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# EVIDENCE

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## ACKNOWLEDGEMENTS

UBC's Point Grey Campus is located on the [traditional, ancestral, and unceded](#) territory of the xwməθkwəyəm (Musqueam) people. The land it is situated on has always been a place of learning for the Musqueam people, each generation having passed on their culture, history, and traditions on this site.

## COURSE AND CONTACT INFORMATION

Course Title	Course Code	Term	Credit Value	Teaching Times & Rooms
Evidence	LAW 476B.001	2025	3	Mon, Wed, Fri: 9:30 a.m. – 12:30 p.m. - Room 104
Course Instructor	Email Address	Office Location		Office Hours
Moira Aikenhead	aikenhead@allard.ubc.ca	Room 418		Wednesdays, 12:30 – 2:00 p.m.

## COURSE DESCRIPTION

This course is a survey of the system by which the admission of proof at a trial is regulated. This course will introduce students to key concepts in the law of evidence including forms and categories of evidence, and rules of evidence admissibility and evaluation. These foundational concepts will be explored by examining case law and academic commentary on emerging and contentious evidentiary issues, in particular those arising from the growing reliance on digital evidence in civil and criminal trials. This course explores principles of fairness and justice underlying Canadian evidence law, and critically evaluates these concepts.

## LEARNING OBJECTIVES

- Understand the core rules and principles of the substantive law of evidence in Canada;
- Apply these rules and principles through examination and exploration of relevant Canadian jurisprudence;
- Critically evaluate how rules and principles of evidence may be applied in ways that exclude or discount the experiences or knowledge of equality-deserving groups;
- Assess the strengths and weaknesses of various types of evidence; and
- Engage with emerging issues in relation to the application of the law of evidence in Canada.

## MATERIALS

All materials are accessible online through public databases, such as CanLII or government websites, or through your UBC library account. Links to all required materials will be made available on the course [Canvas](#) page.

Supplementary, non-required materials are listed under the heading “Additional Optional Readings” in the [Schedule of Topics and Readings](#), below. These readings are non-examinable and are for your interest only.

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## TEACHING METHODS & EXPECTATIONS

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### **Expectations**

**Attendance and timeliness:** Students are expected to attend all classes in-person and arrive on-time. I will aim to ensure class ends at the scheduled time. If you are unable to attend class, please advise me in advance via e-mail, and you will be given the option to attend class via Zoom.

**Preparation:** I expect that you will have completed all assigned readings ahead of class, and my lectures will be prepared based on this assumption. You will get much more out of lectures and any in-class activities if you have done the readings in advance.

**Communication:** Students are encouraged to ask questions about the course content during class time. If your question is one that requires a more substantive answer than the allocated time allows, I will ask that you come discuss the question during my office hours.

**Health and wellbeing:** If you or someone you know is struggling, there are a wealth of Student Wellbeing services at Allard, which you can learn about here - <https://allard.ubc.ca/student-portal/student-wellbeing>.

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## SCHEDULE OF TOPICS AND READINGS

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**The Schedule of Topics and Readings is attached as an appendix to this syllabus and posted on Canvas.**

While we will stick to the order outlined, the dates we will discuss each topic are an estimate only and may change depending upon the pace of our class. The syllabus and readings are subject to revision and change throughout the year at the discretion of the professor.

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## EVALUATION

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This course will be evaluated by a combination of in-class participation (10%) and a three-hour open book examination (90%). The final exam is scheduled for **Monday July 21 at 9:00 a.m.**

The average mark for the class must be in accordance with the [Examination & Grading Rules](#) posted on the Allard Law website. Students “raw” marks may have to be adjusted to comply. Exam marking will be informed by the [Grading and Mark Distribution Guidelines](#).

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## AUDIO/VIDEO RECORDING POLICY

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**Students are not permitted to record video or audio of classes.** An exception to this rule will be made for any students who require lecture recordings pursuant to an accommodation approved by the [UBC Centre for Accessibility](#). Students with such an accommodation may make recordings of lectures in accordance with their letter of accommodation.

One-off access to a class recording because of an unavoidable absence may be sought and given to students who email me prior to class, although the default solution in this scenario is to attend via Zoom, or to ask a classmate who was present to share their notes with you. Any student given access to class recordings must only use them for their own study purposes and must not share or view them with others.

**You may not upload any audio or video recordings of class lectures to any AI note-taking tools, summarizers, or any other AI program.**

Recordings will not be made available to the class generally because (1) you are expected to attend classes at the scheduled times, and (2) our class will be interactive, and I do not wish to widely distribute recordings of students who have not granted their express permission for this to be done.

### ZOOM ATTENDANCE POLICY

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On occasions that physical presence in the classroom or at office hours is not possible, students may attend live by Zoom. This is an exceptional option, not the norm. Please email me in advance if you need to join a class remotely. I ask that students who must be physically absent attend via Zoom if possible, rather than requesting a recording after class for the reasons set out in the Recording Policy.

