

CrimPro: Teaching criminal procedure using a video recorded dramatised case study, interviews and WebCT

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In Semester 1 2004, Criminal Law and Procedure teaching staff at The Australian National University (ANU) designed and delivered an online self learning module on criminal procedure (“CrimPro”). The module consisted of a DVD and companion WebCT content module provided to each of 240 students enrolled in this compulsory course. The DVD contained a video recording of criminal pre-trial and trial procedure and 26 questions answered by prosecutors or a legal aid solicitor. Students studied the DVD, other documentaries produced by the ABC, and the WebCT material (case law, legislation, and secondary material) during two self study weeks. During this period, students participated in two tutorials. It was indicated to the students that there would be a compulsory problem based question on the final exam. The challenges of producing such a module and its impact are discussed.

Keywords: Legal education, digital video, WebCT, flexible delivery, self paced learning

Introduction

This paper describes an ambitious pilot teaching project, called *CrimPro*, involving the compulsory law course, *Criminal Law and Procedure*, taught at the Australian National University (ANU) as part of the Bachelor of Laws (LLB) program. After describing the aims and objectives of the *CrimPro* project, this paper reviews some of the feedback received from students who formally evaluated the learning experience.

This semester law course forms part of the Bachelor of Laws course in the Faculty of Law. The objectives of the course state that a student who completes the course should have:

- a sound knowledge and critical understanding of the relevant legislation and case law;
- an ability to apply this knowledge and understanding in such a way as to identify the legal issues presented by a factual problem;
- a familiarity with the more important debates about the purposes of the criminal law and the fundamental concepts which it embodies; and
- an appreciation of the broad political and social forces that shape selected areas of the criminal law.

The criminal procedure component of this course has typically been examined in a cursory and ad hoc fashion in the introductory lectures. The lecturers have attempted to incorporate more procedural content over the years, recognising that the procedural topics are now prescribed by statute as a prerequisite for admission as a legal practitioner. The delivery of the procedural material, for both academic and professional competency reasons, needed to be reviewed.

Before 2004, the course teachers had increased the procedural content in a variety of ways. For example, criminal practitioners (including the ACT Director of Public Prosecutions, Richard Refshauge) would be invited to present guest lectures on procedure and prosecutorial discretion. In subsequent lectures dealing with principles of criminal responsibility and substantive offences, the lecturers would integrate procedural topics as appropriate, for example, discussing the operation of rape shield provisions when

examining sexual assault law. This was generally supported by procedural context sections in the textbook prescribed for the course.

Procedural law is complex, mainly statute based, can be difficult to teach and, sometimes, less exciting for students to learn. However, it is crucial for the understanding of the everyday operation of the criminal law and for case preparation work in an environment when procedural law tends to change rather regularly.

At the end of Semester 1, 2003, the course lecturers decided that they should teach criminal procedure differently in 2004. In particular, they thought that criminal procedure could be taught in a more consolidated, engaging and contextualised way for our students. After considerable discussion, the strategy adopted was to teach legal procedure with an online, self paced learning module that would be supported by tutorials but no formal lectures.

The *CrimPro* module

The *CrimPro* module consists of:

- *The Case of Peter Morris* (55 mins action footage on the *CrimPro* DVD)
- *Interviews With Practitioners* (45 mins interview footage on the *CrimPro* DVD)
- A WebCT content module

In Semester 1, 2004, the 240 students enrolled in *Criminal Law and Procedure* (LAWS1206) received a free copy of the *CrimPro* DVD.

The case of Peter Morris was videotaped at the NSW Police College, Goulburn, using their scenario village, mock police station and mock local court. A high degree of legal authenticity was achieved through a script developed by a former NSW police prosecutor and instructor at the College who was employed for two months to develop the script and direct the videotaping. The script was circulated to academic staff, the ACT Director of Public Prosecutions and instructors at the College to ensure appropriate coverage of legal issues. All post-production was then done at ANU utilising resources provided by Scholarly Technology Services (STS).

