

The Law Society[®]

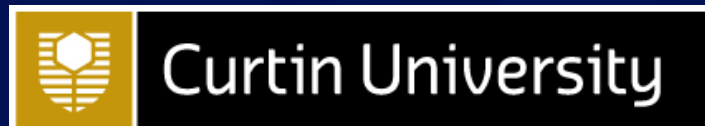
— OF WESTERN AUSTRALIA —

The **voice** of the **legal profession** in Western Australia

2021 Cluedunnit Kids Brief of Evidence

*Scenario created by Mrs Claire Rossi, Barrister and Solicitor,
Legal Aid Western Australia*

Proudly sponsored by



The *essential* membership for the legal profession

Overview

On 19 November 2020 in Flora Vale, Mr Lou Pin, the President of the Preservation Landcare And Nature Trust (PLANT), was doing some general gardening and picking spinach leaves at PLANT.

Around 4pm he heard a crashing noise coming from the shed where gardening tools, electrical and power equipment are stored and went to investigate.

He saw three young people near the shed. As he got nearer one of the young people turned around and sprayed Mr Pin with a fire extinguisher. The chemicals from the fire extinguisher irritated Mr Pin's eyes, nose, throat, lungs and skin and he was taken to hospital for treatment.

The following day Mr Pin advised the WA Police that a pair of rose cutters and a pair of gardening gloves had been stolen.

Three youth were identified outside the Snapdragon Deli as suspects:

- Jazz Min aged 14;
- Tom Arto aged 14; and
- Honey Suckle aged 14.

The three youth were cautioned and taken to the Flora Vale Police Station to be interviewed.

Each of the suspects participated in individual interviews and gave their names, their dates of birth and addresses with a responsible adult present:

- They each admitted to having been at the PLANT community garden on the 19 November 2020.
- They each admitted to going into the shed and knocking over some equipment.
- Jazz Minn admitted that she took the gloves and the cutters and put them into Honey Suckle's backpack.
- Jazz Minn admitted that the Wiz Fizz found in Honey Suckle's backpack was hers.
- None of them admitted to releasing the fire extinguisher onto Mr Lou Pin.

After giving their personal details and making some admissions, each suspect refused to say anything further as is their right.

The WA Police need your assistance to identify which of the suspects released the fire extinguisher onto Mr Lou Pin. That person will be the prime suspect.

Once identified, the prime suspect could be charged with Common Assault and Stealing.

The other two suspects could be charged with Stealing; *if a person is found to have taken an active part in the offence of stealing, in this case taking or moving the rose cutters and glove without permission, and not returning them or intending to keep them, s/he could be charged with stealing.*

As the suspects are aged between 10 and 17 years of age, these matters would proceed in the Children's Court of Western Australia.

Suspect 1: Jazz Minn



Suspect 2: Tom Arto



Suspect 3: **Honey Suckle**



The Victim: **Mr Lou Pin**



I am the President of the Preservation Landcare And Nature Trust (PLANT) on Marigold Street in Flora Vale.

PLANT has been running a community garden on Marigold Street for five years. Members of the local community come and grow vegetables and flowers. We sell half of the flowers and vegetable produce to raise funds to maintain the community garden, and to support a local charity called, 'Flourish'. 'Flourish' aims to help young people aged between 14 and 16 who have dropped out of school, get back into education and training programmes.

We often have young participants from 'Flourish' around the community garden helping out.

On 19 November 2020, at about 4pm in the afternoon, I was alone at the PLANT community garden. I was doing some general gardening and picking spinach leaves which were ready to sell. While I was cutting the spinach, I heard a crashing noise coming from the storage area where we keep our gardening products, tools, electrical and power equipment such as a hedge cutter and a leaf blower. It sounded as if something had collapsed or fallen in the shed.

