



Kevin R. Davis

Mistaken Identity

An Interview with Kevin Davis

by Gila Hayes

Private armed citizens using a gun in self defense and lacking a law enforcement badge to identify themselves as “card-carrying good guys” have the additional concern of being mistaken for the assailant. After containing the first danger—surviving the deadly threat that caused them to draw the gun initially—armed citizens must worry about a second danger: being mistaken by responding law enforcement as the criminal who committed the assault.

Kevin R. Davis, a career police trainer, patrol officer, SWAT team member, expert witness on police use of force and author, recently answered questions about police/armed citizen interactions raised by a chapter he wrote in his April 2015 book, *Citizens' Guide to Armed Defense*, published by Gun Digest Books (see

<http://www.gundigeststore.com/citizen-s-guide-to-armed-defense>). That was Davis' second book, following the 2012 publication *Use of Force Investigations: A Manual for Law Enforcement* (<http://www.amazon.com/Use-Force-Investigations-Manual-Enforcement/dp/1470500124>). The first book, Davis explains, grew out of his work “as an expert witness defending police officers in shootings and other use of force incidents. It was based on too many law enforcement officers being charged with crimes in perfectly good uses of force, sadly.”

We wondered how those concerns affect armed citizens' use of force in self defense. Let's switch now to our Q & A format as we discuss these and related topics with Kevin Davis.

eJournal: Are there parallel lessons between your two books—one for law enforcement, one for private armed citizens?

Davis: As I mention in my current book, the people that are going to be doing the investigation on the private citizen's use of force are the same people who are going to do a law enforcement officer's use of force investigation. That is unfortunate, because what I have found out in my work is that generally speaking except for large departments—like LAPD that has specialty units that investigate officer involved shootings—most agencies don't have trained personnel. Sadly, most law enforcement chiefs and chief executives don't have that background in police use of force. I was once at a class where we were asked a hypothetical situation about when you could shoot a fleeing felon. My partner and I were the only two people in the class that knew the answer. The vast majority of the 50-or-so people in the class were chiefs and higher-ups from different agencies.

If police don't know the law enforcement investigations, it really is going to be troubling when they investigate a private citizen's use of force. The system is the same. The only difference is that the law enforcement officer is charged with apprehending someone and the private citizen is not. It is so sad, because the most important thing for police chiefs and police investigators and officers to know is use of force. And they don't.

The corollary for the private citizen? It is one thing to have a firearm; it is quite another to know when and when not to use it and also to know what will happen post-incident in terms of the investigation. Even in law enforcement today, static training—standing on a line, you know, “ready on the right, ready on the left, firing line is ready, when the whistle blows draw and fire two rounds”—still permeates law enforcement and to a large extent, that is all the private citizen ever gets, so they are really not prepared for the quite different situation of an armed encounter.

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eJournal: Exactly, yet confidence and decisiveness in a violent encounter is so very dependent on skill and mental preparation. I think also some of the necessary resolve derives from knowing what to expect and concluding that the aftermath is preferable to being killed or crippled. Surviving **after** the criminal's attack is what we want to talk about today. While the lawyers can take over aftermath management fairly soon, there is inevitably a period of time right after the use of force when the citizen is on his or her own and has to interact with law enforcement responding to the incident scene. That is the element I would like to talk with you about.

Davis: I've seen some terrible things done after law enforcement shootings: cops disarmed, treated like suspects and locked in rooms waiting for someone to interview them. We used to take guns away from officers even out on the scene and despite how many hours they'd been up, we'd insist they give an interview before they went home.

Now we don't. How we learned to treat law enforcement officers post-shooting should extend to the citizen that has been involved in a traumatic incident and had to fire in defense of their life or that of a loved one.

In the county where I used to live and work, they abdicated the leadership on investigations to a head criminal deputy prosecutor. She would come in to interviews and say things like, "Come on, let's get this going; I've got a picnic to go to."

That criminal prosecutor did not even know the law. She made the statement that she never gave someone their Miranda rights unless she thought there was a problem with the shooting.

Today, cops don't know Miranda, either. They watch television so they are out there on the scene handcuffing the suspect and automatically say, "You are under arrest; you have the right to remain silent." Any investigator will tell you, "Don't do that!" You don't want to do that because you screw up the opportunity to get spontaneous utterances and a lot else. There is a whole psychology of interview and interrogation. Our guys will a lot of times interview a potential suspect, tell them, "You are free to go," and as soon as they leave, based on what they told them, they go and sign the warrants for their arrest.

eJournal: A huge blind spot for armed citizens, knowing in our hearts that we are the good guys, is failing to

anticipate tactics used to induce inculpatory statements that do not accurately represent the situation we just survived. But I think the misrepresentation starts even earlier. When the patrol officer receives the "man with a gun" call from a bystander who saw only a fraction of the defensive gun use, the presumption is that a criminal with a gun has committed a crime.

Davis: My background on issues of the effects of stress in shootings started back in the day with a good friend of mine, Bruce Siddle of PPCT. Bruce told me he trained with Rex Applegate, who based his training on his knowledge of two different types of shootings—the first, the spontaneous, the second, non-spontaneous.

With the spontaneous, there is very little time to get ready. Boom! There's the deadly threat and we get that instant secretion of hormone in the brain and the cascading effect through the body and so many different things happen.

You certainly don't rise to the occasion; you default to your training. I can't tell you how many times in debriefings law officers said, "I did what I trained to do," or they told me, "Training saved my life." That is why training is so important and why we need to replicate as much as possible those conditions of fight or flight in our training so we get that inoculation effect.

eJournal: I believe we must extend training to role play of interacting with responding officers, too, because as you said, the adrenaline and other stress hormones don't just flush out a few minutes after the shooting.

Davis: When we're under these stress chemicals and the effects of the sympathetic nervous system (SNS) reaction, we tend to have diarrhea of the mouth. The mistake could be, after a shooting, something so innocent as saying, "It was an accident; I didn't mean to," when the citizen means, "I didn't want to do it; he made me do it." But there are such legal ramifications if a citizen says, "It was an accident" vs. "It was an intentional act of self defense."

People shoot their mouths off and say, "The gun went off by accident." It is so dangerous. I can't tell you how many times at the range, when there is an unintentional discharge, the person says, "It just went off." [chuckling] Of course it didn't just go off—that can't happen! But people tend to say that. In these spontaneous incidents, we are more likely to see adverse effects that impact the
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way we think, our ability to perform motor skills and our memory in a variety of different ways.

In my first book, I talk about quite an interesting study about interrogations that the army did. Military personnel in basic training were in a room with an interrogator for about half an hour. It was stressful but nothing like water boarding. They were later asked to identify their interrogator. The majority could not do it. Even though they were in the room one-on-one for about half an hour with this person, they could not properly identify them.

There are so many ramifications of stress and that is why eyewitness testimony is so bad and why we have gaps in memory after stress. We know that waiting for those stress chemicals to wear off for a couple of sleep cycles is where you are going to remember a better chain of events.

