

Organizing, Training and Running a House of Worship Armed Congregant Security Team Pt. II

An Interview with Emanuel Kapelsohn

Interview by Gila Hayes

Last month we talked with attorney, expert witness and Network Advisory Board member Emanuel Kapelsohn about the many concerns arising when churches select and equip volunteer security teams. We're addressing this topic in depth due to the many questions from Network members and prospective members alike who ask if Armed Citizens' Network would pay for their legal defense if, while serving as security volunteers at church, they use force in defense of the congregation. Our answer? Although the opportunity has not yet arisen, we'd count it a privilege to assist members with legal expenses after they defend themselves and worshipers at their church. As with any use of force, there are serious ramifications to consider before undertaking armed defense. What responsibilities fall to volunteers serving a safety mission?

Kapelsohn contributed a tremendous amount of time and shared experience from both his personal volunteerism and his work as an attorney. In last month's introduction to this subject, we ran out of time before exploring why documented training is critical, whether safety volunteers join the rest of the congregation in the pews during services or stand guard at assigned posts, and perhaps most important, creation of a use of force policy. If you missed the first installment of this interview, browse to <https://armedcitizensnetwork.org/june-2023-front-page> for the first part of this discussion then return to our conversation with Kapelsohn and learn more in this edition of our online journal.

eJournal: You've explained many of the basics of setting up an armed church security team, including preliminary selection of team members. Once approved, what lies ahead of a new volunteer on your church's Safe Team?

Kapelsohn: We've got this person who's been approved for team membership. They've got their childcare clearances and concealed carry permit or if it's a state that doesn't require a permit, we figure out how to put them through a criminal background check. We require that our team members start with a 17-hour long program that includes classroom training on state law, firearm safety, mental preparation, alertness, and mental conditioning for this task. It includes range training on everything from drawing and firing single and multiple shots to engaging multiple targets, reloading, clearing stoppages, firing in situations where you have to miss innocents and other

things. It includes firing a qualification similar to what a police department might fire.

Class starts in the classroom on a Friday night. Saturday morning we're in the classroom and on the range in the afternoon. Sunday morning is services, so we don't have anything then, but Sunday afternoon we're back on the range. That's how we get in our good, solid 17 hours of training. People also get a written 3-ring binder of materials; some is sent to them ahead of time to study. It's a good and rigorous program.

You have to pass a written test in that class. If you don't pass it, you can't be on the team. Maybe more study is needed for the written test. You've got to qualify with your weapon. If you don't fire a qualifying score, maybe remedial training is needed, and you can't be on the team yet.

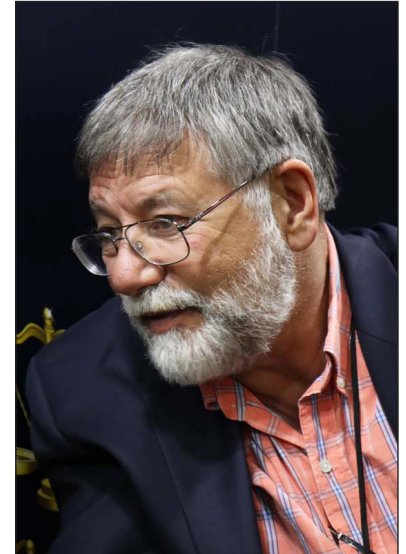
After being accepted for the team, they get the first aid, pepper gel, and unarmed defensive tactics training. We have several training sessions throughout the year in addition to the in-service firearms qualifications. We bring in lecturers to speak on various topics and many other kinds of training including man-on-man Simunitions® or Airsoft® with role players. We've done video simulator training both at our nearby police academy and I've brought in a mobile video simulator from another police academy. We put 42 people through that video simulator over three days. This is state-of-the-art training of a kind that police officers would go through. The goal is to make people on the team competent, confident, alert to things they should watch for and to develop the right mindset.

eJournal: When a team member has completed their initial training, do they work alongside a mentor?

Kapelsohn: The first few times that they serve a security function, they may work up in the communications center. Keep in mind, we've got our Safe Team and medical team on one radio channel, and parking lot attendants and building maintenance

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people on different channels. A parking lot attendant may see something that causes them some concern and they may radio in. If the communication center or the operations pastor thinks the Safe Team needs to respond, they'll put it out on our channel. When a team member is new to the job, they may spend a couple of sessions in the communication center where they see the security video camera coverage and hear the radio traffic. The first time or two that you're there, you'll be working with someone else, sort of like a field training officer, very, very similar to a police department.

eJournal: How does the new volunteer get a good understanding of your policies so he or she does not inadvertently mess up?

Kapelsohn: We have a written use of force and firearms policy. I suggest that any house of worship should have that if they have an armed congregant team. I mentioned before that the policy governs things like what weapons and ammunition you can carry. The policy also specifies qualification intervals. What happens if someone fails to qualify? What rules do we follow? When do we use deadly force? It may not be the same as just saying, "Whenever state law permits." There are some uses of force that may be permitted by state law that we don't want to permit in our congregation; we may want to be more restrictive. We make it clear in the policy that there are things like protection of mere property – and I'm using the word "mere" – or apprehension of criminal suspects that typically aren't our job. That's for the police.

If someone is out in the parking lot vandalizing a car, the police need to be called. Maybe someone from the Safe Team goes out there and yells, "Hey, what are you doing? Get out of there! The police are on the way." Maybe we act as a deterrent, maybe we get a good description of that person, but our people won't try to effect a citizen's arrest of someone committing criminal mischief. Similarly, it's not our job to catch someone who commits a crime and is running away. Our policy makes it clear that we may need to detain that person if it's necessary for the safety of the congregation. In other words, someone comes in and shoots or stabs someone in the hallway outside the service and is now running down the hall with the weapon still in their hands, they're not just a fleeing criminal. They're someone who's a current, active deadly threat to others. That's the reason we'd apprehend them; not because we want to see them brought to justice. Our job is to make sure they don't hurt someone else.

The policy covers that. Our policy is a little bit over 30 pages long. It's quite comprehensive and it covers the things you carry when you're

on duty – your name badge, your radio, your pepper gel, your loaded weapon and at least one spare magazine or one speed loader. Your holster has to be an approved holster because we want to make sure that it's safe and that your gun isn't going to fall out. We've never had a problem of that sort, but the policy is important. It's guidance for the team members; it's liability protection for the team members and for the congregation. It's the game plan by which people operate, so that's important.

If you have an attorney who represents your congregation, legal counsel certainly needs to look at the policy. Your legal counsel may or may not have a clue about armed security or armed confrontations or firearms, so you'll have to figure that out when the time comes. Clearly, the written policy is something that your legal counsel should pass on and agree to. In our case, the insurance carriers wanted to know that we had a policy, and they want to see our policy. That's important.

eJournal: Once the policy is written and approved, we come to the thorny issue of policy enforcement.

Kapelsohn: Any time we have team members present at the facility, there's someone in charge of them. I mentioned that they have radios and that someone in the communications center is monitoring and managing that radio traffic. They may get a call that says something like, "Command, I have a child who twisted his ankle in the west hallway. Can we have somebody from the medical team respond?" or sometimes a person faints during a service – loses consciousness – or people have diabetic attacks, or someone has chest pains and needs an ambulance.

If you have a radio call that says someone just twisted their ankle in the west hallway, you don't want all seven of your armed security people and both of your medical people to converge on the west hallway. Who's protecting the rest of the congregants and the rest of the activities? You've got to have standard operating procedures; you have to have someone in charge.

