

Self Defense in Low Light An Interview with Erick Gelhaus

by Gila Hayes

Armed citizens began to feel Erick Gelhaus' influence in the early 2000s when his knowledgeable posts earned a strong following on Internet bulletin boards including The Firing Line where his commentary reality-checked use of force topics, especially by law enforcement. He later became a gun writer for S.W.A.T. Magazine. We introduced readers to him in 2020 when he gave a frank interview (<https://armedcitizensnetwork.org/lessons-in-preparation>) about the aftermath of an on-duty shooting.

Since then, Gelhaus has shouldered editorial responsibilities at the FMG online publication American COP. Unlike law enforcement publications of the past, the content at <https://americancop.com/> is not restricted to police. Much is applicable to armed citizens, and of interest to gun enthusiasts. My attention was drawn to one of his columns discussing low light issues and later a gear column that covered flashlights. He graciously agreed to answer my questions on the two subjects. He was quick to stress that the tactics and techniques we were discussing were not all his own. "I've learned from classes with Ken Good, Steve Fisher, Aaron Cowen, and from the folks I have taught with at Gunsite, as well as my own experiences," he noted. Network members may find our chat as educational and useful as I did, so we switch now to our familiar interview format.

eJournal: Why is darkness so disorienting to so many of us? The sun is not up for about half of our lives so we should be used to the dark! Why do we need to carry a flashlight?

Gelhaus: Humans are daylight creatures. We are not like some of the other animals that have eyes set up to function at night. Our eyes are just not set up to do that. When it got dark, we retreated into our caves, we retreated into our huts, we closed the doors, we lit the fire and we stayed indoors until the sun came up the next morning. We don't function well in a dark environment. We depend a whole lot on our eyes. Take away the light and it gets confusing.

There are a lot of different things we do using light. Whether I am in my house or outside, I am trying to identify things; I am trying to find things. I am navigating. I can control people to a degree with the light. I can control them, too, by taking away information by working behind that light, and I can communicate. For example, I can point that light at something that I want someone else to see. I might say, "See what my light is pointing at? Watch that door," or I might say, "Go down this trail," pointing with the light.

eJournal: Although it was your columns in American COP magazine that drew my attention to this topic, the need to function with limited light is not only the bailiwick of law enforcement. We ordinary citizens may need to navigate, gather information, and make decisions without much light available.



Gelhaus: The disconnect between the cop world and decent, normal human beings is that cops have to go look for folks in low light. We have to go find the bad people and that is where we have our own set of problems. Getting back to decent, normal human beings, if you look at Tom Givens' work, none of his 68 students who have been in shootings required flashlights. I think that's because if you are going to be a victim, there has had to have been enough light for the bad guy to decide you are going to be a victim. If there is enough light for the bad guy to figure out that you have failed the victim selection process that day, then there is enough light for you to figure out that is the bad guy.

eJournal: Unless you're at home, asleep in your bed and awoken to the sound of footsteps in the hall...

Gelhaus: Look at Claude Werner's work about the percentage of bumps in the night that are not home invasion robberies or burglaries. He found that well over 95% of the bumps in the night were family members, a drunk neighbor, or a developmentally disabled person from a couple of blocks over who just found the wrong house by mistake. (Learn more at <https://thetacticalprofessor.net/2015/01/10/identify-before-you-shoot/> and <https://thetacticalprofessor.net/2018/12/23/the-odds-and-stakes-of-home-protection/>) They are not malicious.

The alternative happened to a friend of ours with whom I did a presentation last year at [Tac Con](#) about the aftermath of shootings. It was a developmentally disabled person who forced entry into someone else's house. That is what most of the bumps in the night are, so you had better grab a flashlight before you grab a gun, and a gun with a light on it is still a gun. A light on it doesn't change that.

eJournal: When you teach low light shooting, what do you prioritize as the skills and abilities your students need?

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Gelhaus: First, just paying attention to their surroundings. I use an example when I teach at Gunsite because everybody who goes there sees it. There is a gas station in Chino Valley and right next to it is a Chase Bank. Look at the light from the front of the store and look where the light dies off. Look at what is going on at the edge of where that light dies off. Who is out there? Pay attention to who is standing in the shadows at the edge of the light when you roll in to get gas or a container of milk.

Pay attention when you roll up to use the ATM at the bank next door. That bank is very well lit around the ATM, but eventually that light dies off. Who is at the edge of that light? Who is on the other side of the parking lot when you roll into the ATM? That's when decent, normal human beings are going to have problems – when someone is going to try to rob you. If the hair on the back of your neck stands up and if a little voice says, "Excuse me! We do not want to be here right now," go find another ATM.

Second, have a light. It does not have to be one of these crew-served things (holds up two large flashlights), it can be a little pocket light like the Stiletto from SureFire, but have a light. Who is on the other side of the parking lot when you roll into the ATM? Illuminate him and ask, "Hey, how's it going?" If the person knows you are aware of them, they may not want to play anymore. They are depending on you not to pay attention.

#1 pay attention and #2 have a light.

eJournal: There are a lot of lights on the market. I've dumped a couple I bought because the controls were too complex. One had a strobe option that got it put away in a drawer because just my luck, I'll inadvertently activate it. Have flashlight makers added too many options for us to use under stress?

Gelhaus: [*vigorously nods head*] I think multi-function buttons that do everything under the sun on a single button cause this problem. The light I use to find the keyhole when I forget to leave on the back porch light is different than the light I need to make don't shoot/shoot decisions. When I am trying to solve problems, I want a light that gives me as much power as I can possibly get when I push one button, and I want it to go off when I let go of the button. I do not want to have to cycle through it two or three times.

If I press the tail cap button on the end of the Stiletto, I get full power, so I am going for the button on the back of it if I am trying to get enough light to make decisions. On the side, there is a button that gives me low, medium, and bright in that order. I do not want low when I am trying to figure out what that bump in the night was. I want low when I am trying to find the lock in the back door.

