

**RACIAL PROFILING AND THE LAW**  
2012 (Winter Term)

Professor David M. Tanovich

**1. COURSE DESCRIPTION**

There is a dearth of racial profiling litigation in Canada despite the fact that it is one of the most pressing human rights issue facing our country. It is an issue that impacts on all racialized and Aboriginal communities and arises in a number of different law enforcement initiatives such as the fight against drugs, guns, gangs or terrorism. It is not just law enforcement. Assumptions about race and risk also impact decisions made in schools, employment and housing.

Why are there so few cases? Is it because lawyers are uncomfortable engaging in race talk or because they are not sufficiently culturally competent to identify cases of racial profiling? Or, alternatively, is it because lawyers are unsure of how to factor race into traditional constitutional jurisprudence?

This seminar is designed to equip students with the necessary theory, doctrine and practical experience to enable them to identify and litigate racial profiling cases in criminal, civil or human rights proceedings. The practical component of the seminar will involve an advocacy exercise in which students will be required to argue a racial profiling case before a trial or appellate court. The writing component will consist of a factum. This seminar qualifies as a perspectives course. The seminar will be limited to 20 students.

**2. LEARNING OUTCOMES**

Following the completion of the course, it is expected that the successful student will be able to:

1. Articulate the basic tenants of critical race theory;
2. Understand the process of racialization and how race is socially constructed;
3. Understand the etiology of racial profiling phenomenon in policing and the collateral damage it causes;

4. Effectively respond to those who maintain that racial profiling is all about perception and not reality;
5. Understand the different contexts within which racial profiling operates;
6. Identify instances of racial profiling by police and security officials;
7. Identify the different fora where racial profiling claims can be litigated;
8. Develop constitutional arguments to advance your client's case;
9. Identify and apply the relevant rules of evidence in support of a racial profiling argument; and,
10. Think creatively in fashioning individual and systemic remedies; and,
11. Identify and critically assess the alternatives to litigation in addressing the issue.

### 3. CLASSES

Thurs

12-3 pm (as this course takes place during the lunch hour – please feel free to bring nourishment to class)

G111

### 4. TEXTS

#### Required

Tanovich, *The Colour of Justice: Policing Race in Canada* (Toronto: Irwin Law, 2006) (available at bookstore) [hereinafter *The Colour of Justice*]

Other readings will be handed out a week prior to class or posted on our CLEW site.

## 5. EVALUATION

### (i) *Method*

There are three different methods of evaluation that will be used during this course:

#### 1. **Class Participation (15%)**

Students are expected to come to class as prepared, active and thoughtful participants. A successful seminar depends upon consistent attendance by all and a high quality level of reading, discussion and analysis. There will be approximately seventy-five (75) pages of reading per week. In addition, at the beginning of each class starting September 20, we will spend 15 minutes on a review of racial profiling issues recently reported in the media. Two to three students will be assigned as news reporters each week.

#### 2. **Factum (40%)**

Students will be assigned to one case file. No more than four students can sign up for any one file. Most of the files involve either a trial transcript or a trial or appellate decision. Some files contain the Crown disclosure, trial transcripts, discovery materials or the trial level decision. There are six (6) case files. Four are criminal and two are human rights case. Attached to this syllabus are summaries of the case files and instructions. Students can sign up for a case file beginning next Friday, September 14. The sign-up sheets will be located outside my office.

Each student will play the role of Applicant/Appellant and argue that the case involved racial profiling. **Students are not permitted to work together or discuss the cases or their research.**

The factum should be no more than 15 pages in length and contain the following sections:

**Part I**  
**Overview**

**Part II**  
**Summary of the Facts**

**Part III**  
**Issues and Argument**

**Part IV**  
**Order Requested**

**3. Oral Argument (45%)**

Each student will be given 25 minutes to make oral submissions on their case file. I will be playing the role of the court in each case. Students who have yet to argue the particular case being argued on a particular day will be exempt from the hearing. Students will be graded on their advocacy skills, knowledge of the facts and law, their response to questions and, on the persuasiveness of their arguments.

