



## Aggressiveness in Self Defense

### An Interview with John Farnam

by Gila Hayes

*Prominent firearms instructor and our Network Advisory Board member John Farnam advises armed citizens to resolve hesitation about killing in self defense before a violent criminal attack forces the issue. "You've heard of the 'fight or flight' response to deadly threats," he notes. "What is far more likely is 'freeze or panic,' and in real, violent criminal attacks, we see both routinely, even among those who ostensibly know how to operate a gun, with predictably dreadful outcomes," he writes in his DTI Quips at <http://defense-training.com/2017/the-thick-of-the-fight/>.*

*Pondering Farnam's comments, I reflected that armed citizens get seemingly contradictory advice. Training emphasizes dire legal consequences for using deadly force. On the other hand, attacked with deadly intent, full commitment and ruthlessness is essential to saving innocent life. Both are vital. Encouraging armed citizens to resolve the issue of willingness raises accusations that armed citizens are irresponsible and bloodthirsty. As a result, many avoid confronting this sobering subject. Fortunately, John Farnam is not one to shy away from difficult topics, so when I asked if he would talk with us about killing to survive a deadly force attack, he graciously agreed. We switch now to Q&A to learn from Farnam in his own words.*

**eJournal:** Thank you for agreeing to discuss acknowledging the harsh reality about killing in self defense. How do your students learn the ruthless determination needed to survive a violent criminal attack? Many find it very unnerving so they avoid the subject.

**Farnam:** This disinclination to face the reality of what is going on in front of us is endemic, especially in Western civilization. Most of us are not desperate, we have good things going on and we do not want those things

disturbed. We don't want our lives disturbed by even thinking about something that might disturb it!

As an instructor, I have got to compel

students to confront the point I am trying to make. So, for instance, I don't say, "If," I say, "When." The moment you say, "Do this if something happens," that sounds theoretical and your student is going to think, "Well, that would never happen to me," and they will dismiss that because it is convenient. You have fairly offered them the chance to wiggle right off the hook.

Replace "if" with "when" and you compel them to face the point you are trying to make. It makes your speech more powerful and effective but it also makes it less comfortable. We have to confront our students with, "When this happens..." not "This might happen," so I say, "This will happen and you will endure the consequences." When confronted with that, students become uncomfortable. I have had students tell me, "I don't want to have to think about all these things that you talk about."

**eJournal:** The problem is, you can't encourage a false sense of security.

**Farnam:** To make training relevant, you have to tell students why they are taking the course. Students come to me often in a state of confusion. They're at my course because they are frightened, but they don't know what



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they are frightened of. They can't or don't want to articulate what scares them, so I say, "I can tell you why you are here. We are going to give you some ways of dealing with this that are more effective than what you have now, which is probably nothing." Instructors have to help students confront why they came to class and a lot of that includes holding a mirror in front of their face, which is going to be less than pleasant.

**eJournal:** You make students confront fears about being killed or crippled and what is required to prevent it. Have you noticed how many instructors rely on cute slang like "Light him up," instead of stating clearly, "You shoot him," for example? Is slang another way we deny the reason for armed self defense?

**Farnam:** Yes, I think so. Tom Givens asks his students, "Why do you carry a gun? Why do you own a gun?" The answer from people who have not thought about this very thoroughly usually begins with an apology like, "Well, I really don't want to hurt anybody, but..." Tom confronts them by responding, "Well, I carry a gun so I can shoot people." Can we get that out in the open? It breaks the ice so people think, "Oh, I guess it is OK to talk about this now."

We could talk about self defense very surgically or like we might talk about the price of corn, but at some point, we have to talk about the death and pain and suffering that we're going to cause directly on another human being when presented with no other choice. That is what is so hard to get around! Is there any other way? Well, no, there is no other way left when all the other ways are precluded. Now, we have to face this directly. No doubt it is going to be awful, and it will probably be something you will think about for the rest of your life, but at least you will be alive to worry about it.

**eJournal:** I think one reason we avoid discussing that we carry guns to shoot violent attackers is because we're scared we'll be accused of shooting supposedly innocent people. That is a lie that encourages laws that further erode our rights to have guns to defend ourselves and our families.

**Farnam:** There is always a risk! You may be accused of being flip and casual when trying to talk frankly about killing. People may say, "You are being so uncaring in talking about this very serious subject." No matter how

you put it, those accusations are going to come your way.

The other choice is to avoid the subject altogether and to dance around it. The NRA is famous for that because they have their agenda, too. They don't want to offend certain politicians whose support might be jeopardized. I understand their position, but like you, I have decided that my students' interests have to come first. We can never compromise because we are afraid we might lose someone's political support.

**eJournal:** It gets a lot more personal than worrying about politicians, too! Should we tell co-workers we spent our weekend receiving firearms instruction and deal with their prejudices and ugly jokes about gun owners?

