



Training for Decision Making

An Interview with John Farnam

by Gila Hayes

Ask someone if they've had training for self defense, and they'll likely talk about classes in which firearms use or hand-to-hand skills were taught and practiced. People equate training with physical skills, and seldom are the mental aspects considered.

John Farnam was one of the earliest firearms instructors to coach students in decision-making under pressure, as part of his Defense Training International curriculum. Not only has Farnam earned our respect for early insistence that self defense requires much more than accurate shooting, it is also testament to his "students first" philosophy that DTI's curriculum has evolved substantially, keeping pace with the threats and dangers armed citizens face today.

We were privileged recently to sit down and query John Farnam about training for decision-making. Let's switch to interview format to preserve the effect of Farnam's words and thoughts.

eJournal: I would like to discuss training for decision-making, an effort you pioneered for armed citizens. At one time, we trained by going to the range, standing in a line and shooting paper targets. We considered ourselves well trained! Then you came along, and in your classes, we did innovative things like gun pick-up drills, physical exertion before shooting, shooting from disadvantaged positions, shooting moving targets and engaging picture targets of various situations in which we were to interact with the targets. That was radical!

Farnam: Our training is more than just teaching people to operate a machine, and I was as guilty as anyone else. We had to realize that because you can operate a toaster, that doesn't mean that you can make breakfast! There's more to making breakfast than just operating a toaster, [laughing, then turning serious] but we have to present it all in the same program.

When you're in your house and you think someone is trying to break in, there are a number of things that you have to do, but there is a priority list. Calling the police is not the first thing! Yes, that is important, but it's not the most important. First, it is important that you wake up. You need to get your gun, and you need to get in a strong position, and then try to arrange it so that there is no direct confrontation, if that is possible. Then, at some point, you need to call the police, and then you need to know what to say.

I think Mas Ayoob was the one from whom I picked it up, because Mas was the real pioneer in teaching about interfacing with the criminal justice system, and I learned a great deal from him. So I decided that we needed to include aggressive disengagement in our course, with role play how to disengage from someone who wants to come up and strike up a conversation—how to politely but aggressively disengage and separate.

eJournal: I can remember nearly two decades ago doing drills mixing firearms use with giving verbal commands in your classes. How did you begin moving your curriculum away from the square range mentality?

Farnam: I bought some range equipment, and some shoot-don't shoot targets, and my whole idea was to teach students what to look for. If something suddenly appears, what do you look for? Well, he has a face and hands, and the threat will probably be in his hands. Students responded, "He has a gun in his hands!" I would ask, "Is he pointing it at you?" Actually, that is largely irrelevant, because in the time it takes him to point it at you, by the time he does, it will be too late. If the circumstance is that someone broke in to your house and he appears to have a gun in his hand, he doesn't appear to be wearing a uniform or some other ID, are you going to want to wait to make that decision? The popular, shallow answer is, "Wait until you are 100% sure!"

Continued next page...

July 2013

eJournal: True—you may not have all the facts upon which to make a decision. Still, you need to do something.

Farnam: Make a decision and do not look back.

eJournal: What happens if I am half way through executing my decision, and I say, "Oh, no, I'm not sure..."

Farnam: We call that dithering and it is the kiss of death.

eJournal: How can we get beyond second-guessing?

Farnam: Accept the fact that you might be wrong. Just accept that you might be completely wrong. The way to minimize it is don't insert yourself into situations into which you do not need to be involved. I get this question all the time, "What do I do if I see a woman being raped?" Well, how do you know what you are looking at? Do you know any of these people? I can tell you what I see happening, but I can't tell you what happened ten minutes before.

It is very difficult for me to tell a student, "You will never do this." I guess you are going to have to do as your conscience demands. My job isn't to tell you what to do, my job is to tell you what is going to happen when you do. Here are the risks—risks of which you may not be aware. You always have the option of doing nothing, but that is not risk free, either, is it? You don't get a risk-free world. This is typical among Americans with their shallow thinking: "Tell me what to do so nothing bad will happen."

eJournal: A lot of new armed citizens get guns and pursue training with the expectation that now they will be able to survive assault without being injured.

Farnam: Yes, and an honest instructor has got to answer that no matter how good you are, you still might not live through it or you may shoot in a situation in which it is not appropriate. You have to accept those risks and accept the fact that no matter what you do, no matter how perfect, you might be prosecuted. It will certainly be investigated. You will be a suspect. You will almost certainly be sued. No matter if Jesus Himself were here and He did the very same thing, He might be prosecuted or sued! Now, the good side of it is that you will be alive to worry about it.

The problem is that injury or death is easy to demonstrate after it's occurred. I can get a doctor to testify that "this injury occurred," but how do you prove that something DIDN'T happen? You might say, "Well, this WOULD have happened, had I done..." but that is just speculation. We will never know, will we?

I testify in a number of cases and I answer this question many times: "Well, Mr. Farnam, had your client done this and this, then, wouldn't this have happened?" My answer is usually, "Oh, counselor, I readily concede your point! If things were different, they wouldn't be the same. Next question?"

Why are we speculating? I have NO idea what would have happened, what might have happened, or what could have happened. This whole question about what is reasonably foreseeable is BS.

eJournal: Still, even smart people badly want predictability.

Farnam: The best I can do is give guidance, and then we put on exercises to practice. That's where force on force comes in. We can even do it with blue guns (solid firearms-shaped plastic castings). I do this in force on force courses all the time: you walk in and someone is suicidal—maybe even someone you know! It's real easy if you don't know the person, but what if it is someone that you know?

Well, are you going to intervene? If you do, how much danger are you exposing yourself to? And what is the likelihood that your intervention is going to make any difference? Or what is the likelihood that if you prevent the suicide today, that they will commit suicide the next day? There is no way you can acquire enough information in only a couple of seconds unless your own life is threatened. The suicidal person may decide they never liked you very much and decide to kill you! You may have to shoot and kill them on the spot, I know I would probably do that, all things being equal.

People will ask, "How did you know he really intended to kill you?" Well, I cannot know and quite frankly, I don't care. You have got to make your decisions based on suspect capability not on suspect intent, because intent is always speculative.

Continued next page...

July 2013

eJournal: Deciding based on capability instead of guessing about intent sure sounds better! Does it follow that, when interrogated about what we did, we'd also avoid guessing what the threat was thinking?

Farnam: Well, there will always be some expert who may come in and say, "Well, I am a psychiatrist, and I can tell you that this poor disturbed young guy you shot was just crying out for help and he really didn't intend to abuse you." And in closing arguments, your lawyer needs to say, "So what? That is only his opinion."

eJournal: Besides, during the incident, we base our response on his actions.

Farnam: Don't say to yourself, "I can tell he really is not dangerous." That sounds like someone's famous last words to me.

eJournal: True—we do have to survive the incident first! Humans love to talk. Does your decision-making training include verbal intervention?