You may get a call, "Hey, I have a person of interest who I don't recognize as being a regular attendee..." Of course, that's not unusual. We have many visitors on any Sunday, but maybe this person is unsteady on their feet; they're staggering a little bit. "I wonder whether they're intoxicated. Here's their description. I'm going to keep an eye on this person." That's something the person who's in charge of the Safe Team needs to know about. They may need to go up to this individual and say, "Hey, are you feeling OK?" to make a judgment about whether they are intoxicated or not.



Click for streaming video of our interview with Emanuel Kapelsohn.

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After all, we're a house of worship. We want to be welcoming to people. We don't necessarily want to evict people because they're having a personal problem. For the most part, those decisions are left to the clergy at Good Church. There may be someone sitting in the middle of a service that has 800 other people in it and this person is speaking out loud, doing something that you or I might consider disruptive. At Good Church, until they do something that appears to be a threat to people's physical safety, if they're just disrupting the service, no matter how disruptive it is, the Safe Team won't eject that person from the church. They may get closer to that person, but ultimately the pastor makes the decision.

The pastor may actually stop the service and step down from the lectern and go up to that person and say, "Are you having a problem today? Is there something we can do to help you?" The pastor is the one who ultimately makes the decision whether that person is going to be allowed to remain or whether that person is asked to leave or to come away to a quiet place to be counseled by another member of the clergy.

eJournal: If a Safe Team member is seriously worried by a visitor's actions, does he or she leave their assigned post to shadow the possible risk?

Kapelsohn: It depends on the post. For instance, we have daycare for the youngest children. That's behind a locked door. There are children in that area ranging from infants to three or four years old with teachers and people to care for the infants while the parents are in the service. It's a very good system. The parents have to register for it and when they check in each day, they get a 2-part pressure-stick label. They slap one piece of the label on their kid's back that's got the identifying number and information. The parent keeps the other half. When the parent comes to pick up their child at the end of the service, they have to have the matching half, so Aunt Sally can't show up and say, "I'm taking the child out," and neither can the estranged spouse. It has to be the person who's in the system as the one who's allowed to pick up that child. Well, that's behind locked doors and we have one of our Safe Team members posted right outside of the children's area. That person will not leave that area. If there's something that's going on short of some incredibly unusual situation, the member who's at that children's post will not leave. That's their spot.

Other people may be circulating through the facility or sitting in the service, and they'll tell the communication center, "For this service, I'll be sitting in the right rear of the main sanctuary." That's someone who's free to move if they need to, but if they do, they'll typically call and say, "Command, I've got a person of interest here. This is the situation: they're now moving down the hallway and I'm following."

The communication center will immediately pick that up on the video cameras and might say, "I see it," and sometimes they'll say, "I see it. It's OK. I know that person." A couple of weeks ago we had two congregants in the main service who stood

throughout the whole service. One was far up in the front, close to the lectern or podium and one was in the back. One we knew, but it was a concern, so it came across the radio, "The man who's standing up in the left rear of the service has a back problem. He can't sit down; it's OK, don't worry about him. We know him." We didn't know the one who was standing up front and so one or more Safe Team members sat in that part of the sanctuary so they could keep a close eye on him in case it turned out to be something.

There's a supervisor in charge for every event. That's your team leader; your watch commander to take a term from the police. That's the person who's in charge. Maybe there's someone out in the parking lot and it kind of looks like they're living out of their car. They've been parked there all night. I'd like to go up and speak to this person, so I ask, "Would you come with me so that more than one person is going out?" You don't want your whole team going out there. Number one, it's more likely to incite high tension and the other reason is that the team is needed elsewhere. You may want more than just one of your security team to be a witness of what is said. Those decisions are typically left to the watch commander or the team leader in charge.

An obvious exception is an active killer, someone who comes in with a weapon and then you respond immediately. You respond immediately; you don't get permission to respond to something that's life threatening. Thankfully, we have not had that situation, but it has occurred elsewhere.

eJournal: The element of Safe Team formation and supervision that I'm having the hardest time wrapping my head around is how it scales. Your Good Church situation is the ideal, but how does a congregation of 50 worshipers in a little town scale down to enjoy the same protections and responsibilities? I'm not even sure how a church with 500 members on the books of which 300 show up every week assures a level of oversight like the communication center. Your thoughts?

Kapelsohn: It's an excellent question. It's got to be addressed on an instance-by-instance basis. For example, at a congregation that I was affiliated with before Good Church that had a fraction of the people coming to a service on the weekend, we would try to have at least two people there. Two people is a magnitude of more than twice as good as one person. Two people can back each other up. One can communicate, while the other addresses a problem. One can serve as a contact to a potential threat, while the other is a cover officer. You know, two is much better than twice as good as one. Our goal there was to always have at least two.

At Good Church we try to have at least five from the armed team and at least one from the medical team. That may turn at any given time into seven armed people and two from the medical team, but five and one is the minimum for which our operations director strives. If he doesn't have at least five who

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said they're coming to the 8 o'clock service this Sunday, he'll start texting or phoning people and saying, "I've only got three people coming at 8 o'clock. Can you come in and fill it? I know you signed up with the 9:30 service, but we've got plenty at 9:30. Could you come for the 8 o'clock instead?"

Some places, it may be one armed person present, which is certainly a lot better than none. Some places it may be two present which is more than twice as good as one.

Then you may have other events. For instance, we have an annual Christmas tree lighting ceremony. Women in the congregation bake in excess of 10,000 cookies. We have a huge tent full of cookies of every description and coffee, tea, lemonade, hot apple cider and hot cocoa. This is not just for our congregation; it's open to the community. There's a beautiful outdoor Christmas tree that's strung with lights and there are choirs that sing and at the appropriate time, the Christmas tree is illuminated. For kids, there's a bounce house, a climbing wall, other kinds of games and a horse-drawn wagon gives a hayride. There's singing and dancing and other activities going on inside where it's warmer in case it's cold out that evening. There are thousands of people there.

If we have a lot of people present for something that's likely to draw a big crowd, like Christmas or Easter services where the place is more packed than it usually is, we'll have a lot more than five of our team members present and a lot more than one medical team member, as well.

eJournal: You bring up a good point about the variety of activities at which an attack is possible. Many churches have parochial schools because they like to nurture their children's faith. Does the Safe Team shoulder any responsibility to make sure that those students can attend class safely?

Kapelsohn: Good Church doesn't have a church school, but it does have daycare for very young children. There are one or more regular employees of the church present during the week who are trained and state licensed. There are other churches in our area and all over the country that run church schools – we have one not far from us that goes K through 12. A volunteer armed congregant team probably will not suffice for that because most volunteers have jobs on the weekdays unless they are retired.

Church schools are going to need to think about having someone whose regular job it is to be there Monday through Friday when school is in session and when activities are in progress. That may be some staff members who are trained or it may be some people who have other functions like a teacher or an administrator. It may be people who are there just to be security officers, like school resource officers. We have some very stringent statutes in PA which unfortunately limit what church schools and parochial schools can do to provide adequate security.