**Farnam:** Well, if you make any preparations for any emergency, you run the risk of being accused of being a paranoid prepper. Those accusations always go with training. If it is a hurricane, a fire, a tornado or if it is something else, whatever precautions you take, from building a shelter to whatever you do, someone will say, "Oh, you are overreacting." You have to be prepared for those kinds of accusations and understand that, well, I have to be firm in what I am doing, in spite of the fact that there will be people who won't understand.

Is it possible to go overboard? Of course, it is, and that is where the term "reasonableness" comes in. We cannot prepare adequately for everything that could possibly happen. We have to make reasonable preparations, realizing that there is always more we can do. Yet, whatever we do probably won't be adequate but it will be better than being caught flat footed.

There are a lot of people who find fault with getting a concealed carry permit and getting some training, who say, "Well, you're just begging the question." I often refer to George Patton's famous quote, "No fire drill has ever caused a fire." Fire drills don't cause fires, but most of us feel fire drills are necessary so we aren't doing it for the first time when there actually is a fire. But when we do fire drills, we don't say, "Well, that causes me to think about fires, and that is very unpleasant. I don't want to do fire drills." Well, of course not, that is nonsense and completely false thinking, but that is not uncommon.

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I've heard people argue that evil begets evil and if you don't think about evil, then evil won't come your way. We know that is nonsense, but there are a lot of people who believe that.

**eJournal:** Fire drills make a good example. Now, compare fire drills to exercises you do with your students. Someone attacks us with lethal force. Will we freeze in panic and die because we fail to get moving and reacting? Or are we going to tap into one of the several standard responses you teach? Most honest people admit that they wonder what they'll do if attacked. What do you teach to avoid freezing in panic?

**Farnam:** A big part of our training is avoidance and disengagement. When someone is offering violence, we teach to aggressively disengage and separate.

**eJournal:** Instead of stopping to figure out what's happening, you teach an immediate disengagement technique—the famous Farnam tape loop: “I'm sorry, sir, I can't help you!” It gets us into action before a physical attack can start. Without having to judge, “This guy looks really dangerous, I'm scared,” we're deciding, “People in general shouldn't get that close to me,” and stop a risk before it develops.

**Farnam:** We're saying, “I'm sorry, sir, I can't help you,” with the knowledge that we are carrying our trump card. My trump card is right here [pats holstered pistol]. He can't see it; he doesn't know it, but I do. I know I have options. I know that if nothing I'm doing is adequate, I can always go to the next step. With that knowledge, I can be far more convincing. I can be far more successful with my less-than-lethal approach than someone who has nowhere to go when it doesn't work.

Disengagement is a big part of our training, but we can't give students the impression that it just ends there, that any lethal confrontation can be avoided and diffused. That is not true! We have to have the ultimate solution at hand and ready to go and then, with everything else in place, a lethal confrontation is only less likely, not impossible.

You do not get a risk-free life. Students come with the false expectation, asking, “Show me what to do. Show me if I adhere to what you tell me to do, that nothing bad will ever happen to me.” I can't.

The only thing I can guarantee you is that in the end, the Valkyries will have their victory. Between then and now, I want to expose myself to every good thing this life has to offer. Part of growing up and maturing is developing the ability to distinguish what we call normal risk from suicidal risk or risk that has no benefit. When people take suicidal risks and are injured then say, “I had no idea! This was not fair,” I wonder, “What planet are you from? Are you six years old or something?!” This is something you should learn as an adult.

It applies to what we do with guns and when we take the same philosophy and apply it to everyday life, we don't go to stupid places, we don't associate with stupid people, we don't do stupid things. Will that guarantee that nothing bad will happen to us? Of course not! It makes it less likely. In the end, despite your best efforts you may be confronted by a circumstance where you have no choice but to apply deadly force in a very ruthless and aggressive manner.

**eJournal:** What is your opinion of scenario-based training in which students literally rehearse force options up to and including having to shoot when it will keep them alive?

**Farnam:** The scenario training that we do is very helpful. I've had many students tell me after a scenario, “I had no idea I would do that.” It is a chance for people to experiment with behaviors that would be difficult to practice any other way.

I tell students, “Don't do what you think I want to see you do!” I invite people to experiment with different ways of stopping threats and quit worrying about it not coming out right or having a bad outcome. In training, if something has a bad outcome, no one gets hurt and we all learn from it. Participating in those kinds of drills is immensely valuable and pretty hard to practice any other way.

**eJournal:** When working toward “owning” a skill, mental rehearsal and imagining each step toward the desired outcome is often recommended. Is that healthy where we are engraining self-defense responses?

**Farnam:** Sure! When you are out and about, play little “What If?” games. That is healthy as long as you don't

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obsess on it. Ask yourself, "What would I do right now if..." Keep reminding yourself that disaster hovers over me continually and sometimes it is the arbitrary whim of chance that I find myself in a difficult situation. Don't become overly suspicious, but ask yourself innocently now and then, "If this happened right now, what would I do?" I think that is healthy.

