

## Decisions About Membership Assistance

### An Interview with Network President Marty Hayes

*If we were to identify one most frequently asked question, it would be, "How is the Network's Legal Defense Fund managed and who decides when and how its resources are used to pay for the legal defense of a member after legitimate use of force in self defense?" We discuss these questions and others about the Network's mission with its president and founder Marty Hayes in this month's journal.*

**eJournal:** Thank you for addressing questions by Network members and potential members about the Network's payment of legal expenses on behalf of members after legitimate use of force in self defense.

**Hayes:** I am glad for the opportunity to answer these questions. To begin, I need to make it clear that what we are talking about is member benefits and in no way are we discussing insurance. We have made that fact clear since day one and I want to continue clarifying what members have access to, so I am happy to see these questions coming up.

**eJournal:** While we are frequently asked what we do for members, I think folks sometimes overlook the element of mutual participation between the Network and its members that begins long before a self-defense incident.

**Hayes:** Let's take a minute to discuss the depth and breadth of our services to members. When a person signs up to become a member of the Network, one of the first things they get is a whole bunch of training material. Members get access to nine educational video lectures streamed on our website, and most of those are provided for the member's own collection on DVD or a USB thumb drive. We also send a copy of Massad Ayoob's book *Deadly Force: Understanding Your Right to Self Defense*.

It is vitally important that our members read the book, highlight material in the book, take notes, and that they also go through the video lectures just like they were taking a class. Take notes and document that you have viewed the lectures, because the courts universally allow evidence of prior training to be interjected into a self-defense case. A jury has the right to know what you knew at the time that you pulled the trigger. That principle also extends to non-deadly force.

If you review the educational material and make notes that you have seen it, then your attorney may be able to interject some of that material or a large portion of that training material into the trial. That will ultimately be a decision for the judge to make, but if that judge doesn't make the right decision, if the verdict goes against you, he opens himself up for appeal.

Members need to understand that those training materials are vitally important. I want every member of the Network to make sure they've watched those videos and to review them once in a while to refresh their memory. We are not computers: we don't have the ability to remember everything we have seen or heard. Please be sure you continue to review the member-education materials, that you understand them and that you document your reviews.

**eJournal:** What else does the Network contribute to a member's advance preparation?

**Hayes:** The next thing is access to our affiliated attorney list on our website using username and passwords that we give to new members. This gives our members the ability to search for and contact attorneys ahead of time, and that's advantageous because it helps if you have the name and number of an attorney in your back pocket, or these days in your cell phone, to be able to call if you need an attorney.

**eJournal:** While taking nothing away from the good men and women who are our Network affiliated attorneys, what if our member already has an attorney he or she prefers? Maybe their concealed carry license class was even taught by an attorney local to the area. Can they continue to use the attorneys they already know?

**Hayes:** Yes, of course. I'd only ask, why don't you get your attorney involved in the Network as a Network affiliated attorney? That way they can help more people than just you.

**eJournal:** More frequently, the issue is not knowing an attorney you can call.

**Hayes:** If you're a Network member and have had a self-defense incident but have not yet made contact with an attorney so you don't know who to call, you also have access to the Boots on the Ground phone number. That number rings to my personal cell phone, and as a member you can call me 24/7/365 in the event of a self-defense incident. Thankfully, I don't get that many phone calls. I do get a lot of butt-dials, but that is another topic. Then there are the times a member confuses the emergency number with the office phone number when they're calling to renew their memberships, and I really don't mind visiting a little with them. Just do it during business hours, and not in the middle of the night, please [laughing].

**eJournal:** Moving into what needs to happen in the immediate aftermath of a self-defense incident, you've talked about having

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contact information for a local attorney, and access to your personal phone number to get help if the member has traveled outside their home area. How quickly does a person need to connect with an attorney?

**Hayes:** The answer has two prongs. First, was it a minor altercation? How serious was the incident? Is there little to no chance of being arrested? For example, earlier this year we had a member who drew a gun in response to “presently threatened unlawful force” – that’s quoted from the Washington state statute, where this occurred. He called the police, and then he called me, and in fact the police showed up while he was talking to me. I told him to hang up and talk to the police and let them know what happened. He did that, and then he called me back about an hour later. He was not arrested and the police took their report and then told him there would not be any charges filed.

Unfortunately, they did not arrest the people who threatened the member, but apparently there was just not enough evidence on either side to make an arrest. Although he and I talked about it and decided there was not any need to get an attorney involved right then, we left the door open in case something came up later.

**eJournal:** Your example underscores an important sequence of events: call the police first, and then call your attorney and then call Marty, in that order.

**Hayes:** Yes, for goodness’ sake, you do not want it to come out in court that you called your attorney before you called 9-1-1. Talk about a big red flashing neon sign saying, “Guilty! Guilty! Guilty!”

**eJournal:** I think people ideate immediately calling their attorney due to concern over what to say in a call to 9-1-1, as well as what to say to responding police officers.

**Hayes:** While on the phone with 9-1-1, you give your location, a very brief description of what happened: “I was attacked, I had to defend myself. Send an ambulance; send the police. I know that you want me to stay on the phone, but I I’m going to put the phone down now so I can take care of the situation here.” Do not get into an argument with the dispatcher! Leave the phone connected, so they can hear what is happening, but put it down. That way, if something else happened and you had to get back in touch with them immediately, you can grab the phone and start talking again.

You do not want to blab about what you did – not to the dispatchers and not to the police when they show up. You do not want to spill your guts to either. Massad Ayob teaches it best in his five point checklist (see <https://armedcitizensnetwork.org/immediate-aftermath>). You explain to the police that you are the person who was attacked. You want to explain what the person was doing that caused you to have to use force against him. Ayob calls it the active dynamic; I just call it being a good witness. If someone else saw what happened, you would hope that they would tell the police what the guy was doing that

made you need to defend yourself. Well, if there are no other witnesses, at least there is one witness – that is you. That is first.

Two, you should let them know that you will be a good witness and – depending on the local vernacular – you will sign the complaint or press charges.

Three, you also make sure police know what evidence there is to support your claim of self defense. That could include shell casings, or if someone shot at you and missed you, where the bullet struck. You might say, “Listen, against the brick wall, you are going to find where a bullet struck, and you might even find the bullet.” You need to point out any evidence that might back up your claim of self defense.

Fourth, you will also want to point out any witnesses. Police should be identifying witnesses when they show up, but maybe it is a small jurisdiction and there is only one cop. Make sure they know who else saw what happened so they could get ahold of them and keep them there, too.

