

History 3850 6.0 FW 2020-21
Murder and other Crimes: Law and Justice in
Twentieth-Century North America
Professor William Wicken

Class Times

Fridays, 11:30 to 2:30 – Material Presented Remotely in a Flexible Format (see below for details).

Course Director: Dr. William Wicken
2192 Vari Hall
wwicken@yorku.ca

Course Description

This course examines the Canadian and American criminal justice systems from the mid-19th through late 20th century. The course focuses on important trials - such as Lizzie Borden (1892), the "Scottsboro Boys" (1931), and Steven Truscott (1959) - and how our explanations of these crimes are shaped by factors such as politics and the popular press, racial stereotypes, and contemporary understandings of gender and class. The course also looks at the role of the legal system, particularly the Supreme Court, showing both how the criminal law was applied in murder trials, as well as how these cases often resulted in changing interpretations of the law, and new developments in our understandings of civil rights.

Course Instructors

Course Director

Professor Wicken specializes in the history of Indigenous people. He has testified extensively as an expert witness in various constitutional court cases over the past 25 years. These include four cases that were appealed to the Supreme Court of Canada. He is trained principally as an historian of the 17th and 18th centuries but has more recently focused his research on the 19th and early 20th centuries.

Tutorial Assistants: *To Be Announced*

Tutorial Assistants (TAs) in History 3850 are Ph.D. students who are completing a dissertation. Ph.D. students are graduate students who have already received B.A Honour degrees as well as Masters' degrees. Normally, Tutorial Assistants in History 3850 have already passed their comprehensive examinations. These examinations are usually held during the

second year of a Ph.D. student's programme and consist of written and oral components in two separate research fields. Normally, TAs for this course are researching some aspect of Canadian history.

Assignments of Teaching Assistants (TAs) to specific courses will be finalized in early July. I will update this page once the Teaching Assistants for this course are determined.

How will this course be taught?

There will be weekly two-hour lectures. Normally these lectures would be done in person. However, given the current situation, all University courses are being done online or remotely.

What is the difference?

Remotely means that, as much as possible, students will have live audio and/facial contact with their Professors and Tutorial Assistants, via ZOOM. In an online course, there is often no such audio/facial contact.

This course will be delivered **REMOTELY** as I want to have as much direct contact with students as possible. All York students have access to **ZOOM** in order to attend both lectures and tutorials.

However, I also understand that every students' situation is different and some may not be able to access the internet at the designated time. As well, I am concerned that for some students and me as well, the internet may become unstable during a live lecture. **Therefore, I will be posting an audio lecture on the course's Moodle website every Tuesday morning before the Friday class.**

We will then hold a **live zoom** meeting with all students each Friday, beginning at 11:30 AM. This will allow students an opportunity to ask questions about lecture and course material. I and the Teaching Assistants will also be using that time to break into smaller groups. **Zoom** allows us to do this. More specific guidelines regarding how this will work will be updated before classes begin.

Grade Breakdown

Posts/quizzes based on readings and lectures: 20%
First Term Assignments: 25%
December Exam: 15%
Second Term Assignments: 25%
Final Exam: 15%

Details Regarding Grade Breakdown

Posts and quizzes: 20%

These posts and quizzes replace tutorials. However, the live breakout groups on Fridays will assist in completing this part of the course. More specific guidelines will follow. Accommodations will be arranged for students who cannot attend these live zoom discussions.

First-term Written Assignments: 25%

There will be two written assignments. In the first assignment, students will use the internet and other digital sources (posted on the Moodle website) to discover certain aspects of North America's legal history. This assignment is worth 10% of students' final grade.

The second assignment is worth 15% of the final grade. The assignment will involve students reading a capital case file, copied from archival material at the Library and Archives of Canada in Ottawa. Last year, students read a case file regarding a Saskatchewan man who was found guilty of killing a child, soon after its birth. This year students will read a different case file.

Referencing the Canadian legislative statutes, students will argue whether the defendant should be found guilty or innocent. Students will be asked to write their essays as if they were a lawyer, either for the prosecution or for the defense.

December Exam: 15%

This exam will be done online during the formal exam period. The exam will consist of a series of multiple choice and short answer questions.

Second-term Written Assignments: 25%

There will be also two written assignments during the second term.

For the third assignment students will analyze a series of jail registers dating from the late 19th and early 20th centuries. The jail data is reproduced from the original archival source in excel spreadsheets. Students will compute the data and make some logical conclusions about the men and women who were jailed. For instance, the spreadsheets contain the following kinds of information: the individual's name, sex, age, occupation, residence, religion, status (single, married, or widowed), level of education, offense committed, number of times previously arrested, punishment, and when released.

Sorting the data on excel is relatively simple. There are lots of short youtube videos on how to do this. Those students with less familiarity with the programme should not experience difficulties in doing this assignment. This assignment is worth 15% of students' final grade.

The fourth assignment is worth 10% of the final grade. Details have yet to be determined. Information about the assignment will be updated during the summer.

April Exam: 15%

The format of the final exam will be announced during the second term.

Course Texts

Patrick Brode. *Death in the Queen City: Clara Ford on Trial, 1895*. Toronto: Natural Heritage 2005.

This book is available online via Scott Library. Unlimited readers are allowed to read at the same time. You can also download up to 20% of the book in pdf.

As well, the book can be purchased online from various vendors. We will be using this book in the first term.

Brian Stevenson. *Just Mercy: A Story of Justice and Redemption*. New York: Spiegel & Grau 2014.

This book is the basis of a recent movie and so is widely available. I am requesting that Scott library buy a digital copy.

The book is also available through the Toronto Public Library system. However, be aware that there may be multiple holds on the digital or hard copies. The library currently has 38 digital copies. This book will be used during the second term.

During the summer, the syllabus will be finalized and a complete list of readings added. At least one other book will be added to the course readings.

Final Words

Though *Murder and Other Crimes* deals with 'murder' I am not concerned with the details of how people are killed unless the details of the killing become a subject of litigation and appeal.

For the most part, this course deals with the evolution of the law and the criminal justice system. We will be focusing on the 'law' (the common law, legislative law and constitutional law) regarding homicide in Canada and the United States from the late 19th century to the 1990s.

At times we will also be examining criminal trials which do not involve a homicide. For instance, Ernesto Miranda was not charged with murder but with rape. The subsequent appeal of his conviction to the United States Supreme Court, known as *Miranda v. Arizona*, is an important legal milestone and therefore I will spend some time discussing the *Miranda* case. Why is the case important?

As you probably know, being ‘mirandized’ is a standard trope in American police shows. The words we hear ‘police detectives’ say stem directly from the US Supreme Court’s decision in the 1965 *Miranda* decision. The Court stated that a suspect in custody may mistakenly believe that the police is their friend and say something that will be used to implicate a suspect in a crime. The police, said the Court, is not a suspect’s friend. The police are part of an adversarial process and therefore the suspect must be allowed access to a lawyer, even though they may not be able to afford one. In contrast to the police, a defense lawyer is obligated to defend their client and this, said the court, would provide a more even playing field during an interrogation.

Besides *Miranda v. Arizona*, we will also be discussing other cases which do not directly involve a killing. These other cases are important legal decisions, directly impacting the obligations of a police officer towards a suspect (such as *Mapp v. Ohio*) and the rights of an individual citizen before the bar (such as *Gideon v. Wainwright*).