A grading sheet will be provided during the term for more detail on the nature of the evaluation.

*(ii) Numerical Grade Distribution*

Grades in this class will conform to the guidelines issued by the law school. The following grading scheme will be used:

A+	93 - 100
A	86 - 92.9
A-	80 - 85.9
B+	77 - 79.9
B	73 - 76.9
B-	70 - 72.9
C+	67 - 69.9
C	63 - 66.9
C-	60 - 62.9
D+	57 - 59.9
D	53 - 56.9
D-	50 - 52.9
F	35 - 49.9
F-	0 - 34.9

Please remember that because this is a seminar with more than ten (10) students, the mandatory B curve applies.

(iii) *Student Evaluations*

Student evaluations of the course will take place in the class during the last two weeks of each term.

6. **OFFICE HOURS**

Office:

Room 2123

(519) 253-3000 (ext. 2966)

[tanovich@uwindsor.ca](mailto:tanovich@uwindsor.ca) (e-mail)

<http://athena.uwindsor.ca/law/tanovich> (website)

Hours:

By appointment

Students may arrange to see me by sending an e-mail

## 7. CLASS TOPICS AND READINGS

**September 6**

### Course Introduction

This will be a full class

**September 13**

### Critical Race Theory

Reading Pack

#### Questions

1. Why am I taking this class?
2. What are some of the personal/professional experiences that shape my understanding of race, racial profiling and policing?
3. What is the significance of the title of Professor Matsuda's book?
4. What are some of your personal reflections on the three chapters from Professor Matsuda's book? To what extent do her observations reflect your life experiences and/or approach to legal analysis?
5. What are some of the essential elements of critical race theory?
6. What is racialization? What terminology should be used to describe individuals belonging to groups socially constructed based on observable characteristics: racialized, of colour or visible minority?

**September 20/27**

### Understanding Racial Profiling: Etiology and Consequences

Reading Pack

*Colour of Justice* - Chapters 1-7, 9

#### Questions

1. How should racial profiling be defined? Which of the definitions provided in the readings best captures the essence of racial profiling? Are some better suited for litigation? For policy development?
2. Should we use the term "bias-free policing" instead of racial profiling?
3. Should the negligent use of race in suspect descriptions be part of the definition?
4. What is the difference between criminal and racial profiling?

5. What are some of the contexts within which racial profiling manifests itself?
6. Is racial profiling ever reasonable?
7. What is the collateral damage caused by racial profiling?

**October 4**

**Responding To the Critics**

Reading Pack

Questions

1. Why are so many people sceptical about the existence/scope of racial profiling? What arguments do they advance in support of their scepticism?
2. What is the motivation behind the tone and content of Professors Melcher and Gabor's attack on Tator/Francis and Wortley/Tanner?

**October 11/18**

**Sites of Constitutional Analysis**

Reading Pack

*Colour of Justice* at pages 130-150

Questions

1. What are the relevant *Charter* sites of analysis for racial profiling cases?
2. What racial profiling standards have been developed by the courts to adjudicate cases? Are they adequate? What enhanced standards could be developed?
3. Are these standards relevant in human rights cases?

**October 25**  
**Using the Rules of Evidence**

Reading Pack

**Questions**

1. What are the kinds of evidence that can be elicited to support a claim of racial profiling?
2. What rules of evidence are available to assist in getting this evidence admitted?

**November 1**  
**Raising Racial Profiling Arguments**

Reading Pack  
*Colour of Justice* at pages 121-130

**Questions**

1. What is critical race litigation?
2. Why are there so few cases where the issue has been raised? What is the cause of the reluctance of defence lawyers to raise the issue in criminal cases?
3. Are there legitimate reasons not to raise a viable race argument in a case?
4. What do you think of when you hear someone refer to the playing of the “race card”? How would you respond?
5. What are some of the challenges that face racialized lawyers when they raise race as part of their legal arguments?