Fifth, explain to police that you intend to cooperate fully. Tell them that you know how serious this is and you would like to have an attorney present before you discuss it in detail.

There are the five points: you were attacked, this is what the person was doing, here is evidence, here are witnesses, I want an attorney.

**eJournal:** In the incident you mentioned, I find the officers’ disinclination to arrest after defensive display of a firearm remarkable! I’m quite sure there are parts of the country where the outcome would be very different and then an attorney’s services would be entirely necessary.

**Hayes:** Yes, but sometimes things do work out well. I used to work in law enforcement in the jurisdiction in which this occurred. The political climate is conservative and everyone is pretty pro-gun there. That makes a difference. Now, if, conversely, it was a serious incident, and you pointed a gun at somebody and you are arrested for aggravated assault, or you shot at someone and you are arrested for attempted murder, or you shot someone and you are arrested for murder, then things are pretty serious. You need to have an attorney as quickly as possible.

We want you to have an attorney’s number in your cell phone, but I also want you to have the Network’s phone numbers in your cell phone so that if you can’t get ahold of your attorney, you can get ahold of me. The reason it is called the Boots on the Ground phone is because if we were unable to find you good legal representation by working the phones here in our Onalaska, WA office, I would get on an airplane and come to where you are and scour the countryside to find a good attorney and pay them to represent you.

Remember, though, it is always the member’s decision whether

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or not to hire any particular attorney. I would make a recommendation, so maybe I would say, "If it was me, I would hire this person," but the member needs to talk to the attorney and make that decision for him- or herself.

**eJournal:** Returning to the topic of your priorities and getting an attorney to represent a member: what steps do you take when a member or his spouse or other representative calls and you learn a member needs an attorney?

**Hayes:** If it is the member making the call, then he or she is free to talk to me. For example, last summer we had the case where a member was at a police department being held for questioning after a shooting, and he called me from the holding cell. We arranged to have an attorney visit him there within a couple of hours and things went extremely well in that situation.

Readers do need to understand something: even when we get to work on a member's case immediately, it still may take a few hours to get an attorney there for you. If it happens at night, the attorney is likely going to get there the next morning. If it happens on a weekend, it might be a couple of days. If that happens to you, you have got to steel yourself to the fact that you may be locked up for a little while. Don't go nutso on us. Chill out and do not talk to anyone in the jail. Wait for the attorney to contact you. At some point you will be told that you have a visitor. It will be an attorney, and you guys will talk. You will decide whether or not you want to use him for your defense. If not, ask him to call and tell me that so I can find a different attorney, or you might choose to simply use them at the moment to get through a bail hearing or to get you released on your own recognizance, then you would go from there.

Once you have made a decision to hire a specific attorney, I will need to talk with that attorney to arrange his or her payment. If it is a Network affiliated attorney, most of them say, "Marty, just send me a check," and that is something we do quite often. Occasionally, attorneys will have office procedures where they need payment upfront before they will start the representation, so we have done wire transfers, electronic transfers or online payments in those situations. We will do whatever we need to do to make sure that you have legal representation.

**eJournal:** What dollar amounts are we talking about here? Are you talking six figures, hundreds of thousands of dollars, or are you negotiating with the attorney and paying a little now and more later?

**Hayes:** That answer is very case specific. In the very beginning, we told members we would start their representation by forwarding \$5,000 to their attorney, then that was raised to \$10,000, and later to \$25,000. With experience, we learned that how much money that attorney needs right away is a very individualized determination.

Maybe it is a very serious case for which the attorney needs to get their investigator on the scene to go talk to people, so in that example we are going to send more money than if it was

simply an attorney who is going to go with you to a bail hearing the next day. It is really up to the attorney and me to decide how much is needed for initial representation.

Understand, also, that funding the initial representation is not the full decision about funding the case.

**eJournal:** OK, let's say that you and the attorney have agreed on the initial fee, we have sent that money, then what happens?

**Hayes:** If you are being charged with a crime, then there are going to have to be charging documents presented to the court: a probable cause statement that you and your attorney will have access to, and since it is a court record, I also want to have access to the probable cause statement. I want to see what the police are claiming.

That gives me an initial sniff test for whether this is a reasonable case of self defense. Before we decide to back our member's legal defense fully, I also want to see the police reports, the witness statements, and I also want to discuss with the attorney what you told them.

I do not want you discussing all of the details with me, because that is discoverable, with an exception to the hearsay rule if you make a statement against your own personal interests. Conversely, what you say to your attorney, is not subject to being exposed in court and what your attorney tells me is also not subject to exposure in court. I want you to tell your attorney what happened, and then I want your attorney to tell me what happened.

I need to know that information before we make a decision about funding beyond the initial fee. Understand, also, that if it turns out that you were committing one of the two or three grievous mistakes that turn your act of self defense into a crime then even the initial funding is likely not going to happen.

**eJournal:** If you are getting those details from the member's attorney, haven't you already sent him or her an initial fee deposit?

**Hayes:** Not necessarily. If, for example, the first that we hear about a member-involved incident is when we get a call from an attorney saying that our member has been involved in a self-defense incident and wants us to help fund the legal defense. If the attorney tells me that our member was committing X, Y or Z crime or their use of force was in fact a crime and not a legitimate act of self defense, then we will politely turn down the attorney's request for funding.

**eJournal:** Let's say the initial funding decision has been yes. The member is being held in custody. We want the member free to participate in building their legal defense and that is very hard to do while incarcerated. A very common question is whether the Network provides assistance with bail. It is an extraordinarily simplistic question about a surprisingly complex procedure. What can you tell us about posting bail and the

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Network's part in obtaining a bail bond on behalf of a member?

**Hayes:** I am reminded of a claim that one of our competitors used to make. There was video of them saying, if you get arrested on Friday night, we will have you back at work on Monday morning. When I saw it, I called them a bad name, because you just can't truthfully say that. There are way too many variables.

First off, you have to ask, is the offense even bondable? There are jurisdictions where you are not offered bail if you are arrested for murder. I have worked as an expert on a couple of cases – not for our members – where the people sat in jail for a year because they were denied bail. It was legitimate self defense! So, that is one of the issues.

Secondly, for serious offense – a felony – bail is set by a judge. For example, if you were arrested for a DUI, there is a preset bail amount that you can post, so that you can get out of jail that night. On the other hand, if it is a serious felony – assault, attempted murder, manslaughter, or murder – bail is not even going to be offered until you get to a bail hearing in front of the presiding judge. During the ensuing days, your attorney needs to get to work making a good argument for the judge about why you should be released on your own recognizance, or if that is not done in your jurisdiction, a good argument for a low bail amount. That is one big reason why it is so important to get an attorney early.

