



Jury Selection

Editor's Note: A few months ago, one of our AZ Affiliated Attorneys introduced us to Jury Consultant Dr. Wendy Saxon. We were delighted to add her skills to those of our trial experts, pooling talent against the day when the Network needs to participate in the courtroom defense of a member who has used force in self defense. In addition to making her talents available during defense of a member, Dr. Saxon offered to write for our journal to help members understand jury selection and related issues that bear on the successful defense of self-defense actions. This multi-part series starts this month, and we encourage you to read carefully this and next month's article for a perspective on jury dynamics to which few private citizens are privy.

By Dr. Wendy Saxon

As I sit down to begin this article, a few thoughts keep going through my head. The most significant one, I believe, is how unfortunate it is that we even have to alert you to the pitfalls of trial by a jury of your peers.

Owning firearms and carrying concealed weapons are awesome responsibilities. You are prepared to defend yourself and others in rapidly evolving circumstances that require decision-making of the utmost urgency, circumstances that will be scrutinized endlessly and perhaps inaccurately by the public, the authorities, and even yourself if you have a conscience and the capacity for self-examination. After a shooting, in a perfect world, coming to terms with your actions should be between you and your God. Instead, you will find yourself and your loved ones confronted with armchair analysis even in what seems to you to be crystal clear exigent realities.

Let's begin with a few words about pre-incident positioning and then recommendations for preparation before a jury pool is summoned for jury selection. What do I mean by pre-incident positioning? I mean EVERYTHING and I do mean EVERYTHING about you before that fateful moment when you pull the trigger. This cannot be emphasized too strongly. Please, please, PLEASE pay serious attention to the following paragraph.

For your sake and to make your lawyer-to-be's job of getting you acquitted much easier, forego your natural tendency towards "celebration" of gun ownership. You will SO thank me for this advice, which I reluctantly (and resentfully) follow in my own life. Yes, it's an infringement on your rights and your enjoyment, but bear in mind always those 12 stone-faced "peers" to whom you may one day surrender your fate and the futures of those who depend on you.

1. Make sure your firearms are on your state's approved list;
2. Select "modest" firearms that can get the job done but reflect constraint and sensibility;
3. Resist the desire to accumulate more firearms than you need (and can justify);
4. Carry discreetly and avoid conversations about your CCW permit;
5. Stay away from gun-mounted lights and lasers;
6. Never engage in "wannabe cop" type behaviors;
7. Toss your theme T-shirts;
8. Purge your home of posters, magazines, lapel pins, or any other items that may make you appear "eager to mix it up";
9. Act as though you or your home may be searched at any time;
10. Do away with bumper stickers and/or signs on your home or workplace;
11. Be careful with type and location of tattoos;
12. Visit a shooting range frequently but not "excessively;" you don't want a range master testifying that "that guy or that gal" was always around;
13. Assume your computer and your Internet activities may be trotted out in front of a jury of disapproving Quakers at some time in the future.

Respectfully deferring to the experts, I DO recommend what comes next as I have evaluated hundreds of shooting scenes from the point of view of the defense. If you are involved in a shooting, STOP. STOP and wait for law enforcement. You WILL be in shock. Just as you practice at the range, you can role-play how to behave:

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1. Put your gun away to avoid being mistaken for the offender. Do not collect the empty cases. Do not reload. You are now right in the middle of what is possibly a crime scene;
2. Back up from the person you have shot, to a safe position but no further; do NOT approach;
3. Do NOT carry on a conversation with law enforcement; be very polite and cooperate but explain using a broken record technique that you will tell them everything they want to know about what happened ONCE YOUR LAWYER ARRIVES. Again, you WILL be in shock. Resist the compulsion to explain yourself!

Okay, moving on: you now have a lawyer. He or she will know exactly what you need to do. A trial by jury is fairly far off but as you approach your trial date there are tasks I would suggest performing. As soon as you know the venue where you will be tried, find out the towns from which a jury pool will be summoned. Subscribe to the local newspaper. Read every issue including the classifieds and get to know the interests and opinions of those towns as reflected in their daily concerns as well as the trends in what local reporters choose to say on multiple topics. In a criminal case, I would start a minimum of six months before trial.

Have a private investigator or other competent observer frequent the coffee shops, restaurants, and other places where the locals gather to get a "feel" for the people who may end up judging you. Persons selected by your lawyer can go on ride-alongs with the local police. So much useful information about the jury pool as well as local customs can be gathered from seeing these towns through the eyes of their cops.

With the exception of reading the newspapers, all such activities must be done under the close supervision of your lawyer and NEVER by yourself or family or friends. Your lawyer will "school" you on what you can and cannot do and will demand you maintain a very low profile including staying off the Internet! You will need to act for months and perhaps even years as though you are being surveilled in all you do. No kidding.

Start protecting yourself TODAY. Owning firearms and carrying concealed weapons are, as I said earlier, awesome responsibilities. So is crafting what your future, and the future of your family, is likely to be if you have to protect yourself and/or others and some prosecutor decides to do all he can to bankrupt, terrorize, and

imprison you. If you don't believe it happens, I recommend you read [The Bison King](#).

Procedures for jury selection in criminal trials differ from court to court within the same courthouse, as well as across counties and states, and there are differences between state and federal trials. I will refer to selecting 12 jurors, which is the norm, though some juries consist of eight and even six (which in my opinion are too few).

My experience is limited to California and your lawyer is best suited to explain what is likely to happen in your situation. Generally, the judge will order up a pool of prospective jurors from the jury assembly room. These men and women will be screened for "hardship" as in, no pay for jury service, no one to care for young children or prepaid vacations.

The court clerk will randomly select 12 names. The judge, the prosecutor and the defense attorney will question those 12 jurors. Sometimes a case-specific juror questionnaire is proposed and agreed upon by both sides. After the questioning is completed, lawyers may "challenge" individual jurors for "cause" as in, those prospective jurors have disclosed information or have expressed strong biases and/or prejudices that the judge rules make it unlikely those jurors can be fair and impartial.

Mounting cause challenges and arguing for and against them is possibly the most critical skill your lawyer brings to the jury selection process. Why? Because every successful challenge for cause means one less juror he or she will have to remove during the next stage, that of exercising what are called peremptory challenges or "preempts." Each side is permitted a fixed number of "preempts." In a standard murder trial, in state court, ten apiece are allowed, but in Federal court with 12 jurors, maybe fewer.

Some people would say that predicting the votes of jurors is an exercise in futility. Yet, since we MUST pick a jury, we need to apply our very best effort to select people who will listen to our side. So that argument is moot: presented with the task, we do what we can do to maximize our chances for success.

Since the verdict must be unanimous, if we cannot achieve a full acquittal, we try for a "hung" jury (jurors cannot agree). If that surprises you, understand that it is

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very much an uphill battle to win these cases when you are up against the prosecutor and the gravitas he brings to the courtroom, not to mention the law enforcement personnel who will be testifying against you. No matter how much you like cops, that's their job. If we achieve a "hung" jury, a mistrial is declared and the prosecutor may elect to dismiss the charges against you. Or he may not, depending on a variety of factors including public sentiment, politics, and the jury "split," e.g. ten to two vs. six to six.

That is a very brief and generalized description of the process. You need not concern yourself much, as your lawyer and his team will handle this portion of the proceedings, which will last on average anywhere from two to five days. Discussing the development of juror questionnaires is outside the scope of this article, but is always more beneficial to the defense than to the prosecution, and we can discuss it in a later article.

