



Criminal Law and Procedure

(Lawf 3080)

Course Syllabus

FALL 2020

Sept. 9, 14 and 16: Intro and Basic Overview of Canadian Criminal Law

Overview of course materials; basic overview of Canadian criminal law, relationship of common law, constitution, and courts

Specific portions of each case will be posted to moodle the week before.

Basic Coordinates of Canadian Criminal Law

Sept. 21/23: Sources, Codification, and Interpretation

Part 1

Sections 52 the *Constitution Act, 1982*; 91 and 92 of the *Constitution Act, 1867*
Switzman v. Elbling, [1957] SCR 285
R. v. Morgentaler, [1993] 3 SCR 463
Reference re Firearms Act (Canada), [2000] 1 SCR 783

Part 2:

Sections 8 and 9 of the *Criminal Code of Canada* [*Criminal Code*]
Amato v. The Queen, [1982] 2 SCR 418
Frey v. Fedoruk, [1950] SCR 517
R. v. Jobidon, [1991] 2 SCR 714

Rules of statutory interpretation: strict construction vs. purposive interpretation:

R v. Paré, [1987] 2 S.C.R. 618

Bell ExpressVu Limited Partnership v. Rex, et al., [2002] 2 S.C.R. 554

Sept. 28/30: Criminal law and the Charter

Sections 1-3,6,7-15, 24, 32 and 33 of the *Canadian Charter of Rights and Freedoms*
R v Oakes, [1986] 1 SCR 103

Introduction to the Prosecution Process

Oct 5: Stages of a prosecution

Report to Crown counsel, charge approval, informations and indictments
 Pre-trial detention, arraignment, plea, waiver.

Arrest and Detention

Oct. 7: Statutory powers of arrest:

Criminal Code sections 184 to 186, 487, 493-495

Oct. 12: Thanksgiving

Oct: 14 Ancillary power of search incident to arrest ('SITA')

Cloutier v Langlois, [1990] 1 SCR 158

R. v. Golden, 2001 SCC 83

R. v. Caslake, [1998] 1 SCR 51 [excerpts]

R. v. Fearon, 2014 SCC 77 [headnote]

R. v. Saeed, 2016 SCC 24 [headnote]

Oct. 19/21: Section 9 and 'investigative detention':

Part 1: Ancillary power of investigative detention

R. v. Simpson, 1993 12 OR (3d) 182

R. v. Mann, 2004 SCC 52

R. v Clayton, 2007 SCC 32

Part 2: *When* is a person detained?

R. v. Grant, 2009 SCC 32 [excerpts]

R. v. Suberu, 2009 SCC 33 [excerpts]

Oct. 26/28: Section 8 and ‘reasonable search’

Part 1: Intro lecture + fact patterns

Part 2: General scope of section 8:

All of *Hunter et al. v. Southam Inc.*, [1984] 2 SCR 145

Nov 2/4: Section 8 continued

Part 1: ‘Reasonable expectation of privacy’ (‘REP’):

R. v. Wong, [1990] 3 SCR 36

R. v. Plant, [1993] 3 SCR 281

R. v. Edwards, [1996] 1 SCR 128

R. v. Kang-Brown, 2008 SCC 18

R. v. AM, 2008 SCC 19

Part 2: Search at the border

[readings TBA]

Nov. 9: The common law confessions rule

Boudreau v The King, [1949] SCR 262

Nov 11: Remembrance Day

Nov. 16: confessions continued

All of: *R. v. Oickle*, 2000 SCC 38

Headnote of : *R. v. Spenser*, 2007 SCC 11

Nov. 18: the Right to Counsel

R. v Manninen, [1987] 1 SCR 1233

R. v. Brydes, [1990] 1 SCR 190

R. v. Prosper, [1994] 3 SCR 236

R. v. Smith, [1989] 2 SCR 368

Nov 23: the Right to silence:

R. v. Hebert, [1990] 2 SCR 151

R. v. Singh, 2007 SCC 48

R. v. Sinclair, 2010 SCC 310

Nov. 25: Exclusion under s. 24(2) of the Charter

R v. Collins, [1987] 1 SCR 265 [headnote]

R v. Stillman, [1997] 1 SCR 607 [headnote]

R v Grant [2009] 2 S.C.R. 353 [excerpts]

R. v. Harrison, 2009 SCC 34 [headnote]

Nov 30: Bail:

Criminal Code sections 515(10), 519, 520, 522, 524

Dec 2: final exam review