



# Firearms Training: Asset or Liability?

## An Interview with Emanuel Kapelsohn

by Gila Hayes

Attorney, instructor and firearms expert Emanuel Kapelsohn has generously agreed to help us sort out the thorny question of discussing firearms training during courtroom defense of an armed citizen who has been forced to defend him- or herself. To most accurately share Kapelsohn's detailed answers to questions about court-defensible training, we switch now to a Q and A format.

**eJournal:** Recently a Network member asked if attending one or more "gun schools" might create legal problems if the student were later involved in armed self defense. In light of your considerable litigation experience, I was very pleased when you agreed to help us hash this out. Thank you!

First, I'd like to ask about your multiple professions as an attorney, police firearms and tactics instructor, and expert witness in shooting cases. Your instructor credentials include recognition as one of the leaders in police firearms instruction, yet you've also been involved in many civil and criminal cases involving firearms and use of deadly force. What have been some of the high points of your career?

**Kapelsohn:** Well, Gila, I want to start by pointing out that, while I have done mostly police firearms instruction, I have also trained large numbers of private individuals and I continue to do so. I started as a professional firearms instructor in 1979 at Col. Jeff Cooper's American Pistol Institute (also known as "Gunsite") in Arizona. Working with Colonel Cooper, being a guest in his home, and working with the many other fine and accomplished instructors there—people like Clint Smith, Chuck Taylor, Dennis Tueller and others—was thrilling and highly



motivating for me as a young instructor. Later, I studied or taught with other fine instructors, people like John Farnam and Ken Hackathorn and Jim Morell, and I learned important things from each of them.

Through my one-man firm, Peregrine Corporation, I was a contract trainer for Glock during the height of the police transition from revolvers to semiautomatic pistols. That gave me the opportunity to travel all over the country, and sometimes outside the country, training instructors for many major police agencies. This let me see a lot of different ways to do things and has continued until today to give me widely based feedback on what works in guns, techniques and tactics, and what doesn't. And on a more personal note, I proposed to the woman who has now been my wife these past 22 years while we were in Austria together as the guests of Gaston Glock! That was definitely a high point.

As you know, I've been on the board of directors of IALEFI (the International Association of Law Enforcement Firearms Instructors <http://www.ialefi.com/>) for the past 26 years. It's a wonderful organization, and I believe we've brought the best, cutting edge training to thousands of law enforcement agencies. That's definitely been a high point.

And I've worked as an expert witness in some high profile shooting cases, such as the shooting of a deranged attacker right in front of the White House, where I was an expert witness for the U.S. Department of Justice, with Johnny Cochran as opposing counsel

representing the family of the deceased.

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Left: How will a judge or jury for whom self-defense concepts are very foreign perceive the armed citizen's training?

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And there have been many cases that were not so highly publicized that were every bit as important, both to me and to those I represented.

**eJournal:** What gives you the greatest satisfaction?

**Kapelsohn:** Without a doubt, it gives me tremendous satisfaction when someone I trained with firearms calls and tells me that something I taught them saved their life or someone else's life last night. That's happened to me a number of times in my years as a trainer.

It also gives me similar satisfaction when my work as an expert witness helps save either a police officer's or a private individual's life in terms of their freedom versus being convicted and going to prison, or the loss of their chosen profession, or loss of everything they've worked for all their lives.

And I'd say I also find it tremendously satisfying simply to train people and have them leave stronger, more confident and better prepared to defend themselves and others than when they came to me. I think that's the same kind of satisfaction that motivates you, Gila—and any other good instructor.

**eJournal:** Well, you're right, the best instructors really do care what happens to their students and that is why they teach. So let's talk about firearms instruction and the concern that has arisen that taking classes may be misconstrued in court. Many states require minimal training or proof of proficiency to obtain a license to carry. If an armed citizen exceeds that standard by pursuing additional training, does he or she run the risk of being portrayed as an over-eager gunslinger?

**Kapelsohn:** Gila, based on my work in shooting cases, sometimes as an attorney and more often as an expert witness working with other attorneys, I know that the risk you've described certainly exists. There are ways the armed citizen and his attorney can manage and reduce that risk, and I'd like to discuss those ways a little later.

First, the risk that training might possibly be used against the armed citizen doesn't hold a candle to the risks involved in NOT being adequately trained. The risks of not being adequately trained are, in my opinion, far more likely to be tragic or deadly, and can't be managed after the fact.

You might say that the only "good news" about being sued or prosecuted is that you have to be alive to have that happen. Without adequate training, you might not

even be alive—or worse yet, you might be alive but your loved ones might be dead or crippled for life.

Let's bring some of our readers down to earth here. For almost any armed citizen, unless they have to live or work in a veritable combat zone, the chance that they will ever actually be involved in a shooting is very small, especially if they use common sense and good judgment, and practice safe habits in their daily life.

Even if they are ever involved in a shooting, it won't always be the case that they wind up being criminally prosecuted or sued civilly. And even if they do have to go to court, their firearms training history may or may not play a part in the case. But against those possibilities, which even taken collectively are very slim, is the CERTAINTY that every single day that they handle or carry a gun, they are at risk of accidentally injuring themselves or a loved one or someone else. Good training significantly reduces that risk. And if they ever do find themselves confronted with a life-threatening situation, having had good training, in my opinion, greatly reduces the risk that they will do anything that will result in their being prosecuted (much less convicted) in criminal court, or sued (let alone losing the suit) in civil court.

I also believe that the self confidence that good training produces can often deter a criminal's attack, because that confidence is often non-verbally communicated to the would-be attacker and can change his mind about continuing his crime with you as his victim. In my mind, training is definitely a necessity for any armed citizen, just as it is for a law enforcement officer.

**eJournal:** Since we agree that training is necessary, we now need to explore how to communicate to a jury the motivation and value of private citizens attending firearms classes. In the context of the courtroom, how would you refute accusations that the armed citizen received training in order to kill more efficiently or was eager to use the skills learned to shoot another person?

**Kapelsohn:** A good attorney should be able to completely undermine any prosecutor's or civil plaintiff's argument that the citizen's attendance at one or more firearms training courses shows he was bloodthirsty or eager for the chance to kill someone. The attorney can do this either through the defendant himself, possibly through his firearms instructor or through an expert witness, by showing that the defendant's attendance at

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the courses was a responsible thing for him to do, to make him a safer gun carrier, less likely to have a gun accident or to make a poor judgment in a stressful or even downright terrifying situation where his life or the lives of others might be at stake.

One of the very most important tools to use in this regard is the curriculum of the training course, or the student's notes taken at the course, to show what material was covered. For instance, education teaches the student the possible results of a self-defense shooting, including such things as civil suits and prosecutions EVEN IF THE SHOOTING WAS COMPLETELY JUSTIFIED AND NECESSARY, the possibly disastrous financial consequences, possible negative job consequences, negative social consequences, and emotional and physical trauma, resulting in such things as insomnia, nightmares, impotence, losing the ability to function successfully in normal life tasks, difficulty getting along with loved ones, and the possible need for professional counseling to recover from the trauma of having to shoot and possibly kill another human being in order to defend one's own life.

Having been taught about all of these terrible and life-altering consequences, WHY WOULD ANYONE EVER USE DEADLY FORCE UNLESS IT WAS ABSOLUTELY NECESSARY TO DEFEND HIS LIFE OR THE LIFE OF ANOTHER INNOCENT PERSON? This kind of evidence presented in court should go a long way toward getting the jury to view the defendant's attendance at training courses as a responsible act, rather than as the ghoulish pastime of an "armchair commando" or "gun nut."

At the same time, the fact that he knew the potentially dire consequences of pulling the trigger should go a long way toward getting the jury to understand that he would only do this if he felt it was absolutely necessary, such that if he did not pull the trigger he or a loved one would themselves otherwise suffer death or serious bodily harm.

**eJournal:** For decades police have been mandated to receive periodic, task-pertinent training. Do you think in the mind of the normal person serving on a jury, a similar if unstated standard exists for armed citizens?

