

## LAWS90016 Criminal Procedure: Law and Practice

<b>Credit Points:</b>	12.5
<b>Level:</b>	9 (Graduate/Postgraduate)
<b>Dates &amp; Locations:</b>	This subject is not offered in 2016.
<b>Time Commitment:</b>	Contact Hours: The total class time is between 24 and 26 hours. Total Time Commitment: The pre-teaching period commences four weeks before the subject commencement date. From this time, students are expected to access and review the Reading Guide that will be available from the LMS subject page and the subject materials provided by the subject coordinator, which will be available from Melbourne Law School. Refer to the Reading Guide for confirmation of which resources need to be read and what other preparation is required before the teaching period commences.
<b>Prerequisites:</b>	None
<b>Corequisites:</b>	None
<b>Recommended Background Knowledge:</b>	Applicants without legal qualifications should note that subjects are offered in the discipline of law at an advanced graduate level. While every effort will be made to meet the needs of students trained in other fields, concessions will not be made in the general level of instruction or assessment. Most subjects assume the knowledge usually acquired in a degree in law (LLB, JD or equivalent). Applicants should note that admission to some subjects in the Melbourne Law Masters will be dependent upon the individual applicant's educational background and professional experience.
<b>Non Allowed Subjects:</b>	None
<b>Core Participation Requirements:</b>	The Melbourne Law Masters welcomes applications from students with disabilities. The inherent academic requirements for study in the Melbourne Law Masters are: The ability to attend a minimum of 75% of classes and actively engage in the analysis and critique of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and to critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students who feel their disability will inhibit them from meeting these inherent academic requirements are encouraged to contact the Disability Liaison Unit: <a href="http://www.services.unimelb.edu.au/disability/">www.services.unimelb.edu.au/disability/</a>
<b>Contact:</b>	For more information: Email: <a href="mailto:law-masters@unimelb.edu.au">law-masters@unimelb.edu.au</a> ( <a href="mailto:law-masters@unimelb.edu.au">mailto:law-masters@unimelb.edu.au</a> ) Phone: +61 3 8344 6190 Website: <a href="http://www.law.unimelb.edu.au/masters">www.law.unimelb.edu.au/masters</a> ( <a href="http://www.law.unimelb.edu.au/masters">http://www.law.unimelb.edu.au/masters</a> )
<b>Subject Overview:</b>	<p>This subject aims to teach Australian criminal procedure in depth. Successful students will understand the Australian criminal process, from investigation through charge, pre-trial, plea, appeal and ancillary phases. Students will be familiar with the key legislation and with the major cases applicable. The subject is directly relevant to criminal practice Australia-wide, and has additional relevance to practice in public law.</p> <p>The subject also engages with the laws and policies which shape criminal procedure as applied in court.</p> <ul style="list-style-type: none"> <li># First, recent Victorian legislation impacts directly: students will study the application and effect of the <i>Criminal Procedure Act 2008</i> and the <i>Jury Directions Act 2013</i>.</li> <li># Secondly, recent High Court authority impacts directly: students will consider the effect of <i>Lee v The Queen</i> [2014] HCA 20 and X7 [2013] 248 CLR 92, the 'public law' quality of criminal procedure, and the development of the 'principle of legality'.</li> <li># Thirdly, international human rights norms impact: students will consider international materials (the ICCPR, selected ICTY and ICC decisions and materials, and selected cases from national courts outside Australia) and understand how these notions can apply in practice in Australia.</li> </ul>

	<p>Principal topics include:</p> <ul style="list-style-type: none"> <li># Fundamental concepts: the criminal process, the principle of legality, the relevance of human rights to the process, the notion of a fair trial</li> <li># Investigation: jurisdiction, warrants and coercive orders.</li> <li># Charge and Indictment</li> <li># Pre-trial management: media, bail, victim and witnesses, asset freezing</li> <li># Disclosure of the case and the evidence</li> <li># The trial process</li> <li># Sentencing hearings</li> <li># Appeals, review and clemency.</li> </ul>
<b>Learning Outcomes:</b>	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> <li># Have an advanced and integrated understanding of the elements and rules of Criminal Procedure, and its principles and sources, including recent and relevant legislative, common law and international developments</li> <li># Be able to critically examine, analyse, interpret and assess the effectiveness of these legal rules</li> <li># Be an engaged participant in debate regarding contemporary issues, including the application of privilege, the right to silence and its limits, disclosure obligations of prosecutors, defendants and third parties, open justice, trial management under the <i>Jury Directions Act 2013</i> and the dictates of the accusatorial system</li> <li># Have a sophisticated appreciation of the issues relevant to recent and current parliamentary reform of the criminal process</li> <li># Have an advanced understanding of the practical effects of the current elements of procedure in real proceedings</li> <li># Have a detailed understanding of the international and human rights influences upon criminal procedure, now and in future</li> <li># Have the cognitive and technical skills to generate critical and creative ideas relating to the development of criminal procedure in all its phases, and to critically evaluate existing legislation and current law reform proposals</li> <li># Have the cognitive and technical skills to independently examine, research and analyse all aspects of the criminal process</li> <li># Have the communication skills to clearly articulate and convey complex information regarding the criminal process both to specialist and non-specialist audiences</li> <li># Be able demonstrate autonomy, expert judgment and responsibility as a practitioner and learner in the field.</li> </ul>
<b>Assessment:</b>	<p>A 'real-world' written exercise (30%) (9 September) Students will formulate written submissions in the required format, based on a brief of evidence; these submissions will be supported by brief oral submissions 7,000 word research paper (70%) (25 November) on a topic approved by the subject coordinator</p>
<b>Prescribed Texts:</b>	<p>Core subject materials will be provided free of charge to all students. Some subjects require further texts to be purchased. Details regarding any prescribed texts will be provided prior to the commencement of the subject.</p>
<b>Breadth Options:</b>	<p>This subject is not available as a breadth subject.</p>
<b>Fees Information:</b>	<p>Subject EFTSL, Level, Discipline &amp; Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a></p>
<b>Links to further information:</b>	<p><a href="http://www.law.unimelb.edu.au/subject/LAWS90016/2015">www.law.unimelb.edu.au/subject/LAWS90016/2015</a></p>
<b>Notes:</b>	<p>This subject has a quota of 30 students. Please refer to the website <a href="http://www.law.unimelb.edu.au/masters/courses-and-subjects/subjects/subject-timing-and-format">www.law.unimelb.edu.au/masters/courses-and-subjects/subjects/subject-timing-and-format</a> (<a href="http://www.law.unimelb.edu.au/masters/courses-and-subjects/subjects/subject-timing-and-format">http://www.law.unimelb.edu.au/masters/courses-and-subjects/subjects/subject-timing-and-format</a>) for further information about the management of subject quotas and waitlists.</p>
<b>Related Course(s):</b>	<p>Graduate Diploma in Dispute Resolution Graduate Diploma in Legal Studies Master of Laws</p>

Master of Public and International Law