



## **The Anatomy of a Self-Defense Shooting, Pt. 1** **Interview with Spencer Newcomer and Christopher Ferro, Esq.**

by Marty Hayes

*Network President Marty Hayes on occasion takes work as an expert witness, testifying about ballistics, crime scene reconstruction, blood spatter, use of force and various other issues relating to armed self defense. Some years ago, he provided expert testimony when Spencer Newcomer was taken to trial in York, PA, facing charges of first- and third-degree murder and voluntary manslaughter for the June 10, 2012 shooting death of David Wintermyer.*

*Hayes was hired by defense attorney Christopher Ferro to explain evidence in the case to clear Newcomer, who had been jailed in the York County Prison for nine months before a jury found him not guilty. Now, over five years later, Newcomer has attempted to rebuild his life, having moved to a different state far away from the area in which he grew up and lived until the shooting. We are privileged to share an interview Hayes recorded after the trial with Mr. Newcomer and his defense attorney. It contains many vital lessons, and we switch now to Q&A between Hayes, Newcomer and Ferro.*

**Marty Hayes:** We're here today with Mr. Chris Ferro, an attorney from York, PA and Mr. Spencer Newcomer. I have titled today's discussion *The Anatomy of a Self-Defense Shooting*. I was privileged to work as an expert witness with both of these gentlemen.

I was so taken with both Mr. Ferro's professionalism and Mr. Newcomer's innocence, that I felt that if we could discuss some of the things that happened in trial, it would

be very beneficial for not only members of the Armed Citizens' Legal Defense Network, but also for our Network affiliated attorneys, who may not have handled a case like this. There are a lot of good learning points here that I have wanted to discuss for a long time.

So, let's start out with just a couple of easy questions. Spencer, can you just tell us a few things about yourself? How did you become an armed citizen?

**Spencer Newcomer:** My father taught me how to use firearms. From a young age, I would go hunting with him. I was on a small-bore shooting team. I've always loved the outdoors and my interest in firearms kind of fit in with that.

**Hayes:** Were you a gun collector?

**Newcomer:** Yes, I had a nice gun collection. Some I had inherited from my father. When his hunting buddy passed away, I purchased his collection from his widow. I've collected a few guns myself over the years.

**Hayes:** Can you give us a little bit of background about your training, shooting and reading about firearms?

**Newcomer:** In the past, I have subscribed to several firearms magazines. I followed closely Massad Ayoob's writings, Jeff Cooper's writings, and some of the other columnists. I had never actually had formal training, because I had learned from an early age how to use firearms and was proficient with them.



**Massad Ayoob, who recommended Hayes' expertise for the Newcomer case, also featured Spencer on a ProArms podcast. You can hear more of his story at <http://proarmspodcast.com/087>.**

*[Continued next page]*

January 2019

**Hayes:** Didn't some of Ayoob's writings come into play later in how you handled this incident?

**Newcomer:** Yes, absolutely, Massad's information actually saved my life. It was a definite help.

**Hayes:** Chris, could you tell us a little bit about your career as an attorney, where you went to law school, how long you've been practicing, that sort of thing?

**Chris Ferro:** Sure. I graduated from Duquesne University School of Law in Pittsburgh in the late '90s. After I graduated from law school, I returned to York, which is my hometown, and I took a job with the York County District Attorney's Office.

I was an assistant district attorney for almost four years and during that time, I tried a lot of interesting, big cases. I did a stint as a child abuse prosecutor, a stint as a major crimes prosecutor, and so through that, I was able to prosecute and try a lot of homicide cases and other serious felony charges.

After about four years in the district attorney's office, I realized it was time to move on to private practice. I took a position with a medium-sized, local law firm, and immediately began practicing primarily in the area of criminal defense. I was with that firm for almost nine years as a partner, and then I felt my practice was strong enough that I could start my own law firm, so several years ago that's what I did—I went out on my own. My practice is almost exclusively criminal defense work, both in the state and federal courts.

During the course of my 15-year career, I've tried upwards of 100 jury trials. I've defended everything from DUI to murder and everything in between. I think I have, at this point, a pretty robust and varied criminal defense practice. It's a general criminal practice, with no specific focus. Quite frankly, I think that's a benefit, because the focus should be on the trial work. The focus should be on the preparation, and not necessarily any specific area of the law.

**Hayes:** Do you have much of a history with firearms use or did you have to get up to speed for this case?

**Ferro:** A little bit. I've always enjoyed the outdoors and I've always enjoyed hunting. But my primary experience

with firearms has always been long guns—rifles or shotguns. I was never a handgun owner. I don't have a license to carry. That was just not really a part of my life. There was an aspect of handguns, handgun ownership and license to carry that I really had to come to understand because I didn't live it on a daily basis. By the way, I think that was incredibly helpful. Not being a person who carries a firearm daily, I was able to share the perspective from which most of our jurors came. I did not assume that every juror would understand why Spencer had a gun with him when he left the house that morning.



