



## Learning the Right Skills

*by Ralph Mroz*

I came to the world of firearms with three salient elements in my background. I had been a martial artist for ten years, I was interested only in the aspects of firearms (and martial arts) that were relevant to the street (not competition or any form of “art”), and I had an engineering education. These three elements caused me to look at firearms training through the lens they formed.

The martial arts gave me the insight that all self-defense problems are not gun problems, and an athletic approach to the world of guns. The strict focus on only the street-relevant aspects of any defensive discipline caused me to look for and discard those aspects of firearms training that were artificial. The engineering background made me look at the facts and data about street crime and human behavior under stress, and to look at what I was being taught on the range through that filter.

In 1994, a fortunate event happened to me. I played paintball for the first time, and the experience opened my eyes. I was so taken with the benefits of that sport for law enforcement that I quickly wrote an article on the subject (I’d never written one previously). Not knowing that it wasn’t the

way things were done, I simply called the editor of the then largest circulation police magazine and asked if he wanted to publish it. Against the odds, he did, and I was hooked on writing. My new-found status as a writer allowed me to attend training schools and events that I wouldn’t have been able to otherwise, and to call up famous trainers and pick their brains. All in all, I got a much better than average education in the gun, and considerable exposure to what was being taught in this ever-developing field.



**Ralph Mroz**

Along the way I began to think that while for the most part the field had made great strides over the last several decades, in some ways it was starting to emphasize things that were too complicated, too at odds with the reality of street attacks, and not well thought-through. After all these years, I think I’m finally able to cogently, and in an organized way, outline what was bothering me and how I believe we should train. This consists of two over-arching facts and four training principles. I should preface these by saying that I’m concerned with the armed citizen and to a large extent law enforcement, not military training.

Overarching fact number 1: street attacks happen at much closer distance than we think they will or that we train for. We have very good data on the distances at which law enforcement shootings take place, particularly those in which a cop was killed. Every LE shooting is investigated in detail, and the data about them is published by a few different agencies every so often. The data has been very consistent over the last 15 years. A full 50% of all cops killed are killed at distances of five feet or less. Five feet – that’s not even two yards! A full 75% are killed at distances of 10 feet or less – that is, at distances of just a smidge over three yards! Once you get out to seven yards – or where most range training starts to take place – you are in the statistical twilight zone regarding your chances of getting into an encounter. No one collects similar statistics regarding armed citizens and their encounters, but I know of no one who believes that these would be at longer distances than those of law enforcement. (Yes, I’m admiring shooting in which officers

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are killed with shootings in which they aren't, but what data we have indicates that the distances involved are similar.)

Now, this is not to deny that the occasional self-defense shooting takes place at quite long distances – 20 to 30 yards, but simply to say that such encounters are considerably less likely than being hit by lightning in your lifetime (which is one chance in 10,000, according to the NOAA, assuming you live to be 80). I don't wake up every morning worrying about being hit by lightning (if you do, maybe you shouldn't have a gun!), but on the other hand I do know what to do if caught in a lightning storm. Which is a nice segue to...

Overarching fact number 2: Square range training is vital and necessary, but it is the foundation of self-defense training, not the pinnacle of it. The trap that too many "gun people" fall into is to focus on the gun, and not on the problem that the gun helps to solve but does not solve entirely; they believe that mastering ever more difficult and arcane handgun skills are good practice in order to prevail in a street encounter, and they pursue those in the belief that they are increasing their survival odds. But the bigger picture has to be kept in mind, and the time we spend on firearms training has to be constantly evaluated in terms of "where does this next thing I'm learning with a gun stand in priority relative to other skills I could be acquiring?" Of course the scale by which we measure that standing is the likelihood of a skill being necessary.



*Cover from Armed Response's DVD Fundamentals of Defensive Shooting illustrates author Mroz dynamically fending off an attack while countering with a handgun.*

That is, we should train for our most likely encounters first before focusing on the less likely ones, and our most likely need for the gun will be at very close range, where few people train.

None of this is to say that learning to make a consistent head shot at 25 yards, or shaving tenths of a second off of a two-to-the-body/one-to-the-head drill, aren't good and useful skills to hone; they are. But if we work on those kinds of unlikely-to-be-needed skills at those times when we are bored with training the more-likely-to-be-needed skills, or when we simply need a change-up in the routine, or occasionally to challenge ourselves, then that's probably the right amount of time to spend on them. They should not be the mainstay of our training. I hope it goes without saying that learning the foundational skills of grip, stance, sight picture and trigger control is a vital and

completely necessary foundation to develop. My point is that they are the foundation, not the end goal.

Principle number 1: The marksmanship part of most self-defense shootings is usually simpler than we think it will be. This is mostly due to the fact that the distance involved is much closer than we usually think it will be. Marksmanship isn't usually an issue. That said, hitting our opponent can be. Why the seeming contradiction between these last two statements? Because the skills necessary in a fight to hit your close-in attacker are different from those used to shoot a static target at close distances. Let me

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illustrate with a story. A fellow I know, who is (and was) a very good shot, engaged in force-on-force Simunitions training for the first time several years ago. He and another guy were hunting each other with their Simunitions revolvers in a plywood training house. Well, they each came around a corner and there the other guy was! Bang-bang-bang-bang-bang-bang they each emptied their six-guns at each other at maybe two yards distance. How many hits between the 12 shots? Zero! Now remember, my friend was a good shot...so how'd he miss? Simple: he'd never practiced shooting at another person while both of them were moving, taken by surprise, and under the high stress of this kind of training, with all the physical and mental constraints that come into play under those circumstances. You really do perform differently under the effects of sympathetic nervous system over-ride than you do under even the relatively mild stress of competition. So what's different? Read on.