Students studied the module during a two week self study period in which lectures were not scheduled. Instead the students were offered an opportunity (non compulsory) to view and discuss screenings of *The Case of Peter Morris*, and two ABC documentaries about police and court procedure, *Cop It Sweet* and *So Help Me God* in one of the lecture rooms with lecturers present. The material presented in the module was then discussed in two tutorials devoted to *CrimPro*. The first of these tutorials was held in the second lecture free week.

The Case of Peter Morris was a summary matter arising out of an incident at an electric appliance shop. It escalates from a disagreement over the return of an unwanted DVD player. After a heated discussion and a conditional threat (technical assault) made by Peter, the police are called and they ask Peter to leave the store as requested by the storekeeper. Peter behaves violently and it appears that he wants to re-enter the store to attack the storekeeper. He is restrained and arrested for offensive language and is then taken to a police station in a caged police vehicle.

The DVD then depicts postarrest police procedures, consistent with best practice policing and statutory requirements. These include:

- caution and interview of suspect
- charging
- offer and refusal of bail
- offer of court attendance notice
- fingerprinting and photographing

Action depicted then shifts to prosecutor and defence interviews with clients and a courtroom scene. The charges tried were offensive language (with a guilty plea), resisting officers in the execution of their duty

(plea of not guilty), and common assault (plea of not guilty). At sentencing, Peter had no conviction recorded for offensive language and for the common assault on the condition that he enter into a 12 month good behaviour bond with attendance at least six months of weekly anger management courses. The resist police charge was dismissed.

The *Interviews With Practitioners* section of the DVD contains 45 minutes of discussion by two prosecutors (Phillipa de Veau, Assistant Director, Summary Courts, and Louise Taylor, Family Violence Prosecutor, from the ACT Office of the Director of Public Prosecutions) and a legal aid solicitor (Jeremy Leyland from the ACT office). They answered 26 questions raised by the action footage and used examples from the action footage to further explain prosecutorial discretion, election of jurisdiction, disclosure, bail, and dispositional options.

Individual scenes and interview answers could be selected from the DVD menu. The DVD could be played either on a computer or on a DVD player connected to a TV. The DVD was further supported by a WebCT content module that delivered additional case and legislation references and full text of relevant articles in each of three “Pre-Trial” topics (Police/Prosecutorial Discretion, Interview in Custody, and Bail) and each of three “Trial” topics (Representation and Plea, Procedural Principles, Decision and Disposition). Each webpage for these six subtopics listed relevant Multimedia Resources (the relevant scenes and interview answers), Legislation, Case Law, Other References, and Questions to Focus Study. Students were given citations so they could find and read case reports from online databases such as the Lexis-Nexus Butterworths product Casebase (the Butterworths Case numbers and file identifiers, were provided so students could quickly find the cases).

Assessment of students’ learning

This material was discussed and assessed in two *CrimPro* tutorials: one based on the Pre-Trial topics and one based on the Trial topics. Some students had their participation assessed in these tutorials which asked students to find answers to simple questions (not problems) relevant to each of the three subtopics for that tutorial. Before the exam a practice problem style question and issues guide was released; the question being similar to the compulsory procedural question answered by all students in the end of semester exam.

Student evaluation of the module

Primarily, we were interested in evaluating student views in relation to two aspects of the use of the *CrimPro* module:

1. The learning experience
2. The use of technology

Evaluation data were collected from a 34 item online survey delivered as part of the course WebCT site at the end of Semester 1, 2004. There was a response rate 18% (n=44) of enrolled students.

A summary of the survey results indicated the following:

The learning experience

- The DVD case study was found to be useful for 84% of the students, and a number of students suggested that the DVD successfully contextualised their study of criminal procedure.
- Most of the students felt that the goal of teaching procedural law in a single topic had been achieved effectively and in an interesting way.
- Students felt that they could easily apply the knowledge of procedural law that they gained to a problem type question in the final exam.
- Students were equally divided concerning the depth of treatment of the subject matter in the learning materials and a third of the students considered the depth to be acceptable.
- Almost all of the students would have appreciated more explicit estimates of required study time to guide the use of the module.

