



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 with the firm of Kempstons LLP. You are currently deployed in the criminal litigation department. The firm has a standard criminal legal aid contract with the Legal Aid Agency and participates in the local duty solicitor rotas.

Among the cases currently being handled in the department are the following:

CASE ONE: LARRY CUTHBERT

Kempstons has just received a telephone call from the Duty Solicitor Call Centre to advise that this client, aged 32, is currently in custody, having been arrested on suspicion of theft from motor vehicles, and has requested that Kempstons act for him.

You speak to the officer in the case. She gives you brief details of the nature of the investigation. Larry Cuthbert was arrested at a lorry park in Milton Keynes, after a lorry was seen parked suspiciously close to another semi-trailer. The driver of this semi-trailer, which was loaded with cigarettes, reported this to the security personnel.

There have recently been a number of thefts from vehicles in lorry parks in the Milton Keynes area. The total value of stolen property to date, which is mainly cigarettes and alcohol, is in the region of £80,000. The same method of operation has been used each time. A lorry, with false number plates and nothing to identify the operator, is parked close to one carrying a valuable load. Access is gained to the latter through specially modified side panels on the former, which allow criminals working from within their lorry to get access to the side panels of the target vehicle and cut through them to get access to, and remove, the contents.

Larry Cuthbert and another man (for whom Kempstons does not act) were arrested in the transport café at the lorry park, after the other man was identified by security personnel as the driver of the suspect lorry. Initial analysis of CCTV coverage shows both men together at various locations within the lorry park.

It has been established that this lorry is displaying false numberplates. It also has no operator's licence identity disc or anything else to identify the operator. Cutting equipment was found in a box in the cab of the lorry. The side panels of the lorry had been modified, so that there was, in effect, a concealed sliding door.

Information is being assembled in relation to the other incidents, in particular details of witnesses who saw individuals considered likely to have been involved in these offences, with a view to carrying out identification procedures, and also collation of DNA evidence.

It is now midnight, and the police will not be in a position to make a decision whether to proceed to an interview at this stage or to release Larry Cuthbert under investigation until 10 a.m. next morning.

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As Kempstons has acted for Larry Cuthbert on previous occasions, you are aware that he does have convictions for similar offences over the past ten years. There have been a number of co-accused, but the pattern has been that Larry Cuthbert has been involved in the actual thefts, but the planning of the operation and arrangements for disposal of the proceeds have been undertaken by others. Insofar as these have been brought to justice, they appear to have strong links with a major organised crime group.

CASE TWO: SHAHID MASUD

This client, aged 22, has been charged with an offence of assault occasioning actual bodily harm. He is due to appear before the magistrates' court for his initial appearance.

A summary of the prosecution case, as contained in the Initial Details of the Prosecution Case (IDPC), is provided in **DOCUMENT 1**. Details of your instructions from Shahid Masud are contained in **DOCUMENT 2**.

CASE THREE: JANE PARKER

This client, aged 35, has just been arrested on suspicion of theft by way of shoplifting. She is an established client of the firm and you are aware that she has numerous convictions for similar offences and is currently on bail for another similar offence committed seven days ago. The officer in the case advises you that Jane Parker was clearly detected on CCTV within the store, removing items from display and concealing them about her person.

When Jane Parker was confronted by a security officer from the store where the offence took place, she spat at him and said that she was infected with Covid-19. You are aware that Jane Parker is of no fixed abode and has had long-standing problems with substance abuse. She is currently resident in accommodation provided as part of a rehabilitation scheme. You have spoken to the superintendent of this accommodation, who has indicated that, as long as there is no suggestion that Jane Parker has relapsed in relation to substance abuse, her accommodation remains available to her.

The value of the goods involved in the earlier offence is approximately £250 and that of the goods involved in the current offence is £120. In each case it is clothing, and in each case the store in question is a major national chain or department store. Jane Parker is in receipt of Universal Credit.

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DOCUMENT 1

**INITIAL DETAILS OF THE PROSECUTION CASE
RE CASE TWO: SHAHID MASUD**

On Tuesday, 4 May 2021, at approximately 9 p.m., an incident took place at 22 Twyford Grove, Bedford. Robert McNamara, aged 21, a resident at that address, answered the door and was attacked by two males. They grabbed hold of him and pulled him forward away from the door. One of the males struck Robert McNamara several times over the head and shoulders with a piece of wood, which Robert McNamara recognised as being a cricket stump. One blow also caught Robert McNamara on the hand as he tried to protect himself. The other male attempted to stab Robert McNamara with what appeared to be a kitchen knife, but it made contact with a mobile phone in Robert McNamara's shirt pocket and glanced off without causing him any injury. Robert McNamara was subsequently treated at Bedford General Hospital for a dislocated finger, and cuts and bruises to his face and neck. Two of these cuts required stitching with butterfly stitches.

