



Defending Against Physical Attack

An Interview with Guy Rossi

by Gila Hayes

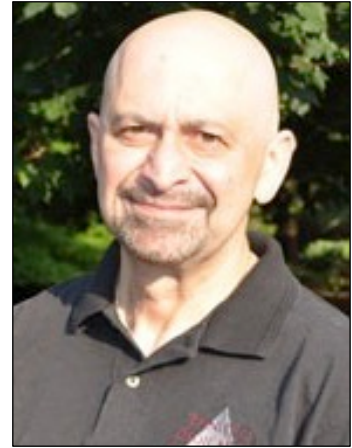
In the December, 2015 edition of this online journal, we established the danger of death from physical attack, learning about the results of blunt force trauma from emergency medicine physician Robert A. Margulies, MD, MPH, FACEP. We undertook this study because our criminal justice system has not always clearly understood the issue of use of deadly force to defend against the likelihood of death from serious physical injuries suffered in an empty-hand assault. The Network is committed to educating members about this topic to better inform their self-defense decisions to not only survive the attack, but the legal aftermath, as well.

Although the duties and responsibilities differ, armed citizens and law enforcement professionals face the same criminals using the same force options to commit crimes of violence. Having established the seriousness of injury from physical violence through Dr. Margulies' instruction last month, we move forward this month to consider how law enforcement is taught to counter unarmed attack. Our instructor for this element is Guy Rossi, an internationally recognized law enforcement trainer specializing in defensive tactics instruction.

Drawing on his background in law enforcement, in patrol, as a trainer and as a Force Science Analyst, Guy Rossi has been qualified as an expert witness on use of force by law enforcement officers in various state and federal courts. Now retired from active law enforcement, Mr. Rossi provides consultation and testimony regarding use of force and risk management regarding law enforcement policies and training as well as judicious use of force by law-abiding citizens.

Guy Rossi pioneered the Defensive Tactics Instructor Program recognized by New York State Department of Criminal Justice Services for instructor training for the Public Safety Training Facility of Monroe County, NY. Additionally, he created the Force Matrix Continuum and training manuals that continue to be used as a foundation of instruction for recruits and police officers for that region. He holds an MA in Adult Education and

has developed and instructed hundreds of cognitive and psychomotor skill related programs. Let's switch now to our Q & A format and learn from Guy Rossi in his own words.



eJournal: Thank you for speaking with us about this important issue. I remember being your student many years ago, back at the National Law Enforcement Training Center, so it's great to reconnect with you like this. I'm looking forward to learning from you again, this time on the subject of defending against physical attack. If countering an assailant using purely physical force, how can we justify using a gun in self defense?

Rossi: There are different levels of force. You can talk about someone trying to put you in a wristlock or arm lock, or wrestling with you, or trying to push you away in a defensive type of force—or there is active, assaultive behavior where the person is trying to injure you or kill you. A lot of time people react at a lower level of force than the level they are encountering. If somebody punches you upside the head, you shouldn't try to wrestle this person! He is just going to pound you into oblivion.

What people forget is our greatest enemy is the ground. This was an issue in the Zimmerman case. Once we hit the ground and somebody pounds your head off that pavement, maybe the first time won't kill you, but the second or third time is definitely going to knock your lights out. If you are armed and the person knows you are armed, now you have an additional issue! Are they going to try to grab that gun or not?

We can't predict another's actions, but you are the person that has got to justify what you did. A jury cannot
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take away your perception. They cannot take away your perception.

They can argue all day long about what other people said, but they cannot argue what you believed at that time. Did you believe that you were facing the imminent use of deadly physical force? Did you believe with all your heart that you were not going to be able to survive the incident or that it was going to cause you serious, protracted physical injury or death? No one has the right to put you forever in a wheel chair or to change your life in that way. No one!

The reality of it is that we have to survive. We've got to do it in a way in which we can defend ourselves both physically and in the aftermath of potential criminal or civil proceedings.

eJournal: You cited various levels of force, from a controlling technique like a wristlock or a defensive effort like a shove, but then you discussed assaultive behavior that leads us to conclude that deadly physical force against us is imminent. In a rapidly evolving conflict, how can we gauge our defensive choices so our force is proportional to the level of force used against us?

Rossi: In New York State, a person can use physical force to effect an arrest or to protect themselves or a third person against physical force. They can use deadly physical force when there is an imminent threat of deadly physical force. The law in our state and in many states says a citizen may use a reasonable amount of force to either effect an arrest, protect himself or a third person, whether it is physical force or deadly physical force. The problem is that there is a lot to consider between just talking to somebody and punching somebody's lights out, or in between kicking somebody, trying to get away from them, and/or shooting them.

So, what is reasonable? Who decides what's reasonable? A jury of your peers? Please! The reality is, there are not going to be 12 little bald-headed Italian guys who will be there listening to my testimony. Ain't going to happen! Who decides what is reasonable and what is not? That is why we have good attorneys who understand use of force, that's why we have experts. A lot of my work more and more is in the area of testifying as to what IS reasonable.

eJournal: You pointed out the big differences between talking, punching or kicking or shooting. How are police taught to determine the severity of an attack and gauge their response accordingly?

Rossi: Number one, we are reading this person's body language, because body language is critical. There is a higher standard for police officers, but police officers are really nothing more than highly trained civilians. A lot of people don't see that, but that is what police are. They have mastered the ability to read people's body language. That is something that everybody needs to learn how to do.

How is the subject standing? Is he staring through you? Are his pupils wide and dilated? Is he sweating? Is he pacing? Is he nervous? Is he looking over your shoulder as he approaches so you turn and look and now he suckers you? All these issues are things that you have to read within about ten feet of encroachment. Police do that subconsciously every day. So, being able to read body language is critical.

80% of our language is portrayed through the body. My son is a professional actor in New York City. He is trained to cry on command; to blush on command. The normal human being can't do that. When you ask somebody how they're feeling, and they say [voiced sarcastically], "I'm frickin' great," well their body language is saying one thing, yet what is coming out of their mouth is saying another.

Whenever there is a disconnect between what people are saying verbally and what they're displaying physically, we ALWAYS trust the body language first. Most of us cannot stop body language. We are not trained well enough like my son to not act nervous or not blush in a situation. Our natural reaction to things like the eyebrows frowning over the top of the eyes, or a nervous twitch in the eye or hand, or looking a certain way, looking around you – all these things are issues that you have to take into account.

Watch the pre-cursors to an assault. People will drop their center of balance before they strike. They may be standing slightly bladed to you, and often they will move their dominant foot back a step. The last thing you'll see before the attack is either a shoulder shrug or the body dropping its center of balance and then...here comes the sucker punch!