**eJournal:** Socialization teaches such aversion to hurting anyone to say nothing of killing, that I wonder how armed citizens work through such powerful anti-self-defense programming. Some have suggested that hunting or killing animals for meat is a way to confront mistaken beliefs that all violence or killing is wrong. Do you debunk or endorse the suggestion that hunting helps resolve internal questions about killing?

**Farnam:** When we hunt, we approach an animal we just killed and see the blood and other consequences, and I think seeing the result of using our guns is a good thing. Although it is an animal and not a human being, having that experience is probably good. Whether that will make you more or less hesitant in a life or death circumstance, I am not enough of a psychiatrist to be able to give an opinion. I sure enjoy big game hunting and I've hunted dangerous game. I once shot a charging cape buffalo, and I've often said, "I really do not want to do that again!"

**eJournal:** Maybe so, but you came away with a better understanding of how you reacted with your life hanging in the balance.

**Farnam:** When I undertook that hunt, I knew what was possible. I'm a big boy; I knew what my decision meant. If someone said, "We've got a cape buffalo hunt and do you want to go?" I would probably say, "No, I've already done that."

Now days, we hunt pigs and goats and such and as far as I know none of them are particularly dangerous, but they don't give themselves up to us. We have to stalk and identify short windows of time in which to shoot and in the end, we have to approach this animal we just killed and see the consequences. I've shot something that was alive. I've shot things other than just paper targets and steel plates. If a student asked if they should take the opportunity to hunt, I would probably say, "You should probably take advantage of that opportunity."

**eJournal:** What value, if any, do you find derives from asking students to envision loved ones for whom they would kill to prevent death or injury from violent attack?

**Farnam:** I know it is upsetting for people to think about their children and their family members being homicide or violent crime victims. It is difficult to think about. We don't need to dwell on it, but like everything else, I think we have to talk about it frankly. You are not learning to shoot just to protect yourself, it is also to care for family members. Yes, ending someone else's life is regrettable and we do not like doing it. We certainly try to avoid it, but when it is acutely and obviously necessary, I will never hesitate. I won't hesitate a second to do what circumstances would dictate any reasonable person would do.

I don't like to dwell on this stuff. I don't like to be overly gory. I remember when I took driver's education years ago, there was a film called "Signal 30" that showed a bunch of bloody car accidents. It struck me, although I was only 17 at the time, that they were really beating this to death! I said, "OK, I get it!"

I think in teaching self defense, while we don't dwell on it, we do bring up criminal violence because we can never forget this is why we have guns. It is our solemn responsibility to protect our children and to protect other family members. That is a burden you voluntarily take upon yourself and you have to take it seriously.

**eJournal:** You've used the words "ruthlessness" and "aggressiveness" and I wonder if that mental state is active only if innocent life is threatened by another person?

**Farnam:** Perhaps we shouldn't use the word "ruthless," since it has a negative connotation. We tell students that it may come to a point where you have to act without hesitation. You can't hesitate, you can no longer mull this over in your mind, you have to act quickly and with everything that you have.

As Machiavelli was famous for saying, "Never do your enemy a minor injury." We are talking about the maximum use of force, and so is ruthless the right word? We might substitute some other words, but you know

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me well enough to know that I do not back off from making the point. I use powerful, connotative words to force you to confront the point I am trying to make instead of offering you a way to get off the hook.

**eJournal:** While I have no problem describing self defense as “ruthless” when innocent life is threatened, your description of acting with full commitment to stop the danger fills in the “how.” Do we make it clear that reacting ferociously is situational and that willingness to kill emerges only if we or those we love are threatened?

**Farnam:** That is exactly our refuge. This was not my choice; I did not want this. Apparently, the other person wanted this and left me with no choice. That is our psychological refuge, because in the end, you say, “Look, this was not my choice. I did not go looking for this. In the end, I did what I had to do.” If there’s a way to rationalize it, that would be the main one.

**eJournal:** That puts violence in context. Now, moving beyond this great one-on-one discussion in which you’ve educated me, I wonder if we need to have these discussions more publicly? Armed citizens have to reach their own internal convictions and then need to help those in our immediate care understand what may be necessary to save them from harm. Next, there is the body politic. Coming to grips personally is hard enough! Do we need to go public?

**Farnam:** That is also difficult, particularly with minor children, who, depending on their age, are capable of understanding only so much. It is silly to have deep discussions with children who are not prepared to understand. With the very young, you have to be in charge and if you say to them, “Go there; do this,” they have to do it. The deep details are just going to have to wait until children are old enough. Let them be children for a while! I truly don’t want to try to confront a poor child who is not psychologically prepared to confront life and death with stuff that is unpleasant for adults.

**eJournal:** What about discussions with spouses?

**Farnam:** With adults, I think we have to confront this frankly. You need to say, “This is our procedure for every day. It affects the way we get into the car, the way we get out of the car and the way we walk and go about in public. Everything that we do is going to proceed from this discussion we are about to have.”