Both assailants were wearing face coverings, and Robert McNamara has given a general description of them as being dark-skinned and Middle Eastern or South Asian in appearance. During the attack, the assailant with the cricket stump said: 'That will teach you to mess around with Farida'. This was said with a distinctive north-east English accent, and Robert McNamara has indicated that he would recognise the voice again.

Robert McNamara has confirmed that he knows of a girl who is the same age as him, named Farida Begum. They are both enrolled on the same apprenticeship programme, although working for different employers. They have met two or three times outside the apprenticeship programme itself, mainly to assist each other with the work necessary to achieve the objectives of the apprenticeship, and Robert McNamara has stressed that it is a friendly, and not in any sense a romantic relationship.

Following enquiries in the neighbourhood, two children – a brother and sister aged three and five respectively – have stated that they saw two men running along Twyford Grove at about 8 p.m. on 4 May 2021. They said this happened just after the ice cream van came round, and the owner of the van has stated that he was in Twyford Grove at about 7.55 pm.

One of the men was carrying a piece of wood. As they passed an area of waste ground opposite the house where the children were, they threw the piece of wood and something else over a wall onto the wasteland. They then got into a red car and drove off.

A subsequent search of this area resulted in the police taking possession of a cricket stump and a plastic bag containing a kitchen knife. Subsequent forensic examination of the cricket stump has allowed a DNA sample to be taken, which is appropriate for analysis. The DNA of Robert McNamara was found on the cricket stump, together with DNA contributed by at least three other males. There was no match to any DNA samples held on the police database. No usable DNA was found on the plastic bag or knife.

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Farida Begum has given a witness statement, confirming that she knows Robert McNamara but that they are just friends and there is no romantic relationship between them. She does, however, say that some of her male relatives and other members of the community have taken exception to this relationship and have warned her that she should not have anything more to do socially with Robert McNamara or any other non-Muslim. She identified her cousin Shahid Masud, who has recently moved to Bedford after living in Middlesbrough for a number of years, as one of those particularly insistent on this, together with her brother Imtiaz Akbar.

Imtiaz Akbar is registered as the keeper of a red Ford Focus motorcar.

Shahid Masud and Imtiaz Akbar were arrested on suspicion of causing actual bodily harm to Robert McNamara. DNA samples were taken from each of them and the samples were analysed. The sample from Shahid Masud matched the DNA found on the cricket stump to a probability of one in 1 million, although other DNA from at least two unknown males was also present, together with that of Robert McNamara. There was no match to any DNA record held by the police. Shahid Masud declined legal representation and gave a no comment interview. He was then charged with assaulting Robert McNamara occasioning him actual bodily harm. Imtiaz Akbar was released without charge.

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DOCUMENT 2

INSTRUCTIONS FROM SHAHID MASUD

Shahid Masud categorically denies being involved in the assault on Robert McNamara. He confirms that he moved to Bedford in August 2020, having lived in Middlesbrough for most of his life. You note that he speaks with a pronounced Teesside accent, which is quite different from the local accent in Bedford.

Shahid Masud states that he could not have been involved in the offence, because on the evening in question he was assisting a friend to demolish a garden shed. You have obtained a statement from Faisal Mohammed (DoB 21/02/1990), who confirms that Shahid Masud was assisting him to demolish a garden shed at his home, 14 Chichely Street, Newport Pagnell, which is about ten miles away from Twyford Grove. However, Faisal Mohammed states that they finished the job at about 7 p.m. and then spent about 30 minutes drinking tea and eating a snack. He says that Shahid Masud finally left his house somewhere between 7.30 and 7.45 p.m. Shahid Masud asserts that he returned to Bedford by bus, arriving at approximately 8.30 p.m., but he did not retain his bus ticket.

In relation to the DNA found on the cricket stump, Shahid Masud states that he is part of a group of young friends who regularly play informal games of cricket at a local park. They have a set of stumps and some other equipment, which is normally kept at the home of Imtiaz Akbar, as he lives closest to the park in question. Shahid Masud states that all of the group would at various times have handled all the stumps during the course of these games, and that that is why his DNA was found there.

Shahid Masud makes it clear to you that he has no wish to implicate or incriminate anyone else in the offence.

Shahid Masud tells you that he has no previous convictions, and you have confirmed this with the police. He is a student at the University of Bedfordshire and is working part-time. He receives £6,000 by way of student loan, and his gross earnings are £5,500. He has no savings and no dependants.

End of Case Study Materials