Principle number 2: The actual shooting problem you're trying to solve is probably harder than what you train for. The same thing—the close distances involved—that makes the pure marksmanship part of the problem simpler also makes the whole shooting problem harder. At close distances, in a real fight, many square-range skills go out the window: that nice two-handed grip, a good or acceptable sight picture (you are probably looking at where the information is—at the bad guy, not at the gun, and the gun probably isn't at eye level anyway), your squared (or bladed) shooting stance (you'll be shooting from whatever opportunistic position you find yourself in, including on your butt with your head spinning and your eyesight cloudy from being knocked there), reloading (it's very unusual—not impossible—to find instances of a law enforcement shooting where an officer reloading made a difference in the fight's outcome, and even more so with regard to armed citizen self-defense shootings), and so on.

At close distances you and the bad guy are likely moving, so you have to train in hitting a moving target while you are moving. You have to train this one-handed for two reasons: 1) shooting one-handed will probably be your instinct at these distances anyway, and 2) your off hand should probably be doing something more useful than

holding your gun, such as pulling or pushing a loved one out of harm's way, striking your opponent, deflecting your assailant's attack, fouling your opponent's aim or draw (if he has a gun), and so on. You have to train from odd and opportunistic positions because you won't have time to get into your nice range stance, and if taken by surprise, your attacker may well land the first blow, cut or round, forcing you to shoot from both the position you find yourself in and from a diminished state of capability. You will probably be completely focused on your attacker and not your sights, even if your gun is at eye level, because all the information about this moving assailant is with him, and because you have to constantly evaluate whether you are justified in shooting him.<sup>1</sup> Thus, training in target-focused shooting is a street-dictated necessity.<sup>2</sup>



**Example of target focus:**  
*The gun is in the field of vision, but is blurry.*

<sup>1</sup>Some trainers and gunfight veterans say you will always look at your attacker, and some say that looking at the sights is possible. Digging deeper, what I have come to believe is that at close distances, if taken by surprise, you will look at where the relevant information is: at the attacker. However, if you have time to prepare, if even a little, for the fight, then assuming you have a high level of training and the right mental attitude, you may be able to take your eyes off the situation at hand and bring them to your sights as you take a shot.

<sup>2</sup> Target-focused vs. sighted fire is a controversial issue of course, but at close distances it's entirely possible to get good at it at typical defensive shooting distances. Even many competitive shooters say they target-focus at 7 yards or so and in.

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Training like the above, and not spending time trying to shave 2/10s of a second off your reload, is the way we have to train if we want to do so realistically. It's harder than the usual range fare.

Principle number 3: You need empty hand skills. Many gun people have taken up the gun in the false belief that it relieves them of the necessity of learning empty-hand skills. But in your most likely self-defense scenario—that is, at very close distance, you are very liable to need empty hand skills for two reasons. First, close distances mean short time-frames, and you will often be unable to draw your gun in time, and thus have deal with the attack with your empty hands. Yes, this is unfair: you have to deal with your highest-level threat (a lethal force encounter) with your lowest-level weapon (your bare hands). (Don't whine to me; take it up with the guy who created this world.) Second, even if you can get to your gun, the close-in attack will probably mean that some sort of empty-hands techniques will have to be combined with the draw-stroke in order to buy you the second or two that you need to access your gun. Remember that at these distances, even as you go for your gun you are likely to be warding off the attack with your off hand, or counter-attacking your assailant, and these actions require empty-hand skills.

Another reason that you need empty hand skills is that you are more likely to face a non-lethal threat than a lethal one,

and you will need a lower-level force option to deal with them. If the only tool you have is a gun, then either you will be helpless in the face of lower-level attacks, or you will wrongly use your gun to deal with them, with all the bad things that follow that.

Yet another reason to have empty-hand skills is that our weapons (gun, baton, OC, cane, whatever) aren't always with us. None of us has a weapon at the ready 100% of the time, at least not in the United States or when travelling.

Finally, empty-hand skills and the athletic qualities they develop: strength, power, balance, coordination, kinesthetic awareness, and so on, are all valuable attributes that make shooting easier and (often) faster to learn. Martial artists are usually pretty quick to attain a reasonable level of firearms skill, while the converse can't be said.

Principle number 4: You need to do force-on-force training. A real-life attack isn't anything like range shooting, even competitive shooting. Remember the last time you were in a car accident or nearly avoided one? Do you recall how time slowed down,



*Mroz demonstrates hand-to-hand skills blended with firearms skills on the cover of his Armed Response's DVD [Dynamic Drills for Defensive Shooting](#).*

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how you couldn't begin to think about what you were doing – how you operated solely on reflex, how your attention was riveted on what was happening right in front of you? Well, that's what happens in any kind of high-stress event. You can't train your body or mind out of those kind of stress reactions (they are hard-wired), but you can train yourself to adapt, by which I mean that your body requires a higher level of stress in order to be taken over by these phenomena. Thus, if you get so that the events of a realistic attack seem "normal" to your body (because it has dealt with them in training many times), then many of your defensive actions will be more (not completely, but more) under your conscious control during a real event.

