



THE UNIVERSITY OF BRITISH COLUMBIA
School of Social Work
Course Outline - SOWK SOWK440H (921)

School Vision: Building upon a foundation of social justice and an ethic of care, we are a community of learners actively engaged in the development of critical, transformative knowledge for social work practice.

BSW Mission Statement: The Bachelor of Social Work (BSW) program addresses issues of power and issues of discrimination based on age, race, gender, sexual orientation, class and culture. The educational objective of the BSW curriculum is to provide students with the knowledge, values and skills necessary for an initial level of professional practice, focusing on the interface between personal problems and public issues. Critical thinking and structural analysis are central to the learning experience offered by the School and to the promotion of social justice and human well-being.

Year/Term	2018-19, Summer term 1, May-June.
Course Title	SOWK 440H, Social Work and the Law
Course Schedule	Monday & Wednesday, 5:30 to 8:30 pm, May – June 19
Course Location	Jack Bell Bldg, rm 124

Instructor	Office Location	Office Phone	e-mail address
Simon Davis, MSW PhD	See in class	604-877-0340	Simon.davis@ubc.ca
Office Hours	See in class		

COURSE DESCRIPTION:

This course provides an introduction to Canadian and British Columbia Law as it intersects with the practice of Social Work. We will exam some of the many critical perspectives on law, the legal system and the legal processes that interact with our professional practice. Students will critically examine the interaction of ethics, laws, the culture of law, and the culture of social work. Since this course is an introduction to these concepts, only a few areas of law will be examined. These will include freedom of information; human rights; criminal and youth justice; drug laws; child welfare; mental health; disability; health care consent, and adult guardianship.

LEARNING OUTCOMES:

At the completion of this course students will:

- Be able to apply a critical lens to the impact of legislation on affected client groups and the practice of social work, and how the law may differentially impact disadvantaged segments of the population.
- Understand the influence of the *Charter of Rights* on social policy-making in Canada.
- Be able to apply an ethical decision-making analysis in considering complex client scenarios.

- Gain an understanding of key provisions of federal and provincial laws that inform social work practice in BC.
 - Understand the legal and ethical obligations of social workers, and attendant practice dilemmas.
 - Understand the role of players in the Canadian justice system, including prosecutors and the police.
 - Understand our responses to crime, the rationale for “punishment,” and alternative restorative justice approaches.
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UNIVERSITY POLICIES:

“Regular attendance is expected of students in all their classes (including lectures, laboratories, tutorials, seminars, etc.). Students who neglect their academic work and assignments may be excluded from the final examinations. Students who are unavoidably absent because of illness or disability should report to their instructors on return to classes.” (UBC Calendar)

Academic Dishonesty: Please review the UBC Calendar “Academic regulations” for the university policy on cheating, plagiarism, and other forms of academic dishonesty. Also visit www.arts.ubc.ca and go to the students’ section for useful information on avoiding plagiarism and on correct documentation.

Retaining Assignments: Students should retain a copy of all submitted assignments (in case of loss) and should also retain all their marked assignments in case they wish to apply for a Review of Assigned Standing. Students have the right to view their marked examinations with their instructor, providing they apply to do so within a month of receiving their final grades. This review is for pedagogic purposes. The examination remains the property of the university.

COURSE POLICIES:

Attendance

The attendance policy is in the student handbook on page 11:
<https://socialwork.ubc.ca/current-students/>.

The School considers class attendance to be an essential component of integrated learning in professional social work education. Therefore, regular attendance is required in all social work courses. Instructors may count repeated late arrivals or early departures as an absence, and a meeting should be setup to discuss this with the student.

The University accommodates students with disabilities who have registered with Access and Diversity. Students, who will require accommodation for attendance due to disability, are encouraged to inform the instructor, and if necessary, to contact Access and Diversity preferably not later than the first week of class. The School will also accommodate religious observance, according to University Policy 65, and students are expected to inform the instructor. Students who wish to be accommodated for unavoidable absences due to varsity athletics, family obligations, or other similar commitments, must notify their instructors in writing at least two weeks in advance, and preferably earlier. This reflects expectations for professional social workers in their place of employment.