Now, there are really three types of bail situations. If the bail is low, no collateral may be needed, regardless of whether or not you post a cash bond or use a bondsman. Your promise (signature) will suffice, along with, of course, the payment, but if the bail is a high amount, let's say one quarter million dollars and you don't have a quarter million laying around in your savings account to post bail or to offer to a bail bondsman as collateral, then you are going to have to put up something else like your house or maybe your mother's house as collateral, something that the bail bondsman could go after in case you decide to go to Guam instead of appearing for trial. Let's say bail is one quarter million dollars, the bail bondsman would want 10% or \$25,000. The Network would pay the \$25,000, but you are going to have to put up some collateral.

**eJournal:** Is that because the bail agent doesn't think you are good for the quarter million or does the court impose the requirement for the person being bailed out to put up their own collateral?

**Hayes:** That is the bondsman's requirement, and they are probably not going to relax it. However, some jurisdictions will require a cash bond, meaning that there is no bail bondsman allowed. That was the situation with the Larry Hickey case in Pima County, AZ ([https://armedcitizensnetwork.org/images/stories/Hickey\\_Booklet.pdf](https://armedcitizensnetwork.org/images/stories/Hickey_Booklet.pdf)). The judge set the conditions of his release to include a \$100,000 cash bond. Larry spent two or three weeks, I believe, in jail trying to scrape up one hundred grand to give to the court clerk so he could get out. I first

learned about Larry's case during the fundraising to post his bail.

If a member faces a similar bail situation, the Network will work with them on an individual basis, to see if there is any way that we can help with the cash. This will have to be decided on a case-by-case basis, and we will probably want the member to have some skin in the game, too.

**eJournal:** Would the court impose any restrictions on whether the defendant was pledging his or her own assets to guarantee appearing at trial?

**Hayes:** No, it has been my experience that the court just wants to see the money.

**eJournal:** Moving forward, let's say bail wasn't required, was minimal, or working cooperatively with the member, we've raised the amount required and the member is freed. What is the next part that we can help with?

**Hayes:** We have got to determine if we can pay for the member's defense from the Legal Defense Fund. Understand, it is my priority to assist our members in any way possible, but in order to do that, I am going to have to know some key facts.

Number one, was the member committing another crime? I remember one instance of a new member who had not been with us for very long, who entered his ex-wife's house through an unlocked garage door and caught his ex-wife in bed with her current lover. As you would suspect, that escalated rather quickly into a fight. Thankfully, he didn't shoot anybody, but he was arrested for aggravated assault. He called me to ask if we could help out, but when I found out what had happened, I had to say, "I am very sorry, friend, but we can't help you. You were committing either criminal trespass or burglary, depending on the facts of the case, and because of that, we cannot help you."

He said, "Yeah, I understand." We have had a couple of calls like that over our 13 years. They know in these situations that reaching out to me is a "Hail Mary" attempt, to use a metaphor.

The second big question I am going to have to ask is, "Was our member the initial aggressor? Did he or she start the fight?" If you have done that, you are not going to be afforded the luxury of a self-defense defense. You are not going to get a self-defense jury instruction if you are the one that started this whole thing. When we face those circumstances, we try to make you understand that this is not going to go well at trial. We are going to let your attorney try to arrange the best possible outcome for you – a plea bargain, maybe a deferred prosecution, something like that. We are not going to fund a legal defense that we know is not going to work because you started the fight. Remember, part of our name is "Legal Defense."

**eJournal:** In saying that we are going to let the member's attorney negotiate a plea, do you mean that even knowing that

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the client started the fight, you are providing further funding beyond the initial fee deposit?

**Hayes:** We would have already paid the attorney an initial fee for representation, and out of that fee I would expect the attorney to be able to work to help our member. In fact, I remember one of our earlier cases involved an altercation and it turned out to be just this sort of a case. We paid an attorney \$10,000 on a felony aggravated assault case. After looking at all of the police reports, I talked with the attorney again, and he said, "Marty, self defense just is not there. I can't get her a self-defense acquittal, because she was doing this, and this, and this."

I told him, "Go ahead and do the best that you can do for our member." I did not ask for any of the fee deposit back.

**eJournal:** In determining who started a fight, I wonder how far back the clock runs? There are neighbors who exchange verbal threats for years, then one day one of them pushes the other one or knocks him down and kicks him. Who is the initial aggressor? It's really complex.

**Hayes:** That answer is actually the third question that I want to discuss. Is there evidence leading to the belief that there was an ongoing issue with the person against whom you used force? In other words, maybe you have been arguing with a neighbor for years over the fence line between your property and you know it is coming to a head. Maybe he tore your fence down and you decide you have had enough. You hear about the Network, and you think, "Well, I am going to join the Network, and then I will have free legal help after I go to confront my neighbor."

Well, if that is the situation, you are not going to get your legal expenses paid. If you have a long-running dispute with somebody, you need to resolve that dispute first before you even join the Network. That same concern extends to a marital dispute. There's a kind of famous case where a woman signed up with a competitor at the same time as buying a gun, and within days she went and shot and killed her estranged husband. If you do that, you are likely not going to have your legal fees paid.

**eJournal:** The bottom line is that armed citizens have got to solve their interpersonal problems before it ever approaches a place where use of force is on the table.

**Hayes:** Right.

**eJournal:** Who decides whether someone should have solved their problems differently?

**Hayes:** At the Network, there is a group of people who are involved in making that kind of a decision – our advisory board. The process starts with me. When we get a case, I will do the initial screening and find out what went on. Typically, I will do an Internet search on the name and see if the incident has hit the news. I want to at least see what is being reported, even if I don't necessarily believe everything that is being reported, I still need to find out.

**eJournal:** Let's say the news reports that the police have been to that house to stop fights five times in the past month. Do you ask the member what was going on?

**Hayes:** No, at that point I am asking those questions of their attorney because what the member tells me may be admissible in court, possibly. What the attorney tells me is not admissible, so I want the attorney to tell me what really happened. If what I am told makes me concerned that it was not self defense, I will gather all the information I can and take it to the advisory board and I will ask for their opinions. I want to know whether they concur with me. I remember one case where I had doubts, but they said, "No, we think we should fund this," and I said, "Well, OK," and we did. That is what the advisory board is for. Other times, they have said, "No, that is not self defense," and I went back to the member's attorney and asked him or her to talk to the member and get the best outcome possible without going to trial, because we cannot in good conscience fund this defense.