Good Church also has evening activities on Monday, Wednes-

day, and Sunday nights. We try to have a Safe Team member present each of those nights with radio communication with the receptionist at the front door and with maintenance people who are on duty. Because it's a multi-story facility, the radio allows a teacher on the third floor, for instance, to call you on the first floor and say, "We've got a problem here."

eJournal: On a different topic, I'd like to explore the responsibility of an armed man or woman who simply is a worshiper. Perhaps they don't have the physical ability or time to volunteer on the organized Safe Team, but they attend services discreetly armed in the same way that they go about their daily lives. If a deadly force attack threatens them or their children, they will take action. Should they inform the security supervisor or clergy? We would not want to mistake a well-intentioned armed citizen for an attacker's accomplice, but at the same time, many armed citizens wisely keep the fact they're armed extremely private. We don't talk about it, and I think that's best most of the time. Inside the church security environment, do armed parishioners need to report themselves to be armed?

Kapelsohn: That's a wonderful question and, of course, it's founded in your experience with all kinds of people who carry guns for all kinds of reasons. I love it when I'm speaking to a congregation's board of directors or the board of trustees or the clergy and one of them says to me, "No, I don't think we should have an armed congregant security team because I don't want anyone carrying a gun in the church or in the synagogue." I say to them, "You have a lot of people who are carrying guns. You just don't know who they are!" Sometimes they're shocked, but that's the truth.

There are people who are carrying guns who have concealed carry permits; there are people who are carrying guns that never had a concealed carry permit – you know, Mrs. McGillicuddy who's got a little revolver in her purse and she's carried it for 50 years ever since her husband gave it to her. Some of those people are trained and safe; some of them are untrained and unsafe. A lot of people carry guns.

In the past, as a member of small congregations, at a point where I've developed a rapport and little bit of a relationship, so they knew who I was, I've gone to the pastor or the minister and said, "I just want you to know, this is who I am, this is what I do and I'm always carrying a gun. If there's a problem here, you should know that I'm armed." In each of those cases, they've said, "Oh, good. I'm glad to know that. Please keep carrying your gun to church or to the synagogue."

A bigger problem is something like Good Church where we've got five or six or seven armed Safe Team members. What would happen if there were ever an armed attack – an active killer situation? We've got Safe Team members who would likely be drawing their guns and we might have congregants who are drawing their guns, too. We might not recognize all those congregants. They may be visitors, there for the first

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time or someone who's been there more than once but we just don't recognize them or we're behind them so we can't see their face, but we see their hand out, holding a gun. That's a potential problem! The Safe Team carries [Don't Shoot Me](#) security sashes so after the situation has gone on for a few seconds we would hope that our members deploy their sashes so it's obvious that they are members of the security team, but what about all the other people?

Of course, different congregations take different approaches. Some post a sign that says, "No Firearms Allowed," the so-called "Gun Free Zone." I'm not in favor of that because there are no gun free zones. It becomes an announcement. They're free fire zones for active killers. Some congregations post signs that say, "These premises are protected by armed security. Try to hurt us at your own risk." That establishes an atmosphere that I'm not sure I'd want to be in.

At Good Church we do this: once a year, we have an evacuation drill for the children. The adults don't evacuate during the service, but they're told, "Fifteen minutes into the service, you will hear an alarm go off and the children in daycare, children's activities and Sunday school classes will all be evacuated in an orderly fashion from the building by their teachers." It's like a fire drill in the school that you went to. We time it and we have Safe Team members outside in the assembly areas to which the classes are brought. We check out the parking lot ahead of time to make sure they're all safe.

The evacuation drill allows the pastor to say something else to the congregation. The pastor says, "By the way," and I'm paraphrasing, "Many of you know this already but in case you don't, we'd like to let you know we have a security team that is very carefully selected and very highly trained. They are trained to respond to any kinds of problems we might have here, including violent, armed problems. If any of you happen to be carrying guns and something happens and you feel that you need to draw your gun or use your gun to protect yourself or your loved ones sitting next to you, by all means do what you have to do, but don't go to involve yourself in the problem. If the problem is across the room or down the hall, don't go to involve yourself in that. We have people who are trained to do that and by involving yourself you may create more of a problem." You get the idea. People are told that there are people here prepared to deal with this. It's not their job.

If, as a congregant, you think you need to draw your gun because the guy with the machete is right in front of you and your children, then by all means, do what you have to do, but don't go across the room or down the hall to try to solve the problem. That's our Safe Team's responsibility. That's the way that we've dealt with it. The Good Church program has been in place now for about 12 years. It's got quite a good history and has dealt with many kinds of problems; thanks to God, not an active killer event, but many kinds of problems, including ones where people have needed ambulances or where the medical

team has treated them or where the state police have been called. It's been an excellent, excellent program.

eJournal: I feel fortunate to have been able to learn from their good example. It can be really difficult for people who know there's a risk to life but don't know how to best stop it, hopefully before blood is shed.

Kapelsohn: In addition to this interview and the podcast version of it at <https://armedcitizenstv.org/> which should serve as a good resource, the large insurance companies that I mentioned, Church Mutual (<https://www.churchmutual.com/17529/Safety-Resources-for-Houses-of-Worship>) and Brotherhood Mutual (<https://www.brotherhoodmutual.com/resources/safety-library/>), both have written materials that I believe are available having to do with security at houses of worship and dealing with potential problems of the kinds we've been discussing. They also have written policies, training programs, et cetera. I don't know if they're available only to people that insure with them, or to the public at large. If you go on the Internet today, you will find many training programs offered for house of worship security teams. Our state, the Commonwealth of Pennsylvania, is actually offering programs several times a year on the Internet. I think it's our state attorney general's office that sponsors these programs.

There are other church security people, and they discuss various issues. Lieutenant Colonel Dave Grossman is a wonderful speaker who lectures all over the country on this subject. If you go on the Internet and you look up things like "sheepdog" or "sheepdog security," some of these organizations have newsletters that they'll send to you every month or more often that are free. There are many, many kinds of resources available. There are publications of the federal government on house of worship security that you can get free for the asking. You don't have to be alone. Don't feel like you have to invent the wheel all by yourself.

eJournal: I'm glad you bring up the various sources of education and mentoring for church safety teams. To me, the subtle lesson is that while guns and armed responses are the most serious element, we err if we ignore the huge array of other concerns. You're really not looking out for your fellow worshipers very well if you ignore emergency medical needs and if you fail to ask questions like, "Are you doing OK today?" Those actions demonstrate the "heart" side of caring for your fellow worshipers. By mentioning those other resources, you're inviting us to expand our knowledge and reminding us that using a gun in defense of worshipers is a minuscule, tiny part of the bigger need.

Kapelsohn: Absolutely! Years ago, I was a director of security in charge of an 11 man – actually 10 men and one woman – executive protection team for one of the wealthiest women in the world. When we were teaching things like the Heimlich Maneuver, I can remember saying to my people, "It's much more

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likely that you're going to have to use this to keep our principal from choking to death on a bite of steak in a restaurant than you're going to have to use your gun to shoot a terrorist or a kidnapper." It's so true! Our medical team is used much more than the Safe Team is and when the Safe Team is used, it's often to assist someone who's fallen down or to help someone who's having a problem of some sort or reunite a child with their parents, not because of a violent attack. You have to be realistic. If you have people on your security team who are only there because they intend to have gun fights with terrorists, you probably got the wrong person on your team.

eJournal: That's sobering. We've covered a lot of ground. What do you want our members to take away from our time together?

Kapelsohn: Different kinds of programs may be appropriate for different sizes and types of houses of worship, but organization, supervision and policy, proper selection of people, and proper training of people are necessary and ongoing processes. All of these things are important. Your goal of making a safer place for everyone to come worship in is a wonderful goal. It takes a lot of work. It takes a lot of thought, but it's not beyond anybody's ability. With the right intentions and a little thought and a little energy you can achieve a tremendous, tremendous boost in safety.

eJournal: Thank you so much for sharing your valuable time and your extensive experience with keeping houses of worship safe. I have particularly appreciated the way you gave us high-angle overviews, especially your insights into the potential legal issues that can arise if we don't take security team functions seriously. Thank you for your generosity!

