

CASE STUDY MATERIALS

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Level 6
CRIMINAL LITIGATION
Subject Code L6-18



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 18 – CRIMINAL LITIGATION*

CASE STUDY MATERIALS

Information for Candidates on Using the Case Study Materials

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to these case study materials. You will be required to answer **all** the questions on the examination paper.
- You should familiarise yourself with these case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss these materials with your tutor/s either face-to-face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relate to these case study materials.

Instructions to Candidates Before the Examination

- A clean/unannotated copy of the case study materials is attached to this examination.
- You are permitted to take your own clean/unannotated copy of the case study materials and a statute book, where permitted, into the examination. You are **NOT** permitted to take any other materials including notes or textbooks.
- In the examination, candidates must comply with the CILEx Examination Regulations – Online Examinations or with the CILEx Examination Regulations – Online Examinations with Remote Invigilation.

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* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

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ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer working in the Criminal Litigation Department of Kempstons LLP, solicitors. The firm has a standard criminal contract with the Legal Aid Agency and participates in several local duty solicitor schemes. Among the cases being handled by the department at present are the following:

CASE ONE – ANTON REYNOLDS

Kempstons has very recently received a telephone call from the Duty Solicitor Call Centre advising of a request for representation by the above-named client, aged 28, who has been arrested and is currently in custody at Bedford Custody Centre in relation to allegations of affray and possession of a bladed article in a public place. Kempstons has previously acted for Anton Reynolds, and you are aware that he has a significant history of mental health issues. He has a history of psychotic episodes and has, in the past, been diagnosed as a paranoid schizophrenic. Kempstons is currently acting for Anton Reynolds in relation to another, non-criminal, matter, and information from that file confirms that he is in receipt of Universal Credit.

A telephone call has been made to the police to obtain further information, and the officer in the case has explained that the arrest arose from an incident in which Anton Reynolds went to the home of a former partner. He tried to gain admittance, by shouting and banging on the door, but the former partner refused to let him in or speak to him, other than to tell him to go away. A number of neighbours heard the commotion and assembled in front of the property. It is alleged that Anton Reynolds then turned and moved towards them, brandishing a small kitchen knife and threatening violence against them.

Police officers happened to be on patrol close by and arrived at the scene while the incident was still ongoing. Those present informed the officers that Anton Reynolds was in possession of a knife. Anton Reynolds was searched, and a paring knife was found in his jacket pocket. He was then arrested and conveyed to the police station.

Kempstons has advised the police that there is a mental health aspect. The officer in the case has noted this and has stated that it is his intention to interview Anton Reynolds as soon as it is appropriate to do so.

CASE TWO – SOPHIE SMITH

This client, aged 16, has been arrested and released under investigation in relation to an allegation of robbery. The circumstances, as disclosed by the police, are that two 13-year-old girls were in a park, when they were accosted by a group of four or five older girls, all thought to have been between 16 and 19 years old. A member of this group demanded that the younger girls hand over their mobile phones. When they refused, this member of the group said: 'Hand them over or we'll cut you'.

The victims then handed over their mobile phones. It is not alleged that any knife or other weapon was actually produced. The complainants have made statements giving a description of the girl who actually spoke on behalf of the group who carried out the attack. These descriptions were recognised by police officers as showing a strong similarity to Sophie Smith, who has previous

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convictions for theft from the person and robbery. She recently completed the custodial element of a 12-month Detention and Training Order and is still subject to the order.

The police are also investigating four other incidents of a similar nature, which occurred in two local parks over a period of three weeks, all involving a group of between three and six girls. While there are no detailed descriptions of any suspect from these other incidents, there is a clear similarity in the way in which the incidents took place, with all complainants stating that one member of the group was clearly the leader and spoke on behalf of the group.

CASE THREE – ANDREW HAWKINS

This client, aged 35, has been charged with an offence of non-domestic burglary and released on unconditional bail pending his initial appearance before Bedford Magistrates' Court. Advance disclosure has been provided and is summarised in **DOCUMENT 1**. The client's instructions are summarised in **DOCUMENT 2**.

CASE FOUR – PRAKASH SHARMA

This client, aged 24, is currently awaiting trial in the magistrates' court on a denied charge of assault occasioning actual bodily harm. Prakash Sharma is the relief licensee of a public house. The allegation arises out of an incident that occurred in the public house at closing time on the day after Prakash Sharma started working there.