Utilizing one can actually save time for the court in a homicide trial and judges are often receptive to them given the high stakes involved in this type of criminal trial.

Much of this is beyond the defendant's control, but there are aspects of your own behavior that you should control if you are ever in the defendant's chair. These concerns involve non-verbal messages of which many people are not consciously aware, but when we see others make these unconscious gestures, we draw conclusions about that person, nonetheless. I will cover those details in the next installment of this article in the February edition of this journal.

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Please enjoy the next article.]*

Introducing the Armed Citizens' Educational Foundation

Imagine a world in which each new gun buyer receives, as part of his or her purchase, legitimate training in the use of deadly force in self defense. Sounds like a winner, right? After all, the greater your understanding of the legalities bearing on use of force in self defense, the better your decisions about the many facets of self defense.

The Network is dedicated to preventing abuse by the criminal justice system of our members who act in justifiable self defense. In addition to our membership benefits package, our mission includes educating armed citizens—whether they are members or are not members—so gun owners can both appropriately counter threats and better manage interactions with law enforcement and the legal system after self defense.

As part of this effort, in the past few years the Network has educated over 100,000 armed citizens every year through our complimentary booklet packed with essential information for American gun owners. These booklets are distributed at no cost to the gun owner through the Network's hundreds of Affiliated Instructors and Affiliated Gun Shops, but we know that this is just a drop in the bucket and more can be reached. Enter, the Armed Citizens' Educational Foundation (hereafter "the Foundation").

By creating the Foundation, the Network intends to expand this outreach through the support of future industry partners and contributors, in order to help defray the costs of printing and mailing the booklet, along with other new educational products we'll develop.

The Foundation is directed by Foundation President J. Vincent Shuck, who also serves as Vice President of the Armed Citizens' Legal Defense Network, Inc. Shuck explains, "The mission of the Foundation is to promote awareness and education in the lawful use of firearms

and specifically the use of deadly force in self-defense situations. Our booklet publication, *What Every Gun Owner Needs to Know About Self-Defense Law*, by Marty Hayes, J.D. will become the cornerstone of our developing contributions to the armed citizen community."

Gun owner education and the Network's concurrent mission of providing support to members who have acted in self defense are interdependent. Network President Marty Hayes explains, "Whenever a gun owner makes a mistake regarding a decision in using

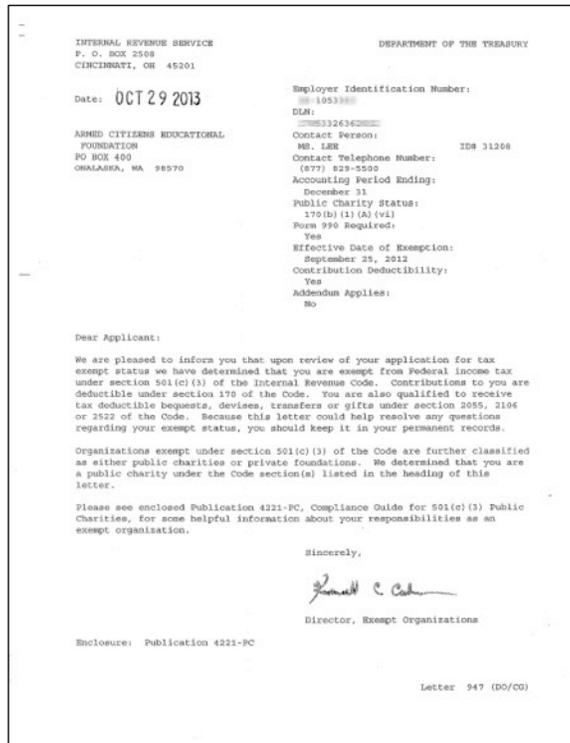
deadly force or negligently causes the death of another through a firearms mishap, it damages the whole pro-gun/pro-self defense community. If through this non-profit Foundation we can help the gun industry as a whole train gun owners to be responsible armed citizens, then it is an effort that is worthwhile and will go a long way toward protecting our right to keep and bear arms.

"Additionally, the mission of the Armed Citizens' Educational Foundation dovetails nicely with that of the Network where we have always tried to help educate our members regarding use of deadly force in self defense. We recognize the important

contribution that the National Rifle Association has made towards gun safety training, and if we can bring a similar message regarding self-defense rights and responsibilities to gun owners the way the National Rifle Association has done for gun safety, then everybody wins. Specifically, the new gun owner needs to know exactly what their rights and responsibilities are regarding armed self defense.

"Traditionally, the new gun owner buys the gun first, and at some point ends up receiving some training with the most successful venue being one of the National Rifle

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Association's classes. We want to make sure that new gun owners have information that they can use to guide themselves until they get that hands-on training. That information should be given at the point of sale of that new gun," he stresses.

Why didn't the Network simply continue to educate gun owners by distributing its educational materials itself? Shuck clarifies, "Pulling a phrase from an '80s TV commercial, serving our members is job one. No question, our endeavor to provide educational, legal and financial support to our members drives many of our efforts at the Network. We have been successful in doing that, but this doesn't mean we are satisfied with our accomplishments. Yep, even for the Network, there's room for improvement, so Marty, Gila and I put our heads together and developed a new entity – the Armed Citizens' Educational Foundation.

"The Foundation is a true 501 (c) (3) tax-exempt organization recognized by the IRS that can obtain tax-deductible contributions from industry representatives as well as individuals." Shuck clarifies. "While expanding the booklet distribution may be our initial activity, we can also conduct meetings and seminars, award grants, and engage in activities related to this educational effort. Of course, a consistent supply of financial resources will ensure the continuation and expansion of our efforts. You'll be hearing more about various giving options as well as the identification of our corporate supporters in the near future," he offered.

Political observers have heard a lot in the year past about IRS discrimination against conservative groups, making this an odd time to seek approval for a tax exempt entity formed for the public benefit of gun owners. We asked Shuck how that came about. "A logical question about the new entity might come to mind while reading this announcement inasmuch as our approval emanated from the IRS, the very agency embroiled in numerous conservative discrimination

complaints," he commented. "Most would agree that anything related to firearms use and education might fall into this IRS abyss. Even amid the IRS scandals, many still unresolved, we successfully applied for and were granted 501 (c) (3) status. This speaks well of the application content, the Foundation's clear mission, and your leaders' willingness to challenge and push the envelope."

The new Foundation provides an opportunity to bring more of armed citizenry's luminaries into our gun owner education efforts. Shuck explains, "The Foundation will be guided by the three Network leaders, but we will seek input from members of the Foundation's Advisory Committee, once appointed, who will represent the corporate and Second Amendment support community."

Will the Foundation have an immediate impact on our Network members? Shuck answered affirmatively, explaining, "To name a few, we can now attract additional corporate donations; give individuals better justification to make personal donations, now tax deductible; and fund new educational endeavors for our members."

"The Network is the preeminent organization supporting the legally armed citizen. We plan to remain in this premiere position and believe the Foundation will help us maintain this ambition," he concluded.

As the Network starts its seventh year, the addition of the tax exempt Foundation to further our gun owner education initiative heralds a bright future. "We had moments of doubt during the height of the IRS/Lois Lerner scandal," smiles Network Operations Manager Gila Hayes, "but in the end, right prevailed. We are delighted to kick 2014 off with such an exciting opportunity to expand our educational outreach."

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



President's Message

by Marty Hayes, J.D.

