

OSGOODE

OSGOODE HALL LAW SCHOOL
YORK UNIVERSITY

Professional Development
LLM



Part-time LLM Specializing in Criminal Law and Procedure

Directors

Marie T. Henein, Henein & Associates

James Stribopoulos, Osgoode Hall Law School

The Hon. Justice Gary Trotter, Ontario Court of Justice

Outside Toronto?

Distance Learning options are available. Visit www.osgoodepd.ca for more details.

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YORK
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redefine THE POSSIBLE.

The last 25 years have marked a period of revolutionary change within Criminal Law. Criminal law seems to be growing ever more pervasive, with the proliferation of new crimes and quasi-criminal regulatory offences: corruption, enterprise and transnational crime, and global terrorism are blurring the distinctions drawn by national borders and between criminal law, corporate/regulatory law and matters of national security.

This immensely popular and rigorous program is designed to provide students with an opportunity to explore the pressing and challenging issues affecting the Canadian criminal justice system. Students will examine the historical roots of the institutions and practices to current social science and doctrinal approaches to them.

PROGRAM DIRECTORS

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THE CURRICULUM*

Courses will be offered in a combination of intensive (typically three consecutive days including one Saturday) and weekly format. While the program is available by distance, students will be expected to attend the intensive courses in person in Toronto.

Degree Requirements

There are two options for completing this degree.

Option I

- The required coursework; and
- An independent Major Research Paper (70 pages)

Option II

- The required coursework;
- A significant research paper (30 pages) completed for one of the required courses; and
- An additional 6 credits of coursework taken from other specializations offered during your period of enrollment in the program

Required Courses

Persuasion and Proof: Issues in Fact Finding and Evidence

Whose Case is it? Issues of Disclosure, Privilege and Standing

The Theory and Practice of Punishment

Issues in Criminal Law: History, Evolution and Theoretical Approaches

Crimes and Regulatory Offences: Distinctions With or Without Difference

International Criminal Law and Regulation: Parts I and II

Criminal Law and the *Charter*: Implications and Expectations

Wrongful Convictions

"I really enjoyed the courses. The materials were very impressive. My knowledge of criminal law has increased significantly." Aston Hall, LLM in Criminal Law

COURSE DESCRIPTIONS*

Persuasion and Proof: Issues in Fact Finding and Evidence [3 credits]

Evidence is the means by which legal claims are actuated. In recent years the ability of the rules of evidence to achieve justice has been called into question. The challenges have come on a number of fronts. Increasingly, the “common sense” behind many of the rules is being called into question by learning in other fields, including the sciences, social sciences and psychology. Experience has proven equally important in exposing limitations in our existing system of rules. The course examines these issues within the following topics: the misuse and abuse of scientific evidence, the continued use of jailhouse informants and other unreliable forms of evidence, the resistance toward admitting empirical studies that establish the frailty of certain types of evidence (i.e. eyewitnesses' identification testimony), the limitations and mythology of fact-finding in our adversarial process (i.e. ability of judges/jurors to accurately assess credibility), and the challenges posed by our existing rules and procedures for proving certain social facts (i.e. racial profiling).

Whose Case Is It? Issues of Disclosure, Privilege and Standing [3 credits]

The rise of the victims' rights movement has coincided with the rise of individual rights under the *Charter*. Today, the conflict between victims' rights and due process is ever present. This course explores the increasingly complex questions posed by the prosecution and defence of cases concerning professional misconduct, regulatory offences, sexual and racial harassment, and sexual abuse. Victim witnesses, survivors, their supporters and the media now have standing in criminal cases on a range of issues, in part in response to increasingly aggressive defence claims for disclosure. At the same time, a single case may also generate disciplinary proceedings, public inquiries or inquests and civil actions resulting in complex and challenging problems concerning disclosure and privilege. The course will explore the new managerial side of the Crown as it responds to these pressures.

The Theory and Practice of Punishment [3 credits]

This course examines the theoretical and empirical underpinnings of criminal law through an examination of the classic and modern debates

about punishment. Key concepts such as deterrence, rehabilitation, incapacitation, retribution and denunciation are critically examined. Topics include strict discipline, privatization of prisons, conditional sentences, aboriginal sentencing circles and the New Zealand Family Group Conference.