I put down my trowel and went across the garden to investigate. As I got closer to the shed, I could see three young people near the shed. They had their backs to me. I shouted out, "Oi! What are you doing?" With that, two of the young people ran off in the direction of Marigold Road and disappeared.

I walked towards the third young person who had their back to me. I couldn't tell whether the young person was a male or female, but they were wearing a black cap. The person came up to about my shoulder. I am 178cm tall.

As I approached, the young person suddenly turned around, and before I could get a good look at him or her, the young person sprayed a fire extinguisher at me. A powder went all over me. The young person took off before I could wipe the powder from my face. The powder got into my eyes and it really stung.

By the time I could see again, the young person had gone. I managed to get hold of my mobile phone and call emergency services for help.

I didn't get a very good look at the three young people. I didn't see their faces, but when two of them ran away, I saw that one of them had long red hair. I think that all of them were wearing blue jeans and sneakers. Two of them were wearing black caps. The person who sprayed me was wearing a black cap.

The ambulance and police arrived within about 10 minutes of my call to the emergency services. I was treated for irritation to my nose, throat, and lungs. I was very short of breath and initially I couldn't stop coughing. The ambulance officers took me to the Flora Vale Medical Centre where I was given oxygen. My eyes and the skin on my arms were washed and treated for soreness and irritation caused by the powder from the fire extinguisher.

The next day I went back to the PLANT community garden with a police officer and I checked all of the equipment. We were missing a pair of rose cutters. It had green handles and silver blades. We were also missing a pair of gardening gloves.

When I checked our CCTV security system at PLANT I found that the hard drive of the system was full and it had stopped recording on 17 November 2020.

Sergeant Arty Choke



I am a Sergeant assigned to the Flora Vale Police Station.

On 19 November 2020 I was assisting with a mobile Random Breath Testing (RBT) unit on Marigold Street in Flora Vale. A call came through for emergency assistance at the PLANT community garden. As I was close by, I asked my colleague Constable Sal Ari to accompany me and we rode our police motor bikes to the PLANT garden to provide immediate assistance.

When I arrived at the community garden, we found Lou Pin near the storage shed. He was covered in a powdery substance and struggling to breathe. I know Mr Pin as I regularly do community liaison work with kids from Flourish at the garden. Mr Pin told us that he had been sprayed with a fire extinguisher. Constable Ari assisted Mr Pin to wash the powder from his face with water from a nearby garden hose and I did a search through the garden.

I searched the area around the community garden shed and observed a small fire extinguisher in a garden bed. There was a fine powdery dust on the ground and on the surrounding area where Mr Pin had been sprayed. I observed that there was a fresh footprint in the dust.

I immediately called for a forensic officer to attend the scene.

An ambulance arrived and took Mr Pin away for medical treatment.

Constable Sal Ari secured the scene and then waited for the forensic officer to attend while I conducted a search of the local area to see whether I could find anyone who may have been involved in the incident at PLANT.

I rode along Marigold Street in a westerly direction for about 200m and then turned left into Tulip Way. I rode about 300m along Tulip Way to the Snapdragon Deli which is on the corner of Tulip Way and Gerbera Lane.

There were three young people standing outside the Snapdragon Deli. I pulled over and spoke to the three young people. There were two females and a male. One of them was eating something. They identified themselves as Jazz Minn, Tom Arto and Honey Suckle. I recognised Jazz Minn from the Flourish group.

Tom Arto was wearing a black cap, blue jeans and a dark blue t shirt. Jazz Minn was wearing a black cap, blue jeans and a black t-shirt. Honey Suckle was wearing blue jeans and a white t-shirt.

I called Constable Ari who arrived within a few minutes.

Honey Suckle was carrying a backpack. I had reasonable suspicion that Ms Suckle was involved in the incident at PLANT and searched her backpack. I found a half-eaten packet of Wizz Fizz, a pair of gardening cutters and a pair of gloves in the backpack. I asked Honey whom these items belonged to, but she made no comment.