I am going to take this month's message opportunity to get something off my chest. I need remind people who are reading this and who might be considering joining the Network, that

membership in the Network is a two-way street. I cannot recall ever telling someone, "No, we don't want you in the Network, good bye," and then hanging up but I suspect the day may yet come. You see, sometimes people who are (simply put) "Grade A Jackasses," call up and demand information, are argumentative and/or are otherwise complete jerks to the ladies answering the phone.

Well, let me explain something. Those "ladies on the phone" are not simply secretarial staff. Jennie is the first one you might speak with when you call, because she handles phones three days a week for the Network. She is a very good friend of mine, is one of my staff instructors for the Firearms Academy of Seattle, and is the person who processes and ships out all the membership packages.

She sounds nice on the phone because she is nice, and one of the reasons we brought her on to help our members is because she is great with details and has good people skills. She also has a background as a paralegal, and understands the mission and concept of the Network. Occasionally she lets me know that someone has been a real jerk to her, and I thank her for putting up with the person, but I also have told her she doesn't have to take verbal abuse. In fact, I have told her that we don't want jerks in the Network and she knows that I am not afraid to cancel a membership and issue a refund based on a report from one of our staff.

Dealing with angry callers raises a lot more issues than just defusing the immediate problem. You see, it has been my experience that people who have trouble with anger management are often times the very same people who get into trouble with a gun. They refuse to walk away from a slight insult and end up escalating a simple misunderstanding into a lethal encounter. What

happens when two jerks that are carrying guns come together and neither will back down or walk away? Here is the bottom line, when calling and talking with Jennie: if you find yourself arguing with her over anything, and she tells you, "I am sorry, I don't think I can help you, so please call back tomorrow and talk to the President," and then hangs up, you should know that we are concerned about your anger. Please DO call me the next day and I will attempt to solve your issue.

Now, if the other lady you may speak with when you telephone is Gila, please understand that you are NOT talking to a secretary, but instead a full partner in the ownership of the Network, who has full authority as part of the board of directors to make ANY decision she chooses on behalf of the Network. She runs the Network, and has the final say on all day-to-day decisions. If you find yourself in an argument with her, it is kind of like arguing with a football referee who has just thrown a flag. You are not going to get very far, and you might just get tossed out of the game (in this case, out of the Network).

Remember, we don't want argumentative hotheads in the Network. Of course, if you feel either Gila or Jennie is wrong about something, just ask them to have me call you back. I will be happy to explain the reasoning behind any policy or decision. Besides, when a member makes a good, practical suggestion, we take it to heart and make changes in our policies or operations. But we surely will not do so as a result of a heated argument.

Finally, please accept this as an invitation to e-mail or call me directly if you have any suggestions or need some help to resolve a problem or issue with anything regarding the Network. My personal e-mail is Mhayes@armedcitizensnetwork.org and I would love to hear from you. It may take me a couple of days to get back to you, but I promise you I will.

Back on *The Best Defense TV*

I am fortunate enough to have been invited back for a fourth season as a legal commentator on the *The Best Defense TV* show. I have known *The Best Defense* host Michael Bane for almost 20 years, and Michael Janich and Michael Seeklander for at least a decade if not

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longer, and I am very grateful they recognize the need to discuss legal issues in the show. I believe it is the best self-defense show on TV and I am proud to be a part of it. The new season is currently airing on Wednesday nights on the Outdoor Channel.

I Feel Complimented

A few weeks ago, I received a call from one of our new members, who turned out to be an attorney. He wasn't a Network Affiliated Attorney, just an attorney who practices law, carries a gun for self defense, and also recognized the value of Network membership. He wanted to speak with me and get a few clarifications regarding the Network, and during our conversation, I convinced him to consider becoming a Network Affiliated Attorney, primarily because he is in a part of the U.S. that was not served by a Network Affiliated Attorney. He said he would take a look at our member education videos when he got them, and then get back to us.

So, just recently, he called back and said he had reviewed all eight of the videos, liked what he saw and agreed to help out our members in his part of the state if they need someone. I felt very much complimented by his actions, as he took the time to fully vet the Network and only then decide that he wanted to be a part of our Affiliated Attorney program.

I hope our Network members have done the same amount of homework as our new Affiliated Attorney! The fact that we continue to grow despite the plethora of competing plans out there in the marketplace tells me we are doing something right. I just wanted you all to know, and to extend an invitation to any non-member defense attorneys who might be reading this to give me a call and discuss the Network.

A Word about the Foundation

By now, you likely have read the article explaining the new Armed Citizens' Educational Foundation. Because the process was so interesting, I thought I would give you a little back-story. We started the application process over a year ago, meeting with the attorney we selected to guide us through the IRS forms and be our point of contact between the Network and the IRS.

When we concluded that our application was being slow-walked through the process because the IRS had exceeded their own deadline for processing the application, I asked my local Congresswoman, Jaime

Herrera Beutler to ask the IRS on our behalf why the application was delayed. This came about right in the middle of the Tea Party/Lois Lerner debacle, and we figured because of the name, we had been caught in the middle of the conservative v. liberal political issues. Well, a week or two later, we received a letter from the IRS, stating that they were simply backlogged because of the government shutdown. Right. We were told that our application would be considered in a few more months, but then a funny thing happened. Another branch of the IRS took the application, processed it and within about another month, we had the approval.

Now, I doubt if we will ever know exactly what happened behind the scenes, but we do want to publically thank our local Congresswoman Jaime Herrera Beutler for the assistance her office contributed to the success of our foundation request. We hope to do some really good work with the Foundation, and are excited about seeing it grow and become a viable part of the industry.

The State of the Network

At each year's end it has been customary for us to share with our members just how the Network is doing, both in human resources, programs and of course, the status of the Legal Defense Fund and how we have helped some of our members. So, to end this column, I will give the report.

Legal Defense Fund

We have over \$320,000 in the Fund. Each time a member renews or a new member joins, the Fund grows. So, as long as we have members, we have a Fund. This is an asset that is at the core of our member benefits. This Fund is used to pay for a member's attorney to represent him or her in the legal system immediately following a self-defense incident. Then, if we need to help pay to defend a member at trial, the money will also come out of the Fund. Otherwise, the money sits there awaiting a large trial. I can remember when we hit the \$50,000 mark and we thought that was a big deal, so I am smugly pleased at our reserves.

Network Affiliated Attorneys

We have over 345 attorneys in the Network, who have pledged to assist our members after an incident, along with being a resource for them for other legal matters. I don't know of any other organization that can make the claim of having this large of a legal resource. We very

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much appreciate the help we have received this last year in finding attorneys in the nooks and crannies of America. We will of course, keep working to grow this list.

Educational Materials

One of the keys to your defense is the DVDs that we send out to each member. We are pleased to have eight DVDs so far, and we have plans for more in the works. Each DVD discusses particular aspects of armed self defense, and we know we have not covered all the topics we need to cover. Still, eight is a pretty good start.

Human Resources

So far, the staff of the Network consists of Vincent, Gila and me, along with utilizing the skills of Jennie and Brady. We have been able to grow the Network to over 7,500 members based on the work of this crew, which answers the phones, processes the membership applications and renewals, and satisfies the requests for booklets and brochures.

But I believe that our biggest human resource is our collective membership. To have 7,500 educated, pro-gun and pro-self defense people willing and ready to help out a member in need is truly amazing to me. This is an aspect of membership that has not been fully

explored or discussed, but part of my preparedness mindset is having a circle of friends and associates on whom I could rely for help if truly needed.