The complainant, Jason Prince, had been drinking in the public house for most of the evening. He went to the bar and asked a barmaid for another round of drinks and was told that time had been called and no further sales could take place. Jason Prince then became verbally aggressive. Prakash Sharma came over from the other end of the bar area and Jason Prince then confronted him. Prakash Sharma again explained that it was after time.

Jason Prince then leaned forward aggressively and raised his fist. He shouted something, but none of the eyewitnesses could be sure exactly what. He continued to stand at the bar, leaning forward aggressively, and Prakash Sharma then punched him in the face. The prosecution eyewitnesses, namely the barmaid involved in the confrontation and two other patrons who are said not to be associated with Jason Prince, all state that this action completely took the wind out of Jason Prince's sails.

One of them described him as shrinking like a deflated balloon. They all say that after about 15 seconds, Prakash Sharma then punched Jason Prince twice more, causing Jason Prince to fall to the floor, catching his head on the corner of a barstool and resulting in a broken nose and a black eye.

Prakash Sharma's statement to the police is to the effect that the first punch appeared to have no impact on Jason Prince, so he followed it up immediately with two others, to protect himself from Jason Prince.

A second barmaid, Martina Schultz, also made a statement to the police, but is not a prosecution witness and has been tendered to the defence.

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DOCUMENT 1

[NOTE TO CANDIDATES: You may assume that all statements and other documents are in the correct form and that the appropriate steps have been taken to identify and secure the integrity of any exhibits.]

Advance disclosure includes the following statements:

1) **Jaspreet Singh** is the manager of the Bedford branch of Perkins Paint Distributors. At the close of business on 29 October 2020, he left the premises secure, with the intruder alarm set and with the CCTV system in operation. The following morning, he arrived at the premises to find it apparently secure. On entering the premises, it was apparent that someone had entered the premises overnight, as various tools that had been on display were missing, the doors to the stockroom were open, and it appeared that a substantial quantity of paint and plaster were missing. The intruder alarm had also been deactivated using the keypad inside the building. Jaspreet Singh called the police.

When the police arrived, Jaspreet Singh viewed the CCTV coverage with them. The recording showed that at approximately 1 am, two individuals entered the premises by the main door. One of them immediately went to the intruder alarm control panel and appeared to deactivate it. Both individuals were wearing dark-coloured hooded tops, with the hoods pulled well down, and bandanna-style scarves wrapped around their noses and mouths. Both were also wearing what appeared to be surgical gloves.

Individual A had a pale complexion, was slimly built, approximately 5'10" tall and, in addition to the dark hooded top, was wearing jeans and Nike trainers.

Individual B had a darker complexion, was heavily built, approximately 6' tall and, in addition to the dark hooded top, was wearing jogging bottoms and a pair of black trainers.

The footage showed them removing a quantity of power tools from the displays and placing them in what appeared to be black bin liner bags, which they had brought with them. They then entered the stockroom and removed several pallets of paint and plaster, using a sack truck which was kept on the premises. They were on the premises for approximately 10 minutes and then left.

Following a visit by scenes of crime officers seeking to obtain forensic evidence, a stock check was undertaken. A list of the items taken was produced and given to the police. In summary, a total of ten professional-grade electric hand tools, including drills, saws and paint strippers to a total value of £700, were missing. Ten pallets, each containing ten 10-litre tins of paint to a total value of £3,500, and six pallets each containing ten 12.5 kg bags of plaster to a total value of £960, were also missing. The sack truck is also missing. It has a value of £50. The total value of the missing property is therefore £5,210. No one had any lawful authority to remove these items.

Apart from Jaspreet Singh, only the assistant manager had keys to the premises. The assistant manager, Gerald Sinclair, is in his early sixties and is only about 5'5" tall, so does not match the descriptions. One person who has had connections with the business, who would match the description of Individual A, and who could potentially have had possession of a key, is Carl Rogers. He was a

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reasonably long-serving member of staff, who acted as reserve keyholder if Jaspreet Singh or Gerald Sinclair were on holiday or otherwise unavailable. Carl Rogers was dismissed about six months ago, after a series of warnings for poor timekeeping and for giving unauthorised discounts to his associates. It is possible that he made himself a duplicate key while he was acting as keyholder.

2) **PC 375 Elaine Parker.** Confirmed attendance at Perkins Paint Distributors responding to the complaint of burglary. Viewed the internal CCTV coverage and took possession of the backup tape. Subsequently made enquiries in the neighbourhood and found that external CCTV from neighbouring premises showed a white Ford van arriving at the premises just before 1 am. It parked immediately outside the entrance and two adult males emerged. They appeared to be the same two captured on the internal CCTV, but it was not possible to give an accurate description, owing to the disguise adopted.