Readers can learn more about Emanuel Kapelsohn at <https://www.peregrinecorporation.com/> and our advisory board profile at <https://armedcitizensnetwork.org/defensefund/advisory-board> . Few are as well qualified to teach use of force as Kapelsohn, whose experience involves 39 years as an expert witness in federal and state courts all across the country, often in high profile law enforcement cases including State of Minnesota v. Yanez, State of Arizona v. Brailsford, Estate of Angel Lopez v. City of San Diego, LeGrier v. City of Chicago, State of Minnesota v. Noor, and Commonwealth of Pennsylvania v. Roselle. He was also a key witness in the trial of Miller v. Rob Bonta, Attorney General of the State of California in the U.S. District Court for the Southern District of California.

His résumé also includes 27 years as an armed, sworn, reserve deputy sheriff and his career as an attorney, starting in 1978, with a few years away as an executive protection team leader, and being a firearms instructor, a pursuit he has enjoyed for about 45 years.



President's Message

by Marty Hayes, J.D.

I recently made a video to set the record straight about the Armed Citizens' Legal Defense Network. You can hardly go online without finding comparisons between the Network and all the companies out there providing self-defense insurance. For the most part, they get the facts about the Network wrong, giving incorrect or out of

date details. I want to let you know, straight from the president, what the Network consists of and how we operate. For this column, I'll distill what I said on video for those preferring a written format, or you can [click here](#) to view the full-length video.

A Little History

We started the Network in 2008, after I'd taught firearms full time for about 15 years while being a part-time law enforcement officer and working on expert witness cases. I enrolled in law school to achieve something I'd always wanted to do: get a Juris Doctor degree and likely practice law, but during law school I shifted my focus from practicing law to forming an organization that could help armed citizens after using force in self defense, so that's what I did after graduating in 2007.

I sought the counsel of training industry luminaries including Tom Givens, Dennis Tueller, Massad Ayoob and John Farnam. They became our advisory board, joined later by Emanuel Kapelsohn, Marie D'Amico, and Karl Rehn. The advisory board serves a twofold purpose: acting as advisors on policy decisions and case review when there are questions of whether an incident is a legitimate act of self defense, and giving the Network credibility. To set the record straight, they are not paid to be on the advisory board. Many competitors have paid spokesmen who make videos and appear in ads. We don't.

We started with only a handful of members and no money in the Legal Defense Fund, but now, after 15 years, we have grown the membership to over 21,000 members and the Legal Defense Fund is now over four million dollars. At first, we had to put a limit on how much we could spend on any individual's case because we simply did not have the money in the Legal Defense Fund. We started putting 20% of all member dues in a separate bank account that was strictly reserved for members' legal defense. We later could afford 25% and that's where we're sitting at this time. The remaining 75% covers operating costs including salaries, administrative overhead, rent, advertising, taxes (including tax on the money we put in the Legal Defense Fund) and even the cost of making videos.

Over the past 15 years, we have continuously upgraded our benefits to members. Because we are not selling insurance or buying an insurance policy to underwrite our program like some

companies do, we refuse to use the term "coverage." We don't cover anything. Instead, we have a list of benefits that members can access if they qualify. What does that mean? That means there's no guarantee that we will supply financial assistance to any given member. Each request is assessed as to the legitimacy of a viable claim of self defense.

That may sound ominous, but understand that our Legal Defense Fund exists to help members and we do everything that we can to use that money for its intended purpose. We do not have an insurance underwriter who exists to find reasons to deny disbursement of legal defense funds, but we also would be in big trouble if we assisted people who intentionally commit crimes or if we said we would pay for legal defense of an intentional criminal act. Understand also that the other companies' plans may deny assistance, too, they just do not publicize it. We do.

Funding Decisions

How do we determine if a member has a valid claim of self defense? We use the standard that the courts use when giving jury instructions. If there is just a scintilla of credible, admissible evidence of self defense and the member was not the initial aggressor (started the fight) or committed a separate crime (like armed robbery), we are very likely going to fund the defense.

To date, we have assisted in 29 requests for funding. We have turned down three or four more because there was no evidence of self defense. We talked to the member and after getting the story, asked, "Well, where is the act of self defense?" Typically, the answer is something like, "Hey, I had to try!" Usually, though, there is at least the member's testimony that he acted in self defense and that is enough for us to fund the defense.

If you are the initial aggressor (started the incident), you will very likely lose your right to argue self defense at trial. That was why we turned down one member who was separated from his wife, dropped by her house unannounced and saw a strange car in the driveway, so he entered the house undetected and confronted his wife and her new boyfriend. An altercation ensued and he pointed his gun at the new boyfriend. That is a good example of when we might say no. If you're committing another crime in addition to the alleged use of force, we will deny the funding. You can't rob the 7-Eleven clerk and when the clerk pulls a gun, shoot in self defense. Additionally, if we find out that you have lied about the details of the case, we likely will stop Network involvement in your case.

We make an individualized assessment in each case. We exist to fund the defense of legitimate acts of self defense, so we're hoping there are circumstances to allow you to argue self defense in court. We won't turn down a request if there's legitimate evidence of self defense. Frankly, if that is not good enough for you, we are likely not the right organization for you.

These decisions are usually pretty easy. After hearing the details, we can make a decision fairly quickly.

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What if the details are confusing? Then, we run the incident by members of our advisory board. This doesn't happen very often, but the option is there. When insurance companies make these decisions, they're made by the insurance underwriter, most likely someone who is not well-versed in self-defense law.

Network attorneys and our experts in lawful self defense know how to effectively prepare a member to justify their actions if their case goes to trial. That starts with what I believe is our most important benefit: our educational package. You see, the defendant has an absolute right to testify on his own behalf and it is very likely you would need to do that to explain to the jury why you reasonably believed that use of force in self defense was necessary. The jury has the right to hear what you knew about self defense when you made that decision.

For example, in my home state of Washington, there's a WA Supreme Court case expressly stating just that. In the case *State v. Janes*, the court wrote, "The long-standing rule in this jurisdiction is that evidence of self defense must be assessed from the standpoint of the reasonably prudent person, knowing all the defendant knows and seeing all the defendant sees." With this in mind, we have put together a set of videos by our advisory board explaining many issues involved in self defense. We also purchase copies of Massad Ayoob's book *Deadly Force: Understanding Your Right to Self Defense*, which we supply to our members, too. Between the book and videos, you will receive many hours of top-notch education by recognized instructors, much more than any of the other companies.

Thanks for sticking with me up to this point. I felt it necessary to give a little information about the Network in order to put our list of benefits into perspective. You see, the Network is really simply a big club consisting of people who are passionate about the right to keep and bear arms for self defense. We started it because we were tired of people being prosecuted after legitimately using force in self defense.

Network Membership Details

Now, let's get into the details about our program. Most journal readers are Network members, so the following will be useful when you tell your friends, family and shooting buddies why you're part of the Network. Membership is open to citizens who are 18 or older. Convicted felons cannot be part of the Network although we know people make mistakes. We encourage them to get their rights restored after which we would welcome them into the Network. Membership costs \$150 for the first year which includes the educational package; add a spouse for an additional \$70 per year. Renewals are \$105 per year. We don't

take monthly payments because that would require at least one additional staffer just to handle bookkeeping and rebilling, necessitating a dues increase. We don't want to do that.

