LAWS3200
Civil and Criminal Procedure
Session 1, Online-scheduled-weekday 2022
Macquarie Law School

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General Information

Unit convenor and teaching staff
Co-Convenor
Andrew Burke
Contact via via iLearn
6FW 622

Co-Convenor
Sonya Willis
Contact via via iLearn
6FW 520

Credit points
10

Prerequisites
130cp including LAW203 or LAWS2400

Corequisites

Co-badged status

Unit description
This unit examines the principles of civil and criminal procedure in New South Wales. The unit canvasses general principles of civil procedure, such as pre-trial procedures, the nature of adversarial disputation, ethics of practice and a critical evaluation of the administration of justice, as well as select topics in criminal procedure, such as classification of offences, bail and sentencing.

Important Academic Dates
Information about important academic dates including deadlines for withdrawing from units are available at https://www.mq.edu.au/study/calendar-of-dates

Learning Outcomes
On successful completion of this unit, you will be able to:

ULO1: Explain and apply the principles and stages of civil and criminal procedure
ULO2: Display elementary legal advocacy skills
ULO3: Apply statutory interpretation to problems of civil and criminal procedural law
ULO4: Communicate an integrated body of procedural law knowledge both orally and in
ULO5: Analyse civil and criminal procedural law in its historical, social and legal context

General Assessment Information

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – 10 marks out of 100 credit will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted seven days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments - e.g. quizzes, online tests.

All assessments are submitted electronically. Turnitin plagiarism detection software is used to check all written assessments.

Students should carefully check that they submit the correct file for an assessment as no re-submissions will be accepted after the due date and time, including instances where students upload an incorrect file in error.

Word limits are strictly applied. Work above the word limit will not be marked. Footnotes are to be used only for referencing. Referencing must conform to the requirements set out in the Australian Guide to Legal Citation.

Assessment Tasks

<table>
<thead>
<tr>
<th>Name</th>
<th>Weighting</th>
<th>Hurdle</th>
<th>Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class Presentation</td>
<td>20%</td>
<td>No</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Procedural fairness in criminal procedure</td>
<td>25%</td>
<td>No</td>
<td>5pm Friday 22nd April</td>
</tr>
<tr>
<td>Quizzes</td>
<td>30%</td>
<td>No</td>
<td>Weeks: 3, 4, 5, 6, 8, 10, 11 &amp; 13</td>
</tr>
<tr>
<td>Timed Civil Procedure Hypothetical Case Task</td>
<td>25%</td>
<td>No</td>
<td>9am-1pm Friday 10 June 2022</td>
</tr>
</tbody>
</table>

Class Presentation

Assessment Type 1: Presentation
Indicative Time on Task 2: 12 hours
Due: Ongoing
Weighting: 20%

Students must contribute in class through on-call presentations and contributions across the semester.
On successful completion you will be able to:

- Explain and apply the principles and stages of civil and criminal procedure
- Display elementary legal advocacy skills
- Apply statutory interpretation to problems of civil and criminal procedural law
- Analyse civil and criminal procedural law in its historical, social and legal context

### Procedural fairness in criminal procedure

**Assessment Type:** Report  
**Indicative Time on Task:** 20 hours  
**Due:** 5pm Friday 22nd April  
**Weighting:** 25%

Students are required to consider procedural fairness in the context of New South Wales criminal courts. This may involve court observation. Findings are to be critically assessed drawing on literature provided in readings and independent research.

On successful completion you will be able to:

- Explain and apply the principles and stages of civil and criminal procedure
- Display elementary legal advocacy skills
- Apply statutory interpretation to problems of civil and criminal procedural law
- Analyse civil and criminal procedural law in its historical, social and legal context

### Quizzes

**Assessment Type:** Quiz/Test  
**Indicative Time on Task:** 20 hours  
**Due:** Weeks: 3, 4, 5, 6, 8, 10, 11 & 13  
**Weighting:** 30%

There will be a number of low-value quizzes across semester on both civil and criminal procedure topics.

On successful completion you will be able to:

- Explain and apply the principles and stages of civil and criminal procedure
- Apply statutory interpretation to problems of civil and criminal procedural law
- Analyse civil and criminal procedural law in its historical, social and legal context

### Timed Civil Procedure Hypothetical Case Task

**Assessment Type:** Professional writing  
**Indicative Time on Task:** 20 hours  
**Due:** 9am-1pm Friday 10 June 2022
Unit guide LAWS3200 Civil and Criminal Procedure

Weighting: **25%**

Problem-based scenario requiring students to undertake a variety of civil procedure writing tasks which would be performed by lawyers in practice.

