



The Psychology of Detering Attackers—Part II

An Interview with William Aprill

Interview by Gila Hayes

Last month's journal featured the first part of this interview with clinical psychologist William Aprill, introducing readers to his strategies for filtering out and avoiding contact with people who approach hiding bad intentions behind a guise of needing a quarter, a cigarette or to ask you if you know the time. If you missed the first half of this conversation please read <https://armedcitizensnetwork.org/psychology-of-detering-attackers-pt-i> then return to complete the article as we move forward into topics including tactics to prevent the possible threat from getting any closer and how to quickly act to avoid unwanted contact with strangers without causing offense or escalating the danger.

eJournal: We're back and last month we discussed detecting and avoiding possible threats based on behavior and demeanor, whether the actions of a person raising concern are congruent with the setting and how to change our own behavior to avoid being selected as a victim. Well, sometimes we make mistakes, so let's say we're selected to be the victim of a crime. Once we've caught the predator's attention, what steps can discourage an attack?

Aprill: What scares people most is an all-out blitz attack, so let's be honest, that kind of attack is rare! Instead, there is typically some kind of phased introduction of their presence to yours called the interview. I wish I could remember who coined that phrase! It is a funny way to think about it, but you are being interviewed for the job of victim. It might be a nonverbal interview, but the interview has to have some kind of initiation.

That can be just physically entering your space—an engineered bump, let's say. I will make it so that you and I bump into each other going through the door as we leave the store. That almost always produces some kind of reaction that lets the bad guy interpret your behavior. If you start apologizing profusely, I get a pretty clear line on which one of us can dominate this transaction.

The interview might be what I call an attention theft. I often joke that there are apparently three critical shortages in the world: cigarettes, quarters and knowledge of the time because three of the most common questions you will be asked by random strangers after they have entered your space, is, "Hey, man, do you have a quarter?" "Do you have a cigarette?" "Do you know what time it is?"



In my experience, those people are not particularly interested in quarters, cigarettes or knowledge of the time. What they want is some of your attention and they want some information about you. That's where people tend to fall short.

If you didn't notice the victim selection process earlier, you are now further down the path and you have less time and fewer options. You will have to be much more assertive if you want to get back in charge of this game. The unknown contact's job is to steer the transaction the way he wants it to go. Your job is to get out of it as best you can. That takes assertive action. It is a little like regaining control of a piece of equipment that's getting away from you.

The more time spent under the control of an unknown person, the worse it can get—we don't know anything about him! All we know is that you have been picked by him. You did not start this interaction and you're not steering it, so you've got to re-assert control immediately.

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eJournal: As we re-assert control, are you concerned we will escalate the violence by word or gesture?

April: Nice people are worried about that part, but nice people do not fly off the handle or become abusive right off the bat. To quote the late trainer Paul Gomez, the biggest problem nice people have is that they don't get aggressive enough fast enough.

I encourage people to start the process much earlier than they think they should—before the interview starts. As soon as I am aware that someone has some interest in me, I start taking an interest in them. Get at it early and get it going as soon as possible one way or another.

To do that, I need certainty. I need to go from uncertainty about this person I am encountering, to certainty about what I need to do. I need to get to certainty quickly. I have a repurposed three-step technique from the ancient days of policing that can help nice folks ramp up to the level of aggressiveness they need. It is called Ask, Tell, Make.

The steps are helpful because I don't want to get stuck in a loop being too nice, nor do I want to point a gun at everybody who asks me for a quarter, so the first thing I like to do is ask the unknown person a question.

With a friendly hand, a friendly face, a friendly voice, ask, "Hey, sir, could you hold up right there for me?" That question is asked in a friendly tone, but it gives me a response that I can judge. If I ask someone, "Sir, could you hold up right there for me?" and he stops in his tracks, the odds go way down that he is a dangerous criminal in the midst of attacking me. My certainty goes way up.

If he "fails over" when I ask him to stop, next I am going to tell him to stop. Telling is a command in a time frame. Now I have unfriendly hands, unfriendly face, unfriendly voice. The reason we are justified in moving from friendly to unfriendly is that he didn't do the first thing I asked him to do. This is someone who has gotten my attention, who I asked to stop, who didn't stop. Now they are going to get yelled at and it is going to be an unambiguous command in a time frame. "Sir, stop now." "Stop right there" and that is going to give me a response that I can judge.

Let's say the person being yelled at jerks to a halt. They may have been spaced out, talking on their phone, and just did not notice me. It was not an attack; it was completely benign. I am now reassured. Maybe they're a little upset at being yelled at, so I have plenty of time to apologize. "I'm sorry, sir, I thought you were someone else." "I'm sorry, sir, I thought we were going to run into each other." You can always fix it.

If it indicates something malign, let's say I ask him to stop and he doesn't, he fails over again and we are into "Make," as in make ready. I will make ready to execute my defensive response, whatever that is. What am I trained to do? What am I set up to do? Is that to run away? Is it to draw a gun? Is it to prepare to fight hands on?

The most important thing about these three steps is that each is limited. We only say it once. We ask once; we tell once and then we make ready. People get caught up in a loop, "Stop right there. Stop right there. Stop right there. Stop right there." Well, the hundredth time you give a command is not magical! You can see some pretty dysfunctional police behavior where the same person will be giving the same commands over and over, or multiple police officers are giving conflicting commands and nobody knows how to get out of the behavioral loop they're stuck in. Nobody knows how to draw it to a close.

The beauty of Ask, Tell, Make is that it is just three steps all the way to the end. By the end, if you are using it right, I would expect you to be more confident about what you need to do. Your certainty has increased. You are going to be doing what you need to and not waiting around.

Most importantly, it is the basis of an articulable theory of why you did what you did. "This guy caught my attention as he was looking at me in the parking lot because there was just something about him. He kept on walking toward me and I didn't like it so I asked him to stop where he was and he didn't. He kept walking toward me. That really got kind of scary, so I told him to stop. In fact, I yelled at him, 'Stop right there!' and he

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didn't. He kept walking toward me. So yeah, I moved behind the front of my car and I put my hand on the butt of my gun."