I am pretty agnostic about who makes my lights – I care more about what it does, although I would not depend on what's on sale at Costco when I was making decisions that could impact my life or someone else's life. For about 10 years I have carried

a little, teeny-tiny throw-in-my-pocket light from Terralux that runs off a single CR123 battery. It has two tail caps on the back; it has a large, thick tail cap that is full power off/on. A smaller, shorter tail cap gives me strobe, but if I turn on the big tail cap first, it lets me step down or step up the light. If I grab it and I just hit the big button I get all the power it can put out. But if I need the strobe to get somebody's attention, or I just need less light, I can get it without having to fight.

eJournal: Too bad it's no longer made. Let's name names – which brands are your go-to sources for lights?

Gelhaus: There are four big-name flashlight companies out there with a couple of smaller ones. Take a look at their lights and try them in the real-world environment. Get a SureFire, a Streamlight so long as you can keep the strobe from kicking on when you press the button on the back, a Modlite, or Cloud Defense and rock on.

<https://www.surefire.com/categories/illumination/flashlights/>

<https://www.streamlight.com/products/explore-products/handheld-flashlights>

<https://modlite.com/collections/handheld-lights>

<https://www.clouddefensive.com/product-category/handheld-lights/>

eJournal: Sadly, there is a correlation between size and light output. Let me relate a mistake I made in a team tactics class you taught. One of the drills had partners navigate out of a dark room. For years, I have had flashlights in the car, in my backpack, in my briefcase and several at home and work, but when you sprung that drill, where do you think my flashlight was?

Gelhaus: In your backpack in the range shed.

eJournal: Right! After that, I bought several of brightest, smallest single cell rechargeable lights I could afford. Today and every day since that class, there's a 500-600 lumen light clipped in my pocket. Thanks for that lesson. When fitting a light into every-day-all-the-time carry, it is tough to balance enough light against something that is small enough to carry. How much light is enough?

Gelhaus: There is a minimum threshold of light needed to make decisions. As we get older, we need more light to help make decisions, whether that is asking, "What is that 50 yards down the street?" while you were doing 35 miles an hour in a residential area, or "What is that down the hallway?"

The science on it says once you hit adulthood, every 13 years the amount of light you need doubles. Today, the amount of light I need is double what it was for me at 45 which was double what it was for me at 32. We have always known we needed more light as we got older, but now there is science to back it up. For me, 500 lumens is the lowest.

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The minimum I would want for a “go find bad people” light – and I do differentiate it that way – is on the far side of 750 lumens and somewhere on the far side of 50,000 candela. This is where we have to talk terminology. Lumens is just the measurement of the light at some point. Candela is the strength of the light at a specific point. I call lumens “spill,” or how we fill up the room with light, and I call candela “throw” or how far out there we can project that light.

Let’s apply that to pistol lights, the smaller Streamlight TLR-7 is not a bad concealed carry pistol light. Its 500 lumens puts out sufficient light in a master bedroom or maybe in a dining room or down a residential hallway, but I would not want to go looking for bad people with that light.

The X300U-B SureFire is right at the plus side of 1000 lumens. It is strong enough to get me down a long driveway. It gives me the length of a traffic stop in the cop world, which again, normal, decent humans are not being put in that situation because usually, the problem is coming to them.

eJournal: You hit a hot button in that example: pistol-mounted lights. I’m not a fan. What are the advantages and what are the problems?

Gelhaus: I want a handheld light to go look for bad people with because Rule Two still applies. Never let your muzzle cover anything you are not willing to destroy. I cannot just violate the rules because I have a gun with a light attached.

For the vast majority of my career, I worked nights. From 2007 until I retired in 2019, except for maybe three years, I worked cover shifts or swing shifts. I was going home between mid-night and two in the morning. My off-duty gun was a mid-sized version of whatever my duty pistol was, and it almost always had a light on it. Now that I am retired, except during the 2020 riots, I am not carrying a pistol with a light on it. I carry either an M & P Compact or M & P Shield. I do not have a light on either of those guns. When I am carrying concealed, I have a handheld light with me. I think that is realistic.

eJournal: Many schools teach methods to illuminate the target with a handheld light while retaining some semblance of a two-handed grip on the gun. Does using those techniques while searching risk Rule Two violations? If we search with the gun and the light separated then need to shoot, is there time to move into a two-handed Harries or Rogers/SureFire or similar grip?

Gelhaus: If I’m searching, whether the gun is in a low ready or a compressed high ready, I am using the light with my other hand. If I find the threat, first, I am probably going to see a foot, an elbow, a leg, or a hand, rather than a whole person. Once I find them, I am going to put as much light onto that problem as I can so that I can make the best decisions possible. If that becomes a deadly force problem, the light stays on them while I bring the gun to where I can use the sights. I may not get to a Harries shooting position; I may end up having to shoot

one-handed. I want to get as much light on that guy or gal as I can to make decisions, to rob them of information and to keep them from being able to see what I am doing back behind that light.

Maybe I will be working from the FBI flashlight position [*raises light in non-dominant hand high above shoulder*]. Maybe I am coming down to a Surefire jaw index – which is great if you’re shooting with iron sights because you can work it off the angle of your jaw. If you’re shooting with an optic, bring the light up to where the temple is on your glasses because that projects the light over the optic, so it won’t reflect off the glass.

If you can get into a traditional Harries position or other positions that folks have had their names slapped onto, rock on. I just don’t know if you are going to have that chance. If I am searching and I find a problem that requires deadly force, I may not have the time to get to one of those positions.

If I am searching from a Harries position, back of hand to back of hand, support side elbow dropped all the way down to where I get the isometric tension on the pistol that I lose by taking that support hand off the gun, I am not going to come out of that position if I find someone. I have found that I do not tend to search from that position. I tend to separate the light from the gun so that I am not getting into a Rule Two situation where I am running my muzzle everywhere my light is going.

eJournal: That is the difficulty with connecting the flashlight hand to the pistol. In the private citizen’s world – although perhaps I am overstating this concern when we are discussing an in-the-home threat – shooting or pointing a gun at someone who is not a deadly threat to you is a problem.

