Tactics Against Active Shooters

Strategies from the Tactical Professor, Claude Werner

Interview by Gila Hayes

Without judging a person who died trying to save others, it behooves us to learn what we can from incidents in which an armed citizen intervenes, and so the death of Joseph Wilcox, the man who died trying to stop the June 9th Las Vegas Walmart attack offers multiple lessons. Many armed citizens only get so far as to say, "I hope I would make better tactical decisions if faced with a similar situation." Still, without guidance, the need to plan better responses to interdict an active shooter in a crowded, public venue never gets beyond recognizing that we are unprepared to deal with such a complex armed defense problem.

That's why we were so pleased to find Claude Werner's Internet blog at Tactical Professor (http://tacticalprofessor.wordpress.com), in which he addresses specifics like "proactive positioning," "cover" and "obstacles," after he made scouting runs into a CiCi's chain restaurant and a Walmart to round out his observations. Werner graciously agreed to answer questions about better tactics to survive an active shooter attack of the type perpetrated in Las Vegas. We'd like to share his ideas with as little filtering as possible to preserve the full impact of his message and knowledge, so let's switch now to a Q & A format.

eJournal: Thank you for speaking with us, Claude. Your blog highlights lessons from two bad situations. In the first, two police officers were shot in a Las Vegas restaurant, and then an intervening armed citizen was murdered in a nearby Walmart store, when he did not recognize the female of the pair as a threat. There's much to discuss, so going in chronological order, how can we avoid falling prey to attack in the typical American fast food joint?

Werner: When people start talking about situational awareness, they don't think through this clearly. At Cici's, because it is a buffet, there is SO much movement. There is just no way to protect yourself. In many places, not only CiCi's, for a potential target as is the uniformed police officer, there is just no "win." It is unacceptable.

eJournal: Still, nearly everyone ends up in a crowded fast food place sometimes, so we need to know what we can use if there's no cover and it's so crowded that classic tactics are hard to apply.

Werner: Let's talk about the idea of terrain analysis, a military concept taught in Army basic training. There's a simple acronym: OCOKA—Observation, Cover and Concealment, Obstacles, Key Terrain and Avenues of Approach and Egress. When we look at restaurants like CiCi's, the restaurant fails that analysis on every single point. There are so many people moving around you can't really observe, there is virtually no cover and concealment anywhere, you do have a fair amount of obstacles assuming you are sitting in an opposite row. There is no way to seize key terrain and there are very easy avenues of approach to you.

In contrast, then, there is an Arby's right down the road from the CiCi's that I went to check out that fulfills all those requirements. It is more spaced out, there's maneuvering room, and there are places where you can sit from where you can tell if people are approaching you. It is not a buffet, so people place their order, they go sit down and wait to go get the food. When it is finally ready they get it and come back and sit down. In a buffet, there is constant movement and white noise that after a while you have to just ignore or you can't eat.

There is an inverse relationship between situational awareness and positioning. When you are eating, your situational awareness is going to go down. Anyone who says that is not the case is living in la-la land. Why do we eat? Because we enjoy it! We enjoy it! [chuckles] If we are focusing on the fact that, wow, this pizza is pretty good or this is great iced tea, that means we are not 100% looking at what is around us. Coupled with constant white noise and movement, like I wrote in my blog, 30 seconds into eating, I realized it was impossible for me to have any situational awareness there, although I came in specifically to test it! If you are in a sit-down restaurant, there is not so much movement and

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white noise, and at least you can sit with your back to something where you're not approachable.

The long and the short of this is that we think about not only situational awareness, of who is around us and what are they doing, but also about what is around us and how does that terrain affect my ability to defend myself.

eJournal: Next time I walk into a cramped, noisy fast food joint, I will look around, remember, "Hmmm…maybe I don't really want to be stuck in here. I'll check out the place down the street." We can be harder targets as a way to honor those police officers who lost their lives.

Werner: Yes, exactly, and not just the officers who died in Las Vegas. In my blog articles, I also mentioned the officers killed in Lakewood, WA about five years ago. To me, the really unfortunate aspect was that after the four officers were killed, the after-action report of the Lakewood Police Department said there was nothing that could have been done to prevent this incident. Well, that is a load of hooey.

Those officers were not trained in positioning at all. The report itself is very nicely done with a lot of diagrams and it is very informative and descriptive, but the conclusions the report drew are entirely false. If you look at the layout, those officers just were not trained in how they should have positioned themselves.

When you are doing things where you know you are going to be distracted, you need to place yourself in a position where it is difficult to approach you. There are some very savvy trainers that have been talking about this for quite some time, but the message really has not gotten out. Bill Rogers has been talking about positioning in his Sunday evening lecture ever since I started going to Rogers Shooting School. I started going in 1998 and I know he was talking about it before then. Craig Douglas teaches the same thing in his lectures to police officers. It is unfortunate that no lessons were taken from the Lakewood incident to better train officers to manage approaching threats.

eJournal: Private citizens can and should learn from their deaths, too. To fail to learn from someone's death is about the worst kind of waste I can imagine.

Werner: That's right. They've died in vain. I don't want either those police officers or Mr. Wilcox to have died in vain. That is why it is important and that is why I talk about it. If you think of it, Mr. Wilcox's death is the armed citizens' equivalent of the Newhall incident (http://americanhandgunner.com/new-info-on-newhall/) for police officers. It needs to be a wake up call to make people think about what is actually important in their training and what their priorities should be to prevent it happening to them.

I think that we in the training community are not talking to people about tactics enough. Now, if you look up tactics in the dictionary, it pertains to movement. It does not pertain to the idea of using a weapon! It is more about how to move and position yourself to use the weapon. I don't think we do it well, significantly because when we train people on a firing line, as training is often conducted, there is no way to do that.

This is something in which I do not think the training community is doing a particularly good job. Going back to a conversation I had with Skip Gochenour years ago: his concept was that when we do firearms training, we should have live fire one day, then the next day take away all the live guns–even the Simunitions guns–give everybody only blue guns, so we could run around and engage one another with out fear about safety. Even with Simunitions, I have observed that the helmets and all the armor lends an artificiality and puts constraints on it that I do not think is always helpful to the training.

Now, with a carry license, Mr. Wilcox had been through the Nevada training, and with a weapons permit from there, I, too, have been through the Nevada program several times. In both cases it was run well, but what the State mandates does not cover movement and positioning. It is more laws and a shooting test.

eJournal: Realistically, though, I think it is silly to expect a state-mandated program to be enough training. That should just be a starting place.