One of the biggest advantages to Network membership is that you get the right to choose your own attorney. We will never assign an attorney for you. When we set up this program, freedom to choose was one of the things about which I was adamant. After spending 20 years in law enforcement, serving as an expert in the legal arena, plus my law school education, I know that not all attorneys are created equal. When it is my freedom on the line, I want the absolute right to choose who represents me. Members can even change attorneys if they're not happy with their first choice. We've done that before, too.



I give members my own personal cell phone number and if you're involved in an incident, you can call me. In fact, I want you to call me, regardless of the time of day, and we will start working on your representation.

Many people do not know how to select an attorney so we have our Network Affiliated attorney program which consists of over 500 attorneys nationwide in case you don't have a lawyer. In any case, and this is very important, as a member you will not be alone. I will even fly out to your location, or a representative of the Network will come to you and begin the process if that's necessary.

Now, there's only one condition on selecting your attorney: their fees must be reasonable and must be in line with the norm for the area. For example, in my area attorney fees usually average \$200-250 an hour, but I would expect fees to be much higher in urban areas. If we choose to fund the defense, we will pick up the tab for all the costs: attorney's fees, expert's fees, investigator's fees, court costs, and any other expenses necessary for the best legal defense possible. At first, when we were poor, we said one half of the amount in the Legal Defense Fund was the practical limit that we could spend on a single case. We no longer say that because we know costs would very likely be under a half a million dollars even for a full-blown high-profile case.

We will provide funding to defend any act of self defense, so it doesn't matter whether or not you're using a firearm. We will provide funding to defend brandishing, also known as unlawful display. In fact, we encourage people to not shoot immediately but perhaps warn the person at gunpoint to stop doing what they were doing. If you're in a grand jury state, we will also provide funding before you have to go to a grand jury. We want you to be represented immediately after an incident, not just after you're charged with a crime. We will provide funding for an attorney immediately, so your legal rights are protected.

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The Network is Different

Many companies disallow any hint of a domestic violence situation. When assessing use of force incidents, we don't do that. We're going to look at the case and decide whether or not it was legitimate self defense, regardless of previous relationships with the other individual.

Additionally, you don't have to call the Network immediately after an incident; we don't have any time restrictions. I know one company requires you to call them within 72 hours or you simply are denied benefits. We don't do that. In fact, in one case we had a member call us a couple of months later and we picked up his legal defense costs.

What about the use of alcohol? Many companies prohibit use of alcohol when you're carrying a gun and while that's not necessarily a good idea, we also know that people have a drink once in a while, maybe beer or wine with dinner. If, as you're leaving the restaurant, you end up using your gun in self defense, we're not automatically going to deny you funding for a good legal defense.

Many companies also require recoupment, meaning that if you are found guilty or plead guilty to a lesser crime, you have to pay back the legal costs for your defense. You see, it's illegal to insure criminal acts, so if you end up being convicted or even plead guilty to a lesser offense, you may have to pay the cost of your defense back to the insurance company. Be sure to read the fine print of any contract and ask questions before you sign up for any one of these insurance-backed programs.

How about appeals? Most of the self-defense insurance companies will not cover appeals because by doing so, they would be insuring a criminal act. Since we're not insurance, we will fund an appeal, assuming that there is a valid reason for an appeal. What is a valid reason? Errors in rulings from the judge, prosecutorial misconduct, jury misconduct, ineffective assistance of counsel, and there are many more possible reasons for an appeal. If we funded your case to begin with, it's because we felt you had a valid case of self defense, so we would also likely fund the appeal.

Since we're not an insurance company, we do not provide liability insurance, but we would fund the legal defense to fight a lawsuit after self defense. If a plaintiff's attorney knows there's a million-dollar liability insurance policy then he would likely file a lawsuit, even if it's unwarranted because lawyers know insurance companies would rather settle than go to court. That

is another reason I avoided involving insurance in the Network's program. We also do not pay legal defense costs after accidental or negligent discharges or to fight red flag orders. We don't pay for psychological counseling, lost wages, cleanup, or firearms replacement. Those are all insurance provisions.

Let's talk about bail for a moment. Bail works like this: the judge sets a monetary amount that he or she hopes will guarantee you come to trial. You can either post that amount yourself or if you don't have the money then you can hire a bail bondsman. They usually charge 10% of the total bail and on a large amount would likely require collateral to underwrite the bail. If it's a huge amount, say a half a million dollars, in order for the bondsman to be comfortable that you'll go to court, you're likely going to have to put up the deed to your house, to your mom and dad's house, your gun collection, all of your Krugerrands, or anything else that would add up to the half-million dollars.

Have you ever heard this from one of the insurance companies? They don't explain it, but you need to understand that getting bail isn't necessarily automatic. We would pay the 10% percent for you, but if you don't have the other collateral to put up, then you may not get out of jail.

The Bottom Line

We provide funding for legal costs for any legitimate act of self defense, and we'll include funding for experts, investigators, and other costs. Funding is determined on the merits of the case – meaning do you have a legitimate, viable claim of self defense? If you don't, we can deny benefits. If we didn't explain this, we could be accused of selling insurance. We could not function for the benefit of our members if we were controlled by insurance commissioners or other regulatory agencies.

Assistance starts immediately after an incident, not after you've been charged with the crime. You get to choose your own attorney and if you don't have one, we can recommend one for you or come to your location and help you choose an attorney. Remember, I started this organization for me, my wife, our friends, my instructors and my students and I would have it operate no other way. The Network was created to fill legal defense needs that I knew any one of us could face if we defended ourselves.

If you have a question I left unanswered, please email me at mhayes@armedcitizensnetwork.org or call the office at 888-508-3404.



Attorney Question of the Month

The backlash following the United States Supreme Court *Bruen* decision resulted in a flurry of laws adding “sensitive areas” to many existing restrictions. Depending on the state, now even more laws make it a crime for law abiding armed citizens to carry their handguns when they go to church, go to the doctor, enter a library, stadium, park or public square, attend a rally, use mass transit and more. This drives individual armed citizens to decide whether to comply and go unarmed or decide to accept the punishment if they are found in possession of a handgun where it is illegal. That decision must weigh whether violation is a felony or a misdemeanor, if conviction of illegal carry can result in loss of gun rights and for how long, as well as the severity of fines and jail sentences. With that in mind, we asked our affiliated attorneys –

In the state(s) where you practice law, where is it illegal to carry a handgun and what is the penalty for carrying a gun illegally?

Do penalties increase if the charges also include a crime of violence?

Donald O. Chesworth

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I am in New York and the law is unclear at this point because there are at least two cases in the Second Circuit Court of Appeals challenging the New York statute of July of 2022 which was a reaction to the Supreme Court *Bruen* case.

The current New York law establishes sensitive areas which could be much of the state and public lands and highways. It also makes it illegal to enter a business with a concealed weapon unless there is a sign welcoming such.

Possession of an unlicensed handgun is an E Felony which can result in 1 to 4 years in prison.

If a crime is involved or intended with the illegal possession it can be a C Felony with a minimum sentence of 3.5 years and up to 15 years.

We are all interested in the anticipated decisions from the Second Circuit Court of Appeals. I believe that any conviction under the weapons possession sections would be a basis for the denial of a pistol permit and any felony conviction would make it illegal for the convicted person to possess any firearm.