Farnam: Let's say this jamoke approaches and says, "Hey, I..." I say, "I'm sorry, sir, I cannot help you." We call that a tape loop. We do not wait for them to finish their sentence and we do not answer their questions with "no," "yes," "I don't know." We say, "I'm sorry sir, I cannot help you," then move off, look around and be sure you are not being set up. Immediately separate.

eJournal: That is very preemptive.

Farnam: Absolutely! What interests of yours are served by a deep personal relationship with this jamoke? Is this guy about to die if you don't help him? Of course not. Nine times out of ten it is a scam anyway, but if it appears to be a person in genuine need, you can say, "The Salvation Army is two doors down on the left, Bud."

eJournal: Your tactics for approaches from strangers have always been decisive, but I think your recommendations are even terser today than when I met you twenty years ago. Why?

Farnam: I think it has become more aggressive because I think the world has become more dangerous. I think most of us are admitting—at least in whispers—that all of western civilization is circling the drain. We have debt that is well past any chance of repayment. What is going to happen? Are states going to secede from the Union? Are we going to have civil war? This stuff wasn't

even discussed before 2008 other than in whispers, now it is being discussed openly. Since 2008, we've been in a more-or-less permanent recession. Despite the "recovery" we're currently hearing about, no recovery ever took place. We have 8% unemployment, which is really 22% unemployment.

It means we are seeing more desperate people. There have always been desperate people and there have always been unstable people, God knows, but I think both of those categories are increased. We don't have insane asylums anymore. Most of the homeless people ought to be in institutions. Are they dangerous? Extremely! They are extremely dangerous under the right circumstances.

Most burglary suspects I've arrested or were in the presence of couldn't beat their way out of a paper bag, but get them cornered to where they think the only way they can escape is to go through you, and then you watch how dangerous they can become!

Today, I teach the stealth lifestyle. Don't go to stupid places; don't associate with stupid people; don't do stupid things. Be in bed by 10 o'clock. Don't fail the attitude test. Have a normal appearance. Don't attract attention, and when attention comes your way be very good at aggressively disengaging.

eJournal: We don't have the luxury of presuming the best about strangers nor may we have time to let a situation run long enough to determine the degree of threat.

Farnam: No, you do not. You can never hesitate. That projects weakness. Do you want to help every person that you meet? That is a question that only you can answer. What I am going to tell you is that you have got a gun now. You have got to be more discreet about any kind of interaction. Interaction with people you don't know and circumstances over which you have no control are very dangerous. When I was a college student and I didn't carry a gun around, this never occurred to me. I wanted to help everyone.

eJournal: It might have been safer then, now it is not.

Farnam: Especially in urban areas, there are so many scams going on. Approaches from strangers are like telemarketing. Is there any such thing as legitimate telemarketing? No, it is all a scam!

Continued next page...

July 2013

eJournal: Most are happy to hang up on a telemarketer, yet few are so quick to walk away from a stranger asking for help.

Farnam: If you really think this guy needs help, get out of there, go and call the police. The police will come over there and give him all of the help that he needs. They can take him to the Salvation Army and you are not even involved. That by far makes the most sense.

eJournal: Earlier you used the term "tape loop," and I'd like to come back to practicing a known verbal strategy into which we can jump without a pause to think of the right words.

Farnam: We practice it over and over again so we know what to say. We do not have to make it up as we go along. We are not asking, "What if?" It doesn't matter "what if." Here is our tape loop. Push the "play" button. Here is what we can always say: "I'm sorry, sir! I can't help you. Get back, sir! Get back! I can't help you," and then get out of there.

eJournal: It sure eliminates fear of saying the wrong thing and making it worse when there is only one decision.

Farnam: Get out of there! For every student that I've had that has been in an actual gunfight and came to me and said, "Oh, boy, that front sight, that really worked!" at least 100 have come to me and said, "Boy, that tape loop really worked. This jamoke came up to me and I said, 'I'm sorry, sir! I cannot help you! I'm sorry! I can't help you. Get back!' And I wasn't confused, they were confused!" Would anything bad have happened? I don't know. I don't care.

eJournal: Good point. We need to stop trying to be amateur social scientists. Not long ago, while I pumped gas, a female beggar approached. I got her to leave, finished buying gas, and drove across the parking lot to log the mileage. She followed me quite a distance across the lot. Sometimes the people who come up to you are just plain nuts.

Farnam: That's why I carry a bottle of OC in my pocket. If I can't get someone out of my face, he's going to get a face full of this [palms a pocket-sized canister]. He will flop around for about 20 unpleasant minutes, but he is not going to die. I'll have time to get away so I can call the police. It is good to be the first to the phone. I'll say,

"I was attacked. He tried to murder me"—not kill—"murder me. I was in fear for my life."

eJournal: Why "murder," not "tried to kill"?

Farnam: Because it sounds more pernicious. "Well, no wonder you used pepper spray. You were about to be murdered!" Use "attack," "murder," "in fear for my life," even if all you did was spray them with OC.

eJournal: Is this your next tape loop?

Farnam: Yes, I know exactly what to say to get an officer sent there right away.

eJournal: Do you combine learning tape loops with live fire?

Farnam: We do live gun training, but there are limits on what we can safely do. What I do, depending on facilities, is to always have "bystander" targets. I'll have a target, and several "non-targets." One target is a threat and the other targets are not threats.

I have students start facing away, then turn around and they have to look, identify and evaluate the threat. I have several non-targets mixed in, and not necessarily on a line, either in front or behind. The non-targets always outnumber the targets, so you have to pick the target out. Sometimes I may have picture targets; sometimes I draw a gun on the target to simulate it being armed. You can't simulate reality exactly, but it will give your brain something to do while you are trying to operate a machine.

Students learn at an early point to pivot then draw, so as they turn, they are not quite sure what they are going to see. They have to size up the situation, move, evaluate, and then do what they need to do.

I have to run courses in all kinds of facilities, all kinds of targets, and all kinds of situations. We try to do the best we can with what we have. When I teach in Africa, they don't have anything at all, so we cobble something together. For example, over here when we teach gun retention against disarms, we use blue guns, which are well suited and perfect for that. In Africa, we have to disable their real guns, because there are no blue guns available. What am I supposed to do?

Continued next page...

July 2013

Say, "Well, I'm sorry, we can't teach gun retention, because things aren't exactly the way I like it."

No! You have heard me say this before: We do not spend our time looking for ways to lose. We spend our time finding a way to win. We are going to find a way to make this work because I'm here and you are here, and you are my student, so we are not going to waste time.

eJournal: Now, what happens when we take decision making off the live fire range? You have a great force on force program. Please tell us about it.

Farnam: When students get there, we explain the course to them, and then we have them shoot paper targets with the airsoft guns. Then I have them turn around and I shoot each one in the fanny with it to get the fear of being shot out of the way. When we get to the first scenario, everyone only has blue guns. Next, the student gets an airsoft gun, but my actors only get blue guns, so I tell my students, "You're not going to get shot unless you shoot yourself." [Chuckling] Then finally, everyone has airsoft guns, and we go full interaction. All the scenarios are less than a minute, and in most of the scenarios there is no shooting.

eJournal: Like real life, fortunately.