**November 8**  
**Applying the Principles and Tools**

Reading Pack

**November 15**  
**Alternatives to Litigation**

Reading Pack  
*Colour of Justice* at Chapter 10

**Questions**

1. What are some of the alternatives to litigation in addressing racial profiling?
2. What is data collection? What are the arguments for and against data collection?
3. Should there be legislative action? What should an anti-racial profiling bill look like?
4. Is the Ottawa Police Service's anti-racial profiling policy adequate?

**November 22**  
**Advocacy Exercises**

Exercises will run from 12:30 to 5:00 pm. A schedule of hearings will be posted outside my office in late October.

**November 29**  
**Advocacy Exercises**

Exercises will run from 12:30 to 5:00 pm. A schedule of hearings will be posted outside my office in late October.

**END OF TERM**

Case File #1  
*R. v. K.J.*

K.J. is a 17-year-old African Canadian male. He faces several weapons-related and drug-related charges arising out of an encounter with the police on the street in downtown Toronto. At trial, three police officers testified: Constables Gill, Megahy and Nichiporik. They gave essentially the same account. The accused did not testify. These officers have worked together as school safety officers in 14 Division in west end Toronto for some time. They are not rookie officers; Constable Megahy has 32 years experience, Constable Gill 11 years experience, and Constable Nichiporik 5 years experience. At the time of the incident, none of the officers had ever been involved in the arrest of an individual carrying a concealed firearm. Two of them had previously arrested individuals carrying concealed knives.

Instructions

K.J. has filed an application alleging a breach of sections 8 and 9 of the *Charter*. The central argument is that the police engaged in racial profiling. The remedy is exclusion of the evidence under section 24(2) of the *Charter*. The Crown has conceded that the evidence should be excluded if it is determined that sections 8 and 9 were breached and that the officers engaged in racial profiling.

Please ensure to include the significant racial profiling cases (criminal, civil or human rights cases) decided to date as part of your argument including those that have succeeded. Please also address what social context evidence you would like the court to consider and how or to what extent that evidence can be admitted. Finally, are there any other remedies that could be requested other than exclusion of the evidence under section 24(1)?

**Case File #2**  
***R. v. K.L.***

K.L. is charged with two counts of assaulting a police officer contrary to section 270(1)(a) of the *Criminal Code*; two counts of resisting arrest contrary to section 270(1)(b) of the *Criminal Code* and one count of obstruction of justice for giving a false name contrary to section 139(2) of the *Criminal Code*. All five charges arise out of a series of events that occurred at the rear of Flemingdon Park Community Centre in Toronto. The officers involved are part of the “Guns and Gangs Unit” of the Toronto Police Service. K.L. is African Canadian. In his reasons for judgment, the trial judge acquitted K.L. of all of the charges except for the obstruction of justice charge. At footnote 14 of his judgment the trial judge notes:

“In his Notice of Application counsel for Mr. Linton alleged violations of ss. 7, 9, and 10(b) of the *Charter*. He also raised a specific allegation that the detention of Mr. Linton was based on racial profiling. Apart from establishing that all or almost all of those detained were black, counsel did not develop any evidentiary basis for an allegation of racial profiling, and in the end he did not argue that proceedings should be stayed on this basis.

You have been provided with a copy of the trial judge’s reasons for judgment reported at [2007] O.J. No. 2265 (C.J.).

**Instructions**

You are K.L.’s trial lawyer. You are only to address the obstruction of justice charge. Please develop an argument based on the trial judge’s findings of fact and other relevant evidence that K.L. was the victim of racial profiling and that the obstruction charge should be stayed under section 24(1) of the *Charter* because of the breach of the accused’s section 9 *Charter* right. Please make sure to be familiar with the legal test for when a stay of proceedings is an appropriate remedy for a *Charter* violation.

