

Learning Units

Learning Units

Learning unit 13: Techniques in criminal trials

Prescribed reading

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Read chapter 1 (Arrest and Bail) from *Confident Criminal Litigation* by Maharaj (loaded under e-reserves).

Read chapter 2 (The Trial) from *Confident Criminal Litigation* by Maharaj (loaded under e-reserves).

Read chapter 19 (Criminal Cases) from *Morris Technique in Litigation* by J Engelbrecht SC (loaded under e-reserves).

You will by now have noticed that many of the basic techniques in trial advocacy can be applied to both civil and criminal cases. There are, however, certain important differences in documents used in criminal cases and in the use of evidence (especially considering the differences in the burden of proof between civil and criminal cases). Note the specific techniques in the prescribed reading for this learning unit.

Learning outcomes

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On completion of Learning Unit 13, you should be able to:

- demonstrate an understanding of the right to legal representation in South Africa
- discuss ethical issues arising from criminal law, such as defending the guilty
- consult with a client accused in a criminal case
- separate admissions and confessions during the consultation phase
- ascertain your client's defence
- offer advice on whether your client should testify and, if so, how he should be prepared
- prepare your client's criminal case
- prepare witnesses
- prepare for bail applications by way of oral evidence or affidavit
- apply section 157(2) of the Criminal Procedure Act 51 of 1977 as it pertains to application for separation of trial

- prepare a plea of guilty under section 112 of the Criminal Procedure Act 51 of 1977
 - prepare a plea of not guilty under section 115 of the Criminal Procedure Act 55 of 1977
 - draft a section 105A statement
 - use examination in chief, cross-examination and re-examination effectively
 - object to evidence
 - prepare for trial on sentencing using mitigating factors
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