### GENERATIVE ARTIFICIAL INTELLIGENCE POLICY

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Use of generative artificial intelligence tools to take notes or complete coursework in this course is prohibited in all cases. **You may not upload any lecture recordings, lecture slides, or any other course content to any generative AI tool.** Use of these tools is considered an unauthorized means to complete an examination or other assignment or assessment and would be considered academic misconduct.

### UNIVERSITY POLICIES

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#### **Academic Integrity**

All UBC law students are subject to [the University's rules on Academic Misconduct](#) and are expected to act with academic integrity at all times.

Students should be especially aware of the University's rules in relation to academic offence of plagiarism. Plagiarism includes: copying the work of another student; copying or paraphrasing from a textbook or reference book, journal article, case or electronic source without proper footnoting; copying your own work that has already been submitted for another course; and, passing off the ideas of another person as your own. If you plagiarize, you will be subject to penalties set out in the UBC calendar.

Academic honesty is an essential requirement in an institution of higher learning. Academic misconduct may have serious implications not only for your education, but also for your future career in law. Students are encouraged to consult [the University's Resources Guide on Academic Integrity](#).

To learn more about academic misconduct, visit [the UBC Library's website on Academic Integrity](#). Examples of academic misconduct can also be found in [the UBC Annual Report on Student Discipline](#).

#### **Attendance**

[Regular attendance](#) is expected of students in all their classes. Students who neglect their academic work and assignments may be excluded from final examinations.

**Student Support**

UBC provides resources to support student learning and to maintain healthy lifestyles but recognizes that sometimes crises arise and so there are additional resources to access including those for survivors of sexual violence. UBC values respect for the person and ideas of all members of the academic community. Harassment and discrimination are not tolerated nor is suppression of academic freedom. UBC provides appropriate accommodation for students with disabilities and for religious observances. UBC values academic honesty and students are expected to acknowledge the ideas generated by others and to uphold the highest academic standards in all of their actions.

Details of the policies and how to access support are available on [the UBC Senate website](#). Students can also be supported by UBC's [Early Alert](#) service.

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## Schedule of Topics and Readings

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### Week 1.1 – June 16 – Introduction to the Course

Topics covered: Syllabus review; introduction to the law of evidence

Assigned readings: TBD

Additional optional readings: TBD

### Week 1.2 – June 18 – Evidence Fundamentals

Topics covered: Relevance; burdens and standards of proof; admissibility; exclusion of evidence; direct vs circumstantial evidence

Assigned readings: TBD

Additional optional readings: TBD

### Week 1.3 – June 20 – Discovery, Disclosure, and Documents

Topics covered: Discovery; disclosure obligations; authentication of documents; parol evidence rule

Assigned readings: TBD

Additional optional readings: TBD

### Week 2.1 – June 23 – Privilege

Topics covered: Class privilege (solicitor/client, litigation, dispute settlement, matrimonial communications, statutory); case-by-case privilege

Assigned readings: TBD

Additional optional readings: TBD

### Week 2.2 – June 25 – Witnesses – Testimony & Admissions

Topics covered: Competence & compellability of witnesses; examination in chief and cross-examination; adverse and hostile witnesses; formal admissions;

Assigned readings: TBD

Additional optional readings: TBD

### Week 2.3 – June 27 – Witnesses – Credibility & Impeaching Credibility

Topics covered: Credibility; demeanour; corroboration; collateral facts rule; prior inconsistent statements; prior misconduct

Assigned readings: TBD

Additional optional readings: TBD

[Week 3.1 – June 30 – Catch-Up / Mid-Course Review Class](#)[Week 3.2 – July 2 – Hearsay & Exceptions to the Rule Against Hearsay](#)

Topics covered: Hearsay & its exceptions (*res gestae*, declarations against interest, records, statements by a party)

Assigned readings: TBD

Additional optional readings: TBD

[Week 3.3 – July 4 – Hearsay – The Principled Approach](#)

Topics covered: The principled approach to hearsay admission

Assigned readings: TBD

Additional optional readings: TBD

[Week 4.1 – July 7 – Character Evidence & Similar Fact Evidence](#)

Topics covered: Similar fact evidence; character in issue; character of an accused person

Assigned readings: TBD

Additional optional readings: TBD

[Week 4.2 – July 9 – Confessions](#)

Topics covered: Confessions; common law confessions rule; *Charter* s 24(2)

Assigned readings: TBD

Additional optional readings: TBD

[Week 4.3 – July 11 – Opinion Evidence & Judicial Notice](#)

Topics covered: Lay opinion evidence; expert opinion evidence; *Mohan* criteria; judicial notice

Assigned readings: TBD

Additional optional readings: TBD

[Week 5.1 – July 14 - Evidence in Cases of Sexual Violence](#)

Topics covered: Historical context; *O'Connor* privacy protections; section 276; sexual history evidence

Assigned readings: TBD

Additional optional readings: TBD

[Week 5.2 – July 16 – Course wrap-up/Review](#)[Week 5.3 – July 18 – Final Exam Prep/Q&A](#)