Gelhaus: In the current environment or in parts of the country that are dealing with overly-politicized prosecutors, I would not want to give them a test case. I would rather be able to say my light was above my shoulder or next to my jaw and my muzzle was at low ready or a high ready, but not on the bad guy or the not-sure-what-they-are gun until I had to make that decision.

eJournal: Why not just turn on the electric lights?

Gelhaus: If it works to your benefit or if you can turn on all the lights at once, that puts everyone on an equal footing. Most of the time, though, when I get to a doorway the light switch that is closest to me is going to light up the room behind me, not the one I am looking into. Now I am back lit.

Back in the 1990s, not only did you have Andy Stanford’s book on low light, but you also had Ken Good and Dave Maynard teaching at Combative Concepts, which became Surefire Institute. Andy Stanford and Ken Good developed a series of principles. Don’t back light yourself was one of those principles. If at all possible, work from the least amount of light to the most amount of light was another.

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I am not saying leave all the lights out and go sneaking around the house! You cannot use deadly force on anything you cannot identify; you cannot identify anything you cannot see; you can't see anything that is not illuminated. I am in my bedroom. It is two in the morning, and I hear the crash, boom, bang! Is it a teenager coming home or are we the victims of a hot prowl burglary? I go to the bedroom door. I have a gun in hand; I have a light in hand. If I turn on the bedroom light, I am back lit in the door, and I am not working from the least amount of light to the most amount of light.

What if I have a light for the hallway right outside the door? I can stick my hand out in the hallway to turn on the light. There is nothing wrong with that; I am not going to tell you it is a bad idea. I am just going to ask, "What is the benefit?" You already know the way around your house. What is the benefit of turning the lights on? Where is somebody likely to be that the lights are going to illuminate them to your benefit?

It's your house. You know where the framed pictures are; you know where the mirrors are. Don't run the flashlight across them. Have the light down at the baseboard or up on the crown molding. A light with 750 to 1,000 lumens and enough candela to throw it across the room or down the hall or fill the living room, pointed down low or up high, can illuminate everything almost to the level day light coming in open windows.

eJournal: I've got to ask why are people even leaving the bedroom at all? Absent a law-enforcement duty, should we hole up behind cover in the safe room unless there's someone elsewhere in the home who an intruder may harm?

Gelhaus: I think the reason the phrase "curiosity killed the cat" exists is because we are all curious. *[Sighs]* I get it! You'll go downstairs to look if you live alone and you don't have kids and you hear something weird and the dogs are barking. I have been guilty of that myself. But if I hear the crash, boom, bang that precedes hearing somebody moving around downstairs, maybe I hear the back door shattering, or I hear the kitchen door getting kicked in, I am probably going to barricade and wait.

A couple of summers ago, during the riots, we saw people leaving their houses to go out and engage folks. It did not go well for them either in the moment or down the road as prosecutors got involved. If I do not have to go outside, why would I? I can look out windows, I can look out the peep hole in the door, I do not need to go outside to see what is going on.

eJournal: It is an interesting progression. The breakdown of law and order drives good folks to get serious about training and about gear. It comes at a time when there are so many more equipment choices than there were 40 years ago when people felt their neighborhoods were safe.

Gelhaus: I look back at the lights I had when I was in the Army, the lights I had when I was working on the ambulance, the Streamlight SL 20 I got when I was a baby cop. The stuff we

had in the 1990s, made me swear off rechargeables. The big battery sticks we had in the Streamlights at work took a set very quickly. If you threw it back in the charger every time you used it, you would quickly compress the amount of charge. The new rechargeables – after battery designations went to numerical like 18350, 18650, not AA, C, or D – are amazing! We can get light output and longevity that you cannot touch with a traditional CR123 battery. We're getting brighter lights with more lumens that are lasting longer. Don't be afraid of the new rechargeables.

eJournal: Of course, I am old enough to remember Maglites on which we rotated the head trying to get rid of the dead spot...

Gelhaus: I remember when I first stumbled across a SureFire 6P. Sixty-five blinding lumens of tactical light! Now that is what you would use to find the key slot on the back door. Lights have come so far over time.

eJournal: I remember! When they were new, I would have gone to great lengths to get a SureFire 6P. Now, if we were to try to use a 6P to create the bounce of light that you described a few minutes ago, we would be sorely disappointed. Even the little one-cell Fenix in my pocket gives a pretty good splash off the baseboard, enough to see a foot or elbow, as you said.

Gelhaus: Being able to work that spill keeps you out of a Rule Two violation. That keeps you from running a muzzle across those more-than-95% of people you may find in your house in the dark that are not part of a home invasion. The behavior of the other 3% will make it clear that you don't need to point the muzzle at the baseboard.

eJournal: This has been a great discussion of modern light choices, plus techniques for smart and safe use of today's brighter lights. I appreciate being able to learn from your experiences, the wide variety of flashlights you've experimented with, and the way you have defined and prioritized what we need to do to stay safer when its dark.

Erick Gelhaus is the editor of the online publication [American Cop](#). After 29 years in full-time law enforcement, he retired from a Northern California sheriff's office as a patrol sergeant. He worked in patrol, community-oriented policing, gang enforcement, narcotics, and new deputies' field training during his career. He was a lead instructor in and later supervised the agency's firearms program. His own training résumé is extensive, including Force Science, and many of the leading names in firearms training. A Gunsite instructor since 2001, he has given presentations on police procedures, use of force, criminal street gangs, and critical incident issues to a variety of organizations, and his articles have been published in S.W.A.T., Modern Service Weapons, Soldier of Fortune, and law enforcement magazines. He served in the Army as an infantryman including a combat deployment as a heavy weapons squad leader. Erick's training company is [Cougar Mountain Solutions](#) and his email is cmsolutions@sonic.net.



President's Message

by Marty Hayes, J.D.