Werner: Unfortunately, Mr. Wilcox found that out the hard way. Frankly, in training, we spend too much time worrying about pistol manipulation. I would rather teach students how to position themselves to the flank of the adversary as opposed to face-on or directly to the rear over teaching how to clear a malfunction one handed or load one handed.

eJournal: Can you suggest specific tactics to mitigate the many unknowns present in an attempt to intervene to stop a massacre? If nothing else, the huge problem of the unidentified accomplice is daunting.

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Werner: When there is a backup person present, they are most likely going to be close enough to the person they are protecting to be able to cover them with gunfire. I know from my military background, that when units are bounding, one moves while the other unit gives covering fire. The bounding unit never goes farther than the effective range of the unit that is covering. We can draw parallels to the seeded backup person. They are going to maintain distance where they think that they can still engage a threat to the back or flanks of their protectee, the primary actor. Since most of them are not particularly well trained, they will probably remain pretty close.

Without looking at the Las Vegas police report, which is not available, I have no way to know where the woman was in relation to Mr. Wilcox. But I can say that in the south side Atlanta seeded back up case that I mentioned on my blog (http://tacticalprofessor.wordpress.com/2014/07/14/what-strategies-should-we-train-or-train-not-to/), the back up was about 12 feet away from the robber.

If we hone our skills to the point where we are confident enough to engage the criminal either verbally or with gun fire from a greater distance, that means that the back up person is probably also down range, where we want them. The gunfire then forces them to make a move that we can see, as opposed to them being behind us as was the case for Mr. Wilcox and as happened in Atlanta.

eJournal: In Las Vegas, we have an assailant who has already fired one round. What are your thoughts about verbal warnings given to a man with a gun in his hand?

Werner: To quote Tuco from *The Good, The Bad and The Ugly,* "When you have to shoot, shoot, don't talk."

eJournal: I know I am uncomfortable with announcing our intentions to someone who is already shooting.

Werner: No, and that is another aspect of Lakewood that is a "rhyme" to Las Vegas. In Lakewood, two of the officers were killed almost immediately. Because of their position, there was very little they could do. Then there was an officer who was about seven yards, if I recall, from the shooter and that officer was very well versed in defensive tactics. Now, the shooter has already killed two of his fellow officers and that officer chose to close the distance and engage hand to hand when, in fact, the obvious school solution was to draw his weapon and shoot.

eJournal: If that was where the bulk of his training focused, perhaps he thought he was best at the defensive tactics and reflexively relied on his best skills.

Werner: Therein lies the problem! We are not training a range of options to address what could be a range of situations, and I think that is an issue. We are not training people to know that sometimes the time for talking is over, and in other cases, it is definitely time for talking. In the case of the video about the NM attorney's shooting that Stephen Harris put up on the Network Facebook page, the time for talking probably was not over, which resulted in the problem.

On a Jim Wagner DVD about knowledge building that I watched recently, he talked about how we need to have a set of options based on the circumstances. The gun is not the appropriate solution for many circumstances, but in some circumstances the gun not only is appropriate, but accurate gunfire is also needed. Those are separate issues and I don't think we are training the range of options particularly well.

I feel very fortunate "the most dangerous man in the world" trained me very heavily in the concept of draw and hold and when draw and hold transmits into "start shooting." I don't think a lot of people have that sort of training, but I think it is pretty important, because 99 out of 100 circumstances don't require gunfire but the 1% do almost immediately and that is what took Mr. Wilcox's life. When it is time to start shooting in an active shooter situation, it is not the time to talk.

eJournal: Additionally, I think the environment of the "big box" store imposes its own set of problems that perhaps we can analyze. To cite only one of the several problems, what is cover and what is concealment? Of course, we also still have the problem of the unidentified back up.

Werner: In my analysis of going into Walmart, there just is not much cover there. But you know what? If you have some concealment, you can use that in conjunction with movement to get along their flank. If there is a back up person, to go back to your question of what do we do about identifying back up, we have to make some kind of move that makes that back up person self identify. That might be either movement, or gunfire from distance.

One of the things I've observed in force on force training: anytime there are people down range, the vast

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majority lacks confidence in their skill to engage a target when there is someone else downrange. They want to close, as Mr. Wilcox did. I don't know whether he wanted to close because he had a lack of confidence in his marksmanship ability, or simply because he didn't want to kill the guy, or because maybe he thought first you have to verbalize before you shoot somebody.

That is a mistake that even a lot of police officers don't understand. They feel they have been trained that they have to verbalize prior to engaging in gunfire. In exigent circumstances, that simply is not true. As Tom Givens says, most people's training comes from TV and it is all wrong. Couple that with people who are only marginally skilled and don't have confidence, what are they going to do? They are going to try to close and that is the wrong solution, I think, in most cases.

eJournal: The precision marksmanship is even more critical because big box stores are usually crowded with uninvolved people.

Werner: That is where that confidence issue comes in. Remember Hackathorn's rule? If you are not subconsciously confident that you can perform a task, the chances that you are going to try to do it under stress are very small.

eJournal: That relates to a question a member asked about taking head shots under similar circumstances. While we can take up the question of defending head shots with our legal experts, while we are discussing skills, what do you think about the practicality of planning to shoot for the head?

Werner: I have seen a tremendous amount of reluctance both in discussion and during force on force to take head shots. Part of that is a confidence factor, and the other part of it is, I think, most people think of head shots as dirty pool. Nice people don't shoot somebody in the face or in the back of the head.

Specifically, if we don't train people to shoot the head, I do not think they will. The analogy comes from a Chicago police sergeant on a police web site, talking about a shooting she was involved in. They had talked about head shots during their training, but they had never practiced shooting at the head of the target. So when she was involved in her shooting, for what ever reason, she shot the guy several times and it did not take effect. She was very candid about it and said the idea of taking a head shot never even occurred to her in the moment.

If we don't physically train people to do it, they are not going to. There is another thing that I include in my classes. I have students shoot the silhouette in the head from three yards and under no time constraints, and I practice on my eye target (see https://www.facebook.com/ATLFirearms/posts/10203032271300430). I have a set of shooting exercises that I do on a sheet of paper with ten eyes on it, and so I'm practicing aiming at the eye. It is one round drills, five times from the ready, five times from the holster. I think if we don't teach people physically to do it, they just aren't going to do it. Running our mouth about it without doing it on the range is ridiculous.

eJournal: Have you considered controlling angles as a way to address dangers to those innocent people who are behind the criminal?