For officers, the big trend now is to do what we call walk-throughs where the officer walks the investigators through what happened at the scene, though not physically. I don't know if that would be allowed to the private citizen because so much depends on the investigator—whether they are sophisticated enough to know to do that.

eJournal: While much of what happened in the George Zimmerman prosecution was anomalous, I think it is an example, actually, of a citizen giving a walk through to investigating officers.

Davis: When you are in that situation, you better have an attorney present! Keep your mouth shut until you get an attorney there. Members have to understand that everything they say and do now days may be captured on video. You have to operate under that assumption, whether it is on-scene cameras, transport in the patrol vehicle or in the holding room, everything will be video taped.

eJournal: May we back up a couple of steps? Imagine a Network member has stopped an assault and is, perhaps, holding a violent assailant at gunpoint. As a law enforcement officer, how do you approach if all you are told is that there is a man with a gun at the location to which you are being dispatched?

Davis: The sympathetic nervous system reaction the citizen is experiencing is also being experienced to a greater or lesser extent by the law enforcement officer. This is where it is nice to work in a busy car on a busy shift in a busy city where officers are able to process

these things because they roll on a lot of different shootings. My city has shootings on a regular basis so our officers can control their SNS a little more than say a suburban officer who is not regularly in those situations.

To control the sympathetic nervous system reaction, the citizen needs to start breathing: if it is not spontaneous and you have some pre-assault indicators, start your autogenic breathing to control your stress. Breathe, start expanding your vision and looking around. The SNS sucks you in to the tunnel vision, auditory exclusion, perceptual distortion and you're not thinking of yourself as a suspect. Just like officers in blue-on-blue shootings: off duty officers are shot every year in this country because they are not thinking of themselves as a suspect so when they are hailed or challenged by officers who are also under SNS response, they turn or pivot with a gun in hand and you have a tragic set of circumstances.

Both parties—the officers who are rushing to the scene and the citizen—are experiencing perceptual distortion and the citizen can help control that as much as possible by starting to breathe. That is what we teach officers: breathe, expand your scope of vision so you're not getting sucked in. Then you can think better, move better, and talk better.

If the call comes in to dispatch and a private citizen says they shot somebody or is holding somebody at gunpoint, invariably, to protect their officers, the dispatcher will say, "Put the gun down." But dispatch is not thinking about the exposure and risk that presents to the citizen.

eJournal: What can you do?

Davis: If you can, reholster. Certainly, lower the gun to appear less threatening. Then prepare for an officer to arrive, whether that is to seek cover or as Massad Ayoub teaches, get someone to go out and meet the cops to tell them you are the good guy. Ultimately, it falls to the citizen to understand that the responding officer is experiencing the same perceptual distortion that they are. That is why I think the "Don't Shoot Me" banners [<http://www.dsmsafety.com/index.html>] are good in concept.

The rule for off duty cops—and the same applies to citizens—is that the responding officers trump everything. In other words, if they order you to drop the gun, drop it. They'll say, get down on the ground, usually it will be face down, arms extended, legs spread, heels on the
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deck, and they are going to handcuff that citizen/suspect. Until they have stabilized the scene and have figured out what is going on they are going to treat everyone in that environment as a potential threat.

eJournal: Going back to your advice about expanding the field of vision through autogenic breathing, not only does it prevent being surprised and spinning around to face responding officers, in densely populated areas we may not be the only legally armed citizens present and another armed citizen may mistake us for a violent criminal. Of course, we also need to look around for accomplices of the person who attacked. We can't afford to just stare at the bad guy. What concerns do we have about non-police response?

Davis: That goes back to training. Our members need to be sure they have received training in the sympathetic nervous system response. While the good guys can't control what happens to another person on the scene, one of the nice things about moving to a position of cover is that once again, it may provide cover from good guys and bad guys, rather than standing out in the open with your back exposed.

Armed citizens need to know it may be an off duty or plainclothes officer who is involved in some type of enforcement operation, or maybe it is another armed citizen. Everyone is experiencing auditory exclusion. It takes work to understand how the SNS response works and how it affects everyone. You are absolutely right, there is a danger.

eJournal: There was a survey in which Force Science Institute researchers asked police officers about their experiences from both sides of situations when uniformed officers encountered off duty or plainclothes officers during use of force incidents.

The prominent strategy survey respondents said they had employed or planned to use was verbal identification. After all you've said about auditory exclusion, have you any thoughts on verbal communication with responding officers?

Davis: To break the tunnel hearing or vision, start thinking there is a very real possibility I may be shot by responding officers if I don't handle this well. Once the assailant is down, articulate to everybody that you're a lawful citizen, the victim of an attack, maybe that you're a concealed carry permit holder. Ask, "Please call the police, tell them what I am wearing." Similar things are done with off duty officers, as well, to diminish that

possibility of blue-on-blue shootings as much as possible.

But understand that the way dispatch works now days, the call but not the suspect description is dispatched. Most of the description goes out on the computer/mobile data terminal. If you're rolling on a hot call, say a shooting in progress, especially if you are working alone, you may not have time to read the call notes as you are driving, red lights and siren, to the location. It is entirely possible that the specifics of who's who are not going to be related to the patrol officer prior to rolling up on the scene.

eJournal: If it falls to us to try to give a verbal identification, what should we say or not say to responding officers in those tense first few moments?

Davis: That's a tough one. Try to articulate as much as possible that you are the victim, that you are the concealed carry permit holder, that you are an armed, law-abiding citizen. The problem is, when everybody starts yelling back and forth, nobody hears anything. It is a danger for cops, too. Frequently, you will have one criminal suspect and you have five officers yelling at him to do five different things. "Get down on the ground, get down on the ground!" "Put your hands up!" "Drop the gun!" People have auditory exclusion so the suspect is not hearing right, the officers aren't hearing, and it can be a recipe for disaster, even with off duty police officers.

eJournal: Based on what you're saying, I'm inclined to conclude that what we DO is 99% of the solution and what we SAY is perhaps less than 1%.

Davis: A lot of that is true. Because of the cognitive problems with the sympathetic nervous system, nobody is really thinking with the upper parts of the brain like they should. It is not logical reasoning at that point, the middle brain handles the threat—do I shoot, do I not shoot? That is where cops are at when they are rolling to these scenes.

Not appearing as a threat; not coming across as a defiant suspect, cooperating with them, having your gun in the holster, having it down, or being ready to hit the deck when they say get down on the ground is what is going to make the difference between going home and possibly getting shot.

What you absolutely do NOT want to do is be perceived as any kind of a deadly threat. This officer is sucked in

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on you and the gun. Even Lewinski's [Force Science Institute] study talked about positioning of the off-duty badge up high on the chest not down on the belt.

There are a lot of issues here. Probably one reason the Secret Service is purchasing those "Don't Shoot Me" banners, from what I understand, for all of their agents is because they operate in plainclothes and they don't want to be improperly identified and be shot.

eJournal: Tell us about the identification banner.