**Kapelsohn:** Gila, I think you're focusing on a very important point. I don't know what unstated standard may exist in the mind of the normal juror, whoever that is. I think all jurors are unique individuals, each with their

own prejudices and their own sphere of knowledge and experience. But the mandated periodic firearms training and qualification required of police can certainly be used as an effective parallel to make jurors understand that a responsible gun carrier should similarly seek out continuing training from good sources, and that the public in general should want concealed permit holders to be as well trained as possible, rather than the reverse.

The jury should also be made to understand that periodic training is needed because gun handling and marksmanship are perishable skills.

And the need for any defensive gun user to attend training with a competent trainer, rather than trying to completely train himself, should be explained. This is good ground for the use of a skilled expert witness, who can really teach the jury what lay people need to know, in order to appreciate the need for training, so that the jurors will make the right decision.

**eJournal:** So let's look at this from a different angle. Would an argument about INSUFFICIENT training be more likely to come up in prosecution of criminal charges or in a civil suit seeking damages?

**Kapelsohn:** Clearly, it is more likely to come up in the civil suit, where the issue is whether or not the armed citizen acted properly, reasonably and with the due care the law requires, or whether the citizen acted negligently or recklessly.

The armed citizen's pursuit of good firearms training can be used by a good attorney to show that the citizen approached this responsibility in a reasonable and conscientious way.

In a typical criminal case, on the other hand, the ultimate issue is generally whether or not the citizen violated the elements of a criminal statute, not whether or not he or she was trained. If the state's laws do not require training over-and-above the minimal training required to obtain a concealed carry permit, and if the laws don't prescribe a criminal penalty for not seeking out additional training on one's own (which no such laws that I know of do), then the training issue is unlikely to come up in a criminal case, in my experience.

**eJournal:** Plaintiffs sue police departments and cities or counties because they expect there is a lot of money to be awarded as damages for the harm they are claiming.

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How do you think a similar claim might play out against a private citizen who used deadly force in self defense?

**Kapelsohn:** Ironically, this is one of the few instances I can think of where it's better to be poor than rich; poor people are what lawyers call "judgment proof," meaning they're not worth going after in an expensive lawsuit. In civil cases that I've seen brought against private individuals, the plaintiff is often going after the citizen's homeowner's insurance policy, or against his larger umbrella liability coverage policy, or occasionally after the citizen's own personal assets, if he or she is wealthy enough that those assets are worth the cost of a lawsuit.

**eJournal:** Under what circumstances might the outcome of such a court case turn on an armed citizen's proficiency or insufficient skill with a firearm? What accusations might arise about one's level of training?

**Kapelsohn:** In my experience, the outcome of a court case, whether civil or criminal, is extremely likely to turn on the armed citizen's proficiency or lack of proficiency with his or her firearm and also on his good judgment or lack thereof.

Proficient gun carriers, and that usually means ones who have been well trained professionally, not just self-trained, are in my experience less likely to have gun accidents, less likely to make bad shooting decisions, less likely to miss the bad guy and hit an innocent person, and, most important of all, more likely to stop the threat to life quickly and effectively, with few shots fired rather than a fusillade, and before the criminal attacker harms or kills innocent people.

Rather than training being a detriment, I can easily see a civil case where the plaintiff's attorney has a heyday showing the jury how a completely untrained, incompetent individual did something that was totally reckless with his firearm. I can, for example, think offhand of at least two cases I have worked in as an expert witness where a private citizen cocked his revolver and put his finger on the trigger in a stressful situation, and then unintentionally discharged the gun. In one case the accidental shot wounded another person, while in the other case, it killed someone else.

Cocking a revolver and putting one's finger on the trigger prior to firing is something target shooters and untrained gun handlers do all the time, but it is completely inappropriate in a self-defense situation, something that both of these gun carriers would have known not to do if they had attended a decent training

course. As it was, one went to prison on Riker's Island, and the other was criminally prosecuted. My testimony as an expert got him acquitted, but it was still an expensive and emotionally traumatic experience for him that would have been avoided if he had only had some training, rather than being "self trained." And, Gila, as an excellent trainer yourself, I'm sure you've had the same experience as I have: the students who are "self trained" are much harder to correct in the bad habits they've inevitably developed, than a new shooter who presents you with a clean slate.

In my opinion, there are simply too many gun owners who think or even declare that because they can shoot a small group on their paper target on a sunny day on the gun club range, they are fully prepared to defend themselves, their homes and their families with a gun.

You and I both know that nothing could be further from the truth! And it is very difficult, approaching impossible, for an armed citizen to train himself or herself properly and adequately, without attending one or more good training programs. For one thing, the average armed citizen simply doesn't know what he doesn't know, and doesn't know how to train effectively.

**eJournal:** Having agreed that professional training is important, I'd like your opinion on the various manners in which training organizations market their classes. Should we worry about how a judge or jury would view participation in a class entitled "Self Defense Has No Rules" compared to a class titled "Understanding and Complying with Use of Force Laws?" Alternatively, imagine the defendant possessing completion certificates from the Personal Defense Academy compared to something like Black Ops Combat School and tell me if you see potential pitfalls.

**Kapelsohn:** There's a good reason why knowledgeable trainers name their organizations things like your "Firearms Academy of Seattle" or my "Peregrine Corporation." And I think there's an obvious risk in attending a class with a name that can easily be used, as it will certainly be used by opposing counsel, to create the wrong impression in the jury's mind. I don't teach classes that are even called things like "Combat Pistol Shooting." I call my classes things like "Basic Defensive Handgun" or "Defensive Shotgun" or "Legal and Practical Aspects of Self Defense with Firearms" so no one should be damaged in court by testimony that he or she attended a course with a sensationalistic name.

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For the same reason, I recommend to instructors I train not to use the term “combat” in their course names, or even in their techniques. Whether the students are police or private citizens, I don’t want a plaintiff’s attorney in a civil case, or a prosecutor in a criminal case, to cross examine the defendant about how he was trained to use “combat” techniques against other human beings. I think what I am training my students to do is to SAVE LIVES, not take them, and I am teaching them “defensive” shooting techniques, not “combat” ones.

The possible need to someday take another human being’s life should, in my view, be approached seriously, not sensationally. The macho, militaristic stuff should be left at home or at the range clubhouse. Even there, a comment in front of others at the range or gun shop that if such and such happened, he’d “blow that sucker right out the door” can come back to haunt you.

And, of course, while I think training is a good thing, not a bad one, there really ARE some training junkies and armchair commandos out there.

A suburban homeowner may indeed have a hard time convincing the old ladies and liberal suburbanites on the jury that he really needed to attend a course on advanced SWAT tactics, or how to shoot from helicopter gunships, even if what he learned in those courses was, in his opinion, “really good stuff to know.”

**eJournal:** We’ve heard, “If it isn’t in writing, it never happened,” and so we keep notes to document what we learned in training. When defending a well-trained armed citizen in court, what concerns would you have about introducing class notes or training handouts to show prior knowledge, for example, about use of deadly force or tactics for armed self defense?

**Kapelsohn:** Again, Gila, I think this depends a lot on the substance of what was taught and the type of training received. As I’ve explained above, I WANT those materials and notes to show that the armed citizen had been taught about the potentially dire consequences of pulling the trigger, so that the jury understands how desperate his situation was for him even to consider using his gun in self defense. If the instructor and the course are good ones, the class handouts and the student’s notes should be important and helpful documentation, not harmful. I tell my students, whether police or private citizens, to keep their class materials forever. I’ve worked in some situations where the lesson plans, handouts, and such have been important, even when the class was attended years before the incident.

Your instructor or the school you attend may no longer be around when your self-defense incident occurs, so it’s important to keep your own documentation.

As to the “bad” stuff taught in the course, which is inevitable from time to time, whether that “bad stuff” is in the form of a sexist joke, or a tactic that’s more appropriate to desert warfare than to civilian self defense, if I’m attending a course and the instructor says something or the handout material contains something that I don’t agree with, I write on the materials something like, “I DON’T AGREE!” or “NOT GOOD!” Then the documentation reflects that although the instructor may have said or taught something injudicious or outright incorrect, that didn’t form the basis for my later actions. I suggest that others attending courses do the same. And if you don’t find out until you later read something in a defensive shooting book or until you attend a later course that something you were taught earlier is not a good idea, then go back to your previous course materials (assuming you’ve saved them, as you should), and write some corrective notes in them then dating your notes for good documentation. There’s nothing wrong with learning more and better skills over time. If we didn’t, we wouldn’t be thinking people, would we?