I used to teach blocking, by saying, "OK, the bad guy is looking at you, and they're going to throw this punch, and you're going to block." I no longer look at people when I teach them how to block, because 70 or 80 percent of the time assaults occur, especially with males,

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they use a sucker punch. They look at the target, they look away, they step their dominant foot to the rear, line up their hips, then comes the punch from left field!

When you're communicating with somebody, you look at their eyes to tell whether they're lying to you or not. The problem is, once somebody starts swinging or reaches out to grab you, their eyes can't hurt you, right? At that point, if we have four to six feet of distance between us and the bad guy, we drop our eyesight down to where the 5X would be on a target. Now we see the hands and feet peripherally.

So if you're getting the proverbial verbal cue from the bad guy, "Up yours! I'm gonna rip your face off," and the person is demonstrating that level of psychological intimidation at you, forget about looking in their eyes, because you don't care whether they're lying any more! Take it as fact that they are thinking about assaulting you! Make distance of four to six feet and drop your eyesight to 5X where you can see their hands and feet peripherally.



Drop your sight to the 5X in the circle when civilized communication ceases or threats are made.

At this point, we're thinking about a possible fight, or the ability to disengage, run away or retreat. So we're going to drop our eyes down to that 5X level, and the neat thing is that by doing that, if all of a sudden this guy comes out with a whole handful of knife, guess where my eyes are? Right where my front sight's going to end up, which is right where my bullet's going to go.

We're talking about looking at their body, looking at their stance. Today, we have to also worry about someone gazing down at our legs—a target glance to our legs is dangerous to us. The people that are trained in MMA-style fighting are scary. If a person looks at my legs and they move their shoulder down toward the ground, that means they are going to tackle me. If they're going to take my legs out from underneath me, the biggest thing I need to fear is a ground and pound situation.

There was a National Geographic special on martial arts, and it showed that while a punch to the head was obviously injurious, you maximize that blow almost seven times if you take that same person and limit their ability to move their neck or head away because their head is against the ground. So literally, that is deadly force. For example, punching a watermelon on a table

would likely just dent it. Place that watermelon against the ground and punch it and a five-year old could put their fist through it. The counter pressure of the ground is a force multiplier.

Most of us could take a punch upside the head, at least one, but the ground and pound is something that is deadly physical force. Today, you are seeing police officers respond to that by using a higher level of physical tactics if they can do it and if they can't, they're literally using a firearm. It is unfortunate, but none of us are professional fighters.

Ground and pound is deadly force. The average Joe out there is not equipped to deal with it. Trying to get your weapon out when somebody's straddling you and trying to punch your lights out at the same time is very difficult. When you bring that gun up to your center to use it, and that person grabs on to it, the next thing you know, you have doubled your problem. It becomes very complicated.

eJournal: But concluding that someone intends to put you on the ground and fighting to prevent that is very serious! How can we communicate our perceptions of danger if facing a physical assault and give accurate testimony – be that the statements given first responders that make it into a police report or courtroom testimony?

Rossi: Perceptions of danger are critical. "Perceptions are reality" is a statement that I live by. In talking to attorneys that represent police officers and citizens, I tell them, do not ever try to change the perception of that victim. If that person believes they were in fear of their life, they were in fear of their life.

eJournal: I think part of the problem is how quickly a confrontation can turn into a deadly physical assault. One minute you're talking to the guy and the next he is lunging toward your legs. In your experience, how fast or how unexpected might a physical assault be? Are there usually warning signs? What are the warnings?

Rossi: Whether you are talking about defensive tactics, personal survival or firearms training, if somebody is planning on doing something to you and they've already initiated the act, chances are you are not going to be

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able to stop it fast enough. The key is seeing it coming down the road.

When your sixth sense tells you something's not right, 99.9% of the time it's right. Maybe you walk in to your house and you realize, "Gee, I don't remember turning that light on when I left..." We tend to put things together in our perception, if 1 and 2 is added, then 3 has to come, too. This is our ability to detect danger, and we get hurt when we don't listen to that sense.

What's interesting is that at about 20 feet, when we see a person, we look at that person's stature just like a dog looks at a person walking down a street, to see if they look like they're threatening, to see if they're big and hulking or walking in a way or carrying something that may scare us. At 10 feet, we can now see this person's face a little bit more and we're starting to read this non-verbal persona and we're starting to think about is this a friendly or an unfriendly person.

When this person gets within six feet of us, this is where we are going to have our social contact. The brain may be picking up that a person is well dressed, but maybe he's acting like he is a little bit high. Maybe you're seeing that he is a little anxious, and it is resonating in the part of your brain that is saying, "Something is not right." There are many warning signs.

Nobody should be within three feet of you – your intimate range – unless you're going to hug or be intimate, for God's sake! I call it intimate because those are the people we allow that close on a daily basis. A lot of times, people try to act nonchalant and they let this person violate their reactionary gap because they think if they act like they are not scared, that it's going to show so much confidence on your part that it will make that person reconsider attacking you. That seldom works!

The warning signs are the most important thing. Seeing it coming is what is going to save your bacon. There is no way to outdraw a drawn gun, there is no way to stop a punch that is already thrown, because the startle response is our enemy.

eJournal: A minute ago, you raised the question of proximity. Please tell us more about managing proximity other than keeping everyone six feet away!

Rossi: Most assaults are occurring within seven to ten feet. The reality of it is, the fight is probably going to be up close and personal. I'm sure you've heard about the Tueller drill (Editor's note: See

<http://www.armedcitizensnetwork.org/images/stories/journal/2008/5-08eJournal.pdf>). Here's the thing: you could have a gun on your waist and somebody lunging at you with a knife, but can you access your gun in time to score a disabling shot? If you go for the gun first at that distance, he is going to be all over you.

As a result of body cams, we have come to find out that a person can clear 15 feet in a second and a half—in a second and a half! That probably is going to be a little faster than the average person can analyze the situation, draw a gun out of the holster and put one round on target. If they are lucky to get a shot off, it is probably going to be low, into the ground or into the legs and it is not going to be a neutralizing stop.

We have got to deal with the threat first. When that person is closing the gap rapidly, you have got to be prepared to deflect the attack and somehow put the startle response back on the bad guy rather than on you so you have time to get your weapon, get it out and prepare to use it.