**eJournal:** Your responsibility is to be a good steward of the Network's Legal Defense Fund. Your duty is not only to the single member you are interacting with at that moment; your duty extends to 19,250 other men and women who are relying on you not to fritter away the Legal Defense Fund defending something they would never dream of doing.

**Hayes:** All the other Network members have trusted me to keep the Legal Defense Fund healthy, so that there is money in the Fund for their legal defense, if needed. I have to be very judicious in handing that money out.

**eJournal:** Members often give voice to our shared concern and interest in building the strongest possible Legal Defense Fund. Some have asked why we don't insure the Fund against the expenses of defending members. Other times people ask us to arrange liability insurance they can buy, and of course, there are simply the potential members who call and ask to buy insurance, not understanding the difference.

Please explain how the Legal Defense Fund, and its purpose – paying for the legal defense of members after legitimate use of force in self defense – is different from having insurance that purports to pay someone's legal expenses. Why not just follow the rest of the world and have insurance for this problem?

**Hayes:** There are several reasons. When we first started the Network, I researched what was available for self-defense insurance. At that time, there was only one company offering a policy and it said, "If you are acquitted, then we will pay you back for your legal fees." I thought, "That won't work, because how can you be acquitted if you don't have the money to pay for your legal defense?"

Insurance denotes a set of circumstances where the insurance company will reimburse after the claim has been made. That means that you foot the expense upfront, then you get reimbursed if you are acquitted or the charges are dropped. Other

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companies give you some help immediately and if you decide that you want this kind of a policy, for goodness' sake, read the fine print! I have read as many of them as I can get my hands on, and most of them contain provisions that require you to pay back the money that they paid for your defense if you are found guilty of a crime.

The next reason that I did not want to sell insurance is that if you are sued in civil court that insurance company basically has all rights to decide your case. Realize that if you are found culpable, it will be their money that they are paying out for a wrongful tort, that being an intentional act that causes harm to another person.

**eJournal:** With civil liability coverage, doesn't the insurance company assign lawyers from their own legal department to the case, leaving you with no say in how they defend you, or whether they decide to settle?

**Hayes:** Absolutely, and that is the primary reason that I personally do not want an insurance company involved if I have to go to court to defend my self-defense actions. I want to choose my own lawyer and have a say in how the case is argued. I do not want to give up my right to have my own legal team, a team that is looking out for me, not for the insurance company.

There is one other reason that I did not want insurance for self-defense issues. Have you heard the old adage, "insurance invites lawsuits?" After all of the details about your self-defense incident come out in your criminal trial – whether or not you are found guilty or innocent – a plaintiff's attorney is going to be scrutinizing the whole case on behalf of the individual against whom you used force. The plaintiff's attorney will be looking at four issues.

One: is there sufficient evidence to suggest that they would likely win a lawsuit against you? Remember that the standard of proof in a civil case is only to a preponderance of the evidence. Is it 51% likely that you did wrong? If so, then you lose and they can collect against you. They can use evidence from the police report and from the criminal trial against you to try to show that you did wrong.

The second question a plaintiff's attorney is going to ask is, "Are there assets to go after if we win?" Do you drive a nice car or live in a fancy house or have vacation property? If you are renting a low budget efficiency apartment in one of the poor parts of town and you ride the bus to get around, there's not going to be much for them to go after if they can get a judgment against you. You are pretty much lawsuit proof. Sure, they might win the lawsuit, but they are not going to collect anything from you.

That raises the next question the plaintiff's attorney has to ask, "Does the person I am thinking about suing have any insurance?" If you have insurance, then you may have a civil lawsuit filed against you trying to get the liability limits of your policy. How is the plaintiff's attorney ever going to find out that you had insurance? Well, you are probably going to carry an insur-

ance card in your wallet, and when the police arrest you, that gets photographed along with everything else and entered into evidence. The plaintiff's attorney has access to that evidence and they are going to find out if you have insurance.

It doesn't cost a plaintiff's attorney much to file a lawsuit, and pretty soon they find out that there is an insurance company representing you. To me, if the insurance company settles, that is not so bad. Settling may go against your moral fiber, and I remember that when Larry Hickey's homeowner's insurance settled the claim against him in his case, he really had a hard time with that, but he did not have to pay any money out of pocket because they settled within the limits of the policy.

That worked out, but what if a jury in a wrongful death case decides to award the plaintiffs \$5 million in damages and your policy limit is only \$1 million? Who pays that other \$4 million? Well, you do, so by having insurance you opened yourself up to being sued by a plaintiff trying to get into the insurance company's pockets.

With self defense, we are talking about potentially killing people, and there's no one out there who would claim their life was worth only \$1 million. I don't want an insurance policy that suggests someone's life is only worth \$1 million.

**eJournal:** Looking at it from a different angle, though, without liability insurance, don't you stand to lose your retirement or pension, or the home you own if someone decides to sue you?

**Hayes:** Well, the nice thing for Network members is that we will fund their defense against a lawsuit and the plaintiff's attorney will understand that our member's legal costs to defend against the suit are paid by the Network. So, they are now suing someone who gets all of their legal fees paid for. The person they're suing does not have to pay for it themselves but there is no liability coverage money to go after.

**eJournal:** Doesn't a plaintiff's attorney earn a percentage of the damages the judgment awards? Without a judgment in their client's favor, how do the lawyers get paid?

**Hayes:** The plaintiff's attorney is not billing their work on an hourly basis; they are working on a contingency fee. That is usually 33% of the amount awarded. They are investing a whole lot of time and energy into suing someone who does not have very much in the way of assets and who is not paying his own legal expenses.

There is one last point. I told you there were four points, and that means there is one more. That final point is that insurance is costly. It is expensive. A person buying insurance is looking at between \$300-\$500 for a policy. I did not want to charge people that kind of money so they could have some good, competent legal assistance after a self-defense incident. It was not our vision 13 years ago when we started the Network to do it so that we could make a whole bunch of money. It was our vision to make sure that the armed citizen could fight back

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against unmeritorious prosecution or civil suit. While we have kept our dues rates low, we still have been able to amass the Legal Defense Fund that allows us to fulfill that goal without a lot of money going to make some insurance executive rich, as we would have if we had sold insurance policies.

On the other hand, if you are someone who has considerable assets that you want to protect, you may want to go ahead and buy into an insurance policy. We have no problem when our members have chosen to be insured, in addition to being part of the Network, if they want an insurance policy to protect their assets against the civil side of the problem. We will help out if the insurance company wants some help defending their case; we will jump in and assist.

**eJournal:** I know a good number of our members are on fixed incomes and frankly, they struggle to set aside the \$95 for the yearly dues when they have to pull it out of their Social Security check. Some are budgeting several months out when they know the renewal is coming up. I cannot imagine putting together a program that is too expensive for many of those men and women.