Farnam: Most scenarios are not resolved with shooting, but you hold out the possibility that you may have to resolve this with shooting, but chances are you won't. It is in your best interests to try to maneuver circumstances so you don't shoot. You need to ask yourself, "What the hell am I doing here? Why am I in this place?" Maybe the thing to do is not go in there or certainly get out of there. Next, of course, is how can I disengage, assume a low profile, and try not to be noticed. These are all things to which we have to expose the students.

Invariably, the student initially injects himself into the situation. Why did you do that? "Well, the person was doing..." As an alternative, why don't you turn around and walk away. I'm not saying that is what you have to do, I'm just saying it is another thing you could have done, and it probably would have turned out better.

eJournal: If a scenario entails the need to shoot, what lessons do you want remembered?

Farnam: We have a scenario in a restaurant where a man gets up and waves a gun around, saying, "This is a stick up." One student stood up and said, "Hey, what are you doing?" with his gun in the holster and got shot. We ran it again, and the student drew, gave a verbal challenge and got shot. He asked, "You mean, I should have shot him when he was facing away from me?"

I said, "Did you see the difference in time? He is a threat to you and to everyone in this room. If you decide to exit, that is going to take time. Any time he could whirl around and shoot you."

I don't care where the threat is facing, if I go to guns, I am not going to hesitate. I am not going to wait until his gun is pointed at me. If he has a gun out and you say, "Drop your gun," and he shoots, how did that work out for you? In this case, a verbal command is not appropriate. A person with a gun in his hand represents a threat to everyone in the room!

eJournal: As long as I have known you, you have taught decisiveness. Now, I think you are teaching ruthlessness.

Farnam: When it comes to my life, I am not going to mess around. I have been shot. I know what it feels like. I know how serious this is. I think a lot of people, in the back of their minds do not really believe this could happen. Then, when it does, it is too late and for years later they say, "Boy, I sure wish I had shot that guy." Well, the time to wish that is beforehand, not afterwards.

eJournal: Better to learn these lessons in a Farnam class, not where life could be lost or ruined.

Farnam: In force on force training, I am not over correcting. I have to let the student make the mistakes: let them experience it for themselves.

eJournal: Your force on force class was scheduled in Colorado in February, and again in Illinois this September. If someone wanted to bring you to his or her corner of the country, can you take it on the road? How many students would you need?

Farnam: Sure. We'd need ten to fifteen students and an unoccupied building, with some furniture and other

Continued next page...

July 2013

props. The airsoft guns can dimple walls or cars, so we can put blankets over cars, but it isn't like Simunitions® where paint stains are left behind.

eJournal: I encourage our readers to organize one of your classes if the scheduled programs are too far away. Force on force gives an entirely different perspective on what's required to stay safe. There is so much we need to learn.

Farnam: I think it is more critical now than ever. Look at the number of people carrying guns now—legally and illegally! Look at all the new single column, flat guns designed for concealed carry. They can't make them fast enough! And look at all those people who never dreamed of carrying a gun who are now carrying a gun, and they haven't a clue. All they know is that they are scared.

We try to reach as many of them as we can. You've heard me say to my students, you know a lot of people who ought to be here but they are not, and frankly, they never will be because they are not serious, so I'll probably never have them as students. The closest they ever come to the True Way will be from you. So be prepared to teach, and never hesitate to make corrections. Who knows? You might prevent an accident; you might save a life. Always think of yourself as a teacher.

eJournal: That way, you can do something of real value. Instead of wasting energy feeling guilty for not helping a stranger begging on the street, it is so much better to invest time and energy into people we know and care about, making sure they understand safety.

Farnam: I like the thought that we are influencing people in a positive way. That is exciting to me.

eJournal: Then you must have an exciting life, because you have been such a positive influence to so many people for such a long time.

Farnam: Well, that is very kind of you. I'm having too much fun to quit.

Resources

Defense Training International
P.O. Box 917, LaPorte, CO 80535
E-mail: jsfarnam@aol.com
<http://www.defense-training.com/schedule.html>

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

Letter to the Editor

Minimum Force vs. Reasonable Force

To the editor:

Last month's interview with Lawrence Kane, author of *Scaling Force*, was incredibly useful material for all of us. However, as a use of force expert witness, attorney, and weapons instructor, I felt there was one point that might dangerously mislead some readers. On the subject of the law-abiding citizen not having to proceed "rung by rung" up the use of force "ladder," but instead being able to go immediately to the appropriate level of force, the Q&A in the interview (with emphasis supplied by me) was as follows:

"eJournal: Nor must we start at the very lowest level. We are allowed to counter with the minimum force needed to stop the threat."

Kane: Exactly. You want to use the lowest level of force that stops the threat, but if it doesn't, then you use a higher level immediately."

The problem, as I see it, with the above Q&A is that it suggests one must use "the minimum force needed to stop the threat." While that may be the wording of the law in a few states (and I'm not sure where), in most jurisdictions for civilians, and nationwide for police under federal law, one is permitted to use reasonable force in self-defense.

Reasonable force is very different than "minimum force," and reasonable force is a workable concept in an actual confrontation, while "minimum force" is, often times, completely unworkable. To explain, allow me to use a law enforcement example. Imagine a big, muscular subject is coming at the officer with fists raised, yelling "I'm going to break your jaw!" The officer could respond, let us say, by (1) verbal direction ("Police – Don't Move!"), by (2) using pepper spray, by (3) empty-hand physical restraint and control, such as a leg sweep or other take-down, followed by a pain-compliance joint-lock and/or handcuffing, by (4) blocking or avoiding the attacker's punch, and then striking or kicking, by (5) use of his Taser, or by (6) a baton strike.

While some of the six options presented would certainly be more likely to be effective than others, all of them constitute "reasonable" force when used in response to a big, muscular subject threatening to strike one with his

closed fists. As reasonable force options, none of the six options would be considered legally excessive, absent some bizarre circumstances not stated in the hypothetical.

However, the six options can, for the most part, be ranked in order from least force to most force. For example, pepper spray, causing no lasting injury, in almost all cases constitutes a lesser level of force than hitting someone with a baton, that usually results in an injury, although a non-lethal one.

Neither the police officer nor the private citizen when attacked as in the hypothetical is required to use the "minimum force needed to stop the threat." In fact, we can almost never know what that "minimum force needed to stop the threat" might have been. For example, if we use pepper spray (a very low level of force) and it works, it is always possible that the subject might have stopped had we just used verbal direction. Or if we use the baton, and it works, it is always possible that the subject might have stopped if we had just used pepper spray. We'll never know, will we? In fact, we might not even be able to determine, among several of our choices, which one represents the "minimum" force altogether. For instance, which constitutes less force, pepper spray, or Taser, or a takedown and joint-lock? Because the requirement to use the "minimum force needed to stop the threat" is thus a completely unworkable standard, and impossible to apply, federal courts in police use of force cases have noted that it puts an unreasonable burden on the officer, and that the officer will, accordingly, only be required to use "reasonable" force, not "minimum" force. As you can see from the example, this can be any one of a number of things within the "reasonable" range of force options.

