



APPLIED ARTS DIVISION  
Crim 219  
3 Credit Course  
Winter Semester, 2018

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## ABORIGINAL PEOPLES AND CANADIAN CRIMINAL JUSTICE

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**INSTRUCTORS:** David Christie, BA, LLB  
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Barristers & Solicitors

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**OFFICE HOURS:** One hour before class each week, or as can be arranged

**OFFICE LOCATION:** Classroom

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**COURSE OFFERINGS** Classes: Thursdays, January 4 - April 25, 2018  
**DAYS & TIMES:** Time: 7:00 p.m. - 10:00 p.m.  
Room: A2601

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### COURSE CALENDAR DESCRIPTION

Examines and presents critical evaluation of the relationships between Aboriginal peoples and Canadian criminal justice, encompassing the historical and contemporary position of Aboriginal peoples in Canadian society.

### COURSE DESCRIPTION

This course critically examines the relationship between First Nation peoples and Canadian criminal justice. The course considers First Nation involvement in the criminal justice system, theories of criminality and national and international justice programs designed to reduce conflict between First Nation peoples and criminal justice systems. Specific issues such as First Nation women and youth in conflict with the law, substance abuse and suicide, and family and sexual violence in Northern and First Nation

communities are also canvassed.

### **COURSE PREREQUISITES**

Criminology 101 or 131.

### **EQUIVALENCY/TRANSFERABILITY**

CAMO Crim 200 lev (3)  
SFU Crim 2xx (3)  
TRU-OL Crim 2xx1 (3)  
UBC Arts 2<sup>nd</sup> yr (3)  
UVIC Sosc 100L (1.5)  
UAF Just Elec. S (3)

KPU Crim (3)  
TRU Soci 2xx0 (3)  
TWU HUMA 200 lev (3)  
UFV Crim 1xx (3)  
UNBC Fnst 2xx (3)  
UAS Sosc Elec. (3)  
UR HJ 332 (3)

For information about the transferability of this and other Liberal Arts courses go to <http://www.bctransferguide.ca/> or contact the Chair of Liberal Arts at Yukon College.

Crim 219 meets Yukon College Yukon First Nations core competency requirements.

### **LEARNING OUTCOMES**

Upon successful completion of the course, students will have demonstrated the ability to:

- Explain the effects of colonization on Canada's First Nation peoples;
- Analyze the over representation of First Nation peoples as offenders and victims in the criminal justice system;
- Compare the Canadian criminal justice system to the traditional systems of justice in First Nation communities;
- Know the various sentencing processes and alternative measures available to First Nation people in Canada;
- Identify initiatives within First Nation communities that empower the communities in their move towards self-determination and greater control over the administration of justice.

### **COURSE FORMAT**

Course content is canvassed through a lecture/seminar format. As part of the seminar portions of this course, students are responsible for discussion of the required readings and individual/group exercises assigned by the instructor. The course may also include

guest speakers, audio-visual presentations, and field observations.

## **ASSESSMENTS**

1. Essay / Presentation: CHOICE: Each student is required to do either:
  - a. Essay: an 8 - 10 page, typed essay in APA format, which will be worth 20% of your final grade. Based on the lectures, readings, and research from a minimum of 10 sources, of which there must be at least 5 peer-reviewed journal articles, draft a written essay that addresses one of the topics provided in class. Available topics and more details will be provided in class; or
  - b. Presentation: an oral assignment which will be worth 20% of your final grade. Each student must prepare a 15 - 20 minute presentation to the class. Students will be graded on their presentation style and substance. Available topics and more details will be provided in class.
2. Essay: Students are also required to submit an 8 - 10 page, typed essay in APA format, which will be worth 20% of your final grade. Based on the lectures, readings, and research from a minimum of 10 sources, of which there must be at least 5 peer-reviewed journal articles, draft a written essay that addresses one of the topics provided in class. Available topics and more details will be provided in class

NOTE: Each student will do either two essays (#1(a) and #2) or one Presentation (#1(b)) and one essay (#2).

## **Exams**

There will be a midterm (20%) and a final exam (30%).

## **Attendance and Participation**

Students will be expected to have read and be prepared to discuss the assigned readings for each class. Students will also be expected to read and study materials handed out in class. Students are expected to participate fully in any group exercises that may be assigned during class time. Class attendance and participation will be worth 10% of your final grade.