In this civilization, we have the bad habit of dancing around unpleasant issues. Too often, we substitute weasel words and phrases for strong, connotative language. This discussion needs to go beyond, “Let’s all be safe.” It has to go to, “You may be with me some day when I have to end someone’s life with this gun. It is time that we confront that now. Without dwelling on it, we have to think about it now, so when it happens, it doesn’t hit you in the face.”

**eJournal:** How much should we try to explain deadly force in self defense to the general public? Should we try to explain this to the pacifists who are passing our laws?

**Farnam:** [sighs] Yep. There is a good question. My students come to me because they want to be there, even if they have not yet articulated it clearly. At least for the philosophical part of it, most are clearly on their way. The great unwashed in society have never thought about killing, they probably never will because they don’t want to. I will probably never have nor want 99 percent of them as students.

**eJournal:** But some of that 99 percent are writing the laws that will affect you, me and our Network members. Should we try to justify shooting in self defense for that reason?

**Farnam:** In my Quips, I try to espouse our philosophy and help people understand the righteousness of what we are talking about. It is my small effort. When I am listening to the news and hear how amazingly naïve the people being interviewed and the commentators are, I just shake my head. I don’t know what we are coming to. For what little we can do, I try to influence the people I can, and not with the attitude that I have all the answers because we are all learning every day! I think that our philosophy and the way we express it can be helpful to a lot of people. When people want to be helped and they come to me, I am not going to turn them away.

**eJournal:** We have all benefitted from you addressing tough issues frankly and without giving us an out to retreat to a more comfortable world view.

**Farnam:** Those we teach may never forgive us because once we open Pandora’s box there is no going back.

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They were much more comfortable when it was closed. Well, that's what we do.

**eJournal:** You speak the truth with boldness; we must reciprocally find the courage to listen to the truth. In the same way, armed citizens need the resolve to expose those in their circle to choices about self defense and the defense of those we care about, even when the discussion is not warmly received. Self-sufficiency is pretty unpopular!

**Farnam:** They have to move from childhood into adulthood. There is a lot to be said for childhood! A lot of us sometimes wish we could just stay children, but if you plan on dying of old age you had better grow up fast.

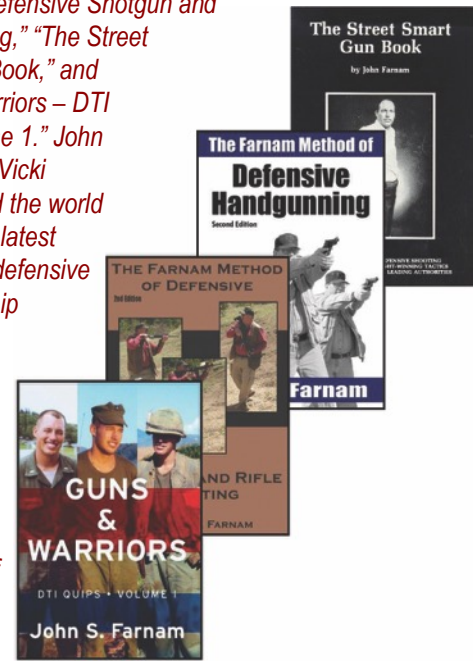
**eJournal:** That's a great axiom! This hasn't been an easy interview, so let me close by asking if there are topics and questions I've failed to bring up. What else do Network members need to know about mental preparation to use deadly force in self defense?

**Farnam:** We've pretty much covered it. We are all out there trying to spread the truth in our own way. We are wonderfully effective sometimes and all of us are frustratingly ineffective sometimes! We try our best in our own unique way to present this to our students and in some cases, we are going to be effective and, in some cases, we even save people's lives, but in some cases, we are frustratingly ineffective. We wish we could be more effective, but that does not discourage us from going forward and working with the people we can be effective with.

**eJournal:** Thank you, John!

*About our source: John S. Farnam, president of Defense Training International, is one of the top firearms instructors in the world, having trained thousands of federal, state and local law enforcement personnel, as well as non-police, in the serious use of firearms with emphasis on fully understanding the physical, legal, psychological, and societal consequences of their actions or inactions. Learn more about him at <http://defense-training.com>. He is the author of four books on the subject —*

*“The Farnam Method of Defensive Handgunning,” “The Farnam Method of Defensive Shotgun and Rifle Shooting,” “The Street Smart Gun Book,” and “Guns & Warriors – DTI Quips Volume 1.” John and his wife Vicki travel around the world teaching the latest concepts in defensive marksmanship and tactics. Courses are available for a variety of defensive weapons, plus Tactical Treatment of Gunshot Wounds.*



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## President's Message

by Marty Hayes, J.D.

Fall is my favorite time of the year. The weather where I live is typically not real rainy, the days can be clear and warm, the hunting season is closing in upon us, and

football is starting up. But, aside from all the aforementioned goodness, it's GUNSITE ALUMNI SHOOT time!!!

This year, Gila and I are making the trip to Gunsite Academy to shoot the match and rub elbows with a couple hundred or so fellow "Ravens" as Gunsite alumni are affectionally called. We can be identified by the black raven sticker, as seen on my camper.