Attorney Christopher Ferro

We had to take pains to make sure that we explained that to a jury. Quite frankly, I needed to figure that out, too. If I run down to the local convenience store to get milk for the kids, part of my life is not grabbing a firearm first. I came to understand that was a custom that Spencer had developed; obviously it wasn't anything nefarious. He wasn't looking to go out and cause havoc. It was just part of his life. Having understood and learned that from Spencer, I was able to educate the jury. If I had just assumed that

carrying a gun was a natural, normal thing, I think I would have missed that opportunity to make that a teaching moment.

**Hayes:** That's a very valid point. Spencer, let's explain what preceded the shooting, specifically what were a few of the problems that you'd had with this neighbor?

**Newcomer:** A different neighbor was inciting the gentleman with whom I had the incident, claiming that my dogs defecated in his yard, which wasn't true. He did not realize I had an electric fence and the dogs couldn't get out. His claims were ratcheting up the bullying.

The neighbors would come over and vandalize my property, and when they weren't getting a specific reaction from me, they changed tactics and they escalated the harassment. My only reaction was to call the police.

I'm a quiet person. I don't socialize a great deal with my neighbors. I'm civil: I wave and say hi, but I didn't really know them.

*[Continued next page]*

**Hayes:** Am I correct, then, to say that there was a long history of police reports about the neighbors' harassment against you?

**Newcomer:** Yes. I'd made numerous reports. Actually, I had called the police and they were out three days before the incident.

**Hayes:** Chris, did this history play into the trial at all?

**Ferro:** Yes, the dynamic between Spencer and all of his neighbors was significant for a couple of reasons. Number one, Spencer's state of mind at the time of the shooting was critical. We had a history showing Spencer had reached out through normal means to the police, meaning he wasn't a vigilante. He didn't take things into his own hands. When he believed someone was harming him, trespassing, bullying him, he took the rational step. He called police and asked for their intervention. He asked for their help. Now, the police were really of no assistance; that's not really a function of the police, because how could the police ever prove who did the vandalism and who was behind the harassment?

I think that Spencer's history of showing restraint and reporting the harassment and vandalism to police was significant when we needed to show what his state of mind was the day of the shooting.

He is someone who was pushed and pushed and pushed to the point of concern and fear. Through all of these incidents, we were able to show that the deceased was pushing the limits. That history showed the deceased in an incredibly negative light. It showed Spencer as someone that was not out for blood, not quick to react. It showed he was a reasonable, rational person who was pushed into this situation.

**Hayes:** Spencer, why don't you tell us what happened that day?

**Newcomer:** I left my house at approximately 9:00 a.m. I was on my way to a car show. I had to drive up to my

mother's house to make copies of fliers and I was really focused on the day's events. It was a very important show for my car club and me. A group of us was going to drive down together. I had people waiting for me.

As I left the house, the other neighbor called out and wanted to talk to me, which was kind of unusual because of the prior history. It was like he was trying to hold me up. I was in a hurry, so I said politely, "Hello, how are you? I really have to be going." I got in my truck and backed out of the driveway.

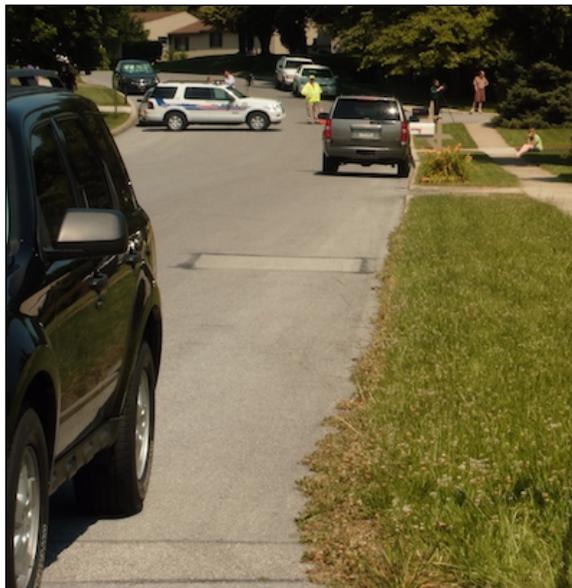
As I start to pull down the street, I saw the deceased charging down his driveway to the street, so that he was basically waiting for me. When I got there, I stopped. The night before, he had been screaming at my girlfriend, making threats, so I stopped. It was obvious he wanted to say something. I stopped my truck and he started screaming.

I wanted to tell him that this shouldn't be going on. I said, "Just leave us alone." I started to pull away, and he said, "I'm going over to kill your dogs." It took a moment as I was going down the street for that to sink in. I thought, "Crap, I have to stop. I can't leave now." I pulled over. I look back over my right shoulder and I did not see him. I assumed he was still standing by his mailbox.