If students miss three or more classes, they may be considered to have not met the requirements of the course. If students have valid reasons, they could be withdrawn from the course with the approval of the instructor – otherwise, they would fail the course.

Students should not be accessing the internet while in class and cell phones should be turned off.

SUBMITTING ASSIGNMENTS:

Assignments are due as noted in this course outline, unless otherwise informed by the instructor.

RETURN OF MARKED STUDENT ASSIGNMENTS:

All assignments are to be submitted via the UBC Canvas course site. Assignments will be marked with track changes and comments provided in the same manner.

LATE ASSIGNMENTS:

Generally, late assignments will not be accepted. In emergency situations, students must discuss any potential lateness with their instructor and be prepared to have a medical certificate available. Assignments submitted after the deadline with no documentation will be penalized by one percentage point per day.

FORMAT OF THE COURSE:

Seminar format combined with lecture and guest speakers.

REQUIRED TEXTBOOK(S):

Required text: Regehr, C., Kanani, K., McFadden, J. and Saini, M. (2016). *Essential Law for Social Work Practice in Canada. 3rd. Edition.* Toronto: Oxford University Press.

Links to other readings and resources will be given through hyperlinks on the course outline.

COURSE SCHEDULE:

SESSION 1:	May 6th
TOPIC:	<ul style="list-style-type: none"> • <u>Course introduction & overview.</u> • Brief introduction to the law, the <i>Charter of Rights</i>, and Canadian legal systems. • Professional and ethical obligations and duties. • Freedom of information and protection of privacy.
READING:	<p>Required readings:</p> <ul style="list-style-type: none"> • Course text (Regehr) Ch. 1, pp. 1-8, Ch. 6, pp. 149-152, and Ch. 12. <p>Other resources:</p> <ul style="list-style-type: none"> • Article on the s. 1 limitations to the <i>Charter of Rights</i> and the <i>Oakes</i> test: http://ojen.ca/wp-content/uploads/In-Brief_STUDENT_Section-1-and-Oakes_0.pdf • CASW Code of Ethics: https://casw-acts.ca/en/what-social-work/casw-code-ethics/code-ethics • Young, J. and Everett, B. (2018). When patients choose to live at risk: What is an ethical approach to intervention? https://bcmj.org/sites/default/files/public/BCMJ_Vol60_No6_living_at_risk.pdf • <i>BC Freedom of Information & Protection of Privacy Act</i>: http://www.bclaws.ca/Recon/document/ID/freeside/96165_07 • Guide to the BC Mental Health Act: see pp. 119-125 re information sharing: http://www.health.gov.bc.ca/library/publications/year/2005/MentalHealthGuide.pdf • Vancouver Coastal Health policies: http://www.vch.ca/about-us/accountability/policies
SESSION 2:	May 8th
TOPIC:	<u>Mental health law, part 1: Involuntary hospitalization and treatment</u>
READING:	<p>Required readings:</p> <ul style="list-style-type: none"> • Course text (Regehr) Ch. 7, pp. 161-172. <p>Other resources:</p> <ul style="list-style-type: none"> • <u>A report from the Community Legal Assistance Society of BC on the loss of freedoms experienced by persons being held under the BC Mental Health Act</u>: https://d3n8a8pro7vhmx.cloudfront.net/clatest/pages/1794/attachments/original/1527278723/CLAS_Operating_in_Darkness_November_2017.pdf?1527278723 • 2019 BC Ombudspersons report on poor documentation with involuntary MH patients, for example not giving them rights information: https://bcombudsperson.ca/sites/default/files/OMB-Committed-to-Change-FINAL-web.pdf