Ask, Tell, Make provides a layered, articulable explanation for what you did and why you did it.

eJournal: What if some of us are not very nice and while deflecting unwanted contact with someone we do not know, we get snarky, sarcastic or demeaning? What's the risk of escalating begging into violent robbery?

Aprill: That bears our attention, especially when you are looking downhill on the socio-economic gradient. A lot of street people are not someone we want to interact with, so it can be easy to speak a little bit more brusquely, a little bit more dismissively.

You have several choices with your words. Are they inflammatory? Inhibitory? Neutral? With unknown folk, neutral is by far the best. I really want to make my words just matter of fact. Pay attention to the tone: not sympathetic, but not hostile, either. Why start a fight if you don't have to? I often say, you would not walk around with a sign around your neck saying, "I'll fight anyone."

eJournal: But, do our words sometimes say that?

Aprill: ...and our demeanor even more. You can zip your lips, and still send a message very clearly. That is why demeanor is so very important. If your demeanor is sending the message that you find the person irritating, disgusting, filthy and that you hate homeless people, you are communicating loud and clear. Do not be surprised if somebody picks up on it.

We are nowhere near as slick as we think about hiding our messaging. I do think most people could bear to pay a little more attention to how they come across, especially with people that they do not think they will ever interact with again.

eJournal: Sometimes those slipups happen so unexpectedly. I will tell on myself, because while I think I treat people with respect, mistakes happen. Some years ago, I was in a grocery store checkout line at night. Two men in their early 20s begin trying to figure out if they had enough money to pay for their snacks. They were

pretty raucous and one hit me up to pay for their stuff. I said, "No!" in a disgusted tone of voice and turned away. I realized that I had been rude, and now I had to go into a dark parking lot after them. Not my proudest moment!

Aprill: It is funny, but I think sometimes people in the self-defense community talk about themselves in ways that make them sound boxed in by situations. You will hear people describe situations and sometimes they will say or imply, "I couldn't back down." I find that really sad because of all the things in the world I could get killed over, my own stupid ego is lowest on the list.

I have something that I often use clinically and offer as a tip. You do not have to say the words "I'm sorry," to apologize. You would be surprised how people choke on those words. You do not even have to say "sorry" if you realize you have done something wrong.

Let's say you're in the checkout line and you did accidentally say something rude. You were a little frustrated, something leaked out and you wish you hadn't, but you said it out loud. The person in front of you heard it and they are offended. It does not cost you a nickel to say, "Whoa! That was a stupid thing to say. My bad." By and large, you are off the hook at that point and you don't have to say the words "I'm sorry," you do not have to grovel, you can literally just say as colloquially as you want, "Whoa! That was a stupid. My bad."

If you will do that, it is amazing how quickly things get better. People realize they have done something offensive, and their follow up is silence because they are embarrassed. Well, a nasty remark followed by silence reads as hostility. The last thing you want to do is insult somebody then "mean mug" them, because now to any observer it might look like you are starting a fight.

We are never as stuck as we think we are if we keep thinking and we keep processing information. What you say can be pretty superficial, it does not have to be the Gettysburg address to get your point across and to defuse the situation.

We judge others globally by behavior and demeanor. Global gestures like the stereotypical hands up, palms out accompanied by the phrase, "Whoa! Whoa! Whoa!" are postures of dissuasion for most and say, "I don't

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want to have a problem with this! Hey, I am sorry about this! Hey, that went the wrong way.”

There are ways we can communicate in bulk. Every little word, every little gesture is not so important because they are situated in a nexus of communication that sends the message really loud and really clear. Self-defense people worry about stepping into a trap from which they cannot step out. Take a little more care about your messaging, fix it when you can and when it's necessary. Those traps are fewer and farther between than I think it is justified to believe.

eJournal: What about dishonesty? Suppose my core belief was, “I can't believe those freeloaders thought I'd pay for their junk food!” How congruent is my message if I only act apologetic? Can we fake contrition?

April: That is really hard. Verbal dexterity is a skill that either people have or they don't or a person has it to a greater or lesser degree. For example, you can't pretend to be clever; you can't pretend to be quick witted. When people make what they think are snappy statements but they are a little bit off, fatigued, or really angry, the sentiment they don't intend to communicate can leak out. Think how often we snap at people when we are tired. What you mean to say is, “No, thanks, I don't want to cook dinner right now, I am really tired,” and what you actually said was, “Oh, sure, like I am hungry.”

It is really hard, so rather than trying to hide your feelings, I would like you to put some thought into things you are going to say that mean, “No.” You know how John Farnam talks about tape loops? It is important to have those at the ready.

For example, when someone says, “Hey, have you got \$10?” that is oblique, so you can't answer with a “No” or a “Yes.” What you need to say must functionally mean “No.” Someone who says, “Hey, I'm just trying to get these kids fed,” is putting pressure on you because he is not just asking for money, and you have got to come up with a response.

Your response has got to be something that you had going in advance so you cannot be flummoxed. We do not want to get drawn into a conversation. When someone says, “Hey, have you got \$10? I'm just trying to get these kids fed,” a chatty person might say, “How

many kids do you have?” This is not a conversation they choose to be having, and certainly should not be having.

I have a friend who does a wonderful technique. Whatever someone he doesn't know engages him and asks for something, like the three universal shortages—quarters, cigarettes and knowledge of the time—he says, in an incredibly bright, cheerful voice, “Why, no, but thanks!” I have actually seen street people stop just completely startled because they can't process his answer and are not sure whether he has understood them. It is just hilarious.

So, we need to think of something along the lines of a Farnam tape loop, but we also need to think how to get out of the box quickly. Someone who is starting this interaction is trying to put you in a box that limits your behaviors and your responses. You have got to get out of the frame of that box right quick.

eJournal: How should we safely terminate unwanted conversations?

