



Lessons from State of FL vs. Michael David Dunn

Editor's note: Florida Network Affiliated Attorney Steve Harris aptly summed up the Florida case in which a man shot into a car of teenagers when he said, "The best description of what I think/feel on the Dunn incident/trial: profound sadness for all involved." Knowing that he had closely followed the case, we asked him to highlight lessons learned from Michael David Dunn's trial.

Harris is a member of The Florida Bar. His practice includes representing Federal law enforcement personnel in duty related matters, including use of force. He also assists other attorneys in officer involved and civilian defensive force cases, and provides pro bono assistance to law enforcement agencies and public information personnel on agency policies and Florida use of force law. Our readers will recognize him as a frequent contributor to the Network *eJournal's* Attorney of the Month column. He has written on officer involved shootings (OIS) and investigations of civilian defensive shootings in magazines including in *Guns & Weapons For Law Enforcement* and *American COP* and is a guest lecturer for the Massad Ayoob Group.

Readers are cautioned that this commentary is for general information only, and is not intended, nor to be relied upon, as legal advice applicable to any actual use of force situation.

by Steven M. Harris, Esq.

Trial recently concluded in this well-publicized case in Jacksonville, FL. A partial verdict was rendered. The defendant, Michael David Dunn, was charged (by indictment) with one count of first degree murder, three counts of attempted first degree murder, and one count of shooting into an occupied vehicle (a second degree felony). The 12-member jury was instructed on lesser included charges on the murder counts. Dunn testified (not expected by some observers) and asserted justification (self defense). His defense was unsupported by logic or any testimony or physical evidence. He asserted those he shot at had a shotgun and one of them was preparing to shoot him with it. No shotgun was found. Dunn bolted from the scene of the shooting and never called police. He was arrested on a warrant the next day near his home.

I watched almost all of the trial and related proceedings in real time. A summary of what I heard and saw (my paraphrasing, but as if I were a juror) follows:

Mr. Dunn was parked next to an SUV outside a convenience store gas station while his fiancée went in to purchase snacks and wine. Very loud music emanated from the SUV which disturbed Mr. Dunn. He politely asked the occupants of the car to turn the music down. One of the occupants became enraged over the request and made insulting and then threatening comments, implying a present intention to inflict harm to Mr. Dunn. After a second verbal exchange, something which looked like a shotgun (to Dunn) appeared to be in the vehicle and was being positioned to be used by one occupant as he began to exit the SUV.

Mr. Dunn retrieved a pistol from his unlocked glove compartment, removed it from its holster, chambered a round and whirled to engage the perceived threat. He fired several times into the vehicle killing one of its four occupants. As the SUV was backing up, Mr. Dunn fired a second volley, and when the SUV was behind his car, he got out of his vehicle and re-engaged the SUV with a third volley of shots.

Mr. Dunn claimed to be in fear for his life for the first engagement (first and second volleys), and to have fired the third volley at the rear of the fleeing SUV to suppress a perceived continuing threat (even though no shotgun was then visible or any shots had been fired from the SUV) and/or he was on some sort of inexplicable autopilot. After the incident, somewhat suspiciously, the SUV left for three minutes and returned.

Dunn had come to the store from his son's wedding where he had consumed alcohol. Mr. Dunn and his fiancée returned to their nearby motel, had dinner and more drinks, and went to bed. They did not call police or an attorney. The next morning they drove home. Shortly thereafter, Mr. Dunn was arrested. Mr. Dunn told his fiancée what happened but never said he saw the occupants of the SUV with a shotgun as he later told the police during an extensive interview given without counsel.

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Mr. Dunn had some familiarity with shotguns, but likely had little formal use of force or firearms study or training. It was uncontroverted that he uttered a slang statement of disapproval of the loud music to his fiancée before she exited his vehicle.

Dunn's demeanor at trial was a mixed bag. I thought his attorney did a good job with what little he had for a case. Forensic evidence suggested the individual Dunn killed was seated in the vehicle when shot, not exiting, as he testified.

The SUV's occupant who Dunn alleged was about to kill him was killed as a result of Dunn's first volley. The other three occupants escaped harm from the later volleys, which impacted the SUV. Dunn was convicted of three counts of attempted second-degree murder and the occupied vehicle shooting count. The jury was unable to reach a unanimous verdict on the first-degree murder charge or a lesser charge as to that count. A mistrial on that count was declared by the judge and the State Attorney promptly announced her intention to retry the count. Sentencing is scheduled for the week of March 24; the sentence (20-60 years) will likely be the practical equivalent of natural life for the 47-year old previously law-abiding citizen.

Marty Hayes invited me to give a "lessons learned" analysis. Before I "cut to the chase," as they say (which is not that complicated), I offer this: I expected a conviction whether or not the jury believed Dunn. Even if they believed there was a shotgun or something that looked like one in the SUV, the impropriety of using what was in essence "suppressive" fire was confirmed by Dunn's own words. Thus, he clearly committed three counts of attempted manslaughter.