You do this by training realistically, meaning that you and another human being arm yourselves with replica guns that fire projectiles that really hurt (but don't injure), wear minimal protective gear, and you set up realistic self-defense scenarios and manage them safely and realistically. This is the only way to achieve inoculation to stress, the psychological analog to what athletic trainers call "the training effect" in muscles. If you aren't doing this kind of training, you aren't really training to defend yourself – you are merely shooting.

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actual carry gun, that fit in your carry holsters, are widely available. Every serious self-defense student has one and trains with it. In fact, the converse is also true: if you don't have one (they are cheap, so expense isn't an excuse), you aren't serious.

The really big picture. The above outlines my approach to firearms training, which I hope readers will find helpful, if not comfortable. However, the larger context in which self-defense resides should also be considered. If you ask most people why they study self-defense (particularly armed self-defense), the usual answer would be along the lines of "To save my life", or "To save the life of someone I love". But both of these noble goals are impossible: no one

can save anyone's life, because we all die. Instead, the right way to look at self defense is as prolonging life. Word games, you say; I'm making a distinction without a difference? Not really. If we look at self defense through the lens of prolonging life, then we realize that there are several other areas we ought to be spending time and energy at before we go too far down the self-defense route. These things include: diet, nutrition, exercise, health, lifestyle, learning CPR and first-aid, and so on.

But I'll leave that subject for a later time! ●

*About the author: Ralph Mroz is a former LEO and former Training Director for the Police Officers Safety Association. He is currently the lead developer and presenter of the Armed Response series of training DVDs ([www.armedresponsetraining.com](http://www.armedresponsetraining.com)).*

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Marty Hayes

## President's Message

August was a very good month for the Network. Here are the reasons why. First, we signed up over 130 new members, and 95 Network members renewed. We were able to gain that many new members because of the great job our Network Affiliated Instructors, Gun Shop Affiliates and Network members are doing to spread

the word about who we are and what we do. the first one will be entitled *Understanding and Explaining Altered Perceptions of Witnesses and Participants in Violent Encounters*, and it has replaced the *Dynamics of Violent Encounters* DVD I have been working on for most of this year. The *Dynamics of Violent Encounters* DVD project is still a go, by the way. It is just slightly further back in the queue. We also filmed a lecture with Massad on *Societal and Psychological Impacts of Use of Deadly Force*, which we expect to release next year, after *Dynamics of Violent Encounters*.

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the word about who we are and what we do.

Think about it: in less than four years, we have grown from a mere idea, to a vibrant, growing organization with over 4,350 members. And, we did it because we are working our plan to have the Network grow steadily while remaining within our limits to serve our members to the best of our ability. Getting new members is one thing; keeping them is quite another. Our outstanding retention rate is testimony to this.



Hayes spoke about the Network to this MAG-80 class taught by Massad Ayoob and was thrilled when it turned out that all but one of the students were already Network members!

## Continuing Education

We spent a couple of great weeks training with Advisory Board Member Massad Ayoob and his new training company, the [Massad Ayoob Group](#). Since our inception, Mas has been a large part of the Network, and his wise counsel is prevalent throughout our educational endeavors.

While Mas was with us in August, we videotaped two lecture presentations that will become Network DVDs. The

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During the second week of Massad's classes, we also enjoyed a visit from [Network Advisory Board](#) Member Attorney James Fleming, who flew out from Minnesota to take MAG 80 with Mas. Between the three of us, we were able to finalize plans to get the Continuing Legal Education (CLE) training project off the ground. We are looking at scheduling four CLE offerings next year, spread across the country, with more to come in the future. Of note to Network members who are not attorneys, experts or instructors, but simply the backbone of our organization: We plan to opening up the CLE training courses to Network members, too! More details on this as we get closer to the New Year.

I enjoyed an exciting "first" this month. As I was talking to the MAG-80 class about the Network, I asked who was already an ACLDN member. And all but one raised their hands! It was awesome to see that response, and the lone individual who didn't raise his hand said he had been thinking about it, and he joined that day! So, we taught a

whole class of Network members and it was pretty cool. Talk about preaching to the choir!

Yesterday, I spent a day traveling to Salem, Oregon to pick up another load of *What Every Gun Owner Needs to Know About Self-Defense Law* booklets for distribution to instructors and gun shops. We have a very special member in Salem, Dane Roush who runs a big printing company, [Lynx Group, Inc.](#) He gives the Network a great rate for printing our materials, and is wonderful to work with, too. Thank you, Dane, for taking such good care of us. And, speaking of booklets, we now have over 100,000 booklets circulating in the gun world, educating people on the laws of use of deadly force. How cool is that?

One final thought: I ran into a few Network members I had never met before when I attended the WA State IDPA Championship match this last month. One particular lady's comment stuck with me, after she said she was "honored" to meet me. While one cannot help but be flattered when this happens, let me tell you right now, that it is I who feel honored to be in the position of leading this organization, and I am humbled that you want to be a part of it. ●

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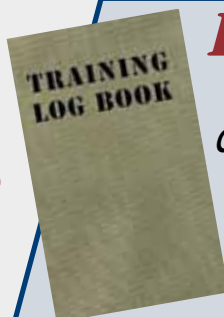
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## Righting Hawaiian Gun Laws

by Gila Hayes

It is easy for most Americans to regard the state of Hawaii as a remote vacationland, forgetting that every day U.S. citizens just like you and me go about their lives denied by law nearly every means of self defense against criminal attack. A small but determined cadre of Second Amendment supporters hope to change that, recently filing a lawsuit to bring the Aloha State in line with most of the mainland.