For Gila and me (seen below in a photo from our visit to Gunsite several years ago), going to Gunsite recharges our batteries and brings perspective to our lives in the "gun culture." Think of it this way: if one were a physician, one would likely spend a lot of time in the "medical culture;" a college professor would seek out interaction with the "academic culture." Of course, the law enforcement professional is likely well immersed in the "police culture" (as I once was). If there was a "mecca" of the gun culture, it would certainly be Gunsite. We are looking forward to the trip.

I am asking a favor from Network members who are also attending the Gunsite Alumni Shoot (GAS), please wear your navy-blue Network ball cap. The cap, our only logo item, is intended for wear at the range, where it identifies Network members to one

another. Only Network members are given this ball cap. In case you have worn yours out, I will take extra hats with me and gladly give you a new one. Perhaps we can shoot together or at least get a group picture.

Gunsite is a good friend of the Network and the Network strives to be a good friend to Gunsite. Several Gunsite instructors are Network members and Gunsite lists us on their website as a "friend" under their links tab. The Network donates \$25 to the Jeff Cooper Legacy Foundation (<http://jeffcooperfoundation.org/news/>) for each new full-pay membership that identifies Gunsite as how they learned about the Network.

As you know, I frequently discuss the need for Network members to train. I am no exception to this need, even though my training résumé is several pages long. After the GAS weekend, I will be staying for two additional weeks in order to be a student in two training courses. The first class after the match is 499 Advanced Pistol Class, which is the third of the fundamental pistol courses that Gunsite offers.



I have completed 250 and 350, and both courses are well worth the time and money.

When I attend a class, whether it is a basic course or something more advanced, I have one simple philosophy. I want every shot I take to be perfect. I push myself to be as good as I possibly can, every time. I doubt I will attain perfection when taking 499, but at least I will try as hard as I can.

The second class I am taking at Gunsite this October is their first-ever Instructor Development course. A couple of years ago I was talking with Ken Campbell, the chief operations officer of Gunsite, and mentioned that I thought a Gunsite instructor development class would be very worthwhile. Lo and behold (whether my input had anything to do with it or not), there was one on the schedule this year.



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I will be doing double duty at this class, my first job being that of an eager student, and second, I'm going as a journalist and writing about my experience for SWAT magazine. I will let you know when that article is scheduled to appear, likely sometime next spring.

Gunsite is not inexpensive to attend, but put class tuition into perspective, and you'll see that taking a Gunsite class is doable for most middle-class folks who really want to go. Start saving \$50 a week towards the trip, and in a year, you'll have \$2,500 saved up, which will cover the cost of the course, including ammo. Keep saving for a few more months, and you have money for your travel and lodging. I know many people who talk about going on cruises or other such travel; others love to talk about experiencing life-long goals-bucket list items, if you will. The costs for these kinds of adventures run about the same as a week at Gunsite.

Here's a case in point from my own life. As I write this, I am still fighting the after-effects of a 24-hour trip on the open waters on a tuna charter boat. I am not a big fan of the open water and I have been known to chum if the seas get too rough, so Dramamine is

my friend. A couple of days ago, I spent the equivalent of a day of training at Gunsite to get on a fairly-modestly outfitted boat to go out to sea and catch eight albacore tuna. Of course, I then spent my day yesterday catching up on sleep and canning the tuna.

The eight other guys on the boat with me were all from middle-class backgrounds similar to my own although most of them were already retired. The tuna fishing adventure was something they wanted to do, so they saved their pennies and went fishing. I will share with you the one picture of me and a tuna. You might notice that I am hunched down a little, the seas were so rough that I could not stand straight up. My legs are still sore several days later, but this is an experience I'm glad I fit into my schedule.

In the same manner, I am always glad when I come away from a Gunsite class, refreshed and reinvigorated, with a new training completion certificate and having spent a week or two with likeminded people.

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## Attorney Question of the Month

We often field questions from members about how their family or associates should notify the Network on the member's behalf after a self-defense incident. It has been surprising how many members had contact details stored in their smart phones and had not considered that the phone could be taken by investigating police officers, making it unavailable to the member and others who might be assigned to get legal help for them.

After initiating a discussion of post-incident planning in the September editorial in this journal we reached out to our affiliated attorneys for more input on the likelihood of a personal cell phone being available once a shooting investigation has commenced. We asked our affiliated attorneys—

*Is it common for investigating police officers to take cell phones from armed citizens involved in use of force in self defense, even if the armed citizen is not taken into custody after the incident? If this is common procedure in your area, how long does it usually take for retrieval of personal items seized during an investigation? How does this vary if the person is or is not charged with a crime?*

The first half of our affiliated attorneys' responses follows. So many weighed in on procedures in their locales, that we will continue with the second half of their answers in November's journal.

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In Rhode Island, it is not uncommon for investigating officers to either request that the subject of their investigation consent to the search/seizure of their cell phone or, if the evidence is there, apply for a search warrant to search and seize the phone. Many times, it can lead to useful evidence that both sides may be able to use in an eventual prosecution.