Davis: It is about the same size as a spare magazine carrier, it has a belt clip like some magazine pouches and there is a little loop at the top you can grab with one finger and pull it out and over your head. For off duty officers it will say Police or Sheriff but for permit holders it will say CCW on it. If I'm rolling to a shooting scene, the chances of a criminal suspect having something like that is virtually nil. And that is what is good about it. It is some type of identification that officers can see at a distance when they are making instantaneous decisions to shoot or not to shoot based on their perceptions.

eJournal: You mentioned sending someone to interface with responding police on your behalf. What do you want that "friendly" to do?

Davis: It is SO important for you to develop a plan with your family if you are going to carry concealed, so that they know what you are going to do. For instance, my wife knows that if I get involved, she needs to get small and stay away from me. Of course, the ideal thing would be to be the best witness possible, but if I choose to get involved in something, I'm going to try to pull the attention of the suspect away from her. We've talked about getting on the phone to call 911, staying on the phone and giving the proper identification of what her husband is wearing.

It is so much better if the family member has talked about this in advance and you are not trying to wing it right there on the scene. So have a conversation with your family about how to call the police; how to call 911 and what they are going to want to tell them, "This is my husband, he has a concealed carry permit, he is holding somebody at gun point, we are this location, he is wearing this, he has a gun..." The good news is that all this will be digitally recorded on dispatch and will all be available to support the defense of the citizen.

eJournal: Alternatively, if you don't know anyone on the scene and need to call 911 yourself, as we discussed in

an interview with Massad Ayoob about three years ago (see <http://www.armedcitizensnetwork.org/our-journal/275-september-2012>) we are at risk of getting talked into giving detailed information to dispatch when we ought to be more concerned about managing ourselves and the scene. As someone who has worked with dispatch for years, can you recommend strategies to accommodate keeping communications open with dispatch without babbling a lot of injudicious details into the call recording?

Davis: Stick to the message; know what is needed. First of all, the location and the nature of the call. Those are the two biggest things. Then get into proper identification of yourself, what you are wearing, where you are, and avoid any specifics about what happened.

I remember an amazing tape I heard played years ago, involving an off duty officer in southern California who was fresh out of the academy. Outlaw bikers accosted him and his family while he was off duty. It didn't have anything to do with his role as law enforcement; he was an armed citizen at that point. As he was relaying this information to dispatch, he said, "Hold on a minute," he set the phone down, shot somebody—on the phone call you could hear the body drop—then he picked the phone back up and he talked again.

That kind of composure under stress is what we all hope for, but our message is going to be so much better and the information related to dispatch is going to be so much better when we take control of our body and brain and we do that by that autogenic breathing.

Start deep breathing: in for a four count, hold for a four count, out for a four count. Those tactical breathing exercises have been used by martial arts students for years and years and in the modern age in law enforcement and military. I got it originally from Bruce Siddle back in the day. Take a deep breath and start thinking. Think about what you need to say, think about where you are and what information you need to relay to dispatch to make this a successful interaction with police.

eJournal: When you spoke of staying on message, I could not help but think of John Farnam's teachings about practicing "tape loops" of what you need to say in a stressful situation. His tape loops address deterring a criminal approach, but your answer shows how the concept can apply to managing the aftermath, too.

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Davis: I like John! Yes, he does talk about tape loops. It is so important not to just talk about hardware and bullets and shooting. The software issue and mental aspects of it are so vitally important! What are you going to say to somebody? You have got to have those tape loops like John talks about, to have them ready so that you don't have to wing it. I have enough experience over enough years to call this a rule now: Under stress, your brain and body cannot go somewhere they have not been before. In other words, it is so important in your training to think about these other issues.

eJournal: Even to the extent of doing some training not just for surviving an assault, but to practice walking through what to do afterwards: what am I going to tell dispatch and what is going to be my brief and on-point message to the responding officers? While I agree that we must not run off at the mouth, I think experience and reality dictate that we have got to say something.

Davis: Yes, I know of a case where investigators spent 45 minutes looking for shell casings in a certain area, and the shooting never took place in that area.

I was one of the responding officers on a scene right after a shooting, where the officer fired at a suspect fleeing a B & E, but one of the errant rounds went across the street, pierced the outside of the house, hit a citizen who was asleep on a sofa with a baby on his chest. The shot hit the man in the head and killed him. He would never have been found if it was a citizen shooting and the citizen never said where he was standing and where evidence potentially may be.

You have to be careful what you say, but what about anything that helps in terms of evidence? By not saying anything, police won't know if the guy is still at large or what was he wearing. Does he still pose a risk to police officers? All those things are worthwhile information that is going to help even in your defense.

eJournal: It is such a fine line! We work so hard at being good citizens—we get our carry licenses, and then are careful to know the law and carry only what is legal in restrictive states like New York—so it is awfully easy for us to be so certain we are the good guys that we fail to realize that standing there with a gun in our hands, we look an awful lot like the last criminal the responding officer had to subdue and arrest. What percentage of “man with a gun” calls in your career have been justifiable use of force incidents undertaken by a law-abiding citizen, compared to calls on which you indeed

encountered a criminal who posed a danger to you and the people you protect?

Davis: Virtually zero. The good thing is, that as CCW grows and becomes more prevalent throughout the country, we are seeing some great usages, those things are becoming more prevalent and cops have to think about it more. Cops have to be educated about dealing with the CCW population and how to interact on traffic stops and everything else. But the majority of urban police officers deal with bad guys shooting at bad guys. That is their mindset, that is unfortunate but that is also reality.

eJournal: That is my greatest concern in studying this topic. Humans react out of their prior experiences—and that goes for experienced law enforcement officers, too.

Davis: Yes, they do, and of course perception is everything, in terms of cooperation with police. In my jurisdiction officers involved in shootings give consensual interviews to investigators. They give the Miranda warning because then it is easier to invoke Garrity, which is “No, I am not going to make this statement, but I am ordered to make a statement under threat of internal discipline.” One of the attorneys I work with on a regular basis says, “I know the prosecutors, I have dealt with them for years. The officer didn't do anything wrong, so it is going to help with the investigation for the officer to give a consensual interview.”

Now days, law enforcement has to look at these consensual interviews differently. Darren Wilson did not do anything wrong in the Michael Brown case. He is not being charged, but he has lost his job and his career and everything else. Look at George Zimmerman: George Zimmerman did not do anything wrong, but look at the ramifications of that.

The citizen's counsel may agree that he has done nothing wrong, but he is now teetering on the edge because they will examine the tactics and certainly for the citizen, ask did the citizen create the jeopardy that led to the shooting? In law enforcement we are to be judged at the moment that the shots are fired. In the private sector, you are judged on EVERYTHING. Did your mouth get you in trouble? Instead of driving away, did you pull to the side? So many of the cases the attorneys are posting to the Network's Facebook invoking stand your ground or self defense were mutual combat, but the guy was losing, so he shot the other guy.

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eJournal: What can we do by demeanor or appearance to set ourselves radically apart from the 99.9% of gun calls where you find a bad guy has shot another bad guy?

