Armed Citizens' Legal Defense Network, Inc.

Mistakes Made Defending the Innocent

An Interview with Massad Ayoob

Interview by Gila Hayes

Armed citizens often ask questions about choosing an attorney, but that common inquiry hints at a much deeper underlying issue, a concern that goes far beyond just, "Do I have the name and number of an attorney to call after self defense?"

We watch the news, read articles, and read books about prosecution of people who appear to be entirely innocent. We watch their trials and observe testimony and arguments that make the defendant's future look bleak. We wonder, presuming the necessity of self defense to avoid being killed, "If that was me sitting in the defendant's chair could I have gotten that train wreck of a trial going in the right direction? Could I have guided the defense attorney's strategy or interrupted their approach if I thought the strategy was wrong? Could a different attorney have stopped the criminal justice system from charging, indicting, and trying me after use of force in self defense?" Those are troubling questions because laypersons hesitate to question advice from attorneys.

We turned to Network Advisory Board Member Massad Ayoob, who has worked in the courts for 45 years as an expert witness, a police prosecutor, and continuing legal education instructor. In response to our questions, he provided a high-angle view of what he has seen: what works and what doesn't work when defending innocent people's use of force in self defense. It was an informative conversation, and we switch now to our Q & A format to share it with Network members. For a more informal streaming video version, see https://www.youtube.com/watch?v=ieyK-4dogxU .

eJournal: It is good to be in the studio with you, Massad. I appreciate your willingness to answer my questions.

Ayoob: It is good to be here, and I am always happy to answer your questions.

eJournal: Let's start with a little about your history with the legal defense of self defense.

Ayoob: I have been an arresting officer since 1972. From 1988 until my retirement in 2017, I was certified as a police prosecutor in the New Hampshire system. Police prosecutors are non-attorneys who prosecute misdemeanors and violations, and we could take felonies up to arraignment level and could second chair with the regular prosecutor on felonies if they so desired.

I've been an expert witness for the courts since 1979 on cases involving weapons, and use of force, primarily homicides. Most of the cases that I do are self defense.

eJournal: How much of your time is split between cases in which private citizens used force in self defense and how much involves police?

Ayoob: I'm about equal between OIS – officer involved shootings – and private citizen self-defense shootings.

eJournal: That's interesting, because I think our members, viewers and readers are mostly private citizens, and yet, police-involved cases suggest ways to defend use of force and attorneys can be urged to borrow successful strategies. We want to learn from your insights into how early in the legal process we could detect and reorient if we see our defense going off the rails.

Ayoob: To stay on the rails you want to make sure you're on the right train. Now, most of the time the system works. Most of the time, innocent people are recognized as innocent, the justified shooting is recognized as justified, and the cases we read about and the ones we train for are the exceptions to the norm.

Still, it would be a real good idea before you're ever involved in a shooting, to find out what attorney in your area specializes in or is familiar with the self-defense type shooting. The best thing to do is look around and see what attorney the local police and sheriff's department keeps on retainer to defend one of their officers if they're criminally charged in the wake of a shooting.

Now, certainly police and civilian will have different dynamics, but in the end, the self-defense shooting is a self-defense shooting. An attorney who's done a lot of police cases understands the dynamics that have to be established and understands the elements of what today we call "force science," the dynamics of violent encounters, which are not taught in law school. They're learned in court, and they're learned in CLE – continuing legal education for practicing attorneys.

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If you can find that attorney, it's not going to matter much whether you are carrying on a piece of tin called a shield or a piece of celluloid called a carry permit. What's going to matter is –

- Was there genuine danger?
- Would a reasonable, prudent person in your position have recognized it as mortal danger and would they have acted as you did?
- Were your actions within what the courts call the mainstream of custom and practice for dealing with that particular type of crisis? Ideally, your actions will show– to use latest buzzword – that you acted to best practices.

Now, an attorney who's defended a whole lot of cops who shot criminals in self defense pretty much knows the dynamics that have to be established for a jury when a private citizen has shot that self-same violent criminal in self defense. In the big cities there have been so many unmeritorious lawsuits and criminal charges against police that there are whole law firms that do nothing but sue police departments.

On the defense side there are whole firms that do nothing but defend police in these cases. One is Porter Scott in Sacramento, CA (https://www.porterscott.com/practice/public-entities/) and Manning, Marder and Wolfe in Los Angeles used to be another. Even if the attorney that represents your cops defends only police, he or she will know who can take a private citizen client, so the first step is to get someone who knows how to do this type of case.

Don't make the mistake of looking for the most famous criminal defense lawyer. They probably got famous by pulling rabbits out of hats and finding some sort of reasonable doubt to acquit obviously guilty people.

What we're looking at here is what's called an affirmative defense. We're stipulating, "Yes, we shot him," but we're maintaining that doing so was absolutely right. This requires a strategy that's almost 180-degrees reversed from mitigating the guilt of the typical guilty client who is the bread and butter of the typical criminal defense law firm.

For example, the defense lawyer with a client he knows is "good for it," or is guilty of some lesser offense, doesn't want to put him on the stand. What can he possibly say that's not going to either dig him in deeper or commit perjury, which is another felony by itself. If he perjures himself on that witness stand, there's a distinct possibility that attorney would be looking at charges of subornation of perjury – that is, having advised or exhorted someone to lie under oath. That's a felony in and of itself in my state and could cause them to lose their bar ticket in any state, so the default becomes, "I don't put my clients on the stand."

If I had shot someone in self defense and the attorney I was interviewing said, "Don't worry about testifying. I never put my clients on the stand," I'd say, "Thank you. How much do I owe you for your time? Goodbye," because he's just told me he's got no clue how to do an affirmative defense. It's not a "who done it." We stipulate, "You done it. You shot him." We're stipulating to that. It's now a "why did he or she do it?" and, if you think about it, who besides the defendant can truly, fully answer that question?

The courts demand reasonableness, both objective and subjective. Objective is the standard guideline of the reasonable person doctrine – the three-prong test of what the reasonable, prudent person would have done in exactly the same situation, knowing what the defendant knew at the time. Subjective reasonableness is, did this defendant truly believe that they were in deadly danger? Without the defendant testifying, it's kind of hard to establish that.

Now we've had a few cases where we couldn't put the witness on the stand. We had one in the Miami area. The defendant's cardiologist told the defense attorney, "Look, Will's condition is so precarious if you put him on the stand, you may win your trial, but you're going to lose your client. His heart will not withstand that degree of stress."

We had enough circumstantial evidence that we were able to kill the case without going to trial. He is still alive, which he wouldn't have been if he hadn't pulled the trigger, and he now has concealed carry permit.

We've had more than one where a battered woman had killed the abuser. The battered woman's syndrome is properly called learned helplessness. They have learned to survive by telling a brutal alpha male whatever he wants to hear. If we put her on the witness stand to be cross-examined by an aggressive alpha male it would be like feeding an antelope to a lion. In cases like that, we have been able, with enough other fact evidence, circumstantial evidence, and forensic evidence, to still win the case but it's much more of an uphill fight if the jury can't hear the defendant's answer to the question, "Why did you pull that trigger and end that man's life?"

eJournal: There's an expectation in the jury's mind that the defendant will explain.