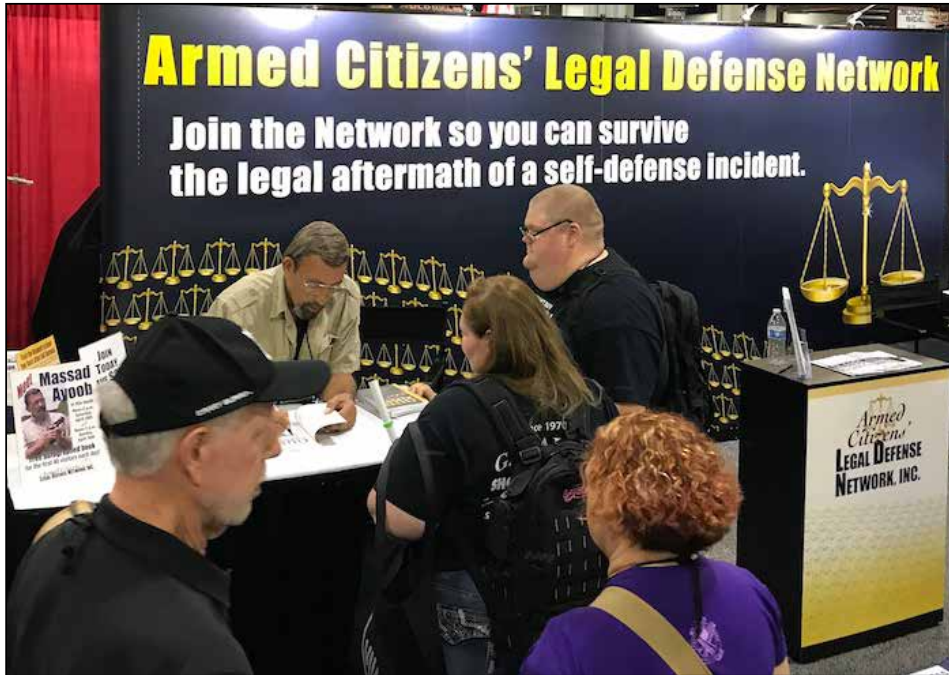
I have been writing this president's message each month since our inception in 2008, meaning this is the 176th such message! I enjoy keeping our membership informed about the goings on at the Network, and I hope you enjoy reading these columns. This personal contact is what makes the Network

different from the other companies selling after self-defense legal plans. I guess this effort would be considered "old school" and that label fits me to a "T." Someday I will be replaced when the corporation moves into a different phase, but we do not expect that to occur for some time. For now, you are stuck with me!

Come Visit us in Indy!

We will be at the Indiana Convention Center April 14-16 for the NRA Annual Meeting (<https://www.nraam.org/>). Despite the leadership issues

the NRA faces, I believe all gun owners should be a member, as it is the political clout of the NRA that's kept the anti-gun politicians away from the door (at least up to now). The leadership issues of the NRA will eventually get resolved, so joining is not a waste of your hard-earned dollars. If you are not a current NRA member, you can join right at the Annual Meeting and get into the exhibit hall.



Advisory Board member Massad Ayoob signs a fan's book in the Network booth at an earlier NRA Annual Meeting. Look for us at the April 14-16 event.

The Network will put up its normal booth, this year in exhibit space #3320. If you are nearby on Saturday afternoon, the advisory board, Massad Ayoob, John Farnam, Dennis Tueller, Manny Kapelsohn (Tom Givens can't attend) and our two new board members, Marie D'Amico, and Karl Rehn. We will all be

in the booth at 5 p.m. (at least that is the plan two weeks out, when we need to publish this journal). If you haven't met these folks yet, this would be a grand time to shake their hands and get a selfie (if you are into those kind of things). If you do, be sure to post it on Facebook to give us a little free publicity. We hope to see you there.

Good News from the Network!

Recently, we reached a milestone in our membership numbers, topping the 20,000 mark! Our original goal was 5,000, so you can see that as the years go by, we re-evaluate our goals and set new ones. Our next goal for the Legal Defense Fund is to go over 4 million dollars, and at present rates of renewals and new sign-ups, we should reach that goal by summer!

How Did the Hearing Go?

On March 13 we argued ACLDN v. Office of Insurance Commissioner in front of a 3-judge panel of the WA State Court of Appeals, Div. II. We were ably represented by attorneys Dennis Polio and Ed Wenger, two pro-gun appellate attorneys from the law firm Holtzman Vogel Baran Torchinsky & Josefiak, PLLC, from Washington, D.C. I was disappointed that the Insurance Commissioner attorney didn't roll over and expose their

underbelly after the hearing, but then, I am easily disappointed! Actually, I think their attorney also did a professional job arguing the merits of their case, although I also believe they have the weaker case.

The good news is that the judges must find in favor of the Network or the OIC, and if they decide for the OIC they will have to write an opinion as to why they believe the act of self defense is not a voluntary, intentional

act, but instead a contingent act, meaning you acted without intentionality after being presented with a set of circumstances that warranted the use of deadly force.

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I could go on and on, but let's wait for the ruling before we go down that rabbit hole. According to Spencer Freeman, our local attorney who was also at the hearing but sitting in the audience with me, it will likely take a couple months until we get the ruling. What is interesting is that this legal issue has never been presented to the court, meaning that the opinion they come forth with will be a "Published" opinion, and will become Washington case law, and will have binding precedent here in WA. When we discuss "case law" in our legal writings, this is exactly what we are referring to.



[L-R] Our local attorney, Spencer Freeman, Marty and Gila Hayes, Ed Wenger and Dennis Polio.

"Hello, this is Marty."

That is the greeting when you call the after-hours emergency phone number in order to request assistance after a self-defense incident, or to discuss an incident with me. That phone is on 24/7, but since it exists as an after-hours emergency line, many times it does not get answered during normal business hours when the office staff can cover phones.