John Chapman

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Generally, in Maine, the “no carry zones” include jails and prisons, courthouses, public schools, secure areas of air terminals, Amtrak, the “Capitol Area” in Augusta, bars if posted, the site of labor disputes, federal facilities, and places licensed for slot machines.

There is no particular linkage with crimes against the person.

John I. Harris III

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Tennessee has a statute that makes it a crime to carry any firearm at any time at any place in the state “with the intent to go armed.” Tenn. Code Ann. § 39-17-1307(a). Under Tennessee’s statutory scheme, the law provides various “affirmative defenses” or statutory exceptions to that criminal charge. See, e.g., Tenn. Code Ann. § 39-17-1308. These statutory defenses include situations such as having a handgun permit, that the individual was lawfully hunting, that the possession was in the person’s residence, at the person’s place of business or at the person’s property. There is no circumstance under which it is not a crime for an individual to carry a firearm with the “intent to go armed” in Tennessee.

The practical problem with Tennessee’s statutory scheme is that any time an officer sees an individual carrying a firearm in Tennessee, the officer has “probable cause” to believe that a crime is being committed. That means that the officer has the authority to stop, detain, question, arrest, and/or prosecute the individual. That is because in Tennessee, the burden is on the individual to prove that one of the affirmative defenses or statutory exceptions applies. However, because of the structure of the law the only time that anyone is required to evaluate the affirmative defenses is during a jury or bench trial (if the jury is waived). The arresting officer is not required to consider the affirmative defenses or statutory exceptions. The district attorney is not required to consider the affirmative defenses or statutory exceptions.

Many people inaccurately believe that Tennessee has constitutional carry. Part of that confusion comes from the fact that Governor Bill Lee has asserted that he asked for and the Legislature passed “constitutional carry” in Tennessee in 2021.

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That is not true. See, <https://tennesseefirearms.com/2022/10/tennessee-does-not-have-real-constitutional-carry-the-talking-points/> Also, it is important to know that Governor Bill Lee, who identifies as a Republican, is presently pushing for a special legislative session in Tennessee to enact a Red Flag law.

If you are in Tennessee or you plan to travel to Tennessee, it is important to know that any carrying of any firearm in Tennessee “with the intent to go armed” is a crime. Certainly, you might have a valid defense but that does not mean you cannot be stopped, detained, questioned and even charged by law enforcement if they observe you exercising your Second Amendment rights.

John R. Monroe

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In my state (Georgia), it is illegal to carry a gun in jails, prisons, courthouses, churches, polling places (while elections are occurring), state-owned mental health institutions, schools, and nuclear power plants. Depending on the circumstances, it can be illegal to carry in a government building. The penalty is a \$1,000 fine and 12 months in jail.

If a crime of violence occurs, there is a possibility of possession of a firearm during the commission of certain crimes, but it depends on what the underlying crime is. A violation is punishable by five years in prison.

Jerold E. Levine

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In the state(s) where you practice law, where is it illegal to carry a handgun and what is the penalty for carrying a gun illegally?

It is illegal everywhere in New York without a New York carry pistol license, and New York has no license reciprocity. Violation is a very serious felony, with the sentence upon conviction being 5-15 years mandatory imprisonment.

Additionally, New York now has many “sensitive” locations where handgun possession is illegal even with a New York license. This nonsense is New York’s (as well as other States’) response to the Supreme Court decision in *Bruen*. So, there are many places that licensees have to avoid.

Do penalties increase if the charges also include a crime of violence?

Yes, they fall under the category of violent felony offenses, and the increased sentences are various. Also, sometimes these offenses are classed as violent, even though the defendant did not actually do anything violent.

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



NETWORKING

News from Our Affiliates

by Gila Hayes

In June, I enjoyed a video chat with John Harris of Tennessee, one of our earliest affiliated attorneys and a generous contributor to our monthly attorney question column. He's up to his neck in the fight for gun rights in TN, an effort

I think you'll enjoy hearing about in Harris' own words via video linked below or this briefer, written format.

eJournal: Let's introduce you to members who haven't had the pleasure of meeting you. Aren't you the latest of three generations of TN attorneys? What's the focus of Harris Law Office?

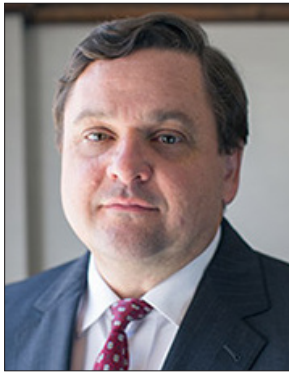
Harris: That's correct. My grandfather was licensed in 1940. I'm the third generation and my youngest brother is an attorney and a judicial magistrate. I have been practicing for 38 years. My practice involves representing explosives companies, gun manufacturers and dealers in disputes with the ATF. When you represent small businesses, you end up doing wills, estates, probate, even a few divorces. Business owners have car wrecks and get injured, so we have a good amount of experience with injury cases including medical malpractice death cases. I also do contract reviews and lease negotiations. It's a broad spectrum of practice.

eJournal: You're also the driving force behind [Tennessee Firearms Association](#) (TFA). How did that come about?

Harris: In 1994, TN created a permitting system whereby individuals who wanted to carry a firearm no longer had to get law enforcement commissions. They could go apply for a handgun permit, but there were a tremendous number of statues that made it a crime to carry in places like public parks, greenways, or going into a quick market to pay for gas that you pumped. We had an entire spectrum of laws that created gun free zones. We needed an advocacy group to work on the details after, having passed the permitting system, the national groups left the state. We formed TFA as a 501(c)(4) nonprofit in 1995. In 1996, we formed our first political action committee (PAC) and just last month we formed our first 501(c)(3) to promote more direct educational opportunities and public interest litigation.

eJournal: What are your landmark accomplishments?

Harris: Early on, it took up to a year for the state to issue permits because of the flawed way in which a "model law" brought in by a national group had been



enacted. We wrote and passed a law that regardless of the status of the background check, the state has to either approve or deny a permit application within 90 days. We now have that down to a matter of weeks because we continue to press on that issue.

We have passed lifetime permits in Tennessee. We now have, I think, 38 states that will honor the TN permit and TN honors permits from any state regardless of reciprocity. We have been successful in eliminating a number of gun free zones. We passed civil immunity two years ago and now we're pushing for criminal immunity, so we've got a long list of things that we've accomplished in the last 28 years.

eJournal: Now, you're fighting to keep red flag confiscations out of TN. What happened?

Harris: In March of this year, we had a mass shooting in a school in Nashville. One of the victims was a close friend of the wife of our governor. Within two weeks, Gov. Lee announced that it was time for TN to adopt a red flag law and he's forcing our general assembly back into special session. He called it a "temporary mental health order of protection," but it is just a red flag law. He's trying to enact a law so firearms can be seized from individuals who have committed no crime, but assuming

they're potentially a dangerous individual or have a severe mental health issue, his proposal leaves that person at large in the community where they would have access to other weapons for either suicide or homicide. All it does is take guns on the naive assumption that it somehow eliminates the threat.

eJournal: Could the special session be prevented?

Harris: Under the TN constitution, the governor has the unilateral and absolute right to issue a proclamation to call the general assembly into a special session, but he has no authority over what they do, so long as it is within the scope of his proclamation. They could say we're not going to do anything, adjourn and go home, but since our general assembly is a Republican super-majority and we have a Republican governor, as a courtesy they might decide to take up and maybe try to pass something, but there's no constitutional requirement for it.

eJournal: You've blogged that TN's red flag proposal is a "We've got to do something!" reaction or a politician trying to grab the spotlight. How do we combat political rabble rousing after a tragedy?

