



June 2022  
Level 3  
CRIMINAL LITIGATION  
Subject Code L3-11

**THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES**

**UNIT 11 – 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 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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## **CASE STUDY MATERIALS**

### **ADVANCE INSTRUCTIONS TO CANDIDATES**

You are a trainee lawyer working for Akhil Khan, the lawyer in charge of the Criminal Litigation Department of Kempstons Solicitors, Manor House, Kempston, Bedford, MK42 7AB.

You have been asked to review the attached documents from the file of Debbie Carroll. The documents are:

**Document 1** Attendance note – Isabella French, Investigating Officer, re Debbie Carroll

**Document 2** Attendance note – Debbie Carroll

**Document 3** Transcript of tape-recorded interview (extract) with Debbie Carroll

**Document 4** Extract from the Magistrates' Court Sentencing Guidelines – criminal damage

**ATTENDANCE NOTE**

**Date: 2 June 2022**

**Client: Debbie Carroll**

**Matter: Criminal damage**

**Attended by: Akhil Khan – duty lawyer**

**Attendance: 4 units**

Akhil Khan was called to attend Debbie Carroll at Kempston East Police Station. Upon arrival, he spoke to the custody officer and asked to see the custody record. He then asked to speak with the Investigating Officer. The Investigating Officer, Isabella French, attended and confirmed the following:

At around 1:30am today we were called by Ainsley Tolly, a 40-year-old male who lives at 15 Parkhurst Drive in Kempston. He had called to report a disturbance at a house, 18 Parkhurst Drive, which is opposite his house. We took a statement of what happened as follows:

At approximately 1:25am, Ainsley Tolly was awake and reading a book as he was unable to sleep. He heard breaking glass and looked out of his bedroom window to see a female throwing bricks through the windows of the house opposite. Ainsley Tolly dialled 999 to report the incident. While he was on the phone to the police, he watched the female walk around the car parked on the driveway of the house opposite. He then saw her kick at the sides of the car.

As she turned to leave, Ainsley Tolly saw that he recognised the female, known to him as 'Debbie'. When she saw she was being watched, she ran away from the house, towards Kempston East Park. Ainsley Tolly described the female as 6 feet tall and wearing a bright pink jacket and white jeans or trousers. Ainsley Tolly believed that the female was a person who used to reside at number 18 Parkhurst Drive with the owner of the property (her former fiancé), Kelvin Burke. Ainsley Tolly knows her only as 'Debbie' and has never known her surname. Ainsley Tolly did not have a good view of 'Debbie' as it was dark and raining heavily but he thought he saw red patches on her trousers.

Officers attended the scene and found every window to the front of 18 Parkhurst Drive smashed, with several bricks lying inside the house. Officers also found the words, 'RIP Grace' in red spray paint on the front door and garage door of the house. They also saw that a car parked on the driveway had been badly scratched and several of the side panels were badly damaged.

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## **CASE STUDY MATERIALS**

Officers searched the immediate area but did not find anyone matching the description of the female given by Ainsley Tolly. Kelvin Burke, the owner of 18 Parkhurst Drive, returned home while officers were at the property and he gave an address and surname for his former fiancée, Debbie Carroll. Kelvin Burke informed officers that no one appeared to have been inside the property. Officers were dispatched to Debbie Carroll's current address where they found a female matching the description provided by Ainsley Tolly. She was angry, distraught and heavily intoxicated.

When asked her name, she confirmed it was Debbie Carroll. She was placed under arrest, searched and then brought into the police station, arriving at 2.30am.

During the search of Debbie Carroll, officers found a spray paint cannister containing red paint in her jacket pocket.

The value of the damage caused to the property of Kelvin Burke is estimated to be in excess of £5,000.

Previous convictions:

Criminal damage	27 July 2021
Criminal damage	15 May 2018

**ATTENDANCE NOTE**

**Date: 2 June 2022**

**Client: Debbie Carroll**

**Matter: Criminal damage**

**Attended by: Akhil Khan – duty lawyer**

**Attendance: 8 units**

Attending Debbie Carroll (DOB: 05/04/2000) on the matter of criminal damage, who confirmed as follows:

At about 01:00am today, I was walking home from the pub when I got a text message from my friend saying that my former fiancé, Kelvin Burke, had just announced his engagement to someone else and that it was all over social media. I was devastated. We had only split up three months ago and I was hoping we could get back together. I was gutted when I heard this news. I decided to walk to his house to talk to him about it and to see if I could win him back.