Davis: To coming across as the victim, to be not confrontational, not appear aggressive, but to be compliant in terms of what the cops want, and within that compliance to be insistent: "Listen officer, you know what happens to you guys when you are involved in a shooting. I don't want to make a statement until my attorney is here. I just want to protect my rights. You understand that. I will be perfectly willing to cooperate with your investigation, but I want to protect my rights as a citizen. You know how flight or fight works, I'm not thinking about this clearly right now, please understand the stresses that I'm going through and dealing with." Try to get an understanding that you are the victim and this is what you are experiencing and therefore, you want to limit your communication and wait for your legal representation. Say that in a non-confrontational way.

eJournal: That comes across as a plea for assistance as opposed to making excuses or looking deceitful and trying to put the blame on someone or something else, all excuses you might expect from someone who thinks they have done something wrong. Are there other concerns we should discuss?

Davis: Use of force both for the law enforcement officer and the private citizen is becoming a very complex, very political area. As a citizen, whether a citizen soldier, citizen law enforcement officer or a private citizen, you must educate yourself as much as possible and train yourself to the highest degree possible because what we have seen is that training helps control that sympathetic nervous system reaction and the more highly trained you are, the better decisions you are going to make and the higher performance you are going to have. That includes training for dealing with

investigators and law enforcement officers speeding to and arriving on the scene. You have to educate yourself.

God bless the people who say with bravado they'd rather be tried by 12 rather than carried by six: it is simplistic. Those people have never been involved in a civil suit or a criminal prosecution to see what the hell they have to go through.

To the private citizen, all I want to say is, look at the Zimmerman case. Prepare yourself for that. Do you have the systems and attorneys in place, and the knowledge base to make the right decisions and prepare for THAT type of scrutiny? It can't begin and end with an 8 hour or less CCW class. I have devoted my entire life as a trainer to continuing education. It has saved my bacon more than one occasion so I can swear by it.

eJournal: Words to live by. Kevin, how can Network members learn more from you?

Davis: After retiring in a few months and rehab from knee replacement, I plan to expand into more classes offered to private citizens with a renewed emphasis on taking lessons from my law enforcement background and helping private citizens prepare.

eJournal: Be sure to let us know when you have your classes set up. Meanwhile, our members should get *Citizens' Guide to Armed Defense* (<http://www.gundigeststore.com/citizen-s-guide-to-armed-defense>) and *Use of Force Investigations: A Manual for Law Enforcement* (<http://www.amazon.com/Use-Force-Investigations-Manual-Enforcement/dp/1470500124>) to learn more.

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President's Message

by Marty Hayes, J.D.

As I start this month's column, I am flying home from a planning meeting for next year's season of *Best Defense TV*, shown on the Outdoor Channel. This will be my fifth year of discussing legal

issues on the show, and I feel very proud that the show endures and has become a fan favorite on the Outdoor Channel (<http://outdoorchannel.com/the-best-defense>). A big thanks to Michael Bane (the show creator), and co-hosts Michael Seeklander and Michael Janich for accepting me. Last season we won the Golden Moose award for the best shooting show on the Outdoor Channel, and we are hoping that we at least get nominated again this year. It will depend on the viewers, or course. I will let you know when nominations are open!

Network and Massad Ayooob Group

While there are many fine instructors and attorneys across the country that are teaching use of deadly force along with defensive handgunning, when you draw up names on an "A-List" of trainers, the name Massad Ayooob always appears on that list. I am fortunate to have worked with Mas for 26 years now, and this year is no different. The below photos were taken at a Use of Deadly Force Instructor course held at my shooting school just before this journal hit the cyberspace.

Why are those hands up? Those are Network members and Affiliated Instructors, all who are part of the Network. We crammed as many into our classroom as we could

and still be comfortable and spent a week dissecting the discipline of justifiable use of force in self defense. It is a program Massad and I have taught in years past, but it had been seven years since the last one. If you are interested in bringing this program to your area, Mas and I would be interested in discussing that with you. You can contact me direct at MHayes@armedcitizensnetwork.org to express an interest.

Network Status Update

Membership enrollment in the Network is still increasing, and we are thrilled that things are going so well. Currently we have no active member-involved cases and that is always nice. But, we remain ever ready to come to the assistance of any member who is forced to defend themselves, whether it be by gun, knife, empty hands or even a golf club (as one of our members did).

Now, having said that, we continuously get calls from non-members who are unclear as to what we do, and want to sign up for membership so they can access our Legal Defense Fund to pay legal expenses to defend an existing incident. I hate to be Ebenezer Scrooge, but we would quickly go broke and be unable to assist our members if we used the Legal Defense Fund to defend gun owners who waited to join until they needed attorney fees paid. In the same vein, I got an email from a new member, who wanted to make us aware of a military guy being prosecuted for an act of self defense, and wanted to know if we could help him. Again, it just isn't our mission, and we want to jealously guard the Legal Defense Fund and keep it strong for our members.

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Why Are You a Network Member?

I asked this question recently on our Facebook page and was tremendously pleased with the responses I received. Here are just a few of the responses:

- “It gives me peace of mind and the ability to relax and do what I need to do within the law to keep myself and my family safe without the hesitation caused by worry regarding potential aftermath.”
- “The most important part to me is the education aspect. If you watch the videos and read the newsletter it will dispel a lot of the ‘common wisdom’ that is neither when it comes to armed self defense. Education trumps ignorance and getting it from experts instead of Facebook and/or YouTube ‘not quite’ experts is best. The fact that if you are involved in a self-defense incident they have your back is to me almost a bonus. Just the DVDs and monthly content are worth it. My wife recently got her CHL and I added her to the plan.

Oh, and they aren’t constantly trying to upsell me or get me to buy other things (*cough* like other self-defense insurance groups, one of which I joined five years ago and then left for ACLDN *cough*.)”

- “As a new member and affiliated attorney I can say that the materials you receive alone pays for the price of admission. Plus the wealth of resources available to you including the newsletter, experts and discussions. Of course, if that wasn’t enough, the funding is not result based if you are ever in the unfortunate position to have to defend yourself or your loved ones.”
- “There are three main components of the Network and together they provide a solid foundation of legal protection if you’re involved in a self defense incident.

Educational: The educational component is key. You will learn from the DVDs and the newsletter things you should and shouldn’t do long before the self-defense incident occurred in order to minimize your chances of being charged or convicted. Many self-defense cases are lost long before the incident occurred. The DVDs will also help educate you on how to interact with law enforcement and the criminal justice system if the situation does occur. The poor actions and interactions after a self-defense incident are another very common cause for wrongful convictions that should otherwise have been deemed legitimate self defense. Another benefit of the educational

component of the Network is that the material should be admissible to be used in your defense. For example, unless you can otherwise show you learned how to identify pre-attack indicators or how you learned of the Tueller principle, you may not be able to use that information in your defense. With the educational DVDs you almost certainly will (particularly if you keep a log of when you watched and re-watched each DVD).

