Armed Citizens' Legal Defense Network, Inc.

# Training for the Armed Citizen – Part 2

## *Tactical Training, a Key Component for the Armed Citizen*

*by Marty Hayes, J.D.*

This month, we will continue our discussion of what type of training an armed citizen should get. Last month, I explained there were three types of training that I feel are paramount for the armed citizen, those being –

- Marksmanship,
- Tactical and
- Legal.

This month we will address the concept of tactical training.

There is a considerable overlap between the physical skills of defensive handgun training and what is considered tactical training. For example, is shooting from cover defensive or tactical? Really, it is both and the armed citizen should be well versed in shooting from cover.

**Belle McCormack of Firearms Academy of Seattle ably demonstrates use of low cover.**

There are two main types of shooting from cover. The first is shooting from ensconced cover. When Jim Cirillo was involved in his NYPD stakeout unit shootings, he did them all while hiding behind cover. His job was to select a robbery-prone business, find a location inside that business where he and his partner could stay secluded, and if the business was hit by a robber or robbers, they would interdict the robbers while behind cover, maximizing their odds of survival. This is no different than a person setting up a safe room with protected shooting points they could get to and defend themselves if their home was invaded.

Standing up behind cover is not the only way to use cover. There is, of course, kneeling and even prone use of cover. Shooting from these positions should be learned and occasionally practiced, as it makes no sense to stand out in the open and engage if you could simply kneel and hide behind something. That also falls under ensconced cover.

A second method of using cover is helpful when searching. Now, I know you don't plan on being a one-person SWAT team, and if you had a reason to believe there was someone in your house, instead of walking blindly through your open back door and into your home, you should consider calling the cops. Assuming there is sufficient manpower left in your local law enforcement agency to send one or two officers out to check out the suspicious circumstances, call the guys wearing body armor who may even have a dog.

Perhaps no one from the local police department is available or maybe you were lying in bed and simply heard an unusual sound from another part of your home. It's not anything you would call the cops to check out, but instead necessitates your own investigation. Knowing how to safely search your own home is a potentially lifesaving skill. Attending a tactical training course to learn these tactics is in order. Unfortunately, most shooting schools don't have shoot-houses, but a few across the country do. Gunsite Academy, Thunder Ranch and The Firearms Academy of Seattle all do. Called simulators, they simulate an environment where there is a problem to solve and give the student a chance to practice solving those problems. If traveling to one of these schools is out of the question for you, you might want to consider hiring a local instructor for an evening to come to your home and take you through the tactics and skills for searching your own home. That would be a good start.

Learning proper search techniques is valuable outside your home. In an urban environment, knowing the best way to negotiate a street full of buildings so you are not easy prey, or if you are a hunter, even using slicing-the-pie search techniques can make you a more successful hunter. One of Gunsite Academy's most eagerly anticipated exercises takes place in their outdoor simulators. There, you must negotiate rough terrain while looking for and engaging "bad guys." Learning proper search techniques and how to shoot from behind cover is probably the most valuable tactic to learn after you have learned shooting skills.

Solutions to other tactical problems are best learned through "force-on-force" training. More and more schools are offering courses which are either all or at least heavily weighted to "role



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playing." In police training, where the discipline started, it is called "mock scenes." The idea is to place the rookie in replicated scenarios, where the young cop can either solve the problem correctly and get positive feedback from his instructors, or they "screw up" and see where they did wrong. Ideally, the trainee is then given the chance to repeat the scenario and get it right. I can still recall the scenarios from my initial police academy days, over 40 years ago! No one around you puts on force on force classes? Call Karl Rehn (https://krtraining.com/) who runs his own school out of Texas and would likely be willing to come to your area and put on a class. I would rate his training as among the best there is for force on force. In addition to Karl, there are other instructors who could do this for you. Do your research.

A third area of skill that I lump into tactical training is learning how to run your gun from all kinds of disadvantaged positions and circumstances. Techniques addressing this concern were pioneered by Jim Cirillo in his downed officer course, his seminal work in this area, called "Downed Defender" drills, has blossomed into being taught by Massad Ayoob and others. Shooting from your back, your stomach, one handed and then learning how to manipulate the gun both one-handed strong handed, and one handed weak handed is a very reassuring set of skills to have. It is likely that you would not need these skills in your next gunfight but these things would be nice to know how to do ahead of time, not trying to figure out how while someone is trying to kill you.

Lastly, there are "decision making" drills in which armed citizens should participate. They can be as simple as facing a paper target and trying to decide if the target needs shooting, to needing to work out angles of fire and priorities of engagement in a simulated active shooter scenario. One of the best classes to tap into for this is offered by Col. Ed Monk (Ret.) of Last Resort Training. I hosted him as a guest instructor when I was running the Firearms Academy of Seattle, and he still comes to FAS to teach occasionally. In fact, he will be here in a couple of months https://firearmsacademy.com/handgun/em-active-shooter-threat-response.