On successful completion you will be able to:

- Explain and apply the principles and stages of civil and criminal procedure
- Display elementary legal advocacy skills
- Apply statutory interpretation to problems of civil and criminal procedural law
- Communicate an integrated body of procedural law knowledge both orally and in writing
- Analyse civil and criminal procedural law in its historical, social and legal context

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1 If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the [Writing Centre](https://writingcentre.mq.edu.au) for academic skills support.

2 Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

## Delivery and Resources

Tutorials begin in Week 1.

There are two textbooks:

- Roderick Howie, Paul Sattler and Marissa Hood, *Hayes & Eburn Criminal Law and Procedure in New South Wales* (LexisNexis Butterworths, 6th ed, 2019). (This is the same textbook that you used in LAWS1300 Criminal Justice).

## Unit Schedule

1. Fairness, Rights & Liberties
2. Police Powers I
3. Police Powers II
4. Bail
5. Sentencing
6. Introduction to Civil Procedure
7. Balancing Themes: Access to Justice and Open Justice and Pre-commencement issues

[https://unitguides.mq.edu.au/unit_offerings/152201/unit_guide/print](https://unitguides.mq.edu.au/unit_offerings/152201/unit_guide/print)
8. Commencing Proceedings and Pleadings
9. Gathering Evidence: Discovery, Subpoenas, Notices and Interrogatories
10. Evidentiary Issues: Privilege, Expert Witnesses, Tribunal Alternatives
11. Appearing in Court: Interlocutory Hearings, Notices of Motion and Trials
12. Post Trial: Costs, Finality, Appeals, Enforcement

**Policies and Procedures**

Macquarie University policies and procedures are accessible from [Policy Central](https://policies.mq.edu.au). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- Academic Appeals Policy
- Academic Integrity Policy
- Academic Progression Policy
- Assessment Policy
- Fitness to Practice Procedure
- Assessment Procedure
- Complaints Resolution Procedure for Students and Members of the Public
- Special Consideration Policy

Students seeking more policy resources can visit [Student Policies](https://students.mq.edu.au/support/study/policies). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

To find other policies relating to Teaching and Learning, visit [Policy Central](https://policies.mq.edu.au) and use the search tool.

**Student Code of Conduct**

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: [https://students.mq.edu.au/admin/other-resources/student-conduct](https://students.mq.edu.au/admin/other-resources/student-conduct)

**Results**

Results published on platform other than eStudent, (eg. iLearn, Coursera etc.) or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in eStudent. For more information visit [ask.mq.edu.au](http://ask.mq.edu.au) or if you are a Global MBA student contact globalmba.support@mq.edu.au

**Academic Integrity**

At Macquarie, we believe academic integrity – honesty, respect, trust, responsibility, fairness and courage – is at the core of learning, teaching and research. We recognise that meeting the expectations required to complete your assessments can be challenging. So, we offer you a
range of resources and services to help you reach your potential, including free online writing and maths support, academic skills development and wellbeing consultations.

Student Support
Macquarie University provides a range of support services for students. For details, visit http://students.mq.edu.au/support/

The Writing Centre
The Writing Centre provides resources to develop your English language proficiency, academic writing, and communication skills.

- Workshops
- Chat with a WriteWISE peer writing leader
- Access StudyWISE
- Upload an assignment to Studiosity
- Complete the Academic Integrity Module

The Library provides online and face to face support to help you find and use relevant information resources.

- Subject and Research Guides
- Ask a Librarian

Student Services and Support
Macquarie University offers a range of Student Support Services including:

- IT Support
- Accessibility and disability support with study
- Mental health support
- Safety support to respond to bullying, harassment, sexual harassment and sexual assault
- Social support including information about finances, tenancy and legal issues

Student Enquiries
Got a question? Ask us via AskMQ, or contact Service Connect.

IT Help
For help with University computer systems and technology, visit http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/.

When using the University's IT, you must adhere to the Acceptable Use of IT Resources Policy. The policy applies to all who connect to the MQ network including students.