If the device is seized by consent, I have seen the contents dumped immediately and the physical device returned immediately, although that is not the norm. If a

search warrant was used to obtain the device, it may not get returned without a court order, especially if charges are filed. In Rhode Island, if charges are filed, but the phone is not returned but could not be classified as "evidence," a motion to return seized property may properly be filed by the defense attorney either during the pendency of the case or following its conclusion. However, if the phone itself is evidence, it may never get returned unless charges are dropped or the defendant is acquitted.

If no charges were ever filed, a complaint would have to be filed in a court with equitable jurisdiction for an order to return the device. In Rhode Island, that would most likely be the Superior Court. Those motions can be heard in as little as 10 days or could drag out for months, depending on how contentious the response from the other side is.

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Whether they do or not is totally dependent upon the circumstances, and the policies of the authorities interacting with you. Of course, the police are required to obtain a warrant to access information stored on a cell phone, in any case, following the SCOTUS decision in *Riley v. California* in 2014.

In *Riley*, the Court held that the police generally may not, without a warrant, search digital information on a cell phone seized from an individual who has been arrested. But the question focuses upon whether they can take possession of the phone, thus depriving the owner of access to the ability to call for legal assistance.

An individual who is "taken into custody" or "arrested"—two very different legal concepts—can expect to be deprived of their cell phone while in police custody. Might that not happen? Sure, anything is possible, but counting on that possibility would be a grave mistake.

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There are simply too many fact scenarios that could play out to be able to develop a general rule. The far better plan will be to assume that the phone will not be available, and to make arrangements so that contact information for your legal team can be stored at another location where your "one phone call" to the outside world can be made to someone with access to that information, who can make the calls for you.

It is important also, to remember that calls from jails can be monitored, and recorded by the police. This is a common place occurrence. Make your call to your fall back contact short, to the point, and devoid of details about your situation and what happened. "I am in custody at this location. I need you to call attorney Sally Smith and tell her where I am. I have verbally refused to provide any statement of any kind to the authorities until my attorney is present."

If you have done your groundwork with Sally Smith, properly, that is all she is going to need to know to get to where you are as quickly as possible and begin to do her job of representing you. And then sit back, shut up, and wait for her to arrive on the scene to do her job. You have already won the fight for your life. Now is the time to begin the fight for your future.

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Almost all of my work in this area has been with LEOs since *Riley v. California*. Generally, they do NOT seize the cellphone of the LEO. I anticipate that, if there were any reason to believe evidence was on the phone, they would seize it and NOT open it unless pursuant to a warrant. Indeed, I represented an officer whose employment was terminated, in part because he opened and went thru cellphone data without warrant, exigent circumstances or consent.

I anticipate that it would be more difficult to get a warrant without PC to establish that there was either video or audio evidence on it, or evidence of calls to accomplices or the person shot (who may NOT be a victim) or something similar. Lately, tower information has proven very prominent in trials to establish locations of defendants in homicide cases. This is far less likely to

be an issue in "armed self-defense" cases, absent significant time lag between incident and report, or location of defendant and shot subject leading up to the event. In that case, the cellphone of the subject shot might also be seized. This would be true if threats were claimed to have been sent from that phone.

Of course, the thing most likely to be seized is the firearm, even when the subject is an officer.

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In Oregon, law enforcement will seize a cell phone if it is highly probable that evidence of a crime would be on the phone, or if a citizen consents to that seizure. If someone is not arrested for a crime, it is extremely rare for law enforcement to seize their property. It is also rare that evidence of any "crime" will be on a cell phone in these situations. Oregon also has a statute where the citizen who has had items seized may petition the court to have them returned. The law requires that they "no longer be of evidentiary value" which is somewhat nebulous. It is often helpful to have a lawyer assist with the return of property after law enforcement has completed their investigation.

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It is not necessarily common or uncommon. However, if you act in self defense, and are not arrested, the police should not seize your cell phone. If this is a street incident, then the cell phone is probably irrelevant to their investigation. If they do, they need a warrant to search the contents of your cell phone under *Riley v. California*, 134 S.Ct. 2473, 2494 (U.S. 2014). If they take your phone, then you need to get their name and badge number and hire an attorney immediately because you may never get it back.

*A big "Thank You!" to our affiliated attorneys for their contributions to this column. Please return next month for the completion of this topic.*

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## Book Review

### Survive A Shooting: Strategies to Survive Active Shooters and Terrorist Attacks

By Alain Burrese

\$24.95 368 pages, 8 ½ x 11

[http://surviveashooting.com/survive-](http://surviveashooting.com/survive-shooting-book-alain-burrese/)

[shooting-book-alain-burrese/](http://surviveashooting.com/survive-shooting-book-alain-burrese/)

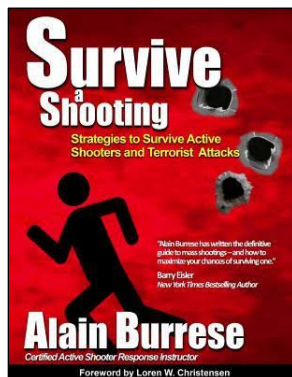
ISBN-13: 978-1937872120

Reviewed by Gila Hayes

During most of September, my reading time was spent with a lengthy book on mass shooting attacks that focused on survival strategies for citizens of varied training, skills and physical ability. Owing to its broad approach to the subject, I found *Survive A Shooting* offered a compendium of strategies, some more useful than others. The author's approach results in a lengthy book, parts of which will not be applicable to all readers, but I found a detailed and thoughtful reading worth the time required. It teaches survival tools for friends and relatives for whom we care who cannot or will not carry guns as well as response options for armed citizens.