I understand how the jury could have concluded that Dunn's leaving the scene, not calling police, and driving two hours home the next day (after learning from television news he had killed someone) evidenced that Dunn possessed the "depraved mind" necessary for a conviction of second degree murder. Hence, the three attempted manslaughter convictions I expected morphed into attempted second-degree murder. Conviction for shooting into an occupied vehicle was a foregone conclusion. As to the murder count, I thought if the jury believed Dunn, they would find him guilty of manslaughter (for mistaken use of deadly force); if they did not, they would find him guilty of second-degree murder. A slight bit of a surprise for me there; it appears nine or ten of the jurors had voted to convict him of first-degree murder. I thought not more than six would.

I employ a CAN-MAY-SHOULD-MUST tactical/legal analysis in lecturing on the use of deadly force. You can find the general explanation of my paradigm here: <http://modernserviceweapons.com/?p=1574>. (For my thoughts on applying the paradigm to defense from home invasion, see here: <http://modernserviceweapons.com/?p=4545>). Dunn failed each prong of the paradigm, in whole or part. That is why I thought he would suffer conviction on all counts.

Here is my thought process:

- CAN: Shooting skills (or luck) aside for lack of definitiveness either way, I quickly concluded Dunn did not demonstrate the requisite common sense, situational awareness, dynamic handgun training, tactical mindset, or shooting "aftermath" knowledge.
- MAY: Dunn's actions show a complete lack of knowledge of applicable legal principles. There was simply no way the law allowed him to engage the SUV with the third volley of shots. Such shots, even if merely "warning" shots, would constitute aggravated assault with a deadly weapon under Florida law.
- SHOULD: It appeared to me that more likely than not, Dunn acted in error and worse, failed to appreciate the gravity of his miscalculated judgments.
- MUST: It seemed unlikely most people would believe Dunn reasonably concluded (or in fact believed himself) he and/or his fiancée were faced with imminent almost certain or even likely death or great bodily harm. I did not believe this to be true, especially as to the fiancée.

And now, the chase:

- If you are in unfamiliar surroundings, uncertain circumstances or context, and/or you encounter questionable strangers, just leave. (Dunn could and should have driven away from the parking spot, collected his fiancée, and departed without interaction with the occupants of the SUV).
- Know the law on firearms carriage, unlawful discharge, brandishing, and use of deadly force for each and every jurisdiction into which you go armed. Understand how they are interrelated. That insight will help you formulate lawful and tactically correct responses to what may or may not be life-threatening situations. Yes, self-defense law usually makes good tactical sense.

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- Carrying a gun outside your home, especially when away from one's usual locale, is gravely serious business. It is not for the light in head or faint of heart. Get more than simple CCW training in all of the necessary skill sets, mental, tactical and legal. (Keeping an unloaded, holstered handgun in your glove compartment is a nonstarter whether you are in or out of the vehicle).
- When armed, don't drink alcoholic beverages. (There are tactical and legal reasons for this).
- Learn at least the fundamentals of armed/unarmed team tactics and engagement of multiple threats. Always have a plan or three for you and loved ones.
- Do not fire warning shots or shots for suppression purposes.
- Do not pursue unless it is apparent (and you are certain) the failure to do so will result in serious harm to innocent human life. Do not pursue unless you are up to the difficult task.
- Do not leave the scene if you discharge your firearm. From a place of safety, promptly notify the authorities and conduct yourself consistent with lawful identification of witnesses and preservation of evidence. Then put into effect your shooting "aftermath" plan.
- Get an attorney before you speak with police investigators, whether you acted lawfully or not.

- That you CAN or MAY "stand your ground" does not mean you SHOULD.
- That you MAY use deadly force does not mean you SHOULD or MUST.

The Dunn trial, unlike the Zimmerman trial, left me with questions about the temperament and behavior of the defendant. (That's interesting, since Dunn testified and Zimmerman did not). I was left with many unanswered evidentiary questions in Dunn's trial, as well. Nonetheless, of this I am certain (and I absolutely do not say it because of where this appears): Dunn would not be where he sits today had he more initial and refresher training time, engaged periodically in some stress inoculation handgun work like IDPA competition, active and timed range exercises/drills, and probably most important, studied the Network's videos and online *eJournal*. (In case you are wondering, Ayooob's must-read book, *In The Gravest Extreme* is not in the prison library).

Finally, to those who argue Florida's SYG laws permit someone to use deadly force against persons of another ethnicity or race simply because he or she "feels threatened," I respond: the Dunn verdict shouts otherwise. For more detailed discussion on Florida SYG law see page seven of our April 2012 journal: http://armedcitizensnetwork.org/images/stories/Network_2012-4.pdf.