As you can see, there are a plethora of tactical training disciplines in which one can immerse oneself. Frankly, I don't think you can overdo it. Next month, we will wrap up this series with a discussion about the legal training in which armed citizens should participate and why it is important.

**Gunsite Instructor Erick Gelhaus, shown at the very back of the scene, coaches one partner in this couple's two-person building clearing simulation during Gunsite Academy's Team Tactics for Two class.**

**Jim Cirillo oversees dryfire repetitions of his downed defender shooting techniques. I was privileged to host him as a guest instructor before his death when I was running Firearms Academy of Seattle.**

# *From Arrest to Trial:*

## *What Every Member Should Know About the Court Process*

*by Art Joslin, J.D., D.M.A.*

Traversing through the criminal court system in the United States can be a harrowing experience, much like wading through shark-infested waters. If you don't know the courtroom process, or the legal-ese being discussed, you might as well not be there. This is why the Network strongly impresses upon each member to choose an attorney well-versed in self-defense cases who has the experience to guide you, and in some cases carry you, through the process.

The first interaction post-incident will be with police. In order to effect an arrest, the police must have probable cause that a crime has either been committed or they may have an arrest warrant for your arrest at a later date. Probable cause is one of those legal terms that people get mixed up all the time. Let's look at a driver under the influence of an intoxicating substance. If the officer notices that you are not maintaining your lane, driving exceptionally slow (which is not in and of itself against the law), crossing the line, etc., then the officer has reasonable suspicion that you might be under the influence. The officer can stop and detain you, detain your vehicle, and detain everyone in the vehicle while they investigate further. Sometimes, I've stopped the occasional very bad driver. Or perhaps someone with disability that is having trouble with driving. It does happen. Imagine, however, upon approaching the vehicle, you roll down your window and the officer smells and sees smoke from the obvious Cheech and Chong festival going on in the car. Now, the officer has probable cause and may remove you from the vehicle, administer a field sobriety test, have a chemical test administered, arrest you, and take you to the county-funded country club. So, in simple terms, reasonable suspicion gets you pulled over, and probable cause gets you arrested.

The same, or similar process happens in conjunction with a self-defense incident. Everyone gets detained until the scene is safe, police gather more information and investigate, and then make a probable cause/arrest decision. Some jurisdictions will automatically arrest you and let the detectives or prosecutor's office gather evidence to determine your guilt or justification. It happens.

After you are arrested (yes, I would plan on it), you make your first appearance in court, generally within 48 hours. The rule is "without unnecessary delay" but most jurisdictions follow the 48-hour rule. At an arraignment–some jurisdictions call it an initial appearance–the judge establishes the crime with which you are being charged, you are offered legal counsel if you don't already have it, you are advised of the maximum penalties if found guilty, and bond is usually set or denied. (For further discussion, see this month's Attorney Question column about bail bonding.) If the district judge, or sometimes a magistrate, disagrees with the prosecutor, believing that there is no probable cause that you committed this crime, the judge can set you free and all charges are dropped. Bond is set according to the type of crime and how heinous the crime. Remember, until you get to trial or have exculpatory evidence at future hearings that proves self defense or discussions with prosecutors, expect no bond or at least one that is very high.

A few jurisdictions still allow a pre-trial examination at this point, which would occur within 14 days after arraignment. A few jurisdictions still hold self-defense immunity hearings to determine whether you have a strong case for self defense or if the case should go to trial. If the judge determines your case is valid self defense, they will end it right there. If the judge thinks the prosecutor has a case against you, you go to trial. You never lose your right to trial unless you waive that right.

At this point, your case will go to circuit court or superior court depending on your state. Some jurisdictions call this criminal court, and still a few in less populated areas have one or two judges who might hear everything (traffic tickets, bond hearings, criminal, family and probate).

In circuit court (or superior court in some jurisdictions like Arizona), you will typically be arraigned again. This is to re-establish the charges, have your attorney place their representation on the record, take your plea, set dates for status conferences, establish the next pre-trial hearing date and set a date for trial. This is a good place to mention the time frame. I've watched everything I've mentioned take place in a few short weeks and I've also experienced the process to this point take two or three months, or more. Remember, you are still in jail until your attorney can ask for bond at the initial circuit court appearance or at a later bond hearing and the judge grants it.

Between the initial appearance in circuit court and the trial date, your attorney and the prosecutor will meet (you are allowed to attend) in pre-trial conferences. This is a pre-trial meeting to work out any details of the case, the prosecution might offer a plea deal, both sides will discuss the strengths of their case in

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a general way (without giving up any strategy), and basically try to come to a mutual agreement between all parties. Your attorney may have several of these meetings with the prosecutor over the weeks or months before trial. Both parties must report back to the court at the next pre-trial hearing to inform the judge of the progress.