Anybody who's been in a life and death encounter will tell you that it was ugly, it wasn't clean and surgical. There's nothing clean and surgical about it. If you can't get that weapon out and the person grabs on to that weapon, you now have two problems. Looking at the Ferguson incident, Officer Wilson was trapped across the front seat of his car, literally fighting for his life. Michael Brown is in the front seat of Wilson's car on top of Wilson punching him in the face, and Wilson is trying to get his gun out. He literally had to clear his weapon two to three times before it finally went off the first time because Brown's grip on the pistol took it out of battery.

That's the reality of proxemics-based training. How much time do we spend teaching police officers how to defend themselves if assaulted while in their car? The short answer is, we don't. Police trainers will rationalize it is similar to defensive tactics on the ground, but having about one inch of wiggle room between the seat and center console is a lot more restrictive than most ground fights! Talk with armed citizens—how many times do you practice drawing your gun out of the holster while sitting in your car? A lot of people would be surprised to find out that you can't get to your gun if you are sitting on it or leaning back on it or if it is in an ankle holster and can't clear your pant leg.

Proxemics play a huge role in your response. Distance is time. Time gives you the ability to think and respond.

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You want to respond, rather than react. Response means it is a thoughtful process, vs. reaction, which is like accidentally placing your hand on a hot stove and pulling it away – there is no conscious thought to it.

eJournal: Most Network members have little to no experience in real fights. If we don't have time to get to the gun, how do we get inside the assailant's Observe, Orient, Decide, Act (OODA) loop? How do we turn the startle response back on the attacker?

Rossi: Let me point out something very basic: If a person can't see you, they can't hit you. Say you are initially facing a subject and the subject lunges at you. If you can move to their back or move at a 45 degree angle to their rear where they literally have to turn around to look at you, that glance takes 3/10 of a second to turn to look at you and it is going to give you the ability to get that gun out in time and get it on target. Learn how to deflect and get around the back of an individual, in other words moving in at a diagonal, deflecting, getting around the back of somebody.

If you can get around to the back of somebody, remember, they have to turn around, locate you first, and it throws the startle response back on them as they see a whole handful of gun, a fist coming at their face, or even just you running away. He is going to have to react that that.

We try to stun the person as we move away– a stun like slapping the back of the head, nothing lethal, nothing drastic. Something like my mother used to give me all the time as a kid, something that just rattles the brain from side to side for a second. All you need is that split second to now throw the OODA loop back on them. We know that when somebody moves their head and face away as a natural instinct, it is going to give us a little bit of an advantage. That's what we are looking to do.

Stepping behind this person puts you in a place of advantage. Now if the person turns toward you, he is showing active aggression. There is no doubt in anybody's mind, you have deescalated the encounter. In some states like New York State, we civilians have to show that we are attempting retreat first, before we use deadly physical force. By deflecting and getting out of the way of this situation and attempting to create space, we are showing that is what we are doing.

eJournal: What about verbal commands? What, if anything, can we borrow from police training and convert to use for private citizens facing an attacker?

Rossi: Verbal commands are important. You have to be able to raise your voice to say, "Stop! Don't move! Let me see your hands! Drop the knife! Back off," and say it with authority. It is very important. A lot of times that will work, if nothing else it may get the attention of somebody else who is standing nearby and it encourages bystander interaction, if nothing else, as a witness.

You need to be able to treat people with dignity and respect. You have to be able to ask people to do things, and be prepared to tell somebody why. A lot of times people don't go that far. If it is a difficult person, you may have to ask them two or three or four times. It seems tedious. A lot of people forget that the reason we do this is, today usually hanging off a building somewhere or in the shopping mall there is a camera recording the event.

The camera is going to show something they don't want to show on the 11 o'clock news: four minutes of you saying over and over, "Please sir, I don't want any trouble. The reason why I'm asking you to move your car is I need to get out of here. I'm not trying to be mean." It makes boring television. Nobody wants to watch unless it ends up resulting in a shooting in the viewers' ten second attention span. Being able to verbalize is critical.

If we are treating somebody with dignity and respect, even if the person is a flaming ***, what happens is a bystander watching this thing looks at the citizen and believes that person kind of reminds them of their mother, brother or wife, etc. If it was my mother, what would I do? If it was my brother or wife, how would I act? Bystanders are more likely to get involved and try to help, if you treat this person with dignity and respect because they know you are going way out of your way to try to avoid a fight.

eJournal: You've given us a lot to think about. I am sure members like me will want to study more. Can you recommend a book or DVD for further study so we can more accurately recognize danger before it is in the intimate range?

Rossi: I belong to a group called Vistelar, they have a book called *Confidence in Conflict for Every Day*. The author's name is Kathy Mangold. It is about reading people and how do we make ourselves safer. *The Gift of Fear* by Gavin de Becker, that is a little deeper. I highly recommend any of the Calibre Press books written for

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police officers, about the tactical aspect of seeing a situation unfold before your eyes, and doing something about it, hopefully ahead of time. The other training I recommend is *Management of Aggressive Behavior* by Michael O'Malley (http://www.moabtraining.com/courses/moab_courses.php), which deals with when you are done talking. If you can take one of their courses, you should.

I also like the book, *Left of Bang*; it is a great book. It is about how the Marine Corps train their soldiers doing urban patrols. For example, every day this caravan of Marines travels down this main street in Iraq or Afghanistan. Every day there is a little old man having his tea, there are kids playing in the street, people walking around, the whole nine yards. One day this same caravan comes down the street the way they do, and they look down the street and see the old man looks up and sees the caravan coming picks up his tea and walks away, there is a vehicle parked along the road that looks disabled, the little kids are not playing in that area.

In the caravan, they are thinking IED. They are adding things together. It is a piece of the puzzle that paints a picture, that gives you this reasonable belief that something is about to happen—either left of bang before the gun shot or being right of bang after the gun shot. If you're right of bang after the gun shot, startle response is against you, now you are on your back trying to claw your way back up.

The key is seeing the situation unfold and doing something about it. I don't go to movies at night any more. I go to matinees. If there's a festival going on, I'll go during the day. Right now, with terrorism going on, I'm walking around with a cocked and locked .45 and three magazines, and I store my bullet resistant vest in the trunk of my car in case I need it.

Because it's Christmas on top of it, commonly the highest time frame for robberies during the year, makes it more likely to happen during December rather than in the middle of the summer. Walking around prepared is a huge thing. I don't think you can ever be too prepared. Preparation versus paranoia is my motto.

That's what its all about. Our absolute best odds most of the time are only 50-50. That's if you have some ability

to perceive what's unfolding in front of you. If the best odds are 50-50, those aren't good odds to me. A lot of people put themselves in worse odds. Perception is reality, and how we perceive things is very important.

eJournal: That's a sobering assessment! How can we be better prepared?