- The majority of the students (87%) had difficulty understanding the expectations concerning their study of the materials once the materials were released to them.
- The DVD "Interviews with Practitioners" was found to be useful for 71% of the students.

The use of technology

- A majority of the students (69%) felt that the DVD was clear and straightforward to follow;
- Approximately 50% of the students found the WebCT site to be useful and relevant with approximately 30% of the students did not find the site useful and relevant.
- Most of the students (86%) found that the rationale for using the DVD and WebCT site was logical and straightforward.
- Significantly, 69% preferred to use printed rather than online materials for private study purposes. Less than 20% preferred online to printed materials.
- Approximately 70% of the students had difficulty integrating the various component parts of the module to effectively aid their learning.
- Approximately half of the students did not have difficulty switching between the required media in the module and approximately a quarter of the students found this aspect difficult.
- Most of the students (86%) had no difficulty accessing a computer or DVD player to view the DVD and similarly most of the students had no difficulty gaining access to the internet.
- Navigation around the DVD and the WebCT website was found easy for approximately 60% of the students and difficult for approximately 30% of the students.
- Most of the students (92%) felt they had adequate knowledge of the relevant technology to use the module.

Some students seemed to thrive on self learning:

[The aspect of the module I most enjoyed was] time to study at home."

[The aspect of the module I most enjoyed was the] ability to approach the unit at one's own pace.

However, the following issues were identified as matters of concern by some of the students:

Self learning was not always easy or uniformly popular:

"I thought it was useful just to see the way procedure did work in conjunction with substantive law. However it was all rather confusing until the tutorials."

"The fact that some of the cases that were on the reading list were also mentioned in the DVD gave some indication of what was most important, however, it was difficult to fully understand what was supposed to be taken from it, and [the module] really needed accompanying lectures."

More guidance was generally needed to complete the module

[More guidance is needed to assist with] "the order in which the elements should have been studied and the way they relate to each other."

"I would have liked more guidance on how we were supposed to use the cases and legislation listed."

There were aspects of the module that needed elaboration

Elaboration? There was enough reading to drive a student crazy. Consolidation would have been nice....

I would really like to know exactly how the magistrate arrives at his decision

Conclusion

Results from the evaluative survey suggest that there are ongoing challenges for students involved in self directed learning, particularly for those students who are challenged by new methods and philosophies of teaching and learning. The use of scaffolding to ensure that learners receive the appropriate support and assistance should be given high priority (Oliver and Herrington, 2002). Scaffolding should include an explicit statement regarding the complementary nature of the DVD, the WebCT site, other resources and the tutorials. This can be done as part of lectures prior to the CrimPro module.

This project is part of the ongoing focus on the use of technology in teaching and learning in the Faculty of Law at ANU. An earlier innovation was the development of one of the first prototypes for WebCT with the University of British Columbia and the University of Victoria, BC in Canada to deliver multi-media course content for a comparative legal history course in the mid 1990s (see Harris et al 1999, 2000). The Faculty of Law's Legal Workshop is also a leader in the development of flexible delivery methods for Practical Legal Training in Australia. In this pilot project, supported by the technical resources available from the ANU's Scholarly Technology Services, valuable assistance was obtained from the wider legal community of practitioners and law enforcement agencies which was also critical to the successful development of this innovative method of teaching of criminal procedure. Incorporating technology use in the teaching of substantive and procedural law is a noble aim, but contains many educational and technological challenges for course developers (see Le Brun, 2002).

Beyond the immediate course, the developers are reviewing ways in which the material can be adapted for other courses and purposes. For example, this semester, the *CrimPro* module is being used as part of a new elective course (*Selected Topics in Criminal Law*) to teach advanced topics in criminal law. In terms of technical development, the Faculty has used STS's streaming server to make *CrimPro* video content available to online users without the need for a DVD. This has been designed so that scenes and interview answers can be accessed by students using a 56k modem or better.

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