**eJournal:** That’s good advice! I have heard of cases in which material taught by an instructor was argued to show that the defendant’s use of force was inappropriate. In the situation I’m thinking of, one problem area was the much-quoted, “Always cheat; always win” phrase, although thanks to the Internet I’m aware of many catchy sayings I would not want attributed to my self-defense mindset! What care do armed citizens need to exercise in choosing trainers? Does the trainer’s reputation matter? Why?

**Kapelsohn:** Personally, Gila, I’ve often used the expression, “If you’re not cheating, you’re not trying hard enough.” And I make it a point to tell students that they’re not supposed to be involved in a “fair fight,” like at the Olympics.

Keep in mind that we’re typically talking about defending oneself from an armed criminal: that’s a fight you didn’t choose, and one you must win in order to survive. Like I tell police recruits, there’s no choice about it, you HAVE TO WIN. If the armed citizen’s attorney can’t make the jury understand this, he’s not the guy you should hire as your attorney.

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All that being said, the armed citizen should choose his instructors and training courses carefully. I think that the knowledge, ability and approach of the trainer matter more than his or her "national reputation." In my opinion, there are some highly reputed trainers that I wouldn't choose to learn from, and by the same token, some "unknowns" that I would. These days, any professional firearms trainer, good, bad or indifferent, can advertise himself on the Internet or have his name mentioned by a friend in some gun magazine article. That doesn't make him a good trainer, just a publicized one.

Instead, I'd look for a trainer who's been around for a while, and if possible I'd try to talk to a few people who've attended that trainer's classes. If you're considering a trainer or training school in your area, sometimes the local police or police academy can give you some good insight. They usually know who the "kooks" are and who the responsible trainers are. Sometimes, in fact, the best local trainers are retired police firearms instructors or active duty ones doing civilian training on the side. You might also want to get and read Chris Bird's excellent book, *The Concealed Handgun Manual*, that has a listing of reputable trainers and schools that he updates with each new edition.

And I agree with you that "cute" phrases could really be used to hurt you in court: things like the t-shirt that says, "Kill 'em all, let God sort 'em out!" or "Marine snipers—Reach out and touch someone," or "7.62mm – When you care enough to send the very best."

Even if we get a smile about these slogans, things like this said in class or in the handouts have no place in defensive firearms training. In fact, I'd recommend that the armed citizen never be seen in public or have his picture taken wearing such a shirt. I've personally worked in a federal court police shooting case where the slogan on a t-shirt formed a major damaging part of the case against the police, which the cops lost.

Phrases like "dirtbag" or "blow him away" or "light him up" also have no place in proper training. I try never to use language like that. In one case, a police instructor I know personally told his academy recruits that if a suspect did thus and such, they should "drop him like a used rubber."

It seemed pretty funny at the time, and he used this expression for years. Then, when one of his academy students, now a police officer, was involved in a fatal shooting and was being interviewed by Internal Affairs with a transcript being taken down by a court reporter, the officer, when asked what he did when the suspect

reached under his jacket, replied under oath, "I dropped him like a used rubber." Everyone in the room turned and looked at John, because they knew he was the source of the expression, but the damage had already been done. This is an example of what we call a "training scar," something taught in training that causes lasting damage to the trainee. Avoid this stuff like the plague.

**eJournal:** Similar issues could also arise from testimony given by the armed citizen's instructor, if he or she is called to testify to what they taught the defendant. What would you look for before deciding to have an instructor testify?

**Kapelsohn:** As a defense attorney, before I'd make the decision whether to have my client's trainer testify in court, I'd thoroughly research the trainer's history, experiences and reputation. I'd see what had been written about him, what he has on his website or his Facebook page, and so on. A single questionable photo or comment on Facebook or on his school's website could damage the defense case beyond repair. I might use a private investigator to find out the worst "dirt" or "skeletons in the closet" about the trainer, because this is exactly what the other side will do if I list the trainer as a witness in my case. I might contact, or have my paralegal or investigator confidentially contact other trainers—possibly competitors of my client's instructor—as they'll usually know the worst stories and rumors about their competitors. I'd check the trainer's history for any criminal record, his driving history, find out about his marital situation, do a credit check on him—in other words, completely vet him before making my decision whether or not to use him as a witness.

Then I'd carefully review the course handouts, and my client's notes from the class, if any. Those materials might never come into evidence if we don't bring them in ourselves, but if we use the trainer as a witness, all of the course materials will probably be fair game for the other side to use to cross-examine him, so I'd review them very carefully.

If I got past all of these threshold inquiries, I'd meet with the trainer, even if I had to fly across the country to the trainer's location to do so, to see firsthand what he looks like. He shouldn't have an eye in the middle of his forehead, a serious facial twitch when he answers questions, or have a terminal stutter, like the public defender in *My Cousin Vinnie*.

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And I want to see how he comes across when he speaks, what initial impression he creates, see how he responds to questions, how he thinks on his feet (because, after all, he's going to be cross-examined, and that's a stressful experience), how hard or easy it is to ruffle him or make him show anger or annoyance, how he might affect both male and female jurors, professionals and non-professionals, because the jury will likely include all of those types of people.

Finally, I want to know what his answers are going to be to the specific factual questions I'd want to ask him in court. If he comes across as arrogant, macho, callous or prejudiced, seems like a potential loose cannon or in any way fails the "attitude test," I wouldn't dare use him. And he's got to be willing and able to take instruction from me. If I tell him just to answer the question asked, and then to stop there, and instead he feels the need to continue volunteering information or running on at the mouth, I can't risk putting him on the witness stand. One poorly considered statement or cute answer from him on the stand could send my client to the poorhouse or to jail or worse.

**eJournal:** If one has studied with questionable instructors, need they worry it will be used to make them look reckless or callous about taking human life? If the defense does not bring up the instructors, is it even possible that the instructor may be discovered and what he taught used in court by the plaintiff or the prosecutor?

**Kapelsohn:** Yes, it's possible that training with trainers who have bad reputations could negatively impact an armed citizen's case. I think, for instance, of a situation a few years back where a firearms instructors' organization I belong to became concerned about some unsafe training techniques and sensational publicity of a trainer who was one of our thousands of members.

We investigated, eventually had a hearing and threw him out of our organization. Weren't we glad we had done that when, just a few months later, he and his school were slammed in the national news for training Islamic terrorists!

If you were an armed citizen who had attended his training school and were later involved in a shooting, the school's notoriety would certainly not be a "plus" in court, if it were allowed by the judge to be introduced into evidence. So you need to choose your instructors and your schools carefully. I've seen dozens of schools come and go over the years, despite their high-powered advertising and their claims to offer the world's best

high-speed, low-drag training. You'd be better off to select a school that's been around for a few years. If they're still in business, there's probably a reason why.

But again, I want to emphasize that not only can an instructor's or school's bad reputation harm the student later in court, but bad training from that bad school or bad instructor can negatively impact the armed citizen's safety, proficiency and proper judgment in threatening situations.

As to the second part of your question, it's entirely possible that even if the defense doesn't mention the instructors, training courses and course content, the other side may discover these things. In a civil case, the plaintiff's attorney, if he's any good, will ask all about these things in written interrogatories, document demands, and in depositions under oath taken in advance of trial, and this is information the defendant armed citizen will be legally required to provide. Don't think for a minute that you'll just "refuse" to provide this information; it doesn't work that way.

**eJournal:** Are there related concerns you'd urge the armed citizen to consider?

**Kapelsohn:** I don't think it's good to have your coffee table at home piled high with back issues of *Street Fighting and Eye Gouging Quarterly*, or your reloading room walls covered with photos of scantily-clad women firing belt-fed machine guns (although I imagine some of our male readers are now wondering where they can get those posters). A judge might not let the prosecution introduce evidence of this sort in court, but then again, he might.

I worked in a civil case just a couple of years ago where the police photos of the defendant's gun room, taken for use in the criminal investigation, showed a partially consumed bottle of whiskey on his bookshelf, and all the titles of all the books on that shelf. The whiskey wasn't a good thing to have in that picture (or, for that matter, in the gun room), and it would be good not to have books in that photo with titles like *Kill 'Em Quick!* In fact, our attorneys actually enlarged the photo and asked me, one by one, about each of the book titles, and then they had me scan certain of the books to find areas in them for possible courtroom "ammunition."