Ayoob: There is, and if they don't, the judge will instruct the jury to make no inference from the fact that they're not testifying, but the judge's instruction cannot overpower human nature. The human being consciously or subconsciously feels that silence. The accusation that's unanswered is seen as an admission of guilt and it creates a more uphill fight for the defense.

eJournal: This is a hard balancing act for the person who has never been taken to court and hires an experienced attorney because he or she is way out of their depth. That's why we turned to the attorney who presumably spends her or his life in the courtroom. We defer to their experience; we hope to benefit

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from their experience. If the lawyer tells defendant, "I don't think you should testify," how big of a red flag is that? Should we walk out immediately?

Ayoob: If I know I've done the right thing, and if they tell me, "I'm not putting you on the stand," I hear them telling me, "I think you're so weak and stupid that you could be led wherever a cross-examiner wants to lead you," or I hear, "I think you're guilty," or I hear, "I think you're some crazy gun nut and if I put you on that witness stand, you're going to turn into a werewolf in front of the jury." I'd rather not put my life in the hands of someone who doesn't respect me.

I've met a great many defense lawyers over the years with all the cases, and with the two years I spent as co-vice chair of the forensic evidence committee of the National Association of Criminal Defense Lawyers. They tend to skew very much toward the blue side of the political spectrum. In a time of political identity, if the gun issue comes up, even if they've never thought much about it, people who perceive themselves as progressive, think, "I'm a progressive, therefore let me check, yep, I'm anti-gun." It's the pigeonhole mentality of political identity.

A whole lot of them find a gun person as repugnant as if the judge had assigned them to defend a child pornographer. That makes things difficult because an attorney cannot hide from the jury the fact that they don't respect their own client. It also makes them reluctant to handle the evidence. Again, the analogy: imagine you had to handle the evidence in a child porn case. The attorney in a self-defense case is going to have to understand how guns work, how weapons work, and how self-defense works or they're not going to be able to educate the jury.

It would be nice if beforehand you could find the attorney who represents the cops. Buy an hour of their time and ask them questions like, "What is – the common term for it is 'the mood of the courts' – in your particular area towards self-defense shootings?" Now, I just came here from Alaska where they appoint the judges and I frankly think that's a pretty good idea. In most of the lower 48 states, judges are elected, and they become sensitive to political issues.

Often the mood of the courts means the mood of the current prosecutor. Prosecutors are elected and I'd kind of like to know whether the prosecutor in my community is the kind of guy that Friends of NRA invites to give the keynote speech at their annual meeting, or if he got $500,000 for his campaign from George Soros, because that prosecutor is going to need someone he can make an example out of to prove to the benefactor that it was a worthy investment. "Keep that in mind, Mr. Soros, when I run again in two years."

Knowing those things is useful and those are things that your attorney can tell you. If I had an attorney who said, "No, I don't talk to the clients before – wait till you commit a crime," I think, "Okay, you're not willing to advise me about things that might keep me out of trouble beforehand. Tell me again why I should be giving you money and why you should be representing me."

eJournal: That's a tough decision for the average armed citizen who has far less experience than you do. Backspacing a bit, you mentioned needing to explain to juries how guns work or the dynamics of violence. Aren't we wandering into the domain of the expert? The attorney may not know everything, but will they hunt down an expert who does? As a client, maybe I need also to gauge the attorney's willingness to turn to an expert witness and be attentive to what the expert tells them.

Ayoob: If I was paying an attorney, I'd want one that I was paying by the hour. When they give you a flat fee and you need expert testimony, that expert testimony is coming out of their flat fee. It's coming out of their pocket and X number for that reason alone won't bring in experts when you desperately need one – whether it's an expert in dynamics of violent encounters or a forensic pathologist to explain, "No, that gunshot didn't enter in the back and exit the front. That entered the front and exited the back."

eJournal: Supposing that we were already post-incident and the attorney representing us said, "I don't think I need an expert on this," is that a red flag that gets us headed to the door?

Ayoob: Well, there might be cases where they don't need an expert. You would need one if it was disputed whether the bullet had entered front to back, for example, or if the guy has been shot multiple times. The attorney, like the jury pool, grows up getting most of their knowledge about guns, gunfighting and self defense from TV and movies. In the old noir movies or the old cowboy movies, one shot would be fired. There wouldn't be a drop of blood, but after the one shot someone would go "Oof" and swoon to the ground. By the '60s we had the Sam Peckinpah movies and the Dirty Harry movies, and with one shot from the gun, hamburger flies out of the body and the guy goes flying through a plate glass window.

If you shot him seven or eight times people will say, "Malice, malice! Murder, murder!" and your defense attorney may genuinely believe it. Experts in homicide investigation, scene reconstruction, experts in dynamics of violent encounters – what we today call force science – would be able to testify that it's not at all uncommon for a man in a rage or under the influence of certain drugs to take bullet after bullet after bullet before they finally stop trying to hurt decent people. In a case like that, you definitely need expert testimony.

Maybe while you went bang, bang, bang, he spun away and then you stopped shooting. The pathology report comes back and says he was shot once here, once here and once here *[points first to chest, then to side and back].* You're going to

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need someone to explain the intersection of the time-space continuum and the dynamics of the violent encounter – that you're firing at a rate of four or five shots per second, as fast as you can to save your life. He can turn in a quarter of a second. As his lateral midline passed your line of trajectory, you didn't realize it because by the time you saw that he had turned and you stopped shooting, the gun had already gone off one or two more times. No jury is going to figure that out by themselves. Someone has to explain it and they don't teach that in law school. You may have to be the one to explain to your attorney why you need experts.

One of the big things I find the lawyers missing is constantly reminding the jury of the speed at which the actual incident occurred. Perhaps the decision to fire took a single second, but from the first telling, it takes longer to describe it then it took for it to happen. The curse is that the shooting itself is over in seconds, but days have gone by in the courtroom in which that single second was under discussion. It creates the false illusion in everyone's subconscious that it happened in slow motion like a Sam Peckinpah movie, and you had all kinds of time to think of something else to do or perhaps talk to him and try to de-escalate – de-escalation being the art of trying to be reasonable with the unreasonable.

One of the things we need to do more than many defense attorneys do is constantly bring the jury back to the unforgiving speed at which those things happen. You can do that with expert testimony.

In line with that, everyone is focusing on what you did: you fired that gun. You fired these bullets into this man's body, the jury has seen the autopsy pictures – usually carefully arranged so the prison tattoos aren't visible. It's all about what you did to him.

eJournal: You even admitted that you shot him.

Ayoob: Yeah, and they hear that as a confession to murder. A whole lot of people out there think homicide and murder are two words for the same thing. In the opening statement they've heard your attorney say, "My client shot him." Yes, they hear that as a confession to murder. We have to explain that to them. I want to convince them that if Mother Teresa had been there, she would have picked up a gun and shot this SOB.