Attorneys Kevin O'Grady, Alan Beck and Richard Holcomb, representing plaintiff Christopher Baker, filed a complaint last week alleging that Hawaiian law violates the Second Amendment, especially in light of Supreme Court victories that directed the District of Columbia and Chicago, IL to eliminate laws restricting private citizens' rights to guns for self defense. In Hawaii, the complaint notes, state law gives law enforcement discretion to issue licenses to carry concealed handguns "where a need or urgency has been sufficiently indicated," and exceptional circumstances exist. As a result, applications for concealed carry licenses are routinely denied.

Kevin O'Grady is also a Network Affiliated Attorney. I spoke with him briefly the week before the lawsuit was filed, and we talked more in depth three days after the complaint was filed in Hawaii's U.S. District Court. O'Grady, a New Yorker by birth, lived in Arizona and Texas before a 2 ½ year deployment with the U.S. Army's Judge Advocate General Corps (JAG) to Hawaii coincided with his wife's career move to the islands. After his stint with JAG, O'Grady opened his own law practice defending traffic, DUI, courts-martial and criminal law cases. He is also



*Honolulu looks like paradise, but conditions are wretched for armed citizens.*

the NRA referral attorney for Hawaii.

"I'm a very conservative person," O'Grady explains. Hawaii, on the other hand, has, "Over the past four decades turned into a progressive, liberal democratic state" with a penchant for old-fashioned nepotism, he notes. Hawaii is a small state with a population of about 1.2 million, and attitudes there reflect its isolation. He quotes a friend's characterization: "Practicing law here is like practicing in the South in the 1950s. If you don't rock the boat, if you play along to get along, you are good. We do things our way, we don't care what the Feds say and we don't care what the rest of the world says. We like it here and that's the way we're going to stay."

Hawaii has a long history of restricting private firearms. O'Grady asserts that according to Aborigines who desire a return to a kingdom, those restrictions date back to prohibitions on ownership by the Republic of Hawaii prior to annexation in 1898 with the new state's laws reflecting the same anti-gun attitudes when the islands received statehood in 1959. Not only are the laws about concealed carry out of step with both the *Heller* and *McDonald* Supreme Court cases, firearms acquisition is exceedingly onerous,

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and gun laws in general so vague as to make it nearly impossible to determine what is legal except when the response is simply, "you cannot do that," O'Grady notes.

Not only are clear definitions absent from statutes bearing on firearms rights, O'Grady has never even seen a Hawaiian concealed carry license or known of anyone who had one, or found any case in which someone with a license to carry was cited for carrying a gun out of accordance with the law. Thus, there is an absolute dearth of cases to help define what the statutes really mean.

Citing earlier Second Amendment issue cases filed in Hawaii, O'Grady notes that "the Hawaiian courts and legislature have pretty much determined that the Second Amendment can be legislated out of existence," although Hawaii's state constitutional provisions about private gun ownership are "exactly the same, word for word," as the Second Amendment to the U.S. Constitution.

### ***The Baker Lawsuit***

In light of recent Supreme Court pro-gun decisions, a Hawaiian named Christopher Baker applied for a concealed carry license and was predictably denied. Mr. Baker applied last August and received a denial letter in mid-September with no justification and no means of review. While meeting with other conservatives, O'Grady learned about Baker's wish to sue, and as a strong Second Amendment advocate, approached him to learn more.

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Baker was already working with an aggressive reformer, Rick Holcomb, to whom O'Grady suggested joining forces to mount a stronger attack.

That was about a year ago and in the interim, "We were thinking about a lot of other things we could do before we filed the lawsuit," O'Grady explains. Baker was particularly driven. "I think Chris wanted to file the lawsuit the day he got the declination letter," he remembers. "I had to say, 'Slow down! Slow down!'"

In addition to working out the basis for the lawsuit, which hinges on the unique language in Hawaii's concealed carry law, the team had to consider funding. All the attorneys have already devoted many hours without funding. In discussions with other gun rights activists, they were warned to expect drawn-out litigation running costs up into "six figures," O'Grady says. At the same time, the flurry of lawsuits filed in the immediate wake of the Supreme Court's rulings on *Heller* and *McDonald*, were not only already queued up "in the pipeline," as O'Grady puts it, but also enjoyed priority from big gun-rights groups, because they are more immediate to other mainland states, and affect larger populations. O'Grady characterizes Hawaiian gun owners as out in the middle of the Pacific Ocean all on their own.

Conversely, Hawaii law "ranks right up there with Massachusetts, New York and California as some of the most restrictive," O'Grady points out. In studying other gun rights lawsuits, he observes that many are filed on behalf of multiple complainants with various circumstances and needs. While on the surface, this may seem more compelling, it also draws out the duration of the lawsuit and increases expenses. The Hawaii lawsuit focuses entirely on the sole

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plaintiff, Christopher Baker, and the assertion that in Hawaii “there are a variety of statutes that violate the Second Amendment. By virtue of the two Supreme Court cases that have come down, we think [these statutes] are invalid on their face. Obviously we are applying it as a Section 1983 case,” O’Grady explains, citing [Section 1983](#) of Title 42 of the U.S. Code, the Civil Rights Act of 1871.