I walked up Parkhurst Drive and looked in through the front window of number 18 to see if he was home. I saw a picture of him and a woman, who I know to be Grace Judd, hanging on the wall. I lost the plot. I don't remember what happened. I was very drunk. I think I may have kicked Kelvin's car but I don't remember anything else. I saw someone staring at me from the house across the road. I panicked and ran home.

When I arrived home, I sat looking at social media pictures of Kelvin Burke and Grace Judd on my phone. The police arrived at my house, banging on the door. They asked me to confirm my name and date of birth. They cautioned me and told me I was being arrested on suspicion of criminal damage. They searched me on the front doorstep before they put me in the police car and brought me to this police station. During the search I was told to remove my jacket and my boots, which I did. After we arrived at the police station, I was left alone in the cell, for what seemed like ages, before I was interviewed. I saw no-one before I was taken for interview.

I have two criminal convictions, both for criminal damage. One was last year when I slashed the tyres on Kelvin Burke's car after I learned that he had cheated on me. The other was when I was 18 years old and I smashed a window of a house on our road.

I have had a rough couple of months. I have been drinking more heavily than usual since I lost my parents in a car accident recently and I have been struggling with grief since. I am getting help with my drinking as my grief counsellor referred me to a drug and alcohol service. I have a two-year-old daughter who lives with me.

***Turn over***

**TRANSCRIPT OF TAPE-RECORDED INTERVIEW (EXTRACT)  
KEMPSTON EAST POLICE**

INTERVIEW OF: Debbie Carroll

DATE OF BIRTH: 5 April 2000

ADDRESS: 222 Franklin Grove, Kempston

DATE: 2 June 2022

INTERVIEW AT: Kempston East Police Station

TIME COMMENCED: 7.45pm

TIME CONCLUDED: 8.00pm

DURATION OF INTERVIEW: 15 minutes

TAPE REFERENCE NO: 02/06/00/DC

INTERVIEWING OFFICERS: DS 111 Nadia Kaplinsky and DC 186 Phil Striker

OTHER PERSONS PRESENT: None

Signature of officer preparing record: Isabella French

**Tape times**

7.45pm

**PARTICULARS OF INTERVIEW**

Usual introductions were made and Debbie was cautioned and reminded of her legal rights.

The officer said Debbie had been arrested on suspicion of criminal damage at 18 Parkhurst Drive, Kempston.

Kaplinsky: Where were you at around 01.00am this morning?

Carroll: I was on my way home from the pub.

Kaplinsky: Did you go straight home?

Carroll: I don't want to answer that.

Striker: (standing up leaning towards Carroll) Are you sure you don't want to answer?

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Carroll: I don't want to answer the questions. I still feel drunk, and I can't remember much – it's all a bit hazy.

Striker: Did you pay a visit to your former fiancé, Kelvin Burke?

Carroll: No comment.

Striker: Did you smash the windows of Kelvin Burke's house?

Carroll: No comment.

Striker: (leaning even closer to Carroll and shouting) I think you should stop being difficult and just tell us what you did. You went to Kelvin's house, didn't you?

Carroll: I can't remember. I was drunk. I still feel drunk now. In fact, I think I might be sick. I don't feel very well at all.

Striker: Well, I think you're lying. I think you remember exactly what you did and I think you are just pretending to be drunk to avoid admitting what you did at Kelvin's house.

Kaplinsky: Just tell us Debbie and then we can all go home.

Carroll: (says nothing)

Striker: For the last time, just tell us what we all know already for the sake of the tape and then we can go back to our proper work. Just stop wasting everyone's time.

Carroll: I really don't feel well. The room is spinning, and I'm sweating. I think I'm overheating. Can someone open a window please and can I have a drink of water?

Striker: "Can someone open a window please?" Can you have a drink of water? This is a police interview, not a café. (Slams his notebook on the table.)

Carroll: (says nothing)

Kaplinsky: If you just tell us what we want to know Debbie, then you can get out of this room and get a drink.

Carroll: I want to get a drink and I think I need to see a doctor. I feel very dizzy and faint.

Striker: Just admit what you did earlier this evening and we can all just get out of this room. (Slams photos of smashed windows and the damaged car on the table and then throws the photos at Carroll.)