I don't think it's a good idea for the armed citizen to have a Confederate flag in the back window of his pickup

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truck (much as my Southern friends have tried to teach me about the “War of Northern Aggression”) or a bumper sticker that reads, “Insured by Smith & Wesson,” or a sticker on his back door that says, “Think again: There’s nothing in here that’s worth losing your life for!” or “Anyone found here at night will be found here in the morning!” Much as you might try to explain these stickers as “funny” or that they were intended as “deterrents,” they probably wouldn’t favorably impress the jury, especially if your use of deadly force was at all questionable, which is, after all, why you’re being tried!

And the Smith & Wesson sticker on your vehicle is probably a good way to be sure you and your vehicle are searched by any police officer who stops you for a traffic violation. The officer will view it as an announcement that you have guns in the car. A much lower profile would be better.

I think that the armed citizen should use good judgment about his or her selection of guns, ammunition, and customization of the gun. Things like a two-pound trigger pull on a defensive handgun, or mother-of-toilet-seat grip panels with a black widow spider or skull and crossbones etched on them, are conspicuously bad ideas.

Winchester’s choice of the name *Black Talon* for its jacketed hollowpoint handgun ammunition has got to be one of the worst advertising blunders imaginable. The name could be argued to have racial connotations, even if the name wasn’t intended as such by Winchester, and the name could be used with devastating effect in court. Some savvy police agencies wouldn’t use ammunition with this name. Winchester soon re-named the round *Ranger SXT*, which sounds much better.

Believe it or not, as an expert witness for a police officer being criminally tried for a questionable shooting in Baltimore, I was actually cross-examined by the state’s attorney about the officer’s use of that “dum-dum” ammunition that was banned by the Geneva Convention,” as the prosecutor described the department-issue hollowpoints. I successfully defused this bad-faith attempt to damage the officer, but this just shows how even a small detail can be important, like the choice of ammunition and one’s ability to explain the reason for the choice. It also demonstrates that even prosecutors sometimes get caught up in their case, and can commit unethical acts.

I suggest to private individuals in my classes that they would be well-advised to use the same kind of handgun ammunition carried by their local police or sheriff’s department or state police. Then, if asked why they used that type of ammunition, they can testify they believed it must be the best and most reliable and safest ammunition to use because their police used it and also that it was the kind of ammunition their instructor—in this case, me—recommended they use. This takes the monkey off their back in two different ways. And they also know that I’m recommending they use hollowpoints not because they’re “more deadly,” but because they’re SAFER—that is, less likely to ricochet or to overpenetrate (that is go through and through the attacker) and endanger innocent bystanders, and more likely to quickly stop the attacker, so that additional shots aren’t fired (either by you or by the attacker)—thus being safer for both you and your loved ones, and for the public in general.

Again, a good attorney is needed to know to ask these questions and get these answers from the defendant in court, if the defendant testifies. A good attorney should also know when an expert witness, or perhaps the defendant’s firearms instructor, can be used to good effect to teach these concepts to the jury. In fact, many good trial attorneys are smart enough to hire an expert witness early in the case, so the expert can advise and guide them through the discovery stage of the case, even if they ultimately don’t have the expert testify at trial. This is called using a “consulting expert.” And although I’ve worked with some gun-savvy attorneys (and lots of totally gun-ignorant ones), I haven’t met one yet that knew as much about guns as a good expert.

**eJournal:** All good points to ponder, and it looks like most of these risks can be easily mitigated.

To sum things up, if we tally the pros and cons of the issues we’ve discussed, do you think we should be genuinely concerned what a judge or jury would think about the many gun safety, use of force and self defense tactical training courses most Network members have completed?

**Kapelsohn:** If attending multiple courses doesn’t help the armed citizen in court, rather than hurt him, my opinion is that either they weren’t well-selected courses or he doesn’t have the right kind of lawyer.

[Continued...]



Yes, we should always be concerned about the effect of anything we do in our self-defense training, choice of equipment, mindset and preparations. But there's no question in my mind that no training, or poor training, is far worse than lots of good training.

**eJournal:** Well, Manny, we've covered a lot of ground in this interview and now we have a lot to think over! Thank you so much for your time and for sharing your views and expertise with us. The Network is indeed fortunate to list you among our affiliated attorneys and expert witnesses!

**Kapelsohn:** It's been a pleasure, Gila. As you can tell, I think the courtroom is a dangerous place, but not nearly as dangerous as the street. In my opinion, people who carry guns need to get good training, rather than avoid training for fear it might possibly hurt them in court some day.

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*Kapelsohn recently moved his practice back to PA and his new contact information is available for Network members in the Affiliated Attorney listings for that state and for New York State, in which he is admitted to practice law, as well.*

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

**August 2012**



## President's Message

### Mass Murder and the Armed Citizen

by Marty Hayes, J.D.

As I write this today, victims of the July 20, 2012 mass murder incident carried out by a murderer named James Holmes at a movie theater in Aurora,

Colorado are still in surgery. God bless them. We pray for their recovery and for the souls of the 12 innocent victims slaughtered like lambs in a slaughterhouse, unable to protect themselves against the man with body armor, a gas mask and multiple firearms.

Of course, these incidents are not a new phenomenon, but because of the instant communications we now enjoy, the impact seems to be greater. I am old enough to remember watching the evening news as a boy and hearing about the Texas Tower massacre when in 1966 University of Texas student and former Marine, Charles Whitman, killed 16 and wounded 32 others before he was shot down by Austin police officers Houston McCoy and Ramiro Martinez.

I was a senior in high school in 1973 when 23 year old Mark Essex shot and killed nine people on a murderous rampage at a Howard Johnson's hotel in New Orleans, eventually working his way to the roof of the building where he was killed by New Orleans police. The number of wounded and dead was 19.

Most reading this will remember the January 17, 1989 Stockton schoolyard shooting, where a drug addict and convicted felon named Patrick Purdy entered the Cleveland Elementary School playground and started shooting school children with an AK-47 style rifle. He killed five children and wounded 30 more before running out of ammunition for the rifle. He then shot and killed himself with a handgun.

Two years later in Killeen, Texas, George Hennard crashed his truck into a Luby's Cafeteria, then proceeded to shoot and kill 23 people and wound another 20 before being confronted by police.

Instead of fighting the police, he turned his gun on himself and ended his life by his own hand.

It was in 1999 that Columbine High School students Eric Harris and Dylan Klebold took over the high school by use of explosives and gunfire, resulting in the deaths of 13 classmates and teachers and wounding another 21. Just four short years ago on the Virginia Tech campus, Seung-Hui Cho shot and killed 32 people before being tracked down by police. He eventually blew his own brains out.

There are additional examples of active shooter/murderers, but in at least the above cases, there is one common theme. The murders took place in public and there were no armed citizens who engaged the murderer or murderers to end the killing spree.

While watching the news of the Aurora, CO shooting incident, I asked members on our Network Facebook page <https://www.facebook.com/groups/221594457860509/> what they would have done if they had been in the Aurora, CO theater that night. Would they have attempted to flee, or confronted the shooter? The answers were varied and very well thought out. Most of our members stated that they would stay and confront the killer. Some correctly identified the obvious fact that they couldn't know what they would do unless they were at the scene at the time and could to an assessment of the situation. A few explained that their first and foremost responsibility is to make it home alive to their family. It is logical that those came from young men with new families. I don't fault them at all.

Now, having said all this, I most enjoyed the comments by my friend and mentor Vince O'Neill, who wrote:

*"Having carried a badge for the last 38 years, I always arrive early to events (movies, dinner with my bride, etc.) scope out all the exits and place myself in a position of advantage. Even going to mass on Sundays. We're not only talking about a lone mass murderer, but a team of mass murderers—like terrorists. There's also (combustible) fire to consider, too.*

[Continued...]