	<ul style="list-style-type: none"> • Press release concerning a Charter challenge against the BC MH Act re involuntary treatment: http://www.clasbc.net/charter_challenge_of_forced_psychiatric_treatment (The challenge was dropped in late 2018 when the plaintiffs withdrew.) • Article on “psychiatric refugees” fleeing BC, having to do the “deemed consent” aspect of the BC MH Act – see also above press release: https://www.cbc.ca/radio/the180/facts-vs-values-in-canadian-health-care-forced-psychiatric-care-and-urban-indigenous-people-need-a-voice-1.3764173/a-psychiatric-refugee-why-one-woman-fled-b-c-s-mental-health-laws-1.3764440
SESSION 3:	May 13th
TOPIC:	<ul style="list-style-type: none"> • <u>Laws concerning vulnerable adults, part 1: Consent & capacity in health care</u> • Medical assistance in death • <u>Guest speaker:</u> Kim Jameson, clinical ethicist, Vancouver Coastal Health.
READING:	<p>Required readings:</p> <ul style="list-style-type: none"> • Course text (Regehr) Ch. 6. • MacLean’s article on whether mentally ill people should have access to medically assisted death: https://www.macleans.ca/society/health/should-mentally-ill-canadians-have-access-to-assisted-dying/ • BC Government document on advance care planning: http://www.health.gov.bc.ca/library/publications/year/2013/MyVoice-AdvanceCarePlanningGuide.pdf
SESSION 4:	May 15th
TOPIC:	<ul style="list-style-type: none"> • <u>Mental health law, part 2: Interface between the MH and criminal justice systems.</u> • <u>Guest speaker:</u> Renea Mohammed, “Lived experience of involuntary treatment.”
READING:	<p>Required readings:</p> <ul style="list-style-type: none"> • Course text (Regehr) Ch. 7, pp. 172 - 176. • CMHA report on criminalization of mental illness (just first four pages): https://cmha.bc.ca/wp-content/uploads/2016/07/policesheets_all.pdf • CBC report on the police use of lethal force with mentally ill persons: https://www.cbc.ca/news/investigates/what-an-examination-of-every-canadian-police-involved-fatality-since-2000-tells-us-1.4602916 • CBC news editorial on controversial NCRMD case: https://www.cbc.ca/news/opinion/vince-li-discharge-1.3979861 <p>Other resources:</p> <ul style="list-style-type: none"> • “Hold Your Fire” – CBC documentary on the use of police force with mentally ill persons: https://www.cbc.ca/firsthand/episodes/hold-your-fire
	May 20th
	No class – stat holiday

SESSION 5:	May 22 nd
TOPIC:	<ul style="list-style-type: none"> • <u>Laws concerning vulnerable adults, part 2: Adult guardianship</u> • <u>Guest speaker:</u> Amanda Brown, RSW, Director, Re:Act Adult Protection Program, Vancouver Coastal Health.
READING:	<p>Required readings:</p> <ul style="list-style-type: none"> • Marshall, J. et al. (2017). Protection of the vulnerable older adult: A review of the legislation, relevant case law, and common clinical practice. <i>B. C. Medical Journal</i>, 59(7), 356-361. https://www.bcmj.org/articles/protection-vulnerable-older-adult-review-legislation-relevant-case-law-and-common-clinical <p>Other resources:</p> <ul style="list-style-type: none"> • A Guide to the Certificate of Incapability Process Under the Adult Guardianship Act (Public Guardian & Trustee, 2016): http://www.trustee.bc.ca/reports-and-publications/Documents/A%20Guide%20to%20the%20Certificate%20of%20Incapacity%20Process%20under%20the%20Adult%20Guardianship%20Act.pdf
SESSION 6:	May 27th
TOPIC:	<ul style="list-style-type: none"> • Child protection laws • <u>Guest speaker:</u> Corinne Fennie, Director Counsel for MCFD, and Beth Rivera MCFD.
READING:	<p>Required readings:</p> <ul style="list-style-type: none"> • Course text (Regehr) Ch 4 <p>Other resources:</p> <ul style="list-style-type: none"> • Article on U.S. legal challenge to system of placing indigenous children into care: https://www.msn.com/en-ca/news/world/native-american-child-welfare-case-heads-to-appeals-court/ar-BBUENNw?ocid=spartanntp • Representative for Child and Youth (BC), reports and publications: https://www.rcybc.ca/reports-and-publications?keywords=&field_event_date_value%5Bvalue%5D%5Byear%5D=&tid=All • The “Paige Report” from the Representative for Child and Youth (BC), concerning a young Indigenous woman living at risk in the Downtown Eastside: https://www.rcybc.ca/sites/default/files/documents/pdf/reports_publications/rcy-pg-report-final.pdf • “Eligibility Spectrum (2016),” risk assessment instrument used in Ontario: http://www.oacas.org/wp-content/uploads/2016/04/Eligibility-Spectrum-2016-6.75-x-8.5-EN.pdf
SESSION 7:	May 29th
TOPIC:	<ul style="list-style-type: none"> • Human rights law
READING:	<p>Required reading:</p> <ul style="list-style-type: none"> • Course text (Regehr) Ch. 2