April: The first thing is, don't stop moving. A lot of people stop moving when they start talking. Every inch is your friend, so keep moving. My version of a tape loop is to say the same thing to man, woman, child, 8 to 80. I say, “No, I'm sorry, I don't.” It starts with no, an unambiguous no. I don't have a cigarette, I don't have any quarters, I do not know what time it is. A lot of people make an apology instead of saying no. They say, “Oh, sorry!” Well, “Oh, sorry!” is not “no.”

“Oh, sorry!” means, “Ask me something else.” I start with “No!” and then I say “sorry,” because I am from the South; what am I going to do? Then I say “I don't” because that is universally understood and I am not going to meet their needs. It is not rude, and with the “sorry” in the middle, it is a little harder to take offense than if I said, “Screw you.”

That is my standard tape loop, “No, I'm sorry, I don't.” I say it just like that and I don't stop moving. The reaction will give you responses from which to judge. If you say, “No, I'm sorry, I don't,” and the person continues to follow you as you walk away, you have now graduated to a whole new level of concern and justifiably so.

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eJournal: I like the utter repeatability, so it is available under stress, and then we don't—literally—stop to try to work out our next move. With a pre-written script, maybe we won't waste time trying to figure out what to say.

Aprill: Most people wait until it is too late to take control because they wish it was not happening. That unspoken wish is a problem because the reason the unknown contact has gotten your attention subconsciously in the first place is that they are not acting normal. Their abnormal content, their abnormal information, their abnormal broadcast has reached you and been detected by your threat detection systems. Convincing yourself that something that is happening is not is how people get hurt.

We want to start taking control of the space dynamics as early in the encounter as possible, so consider how big of a space you need. I would much rather start an interaction with somebody when they are 50 feet away from me than when they are five feet away from me.

eJournal: Statistically, a lot of violence is not enacted by total strangers. How does attack interruption work when we are trying to stop someone whom we know, perhaps from work or church? Right now, states are releasing offenders from prisons who are going back into their communities where they know a lot of gentle, vulnerable people. What is your advice to people as we adapt to what may be the new normal?

Aprill: We have got to double down on behavior and demeanor. This is especially true when wearing masks means we're getting less and less information from the face. This is especially true for law enforcement personnel. You frequently run into people who you have arrested on the job. I have run into people in bank lines, who I have arrested before and that is an odd moment.

Remember, you have to value recognition appropriately. At first, all you recognize is the face. Then you realize why you recognize the face. Recognition is incredibly powerful, but we may not be recognizing them for good reasons. We may not be recognizing them because they sat next to us in third grade. Sometimes you will recognize someone, and that is not a good sign as more and more people are being pulled back into the community under these weird circumstances.

Things are very unsettled right now. Two months ago, had you walked into a Walgreen's drugstore and seen two people with masks at the counter, you would have turned around and left. You would have thought the place was being robbed! It's strange how quickly we can get used to the new normal. We are all feeling a little off kilter. The normal cues that we would use—especially about the face—are denied us as people wear face coverings and scarves. That means we have to double down on our interest in behavior and demeanor.

Demeanor is judged by this question: how do I feel about what they are doing? Behavior is what they are doing. Let's say they are standing at the cash register doing jumping jacks. Is it a little kid being goofy, standing there doing jumping jacks or is it an adult male, covered in sweat, standing there doing jumping jacks. How do I feel about it? One makes me feel different. Do you see what I mean?

eJournal: Our audience typically invests a lot of time and resources going to the range to increase shooting skill, but it is a fair bit more difficult to get training, coaching and practice on what could be called the soft skill of de-escalation. Where do we even turn for training?

Aprill: [laughing] Well, I do teach a class. I understand that people call them soft skills, but that makes it sound minor and I often think if you are on a boat and it sinks, putting on a lifejacket is a soft skill until it is not.

These are tough things to practice! Obviously, there is no round count and it just feels odd. Talking to people that we don't know at greater than social distances is really uncomfortable on several levels so most people don't want to play around with it. I think they just assume that they are going to figure it out on the fly. For me, planning to learn on the fly under pressure just seems like a terrible idea.

eJournal: What's your opinion about becoming more self protective and keeping people at arm's length. In pursuit of safety, are we isolating ourselves to an unhealthy extent?

Aprill: There is a built in justification for doing that right now because we are all supposed to be social distancing, right? People are starting to talk about what

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possible good could come out of this otherwise very negative COVID-19 circumstance. If one outcome is that we become more mindful of our personal space, of knowing who is in our space and why and what they are doing, I don't think that is a bad thing.

eJournal: Do you predict we will continue to demand increased personal space after the pandemic?

Aprill: I would like to think we would, especially in fall and winter, the normal flu season. I don't think some of these practices would be a bad thing for us to carry on to help us defeat the flu, much less COVID. Being able to say, "Hey, I am trying to keep a little distance, if you don't mind," is not a bad thing.

Think about the big cultural transition that happened around smoking. At one time, smoking was considered something you could do anywhere, and around anyone and people who did not smoke were expected just to deal with it. Well, slowly over time, non-smokers became more comfortable saying, "Could you not smoke in here? Could you not smoke around me? This is a non-smoking space." Now the norm is completely turned on its head.

Maybe distance will become a social norm for a bunch of reasons, not the least of which is COVID but also for personal safety. I don't think that is a bad thing, but it does go very counter to the fact that we are a social species. We like to be close to people. There is an instinct called herding. We like it. We like being in crowds of people, and sort of bumping into each other, that is just how we are so we are going to have to fight against that. There are very few times when it is to our advantage to be crowded by unknown people, yet a part of us loves it and we're used to it, so we do not object. Paying a little more attention to distance might be something good to come out of this in the long term.

eJournal: We'll need to be aware of our conditioning if we're to break the urge to herd up. What would you like readers to take away from our talk here today?