Please ensure to include the significant racial profiling cases (criminal, civil or human rights cases) decided to date as part of your argument including those that have succeeded. Please also address what social context evidence you would like the court to consider and how or to what extent that evidence can be admitted. Finally, are there any other remedies that could be requested other than exclusion of the evidence under section 24(1)?

**Case File #3**

***R. v. T.N.***

T.N. was charged with one count of failing to comply with a term of his bail contrary to section 145(5.1) of the *Criminal Code*. The Crown has proceeded summarily. T.N. is South-East Asian. The police discovered that T.N. was out past his curfew when they stopped his vehicle in downtown Ottawa. At trial, his lawyer brought a *Charter* application under sections 8 and 9 alleging that the officer had engaged in improper racial profiling. The application was dismissed by the trial judge and T.N. was convicted.

You have been provided with the entire trial transcript and the trial judge's reasons for dismissing the *Charter* application.

**Instructions**

T.N. has filed a Summary Conviction Appeal and has retained you to argue the appeal. The grounds are that the trial judge erred in concluding that the appellant's sections 8 and 9 *Charter* rights were not violated and that the trial judge erred in not finding that the police used race, in part, as a basis to detain the appellant. Please make sure to address section 8 (i.e. whether the CPIC check was a search). You do not need to address section 24(2) as the Crown has conceded that the charge will be stayed if the Court finds a *Charter* violation.

Please also ensure to include the significant racial profiling cases (criminal, civil or human rights cases) decided to date as part of your argument including those that have succeeded. Please also address what social context evidence you would like the court to consider and how or to what extent that evidence can be admitted. Finally, are there any other remedies that could be requested other than exclusion of the evidence under section 24(1)?

**Case File #4**  
***R. v. F.H.***

F.H. is charged with two counts of breaching a recognizance contrary to section 145(3) of the *Criminal Code* and one count of possession of hashish contrary to section 4(4) of the *Controlled Drug and Substances Act*. F.H. is African-Canadian. In examination-in-chief, Constable Spriggs of the Community Response Unit - 42 Division was in plainclothes and driving an unmarked car. Constable Gaudet was also with him in the car. At approximately 11:10 pm, he observed a new 2003 Chevy Trail Blazer driving south on Morningside Avenue near Kingston Road in a high crime neighbourhood. According to Spriggs, the accused was driving very slowly and weaving within the lane he was travelling in. Spriggs followed the vehicle for a few blocks prior to deciding to investigate the accused's sobriety, during which time he "ran" the licence plate of the SUV. The check revealed nothing of concern. Spriggs decided to stop the accused. He alerted dispatch but did not indicate his reason for doing so. He approached the car and identified himself. Gaudet approached from the passenger side. Spriggs described the accused as "very nervous and very evasive." The accused provided his insurance, ownership (in his mother's name) and driver's licence, albeit "slowly" according to Spriggs. He noted that the accused's eyes were bloodshot and his speech was slow but did not notice any odour of alcohol.

Spriggs returned to his vehicle and ran a CPIC check. He learned that the accused was on bail with conditions. The accused gave Spriggs his bail paper which included a 10:00 pm curfew condition. Spriggs had the accused get out of the car and noted he was steady on his feet. He arrested the accused for failing to comply with his recognizance and conducted a pat down. The accused was placed in the cruiser and his car was searched. At the police station, a small cube (3.18) grams of hashish was found in the inner left pocket of the accused's jacket. According to Spriggs, the accused appeared shocked when the hash was discovered.