In the same vein, we really appreciate our Advisory Board's commitment to be there to help sort out a self-defense case and make decisions on the level of support we can give any individual member. James Fleming, Massad Ayoob, Tom Givens, Manny Kapelsohn, John Farnam and Dennis Tueller make up the Advisory Board, along with Vincent and me as ex-officio members. The Advisory Board will be gathering together this month, as we do each year, to discuss the future of the Network and swap a few legal war stories. I'll try to get some pics this year to share in my next journal column.

So folks, that's about it for the State of the Network summary. Bottom line: there's nothing earth shattering to report, just good, solid progress on most aspects of the Network. Perhaps the year 2014 is the year we will break the 10,000-member mark. How cool would that be?

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Attorney Question Of The Month

This month's column completes the topic started last month, drawn from an exchange with an Affiliated Attorney who asked the other Affiliates the following series of related questions—

Would you allow a client who used deadly force in self defense to be administered a polygraph, voice stress analysis, hypnosis, eye examination, blood analysis and/or psychiatric evaluation. When and why?

Would you allow the client to perform a test of shooting or weapon manipulation skill? Are the results of such evaluations presented to the grand jury or admissible at trial in your jurisdiction? Do prosecutors use them in making charging decisions? If you do this kind of testing on your own are the results discoverable by the state in a criminal case? In a civil liability trial?

We were very interested in the questions our Affiliated Attorney from FL outlined, and even more fascinated by the answers submitted by other Affiliated Attorneys. We think you will find their responses instructive, too.

James B. Fleming

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

That's not one question; that's 22 separate questions that are each very difficult to answer, in the absence of a significant amount of additional context.

Polygraph test results are uniformly inadmissible in court across the country. And, interpretation of results is at the mercy of the skills and the mindset of the examiner. Some are pretty good, and some are absolutely horrible, and at best, they are guessing. It is not a "lie detector." I cannot think of a single situation where I would allow such a thing.

Voice stress analysis? Not if it were to cost me my life. "Voice stress analysis is a fraud. It has zero validity," said David T. Lykken, a psychology professor emeritus at the University of Minnesota in Minneapolis and author of the book *A Tremor in the Blood: Uses and Abuses of*

the Lie Detector. A 1996 Department of Defense Polygraph Institute study of the computer voice stress analyzer found that the device performs no better than chance in detecting deception. In other words, guessing or flipping a coin would be as accurate as the test. Based on this study, the Department of Defense, the Central Intelligence Agency and the Federal Bureau of Investigation do not use voice stress tests.

Some jurisdictions still employ the Frye test: When deciding whether to admit expert scientific testimony, federal judges must consider whether:

1. It is based on a theory or technique that can be and has been tested;
2. Those tests were subject to peer review;
3. The technique has a high known or potential rate of error; and
4. The theory is generally accepted within the scientific community.

States that still employ the Frye test are: California, Illinois, Kansas, Maryland, Minnesota, New Jersey, New York, Pennsylvania, and Washington.

In other jurisdictions, the Frye test has been supplanted by the Daubert test, which is pretty complicated, but resulted in amendment of Rule 702 of the Rules of Evidence, which reads:

"Rule 702. Testimony by Experts: If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case."

It is this requirement under either test that would likely prevent voice stress tests from being admissible. Experts are split as to whether the technology is reliable. The federal Justice Department's National Institute of Justice, has issued an opinion that voice stress tests are said to be "no better than flipping a coin when it comes to detecting deception."

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As for hypnosis, eye examination, blood analysis and/or psychiatric evaluation, under what circumstances would be the real question, and how would it be at all relevant?

If the ultimate question is whether the client acted, based upon a reasonable fear of imminent death or crippling injury, and if so, whether his/her actions in employing deadly force were a reasonable response to the apprehension of that danger, I would have to know the goal behind a request for any of these tests and would likely not agree to the State conducting such tests even if they were to request them.

How a judge would react to a motion to compel such tests is impossible to answer, and the idea brings up a whole host of Constitutional issues. I can think of a lot more situations where results from such tests could be used to damage the client's self-defense claims than I can think of situations where they would assist.

A test of shooting or weapon manipulation skill? I would never suggest such a thing. I cannot imagine a prosecutor who would attempt to request it. Again, the results of such a test are simply not relevant to the issues a jury is going to have to decide. And what if the client were to take a test and demonstrate superior skills? What then? Proves nothing useful, and gives a prosecutor the opportunity to suggest to a jury that the client should have "shot to disarm," or "shot to wound." Defense counsel would object, and an experienced judge would call you to the bench and ask, "What the hell were you thinking when you agreed to such a test?" A judge new to the bench may well overrule the objection. They are not gods. They continually make evidentiary ruling mistakes. That is why we have appellate courts.

Are the results of such evaluations presented to the grand jury or admissible at trial in your jurisdiction? There's no universal answer. Depends on the circumstances. Polygraph and voice stress analysis? No, they are not. Our Minnesota courts have ruled that they do not meet the Frye test.

Do prosecutors use them in making charging decisions? Not in my experience, but again it would all depend upon the context involved, and the individual prosecutor, as well as the availability of other evidence.

If you do this kind of testing on your own are the results discoverable in a criminal case? In a civil liability trial?

If you do this kind of testing, the results are always discoverable in one way or another. In a criminal case, the Rules of Criminal Procedure would require disclosure to the prosecution. In a civil case, the Rules of Civil Procedure require disclosure if an inquiry is made, and an inquiry is always going to be made. In either case, failure to make full and complete disclosure can land counsel and their client in a whole lot of serious trouble.

John J. Wolfe

Wolfe Law Office
337 4th Ave. S., Clinton, IA 52732
563-243-4652
wolfelawclinton@gmail.com

I have used polygraph and psychological evaluations in some cases. In most cases they are exams performed by my expert and under attorney client privilege. They are not discoverable and will only be turned over to the State if it benefits my client. In some cases the polygraph has been suggested by the State and I arrange for an exam before agreeing to one by the State. I am usually using an examiner whose reputation is good enough that when I turn the favorable results over to the State, it will accept the results. If the results are not favorable I will not inform the State of the exam and will simply refuse the State's offer, but the results may still be helpful in persuading my client to be realistic about his defense chances.

Polygraph evidence is not admissible in Iowa unless the parties stipulate to its introduction. Favorable polygraph results on a key issue, such as intent to commit a crime, may be enough to persuade the State to dismiss a charge or reduce it to something acceptable. I have had polygraph and psychological exams that were not helpful to my clients that have never left my office.

Robert Fleming

Attorney at Law
148 E. Grand River, Ste. 106, Williamston, MI 48895
517-203-1100
fleminglaw2003@yahoo.com

This is a rather broad question, but here it goes. I would never allow any client to be subjected to voice stress, as that is pure junk science, I do not know of any jurisdiction in which it has passed the Daubert test.

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Polygraphs, depending on the integrity and qualifications of the examiner can be helpful. If the Prosecutor is willing to commit to dismissing charges upon my client's passing a polygraph, I will send him to a private examiner first to be sure he is being truthful with me. If he passes that, I will allow the police test. However, I demand to know the questions prior to the exam, and I limit any post-examination interview.

I cannot think of any situation in which my client would benefit from any of the other tests. The test for self defense in Michigan is what would a reasonable person think, not the defendant's subjective interpretation so any psychological evaluation would only hurt my client.

Poor eyesight? He thought the intruder was armed but really wasn't? Maybe if he is real lucky it might help some with an imperfect self-defense argument, but leaves civil liability wide open.

Marksmanship ability? Only in a civil trial to show that my client deliberately shot the intruder, where he intended to shoot him, and that it was not an accident or negligent act. Even then I would rather rely on my client's testimony that he intended his actions, and force the opponent to prove he was negligent.