	<p>Other resources:</p> <ul style="list-style-type: none"> • A report from the Mental Health Commission of Canada on structural stigma (Livingston, 2013): https://www.mentalhealthcommission.ca/sites/default/files/MHCC_OpeningMinds_MentalIllness-RelatedStructuralStigmaReport_ENG_0_0.pdf • Convention on the Rights of Persons with Disabilities (2006) from the UN website: https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html • News release (2018): “Canada accedes to the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities.” https://www.newswire.ca/news-releases/canada-accedes-to-the-optional-protocol-to-the-united-nations-convention-on-the-rights-of-persons-with-disabilities-701804101.html • Mendez, J. (2013). <i>United Nation Special Assembly: Report of the Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment</i>. Retrieved from: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf. • “Jack and Jill and employment equity” (Irvine, 1996). A paper critical of affirmative action authored by a UBC philosophy professor: http://www.safs.ca/meritdiversity/employmentequity.pdf • “It’s not just the RCMP: Police culture is toxic”: op/ed by Lesly Bikos, PhD student and former Canadian police officer: https://www.theglobeandmail.com/opinion/its-not-just-the-rcmp-police-culture-is-toxic/article35014971/ • Website for the Disability Alliance of BC, containing various resources & publications, including tip sheets for disability income assistance applications: http://disabilityalliancebc.org/ • Vancouver Coastal Health Respectful Workplace & Human Rights Policy: http://vchnews.ca/wp-content/uploads/2014/02/Respectful-Workplace-Policy-Final-Effective-Feb-26-2014.pdf • Article on US Supreme Court ruling on discrimination by sexual orientation: https://www.buzzfeednews.com/article/emaconnor/supreme-court-discrimination-lgbt-title-vii
	Week of June 3rd
	No classes, mid-term break
SESSION 8:	June 10th
TOPIC:	<ul style="list-style-type: none"> • Criminal law & justice issues part 1 • Basic principles of criminal law and prosecution • Victims of crime
READING:	<p>Required readings:</p> <ul style="list-style-type: none"> • Course text (Regehr) ch.9