**Hayes:** ...or they have to pull it out of their military disability check, I know.

**eJournal:** If we had to charge enough to also pay an insurance company to indemnify them, some of our less-wealthy members would have to make a hard decision to go it alone instead of being a participating member in a big organization made up of like-minded people who are dedicated to looking out for one another.

There is one other facet of the Network's assistance that people ask us about, so before we go, please explain appeals if, despite our funding, things go badly for a member in a criminal case or lawsuit in civil court.

**Hayes:** First, please understand that while you can appeal any conviction, in order for the appeal to be successful you have to have a legitimate reason for the appellate court to overturn the judge's ruling. It might be that your attorney did not do his or her due diligence and you can make a legitimate claim for ineffective assistance of counsel, although that is a very sketchy claim that likely will not work. Judges understand that your legal strategy at trial is something that your attorney controls. If, for example, your attorney decides not to put you on the stand, and at the time you agree, but later on you decide, "I really should have had the right to testify," a judge is not likely to change that. On the other hand, you have a right to testify if you adamantly want to testify. If your attorney didn't let you testify, that could result in a legitimate ineffective assistance of counsel claim if you argued to the appellate court that your attorney went against your wishes.

Another point which would have a much higher degree of success with an appeals court would be the judge allowing introduction of evidence that he should not have allowed. Perhaps a judge allowed hearsay information when your attorney

objected, but the judge wanted to let it in anyway. If you were convicted, that would be a pretty good point for appeal.

The same would work for exclusion of evidence and I have seen several appeals where a judge did not allow evidence of prior training or prior knowledge that the defendant possessed to be used in court. The appellate court said, "No, the jury gets to understand what the defendant was thinking at the time of the incident."

If the Network, along with you and your attorney – probably your new attorney – determines that this is a reasonable appeal, then we would likely fund it. If the issue is a civil case and you lose a civil case, then there may be an appeal for excessive award of damages, or perhaps the admission of evidence issues. The bottom line on appeals is that the Network's funding is not automatic. There has got to be some merit or some likelihood that you will be successful on appeal. There has got to be evidence of a potential error at the initial trial.

**eJournal:** What does the Network do if an appellate court finds in our member's favor?

**Hayes:** We push the "reset" button and we will start over and fund the member's defense in the retrial. As with all the other issues we have talked about, please understand that this funding decision is not automatic. We still have to operate under the premise that you made a voluntary, intentional choice to use force in self defense based upon your reasonable perception that you were in danger.

**eJournal:** We've covered a variety of topics. What do you want members and potential members to remember from what you told us today?

**Hayes:** We have covered what members can expect us to do. We have explained that funding decisions are not automatic. We have to be convinced that it is a legitimate case of self defense. I do not want to be in a position of providing funding for people who have gone out and committed crimes. Remember, I was a cop for most of my life. I abhor criminals, but I also abhor the prosecution of innocent, law-abiding citizens who had to use force in self defense or be killed themselves. That is the yin and the yang of the issue.

After reading this, if a person decides they are no longer comfortable being part of the Network, I will say, "Good for you for thinking about this! Go and pay triple or quadruple for some insurance if that is what makes you comfortable," but here is the dirty little secret: The insurance companies are also making decisions about whether to fund your legal defense. If you are an insurance policy holder, the insurance company is going to screen your case, too. If they think that you went out and committed murder, they are not going to fund you. This is the kicker: the people the insurance company has making that decision likely do not have the education and experience that our advisory board has, but if you still want to have insurance, go for it with my blessing.



## **President's Message**

*by Marty Hayes, J.D.*

This will be a short message, due to the length of the lead article, but I just wanted to take a minute to reiterate a couple points I made in the article.

The first point is to emphasize why we developed the Network to not be an insurance-backed membership program, and why we did not attach an insurance policy to our benefits.

The reason is that insurance will not necessarily get you where you need to be at the end of the day, with that "end of the day" being your court battle over the legality of using force in self defense. If you read policies from the other companies that are out there, they all spell out the type of "self defense" that you must have undertaken in order for the policy to cover you. Most make reference to something like "all legal weapons" and others refer to use of firearms only.

Insurance companies like bright lines, and while we all like clarity and certainty in our lives, the fact is that a self-defense situation may be a very muddy gush of dirty water.

For example, what if the "weapon" you used was your car, while being attacked by an angry mob and you had to run over an attacker to escape what you believed was a very legitimate

threat against you and your family? Were you using a "legal weapon?" An insurance underwriter may decide that your claim does not fall within the parameters of your policy and refuse to pay.

Remember, the bottom line for insurance companies is to make money for their shareholders, not to make sure justice prevails. There are a couple of the companies in this industry that are now advertising over a half a million members. WOW. Can you be sure that your individual case has priority over making sure the insurance underwriter for all those other people is happy?

The second point I wanted to cover is that when I set up the Network, I wanted to make sure that we were not under the control of insurance regulations and thus under the oversight of an insurance commissioner or other government agency. The field of insurance is ripe for fraud, and I believe most people's mentality is to simply buy an insurance policy without reading and understanding all the fine print of the policy. For example, if you are one of the 500,000-plus members of one of these large companies, do you know that there is likely a recoupment clause in the policy?

A recoupment clause means that in the event you are found guilty at trial, the insurance company has the legal right to "recoup" the money they spent on your legal defense. This would only apply in a criminal trial, but nonetheless, you really should know that ahead of time, shouldn't you? If you belong to one of these large programs, be sure to check out the "policy" language. I suspect it will surprise you.





## Attorney Question of the Month

*We're starting to hear questions from Network members who are planning cross country summer vacations.*

*Naturally, they're particularly concerned about the potential for violating weapon restrictions and self-defense laws once they leave home where they are familiar with the law. Their concern extends beyond guns and includes worry about restrictions on pepper spray, TASERs, knives and other non-gun self-defense tools, too.*

*In hopes of aiding these intrepid travelers, last month we asked our affiliated attorneys the following question:*

***When armed citizens vacation in your state, what weapon and self-defense laws are they most likely to be unaware of and may inadvertently violate?***

***If a Network member is planning to vacation in your state, what advice would you offer about their self-defense weapons and provisions?***

Our Affiliated Attorneys responded with interesting and varied commentaries of such length that we ran the first half in March and are wrapping up their interesting input this month.