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*If a would-be mass murderer opened up, I pray I would do the right thing. I plan to \_\_\_ and possibly \_\_\_ every last mother's son of them, if I can. There's hardly a place I go anymore where I do not expect to be ambushed—even at home. I can't blame John-Q Citizen for leaving as fast as he can. If he is not prepared to deal with such situations, he shouldn't be asked to risk his life needlessly. But, sheep dogs? I don't think I could look myself in the mirror if I turned my back on my sheep. Sorry, that's just the way it is."*

Thank you, Vince, for those words. Vince and I have known each other for almost 20 years and I have taken many physical self-defense instructor courses from him. I also know that he is an extremely proficient pistol shot and law enforcement firearms instructor: one who can do AND teach. He is a humble man, too, so I will probably embarrass him by saying this, but of all the thousands of people I know in the gun business, he is at the top of the list of people whom I would want with me at an incident like the one under discussion. I know Vince's skill level and, of course, I know my own.

I have managed to live my life without being involved in a deadly incident, although I came close a few times on patrol in police service. None of my personal experience would prepare me to face John Holmes in a darkened, smoke- and teargas-filled theater. But my training has and I would not fear such an event, I would only hope my skills were up to the challenge. If they were not, I would meet my Maker with my head held high.

There is no substitute for a high degree of shooting skill. Advanced, highly-developed shooting skills, which give people like Vince and me the ability to state conclusively that yes, we would engage. That's right, I, too, would hope not to flee, but stay to engage the murderer. There's one caveat: I would hold back if there was a risk of making the situation worse if I got involved than if I didn't.

An incident like this would be extremely stressful, but there are training and practice venues that allow the private, armed citizen to develop the skills needed to

stop a madman like James Holmes. Many of the top trainers in the country are Network Affiliated Instructors and many not only have stationary shooting schools, but also many travel the country teaching.

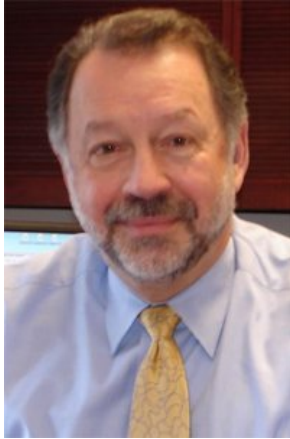
For God's sake, please get trained. I know you know how to shoot your handgun. I bet a high percentage of our members belong to a local gun club and probably practice regularly. But, take it from someone who has taught this discipline for over 25 years, if you haven't taken advanced level training, and I mean training at schools such as Gunsite or Thunder Ranch, then you don't know what you don't know. Reading books and watching videos will only take you so far. You cannot diagnose shooting errors because you cannot see them. It takes the watchful eye of a knowledgeable instructor, giving proper feedback, to best improve skills.

Countless people have said that if just one armed citizen had been in the theater, he or she could have stopped the killing. I am not so sure about that, because of as I have seen over the years, the average gun owner, even the average concealed carry permit holder who carries regularly, hasn't been sufficiently trained to handle such an incident. If you have, great, and I applaud you. If you haven't though, then I ask you one simple question. If you knew that you or a loved one would someday be in a similar situation, how much money would you be willing to pay to have a highly-trained individual there to stop the threat? A thousand bucks, two thousand? Perhaps even five thousand to increase your chance of survival or the survival of your loved ones? Well, we have no clue if a highly trained individual will be in the area, but I know one thing: you will be there and if you have spent the time and money to training yourself to a high degree of skill, then every dollar you invested in your firearms training will be paid back in spades.

Now, not tomorrow, is the time to prepare for the next Aurora, Virginia Tech, Killeen or Columbine.

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

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## Vice President's Message

### Defending Ourselves When Bullets Are Flying

by J. Vincent Shuck

Not many of us have had to do this, fortunately. Aside from our brave military and police combatants, we are rarely trained to react to bullets whizzing by our heads and the heads of

our loved ones. The recent event in Colorado reinforced my views on training, and a few other things.

Like you, I've taken my fair share of classes, with much of the training focused on good handgun manipulation and accuracy with a little movement or moving target shots included. But a few of my past courses have included simulated "gun fights" with airsoft or other simulation equipment. Just before the Colorado incident last month, I decided to retake some of these force-on-force classes to refresh myself in the decision-making process and re-learn how to place accurate defensive shots while under fire, literally. Now, I'm even more convinced this is a good idea.

Of course, knowing how to manipulate a self-defense handgun and fire it accurately are important steps in the learning process. But I hope you have gone beyond that knowledge. If not, let me encourage you to do so.

The Network's affiliated instructor list is full of individuals who can enhance your learning process. Please check them out and see if they offer simulation classes <http://www.armedcitizensnetwork.org/affiliates/instructors>. If not just next door to your home, I'll bet you can find the classes you need within a short drive or flight. Don't have time to travel, you might think? Well, we all need to evaluate our training schedules and the associated costs.

*Right: With proper protection, airsoft or other simulation equipment makes role play like this hostage scenario into a more realistic test of both negotiation and shooting skill.*



While I would never suggest that class expenses overtake grocery expenses, the importance of ongoing training deserves a place in our budgets. Save a little here and there and make it happen. Look for classes that require the mastery of the defensive handgun, provide individual coaching and force-on-force training. Think about the Aurora, CO scenario and decide how you can be prepared to react.

Turning from my belief for ongoing training, especially force-on-force scenarios, let's close with what has already happened and what will continue to be exploited because of this Colorado shooting—gun control.

I know it's illegal to go into a theatre and start killing people. But that hasn't stopped many gun control advocates to call for more legislation (control) to "fix" the problem. New York Mayor Bloomberg, within a few hours of the incident, pressed Obama and Romney to "outline what they are going to do about guns." MSNBC conducted a panel discussion, even before victims were removed from the scene, and asked for Congress to "do something." The panel used the Representative Giffords shooting in Arizona along with the Colorado incident as examples of "death on our streets" and blamed the NRA for the current lack of gun control. The hand writing is on the wall, those who want to limit our access to firearms, magazines and certain ammunition will ignore the fact that it is already illegal to shoot people and that the cinema chain where the incident occurred reportedly had a gun-free policy. They will want more.

To conclude, get to the range and obtain new or recurrent training in force-on-force scenarios and remain alert to efforts by some to try to fix horrifying acts by deranged people with legislative remedies. Legislators are compelled to "do something." Watch what they try to do.

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

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## Letter to the Editor

*A Network member responds to the June 2012 journal interview entitled "Armed Defense Skill Priorities" with instructor Tom Givens—*

To the editor:

I've been a CCW holder for several years now, and have noticed that the CCW "establishment" seems to uniformly discourage pocket carry and small handguns suitable for same. I'd like to offer a rebuttal to that sentiment. Many people, including myself, have a "spare tire," which makes carrying a large gun in an inside-the-waistband holster quite uncomfortable: if the belt is tight enough to hold up the pants, the gun is digging into one's side and is impossible to draw quickly.

I envy the authors and professional handgun trainers who can carry all day and are free to dress to conceal, but that's not an option for those who work in politically correct offices and/or live in hot climates. Many such places have no-gun policies. Being fired for violating these policies could result in blackballing if the firing is publicized in the media. A bulge in one's side pocket (using a pocket holster) arouses no suspicion; it could be a wallet, notebook, etc.

The only advantage a CW carrier has is that of surprise. Perhaps the experts who run training schools can outdraw a thug, but I can't, and don't have years to practice speed-drawing. A man with hands in his pockets is quite normal—especially if it is cold—with no worries about being the subject of a man-with-a-gun call.

What would witnesses think of a man with his hand under his shirt on a gun in an IWB holster walking to his car on a street with loiterers hovering nearby?

As for ballistic power, to be sure there are cases where a predator has been shot and continued the attack, but my research indicates that these are rare, which makes them noteworthy. The reality is that 99% of the time, the drawn gun ends the confrontation without being fired. If defensive fire is necessary, the sudden sight of a gun being shot at them will discourage the vast majority of attackers. And FBI stats show that almost all confrontations take place at distances under seven yards; most under seven feet.

The professional CW community implies that unless you are carrying a hi-cap .40 or .45 with several spare mags, you might as well not carry a gun at all. This raises the issue of professional training in general: There's a county near where I live that is very anti-gun. If I was involved in a shooting there, and the prosecutor told the grand jury that I went to a "gunfighting school" that would be offered as instant proof of my being a kill-crazy nut, waiting for the chance to put my skills to the test. Of course we know this training is nothing of the kind, but perception is reality.