By keeping the complaint tightly focused, O’Grady hopes to curb what could easily stretch into a decade of costly and protracted litigation. He worries that, “The State of Hawaii will burden us with paper to the extent that I won’t be able to work on other cases to feed my family.” With the threat of stalling tactics weighing heavily on his mind, he adds, “We really just want to move forward with it.”

Though he cannot address the details and strategy of the Baker lawsuit, O’Grady estimated that the lawsuit should have its first hearing within the next 90 days approximately, explaining “That is only the first [step] of the entire process; it won’t resolve a lot of things. We are going to see what we can do to jumpstart it.”

## ***The Big Picture***

In charging that the Honolulu Police Department, its Chief of Police, and the City and County of Honolulu violated the Second and Fourteenth Amendments to the U.S. Constitution, O’Grady, along with Attorneys Beck and Holcomb and plaintiff Christopher Baker are striking a blow against a government prone to ignore Constitutional rights.

O’Grady views this effort as one facet of a larger goal he identifies as a “paradigm change” away from government regulations setting very generalized standards regulating who can keep and bear arms. “When you are dealing with a Constitutional right, you should be entitled to

exercise your Constitutional right unless somebody made an individual decision about you and your dangerousness and you had a hearing to deal with that,” he stresses.

Second Amendment rights should mirror other Constitutional rights, O’Grady urges. “I have a right to say what I want unless you prove that it is libel, unless you prove that it is a threat. Absent that I should be able to say anything,” he compares. Because gun rights are also mandated by the Constitution, he believes that citizens ought to be able to exercise that right unless the government demonstrates specific reasons for denying the right to individuals.

O’Grady acknowledges that Baker’s case is little in comparison to other pro-gun litigation underway on the mainland, but to Hawaiians who are determined to clean up problems in their own back yard, it is anything but trifling. What is small, though, is the amount of financial support for the Baker challenge to Hawaiian law. With major pro-gun funding poured aggressively into larger lawsuits, O’Grady’s requests for assistance yielded only explanations and vague suggestions that assistance might come later.

Since beginning work on the lawsuit, Baker has formed the not-for-profit Hawaii Defense Foundation, and applied for non-profit 501(c)(3) status though approval has not yet been given. The attorneys are currently contributing their time, but as O’Grady notes, if the government counters with a torrent of filings, paperwork, and other time-consuming legal tactics, they will face a difficult choice between working on the legal cases that support them and their families and vigorously pushing the Baker complaint. To learn more or extend your assistance go to [www.hawaiidefensefoundation.org/](http://www.hawaiidefensefoundation.org/), or address questions via e-mail to [info@hawaiidefensefoundation.org](mailto:info@hawaiidefensefoundation.org) or call the Foundation’s secretary, Erica Castillo at 808-664-1827. ●

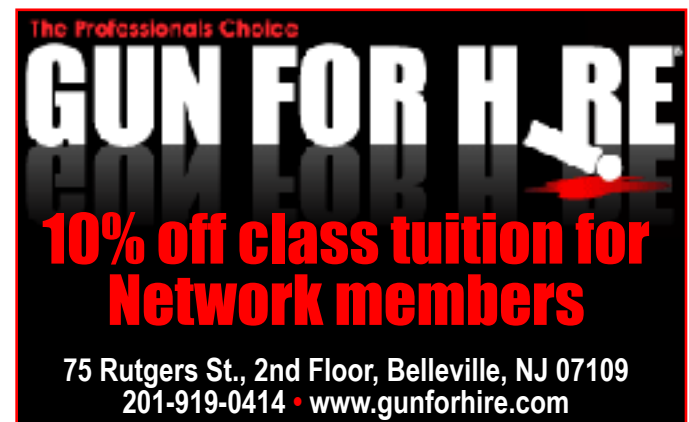
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## Affiliated Attorney Question of the Month

Thanks to the generous help of our Network Affiliated Attorneys, in this column we introduce our members to our affiliated attorneys while demystifying aspects of the legal system for our readers.

This column wraps up a home defense question to which we received many, many attorney responses in the past two month's journals. Here is what we asked—

*In the state/states in which you practice law, what latitude is granted the armed citizen defending against attack inside his/her own home? Can the citizen use defensive deadly force inside their home without retreating? Against an intruder who is not actively attacking (perhaps has broken in but is not compliant when the homeowner orders them to leave)? How about shooting without issuing a warning (maybe the intruder is about to enter a child's room)?*

*Can the citizen successfully make the claim that an attached garage was part of their domicile if they use deadly force against an intruder there? What about out buildings or unattached garages or on properties like the lawn or back yard? Where is the line drawn?*

### Kevin Regan

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Although I practice in several states my remarks will be limited to the state of Missouri's applicable law.

Missouri Revised Statutes, Chapter 563 discusses the defense of justification.

Missouri law defines deadly force as: "Physical force which the actor uses with the purpose of causing or which he or she knows to create a substantial risk of causing death or serious injury."

This would certainly include discharging a firearm by a homeowner.

Missouri adopted the Castle Doctrine Rule several years ago, which clearly states that a homeowner defending oneself in the home has no duty to retreat. The duty to retreat was abolished by our statutes some time ago. Our Castle Doctrine allows use of force to prevent someone from unlawfully entering or remaining in a residence, a

dwelling designed for lodging persons, or a vehicle.

