UNIVERSITY OF KENTUCKY COLLEGE OF LAW

Criminal Law Final Examination

Allen Able, Bruce Buehler and Chris Clemmons were members of the Night Saints street gang. They needed money for various of their projects and they decided on robbery as the quickest method. They decided to wait down in the subway until it was pretty much deserted, then rob the most prosperous-looking person around. They agreed that Chris would get a toy gun to pull out and frighten the victim, in case the victim was uncooperative.

The next night the three Saints were set to go. They stuck around down in the subway until there were just four people left. They approached two of the people, a man and a woman standing holding hands, and demanded their money and jewelry. The couple just stood there, so Chris pulled out the gun and waved it at them, again demanding money. The man made a move towards Chris. Chris fired the gun, which discharged real bullets. The man was killed and the woman was injured. The three Night Saints ran off. The two other persons who were waiting for a train ran off as well.

When the three Night Saints ran off, they ran to their clubhouse, a deserted warehouse on the west side of town. Once inside, Able and Buehler grabbed Clemmons and started screaming about the gun and bullets. Clemmons told them he had decided a real gun would be much more useful than a toy gun, so he brought a real gun. Able was hysterical and as the argument escalated, Able beat Clemmons severely as Buehler watched.

Meanwhile, the two other persons in the subway reported the crime to the police. The female victim was hospitalized. The two witnesses identified the three Night Saints from photographs, and the police arrested them the next day.

In this jurisdiction, assume robbery is defined as the intentional taking of property from another without consent by force or threat of force.

Discuss the criminal liability of the three Night Saints.

Sam Dolan was asleep in his home one night. He and his friends had attended a party earlier that night and Dolan had been drunk. Dolan was awakened by a noise. He stumbled out of bed and found a set of double doors on the side of his house pushed in about eight inches and kept from opening completely by an attached chain. Upon looking out a window he saw an unknown individual come out of an alleyway adjacent to his house and proceed to a house across the street. At that house the individual started fooling around with the windows. Then the person ran into an alleyway as an automobile came down the street. Shortly thereafter Dolan saw this same person monkeying around the windows of another house across the street. Dolan sent his son out the back door of his home to notify
the police. He then secured his rifle, opened the front door and went out on the doorstep. The prowler started to run, and Dolan yelled "Halt or I'll shoot." When the prowler continued to run, Dolan fired a shot into the air to frighten him. The bullet hit the prowler and injured him. What crime(s) could Dolan be charged with? What defenses might he assert?