**This is a summary of Constable Sprigg's examination-in-chief. It does contain a summary of all of the relevant facts that emerged from his testimony. You have been provided with the transcript of his cross-examination and re-examination. The transcript also includes the testimony of F.H.**

**Instructions**

Please prepare arguments to the trial judge on why F.H.'s *Charter* rights were violated. Please make sure to include a racial profiling argument. Do not address section 24(2) as the Crown has conceded that the evidence should be excluded if a

*Charter* breach is found. Please ensure to include the significant racial profiling cases (criminal, civil or human rights cases) decided to date as part of your argument including those that have succeeded. Please also address what social context evidence you would like the court to consider and how or to what extent that evidence can be admitted. Finally, are there any other remedies that could be requested other than exclusion of the evidence under section 24(1)?

**Case File#5**  
***Lawrence A. v. Toronto Police Services Board***

On September 24, 2004, L.A., who is Filipino and 15-years-old, and two of his friends (who are White) were walking north on Yonge Street in downtown Toronto. As they approached an intersection, they witnessed two officers, Fennell and Kell, pull over an Asian couple in a vehicle. L.A. said, in a voice loud enough to be heard, "the only reason this guy was pulled over was because he's Chinese. These cops are fucking racist." That statement led to L.A. being investigated by the officers. L.A. was arrested for cause disturbance and assault resist arrest. L.A. was acquitted of these charges: see *R. v. A.(L.)*, [2005] O.J. No. 6285 (C.J.).

**Instructions**

L.A. has filed a human rights complainant alleging that he was the victim of racial profiling. His father R.A. has also filed a complaint based on an alleged statement made to him by one of the officers at the station where L.A. was detained. Using the hearing briefs of the parties and the trial judgment, please prepare closing arguments on why L.A. was the victim of racially influenced policing. Do not make arguments on R.A.'s case although you can use any material from his hearing brief that you think is relevant. You can assume that the testimony was consistent with the statement of facts set out in the hearing briefs and trial judgment. Please be familiar with the relevant provisions of the *Ontario Human Rights Code*.

Please ensure to include the significant racial profiling cases (criminal, civil or human rights cases) decided to date as part of your argument including those that have succeeded. Please also address what social context evidence you would like the court to consider and how or to what extent that evidence can be admitted.

Case File #6  
*S. F. v. Peel Regional Police Services Board*

On October 23, 2007, Ms. F., who is Black, was en route to Jamaica with her family. She was accompanied by her husband and two daughters, Tekesha who was nine (9) years old at the time and her twenty-two (22) month old baby girl, Dominique. Due to technical difficulties, the plane was delayed leaving England and was forced to make an unexpected landing in Toronto. After a delay of approximately 24 hours, Ms. F. had run out of milk for her infant. Out of desperation and a lack of help from the flight attendants, she went to the cockpit and knocked on the door hoping to speak with the pilot. At the same time, a White woman also got up with her baby. The pilot did not respond and asked everyone to sit down. Ms. F. complied. The pilot then announced that everyone would have to disembark because the plane could not take-off that day. Before anyone had a chance to exit, six Peel Regional Police Officers boarded the plane and separated Ms. F. from her family. She was arrested for mischief and detained. The charges were eventually withdrawn. Forty-eight hours after being arrested, Ms. F. was re-united with her family and flew back home to England.

Ms. F. has filed a human rights complaint alleging racial profiling against the Peel Regional Police and Police Services Board concerning her arrest and detention. The matter is up for a hearing before the Tribunal. The evidence has been heard and it is time for final submissions.

Instructions

You have been retained by Ms. F. to make arguments about why her arrest and detention were influenced by the fact that she is Black. You have been provided with your client's complaint form, a transcript of the guilty plea proceedings, and the police investigation file. You should assume that the evidence of the witnesses and your client mirror what they say in their witness statements. Please ensure that you are familiar with the relevant provisions of the *Ontario Human Rights Act*.

Please ensure to include the significant racial profiling cases (criminal, civil or human rights cases) decided to date as part of your argument including those that have succeeded. Please also address what social context evidence you would like the court to consider and how or to what extent that evidence can be admitted.