Our statutes state that anyone who takes actions that create a reasonable fear of the imminent use of unlawful force on another person, and who unlawfully enters and remains in vehicles, residences, businesses or buildings used for lodging, may be subject to the legitimate use of deadly force.

The use of deadly force would be allowed for persons, in any location, in order to protect themselves against what a reasonable person would believe to be the imminent threat of any type of forcible felony.

Under our old statutes, the use of deadly force was only allowed if a reasonable person believed it was necessary to prevent death, serious bodily injury and other specified felonies.


Our statutes also provide that anyone who uses force in a lawful manner will be immune from both civil and criminal penalties. Anyone who sues a person that is ultimately found to have acted lawfully in the use of deadly force will be liable to the prevailing party for court costs and attorney's fees incurred by the defendant as a result of this type of lawsuit.

Our statutes are silent as to any duty or absence of a duty to issue a warning. Whether or not a homeowner issued a warning would ultimately go to the reasonableness of their use of force against the intruder.

Unattached garages would not appear to be covered under our Castle Doctrine statute. However, an attached garage may well seem to be part of a dwelling as defined

*Continued on page 12*

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*Continued from page 11*

by Missouri law. "Dwelling" in Missouri means "any building or inhabitable structure, through moveable or temporary, or a portion thereof, which is for the time being the actor's home or place of lodging, or conveyance of any kind, whether the building, inhabitable structure or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night."

This would certainly include trailers and mobile homes.

The protections of the Castle Doctrine do not seem to be afforded to a confrontation in one's front yard or back yard.

This makes sense, because the common law held that a man's home was his castle and gave the homeowner certain legal protections from intrusion into the home.

These protections were not afforded against intrusions onto one's vacant land, farm, etc., where the entrance upon the property may have been a simple trespass and not a burglary, as we would have in a home situation.

### **Mitchell Lake**

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The rule of retreat is one of the most misunderstood areas of self defense, sometimes willfully so. In general, it says that you must withdraw from a confrontation if you can do so with complete safety. If you cannot make a safe withdrawal, then you must take what action in self defense as is reasonable under the circumstances you find yourself in.

It is applicable to situations you have a way out of with complete safety, not situations in which you are forced to act - thus, I feel the fear of it is vastly overblown because most sane people, when they see a dangerous situation forming...don't get into it.

I'm sorry I'm not addressing the issue directly; however, without understanding the rule of retreat it's impossible to know when it is applicable. (Rarely...)

Regarding retreating from someone's dwelling - no, there is no requirement in Connecticut; however, all use of force incidents have to be reasonable under the subjective/objective test used to evaluate the reasonableness of force used.

There are two standards for the use of force which operate concurrently.

#1 Ability/Opportunity/Intent to injure you, plus you being precluded from leaving/de-escalating the situation equals you being in danger and allowed to use force.

When people say "I was in fear for my life!!" the answer to "why" is found in articulating these points.

#2 Subjective/Objective reasonability test. Are your actions reasonable to you in that you honestly believed you were going to be injured, and as such the right thing for you to do was to injure another person; and if so, will the trier of fact (judge or jury) find your actions reasonable, even if not 100% factually correct?

These standards operate simultaneously, with AOI being the basis of your reasoning for the Subjective portion of the S/O reasonability test, and the basis of reviewing your actions for the Objective portion of the S/O test.

You can also think of them as the first is the standards for action, the second is the standard of review.

In regards to a non-compliant intruder, or any intruder for that matter, you need to constantly keep in mind that the situation is a dangerous one, and that you literally do not know what his plan is. If an intruder is not compliant to your commands, especially when he is being held at gunpoint, and trying to engage you in conversation, you may be getting set up for a disarm.

If you are talking, then you probably aren't paying attention to his movement if he's shifting closer to you, and will likely get taken by surprise when (not if) he moves on you.

Back to the subjective/objective test, and how your training factors into your decision matrix...because the

*Continued on page 13*

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*Continued from page 12*

same action taken by different people in the same circumstances can have a vastly different outcome in court if one is reacting on gut feelings, and the other is reacting according to trained responses taught to him by a reputable instructor...one person's reactions can be reasonable, logical, the result of training and experience resting on a solid foundation of academic work...the other..."We understand. You freaked out..."

So, can you shoot him...better question, are you trained to know when and why it is and is not lawful to do it? The answer to my question answers yours.

In regards to an intruder going for a kids room...You are allowed to act as a reasonable person would in the circumstances you are in to prevent injury to children under your care.

Lets ask what those circumstances are:

You have an unknown adult in your house.

This person has forcefully entered.

They are entering the bedroom of a child.

The law does not require you to be 100% correct, merely that your actions be reasonable.

This person may be there to sell cookies...but a reasonable evaluation of the situation would likely determine that this person (who has forcefully entered an occupied dwelling at night) is probably somewhat dangerous, and any confrontation with this person could generate a fight in close proximity to a child you have a legal obligation to protect.

Now...as we all know, fights are bad because we, or someone we love, might get hurt.

Ambushes...those are good because they get the situation over fast, and safely.

Yes, kids...he said ambush! Because sometimes it's the reasonable thing to do. Nothing says your use of force incident has to be fair, balanced or you have to in any way risk your life when it's time to take someone else's.