How would we expect non-gun people to know the truth? Would Massad or any of his colleagues come to my trial at their own expense to testify as to what the training is really all about?

I'd be interested in experiences and opinions of other members in this regard. Rightly or wrongly, for me, the increased prosecution risk outweighs whatever benefit training might provide. I know the law, and don't miss at seven feet with my LCP.

*David E Gile Jr., CFP, EA*

### *The Network responds:*

We appreciate Mr. Gile initiating this discussion, because it spurred us to interview one of the leaders in crafting legal defenses in firearms-related cases, Emanuel Kapelsohn, who gave the interview with which we lead this journal. Many of the questions above are answered in that interview.

In addition, we queried Tom Givens, who gave the interview this letter rebuts. He responded, "I am involved in a fair number of cases as an expert witness. With that comes a lot of legal research and interaction with experienced trial lawyers. There has never been a single case in the U.S. of professional training being successfully used against a defender in civil or criminal court. No court is ever going to hold that someone who carries a deadly weapon in public is more responsible for NOT having obtained professional training with it."

*[Continued...]*

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Though Network Advisory Board member Massad Ayoob had not contributed to the article Mr. Gile rebuts, in response to his question, we note that Ayoob has long offered his students expert witness services following justifiable use of deadly force for the mere cost of his travel expenses. When highly-regarded expert witnesses command substantial hourly rates, the request for travel expenses seems modest. (For perspective, check out the parallel to medical experts at <http://www.seak.com/expert-witness-fee-study/>)

Responding to the questions about carrying in a belt holster, Givens reiterated that he believes "comfort" is largely the product of taking enough time to get used to the gun and holster. This, he believes, is possible even in hot climates. His home base is Memphis, TN, where high temperatures are the norm, not the exception.

Countering that perspective, however, is Network President Marty Hayes, who commented, "I agree with Mr. Gile about carrying a gun in a pocket v. no gun at all, although I also cannot disagree with Tom Givens, either. Being overly well developed in the abdominal aspect, I have found myself carrying a .38 or .357 in a pocket holster more and more, especially in summer months. I intellectually change my pre-conditioned response when carrying a pocket gun and instead of shooting for center of mass or upper chest (heart area), I would aim for the high chest/neck/head area. The key to being able to get away with this is a high degree of skill level like I wrote about in this month's President's Message. And, while a pocket gun would not be my first choice for defense, it beats the heck out of a harsh word."

Givens' added that his concerns about pocket carry included difficulty drawing with sufficient speed while seated in a car, at a desk, or at a table, or during hasty movement to escape a threat. The speed draw from a belt holster is not exclusive to experts, he adds. "We routinely teach people from all walks of life to produce a holstered handgun plenty quickly. In most of our student involved shootings, the student's gun started in the holster, and they won."

Givens also countered the assertion about marksmanship from contact distance to seven yards. "We have had 58 students have to use a gun in self defense. 92% took place at a distance of three to seven yards. We have only had two at contact distance, and we've had three at 15 yards and beyond."

As Givens noted, each individual must make his or her own decision about serious matters like self-defense preparation. We hope presenting as much information on the subject as possible helps members make the strongest choices possible for their individual situations.

We appreciate comments from our members, since it opens up discussions that can address questions or concerns that other readers had but did not express, as well as letting us go back and clarify or expand upon concepts and ideas covered in an earlier article. Whether or not everyone agrees is immaterial! Thoroughly studying a topic always leads to greater understanding and to better decisions.

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



## Attorney Question of the Month

With the generous help of our Network Affiliated Attorneys, this column helps our members understand the world our affiliated attorneys work in, and demystifies various aspects of the legal system for our readers.

This month, we asked our affiliated attorneys:

**If a Network member is involved in a self-defense incident, is charged with a crime and goes to trial, how likely is it that the prosecution will try to spin belonging to the Network as planning to shoot someone? What response would you make if you were defending a Network member and opposing counsel tried to discredit your client that way?**

This is the first installment of several in which the attorneys responding to the question share their knowledge and opinions on this matter of concern to Network members.

**Mary Elizabeth Parrilla**

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In response to your question of the month, I am offering the following opinion.

Of course, the prosecution will undoubtedly use any and all information about an alleged shooter in a negative way.

However, as a defense attorney, I could mount a strong argument that there is absolutely no difference belonging to a support organization that will help you defend yourself against a possible self-defense shooting, than there is in buying life, auto, or homeowners insurance.

The mere fact that someone has homeowners insurance does not mean they intend to burn down their own home. Likewise, just because you have auto insurance doesn't mean you plan on having an accident. The life insurance holder is equally no more inclined to commit suicide than a non-insurance holder. It is also common practice for professional boxers to insure their hands. The boxer's

desire to protect his "tools" from which he earns a living does not mean he has taken such insurance in anticipation of breaking a hand while beating someone to death.

A good defense attorney should be able to effectively articulate that it is the responsible gun owner who takes a proactive role to keep informed of legal trends and desires to become educated about his or her rights. Being educated does not equal intent to be involved in a self-defense shooting. However, self defense is a defense that is available for a reason. The ACLDN simply provides a mechanism to protect members from going broke trying to clear their good names.

**Kevin E. J. Regan**

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First of all, it has been a pleasure to be a member of your organization for several years now. I learned of the Armed Citizen's Legal Defense Network from a shooting instructor here in the Kansas City area who has an extensive law enforcement background. He prides himself on teaching safe and practical shooting techniques to interested students. Many of my fellow students were law enforcement officers, as well as prosecutors.

I believe I have read every published document from the Network in the last several years and believe the organization to be a mainstream organization that keeps its members properly informed of legal developments in the areas of firearms ownership, possession and use in cases of self defense. I have not seen the organization or its officers embrace what I would call extreme or fringe positions on any of these issues. From the President on down, I have seen caution, restraint, training, education and sound judgment urged upon its members.

That being said, I believe it would be foolish in my jurisdictions, which include State and Federal Courts in

*[Continued...]*

Kansas and Missouri, to attack a defendant based on his belonging to the Armed Citizen's Legal Defense Network as planning to shoot someone. I have tried criminal cases for the defense for the last twenty-five years and prior to that, prosecuted homicide cases at the highest level in State and Federal court. First of all, I don't know how a prosecutor would find out that an individual was a member of the Network. Unless they had unauthorized access to your records, this ordinarily would not be disclosed in the discovery process of a criminal case. Unless a criminal defendant was wearing some Network apparel in the commission of this alleged offense or had been published in your newsletter, a citizen's membership should go unknown to the prosecution.

I believe that if I were representing someone who had used a firearm in self defense, then I would let the jury know that my client had been a member of your legal defense network and that he/she joined the Network to learn the state of the law locally and nationally, so that they could conform their conduct regarding carrying a concealed weapon within the requirements of the law. An individual could testify that they joined an organization such as yours to learn about local and national trends in Second Amendment legal issues. The client could indicate that, based on an experience in his/her life, such as an attack on a friend, neighbor or loved one, that they made a decision to arm themselves in their home, business or to seek a CCW permit.

Once they had made that decision, they felt it was important to seek training in how to proficiently and competently use their newly acquired firearm. In their quest for legal knowledge about their new lifestyle decision, they joined a consumer service group such as yours for information, access to seminars and training. I would liken membership in your Network to membership in the NRA, as we have many NRA members in these two states. I do not believe there would be any animosity from folks around here towards an individual who has become a member of your Network.

However, from what I read about cases in New York, Massachusetts and California, I can see how membership in your organization could be spun against an individual where so many of the jurors may harbor ill will towards guns and their owners. In cases such as this, I would file a *Motion in Limine* with the court asking the court to exclude any information about my client's membership in your organization as being irrelevant. I would urge the court to consider that the probative value of this type of evidence is far outweighed by the

prejudices the jury may have about it. If the trial court were to admit some evidence and I believed it to be harmful in a particular jurisdiction, I would, during the *voir dire*, or jury selection process of the case, ask jurors if they have any preconceived notions about members of your organization that would be held against my client throughout the trial of this particular case. I would ask the Court to excuse these jurors with these preconceived biases.