**Hayes:** At that point, you were kind of in the middle of the street, right?

**Newcomer:** Yes, I'd been driving down the middle of the street. It's a residential area with very little traffic and the way the cars are parked on the side of the street, you drive down the center of the street. So, I got out of the lane of traffic. I opened my door and got out to tell him, "Stop or I'm calling the cops. You're not going to go over and kill my dogs," not realizing as I got out that he had closed a distance of about 140 feet. To my shock, when I got out, he was at the back of my truck. It's a small pickup truck, a GMC Sonoma. It has a six-foot bed, so he was close. That's when he said, "I'm going to fix you. I'm going to kill you."

*[Continued next page]*



Residents park on both sides of the street that Newcomer lived on, so when he stopped, his truck was somewhat in the middle of the street.

**Hayes:** Did you have your gun on you?

**Newcomer:** No, the gun was on the seat in the truck. As I have always done, I had taken it in and out of the house—nothing special about it that morning. When I looked at him, I knew I was in trouble. I'm not a very big guy, I have no hand-to-hand training of any kind. The way he was coming at me and with his size, his rage, his training, I knew if he got ahold of me, I was dead.

**Hayes:** You're 5' 4"? How much did you weigh?

**Newcomer:** Yes. At the time, I weighed 150 pounds.

**Hayes:** OK, and the deceased was about 5' 7", but he was very stocky, very muscular, if I recall.

**Newcomer:** Yes, he went to the gym and worked out with a private trainer.

**Hayes:** He weighed about 180, I think, so he outweighed you considerably. Obviously, he was much stronger, and a former Marine, so his military background, training and skill was part of your understanding of this fellow's mindset. He was aggressive.

**Newcomer:** Correct. I knew he was a former Marine. I knew the Marines are taught combat. I knew he had seen combat before he had been retired.

**Hayes:** OK, so then what happened?

**Newcomer:** I knew I was in trouble from the rage in his eyes and the way he growled at me. I reached into the car. I pulled out the pistol and pointed it at him, which stopped him. He had closed the distance from the end of the truck at that point and he was two or three feet away from me.

I said, "Get back." He did not. His body position was—I guess the easiest way for people to understand is he was standing like a boxer, turned to the side, leaning forward to attack.

**Hayes:** His body positioning at that moment is what we in the business call a pre-attack indicator, showing that he was getting ready to attack.

**Newcomer:** I did not know the name of it at the time, but I think through body language, you can naturally tell

when someone's being obviously aggressive. That is what he was displaying.

I was becoming more and more focused because of this intense situation. The tackypsychia had the edges of my vision focused down until the firearm was not in my field of view. I was looking into his eyes, and his reaction was not what I would have expected. You would normally expect someone to back up and want to get away from the situation. That was not his demeanor.

He looked even more infuriated. Looking into his eyes, I could tell something was going through his mind. That's when I looked down and saw his hand coming out of his pocket. I saw his hand held a black object and it looked to me just like a Glock, a polymer-type pistol.

**Hayes:** Right side, left side, do you remember?

**Newcomer:** Right side.

**Hayes:** I knew you remembered because left hand or right hand was a pivotal part of the trial, which we'll get to later, but I want readers to remember this point. He was aggressive. His stance was bladed and he had just threatened to kill you. He wasn't acting like a normal person would when you displayed the gun and told him to stop. Instead, he reached into a pocket and grabbed a black object.

**Newcomer:** Correct.

**Hayes:** You then shot him, right?

**Newcomer:** Yes.

**Hayes:** What did you see and feel during that one to two seconds?

**Newcomer:** I felt pure terror: absolute, pure terror. Everything happened incredibly fast. Obviously, I had never experienced anything like that before. I fired. I did not have any idea of how many times I fired. He spun away from me and fell and I stopped firing.

**Hayes:** The evidence showed he was shot once in the back. Do you recall actually shooting him in the back?

**Newcomer:** No. I did not know that until after the autopsy. Chris informed me of it later.

*[Continued next page]*

**Hayes:** We'll be talking about the shot in the back later. How did the next few minutes play out?

**Newcomer:** Well, I put the gun on the seat. immediately I called 911 and briefly explained the situation, then I disconnected. People started coming out. He was right alongside of my truck, so I told everybody, "I'm not leaving, but I'm going to move my truck so the ambulance can get in here." I moved my truck across the street, which may not have been a good thing. In retrospect, it probably would have been better if it had stayed put; it would have made a clearer picture of what happened.

I saw the police coming down the street. I was sitting on the curb, away from the deceased and the crowd that was gathering. I stood up and took a step or two into the middle of the street with my hands in the air. I was not armed. I had put my firearm away in the truck.



**Hayes:** In fact, there's a picture of the gun on the seat. It was a Smith and Wesson, Model 39-2 with a manual decocker.

**Newcomer:** Correct.

**Hayes:** When I looked at that, I said, "Man, that gun is no longer cocked!" Do you remember decocking the gun?

**Newcomer:** No, that was just a habit from training. That's what I had learned, so that action is automatic.

**Hayes:** So, you met the police with your hands raised. What happened next?

**Newcomer:** The officer told me to turn around and get down. I turned around and started to get down and he jumped on me, put me in handcuffs and dragged me to the squad car.