Mere presence in the classroom is not sufficient. Students will be assessed for active listening skills, demonstrated knowledge of the required readings, and proven understanding of the issues. Students are encouraged to express their own views, to criticize the instructors' analysis, and to raise questions from current events that relate to course content. The Instructor will call upon individual students to answer questions about the materials each week. Students are strongly encouraged to keep up with the assigned readings and to be prepared for each class.

## Scheduled Examination Dates

Unless legitimately warranted and approved by the course instructor in advance, alternative arrangements will not be made for those students who are unable to write examinations on the scheduled examination dates or during scheduled examination periods. Students should be aware that the completion date for this course includes the two week examination period which follows the termination of regularly scheduled classes in December.

## REQUIRED TEXTBOOK(S)

The Colonial Problem: An Indigenous Perspective on Crime and Injustice in Canada, by Lisa Monchalin, published by the University of Toronto Press (2016). ISBN-10: 1442606622; ISBN-13: 978-1442606623.

Additional supplemental course readings will be provided in class, by email or will be available on Moodle.

## COURSE REQUIREMENTS / EVALUATION

Student performance will be evaluated by grading in each of the following areas:

Attendance and Participation	10%
Written Essay	20%
Oral Presentation or Second Written Essay	20%
Midterm Examination	20%
Final Examination	30%
Total	100%

## WRITTEN ASSIGNMENT REQUIREMENTS

Written assignments for this course must be word processed and meet the basic requirements for FORMAL ACADEMIC PAPERS. **LATE ASSIGNMENTS WILL BE PENALIZED BY 10% PER DAY** unless an extension is legitimately warranted and approved by the instructor in advance of the assignment due date. Assignments submitted late without instructor approval will not be graded. Proper referencing (APA) will be required. Note also that despite APA guidelines I require that all quotations and paraphrases include the page number of the source when referenced.

## THE LORENE ROBERTSON WRITING CENTRE

All students are encouraged to make the Writing Centre a regular part of the writing process for coursework. The Lorene Robertson Writing Centre is staffed by helpful writing coaches from across the College and offers one-on-one appointments to students in need of writing support.

The Lorene Robertson Writing Centre can help you:

- Get started on an assignment and focus your ideas
- Outline and plan your assignment
- Write clearly, logically and effectively
- Address specific needs and writing problems
- Revise the first and final drafts of your project
- Gain confidence in your writing

For in-person appointments, the Centre coaching office is located in the Academic Support Centre in room A2302. You can also participate in coaching appointments over the phone or online. See the Academic Support Centre schedule for English and writing support times.

## **ACADEMIC AND STUDENT CONDUCT**

Information on academic standing and student rights and responsibilities can be found in the current Academic Regulations that are posted on the Student Services/ Admissions & Registration web page.

## **PLAGIARISM**

Plagiarism is a serious academic offence. Plagiarism occurs when students present the words of someone else as their own. Plagiarism can be the deliberate use of a whole piece of another person's writing, but more frequently it occurs when students fail to acknowledge and document sources from which they have taken material. Whenever the words, research or ideas of others are directly quoted or paraphrased, they must be documented according to an accepted manuscript style (e.g., APA, CSE, MLA, etc.). Resubmitting a paper which has previously received credit is also considered plagiarism. Students who plagiarize material for assignments will receive a mark of zero (F) on the assignment and may fail the course. Plagiarism may also result in dismissal from a program of study or the College.

## **YUKON FIRST NATIONS CORE COMPETENCY**

Yukon College recognizes that a greater understanding and awareness of Yukon First Nations history, culture and journey towards self-determination will help to build positive relationships among all Yukon citizens. As a result, to graduate from ANY Yukon College program, you will be required to achieve core competency in knowledge of Yukon First Nations. For details, please see [www.yukoncollege.yk.ca/yfnccr](http://www.yukoncollege.yk.ca/yfnccr).

## ACADEMIC ACCOMMODATION

Reasonable accommodations are available for students requiring an academic accommodation to fully participate in this class. These accommodations are available for students with a documented disability, chronic condition or any other grounds specified in section 8.0 of the Yukon College Academic Regulations (available on the Yukon College website). It is the student's responsibility to seek these accommodations. If a student requires an academic accommodation, he/she should contact the Learning Assistance Centre (LAC) at (867) 668-8785 or [lassist@yukoncollege.yk.ca](mailto:lassist@yukoncollege.yk.ca).