I should point out that these issues could also come up in a civil wrongful death case where family members of the deceased could be suing our client for damages, whether criminal charges were filed or not. I believe it would be up to the practitioner to decide if membership in the Network would be helpful or harmful to the client based on the attitudes of those in their particular jurisdiction.

Happy trails and safe shooting from the Heartland!

**Nathaniel Burney**

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I'd say it's fairly straightforward. People don't join organizations like this because they plan to shoot someone—they do so because they're concerned about what the system might do to them if God forbid they wind up in a situation where they had to shoot someone. ("And given what the prosecution is trying to do to my client right now, members of the jury, I'd say that was a pretty reasonable concern, wouldn't you agree?")

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It would depend on the facts and circumstances of the incident itself.

Membership in the ACLDN is, in and of itself, nothing of consequence. It provides training materials, discussion forums and access to experts on use of force.

[Continued...]

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It is a side issue, one that would only be explored if the member's actions appeared to be unjustified and the matter was prosecuted.

In that event, depending on what happened in the incident itself, how a member's affiliation would be looked at is anyone's guess.

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Reasons why people join Armed Citizens' Network that have nothing to do with intent to kill and get away with it:

1. News reports consistently signal a desire to punish those who lawfully protect themselves and others. Thus, it's necessary to be able to defend a legal attack based on this known bias. (Zimmerman case is a prime example.)

2. Legal fees are increasingly out of reach for the average family. When a legal issue arises that threatens one's freedom (prison) then it behooves one to be prepared for the onslaught of charges.

3. Impossible to predict when threat to self or others will occur. Those who are prepared by careful preparation, training, education and care are more likely to consider legal insurance.

4. Those who prepare, also prepare for tragedy(s). Being prepared means considering all sorts of insurance for potential losses.

5. Insurance coverage is inadmissible in many other areas of the legal system. I would argue that by analogy to those other areas, it is prejudicial to use legal insurance as basis to believe an individual is predisposed to kill without regard to human life.

6. The First Amendment allows freedom of association, assembly and speech. Need I say more?

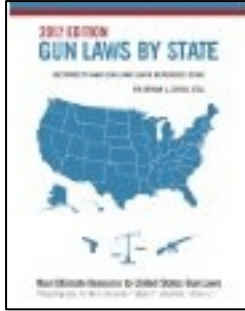
Hope this helps you to fight the good fight to protect our freedoms.

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*Editor's note: Several of our affiliates drew comparisons between Network membership protections and insurance. In the interest of clarity, we simply remind readers that the Network's membership benefits are just that, membership benefits, and not insurance, in that the educational support of members before an incident and financial assistance drawn from the Network's Legal Defense Fund to help defray member's legal costs while they fight criminal charges or civil law suit are distributed considerably differently than the insurance payouts the holder of an insurance policy hopes to collect if they can get to a "not guilty" verdict.*

*Our Affiliated Attorneys responded in overwhelming numbers to this question, and so we hope you will return to the September edition of this journal column to enjoy more of their enlightening comments.*

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



## Book Review

### ***Gun Laws by State 2012 Edition Reciprocity and Gun Laws Quick Reference Guide***

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*Reviewed by Gila Hayes*

Bryan L. Ciyou was one of the first attorneys to affiliate with the Network in our early days. The Network's focus shares much in common with Ciyou's work as an attorney, instructor and as a writer. Now, he has authored a book, *Gun Laws by State*, a daunting undertaking that stretches beyond the printed book to include associated Internet resources to keep the book's information current. That he introduces his book on YouTube at <http://www.youtube.com/watch?v=UJ-ByY3khrA> underscores the combination of mediums—print and electronic—that this work encompasses.

The target reader of *Gun Laws by State* is the armed citizen who is licensed in his or her state to carry concealed firearms, who also does so via reciprocal license recognition in various other states. He begins by citing foundational references including the U.S. Constitution's Second Amendment, *United States v. Cruikshank's* language acknowledging the "natural law right to self-preservation," the individual right to bear arms as recognized in *District of Columbia v. Heller*, and applicability of the Second Amendment to the states, from *McDonald v. City of Chicago*. From this basis, the author introduces the history of firearms law, noting that it is found in "legislative records (codes) and judicial records (cases)," alerting the reader that there's more to the study than just reading state laws.

The evolution of laws governing firearms ownership, discharge and carry is the focus of Part I of this nine-part volume. Ciyou starts this section by identifying many of the complexities of modern firearms law. The difficulty of knowing controlling law in any given locale stems from the various sources of those laws.

Thus, one might understand the law governing concealed carry, yet run afoul of a local restriction or, for example, a gun law imposed under hunting regulations. Among the graphical tools employed is a black box containing the initials "CA" standing for "Caution."

In this manner, the author draws attention to "the number of factual and legal circumstances where unintended violation of penal law might occur. Many criminal defendants who violate firearms laws were otherwise law-abiding citizens who did not properly understand the penal law," he explains, stating, "In other words, many cases and arrests for firearms violations are not the product of hardened criminals." Other icons identify case law, new law and more. In addition, hyperlinks to various resources are included throughout the text, including a number of websites of which I was unaware. "The hallmark of good legal research is cross-checking what you discover with multiple sources to ensure its accuracy and timeliness," Ciyou writes. With his book, the reader will be better prepared to do just that.

Focused on taking advantage of carry law reciprocity, *Gun Laws by State* dedicates considerable detail to traveling with firearms. This 13-page section is required reading for anyone who travels and takes a gun along. In addition, the reader is told, an outline of each state's carry laws in Part VII "is focused on determining reciprocity between states...lawfully transporting the firearm...avoiding criminal violations along the way, and lawfully carrying the handgun in the reciprocal state." Pages 103-276 provide an alphabetized listing by state of brief excerpts from state constitutions, legislation about reciprocity and the reciprocity agreement if it exists, as well as preemption and applicable penal laws.

A lot of concealed carry practitioners have questions about licensed carry on Federal lands and Ciyou's chapter on the topic provides definitive answers with links for further research. For example, after the law allowing licensed carry in National Parks was passed, concern arose about entering the park visitor centers. As Federal facilities, they remain off no-gun zones, something Ciyou makes clear.

Another bone of contention has been whether parking lots are included in the gun ban upon Federal facilities, and the author provides the U.S. Code giving the answer, as well as addressing the much-argued

*[Continued...]*

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question of legal carry in a Post Office. Likewise, the Federal Gun Free School Zone law has also been widely argued. Ciyou gives a clear explanation of what is prohibited, what is allowed and likely pitfalls. Various state laws can also restrict carry in bars, casinos, parks, and other areas deemed sensitive, he adds. The rules may range from a complete restriction on possession to prohibitions against discharge, as is common inside city limits.

The book's sixth section is about use of deadly force in self defense. In it, Ciyou explains that while the legal justification for using deadly force in self defense is the danger of serious bodily injury or death, a conclusion that such harm is imminent relies on situation-specific details, including location. "A slight change in the facts may make a difference between whether the person exercising the deadly force in response to the illicit act is deemed a 'hero' or is going to prison," he writes.

From various state laws, Ciyou cites definitions of "serious bodily injury," then explains provisions for defending against illegal acts in one's home. He explains the legal term "curtilage," and others, something ordinary folks will appreciate, since understanding vocabulary used in the law is essential to applying it to daily life.

In judging the seriousness of an illegal act, community values exert influence and the citizen must decide if a deadly force response is proportional to the danger. Ciyou explains, "Like punishment for a crime, the justification to use deadly force must be proportional and exercised in the cases where society places the taking of a life in response to a crime on par with the crime and/or justified: (1) serious bodily injury or death; (2) breaking unto a dwelling and or attack within the curtilage; (3) forcible felony."

Other deciding factors include whether the danger is immediate, and in some places, whether retreat is a safe option. The danger must be immediate, Ciyou notes, adding that justification to use deadly force can "expire with the passage of time." He offers various examples, and notes that a victim who uses deadly force against an assailant once the attack is past "becomes a criminal as well." His examples are helpful on these points, as they are when he writes about applying stand your ground concepts.