**Hayes:** Did he ask you what was going on?

**Newcomer:** He only asked me if I was the shooter, and I said yes, then he put me in a squad car. I don't know, but I think I was in there for 10 or 15 minutes. It seemed like an eternity. The adrenaline and everything started coming out of my system and I just started sobbing uncontrollably. My whole body felt like I was being hit by waves of cold water. My mouth was dry and then it was not. I started dry heaving. It felt like an elephant was sitting on my chest. I thought I was actually having a heart attack. That's when they came and got me out of the squad car. It was a hot day and the windows were up. I was sweating profusely from the heat and from the stress. They took me over to the ambulance. I was almost unconscious.

The officer asked me a couple of questions. I told him, "He was coming at me. He reached into his pocket to pull out a gun and I fired." He said, "Well, why didn't you just drive away?"

I looked up and I saw my truck was on the other side of the street, and it was just too much. I don't think I could

have really formed any sort of narrative at that point because of my emotional state. Even talking was a chore at that moment.

I remembered what Massad had taught: that's not the time to try and give your narrative. I told them that I would

be more than happy to give them a statement once my attorney was present.

**Hayes:** OK, and so they took you to the hospital, got you checked out and then they took you down to the police station to talk?

**Newcomer:** Correct, they took me to the hospital then to the police station, but they never talked to me after that.



Crime scene photo shows position to which Newcomer had moved his truck to allow ambulance access to Wintermyer.

*[Continued next page]*

**Hayes:** You had invoked your right to counsel.

**Newcomer:** Yes, I told the police a second time at the hospital that I would be more than willing to talk to them with an attorney present. I signed a card stating that they'd read me my Miranda rights and that was the end of that.

**Hayes:** Chris, please give us your recollection of how you first heard about the case and who contacted you? How did you get involved?

**Ferro:** Well, the location where this took place is actually not too far from my home. It's not often in one of these neighborhoods that you have a shooting that results in a death. There's an elementary school within 1,000 yards from where this took place. It's very quiet, with tree lined streets. It's the last place in the world you would expect a homicide. It was big news from the very beginning. Spencer's family reached out to me, probably late the day this incident took place or early the next day. We had some initial discussions and I had to tell them that there was not a whole lot that can be done that very second.

My first step was to talk to Spencer, to understand what took place that day. He was charged with homicide, including murder in the first degree. In Pennsylvania, that's a non-bailable offense, so we were not getting him out of jail. Based on what he was charged with, I knew this was going to be a long, difficult process and I needed Spencer and his family to understand that.

From the beginning you know that it's going to be financially difficult for any one person to bring this case to a successful conclusion. Most people do not save money thinking, "Someday I'm going to be charged with criminal homicide and have to hire an attorney and investigators and experts to win my freedom back." Spencer was no different. Luckily, he had a number of family members who cared deeply about him and had at least some financial resources.

I had to tell them, "It's going to be expensive. It's going to take a long time. Not only are you going to be paying for my fees, but I anticipate, that we're going to need to hire experts in different fields. They are not going to be cheap, but they are going to be incredibly necessary." Most people don't have family members who step up and pay the initial retainer. Any attorney considering taking a case like this has to have a financial commitment from the family. It's expensive.

**Hayes:** Are you comfortable talking about the exact finances of Spencer's case and discuss the amount of money required?

**Ferro:** I can discuss it in broad strokes. There are two ways that any criminal defense attorney can charge: a flat fee or an hourly rate. In more complicated criminal matters, I will generally charge my hourly rate because I have no idea the twists and turns that the case will take from beginning to end. I have no idea about how many hours it is going to involve. We had a discussion and Spencer's family agreed to pay my hourly rate.

I initially requested a \$10,000 retainer in order to move quickly on what needed to be accomplished. I was comfortable with Spencer and his family and I knew that as I needed additional funds, I could ask. As it turned out, that happened multiple times. Ultimately, after going to trial, there was still a balance that was due and owing, based largely on the number of hours that went into the preparation of this case and then the actual trial.

The cost was significant. For a member or an attorney considering one of these cases, when it's all said and done, you're looking at fees in the \$60,000 to \$100,000 range, depending upon a bunch of different factors. But that's the general range.

**Hayes:** That's pretty much what I've heard from several attorneys: \$50,000 to \$100,000, plus experts and other people you may need. In fact, you're still owed money for your work on this case, right? Spencer hasn't been able come up with the total payment yet, but that's the nature of the business you're in.

**Ferro:** That's correct. We're hoping some of your members may be moved by Spencer's story and will help him out. That would certainly be wonderful.

**Editor's note:** *Considering how much material this interview needs to cover, we will break it into several installments. This is a good place to pause the story for now. We return next month with details from criminal defense attorney Christopher Ferro about the challenges he faced in preparing the case to go to trial. We hope you will return to these pages next month when Hayes, Ferro and Newcomer report about explaining armed self defense at the trial and the outcome.*

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



## President's Message

by Marty Hayes, J.D.