Financial: By joining the Network you will benefit from an up-to \$10,000 deposit paid to your attorney immediately after a self-defense shooting. This is key to ensure that you quickly get representation when you need it the most and can initiate an independent investigation of the incident. If you do need to engage in a more protracted legal defense (criminal and civil) you can apply for assistance with legal fees from the Legal Defense Fund.

Expertise: With the Network you have access to a wealth of expertise to help you in your criminal and civil legal defenses if you should need it. You’ll get access to Network affiliated attorneys who specialize in self-defense cases, you’ll also have access to some of the best court-recognized legal experts in the country and you’ll be able to tap into their expertise. Having the right experts during the trial can make or break your case.

I don’t know of any other program that offers all three elements of the Network. Some offer the financial component or the educational component but I don’t know any that offer all three. By properly leveraging the Network you’re A) less likely to be involved in a self-defense incident; B) if you are involved in a self-defense incident, your education and actions make you less likely to be a “desirable target” to any prosecutor; C) if you do get un-meritoriously charged you’ll have access to the resources to build a strong legal defense team to win the aftermath.”

There are many, many posts like the ones above on that thread on the Network’s Facebook page. In discussing the future of the Network yesterday with one of the students at the academy, I explained how for me teaching firearms use has taken a backseat to building the Network and developing it into what it is today and what it can grow into. I expect to spend the rest of my working life on the Network, and have no plans to retire. How could I, with what has been said above?

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

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Attorney Question of the Month

Use of deadly force in defense of others is the topic we are currently discussing with our Affiliated Attorneys. Here is the question we started last month—

Under your state's law may someone (not personally threatened with deadly force) use deadly force to stop the in-progress and/or imminent commission of certain crimes? What crimes? Must the crime actually be occurring or imminent, or would deadly force be lawful if the intervenor only believed that one of such crimes was occurring or was imminent?

So many affiliated attorneys responded that this is the second installment of the answers, which we will wrap up in the September edition of this journal.

Shawn Kollie

Short Law Group P.C.

12755 SW 69th Ave., Ste. 200, Portland, OR 97223
503-747-7198

<http://www.shortlawgroup.com>
shawn@shortlawgroup.com

Under Oregon law, an individual may respond with deadly force in three scenarios; when that individual reasonably believes that another person is committing or attempting to commit a felony involving the use/threatened use of physical force against a person, committing/attempting to commit a burglary of a home, or using/about to use deadly physical force against another person. That's it: Physical force in felonious crimes, burglary, and deadly physical force. Of course, this view must be "reasonable." In any event the perceived danger must be imminent (about to happen) to use this defense.

Eric W. Schaffer

Attorney at Law

Schaffer, Black & Flores P.C.

129 W. Patrick St., #5, Frederick, MD 21701
301-682-5060

<http://www.MDGunLawyers.com>

Maryland allows anyone to come to the aid of a third party without regard to the relationship between the defender and the person they are aiding. Deadly force will be lawful if the defender believes the person they are defending is in "immediate and imminent" danger of

death or serious bodily harm, that belief is objectively reasonable, the defender uses no more force than reasonably necessary and the defender's purpose was to aid the person being attacked and not to punish the attacker or avenge the victim. If all four of these factors are present then it is a complete defense to any murder or assault charges.

If the defender's belief is not reasonable, or they use too much force then it will be considered incomplete self defense which will mitigate murder charges to involuntary manslaughter.

In Maryland you are not allowed generally as a third party to stop the in-progress of any specific crime or crimes. Rather the test is if the actions of the person committing that crime place the victim in "immediate and imminent" danger of death or serious bodily harm.

William J. Powell

Jackson Kelly PLLC

310 W. Burke St., Martinsburg, WV 25401
304-263-8800

<http://www.jacksonkelly.com>
wpowell@jacksonkelly.com

Under West Virginia law, one can use deadly force if the person you are protecting would have that right. However, it is important to be sure that the person you are protecting was in fear for her life or serious bodily harm, and would otherwise meet the self-defense criteria. Often times the intervenor does not have all of the facts and puts his or herself at risk of prosecution.

Stephen (Matt) Whyte

Kirk Pinkerton, P.A.

1001 3rd Ave. W., Ste. 375, Bradenton, FL 34205
240 S. Pineapple Ave., 6th Fl., Sarasota, FL 34236
941-364-2400

<http://www.kirkpinkerton.com>
mwhyte@kirkpinkerton.com

When I lecture to groups in Florida on the justifiable use or threat of use of force, I take a few extra moments to talk about the use of force or threat of use of force in defense of others, because the law can be difficult to interpret and apply. What may initially seem clear in one

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statute is mitigated, lessened, or limited in another statute. The way I put it when I lecture is to tell people, "if you are going to get involved in a situation that did not initially involve you, you'd better be sure you are picking the right dog in that fight." If you wind up helping the "wrong" person, you may very well find yourself in serious trouble.

According to Florida law, a person can use deadly force or the threat of deadly force to prevent the imminent commission of certain felonies, known as "forcible felonies," to others. However, one needs to be cautious in blindly applying the black-letter law, as there are exceptions to this justification, and this area of the law can become quite confusing.

Basic "self-defense" law in Florida (Section 776.012(2), Florida Statutes) states that a "person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony." In Section 776.08, Florida Statutes, a "forcible felony" is defined as "treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual."

When read together, Sections 776.012(2) and 776.08 seem pretty straightforward in defining when a person is justified in using or threatening to use deadly force to prevent the imminent commission of a forcible felony to another. But, there are other statutes and case law (prior court decisions) that limit when such justification is legal. For example, Section 776.041 states that the justifications found in Chapter 776, regarding the justifiable use of force are not available "to a person who: (1) is attempting to commit, committing, or escaping after the commission of, a forcible felony; or (2) initially provokes the use or threatened use of force against himself or herself..." When one considers the general proposition that you only enjoy the same privileges as the person you are trying to help or defend, if the person you are trying to help was committing, attempting to commit, or escaping from the commission of a forcible felony or if they were the initial aggressor or

provoked the use or threatened use of force, you may very well be unable to use the justifications found in Chapter 776.

To add to the confusion, there are exceptions to the exceptions stated in 776.041(2) which allow a person to use deadly force or the threat of deadly force even if they initially provoked the use or threatened use of force against themselves. However, these exceptions to the exceptions can be difficult to understand and nearly impossible to quickly and correctly apply in a real world scenario, especially if you were not a part of the initial problem. For example, Sections 776.041(2)(a) and (b) state that a person who initially provoked the use or threatened use of force against himself or herself may still be legally justified in using force or the threat of force if "(s)uch force or threat of force is so great that the person reasonably believes that he or she is in imminent danger of death or great bodily harm and that he or she has exhausted every reasonable means to escape the danger other than the use or threatened use of force which is likely to cause death or great bodily harm to the assailant" or if, "(i)n good faith, the person (initial aggressor) withdraws from physical contact with the assailant and indicates clearly to the assailant that he or she desires to withdraw and terminate the use or threatened use of force, but the assailant continues or resumes the use or threatened use of force." Try applying those exceptions to the exceptions in a matter of seconds when bullets may be flying.