I then noticed that Tom Arto's jeans had a fine powder on them. There was also powder on the front of Jazz Minn's t-shirt.

Constable Ari and I called for further police transport and we took the three young people down to the police station.

At the police station, I took Tom Arto's jeans and bagged them for forensic testing. I labelled the jeans exhibit AC01. I also took Jazz Minn's t-shirt and bagged it for forensic testing. I labelled the t-shirt exhibit AC02.

I seized the shoes of each young person and photographed the soles of the shoes. The photographs of the shoes were collated into exhibit AC06 and were labelled as follows:

- Jazz Minn is AC03
- Tom Arto is AC04
- Honey Suckle is AC05

There was no visible presence of powder on the soles of any of the shoes. The seized shoes were placed in evidence bags and labelled as follows:

- Jazz Minn - W00191119
- Tom Arto - W00191120
- Honey Suckle - W0019121

I photographed the contents of Honey Suckle's backpack and labelled the exhibit AC10.

At the station the three young people were individually interviewed and gave their name, date of birth and address. Each of them made admissions under caution with a responsible adult present:

- They each admitted to having been at the PLANT community garden on the 19 November 2020.
- They each admitted to going into the shed and knocking over some equipment.
- Jazz Minn admitted that she took the gloves and the rose cutters and put them into Honey Suckle's backpack.
- Jazz Minn admitted that the Wiz Fizz found in Honey Suckle's backpack was hers.
- None of them admitted to releasing the fire extinguisher onto Lou Pin.

None of the three suspects answered any further questions as is their right.

All three young people were fingerprinted and had their hands swabbed.

Constable Sal Ari



I am a Police Constable assigned to the Flora Vale Police Station.

On 19 November 2020, I was assisting with a mobile RBT unit on Marigold Street in Flora Vale. A call came through for emergency assistance at the PLANT community garden. I was asked by my colleague Sergeant Arty Choke to accompany him to the PLANT Community Garden. We rode our police motor bikes to the PLANT to provide immediate assistance.

When we arrived at the community garden, we found Mr Lou Pin near the storage shed. He was covered in a powdery substance and struggling to breathe. He told me that he had been sprayed with a fire extinguisher. I immediately assisted Mr Pin to wash the powder from his face with water from a nearby garden hose while Sergeant Choke did a search through the community garden.

I stayed with Mr Pin and assisted him until an ambulance arrived and took Mr Pin away for medical treatment.

At the direction of Sergeant Choke, I secured the scene and then waited for the forensic officer to attend. Sergeant Choke left to conduct a search of the local area.

The forensics officer, Senior Constable Fran Gipanni, arrived within a few minutes.

I then received a call from Sergeant Choke to attend at the Snapdragon Deli on the corner of Tulip Way and Gerbera Lane. When I arrived a few minutes later Sergeant Choke was speaking to the three young people. They identified themselves as Jazz Minn, Tom Arto and Honey Suckle.

Tom Arto was wearing a black cap, blue jeans and a dark blue t shirt. Jazz Minn was wearing a black cap, blue jeans and a black t-shirt. Honey Suckle was wearing blue jeans and a white t-shirt.

Honey Suckle was carrying a backpack. Sergeant Choke advised Ms Suckle that he had reasonable grounds to suspect she was involved in the incident at PLANT and searched the backpack. I observed him to find a half-eaten packet of Wizz Fizz, a pair of rose cutters and a pair of gardening gloves in the backpack. Sgt Choke asked Honey who these items belonged to and she made no comment.

Sergeant Choke drew my attention to Tom Arto's jeans which had a fine powder on them. I noted that there was also powder on the front of Jazz Minn's t-shirt.

Sergeant Choke asked me to call for further police transport. I advised the suspects that they were being arrested, cautioned them as to their rights and asked if they wanted me to contact a responsible adult for them. Each young person confirmed that they understood their rights and each gave the contact details of a responsible adult to contact. We then took the three young people to the police station and took fingerprints and hand swabs from each suspect.