### **M. Reed Martz**

Providing legal services in AL, GA, MS, and TN  
Offices in Oxford, MS and Chattanooga, TN  
Freeland Martz, PLLC  
302 Enterprise Drive, Suite A, Oxford, MS 38655  
662 234-1711

<https://midsouthgunlawyer.com>

For Mississippi:

1. Do not carry concealed an automatic knife or large fixed blade such as a Bowie, dirk, or dagger. Some municipalities have blade length restrictions but these are rarely enforced. Mississippi's knife laws are worse than its gun laws.
2. Bring what you know and have trained with. Mississippi does not require a permit to carry a concealed firearm on your person or in your vehicle. Mississippi has no restrictions on calibers, models, capacity, or ammunition type. Mississippi does not restrict the possession or concealment of pepper spray or TASERs. Mississippi permits open carry without a license.

For Tennessee:

1. Only those with an enhanced CCW may open carry. The primary exception to this rule is that open carrying a loaded handgun in a motor vehicle or boat is legal for those with or without a permit.
2. "No Guns" signs must meet certain requirements to carry the force of law. Some do, but most do not. You absolutely must

not carry a firearm when consuming alcohol. Tennessee has no restrictions on calibers, models, capacity, or ammunition type. Tennessee does not restrict the possession or concealment of pepper spray or TASERs.

### **Jerold E. Levine, Esq.**

Attorney At Law  
5 Sunrise Plaza, Suite 102, Valley Stream, New York 11580  
212-482-8830  
<https://thegunlawyer.net>

Travelers so often are caught violating New York's gun laws that my law office specifically advertises to them on the web.

Respecting travel with handguns, New York has no license reciprocity with any other state, so a non-resident CCW is void in New York. Also, unlike most other places, a license is needed just to possess a handgun in New York, and unlicensed possession is a felony. Most of the state exemptions apply to government personnel and commercial activity, with the only exemptions for ordinary travelers being limited to very specific kinds of shooting matches and conventions (Penal Law § 265.00(a)(12, 12-a, 13, 13-a)). But if traveling non-stop through New York, the Federal Firearm Owners Protection Act (FOPA) safe-passage exemption should apply (18 U.S.C. § 926(a)), though I emphasize "should" because New York police are known to ignore this exemption and arrest people anyway.

Respecting rifles and shotguns, ordinary types (non-assault weapons) are legal to possess in most areas, but travel with them should be unloaded. However, New York City and several other municipalities have special licensing and transport requirements, so rifles and shotguns should not be brought there. While those areas do have travel exemptions, they are very slight and short-term. Again, FOPA applies for travel through these places, but city police are very hostile to gun possession, and "arrest first, ask questions later" may be the result.

Further, respecting travel with guns in New York City, the New York City Administrative Code § 14-140(e)(2) provides for the retention and sale of property which "consists of any property that has been used as a means of committing crime or employed in aid or in furtherance of crime." Translation: If you are arrested for the criminal possession of a weapon that is in your vehicle, the city can seize the vehicle, and this can happen even if the vehicle does not belong to you. These seizures occur regularly with all kinds of crimes, including DWI. You should win the case ultimately if your travel was lawful, but during the process you can lose your vehicle, go through legal hell, and pay thousands for an attorney.

Regarding assault weapons (AWs), there are some local travel exemptions, but the main exemption to be relied upon should be the FOPA. Police hostility will be greatest toward AWs and handguns.

*[Continued next page]*

Thus, the best advice for bringing guns to New York is: "Don't." If you must travel through New York with guns, make sure the specific provisions of FOPA are followed, and I recommend going even further. If traveling by car, guns should be unloaded and in a locked case, and ammunition should be in a separate locked container. If the locks have keys, lock the keys in the glove compartment. The cases should be in the trunk or otherwise rear of the vehicle, and if possible other luggage should be piled on top. Take photos of the luggage arrangement before beginning travel. The purpose of all this is, if a wrongful arrest occurs, you have clear evidence that the guns were unloaded, and stored in such a way that they were not readily accessible during travel.

In addition, if traveling by car, do not have gun or hunting-related insignia on the vehicle. My experience has been that 50% of client gun arrests result from a traffic stop, so travelers should not advertise any connection to guns. Also, do not speed. And lastly, avoid New York City entirely. Other than travel to Long Island, you can get everywhere in New York or the Northeastern U.S. without traveling through New York City.

Drive without stopping through this hostile environment like the migrants in "The Grapes of Wrath" traveled through the desert. You just want to get to the other side. If that other side is Pennsylvania or Vermont, then you have reached the promised land. If it is New Jersey, Connecticut or Massachusetts, then you are still in the desert.

**Alex M. Ooley and E. Michael Ooley**

Ooley Law

P.O. Box 70, Borden, Indiana 47106

812-967-4939

<https://www.ooleylaw.com>

In our experience, there are several areas that many individuals are unaware of regarding places that are "off-limits" despite having a license to carry a handgun. These places are certainly of interest for travelers or anyone pursuing recreational activity in Indiana. Keep in mind, Indiana is generally a very gun-friendly state, and Indiana recognizes handgun license permits from all states. Currently, Indiana is not a "Constitutional Carry" state, and a license to carry or other recognized permit is generally required in Indiana to carry a handgun.

Indiana has the "usual" locations where carry is generally prohibited, to include but not limited to, schools, childcare facilities, airports, and any place where a firearm is prohibited by federal law – just to name a few. However, when considering recreation, most people do not realize that a firearm cannot be carried at the Indiana State Fairgrounds with the exception of law enforcement and authorized security personnel. Indiana administrative code requires a person properly licensed to lock a personal firearm in their vehicle and not visible while on the fairground property.

Additionally, another specific area where one is prohibited

from possessing a firearm despite having a license or permit includes riverboat casinos. The casino is supposed to provide a secure place for patrons and off-duty law enforcement to store firearms. A couple of other places that are off-limits are horse racetracks and the Indiana Government Center Campus where the state capitol is located. Lastly, a person may generally possess a firearm on Department of Natural Resource property other than a reservoir owned by the U.S. Army Corps of Engineers or the Falls of the Ohio State Park. The larger lakes in Indiana are owned and run by the US Army Corps of Engineers, and it is illegal to carry on Corps property unless written approval is obtained from the appropriate authority at the Army Corps.

This response should not be considered comprehensive regarding where you can carry with a valid license. These are just a few examples of gun-free zones people often find surprising. In order to be more prepared for travel in Indiana, we would refer you to sources such as the Indiana State Police website and <https://handgunlaw.us> to learn more. Although these sources of information do not serve as legal authority, we find them generally reliable and a place to start further research.