If you need to contact me during normal business hours, please dial 888-508-3404. If it is a self-defense case, the office can get a hold of me quickly, and I can call you back. But most of the time 888-508-3404 is used for renewals, new member sign-ups and general questions about the Network. We have thought and thought about a better way I can remain accessible to help our members 24/7, but in 14 years, we have not come up with a better way.

And with that explanation, I will sign off for now, and hope to see you in Indy.



Attorney Question of the Month

In recent Network online journals, Robert Margulies, MD gave very convincing arguments to justify using deadly force against an empty-hand attack. At the same time, experience in court also shows that when a person uses deadly force against an unarmed attacker, they are routinely prosecuted for murder. We asked our affiliated attorneys –

In your state, if a citizen uses a gun to stop an empty-hand attack, is the armed citizen routinely charged?

Is there any established case law in your state clarifying the use of deadly force to stop an empty-hand attack?

We received a number of good, educational responses and split them between our March 2023 and this, the April 2023 journal. Here is the second half of our attorneys' answers–

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As with so many circumstances in the legal world, it depends. Prosecutors in Indiana are tasked with making the charging decision, and whether they decide to charge an armed citizen who uses a gun to stop an empty-hand attack is going to be highly fact sensitive. However, the fact that the attacker is empty-handed is not enough on its own to justify a charge. This determination will be made in the context of a self-defense claim, and we should address the parameters of a valid self-defense claim to begin.

In Indiana, a valid claim of self defense is a legal justification for an otherwise criminal act. A person is justified in using reasonable force against another person to protect the person or another innocent person from what the person reasonably believes to be the imminent use of unlawful force. A person is justified in using deadly force if the person reasonably believes that the force is necessary to prevent serious bodily injury to the person or another innocent person or the commission of a "forcible felony," which is defined by Indiana statute.

To prevail on such a claim, the defendant must show that he (1)

was in a place where he had a right to be; (2) did not provoke, instigate, or participate willingly in the violence; and (3) had a reasonable fear of death or great bodily harm. In making this determination, a jury looks from the defendant's viewpoint when considering facts relevant to self defense. However, the defendant's belief must have been reasonable. The phrase "reasonably believes," as used in the self-defense statute, requires both the subjective belief that force was necessary to prevent serious bodily injury, and that such actual belief was one that a reasonable person would have under the circumstances.

For purposes of a claim of self defense, the question of the existence of apparent danger, apparent necessity, as well as the amount of force necessary to employ to resist the attack, can be determined only from the standpoint of the defendant at the time and under all the then-known existing circumstances. Focusing on the defendant's standpoint means at least two things: (1) the trier of fact must consider circumstances as they appeared to the defendant rather than to the alleged victim or anyone else, and (2) the defendant's own account of the event, although not required to be believed, is critically relevant testimony.

With this background in mind regarding self-defense claims generally, it helps us understand the legal context and the framework for judgment. So, how does this apply to an armed citizen who uses a gun to stop an empty-hand attack?

In Indiana, there is case law dating back to the late 1800s saying that an armed citizen is not automatically barred from using deadly force against an unarmed attacker. In the 1898 case of *Davis v. State*, the Indiana Supreme Court addressed an inappropriate jury instruction and said:

These instructions inform the jury that a person assaulted by another, who has no weapon in his hands, or the appearance thereof, is not justified in using a deadly weapon in defense of his person. If that is the law, then, in every conceivable case of a violent attack upon one by another, no matter what the circumstances may be, no matter what the disparity between the ages and physical strength of the two may be, the assaulted party must stand and take his chances of being knocked down and stamped into a jelly, or of being choked to death, before he can lawfully use a weapon in his defense.

Though the appearance and circumstances of the assault were such as to induce the reasonable belief to be honestly entertained by the defendant that his life was in danger, or that he was in danger of great bodily harm, from the assault, he could not lawfully use

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a deadly weapon to repel such assault, unless the assailant had a weapon in his hands, or the appearance thereof, no matter how many he had about his person. That is not the law.

Davis v. State, 152 Ind. 34, 51 N.E. 928, 929-30 (1898)

As you can see from the language in this opinion, whether one will be justified in using deadly force against an unarmed attacker will be highly fact sensitive. Is there a disparity in age, gender, size, ability, etc.? In other words, does the unarmed attacker have the ability to inflict death or great bodily harm on the innocent self-defender? All these considerations would be taken into account when considering the use of force, whether or not the attacker is armed. Otherwise, the person being assailed by an unarmed attacker, “must stand and take his chances of being knocked down and stamped into a jelly, or of being choked to death, before he can lawfully use a weapon in his defense.”

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Florida does not have a definitive appellate case establishing when deadly force would be appropriate to resist an empty-handed attack. Rather, the standard to be applied when using a firearm in self defense against an open handed attack is whether the gun owner reasonably believed such conduct was necessary to prevent the imminent commission of a forcible felony, death, or great bodily harm to themselves or another. *State v. Moore*, 337 So. 3d 876, 881 (Fla. 3d DCA 2022).

Importantly though, gun owners should be aware that due to a series of amendments to Florida’s self-defense laws, which

collectively became Florida’s Stand Your Ground law, just brandishing a gun to deter a suspected assailant is now considered the use of deadly force. *Little v. State*, 302 So. 3d 396 (Fla. 4th DCA 2020). Prior to these amendments, “the mere display of a gun, or even pointing a gun at another’s head or heart without firing it,” was considered non-deadly force as a matter of law. *Copeland v. State*, 277 So. 3d 1137 (Fla. 5th DCA 2019).

This is an important distinction, because prior to the statutory amendments, a gun owner could brandish or even point their gun in self defense at another person who posed even a minor threat of harm. In this situation, the standard to be applied is whether the gun owner reasonably believed such conduct was necessary to defend against another’s imminent use of unlawful force. There was no requirement that the gun owner had to articulate a fear of great bodily harm, death, or commission of a forcible felony by the assailant before being justified in displaying or pointing their firearm.