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Continuing Legal Education Seminars Back On Schedule

When Network members ask what happened to the self-defense focused continuing legal education (CLE) seminars the Network pioneered several years ago, we are pleased to explain that a new version of the seminars is being offered in five locations this year.

Instructed by Network Advisory Board members Massad Ayoob and James Fleming, with input from attorneys and experts practicing in the locale of the seminars, this unequalled legal education program is back in business, under the guidance of James and Lynne Fleming of Monticello, MN. One of the most time consuming aspects of creating this legal education program has been obtaining CLE credits from the state in which the seminar is held. With Fleming spearheading that part of the effort, it only made sense to remove it from the Network's business portfolio and form an entirely independent corporation for the enterprise.

Traditionally, CLE is promoted for practicing lawyers. Because so few attorneys understand defending innocent citizens who used force in self defense, we sincerely hope that attorneys, prosecutors and judges attend the Self-Defense Legal Training seminars. Still, Ayoob and Fleming have opened up these seminars to investigators, firearms instructors, law enforcement personnel, private armed citizens, and "anyone with a need to fully understand the legal issues surrounding use of deadly force in self defense." As an armed citizen, carrying a firearm in public for self defense, that includes you.

Fleming explains: "Reported self-defense incidents establish repeatedly that emerging unscathed from the incident itself may well be only the first of a series of battles that must all be won to vindicate the rights of an innocent defender. With the likelihood of criminal investigation and possible prosecution, the events which unfold following a self-defense incident are equally as important as the defense against attack itself. Armed citizens need to know the daunting challenges facing the legal team that will assemble to represent them: what they are going to do, why and how they are going to do it," Fleming continued. "This two-day seminar is designed to assist attorneys in understanding the complex legal and social issues to give them a basis to work from in developing a legal defense strategy. For self-defense trainers and armed citizens, it is equally valuable in developing an understanding of the second chapter of the battle. The one we call 'aftermath'."

The CLE seminar includes an overview of the classic self-defense case, and discussion of the law of self defense and justifiable homicide. Firearms, ammunition and ballistics, issues surrounding crime scene reconstruction, psychological and physiological phenomena occurring during violent experiences, witness perception distortions and witness dynamics are all addressed. In addition, non-gun application of deadly force brings its own set of problems, as is evident in cases in which a knife is the tool used, so defending knives for self defense is also on the curriculum.

This is an updated and streamlined version of the CLE seminars taught under the Network business umbrella in 2012. A defense attorney attending one of those programs liked it so much he wanted a repeat program, which he expressed, "I greatly enjoyed all the information and all the instructors. Excellent course structure, very informative, very valuable course to me as a criminal defense attorney. I'm sure I will use the info in the future. Information provided me with valuable refresher information from my past knowledge and experience."

While Network members should be eager to attend these courses themselves, it also makes excellent sense to be sure your attorney is aware of the opportunity to update and expand his or her understanding of defending innocent citizens who use force in self defense. Please share this link <http://selfdefenselegaltraining.com/main.html> with your attorney or print out the flyer for the seminar closest to your area and give it to her or him.

Here is Self-Defense Legal Training's 2014 line up:

May 7-8, Lincoln, NE
 May 12-13, Columbia, MO
 July 21-22, Colorado Springs, CO
 September 16-17, Portland, OR
 November 19-20, Indianapolis, IN

For information, phone Lynne or James Fleming at 763-614-6195 or submit a question at <http://selfdefenselegaltraining.com/contact.html>. You can verify the current schedule and seminar locations online at <http://selfdefenselegaltraining.com/dates.html>

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President's Message

Good News, Bad News

by *Marty Hayes, J.D.*

I love the saying "I have good news and I have bad news." The good news is that many of our members are reading

this journal and paying attention to what is being said. This was reinforced by questions about the last two journal's lead articles by Dr. Wendy Saxon regarding jury issues. The bad news is that some of you have not liked what she had to say and it appears that part of her message raised some questions in our members' minds. However, that our members are asking questions and thinking things through is good news, too.

One member wrote to us to ask about Dr. Saxon's advice to avoid collecting more guns than what is needed. Let me address that concern. To understand a person's advice one must understand the person's situation. If I lived in Southern California like Dr. Saxon does, and I primarily saw court cases in Southern California and saw the bigotry against gun owners as she has, then I would not only give the same advice, but would also follow it.

A jury in So. Cal. will be heavily weighted with anti-gun jurors, so your attorney would not have enough pre-emptory challenges to even the field. Knowing that, if I lived in that area, I would be very conservative in my approach to gun ownership.