Werner: Yes, in fact, that is one of the first things that I teach in my classes. Rule Four: know your target and what is beyond. This dictates that sometimes we are going to move before taking a shot on someone who is shooting if there are innocents between the target and us or beyond the target. We have to be concerned about that.

As responsible gun owners, we need to be sure both physically and in our own minds, that every shot we fire is going to impact that dude and not any innocent parties. The emphasis on multiple shot strings is another problem I see with training. I'm just utterly opposed to that. My classes start out with multiple strings of firing one shot and making that first shot hit. I think that is something we should work on.

eJournal: How well does that work under fear and stress with tunnel vision?

Werner: Especially in the case of an intervention, we cannot afford to be Pavlov's dog, which has been conditioned to have a specific response to a specific stimulus and does it unthinkingly. I will refer again to Bill Rogers. His concept is that you have to make a plan before you make a move. The way he puts it, "I'll solve it when I get there has killed an awful lot of people." When you get there, you are no longer able to solve it.

That is what happened to Mr. Wilcox. He reacted instinctively, subconsciously, but there clearly was not a plan in his head like, "There is that guy, is there a place I can at least conceal myself, or is there a way that I can flank this guy?" Sometimes we just have to take a

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couple of seconds–and that may be all we have–but I think it is important that we condition ourselves to the idea that we have to have some kind of a conscious plan, not just a subconscious reaction.

We have to learn to think with guns in our hands and I think that is another thing that is not being done particularly well in training. I'll give credit to Paul Markel of *Student the Gun* for talking about that, and I agree it is something that is really critical but most people are not really good at that.

You need at least some concept of how to formulate a plan on the move. Haven't you and I talked another time about that Internet meme, "be polite, be professional, but have a plan to kill everybody in the room?"

Whenever people recite that meme, I ask them, "OK, what are the elements of your plan?" I have never once gotten any kind of a reasonable response. It is just something we talk about. We have to think about how to plan on the move. Like Bill says, what do I do before I get to the point where I am decisively engaged? I think I put the military concept of being decisively engaged in my blog, so you know it is where you can no longer maneuver.

Well, we need to make a plan before we get to that point. Drawing from the concept of proxemics, how to utilize our personal space, as taught by Dave Spaulding and Ed Lovett, when we get to within about 12 feet of someone, by my estimation, we are decisively engaged. Presuming the person is further away, we need to make a plan before we get there.

eJournal: That could provide useful check points, to help make timely decisions knowing that soon you will be so close that you will not be able to withdraw unseen. But here is the problem: people don't have plans because they don't know how to make them.

Werner: I am very grateful for the fact that when I had my military intelligence assignments one of the things that I did a lot of was intelligence preparation of battlefields. Part of that is determining what are the decision points on the ground. Going back to the concept of terrain analysis, we have to think about what are the decision points on the ground, and that may be nothing more than my distance from the criminal, the active shooter. I must think about what am I going to do before I get to the point that I am decisively engaged.

eJournal: It is hard to be entirely prepared, but we can apply your advice to envisioning walking into the local Walmart or other public venue we frequent, and working out lanes of travel and the distances involved. Do you teach a class specific to these planning topics?

Werner: On August 16-17 in Garrettsville, OH, I will be teaching a two-hour class at Paul-E-Palozza (http://paulepalooza.com) called *Tactical Decision Exercises for the Private Citizen* and that will be a big part of it.

eJournal: For those of us who can't be there, and perhaps in summary to all the things we talked about today, if you had been in the Las Vegas Walmart on June 9th, what do you think you might have done?

Werner: I expect that given the available terrain, I would have tried to move into an aisle parallel to the shooter, moved down that aisle, and placed myself in a position where I could engage him with gunfire at a distance. If he had a back up person, by doing that, they would have had to tip their hand and show where they were because it would involve either turning around to engage me or closing with me, which people who are not involved in the situation are unlikely to do. I would achieve a dominant position and engage him with gunfire. I like to think that is what I would do.

eJournal: I like both the simplicity and brevity. I don't think some of the complex, 20-step plans advocated are going to be adaptable enough to use anywhere but in an Internet argument. However, that said, there are some good learning resources on line, and I hope our readers will add Tactical Professor, which I've linked to earlier, to their list of favorite websites. Thank you for sharing your knowledge, in both this interview, as a Network Affiliated Instructor and on your blog.

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

President's Message

by Marty Hayes, J.D.

Things have been pretty quiet for me this past month. It has been a nice break. I did speak on one radio program and you can hear the archived show for July 19th at http://www.whio.com//list/entertainment/personalities/shootin-hip-podcast/e7/ with Mark Avery, co-host of *Shootin' From the Hip.*

Mark is a long-time Network member who approached me and told me that he had invited two of the Network's competitors to be on the show. Would I like to participate? he asked. I, of course, agreed! I would have enjoyed exposing some of the flaws in the other programs, but Mark said the others never responded to his invitation. I suppose they just didn't want to discuss their programs in a media they cannot control. Even so, we had a good discussion about insurance, the NRA plan, and of course the Network.

For those in the Dayton, Ohio area, Mark runs Sim-Trainer and Indoor Gun Range. If you haven't seen his facility yet, check it out.

Mark's invitation to be part of his radio program was timely because for quite a while I have been researching a comparison of all the post-self defense protection plans currently available to armed citizens nationwide and it has proven to be a Herculean project. I am finding that some of the companies that were in the market place at the beginning, have since gone by the wayside. Well, that is normal in an open, capitalist society. The cream rises to the top.

The Network must be considered part of the cream, because competing plans like to compare what they offer against the Network's membership protections. In doing that, of course, they tout what they believe are their strong points, and ignore ours.

What do they ignore? First, they all ignore the eight educational DVDs through which the Network actually helps educate our members. There's no mention of that when they do their comparison charts. They also do not discuss our nearly $400,000 Legal Defense Fund, set aside for our members to use when they are being prosecuted after a self-defense incident. Additionally, they do not mention the industry leaders who have chosen the Network as their plan to cover their backs: leaders such as Massad Ayoob, John Farnam, Tom Givens, Dennis Tueller and attorneys Manny Kapelsohn and James Fleming.

In fact, the Network's approach to the aftermath issue (what Jeff Cooper called "Problem Two") is so different from the other insurance and pre-paid legal programs that an actual side-by-side comparison has proven virtually impossible. Instead, in my comparison I will discuss this fledgling industry as a whole and outline the upsides and downsides of each type of plan with links to all the other serious companies so you can easily compare other plans to what the Network does for members. I hope to have it available by next month.