We understand some individuals are concerned about knife laws as well. We are only aware of a few prohibitions with respect to knives in Indiana. For instance, we believe that if you have a knife that would be considered a throwing star of some sort or a knife that has a detachable blade that can be ejected from the knife handle as a projectile, you should not bring that sort of knife to Indiana. Additionally, knives are generally prohibited on school property. In a nutshell, it is our understanding that Indiana has very few restrictions, but you should begin your own due diligence process and review educational information from organizations such as <https://kniferights.org> - or your own attorney. Also, keep in mind, unlike in the firearms area, there is no preemption statute in Indiana with respect to knives, and it is possible that some localities may have local laws regulating knives. Although unconfirmed, we understand there are local ordinances in Merrillville, South Bend, and Westfield that address restrictions on blade length and/or possession in parks.

In terms of tips for travelers, we would suggest that you have a high-quality, locking automobile safe to securely store your firearm when not on your person. We are also advocates that individuals seriously consider less-lethal forms of self defense in addition to being a responsible armed citizen. One that we favor is quality pepper spray. Fortunately, there are no statutes in Indiana that directly prohibit the use of pepper spray. However, as with any use of force, the use of pepper spray must be "reasonable" under the applicable circumstances.

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*We extend a hearty "Thank you!" to our affiliated attorneys who contributed comments about this topic. Reader, please return next month when we discuss a new question with our affiliated attorneys.*

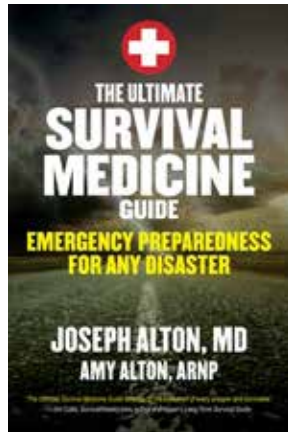
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## Book Review

### ***The Ultimate Survival Medicine Guide: Emergency Preparedness for ANY Disaster***

By Joseph Alton M.D., and Amy Alton, ARNP  
Publisher Skyhorse; 1st edition, August 4, 2015  
Paperback 328 pages; eBook 312 pages  
ISBN-13: 978-1629147703

\$19.44 paperback at <https://www.skyhorsepublishing.com/9781629147703/the-ultimate-survival-medicine-guide/> - eBook <https://www.amazon.com/Ultimate-Survival-Medicine-Guide-Preparedness-ebook/dp/B00PSSSELYK>



cooker works as a makeshift autoclave if dressings or equipment need sterilization.

Contaminated water is the cause of a lot of disease, and the authors teach how to filter cloudy water, and then detail how to sterilize it. Options include boiling, or even better using a pressure cooker, chlorine, iodine or UV radiation – 6 to 8 hours under direct sunlight, they write.

Contaminated food is a bigger problem, they note, whether due to safe food storage problems, or food that is exposed to bacteria that is allowed to grow on prep surfaces, from the environment it was raised or ripened in, or by allowing raw meat juices to contact fruits or vegetables that are eaten raw.

*Reviewed by Gila Hayes*

Armed citizens put a high value on learning when and how to stop someone who intends to injure or kill them or their loved ones and rightly so. With so much focus on staying alive, it is ironic that we're often less interested in learning how to avoid injury or disease. With self defense, we acknowledge that law enforcement may not be able to intervene in time to save our lives. Medical self-sufficiency suggests it is prudent to also understand how to maintain health and treat injury if access to medical care is interrupted by natural disaster or civil unrest.

This is the subject of *The Ultimate Survival Medicine Guide* by Joseph Alton M.D. and Amy Alton, ARNP. They introduce, "This book is meant to educate and prepare those who want to ensure the health of their loved ones. If you can absorb the information here, you will be better equipped to handle 90 percent of the emergencies that you would see in a power-down scenario, whether after a societal collapse or after a more typical disaster scenario. You will also have a realistic view of what medical issues are survivable without modern facilities."

Similar books I've read mostly discussed first aid, so I was sobered when the authors commented that vigorous good health is hard to maintain under austere conditions. "Your immune system weakens when exposed to long-term stress, so you will be at risk for illnesses that a well-rested individual could easily weather," they explain.

Without power or ways to assure clean water and food, the Altons predict that, "Infectious diseases would likely become rampant, and it will be a challenge to maintain sanitary conditions. Simple activities of daily survival, such as chopping wood, commonly lead to cuts that could get infected." They comment later that an outbreak of diarrhea is more likely than a gun fight, illustrating, "In the Civil War, there were more deaths from dysentery than there were from bullet wounds." I guess I need more bleach on my long-term supplies shelf, but I was also interested in their observation that a pressure

Even with good hygiene and sanitation, infections sometimes have to be treated, they continue, so they dedicate an extensive section to infections. Cellulitis – soft tissue infections – can carry infection into the blood stream. "Cuts, bites, blisters, or cracks in the skin can all be entryways for bacteria to cause infections that could lead to sepsis if not treated," they warn. Although no longer common in the US, tetanus infections are a risk, especially in deep, narrow wounds that aren't open to oxygen. Abscesses and boils are a more common form of cellulitis and are harder to treat, they write, because the infection tends to be "walled off," so opening a boil may be necessary. They outline incision and drainage, and options to antibiotic ointment, if it is not available.

Knife and gunshot wounds are covered, including importance of the first hour following the injury. This leads to a discussion of hemostatic agents like Celox™, but the authors note their use is not the first priority in treating a bleeding patient. "Pressure, elevation of a bleeding extremity above the heart, gauze packing, and tourniquets should be your strategy here. If these measures fail, however, you have an effective extra weapon to stop that hemorrhage," they advise instead.

Sprains and joint injuries are covered, with a good, illustrated discussion of the physical structures involved and how to relieve pain, promote healing and sometimes prevent long-term disability. Fractures are a different matter, and the authors start with diagnostics, possible additional injuries like harm to nerves, then how to care for the injury under austere circumstances. Head injuries, open and closed, are also explained, with causes, symptoms, common results, and a discussion about when the greatest danger exists.

Realistic expectations about ones' medical skills and resources are a nice aspect of *The Ultimate Survival Medicine Guide*. Discussing medical supplies that range from a personally carried first aid kit to a cache of supplies suitable for an improvised

*[Continued next page]*

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field hospital, the authors comment, “If you can put together a good family kit, you will have accomplished quite a bit. The list of items could go on and on, but the important thing is to accumulate supplies and equipment that you will feel competent using in the event of an illness or an injury.” They list about two dozen items for the family medical kit as a good start.