I want to wish all of our members a belated Merry Christmas, and if you are not Christian, then Happy Holidays, and for everyone, Happy New Year!

So far, I have had a pretty relaxing holiday break, but it looks like things are going to be picking up for me soon. I got a call yesterday from Network Advisory Board Member Massad Ayoob, who was calling to let me know he gave me up to an attorney who was looking for an expert on a homicide case. I haven't had any cases for most of this year, and it has been nice. But when people are charged with murder and they have a plausible case of justifiable homicide in self defense, it is hard to turn them away. I haven't seen discovery yet, so at the moment, I am not sure how much I will get involved.

Which brings me to the lead article in this *eJournal*, my interview about the Spencer Newcomer case. When an expert takes a case and works with the attorney to help put together the defense, then testifies in court and the person is acquitted (and gets their life back) it is a pretty warm and fuzzy feeling. While we actually worked on this project several years ago, and then flew to York, PA to interview attorney Chris Ferro and Spencer, we have now just gotten it in a form that we can bring to our members. We were going to produce it in DVD form, but there was a myriad of production quality complications. In any event, by reducing it to the written word and sprinkling in different photographs from the case file to give you an idea of the case facts, we think it will be one of our better educational endeavors. Since that story was first up in this journal, you have probably already read it, but

let me give you the consumer's guide on how to get the most out of this multi-part series.

First, understand that this level of education is pretty rare in our world. *The Anatomy of a Self-Defense Shooting* is not another tired treatise giving advice about what to do after a shooting. Instead, it is a direct look into a self-defense shooting, first from the defender's perspective, then from the attorney and expert who worked the case, and lastly a look at the issues surrounding the emotional and legal aftermath of being accused of first-degree murder, and then being acquitted. We also expect to bring in some of the trial arguments and trial testimony via court records, to give a very in-depth look into the whole process. I expect to take several editions of the *eJournal* to tell the whole story.

## Using the Emergency Number on Your Membership Card

Recently, I have received several calls during business hours on the emergency phone number. For the most part, these calls should have been directed to the business line, as most were general questions, primarily centered around renewing the caller's membership.

While I do not mind talking to members, I many times do not have my cell phone with me during the day, because all calls to the Network during normal business hours need to go to the 360-978-5200 number. The emergency number is only for nights and weekends, and only then for seeking assistance after a self-defense incident. Now, having said the foregoing, if you do



The back of your Network membership card provides important phone numbers for your use (emergency number deleted from illustration since its use is reserved for members only). If you have lost your card, phone 360-978-5200 or [email](mailto:info@armedcitizensnetwork.org) (please be sure to include your name if you email) for a replacement.

[Continued next page]

January 2019

use ANY force in self defense, PLEASE call as soon as practical after the incident. Recently, a couple of members have delayed calling, because they are not sure if they should call or not. I would rather take the few minutes to discuss the circumstances and explore if you have an attorney or need one, so we know what you need to do next, as opposed to you not obtaining legal representation, and then a few days later finding out you're a suspect in a crime.

## **SHOT Show 2019**

I am tentatively planning to attend the big gun industry convention, the Shooting Hunting & Outdoors Trade (SHOT) Show in Las Vegas January 22-25, although

probably for only a couple of days. We have moved our advisory board meeting to coincide with the NRA Annual Meeting, so there is no compelling need for the Network to be at SHOT Show. On the other hand, it is always a good time for meeting up with our friends in the industry, and if I make it this year, I hope to see many of you there. I will be the tall guy walking around with the glazed look on my face, and likely muttering to myself. If you see me, please stop me and say hi.

That's all the news I can report at the moment. We have some big things planned for 2019, but I have to play Secret Sam for a little while longer, okay?

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

*January 2019*



## Attorney Question of the Month

The Network recommends that armed citizens get to know an attorney before needing one. A client who wants to meet with an attorney absent a pending legal issue is unusual for many criminal defense law firms, so we asked our Affiliated Attorneys to comment on the pre-need consultation with this question—

*We understand that law firms are busy places focused on defending people with current legal problems. How do you recommend a Network member who does not have a pending legal issue connect with an attorney for a brief consultation to be sure the member understands their state's self-defense laws, while getting to know the attorney they'll call to protect their rights after self defense?*

Our affiliated attorneys responded—

**Mike Ooley & Alex Ooley**  
Boehl, Stopher & Graves, LLP  
400 Pearl Street, Suite 204  
New Albany, IN 47150  
(812) 948-5053  
[mikeooley@bsg-in.com](mailto:mikeooley@bsg-in.com)  
[aooley@bsg-in.com](mailto:aooley@bsg-in.com)

It can be difficult to simply talk to an attorney, particularly when there is no immediate legal issue at hand. Assuming you have one or more attorneys in mind, we personally believe that the best way to make contact is to simply call the firm and indicate that you would like to pay for a short meeting consisting of an hour or two to discuss your state's self-defense laws. If you want an in-depth education on your state's self-defense and firearms laws, the meeting may need to be longer. If the attorney and/or the attorney's staff is so busy that they are not willing to set up a time to meet with you, that is a good sign that the firm/attorney may not be a good choice, and it is probably best to move on. In our case, we would be happy to schedule an in-person appointment with any Network member in Indiana. As a matter of fact, we generally do not charge ACLD Network members for an initial 30-minute "get to know you" meeting.