One last thing: the Network has a very active and seriously intellectual Facebook page up and running. Each week, cases about use of deadly force in self defense are posted and discussed. This is law school level stuff, and while impertinent and cheeky posts are not appreciated (so I am a strict administrator), we do have some very good discussions. Every member of the Network should take a look once in a while. If you "do" Facebook you should be following our page at https://www.facebook.com/groups/221594457860509/.

Turn the page to learn who are all these people and why are they raising their hands.

Those pictures show you the best thing that happened to me all month! Let me explain. This came about when I asked a simple question during a training session.

My school, The Firearms Academy of Seattle, Inc. hosts Massad Ayoob once a year, and as I write this, we are currently immersed in a nine-day stretch offering his MAG-40 and MAG-80 classes. (MAG stands for Massad Ayoob Group).

Mas asked me to give a little talk about the Network, and the first thing I did when I took the podium was ask how many Network members we had in class. I was blown away when 22 of the 36 people raised their hands! After my talk eight more folks joined the Network.

The students raising their hands made such a large group that two photos were needed to show you all of them! Folks, these students are a group of armed citizens who take their training seriously and recognize the benefit of being a member of the Network. These are the kind of people we want in the Network: well trained, well educated armed citizens.

Have you taken any training lately?

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

Attorney Question Of The Month

For the July and August 2014 editions of this column, Network President Marty Hayes asked our Affiliated Attorneys about the use of blood alcohol content tests. If you missed the first half of this discussion this month, see it at http://armedcitizensnetwork.org/our-journal/312-july-2014?start=12. Now, for the rest of our attorneys' responses—

If a defender has been drinking lightly and he/she is involved in a self-defense shooting, would you advise the person to ask to take a Breathalyzer to prove they are not legally intoxicated?

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Absolutely not.

To begin with, legal intoxication relates almost exclusively to driving offenses, and I would not do anything voluntarily to bring the concept into a self-defense shooting case.

Second, ANY level of intoxication CAN and WILL be used to show that the defender had at least impaired judgment. Even a small amount of alcohol impairs judgment, and the amount consumed is measurable on a Breathalyzer. And whereas a jury easily could infer that the defender was unimpaired enough to drive on a lonely road late at night with no traffic, his ability to make a definitely life-or-death decision about the use of deadly force is another matter. Let the prosecutor argue impairment without any hard evidence. Their argument for impairment will be countered by any defense witnesses who say that the defender "seemed normal" to them. Every apparently normal action of the defender will counter the prosecution.

And of course, if the Breathalyzer blows high, you're screwed. You cannot know for sure how much the client had to drink, and he may lie to you thinking that four or five drinks is O.K. People have really skewed understandings of how little it takes to reach legal DWI impairment (in many states now .05) and intoxication (.08). And NHTSA is working overtime to lower the intoxication limit to .05...which they probably will succeed at doing eventually. Your client, who has been drinking, simply is not in ANY position to judge just how drunk he really is, and the attorney should not rely on the client's representations.

Also, remember that by having your client take a Breathalyzer, which almost certainly is being administered by police, you are putting him into the hands of trained professionals who do nothing but observe and make notes about people suspected of being intoxicated. These pros are going to be supporting the police side of any case against your client, and their "observations" will be devastating. After spending 30 minutes asking the witness about all of his lofty credentials, you will hear the question, "And in your professional judgment, how did the defendant appear?" followed by the answer, "He appeared somewhat impaired in motor skills and spatial relationships."

But it gets better yet. While your client is in the neighborhood, the intoxication pros will ask him to stand on one leg, or walk the line, etc., and if your client does not do well, KO for the prosecutor. ("If he couldn't even walk straight, how, ladies and gentlemen, could he responsibly handle a deadly semi-automatic weapon?") And if the client refuses those tests, it will be used to infer that he was trying to hide something. Oh, and it will ALL be on a CD video and sound recording.

I don't want my client anywhere near these people. They are professionals at making the client look bad, from start to finish, and they do it very well.

The single exception an attorney might make–though probably I would not–is where it can be ascertained for certain that the client had almost nothing to drink, and well more than twice the time necessary for his BAC (Blood Alcohol Content) to reach zero has elapsed. I don't see how the lawyer can know this for sure, but if so, here's an example case: client last finished drinking a single 12 oz. can of beer more than two hours ago. The beer contains 1 oz. of alcohol, which will read about .02 on a Breathalyzer. It takes an average of one hour for the body to metabolize each ounce of alcohol, so if the client last sipped more than two hours ago, his Breathalyzer should read zero after only one hour.

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But owing to differences in people's metabolic rates, I don't think anyone should feel safe without two-and-a-half to three hours elapsing. If that has occurred, then a clean Breathalyzer should result–if the machine is working correctly and the test is administered properly–and it almost certainly will defeat any prosecution inference that the client was impaired by alcohol. But since for good reasons I do not fully trust the machines or the operators, and also for the other reasons stated above, likely I still would advise the client not to take a Breathalyzer.

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This is a good idea, but the important part of it is to hire (through your attorney) a private Breathalyzer tester. If this is done in anticipation of litigation (which it is), I can't think of any circumstances where a prosecutor could get the information (you have a 5th Amendment right not to incriminate yourself). If the test works out well, you can trumpet it from the rooftops. If not, then it is buried forever.

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In Michigan this can be problematic, due to the following statute (MCL 28.425k):

(1) Acceptance of a license issued under this act to carry a concealed pistol constitutes implied consent to submit to a chemical analysis under this section. This section also applies to individuals listed in section 12a.

(2) An individual shall not carry a concealed pistol or portable device that uses electro-muscular disruption technology while he or she is under the influence of alcoholic liquor or a controlled substance or while having a bodily alcohol content prohibited under this section. An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) If the person was under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or had a bodily alcohol content of .10 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or $100.00, or both. The court shall order the concealed weapon licensing board that issued the individual a license to carry a concealed pistol to permanently revoke the license. The concealed weapon licensing board shall permanently revoke the license as ordered by the court.

(b) If the person had a bodily alcohol content of .08 or more but less than .10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or $100.00, or both. The court may order the concealed weapon licensing board that issued the individual a license to carry a concealed pistol to revoke the license for not more than three years. The concealed weapon licensing board shall revoke the license as ordered by the court.

