

Legal Considerations When Selecting Self-Defense Ammunition

An Interview with Network President Marty Hayes



by Gila Hayes

eJournal: Thank you for joining us in the studio this afternoon, Marty. The topic on the board today is one on which we get a lot of questions, both from members and non-members. It's also a topic on which you have considerable depth of experience both as an expert and from other aspects of your life's work. We entitled this *Legal Considerations*

When Selecting Self-Defense Ammunition. Members, see <https://www.youtube.com/watch?v=NcEYiExS2LI> for a more casual version of this conversation.

Marty, why don't you start by tell telling us how you began studying the question of what ammunition is best for self defense?

Hayes: In 1990, I was a fledgling firearms instructor, and I traveled to Concord, New Hampshire to attend the Lethal Force Institute. At that time, we would go back to the LFI office after class where we could shop for all kinds of cool stuff that they had there for us to buy – including CorBon ammunition. Now, I had heard Massad Ayoob talk about CorBon and why he was using it. At the time, I was using a 9mm self-defense pistol, and I was happy to get my hands on some CorBon ammo. It was really the first of the specialty “hot” self-defense ammunition.

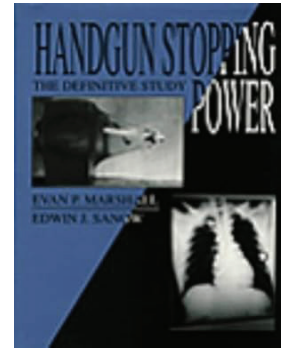
As time went on CorBon became more and more popular and I ended up purchasing a distributorship for CorBon that supplemented earnings from my training school, The Firearms Academy of Seattle. Between running the school and selling CorBon ammunition I was able to make a living.

About that same time, CorBon started getting some play in the gun press, most notably by Evan Marshall, who had a theory that if high-velocity handgun ammunition with a hollow point bullet that expanded reliably was used, it would result in better one shot stops. Evan spent probably 20 years of his life collecting data supporting this theory. As it turns out, I think that he's right.



I became fairly successful selling CorBon ammunition. To sell it, I needed to study it and so I got involved on the ground floor of the bullet wars. At the same time, there was another school of thought that favored slow, heavy bullets with a lot of penetration. That was supposed to be the key to stopping power, they said. For several years, those two schools of thought argued, which is why we called it the bullet wars. Today, I think the opposing sides have pretty much come together. In the meantime, I learned an awful lot about selecting handgun ammunition.

eJournal: Where does Ed Sanow come into the story? I remember a lot of the magazine article bylines were his, and he co-authored Evan's definitive book *Handgun Stopping Power*. I'd hate to give Ed short shrift. What do you recall?



Hayes: That's true; Evan and Ed worked together on their book projects, and I don't know exactly who did what, but I think Ed did a lot of the production, the writing, the photography, and that sort of thing. Evan collected the shooting reports.

eJournal: Both men were roundly criticized, too, thus the word “war” for the hostilities between the “jello shooters,” and the Facklerites squaring off against each other.

Hayes: Don't forget the “morgue monsters,” which was what they called Evan because as a homicide detective, he went to autopsies, and there he could study what the bullets did to bodies.

eJournal: The quest was for ammunition effectiveness, although I don't think that Evan suggested that there was one bullet that from which a single shot would stop all hostilities, although once coined, the term persisted. Quicker incapacitation is desirable, though, because we know from court and life in general that the more times a defender shoots an assailant, the greater the exposure to legal problems.

Many factors influence ammunition selection – penetration, how deep is deep enough and how deep is too much? How stiff is the recoil? Will the bullet go through apartment walls? Today, like the days of the bullet wars, we continue to weigh those concerns.

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Hayes: By the way, the answer is yes, any bullet's going to go through the walls in an apartment.

eJournal: Back in the 1990s, there was Joe Zambone's pre-fragmented Mag Safe ammo, and there's handgun ammo from other manufacturers containing shot pellets, too, and that names only a couple of entries in the quest for the magic bullet. Of course, there is no magic bullet! Frankly, our concern should probably focus more on shot placement than the performance of the bullet anyway, but the study of terminal ballistics really spawns a lot of questions! When you are choosing self-defense ammunition what are your priorities?