Aprill: My big point is that we got to the top of the food chain for some pretty good reasons. Two of the biggest reasons are threat detection and behavior prediction. I want people to listen to themselves. The smarter people are, the more they doubt themselves. That is good, in that they are thinking and they are being introspective, but I don't want them to overthink themselves into paralysis.

Start with the notion that you are a reasonable person and your perceptions are going to have something to them. That is a good enough foundation for starting the process of acting. When confronted with the unknown, I would like your response to be, "I don't know if that is something, but I know that it is not nothing."

eJournal: Retraining our internal reactions is something we can all work on. Thank you for sharing your insights with us and for being a great resource to armed citizens and sharing down-to-earth strategies like Ask, Tell, Make and all the other points you brought out. Thank you for such useable strategies and for your time.

About our source: William Aprill teaches a class titled "Unthinkable" that covers these concerns and a lot more. Learn more at <https://aprillriskconsulting.com/seminars/> and don't miss the "ripped from the headlines" lessons he offers in the blog section at <https://aprillriskconsulting.com/arc-the-blog/>, Instagram: @aprillriskconsulting and check in on his Facebook page <https://www.facebook.com/aprillriskconsulting/> for his regular "They Are Not You" commentaries.

President's Message



by Marty Hayes, J.D

Sometimes I sit at the keyboard, at the end of the month and wonder just what the heck should I write about this month. Well, this month is NOT one of those months, there are lots of things to comment on. My first concern, not surprisingly, is the civil unrest in our

country. While I can imagine what it is like living in one of the cities embroiled in the protests, riots and destruction, I am thankful I can view it from outside the urban areas.

I am glad I don't get broadcast TV because I know I would spend all my time glued to the screen. What is happening in our country? I must admit that I do not have a quick, easy answer to that question. There are theories upon theories as to what is causing the civil unrest and I suspect the real answer is a combination of those theories. I do know that each and every one of our members has the legal right to use force in self defense, if they are caught up in one of the protests/riots and have been singled out for attack. Keep in mind, of course, that members must be acting in legitimate self defense or defense of another innocent person and not merely protecting property. I am grateful for the Network Affiliated Attorneys who have taken valuable time out of their workdays to discuss the legal issues with our members. Thank-you, attorneys.

COVID-19 Woes

The Network office is now back to normal, despite the best attempts of the State of Washington to ruin our business. That is kind of a joke, but not really. I sincerely hope that all of our Network members have weathered the COVID-19 storm as well as can be expected. I haven't heard of anyone who was sick, but since we have 17,000 plus members, I cannot believe we have been untouched. Only a couple of members have asked for 90-day extension of membership that we offered in April if needed due to job loss during the quarantine. If you came down with the virus or had a family member come down with the virus, and you would like to talk

about it, please write me an e-mail (mhayes@armedcitizensnetwork.org). I may share some or all of it next month, and of course, I would respect your privacy by shielding your name.

Supreme Court's Ten Orphan Gun Rights Cases

I listened to Alan Gottlieb (founder of Second Amendment Foundation) interviewed on the Polite Society Podcast this morning as I was drinking my coffee and he was as eloquent as always <https://www.facebook.com/watch/live/?v=930820504035390>. Alan described what he believed was the reason for the denial of certiorari for all ten cases. Listen to it yourself, but the bottom line was that he believed the four strong conservative justices were afraid that Mr. Swing Vote (Chief Justice John Roberts) may not have voted in favor of the pro-gun side if they took any of the cases. The conservative justices didn't want to risk a defeat. I want to study more deeply into the issue, so I won't comment further right now. I would like to give a shout-out for Network members to support the Second Amendment Foundation (<https://www.saf.org/donation-page/>). If you haven't donated to the cause recently, I know they could use the financial support as they take these gun rights battles to the courts. They will see a donation from Gila and me personally before the end of the month.

The Network v. Washington Office of Insurance Commissioner

The Network's own legal battle with the Washington Office of Insurance Commissioner (OIC) continues. While we do not foresee a quick resolution, I am optimistic as to our overall chances of receiving a favorable ruling eventually. We have a good, experienced lawyer working on our side and I am glad he is letting me have a considerable amount of input into the case (or at least he is humoring me well). One interesting development that was very good for WA members came about when, in a recent court filing, the OIC stated that the Network is NOT required to stop renewing WA members. We just cannot sign up new members. Consequently, we are now again renewing WA members. You must have been a member prior to

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March 26, 2020, but aside from that, you are very welcome to renew. To renew, please go to <https://armedcitizensnetwork.org/join/purchase-membership> or give us a call at 360-978-5200.

Donations Help

After last month's *President's Message*, we received many donations from members wanting to help with this legal fight, and I wanted to publicly thank each and every member who sent us what they felt they could afford. It is a good feeling to know that so many people care about what we are doing and appreciate our willingness to fight the State of Washington.

This is my second major battle fighting a government bureaucracy. My first experience arose when I helped

prove that a young lady did not commit suicide, despite our local county sheriff and coroner stating otherwise. That case consumed several years, but we finally prevailed. There's a good synopsis of the case, reported in attorney Royce Ferguson's blog, <https://royceferguson.blogspot.com/2009/11/ronda-reynolds.html>. There were times that we wondered if we would ever get the cause of death changed from suicide, but eventually, a jury agreed that the coroner's determination of suicide was not accurate.

Back to the present day: I firmly believe we will prevail if we continue the battle against the overwhelming advantage of the State of Washington, just as we did with the Ronda Reynolds case. I know one thing for certain, we will not give up.

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Attorney Question of the Month

In this monthly column, we ask our Network affiliated attorneys to contribute commentary on questions and topics about which Network members are asking. In these unsettled times, a goodly number of Network members have asked questions about using deadly force in defense against rioters entering residential neighborhoods, invading or destroying homes. This concern initiated a series of questions to help members better understand their state laws about use of deadly force in defense of themselves, their families and their homes.