You need an expert if they say it was unfair that you shot him because he only had a knife. I've heard that so many times I want to throw up. We need to be able to explain that a knife never runs out of ammunition, never jams, comes with a built-in silencer, and you can run it almost as fast as a Singer sewing machine.

The public has a misconception that I call the myth of the hierarchy of lethality. They think that the gun is up here *[gestures above his head].* It's the deadliest of all handheld weapons. It's so deadly President Biden wants to ban it. While we consciously know you can use a knife to stab somebody, subconsciously we think, "Look, I cut my steak every night with a knife; I open my mail with one every morning," and we don't see it as a weapon. We need to show how dangerous it is.

Every time someone tries to crush a policeman to death with their automobile and a cop shoots, invariably the next day the newspaper headline is "Unarmed Motorist Gunned Down by Police." I tell departments to have the medical examiner come in to show their officers what it looks like when a human being is hit by an automobile.

Being strained through the grill is not a figure of speech. We find human flesh, body parts inside the grill, inside the engine compartment, up under the fender where they were spun by the wheel and flesh was torn off the body. When the public says, "Oh my God, look at the horrible, mangling injury that the police did to this unarmed man," we need to explain, "Look, if that cop was carrying a .357 Magnum that fires a 125-grain bullet at 1450 feet per second, that's 583 foot-pounds of energy. An automobile at 50 miles an hour is exerting half a million foot pounds of energy."

I tell departments to have their trained accident reconstructionist use exactly the same formula we use to determine energy for pistol or rifle bullets. Get the gross weight of the vehicle plus the weight of any people on board. The accident reconstructionist can determine the speed at which it was going, and you'll find out that the so-called unarmed motorist who tried to crush an officer to death was exerting more destructive foot pounds of energy than would have been exerted if the officer had fired every round of ammunition on his belt. Usually, we can show if every officer in the precinct had emptied their gun and fired every round of ammo on their belts, it still would not have equaled the destructive energy that was being directed against that officer.

eJournal: How is describing the potential damage to that officer not disallowed in court as mere supposition, just a fictitious possibility you imagined?

Ayoob: It's not supposition. The question has to be framed. The question should not be asked on direct examination by your attorney as, "What would have happened?" It should be, "What could have happened?"

eJournal: Are you allowed to speak to could have happened?

Ayoob: Oh, absolutely, absolutely.

eJournal: The finesse to elicit testimony about "what could have happened" suggests a skilled and experienced attorney. I am drawn back to one of our earlier questions: shall I hire a famous lawyer who has tried 50 murder cases, even though I've read the news and I know his clients aren't innocent, decent citizens…

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Ayoob: I'd rather have a lawyer who had 10 self-defense trials than 50 murder trials. I want someone who knows how to defend an innocent person. A lawyer who knows very well that his client is guilty of the crime accused or of some lesser included offense will use a strategy to mitigate guilt. That becomes their default. Even if they defend an innocent person, they'll default to the same guilt-mitigation strategies they'd use for a guilty client. If a guilty man's lawyer gives you a guilty man's defense, you are going to end up with a guilty man's verdict.

eJournal: You've stressed presenting an affirmative defense; to show what you've taught us for years as the "active dynamic," focusing attention on what actions led to the need to shoot – the "why" of the situation. What else does the attorney need to emphasize?

Ayoob: Again, we need to be constantly reminding the jury of the speed of self defense. We need to constantly remind the jury that when they're deliberating, every minute they think about it is 60 times longer than the one second the defendant had. That's got to be taken into consideration. The United States Supreme Court has said so in *Graham v. Connor,* the guiding light for police use of force. The court spoke of the tense, rapidly evolving circumstances that the officer faced in such situations and instructed that must be taken into account. The court also expressly said that 20-20 hindsight could not be applied to exigent circumstances such as these. Defense attorneys need to emphasize that more.

eJournal: Do you remember what Pennsylvania attorney Chris Ferro said about his defense of Spencer Newcomer? He related how he flashed a picture on a movie screen in the court room just for the same length of time that Spencer had – no longer than a moment! – to determine whether what was coming out of Wintermyer's pocket was a gun or, as it turned out to be, a phone. As you said, it happened terribly fast, and the jury in that courtroom experienced its brevity. (See https://armedcitizensnetwork.org/the-anatomy-of-a-self-defense-shooting-pt-3)

Ayoob: That was brilliant.

eJournal: I remember Ferro saying it was risky, but he believed it was a risk they had to take. I don't think he was wholly confident how it would work. It succeeded, as you said, brilliantly.

Ayoob: Newcomer was acquitted. Marty Hayes did a great job as the expert witness in that case.

eJournal: Thank you. Mostly, we're pleased Spencer is not in prison. He suffered a lot. The story, though, describes the courage a defense attorney needs and how the attorney must show the speed at which an incident happens.

Ayoob: The attorney is reconstructing and letting the jury understand the terrible danger that the client faced.

eJournal: Earlier, you identified an essential element – the defendant's testimony. You mentioned answering the jury's question of "Why?" Through our discussion of trial strategies another question keeps coming to mind. What could be done by a skilled, courageous attorney to prevent having to go to trial at all?

Ayoob: The dirty little secret is how often, when properly handled, cases are killed before going to trial. Again, it's a part of the dichotomy of guilt mitigation versus defending the truly innocent person. So many defense lawyers will say, "Don't give the other side any more than we have to." They play "hide the ball." I keep hearing the phrase, "Save your best moves for the dance." That's all well and good, except if the truth is on our side, we let the other side know it upfront.

It's highly unusual for a defense lawyer to call the prosecutor and say, "Hey, my client wants to talk to you." They generally do a double take. After the client has calmed down and you figure out what the heck has happened, we recommend the client, with the defense attorney, of course, speak with the prosecutor and their investigators. Record the whole thing – sound and video. I say video because sometimes our communication is more visual than audible. If you said something sarcastic, the video capturing the facial expression lets people know it was sarcasm. Just the words could be misinterpreted.

We have found that very often the other side will say, "Okay, we had not seen it from that perspective; we had not known about that element. Thank you for coming in," and sometime between the next day and a couple of weeks later, the case goes away. In 45 years as an expert witness, I have twice had periods of two years where I didn't have to set foot in a courtroom because each time it was killed pre-trial.

eJournal: But you still had an ample case load, they just didn't go to trial.

Ayoob: Yes, and that, of course, saves a great deal of grief, a great deal of angst and a great deal of expense. If you know you've done the right thing, you think the evidence is going to show you did the right thing, and your attorney doesn't want to sit down and talk to the prosecutor, I'm not going to accuse anybody of bad motives, but bear in mind if you kill the case before trial, the attorney doesn't get to charge you $100,000 for the trial.

eJournal: Expense is a less pressing concern for Network members, where the members know of our history of paying what it takes to defend innocent members, but I think we would be cruel not to consider the defendant's own well-being and that of their spouses and families. If they have children or elderly parents, what are those vulnerable people going to be put through? How will their community treat them if their dad, mom, son, or daughter shot someone in self defense?