Quite a bit of discussion focuses on shouldering the medical needs of a smaller communal group, a lot of which strikes me as beyond the reach of most, so I was relieved to read, “Unfortunately, you probably will not have the resources needed to stockpile a massive medical arsenal. Even if you are able to do so, your supplies will last only a certain amount of time. Therefore, you will need a way to produce substances that will have a medical benefit. The plants in your own backyard or nearby woods would be the best place to start.” Throughout the chapters on various diseases and injuries, alternatives like veterinary antibiotics are identified, as are plants that help with common woes like pain, insect bites or stings, and even conditions commonly treated by prescription drugs that would eventually run out in a lengthy disruption of services.

Using natural remedies effectively requires recognizing common illnesses, and the authors discuss strep throat, respiratory infections, intestinal distress and a lot more. They also outline conventional treatments and improvised remedies for burns, animal and snake bites, insect and scorpion stings, spider bites and a lot more. All of that instruction is just as useful under normal conditions, as it would be under “austere” circumstances that are frequently referred to by the authors.

Since advancing into our senior years is often accompanied by chronic medical issues, I was interested to read the Altons’ ideas about medications that would become unavailable. The authors wrote, “Thyroid malfunction, diabetes, and heart disease are just some of these issues. They require medications that will not be manufactured in times of trouble. You must, therefore, think ‘outside the box’ to formulate a medical strategy for these patients that does not include modern technology.”

Under austere conditions treatment takes several directions, one being dietary restriction and supplementation. They list harmful and beneficial foods for people with thyroid disorders, diabetes, high blood pressure, heart disease, digestive system woes, seizures, kidney stones, and gall bladder stones. They identify pharmaceutical remedies that have good storage shelf life and others that deteriorate over time. Some common chronic disorders are relieved somewhat by herbs or natural supplements, they note, mentioning a variety of plants that could be useful, as well as pet and animal treatments that are available without prescription, but also discuss concerns that go along with drug allergies and related worries.

I learned a lot and have a renewed interest in herbal alternatives I’ll have to explore. I think the Altons’ message can be summed up in their advice to, “Be open to every strategy available to deal with a medical issue; there are a lot of tools in the medical woodshed, and you should take advantage of all methods that may keep your family and community healthy in uncertain times.” *The Ultimate Survival Medicine Guide* increased my awareness of various strategies, so I’m glad I ran across it.



## Editor's Notebook

by Gila Hayes

People sure seem to like hard and fast rules, but rules betray us when changing circumstances make a rule or what was imposed as policy no longer applicable. The perceived safety of knowing rules and following them without question can quickly turn to

danger – not only of failing to act to save life, but also danger of post-survival punishment. Decades ago, Dennis Tueller studied how police responses needed to be scaled to consider the officers' proximity to threats. He distilled his findings into a principle that law enforcement and private citizens alike have used to save lives for several decades. He has consistently stressed that his findings did not constitute a rule, and an article I stumbled across underscores the danger of inflexible rules directly related to his warning. Take a look at <https://www.police1.com/edged-weapons/articles/the-21-foot-rule-is-back-in-the-news-IXEw5hfE4HVKnBlh/>.

Early in this journal's history I had the privilege of interviewing Tueller to commemorate the 25th year since publication of his famous article *How Close is Too Close*, which introduced what has come to be known as the Tueller Principle. People being people, quickly morphed the principles of awareness, cover and obstacles, threat recognition and allowing for reaction time that Tueller wrote about into – you guessed it – a rule.

Tueller explained, "The term '21-foot Rule' was not one I used. In the article, I talked about recognizing the danger zone, and about using cover or at least obstacles to slow an attacker." He added, "I still think the '21-foot rule' is a poor use of terminology. Why not call it a 'rule?' Because words have meaning in the context in which we use them. What do you think of when you hear the word 'rule?' 'Follow the rules...' 'Don't break the rules...' 'That is a violation of the rules...' " His words are still true today! The attitudes and philosophy Tueller shared a decade ago at <https://armedcitizensnetwork.org/44-our-journal/86-the-tueller-drill-revisited> has guided us in building a flexible, member-focused Network as it has grown and matured over the past 13 years.

As you've likely intuited from our lead article, people often ask the Network exactly how much money we'll pay to fight criminal charges, or other post-incident worries they've read about or heard discussed at shooting school or the gun store. A promise of limits gives the same false comfort as did the mistaken "21-foot Rule" about how close is too close that evolved from misunderstanding Tueller's proximity principle.

Last month, attorney Rob Keating gave an educational interview on another effect of changing rules (<https://armedcitizensnetwork.org/beyond-black-letter-law>). A couple of weeks after publication, Rob sent a follow up note:

*In the "big coincidence" file, the Texas Court of Criminal Appeals (CCA) published an opinion on March 3rd that really talks about a LOT of what we discussed in the interview. I wish it had come out before we spoke.*

*It was a case in which certain evidence had not been turned over to the defense despite their requests and was then used in the punishment phase of the trial. The law covering that issue (Code of Criminal Procedure article 39.15) has changed several times in recent years (2017, 2015, 2014, 2009, 2005, and 1999). There was a lot of disagreement in the trial court and the intermediate appeals court about whether the prior case law applied or if the changes in the law had rendered it moot. (The main issue in the case law was that the statute talked about "evidence material to any matter involved" and we fought about what "material" actually means.)*

*It also had the intermediate court of appeals saying that it would have ruled differently but it had to follow precedent. The CCA opinion notes that, "According to the court of appeals, it would have construed 'material to any matter involved in the action' as including any evidence that the State intends to use as an exhibit to prove its case to the factfinder in both the guilt and punishment phases at trial, but it was required to apply this Court's precedent."*

*The CCA acknowledged that the case law was a mess and it made a clear new holding. (They provided a clear definition of "material" when used in the context of this particular statute, which now means that any relevant evidence that is not disclosed in response to a timely request by the defense cannot be used at any stage of the trial.)*

*As for how fast these things make a difference? A friend of mine picked a jury yesterday (five days after the opinion was published!) in a case that has the exact same issue (the State is trying to use prior convictions to enhance punishment, but didn't provide the defense with copies of the evidence they intend to use to prove the prior convictions). If the jury finds the defendant guilty, then he will use the new case to prevent the state from using the old convictions to enhance the punishment. That will happen today or tomorrow – less than a week from that new case law being written until it is used at trial!*

Thanks, Rob, for the update, and if nothing else, folks, it shows us how the trial courts adapt and change to modifications in the rules. We need to remain flexible, too.

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## ***About the Network's Online Journal***

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

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

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

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

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

Marty Hayes, President

J. Vincent Shuck, Vice President

Gila Hayes, Operations Manager

We welcome your questions and comments about the Network.

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