State laws vary on where the line is drawn allowing deadly force to stop intruders, so members are concerned about whether intruders may achieve actual entry into the portions of the home occupied by the residents before they can legally use deadly force in defense of themselves and their families while others are asking if they can stand guard with a rifle at their property line and what to do if threatened there.

We asked our affiliated attorneys how they would respond to Network members from their states asking what the law allows against rioters moving through residential neighborhoods and were very appreciative of their responses to the following questions:

If facing home intruders and arsonists moving through neighborhoods, are residents of your state required to wait until the home has been entered or a fire started on it to stop the attackers?

How do your state's laws differ on deadly force used to protect residents compared against preventing an arson of an occupied dwelling? What limits are placed on use of force to prevent other kinds of destruction to the home? What restrictions are in place as regards preventing destruction of attached garages, outbuildings or property like vehicles on the home's lot?

Our affiliated attorneys provided a substantial amount of information, so much in fact, that we'll run the first half this month and wrap up the rest in August.

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I will address Pennsylvania law, although there are not many (if any) states which differ substantially from Pennsylvania law in these specific respects. My advice is also necessarily informed by my training, and experience as an instructor in firearms and tactics.

The scenario is "rioters entering residential neighborhoods and invading or destroying homes." This is not the same thing as rioters breaking windows or looting stores, and the law will be applied differently in the two different situations.

Actually, "facing home intruders and arsonists moving through neighborhoods" it is not your problem, legally or practically. Unless you are a sworn officer or acting pursuant to an explicit request for aid from a sworn officer, you have no duty to act, and probably no right to act. Since this is not 1870, and nowadays officers virtually never solicit assistance from private citizens, it is not going to be up to you to stop the rioting, arson or home invasions. Let the police handle it.

With respect to one's own home, one should give some serious thought, in advance of the mob's arrival, about whether it is wise or prudent to start shooting it out with rioters in the midst of a riot. The idea that shooting a rioter will cause the rest to disburse is ... let's say, "overly optimistic." Just ask any officer who has been in that situation. And never presume you are the only one in town who owns a gun.

Putting practicality aside for a moment, in no case is a citizen legally justified in the use of deadly force to prevent the commission of a crime unless it is clear the crime in question is one that normally causes or threatens death or serious bodily harm (which includes arson). But just because arson "normally" causes death or serious bodily harm does not mean it necessarily presents such a threat in every circumstance.

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One may not use deadly force, for example, to prevent the burning of an abandoned barn out in the middle of a field. And keep in mind that setting foot on one's real estate is not a "home invasion." To be a home invasion there must be an invasion of the home (not somebody else's home at some other point in time), giving rise to another whole set of legal problems.

Further, the individual using deadly force must be actually correct that the person they shoot is the one committing the crime. If one is mistaken, and inadvertently shoots someone who was not actually committing the crime (or actually joining in or assisting in the commission of the crime), the armed homeowner is himself guilty of a serious crime. Depending upon the circumstances, the crime with which he is likely to be charged for making a mistake and shooting the wrong person may be voluntary manslaughter rather than murder, but, bad enough.

Above all, one is never justified, legally, in using deadly force to protect property, including one's home. In the words of the Pennsylvania Supreme Court:

"To avail oneself of deadly force for self-protection, three factors must be found to exist. First, the actor must have reasonably believed himself to be in imminent danger of death or serious bodily harm, and that it was necessary to use deadly force against the victim to prevent such harm. Second, the actor must have been free from fault in provoking or continuing the difficulty which resulted in the slaying. Third, the actor must have violated no duty to retreat."

This has been restated eighteen ways from Sunday; but these are always the factors which will justify the use of deadly force. Period. No exceptions for one's house, antique car or even beloved dog. (Although I admit, if serving on the jury I would not likely vote to convict one who shot a dog killer; but that's not the law.)

So, the fact the individual who got shot was a "rioter" is irrelevant, except as it may be evidence in support of one of the other elements of a justification defense. For example, the fact the individual is rioting would likely tend to support one's claims that one did not provoke the incident and was in imminent danger of serious bodily injury or death. But the fact there was a riot going on will not raise a presumption that at the specific time

and place of the shooting the armed homeowner reasonably feared for his life or the life of another. If the rest of the demonstrable facts do not support the defense, the defense will likely fail notwithstanding the fact the victim of the shooting was a "rioter" or otherwise guilty of doing bad things.

Then there is the large problem of proving the decedent was a rioter, and not a bystander or mere cheerleader for the rioters. Who is going to testify? The other rioters? The friends and family of the decedent? Was it dark? Was there noise, smoke and confusion?

It is likewise immaterial that the "rioter" was trying to burn one's home, as opposed to some other structure, except, again, as it may be evidence in support of one of the other elements. In Pennsylvania, being lawfully in one's home, or in the curtilage around the home, relieves one of the duty to retreat (the third element identified by the Pennsylvania Supreme Court). But it is critical to understand two things about the right to stand one's ground: (1) because one does not have to retreat does not satisfy the other elements of the defense (a reasonable belief a human being is in imminent danger of being severely injured or killed, the use of deadly force is necessary to prevent the harm, or that one is free from fault in provoking or continuing the difficulty which gave rise to the shooting); and (2) the fact that one is not legally required to retreat does not mean starting a gunfight with rioters is very smart.

So, for example, if one is confronted by a small child who says they are going to burn one's house down, the fact one is standing before his home does not justify killing the child. Nor does the fact that a "rioter" is setting fire to your car out at the end of your driveway legally justify your killing them, unless you can articulate specific facts which give rise to a reasonable belief that burning the car will put some human being in immediate peril. And standing around one's property saying things that might later be construed as provocative might well cause the entire defense to fail.

So, it is complicated. And the matter is even more complicated because in the middle of a riot it would be easy to make a mistake, and proof of specific facts is made more difficult.

