Bailey (Gordon Riots 1780); Sidney Street, Stepney (Siege of Sidney Street 1911); Liverpool Street and St Ethelberga's Church (IRA bombing 1993); Aldgate ('7/7' bombings 2005).

Friday 25 August
Free

Saturday 26 August
Free

Sunday 27 August
Free. 6:00 - 7:30: Professor Watson – office hours

Week 4: Monday 28 August – Saturday 2 September

Monday 28 August 26th: **Police Response Paper returned.** Lecture 10: Feminist criminology and women's corrections. History of women's corrections. Holloway Prison. P4W. Closure of P4W. Canada at forefront of contemporary innovations – influence of feminist criminology on women's corrections in Canada and influence of Canada on English speaking world.

2:00 - 3:30: Professor Watson – office hours.

Tuesday 29 August: Lecture 11: Psychopathy and dangerousness assessment: English medical history and legal innovation. Canadians involved in treatment without changes in law. Therapeutic nihilism affects UK and Canada. Canadian Robert Hare and the new science and treatment of psychopathy. Development of dangerousness assessment instruments and Dangerous Offender legislation.

2:00 - 3:30: Professor Watson – office hours.

Wednesday 30 August: 9:00 - 12:00: Study period for Test 2 with Professor Watson (optional).

2:00 - 3:30: Professor Watson – office hours.

Thursday 31 August: 11:00-12:00: **Term paper due. Test 2.** Course ends.

Friday 1 September

Free

Saturday 2 September

Return to Toronto