Rossi: I encourage people to do ride-alongs with police. Almost every department in the United States allows ride-alongs. It will open your eyes to the types of crimes that are out there in your neighborhoods. I live in a suburban area in Rochester, NY. Who would think there is prostitution in the area where I live? But there is! Who would think there are carjackings that occur here? But there are!

Go to the civilian police academy when offered by your local Sheriff or Police Department. Most departments today offer these. Becoming a friend of the police can only help you in a situation. What happens if one day an officer is driving by, and sees you getting your butt kicked out there, he has to decide in an instant whether you're the aggressor or the victim. Understand what I'm saying? In a split second he has to make a decision, if he knows you, he can make a more informed decision.

Being a friendly face will go a long way. These people will know you are a law-abiding citizen, that you are out there and concerned about your community. That will go a long way if God forbid you've been put in a situation where you've had to defend yourself. That whole character witness thing becomes very, very important.

eJournal: That's great advice! The explanations and tips you've given us, along with the skill development you recommend, will go far to help Network members be better prepared. Thank you so much!

Learn more about Guy Rossi and his work as an instructor and expert witness at <http://guyrossiandassociates.com>.

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Please enjoy the next article.]*



President's Message

by Marty Hayes, J.D.

Sometimes reality is stranger than fiction. I got a call the other day from a young lady who was looking for "self-defense insurance" for those times when she is protesting and has to defend herself from cops

wanting to arrest her. Well, of course, first of all, the Network is not an insurance product, but setting that aside for a minute, I was just about rendered speechless by her request. In fact, it took some questioning on my part to make sure I understood her correctly. She went on to explain that she has the First Amendment right to free speech, and then segued into her right to protest, after which she concluded that since she has the right to protest, if anyone wants to stop her with force, she then has the right to defend herself. Hmmm.

So, what is wrong with her argument?

Well, first off, a person does not have the legal right to resist arrest. As I learned it in law school, even if a police officer is using illegal force against you (except deadly force) you have no right to resist, but instead, you are required by law to submit to the arrest. Then, your recourse is to sue the police for that unlawful use of force. The only time you can legally resist force being used against you by law enforcement is if that force being used against you is likely to cause your death or grave bodily injury. If anyone, especially the attorneys reading this, has a different take on this subject, please send me an e-mail outlining your thoughts.

But, let's assume for a minute that the force used against you was illegal and likely to cause your death. If you kill a police officer during a protest (assuming you survive the encounter) then you will likely be arrested, prosecuted and convicted of murder. Why? Because in every jurisdiction I know of, you would be considered to be the "first aggressor" in the confrontation. The court would likely believe that your actions precipitated the violence, and if you are deemed to be the initial aggressor, the legal defense of "self-defense" would be disallowed by the trial court. For example, here is what the Washington State Courts say about this subject:

"No person may, by any intentional act reasonably likely to provoke a belligerent response, create a necessity for acting in self-defense [or][defense of another] and thereupon [kill][use, offer, or attempt to use force upon or toward] another person. Therefore, if you find beyond a reasonable doubt that the defendant was the aggressor, and that defendant's acts and conduct provoked or commenced the fight, then self-defense [or][defense of another] is not available as a defense."

So, if our intrepid young protester voluntarily joins a protest involving civil unrest, I would think it reasonable to assume the trial court would not give a self-defense instruction for her case, and absent the right to claim self defense, she would all but certainly be convicted of either murder or manslaughter.

Considering the above, one of the reasons the Network has a review process of a member's case before granting money for the legal defense of the member (with the exception of the initial \$10,000 retainer paid for the immediate representation of the member), is to give us a chance to make sure we are not spending the Legal Defense Fund money to defend obvious criminal acts. Just to clarify, to this date, we have not refused any member's request for funds.

Now, this also leads me to another thought: I wonder how some of the pre-paid legal companies would handle this situation? Would they do as they advertise, and give that young lady who engaged in a protest and then killed a cop a complete legal defense? She would be claiming self defense, and there is no screening process, from what I can see from looking at these legal services plans. Well, fortunately, that is not my worry. But that sure was an interesting phone call, nonetheless.

The Best Defense and the Network

In 2016, the award-winning TV show, *The Best Defense*, will once again feature a legal commentary at the end of each show, which I flew to Tulsa to film last month. When I first started doing these segments several years ago, I felt like the proverbial fish out of water. Give me a jury to talk to about self defense or forensic/ballistic issues, and I have no trepidation. But when I first started

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filming videos and the TV show, I was, frankly, a basket case. Talk about a nervous wreck! Completely out of my comfort zone. But, one thing I have learned over my 60 years is that you don't grow without doing new things, and pushing yourself to overcome your fears.

I was amazed when we filmed this year that, for the most part, all the nerves and butterflies were gone, replaced with the confidence that any screw-ups that might happen will be fixed in the editing suite! I am constantly amazed at how well the folks at The Outdoor Channel can take the raw footage and turn it into a good looking, cogent product. Of course, it helps to work with great professionals like the three Micheals, Bane, Janich and Seeklander, along with producer Jeff Murray. I think you all who watch the show will enjoy the season. The show airs on The Outdoor Channel every Wednesday night, and the new season is now upon us!

The Network crew goes to SHOT

In mid-January, if you see Gila, Vincent or me walking down the halls or resting our weary feet on a bench at the industry convention, the SHOT Show, be sure to say "hi." We enjoy meeting our members, and getting feedback from them about how we are doing. Of course, we are all "gun people" and enjoy seeing all the new stuff being brought to the market, but the main reason we go is to meet up with the Network Advisory Board.

We will once again have the opportunity to break bread with the Advisory Board, and get their feedback on how the Network is doing.

We also spend our time making new professional contacts, which can advance the goals of the Network, along with renewing old acquaintances. I have been going to SHOT for 25 years, which means I know a whole bunch of people in the industry. I can't walk an aisle without running into one or more of my old friends, and that is always fun. And now every

once in a while, some complete stranger comes up to me and introduces himself as a member of the Network. That makes me feel good to have such a positive influence on people's lives.

With that, let me close by wishing a Happy New Year to all reading this.