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Those who are compelled to use deadly force in much less tumultuous and confused circumstances, including trained police officers, rarely know all of the facts about who was present, people's actual motivations, or what went on just before the shooting. They only know the part they saw and heard and actually perceived and understood. (This is why lawyers tell their clients not to make any statements until they have consulted with an attorney, who can then investigate the facts and figure out more of what actually went on.) It is easy to confuse the identities of specific individuals in a dynamic situation, let alone in the dark. And who knows what stupid thing one might be heard to say under the stress and in the excitement of the moment?

The point is that the practical considerations will trump technical legal rights and requirements if a riot shows up on one's doorstep. Anyone who cares about their own safety or that of their family will avoid the whole situation if at all possible.

Thank heaven the scenario of a riot coming to one's residential neighborhood is so rare as to be statistically insignificant. But, we never know. So, my advice in the event this kind of trouble ever finds you is: (1) leave if you can safely do so; (2) keep your mouth shut before, during and after; (3) keep your weapon concealed unless and until you are compelled to use it; and (4) buy insurance for your stuff (which does not include any exclusion for "riot" or "civil unrest"); and (5) under no circumstances shoot anybody unless you can articulate specific facts which give rise to a reasonable belief (both words count) the use of deadly force was immediately necessary (both words count) to prevent serious bodily injury or death to an innocent person.

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If facing home intruders and arsonists moving through neighborhoods, are residents of your state required to wait until the home has been entered or a fire started on it to stop the attackers?

Washington allows self defense with deadly force in these situations: if you believe you or your family or

another is threatened with death or force that may result in death or serious injury and a reasonable person in your situation knowing what you know would feel the same, your use of force would be lawful. So, as to home intruders, my recommendation would be to be sure they are, in fact, trying to invade your home first. Arson is a different story since what may be unreasonable in one place might be reasonable in another depending on conditions on the ground (hot, dry, windy conditions with houses close vs. wet conditions with houses far apart). So, with that, it would depend on the situation. Certainly, if it's YOUR home and someone is coming towards it with a torch, that's way different than shooting someone with a torch approaching a house 100 yards away.

How do your state's laws differ on deadly force used to protect human beings compared to preventing an arson of an occupied dwelling? What limits are placed on use of force to prevent other kinds of destruction to the home? What restrictions are in place as regards preventing destruction of attached garages, outbuildings or property like vehicles on the home's lot?

In Washington, you can only use deadly force to prevent injury to a person, not property. So, an occupied house is clearly within that realm, an unoccupied shed is not without a reason to believe (that you could defend to a jury) it was in fact occupied, not a hunch.

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Maine permits the use of deadly force on "premises" to prevent an arson. It does NOT need to be a dwelling or occupied. My theory is that fires, once set, have a mind of their own, hence the relatively expansive permission. A set fire on someone else's property implies a willingness to risk death or injury.

Note that our statute has a couple caveats: You must "reasonably believe deadly force is necessary."

You must be some kind of lawful occupant of the premises. See title 17-A MRSA sec. 104.

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Neither our defense of person statute, nor our defense of premises statute require that the subject actually enter a “dwelling.” The words used are “has entered or *is attempting to enter*” [emphasis added]. One need not be actually inside yet.

When dealing with intruders, the threshold for use of deadly force is quite low.

Note that all the above supplement and are in addition to “street rules.” In short, occupants can use deadly force to “prevent” arson on premises, which are NOT limited to dwellings. The use of deadly force to prevent entry by burglars (criminal trespass by someone who intends to commit some other crime) includes those who “attempt” to enter.

The statutes I focused on are “in addition to” the statutes on defense of person. Those are in 17-A MRSA sec. 108.

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Tennessee’s laws on the use of force and the use of deadly force are contained in several sections of the statutes. In Tennessee, the law provides that deadly force can only be used when there is an imminent risk of

death or serious bodily harm to an individual. Tennessee Code Annotated § 39-11-611. When someone is in their home or business, the law creates a “rebuttable presumption” that deadly force exists if a) the homeowner/business owner is not engaged in any illegal activity and b) a third person “unlawfully and forcibly enters or has unlawfully and forcibly entered” the home or business. It is not enough that the third person, perhaps a looter, is just in the yard or outside. The rebuttable presumption can be defeated in a criminal case by facts that would show that there was no threat to human life – such as evidence that the looter was only taking merchandise or had already done so and was leaving.

In Tennessee, deadly force cannot be used to terminate a trespass on property. Tennessee Code Annotated § 39-11-614. Deadly force cannot be used to stop a property theft or to protect real or personal property from damage that does not also rise to the level of a threat of death or serious bodily injury. Tennessee Code Annotated § 39-11-614.

In Tennessee, deadly force cannot be used to effect a citizen’s arrest. Thus, if a looter is stealing merchandise or damaging property, a homeowner or business owner cannot brandish a weapon and yell “stop or I will shoot” merely to stop a property crime.

A big “Thank You!” to our affiliated attorneys for their extremely useful contributions to this worrisome question. Please return next month for the second half of our affiliated attorneys’ comments on this topic.

Podcast Review

ProArms Podcast

Reviewed by Gila Hayes

Massad Ayoob and Gail Pepin and their associates at ProArms host a library's worth of educational listening at <http://proarmspodcast.com>.

These programs are a lot of fun with diverse topics including competition and training, guns and gear, the shooting industry, and gun fight survival.

If you have not been accessing this educational resource now is the time to get caught up. Give special attention to the gunfight survival podcasts. Told largely in the voices of the survivors themselves these stories tell the history leading up to the violence, analyze what went right, what went wrong, detail the guns and ammunition used, outline tactics of both assailants and defenders, tell of interaction with police, other emergency responders and attorneys for legal representation, going in front of grand juries, surviving criminal and civil trials, and life after a critical incident.