(c) If the person had a bodily alcohol content of .02 or more but less than .08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is responsible for a state civil infraction and may be fined not more than $100.00. The court may order the concealed weapon licensing board that issued the individual the license to revoke the license for one year. The concealed weapon licensing board shall revoke the license as ordered by the court. The court shall notify the concealed weapon licensing board that issued the individual a license to carry a concealed pistol if an individual is found responsible for a subsequent violation of this subdivision.

Accordingly, it would be very fact dependent. If the shooting occurred in the defender's home, I would make the argument that the defender did not possess the firearm pursuant to a CPL, and therefore advise him/her not to take any test. As you can see the statute presumes a .02 to be under the influence and since a .02 can occur naturally, without any alcohol consumption, I certainly would not want to give the State any evidence at all that my client and been drinking, and leave it to them to prove he/she was under the influence.

On the other hand if the defender did have a CPL, there is the implied consent provision in the law, and while defender could still refuse, and suffer the ramifications of that, it would also free the State to comment on his/her refusal, and ask for an inference that if they weren't under the influence they would have agreed to the test.

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My advice would be for the defender to remain silent, make no admission or comments regarding any actions (including drinking) and force the State to prove that he had been.

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No. People who have been drinking, even lightly, often lose the judgment to determine whether they are legally intoxicated or not. Why create evidence that may be used against you? If you are offered a Breathalyzer test, refuse it. If you are not driving, you cannot be compelled to take the test.

The best advice is if you drink, even a little bit, don't carry.

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Although it may seem like a good idea, I would advise someone who is the subject of a police investigation to say as little as possible. They should certainly cooperate if one is requested, as long as they really did have little to drink. Keep in mind that even a single beer or cocktail could produce undesirable results in a small person. I would rather point out at trial that the police "could have" but didn't do a Breathalyzer test. The prosecution has the burden of proof.

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Absolutely not. Do not ask to do anything.

What you must understand is that law enforcement will be looking to make a case against you no matter how appropriate the use of force may be.

Law enforcement may try to persuade you to consent to such a search with this logic, but it is faulty.

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In response to your question I would say no, including the field sobriety test. Also, I advise people if they are having a few drinks best to leave the gun at home. Even a pull over for traffic stops could lead to suspension of your license if the officer feels you are impaired even below the .08 limit. That applies to driving only, not a concealed handgun license in Texas.

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No. That would be like a motorist doing the same thing. Nobody does that. It's the state's burden. Why provide the state with evidence?

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I would never ask for a Breathalyzer. If the police don't think it's necessary, and didn't bring it up on their own, you're only creating an issue. Likewise, the failure of law enforcement to ask for blood (they won't ask for breath except on a DUI) is a point your attorney can raise later on as a failure in proof, assuming it ever becomes an issue. Remember, normally the less you say beyond it was "self defense" the better. There are exceptions, but asking for a blood or breath test won't be one of them.

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As attorneys, we're loath to answer hypotheticals that don't involve more facts. This answer should not be construed then as legal advice but as a debate over a hypothetical. First, in Iowa, a preliminary breath test

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(PBT) is arguably so inherently unreliable that its result is statutorily inadmissible in DUI cases. A Datamaster test is more scientifically accepted. Even that test is subject to scrutiny if the test is improperly administered or the machine lacks proper maintenance.

Regardless, let's assume your question relates to the Datamaster test and not the less reliable preliminary breath test used as one of many field sobriety tests to determine reasonable grounds to believe a motorist is intoxicated.

Second, "asking" to take a breath test may not be an option. The law enforcement officer is conducting the investigation–not the suspect. But even it were an option, I would advise any suspect to remain silent and to ask only for an attorney. A now-cliché infographic has circulated social media for criminal defense lawyers. It is a flow chart detailing when defendants should speak to the police. It is a single box with the words "don't" in the center.

I am aware that Network members distinguish themselves from criminal defendants who are likely to be suspects in police investigations. And the instinct to assist and "clear" one's name is strong. But that instinct cannot trump the agenda and biases of law enforcement and prosecutors, if such an agenda and/or biases do exist in any given situation. Defendants have a right to remain silent for a reason.

Remember that it is the State's burden to prove the defendant guilty, not the defendant's to prove his or her innocence, and that every attempt to prove one's innocence can and will be used against the defendant.

There is a school of thought that assisting the police rules out a guilty mind and that invoking the right to remain silent and to speak to an attorney will inspire suspicion in law enforcement. If the suspect feels the need to justify himself or herself, that suspicion already exists. And that's how it will look. In the meantime, asking to take a breath test will be an admission that the suspect consumed alcohol.

As a caveat, in Iowa, I urge a zero tolerance policy when it comes to mixing alcohol and firearms. Carry permits and alcohol do not mix. Public intoxication negates the carry permit and someone found to be publicly intoxicated and in possession of a firearm commits an aggravated misdemeanor punishable by at most two years in prison.

But back to the question: I urge against attempting to "prove" one's innocence and instead urge any suspect to invoke the right to remain silent and the right to an attorney.

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No. I would send the person to a friendly physician or laboratory for a confidential blood draw, and evaluate the results accordingly.

It has been my experience that an individual's recollection of alcohol use is often erroneous and is disproven and disputed by police observations or videos.

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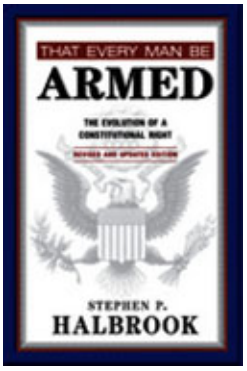
Fla. Stat 790.153 and 790.155, allow for law enforcement (LE) to require a breath or blood test of persons using a firearm, and allows the individual to demand a test. It is likely unconstitutional as there is a right of self defense in Florida and I do not believe the State can condition the exercise of a right on the waiver of 4th Amendment rights, but I am not aware of any cases on point.

I would never advise a client to demand a test unless they were absolutely clear of any substance to include any lawful prescription medication. If LE believes they are impaired but fails to request a test, I believe any evidence of impairment could be suppressed based on the failure to request a test by LE.

I would prefer the client refuse consent to any search, and argue later whether an implied consent type law is valid. However, if it is upheld, refusal to submit to the test can be used against them.

A big "Thank you!" to all the Network Affiliated Attorneys for their many responses to this question. Readers, please come back next month for discussion of a new topic with our valued Affiliated Attorneys.