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Please enjoy the next article.]*

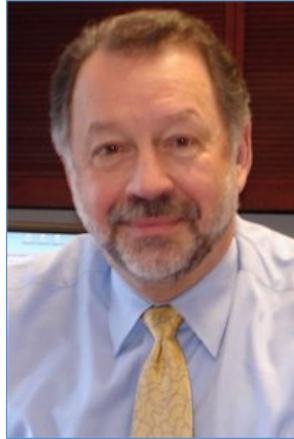


***The Best Defense* host Mike Seeklander poses a question to Network President Marty Hayes during filming for the 2016 season.**



It's smiles all around at the end of filming for *The Best Defense's* 2016 season. On camera [L to R] were host Michael Janich, legal commentator Marty Hayes and host Michael Seeklander.

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Vice President's Message

Legal Defense Fund Auctions - 2015 Year in Review

by Vincent Shuck

Last year was a stellar period for our auction activities to benefit the

Network's Legal Defense Fund. We have been conducting our auctions for several years, but to summarize and give credit to our winning bidders as well as our corporate sponsors, allow me to fill-in-the-blanks for our many new members and also remind long-term members about the primary goal of the auctions.

The auctions benefit the Network's Legal Defense Fund, which is the source account for the post-incident funding of the members' initial deposit against legal fees, bail support, and expenses associated with legal proceedings or a trial. While the primary source of funding comes from members' initial and renewal dues, the auction offers another key component to our fund growth. No expenses for the auctions are deducted, thus all income is directly allocated and deposited. We include the auction listing announcement in the first of the month emails to members revealing the posting of the Network's eJournal.

To become a bidder, all you need to do is

go to www.GunBroker.com and register. This is a simple process and gives you access to any of the items listed on GunBroker. Allow me to address that issue. When we post a Network item, everyone who has bidding privileges on GunBroker can bid, thus Network members are competing with other Network members as well as other self-defense and shooting community enthusiasts. Don't worry! Bid what you believe you are willing to pay for a listed item and what you can afford and know that the highest bidder will win and the funds will go to the deserving Legal Defense Fund.

Last year we listed and sold a dozen items and earned over \$4,000 for the Fund. Our sincere thanks to the winning bidders, many of whom were Network members, and the following corporate sponsors who donated various items and services:



- Black Hills Ammunition
- CorBon Ammunition
- Crimson Trace Lasers
- Galco Gunleather
- Ravelin Group Safety Equipment
- Robar Companies Metal Finishes



We intend to post new items this year, please watch for the announcements in Gila's monthly email alert. We can all use the products and services offered, so why not spend the dollars you would normally spend for these items and allow your expenditure to benefit the Legal Defense Fund. Perfect win-win situation.



[End of column. Please enjoy the next article.]



Attorney Question of the Month

For the past few months, this column has been dedicated to protecting the armed citizen's rights after self defense. We started by studying what if anything the citizens should tell the 9-1-1 operator. Now we move forward to statements given to investigating officers, if any. The new question is—

If a Network member has threatened to use force in self defense up to and including display of a firearm without shooting, what should he or she say or not say to responding law enforcement officers?

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There is a HUGE difference between what is best to say, what we can train people to say, and the couple of things they can remember to say under the influence of adrenaline.

If there is ANY chance you will be where a cop will respond, do NOT have gun in hand, and be sure dispatch knows your name, and your description. Empty hands (both) up waving in the air over your head when officer arrives is a good way to greet the officer.

What is best to say: Name, location, what the bad guy did, his description, that he's gone, that you'll talk to an officer when he responds so he can make a report and catch the guy. (You say during the middle of things that you displayed a firearm hoping it would deter him, because you were quite apprehensive at being the victim of a crime, and then he fled before anything more had to be done. [Assumes you are lawfully in possession of the firearm.]

What you can be trained to say: Name, location, what the bad guy did, his description, that he's gone, that you're quite frightened and need to talk to someone before you come to the station to give a more full report (hang up and call counsel).

What you can actually do if you hold a card in your shaking hand: Call Dispatch, report that you've just been the victim of an attempted (fill in the blank), brief description of the bad guy, and that you'll call them back

from home (then call counsel). If you are not lawfully in possession of a firearm in the place it happened—call counsel first.

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Our law firm would provide the same advice regardless. "There has been an incident. I want to remain cooperative, but I must wait for my attorney before I may say anything further."

Keep in mind that law enforcement will likely indicate that things will go smoothly if there is cooperation. This means, "If you talk you will make my job easier."

While pressure increases when threats of arrests and detention are made, it is prudent to first speak with counsel.

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Take the best answer that you like regarding the use of deadly force in self-defense situations. Now substitute the notion of self defense with threat of self defense. The answer will be exactly the same.

The former deals with homicide or grave bodily injury; the latter with threat of homicide or grave bodily injury. The latter situation could be construed as Assault or Criminal Threats. Every jurisdiction has a crime dealing with the same nuance although it might be called something different.

[Continued next page...]

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My advice to my clients is that they may cooperate by describing the external circumstance leading to the assault, but refrain from subjective statements regarding their own states of mind. This is counter-intuitive to saying nothing at all (the gospel of my profession) but I believe that enforcement should hear of the self-defense circumstances in order to shape the investigation.

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This is definitely a scenario where the Network member needs to be the first one to contact police and be identified as the victim. All too often, I find that the police quickly pick a winner and loser (victim and suspect) and the investigation from that point seeks to confirm the winner/loser they have chosen.

We are currently defending a man who was shot at in his home and his attacker fled after missing him. A neighbor heard the shots and called the police. The police drove the neighborhood and were unable to determine where the shots originated.

Our client did not call the police, but instead got a rifle and went outside to sit on the back of his truck. He was worried that the attacker was going to get others and return. It was a very dark night and our client was sitting under the only light around. The neighbor called back to the police and said that her neighbor was in his driveway with a gun, but that he wasn't doing anything or threatening anyone.

The police came back, but stopped far away and snuck up the streets and yards through the bushes until they were close to our client, at which time they shined their lights on him (which were attached to their rifles) and told him to drop his rifle. They never identified themselves as police and our client was confused and scared. As soon as he realized it was the police, he put down his rifle. The police were screaming at him and then tazed him. He was charged with aggravated assault and is now fighting for his freedom.

The police went through the house and were told about the earlier incident. There was never an investigation into the earlier shooting, even though the assailant was identified and his contact information given to the police.

They had already picked their winner. Trial is coming up, so we'll let you know how it goes.

That being said, the Network member should make sure that they articulate the factors that went into their perception that they were a victim and needed to threaten force to defend themselves. Never do anything that could be perceived as threatening when the police are there (don't be holding your gun, unless you have to for your continued protection). Be civil. Don't use foul language. Keep calm. If you act reasonably, it is much easier for the investigators to believe that you acted reasonably.

If you ever feel that the police have picked you as the loser, ask for your attorney and exercise your right to remain silent.