One example is the story of police Lt. Brian Murphy, who was shot 15 times defending against the mass murderer who shot ten people, killing six, at the Sikh Temple in Oak Creek, WI in August of 2012. In his own words, Lt. Murphy profiles the racist murderer, who, likely trying to gain approval of local white supremacists, targets a Sikh house of worship. When the murderer reconnoiters the Oak Creek Sikh temple, he is welcomed, shown where worship takes place, where congregants share meals after services, and invited to dine with his hosts. He returns the following week for a second tour and is similarly welcomed.

He returns on a Sunday morning to shoot the worshippers. He shoots and kills a woman who has fallen to her knees to pray for help, kills a man who is shepherding innocents to a basement room for safety, shoots an 80-year-old man kneeling in prayer in another room, and continues through the building shooting two more men. The police dispatch center starts getting calls pleading for help or from neighbors who are worried when they hear the gun fire.

Lt. Murphy arrives while the murderer is trying to shoot three women cooking in the temple kitchen. Through the



ProArms Podcast's Massad Ayoob and Gail Pepin

dining room windows, the murderer sees the officer's arrival. From a distance, Murphy sees a man who somewhat matches the description given of the shooter and yells, "Police, stop!" Watching the suspect closely, he approaches.

They're about 40 yards apart when the murderer begins shooting at Lt. Murphy who shoots back. Both are running and shooting; Murphy is shot in the face and goes to the ground.

In the 10 seconds it takes for Murphy to collect himself and get to his feet, the murderer circles and comes up about ten feet behind him and pours a hail of bullets into the officer. Wounds to his hands and arms leave Murphy unable to hold his gun and shoot back during the nearly two minutes of sustained gun fire from which over two dozen empty cases were later recovered.

While the murderer pauses to reload, Lt. Murphy vows that he will not die in a parking lot. As he hears the slide go forward and the shooting starts again, he resolves "not to give him anything," no pleading, no surrender. Murphy is hit in the jaw, both hands, both arms, the leg, chest, side, and suffers a final shot to the back of his head which miraculously only stuck in his skull and penetrated no deeper. Fired at a downward angle by a standing shooter, the bullet skims the top of Murphy's vest at the shoulder, penetrating between two layers, squirts out, and hits Murphy in the back of his skull. "If it wasn't for the vest, I'd be dead," he states.

As Lt. Murphy is knocked out momentarily by the shot to his head, a fellow officer arrives and shoots the murderer from 60 yards away with a patrol rifle. The lessons of survival against incredible odds are inspiring. This story is told at <http://proarmspodcast.com/103-survivor-sikh-temple-shooting/>.

Several of the stories profile private citizens attacked by violent robbers in their stores. In one, a retired police officer turned gunsmith and gun shop owner tells Massad how surviving one robbery helped him be better prepared for the next, which was a violent gang initiation combined with armed robbery for guns and money.

Gunsmith Greg Ferris explains that training, prior experience and even competitive shooting let him

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recognize tachypsychia's time distortion and remain able to focus on stopping multiple attackers. He had previously experienced auditory exclusion, too, so when it happened to him, he recognized it and kept his focus on the fight. Ferris comments that no one can foresee exactly what will happen but he advises listeners to try to think through ideas about how to keep the criminal from getting lucky. The story and its many lessons are at <http://proarmspodcast.com/107-ferris-firearms-robberies/>.

Another episode at <http://proarmspodcast.com/104-almond-avenue-pharmacy-shootout/> is narrated by a pharmacist who shot two men who burst in shooting late at night to his family's drug store in Sacramento, CA. When the robbers burst in, pharmacist Bryan Lee rushed forward to a cover position to deny entry to the waiting area where defending against multiple attackers would be greatly complicated. Lee recalls thinking that he was going to be shot and killed as he got to his shooting position. He saw two huge men whom he mistakenly thought, due to their bulk, wore armor. He describes crouching down and "slicing the pie" around the cover, aiming and firing five rounds, all hitting, in about one second. Ayoob speculates that he fired at the same moment he saw the intruders shooting at him and his mother. She was shot in the leg.

One robber fled after being shot in the leg; an accomplice was shot in the head, torso and leg and collapsed in the store. Amazingly, despite being shot in the face—the bullet traveling down to stop in two cervical vertebrae—the robber sat up, pulled off his ski mask, crawled away, and died several blocks away after having texted his family.

Lee locked the store and got medical help for his mother, who was treated and released that night. Both returned to work at the pharmacy the next day. His memory of shooting back is incomplete, and he describes his recollection as three high definition still pictures. Ayoob explains the phenomenon, called "flashbulb memory." Lee did not experience any significant time distortion or auditory exclusion, which Ayoob credits to prior preparation and training. The pharmacist, a former artillery soldier, was carrying a gun he'd carried for over a decade, with which he had shot a perfect score in an earlier class under Ayoob's instruction. He had also taken training with Jim Cirillo and shot competitively with both pistol and rifle.

Lee frankly addresses his emotions during the attack. While aware of fear of death and failure, he was not

incapacitated by terror, although his heart rate increased. Lee says he did not experience time slowing down, nor did he have tunnel vision, nor hand tremors during the shooting, although hand tremors plagued him periodically for several weeks afterwards. He suffered violent nightmares in the aftermath, was awakened by recalling "very realistic gun shots," that seemed so real he would check around to see if there'd been a shot fired. During the aftermath, Lee consulted with Lt. Col. Dave Grossman with whom he was fortunate to be able to talk over his emotional survival. He received supportive mail from strangers and recognition and gratitude from the pharmacy's customers.

Those three thumbnail sketches of nearly hour-long podcasts illustrate only an iceberg's tip of the wealth of material ProArms Podcast makes freely available to listeners. The stories in the Gunfight Survivors section are an excellent mix of incidents involving law enforcement officers as well as private citizens who stepped up to defend others or to prevent violence against their families and themselves. Some of the incidents have been also discussed in our Network journal pages over the years and it is intriguing to compare Ayoob's comments in the podcasts which frequently include questions asked by students in his classes with the discussions in our Network journal.