Book Review

That Every Man Be Armed: The Evolution of a Constitutional Right

Revised & Updated (2013)
By Stephen P. Halbrook
Univ. of New Mexico Press
ISBN-13: 978-0826352989
336 pages

Reviewed by Gila Hayes

Over the 4th of July weekend last month I vowed to reread a classic in gun rights books, Stephen P. Halbrook's *That Every Man Be Armed: The Evolution of a Constitutional Right,* which was updated last year. This is a concentrated, scholarly book that defies synopsis in a couple of pages (in fact, I did not manage to finish reading it over the holiday weekend). Instead of an inadequately brief review, I've decided to go really short on my Editorial pages this month and use more pages on this book review to remind Network members about the history of our self-defense rights.

Halbrook's title echoes Patrick Henry's assertion that the newly freed nation's defense rested with its citizens and their privately owned guns. "The great object is, that every man be armed…Every one who is able may have a gun," he stressed. Using a quotation for the book's title sets the tone; it is filled with lengthy quotes by sources ranging from Aristotle to U.S. Supreme Court Justices and many luminaries in between. Many address rights to overthrow tyrannical despots, fears about a standing army, and, of course, individual weapons rights not only to unseat tyrants but also for personal defense.

Early on, Greek and Roman philosophers elucidated most of our modern human rights. Halbrook quotes Aristotle, Cicero and later Machiavelli to highlight the elemental character of the right to possess and use weapons for self defense. He contrasts Aristotle's advocacy of a constitutional government, "the members of which are those who bear arms" against Plato's totalitarian ideal. By limiting weapon possession to specific classes, Aristotle countered, entire segments of the population become slaves to those who have weapons.

Long before the assault weapon argument, Aristotle explained why citizens need military-grade weapons, writing that while an armed citizenry can protect their king, "the armed force of the monarch must not be 'strong enough to overpower…the whole population.'" Halbrook later cites Aristotle's description of a tyrant's power grab, beginning with trickery to disarm the soldiers.

From Roman history, Halbrook also highlights Cicero's recommendation of citizen militias, "a large group of knights from the main body of the people" who provided their own swords, spears and armor and later relates, "The demise of the citizen militiaman, who provided his own weapons, and the transition to the standing army heralded the end of the republic and liberty and the beginning of the institution of the empire and tyranny."

This Machiavelli echoed a thousand years later, when he wrote, "The demise of the armed citizen meant the end of civic virtue and with it the end of the people's control over their destiny," Halbrook quotes. "Rome remained free for four hundred years and Sparta eight hundred, though their citizens were armed all that time; but many other states that have been disarmed have lost their liberties in less than forty years."

Next, Halbrook's timeline advances several centuries to contrast arguments for and against an armed population forwarded by Hobbes, Locke, and Rousseau, the latter writing, "In a State truly free, the citizens do all with their own arms and nothing with their money." Another, Algernon Sidney, extensively quoted by Halbrook, was beheaded for his published statements in favor of weapon possession by the common man to defend his "own life, liberty, goods, and lands; and that tyrannical governments may rightfully be abolished." King Charles II executed him for treason in 1683, Halbrook relates.

While Englishmen were defining gun rights, they denied the same to the Scots, the Irish and, of course, eventually to American colonists. Halbrook explains that gun control in America was originally implemented to subdue the native population, though it soon was enforced against colonists, as well. American colonists formed independent militias like the one to which George Washington and George Mason belonged, pledging to never be without a gun, lead and powder, but with gun and ammunition component imports prohibited, the Americans resolved to began making their own, even as British soldiers went about confiscating them. Pushed too far, colonists in Lexington fired on British troops and the rest, as they say, is history.

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Composing their own charters after throwing off British rule, the former colonists recognized that private gun ownership is essential for common defense, personal defense, and to overthrow tyranny should it rise again, Halbrook continues. When Massachusetts' Declaration of Rights cited only "common defense," the commonwealth's towns responded with resolutions of their own that the people must never be deprived of private gun ownership for individual defense.

Architects of the new American nation viewed the independent militia as a means to secure their hard-won freedom from central government that could grow too powerful. The phraseology was debated when the Second Amendment was composed, and "the U.S. Senate rejected a proposal to add 'for the common defense' at the end of what became the Second Amendment." Halbrook explains that individual gun rights were never questioned at the time. Just as an individual's freedom to practice their chosen religion is protected, neither may gun rights "be infringed," Halbrook compares. The rights extend to individuals, not to the community, he adds, drawing conclusions from the use of "the people" in the other amendments comprising the Bill of Rights that don't make sense if applied to a community instead of an individual.

Even advocates of strong, central government acknowledged individual gun rights. In the *Federalist Papers*, Alexander Hamilton wrote that the government could not infringe the peoples' liberties "while there is a large body of citizens…who stand ready to defend their rights and those of their fellow citizens." Halbrook also quotes another Federalist, Noah Webster, who wrote that a government's army could not enforce unjust laws "because the whole body of the people are armed."

According to Halbrook, the growing American nation enacted little gun legislation until after the civil war when laws arose to thwart the emancipation of slaves. Ironically, some of the soldiers who fought to preserve the Union faced confiscation of the very rifles with which they had gone to war. They were, of course, black men and although the North won the war, the hard times were far from over.

In the late 1800s, Black Codes designed to disarm blacks ran afoul of the constitution. Congress drafted the 13th and then the 14th Amendments to clarify and enforce the rights of black Americans. Halbrook, harking to principles explained in his book's early pages, reminds the reader that prohibiting weapon possession has been a prominent characteristic of slavery "since ancient times." Abolitionists knew this, and Halbrook cites their writings to show the evolution of freedoms from ancient times into antebellum America. He also includes quotations showing how abolitionists identified gun rights with the full expression of citizenship so lacking in the lives of freed blacks. As Lysander Spooner wrote, "The right of man 'to keep and bear arms,' is a right palpably inconsistent with the idea of his being a slave," the author quotes.

The same question arose in Virginia's courts over concealing weapons. Trying to enforce the constitution's original intent, they found that the constitution forbids restricting "the full and complete exercise of that right," adding that when the constitution was adopted, concealed weapons "had been considered a legitimate practice," Halbrook relates. Other states also struggled to decide whether the right to carry weapons was exclusive to militia or if it extended to individuals. Halbrook concludes, "The general rules in the antebellum courts was that the Second Amendment guaranteed an individual right to keep and bear arms free from both federal and state infringement."

In watching the landmark *Heller* and *McDonald* U.S. Supreme Court cases in recent years, we were reminded of the importance of the 14th Amendment's privileges and immunities clause, and the Federal government's ability to override state law to enforce constitutional principles, but Halbrook's book gives a great context for understanding how the 14th protects the rights outlined in the first eight constitutional amendments, "which no State can take away or abridge," Halbrook cites in the words of a senator arguing for the 1865 Civil Rights bill.