It is also during this time that your attorney, the police, and the prosecutor's office are gathering evidence, interviewing witnesses, securing expert witnesses, analyzing the scene and working out all of the aspects of how their case is going to shape up. Additionally, as evidence is found or witnesses are interviewed, the prosecution and/or your attorney may ask for an evidentiary hearing to determine what evidence should be allowed or disallowed. Either side can ask for a pre-trial motion to have certain evidence thrown out. This evidence can include police statements, witness statements, discrediting experts, body cam video, other video and photographs, etc., to help in their case. I've seen this take months. If you could not bond out, then you are still sitting in jail. These hearings can take months or longer for the court to finally hear them.

When the case goes to trial, it may take a few days or it can take weeks (as was true for Rittenhouse) and sometimes months (the O.J. Simpson murder trial had 101 witnesses and a total of 41 days of testimony lasting nearly 8 months). Once the jury trial begins, both sides give opening statements and closing arguments, both sides call witnesses, call experts, enter evidence, and make their case for why you are either guilty or not guilty of the charged crimes. During the trial, the court may schedule an evidentiary hearing in the middle of the trial if there is some reason the judge can't decide then and there if certain evidence should be admitted. Each side submits jury instructions and the judge (or his over-worked law clerk) will assemble those instructions to be read to the jury. The jury deliberates (hours, days, weeks) and returns a verdict. That verdict must be unanimous; you are either guilty or not guilty. There is no such verdict as innocent.

Ah, but it is not over. If you were out on bond, the judge will order you taken in to custody (if the verdict is guilty) or you are free to go (if not guilty). If guilty, probation will contact you for a pre-sentence report (some jurisdictions have different names for this) where practically your entire life is examined like it is an open book. The judge will also set a sentencing date for some point in the future, usually a few weeks out. You stay in jail or you now go to jail.

The judge, your attorney, and the prosecutor will review the pre-sentence report and establish the sentencing guidelines. At sentencing, your attorney may argue why certain guidelines should or should not apply and the prosecutor will have the chance to rebut. Likewise, the prosecutor may want to increase the guidelines and your attorney may rebut. The judge makes the final decision. If you are not familiar with sentencing guidelines, many states, including Michigan, have statutory guidelines that calculate the type of crime and the severity of the crime, with any aggravating circumstances and past criminal behavior. The guidelines will then give the judge a range of time that they are allowed to sentence. It is usually in the judge's discretion whether they sentence near the bottom, in the middle, or near the top of the sentence range. Additionally, many states have mandatory minimums for certain types of crimes including criminal sexual conduct, murder, etc. Of course, the judge can exceed the guidelines but must indicate, on the record, their reasons for doing so. These reasons are almost always due to the severity of the crime, perhaps involving young children, elderly victims, etc. Off to prison for the next several decades, your natural life, or the chair.

The appeals process usually looks something like this: district court decisions get appealed to the circuit court, circuit court decisions are appealed to the court of appeals, and court of appeals decisions are appealed to the state supreme court. Your jurisdiction may have different names but that is the general process.

There are three types of appeals. One applies during trial and two apply post-trial. An interlocutory appeal occurs either before trial or during trial if either side disagrees with a judge's decision. Interlocutory appeals go to the next highest court. Appeal by right is usually available after trial as long as you file within that jurisdiction's timeline. If you miss the timeline for filing, then you only have the choice of appeal by leave. Appeal by leave means that next highest court has the discretion on whether they will hear your case. They don't have to hear it.

After reading this article, you can see how harrowing this process can be. It will affect you mentally, physically, and spiritually. This is especially true if you are sitting in jail for months (I know of one self-defense case in which the defendant has been sitting in jail for two years awaiting trial) or longer, for a crime you strongly believe you did not do. Add into this mix that hearings will get canceled, postponed and rescheduled because of holidays, the judge is sick, your attorney can't make that date, and anything else that could possibly sideline a smooth process. It happens. Expect it.

I've outlined the process from experiencing it in mostly Michigan courts, as I am familiar with this state where I have clerked for a judge and served as bailiff. Your jurisdiction may be different in process, court names (we call trial court the circuit court), we don't have a superior court but you may. A competent attorney well-versed in the local jurisdiction and experienced in self-defense trials will walk you through the process in detail.

I hope this brief overview helps you have a cursory understanding of what might be ahead if you are ever involved in a self-defense incident. Take care, and be safe!

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Questions or comments? Contact Art Joslin, our Legal Issues Editor, at ajoslin@armedcitizensnetwork.org.