Ayoob: In the course of these cases, we generally meet not only the client but often their family. The agony they're going through, wondering whether they're going to see their son the next time on visiting day instead of at home is heartbreaking.

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The sooner you can get the truth across, the sooner you can kill the case. Look at defensive gun usages themselves. The vast majority of them end when the good guy or gal presents the gun. The bad guy realizes, "I've bitten off more than I can chew, and I can die from this!" and they run away.

A whole lot of the same principle applies here. If, instead of pulling a gun on your attacker, you pull a large caliber attorney on your accuser and let them realize, "Here is what we've got. It's the truth. It's not going to change; that is why I can share it with you now. That's why I want you to know it now. If this goes to trial, you are going to lose."

You don't put it that way; you let them come to that conclusion. In a prosecutor's office, losing a case is an absolute humiliation. In a civil lawsuit, you show whichever young associate attorney is running the case, "We are going to win," then he has to go back and tell the senior partners, whom he hopes to one day to join in the partnership, "We are going to end up spending six figures of your money on prostitute experts to say what we want said and the other side is going to destroy us anyway. We're going to lose. Abort the mission; cut the losses." They generally fold their tents and go away or offer a settlement so low that it's cheaper than going to trial and it makes sense to settle.

eJournal: There's another element the family faces: the neighborhood judging them harshly. Nearly a decade ago, we saw an attorney give a masterful press briefing in a member-involved case. It was so very impressive, I've never forgotten. Some attorneys are willing to inform the public through the news media; others are not. It is common for lawyers to refuse to speak to reporters on behalf of their clients. What do you think about news briefings given by attorneys on behalf of innocent clients who are accused? Is it okay? Is it advisable?

Ayoob: This is another classic example. All attorneys are taught in law school the same thing that all cops are taught in the police academy: we don't discuss our cases in the press. It will all come out in court, they say. That is in the nature of a treaty. It's understood that neither side will discuss the case unless the other side starts a war in the press. This paradigm has been changing for more than a decade now.

The classic example is the Zimmerman case from February 2012. The incident occurred in Sanford, FL. The family of the young man who was killed, Trayvon Martin, knew he had been getting into trouble. That's why he was hundreds of miles north of his home with his mom. Now he lived with his divorced dad. It was like tough love, you know, "I can't do anything with the kid; maybe you can." I don't think even they realized how much crime Trayvon Martin had been getting into until the prosecution finally cracked his iPhone. All they knew was their unarmed 17-year-old son was dead.

They hired an attorney named Benjamin Crump, who describes himself as a civil rights lawyer. He, in turn, hired Ryan Julison, who's website says he's available for litigation support. This takes the form of demonizing whomever it is you want to get money from. He was the one who took the picture of Trayvon Martin at the age of 12 and juxtaposed it with the ugliest picture he could find of Zimmerman. He created the whole trope of the innocent child skipping down the street with the box of Skittles when the evil racist guns him down to satisfy his blood lust.

Zimmerman was 27-year-old kid who had never been in trouble for anything before. He was the duly elected captain of neighborhood watch. He couldn't afford an attorney and with no one to answer that charge, he kind of fibrillated for a while. We've discussed earlier how the false allegation that goes unanswered is seen as true.

eJournal: If you don't dispute the lie…

Ayoob: … "it must be true." Zimmerman won – the evidence clearly showed he was being violently attacked by Trayvon Martin, it was self defense and the jury appropriately acquitted – but he is still considered one of the most hated men in America. He literally had to change his name and lives in hiding.

I describe this mistake as only addressing the first jury (the criminal element of the case) and the second jury (the civil element of the case) but forgetting the third jury – the court of public opinion. That is the world in which this person and their family is going to have to live after you've won the trial, after you've won the acquittal, after you've won the lawsuit. If you end up like Zimmerman, having to live in hiding for the rest of your life, it's a pretty hollow victory. Attacked, you need to respond. When the other side breaks the treaty, the treaty no longer binds you. When that's happening, I want an attorney who's going to have the guts to call a press conference and stand in front of the camera. Don't be the first to do it, but if the other side falsely accuses, then do it and say, "Here's the truth. Here's what happened." The case you just mentioned in which an attorney spoke to the press on behalf of a member was John Daub's case.

eJournal: He's written publicly about his case, and he talked about his post-incident experience for this journal in the latter half of https://armedcitizensnetwork.org/network-track-record .

Ayoob: John Daub was the victim of a violent home invasion early in the morning with his wife and his kids at home. He wound up having to shoot the man who had broken in. It was a cross-racial shooting. The man he had to kill was mentally ill and would have been the perfect picture of the sympathetic decedent.

Normally, the reaction would be, "Oh my God, you gunned down blah blah blah …" without taking into account disparity of force, the violence with which that man had broken into John's home, the fact that John had to protect his children, et cetera. John called the Network and the Network brought in attorney

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Gene Anthes https://gbafirm.com/attorneys/gene-anthes/. Gene Anthes did a press conference on the lawn in front of the shooting scene, so the public got both sides from the beginning.

With any controversial shooting, if you look at the newspapers from the old days, letters to the editor from crackpots or letters saying crazy stuff were just thrown out by the editor. Public comments now are mostly unmonitored and the electronic comments in most newspapers, include things like, "This is why nobody should have guns, blah blah blah … This crazy person killed a poor innocent blah blah blah."

Now, go back and look at the commentary about the Daub case. There are always some that come out of the woodwork, so there were some people saying, "There's no such thing as a justifiable homicide," but the majority of the comments I saw were, "Thank God he had a gun. How awful that poor man had to do that to save his family." Do we see a small, subtle difference here? Yeah, we do.

Today, John Daub and his family live normal, happy lives.

I want an attorney who's got the guts that Gene Anthes has, to stand up and address that third court – the court of public opinion. That is what I believe now has to become the paradigm.

eJournal: The alternatives are the press knocking on a locked door and no one answering, so the reporters say, "We reached out, but no one would give us any answers," or some poor, frazzled-looking homeowner coming to the door and saying, "I can't talk to you." Either way, it looks like you're hiding, and the absence of facts fuels speculation and the accusations get wilder and wilder.

Ayoob: It needs to be the attorney speaking to the press, but you need an attorney that will do it.

eJournal: Yes, well put. There are a lot of facets to this subject. What do we need to add that we haven't covered?

Ayoob: Have support. These things get very expensive. Zimmerman's expenses went way over a million and I took a lecture from Rittenhouse's two attorneys and they both said the case went over a million, paid through donations because he wasn't a Network member. God bless everyone for giving, but that is what the Network is for. The Network literally founded the industry of post-self-defense support. It is the one I belong to, and I personally think it is the best.

eJournal: Thank you for saying that. The Network values the attorneys we work with, and the problems we have talked about today have been notably absent in the 34 member-involved cases we've had since we opened in 2008. Still, we reach many readers and viewers outside the Network and our members are never restricted to Network affiliated attorneys, so we needed to hash out this subject. I appreciate the way you handled it – not calling out lawyers in defenses you've seen fail, but focusing on what is important, and what has worked so very, very well, like the example you gave of what Gene Anthes did for John Daub.