## Excerpts: University of Windsor Human Rights Policy



The University of Windsor is committed to providing an equitable working and learning environment that promotes and supports academic achievement. To this end, the University will strive to ensure the applicability of the rules of natural justice to achieve fair treatment of all members of the University community and will endeavour to create an environment free of harassment and all forms of prohibited discrimination.

By this Policy, the University declares that all members of the University community are obligated to interact on the basis of mutual respect and that the University will not tolerate any form of harassment, sexual harassment or discrimination in any University-related activity involving a member of the University community.

Behaviour constituting a violation of this Policy and/or the Ontario Human Rights Code is considered by the University to be a serious offense and is subject to a range of disciplinary measures up to and including dismissal or expulsion by the University.

The Ontario Human Rights Code prohibits harassment and discrimination on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, handicap, age, marital status, family status, receipt of public assistance or record of offences. It is understood that a person may experience discrimination and/or harassment on multiple grounds and that discrimination can be overt or systemic.

Every individual at the University is entitled to work/study in an environment free of discrimination and harassment and in particular to work/study in an environment free of discrimination and harassment including but not limited to discrimination and harassment based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, handicap, age, marital status, family status, receipt of public assistance or record of offences.

**Discrimination** is defined as a distinction, whether intentional or not, based on grounds relating to personal characteristics of an individual or group, which has the effect of imposing burdens, obligations, or disadvantages on such individual or group not imposed upon others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of society.

**Harassment** is defined as vexatious comment or conduct in relation to a person or group of persons which has the effect or purpose of creating a hostile or intimidating working or educational environment when: such treatment has the effect or purpose of threatening or intimidating a person; or such treatment abuses the power that one person holds over another or misuses authority; or such treatment has the effect or purpose of offending or demeaning a person or group of persons on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, handicap, age, marital status, family status, receipt of public assistance, or record of offences.

Harassment may occur during one incident, or over a series of incidents including incidents which, in isolation, would not necessarily constitute harassment. Harassment prevents or impairs the full and

equal enjoyment of employment and educational services, benefits and/or opportunities and may occur between people of the same or different status within the University community, regardless of age or sex. Harassment may also be directed at a group as well as at an individual. Harassment may be psychological, verbal or physical or may be all of these.

*Prohibited behaviours include but are not limited to:*

■ **Verbal Behaviour**

*Using stereotypes to describe a particular group; name calling; insults; threats; slurs; degrading or unwelcoming remarks; jokes or innuendos about a person/persons in relation to the prohibited grounds in the Ontario Human Rights Code.*

■ **Written Materials**

*Displaying or distributing racist/sexist derogatory or otherwise offensive materials or graffiti; displaying or distributing derogatory pictures or cartoons.*

■ **Physical Behaviour**

*Making threatening or rude gestures; using physical intimidation or assault; leering; unwanted touching, kissing, patting, pinching; insulting actions or practical jokes based on the prohibited grounds in the Ontario Human Rights Code.*

■ **Non-Verbal Behaviour**

*Avoidance, exclusion and inaction: refusing to talk or work with another member of the University community because of personal, physical, racial or ethnic characteristics; condescension, paternalism or patronising behaviour; failure to provide accommodation for persons with disabilities or for persons engaged in religious observation unless the accommodation causes undue hardship.*

"**Sexual harassment**" includes:

- a) any unwanted sexual attention or behaviour by a person who knows or ought reasonably to know that such conduct is unwanted; or
- b) any implied or expressed promise or reward for complying with a sexually oriented request; or
- c) any implied or expressed threat of reprisal, in the form either of actual reprisal or the denial of opportunity for the refusal to comply with a sexually oriented request; or
- d) any inappropriate verbal or physical conduct that has a focus on sexuality or sexual identity in what reasonably may be perceived as a hostile, intimidating or offensive manner; or
- e) the communication or display of material with a focus on sexuality or sexual identity which has the effect or purpose of creating a hostile or intimidating working or educational environment.