However, under Florida’s current Stand Your Ground law, if confronted by an unarmed assailant, before legally being allowed to brandish – much less point – a gun in self defense, the gun owner must be prepared to articulate why they had a reasonable fear the suspected assailant was intending to commit a forcible felony against them or cause them death or great bodily harm.

Simply claiming a generalized fear of being hurt by another person because a heated verbal argument broke out or a generalized fear of getting into a fist fight will be insufficient under Florida law to brandish or point a firearm in self defense absent the ability to articulate additional circumstances to justify a reasonable fear of great bodily harm or death to the gun owner.

Thank you, affiliated attorneys, for sharing your experience and knowledge. Members, please return next month when we have a new question for our affiliated attorneys.

Book Review

In Defense of the Second Amendment

By Larry Correia

[Regnery Publishing](#) (January 24, 2023)

256 pages, Hardcover \$29.99; eBook \$14.99

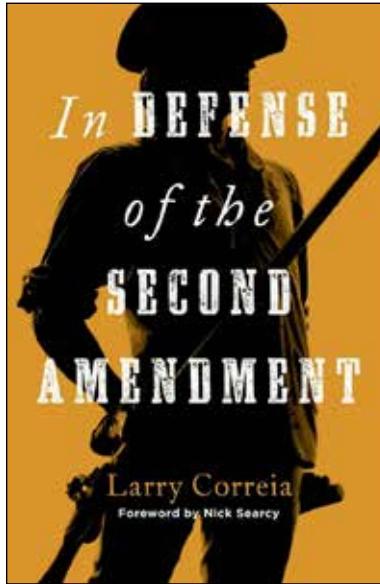
ISBN-13: 978-1684514144

Reviewed by Gila Hayes

Has America outgrown its Constitutional recognition of the right to armed self defense and the right to possess weaponry to overthrow government tyranny? This is the underlying question when novelist Larry Correia departs from his usual supernatural epic genre for a long but informal debunking of the many reasons politicians, news media personalities, entertainment celebrities and others cite as they attempt to destroy this cornerstone of America's freedom.

Restrictions against lawful gun ownership are nothing new. Correia, who once was a Class III dealer, explains how early gun control laws targeted unpopular minorities, and favored the wealthy. For example, the 1934 NFA restrictions set what was at the time an exorbitantly high fee to own suppressors, short-barreled shotguns, and rifles and other AOW class firearms, restricting them to just the very wealthy. Today, a \$200 tax stamp isn't a big financial impediment, but in 1934 it would have been about \$4,500 in today's dollars. Decrying laws that allow and disallow a variety of gun features, mandate barrel length, regulate suppressors, and risk inadvertent commission of a felony by uninformed gun enthusiasts, Correia writes, "For almost ninety years these things have been heavily regulated, and it made no difference to criminals." At its heart, gun control isn't about guns; it's about control. Anti-gunners may talk about common sense gun control, but "All of it, every single bite, is designed to make you weaker and them stronger," he stresses.

There is no shortage of logical fallacies that are trotted out when the government and the news and entertainment media join forces against armed American citizens. Correia painstakingly debunks each one. School shootings horrify people on both sides of the gun rights argument. Correia argues for allowing voluntary concealed carry so school staff can stop or "be a speed bump" to slow anyone trying to harm the children. Schools and workplaces, he adds, should allow the fundamental human right to personal defense and safety. "The only rules schools—or any employer really—need to add to their employee handbook about CCW are these: If you are going to legally carry a gun at work, keep it concealed at all times, keep



it securely on your person at all times, and only pull it out for matters of life or death, or we fire your ass. Simple. You don't need to over-complicate this with extra paperwork, bureaucratic oversight, or mandatory training."

Any mass killing is an "opportunity for political gain," which the "worst among us" are fast to exploit because poorly informed people hearing the news can't help but think "what if we or our loved ones had been the victims?" As a result, public figures who propose to "do something" get the backing of the fearful who naively endorse simplistic, feel-good gun ban legislation. He adds, "Our system has developed a sick, symbiotic relationship with mass murderers. The killers get the fame and validation they desire, and the news gets ratings and websites get clicks. Afterwards the gun control politicians come along and reap the harvest."

If Correia's statement that the laws are passed for personal power seems overblown, consider this: politicians and the news media vigorously suppress reports of incidents in which atrocities are committed by minorities or when a mass killing attack is stopped by an armed citizen. "What stops killers?" Correia asks. "A violent response. The only real question is how long it takes to arrive," he answers. The armed citizen's intervention will not be widely reported or if it is, it will be mentioned only in passing. Twisting the facts only encourages more violent acting out by those who feel the world as not given them their due. "By burying the stories where wannabe killers promptly get shot in the face by a local and die a pathetic and ignominious death, they remove the chance for shame," Correia writes. "If all an aspiring killer goes by is what he sees on the Internet, then he will believe he's going to be an unstoppable force until the cops eventually arrive in five to seventy-seven minutes. How about instead of promising them fame and importance, the media shows the ones who get gunned down by a grandma and end up as big a failure in death as they were in life?"

Instead, mass killer's faces get plastered on magazine covers and their names repeated in news and commentary gone viral, all fueling the plaintive cries of, "We've got to do something!" Correia systematically debunks the most common "Do Somethings," including mandatory gun registration, mandatory training, red flag laws, and the big dream, total elimination of private gun ownership. What would happen if gun ban activists succeeded? He writes that the four-day terrorist massacre in Mumbai 2008 that killed 164 and wounded over 300 shows

[Continued next page]

very well what happens. Look also, he suggests, to the rape and assault statistics from Australia after the gun ban that followed the Port Arthur, Tasmania mass shooting, or consider increases in violent crime in Great Britain – if you believe crime stats despite knowing they're substantially underreported.

The so-called murder capitals of the world are generally also plagued by drug or gang problems, terrorist infiltration or other societal issues. Shootings there get all the headlines, while most of America is peaceful. Murders in crime-ridden cities “have absolutely nothing to do with my owning guns in rural Utah,” Correia writes. The problem is evil, not guns, he continues. “Some of the biggest mass killers in modern history have used bombs, arson, or even airliners. There is no law you can pass, no one thing you can ban, and nothing you can say or do that will stop some men from choosing evil,” Correia concludes.