In *Survive A Shooting's* introductory pages, Burrese writes that his goal is to provide "practical and applicable advice" so ordinary laypersons can develop strategies and skills to survive a mass shooting. "You can't afford to turn your safety and security over to somebody else," he stresses. Since police can't be present the moment a spree killing attack starts, citizens on the scene are the first line of defense.

First, Burrese stresses, mass casualty attacks are not a new phenomenon as the 24-hour news cycle suggests. "One of the deadliest mass murders at a school in the United States happened on May 18, 1927, in Bath Township, Michigan," he writes, accounting the deaths and injuries caused by that bombing. A chronological list of spree killings follows, through which he highlights factors often missed in post-incident reports. Many attackers herd their victims into killing zones through explosions, smoke or fire alarms, while others block exit doors to prevent escape. He accounts, "Statistics show active shooter incidents average 12 minutes in duration and during this time, on average, a person is shot every 15 seconds...and 60 percent end prior to arrival of law enforcement personnel."



Citing research from numerous studies and resources Burrese outlines characteristics that associates of the murderer may note before a mass killing. One lengthy list includes factors like suicidal talk and talk of putting one's affairs in order, expressions of empathy for violent criminals, letting personal grooming and hygiene go, absenteeism, emotional instability, impulsivity and a host of other factors spree shooters have exhibited prior to attacks.

*Survive A Shooting* then shifts focus to prevention.

Burrese asserts that many spree killers have signaled their intent before "they commit their atrocious acts. These signs range from certain behaviors, telling a certain friend or peer, and even publicly posting plans on social media websites," and he relates how one parent alerted law enforcement in time to prevent a mass shooting. "Pre-attack detection happens more than many realize and more often than reported by the media," he stresses.

Timely reporting and treating such reports seriously are essential, he continues. In discussing the factors constituting genuine indicators of pending trouble, he quotes Andy Brown's *Warnings Unheeded* and *Left of Bang* by Patrick Van Horne and Jason A. Riley, both books reviewed in this journal in years past.

In addition, Burrese quotes Israeli security expert Garret Machine, who identifies behaviors and factors intended victims may observe before a mass killing attack. These include inappropriate clothing for the season or venue, nervous fidgeting and pacing, profuse sweating despite a comfortable temperature, refusing to make eye contact, checking a watch or cell phone frequently, appearing to be dazed or in a trance, carrying inappropriate items like a "suitcase at a park, a large electronic device in a movie theater, or a child's backpack on an adult who is unaccompanied by a child."

This segment of the book contains numerous lists of indicators, which is frankly too much information to put to use, were it not for the author's quote from *Left of Bang's* Combat Rule of Three: "When you observe three anomalies or indicators, you must make a decision. Do not wait for more information."

*Survive a Shooting* next addresses physiological and psychological detriments that impede productive

[Continued next page]

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responses during an attack. Seeing the threat, orienting oneself in relationship to it and deciding what to do takes time. Training and experience reduce delays before making and acting on a decision, Burrese explains. Delays are caused by disbelief that an attack is happening, and even once acknowledged it takes time to determine how many attackers are present, where they are and whether they are standing still or moving, their appearance, weapons, and where and how many victims are present. The killer executes the same "decision making cycle," he notes, but it is shorter, because the attacker has already decided to kill people and sometimes has preselected specific people. Derail or delay this advantage by a distractionary counter attack, he teaches.

Burrese quotes General Patton's admonition to his troops, "Instead of waiting to see what might develop, attack constantly, vigorously, and viciously. If you're standing around trying to figure out what is happening or what the enemy is up to, you are making one hell of a good target out of yourself and your men. Never let up. Never stop. Always attack. When the enemy is defending himself against your assault, he doesn't have the time to plan an offensive against you," likewise the shooting survivor must move and seize the initiative.

Stress reactions impede quick responses, Burrese continues, explaining the relationship between denial, surprise, and stress to life threatening danger. In addition to diminished fine motor control, hearing and vision changes, temporary paralysis is frequently linked to high heart rates occurring under stress. "When the adrenaline rush hits, and the first thing that happens to people is their breathing gets very constricted, causing their brain and body to go into adrenal activation. [Bill Kipp] says that those that can breathe well in this state will be able to continue to control the adrenaline and can actually bring the neocortex back online. Those that do not will experience the amygdala hijack and lose control, which at the far of the spectrum is 'freeze.'" He closes this segment with instruction on four-count combat breathing, determination to survive, specific techniques for awareness not only of threats, but of entrances and exits, cover and concealment and potential weapons. "You should be very hard to surprise," he concludes.