Harris: In TN and in other states, you stop that by developing state advocacy groups and strong political action committees far in advance of the emergency. The state groups, with support from national groups, have to have the infrastructure ready to fight when the fight is brought to their steps, just like Lexington and Concord

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where militia members were trained and prepared to respond to threats to their community, whether it was an Indian attack or the redcoats.

In TN, we have a governor who can't run for governor again and hasn't indicated he wants to run for Congress. He's independently wealthy and largely self-funded his campaign. He's insulated from political pressure. We have to fight his proposal by putting pressure on the general assembly, predominantly those who identify as conservative or are at risk of being replaced in the Republican primaries in 2024.

eJournal: Could the United States Supreme Court *Bruen* decision help keep red flag laws out of TN?

Harris: Absolutely. TFA was an amicus party in conjunction with Gun Owners of America and filed briefs in the *Bruen* case, which was decided in June of 2022. It is a game changer in many respects. The standard by which we evaluate constitutionality under the Second Amendment has changed forever. They said if the conduct is clearly covered by the scope of the Second Amendment, government regulation is presumptively prohibited. The Second Amendment is much broader than "keeping and bearing." There are cases that say operating a gun range, being a manufacturer, being in the commerce chain are all covered by the Second Amendment.

The court said that constitutional rights are established in terms of their status at the time that they were ratified – 1791 for the original 10 amendments. In *Bruen*, the court said in order for government regulation to pass constitutional scrutiny, the burden is on the government to show by clear evidence that, quote, the "nation's historical tradition," as it existed in 1791 had a regulation or restriction of exact or very similar nature.

We are seeing the ramifications of *Bruen* across the nation with a lot of different issues – particularly the 1968 gun control law – being declared unconstitutional. In NY State, for example, two courts have struck down the NY's red flag law as being in violation of the *Bruen* standard. There has already been one case filed and settled in TN where the state agreed that an existing state law violated the *Bruen* standard and not only that it was a violation, but it was a federal civil rights violation. We are telling the legislators, "Guys, you have got to understand, *Bruen* means something now. If you pass something that violates *Bruen*, we are planning to immediately challenge it, not only as Second Amendment and Fourteenth Amendment violations, but also as a federal civil rights violation."

eJournal: That wouldn't happen without you pushing it forward. What is the funding mechanism for this kind of battle? I ask because there are unusual number of states with which TN shares a border, making for a lot of non-residents directly affected by TN laws. Besides, we worry about bleed-over when a neighboring state passes laws our own politicians want.

Harris: The TFA is a 501(c)(4), an IRS classification that lets it be an issue advocate. By law, we can ask TFA members to make voluntary supplemental contributions. In February when

we decided to file suit about the statute making public parks and greenways gun free zones, we made a special call to our members and said, "We're getting ready to file this lawsuit and are going to have extraordinary expenses. If you can, please plan to make supplemental donations for litigation." We're doing the same thing now with respect to funding the litigation to defeat the red flag law in the special session.

We're raising money through the political action committee [TFALAC](#) which can take public contributions from anybody anywhere in the country and run specifically targeted advertising urging people to vote against or to contact their legislators to vote against specific legislation. Our 501(c)(4) can educate about what the proposal means. The PAC can specifically advocate for action to defeat the proposal. We're getting donations through both, including support from industry members and manufacturers to defeat this red flag proposal.

We need to get the information out, not just to Tennesseans, but like you said, we've got a number of border states and cities in TN like Clarksville, Memphis and Chattanooga that are right on the border. It is also critical to realize that each state can't be dealt with independently. Because TN is seen as a conservative, "red" state, we do not want it to become the poster child for how to pass red flag and gun control in conservative jurisdictions. We don't want it to become the template for TX or another southern state and say, "Look, TN did it. They figured out how to do it and we're going to replicate this."

Part of the battle is getting the word out to individuals. It's amazing how many people don't know what the defects are in a red flag law. A poll initially showed soft support in TN for a red flag law to, "do something!" but once individuals polled learned that the red flag law would only seize firearms but then leave the person with no treatment, no identification, just completely still at large and capable, support dropped to a minority. 84% of the people responding to the poll said it was more important to identify the risk to the person, to get them out of the community, diagnosed and treated, than it was to seize guns.

We're pushing out information like that through our free, national e-mail list, publishing it on our website, through social media and through interviews like this. We are trying to help people across a broader base see, "Hey, we need to help TN defeat this, because our state might be next."

eJournal: Network members will feel proud, as I do, to see one of our affiliated attorneys leading this fight. How can Network members help you with this fight?

Harris: Share #RedFlagDown, or the shortcut www.redflag-down.com, TFA Website is <https://tennesseefirearms.com/> and TFA PAC is at <https://tfalac.org/>. On social media we're at Facebook TFA Page: <https://www.facebook.com/Tennfirearms/> and our Facebook TFA Group is at <https://www.facebook.com/groups/TennesseeFirearms/>. Twitter is @Tennfirearms.

eJournal: That's great, John! Members, please share those links and let's pitch in and support this important fight.

Book Review

The Well-Regulated: Honing the Edge in Oneself and Others

By Reid Henrichs

Independently published (Feb. 2023)

[279 pages, paperback, \\$22.99;](#)

[eBook \\$19.99](#)

ISBN-13: 979-8377419822

Reviewed by Gila Hayes

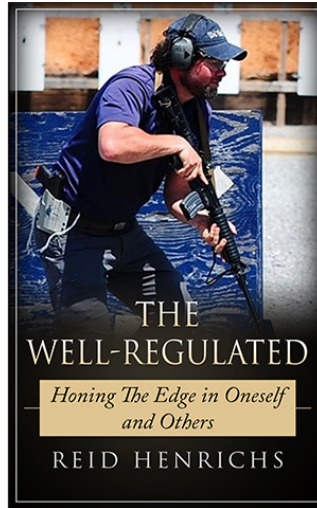
Last month, I read *The Well Regulated* by Network affiliated instructor Reid Henrichs. The way it blends American history with commentary and advice for students of shooting reminded me of Jeff Cooper's *Gargantuan Gunsite Gossip*. The over 50 short chapters, returned often to the importance of fundamentals. Today's lexicon has forgotten that "regulated" once indicated readiness, competence and skill.

Henrichs strongly advocates training until operating your pistol or rifle requires no conscious thought, reserving brain power for decision making. He repeats that advice in a variety of ways throughout the book. Invest in training to "learn shooting fundamentals, muzzle positions, firing solutions for a variety of distances and targets, as well as mental conditioning for preparation for violence," he writes. You'll learn more from classes that distill essential skills to limited numbers of time-proven techniques, he writes, observing that less is more. Focus on successful repetitions, instead of exposure to dozens of different drills, he recommends.

A lot of students want to skip entry level, basic instruction. Jumping ahead is a "major mistake that impedes development," Henrichs warns. Another temptation is blaming poor marksmanship on equipment, he writes, "Never waver in your desire to get better but understand that nothing that you buy will help you shoot or develop better. Hard work, correct repetition, and guidance from knowledgeable teachers are all necessary." He goes on to address choosing rifles and pistols, ammunition selection, and choices of after-market add-ons.

