

LAWS 7049 CRIMINAL PROCEDURE AND EVIDENCE

Credit Points 10

Legacy Code 201059

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Description The unit is designed to provide an understanding of the law, the theoretical underpinnings and the underlying policy issues, in the areas of evidence and criminal procedure. This unit deals with principles and stages of civil and criminal procedure in order to comply with the formal requirements for admission to legal practice, themes and theories of procedural law, identification and interpretation of the key legislative provisions and key stakeholders, and techniques of statutory interpretation including comprehension of the interpretation of statute through case law and academic commentary. It is expected that the students will be able to solve hypothetical problem questions through the application of procedural legislation and precedent.

School Law

Discipline Criminal Law

Student Contribution Band HECS Band 4 10cp

Check your HECS Band contribution amount via the Fees (https://www.westernsydney.edu.au/currentstudents/current_students/fees/) page.

Level Postgraduate Coursework Level 7 subject

Pre-requisite(s) LAWS 7048 Criminal Law

Incompatible Subjects LAWS 4004 Criminal Procedure and Evidence

Restrictions

Students must be enrolled in a postgraduate program.

Learning Outcomes

On successful completion of this subject, students should be able to:

1. Evaluate theories and rationales underlying the policy and processes of criminal procedure and evidence;
2. Critique the statutory and common law rules of evidence and criminal procedure as they operate in a practical context in New South Wales;
3. Assess the circumstances and needs of Aboriginal and Torres Strait Islander peoples in criminal courts, procedures and processes;
4. Construct solutions to legal problems that indicate a deep comprehension and critical application of procedural legislation and precedent;
5. Reflect on the roles and professional responsibilities of legal practitioners in the administration of justice to exercise ethical judgment when undertaking scholarly and legal tasks;
6. Assess factual, evidentiary and policy issues to construct reasoned, justifiable and logical legal and scholarly arguments.

Subject Content

- The nature of The adversarial Trial in The criminal context
- alternative rationales underlying The uniform evidence acts and The common Law

- forms of evidence
- theories of proof and relevance
- Standards and Burden of proof
- Rules of exclusion including, hearsay, opinion, admissions, tendency and coincidence, character, credibility, identification evidence
- Privileges
- Rules and principles of questioning witnesses and tendering documents
- Judicial warnings, comment and directions
- mandatory and Discretionary exclusions and The limitations on evidence
- Prosecutorial and defence ethics
- The Law governing procedure before A criminal Trial including arrest
- The needs of Aboriginal and Torres Strait Islander peoples in criminal Courts, procedure and processes

Assessment

The following table summarises the standard assessment tasks for this subject. Please note this is a guide only. Assessment tasks are regularly updated, where there is a difference your Learning Guide takes precedence.

Item	Length	Percent	Threshold	Individual/ Group Task
Case Study	2,500 words	25	N	Individual
Quiz	10 minutes x 5 quizzes	10	N	Individual
Court Observation Reflections	1,500 words	20	N	Individual
Final Examination	2 hours	45	N	Individual

Prescribed Texts

- Andrew Hemming, Francine Feld and Thalia Anthony, Criminal Procedure in Australia (LexisNexis, 2nd ed, 2019).

Teaching Periods