Ultimately, each individual must be their own best advocate. Hiring a lawyer to defend you is much like going to a physician who tells you that you need surgery. You're skeptical. What do you do? You get a second opinion from another doctor. I fear we fail to take such a proactive approach when facing the criminal justice system. It's uncomfortable! The closest most come to a courtroom is the clerk's office when we pay traffic tickets. If that's our only exposure to the courts, of course we're reticent to challenge the strategy of a professional who seems to know his or her way around.

Ayoob: You need to remember that the attorney works for you. At the same time, all of you that are watching this are alpha males or alpha females. You're used to being the one who protects others; you're used to being the shot caller. You're used to making the decisions.

Once the trial is going, understand you are not the player anymore. You're the stakes. The attorney is the player. You want the best damn player of this game that can be found and that is not necessarily the most famous criminal defense lawyer. It is going to be the best, most experienced affirmative defense lawyer who can get the truth across to the jury.

eJournal: Excellent summation. Thank you for sharing your experiences and knowledge with us.

Network Advisory Board member Massad Ayoob is author of Deadly Force: Understanding Your Right to Self Defense which is distributed in our new member education package that's sent to all new Network members. He has additionally authored several dozen books and hundreds of articles on firearms, self defense and related topics. Since 1979, he has received judicial recognition as an expert witness for the courts in weapons and shooting cases, and was a fully sworn and empowered, part-time police officer for over forty years at ranks from patrolman through captain. He serves as president of the Second Amendment Foundation. Ayoob founded the Lethal Force Institute in 1981 and now teaches through Massad Ayoob Group of which he is the director. Learn more at https://massadayoobgroup.com or read his blog at https://backwoodshome.com/blogs/MassadAyoob/.

President's Message

by Marty Hayes, J.D.

In my column last month, I explained why we forego the concept of a written contract, instead settling for an informal but none-the-less binding contract, consisting of what our website promises to prospective members. That format has worked well for us, having been in business since 2008, during which time we have never been sued for breach of contract, nor even had a complaint lodged against us on Yelp or the BBB. I explained that if my word is not good enough assurance of what we promise to do for you, then please seek out an alternative for your post self-defense legal needs. If you missed last month, it might help give context to what I want to express this month to read it first. It is at https://armedcitizens-network.org/july-2024-presidents-message .

This month, I want to explain the process we use to decide if a case is a legitimate case of self defense, so our members can use this information to decide about renewing and to help prospective members decide about joining our Network.

Each member receives a membership card, with the number of my personal cell phone on it. We call that our *Boots on the Ground* phone because if you do not have an attorney to call after using force in self defense, and if we cannot find an available attorney to immediately assist you, then I will head to the airport with a check in hand, and fly to your location, rent a car and start working on your legal representation (putting boots on the ground). Amazingly, I have never had to do this, as our network of attorneys, instructors and friends have always obtained representation for the member within 24 hours. More importantly, that representation is provided by a lawyer who is admitted to practice in your local court, not simply a voice on the other end of the phone line.

So, what are the gritty details of this form of assistance?

In 15 years, we have received 44 calls requesting assistance and a number of other calls where an attorney's services were not needed. Of those 44 calls asking us to pay for an attorney, we have assisted, by granting money for lawyer's fees, in 34 cases. Before going over those cases, let me discuss the smaller number, the cases we declined to assist.

The weirdest one was one guy who got drunk and poured gasoline down the sewer cover in the street, then lit it on fire! Not self defense. Another was the guy who spent the night with a new girl, and the next morning, they had an argument. In this argument, she accessed a gun and pointed it at him. He escaped and fled. He wanted help to contact the police or sue her, I couldn't determine which. In any event, his request for assistance was declined.

We had the case where a member was split up with his wife, and he went to pick up the kids for visitation. I guess she forgot he was coming over that morning, and she was in bed with her new boyfriend. When our guy saw the boyfriend's car in the driveway, he went ahead and entered the house (without permission) and confronted the couple in bed at gunpoint. While I can emotionally understand his angst, this was certainly not a case of self defense, and so his request for legal assistance was declined.

Another member's girlfriend got his gun and threatened to commit suicide with it. While we felt bad for him, the Legal Defense Fund is reserved for acts of self defense. Our member understood, and later made a voluntary donation to the Fund.

There was the time when a member had his gun stolen by a friend. The thief used that gun to murder his girlfriend and then kill himself. Our member, from whom the gun had been stolen, wanted our help in getting his gun back. Ahhh, no.

Likewise, if you leave your gun on the tank of a public toilet, don't call us when the police come, investigate and take the gun. This has happened several times. We cannot help.

In one case, a member was arrested after an incident of domestic violence, and was forced to leave his house. After discussion, he kept his legal representation with the public defender, as the details of the case did not add up to an act of self defense and we could not help him.

Then there was the guy who found a dog in his back yard. He went into his house, got his gun and went back outside to the back yard and fired a warning shot. That was not self defense.

The above vignettes are the kinds of funding requests which, while they might require legal assistance, we had to deny because the incidents did not remotely involve legitimate self defense.

Just because someone is a member of Armed Citizens' Legal Defense Network, membership doesn't give them the right to assistance from the Legal Defense Fund when they do something stupid or criminal with a gun.

This brings us to the next concern. How do we know it was a legitimate act of self defense? First off, we will make the as-

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sumption that it was legitimate if you say it was. If you call and say you were acting in self defense, but it turns out it was not self defense (you lied to us) then we will cut off the funding. This happened many years ago in our fourth case, where a young lady had taken a gun over to an ex-boyfriend's apartment, and during that interaction, she ended up pointing the gun at the former boyfriend and his new girlfriend.

We were originally notified about the case by the girl's mother, who called in a panic and told us her daughter had been in an altercation, pulled a gun to stop the fight, and was arrested. That is all the information the mother knew, so we took it at face value, and since they had not secured an attorney ahead of time, we contacted a well-respected criminal defense attorney who was familiar with self defense. He quoted $10,000 for a retainer in the case, and we sent him a check.

A week or two later, I called him and asked about the details of the case, and he told me the above story. He also volunteered the fact that it was not a case of self defense, so I told him to use the $10k to get her the best resolution he could. That is the only time we stopped funding before adjudication of the case, and the attorney was good with that.

In three cases, we paid for a member to consult with an attorney before going before a grand jury. All three cases ended up in a "no true bill" finding. That was money well spent.

We have had seven incidents of justifiable homicide defenses, and one armed robbery defense. In all the cases, either no charges were filed, or if charges were filed, they were dropped before trial.

In fact, we have had no members go to trial! In our 15 years, no Network member has ever gone to court! There are companies who use the acquittal of a member on murder charges as a marketing ploy. That seems a little sketchy to me, especially considering the statute of limitations for a civil case has not run out yet. That is why you didn't hear of all our successes, despite members wanting to talk about it with us for an article in the *eJournal.*

Unfortunately, not all cases have ended without convictions. We have had seven members who have taken plea bargains in cases where charges were dramatically reduced, so much reduced that the members retained their gun rights. There have been no felony convictions, and frankly, in the plea-bargained cases the members knew they'd pretty much screwed up, and they were glad to take the plea bargain.