# President's Message

*by Marty Hayes, J.D.*

I suspect most members reading this have heard about the settlement in the Remington Firearms case. According to a *Bearing Arms* news report entitled *NSSF says insurance companies, not firearms industry, agreed to Remington settlement* (https://bearingarms.com/camedwards/2022/02/15/national-shooting-sports-foundation-responds-to-remington-settlement) the insurance companies which backed Remington decided it would be more cost effective to settle the suit as opposed to fight it and risk a huge jury verdict against them, along with incurring the exorbitant legal costs. For non-members reading this who have enrolled in one of the self-defense insurance plans, this is just one of the reasons why the Network has no insurance component and never will.

You see, the insurance company cares about one thing and one thing only. That one thing, of course, is the bottom line of the financial statement at the end of the year. This means they will deal away your case if it costs less to settle than to fight. I saw an example of this first hand in the case of *State of AZ v. Larry Hickey,* reported at https://armedcitizensnetwork.org/images/stories/Hickey_Booklet.pdf .

I sat in on and testified in Larry's first trial. During the time I was in court, his case was being monitored by a lawyer for his homeowners insurance company. Larry had been sued, along with being prosecuted. After the insurance company lawyer saw the evidence against Larry, the company decided to settle the case, regardless of the possible outcome of the criminal trial. Larry had NO SAY in whether the insurance company settled. Remember, the burden of proof is different between civil cases and criminal cases.

So, let's say you are not too worried about the civil side, but instead are primarily worried about the criminal side. If your self-defense insurance plan guarantees a certain amount of money to fight an unmeritorious prosecution, be sure to read the fine print of the contract you sign. In at least two of the companies with which I am familiar, the fine print includes a "recoupment clause" specifying that the insurance company can come after you to repay them for the cost of trial, IF you are found guilty or plead to a lesser crime. That's right, you may have to pay them back if you don't win an acquittal. To me, this is pretty scary.

I hear well-meaning people advise that it doesn't make any difference what protection plan you get, just get one. Well, it actually does matter, as I've explained.

The Network gets assailed for our up-front explanation that the merits of your claim of self-defense will be looked at by our advisory board before a funding decision is made. Our critics suggest that is a bad thing, because your request for assistance could be turned down. Well, here is the dirty little secret about all these other plans: they will also look at the merits of the case, and if they don't believe your actions were lawful, they will turn you down, too. It might even happen after their initial funding of the case. In the case of Kayla Giles, who was recently convicted of murder (https://www.youtube.com/watch?v=B_GOWclQk8E) the company first paid $50,000 up front, then when the attorney requested more, they turned the request down, even though the limit for criminal defense was $150,000. They are now being sued by Kayla Giles and her attorneys for breach of contract.

Another major reason I do not like self-defense insurance, is that if you are sued for more than the policy limits and the plaintiff wins a judgment that exceeds the policy limits, you are on the hook for everything over the policy limit. This is important because in my opinion, having an insurance policy invites lawsuits. Without insurance, there is much less chance you will be sued, especially if you are not wealthy. (This was the topic of an Attorney Question of the Month column some years ago. See our online journal archives for Oct. 2014, Nov. 2014 and Dec. 2014.)

The Network does not promise to pay any particular amount of money up-front, but we also place no limit on the amount of money we could spend in your defense. In the beginning, when we didn't have that much money in the Legal Defense Fund, we used to say that we would limit the amount to one-half of the Fund, for any given member. Now, with more than three million dollars in the Fund, that is not an issue.

The member (and those considering joining) should assess the underlying purpose of any company they're considering. For the companies which are backed by insurance companies, I believe the underlying purpose of the company is to make money. They are in essence insurance brokers, selling a policy, but calling it a different name. I believe this is deceitful, because if they promoted the insurance angle up-front, people (some of whom have a real hatred for insurance companies) might not sign on.

These companies continue to market through hard-sell pressure tactics and give aways and one claims 600,000 members, another 700,000. That makes our 19,000+ members look paltry by comparison but we consider ourselves very successful, because it was never our intent to just make money. We needed to fill the Legal Defense Fund, so our members would have money available for legal defense when needed. We need to profit in order to stay in business, but we never set out with making money as a priority.

We were the first company in the marketplace to offer assis-

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tance with legal expenses after self defense. Even at the very beginning, we knew we wanted no part of insurance, so we hit upon the idea of the Legal Defense Fund, and how it could be filled by the members' dues. While we did not risk a lot of money to start the Network in 2008, we risked something even more valuable. Our reputations. Both Gila and I were well-known in the firearms training business, as authors and instructors. We were trusted and respected, and if the Network failed, our reputations would be affected. We are still driven to earn the trust and respect of our members; it is the underlying principle that drives us.

Massad Ayoob, Tom Givens, John Farnam, Dennis Tueller and the late great Jim Cirillo showed their trust in us by joining the Network as our first advisory board members. The value of that demonstration of their trust in us cannot be understated. These guys were very well-respected by the firearms world. It meant everything to have them understand the purpose behind the Network, and enthusiastically embrace the concept and its execution by Gila and me and Vincent Shuck (who had his own stellar professional reputation from the world of organization management). In re-reading my foregoing thoughts, I realize it sounds kind of self-serving. That's not my intention. Instead, I need to point out that our reputation in the industry is the guarantee that we will perform for our members.