Use position, surprise, light (either to find someone's shadow and locate them, to identify them or blind them...) and superior firepower to make sure you win.

You have to be justified, not stupid. Once you got target identification - meaning light and eyes on them confirming they are a hostile, it's hair on the wall time absent immediate, unconditional compliance.

You have to stop when "the other party withdraws from the encounter and effectively communicates to such other person his intent to do so"...however...given that it's outside a kid's room and the person saying they want to withdraw just broke into the house to get to that point, it's going to be kinda hard for them to effectively communicate that intent to withdraw given the situation and all the loud noises and flashes going on.

But hey, if they can talk after the trio of muzzle blasts of 5.56mm shakes paint off of your walls or roar of a 12 ga. makes everything sound kind quiet with an odd, unpleasant ringing...They may be great communicators and might effectively convince you they were complying! Or not...

As to your lawn, out buildings and other property where you, yourself are not in danger, you are permitted to use a much lower degree of force to protect that property, primarily because of less physical danger to yourself. ●

*We appreciate the contributions our affiliated attorneys make to the Network, including their interesting responses to questions in this column. Contact information for our Network affiliated attorneys is linked at [www.armedcitizensnetwork.org](http://www.armedcitizensnetwork.org). Member log in required.*

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## Book Review

### **The Myth of the 'Out of Character' Crime**

Stanton E. Samenow, PhD.

ISBN 978-1453632913

Publisher CreateSpace, 228 pages, paperback

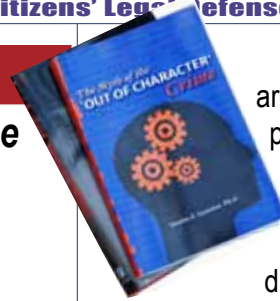
*Reviewed by Gila Hayes*

Are you tired of authors, TV commentators, radio hosts and lecturers who blame the havoc wrought by crime on an inadequate society in which people live in poverty, are abused, are poorly parented, become mentally imbalanced or suffer a variety of other woes on which both criminals and evaluators alike blame their behavior?

Early on, Stanton E. Samenow's 1984 book *Inside the Criminal Mind* influenced many of my views on crime, punishment and recidivism. Reminded of those theories during some recent research, I wondered about his current theories and an Internet search turned up his 2010 book *The Myth of the 'Out of Character' Crime*. (It appears this book was first released in 2007, though the copy I bought has a later copyright.) *The Myth* mirrored the doctor's earlier ideas, but applied his core theories to a far wider variety of people, since *Inside the Criminal Mind* dealt with juvenile offenders who made up the bulk of his earlier practice.

A forensic psychologist for 40 years, Samenow evaluates offenders, some of whom are "men, women and children who have committed crimes that seem completely alien to their nature," he writes. He describes "sleuthing" through the psychology of unlikely offenders like Lee Malvo, the Washington, D.C. sniper, to make "sense of behavior that no one predicted or could understand."

This book, like the earlier one, is another myth-buster. Defining character as "patterns of thinking and behavior that a person demonstrates throughout life," Samenow does not believe anyone can act "out of character."



Patterns of thought, feelings and behavior are the bedrock of who we are, the doctor explains. These core attributes may be masked, though, and the public person may differ greatly from the private person or the one known by immediate family. In a book that draws its information from the stories and

interviews of a variety of criminals sent to Dr. Samenow for evaluation, each chapter ends with a bulleted list of "thinking errors" or notable characteristics fueling the subject's criminality. The doctor remains convinced that personal choices about the thoughts we entertain determine behavior.

Many of the personality traits Samenow identifies as indicative of a criminal's thinking errors are present in people with whom we rub shoulders every day. What separates these difficult, yet law-abiding folks from dangerous or exploitive criminals? It took Samenow over 250 pages in 1984 and in his more current book 200 pages of interesting examples and explanations to answer that question.

Samenow believes thinking errors can be recognized during the criminal's childhood, as temper, constant anger, hypersensitivity to criticism, and inconsiderate and self-centered actions without concern about consequences to others. "No error in thinking by itself accounts for a crime," he explains. "Many thinking errors in combination give rise to irresponsible or criminal conduct."

Using cheating as an example, Samenow goes on to show how for some, an episode of cheating yields wrenching guilt long after the incident, while to others cheating is a life skill. Likewise a controlling personality can manifest in evil ways just as in good ways. "When the secret controller is confronted by a major threat to his ego, his response may be cataclysmic, appearing completely out of character," he writes.

*Continued on page 15*

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Continued from page 14

A subject he evaluated after she shot and killed her husband claimed to suffer from dissociative identity disorder (asserting that an alter ego was in control), but interviews showed long-standing patterns of deceptiveness, extreme self-centeredness, ignoring what she knew to be right or wrong, rationalization of her own conduct, and dealing with adversity by fantasizing physical revenge on those preventing her from getting what she wanted. After she shot her husband who was trying to rein in her destructive behavior, everyone but Samenow was surprised.

Another common characteristic among Samenow's clients was an unrealistically high self-image and outrage when others didn't share that opinion. "The criminal is angry at anyone who impedes his obtaining the high regard to which he thinks he's entitled," the author explains.