Lastly, we take several calls a year where the member was simply calling to inform us of an incident, but was not requesting assistance. In fact, one happened yesterday. A professional truck driver was involved in an incident with another truck driver, and the member threatened to pepper spray him. Our member called the police, and by the time the police arrived, the other party had left the scene. I said "good job" and reaffirmed our member's cool actions under stress. I would rather take this type of call than not, because the call helps make sure our members are all okay.

We have ***never*** turned down a request for assistance where there was a plausible claim for self defense. That is the bottom line, and you can see why we take exception to people claiming that we might not help them after a case of self defense. I am looking forward to writing about more enjoyable topics in the coming newsletters.

Attorney Question of the Month

Network Affiliated Attorney Steven M. Harris (Florida) brought to our attention a recent Florida appellate decision granting pretrial self-defense immunity, *Smith v. State,* available here: https://1dca.flcourts.gov/content/download/2436123/opinion/Opinion_2022-3034.pdf

From the facts of *Smith,* Attorney Harris asked his fellow Network Affiliated Attorneys to explore the following questions. The responses were numerous and we believe members will share our interest in the discussion that follows.

For a law enforcement officer or nonsworn, is there any caselaw or jury instruction (Federal or your state) which recognizes the unique and deadly nature of the threat presented by an attempted firearm disarm? Is there an independent statutory basis to independently assert deadly force justification? For example, that the disarm is the attempted commission of a robbery (unlawful taking of the firearm by force).

What arguments would you present in defense of an LEO or armed citizen who used deadly force to prevent being disarmed?

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I would make the following argument:

Like in the Florida case, in PA you have to be able to retreat and not have provoked the situation. In your home, you have the right to defend yourself under the Castle Doctrine so in your home, this right would be inviolate. If [you're] a law enforcement officer, and someone tried to take your weapon, it would be reasonable to presume that the perpetrator was trying to take your weapon and use it against you. If they continued to attack after unsuccessfully trying to take your weapon, you could reasonably believe that the person intended to bring you harm.

On the street, if an armed citizen was being robbed, usually at gunpoint and you pulled a weapon to defend yourself, then you could reasonably assume that the person trying to take the weapon from you, would be attempting to use it against you. If the person or persons, attempting to disarm then tried to run away, and did not also have a weapon, you would not be justified in shooting them. However, if they or an accomplice had a weapon and tried to disarm you, then you could reasonably believe that they were going to harm you and you could defend yourself.

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Maine has no special statute for "disarm" or "attempted disarm" cases. However, the usual "Model Penal Code" justification language in c. 5, sections 107 and 108 produce a similar result. In short, if you reasonably believe deadly force is necessary to prevent being disarmed and shot with your own firearm, you may shoot. NOTE: there is a poorly thought-out statute that attempted to address taser-disarm situations in "criminal use of electronic weapons."

Here is the leading "disarm" case. I handled this case for the officer and the town with the Attorney General's office. https://scholar.google.com/scholar_case?case=9106566457469163133&q=Jackson+b.+Town+of+Waldoboro&hl=en&as_sdt=4,105,119,145

In *Jackson v. Town of Waldoboro,* Gregori Jackson ambushed and attempted to kill Zach Curtis, my client. From the decision:

> "As Officer Curtis reached down, Mr. Jackson jumped him, knocking Officer Curtis onto his back and landing on top of him. At that point, Mr. Jackson was physically dominating Officer Curtis from his position on top. Mr. Jackson began striking Officer Curtis in the head with his fist and elbow. Mr. Jackson also began choking Officer Curtis by placing his forearm across his throat. As they struggled, Officer Curtis felt Mr. Jackson pulling at his handgun in his holster.
>
> "Officer Curtis used his hand to attempt to keep the gun in the holster and away from Mr. Jackson. Mr. Jackson then screamed: 'Give me your gun, give me your fucking gun.' Mr. Jackson also stated that he was not going to jail and that he 'didn't care what it took.' Mr. Jackson repeated these statements five-to-ten times during the struggle with Officer Curtis.
>
> "Officer Curtis believed he was going to lose consciousness from being choked; he also believed that if Mr. Jackson were to gain control of his gun, it would be used against him. At that point, Officer Curtis believed his life was in danger. Mr. Jackson eventually succeeded in pulling Officer Curtis' gun out of its holster and was briefly able to gain control of the gun. Officer Curtis was able to get his gun back, but Mr. Jackson continued to wrestle with him for control of it. As Officer Curtis and Mr. Jackson wrestled on the ground, the slide on his semiautomatic handgun was racked back and forth enough times to eject four unfired rounds out of the gun and onto the ground around them.

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> "Officer Curtis now feared that he was going to be rendered unconscious as a result of the continued blows to his head being delivered by Mr. Jackson; he also knew, based on Jackson's prior statements and actions, that he wanted to gain control of the gun. While Mr. Jackson was still on top of him and continuing to strike him in the head, Officer Curtis believed that he was in imminent danger of losing his own life. As such, Officer Curtis made the decision to use deadly force. As Mr. Jackson and Officer Curtis struggled on the ground, Officer Curtis got control of his gun and pressed it into Mr. Jackson's side and fired. Mr. Jackson did not seem to react. With Mr. Jackson still on top of him, Officer Curtis fired several more shots in rapid succession. Mr. Jackson instantly ceased his attack on Officer Curtis, and Officer Curtis then stopped firing upon realizing that the threat to him had ceased."

Here's what the US District Court decided:

> "Thus, given these extreme circumstances and the clear, imminent threat, the Court concludes a rational jury could, 'without serious question,' find that the force used by Curtis was not 'so disproportionate as to offend the Fourth Amendment.' *Morelli,* 552 F.3d at 23; see also *Estate of Bennett,* 548 F.3d at 175 ('While the result is tragic, we cannot conclude that the officers' actions were so deficient that no reasonable officer in their position would have made the same choices under these circumstances.'). The conclusion that the force exerted by Officer Curtis was reasonable under the circumstances means that Plaintiffs' Section 1983 claim fails due to lack of a constitutional violation. Likewise, a similar analysis of the reasonableness of Curtis' actions by the Court readily yields the conclusion that Curtis also is entitled to qualified immunity for his use of deadly force."

This is not carte blanche for every "gun grab." Where the assailant is a weak, stupid person who has not yet attained control of the gun, and the gun is well holstered on the person of a six-foot defensive tactics instructor, that cop / deputy / trooper would not "reasonably" believe deadly force is needed to break the assailant's fingers, scrub his face on the ground and cuff him for processing. As with many "unarmed" assailant situations, the analysis will depend on the relative size and body habitus of the parties, the degree of surprise to the officer, and how far along in the "disarm" process the offender has gotten in his attempt to get the gun. Michael Sandford's attempted assassination of then-candidate Trump in 2016 was such an event. https://www.cnn.com/2016/06/19/politics/trump-rally-gun-police-officer/index.html

This image clarifies why it was not necessary for the officer to rough up Sandford to thwart his half-witted attempt at political murder. https://i.guim.co.uk/img/media/28dc9beccdeaeae86e-61c84ab4469a91cdb6e45f/0_277_3546_2127/master/3546.jpg?width=465&dpr=1&s=none

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For a law enforcement officer or nonsworn individual, is there any caselaw or jury instruction (Federal or your state) which recognizes the unique and deadly nature of the threat presented by an attempted firearm disarm? Is there an independent statutory basis to independently assert deadly force justification? For example, that the disarm is the attempted commission of a robbery (unlawful taking of the firearm by force).