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In this situation, the perp is still alive and able to give his version—which he must to get the police to take action. If there are no witnesses in the good guy's favor—and especially if there are for the perp, and/or the perp is unarmed when the police get there—I would advise the good guy to remain silent until he has consulted with an attorney, even though this may result in his arrest.

In some states, even those with lenient gun laws and reasonable self-defense concepts, "brandishing" a weapon as a threat is unlawful without some immediate physical danger. Better talk to a lawyer familiar with local law. If the good guy has witnesses or other evidence in his favor he may want to be a bit more candid about the incident itself, but not anything further without legal consultation.

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As in any case, the driving issue is controlling the context. If a Network member has threatened the use of force in self defense then what we're really saying is that there was an attempted assault upon a Network member that was thwarted by the member when he/she

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defended himself or exhibited the ability to defend himself. This applies, of course, to attempted assaults/robberies/burglaries, etc.

Any calls to 911 should be by the member simply pointing out that there was an attempted crime committed against him/her. The gun should be holstered at this point and there's no point in bringing it up. Let the perp explain why he was incapable of completing his attempted assault. Then the member may respond that, "Yes, I was able to defend myself and avoid serious injury by displaying my weapon for which I am properly licensed." Perps need to be kept on the defense.

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Responding to a threat must be proportional to the threat itself. In other words, it is inappropriate to respond to the threat of a punch in the nose or a non-violent property crime by displaying or drawing a firearm. It is advisable to de-escalate a situation in which you are threatened by physical force alone if at all possible, or to withdraw from the confrontation if withdrawal can be accomplished safely. I recommend that you follow this advice even in "stand your ground" states. Remember that the encounter will more likely than not be caught on video.

That said, if the situation requires that a firearm be displayed or drawn (though the weapon is not actually fired), the same guidelines one would follow in a shooting situation still apply.

- Do call the police.
- Identify yourself as the victim and a CCW permit holder to the 911 operator.
- Do not allow yourself to be interrogated by the 911 operator.
- Clearly inform responding officers that you are the victim, not the offender.
- Do not have the weapon in your hand and do not let

it to be visible to responding officers when they arrive.

- Expect that they will have their weapons drawn and pointed at you when they arrive.
- Cooperate in giving a description of your assailant.
- Make certain that they understand you are the victim and you were in fear of death or great bodily harm.
- Safely surrender your weapon to officers when told to do so, following every instruction they give you.
- Expect to be treated as an armed felon and thoroughly searched until they have the situation sorted out.
- Do not expect to be treated gently or courteously by officers, as they are responding to a man with a gun call and don't know you from Adam. You may be handcuffed. If so, do not resist.
- Do call your lawyer immediately AFTER (not before) you call 911.
- Explain to responding officers that you have telephoned your lawyer and he/she is on the way.

Postpone giving any detailed statement until your lawyer arrives and you have had the opportunity to confer with them. Be absolutely truthful with your lawyer and follow their advice. If you do give a statement, **DO NOT LIE TO THE POLICE!** If your lawyer advises you not to give a statement, follow their advice.

Finally, never display your weapon or threaten anybody with it unless the situation leaves you no alternative. There can be no hard and fast rules as to when to display or draw the weapon, as factual scenarios vary greatly. An 80-year old in poor health may have greater reason to react to a confrontation by displaying or drawing a weapon in response to a threat of physical force than would a fit 30-year old man.

A big "Thank you!" to all of the Network Affiliated Attorneys who responded to this question. So many great commentaries were submitted that we will continue this discussion in the February 2016 edition of this online journal. Please return next month for more answers to this important question.

Book Review

First Defense:

Anxiety and Instinct for Self Protection

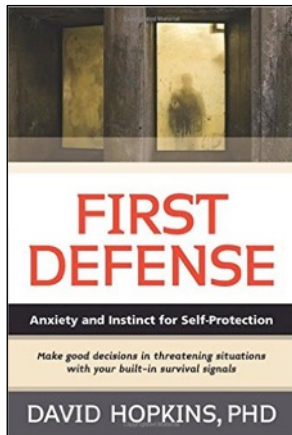
By David Hopkins, PhD

Paperback, 200 pages, illustrated

ISBN: 9781594393426

Published by YMMA Publication Center, Oct. 1, 2015

<http://ymaa.com/publishing/books/external/FirstDefense>



Reviewed by Gila Hayes

We commonly think of anxiety as a bad state and avoid it, sometimes even to the extent of being drugged to hide from uncomfortable worries. What if we embraced anxiety as a useful tool, if put to its best and highest use? What if we learned to make anxiety work for us

instead of against us?

In *First Defense: Anxiety and Instinct for Self-Protection* David Hopkins, PhD writes that anxiety indeed is a valuable weapon. The author combines psychological principles relating to violence and psychotherapy with martial arts and self defense, drawing on his experiences in close protection and investigative work against terrorists and criminal elements, including organized crime. Pondering those experiences, he began to ask himself why he had prevailed in risky situations and likewise when he was injured, what he had missed that might have let him stay safer?

Right from the beginning, Dr. Hopkins identifies three key maxims:

- Instincts are the key to making the right decisions under the most challenging conditions.
- Anxiety is the link between instinct and good decision-making.
- Being “fully present in the moment” opens access to details anxiety identifies so we can get through “the difficulties of life.”

Anxiety is different than fear, Dr. Hopkins asserts. Fear creates a reactive state. Properly managed, anxiety acknowledges the threat, enabling responses and a variety of options. “Anxiety connects us to what is really happening, which allows us to choose the right path based on true reality,” he writes, adding later in the book,

“We ride the anxiety, allowing it to drive us in our resolve. We read our experience through our senses and take action.”

First Defense is “about strengthening any martial artist’s ability to be more successful in facing the enemy,” Dr. Hopkins writes. Harnessing anxiety for self preservation must be honed through practice and training. Training exercises are included at the end of each chapter, with advice to readers to put what they learn into daily practice so the skill becomes stronger with use. “It is really a way of life, like any martial art when practiced to its full potential,” he writes.

The exercises focus on every-day life. This starts with listening fully, instead of making assumptions about the speaker or analyzing him or her. The same openness to the unknown helps in defending against a threat, Dr. Hopkins adds. “If we want to be more proficient in sensing whether a person is a threat, or even predict what action the person is going to take, we must listen with the third ear,” he notes, quoting psychologist Theodor Reik who wrote that the third ear is sensitive and attuned to the person to whom you’re listening

In the first chapter, Dr. Hopkins explores the considerable volume of sensory input of which our brains are aware that falls below conscious acknowledgement. We can gain access to this information and use it by consciously feeling anxiety and using it to take in details we’re missing consciously but logging subconsciously, he asserts. We choose which sensory inputs to be consciously aware of and deny those that make us uncomfortable. “We all help shape our reality by allowing ourselves access to the information that helps us stay in our comfort zones,” he explains.