	<p>Other resources:</p> <ul style="list-style-type: none"> • Statistics Canada Criminal Victimization Survey (2014): https://www.statcan.gc.ca/pub/85-002-x/2015001/article/14241-eng.htm • Disability Alliance Help Sheets for people with disabilities, to increase their understanding of the procedures and processes they will go through if they have been a victim of a crime: http://disabilityalliancebc.org/category/publications/violence-prevention/ • The Canadian Resource Centre for Victims of Crime: https://crcvc.ca/ - see also the Canadian Victims' Bill of Rights: https://crcvc.ca/for-victims/rights/ • Case of Calgary judge telling assault victim to "keep your knees together": https://www.theguardian.com/world/2017/mar/10/canada-judge-resigns-keep-your-knees-together-comment-rape-trial • "The trouble with sex assault trials" from <i>Canadian Lawyer</i> magazine (2016); reviews court rulings on this matter and ongoing tensions: http://www.canadianlawyer.com/author/shannon-kari/the-trouble-with-sex-assault-trials-3261/ • Davison, C. (2016) The law of sexual assault in Canada: http://www.lawnow.org/the-law-of-sexual-assault-in-canada/ • Summary of R. v. Ewanchuk (SCC decision in sexual assault case): https://canliiconnects.org/en/summaries/31833
SESSION 9:	June 12th
TOPIC:	<ul style="list-style-type: none"> • Criminal law & justice issues part 2 • Youth criminal justice • Laws concerning the sex trade. • <u>Guest speaker:</u> Kerry Porth, policy researcher, Pivot Legal Society
READING:	<p>Readings & other resources:</p> <ul style="list-style-type: none"> • Course text (Regehr) ch. 8 • Article on concerns with Canada's sex trade laws, with links to other reports: https://ottawacitizen.com/opinion/columnists/chu-clamen-and-santini-five-years-after-new-law-sex-workers-feel-anything-but-protected • Department of Justice, (2013). The Youth Criminal Justice Act: Summary and Background. http://www.justice.gc.ca/eng/cj-ip/yj-ij/tools-outils/back-hist.html • Makarenko, J. (2007). Youth Justice in Canada: History and Debates. https://www.mapleleafweb.com/features/youth-justice-canada-history-debates.html • Cook, A and Roesch, R. (2012). "Tough on Crime" Reforms: What Psychology Has to Say about the Recent and Proposed Justice Policy in Canada. http://www.apa.org/pubs/journals/features/cap-53-3-217.pdf

SESSION 10:	June 17th
TOPIC:	<ul style="list-style-type: none"> • Course wrap-up, topics TBA
READING:	
SESSION 11:	June 19th
TOPIC:	<ul style="list-style-type: none"> • FINAL EXAM, in class, open book.
READING:	

ASSIGNMENTS:

- Term paper: 40%
- Final exam: 40%
- Class participation: 20%

1) Term paper (40%)

For this paper you are to take a closer, critical look at an area of law and/or the legal system in Canada. Here are examples of possible topics:

- Medically assisted death
- Legalization of marijuana
- “Safe care” act(s) (short-term involuntary detention of at-risk youth)
- The over-representation of Indigenous persons in the criminal justice system
- The criminalization of mental illness
- Involuntary treatment in psychiatry
- Safe injection sites
- The Youth Criminal Justice Act
- End-of-life decision-making
- Diversion programs in the criminal justice system
- Laws concerning the sex trade
- Professional duties and obligations in social work practice.
- Structural discrimination and stigma, for example affecting mental health clients.
- Reconciling competing ethical/legal directives in child welfare
- Disability rights
- Laws & policies concerning gender identification
- Balancing victims’ rights and restorative justice approaches.

You may choose other topics, however before starting the paper please confirm the topic with the instructor either in class or by e-mail.

For your topic try to address the following points (not all will be salient):

- What is the social relevance and importance of this issue? What are the philosophical and/or ethical issues involved?
- Summarize the legislation and case law bearing on this issue, including how the law(s) may have changed or been amended over time (i.e. provide a historical context). Were there instances where the law was not enacted/blocked/repealed? How is it similar or

different to laws in other jurisdictions? Are there any *Charter of Rights* issues (challenges or potential challenges)?

- What has the media been tending to say on the topic (if anything), i.e. how has it been “shaped?”
- What groups are most affected (referring to age, gender, ethnicity and other intersections)? Are there groups left out (for example re medically assisted death should psychiatric illness qualify?)
- What are the current key debates, and possible controversies or disagreements? For example, you could consider arguments *in favor* of marijuana legalization from a harm reduction perspective, and *against* it from a public health view that considers vulnerable young persons.
- Are there practical or clinical aspects of the administration of the law that are, or will be, problematic? In considering this you may draw on your own experience, or interview a social worker working within this legal context.
- What is the relevance of this issue to social work practice? In considering this you may use a case-based analysis, that is, describe a hypothetical (or actual, anonymized) client scenario where you are the worker involved, and speak about how the law is interpreted, ethical dilemmas you would face, and practical or clinical implications.

Length: Approximately 12 double-spaced pages (check with me if you are worried about being too “over or under”).

Due date: last class.

