

**QUESTION 6 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II**

Late one night, Dan Defendant was enjoying a beer at his neighborhood pub, when Andy Aggressor entered the bar and accused Dan of having an affair with Andy's spouse. Andy punched Dan several times in the head and face. Then, Andy pulled a hunting knife out of his coat and told Dan he intended to slit Dan's throat. Dan ran out of the pub and Andy followed. Andy got into his car and drove toward Dan at a high rate of speed. Dan ran behind the bar, into an alley and jumped over a fence and into his neighbor's yard. Dan went into his home, where he lived with his brother Dave. Dan possessed two unregistered handguns that were hidden in his home. Dan loaded the guns and went into his garage where he placed one gun underneath the driver seat and one gun underneath the passenger seat of Dave's car. Dan then went back into his home to inform Dave that they had to leave their home immediately because Andy Aggressor had beat him, pulled a knife on him and threatened to kill him. Dan informed Dave that an enraged Andy would be coming to their home at any moment to carry out his threat to kill Dan.

Dan had placed the two loaded guns in Dave's car so that both Dan and Dave would have a weapon with which to defend themselves should Andy confront them. However, Dan did not tell Dave that he had placed the guns in his car because Dan knew that Dave, who was on probation at the time, would not allow Dan to possess any weapon in his car. Neither Dan nor Dave had a permit to carry a concealed weapon. Dave started his car and, with Dan in the passenger seat, drove at an excessively high speed out of his garage and down his residential street. Within seconds, a car parked on the street turned on its headlights and pulled out behind Dave. Dan, fearful that Andy was operating the car following them, reached under the passenger seat, pulled out his gun and told Dave, "I hope we won't need to use this." The car trailing Dave turned out to be a police car. Almost immediately after Dan pulled his gun out from under his seat, the police car activated its overhead flashers and pulled Dave over. Dan stuffed his gun back underneath his seat as Dave pulled to the side of the road.

Upon checking Dave's identification, the officer making the stop discovered that Dave had an outstanding arrest warrant issued for Dave's failure to appear in court on a traffic violation. The officer then checked Dan's identification and discovered that Dan had an outstanding arrest warrant arising from Dan's failure to pay child support. Upon arresting both Dan and Dave, the officer conducted a lawful search of Dave's car incidental to the arrest of its occupants and

the two guns were discovered and seized. Dan and Dave were each charged with carrying a concealed weapon.

**Discuss the charges and any defenses each defendant may assert.**

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