Why did I start the Network? Because I had seen armed citizen after armed citizen prosecuted for legitimate acts of self defense. I primarily wanted to be able to do something for my students, to offer them help if they were in a jam. During 2006-2007, while I was going to law school, I started asking my students if an organization such as the Network existed, would they be a part of it? I had always figured it would be a part-time endeavor requiring little time, as both Gila and I were teaching at the Firearms Academy of Seattle and kept busy running the school. We didn't really need another job.

During those years, we met Vincent Shuck, who occasionally traveled from his home in Chicago to train with us. He was an association manager and we discussed with him the possibility of joining us if we got the Network off the ground. He agreed, as he was in the process of retiring from his management position and moving out to Washington State.

I graduated from law school in 2007 and we started working out the details of the organization, along with recruiting our stellar advisory board. In 2008 we officially formed the Network and set out to see if it would fly. Within a few years Gila quit writing, teaching and running the academy, spending all her working hours building the Network. A couple years later, I stepped back from my role as lead instructor and began working full-time for the Network, as well.

We did not form the Network for the money, instead we wanted to help our fellow armed citizens when needed. We staked our reputation and our word on fulfilling our promises to Network members. That is why you didn't have to sign some multi-page contract full of legalese when you joined. Our word is our contract and we wouldn't have it any other way.

# Attorney Question of the Month

*For this month's Attorney Question of the Month, our Network President Marty Hayes queried our affiliated attorneys, asking for input on bail and variations on how bail works in the various states across our nation. We asked–*

**In your jurisdiction, under what circumstances can a judge refuse to grant bail?**

**What is a typical bail amount for a murder or manslaughter charge in the area in which you practice law?**

**What does a defendant typically have to pledge in assets for a bail bondsman to agree to write the bond?**

*Our affiliated attorneys shared the following–*

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A judge can and will generally refuse to grant bail if he believes that a person is going to pose a continual threat to the general public. Other reasons he can use are: if he believes the person will be a flight risk/won't show up to court. If a person has failed to come to court in the past, this is another reason judges will not grant bail.

Amounts of bail vary widely from $50,000 with the person posting 10% of that amount, to $1 million with the person having to post the entire amount. This depends on many factors. The first is how good your lawyer is. A good lawyer will argue that a person is not a flight risk and poses no threat to the general public. Other factors vary. A doctor, lawyer, or anyone with a professional license will get a much lower bail than a person who is a transient or someone who is illegally in the United States.

What does it take to get a bondsman? This is simple: how much collateral do you have? If it's a $10,000 bail and you have a $300,000 house that's paid for, there are virtually no bondsman that will not write you a bond! They know that if you run, or don't come to court, they will make money hand over fist by seizing and selling your house. If you have $100,000 bail, and no property, or other things that they can keep as collateral, it is difficult if not impossible to get a bondsman to write you a bond. Bondsmen are much like bankers, if you have collateral they're happy to lend you money.

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In Wisconsin the court is required to set bail unless the state requests a hearing to deny bail. Those are extremely rare and in 26 years of practice have never seen the state request one. The easy way for the court to avoid the no bond hearing is to set the bail so high that the defendant is not going to be able to post it.

The bail is going to be determined by the actual charge and facts. On a homicide charge, whether intentional or reckless, bail is going to be a minimum of 6 figures and if the charge is 1st degree intentional homicide I would expect bail to START at 1 million.

In Wisconsin there are no bondsmen and the defendant is required to post 100% of the bond.

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In Indiana, murder is not bailable when the proof is evident or the presumption is strong. (IC 35-338-2). The case on point for when a defendant seeks to rebut this and obtain bail is *Fry vs. State,* 990 N.E.2d 429 (Ind. 2013). Basically, if the prosecutor presents evidence (since the state has the burden when the defendant moves for bail), which would be admissible at trial that it is more likely than not the defendant committed the murder, bail is denied, full stop. This can be via physical evidence or testimony, so long as it's enough to convince the judge with evidence that would be admissible at trial.

Otherwise, the standard for a Level 1 felony is generally cash bail of $40-50K, depending on the county, or 10% bond or surety, with attempted murder typically going into six digits. So even if a defendant can get bail on a murder charge, they should still expect the bond 10% amount to be at least $10,000 plus fees, and it would not be unreasonable for the court to impose a seven-figure bail amount on a murder defendant, especially since money talks and it is more likely that someone with the assets to reasonably pay a seven-figure bail would have the legal horsepower to succeed in a bail hearing on a murder charge.

If you were charged with a murder offense and somehow got bail with a massive bail amount, you could expect to be looking at a property lien on a property other than your residence worth at least the bail amount, or perhaps, if you have the assets, a lien on seizable vehicles.