Halbrook points out that abolitionists had employed weapons to protect themselves, their homes, and the presses so necessary to spreading their message. His history of the role of firearms in abolishing slavery is compelling. The analysis further supports his argument that the individual right to own and carry guns is just as fundamental as the right to vote: a more contentious topic during the Reconstruction era. He supports this reasoning with details from changes to state constitutions necessitated by the 14th Amendment prior to the rebel states readmission to the Union. The individual aspect of gun rights is emphasized by constitutional changes and case law stemming from court challenges, as shown in *Nunn v. State* (1846) that clearly recognize the right to bear arms by "the whole

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people, old and young, men and women and boys, and not militia only," Halbrook cites.

At the same time, some of the states began to impose conditions on gun rights, as did North Carolina's 1875 reservation of the right to prohibit "the practice of carrying concealed weapons," although recognizing the larger right of the individual to possess and carry guns. Earlier, in 1870, Tennessee had ratified a similarly worded bill, authorizing the legislature to regulate "the wearing of arms with a view to prevent crime."

Halbrook gives many details about the conflicts in bringing the confederate states back in line with the ideals of the Union, both in overthrowing Black Codes as well as arguments for disarming white militia bands terrorizing black citizens. In proposing to disarm either segment of the population, these histories suggest a karmic retribution, by which denial of defense rights later was enforced against everyone.

While Halbrook's history of gun rights after the Civil War is detailed, it is interesting reading supported by many quotations. For example, during a congressional wrangle over stopping domestic terror against blacks, a Mississippi congressman explained the connection between free speech and gun rights: "In some counties it was impossible to advocate Republican principles, those attempting it being hunted like wild beasts; in others, the speakers had to be armed and supported by not a few friends."

Civil rights arguments in the U.S. Supreme Court comprise the next chapter of *That Every Man Be Armed*. In it, Halbrook explains the effect of *United States v. Cruikshank,* an 1876 case from which anti-gun forces draw mistaken conclusions, according to the author. The allegations were that private citizens had violated the human rights of black freedmen, preventing them from peaceably assembling together and bearing arms.

The 14th Amendment limits actions of State government, so Halbrook asserts that in *Cruikshank* the U.S. Supreme Court justices actually ruled on the State's obligation to enforce civil rights. "The federal courts…could not offer relief against defendants accused of conspiracy to deprive complainants of their freedom of action and their firearms, for these violations were common-law crimes actionable only at the state level," Halbrook clarifies. He summarizes that *Cruikshank* merely found that weapon possession and freedom of assembly are fundamental rights existing "prior to the constitution and which every free civilization must respect."

Legal theories used to apply Second Amendment rights include both due process as well as the 14th Amendment's privileges and immunities clauses, Halbrook explains. He gives a broader view of rights extending well beyond those specifically identified in the Bill of Rights, using examples from cases arguing that the state must not infringe upon fundamental rights not specified in the constitution. He quotes Justice Harlan's dissent in *Poe v. Ullman* (1961), "The full scope of the Due Process Clause cannot be found in or limited by the precise terms of the specific guarantees elsewhere provided in the constitution." He adds that "the twentieth-century avalanche of incorporationist decisions" supports beliefs that the constitution specifically recognizes the right to keep and bear arms and he further buttresses his argument with decisions from other cases.

Chapter seven explores what has come to be called reasonable restrictions. Again, the term "militia" creates loopholes! Halbrook discusses a TX case citing the rather nebulous terms "commonly kept," "customs of the people" "appropriate for open and manly use in self defense" and a NC case recognizing that pistols, along with common long guns, should not be restricted for carry by individuals, while the same could not be said of "war planes or cannons" or as cited later, "machine guns and mortars." The same case, *State v. Kerner* (1921), also speaks to the importance of concealed carry rights.

Rights to carry firearms in New York and New Jersey show the "erosion of the right to possess arms," Halbrook next illustrates, explaining that proponents claim it's OK to infringe on any right as long as it is not done arbitrarily. He also revisits the AR and WV cases about pocket pistols from the late 1800s and adds information from a KS case about carrying a revolver while intoxicated. He also provides details about cases that weighed whether it is acceptable to restrict felons' gun rights, which he sums up saying, "Felons may be disarmed not because the Second Amendment fails to protect individual rights, but because felons forfeit civil rights by engaging in crime."

Next, I was excited to begin reading the updates Halbrook appended to the new, 2013 edition of *That Every Man Be Armed,* although the author called it "a digression in a book dedicated to tracing the concept of

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the right to keep and bear arms from ancient Greece and Rome to the United States in modern times." I'd respectfully disagree! Bolstered by all the historical perspective, I was better prepared to understand our current struggle.

Restrictive legislation by IL and CA lead the update, and U.S. Supreme Court cases identifying specific restrictions on firearms as well as the court's rejection of firearms bans in school zones as unconstitutional. Also mentioned are Halbrook's own arguments to the court about the Brady Act's requirement that chief law enforcement officers perform background checks before a handgun purchase can be completed in *Printz v. US* (1997). These paved the way for the U.S. Supreme Court to finally take on a case that would define for modern times, the role of the Second Amendment, he asserts.

The argument for our times, Halbrook defines, is whether the Second Amendment protects the right to individual weapon possession or a "collective" right to arm militias. When the court could not ignore this question any longer, we finally got what Halbrook calls the "blockbuster opinion" in *DC v. Heller (*2008) holding that "the Second Amendment guarantees the right of individuals to possess firearms for self defense, hunting, and militia service," while overturning the District's long standing ban on handguns. The quotes from Justice Scalia's opinion deserves more detailed study than a book review is designed to provide, but all hinge upon his words, "A constitutional guarantee subject to future judges' assessments of its usefulness is no constitutional guarantee at all."

Two years later, in *McDonald v. Chicago* (2010), Justice Alito clarified the question of the Bill of Rights being incorporated and thus binding the states to protect the rights of the people, specifically the fundamental right to bear arms. Additionally, rights apply "equally to the Federal Government and the States," the decision emphasized.