Some misguided police department policies still require their officers to use the "minimum force needed to control the subject." None of the federal agencies have this policy (they all specify "reasonable force"), nor do any of the more knowledgeable state and municipal agencies, and the ill-advised "minimum" standard is one of the first things I seek to correct when asked to review agency policies.

Continued next page...

July 2013

While I have referred to law enforcement standards, I believe they are likely to be applied in most "civilian" self-defense cases as well.

Finally, while a trained, experienced, and highly-skilled fighter may be able to try one level of force, and then move to a higher one if the first level proves ineffective, most of us will only have one chance, that is, only time to try one thing, when attacked. I recommend you respond with reasonable force in accordance with your

training, rather than spending even a millisecond worrying about whether some more "minimal" option might be enough to keep you or others you care about from suffering serious injury.

Emanuel Kapelsohn
Advisory Board Member
Armed Citizens' Legal Defense Network, Inc.

July 2013



President's Message

by Marty Hayes, J.D.

As the month of June wraps up and the deadline to submit my column is upon me, I am sitting watching the opening statements in the George Zimmerman second-degree murder trial. I hope that our

members will be watching parts of the trial themselves, or at least keeping abreast of the developments. The Network has a Face Book page where we are discussing the trial, and so if you are doing Face Book, I would invite you to read what several of our Network Affiliated Attorneys, instructors and members are commenting on. Here is the link:

<https://www.facebook.com/groups/221594457860509/>.

While I will be watching some of the trial, I will not be able to spend a lot of time, but will be checking on it as I can. I am actually more certain that Zimmerman will be able to convince this jury that his actions were reasonable that fateful night, because the make-up of the jury seems favorable to him. Six women, five white and one Hispanic. I hate to even comment on the racial aspect of this case because I try to live my life colorblind, but because the State of Florida has made this a case based on race, it is impossible to ignore. I think Zimmerman will get a fair hearing by this jury and that is good. I am not so sure he will get a fair trial though. Judge Debra Nelson seems pre-disposed to rule for the prosecution on points of law, so we will see. Like many judges, Nelson is a former prosecutor, having worked for about a three-year stint with the Broward County State Attorney's office.

Seeing the makeup of his jury reminds me that while you have a right to be judged by a jury of citizens of your community, you likely will not get a "jury of your peers." The "jury of your peers" language comes from the 13th century Magna Carta:

No freeman shall be taken, imprisoned, disseized, outlawed, banished, or in any way destroyed, nor will we proceed against or prosecute him, except by the lawful judgment of his peers and by the law of the land.

Of course, we do not live in 13th century England, but, instead, in 21st century America, where our right to a jury trial is affirmed by the Sixth Amendment to our U.S. Constitution, which reads—

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

So, you are not afforded the luxury of a jury of your peers, but instead, a jury of local citizens, which is why Zimmerman ended up with a jury of six women, five of them white, even though he is a Hispanic male.

In watching Don West, one of Zimmerman's attorneys, give his opening comments, I note that West told the jury that Zimmerman responded exactly how he was trained. The fact that Zimmerman is going to make the argument that he responded exactly as he had been trained should serve him well, and I hope that the defense gets the opportunity to bring in Zimmerman's trainers, including one who apparently is a Federal Air Marshal, to speak to that training. In addition, I just learned that Zimmerman has one of the top forensic pathologists, Dr. Vincent DiMao, as an expert in this case. That is also good news.

All I can say at this point is, "Here we go." George Zimmerman's trial is underway. It is going to be interesting and educational, and the armed citizen would be well advised to critically watch what happens in that Florida courtroom, because any of us could be the next George Zimmerman.

Since writing this column, I have watched the first week of the trial. If all you have seen is what is on the news, you will be surprised to hear (or maybe not) that the defense is doing extremely well taking apart the prosecution's case. To convict of any crime, the State must prove the elements of the crime. So far, they have failed to do so. I will give my complete thoughts in the August eJournal.

Continued next page...

July 2013

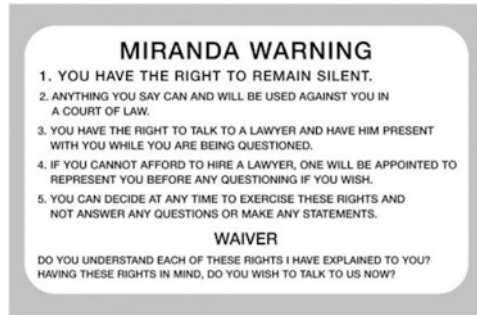
No Right To Remain Silent?

A recent United States Supreme Court decision has us here at the Network scratching our heads a little. The case is *Salinas v. Texas*. The case concerns an individual (Salinas) who was being questioned about a murder, and refused to answer one of the police officer's questions. In his dissent, Justice Stephen Breyer summed up the incident as follows: *Salinas was later tried for, and convicted of, murder. At closing argument, drawing on testimony he had elicited earlier, the prosecutor pointed out to the jury that Salinas, during his earlier questioning at the police station, had remained silent when asked about the shotgun. The prosecutor told the jury, among other things, that "[a]n innocent person" would have said, "What are you talking about? I didn't do that. I wasn't there." (Tex. Ct. App. 2011). But Salinas, the prosecutor said, "didn't respond that way." Rather, "[h]e wouldn't answer that question."*

The majority opinion (it was a 5-4 decision) concluded that because Mr. Salinas didn't expressly invoke his Fifth Amendment right to remain silent but instead just didn't answer the questions posed to him, even though he was answering questions both before and after this question, that the prosecution could (and did) infer that that silence equaled guilt. Salinas was convicted, partly because of this closing argument by the prosecution.

Regardless of whether you or I, or anyone else believes this ruling is right or wrong, it is now the law of the land, and we armed citizens need to understand how that affects us when interacting with police after a self-defense incident.

After discussing the ruling amongst ourselves, we have decided that this ruling doesn't change the way we look



at the aftermath picture, and our advice to our members remains the same. To refresh your mind as what we feel, see my article *Unintended Consequences of Remaining Silent* at <http://www.armedcitizensnetwork.org/unintended-consequences-of-silence>. I would also urge you to review our second educational DVD, *Handling the Immediate Aftermath of a Self-Defense Shooting*, a lecture by Advisory Member Massad

Ayoob discussing this issue.

In fact, after re-thinking the whole question, I still believe that Ayoob's groundbreaking advice, which he developed over 20 years ago, continues to serve us very well. You see, in a self-defense case, documenting the evidence of self defense is paramount, as is making sure the police understand that you are asserting a claim of self defense. As an example, I was involved in a self-defense trial this spring in which the defendant was acquitted. I believe that one of the most powerful aspects of the defense was that the defendant's story never changed. From the initial contact with police moments after the shooting through his emotional testimony at trial eleven months later, his account of the incident never changed.