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*In your jurisdiction, under what circumstances can a judge refuse to grant bail?*

In Texas, our Code of Criminal Procedure, Title I Chapter 17 governs how bail is to be set by magistrates. See below.

Art. 17.028. BAIL DECISION. (a) Without unnecessary delay but not later than 48 hours after a defendant is arrested, a magistrate shall order, after individualized consideration of all circumstances and of the factors required by Article 17.15(a), that the defendant be:

(1) granted personal bond with or without conditions; (2) granted surety or cash bond with or without conditions; or (3) denied bail in accordance with the Texas Constitution and other law.

(b) In setting bail under this article, the magistrate shall impose the least restrictive conditions, if any, and the personal bond or cash or surety bond necessary to reasonably ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense.

(c) In each criminal case, unless specifically provided by other law, there is a rebuttable presumption that bail, conditions of release, or both bail and conditions of release are sufficient to reasonably ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense.

Accordingly, a magistrate or judge may deny bail at any time they deem it necessary to reasonably ensure a defendant's presence in court, to protect the community, law enforcement, or the victim. Magistrates/judges have broad discretion in this regard.

*What is a typical bail amount for a murder or manslaughter charge in the area in which you practice law?*

The amount of bail varies from magistrate to magistrate. One magistrate/judge may place a $250,000 bond on a murder charge and another judge may impose a $1,000,000 bond for the same offense. As a lawyer, I have seen manslaughter bonds as low as $50,000 and as high as $250,000. On murder charges in my area I have seen anything from $200,000 surety to $1,000,0000 CASH.

*What does a defendant typically have to pledge in assets for a bail bondsman to agree to write the bond?*

Of course, a bondsman is asking for 10%, however we also know that they routinely accept less to post the bond based on the defendant's promise to make payments. I've seen bondsmen take next to nothing for serious felony bonds but usually 2-5% will get them to agree to post the bond. Generally, I'm not seeing a "pledge of assets" occur, but rather a promise to make payments until they have paid the 10% bond fee.

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*In your jurisdiction, under what circumstances can a judge refuse to grant bail?*

Crimes of violence involving death or great bodily injury where preliminary indications point to the suspect usually call for a high bond. Either no bail or million dollar bail. Other circumstances include repeated behavior, articulated threats which the accused has the ability to carry out, multiple prior convictions, demonstrations of extreme behavior such as torture, multiple victims, etc. Other elements include a weapon or weapons, motive, premeditation if indicated, etc.

*What is a typical bail amount for a murder or manslaughter charge in the area in which you practice law?*

In the Metro Detroit area, homicide crimes can range from $50K to $1M + depending on circumstance. With that in mind, any defendant is entitled to have an initial bail amount reviewed by the trial judge. Anyone can be arrested and the investigation sometimes sheds light on defenses and circumstance which can change the view of the government.

*What does a defendant typically have to pledge in assets for a bail bondsman to agree to write the bond?*

In addition to the fee of 10% of the bond amount, the bondsman will look to homes, bank accounts, and other tangible assets. Most will not look at collectibles such as firearms, etc. Cash or cash equivalent. In Metro Detroit, some jurisdictions allow for a "10%" bond where the defendant only needs to put up 10% of the bond amount. Some bondsmen will write a bond for this type of bond, too.

All of that being noted, MI, like many jurisdictions, is taking a hard look at bonds to determine if they are a real guarantee to return to court or another way the poor are penalized in the penal system. So, a number of factors can be used to determine bond.

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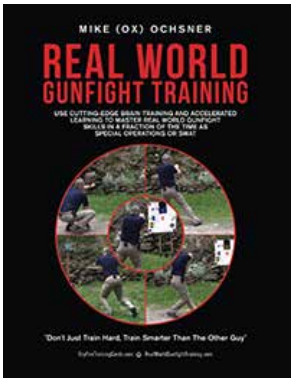
*Thank you, affiliated attorneys, for your comments about this topic. Members, please return next month for the a new topic of discussion.*

# Book Review

## Real World Gunfight Training




By Mike Ochsner
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*Reviewed by Gila Hayes*

I suspect I am not alone in the difficulty I experience adapting lecture into physical skills or in retaining skills beyond class time, whether it's shooting instruction, dog handler training, or if the challenge arises in the context of sports and recreation. Technical neuroscience articles about how to learn and retain instruction weighed against the oft criticized "dumbed down" explanations provided to laypersons also make it hard to tackle the challenge of becoming a better learner. *Real World Gunfight Training* self-identifies as "a non-scientific dive into learning the most effective firearms training which happens to involve neuroscience," so naturally, I was intrigued. After spending most of my available reading time in February digging into this book, I'd suggest it to anyone interested in clearer understanding of and strategies for, in Ochsner's words, "training in context, training the way the brain learns skills, and optimizing sensory processing."