But, here is the deal: we are all logical thinking and intelligent adults, with the ability to sort through a tremendous amount of information with which to make decisions. Knowing that, the Network does not shy away from presenting information that may contradict some other information we have offered, because for the most part, all articles and advice given is simply the opinion of the author. It is your duty to filter the information through your own knowledge and particular circumstances.

To return to the example of Dr. Saxon's advice about gun collections: because I live in rural Washington State,

I am not concerned about possessing a large gun collection for two reasons. One is that I suspect the jury might identify with me better, because my jury will be the opposite of a So. Cal. jury. And secondly, the judiciary here would likely refuse to let my gun collection be used as evidence in court. On the other hand, in So. Cal. the judge would likely let it in as evidence of premeditation, thinking, "Why this is even an issue going to the prosecution's theory of the case and the evidence they wish to introduce in court is relevant evidence to prove the criminal charges."

If the prosecution claims that you were a "loose cannon," a "gun nut" and one pre-disposed to using guns to solve every problem, in some jurisdictions the judge would allow introduction of your "arsenal" in court as evidence of premeditation and mindset. In fact, in a court case last year that I worked on as an expert, the prosecution presented exactly this scenario. Fortunately, the judge disallowed it. This occurred in rural Pennsylvania, but if it had been in Pittsburg or Philadelphia, the outcome might have been different.

I wish I had simple answers to the various questions posed about the use of deadly force in self defense, but I don't because each incident is unique and each unique incident will have different variables. We will continue to publish the best information possible and rely upon our members to apply what is useful for them.

More Good News (and No Bad News)

At the risk of harping on California too much, I suspect most of us reading this have been enthused by the recent turn of events in CA, where the 9th Circuit Court of Appeals has overturned the need-based way California sheriffs currently issue concealed carry permits, replacing that with a shall issue directive. Interestingly, the Sheriff of San Diego County, a party to the legal action, decided not to appeal the ruling. While I am not 100% knowledgeable on appellate procedures, I think it means that until the United States Supreme Court weighs in on the subject, the law of the land in the 9th District (West coast) is that the 2nd Amendment applies to concealed carry. We are winning the legal fight. Now we need nationwide reciprocity.

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Best Defense Renewed for 7th Season!

For those of you who get the Outdoor Channel, I hope you are enjoying this season of *Best Defense*. I feel honored to be part of the best TV show about self defense on the small screen. The show airs on Wednesday and even if you don't get the Outdoor Channel, you can see some of the information on the website <http://www.downrange.tv/blog/>. I mention this, because I was given a two-day pass from jury duty this month to go to Tulsa and meet with the team, as we made plans for next year's programs. We came away from our meeting with a great set of scenarios and ideas for next season. Catch the rest of this season and hit the web page for more info.

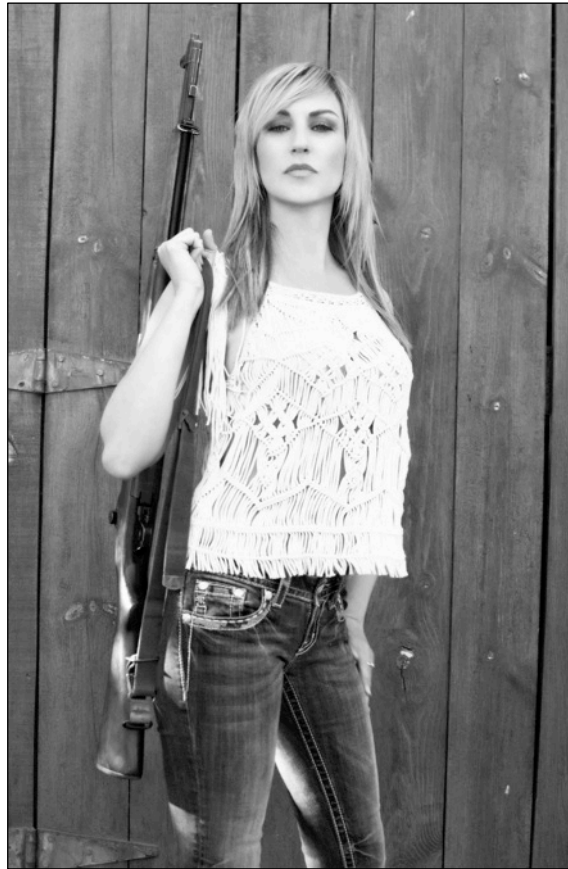
Police Discounts?

I remember a time when it was acceptable from both a law enforcement angle and from a societal standpoint, to offer discounts on products and services to police officers and for cops to accept those discounts. These discounts were offered for two general reasons. One was to attract the police as a clientele, so the discount helped drive cop dollars to the merchant. Additionally, many stores and businesses simply wanted to say "thank you" to the police officers that voluntarily place themselves in harm's way for the good of society. Being a former police officer myself, I can say I routinely took advantage of such discounts, and it never changed my attitude or made me enforce the law selectively.