However, if I allowed my client to testify at the criminal trial, I would bring an expert to testify that my client acted the way he was trained and that the training was proper.

Further, if I do allow my client to take a private polygraph, I retain the examiner and pay him out of client funds, so that I can assert attorney work product privilege over the results, if anyone does try to discover it in a subsequent civil action.

Mark D. Biller

P. O. Box 159, Balsam Lake, WI 54810
715-405-1001
billerlaw@lakeland.ws

In answer to this month's question: I have used polygraphs successfully in the resolution of cases in the past. First, I want a solid working relationship with a polygrapher who is known to be competent and has credibility with the local law enforcement community. I also want a pre-charging meeting with the prosecutor to ensure that the results will be considered if favorable. I do not offer to share the results if unfavorable. If results

are not shared, the prosecutor knows everything he needs to know anyway. If the prosecutor is non-committal about how he would use a result favorable to the defense, I usually do not have my client spend the money.

I also insist that the examination take place at the polygrapher's shop, not in the cops' base camp, and I make sure I can be present for the examination. While I have never been allowed in the room when the exam takes place, by being on site I can make sure the cops are not there to attempt an accusatory pre-exam interrogation which could produce a false result. I have had prosecutors dismiss cases or amend charges through the use of a polygraph. I have also had them ignore results favorable to my client. The net result has been on the positive side.

I have no experience with the other listed types of examinations. Again, I believe that a level of trust with the examiner is important, and I have never encountered examiners in these areas. I would consider a psychological or psychiatric evaluation under the "attorney work product" doctrine if I believed it would benefit my client. I do not believe that any type of shooting or weapon manipulation skill test would be advisable in that I do not believe the conditions of surprise, pressure and adrenaline load can be replicated in a controlled setting.

Lastly, I would make sure that anything I did would be adequately cloaked in the attorney work product doctrine so it would not be discoverable if I did not want to disclose it.

John P. Sharp

Sharp & Harmon, Attorneys at Law
984 Clocktower Dr., Springfield, IL 62704
217-726-5822
sharpandharmonlaw@gmail.com

As to whether we would allow a client who uses deadly force in self defense to be administered a polygraph, as a general rule I believe the answer would be no. Many variables can affect the outcome of a polygraph. An "inconclusive" result also would not be dispositive of the situation. Polygraphs are not admissible in court in Illinois and many other jurisdictions, the same with voice stress analysis or hypnosis. An eye examination may be something you would consider depending on the time of

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the incident (day or night, morning or evening) to determine a client's visual acuity. If a client claimed the deceased had a weapon, how good is his or her sight to be able to make such a determination? But you may not wish to share that with the prosecutor.

Blood analysis is something the officers on scene may seek immediately if your client appears impaired or under the influence. Any psychiatric evaluation would depend on all the factors present in the case, and whether or not you would assert an applicable defense.

Having the client perform a shooting test or test of weapon manipulation still may be something we would want to know, but not necessarily share with the prosecutor. All of these issues should be examined case by case, situation by situation.

The results of such evaluations for the most part would not be presented by the defense to the grand jury. The grand jury is the tool of the prosecution.

A prosecutor may very well factor in the result of a polygraph or other test, even if not admissible in court, in

determining whether or not to charge someone. Remember, "inconclusive" doesn't mean your client passed. A prosecutor may deem "inconclusive" to mean lack of truthfulness.

If you do the testing on your own and would seek to use any of the results at trial, it would be discoverable. The courts in Illinois issue a discovery order, specifying certain things that must be turned over. Absent the material being covered in the order, it would be on a case by case basis.

We deeply appreciate the contributions our Affiliated Attorneys make to this column, as well as their other services to Network members. We will introduce a new topic for the February Attorney Question of the Month, so be sure to check back for our next interesting discussion.

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

Book Review

If I Had a Son

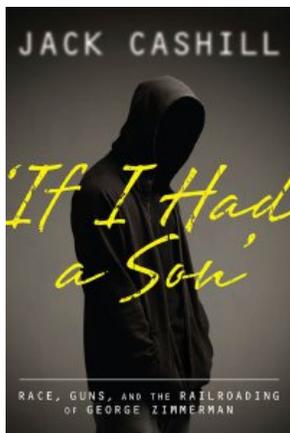
Race, Guns and the Railroading of George Zimmerman

By Jack Cashill

337 pages

ISBN: 1938067215

WND Books (August 30, 2013)



Reviewed by Gila Hayes

Media bias, racism, and politics are the focus as a controversial author reviews the case many Network members followed with a “there but for the grace of God go I” dread throughout most of 2012 and half of 2013, until on July 13, 2013, George Zimmerman was acquitted of second degree murder charges. Even then, many continued to dissect the case in books, blogs and broadcast media. This book, by conservative commentator Jack Cashill, is an opinionated review of the highly exploited Zimmerman case.

Readers who hope their good intentions can prevail over racial conflict will not enjoy this book. Cashill assigns a lot of blame, often with such venom that readers will be discomfited. That’s unfortunate, because the great value of *If I Had a Son* is its detailed study of the legal aftermath of shooting in self defense. Whether or not the reader concludes that the civil rights movement has devolved into a power-hungry rabble, the story is instructive about the many pitfalls of self defense’s legal aftermath.

George Zimmerman’s ordeal effectively dispelled the halo effect by which the person acting in self defense is shocked when police, society, and even their neighbors and associates suggest that the acts taken in self defense were murderous. “On the night of February 26, 2012, George Zimmerman left home a hardworking, tax-paying citizen, and a good one at that,” Cashill asserts. By June of that year, he was being treated “with no more respect than the burglars and home invaders that moved him to join the neighborhood watch in the first place.”

The nation wanted badly to believe the best of Zimmerman’s attacker, 17-year-old Trayvon Martin, eagerly harking back to the boy three or four years earlier, before he began manifesting the cumulative effect of lack of punishment for infractions, an absent

father, loss of supervision by a devoted step mother whom his father left for another women, discovery of stolen goods unpunished and suspension from school for suspicion of drug possession. The news media eagerly embraced the image of Martin as an innocent young boy, Cashill writes: “In transforming an aspiring gangster into a precious victim, they could avoid all talk of hit-and-miss fatherhood, divorce, parental neglect, cultural breakdown, an exploitive civil rights movement, a corrupt school system, or what George Bush famously called ‘the soft bigotry of low expectations.’” Repeatedly ignoring Zimmerman’s race, broadcasters ranging from Black Entertainment Television to CNN seemed determined to convince America that Trayvon Martin would not have been shot had he not been black.

America at large may have welcomed news from Sanford, FL of arrest and prosecution so Zimmerman’s blame or innocence in the Martin shooting could be sorted out by the criminal justice system. However, “To demand an arrest knowing that a conviction was unlikely suggested motives other than the search for justice,” Cashill asserts, going on to account the benefits reaped by fading stars of the civil rights movement, the deceased’s own mother, the attorney hired by the bereaved parents, and State’s Attorney Angela Corey.

The first half of the book is inflammatory, and not always easy to digest. Persevere, reader, as Cashill is setting the stage for a powerful and informative second half. By the middle of the book, he begins to detail the trial proceedings, often through the eyes of Internet bloggers. Our Network Affiliated Attorney Andrew Branca, who writes on the *Legal Insurrection* website, is quoted on a number of pages, including direct quotes from his blog posts, and Cashill’s endorsement, “Branca knew the subject as well as anyone anywhere.” Indeed, many of Cashill’s sources are Internet bloggers, primarily the Conservative Treehouse commentators.

