

## *Age Matters: Strategies for Representing Juvenile in Adult Court – Hypothetical*

Client: David Domino, 15 year old

Charges: Attempt murder and aggravated battery with a firearm

Jurisdiction: Automatic transfer / direct file into adult court due to charges

### Allegations

The State alleges that on Friday, April 6, 2012, outside of Haverton H.S., David fired three shots at Brian Holter (complaining witness) striking him once in the upper arm. It is alleged that just before he fired the shots, David yelled out “All Mighty Nation”. Two co-defendants, Anthony (16) and Jason (18) were charged as accomplices. The State alleges that the offense was committed in the course of gang activity (an enhancement).

### Police reports

The complaining witness (CW) told police the shooter was a boy from school who is known as Double D. The Monday after the shooting, detectives created a photo array, which included a picture of David. The CW, who was recovering at home, positively identified David as the boy who shot him. The detectives contacted the school principal, who determined that David was in class. The officers then contacted “School Resource Officers” and asked them to remove David from class and take him to the principal’s office. On the way to the office, David admitted to the SROs that he shot the CW, saying I was tired homeboy messing with me.”

The detectives met the SROs and principal at the school. After being advised of his rights, David signed a written waiver and made an admission to the officers, stating, “that dude was messing with me all week. I wanted to make him stop.” He admitted to being in a gang. David refused to answer any questions about where he got the gun or who was with him. He declined the offer to have a written or recorded statement. Detectives concluded the interview after David asked if he could talk to his parents or a lawyer and transported him to headquarters for processing.

### Prior history

- 1) Possession of marijuana, under 25 grams, probation, terminated satisfactorily (2010)
- 2) Aggravated assault arrest (2/12) with 4 other boys, state did not file charges
- 3) Disorderly conduct (3/12) arrest (with 2 others), state did not file charges

## Interview with David

David is a freshman; he started high school the previous fall. He was held back in 6<sup>th</sup> grade. He is passing most of his classes. He did not have any major disciplinary problems in elementary school. He did OK the first semester of high school, but had been getting in some trouble due to cutting class to hang out with his friends. He joined a gang at the beginning of the year because, “it is just easier to be associated”. He hasn’t really had to do anything for the gang, just hang out and represent. One time he was told to hold a gun over a weekend. He hid it in his sock drawer and returned it when he was instructed to do so. His co-defendants are in the same gang. Anthony has been in since he was a young kid and has a pretty tough reputation. Jason is a high ranking member (“you do not disobey his orders”).

The CW is a member of a rival gang, but the gangs are not at war right now. Co-D Anthony told David that CW Brian was talking smack about him (David) in homeroom. Anthony told him that the CW had said, “that boy is messing with the wrong lady; I am gonna get that bitch punk.” David said he had no idea what the CW was talking about, but thought it might have something to do with some girls he was hanging out with over the break. Anthony told David about additional threats two more times that week. He also told David that Anthony had shot some dude the previous year over a girl. Anthony kept telling David that he better watch his back.

The day of the shooting, David was walking with Anthony in the halls between classes. The CW shoulder bumped him and then shoved him up against the lockers. Before he could say anything, a teacher came out of a classroom and the CW walked away. When school got out, Jason was waiting outside. He handed David a gun and said, “Better get him before he gets you”. Moments later, the CW walked out of school, Anthony said, “shoot him man” or something like that. As David raised the gun, Anthony yelled something and David pulled the trigger. He does not remember how many times he fired. Jason and Anthony grabbed him and they all took off running.

David went to school the Monday after the shooting. During third period, school officers came into his classroom and said they needed David to come with them. As they were walking down the hallway, one of the officers said “I never took you for a killer. They got you cold. Why would you go and shoot someone right outside of school?” David response was, “I just wanted him to stop messing with me.”

When they arrived in the principal’s office, two detectives were sitting with the principal. The principal said to David, “I want you to cooperate because it will make things a lot easier for you.” The SROs stayed in the room while the detectives read David a paper and had him sign it. They asked him what happened and he told them the same thing he told the SROs’ – that the CW had been messing with him all week and he wanted him to stop. The detectives kept asking David where he got the gun and who was with him. David refused to answer, stating “man, I know what kind of sanction I am going to get if I narc”. After a while, David asked if he could talk to his parents or a lawyer. The detectives then took him to the police station.