



OFFICE OF THE PROSECUTING ATTORNEY  
24<sup>TH</sup> JUDICIAL CIRCUIT  
HAMILTON COUNTY, INDIANA

## **PRESS RELEASE**

Tuesday, June 5, 2018

Due to the significant number of media inquiries, the Prosecuting Attorney provides this release relating to the shooting incident that occurred at Noblesville West Middle School on Friday, May 25<sup>th</sup>.

While the investigation into the shooting and possible related crimes remains ongoing, today the Hamilton County Prosecuting Attorney's Office filed a petition alleging that David J. Moore, age 13, is a delinquent child. Specifically, the petition alleges that Mr. Moore committed acts that would be felony or misdemeanor crimes if committed by an adult:

1. Attempted Murder, a Level 1 felony;
2. Attempted Murder, a Level 1 felony;
3. Aggravated Battery, a Level 3 felony;
4. Aggravated Battery, a Level 3 felony;
5. Battery by Means of a Deadly Weapon, a Level 5 felony;
6. Battery by Means of a Deadly Weapon, a Level 5 felony;
7. Possession of a Firearm on School Property, a Level 6 felony;
8. Possession of a Firearm on School Property, a Level 6 felony;
9. Dangerous Possession of a Firearm, a Class A misdemeanor;
10. Dangerous Possession of a Firearm, a Class A misdemeanor; and
11. Possession of a Knife on School Property, a Class B misdemeanor.

The fact that a child has been alleged to be delinquent is merely an accusation, and the child is presumed innocent until and unless proven delinquent (guilty).

Moore's initial hearing has been set for Monday, June 11, 2018 at 8:30 a.m. A trial date will be established during that hearing.

As a Prosecuting Attorney I do not make the laws applicable to criminal or juvenile cases. My office works diligently to seek justice and enforce the laws as they exist. Under current Indiana law, this case is not eligible to be heard in adult court despite the heinous or aggravated nature of the

alleged acts and despite the serious harm caused. The legislature's several statutory provisions address circumstances in which children *may* or *must* have their cases heard in adult court. First, several specific offenses, including attempted murder, are known colloquially as "direct file" offenses because charges are filed directly into an adult court, *but this provision applies only to children who are sixteen (16) years of age or older. See I.C. § 31-30-1-4(a).* Second, certain levels of felonies, including Level 1 felonies, are eligible for waiver, which is a process whereby the Court may permit the matter to be handled within the adult system, *but this provision also applies only to children who are sixteen (16) years of age or older. See I.C. § 31-30-3-5.* Third, "heinous or aggravated acts" that would constitute felonies are eligible for waiver, *but this provision applies only to children who are fourteen (14) years of age or older. See I.C. § 31-30-3-2(a).* Fourth, other felonies are eligible for waiver, *but this provision applies only to children who are sixteen (16) years of age or older. See I.C. § 31-30-3-3.* Finally, an act constituting murder is eligible for waiver for children who are twelve (12) years of age or older, *but this statute has been expressly interpreted to not include an act constituting attempted murder. See I.C. § 31-30-3-4; P.G. v. State, 669 N.E.2d 443 (Ind. Ct. App. 1996).*

Under the above-referenced current laws, a child thirteen (13) years of age can only be waived to adult court if the attempt to murder an individual or individuals is actually successful. In this case, due to the heroic and extraordinary efforts of many people, including teachers, a school nurse, the Noblesville Police Department School Resource Officer, and many other first responders and medical providers, thankfully, Jason Seaman and Ella Whistler survived. This blessing results in this matter remaining in the juvenile justice system under our current laws, a result which will, I am sure, be very troubling and unsatisfying for many people.

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*NOTE:* Under Indiana Code 31-39-2-8, the records of the juvenile court are available without a court order to the public, subject to certain restrictions. Accordingly, such documents may be obtained from the court.

Given the express constraints of statutes in juvenile cases and the Indiana Rules of Professional Conduct, no further statements or details concerning this matter will be provided beyond those permitted by statute and contained in this press release until disposition of this matter occurs.