Once I got over the author's hard sell, I learned some very interesting details on different kinds of memory, where information is stored in the brain, how it gets there and why it is accessible or inaccessible, depending on circumstances. It turns out that there are a number of reasons for skill perishability and solutions to retaining what we are taught. Ochsner observes that some of the disconnect occurs when "skills are taught in isolation and the student is left to figure out how to bolt those skills together under stress." After all, beginning gun safety and basic shooting instruction are necessary in order to advance into simulated self-defense scenario training. Basic marksmanship, he explains, is like training wheels–it's a good first step beyond which the shooter should advance.

Training and practice needs to include shooting fundamentals, combined with moving, working at off angles, with balance disruption and under high stress, he continues. When square range drills separate the basics from their application, students have trouble performing fundamentals like sight use and trigger control while also engaged in movement or against moving targets, while off balance or from awkward positions, and while experiencing other stressors. Stress inoculation can include something as accessible as doing a drill while counting down from 100 by sevens. It's not all bad news! Ochsner theorizes, "You can learn the fundamentals QUICKER if your training involves complexity than if it's sterile…as long as it's not TOO complex," he writes.

Solutions to learn faster and retain more include priming the mind before class starts by studying the vocabulary and underlying principles whenever possible. Techniques to hone the speed and accuracy of vision–since what we see directs what we do–reduces the energy required to learn and store process steps in long term memory, too. Activating the storage of what we learn during instruction to long-term memory is not as arcane as it sounds and Ochsner describes several tips to encourage skill retention beyond the short term.

He compares much of our firearms training to freezing water into ice cubes that melt away over time instead of boiling an egg to permanently change it from liquid to solid. In the same way, "Head knowledge…degrades quickly, fades away so does not result in long-lasting skill," he explains, adding that, "What we want to do is train in a way that creates changes in long-term procedural memory that are permanent…like boiling an egg. We want to hardwire the process so it's automatic rather than something we have to think through each time."

Under stress and under tight time constraints, memory retrieval is inhibited so we have to depend on over-learning physical skills until we don't have to remember or think through each step. "Fundamental shooting skills must be over-trained, learned to a subconscious level, or learned to automaticity," Ochsner writes. Like a macro, instead of thinking through a dozen steps from disengagement, movement, acquiring a grip, drawing and presenting, all the way through follow-through and preparing to take the next shot, the macro directs, "Identify deadly threat, hit it." The energy required is radically lower when automaticity drives completion of multiple steps without thinking through how to do each one.

Ochsner writes that skills honed to automaticity are "stored in procedural memory" where they are available under stress. The trainee's challenge is "consolidation"–moving what is learned from the one part of the brain responsible for "head learning" to long-term procedural memory in the motor cortex and the cerebellum. Small blocks of information taught in brief sessions, compared to a cramming session, are consolidated better, he asserts.

Ochsner identifies keys to accelerated learning, and many can be applied by the savvy student to traditional firearms training classes. First, prime the pump. Just like a damp sponge picks up water faster, a primed brain, exposed to the vocabulary and concepts before going to class, can absorb more. "Ideally, the majority of the head knowledge should be dripped out over the days and weeks before, so the classroom session is primarily to review and refine that material," he writes. Assigning importance to the material by prior study not only makes the mind more receptive, but the energy required during the class is lower because of the partial familiarity. Reading or watching videos of the physical skills can establish value and familiarity that pays dividends in retention of what is taught.

*[Continued next page]*

If unable to prime for a physical skills class, treat the in-class training as priming, not as skill building, Ochsner writes. Practice then serves to consolidate what was learned into long term memory. Given what we know about the need for sustainment training, a class actually serves very well as priming. With the mindset that the class is not intended to create a permanent state of advanced ability, the student more readily acknowledges his or her responsibility to continue practicing regularly after class.

Of course, all too often good intentions to practice never materialize. Unrealistic commitments like planning a full hour of drills derail a lot of after-class practice! Devise a quick and easy 5-to-10-minute dryfire session, Ochsner advises, because "5-10 minutes of training that you actually do will always put you further ahead than the hour of training you almost did."

Entirely new skills and action sequences face the biggest impediment to consolidation to long-term procedural memory Ochsner continues. Learn the steps and then, "When you've already mastered a fundamental skill and you're refining it, working on making that skill more resilient, combining it with endurance, or working on inoculating the skill to stress."

Ochsner explains the value of the distributed training model which "spreads out training over frequent, short sessions." Another factor he identifies is the difference between learning and retaining *facts* and learning and retaining *skills.* The former relies on "declarative memory" the latter on "procedural memory." While fundamental skills may show rapid improvement through the course of training, those skills gained may disappear within a matter of days or weeks. Add speed, technical challenges, demands for immediate, rapid decisions, and too often, mastery of a procedural skill has melted away unless it has been practiced regularly.