Students of armed self defense sometimes complain that the foregoing is complicated and it isn't realistic to expect one to apply all these rules to a life and death

emergency. Ciyou invokes the military and police method of applying standard operating procedures as "defaults to be engaged in where incomplete information is at hand... This ensures the law is followed and the right decision made in most cases." What are those SOPs for the private citizen? Stop the aggressor, be aware of and control the environment, contact EMS, decide whether to retreat or to offer First Aid, respond to the commands of law enforcement arriving on the scene, and obtain legal counsel before making a statement, Ciyou accounts.

*Gun Laws by State* addresses civil liability, with a discussion of the reasoning behind the legal concept. Ciyou's examples illustrate differences between negligent actions and intentional acts, which are the key to collecting insurance to restore the losses of the individual harmed. If you have self-defense insurance, or wondered if you should, this is an important section of Ciyou's work to which you will want to pay close attention. He explains the "hows" and "whys" of civil law suits that can follow exoneration in a criminal trial in some states. He also explains how the burden of proof differs between civil and criminal courts, and other useful facts.

*Gun Laws by State* is a studious work, not "edutainment." Smart readers will recognize *Gun Laws by State* for what it is—a reference work guiding them to sources of more detailed information. If it contained every question the gun owner may have, it would probably be taller than the reader, to paraphrase a quip Ciyou makes early in the book. Instead, it is full of introductory information and hyperlinks that resolve into specific state websites and other websites containing the information in question. Of course, that means that this is a book for the Internet user. In addition to all the hyperlink citations, Ciyou's website [www.gunlawsbystate.com](http://www.gunlawsbystate.com) works in concert with this book, to maintain current information in an ever-changing legislative environment.

In reviewing a book, I look for the goal statement, and this I found early in *Gun Laws by State*, where Ciyou writes, "It is only with finding the law and then following the law that gun owners understand what they want to seek to change and, by doing so, keep free of criminal and/or civil issues. This is what makes America and its legal system the envy of the world; and it ensures a free society." His book will help armed citizens do just that.

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

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## Networking

by Brady Wright

It's been quite a month and it's a pleasure to welcome so many new members to our ranks.

One of my favorite things is to learn how things are going with you and your businesses, classes and clients, as we all do the work of keeping folks

prepared to defend themselves in this world.

I had the honor of sending out a first package of supplies to a new affiliate, Dominick Ferraro, in Endeavor, Wisconsin. He tells us that he has a 5,000 square foot training center with a gun store attached, where they train citizens and law enforcement officers alike. His company is called Advanced Protection Group, LLC and you can find out about his classes and the store at [dom@apgwi.com](mailto:dom@apgwi.com). The phone number there is 608-218-4636 or you can check the website at: [www.apgwi.com](http://www.apgwi.com)

One Shot CWP of South Carolina is the home of Frank Woodruff and Mark Durham. Their outfit in Greenville is doing great; so much so that they upped their regular order to nearly double the quantity! Nice going, guys!

Last month, I mentioned that I was going to get a new shotgun to play with and I got a fast response from Frank Miceli, hoping that I might help him with finding a Colt Python he'd been lusting after. Since Frank lives in California, he has some "fun" regulations to overcome in finding this gun, but I was able to give him a couple of pointers and potential contacts. Honestly, that's one of the best things about this Network of ours.

I got a note from Norm Hood, at Defensive Solutions, LLC who said, "Brady, we have had a great year so far. I have been teaching numerous classes, the interest has greatly increased in awareness and all is good. There is a group that meets monthly, the 2nd Amendment Patriots, at the range where I shoot. Their chapter has more than tripled in size and there is a splinter chapter in Ft. Wayne, IN. I have given out all the Armed Citizen Network handbooks and need more."

"Our classes can be found on our web site [www.defensivesolutionsllc.com](http://www.defensivesolutionsllc.com) and they appeal to the northwestern Indiana and southwest Michigan region." Norm, it's a pleasure to have you out there!

I had a short conversation with Tom DeBrita, of Gundamental Training and Consulting, in Oxford, New York. Tom does classes and consulting at the location of your choice and teaches at gun clubs and ranges in his area of New York. He's a strong proponent of the Network and we're glad to have him in the family.

Dirk Sanders' outfit called Defensive Strategies is also doing great! Dirk has a great operation in Kansas, where he teaches several classes each month. When it's not 180 degrees in the shade, the classes are full and his website [www.222.defensivestrategies.net](http://www.222.defensivestrategies.net) lists the entire curriculum. Nice going out there, Dirk!

It seems to be a more prevalent situation to find instructors and teachers doing classes, "on the road." Every month, I talk with a few more who are taking their instruction directly to the client or group, rather than setting up a brick and mortar location. While having a home range is great, for all sorts of reasons, having the flexibility to teach at remote spots is a great way to bring the education and training to those who really need it.

It seems only right to take a moment to offer condolences and sympathies to the families and relatives of those affected by the tragedy in Aurora, Colorado. The place for analysis and discussion of that event is not in this column, but many of our members have expressed their feelings to me and I know that there will be much conversation about it as more and more details become known.

Advance notice: Keep your eyes open for the reissue of our tri-fold brochure! Gila and I and the rest of the team are working through a re-write and update that will make it an even better introduction to the Network and a great tool for all of our members to use.

Remember to call or email me at [brady@armedcitizensnetwork.org](mailto:brady@armedcitizensnetwork.org) if you have news to share or know of a win we should celebrate. If you need more supplies, make sure to tell me how many and where to send them. More to come next month from your Networking guru. Stay safe out there!

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

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## Editor's Notebook



by Gila Hayes

The difficulty with improving mastery of any discipline is recognizing what knowledge and skills you lack. After all, by the very nature of the problem, how can you identify what you do not know?

We've all heard statements like, "I'm a good driver because I've not had an accident for the entire 45 years I've been driving." Would we benefit from a driver's refresher course, or training at a performance driving school to learn how to extract self and automobile from dangerous, unexpected, fast-breaking hazards?

Or, how about: "I'm a great cook, because I make a mean pot of chili." But what if we want to eat more than soups? Would it be a greater testament to culinary skill to also be able to make dinner rolls or a nice dessert, too?

Would it be OK if your family physician said, "The human body hasn't changed in millennia. Why should I participate in continuing education?" Would you hire a Certified Public Accountant who hadn't cracked a book or gone to a tax seminar for years?

Then let's consider a boast frequently heard at shooting ranges: "I have a gun and I know I shoot good enough to handle some punk who is trying to rob me." They show you their target and assert that it's good enough since they consistently shoot small groups on a target at 7, 10, even 25 yards when they visit the range.

Might real-life present the need to cope with several assailants, people milling all around, an assailant who is almost certainly moving, or perhaps it is dark, your laser sight doesn't work, a second assailant makes a grab for your gun, or another hazard from the thousands of other real-life possibilities. Then what?

How can you identify skill and knowledge deficits? First, eliminate words like "good enough" from your vocabulary. We should never be complacently satisfied with just being good enough! How can we identify differences between "good enough," "skilled," "accomplished," or "high level of skill"? Do you possess the knowledge and experience to make those judgments?

Absent outside evaluation and input, it is impossible! Evaluation is usually the job of an instructor, though the few individuals blessed with the ability to be entirely honest with themselves may also draw useful conclusions by measuring their skills against others performing task-specific skills—low light shooting, shooting while moving, shooting moving targets, one handed shooting, skills related to armed confrontation like handgun retention and disarming plus other physical defense skills. Give it some thought.

### Coming Attractions

Often, I do not know what next month's journal topics will be until the release date nears. This journal's lead interview discussing the legal concerns attached to receiving firearms training ran quite long, but the information was so interesting and so important that I decided not to split over two months. As a result, several others articles were postponed until next month. That includes our President's ongoing commentary on the George Zimmerman case, plus an excellent cautionary article by one of our affiliate attorneys in which he evaluates the many messy details of real life that can make a justifiable act of self defense look very questionable indeed. He posits that most armed citizens imagine that defense firearms use will occur when a stranger threatens you with a knife in a dark parking lot or when a burglar breaks into your home, when indeed conflicted relationships inside families, at the work place, or between neighbors are probably more likely to be involved if you ever have to defend your life or that of another innocent person at gunpoint. It is a sobering analysis based on real life.

There is a lot more good information coming! I hope you will come back next month to learn more.

*[End of August 2012 eJournal.  
Please return next month for our September edition.]*

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# About the Network's Online Journal

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

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

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

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