**ABORIGINAL PEOPLES AND CANADIAN CRIMINAL JUSTICE  
SYLLABUS & TOPICS OUTLINE**

WEEK	DATE	TOPICS	READINGS
Week 1	January 4	<p><b>Class Overview and Introduction to Canada's Aboriginal Peoples</b> Critical examination of the current demographic, geographic, social, economic, and political positioning of Aboriginal peoples within Canadian society.</p>	<p><b>The Colonial Problem</b> Chapter 1: Introduction to Indigenous Peoples in Canada</p>
Week 2	January 11	<p><b>The Historical Context</b> Overview of the historical processes of colonization, including the impact of the <i>Indian Act</i> and residential schools.</p>	<p><b>The Colonial Problem</b> Chapter 6: Indigenous Peoples and the State: Legal Manipulation and Indian Legislation  Chapter 7: The Impact of Assimilation: Residential Schools and Intergenerational Trauma</p>
Week 3	January 18	<p><b>Aboriginal Concepts of Justice</b> An examination of Aboriginal concepts of justice and methods of addressing crime contrasted with the Western justice system.</p>	<p><b>The Colonial Problem</b> Chapter 2: Introduction to an Indigenous Perspective  Chapter 3: Indigenous Governance and Methods of Addressing Crime  <b>The Colonial Problem</b> Chapter 12: Euro-Canadian "Justice" Systems and Traditional Indigenous Justice, pp. 274 - 284</p> <hr/> <p><b>Supplemental Reading</b> John Borrows &amp; Leonard Rotman, <i>Aboriginal Legal Issues: Cases, Materials and Commentary</i>, 3rd Ed. (Canada: LexisNexis, 2007), pages 908 - 919.</p>

<p><b>Week 4</b></p>	<p>January 25</p>	<p><b>Aboriginal and Treaty Rights and Self-Government through a Criminal Law Lens</b>          Analysis of the evolution and effect that section 35 of the <i>Constitution</i> and modern treaties have had on the criminal justice system's treatment of Aboriginal people.</p>	<p><b>The Colonial Problem</b>          Chapter 5: Canadian Legal History: The Interpretation of Indigenous Treaties and Rights           Chapter 11: Modern Agreements and Land Claims</p> <hr/> <p><b>Supplemental Reading</b>  <i>R v. Van der Peet</i>, [1996] 2 S.C.R. 507 (headnote only)</p> <hr/> <p><b>Supplemental Reading</b>          Teslin Tlingit First Nation Self-Government Agreement, May 29, 1993 and the Teslin Tlingit Administration of Justice Agreement, February 21, 2011.</p>
<p><b>Week 5</b></p>	<p>February 1</p>	<p><b>Theories of "Aboriginal" Criminality &amp; Overrepresentation</b>          An examination of various theories surrounding the overrepresentation of Aboriginal people in the criminal justice system, including the social roots of crime and systemic discrimination in the justice system.</p>	<p><b>The Colonial Problem</b>          Chapter 8: Crime Affecting Indigenous Peoples: Overrepresentation, Explanations, and Risk Factors</p> <hr/> <p><b>Supplemental Reading</b>          Report of the Aboriginal Justice Inquiry of Manitoba, The Justice System and Aboriginal People, Vol. 1, Ch. 4: Aboriginal Overrepresentation (November 1999).</p>

			<p align="center"><b>Supplemental Reading</b> Rupert Ross, "Criminal Conduct and Colonization: Exploring the Link."</p>
<b>Week 6</b>	February 8	<p align="center"><b>Pre-and Post-Charge Issues</b> A look at issues related to the entry of Aboriginal offenders into the Canadian criminal justice system, including under- and over-policing, bail, and courtworker programs.</p>	<p align="center"><b>The Colonial Problem</b> Chapter 12: Euro-Canadian "Justice" Systems and Traditional Indigenous Justice, pp. 258 - 267</p>
			<p align="center"><b>Supplementary Reading</b> Nancy MacDonald, "Canada's Prisons are the 'new residential schools,' MacLean's (February 18, 2016) Chapters 1 and 2</p>
			<p align="center"><b>Supplementary Reading</b> Department of Justice, "Aboriginal Courtworker Program" (June 2015) <a href="http://justice.gc.ca/eng/fund-fina/gov-gouv/acp-apc/index.html">http://justice.gc.ca/eng/fund-fina/gov-gouv/acp-apc/index.html</a>.</p>
<b>Week 7</b>	February 15	<b>Mid-Term Examination</b>	
<b>Week 8</b>	February 22	<b>Reading Break</b>	