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Carroll: I have said, I don't remember what happened and I don't. I can't tell you if I can't remember.

Striker: Just admit that you smashed the windows of Kelvin Burke's house and spray painted 'RIP Grace' on the doors.

Carroll: I just want to get out of here. I'm not answering any questions. No comment to it all.

Kaplinsky: Well then it looks as if you won't be getting that drink anytime soon. Or going home anytime soon. I can wait all night. (Pours a glass of water for herself and Striker.)

Carroll: If I need to admit to things just to get a drink then I have no choice. I did it. Whatever you are saying I did, I did. Now can I get out of here please? I am going to be sick.

Interview terminated and Carroll charged with criminal damage. Carroll was refused police bail.

***Turn over***

**EXTRACT FROM MAGISTRATES' COURT SENTENCING GUIDELINES – CRIMINAL DAMAGE  
VALUE EXCEEDING £5000**

**Step 1 – Determining the offence category**

The court should determine the offence category with reference only to the factors in the tables below. In order to determine the category the court should assess **culpability** and **harm**. The level of **culpability** is determined by weighing up all the factors of the case. **Where there are characteristics present which fall under different levels of culpability, the court should balance these characteristics to reach a fair assessment of the offender's culpability.**

**Culpability demonstrated by one or more of the following**

**A – High culpability**

- High degree of planning or premeditation
- Revenge attack
- Intention to cause very serious damage to property
- Intention to create a high risk of injury to persons

**B – Medium culpability**

- Some planning
- Recklessness as to whether very serious damage caused to property
- Recklessness as to whether serious injury caused to persons
- Other cases that fall between categories A and C because:
  - Factors are present in A and C which balance each other out **and/or**
  - The offender's culpability falls between the factors described in A and C

**C – Lesser culpability**

- Little or no planning; offence committed on impulse
- Recklessness as to whether some damage to property caused
- Offender's responsibility substantially reduced by mental disorder or learning disability
- Involved through coercion, intimidation or exploitation

**Harm - The level of harm is assessed by weighing up all the factors of the case.**

**Category 1**

- Serious distress caused
- Serious consequential economic or social impact of offence
- High value of damage

**Category 2**

- Harm that falls between categories 1 and 3

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### Category 3

- No or minimal distress caused
- Low value damage

### Step 2 – Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

Where the offender is dependent on or has a propensity to misuse drugs or alcohol, which is **linked to the offending**, a community order with a drug rehabilitation requirement under [part 10](#), or an alcohol treatment requirement under [part 11](#), of Schedule 9 of the Sentencing Code may be a proper alternative to a short or moderate custodial sentence.

### Maximum: 10 years' custody (basic offence)

Offence category	A	B	C
<b>Category 1</b>	Starting point 1 year 6 months' custody Category range 6 months – 4 years' custody	Starting point 6 months' custody Category range High level community order – 1 year 6 months' custody	Starting point High level community order – Category range Medium level community order - 9 months' custody
<b>Category 2</b>	Starting point 6 months' custody Category range High level community order – 1 year 6 months' custody	Starting point High level community order Category range Medium level community order – 9 months' custody	Starting point Low level community order Category range Band C fine – High level community order
<b>Category 3</b>	Starting point High level community order Category range Medium level community order – 9 months' custody	Starting point Low level community order Category range Band C fine – high level community order	Starting point Band B fine Category range Discharge – low level community order

### Factors increasing seriousness

#### Statutory aggravating factors

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: disability, sexual orientation, or transgender identity

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### Other aggravating factors

- Damaged items of great value to the victim (whether economic, commercial, sentimental or personal value)
- Commission of offence whilst under the influence of alcohol or drugs
- Victim is particularly vulnerable
- Offence committed in a domestic context
- Damage caused to heritage and/or cultural assets
- Significant impact on emergency services or resources
- Established evidence of community/wider impact
- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision
- Offences taken into consideration

### Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Remorse
- Good character and/or exemplary conduct
- Serious medical condition requiring urgent, intensive or long-term treatment
- Age and/or lack of maturity
- Mental disorder or learning disability (where not taken into account at step one)
- Sole or primary carer for dependent relatives
- Determination and/or demonstration of steps having been taken to address addiction or offending behaviour

**Step 3 – Consider any other factors which indicate a reduction, such as assistance to the prosecution**

**Step 4 – Reduction for guilty pleas**

**End of Case Study Materials**