As stated above, with the various statutes, exceptions, and exceptions to the exceptions, the use or threat of use of deadly force to prevent the imminent commission of a forcible felony against others can be a confusing area of the law, despite the initial appearance of being straight-forward, and the exercise of such force or threat of force should be employed with caution.

Despite what I hear from some who cite me the "letter of the law" in Florida, there are practical, common sense considerations when exercising the use or threat of use of deadly force to prevent the imminent commission of a forcible felony. For example, burglary is on the list of forcible felonies. Does this mean that one will be justified in using deadly force to prevent the imminent commission of EVERY burglary? While some have argued to me that this is true based on a literal reading of the statute book, the real world answer is an unqualified no. Could anyone reasonably believe that

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they would be justified in using deadly force to stop a person that is breaking into a neighbor's car or an abandoned house in the neighborhood? These very well may be burglaries (and, as such, are defined as a forcible felonies) that are imminent or actually occurring, but, as a veteran of many criminal jury trials, I believe a jury would be hard-pressed to find such a shooting justified in either situation.

Another example of when practical, common sense considerations should be used in the use or threat of use of deadly force to prevent a forcible felony from occurring can be found in the "catch-all" part of the definition of forcible felony where it states that a forcible felony includes "any other felony which involves the use or threat of physical force of violence against any individual." In Florida, a battery occurs when a person "actually and intentionally touches or strikes another person against the will of the other" or "intentionally causes bodily harm to another person." So, a simple (misdemeanor) battery can occur with something as simple as an unwanted touch.

Under Florida law, there are certain classes of people who enjoy greater protection from unwanted or nonconsensual touching or physical contact, including but not limited to law enforcement officers, firefighters, emergency medical care providers, public transit employees, people over the age of 65, pregnant women, code inspectors, and sports officials (referees, umpires, and linesmen). For these classes of people, a simple, nonconsensual touching is reclassified from a first degree misdemeanor to a third degree felony. As we learned at the beginning of this article and again at the beginning of this paragraph, a forcible felony includes "any other felony which involves the use or threat of physical force or violence against any individual." So, does this mean that a person will be justified in using deadly force to prevent EVERY imminent commission of a battery against a person in one of these protected classes? Again, the answer should be a resounding no. While Florida law may reclassify the nonconsensual touching of a person in these protected classes from a simple misdemeanor to a felony, I doubt a reasonable jury would find the use of deadly force justified for nothing more than a touch.

As for the question of whether the forcible felony must actually be occurring, Florida Standard Jury Instruction 3.6(f), Justifiable Use of Deadly Force, summarizes Florida law by stating that "(t)he danger facing the defendant need not have been actual; however, to justify the use of deadly force, the appearance of danger must have been so real that a reasonably cautious and prudent person under the same circumstances would have believed that the danger could be avoided only through the use of force. Based upon appearances, the defendant must have actually believed that the danger was real." Thus, the danger does not have to be actual, but it will be incumbent on the defense to convince the jury that the defendant believed the danger was real and would have appeared so to a reasonably cautious and prudent person under the same circumstances.

Florida has long supported the right of citizens to defend themselves and others from the nefarious acts of predators who seek to do harm. While the basic rights of self defense and use of force (both deadly and non-deadly) have remained fairly constant in Florida for years, the finer points of these issues evolve and change over time. It is incumbent upon each and every responsible, law-abiding firearm owner to be aware of his or her responsibilities under Florida law—coupled with a healthy dose of common sense—when deciding whether to employ the use of deadly force or the threat of deadly force. As much as one practices their draw stroke from concealed carry to make it fast and clean, as much as one practices sight alignment to ensure a level, well-aimed firearm, and as much as one practices their trigger press to prevent jerking their shot off target, one must practice various scenarios where the use or threat of use of deadly force may be required. This practice includes not only mental preparation but also, when possible and available, physical practice under the watchful eye of trained professionals in a safe environment.

We extend a heartfelt "Thank you!" to all of the Network Affiliated Attorneys who responded to this question. Please return next month for the final installment of answers to this question.

DVD Review

Make Ready with Massad Ayoob: Deadly Force FAQ

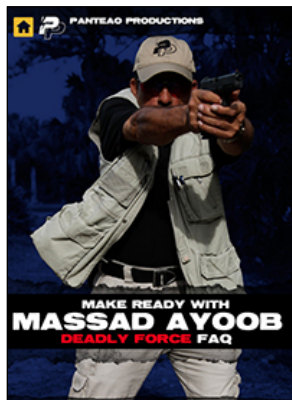
Panteao Productions

<http://panteao.com/product/deadly-force-faq/>

Produced 2012, 53 minutes,

\$29.99

Reviewed by Gila Hayes



It never hurts to get in a good review of the principles underlying justification for use of deadly force in self defense, and that is what I did a few weekends ago. I enjoyed the DVD program I watched so much that I decided to share it with Network members in this month's book/DVD review column. The "big gun" when the topic is justifiable use of force in self defense is Massad Ayoob, who, by way of full disclosure, is a valued member of the Network's Advisory Board. Ayoob is the lecturer on three of Panteao Productions' *Make Ready* series, this one entitled, *Make Ready with Massad Ayoob: Deadly Force FAQ*.

For new readers, Ayoob's experience spans four decades of teaching, writing, policing and working as an expert witness in the courts, focusing on use of force. As the introduction on *Deadly Force FAQ* reminds us, "The use of deadly force has many consequences and the more you understand the law and what you should or should not do, the better off you will be. In this video Mas talks about what situations justify deadly force, disparity of force, castle doctrine, stand your ground law, presumption of justifiability, civil liability, the myths associated with defending yourself, and more."

The program starts by succinctly defining key concepts, including what constitutes deadly force, the general structure of the laws defining the crimes of murder and how homicide is categorized in the criminal codes. Ayoob goes on to outline when resorting to deadly force is justified and how the citizen determines deadly force is necessary. He provides brief but clear definitions of the factors in that decision, enumerating:

Ability—the power to kill or cripple

Opportunity—the immediate capability of employing that power, and

Jeopardy—actions and/or words that a reasonable person would use to conclude the attacker intended to kill or cripple.

Disparity of force in its various manifestations also plays into justification, the lecture continues. Ayoob concludes this segment by defining what is sometimes taught as preclusion, noting that preclusion addresses what the armed defender can or may do while the justifying factors the attacker's actions create are identified by the concepts of ability, opportunity and jeopardy.

In the next segment, Ayoob asserts that the much-discussed castle doctrine is widely misunderstood and adds that it is not written out as statutory law in all 50 states. A more accurate understanding of defense in the home may be drawn from a study of case law from your state's supreme court, as well as your state's pattern jury instructions, he advises. Be also aware that how you may defend yourself at home differs from state to state—especially as regards curtilage, the properties surrounding the dwelling.