Additionally, we would also recommend that any prospective client attend one of our legal educational

seminars, which last about five hours and are designed to apprise participants of the essential laws regarding self defense with a firearm for the State of Indiana. The cost of this seminar runs from \$60 to \$95 per person, depending upon the venue and the size of the group. We believe this seminar provides valuable educational information, a chance to know us on a personal and professional level and is likely much less expensive than paying for a private meeting with an attorney.

There may be similar legal educational seminars available in your state, which would likely be valuable. Of course, if you cannot find such a seminar and don't already have an ACLDN affiliate attorney in the area, we would suggest that you make contact with firearms instructors in the area and get recommendations from them for attorneys that are knowledgeable in the area of self-defense law. Additionally, we always emphasize the importance of a focused and documented review of the ACLDN DVDs that are provided to all new members.

**John Chapman**  
Kelly & Chapman  
PO Box 168, Portland, ME 04101  
207-780-6500  
[thejohnwchapman@msn.com](mailto:thejohnwchapman@msn.com)

In Maine, the State Bar Association does referrals. They can also call a state gun owner association. In Maine, that would be Sportsman's Alliance of Maine, or Gun Owners of Maine.

**Mark Seiden**  
Mark Seiden Law  
3948 3rd St. S., PMB 387, Jacksonville, FL 32250  
[mseiden@markseidenlaw.com](mailto:mseiden@markseidenlaw.com)

In answer to the question of the month, it is a good idea to meet with the lawyer who might be called upon to represent you in a face to face meeting. Many lay persons do not have a clear understanding of their state's self-defense laws and what their rights, duties and obligations are in that regard. The meeting would be a good time to discuss what legal issues might arise in a self-defense shooting as well as to gain a clear understanding of applicable gun laws in the state.

*[Continued next page]*

January 2019

That said, lawyers charge for their time, advice and expertise. I would estimate such a meeting, if done in depth, would take between one and two hours of the lawyer's time. The potential client should expect to be charged accordingly, based upon the lawyer's usual hourly rate.

**Kevin L. Jamison**

Jamison Associates

2614 NE. 56th Terrace, Kansas City, MO 64119

816-455-2669

<http://www.kljamisonlaw.com>

Many different gun rights organizations have lists of attorneys who are knowledgeable in this area. The corporation attorney on the board of the gun club does not have the experience in this area. For a small fee I do consultations regarding local law. For another yearly fee I keep a file on a person so if the worst thing happens I

have a place to start. Once in a while a gun club asks me to give a speech.

If there is no nearby gun nut lawyer, contact a local criminal defense lawyer. Explain to him that he will have an innocent client. This takes some getting used to. Criminal defense lawyers practice on guilty people, so do prosecutors. Representing an innocent person takes a different mind set. An innocent person does not see a felony plea with no jail as a victory.

Find a lawyer who can be contacted after hours. Bad things happen after dark.

---

*A big "Thank You!" to our affiliated attorneys for their contributions to this column. Please return next month for a new topic of discussion.*

## Book Review

### Violence of Mind: Training and Preparation for Extreme Violence

By Varg Freeborn

246 pages, paperback, \$17.26

One Life Defense Publishing (Feb. 23, 2018)

ISBN-13: 978-0578202006

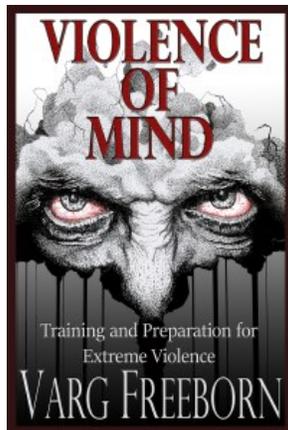
Reviewed by Gila Hayes

Rory Miller once wrote that fiction about violence focuses on dramatic action without exposing the reader to the smell and sound of death as bowels release, the respiratory death rattle, the extreme thirst of the dying and the time between mortal injury and death. When using violence is theoretical, it's easy for those studying the subject to miss the big picture. *Violence of Mind* by Varg Freeborn is a good antidote. "My simple goal here is to share my first-hand experience with extreme criminal violence... so the average person can begin to understand how violence works in our society," Freeborn writes in his introduction. "I am not shy about supporting the use of lethal force to stop an imminent deadly threat," he notes, but urges readers to "know and accept the consequences."

I got hooked into reading Freeborn's book through his focus on mindset. "When we go into the gym or on the range, we should be working the fundamentals. The rest of the time, we need to be building the mindset. Weapons and fighting skills only make up 20% of a fighter's capability. The other 80% is determined by what takes place in the mind," he writes.