In Texas, not particularly.

What arguments would you present in defense of an LEO or armed citizen who used deadly force to prevent being disarmed?

The same argument as any other use of deadly force. Texas Penal Code Sec. 9.32(a)(1)(B) permits the use of deadly force to prevent the imminent commission of (among other things) a robbery, or armed robbery as applicable.

Robbery under Tex. Pen. Code Sec. 29.02 means that someone is trying to commit a theft, and at the same time intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

This is subject to a reasonable belief that force is at all immediately necessary under Sec. 9.31 generally. I can't imagine a jury anywhere that wouldn't think deadly force was immediately necessary in that circumstance, especially if you drag a half dozen cops onto the stand and ask each of them how they would react to someone trying to forcibly disarm them. Any of them who didn't agree that deadly force was required would look like lying morons in front of a jury.

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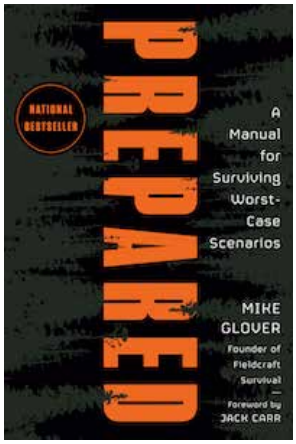
The New York law is set forth in Article 35 of the Penal Law. The basic rule is that one can use deadly physical force in self defense or to defend others. The statute has a number of exceptions to the general rule but none that would allow a police officer or an individual to use deadly force to prevent the use of such force unless it meets the requirements of self defense or the defense of another. The standard of the reasonable man is always involved in the decision.

A big "Thank You!" to our affiliated attorneys for their contributions to this interesting and educational discussion! Please return next month for additional responses to this question.

Book Review

Prepared:

A Manual for Surviving Worst-Case Scenarios



By Mike Glover
256 pages, hardcover, $29; eBook, $7.99
Published by Penguin Random House, June 2023
ISBN 978-0593538142

Reviewed by Gila Hayes

How much good are the latest guns, flashlights and bug out equipment in an emergency? Despite the pleasure of buying good equipment, survival depends less on gear and more on the mental and emotional fortitude to ride out hardship, emergencies and threats, and the skilled use of materials and equipment. I hadn't read a preparedness book for a while, so when I noticed that a novelist I read wrote the foreword to *Prepared,* I bought it. It raised a lot of good discussion points so instead of opining on the issues of the day, I'm going to combine the book review with the editorial this month and share more ideas from this book than usual.

"It is not enough to have a fire extinguisher, a trauma kit, and a firearm. We must know how to use them," novelist Jack Carr writes in the introduction. "Modern life, particularly in the West, is marked by comfort and a detachment from what Jack London called 'the law of club and fang,'" and we've become soft, Carr believes, a theme on which Mike Glover, author of *Prepared,* has much to say.

Glover writes, "You must remember, preparedness isn't just about survival in the strictest sense. It isn't just about not falling victim to a threat or not dying in a dangerous situation. It's about persisting in the face of catastrophe and being able to thrive in austere environments with your family and within your community." Armed citizens put much emphasis on preparation for self defense, sometimes to the detriment of emphasizing general good health or knowing how and having the supplies to ride out a catastrophe like a wildfire, flood, or earthquake. Glover defines, the "only difference between combat and catastrophe is that combat is a choice, while catastrophe is something that happens to you or around you."

The underlying principles of survival involve how we think, our actions and what we bring into an emergency. Glover introduces, "The principles of modern preparedness are divided roughly into two parts: the mental versus the physical, the internal versus the external, the intangible versus the tangible. A resilient mindset, proper planning, situational awareness, and good decision-making compose the first half of these principles...The second half includes principles regarding everyday carry (EDC), mobility, and the homestead. These are tangible tools and assets that you can imagine as a set of concentric circles of physical preparedness. They constitute the things you will need on your person, in your vehicle, and around your home to be confident that you won't just survive a catastrophe but will thrive in it."

Preparation is neither denial nor paranoia, but Glover thinks modern conditions have made it harder for people to cope with emergencies. "We have grown accustomed to lives full of low-grade stress that cause us to overreact emotionally. This means we under-respond cognitively and fail to source solutions that lead to improved outcomes. This ultimately leads to disastrous results when we are confronted with compressed timelines and high-grade stress, otherwise known as catastrophe."

He explains the physiological reactions to high stress, but adds, "Often, there is a disconnect or delay between the instinct and the action, between the unconscious reaction and the conscious response. Building resilience is about bridging that disconnect and shrinking that delay as much as possible so that you will be able to act, when it counts, in time to save your life or the lives of the ones you love."

Glover tells the story of his immediate reaction to his earliest combat experience in Iraq, and how immediately getting to work saving his fellow soldiers and himself broke through the momentary freeze of a surprise attack. It echoed the words of Paul Howe, in his video lectures on mindset that I've studied, when he advises that under attack and when addressing injuries in the aftermath, "Look for work," keep fighting.

Exposure, experience, and familiarity yields confidence and that greatly reduces the stress of a critical incident, Glover continues. "The greater variety of stressors you have been exposed to, the more often you have been tested by the unfamiliar or the complex, the more likely you are to withstand a traumatic event and respond effectively." Drawing on his combat experiences, he opines, "It is impossible for a person to fully inoculate themselves against freezing up. What you can do, with experience, is shorten periods of paralysis to mere moments. Repeated exposure to stress can help you bridge the disconnect and cut the delay between the stimulus and your response." Create varied stressors to force adaptability and "exercise your technical skills while immersed in stress," he advises.

Emergency planning is essential, but Glover explains that survival also relies on practicing the skill of being able to abandon a plan that isn't working and adapt to current circumstances. "The best course of action for becoming adaptable is to have a plan for a series of predetermined contingencies in your back pocket" he writes, noting that contingency planning is not planning to fail; it is acknowledging that things can, and very well may, go wrong.

Account first, for disasters common to your region, he advises, and share the planning with family members and people in your community. Discuss primary, alternative, contingency, and

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emergency plans, not only fully fleshed out but practiced, too. Truthfully assess strength and stamina, potential adversaries, be that a single assailant, multiple attackers, a mob, or fire, freezing, floods or weather disasters. Understand the tools needed. The biggest problem in most emergencies won't be lack of information, the biggest challenge is willful ignorance and arrogantly thinking you're immune from trouble, he warns.