Marking guidelines

Did you:

- Address the bulleted points above.
- Integrate course material, and include references outside of this – a minimum of six published sources, cited as per APA.
- Write in a clear, coherent fashion, where there is a logical flow, and where attention is paid to grammar. (Tip: consider breaking the paper up under sub-headings). Note that 15 of the 40 marks are given for style points (grammar, spelling, sentence structure, clarity, cogency).

2) Final exam

The final exam will be open-book, held on the last class, June 19th. Students will be given several case summaries, and are asked to apply elements of the law that have been covered in class to each case. For example, in a case describing the possible abuse of an older adult, students will be asked about applying the *Adult Guardianship Act*, what steps they would follow, and what information would be needed to be gathered to support an investigation. More details on this will be given in class.

3) Class participation

Class participation is 20%. Half of this is based on attendance (one point per class). The other half is based on active involvement in class discussion; please see the “rubric” below for some general guidelines:

0	Absent
“C” level	<ul style="list-style-type: none">▪ Present, not disruptive.▪ Tries to respond when called on but does not offer much.▪ Demonstrates very infrequent involvement in discussion.
C plus – B minus	<ul style="list-style-type: none">▪ Demonstrates adequate preparation: knows basic case or reading facts, but does not show evidence of trying to interpret or analyze them.▪ Offers straightforward information (e.g., straight from the case or reading), without elaboration or very infrequently (perhaps once a class).▪ Does not offer to contribute to discussion, but contributes to a moderate degree when called on.▪ Demonstrates sporadic involvement.
B – B plus	<ul style="list-style-type: none">▪ Demonstrates good preparation: knows case or reading facts well, has thought through implications of them.▪ Offers interpretations and analysis of case material (more than just facts) to class.▪ Contributes well to discussion in an ongoing way: responds to other students’ points, thinks through own points, questions others in a constructive way, offers and supports suggestions that may be counter to the majority opinion.▪ Demonstrates consistent ongoing involvement.
A	<ul style="list-style-type: none">▪ Demonstrates excellent preparation: has analyzed case exceptionally well, relating it to readings and other material (e.g., readings, course material, discussions, experiences, etc.).▪ Offers analysis, synthesis, and evaluation of case material, e.g., puts together pieces of the discussion to develop new approaches that take the class further.▪ Contributes in a very significant way to ongoing discussion: keeps analysis focused, responds very thoughtfully to other students’ comments, contributes to the cooperative argument-building, suggests alternative ways of approaching material and helps class analyze which approaches are appropriate, etc.▪ Demonstrates ongoing very active involvement.

UBC GRADING CRITERIA:

UBC GRADING CRITERIA			
Letter Grade	Percent Range	Mid-Point	
A+	90-100	95	Represents work of exceptional quality. Content, organization and style are all at a high level. Student demonstrates excellent research and reference to literature where appropriate. Also, student uses sound critical thinking, has innovative ideas on the subject and shows personal engagement with the topic.
A	85-89	87	
A-	80-84	82	
B+	76-79	77.5	Represents work of good quality with no major weaknesses. Writing is clear and explicit and topic coverage and comprehension is more than adequate. Shows some degree of critical thinking and personal involvement in the work. Good use of existing knowledge on the subject.
B	72-75	83.5	
B-	68-71	69.5	
C+	64-67	65.5	Adequate and average work. Shows fair comprehension of the subject, but has some weaknesses in content, style and/or organization of the paper. Minimal critical awareness or personal involvement in the work. Adequate use of literature.
C	60-63	62.5	
C-	55-59	57	
D	50-54	52	Minimally adequate work, barely at a passing level. Serious flaws in content, organization and/or style. Poor comprehension of the subject, and minimal involvement in the paper. Poor use of research and existing literature.
F	0-49		Failing work. Inadequate for successful completion of the course or submitted beyond final date of acceptance for paper.

About the instructor: Simon Davis is an adjunct professor at the UBC School of Social Work and an instructor at the Douglas College Post-Degree Program in Psychosocial Rehabilitation. He holds an MSW from UBC and a PhD in criminology from Simon Fraser University. His professional career has been as a clinician, researcher and administrator in the field of mental health and addictions.