I'm generally leery about the "learn from convicts" trend, however, Freeborn, raised in poverty, surrounded by substance abuse and crime, jailed after a self-defense stabbing as a teen and now with his rights fully restored, makes the point that, "The truly violent predator has mastered doing it with very little equipment and very simple methods," explaining later, "Violence ability also is not just the willingness to do violence either. I have come to believe over the years that true violence is something that lives in your heart, meaning it is deeply rooted in your orientation."

Clearly, most layperson's understanding of violence is radically different than that of a predatory criminal and I hoped *Violence of Mind* would instruct without words



wasted on macho chest beating. It did. Freeborn writes, "Anyone who tells you a glorified story of what it will be like to drop some worthless criminal dead and how you should not give a shit about it clearly has not been touched by the life-changing damage of deadly bloodshed. Sometimes we learn the most not from the winners, but from the losers."

Freeborn encourages readers to determine what you're so attached to that you'd kill or die to protect it. This differs from "boundaries put on you by outside influence, e.g. the laws. These parameters are internally created boundaries and are directly affected by your attachments to your loved ones and to your own life," he explains, then gives examples of bad decisions, including a fatality shooting over who was first in line at a pharmacy. The question of who started it is the wrong question. Ask instead, he urges, "Is it worth dying, leaving your family behind and forever extinguishing anything you would go on to do with your life?"

Freeborn explains there are often repeated opportunities to withdraw from arguments, calling these moments "pivotal crossroads." You must distinguish between verbal aggression and physical. "Remember, it does not matter what someone is saying. When it comes to justifying your actions in a confrontation it only matters what they are doing in the moments prior to you making physical contact." He reminds armed citizens, "You have the means to deliver deadly force. You may believe you are just standing your ground assertively, but you have no control over how the other person will react and escalate. Nor can you accurately predict their reaction."

"How far are you willing to go, and how do you know that the other guy will not be willing to go farther? If you pepper spray someone (assaultive), how do you know they will not turn around and shoot you (homicidal)? You don't. And if you are willing to offend, you better be willing to assault. If you are willing to assault, you better be willing to kill. If you are willing to kill, you better be 100% justified. What are you willing to kill for again?" Freeborn challenges. "Once you open that door to violence, anything from aggressive to homicidal can come out; you don't get to choose which one and there's no putting it back in once it comes out."

[Continued next page]

Normalcy biases falsely suggest that the worst end to an argument is harsh words and a bloody nose. "The truth is you do not know what threat level the person is or how far or how quickly they are ready to take it up the violence scale," he stresses.

Another misconception equates avoiding confrontation with "cowering," Freeborn writes. It's not! "There is no real lasting effect on you, other than your hurt feelings and pride. Think about that deeply. I am the first one to say that you have the absolute right to defend yourself with deadly force from violent attack...but there are some qualifiers for what is and what isn't self defense." He continues, "If you are prepared to use deadly force to defend yourself, you better be EQUALLY prepared to articulate why you used that force to the law."

Refusing to fight requires an iron will, he stresses. "Self-control is the #1 mistake made in the avoidance category. Having a strong and effective mindset isn't just about always being alert and ready to jump into action. Proper mindset involves enormous self-control. Not only for anger and ego issues, but for fear and other emotional spikes which will disrupt your rationality and push you into crossing the line away from self defense and into criminal charges."

"Proper mindset isn't just about being ready to fight; it's about maintaining control over yourself under pressure. Simply put, the most effective combat mindset is having extreme self-control in any conditions," Freeborn writes. "Being able to defend yourself with clear justification for your actions and decisions is just as important as being able to defend yourself with fists or a gun. There's more than one way to lose, and lose is exactly what you will do if you run your mouth or establish a mean or violent reputation. Quit setting yourself up for failure. Be a positive example for the right to self defense. Articulate your reasons well. Do not discuss deadly violence loosely. One day your life may depend on everything you have ever said about the subject, and every way you have prepared, and every class you have taken."

*Violence of Mind* gives an alternative view on situational awareness. Freeborn worries that much of what is taught as self-defense awareness leads tunnel vision at moments of greatest danger. "Wide-band situational awareness" is most needed. A common error is looking for what we've decided is dangerous instead of looking at everything, he continues. Since few live in hostile

environments, "you must cultivate a wide-band SA through training and conditioning," he advises. "Training is notorious for creating 'plans' and plans do not work as well when they involve other humans who are not in on the plan. Procedures, however, do work. This is why we learn skills, develop techniques, and then learn to combine them into procedures to deal with a problem."

Although too detailed and lengthy to cover in a book review, his analysis of techniques and tactics, principles and procedures could change what you seek and what you take away from your next self-defense class. "Fights just do not look anything like the practice on the square range." Be sure you practice fundamentals like strong positioning and techniques that allow essentials like mobility, he urges, warning against flashy techniques created on the range against unarmed opponents.