**Examples of sexual harassment:**

- *verbal abuse including but not limited to graphic commentaries on the victim's body and sexual remarks which demean a person and are known or ought to have been known to be unwanted;*
- *using sexually degrading words to describe a person;*
- *insulting and offensive gestures, innuendoes, language, joking and or taunting about another person's body which causes awkwardness and or embarrassment;*
- *leering (suggestive staring) or other gestures;*
- *asking inappropriate questions about the person's sexuality or any sexual relationships past, present or future;*
- *unnecessary physical contact such as brushing up against a person's body, touching, patting, pinching and invasion of personal space for the purpose of sexually harassing a person;*
- *demanding sexual favours accompanied by implied or overt threats concerning a person(s)' employment (economic livelihood) grades (academic failure hence loss of future livelihood), reputation and/or letters of recommendation;*
- *sexual solicitation or advance made with implied reprisals if rejected;*

- *backlash or the threat of backlash, or retaliation or the threat of retaliation, for the lodging of a complaint or participation in an investigation;*
- *behaviour including but not limited to attention and/or conduct that is known or ought to be known to be unwanted after the end of a consensual relationship; and*
- *inappropriate display of sexually offensive material and /or pornography such as pin up posters (of any size), magazines etc.*

\* **A full copy of the Human Rights Policy can be found at [www.uwindsor.ca/hrights](http://www.uwindsor.ca/hrights)**

UNIVERSITY OF WINDSOR  
FACULTY OF LAW

**POLICY STATEMENT ON STUDENT DISCIPLINE PLAGIARISM**

Plagiarism is defined by Black's Law Dictionary (revised 4<sup>th</sup> edition):

The act of appropriating the literary composition of another or parts or passages of his writing, or the ideas or language of the same, and passing them off as the product of one's own mind.

The Oxford English dictionary defines plagiarism:

the wrongful appropriation or purloining, and publication as one's own, of the ideas or the expression of the ideas (literary, artistic, musical, mechanical, etc.) of another.

**Comment:** Merely taking the ideas or expression of another is not in itself plagiarism. The substance of plagiarism is that the plagiarist passes off the ideas or expression of another as his or her own. Thus, the application of the precepts and practices learned in legal writing, particularly the full acknowledgement of sources, is the best safeguard against plagiarism. *When a student is in doubt as to the proper treatment and acknowledgement of the ideas or expressions of another, the best course of conduct is to consult the professor for whom the work is being prepared.* **Plagiarism will be presumed in any case of appropriating the expression or ideas of another without full acknowledgement of sources.**

**Examples:**

- (f) submitting as his or her own work an exam or other piece of academic work which has been authored or prepared either wholly or partly by someone else;
- (g) submitting academic work containing passages taken either verbatim or with occasional word changes from the works of others where such passages are not properly acknowledged;
- (h) submitting a paper or other academic work which adopts the ideas of other authors without giving appropriate acknowledgement.

The following examples of plagiarism have recently been the subject of disciplinary complaints:

1. Failure to use quotation marks or offset the paragraph when directly quoting a source even when the source is footnoted;
2. Failure to cite a source when the source is paraphrased;
3. Failure to attribute a directly quoted or paraphrased passage to the correct source (e.g. quoting directly from or paraphrasing material from a textbook, treatise, article, etc., and reproducing the footnotes appearing in this source rather than footnoting the source itself);
4. Reproduction of another student's table of authorities, bibliography, footnotes, etc.;
5. Failure to cite a passage quoted or paraphrased from a website;

In addition, the *Policy Statement on Student Discipline* identifies as improper conduct a student submitting his or her own academic work in a course without disclosing to the professor that this academic work was authored or prepared, either wholly or partly, for another course or purpose.

The *Policy Statement on Student Discipline* also:

1. addresses improper conduct relating to exams (cheating),
2. provides the sanctions that can be imposed by the Discipline Committee for improper conduct.

Copies of the *Policy* are available in the General Office.