Issues in Criminal Law: History, Evolution and Theoretical Approaches [6 credits]

This course describes and explores the origins of key elements of the current criminal law, from blood feuds and the ordeal, to public prosecutions, rights to counsel, imprisonment, and alternative dispute resolution. The course introduces students to contemporary debates in criminology, while demonstrating a range of research methods and approaches.

Crimes and Regulatory Offences: Distinctions With or Without Difference [6 credits]

It has been estimated that there are 97,000 regulatory offences created by federal statutes alone. As penalties for these matters increase, they begin to resemble criminal offences to an increasing degree. Conversely, in areas such as the control of firearms and the operation of motor vehicles, for example, the trend in criminal law is to establish regulatory schemes. The lines blur in other contexts as well, as the failed prosecution of the managers in the Westray mine disaster demonstrates.

This categorization makes it appropriate to divide the course in two parts. Part One examines risk management and regulatory offences and includes such topics as the development of regulatory offences through common law and statute; and the nature and scope of due diligence. Part Two explores the convergence of regulatory law and criminal law.

International Criminal Law and Regulation: Parts I and II [6 credits]

The first part of this course analyzes how states obtain jurisdiction over transnational and international crimes and jurisdiction over the alleged offenders through the process of extradition. Emphasis will be placed on extradition to and from Canada since the *Charter of Rights*. The course then explores how the “globalization” of markets and economies has brought with it increasingly difficult challenges of international regulation and enforcement.

Criminal Law and the *Charter*: Implications and Expectations [3 credits]

This course examines the impact of the Canadian *Charter of Rights and Freedoms* on criminal law and procedure. It studies the historical evolution of the constitutionalization of criminal law and procedure in Canada, including the theoretical and empirical debate about the relation between due process and crime control. It involves an examination of the major decisions of the courts and their legal repercussions in fields such as detention and arrest, search and seizure, the exclusionary rule, the presumption of innocence, the right to counsel, trial within a reasonable time, jury selection, discovery, mens rea, cruel and unusual punishment, intoxication, the insanity defence, regulatory offences, hate crimes and sexual assault.

Wrongful Convictions [3 credits]

Over the past two decades the criminal justice systems in the United States, Canada and the United Kingdom have all struggled with the problem of mounting claims of wrongful conviction. This course will explore both the causes of wrongful convictions and the various remedial approaches adopted by different jurisdictions. In particular, we will study the following factors which contribute to

** Please note that faculty, curriculum and course descriptions are subject to change.*

wrongful convictions: adversarial excess, police and prosecutorial misconduct, inadequate disclosure, frail identification evidence, false confessions, jailhouse informants, faulty forensic testing and junk science. With respect to remedial options we will explore the operation of s.696.1 of the *Criminal Code* (ministerial review), the Criminal Case Review Commission (U.K.) and Innocence Protection legislation (U.S.). In addition, this course will examine the findings and recommendations advanced in the growing number of Canadian Commissions of Inquiry designed to explain and analyze the causes of a wrongful conviction in a particular case.

MRP [6 credits]

A Major Research Paper (MRP) of approximately 70 pages may be completed on any topic related to your specialization, provided appropriate supervision is available.

The MRP should go beyond merely describing legal developments to include independent critical analysis of its subject matter. It should be work of publishable quality. You will be required, at a minimum, to submit to your supervisor an outline and bibliography for approval. The final paper is marked on a pass/fail basis.

TUITION AND FEES

Tuition and fees for the Part-time LLM are currently \$18,660, payable in six installments throughout the program. In addition, a \$15 administrative charge is levied by the Faculty of Graduate Studies each term. Fees include required course materials. Light meals are provided for students attending classes in person in Toronto.

Tuition fees are set by the York University Board of Governors and are subject to change at any time. Students who take longer than six terms to complete their program may be subject to additional tuition charges.

FOR MORE INFORMATION CONTACT

Sophie Seventikidis, Admissions and Client Services Assistant

☎ 416.673.4670 or toll free within Canada at 1.888.923.3394

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