The Best Defense TV Show

I will finish my column letting fans of *The Best Defense* show, seen on Outdoor Channel, that the show has been renewed for next year. We (Michael, Michael, Michael, Matthew and Marty) held a meeting a couple weeks ago, and planned out the next season's shows. We all are enthused about getting the filming going, and while I cannot divulge what the shows will be about, I do know that they will be cutting edge, and even "edgy." They're gonna be good.

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

July 2013



Attorney Question Of The Month

Last month, we asked our affiliated attorneys about warrantless searches, receiving so many responses that we continue the topic this month, with answers to this question:

Following the house-to-house searches law enforcement conducted after the Boston Marathon attack, a lot of Network members emailed to ask if they could deny police entry into a home or vehicle under emergency conditions. Absent a search warrant, do citizens have a right to deny law enforcement entry into their home? How do you recommend that the average armed citizen invoke their rights if they wish to prevent a warrantless search of their premises?

Bruce Finlay

Bruce Finlay Attorney at Law
P.O. Box 3, Shelton, WA 98584
360-432-1778

<http://www.brucefinlayattorney.com>
brucef@hcc.net

The general rule under the Fourth Amendment is that warrantless searches are per se unreasonable, and therefore unconstitutional. But, there are a number of exceptions to the warrant requirement. These exceptions are narrowly drawn and jealously guarded, in order to keep the exceptions from swallowing the rule.

The exceptions include hot pursuit and exigent circumstances, which some lawyers argue would apply in the Boston situation. I disagree for the following reasons. The hot pursuit exception, also sometimes called fresh pursuit, provides that the police may enter the premises where they suspect a crime has been committed or a violent suspect will be found without a warrant when delay would endanger their lives or the lives of others and lead to the escape of the alleged perpetrator. But it is highly doubtful to me that it would apply in the Boston situation, because the police had no idea into which house, if any, the suspect had fled. But, even though the law most probably does not support the home searches, under the circumstances, this would be a difficult decision for a judge to make. Judges are as human as anyone else, and many people have been disappointed in judicial decisions after standing firm on

what they justifiably believed were their constitutional rights. Moreover, at the time of the search, it would be almost impossible for the homeowner to know whether the police had probable cause to believe the suspect was in his or her house, even if the homeowner knew he was not.

Exigent circumstances allows police to search without a warrant if all of the circumstances known to the officers at the time would cause a reasonable person to believe that entry or search was necessary to prevent physical harm to the officers or other persons, prevent the destruction or concealment of evidence, prevent the escape of a suspect, or give immediate aid to a person within the area to be searched and there is insufficient time to obtain a search warrant. A search warrant requires probable cause, which must be individualized. In other words, the police must have facts or circumstances sufficient to cause a person of reasonable caution to believe that the place being searched is where the suspect will be found. While there was arguably an emergency in Boston, the police had no apparent idea where the suspect was; in other words, no individualized probable cause.

Now the hard part: If you deny entry, the police may come in anyway if they consider it important enough to do so or if they believe they have the right to come in and search. If you resist their entry, they may use force and you may get injured or charged with obstructing law enforcement or even assault on an officer; at the very least you will delay the police search. You are generally not entitled to use force to repel an unlawful police entry under the law of many states, unless you have solid grounds to believe you are about to be injured by the police. And, using physical force to repel the police is very dangerous to everyone involved, which is why you are not generally allowed to use force.

Your only legal remedy is after the fact, not at the time. In short, object verbally, if that is your decision, but do not physically interfere. Remain polite and cooperative after you have verbalized your objection to the police entry of your home.

Continued next page...

July 2013

J. Jeffries Goodwin, Esq.
Goodwin Law Corporation
101 Parkshore Drive, Suite 100
Folsom, California 95630
916-932-2345
jjg@goodwinlawcorp.com

In California I would advise my client to NOT permit entry without a search warrant. If law enforcement force their way in and find anything to use against my client, I would make a motion to suppress the evidence.

Kenneth D. Willis
Yorkshire Plaza Bldg., Suite 103, 2200 East 104th Ave.,
Thornton, CO 80233
303-898-1700
kdwillis@comcast.net

Exigent circumstances rarely apply to houses since, unlike automobiles, they aren't going anywhere. However, there are several circumstances in which police may enter your home without a warrant:

1. A welfare check, where there is reason to believe someone in the home is in distress.
2. Cops are chasing a suspect and he runs into your home, they can follow him wherever he goes. Moreover, if the cops are chasing a guy who has an outstanding warrant for a minor matter and he runs in your front door and out your back door, and the cop follows him and on the way notices you cutting cocaine and bagging it, the cop can decide to let the guy he was originally chasing go and arrest you on a cocaine charge.
3. A dire emergency situation that threatens an entire area.
4. Rescue of hostages being held in a home, if there is probable cause.
5. If they look in the window and see either a person in need of medical attention (welfare check) or they see what appears to be a dead body they can enter the home to render aid or to secure the scene but must obtain a warrant before conducting a search. If there are other persons in the home they can be detained while waiting for the warrant. Anyone attempting to leave the home will be chased down and detained. Most times those people will be detained outside the home, in the yard or in a police car.

6. One big way cops can enter and search your home without a warrant is with your consent. They have experience in how to obtain consent and you have no experience in how to refuse, so that's how most home searches are done.

I doubt this list is exhaustive but in most other situations the homeowner can refuse if they don't have a warrant. They can't make a forced entry merely because they believe a crime in being committed in the home or the home contains contraband, unless the crime being committed in the home threatens someone's immediate safety. Otherwise, they can make the occupants vacate and seal the building while waiting for a warrant. If none of these conditions exist and they force their way in, the homeowner is unwise to stop them but will have a cause of action for damages.

James B. Fleming
Fleming Law Offices, P.A.
P O Box 1569, Monticello, MN 55362
763-360-7234
jfleming@pclink.com
<http://www.jimflemingatlaw.com>

Not everybody is gonna like the answer, but they need to hear it, whether they like it nor not.

There are only three valid means for a law enforcement agent to lawfully enter a private residence: with consent, with a warrant, or in the event of the existence of "exigent circumstances."

Under the exigent circumstances exception to the Fourth Amendment warrant requirement, in an emergency situation, law enforcement personnel may conduct warrantless searches to protect public safety. This exception to the probable cause requirement normally addresses situations of "hot pursuit," such as where an escaping suspect is pursued to a private residence.

However, as the U. S. Supreme Court ruled in *Minnesota v. Olson*, 495 U.S. 91, 96 (1990), such a warrantless search is also authorized to alleviate the risk of danger to the police or to other persons inside or outside the dwelling. In other words, to preserve public safety. In this situation, the officers must take into consideration the seriousness of the crime and likelihood that the suspect is armed.

Continued next page...

July 2013

In the situation that evolved in Watertown, MA, officers were conducting a house to house search for a suspect in a terrorist bombing, who had engaged in a shoot out with police the night before in which his brother was killed, where they had earlier killed a law enforcement officer, and had hijacked a civilian vehicle at gun point. The remaining suspect was believed to be armed and dangerous.

