Application Task
The Difference between Criminal Law and Civil Law
Nick D'Arcy Case Study

- Watch the ABC Australian Story Program - (This will take one hour so make sure you set aside ample time)
- Read the two articles carefully. (You might like to print out a hard copy)
- Answer all questions fully and accurately.
- Complete the summary table - difference between criminal law and civil law using details from the Nick D'Arcy incident.
- Check your effort against suggested answers on the Moodle.

You can complete this task by just using the newspaper articles, but if you would like to have a more detailed understanding of Nick's case and a get a personal insight, you should watch the Australian Story video as well.

Resource 1: Two newspaper articles.

a) Article 1: Nick D'Arcy given suspended sentence (Criminal law focus)

b) Article 2: Swimmer Simon Cowley awarded $135,000 damages over Nick D'Arcy bashing (Civil law focus)

Resource 2: A video from the ABC series – Australian Story. This will take about one hour.

View the ABC Australian Story Judging Nick D'Arcy Monday March 2009
http://www.abc.net.au/austory/specials/darcy/default.htm

YOUR TASK

Highlight key legal terminology in each newspaper articles. Identify the criminal law terms in

a) In article 1 Nick D'Arcy given suspended sentence (Criminal law focus) highlight the criminal law terms

b) In article 2 Swimmer Simon Cowley awarded $135,000 damages over Nick D'Arcy bashing (Civil law focus) highlight the civil law terms.

c) Using details from the Nick D'Arcy story complete the table in your semi notes.

Differences between civil and criminal law.

Features	Criminal Law R v D'Arcy	Civil law Cowley v D'Arcy
	Use legal terminology whenever you can	
Who are the parties involved? (Names and legal terms)		
Who initiated legal action?		
What is the purpose of the legal action?		
Who has the burden of proof?		
What is the standard of proof required?		
What was the verdict/outcome?		
What was the action taken by the court?		

Article 1 Criminal law terms to highlight

Nick D'Arcy given suspended sentence

Nick D'Arcy will be handed a suspended sentence of 14 months and 12 days for attacking retired swimmer Simon Cowley.

The sentence means D'Arcy has cleared the biggest hurdle in his bid to represent Australia in the World Championships in Rome in July but he may face further sanction when Swimming Australia's judiciary panel meets next week.

D'Arcy pleaded guilty to recklessly inflicting grievous bodily harm on Simon Cowley while celebrating his inclusion into the Beijing Olympics team a year ago.

The pair, who had not met before that night, got into an argument outside the Loft Bar on King Street Wharf which culminated in D'Arcy punching Mr Cowley in the face, knocking him to the floor and breaking his nose and jaw.

It had been an agonising wait for D'Arcy, who qualified to represent Australia in the 200 metre butterfly at the World Championships in record time last Tuesday.

Outside the court, D'Arcy said he was sorry about what he had done to Cowley and hoped that the breaststroker would one day be able to forgive him.

"And while I'm on the topic of apologies I would also like to apologise to the Australian public as I'm aware that this had a detrimental affect on them as well,'' D'Arcy said.

"I'd just like to say that today's sentence of a 14-month suspended sentence is very serious and I will be complying with all the directions that were given to me by the courts.

"And I'd just like to say to others of my age that this is a situation that none of us need to find ourselves in and we just need to watch our drinking and we obviously need to watch our behaviour when we are out and about.

"I now have a job to do and that is to return to my study, return to my swimming and comply with all the magistrate's requests.''

Prosecution called for jail time

The prosecution had called for the 21-year-old science student to be jailed to learn his lesson, pointing to a second incident that occurred shortly before his sentencing hearing last month at the Eastern Hotel in Bondi Junction.

In that incident, security guards had asked D'Arcy to leave the premises because he was intoxicated, prompting the swimmer to ask, "Do you know who I am?" and later, "One hit is all it takes."

But D'Arcy's defence argued that he had already been punished enough by missing out on the Olympics and constant harassment by the media.

His comments to the security guard were not meant to be arrogant, but rather a query about whether he was being targeted because of the reputation he had earned over the Cowley assault.

D'Arcy publicly apologised to Cowley and asked the court to spare him a jail sentence, saying that his bad behaviour always occurred when he was under the influence of alcohol.

He had sought counselling and would consider abstaining from alcohol altogether, he said.

It was an argument over alcohol that led to D'Arcy's assault on Cowley on March 30 last year.

The swimmers had been celebrating at a private party at the Cargo Bar and then went to the Loft Bar, where D'Arcy scolded swimmer Eamonn Sullivan for refusing a drink.

Article 2: Civil Law Terms to Highlight

July 18th 2011

(Civil Case) SWIMMING champion Simon Cowley says he can finally put his attacker, Nick D'Arcy, out of his mind after being awarded damages of at least $180,000.

Cowley, 30, successfully sued Olympic hopeful D'Arcy in the NSW District Court after D'Arcy smashed his jaw and face with one punch at The Loft bar in Sydney's CBD early on March 30, 2009.

The Commonwealth Games gold medallist said he could now move on with his life.

"The judge found that Nick was not acting in self-defence and that's what we were looking for," Cowley said outside the court.

"This whole issue of the civil case was never about the money.

"This was the first time I've had my opportunity to put forward the version of events that actually took place. I can finally put Nick D'Arcy to bed in my mind."

Cowley had corrective surgery to his jaw, cheekbones and nose.

D'Arcy, 23, was not present for the decision. He received a 14-month suspended jail sentence after pleading guilty in 2009 to recklessly causing grievous bodily harm and lost his place in the Olympic swimming team.

The pair, who had never met previously, were celebrating after the Beijing Olympic trials.

In the civil proceedings, Cowley argued he was king hit without reason, while D'Arcy claimed to have acted in self-defence when he "lashed out" in a "wild, defensive swing".

The court heard Cowley had tapped or slapped D'Arcy on the face after he chided fellow swimmer Eamon Sullivan about not having another drink.

D'Arcy said he "reeled back" and had wanted to question Cowley but noticed his stature.

He said he became scared because Cowley started to get up and moved his hand outwards.

Cowley says the last thing he remembers is standing up to introduce himself, but he could not recall if he was standing or had simply motioned to do so.

Judge Anthony Puckeridge found "it was the plaintiff who was in a more vulnerable position," and rejected D'Arcy's claims of self-defence.

In awarding Cowley $180,942 plus interest, the judge said the effects of the injuries were of "significance". But he found the attack was not premeditated.