Likewise, attorneys Mark O’Mara, Don West and the rest of the defense team’s use of the Internet to post case documents is yet another example of how much the Internet has changed what the public can learn about an ongoing felony trial. As testimony began, the *Conservative Treehouse* bloggers reviewed all the testimony to identify lies, whether told on the stand or incorporated into earlier sworn statements.

Perhaps the Internet groundswell balanced the scales a little, as Cashill explains, “Florida had on its side the

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State bureaucracies, the US Justice Department, the president of the United States, the BGI (black grievance industry) the entertainment industry, and the mainstream media. Zimmerman had on his side two folksy local lawyers and their aides, an army of bloggers, and most important, the truth.”

Cashill writes, “To prove second-degree murder, prosecutors had to convince the jury that Zimmerman killed Martin with a ‘depraved mind,’ one moved by ill will, hatred or spite.” Instead, Assistant State Attorney John Guy appealed to the all-female jury’s emotions in a dramatic opening statement of only a half-hour’s length in which he repeated inflammatory phrases from Zimmerman’s call to the police the night of the shooting, emphasizing vulgarities he uttered. West countered with a three-hour presentation, using photographs and maps to explain, “just how the attack took place.” Cashill even explains the reason behind West’s “knock-knock” joke, which puzzled many.

Part II of *If I Had a Son* details witness testimony and cross examination that shows just how sketchy the case evidence was. Cashill explains how the testimony of Rachel Jeantel, the young woman speaking with Martin by phone prior to the shooting, morphed from annoyingly suspect to simply pitiful. He explains how *Conservative Treehouse* bloggers strove for intellectual analysis during the girl’s testimony, expressing amazement that a 16 year old could be interviewed without parental permission, questioning her claim that some texts sent from her phone were written by someone else, and parsing the odd homophobic suggestions tossed around by the “creepy ass cracker” characterization of the man Martin said was following him.

By contrast, the only actual eye witness, Jonathan Good—the man who had his home’s outside light on and stepped outside to yell at Martin and Zimmerman to stop because he was calling police—clearly identified each man by clothing color. He further testified, as he had during police interviews and earlier news interviews, that, “the guy on the bottom who I believe had a red sweater on was yelling to me, ‘Help, help.’” Another neighbor contributed to capturing the cries for help, when she called 9-1-1 and the screaming could be heard on the call’s recording. Eventually both prosecution and defense tried to claim the voice, although Zimmerman initially commented, “That doesn’t even sound like me.” Much was made of the recording, but little proven.

What was proven, and explained by forensic pathologist Dr. Vincent di Maio, was the position of the two men when the shot was fired. Neither eye witnesses nor the physical evidence could corroborate Zimmerman’s report of what went before the shooting, leaving the prosecution with a theory but no facts. Even in closing arguments, the assistant state attorney Bernie de la Rionda claimed without proof that Zimmerman’s account was lie after lie.

The forces behind prosecuting the death of Trayvon Martin as murder describe the world in terms of racial inequality. Their many manipulations of the criminal justice system are deeply disturbing and reading Cashill’s condemnation is difficult indeed. After the verdict, instead of condemning “sporadic parenting, indifferent schooling, and an inner-city culture that openly celebrated violence, drugs and lawlessness,” even prominent Democrats could only rail against gun rights, Stand Your Ground laws and racial profiling. These diatribes further separate America’s various races. In fact, Cashill points out that in 2008, 79 percent of whites and 63 percent of blacks “held a favorable view of race relations in America. By July 2013, those figures had fallen to 52 percent among whites and 38 percent among blacks, a calamitous decline rarely addressed and never explained.”

Beyond detailing George Zimmerman’s trial, Cashill’s commentary on the effects of racism in our nation alerts us to powerful forces intent on promoting their own agenda without regard for justice. With no solutions offered, this is not a cheerful book.

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

The Network has a limited number of copies of [If I Had a Son](http://www.armedcitizensnetwork.org/books?page=shop_product_details&flypage=flypage.pbv.tabs.tpl&product_id=100&category_id=1) for sale in our bookstore at http://www.armedcitizensnetwork.org/books?page=shop_product_details&flypage=flypage.pbv.tabs.tpl&product_id=100&category_id=1. Network members, at check out, enter the coupon code on the bottom front of your membership card to receive a 20% discount.

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Networking

by Brady Wright

This month I promised to have a holiday-related topic or two and now I am delivering. In addition to the many conversations I have with our members and affiliates, I had a significant one with my wife. It was about her three new guns and how

she needs to get out and shoot them more. Yes, I married the right woman! We availed ourselves of the facilities at our local range and she is really enjoying the handling of her new S&W M&P .40, her Kahr CM9 and the Ruger 10-22TD. Now the challenge will be to ever get them away from her so I can shoot them!

I like to report on the good happenings of our members and in the newest issue of *American Cop* magazine, I found a real nice write-up about one of our valued affiliates, Recluse Holsters. The owner, Tod Cole (yes, he only uses one D), was spoken of in solid, respectful terms. You can read the article on page 20 of www.americancopmagazine.com.

We really like to see events and training for women shooters and enthusiasts so I was pleased to read this notice from Rebecca at Take Charge Firearm Safety about a Women on Target instructional clinic happening in Naples/Fort Myers on January 4. It looks like an excellent class and it's being held at the Altair Gun Club and Range. She included a ton of details but you can get a registration for and answers to your questions by emailing Rebecca@TakeChargeFirearmSafety.com.

Speaking of training for women, I'm pleased to see that Jim Hickey's NLB Training is providing all of the classes for the newly opened West Coast Armory North in Everett, WA. Jim says that they have classes for women of all abilities. You can see the catalog at www.nlb-training.com or their Facebook page, www.facebook.com/NLBT1 or just email them at nlb-training@comcast.net.

Alecs Dean is President of International Firearm Safety, Inc. and sent in this short list of offerings in January. He'll have a Women on Target Shotgun Day, a Range

Safety Officer course, Pistol, Rifle and Shotgun Instructor courses, Refuse to be a Victim Instructor Development Course and a Personal Protection in the Home session, all coming up in the next 30 days. Register now at International Firearm Safety, Inc., Fort Myers, FL by calling 239-357-3437.

Many of our Instructors send me their class schedules and event notices and there just isn't space for all of them. Send yours to me early and I'll do my best to include them. The other thing I love to get (it's like Christmas all year round) is client and student testimonials about Affiliates. Larry Pyzik from Christian Liberty Academy in IL sent in a number of super positive ones for his classes and I can tell you that his customers hold him in high esteem! Larry gives out a Network booklet and brochure to every student.

Finally, I got this from Steve Eichelberger by way of Kevin Creighton. These stood out from ten points:

Why should you get defensive firearms training?

–Because a cool gun isn't a magic talisman of self-protection and confers no special abilities of marksmanship onto its owner.

–Because knowing how to defend your life or the lives of your loved ones isn't a skill we're born with, but that you might need if you own a defensive firearm.

–Because on the worst day of your life, when your life or the lives of people you care about are on the line, you're not going to rise to the occasion. You're going to fall to your lowest level of training.

I've seen several of our Affiliates getting into the spirit of the holidays by sending Christmas cards. Got a real nice one from Gary Lucas at Roadrunner and I'll respond to him and to you by wishing everyone a Happy New Year and a much safer and more prosperous 2014. This will be the year we take our country back.

As always, if you have news to share, just call or email 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.]