A felon facing serious embezzlement charges told the doctor, "I've always believed the ends justified the means," an attitude common among criminals, according to the book. This thought, coupled with the unjustifiably high self-image identified earlier, is revealed in many of Samenow's subjects who "each took shortcuts, undeterred by moral or legal considerations," contemptuously believing themselves above normal people who struggle to earn a living.

Another unlikely criminal told Samenow that his victims "were objects. They were part of the game." Writing about this case, the author shatters the idea that some crimes are so compelling that the doer has no control over himself. This is a theory that Samenow simply will not endorse. Instead, he discusses rapists and flashers who convince themselves that their victim is someone who cannot resist their appeal.

Repeated themes permeate the book, including criminals' sense of entitlement, exploiting others, absence of empathy, extremely controlling behavior, hypersensitiv-

ity to criticism, blaming and arrogance. The author writes about a retired woman whose arrest for drug dealing shocked her associates. Evaluating her, he concluded that a lifetime of pretentiousness, believing herself irresistible and wholly unique made it easy to justify funding her extravagant wishes with proceeds from selling illegal drugs.

After 200 pages that recite all manner of abhorrent behavior, the doctor asks if criminals like the ones discussed can change. Change stems from two sources, he suggests: external sources (arrest and punishment) and internal motivation (genuine desire to change, truly considering the effect of one's actions on others, and abandoning irresponsible behaviors endemic to the criminal's earlier life). Even this chapter is illustrated by a story, not one of a miraculous cure, but an informative study of one man's thoughts and the laborious path of change.

*The Myth* echoes many principles from Samenow's *Inside the Criminal Mind*, but is easier to absorb thanks to the many case studies of men and women whose extreme thought errors presaged criminal activity.

I think it is important to abandon primitive ideas that violent crime is committed by a frightening stranger, when, indeed, statistics show that many victims of violent crime were acquainted – some intimately – with their attacker. Are there people we have contact with every day with whom we should exercise caution? Samenow is quick to point out that a lot of people exhibit personality flaws like arrogance, deceptiveness, or hypersensitivity to criticism yet will never commit a crime. When fantasy or ideation about violence joins extreme self-absorption, the usual deterrents to crime are more easily set aside. If associated with someone who voices violent thoughts and desires, a higher level of guardedness is absolutely called for, and Dr. Samenow's books, packed with easily absorbed information, can help the layperson understand the foundation of criminal behavior hoping to steer clear of it. ●

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Gila Hayes

## Editor's Notebook

August's farce over government spending limits and all things of a Federal financial flavor tied up a lot of news, reporting and commentary in the month just gone by. Beneath the angst, always present but rarely acknowledged, was the burden of entitlements. I began to ask myself: to what am I truly entitled?

Am I entitled to an old age of health and leisure? I've paid into Social Security for three and a half decades, and while some opine that my nation contracted with me to provide old age care, I don't realistically expect much will be left to collect from Social Security and Medicare fifteen years hence. Despite Hillary and Obama, the idea of nationalized health care is equally unrealistic, and in any case, I really can't in good conscience include doctors and medicine in the list of things I am owed.

To what am I entitled? The question is muddled considerably by the tax burden I've carried since I earned my first "real" paycheck as a teenager. Had a quarter and more of my earnings not gone to various government entities, would my retirement savings be sufficient to keep me supplied with Ensure and Depends in old age? Who knows? Obviously my government didn't think I could be trusted to save enough.

More immediate issues: Am I entitled to a smooth highway running from my home to the city? How about access to services like phones, power and the Internet? Am I entitled to emergency services? A fire department rescue if fire, flood or disaster strikes? A law enforcement response if a criminal attacks? I paid taxes earmarked for all that and more, but when disaster or hard-times strike, reality shows that only I am responsible for solutions to my woes. That may be as mundane as planting vegetables, or as serious as using a gun to defend against a criminal attack. Have I paid into systems that were supposed to prevent poverty, hunger and crime? Extensively. Will I enjoy the luxury of drawing back some of those benefits? Perhaps, but I wouldn't count on it. Margaret Thatcher was credited with saying, "The problem with socialism is that you eventually run out of other people's money." She was right.

While America worried about its federal exchequer, looters, rioters, arsonists and violent criminals of every bent ran wild in London and other English cities. When society breaks down as it did there the first weekend in August, one stops asking theoretical questions like "Does the government have an obligation to protect the individual?" and starts asking, "How can I defend myself?" It is no secret that with police stretched thin law-abiding, gun-less Britons were left unprotected, though it is rumored that on-line orders of aluminum baseball bats skyrocketed. What lunacy! And what protection could sporting goods give, to cite only one example, the three Asian men guarding property in Birmingham who fell victim to vehicular homicide?

In my estimation, the only right to which I am truly entitled is a right to live unmolested or to counter criminal attack and abuse with sufficient force to stop the predation, and to be allowed to possess equipment and skills to mount an effective defense whenever and wherever attacked. Isn't denying someone the right to preserve their life the same as approving the harm done against them?

According to the Bible, the Lord giveth and the Lord taketh away, and cynics have often substituted the noun "government." America is on the cusp of experiencing what happens when government takes individual resources in exchange for empty promises of security, just as citizens of England and other European Union nations are learning the hard way that nothing replaces individual vigilance, preparation and ability.



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To submit letters and comments about content in the **eJournal**, please contact editor Gila Hayes by E-mail sent to [edi-tor@armedcitizensnetwork.org](mailto: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  
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