Though riding high on these two long-awaited court decisions, individual gun rights are still hotly contested and we need to continue to understand how to fight infringements as they are pressed forward by those who fear freedom. Today's tyrants claim that so much has changed that the great philosophers' ideals are irrelevant. This Halbrook debunks quoting Cesare Beccaria's observation that we don't outlaw fire because it burns nor water because people drown in it. Laws that "forbid the carrying of arms…disarm those only who are neither inclined nor determined to commit crimes." Beccaria went on to explain that weapons restrictions "make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man," the author cites.

That Every Man Be Armed helps educate the many who didn't enjoy a strong civics education, or for whom that study was undertaken so long ago that details are forgotten. If you haven't read it or read it a long time ago, I recommend it to you wholeheartedly.

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

Networking

by Brady Wright

It's August and I can't believe the year is going so fast. So fast that, when I heard from Tom Eichling, it took me a moment to realize how long I've been doing this column and how many new members may have come along in the intervening years. More from Tom in a minute, but it was his question that reminded me that not everyone knows how I ended up writing this monthly screed.

Aside from doing the fulfillment duties at the Network, I also handle Special Projects and I am an administrator on the Network Facebook page. By my count, combined new Network members and new participants on the Network's Facebook page exceeded 100 just in the last month. That's a great addition to the group and just that many more brothers and sisters to stand with!

Still, my participation is mostly behind-the-scenes so, because I think it's important to know where the information you get is coming from, here is a little background on your humble author.

I have been a shooter and gun owner since I was 12 years old. I became licensed to carry concealed in my home state of Washington when I was 21 and also hold a non-resident license from Arizona, which allows me reciprocity in 32 states. I began my formal firearms training when I was 25 and through the Firearms Academy of Seattle and several other organizations including the NRA, I have taken every course offering I could afford, several of them twice (right and left handed).

I was the general manager of an indoor range and gun shop for a number of years, and had the opportunity to sell, train with and shoot nearly every kind of firearm that existed, since we were also the qualification facility for several local law enforcement agencies, who were kind enough to let the young GM hang around and shoot with them. (I had the keys to the building, don'tcha know). It was there that I met Marty and Gila Hayes, whom I've been proud to call friends for almost 25 years.

I studied unarmed disciplines for many years including several forms of karate, aikido, escrima, kali, pentjak silat, various blade arts including kenjutsu. I am a hobby-level builder of knives, swords, canes and walking sticks and I have collected all of those for several decades. In addition, I have spent about ten years consulting civilians on personal defense weapon choices and hand-to-hand systems. I am amazed at how much I have yet to learn.

I hold memberships in the NRA at the Endowment level, Golden Eagles, NAGR, GOA, Law Enforcement Alliance of America (LEAA) and I carry a gun every day of my life. Ninety five percent of the people I deal with have no idea it is there. That is as it should be.

The mandate given to me for this column was to talk with and listen to (equal parts of the equation, in my humble opinion) our members and affiliates and share that knowledge with the members in general. I am deficient in only one area and that is: I am not telepathic. That means that, in order for me to share information, people need to send it to me!

Which brings us back to our Network Affiliated Instructor, Tom Eichling, who is expanding the training he offers at Accurate Edge, LLC in FL. (see http://www.accurate-edge.com/Firearm_Safety_Jacksonville_FL_Meet_Our_Owner.html). Substantial improvements to his live fire ranges this year are going to pay off in some exciting new classes for Accurate Edge students, but he has asked that we wait for his formal announcement to discuss those. Although he's developing a new website, the current one, http://www.accurate-edge.com, underscores the depth of the training opportunities at Accurate Edge, so if you're in the Florida area, you should get to know Tom Eichling. Phone him at 844-822-5207 for class details.

As always, if you have news to share, or a win we should celebrate, send it to me by email, phone, carrier owl or smoke signal. I can't talk about it unless I hear from you! If you need any Network materials to give to clients or customers, call or email me at brady@armedcitizensnetwork.org and I'll take care of it personally!

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

Editor's Notebook

by Gila Hayes

Beelzebub might ask for ice skates on his Christmas wish list this year, because by my estimation, the netherworld has just frozen over! Why? Because last Saturday, word came that Senior United States District Court Judge Frederick J. Scullin, Jr., ruling on *Palmer v. D.C.,* had declared the District of Columbia's ban on publicly carrying handguns unconstitutional. See the judge's ruling at http://ia600408.us.archive.org/2/items/gov.uscourts.dcd.137887/gov.uscourts.dcd.137887.51.0.pdf)

Kudos to Attorney Alan Gura and the Second Amendment Foundation for sticking with it as long as it took to attain this victory! *Palmer* was filed almost exactly five years ago so you can see that getting a decision on this kind of litigation is the reward for long and laborious efforts. Emily Miller's news report at http://www.foxnews.com/politics/2014/07/27/emily-miller-federal-judge-rules-dc-ban-on-gun-carry-rights-unconstitutional/ reports that during that five-year time span, Attorney Gura "twice asked the federal appeals court to force Judge Scullin to issue a decision."

D.C. gun laws are an almost impenetrable maze, starting with an initial hurdle to obtain permission to even have a handgun in the home. Applications to register a handgun required a statement explaining why the applicant wanted or needed a handgun. When one of the four plaintiffs expressed her wish to "carry the loaded firearm in public for self defense when not stored in my home," the registration was predictably denied on the grounds that pistols "may only be registered by D.C. residents for protection within the home."

The four plaintiffs were a mix of D.C. residents and non-residents, and despite the usual dodge that the District Police Department would not issue the various permits needed to non-residents, as noted above they also denied a plaintiff who does indeed reside in the District. Incidentally, the non-resident facet of the case did not prevail, because "the court finds these claims are not ripe," wrote Judge Scullin.

Gun rights gains occur incrementally, and it was only through *Heller* that guns for even home defense could be registered, and the District has considerable barriers to even that. Now, in *Palmer,* citizens have the ruling that the District's ban on carrying a gun for protection is unconstitutional. Of course, we must expect that more pressure will be required to overcome the entrenched opposition to armed defense rights, be that in the home or on the street, and Gura has said he expects the District to file an appeal to Scullin's ruling. While more fights loom, *Palmer* is a great first step!

Learning More…

Several weeks ago on a Sunday night we were scanning through the cable TV channels when we ran across a pleasant surprise. C-Span's Book TV featured a debate between Alan Gura and the author of a book about the Second Amendment, Michael Waldman. The discussion was insightful, and it is archived on C-Span's video library at http://www.c-span.org/video/?319872-1/book-discussion-second-amendment-biography

I recommend it to you.

[End of August 2014 eJournal.
Please return for our September 2014 edition.]

About the Network's Online Journal

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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.

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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.