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Editor's Notebook

Six Years Down the Road

by Gila Hayes

The Network came into existence in 2008. It was a year full of ups and downs for gun owners—

one in which we saw the *Heller* Supreme Court pro-gun decision but also the Obama election. What highs, but what lows, too! On a smaller scale, creating the Armed Citizens' Legal Defense Network was one of the high points, something Network President Marty Hayes wrote in 2009 rates as "the most ambitious project of my life." It is interesting to look back from today's perspective at the gun owner support membership organization we started back then.

In his first-ever Network President's Message, Hayes unveiled his goal of a 10,000 member organization of armed citizens banded together to help one another with legal defense after a self-defense incident. As Network Vice President Vincent Shuck opined in his first column, "We can achieve more together than we can separately." New memberships cost \$85 per year in 2008, the same price for which we still offer renewals, although the price of new memberships has since risen to cover costs of an educational package that is up from three DVD lectures to eight.

One of our greatest strengths was and remains the sterling individuals who came into the Network as our first members and this includes the top players in the armed self defense business who agreed to serve as our Advisory Board. Our first advisors were Massad Ayoob, John Farnam, Tom Givens, and Dennis Tueller; later, James Fleming and Emanuel Kapelsohn, both practicing attorneys, agreed to assist as Advisory Board members. They not only help in the formative decisions we make about how the Network can best succeed, but more importantly, stand ready to assist when the tough decisions about drawing funds out of the Legal Defense Fund arise, plus weighing in with advice about best strategies for a member's courtroom defense.

Without any protracted legal battles to fight on behalf of members, the Advisory Board has still been giving unstintingly of their experience, advice and support to help our members avoid legal trouble. The inaugural edition of this online journal, distributed Feb. 2008, started that trend with an interview from Massad Ayoob discussing three common post-shooting errors. Since that time, Massad has shared his knowledge repeatedly in this journal, and through his easily understood principles of aftermath management, many armed citizens have come to better understand that the fight switches from a struggle for your life to a battle for your freedom the moment the assailant ceases to threaten death or serious injury.

Subsequent journals quickly introduced online readers to Farnam, Givens, Fleming, Kapelsohn and Dennis Tueller. Network website statistics show that the May 2008 article *The Tueller Drill Revisited* is still one of the most frequently downloaded PDFs of past copies of our journal. In addition, board members' books and DVDs provide fodder for one of our longest-enduring journal features, the book and DVD review column.

We've also been the happy beneficiaries of knowledgeable commentary and interviews on self defense aftermath issues from knowledgeable and experienced professionals including Tom Gresham, Glenn Meyer, Ken Hackathorn, H. Anthony Semone, PhD., Penny Dean, Timothy Priebe, plus Marc MacYoung on non-gun defenses, and others. Network President Marty Hayes put in print a half dozen foundational articles on issues like invoking Miranda rights, finding an attorney, court-defensible weapon selection and other choices that affect a judge or jury's perception of you as you try to explain why you had to do what you did to stay alive when attacked.

Attorney Affiliations

From Day One, the Network fired the imaginations of armed citizens looking for an easy way to engage someone to oversee their legal interests after a self-defense shooting. Some of the desires expressed were highly impractical because they abdicated personal responsibility, but many were simply for someone to find them an attorney to represent them after self defense.

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In response, we began to accumulate a list of gun-friendly attorneys, starting with the ones we and our advisory board knew, then reaching out to lawyers recommended by other armed citizens. By August 2010, we had hooked up with 48 affiliated attorneys in 27 states, and by then it was clear that we still had a long way to go. By April 2011, it was up to 167, but there was still a lot of geography over which we needed to search for a gun-friendly attorney with whom to affiliate. The list had exceeded 200 attorneys in 44 states by mid summer that year, and still we knew we had a lot of work to do. That number had risen to 260 by December of 2012, but you guessed it, we knew we needed more.

The Network Affiliated Attorney project grows primarily through the personal recommendations of Network members. For example, if Joseph in Cincinnati knows a good, gun-friendly attorney, it only makes sense for the Network to invite that attorney to affiliate with us so Sam, who lives outside Cincinnati but is willing to drive an hour to confer with a good pro-gun lawyer, can benefit from Joe's knowledge and experience. That is networking at its best, and now, six years down the road, has given us an Affiliated Attorney list of 345 attorneys in all but four states, and fortunately, attorneys across an adjacent state border are licensed to serve members in two of those.

Additionally, for members who traveling away from home or are more than several hours away from an affiliated attorney, the Network has the Boots on the Ground alternative, through which the member who has been in a shooting can get help finding an attorney by phoning the Network during office hours or calling Marty Hayes privately after business hours. This back up plan is an expansion of benefits that we added in March of 2010 to better serve Network members.

As an unexpected side effect to building alliances with gun-owning attorneys, in November of 2009, we introduced what would become one of the most popular columns in this online journal, the Affiliated Attorney Question of the Month. Since then, our Affiliates have helped answer questions with a national flavor, and at other times, explained the law from their own state ranging from the legalities of shooting an attacking dog to warrantless searches under exigent circumstances and much more. We learn a lot from these commentaries.

When the answers from the various attorneys are at odds, I always know we've asked a good question! That happened one time when we asked affiliated attorneys to comment on prosecutorial misconduct. Some said it was extremely rare and others said it was commonplace where they practiced, while others said that while it didn't happen very often, they had encountered it in their practice. I think we learn more when the answers do not all fall in line. Just as Socrates encouraged debate as a teaching method, reading a number of comments coming from such a wide variety of experiences, backgrounds, and locales is an extraordinary opportunity to learn from gun-owning attorneys located all across the nation.

The Affiliated Attorney project is one of those jobs that will never be done, and as membership in the Network grows, so does the numbers of lawyers one member knows and can recommend for another member. That's networking and it's a successful strategy.

Education Through Affiliations

The Network embarked on another type of networking during our first year, too. Offering complimentary membership in the Network to professional firearms instructors who would in turn introduce, explain and recommend Network membership to their students has proven one of our strongest outreach tools. Few messages are as compelling as a trusted instructor telling his or her students, "The Armed Citizens' Legal Defense Network is an organization to which you need to belong so you don't stand alone in the legal aftermath of self defense." The Affiliated Instructor program proved so successful that we set up a parallel affiliation program for gun shop owners and managers who introduce gun buyers to the Network.

Essentially, in telling their clients why the Network is so important to gun owners, our affiliates are educating them about what happens after using force in self defense. This supports the Network's philosophy that we must educate as many armed citizens as we can, to prevent judgment errors that fuel support for anti-gun restrictions.

By mid summer 2010, we introduced a new promotional tool, and one that has exposed the Network to hundreds of thousands of armed citizens in the time since. It

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started as a 16 page booklet entitled *What Every Gun Owner Needs to Know About Self-Defense Law*, and because we distribute so many, primarily going out to CCW students and gun purchasers through our affiliated instructors and affiliated gun shops, most of our members first learned about the Network through this educational message. The booklet is now up to 24 pages. Written by Network President Marty Hayes, J.D., it explains when use of deadly force is justified and situations that diminish justification, as well as what to expect after acting in self defense.

In addition to the booklet and this monthly online journal, the Network has produced an eight-disk educational DVD series that is provided to members only. This DVD series got its first title in June of 2008 with Marty Hayes' lecture, *Use of Deadly Force in Self Defense*. A serious, college-level lecture (no glitzy titles, jazzy music, or scene reenactments), this foundational program is sent to each new Network member along with seven others. Because the Network cannot extend its support to members who use force outside the parameters of the law, members must understand when deadly force is an appropriate defense option and this DVD teaches the fundamentals.