In addition to brief but frequent bouts of "distributed" training or practice, be sure to sandwich skills at which you can succeed around challenging drills. "When we optimize our training to maximize the release of neurotransmitters (like dopamine), we can dramatically increase the rate that our brain makes neural connections, and we avoid plateaus and burnout," Ochsner writes. To avoid memorizing imperfect skill execution, he prefers sessions that start with "perfect practice," then tackle the challenging drills, and switch back to perfect repetitions to close the practice session. Ideally, do a single drill 3-5 times then switch to a different one unless you're learning a completely new skill or working for "mental and physical endurance combined with the skill," he recommends.

While a brief review only allows mention of a few of the ideas Ochsner presents in *Real World Gunfight Training,* it is worth noting that the physical components of hydration, nutrition, and getting enough sleep all are critically important to retaining what we learn in training. He discusses more esoteric physiological ways to upgrade retention that are fascinating, including tricks to improve vision, balance and body awareness for better physical performance, fusing the development of several skills together, recognizing the role of fun or enjoyment in learning, metering how much more difficult a practice challenge needs to be for maximum growth and retention, maintaining focus on practice and a lot more.

Drill and exercise suggestions are spelled out throughout the book, making it a valuable reference work. Many are linked to Ochsner's online training sales offers, and while I didn't order the advanced programs (I was discomfited by the feeling of being up-sold), I certainly took more value than the purchase price of the book away from studying *Real World Gunfight Training.*

# Editor's Notebook

## Around the Network Offices

*by Gila Hayes*

There's big news from your Network office team this month. We're prepping to move our offices out of the office sharing arrangement we've had with The Firearms Academy of Seattle for the first thirteen years of the Network's existence. I explored alternatives for office space in Centralia, our closest town of any real size, throughout most of 2021 and was really pleased when a mutually beneficial opportunity arose to relocate into the office area of an industrial building leased by an associate who needs the factory floor, but not the suite of offices. The transition is timely, with three of our five daily in-office workers anticipating reducing their commute time back and forth to our old rural location by an hour or more.

Technology today makes an office move like this a lot simpler than it once was! Internet technology and telephony results in no changes in our telephone number and because two of us continue to live near our old location, we will maintain our long-standing Post Office box mailing address. I've been pleased and surprised that there will be no disruption to our members' ability to reach and interact with our Network team as a result of moving our office location.

If anything, our move enhances our ability to create more streaming video, with ample space set aside for a permanent video studio. Suffice it to say, we're excitedly waiting to get the "move on in," notice that the paint and flooring upgrades are done on our new digs. We anticipate phasing our in-office staff one at a time over the new location later this month, but the disruption should not even be noticeable to members. Speaking of which, one thing that makes it easy to phase staff team members over to the new location one at a time is the latest addition to our team. Let me tell you about her next.

### Introducing the Voice on the Phone

The pleasure Network members take in forging connections with those of us in the Network office keeps our enthusiasm for member service strong. Members calling with questions about membership expiration dates, requests for replacement membership wallet cards, renewal dues payments and other concerns are enjoying conversations with our newest team member, Amie Otterness. Because of the personal connection we have with our members, folks have commented that hers is a new voice and made a point to extend their words of welcome. An introduction is in order.

While we serve members in all 50 states and the U.S. Territories, the Network's offices are in the conservative enclave of Lewis County in western Washington State. This is where Amie raised her three daughters, and she's rightfully proud of their growth into successful adults. During her years as working mom and home school mom, she also managed an auto repair shop, brought order to the dispensary while working for a local mental health treatment clinic, and worked at a fitness center and later at a local hospital. Added to Amie's diverse work experience is her volunteer work at our local veterans' museum.

Amie is a wonderful asset to our phone services to members and all the behind-the-scenes administrative challenges that make our organization run smoothly. I thought our members should "meet" her and know a little more about the voice on the phone when they call in.

### Good Things Ahead

We've loved coming to work in our little rural office and as we prepare to depart, some of its memories will include the pair of cats we adopted to keep the country mice out of our building, or the day William and I looked out our south windows to see a cougar not 25 yards away strolling through the meadow, along with a host of other rural experiences.

We've balanced the peace and beauty against the noise of operating right on a shooting range (hey, that's the sound of freedom!), the last half mile of potholed gravel at the end of a commute on the deer infested highway (we've all had close calls, and several have "harvested" venison with the front bumper), the phone and power outages endemic to above ground power lines serving our rural location, the hit and miss highway maintenance during storms, all this and more have kept getting to work interesting. There are wins and losses in this upcoming move, but in the end, the Network and its team of daily workers will be stronger for the move to town.

# 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. 

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

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

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

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

Marty Hayes, President

J. Vincent Shuck, Vice President

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We welcome your questions and comments about the Network.

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