After a lengthy review of various mass shooter response plans, Burrese exclaims that "hiding and hoping is not a plan for survival," so introduces his prioritization of escape, deny, attack back—all focused on the urgency to get moving. "The worst thing you can do in an active

shooter situation is to stand or sit there and do nothing. Movement saves lives. Freezing in confusion, fear, and shock is a likely response, especially with people that don't have a plan and have no training," he teaches.

He details improvised weapons, barriers to deny access, groups of intended victims swarming the attacker, and more than anything else, acting without hesitation. "Speed comes from having a plan and knowing simple go-to defensive moves that you can default to under stress and the adrenaline dump. It also comes from being fully committed, without hesitation, once you've determined attacking back is the course of action to save you and others," he teaches.

Additional topics include countering multiple attackers, self-rendered first aid and assistance to gunshot victims, edged weapon attacks, interacting with responding law enforcement, establishing survival plans and practicing them, and a lot more.

In *Survive a Shooting* Alain Burrese quotes extensively from dozens of sources. The comparative citations make for slow reading with a lot of repetition. This book is not intended as infotainment, so don't complain if you got it and were not sufficiently entertained. Instead, I suggest you jot down a list of ideas you hadn't fully cemented before that you can use to stay safe if you're swept up in a mass shooting. Here are a few items from my list:

- Hiding's not necessarily a bad thing, if the hiding place protects you. Unlike the space beneath a desk, for example, which has little to argue in its favor, a janitor's closet may have a cast iron sink or large equipment that provides some cover.
- I'd not thought before about combining both spray from a fire extinguisher and using the canister as an impact weapon for head strikes.

I appreciated reminders of principles learned earlier:

- Be wary when leaving a building that is under attack; a secondary kill zone may be set up where escaping occupants gather.
- Be guarded in public venues and position yourself near exits; be alert to out of context and agitated behavior of others in the crowd
- Don't hesitate; seize the initiative. Any action is preferable to inaction—run with purpose toward preselected safe areas, hide if you're protected by barricades or locked doors, fight without hesitation and with full commitment.

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



## Editor's Notebook

### Battling Billionaires

by Gila Hayes

With Levi Strauss Company's latest anti-gun donations, most recently their support of Bloomberg's misnamed

Everytown For Gun Safety, I entertained the odd, passing image of freedom-loving Americans waiting to get dressed until we can find jeans made by manufacturers that respect individual freedom and responsibility. Why would we spend money with companies that support the forces campaigning for laws to strip citizens of effective means of self defense? While it is funny to think about running around in bath towels and jammies while trying to find clothing not made by our enemies, more practically, I suppose most will wear out the old clothes while searching for better choices from manufacturers who are focused on improving what they make, not jockeying for praise from celebrities and politicians.

The rich and famous of today are not satisfied helping sick, hungry, impoverished or homeless people. Going quietly into homeless shelters with donated food and blankets does not satisfy the lust for power, so instead, politicking and scheming to pass laws that supposedly mandate good behavior is the *métier* of billionaires who want to feel good about having "done something." They care not at all about the results of their actions, nor about their ignorance of violent crime and the truth that only equally forceful resistance by the intended victims makes predation untenable for those who use violence to get what they want and destroy lives. Remove viable means of resisting violent crime and what stands between the criminal and his or her goals?

Well, for Gates, Allen, Bloomberg, Soros and all the rest, armed bodyguards provide that barrier. Callous disregard for the safety of the working poor and struggling middle class people who have to either provide for their own defense or haplessly fall victim to predatory and violent crime is hidden behind proclamations that "we have stepped up to stop shootings!" Self-righteous assertions about the dangers of guns all feature some variation on the lying combination of words, "gun violence." When public figures refuse to speak in truthful terms like "vicious criminal" and "murderer" and "rapist" and "armed robber," the façade that they care about the well-being of mainstream Americans vanishes.

Unwillingness to admit that crime is enacted by people who don't hesitate to take life and resources from productive citizens lays bare the lust for power and control driving those who are politicking to make self defense illegal. After all, what element of the citizenry is more easily controlled? The law-abiding guy or gal who works 50 or 60 hours a week to make ends meet or a criminal operating outside of the law? Why not abuse and dominate the easy contingent? Restrict the law abiding and then sit back and feel self-righteous about "making a difference" seems to be enough for the prominent billionaires grabbing the headlines these days.

Their intended victims are you and me. Our retort remains unchanged from the days of the American Revolution:

***Those who desire to give up freedom in order to gain security will not have, nor do they deserve, either one.***

***Ben Franklin***

*[End of October 2018 eJournal.  
Please return for our November 2018 edition.]*



## About the Network's Online Journal

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