In an echo of one of my favorite books, *Left of Bang*, Glover discusses recognizing potential trouble by knowing what's normal. If the baseline is interrupted, that "spike" should draw your attention. It may not be obvious hostilities, it might be as simple, he illustrates, as the demeanor of fellow air travelers on a Monday morning compared to a weekend flight of partiers headed for Las Vegas. "Acknowledge the spike when you see it and keep it in the back of your mind as you engage with the people around you and navigate through your environment, because if there is a threat it's going to come from one of those two sources—the people or the environment—often in combination," he teaches.

What to look for? "People not in places they normally would be. People doing things that no one else is doing. People not doing things that everyone else is doing. These are universal threat indicators." Glover outlines physiological indicators of potential assailants, and comments that we arrogantly think we're better at assessing our environments than we are. "It's incredibly difficult for the human eye to take in a lot of textured visual information all at once and process it thoroughly," so we fill in the blanks and sharpen the details, through the filter of what's familiar and expected. Learn to actively observe, he urges, describing systematically scanning a grid from one's immediate surroundings to farther out. The farther away you detect an anomaly, the more time you have to react.

Glover acknowledges the tremendous amount of detail to process, so he suggests starting by identifying exits, picking up on general conditions. Is the area clean, does it appear run down, is it crowded or empty? What are others in the venue doing? I was reminded how the lessons of *Left of Bang* left me wishing for more discussion of applying the principles to everyday life at home in the U.S. I enjoy that focus in Glover's book *Prepared.*

Few will argue that denying danger only helps the predator, but Glover goes deeper, observing that the first tremors of an earthquake, for example, often are ignored with "some ridiculous explanation for it that dismisses any possibility of true danger." He observes that footage from school shootings show teachers pausing, unable to accept that the gun shots are someone shooting inside the school. The big question, he posits, is "What are you going to do?" Emergencies happen very rapidly. Survival requires acting just as quickly – leaving, moving, hiding, shooting or other acting on other options.

People struggle with decision-making, Glover continues, citing the "discouragingly large number of people out there who aren't comfortable with making important decisions. They try to avoid having to make them, or they defer to others, constantly concerned about making the wrong choice." Without practice and without having developed confidence in decision-making, it is no wonder people freeze in the face of danger.

Glover recommends a two-part solution: "recognize that you're already good at decision-making and focus on making your decisions under stress as simple as possible." He continues, "Survival in a catastrophe is all about making as many correct decisions in a row as possible, as quickly as possible, while being able to move seamlessly to the next best option when our first choice doesn't work." Lest readers are intimidated by the words, "correct decisions in a row," Glover points out that daily life is little more than a series of decisions, some made out of habit, like our morning routines.

You "navigate and survive the chaos of modern life" without actively thinking about decisions you make that keep you alive," he stresses. "Being properly prepared is just making the conscious decision, ahead of time, to be … better connected to those instincts, because they need to be right there at your fingertips to drive quick decision-making when it matters most…That work needs to be done and trained for as part of your planning so that you can shut out the noise."

Simple decisions start with action – move away from the danger. Movement orients the brain to the situation, Glover writes, and helps prevent freezing in terror, starting with the simple decision and action to move. Alternatively, emotion is a common, almost default response, but it is a poor one. "Our decision whether to get off the X at the first sign of danger and our decision whether to shoot in self-defense as a last resort – these are the decisions we have to be prepared to make at a moment's notice. We cannot be scared to make them."

He warns that many confuse legal justification to kill in self defense with the ethical and moral components of deciding to use deadly force in self defense. "Decision-making is an essential skill for preparedness. This includes making decisions quickly, making them correctly, making adjustments when they are wrong, making sure you know what you will do before you ever need to do it, and making peace with yourself when you have to make the most difficult decision of them all. These are not easy. They won't be painless. You won't leave an encounter with a life-threatening catastrophe totally unscathed. But you can survive it."

Glover's book *Prepared* has a lot to unpack – including chapters discussing and listing defense tools carried daily, kept ready in automobiles, and stockpiled along with materials and supplies for long-term disruptions that are better survived at home.

Armed citizens tend to focus on one element of survival – fighting a violent assailant. Glover rightly recognizes that there are a lot of dangers more likely to cause harm. He focuses his

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instruction on surviving for three days – 72 hours exposed to the elements, whether as the result of being stranded after a car problem, or losing your home to a hurricane or flood. He discusses basic equipment, including lists of the following:

Medical–both immediate and continuing care for injuries

Shelter and fire

Water and food

Illumination/light

Signaling

A bag with a strap to carry the basics out with you

Wearing reasonably protective clothing and shoes that let you "run, climb or scramble"

Fuel and a capable vehicle.

Be aware that some of *Prepared* is a sales pitch for trauma kits Glover designed and promotes in his classes, but the rationale and functionality is amply described so readers can adapt their own stockpiles to take advantage of his ideas. "You don't have to do it my way. You can, and should, adapt your setup to what your vehicle allows and for how you move. What matters is that you have ready access to your equipment so that your capability matches your capacity to render aid to those in need," he writes. In his closing chapter, he comments that he would love to train his readers in his Fieldcraft Survival class, but "I don't really care where you train, just ***that*** you train."

Glover is big on mobility and escaping to safety. Planning for bugging out must address how many people need to go, how much money you can sink into preparation, and how long you can stay outside civilization, as required by health concerns, for example. He switches to the homestead in the next chapter, observing that developing a home that is "a robustly secure yet comfortable (and comforting) physical environment with security, medical, and fuel resources" prepared to thrive for long periods without power and other services is "conscientious" not paranoid.

The jokes about preppers suggest we're afraid of hoards of zombies, nuclear bombs, and other hostilities, when in reality, wildfires, freezing weather in normally temperate regions, hurricanes and other disasters "overwhelm the infrastructure" and leave large communities without basic services are bigger concerns.

How much is enough? Glover writes that, "The goal of a prepared homestead is not to survive the end of days; it's to thrive every day without having to rely on infrastructure systems you don't control to deliver all or any of the services that sustain life. That this will aid you in surviving the end of days, if they come, is just the upside. This will ensure your survival and resilience every other day—good, bad, or worse. In a nutshell, your homestead should be self-sustaining for an indefinite period of time or, if you have financial and resource limitations, for as long as you can keep it going." He details security, with lists of equipment, but acknowledges that budget and location affect how much you can do, and he urges readers to do as much to protect the perimeter as you can – even if it is just a Ring doorbell system. The same applies to back up power provisions for when the electricity goes down for an extended period of time.

Preparations for longer periods of disruption increase demands on first aid and medical provisions, food, vitamin supplements, allergy treatment, injury treatments and other needs. Glover addresses these, listing supplies and their uses, and recommends rotating supplies so things that lose potency or are subject to spoilage remain useful.

Glover closes with advice about cooperating with neighbors to "work toward a common understanding around preparedness and security." From an extra set of eyes to watch for disruptions in the baseline of normal to fellow-survivors with whom you can barter extra provisions for things you're missing, there is no substitute for community, he stresses. "Community is everything. Remember that and you won't just survive catastrophe, you'll thrive despite it."

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

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