Hayes: First, I've got to correct you – there is a magic bullet.

eJournal: [Skeptically] There's a magic bullet?

Hayes: Yes, it's a .357 Magnum Federal 125-grain semi-jacketed hollow-point bullet. I can say that is the number one cartridge and bullet configuration, due to Evan Marshall's study of one shot stops. The concept behind Evan's study was if a person was shot once, and only once, in the torso, how long did they continue to be viable? After studying 20, 30, 40 of these, Evan found that over 90% of the time a law enforcement officer shot someone with a .357 Federal 125-grain semi-jacketed hollow-point bullet they stopped right now. That is the magic bullet, so I carry it when I'm carrying a revolver.



eJournal: Fewer folks carry revolvers anymore, which requires us to expand our scope, so when choosing ammunition, how do you rank the priorities?

Hayes: If a person is going to use a handgun for self defense, there are a lot of different considerations of which to be aware. Of course, the bullet must be reasonably effective if placed in a reasonably effective place.

According to Dr. James Williams, the originator of Tactical Anatomy, if you can shoot someone basically right here [gestures to high upper center chest] and maybe a three-inch wide strip up to here [points at throat], then you're going to stop them right now. I buy that. I attended Dr. Williams' class and became one of his instructors last year.



eJournal: That's a pretty bold statement. Does it include .22s?

Hayes: Maybe not as often as with the .22, but that's what we need to hit if using a handgun in self defense. Let me ask, why are you using a gun in self defense?

eJournal: Because an aggressor's trying to kill me.

Hayes: For that or for other reasons, you need to stop that action right now. Maybe he's trying to kill somebody else. Maybe he's threatening a bank teller with his finger on the trigger of his cocked .45 and you need to stop it right now or he's going to start shooting people. If you can put a bullet in that area right there [gestures to upper sternum] or into the ear where it goes in through the middle of the head then that's pretty much always going to stop the fight.

eJournal: So, as the real estate agent said, "Location, location, location!"

Hayes: Yeah, and I like to stress that training with your defensive handgun for competency and skill is much more important than the type of bullets you're choosing for self defense. After

shot placement, you need to be concerned whether the bullet is going to stay in the human body. I don't want bullets to over penetrate, to go through the assailant's body and continue on to injure other people.

One side of the debate thinks bullets need to penetrate 18 inches, but there are a lot of people that aren't 18 inches thick. If you're using bullets that will penetrate that deeply, you may end up having also shot someone behind the person that you were trying to stop. Of course, the other question is why take that shot at all? Well, somebody else may die if you don't.

I'm looking for a bullet that is going to stop inside pretty much any human body. I would likely consider the FBI protocols, the gelatin tests, looking for bullets that penetrate no more than 12 inches in gelatin. It needs to stop inside the human body 100 percent of the time. It might not penetrate even 12 inches inside the human body but unless you shoot someone through the tip of the shoulder down toward the heart the bullet may not have to penetrate that deep. Your heart is only in five to six deep. Advocates of deeper bullet penetration usually don't have to defend people in court.

I also want to use a full-power load to limit concern about over-penetration. That's usually called plus-P. For example, if it's a .38 Special, I want it to be a plus-P .38

Special; if I carry a 9mm, .40, or .45, I want it to be a plus-P load because the higher pressure, the "hotter," the round is, the less likely it's going to penetrate deeper than what I want. That's part of the criteria.

I also want the ammunition I carry to have a good track record.
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I want to know that it's been used in other shootings, and that police departments are happy with it. I want it to be from a major ammunition manufacturer like Federal or Winchester or Speer – a company that makes hundreds of thousands of rounds a year. Otherwise, I want it to be from a manufacturer that I know personally, who would come to court and testify about his ammunition.