Week 9	March 1	<p align="center"><b>Sentencing of Aboriginal Offenders</b></p> <p>Discussion of the <i>Gladue</i> and <i>Ipeelee</i> decisions, as well as restorative justice sentencing practices such as circle sentencing and First Nations Courts.</p>	<p align="center"><b>The Colonial Problem</b></p> <p>Chapter 12: The Court System at pp. 267 - 271 and 280 - 286.</p>
			<p align="center"><b>Supplemental Reading</b></p> <p>Department of Justice Canada, <i>Gladue Practices in the Provinces and Territories</i> (Research and Statistics Division, 2013).</p>
			<p align="center"><b>Supplemental Reading</b></p> <p>Yukon Gladue Research and Resource Identification Project, "Introduction" (Whitehorse, Yukon: Council of Yukon First Nations, 2015).</p>
			<p align="center"><b>Supplementary Reading</b></p> <p><i>R. v. Moses</i>, (1992), 71 C.C.C. (3d) 347</p>
Week 10	March 8	<p align="center"><b>Post-Sentencing Approaches</b></p> <p>Critical examination of the treatment of Aboriginal offenders in federal, territorial, and provincial corrections and the availability (or lack thereof) of indigenous-focused aftercare programs.</p>	<p align="center"><b>The Colonial Problem</b></p> <p>Chapter 12: The Court System at pp. 271 - 274.</p>
			<p align="center"><b>Supplemental Reading</b></p> <p>Curt Griffiths &amp; Danielle Murdoch, <i>Canadian Corrections</i>, 4th ed. (Toronto, Ontario: Nelson Education, 2014) at pp. 302 - 329.</p>

			<p><b>Supplemental Reading</b> Michelle M. Mann, <i>Good Intentions, Disappointing Results: A Progress Report on Federal Aboriginal Corrections</i> (Ottawa: Office of the Correctional Investigator, 2009) - Introduction and Synopsis only.</p>
			<p><b>Supplemental Reading</b> <i>Report of the Auditor General of Canada to the Yukon Legislative Assembly: Corrections in the Yukon</i> (Ottawa: Office of the Auditor General of Canada, 2015).</p>
<b>Week 11</b>	March 15	Oral Presentations	
<b>Week 12</b>	March 22	<p><b>Missing and Murdered Aboriginal Women</b> Overview of the ongoing issue of missing and murdered Aboriginal women in Canada.</p>	<p><b>The Colonial Problem</b> Chapter 9: Violence Affecting Indigenous Women: Struggle, Sexualization, and Subjugation</p>
			<p><b>Supplemental Reading</b> Forsaken: The Report of the Missing Women Commission of Inquiry - Executive Summary (British Columbia: 2012), pgs. 1 - 23.</p>

<p><b>Week 13</b></p>	<p>March 29</p>	<p><b>International Aboriginal Criminal Justice Issues</b> An overview and comparison of international issues outside of Canada regarding indigenous peoples and criminal law.</p>	<p><b>Supplementary Reading</b> United Nations Declaration on the Rights of Indigenous Peoples, GA Res. 61/295, UN GA, 107th Mtg., UN Doc. A/61/L.67 (2007).</p>
			<p><b>Supplementary Reading</b> Bartolome Clavero Salvador, <i>Study on international criminal law and the judicial defence of indigenous peoples' rights</i>, UN ESC, 10th Sess., UN Doc. E/C.19/2011/4 (2011).</p> <p><b>Supplementary Reading</b> Austl., Commonwealth, <i>Select Committee on Regional and Remote Indigenous Communities: Indigenous Australians, Incarceration and the Criminal Justice System</i>, Senate (March 2010).</p>
<p><b>Week 14</b></p>	<p>April 5</p>	<p><b>Moving Forward</b> A review of changes to Canadian society and the Canadian criminal justice system stemming from the growing awareness and recognition of the effects of colonization and discrimination on Aboriginal peoples.</p>	<p><b>The Colonial Problem</b> Chapter 13: Moving Forward: Lighting the Eighth Fire</p>
			<p><b>Supplemental Reading</b> <i>R v Armitage</i>, 2015 ONCJ 64</p>

Week 15	April 12	Class Review and Discussion	
Week 16	TBA	Final Exam (Date & Time TBA)	



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