Lest it sound like *In Defense of the Second Amendment* is political, pro-gun propaganda, I hasten to add that Correia does not hesitate to also criticize our own people. Speaking out against open carry purely to make a political statement, he urges, “We’re in a culture war. Let’s not provide ammunition to our enemies.” The cultural war is over much more than guns, he writes later, and stresses that the Second Amendment also protects people who disagree on any number of beliefs, be that abortion, climate change, or the host of other fractious issues. “All of us have the right to defend our lives, and there is no other tool that’s as viable for that as the gun.”

Self defense is a human right that transcends our differences, he urges. “I don’t care what your personal beliefs are, or what your lifestyle is, self defense is a human right. Take advantage of it. Please. If you are responsible and you’ve got the proper mindset, seek out training, get familiarized with weapons, and then get yourself a firearm. If you live some place it’s possible,

get a concealed weapons permit, and get used to carrying it everywhere you can. There are plenty of people happy to walk you through the process.” This he follows with a review of the legal and ethical principles affecting use of force in self defense, suggestions about training, and encouragement to speak out against all the lies told in the ongoing attack against the Second Amendment.

Gun control boils down to one question, Correia concludes. Do the American people own their government, or does the government own the people? He closes out *In Defense of the Second Amendment* with a rallying cry to win the culture war on little things as well as big political fights. “It’s the little things. It’s being that good example. That helping hand. It’s teaching and passing on knowledge. The greatest warrior for the Second Amendment is the grandpa who takes the grandkids out and shows them how to knock cans off a fence with a pellet gun. It’s the patient spouse who tries to gently persuade his or her significant other that Moms Demand Action is lying to them, and that allowing a gun in their home isn’t the end of the world. It’s the manager who tells the HR department to shut up, and then tears down all those gun-free zone signs. It’s you every time you take some new people to the range, show them how to use your guns safely, and then help them have fun.”

Unlike the scholarly works we generally read, *In Defense of the Second Amendment* plain talks all the reasons why disarming Americans will not work, in the author’s chatty, conversational way. That’s not to say Correia is short on stats, but for this reader his commentary is what really carries the arguments. A friend told me that he found the book like sitting in the living room and chatting about shared concerns with Larry Correia. The value lasts beyond the enjoyment of reading, my friend added, because the substantial footnoting and index at the back of the book will support his pro-gun arguments.



News from Our Affiliates

by Gila Hayes

On Tennessee's northern border where the state line meets Virginia and Kentucky, Valor Ridge is inspiring patriotism and self sufficiency through the leadership of instructor Reid Henrichs. His name comes up quite frequently

in answer to our question, "How did you learn about the Network?"

Henrichs was a recreational shooter before he joined the US Marine Corps at the age of 17. He remembers learning the fundamentals of shooting during rifle training and realizing that he was being exposed to "just the tip of the ice burg."

"It was a little overwhelming," he grins. As a young person, he followed the writings and videos from master instructors. Years later, he was fortunate to be a student in the last class Chuck Taylor taught and he talked with Taylor at length while finalizing work on his book *Pistolcraft*.

When Hurricane Katrina devastated New Orleans, Henrichs was chosen to be part of the law enforcement task force sent from the state of Illinois. He vividly recalls arriving in New Orleans, and being sent to the 9th Ward (where locals told him they would refuse to go) to patrol at night. There was minimal backup and the conditions were surreal, he relates. The demands there made much of his foregoing military and police training seem "sterile" and underscored his growing realization that fighting was the skill required, not marksmanship, although marksmanship had been the focus of most of the previous training he had received from the military and police.

Henrichs's classes emphasize fundamental skills. "There is beauty in the basics," he teaches, adding that "flubbing your draw" during a class or match is recoverable; if facing a deadly assailant, the skill of effectively drawing and presenting your pistol has to be available on demand. During class, he doesn't push students to perform faster than they are able, noting that a hurried trainee will habituate incorrect technique. "We start with dry fire, where we polish the technique," he explains. Only when technique is perfected does training move to live fire. "You have to earn your live rounds," he comments.

Shooting the gun is the "least important part" of defensive pistol work, Reid stresses. Once Henrichs's students have mastered the fundamentals, he presents movement drills, muzzle positions, target discrimination and force-on-force exercises. "You have to be able to think first, then shoot second," he



emphasizes. Whether teaching first time gun owners or police firearms instructors or SWAT in-service, Reid works to build and reinforce solid basic shooting skills in his students. Marksmanship, speed and distances in gunfights have pretty much remained unchanged for hundreds of years, he explains.

Get to know Reid Henrichs and explore training opportunities with him at Valor Ridge where, according to his website <https://valor-ridge.myshopify.com/pages/valor-ridge-training-calendar> classes fill up quickly.

Carry License Training Gets 'Em Hooked

In Michigan, Dean Craig brings over three decades of experience as a concealed carry licensee himself to teaching the curriculum for the MI CPL certificate required of carry license applicants. His firearms school name is Got CPL? Defensive Firearm Training and he gets great reviews!

Dean's carry classes are a great lead in to his more advanced classes, which are designed specifically to teach private citizens to defend themselves if attacked. He teaches on his own private range, so his classes are not hampered by the usual shooting range restrictions against drawing, moving, multiple target engagement and other constraints not present in armed self defense. Dean describes himself as an avid student, commenting that the best instructors are dedicated to continuing their own education. Learn more at <https://www.gotcpl.com/about/>.

When we first met John Rigney of Federalsburg, MD's All Things Firearms, LLC (<http://allthingsfirearmsllc.com/>), he was just starting to teach and was building up his student base as an instructor. Since then, he's built a great reputation as a patient and supportive instructor. It has been fun watching his classes grow and as his business increased, so have the numbers of new members he introduces to the Network. He specializes in the concealed carry licensing course for MD, and offers the multi-state reciprocal Utah permit class, as well.