But, as generally benign as such a practice may have been, I suspect the days of police discounts are pretty much over. First, scrutiny of police actions is much more severe than in past decades. This is not a bad thing, as we have seen that such scrutiny is needed in many cases. And secondly, police are (for the most part) making a much better wage than they used to when I first started. In fact, my first police job (back in 1978) had a starting salary of \$700 a month, and at that salary, I

appreciated saving a buck or two at times. But now police salaries, especially with overtime and benefits, can approach six figures. As you know, I also run a shooting school, and I get requests all the time for law enforcement discounts. I usually laugh when asked, and explain that they make more money than I do! All in good fun of course, but the point is still made.

Lastly, it's not like we are talking a bunch of money here anyway. I like the idea of treating everyone the same, and for the foreseeable future, I don't see Network dues policy changing.



A Couple of Podcasts

Recently, I spent an hour talking with Alexandria Kincaid, a Network Affiliated Attorney from Boise Idaho, when she interviewed me for her 3GLaw podcast. The three Gs stands for Guts, Grit and Guns, and it takes some grit and guts to try to make a living as an attorney in two male-dominated fields (the law and the gun culture). Kincaid (shown to the left) has all three and is making her presence known in Southern Idaho and Eastern Oregon as a great attorney. I first met Alex when she attended the Network CLE program we did in Seattle. She joined the Network as an attorney and has been helping our Southern Idaho members prepare for the aftermath of a self-defense incident. The podcast can be heard here: <http://3glaw.com/>

And lastly, I direct you to a recent episode of the ProArms Podcast. This one is near and dear to my heart, as the individual involved in this story is one of my students at my shooting school. I am extremely proud of his life-saving act of armed self defense, when he drew and shot it out with an armed robber in his jewelry store. Enough said, here is the link: <http://proarmspodcast.com/084-the-bonaci-jewelry-store-attempted-robbery/>.

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Please enjoy the next article.]*

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Attorney Question Of The Month

This month, one of our affiliated attorneys posed a series of interesting questions about use of expert witnesses. He asked the other attorneys—

Have you ever hired an expert for a self-defense case, and what did you need him or her to do?

How did you find the expert and how much did their services cost?

Was the expert allowed to testify? If not, why not?

While not a lot of attorneys responded to the question, we think you will share our interest in the responses our affiliated attorneys offered. Here is what they wrote—

Mark Seiden

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I have hired experts in numerous self-defense cases. The first one I ever hired was Massad Ayoob, who did a superb and professional job in every case he was called upon to testify in. Mas testified as to aspects of weapon retention, disparity of force, body alarm reaction, reaction times, weapon operation, weapon characteristics and various other matters in the multiple cases he was retained on.

I have also called medical examiners, trauma surgeons, psychologists, gunshot residue experts, toxicologists, shooting reconstructionists and bloodstain pattern analysts, depending on the case.

All of the experts were permitted to testify, except one psychologist regarding the battered woman syndrome. We won that case, so the admissibility of her testimony was never decided on appeal.

I find my experts by attending seminars, reading, the Internet, referrals and personal contacts.

The cost of hiring experts varies according to the expert and their credentials. Most are in the \$300/hour and up range.

Adam Schultz

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Yes, I have used experts in self-defense cases before. Marty was the best one I've worked with.

There are a couple of areas that expert testimony can be useful, depending on how the defense is put together. Often times the physical evidence is the most compelling, and it is necessary to get a ballistics expert to explain trajectory, bullet deformation, ejection pattern type evidence – either to draw your own picture or to dismantle the prosecution's lie.

Sometimes it is necessary to get a tool mark expert to analyze shell casings and bullets to sort out their origin, to determine sequence, to particularize the evidence, etc. Sometimes it is necessary to get someone who can talk about the mental and physical dynamics of a use of force situation – describe the body's physiological response as it affects the mental process so that jurors have a true understanding of what "reasonable" is under the circumstances that the defendant was facing when acting. Sometimes it is necessary to get someone who can explain the training and the purpose of training that a person may have had – to explain actions in conformity, etc.

These are often very difficult experts to find. Usually the people who are legitimately in these situations and have the requisite experience are law enforcement officers or ex-law enforcement officers who view themselves as "US" and usually the people we defend are folks who – by definition – have been charged with very serious crimes and viewed by potential experts as "THEM." For example, AFTE (American Firearms and Tool Mark

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Examiners) have appointed themselves the gold standard in that discipline but they only let law enforcement officers join, so the only people who can attain this membership are cops. When you get to trial and you've hired a non-AFTE member to do a shell casing or bullet comparison (of which many non-AFTE folks are perfectly capable), they get cross examined and discredited in front of a jury about the fact that AFTE wouldn't let them in. In my opinion, the best experts are ex-law enforcement officers who genuinely care about the truth and the integrity of the fact finding process.