"We believe this to be a terrorist," Boston Police Commissioner Ed Davis told reporters early Friday. "We believe this to be a man who's come here to kill people. We need to get him in custody."

Officers under such circumstances must confine their search to areas inside a home where an individual could physically conceal himself. In other words, not in your dresser drawers, or your desk, your gun safe (unless it's a really big one) or the drawer in your nightstand. In language employed in cases across the country, "you cannot search for an elephant in a bread box."

Given these circumstances it would have been very unwise, and totally ineffective for a citizen to attempt to hinder a search by attempting to invoke Fourth Amendment rights. The officers would be within their authority to ignore your refusal, and, for all they would know, the suspect might, at that moment be inside the house holding one of your family members at gunpoint, threatening to kill them if you did not "get rid of the cops." At such times, common sense should prevail.

When such extreme circumstances are not present, an exigent circumstances search must involve situations where the officers have probable cause to believe one or more of the following circumstances are present:

- In hot pursuit of a fleeing felon;
- To prevent the imminent destruction of evidence;
- To prevent a suspect's escape; or
- When such a search is necessary to preserve public safety from an imminent and serious threat.

Always remember, however, the difference between "can" and "may" which is ever important in the law. I "can" drive my car down Main Street a 125 mph, because my car is capable of attaining that speed. "May" I do so? No, because it is dangerous and, therefore, against the law.

"Can" law enforcement officers ignore your refusal to allow them to search your home and, in the absence of exigent circumstances, barge in to conduct a search any way? Yes, they "can." "May" they do so legally? No, they "may" not. Anything found in the residence under such circumstances could not be used in evidence against you in a criminal prosecution as a result of the "exclusionary rule" announced in *Weeks v. United States*, 232 U.S. 383 (1914), and later made applicable to all the states in *Mapp v. Ohio*, 367 U.S. 643 (1961).

The violation of your Constitutional right to be free from warrantless search and seizure might also well subject the officers, and ultimately the agency for whom they are employed, to liability under 42 USC, section 1983, for wrongful actions taken ostensibly while the officer(s) were acting "under the color of law."

But getting into a confrontation with an armed law enforcement officer in the doorway of your home is a very dangerous and extremely stupid thing to do.

Richard H. Seaton, Jr.

Seaton, Seaton & Gillespie, LLC
410 Humboldt, Manhattan, KS 66505
785-776-4788
<http://www.seatonlaw.net>
seaton@kansas.net

In Kansas, a person cannot use force to resist arrest, even unlawful arrest. KSA 21-5229.

This law does not apply to situations where an officer is using excessive force, whether a lawful or unlawful arrest. The officer's use of excessive force invokes the right to self defense. *St. v. Heiskell*. 8 Kan. App. 2nd 667 (1983) Syl 4.

An occupant does not have the right to commit battery to prevent an officer from unlawfully entering the occupant's residence when the officer is engaged in performing his or her duty. 289 P.3d 1185 (Kan. App. 2012), *Kansas v. Tush*, 2012.

I can find no law directly on point.

My opinion is that you cannot use force to resist a warrantless search of your home, particularly under the circumstances in Boston where every cop is going to be claiming exigent circumstances.

Continued next page...

July 2013

I would advise and would do the following:
Loudly and repeatedly state, "You have no right nor permission to enter my home, I refuse you entry, get out and leave me alone." That won't stop them, but it should help your eventual motion to suppress.

The tougher question is whether the emergency would be considered sufficient exigent circumstance to validate a search. I fear weak-spined judges would say it does.

Benjamin M. Blatt

P.O. Box 221, South Bend, IN 46624-0221
574-360-4039
bblatt11@aol.com

The problem with warrantless searches like Boston is "exigent circumstances." Basically, if the police believe there is an emergency need to enter a property, whether it is to render aid or pursue a fugitive, they can and will enter without a warrant. If you try to stop them, you will

probably wind up bruised and cuffed for your efforts. If you try to prevent such an entry with a gun on your person, you may wind up being another little-discussed victim of current law enforcement doctrine.

Frankly, the Fourth Amendment has been pretty thoroughly broken, and your best hope is that your attorney can throw out anything found during such a search as being discovered outside the bounds of the exigent circumstances entry.

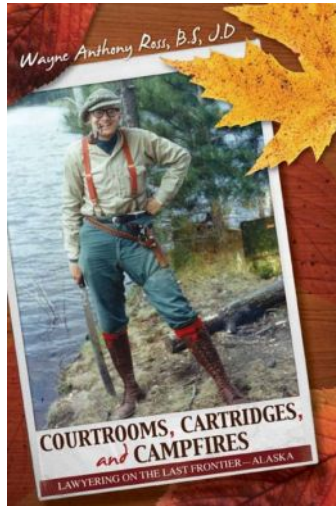
The Network extends a big "Thank you!" to our Affiliated Attorneys for this illuminating discussion. Check back next month for more answers from our Affiliated Attorneys on this important question.

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

Book Review

Courtrooms, Cartridges, and Campfires: Lawyering on the Last Frontier— Alaska

By Wayne Anthony Ross,
B.S., J.D.
Publication Consultants;
First Edition (Aug. 1, 2012)
ISBN 978-1594332982
224 pages, paperback
\$17.95



<http://publicationconsultants.com/books/view-our-books/drama/courtroom-cartridges-and-campfires-detail>

Reviewed by Gila Hayes

A few months ago when I asked our Network Affiliated Attorneys if they had published any books or authored any DVDs, I expected information about books dealing with various state gun laws, and as our book review last month showed, some of those resources did, indeed, surface. What I did not expect was the rollicking autobiographical volume penned by Anchorage attorney Wayne Anthony Ross entitled, *Courtrooms, Cartridges, and Campfires*.

This affiliated attorney's story was such a charming diversion that instead of dealing with the serious subjects we usually discuss in this column, I want to share some of his life story with our readers. Ross acknowledges the influence of his family and his faith in his book's opening chapters that portray a young man determined to earn a law degree and willing to work not only the hours needed to master the academics, but even longer hours working at a variety of service jobs to pay for the education. He introduces his father and other family members, his wife (who sadly has died since his book's publication), and memorable college professors. The latter included a torts professor who drilled his students to explore questions from the viewpoint of the reasonable man. Ross and his fellow students, convinced that the professor disproportionately targeted

him with that question, hung the nickname "The Reasonable Man," on young Ross.

A lifetime outdoorsman and firearms enthusiast, Ross peppers his autobiography with tales in which handguns, rifles and shotguns play a role. After neighborhood acquaintances trekked to Alaska on hunting and fishing adventures, their reports planted seeds that eventually drew the author North. When a law school professor cited a case decided by the Alaskan Supreme Court, Ross decided then and there that he wanted to practice law in Alaska. At the end of his junior year of law school, he sought but did not win a law clerk position and had abandoned his dreams of going to Alaska until a fellow student asked him if he wanted to drive with him to Alaska to seek summer work.