After exploring the role of the short-barreled revolver, Henrichs lauds old-style charging handles on AR-15s. The over-sized latch currently popular for the ability to operate it faster and with the support hand can inadvertently catch on other gear, taking the rifle out of battery. Unless justified by a scope that limits access to the charging handle, spend the money on improving your skills, he urges. Likewise, he criticizes the American obsession with hyper accurate rifles. Spend the money to train and practice, he suggests. "One's skill coupled with willpower and focus will decide the outcome of the fight. The shooter matters far more than what he uses to shoot. Proficiency matters much more than equipment."

Henrichs prioritizes factors he believes are most important to



"prevailing during combat." Proper gun handling is first, followed by firearm safety, and proficient marksmanship. Efficient movement – the hallmark of good technique – is more important than speed, he writes. Dead last in his prioritization are designer ammo and gadgets, although Henrichs gives the nod to options like white light, a rugged sling, and a sturdy optic.

Discussing iron sights and optics, he explains that despite using rifle optics, he always includes iron sight use in practice. Unless you routinely drill with iron sights, he warns, "do not expect to remember it under conditions of interpersonal combat." A later chapter recommends zeroing the optic and the iron sights independently, due to refraction through the optic's glass. The optic may be shattered or occluded, so best to plan to remove it and aim with iron sights, and as a result, he recommends quick detach mounts for emergency use. Observing that "there is no free lunch," a later chapter also reviews pros and cons for fixed and variable power scopes and red dots.

In a chapter about the value of force-on-force scenario training Henrichs explains the importance of experience making "decisions while in an environment that simulates...daily lives, or mission parameters." Scenarios must be safe and realistic, without no-win "gotcha" situations. Building student confidence is the goal and setting up people for failure is an all-too-easy possibility against which great care must be taken.

A later chapter addresses the effect of adrenaline and the role of psychological stress in causing an adrenaline dump, writing, "The more prepared you are, and the more you are exposed to stressful conditions, the less severe or debilitating the dump is." Skills practiced to the level of subconscious competence remain available in the adrenalized state, Henrichs writes, explaining that "adrenaline does not affect the subconscious mind...If you train to the subconscious competence level of proficiency, action is reflexive rather than reactive. This does not mean that adrenaline will not affect someone after the fact...But what it does mean is that adrenaline has little to no effect on one's proficiency, in terms of marksmanship or tactics if a person is trained to that level."

Henrichs writes an interesting chapter comparing the events leading up to the American Revolution, when Britain sent armed forces to Boston to crush the fights between the loyal Tories and American patriots. The British forces set out to confiscate guns from the revolutionaries' militia groups, in the name of "safety, security, and emergency crisis" the same rationale presented by government today. The militiamen were ready, but Henrichs fears that modern armed citizens don't have the skills needed if thrust into a parallel fight today. "Instead of buying guns, more ammo, and more stuff, people need knowledge, sequenced training, sound methodology, and tactical maturity to win. Why? Because everything is at stake," he warns.

There's a lot of truth in the adage "freedom isn't free." In our relatively peaceful lives, it is all too easy to fail to develop and maintain fighting skills. I liked the way *The Well Regulated* blended American history about the fight for freedom with prioritization and lessons about shooting.



Editor's Notebook

by Gila Hayes

Anyone still clinging to the belief that the legal system views physical force as somehow less serious than firearms is getting a remedial lesson via the prosecution of Daniel Penny in New York.

The situation reminds Network members of the seriousness of

so-called unarmed attack so ably articulated by Dr. Robert Margulies in articles at <https://armedcitizensnetwork.org/seriousness-of-empty-hand-attacks> featured in this journal a few months ago. Explaining one of the ways an empty-handed opponent can kill you, Margulies observed, "Normally, the brain runs out of oxygen in roughly 20 seconds, but if choking occurs during an altercation, you have 4 to 6 seconds because during an altercation, there is already increased blood flow and increased consumption of oxygen. The brain is working harder; it consumes oxygen during physical activity as well as mental activity. Choking shuts off blood flow up and blood flow down. Oxygen is consumed. The brain does not have storage of oxygen like in the muscle cells, so without oxygen, brain cells start dying.

"Some of this has never been tested. There have not been functional MRIs done while someone is being choked to see what the brain is actually doing. What we know of these time frames is by inference, from what we see in martial arts, combat and police work. The shorter 4 to 6 second times are an inferential number based on observations, and statements by people who a) have had it done to them, and b) who learn how to do it properly and recognize that the individual has gone limp."

I wonder whether the news media knows or cares that the narrative they've trotted out about Daniel Penny is largely unsubstantiated. Juan Vázquez, the freelance reporter who recorded and uploaded video to Facebook of the final minutes of the struggle, spread clearly impossible claims about the length of time Penny's arm was around Neely's neck. Writing "I witnessed a murder on the Manhattan subway today," Vázquez put out only the first in a torrent of inflammatory stories. I wonder if he understands the definition of murder.

Interestingly, the deluge of stories that started as raucous cries to punish Daniel Penny spewed by reporters and professional rabble rousers like Al Sharpton tapered off to a trickle of disappointed opinion pieces masquerading as news that surfaced when Manhattan District Attorney Alvin Bragg announced second degree manslaughter charges. When a grand jury indicted Penny about a month later and added the charge of

criminally negligent homicide, most of the public protests and outrage had already died down.

Penny, who defended himself and fellow passengers on a New York City subway car early on the afternoon of May 1st, has made several video statements; so have his lawyers. Still, there remains a substantial dearth of information about the actions that led up to Penny and another subway rider physically restraining Jordan Neely. That's interesting when you compare news coverage of this story against other high profile self defense cases like the trials of Kyle Rittenhouse, Curtis Reeves and George Zimmerman.

I am frustrated by the scarcity of reliable detail about what precipitated decisions to go hands on with Neely. Juan Vázquez and others use terms like "angry" and "aggressive" to describe the way Neely threw his jacket to the subway car floor. Penny's statement to police responding to the scene tell of Neely pacing back and forth in the subway car. Will witness statements, as well as Penny's own testimony, show Neely's actions are recognizable as pre-assault indicators? The media has made a lot of noise about Neely's threats only being verbal (when they aren't asserting he was only asking for food and water). When spelled out for a trial jury, the combination of Neely's verbal threats and physical actions will have to be considered, especially if Penny can testify that he was trained to recognize the physical cues that indicate that an aggressor is winding up and getting ready to launch an attack. For members wishing to brush up on their own study of pre-attack indicators, log in and review our educational video <https://armedcitizensnetwork.org/pre-attack-indicators>. Take some notes and email them to yourself to memorialize your exposure to the material.

Penny was arraigned just a couple of days ago, pleading not guilty to charges of second degree manslaughter and criminally negligent homicide. Oct. 25 has been set for Penny's next court appearance, leaving many months for those who would benefit to spread lies and weave half-truths about the actions of Jordan Neely and Daniel Penny on that subway car May 1. I have to wonder if Manhattan District Attorney Bragg truly believes he can get a conviction, or whether like Assistant District Attorney Thomas Binger's overt punishment by process of Kyle Rittenhouse, he pushes forward knowing the facts aren't on his side, but also knowing he can stir up quite a ruckus, enough to keep his name in the spotlight for many months to come.

Also in the spotlight will be use of force against empty handed attackers, and how to articulate why using force – be that with firearms or empty hands – can be entirely reasonable and necessary. In light of the video statements Penny's defense team has allowed him to make, it seems likely Penny will take the stand and tell the jury why the restraint he used was reasonable under the circumstances. That will be instructional.

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