The only private expert that I've used is Marty Hayes, and he was part of the team when I joined, so I don't know how the other attorneys found him. I am an ex-public defender and I know enough people in the field, I just ask around, but I realize that answer doesn't really help others much. I'm not aware of an index of experts or anything like that.

I have never had a problem qualifying an expert to testify. Proper preparation should always avoid this problem. The standard is very low in Colorado.

Mark A. Alexander

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In Texas we have several individuals qualified to testify as experts in such matters.

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I have hired experts many times. I generally retain two in case one cannot testify.

They testify to the manner in which my client engaged the attacker and how it was appropriate.

They generally find me.

I've never had a problem with one providing testimony. The state is often ill-prepared.

John R. Monroe

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I have never hired an expert in a self-defense case.

I have, however, testified as an expert in a self-defense case on the operation and safety features of the firearm involved. I did not charge for my services and I was allowed to testify.

We deeply appreciate the contributions all of our Affiliated Attorneys make to this column, as well as their other services to Network members.

Book Review

Thank God I Had a Gun:

True Accounts of Self-Defense

Second Edition, February 2014

Author: Chris Bird

ISBN: 978-0-9835901-5-6

5½ x 8½, paper bound, 400 pages,
nearly 70 photos

Price: \$19.95

Reviewed by Gila Hayes

How many times have you heard, "Criminals pick other people, not folks like us." Oh, really? The seventeen real people who are the focus of the stories in Chris Bird's book, *Thank God I Had a Gun* now in its second edition, are not much different than you or me. Not only does this book sound a wake up call for those who rationalize that they are not at risk, it also underscore the importance of personal responsibility for safety since the police simply cannot be present all the time to protect you. You have to be able to stop the violence yourself, as the stories in this book emphasize. A crime reporter by profession but a storyteller by nature, Bird puts a face on each intended victim with his insightful post-incident interviews.

New to the second edition is the story of Vic Stacy, who used his revolver to stop a deranged neighbor who shot and killed a couple and one of their dogs. The story, told largely in Mr. Stacy's own words, makes it clear he doesn't want to be a hero for the life-and-death shots he fired on July 29, 2012. Though not formally trained, Mr. Stacy's experience as a lifetime shooter lent him the skill to make the accurate 57-yard shots that saved the lives of others including a patrolman who had responded to the shooting.

Like the story of Vic Stacy, many will remember the news reports from the other stories Bird relates. These include reports about Melinda Herman, the GA mom who, sheltering her nine-year old twins, withdrew all the way into a tiny attic crawlspace and shot an intruder who searched until finding them there. Bird also interviewed Sarah McKinley, the recently widowed young mother who had to shoot an intruder. As was true of the GA home intrusion, a lot of Internet speculation followed the McKinley incident. Bird went right to the source, interviewing the young woman, and telling her story in the third chapter of this edition of *Thank God I Had a Gun*.



Neither woman is stereotypical of the "ordinary armed citizen" one might envision. Although her husband had coached her in how to defend herself and their children at home, Mrs. Herman had gone to a firing range only once to shoot her gun. 18-year old McKinley had a .22 revolver she had fired previously, but was advised that a shotgun through which she had earlier only fired one shot, gave better protection for herself and her infant son. Recognizing that a stalker had targeted her and her remote, rural home, the teen's brother-in-law loaded the shotgun and left it ready in case she needed it.

It does not appear than Mr. Stacy or either of the women had any formal training in justifiable use of deadly force, relying instead on common sense when assessing the danger they faced. McKinley's story is particularly poignant. She repeatedly asked police dispatchers if she was allowed to shoot the intruder if he entered her home. Unsure of the legalities, McKinley was terrified that in her panicked state she would not be able to shoot and she and her baby would be harmed. Determination to preserve her child's life strengthened her resolve.

In *Thank God I Had a Gun's* second edition Bird updates the story of defense of property turned dangerous at a family-owned nursery in Ft. Worth. Beset weekly by multiple burglaries, the business owners began sleeping over on the property. In two incidents, about twenty years apart, multiple intruders behaved inexplicably, approaching owners who were visibly armed with shotguns. The report underscores that defensive gun use is frequently complicated by unpredictable human behavior.

In the fifth chapter Bird reviews the sordid history of New Orleans' gun confiscation in Hurricane Katrina's aftermath. Residents and outsiders alike were stunned after the hurricane when local government took away residents' guns. The confiscations impress on us the import of fighting back early when a government shows tendencies toward violating citizen rights. The New Orleans gun grab was the culmination of the big city's decline. If unable to stop government misbehavior, the prudent citizen may be best served moving away from so unstable a community before such a catastrophe.