The registration number of the vehicle could be seen to be YS06 CVZ. Over the next 10 to 15 minutes, the two males appeared to be removing items from the premises and placing them in the van, although the presence of the van made it impossible to ascertain exactly what these items were. The van then drove away with the two males inside.

A search of official database records identified the keeper of the van as one Paul Morgan. Morgan was contacted and stated that he had, at the end of September 2020, lent the van to his wife's cousin, Andrew Hawkins. This was corroborated by his wife Jeanette Morgan, and by several neighbours who confirmed that they had not seen the van for about a month.

On 31 October, at 08:30 hours, PC Parker, together with PC 921 Lomas, executed a search warrant at 39 Olney Rise Bedford, which they understood to be occupied by Carl Rogers. Mr Rogers was present. In the garage, they found five pallets of tins of paint and three pallets of bags of plaster. These all answer the description in the schedule of items missing from Perkins Paint Distributors. In the loft of the house they also discovered two electric drills and two electric saws, each of which matched the description of an item in the schedule. Carl Rogers was arrested on suspicion of burglary and conveyed to Bedford police station. He was then released under investigation.

3) **[NOTE TO CANDIDATES: This is a summary of further information from the file.]** Following the van registration number YS06 CVZ being reported as a vehicle of interest, a police patrol observed it on 2 November 2020, parked in Union Road Bedford, approximately 400 metres from the last known address of Andrew Hawkins. With the permission of Paul Morgan, the van was searched. A pair of surgical gloves was found and DNA analysis provided a match with Carl Rogers to a probability of one in 1 million. DNA samples from the area of the driver's seat revealed a match with Paul Morgan and at least two other males, one of whom was Andrew Hawkins, again with a probability of one in 1 million.

A search warrant was executed at the home address of Andrew Hawkins on 3 November 2020 at 08:00 hours. No property linked to the burglary at Perkins Paint Distributors was found, but Hawkins was in possession of the ignition key to the Ford van. Hawkins was not arrested at this stage and was advised that further enquiries would be made.

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Carl Rogers was subsequently interviewed under caution on 5 November 2020 in accordance with PACE and the Codes. He made full admissions, stating that he was in need of money, as he had been unemployed for several weeks.

He stated that his accomplice was Andrew Hawkins and that he had approached Hawkins to assist him, because he was aware that Hawkins had access to a suitable van. The agreement was that they should share the proceeds equally. His share had been unloaded at his home and had been recovered by the police, with the exception of one electric drill, which he had sold in a pub on 30 October. Hawkins then left with the van and his share of the proceeds. Rogers was charged with burglary and bailed to appear at Bedford Magistrates' Court.

Andrew Hawkins was arrested on 7 November 2020 and subsequently interviewed under caution in accordance with PACE and the Codes. He gave an entirely no comment interview. Hawkins was charged with burglary and bailed to appear at Bedford Magistrates' Court.

Andrew Hawkins has a criminal record, showing five convictions for non-domestic burglary between 2008 and 2017. He also has two convictions for theft of power tools from vehicles in 2016 and in 2019.

DOCUMENT 2

Andrew Hawkins will say:

I deny any involvement in this offence. I agree that I borrowed the Ford van YS06 CVZ from Paul Morgan at the beginning of October. I work as a painter and decorator, and I have been offered the chance of work on a number of house renovation projects for an acquaintance of mine, who is a buy-to-let landlord with quite a number of properties. I used the van on a number of occasions in connection with this activity.

On 28 October, I was contacted by a friend of mine, who I do not wish at this stage to name. This is partly because it is contrary to my principles to give information about anyone else's potential wrongdoing, but also because I know this person has associates who have in the past threatened and used violence against anyone providing information to the police or giving evidence in relation to their activities.

This person asked if he could borrow the van for approximately 48 hours, and I agreed to this. He collected the van on the morning of 29 October and our arrangement was that he would return the van and park it on Union Road, which is quite close to my home, and would then post the ignition keys through my letterbox. This is what happened. I found the keys when I got up on the morning of 30 October.

I know Carl Rogers slightly. We use a couple of the same pubs and I will see him perhaps once a month in one or other of them, but we are not close friends. I do know that Carl Rogers associates with a number of the people in the group, including the friend who borrowed the van. If Carl Rogers identified me as his accomplice, I can only assume that he is doing so in order to deflect attention away from his real accomplice.

I was at home in bed from approximately midnight until 8 am with my girlfriend Jenna Roberts on the night when the offence appears to have taken place.

End of Case Study Materials