I took two hand swabs from each young person. I labelled the hand swabs of Jazz Minn exhibit SA01 (left hand) and exhibit SA02 (right hand). I labelled the hand swabs of Tom Arto exhibit SA03 (left hand) and exhibit SA04 (right hand). I labelled the hand swabs of Honey Suckle exhibit SA05 (left hand) and exhibit SA06 (right hand). I collated all of the swabs into a combined exhibit labelled SA07.

I gave the six hand swabs to Senior Constable Fran Gipanni for testing.

Constable Fran Gipanni



I am a Senior Constable attached to the Flora Vale Police Forensic Unit.

On 19 November 2020 I attended the PLANT community garden. On arrival I met Constable Sal Ari. My attention was drawn to a fire extinguisher in a garden bed. I took a photo of the fire extinguisher and bagged it for forensic testing. The photograph of the fire extinguisher in situ is exhibit FG01. The fire extinguisher was placed into an evidence bag labelled W0019122.

I was then shown what appeared to be a recent footprint in a fine dust. I took a photograph of the footprint. The photograph of the footprint is exhibit FG02.

I took a sample of the soil which contained the fine powder. I labelled this exhibit FG03. I tested the soil sample and reported the findings in FG04.

I received exhibits AC01 and AC02 from Sergeant Arty Choke. I completed forensic testing on the powder found on these exhibits. I compiled a report of my findings and labelled the reports FG05 – Analysis of Tom Arto's jeans and FG06 – Analysis of Honey Suckle's t-shirt.

I received exhibits SA01, SA02, SA03, SA04, SA05 and SA06 from Constable Sal Ari. I completed forensic testing on these exhibits and labelled the report FG07.

I analysed the fire extinguisher in the evidence bag labelled W0019122 for fingerprints. I compiled a report and labelled it FG08.

I analysed exhibit FG02 and compared that shoe print with exhibits AC03-AC05. I compiled a report and labelled it FG09.

I also swabbed exhibits AC03-AC05. I collated my findings and labelled this report FG10.

Cluedunnit Kids: **Six Questions**

Each school can, and should, ask 6 questions relevant to the case.

Schools running an in-school competition will have to share the questions across the in-school teams as there are only 6 questions per school. The questions will help the students get additional evidence, reports, statements, photos etc.

Your six questions are really important. If you ask the right questions you will be able to eliminate suspects and this will help to identify the prime suspect.



Cluedunnit Kids: **Creative Presentation**

Using the evidence gathered, after asking your 6 questions, each team then plans, creates and submits their findings in a creative way of their choosing. This is often in an electronic format (video interviews, video songs, video song + dance, animations, Powerpoint files, video re-enactment, news report) or written format (board game, booklet, comic, poster, pop up book).

Your presentation will identify the prime suspect with supporting evidence as well as details on how the other suspects have been eliminated.

Students should be creative whilst incorporating all of the evidence you have collected.

The presentation should demonstrate legal principles: Presumption of innocence, Burden of proof and Standard of proof.

Appropriate sentencing options should be suggested in the presentation.

Limit the presentation to a maximum of 5-7 minutes.

Each school can only submit one entry for judging. Schools with more than one team should run an in-school competition and the winning entry of the in-school competition is then submitted for judging.

Cluedunnit Kids: **Presumption of Innocence**

The Cluedunnit Kids suspects are presumed innocent until proven guilty.

The Brief of Evidence has been prepared so that the standard of proof, beyond reasonable doubt, has been met.

In the creative presentation, Cluedunnit Kids teams should accept that the standard of proof has been met and that the prime suspect will either plead guilty or will be found guilty after trial.

As the other suspects have made admissions, Cluedunnit Kids teams should accept that they will plead guilty to the other charges.

It is important that appropriate sentencing options be included in the creative presentation (see Charges and Sentencing Options).