Making that exploratory trip, the author learned the hard way that Canada—even the Canada of the late 1960s—had no love of private handgun ownership. Arriving at the border, he declared a .22 kit gun and a .45 Colt revolver, only to be told that the province of Saskatchewan would not allow him to transport them. The guns were shipped and waiting for him when, after more than their fair share of adventure, the young fellows arrived in Anchorage in June of 1967. Imagine Ross' delight upon landing a law clerk position, despite a rate of pay that only afforded him a basement room shared with his driving buddy.

Already courting his future wife, Ross wrote to her of his adventures and his growing love for Alaska. In one, he enthuses, "I like freedom, and in the wild places here I feel unrestrained. I like solitude, and here it is attainable. I like an unhurried pace of life, and not the 'rat race' type of existence found in Milwaukee. I like the mountains, trees, and ever-flowing water. I like the abundant wildlife. I like the clear fresh air. I like to feel a part of something that is growing, and not stagnating like Milwaukee. I feel closer to God here."

The couple married after his graduation from law school the following year, and immediately drove to Alaska where Ross began searching for a job in his chosen field. He found work with the Attorney General's office, and went on to serve as a family court judge. Stories about his employers and cases are entertaining, and not surprisingly the frontier lifestyle still present in Alaska in

Continued next page...

July 2013

the late 1960s often included firearms. Ross writes about presiding over a hearing involving a Polish immigrant woman who wanted to divorce her abusive husband. Worried by the husband's increasingly angry demeanor, when the man reached inside his jacket, Ross slipped his own hand under his judicial robes to pull a revolver out of his waistband and point it surreptitiously at the husband from under his judge's table. Thus prepared, he firmly ordered the man to keep his hands visible. After uneventfully rendering a verdict allowing the woman's divorce, he was tardily notified that an informant had called to warn the court that the defendant had a .45 under his jacket and intended to shoot his wife in court. Ross comments that though judges now have panic buttons, and courthouses have metal detectors, he was glad to have his own revolver in court that day.

In a similar story, Ross details a case in which the verdict went against him and his client. After the jury's decision was announced, his investigator told him he was actually fortunate to have lost because the brother of the person of whom his client was accused of murdering was sitting behind the defense table with a loaded 9mm pistol. When Ross demanded why he had not been told, the investigator replied that he didn't want to distract the attorney, and besides, he was covering the other man with his own .45. How things have changed!

Ross tells of being roped into an attempt to contact a fugitive in a remote cabin, accessible only by two days on horseback. The suspect had already fired at a helicopter containing troopers bent on bringing him in, though he didn't hit anyone, nor was he hit by the return gunfire. The man eventually agreed to face justice if his attorneys would ride in to the cabin and escort him to the closest airstrip where he would submit to arrest by law enforcement. Unfortunately, the suspect further stipulated that his horse-mounted escorts must arrive unarmed. Ross had no intentions of undertaking the "interesting adventure" without a handgun, so he bought a small .38 Special revolver to be worn on his ankle. "I did not intend to go in possible harm's way without a 'piece,'" he writes. The adventure was aborted when the fugitive once again fled, eventually earning a place on

the FBI's 15 Most Wanted list before he was arrested in Washington State, the author relates.

A bevy of amusing characters populates *Courtrooms, Cartridges, and Campfires* and one of the most colorful is Vina Young, who, Ross quips, by the time he met her in Cordova, AK, was certainly no longer youthful! Her bear gun, apparently the death of at least three brown bear, had a colorful history. In 1942 when the Japanese bombed Dutch Harbor, AK, Young bought a Winchester Model 64, set up and stocked a firing position in the top of her barn and planned to shoot it out if the invaders made it to Cordova. "I figured...they might get me eventually, but I'd get plenty of them first!" she told Ross. She would press the .30-30 on him if he went hiking or fishing in Cordova, and it eventually became his when she could no longer live independently. Ross writes that he still owns Vina's .30-30 to this day.

Other colorful characters the reader meets includes Ed Reasor, for whom Ross worked before establishing his own law firm, as well as a memorable hunting guide dubbed the Weiss Adler (translated as "the white eagle," from the German vernacular in which the nickname was bestowed). Among Ross' adventures with the Weiss Adler, was the pursuit of the trophy bull mouse, colorfully told complete with a photograph, but like so many of the engaging tales in *Courtrooms, Cartridges, and Campfires* this and other charming stories are best left as an enticement for you to buy and enjoy all of Ross' stories.

Wayne Anthony Ross' autobiography is a charming collection of memories of how a young attorney from Wisconsin decided to follow his dream to live the way he wanted and how he thrived through following his dream. I enjoyed every page, and think our members will enjoy it, too. *Courtrooms, Cartridges, and Campfires* is sold on Amazon.com or by the publisher, Publication Consultants at <http://publicationconsultants.com/books/view-our-books/drama/courtroom-cartridges-and-campfires-detail> and is even available as an eBook for those who prefer that medium.

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

July 2013



Networking

by Brady Wright

Some of the best parts of my days are the time spent talking or emailing back and forth with our members and affiliates. I get phone calls too, and in the course of taking care of ordering supplies of our booklets and brochures, we do the usual thing that people with common interests do: we shoot the breeze about our hobby. This past month there were a significant number of affiliates who wanted to tell me about their newest gun buy! It's no secret that the market has been extremely frantic for a while. I've added five new arms to my own battery and began to stock up on ammo, now that there is finally a better flow coming from some distributors. Oh, all right: two of them were really for the wife! I like to sleep IN the house.

In other developments, I may have mentioned in earlier columns that we are now using Stamps.com as our postage vendor. It saves time and provides an email to you when we ship your packages, which seems to be working better for everybody. Folks like Galen Krebs, Gary O'Brien and many others have sent emails of thanks for the improved communications and speedy response. Better tools make better service!

We were delighted to ship a case of the Network's free booklet *What Every Gun Owner Needs to Know About Self-Defense Law* to Gunsite, a top-tier school, for distribution to students along with the other literature they have at the facility. Many thanks to Ed Stock for adding our booklet to Gunsite's literature table, and a big thank you to Phil Smith for setting up this great opportunity.

Speaking of our friend Phil Smith, he nearly always has a story or two to share. This one comes from his hometown. Phil writes, "Listening to the Syracuse news last Friday, they provided a great reason to carry. It appears the youth now have a new game called knockout. Kids randomly pick a victim and beat them

until they are knocked out. Two kids (13 and 15) attacked a 51-year-old male hitting and kicking his head until he died. It appears to be multiple blows and he could have protected himself perhaps if armed and trained. I also wonder how deep into condition white he was."

Chuck Taylor's American Small Arms Academy regularly sends in a schedule of upcoming classes. The list is long and all of his seminars are top flight. For the next session information and pricing, just go to www.chucktaylorasaa.com or phone 928-710-7099.

Alecs Dean has a full schedule of National Rifle Association courses coming up, including muzzle-loading for students and instructors, reloading for students and instructors, classes for all the NRA instructor ratings, Range Safety Officer and Chief Range Safety Officer, and much more at International Firearms Safety. You can view Alec's classes at www.internationalfirearmsafety.com. You can also reach him at alecs@internationalfirearmsafety.com.