Practice should focus on smoothness and correct execution, not speed, he stresses, endorsing deeply engrained fundamentals over specific situational skills. "Dozens of decisions can be made in the span of a few seconds, and in a lethal force conflict those decisions could mean the difference between living or dying." Decision making eats up time. Unlike you, the predator has used extreme violence repeatedly. In his culture, the violent thrive and won't hesitate to hurt you. While not suggesting that readers emulate that background, Freeborn explains, "When your life is threatened, and all of the legal criteria for justified lethal force have been met, then speed, efficiency and ruthlessness better be all that are on your mind. The only way to clear your mind of everything else and be able to focus on your job is to train yourself to that automatic level, both mentally and physically, and to fully believe in what you are doing without any doubts whatsoever. Like your attacker, your willingness to follow through must be clearly worked out well before any encounter takes place. This includes knowing what you are allowed to do to stay out of prison."

Returning repeatedly to the theme of self control, Freeborn shows how thoughts and words are reflected in how one fights. "You are who you practice being," he stresses, reminding readers to live their mission every day in word and thought so those habits guide decisions made when threatened. *Violence of Mind* included outstanding coaching and is timely in its reminder to strive daily to live our ideals. I recommend it.

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



## Editor's Notebook

by Gila Hayes

Recently, I was archiving records of contributions and withdrawals from the Network's Legal Defense Fund, moving some of the detailed records into deep storage, when I ran across a note from members John and

Christine in PA who had just read our *2014 in Review* article and were moved to donate to the Network's Legal Defense Fund. Their note read, "Hi, Gila! Just saw your email. Let's see if we can get the total above \$8K for 2015. Kind regards, John and Chris."

The Legal Defense Fund hit \$800,000 in 2016 and surpassed the 1-million-dollar mark the following year. The vigorous growth of the Legal Defense Fund brings peace of mind to Network members, founders and staff alike, since the more funding we have to provide for member legal defense, the better prepared we are to strike back hard when a prosecutor or plaintiff's attorney starts making noises about charging or suing a member who has done nothing more than what was necessary to remain alive and keep his or her family safe.

Since opening the Network in 2008, the Network has paid a quarter million in legal fees on behalf of 21 members. We operated from the first quarter of 2008 through February of 2011 with no member-involved incidents, during which time funding accumulated as our membership numbers climbed from zero to 6,000. Then in February 2011, we received a call from a member's father requesting assistance for his son who was jailed after defensive display of a firearm to defend against multiple assailants. Network President Marty Hayes connected the member with an affiliated attorney, paid the attorney's fee, and the Network had its first membership benefit fulfillment under its belt.

Later that year, a member displayed a firearm to prevent harm to himself and his wife during a holdup, bringing the 2011 count to two. Trouble skipped our Network family in 2012, but the following year, we paid attorneys on behalf of three members and then four members needed and received funding for attorneys' services in 2014. Amongst those were defensive display of firearms, two instances of improvised weapons use and

gunshots exchanged during which a member was wounded by a home invader.

The first few days of 2015 brought the first fatality shooting by a Network member. We were grateful for the extraordinary advocacy on behalf of our member and his family by our affiliated attorney, and that story, in case you have not seen it, is told in the second half of the article at <https://armedcitizensnetwork.org/network-track-record>. By comparison, 2016 was very quiet, with only one member needing an attorney paid to intercede with authorities after he drew his firearm in response to being threatened.

In 2017, the Network funded the defense of two members, one a simple defensive display of a firearm to stop an angry neighbor from attacking the member's family, but the second was a time and expense intensive effort to stop a self-defense-hostile prosecutor's office from stripping away our member's rights after use of pepper spray in self defense. In 2018, we funded defense of a member who fended off physical assault and was subsequently charged with a crime in December 2017, bringing the number of times we drew from the Fund in 2017 to three.

2018's member involved-cases brought a physical confrontation, two fatality shootings, assault charges stemming from fending off a physical attack, and accusations against a member for responding to a threatening man by warning him to leave while holding pepper spray. For everyone's sake, we hope the number of member-involved cases in 2018 holds at four, but if a member is attacked in the waning days of the year, the Legal Defense Fund is ready to fight the legal aftermath.

Network family members look out for one another. I frequently talk with and email members who express their profound desire to only call to renew memberships, update addresses or get help with logging in to the member only parts of the website. I agree, of course, and remind members that by being part of the Network family they are easing the aftermath of self defense for good men and women who share their values but were swept up in circumstances they did not seek or ask for. Thank you, members, for being there for each other.

*[End of January 2019 eJournal.  
Please return for our February 2019 edition.]*

January 2019

## 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](mailto:editor@armedcitizensnetwork.org).

The Armed Citizens' Legal Defense Network, Inc. receives its direction from these corporate officers:

Marty Hayes, President

J. Vincent Shuck, Vice President

Gila Hayes, Operations Manager

We welcome your questions and comments about the Network.

Please write to us at [info@armedcitizensnetwork.org](mailto:info@armedcitizensnetwork.org) or PO Box 400, Onalaska, WA 98570 or call us at 360-978-5200.



January 2019