For more educational and inspirational material, listen and contrast <http://proarmspodcast.com/099-the-john-daub-incident/> with the written account in the latter half of <https://armedcitizensnetwork.org/network-track-record> in which John Daub tells of shooting a home invader; <http://proarmspodcast.com/084-the-bonaci-jewelry-store-attempted-robbery/> with pages 15-16 of https://armedcitizensnetwork.org/images/stories/Network_2013-08.pdf in which Firearms Academy of Seattle student Bob Bonaci tells of defending his jewelry store staff against a robber who barged in shooting; <http://proarmspodcast.com/033-the-fairchild-incident-andy-brown/> with <https://armedcitizensnetwork.org/psychological-aftermath-of-justified-homicide> in which Andy Brown describes stopping a mass murderer at an Air Force hospital; and contrast <http://proarmspodcast.com/087-the-spencer-newcomer-case/> with interviews with Spencer Newcomer and his attorney Chris Ferro in our January, February and March editions at <https://armedcitizensnetwork.org/our-journal/2019-journals> about a neighbor's escalating harassment culminating in a shooting. I think you will enjoy learning from these stories as much as I did.

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Editor's Notebook

Big Picture Considerations

by Gila Hayes

On the surface, my topic this month is simply further discussion about non-gun defense options that we've been sharing the past several months. Looking deeper, however, there's a lot more to the principles underlying the subject we need to examine this month.

A member who is a veterinarian wrote to express his concern about the firearms instructor's comment in last month's editorial about strobing flashlights. "Regarding using a strobe flashlight to repel a nasty dog, a quick Google search gave no helpful information. Hearsay and anecdotal information, regardless of the qualifications of the speaker in a different area of expertise, should not be relied on," he opined, giving an example about spreading erroneous opinions forwarded by experts about topics outside their specialty he had encountered as a veterinarian. The opinion about trying a strobing light to repel a vicious dog struck the same chord in my correspondent, "Somebody might get hurt because you gave an imprimatur to that information," he warned.

First, let's give our flashlight proponent rebuttal space, and then, if you will indulge me, I'd like to add some comments about critical thinking and our journal content.

Our firearms instructor commentator responded, "I wrote that the bright strobe feature was 'even likely to repel ... vicious dogs.' I didn't state it as fact and can't provide empirical proof. However, several of my law enforcement clients have had success with such flashlights in encounters with angry dogs. I always strive to be factual and authoritative in my professional guidance. If presented with reliable evidence of the bright strobe being generally ineffective in a canine context, I'll revise my suggestion accordingly. Obviously, my tactical flashlight suggestion does not constitute an imprimatur, and I realize the Network and any member has the prerogative of accepting, challenging, or rejecting my recommendation. In the final analysis, I hope ACLDN and all other members will have found the discussion topic ... illuminating!"

This exchange of ideas is the perfect introduction for a bigger topic. Do you unquestioningly accept what you read as a sound basis for your decisions or do you take in all the information you can find, ask your own questions and keep an open mind in case updates or new developments add to that body of knowledge? Do you strive to verify information taught at classes you attend? Do you treat class lectures any differently from information learned from books and articles or videos? How seriously do you take knowledge shared in conversations with fellow gun enthusiasts?

Validating information about self defense is tremendously challenging. Any demand for proven scientific findings about self-defense use of force is, I fear, impossible to provide because truly authoritative resources are few and far between—if they exist at all. We must acknowledge that each self-defense use of force is different in a host of ways just as each police use of force is subject to any number of variables. Short of allowing a Josef Mengele-style study, who is to say unequivocally that 9mm stops attackers only 75% as often as the vaunted .45 ACP; that shooting a violent assailant in the (pick one) head or the heart will bring about an immediate cessation of an attack, or that a strobing flashlight is effective against genuinely violent human or canine aggressors? Each supposition has been argued at length, by the way, and here's the unsolvable problem: has a specific technique or piece of equipment worked for someone sometime somewhere? Sure! Survivors may very well become advocates for what they believe saved them. We're all glad they made it, but what miniscule possibility exists that the situational variations in play in the advocate's situation will be replicated in a similar situation? That's asking for a tremendous quantity of amazingly good luck!

No one, from the most highly-recognized authority to the guy or gal with whom you strike up a conversation at the shooting range or gun store, can reliably advise exactly what to do to survive if you face immediate threat to your life or that of a loved one. The best we can hope for is an accumulation of information and knowledge—both

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scientific, like our veterinarian's training, and experiential like the stories told at the ProArms Podcast—to create an array of options from which to draw. For black and white thinkers, this is a disturbing reality.

There is great comfort but terrible risk in relying on an unimpeachable authority that issued a mandate so we could say, "I did as I was told." The ever-changing world of human behavior, crime trends, society's decay, coupled with the defense industry's advances through research and development require consistent personal effort to keep our own knowledge current and an open-minded willingness to challenge previously held beliefs when better options become available. Balancing on that shifting edge is not particularly comfortable! Blindly accepting statements from experts as unimpeachable fact may be comfortable, but it is incredibly risky.

Now, to apply those ideas, we have to ask, does information presented in the Network's journal interviews, book reviews, and other columns constitute the final word on matters of self defense? It would be nice if the Network possessed such powers! Alas, we can only share thought-provoking discussions to which each reader must apply his or her own judgement about appropriate situational application.

I strive mightily to avoid "fine print" in any aspect of the Network—for better or for worse, what we do and how we

do it is done right out in public view—and so in regular-sized type, on the back page of every edition of the journal is the reminder: "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."

Our Network family is populated by smart, careful men and women, and I genuinely respect each member's analytic capabilities. I promise to continue doing as our closing statement at the end of each journal states: strive to provide accurate and useful information, while trusting that you, the reader, have the smarts to take what is useful, adapt the ideas when your circumstances require modifications, and as both our correspondents—the firearms instructor and the veterinarian—did, stay in touch with us here at the Network about the interviews we compile, the opinions we state, and the books, videos and other training materials we discuss.



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

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