Finally, I am going to be taking some time off during the last week of June and the first week of July. I'm heading to Central America to build a couple of houses for Habitat for Humanity, but I'll be back by the weekend after Independence Day. If you have any supply needs during that time, just call the office at 360-978-5200 and they'll take care of you directly. If you have a regular shipment, don't worry, those are already in the works. We have your back.

As always, if you have news to share, just call me at 360-623-0626 or send me an email at brady@armedcitizensnetwork.org. If I receive your information, celebration or brag by the 20th of the month, you have a great chance of getting in the upcoming column.

Stay safe out there!

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

July 2013



Editor's Notebook Smarter Than Average

by Gila Hayes

Are Network members smarter than average? I've always believed our members represented the cream of armed citizenry, primarily because most have voluntarily attended

firearms and self defense tactics training that far exceeds the efforts of the average gun owner. I believe I can support this contention, because from the Network's earliest days, we have "met" many of our members through a network of firearms and self-defense tactics instructors.

Being "smarter than average" means making your own decisions and drawing your own conclusions, a trait that is growing ever more rare in today's dependent society. We in the leadership positions at the Network cannot do members' thinking for them. Our primary and most important effort is building up and maintaining the Legal Defense Fund to assure that no member goes without legal representation after being involved in a self-defense incident.

Our secondary purpose, as you know, is educating members through our DVD lectures by leaders in self defense and aftermath management. Members who may draw on the Legal Defense Fund absolutely must understand their responsibilities in possessing and using the power of deadly force in self defense, must know how to manage the aftermath of a self-defense incident, and must be able to articulate principles that allow use of force in self defense under various circumstances. These circumstances include multiple assailants, unarmed but more capable assailants, an assailant who has not displayed a gun, and more, and our DVD lecture series addresses these principles. Members must understand these principles because while no one should submit to police interrogation without an attorney present, it may be necessary to very briefly explain to the first officers on the scene that you were violently attacked. In this initial statement, the key word is briefly.

And this is where you have to be smarter than average. You have to be smarter than your biology and

psychology, and that requires advance training and practice in controlling your emotions and stating only the bare facts about the attack. Before the emails and phone calls start, I acknowledge that this aspect of the Network's philosophy troubles the attorneys. To the attorneys who favor advice to say absolutely nothing without an attorney present, I have to ask, "Can you make it to the armed citizen's side before emergency services and police?" Of course not. Someone is going to have to say something, and sometimes the armed defender is the only one who CAN speak.

Should the armed citizen not say a thing until an attorney can provide counsel? To some degree the scene of the attack against the armed citizen tells a story, but what about a weapon hidden by the assailant to support his loudly proclaimed version of events? What about the common prejudice that the person with the gun is responsible for what happened, when indeed, the armed citizen was only reacting to a violent attack launched against them? Is it better to let these misrepresentations of the truth solidify into presumed fact in the time it takes an attorney to reach the armed citizen?

Attorneys who understand the affirmative defense of self defense are not very common. I compare them to medical specialists among the health care profession. Most communities have a number of physicians providing medical care, but not specialty care like oncology, for example. Likewise, is it not surprising that the armed citizen may need to be able to provide their own first aid (brief interaction with responding officers), understand that a local attorney can likely see them through initial interrogation and being bailed out, and if a protracted court case ensues, specialists with experience defending self defense will be brought in to work alongside the local attorney to achieve the best outcome.

That sequence of events puts the final responsibility for your well being on your own shoulders. No one else can control what you do and what you say. You must study and practice giving responding officers a brief précis of the facts of a violent attack against you. You must understand what to expect from the criminal justice system. You must grasp that the detective who acts

Continued next page...

July 2013

sympathetic may only be leading your statement in the direction closest to their preconceived notions. Terse and truthful responses are your path to freedom. Certainly the protection of an attorney's oversight during that process is extremely critical, but it is not the most important part of the problem. You, the armed citizen, knowing how to rule your tongue, is most important.

Having an attorney at your immediate beck and call is so unlikely that as an armed citizen, you really must learn how to get through the period between "bang" and your attorney's arrival. It is not realistic to believe that someone else can get you through that period of time.

Network members, if this discussion is disturbing, maybe that is good. Go back and review the educational DVDs we sent to you. Study them with a focus on increasing your own ability to briefly articulate the facts of an attack against you. That is why we sent you the educational DVDs.

Those are "macro" issues. Sometimes the need for working out your own conclusions arises over one of the smallest items we give members: the Network's logo-embroidered ball cap. Perhaps half a dozen times a year I get a note expressing concern that the Network would send out a gun-centric logo item. Well, we do! Upon their second-year renewal, members receive a ball cap with our scales of justice logo and the words Armed Citizens' Legal Defense Network, Inc. in three colored embroidery on a navy cotton twill. Multi-year members get the ball cap right up front. At the same time, in a variety of venues, ranging from this very online journal to our educational DVD lecture series, the Network and its advisors strongly recommend a low-key, "stealth" lifestyle that entails not drawing undue attention to being an armed citizen. How do we bring these two facts into alignment?

Many Network members like the logo ball cap, not to wear out in public, but for use at competitive shooting events, firearms classes, and their trips to the gun range for practice. The logo cap has proven an effective conversation starter among other shooters. In addition, the cap is a way for Network Affiliated Instructors and workers in Network Affiliated Gun Shops to promote membership among people who have not yet learned about the Network.

As advised in our fifth educational DVD, *Additional Considerations When Using Deadly Force*, you should not advertise that you're armed out in public. That restriction disappears in a venue dedicated to firearms use. Our intent is that the Network ball cap should be worn among other gun owners at events where being an armed citizen is encouraged.

The philosophy of personal responsibility applies at a variety of levels, even our guns and our ammunition. Many folks presume that ammunition from a large manufacturer will be free of defects. While that is often true, it isn't always. Our friend and advisory board member Tom Givens recently sent me this email—

"This afternoon I got a rare chance to get out on the range and actually practice. I took 200 rounds of brand new factory .40 S&W ammo we recently received.

"Out of 200 rounds, I had eight in which the bullets had been pushed back into the case, resulting in a way too short overall length. My gun would have fed them, but fortunately I caught them while loading magazines. The .40 is a high-pressure cartridge to begin with, and the pressure spike caused by these rounds could easily have blown up my gun.

"This was U.S.-made factory ammo, not reloads. This underscores the need to give a visual and tactile inspection to EVERY round you put into your gun. Manufacturers are busting their butts trying to meet demand. Quality control is suffering, as a result. Be careful."



Thanks for the warning, Tom. Let's all let's take his larger lesson to heart. "Be careful," and be prepared to take care of yourself for as long as is needed until help can arrive.

*[End of July 2013 eJournal.
Please return next month for our August edition.]*

July 2013

About the Network's Online Journal

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

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

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

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

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

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



July 2013