Bird interviews Louisianan Vinnie Perval, who was robbed while caring for homes in his Algiers Point neighborhood after the hurricane. Perval concluded that allowing his elderly mother to remain with him was not

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worth the risk, and that indeed, New Orleans was not worth the dangers he had endured. The city died in the hurricane, he expressed, and was never the same afterwards. The effects of being knocked to the ground, robbed, and then holing up and protecting the neighborhood irrevocably changed this man.

If there is a common thread through the experiences of the many individuals interviewed for *Thank God I Had a Gun*, it is the surprising number who, although living in households containing guns, had only fired a gun once or twice, or in Perval's case, had disliked guns. Beyond varied experience levels, the survivors' ages span 18 to 80, and they vary from comfortably well-off to very poor.

Thank God I Had a Gun's first half primarily deals with people who used guns to defend themselves with little to no prior training. That changes about half way through the book, with the story of a man who shot a cop killer, and a convenience store owner who attended a concealed carry licensing class for his state's CHL law then three days after his carry license arrived shot an armed robber. Several of the subjects were veterans of military service, and one had operated a range facility.

Bird's collection of stories of defensive uses of guns is much more than pro-gun hyperbole. He details post-shooting ordeals and tells of the death of an armed citizen who intervened in a domestic violence shooting and was shot by an ex-husband who had a rifle and wore body armor. While many of the subjects avoided injury, several required hospitalization for wounds suffered while preventing their murder. The stories related are realistic, sobering, and all include valuable lessons. After all, we'd prefer to learn from the experiences of others.

Toward the end of the book, Bird relates the story of a disabled man whose display of a .380 ACP Colt pistol stopped road rage assailants. His assailants gave conflicting reports to law enforcement, starting a months-long cascade of legal problems for the armed citizen. Delayed release of the 9-1-1 calls from the incident concealed a call from an independent witness. When finally discovered, that evidence spurred case dismissal. The story is disheartening and stands in stark contrast to so many chief law enforcement officers Bird quotes in earlier chapters who speak strongly in support of armed citizens.

I am confident Network members will appreciate and learn from the experiences of other gun owners as told in this book. Once having read *Thank God I Had a Gun*, pass it along to a friend, family member, or co-worker who does not understand why you own firearms. These are truly stories gathered by one of our own: Bird is a Network member, and the subject of an *eJournal* interview about his experiences as an immigrant to the United States and his viewpoint on gun rights. Learn more about him at http://www.armedcitizensnetwork.org/images/stories/journal/2010/Network_2010-10.pdf.

Thank God I Had a Gun is available from Privateer Publications, P.O. Box 29427, San Antonio, TX 78213; phone orders only 888-700-4333. <http://www.privateerpublications.com/> The book costs \$19.95 plus \$5 for shipping. TX residents add \$1.65 sales tax.

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

March 2014



Networking

by Brady Wright

This month we observed President's Day, which honors all Presidents, past and present. Some are much more deserving than others, but... I'd also like to take just a second to thank the members and affiliates who were kind enough to note my own passing of another year around the sun. Getting older is cool; well, it beats the alternative!

I get class schedules from some of our instructor members and the really sharp ones give me a list of what's coming about two months out, so there is a good reason to share the details in this column. (Get the hint?) One of our regulars is Steve Eichelberger, who has a great selection of classes on everything from concealed handgun license (CHL) classes to some pretty high-tech skill-set stuff. He says his basic starting point for his clients is, "The three survival secrets no other CHL course will tell you: Shoot/don't shoot decisions which will send you to jail or save you from it; 'what if's' (scenarios using legal principles); and what to do after a shooting - your individual concerns." Answering these and expanding on them is a pretty good mission statement in my book. His upcoming offerings include a slick class called *From Fundamentals To Fighting Skills: Live-Fire Transition Course* on Saturday, March 29 and Friday, April 18. You can reach Steve at FirearmsInstructor1@gmail.com or browse <http://www.firearmsinstructor.us/Instructor.php> for details.

It's fun to hear about instructors who are doing things for the more esoteric shooting disciplines. Alecs Dean has a combined *Muzzle-Loading Rifle Student Course & Muzzle-Loading Rifle Instructor Course* on the weekend of March 22 and 23. It's 22 hours of training to become NRA Certified Muzzle-Loading Rifle instructors in order to train Boy Scouts, re-enactors (2013 was the 150th anniversary of Gettysburg you know!) and hunters, since muzzle-loading adds an extra hunting season. In some jurisdictions a muzzle-loading gun may be shipped without an FFL and sometimes purchased by a minor.

Alecs also has a *Personal Protection Outside The Home Student & Instructor* program coming on April 11, 12 and 13. For class requirements and to get on his mailing list for upcoming classes, write or email Alecs Dean at alecs@internationalfirearmsafety.com, International Firearm Safety, Inc., Fort Myers, FL 239-357-3437. His website is <http://www.internationalfirearmsafety.com/>.