Bombarded by tremendous quantities of input, we separate them into hearing, smell, touch and vision, trying to make sense of it. Through categorization, the whole is lost. Focusing on a single sense is like tunnel vision. When our senses pick up something out of the ordinary, Dr. Hopkins advises registering the “peculiarities...without immediately making a decision as to why they are peculiar. As you focus on a particular stimulus, whether a person or something else, keep allowing yourself to take in the entire environment at the same time,” he teaches. Acknowledge the threat, but stay open to the greater experience, he urges.

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Dr. Hopkins posits that realistic training cannot teach self defense as “a playbook” because threatening situations don’t happen according to rules. “Even with technical training we are not truly armed as warriors unless we season our ability to experience anxiety and follow it as it guides our actions through accurately reading our world,” he writes. Day to day life creates expectations that act as playbooks. When reality deviates, the dangerous situation seems surreal, so we freeze or deny the danger. The only path to safe resolution is facing the danger “with decision and focus, accepting reality and anxiety we feel, following our instincts,” he warns.

I think this explanation of why we freeze up when danger surprises us and how to avoid the freeze, pays for the book all by itself. Trying to apply a playbook from “normal” prevents successful resolution of a dangerous situation, and applying conclusions from earlier similar experiences to the one at hand is ineffective, too. Dr. Hopkins relates that once, when a crowd of drunken soldiers ganged up on him, panic tunneled in his focus on only one of the assailants. “I did not concentrate on being completely present in the moment, without interpreting or trying to control it. I did not allow myself to simply live the how of the experience, allowing the anxiety to flow and fuel my instincts to take over and use my training to defend myself...Instead, the little boy from the playground fights was there, and the situation was too much for him.”

This leads to a valuable discussion of associations—memories that come strongly to mind, sometimes with seemingly no connection to the present. As training, the author recommends being aware of memories, even when they “have nothing to do with the conversation taking place. It is a mistake to think the information is simply haphazard and of no value. Often at such moments, our unconscious is picking up something the conscious mind is not,” and the association, while probably not literal, hints at something important. For the armed citizen, this skill can pay big dividends if called upon to detail what he or she perceived to create the instinctive knowledge that lethal attack was imminent.

Correctly reading an aggressor’s intent—early enough to preempt injury without becoming the initial aggressor—is a problem for armed citizens. In *First Defense*’s fourth chapter, Dr. Hopkins writes that in nearly every nation on earth, the right of the individual to use force, up to deadly force, to prevent injurious or deadly assault, is an accepted standard. “What is less clear is the degree to which we are allowed to protect ourselves in that narrow

window when an aggressor has decided to attack but has not yet attacked,” he warns. Mind reading would be useful, he notes, adding that psychology establishes that humans “have something approaching that ability...If we are completely present, and we pay attention to our instincts, we can pick up on an enemy’s intent to attack before he does so.” Signals of impending attack may be “a miniscule amount of movement...in the shoulders, hips, neck, eyes,” he accounts.

Here, verbal intervention may be attempted, “to take away his edge by easing his anxiety,” but Dr. Hopkins warns, “That is not, however, a tactic to avoid physical confrontation as described previously...What I am essentially doing is creating a psychological distraction, tricking him into thinking I do not want to fight.”

Citing the “very thin line between psychology and biology,” Dr. Hopkins explains that defense techniques targeting anatomy associated with lethality can contribute to psychological dominance. He eschews pain compliance for defense against life-threatening attack, but recommends “playing on the enemy’s fear of death in order to weaken him.” Physical defenses that affect breathing, vision or hearing are all effective, he writes, concluding, “Attacks that target several or all of the senses can be especially effective in giving both physical and psychological advantages over the enemy.”

Toward the end of *First Defense* Dr. Hopkins teaches after action assessments to get the most learning from experience. This chapter also serves as a very tidy synopsis for the material in the foregoing chapters, tying together different elements and clarifying some of the more obscure concepts. In the introduction, the author offered, “In this book you will learn to effectively use your anxiety with true presence and concentration, feeding your instincts with information vital to survival. This is the key to success in a combative situation. You will also learn to manipulate the anxiety of the enemy in order to weaken his or her abilities.”

How well was that goal met? Dr. Hopkins’ instruction is complex and nuanced, so a study of *First Defense* is not likely to be successfully completed over a short reading period. Think of it, instead, as a workbook for use over a number of week or months. Used thus, it promises a valuable improvement in polishing our perceptions and awareness, with unexpected side benefits of better articulation abilities after use of force in self defense.

[End of article.
Please enjoy the next article.]



News from Our Affiliates

Compiled by Gila Hayes

The recent holidays were brightened by all the holiday wishes we received from a number of Network affiliates. When affiliated instructor Domenick Rocco sent a brief holiday greeting, I wondered what he'd been up to lately, and browsed over to his website. Rocco's blog is worth following, containing his own commentary, as well as reposts of the thoughts and advice of many leaders in our self-defense community. For thought-provoking and action-inducing blog posts, add <http://rotac2.blogspot.com> to your reading list!

One of our widely traveled Network members, Phil Smith, sends in the most interesting email reports. Phil travels for work, and related recently, "I had to deliver some parts to a client in Baltimore. On the way down I stopped at a Graingers outlet to pick up some anti-sieve compound for a HF Ham Radio Antenna. The gentleman assisting me asked what it was for and I told him. He then gave me his call sign as he is also a ham operator. After a talk on radios it shifted to living in woods and we both do, then politics and gun control under Obama. With an opportunity like this I had to ask if he was familiar with the Network and he was not. After I retrieved a booklet for him, he kept asking questions. At the end he asked if I had any more booklets for his friends and followed me to the car for a big handful. February takes me to Jacksonville, FL and then Vegas. I have set a goal to introduce at least four people to the Network."

Phil has a lot of fun connecting with new people that he meets by giving them our Foundation's complimentary booklet *What Every Gun Owner Needs to Know About Self-Defense Law*. If you would like some booklets to share with your friends—old and new—please just drop me an email at ghayes@armedcitizensnetwork.org and let me know how many you can use for outreach through participation in firearms-related events or through contacts like Phil makes as he travels for work.