Castle doctrine applies to those who have a right to be in the house, Ayoob continues, warning against misunderstanding the law's applicability if attacked by an invited guest or household members, as some state's variations extend castle doctrine protections to anyone who is lawfully in the home. This he illustrates by citing *Commonwealth of MA v. Rebecca Shaeffer*, compared to a NE case in which roommates fought and the individual successfully invoked Castle Doctrine rights despite his attacker's residency in the home.

Next, Ayoob analyzes Stand Your Ground (SYG) law, attributing the foundational concepts from English common law's principle known as "Homicide se Defendendo" meaning that pursuing someone who is trying to run away from a fight and pressing the conflict with them was frowned upon. Nowadays, with Stand Your Ground bandied casually about by both pro self-defense forces and anti-defense activists, the entire concept has become horribly misunderstood. "There has never been a state in this country that has ever required you to retreat unless that retreat could be accomplished in complete safety to ones' self and others," he emphasizes.

Ayoob expresses appreciation for legislation, exemplified by FL and TX, attempting to clarify the goal of SYG law: an individual attacked where he or she has a right to be, need not retreat—period. Practically, the

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rules of engagement did not change, Ayoob explains, as armed citizens are more likely to attempt to avoid being involved in a shooting unless the danger is unavoidable. In the aftermath, however, the court can no longer require you to prove why you couldn't "try to crawl out a window or outrun a bullet." Still, the provisions are quite different state-to-state, Ayoob continues, and he warns listeners to check state law to assure understanding. He concludes this segment with a brief discussion of how SYG laws influence civil liability, citing FL and TX provisions, and the terms he explains give keys for the listener to research his or her own state law.

Having covered the foundational knowledge plus hot-button issues of Castle Doctrine and Stand Your Ground, Ayoob moves on to persistent myths about use of deadly force in self defense. Acting upon bad advice to move the body of an assailant you shot results in altering evidence, and can lead to perjury, and other crimes that change a purely self-defense action into multiple offenses, he accounts. Altering evidence can be construed as an indication of prior planning of a crime, and if you fall into the old myth to change the shooting scene, you will be "felony stupid," he concludes.

Leaving the scene of a shooting without calling law enforcement is the next myth debunked. Doing so will be seen as "consciousness of guilty," Ayoob explains because society expects that you will remain on the scene and give authorities a full account of what transpired. Only continued deadly danger justifies leaving the scene, he adds. Even then, he advises shouting, "Call the police!" to inform witnesses and attempting to telephone 911 even in a poor service area so the phone's log shows that you tried to summon help to override any mistaken conclusions that you ran away to hide your guilt.

A persistent hot-button topic is the issue of refusing to give responding officers even limited information after a self-defense shooting. Expressing his respectful disagreement, Ayoob explains that over the decades he has seen this practice "get a whole lot of people into more trouble than it got them out of." Bolstering his opinion on this contentious topic, he further comments that the advice comes from attorneys who customarily defend people who are guilty of that of which they are charged or at least a less serious charge. "If most of your clients are guilty as charged, what possibly could they say to the police that could help them?" he asks rhetorically. "So, of course, the advice of the criminal defense bar is 'say nothing.' When you, the innocent person who fired in self defense, follow the advice of

essentially a guy whose whole experience is defending criminals, you may be going down the wrong path...if you take a guilty man's lawyer's advice and you act as a guilty man would act you are going to end up with a guilty man's verdict," he concludes. He later asserts that most of the defense bar does not have experience defending self-defense shootings, but suggests that armed citizens begin their search for a suitable attorney by identifying lawyers who defend police after a shooting. Ayoob also gives a shout-out to the Network, explaining Network membership benefits.

As the lecture continues, Ayoob defines and gives details about his five-point post-incident check list that is also part of his post-shooting aftermath lecture included in the Network's member education package.

You will want to listen carefully to his full explanations, but the bullet points include—

- State the active dynamic
- State that you will sign the complaint
- Point out the evidence
- Point out the witnesses
- Say, "Officer you will have my full cooperation on any other questions after I have spoken with counsel."

Other post-incident issues include whether to render medical aid to the assailant, how to secure your gun after the shooting, how to respond to questions after a shooting, and giving testimony in court. Of the latter, Ayoob says, "When you have done the right thing, the key element is going to be why did you do it? It goes to what the courts call *Mens Rea*, Latin for 'the guilty mind.' ...It is going to be key to show the jury what was in your mind, what was the mind-set of the defendant? When the poison is *Mens Rea* the antidote is the mind set of the defendant. Your lawyer can't get that across to the jury for you. There is only one person who can and that is going to be you."

Deadly Force FAQ was a great review and would also serve well as an introductory teaser to get fellow gun owners more interested in the legal aftermath of using their firearms. Its brevity is a great selling point, because whether reviewing or starting to learn these issues, the 53-minute compilation of the most often asked questions about use of force in self defense is long enough to pack a lot of information into a short time and short enough that anyone can make time to view it.

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

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News from Our Affiliates

Compiled by Gila Hayes

The National Shooting Sports Foundation (NSSF) has recognized our affiliated instructor Kevin McNair, of Tactical West in Las Vegas, NV as a "Local Champion" for his efforts to promote firearm safety in the region. The recognition comes as NSSF continues its third annual Project ChildSafe "S.A.F.E. Summer" campaign to emphasize the importance of responsible firearm storage—particularly while children are home from school and more likely to be unattended.

McNair was selected for his diligence in promoting firearm safety throughout NV. He regularly runs programs that include both classroom and range instruction, including hunter education classes through NV's Department of Wildlife, group and private firearm classes and hunting seminars. He is a multi-state licensed concealed carry firearm instructor and chairman of the local chapter of the Mule Deer Foundation. He is also the local Bass Pro Shop's hunting pro and exclusive firearm instructor and prepares local Boy Scouts who are working to earn firearm-related badges.

"For me, firearm safety is the most essential and important part of the classes and seminars I run," commented McNair. "Basic firearm safety and proper storage should be taught to anyone of any age. It is especially critical to teach children and their parents the steps they should take to protect themselves and any visitors to their homes from firearm-related accidents." Congratulations to Kevin McNair and his team mates at the NSSF for the great work they are doing!

Chuck Taylor's Handgun Combat Master Course will be taught October 15-19, 2015, hosted by Norman Hanson Firearms in Tehachapi, CA. Taught personally by Chuck Taylor only by special request, this program provides the student with all the nuances and "trade secrets" needed to bring his or her shooting and gun-handling skills to unprecedented levels.

All the requisite skills and methods integral to being a master tactical shooter are covered in this five day program, Chuck explains, including high speed weapon

presentations and target engagements from arm's length to 50-meters, multiple targets, small targets, angled and partial targets, speed and tactical reloading, malfunction clearance techniques and mental discipline. "Are you ready to take the challenge?" he asks.

For more info get in touch with Norm at Norman Hanson Firearms, 20810 South Street, Unit 5, Tehachapi, CA 93561, phone 661-823-4977 or see www.chucktaylorasaa.com.