I get a lot of email about the various political and legislative issues facing gun owners. Many of our members and affiliates have strong opinions about these things (really?) and I am often asked about covering some of that in this column.

While it sure does come under the heading of conversation, it isn't really the mission of a *Networking* column so I have generally sent those requests on to Gila so she can use that information in another part of the *eJournal*. Alternately, those make good topics to discuss on the member only Forum at <http://www.armedcitizensnetwork.org/forum-art>! This is a private forum for Network members so requires login with the codes emailed to new members as we are setting up their memberships.

One of the biggest benefits of Network membership is the ever-growing number of contacts you can make with like-minded folks. If you see a member or affiliate here, or anywhere in the *eJournal*, who is doing something that speaks to you or seems like a good idea...maybe even one that you could use or expand on in your own circle, take a moment and make contact with that person. Get to know your fellow members! Your individual network will be just that much more powerful and that helps all of us!

I just received a huge shipment of Network booklets, so if you need any materials to give to clients or customers, call or email me at brady@armedcitizensnetwork.org especially if you have news to share, or know of a win we should celebrate.

More to come next month. Stay safe out there!

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

March 2014



Editor's Notebook

Policing Our Own

by Gila Hayes

A non-member called our office demanding names of Network Affiliated Attorneys after failing a background

check when he wanted to buy a new gun. When we declined to expose our attorneys to him, the furious caller ranted that we fail to support the Second Amendment. While calls from angry, frustrated people are part of customer service, such incidents raise a larger and far more difficult question: Are responsible armed citizens best served by fighting for every individual's gun rights?

Going armed for defense entails tremendous responsibility! Are some individuals by reason of mental or emotional instability unable to shoulder the obligations inherent in gun ownership? Of course. I believe we do great harm when, in our fervor to defend the Second Amendment, we promote that right to people who can't be trusted to behave safely with guns.

People who cannot control anger or who are too careless to shoulder responsibilities that can mean life and death need our care and protection, not the hands-off response too often admitted in interviews with families and associates of mentally ill people who have committed atrocities. If those closest to troubled people like the shooter discussed in this journal's lead article don't intervene, who will? In these difficult circumstances, intervention means preventing access to guns, even though the individual's problems are not so severe that a court has yet withdrawn his or her gun rights.

Are rights owed without reservation or are rights earned by adhering to standards of behavior? Under what circumstances do we, the sternest defenders of gun rights, deem the right to possess firearms forfeit?

Reacting to government's excessive restrictions, we are easily incited to decry ANY denial of gun rights. We use words like "entitled" and even "God-given" and "inalienable," and our most fervent evangelists urge that no one, especially not government, can legitimately deny another person the possession of guns.

If not government, then to whom should responsibility fall when an individual's behavior becomes troubling? Family members? Close associates? In a column entitled *The Persistent Threat of Mentally Disturbed Lone Wolves*, Scott Stewart writes about family and associates of murderers and would-be killers who took steps to stop the danger they believed their family member posed based on conversations and even on written notes they found. (see <http://www.stratfor.com/sample/weekly/persistent-threat-mentally-disturbed-lone-wolves>)

"But even when a mentally disturbed individual self-identifies, it is extremely difficult to differentiate between harmless individuals and those who intend to conduct violent acts," Stewart wrote. "This is further complicated by the fact that mental health is seldom static, and sometimes the mental state of individuals once assessed as harmless might deteriorate to the point where they could take action on their delusions or perhaps even become violent." The article highlights the power of family intervention along with the inability of government to monitor the state of a disturbed individual. That puts those nearest to troubled individuals on the hook. Can more be done to push families and associates to intervene while there is still time?

Too often, after a shooting, family and close associates of the killer admit that they feared that the shooter's hatred and obsessions made him irrational but failed to intercede. Would they have been more proactive in getting help and restricting their loved one's access to guns if they knew they would be held accountable?

Public shaming is harsh! Still, held to the same severe standard would not you or I be even quicker to press non-gun self-defense alternatives on people who come to us to learn about guns, but who by word and act

Continued...

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demonstrate that they are not responsible? If engaged in retail gun sales, would not we find the courage to turn away a customer whose statements we found disturbing? (See what one part of the gun industry is doing at <http://www.fixnics.org/factinfo.cfm>) If the problem were within our own household, would not we change the combination on the safe to prevent a troubled family member's access to firearms?

Modern society abhors shaming, yet we've taken our kindness so overboard that we no longer hold people responsible for looking the other way when a friend, associate or family member's illness endangers the public. We must demand better of ourselves and others, lest by not controlling the irresponsible or incompetent among us, we lose the right of armed defense entirely.

*[End of March 2014 eJournal.
Please return next month for our April 2014 edition.]*

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.

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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.

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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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