Northeast of San Antonio, TX, Eric Lamberson offers the TX CPL range instruction and qualification, but the training opportunities at his Protective Pistolcraft Academy go much deeper, with a focus on proven, real world techniques including low light pistol techniques, classes on self-defense law, shotgun, and he hosts Massad Ayoob as a guest instructor.

Eric started earning shooting medals 40 years ago as captain of the Army's 97th ARCOM pistol team, going on to compete in IPSC, Second Chance, IDPA, PPC and more. He has studied at American Pistol Institute and later Gunsite, and with John Farnam, Massad Ayoob, Tom Givens, KR Training, Dave Spaulding, Gabe Suarez and many more. In addition to his classes, Eric maintains a very informative blog at <https://protectivepistolcraft.com/blog> where he writes about training, use of force incidents ripped from the news headlines, techniques and lots of more useful information.



Editor's Notebook

by Gila Hayes

Building up financial resources for the legal defense of Network members has been only one of our tasks since January 2008 when we launched Armed Citizens' Legal Defense Network. Education, fellowship and networking have been just as important to the

growth of a supportive membership. The key to succeeding at all those aspects of our organization's growth has been staying focused on our mission.

We are resolved that no Network member will face the legal system alone after legitimate use of force in self defense. We are driven to prevent unmeritorious prosecution of a member. Still, when potential members ask questions before deciding to join, the amount of money set aside for member legal defense consistently arises. Even though my mom and probably yours, too, often said that it's rude to talk about money, today let's talk about the Legal Defense Fund. Sorry, Mom...

Where did it come from?

The Legal Defense Fund is primarily made up of a portion of membership dues set aside each month when dues income is tallied up. At the beginning, we reserved 20% of each dollar paid in membership dues to start building the Legal Defense Fund. As soon as possible, we increased the set aside to 25%. When we could, we made additional deposits to the Fund, which has also been gifted thousands of voluntary donations from members, received bequests from deceased members, and auctioned donated guns, ammunition and accessories with 100% of the proceeds going into the Fund.

From the beginning we were pressured by financial advisors who wanted to add the Network to their client list and invest the Legal Defense Fund in stocks and bonds. Their hearts were in the right places, but we politely rebuffed their offers, knowing from our own experience that the market adjusts up and down, and there is no guarantee that the stock your broker put your money in last year will be worth as much today. We could not expose the Legal Defense Fund to the risk of loss.

As the Fund grew beyond what would be needed to pay legal expenses on behalf of members, we began to put it into certificates of deposit to earn interest. As the CDs matured, the search for highest yield, 12 to 18 month CDs would start all over again. As the Fund grew from half a million, to a million, to two million dollars, we hustled between FDIC-insured banks and NCUA-insured credit unions pursuing available interest.

We shuttled from bank to credit union, phoning bankers, checking interest rates against how long the money would be tied up, and opening CDs to keep the Legal Defense Fund earning the best interest. One day, at a bank where we had an appointment to open a quarter-million dollar CD, we stopped cold at the

front door. There, in blazing red, was the circle with a slash over the silhouette of a Beretta handgun. I am afraid a bad word or two was uttered. Sorry, Mom...

This wasn't the first time we closed or declined to open accounts with banks that literally did not want us to come inside. Disgusted by wasting time dragging our corporate officers around to open accounts at banks and credit unions to stay within the limits on depositor insurance, we knew it was time to engage a professional to choose CDs for the Legal Defense Fund. Years earlier, at classes with our mentor Massad Ayoob, we met a financial planner whom we grew to admire and over the years stayed connected through classes with Massad. Our exploratory consultation with our acquaintance and his partner who is his son was probably one of the stranger new client meetings those two good gentlemen have conducted.

Our stated requirements? Stick to CDs and FDIC-backed money market deposit accounts so we don't risk the Legal Defense Fund to a stock market drop. Keep the CDs fairly short term, under 18 months. Avoid financial institutions known to promote anti-gun agendas. That meeting happened four years ago. Their accomplishment of those requirements, coupled with exceptional communication and accessibility, maximizes the Fund's access to safe interest earnings that further strengthen the Fund and keep the Network able to fulfill its mission. We are blessed by how well they have shouldered this duty.

Personification of the Network

Picture in your mind someone you know or have known who is balanced, hard-working, resourceful and able to provide for their own needs. They probably aren't conspicuously wealthy, and don't flaunt what they've got by living in a mansion, but you know they have enough squirreled away to get through a major illness, job loss, or other misfortune. If, instead of 20,500 individuals, the Network was a single person, its personification would be a lot like that. The Network is not in debt, is paying fairly for the services and goods it uses, and is backed by a nest egg set aside to address worst-case scenarios. Our nest egg, of course, is earmarked to bear the legal expense for members who use force to defend themselves.

The spring of 2011 brought our first member-involved use of force, a defensive display of a firearm to stop multiple aggressors, resolved by a last-minute plea offer that our member found favorable and accepted. Since then, 28 other members have been involved in self-defense situations, and we wrote checks to their attorneys from the Legal Defense Fund to make sure justice prevailed.

From its start as little more than a good idea in January of 2008, the Network's Legal Defense Fund has grown to over \$3,750,000, having paid over a quarter of a million dollars for the defense of members. Think about this: while it is important to have enough socked away to meet member legal needs, it is just as important to draw out of the Fund for the good of our members. Ultimately, the Network's value is in the good it does.

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 <https://armedcitizensnetwork.org/our-journal>. Content is copyrighted by the Armed Citizens' Legal Defense Network, Inc.

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

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

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

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

Marty Hayes, President

J. Vincent Shuck, Vice President

Gila Hayes, Operations Manager

We welcome your questions and comments about the Network.

Please write to us at info@armedcitizensnetwork.org or PO Box 400, Onalaska, WA 98570 or call us at 888-508-3404.