Network Affiliated Instructor James Olson has added a book *The Olson Combat System Level One* to his repertoire of self-defense instruction. Like Olson's classes, the book teaches situational awareness, combat psychology, combative techniques, defense with knives, sticks and guns, as well as a discussion of pistol shooting and defenses for different situations including grabs and chokes. Learn more about Olson's programs at <http://www.olsoncombatsystem.com>.

I wanted to save enough room at the end of this column for details about a very interesting blending of the ethos of the traditional martial arts with modern handgun skills for defense in the creation of Handgun Martial Arts Center of Tucson, AZ by instructor Jeffrey Prather, who tells all his students about the value of Network membership. HMA is a recognized martial arts pioneered by Prather back in 2009. The program blends Japanese ancient martial art training philosophies with American cutting edge firearms training.

"At first this pairing may seem unlikely," Prather explains, "but recall that Imperial Japan was the ultimate warrior society, undefeated until America and World War II. As Americans we adopt the best the world offers, especially from former foes." He compares the famed Japanese katana and samurai courage, skill and lethality with handguns in the holsters of "American police, military, and citizen warriors," adding that back up handguns are the equivalent of the second sword carried by the samurai. The parallels are striking and even reflected in the pistol reload technique Prather teaches.

More important, though, is the mindset of the prepared, well-trained warrior, which Prather illustrates by citing "American citizens Todd Beamer and Jeremy Glick on Sept. 11, 2001, ready, willing and worthy to protect the good and oppose evil when Divine Providence called. On January 8, 2011 it was again citizen warriors that stopped the murdering rampage of the attempted

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assassination of Congresswoman Giffords." HMAC training sessions often focus on ripped-from-the-headlines armed defense problems, including active shooter attacks like those in CO and CT, as well as one-on-one assaults like the attack on George Zimmerman in Florida. Prather explains that intended victims have a number of fighting resources, including improvised weapons, stressing, "We don't just sit there and get shot, we advance on the active shooter, occlude his vision, we distract him, we disarm him."

"Time after time it is the American citizen whether military, police or civilian that stands up, steps into the breach, moves to the sound of the guns, and saves the sheep from the wolf. We are the sheepdogs. And because we are reacting and responding to danger, we will not have time to respond with anything other than the weapons we have on our person at the time.

"That means a handgun. Therefore we must be ready and worthy to perform the impossible when called. We must be able to shoot to stop the next threat, slay the next dragon, but never, ever hit the innocent. In the midst of the carnage and chaos, we must intercede between the good and evil, and use our handgun and skills to protect life and freedom. We must be Handgun Martial Artists," Prather concludes.

Learn more about Prather's classes, books and philosophy at <https://warriorschool.com> and <http://www.gunfightingsite.com> or call HMAC at 520-241-7690 or email jeff@gunfightingsite.com.

We always enjoy reading about our Affiliated Instructor's programs! Affiliates, please send me an email if you have any special events like open houses, special classes or other interesting tidbits that we can announce for you in this column. If announcing an event, about 60 days advance notice is best since we publish only once a month.

Also, please let me know when you need more copies of the Armed Citizens' Educational Foundation's booklet *What Every Gun Owner Needs to Know About Self-Defense Law* and our tri-fold brochures by emailing me at ghayes@armedcitizensnetwork.org or calling 360-978-5200.

We're all in this together, so let's work as a team to get the word out so armed citizens in your community have a better understanding of lawful, judicious use of deadly force and what to expect in the aftermath.

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



Editor's Notebook

by Gila Hayes

"I have some questions that I need you to answer with just yes or no," insisted the member on the other end of the phone line. "Oh, no," I thought, "Is it possible to break down something

so complex as Network aftermath assistance to 'yes' and 'no' responses?" As it turns out, it is not possible to accurately explain the various ways in which the Network assists members with one-word responses.

Fortunately, the member let me add short explanations as needed, so he got the facts he called to learn. With so many copy-cat outfits now selling insurance and other post incident support plans to armed citizens, selecting your best choice for post-self defense incident support has become very complex. I understood our member's wish for simplification, and in turn I hope he understood that I could not tell him how Network membership benefits worked with one-word answers.

His call made me think of how Network membership benefits have grown. Since opening the Network in 2008, we've focused on regularly increasing the amount of funding from which we draw support for Network members after self defense. At the same time, we've expanded the types of support we offer members after self defense. As the Legal Defense Fund grew in our early days, we expanded our benefit of paying attorney fees after self defense to incidents in which the member used any legal form of self defense, not just firearms.

Beyond the paramount effort of member education, we've worked hard to build up funds to pay attorneys to represent a member after self defense—first during the immediate aftermath, and later, paying a trial team to provide a full-blown defense in court if it goes that far. The Legal Defense Fund has grown until today \$575,000 is set aside, with half of that available for any single member's legal defense needs after use of force in self defense.

As I see it, there are two distinct stages in which we pay attorney fees on behalf of a Network member who has used force in self defense. The first arises in the

immediate aftermath of the incident when we pay an attorney to provide representation during questioning, fend off the media and take care of other immediate legal needs. If, despite legally using force, the member is charged with a crime or faces civil lawsuit, the Network, after being shown that the use of force was justifiable self defense accomplished by legal means,

pays to be sure our member has a vigorous defense against either criminal charges or civil litigation.

"We can't apply the KISS principle in this class because it is not simple and you are not stupid."

***—Massad Ayoob, teaching
Judicious Use of Deadly Force***

This growth in member benefits has been accomplished by single-mindedly pursuing a goal of being fully capable of

paying attorneys and a legal team to put on a vigorous defense on behalf of a Network member. In pursuing that goal, we have not been distracted by chasing down rabbit trails like suing to force authorities to grant concealed carry licenses, NICS denials, or other aspects of gun ownership that are not related to a specific self-defense incident occurring during membership.

Another example of a "rabbit trail" was reflected in an email I recently answered: the Network doesn't lure in new members by offering peripheral inducements like promising compensation for days lost from work while in court defending self-defense actions or paying for a biohazard team to clean up the crime scene. Instead, we reserve the Legal Defense Fund to pay Network members' big-dollar legal needs—paying attorney fees and other expenses of early legal representation ASAP after the self-defense incident and then if needed, providing funding to put on a vigorous defense in court.

The other distraction and high budget impact item in which we have refused to entangle the Network is defense of non-members facing the criminal charges after use of force in which they claim self defense, which Network President Marty Hayes mentioned in passing in his President's Message this month. His comments were right on! Let me add my promise to you, members, that we will not be distracted from our most important tasks — making sure you have the education about use of force in self defense and its aftermath to make good decisions and making sure the Legal Defense Fund is strong and ready to pay a lawyer to represent you if you ever have to use force to defend yourself.

*[End of August 2015 eJournal.
Please return for our September edition.]*

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About the Network's Online Journal

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

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
Gila Hayes, Operations Manager

We welcome your questions and comments about the Network.
Please write to us at info@armedcitizensnetwork.org or PO Box 400, Onalaska, WA 98570 or call us at 360-978-5200.



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