I recently enjoyed exchanging emails with Mark Perillo, one of the three key players at TOTAL Firearms Techniques, Inc., in Brewster, NY. Mark, Ralph and Sergio at TOTAL Firearms teach many of the NRA firearms safety and use courses, as well several state's concealed carry licensing training both for groups and

private lessons. In addition, they have a nice stock of both used and new pistols and can provide the services of a Federal Firearms Licensee to assist those wishing to buy a gun elsewhere and have it shipped to their FFL for the necessary background check and paperwork before taking possession. Learn more about TOTAL Firearms at <http://www.tftny.com/our-mission/> and take advantage of their services and their focus on safety.

Our Affiliated Instructor Keith Fisher in Hillsboro, MO wasted no time after the holidays getting back to teaching, with concealed carry license classes scheduled between Christmas and New Year's Eve—as well as right after the first of the year. We're proud to note that Keith promotes Network membership in his classes and on his website.

In addition to the NRA firearms courses, Fisher is working on curriculum to take the concealed carry licensee from the training required for licensing, to a fuller understanding of the law, more advanced pistol handling and marksmanship, handgun retention, and as a graduate of Massad Ayoob's excellent training himself, Keith intends to host that essential training for his clientele. It is fun to see an instructor so enthusiastically reaching out to new gun owners with essential safety and use of force training. Learn more about Keith's classes at <http://fisherarms.com/our-instructor.html>.

A note to Network affiliates and members alike: As you know from earlier journals, on January 1, 2016, we implement one of our rare Network dues increases. It's been three years since we had any type of rate increase, and the 2013 increase only applied to new memberships! The increase in dues rates has necessitated reprinting our tri-fold brochures and our advertising in the back of our Foundation's booklet, *What Every Gun Owner Needs to Know About Self-Defense Law*. Our friendly Network printer, Lynx Group in Salem, OR, is now busily working to get our new booklets and brochures ready. There will be a slight delay in filling orders for booklets and brochures throughout the first three weeks of January while we wait for our friends at Lynx Group to get our order ready for pickup. If you would like us to send you some of these new booklets please email ghayes@armedcitizensnetwork.org, and while I'll apologize for the delay, please know that when we are restocked we will share our most current booklets and brochures with you.

*[End of article.
Please enjoy the next article.]*

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Editor's Notebook

by Gila Hayes

As you can no doubt tell by the lead interview in this edition of our online Network journal, I thoroughly enjoyed reconnecting with an instructor who played a role in my development as an instructor many years ago.

Guy Rossi and I covered a lot of topics in writing the interview exploring justifications and force options against physical attacks. Alas, in trimming it down into a cohesive educational interview, some of Guy's comments ended up on the cutting room floor.

One is important enough to mention in this column. You'll remember Guy's instruction about the importance of distance in selecting the correct defensive tactic to effectively fend off the threat. Emphasizing that the gun is not always the right defense choice, he exclaimed with some exasperation, "We are so driven by the tool!"

He's right, of course! Certainly, having the right equipment can make a world of difference, but there is so much more to survival than just having a gun.

Managing proximity to the threat, behaving unpredictably to turn the surprise back on the assailant, using some of the tools taught by Dr. David Hopkins in *First Defense*, the book we reviewed this month, communicating clearly and patiently with budding threats as Guy Rossi discussed, are just a few of the non-gun solutions that are so essential to staying safe and staying out of court whenever possible.

The time demands for training and practice require attention to these competing needs, so that we dedicate enough time to the varied aspects of self defense to assure proficiency in both the mental aspect of self defense, as well as the physical skills. Firearms skills are perishable and there is no argument that nothing is as effective as a gun in skilled hands under a limited number of circumstances. I thought that knife defense expert Michael Janich hit the balance the best I'd seen in a long time in a newsletter he sent out just before Christmas.

Michael Janich, co-host of *The Best Defense* television program and owner, innovator and trainer behind Martial Blade Concepts, is an educational resource about whom more armed citizens need to become aware. Network members may remember Janich as the subject matter expert on the educational knife defense interview we published in the March 2013 edition of this online journal (http://armedcitizensnetwork.org/images/stories/Network_2013-03.pdf).

With quite a number of Network members carrying knives as back ups to their pistols or as their primary defense in places where they are not allowed to carry firearms, Janich's instruction about improvised weapons and about knife defense is extremely valuable, and we recommend members avail themselves of his many educational DVDs and books all available at <http://www.martialbladeconcepts.com/books-videos-products/books-and-videos>. As a past buyer, I was fortunate enough to land on Janich's newsletter email list, and right before the holidays, received a very informative newsletter entitled *The Plan*, that amongst a half dozen informative articles included *10 Things You Can Do to Survive an Active Shooter Incident*.

Headlining that instruction was –

- Accept that it can happen to you
- Understand the problem
- Develop a response plan
- Actively increase your awareness
- Identify specific threats and take them seriously
- Become a shooter
- Go armed
- Develop unarmed and improvised-weapon skills
- Actively study the details of active shooter and terrorist incidents and keep track of the trends
- Talk about your readiness preparations with loved ones.

With the growing focus on terrorism—both domestic and imported—it is all too easy to let the terrorists accomplish their goal of destroying our freedoms and the tremendous and varied opportunities we enjoy as citizens of the United States of America. Take advantage of Janich's instruction to make it your own personal mission to stay safe and unharmed by terrorists and active shooters.

[End of January 2016 eJournal.
Please return for our February 2016 edition.]

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About the Network's Online Journal

The **eJournal** of the Armed Citizens' Legal Defense Network, Inc. is published monthly on the Network's website at <http://www.armedcitizensnetwork.org/our-journal>. Content is copyrighted by the Armed Citizens' Legal Defense Network, Inc.

Do not mistake information presented in this online publication for legal advice; it is not. The Network strives to assure that information published in this journal is both accurate and useful. Reader, it is your responsibility to consult your own attorney to receive professional assurance that this information and your interpretation or understanding of it is accurate, complete and appropriate with respect to your particular situation.

In addition, material presented in our opinion columns is entirely the opinion of the bylined author, and is intended to provoke thought and discussion among readers.

To submit letters and comments about content in the **eJournal**, please contact editor Gila Hayes by e-mail sent to editor@armedcitizensnetwork.org.

The Armed Citizens' Legal Defense Network, Inc. receives its direction from these corporate officers:
Marty Hayes, President
J. Vincent Shuck, Vice President
Gila Hayes, Operations Manager

We welcome your questions and comments about the Network.
Please write to us at info@armedcitizensnetwork.org or PO Box 400, Onalaska, WA 98570 or call us at 360-978-5200.



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