Two more DVD lectures followed in 2008, one stressing Ayoub's five-step process of interacting with law enforcement after self defense; the other a panel of attorneys discussing how attorneys defend self defense, both from criminal charges and civil law suit. We were pleased to go into the final quarter of our first year with a three-piece educational DVD set to assure that all members understood use of force in self defense, interacting with authorities after self defense, and what to expect in the courts and how to best position themselves to survive the legal aftermath.

Tracking Membership Growth

By the end of its first year the Network had 600 members. It was a modest start, but enough on which to build, when you consider that 12 months earlier, a membership organization to pool post-incident support funding was nothing more than a good idea into which three industry professionals invested their time and money, exploring whether or not other armed citizens also felt the need for these protections.

Membership topped 1,000 March 2009, and about the same time, we decided to show off the Network to

National Rifle Association Annual Meeting attendees, a promotional outreach in which we have invested each year since. It is a great venue for the Network, as we have always urged armed citizens to be members of the NRA. We even have a link on the front page of our website www.armedcitizensnetwork.org/home encouraging every visitor to either join or renew their membership in the NRA, to keep that venerable organization alive and vital, while adding a small sales commission on NRA memberships to the Network's Legal Defense Fund.

Another strong voice spreading the word about the Network's mission has been Michael Bane, creator of *Shooting Gallery* and *The Best Defense* TV shows. He has given several very informative interviews to this journal, and more importantly, Michael gave Marty Hayes his first repeat TV gig as an expert speaking about armed self-defense legalities and aftermath on the popular *Best Defense* program. Did you first learn about the Network on *Best Defense*? If you did, you are in good company with many other Network members.

Increasing Benefits

By mid year 2009, we introduced a new benefit of an initial deposit against attorney fees paid on behalf of the member from the Network's Legal Defense Fund. It started as an initial fee deposit of up to \$5,000, which we increased to up to \$10,000 in late April of 2011. Marty Hayes confers with the member's attorney, determining the severity of the possible charges and what it will take to get the attorney's representation underway. When that initial deposit has been used up, if further representation is needed, the member and his or her attorney bring the facts of the case to the Advisory Board to request further funding. This is to reserve use of the Fund to justifiable defensive use of force, once expenses exceed the initial fee deposit.

The Network had another expansion on membership benefits mid summer in 2011, when we made the unprecedented step of making membership benefits available to members using ANY legal form of self defense, not just firearms, as had been the norm in the many look-alike membership organizations that had sprung up to mimic the Network.

The first call for a deposit against attorney's fees came in March of 2011. Since then, we have also paid

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deposits against attorney fees on behalf of five other members, to get an attorney to work on their behalf as quickly as possible. As noted earlier, to date, none have needed further financial assistance to defend a justifiable use of force in self defense in a civil or criminal case. Of course, at some point a member WILL be the target of unmerited prosecution or a civil suit. Fortunately, as we closed out 2013, the Legal Defense Fund had grown to over \$320,000, so the financial resources are set aside and ready when that call comes.

The main source of the Legal Defense Fund monies is membership dues, of which we sequestered 20% at first, upping that to a full 25% at the beginning of 2010. In September of 2009, Vincent Shuck brought out a new funding option—GunBroker.com auctions of merchandise donated by generous corporate sponsors. Our valued friends at Galco led the way, contributing a sharkskin shoulder holster, raising \$555 for our first auction. That was just the beginning! Since then, Galco has continued to gift products for our fundraising auctions, and has been joined by CorBon Ammunition, Black Hills Ammunition, Safe Direction, Crimson Trace Corporation, North American Arms, Accurate Edge and ROBAR.

Stutter Steps

If I only write about glorious successes, you'll be suspicious that I'm not telling the whole story, right? In addition to much burnt midnight oil and working most weekends, it is true that we have faced a few bumpy patches between January 2008 and January 2014.

We have never feared competition, although we thought it would be from insurance companies and prepaid legal law firms. Not so. In June of 2011 the first look-alike membership benefits suite was introduced; fully a dozen would follow in the years between then and now.

Because these competitors simply copy many of the same terms and ideas that the Network pioneered in 2008, they've created no small amount of confusion among armed citizens. This is apparent when prospective members ask us to explain how the Network measures up to these new competitors. We have to regrettably tell them that while we love to talk about what the Network does for its members, we cannot provide authoritative information about other businesses! We explore all the prospective members' questions about the Network, and encourage them to phone back if they think of other questions, for we are more than happy to

tell them about Network membership and how it has assisted our members over the past six years. Still, much working time has been expended clearing up confusion between the Network with other groups.

Another energy drain was the Network's entry into providing attorney continuing education (CLE). After only two successful classes in 2012, and a half dozen in 2013 that we were unable to fill, we withdrew to try to figure out why, when so many had expressed interest in attending these classes, we only had, for example, three or four students registered for venues as large as Miami, with parallel results elsewhere.

Throughout 2013, the discussions continued and eventually we regrettably removed CLE from the Network's portfolio. Happily, our CLE instructors, James Fleming, Massad Ayoob and Marty Hayes, formed a separate business entity to carry on the program ably assisted by Lynne Fleming.

See their website, <http://selfdefenselegaltraining.com>, or pick up the phone and dial 763-614-6195 and get in touch with James or Lynne to participate in a class or if you can host a CLE program for the attorneys in your region. They already have sessions scheduled for April 23-24, 2014 in Indianapolis, IN and July 21-22, 2014 in Colorado Springs, CO, as well as tentative plans to put on programs in NE and MO in May 2014.

Continuing legal education about justifiable use of force in self defense is an exceedingly worthy program that deserves every chance to succeed. I was deeply disappointed at our inability to put a strong CLE program out there for defense attorneys, knowing that it would be one more strong testament to the Network's leading role in the legal defense of armed self defense. I am so very pleased that the Flemings, along with Ayoob and Hayes found a way to keep it going outside the Network's umbrella.

The Road Goes On

And that brings us to January 1, 2014 and the work that lies before us. As armed citizens, we must disprove the lie so frequently repeated that guns not deranged humans are to blame in atrocities like those at Ft. Hood, the Navy Yard, and schools in Sandy Hook, Sparks, and Centennial, along with other outrages like shopping mall shootings. We disprove the lie that guns are to blame by

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consistently taking the high road in our personal department, avoiding conflict even when we badly want to put a fractious person in his or her place. We disprove the lie by practicing unimpeachable gun safety procedures at all times, as well as providing the security of a gun safe to keep our firearms out of unauthorized hands when we are not in immediate, hands-on control of the guns we own.

At the Network, we will continue our educational outreach to you and to other armed citizens, including this website on which we have plans to add video content to compliment the pages upon pages of educational articles.

Our 2014 DVD is already under discussion, and we promise it will be a topic that will leave you better prepared to make good use of force decisions. As discussed earlier in this journal, we have a brand new

educational Foundation to carry the message of the free booklet *What Every Gun Owner Needs to Know About Self-Defense Law* to even more gun owners.

I'm very pleased that so many of you have come on this journey with the Network. Let me thank you in advance for renewing your membership in the coming year, and whenever possible, telling your gun-owning associates, friends and relatives about the Network and why membership is vital for every armed citizen. By increasing strength of numbers, we can all enjoy better protection against malicious prosecution or unmerited civil law suit

We have a great year ahead of us! Let's give it all we have!

*[End of January 2014 eJournal.
Please return next month for our February 2014 edition.]*

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.

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

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

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

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



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