For example, when I was working closely with Peter Pi, Sr. from CorBon, I knew that if needed, I could call him into court, and he'd explain about his ammunition for the jury and tell them why it is good ammunition for self defense. CorBon has since gone through two or three ownership changes. I don't know the people involved there now, so I'm no longer using CorBon.

When I started carrying a 10mm, I looked around and found almost nothing for 10mm self-defense ammunition until I found Super Vel.

[Super Vel](#) was a boutique manufacturer, started in the 1970s that was out of business for many years until an industry luminary, Cameron Hopkins, purchased the business. He's been running it for about 15 years now and I know he does quality ammunition. I know that I could call him up right now and say, "Cameron, Marty Hayes here. I need some help on a case," and he would help me, whether that's shipping some ammunition for testing or writing a report about the ammunition or even going to court. If you carry ammunition from a boutique manufacturer, make sure that they're going to be there if needed for court.

eJournal: When people ask for help with ammunition selection, it doesn't hurt to remind them that the small, emerging ammunition companies have representatives at major gun shows or industry events like the SHOT Show, so it is possible to make those contacts and get those assurances. Don't move in those circles? Then focus on defense ammunition from Speer, Hornady, Federal or Winchester. Put in the time, study and effort to know the questions to ask when instructors or influencers recommend ammunition.

Hayes: Follow the teachings of [Dr. James Williams](#). He's done a lot of research into ammunition. [Chuck Haggard](#) has taken up the mantle of doing ammunition testing. He's come up with some pretty good recommendations. Greg Ellifritz was doing some work along those lines, too.

eJournal: Your instructors may be able to help you. Members, you're really not out in the wilderness trying to solve this on your own, but I would like to stress that it's shortsighted to say, "I carry a .32 H&R. Just tell me what ammunition to get for it and I'll carry that." I do not think the question of ammunition is

one the armed citizen can entirely turn over to someone else and say tell me what to do. I don't think it works that way.

A few minutes ago, you said you see ammunition selection questions through the viewpoint of the courtroom. What concerns specifically apply to ammunition performance when shootings go to trial?

Hayes: Before we start, let me say I work as an expert, not an attorney. Since the 1990s, I've been working as an expert in murder or manslaughter cases. I've looked at a lot of autopsy reports. I've done a lot of ammunition tests and then used the results to determine how they fit into a particular case that

I'm looking at. Look at this photograph of a shirt (*below*) that's been shot from different distances, then look at the photo of the ball cap (*left*) with an entrance hole with a bunch of gunshot residue soot. That picture most closely aligns with the test shot taken from three inches. I was able to testify in court that the gunshot that produced the hole in the cap happened from approximately three inches away.



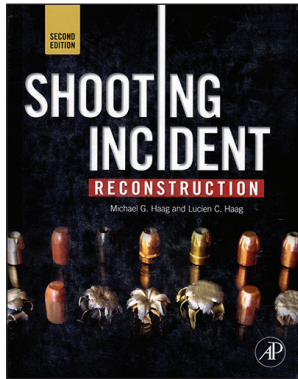
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To draw that kind of conclusion, you've got to be able to test with the same type of ammunition that was used in the incident. Ammunition can vary wildly. I'm going show you another picture from a reference book (*below*). It shows two different test shots fired at the same distance using the same gun but with different ammunition.

The caption identifies powder patterns from firing factory-manufactured .38 Special cartridges loaded with different powder. These powder patterns were produced with the same Colt

revolver at the standoff distance of six inches with two different loads of 125-grain jacketed hollow point Remington .38 special ammunition. One contained a charge of 18 grains of spherical ball powder and the other contained five to five-and-a-half grains of unperforated disc flake powder. These cartridges produce comparable muzzle velocities, but as shown, each produces a very different powder pattern.



Let me explain why it's so important that the ammunition you load in your handgun can be replicated. In order for an expert to go into court and testify to the distance from which a shot was taken, they have to be able to tell the jury, through the judge, that yes, the test used the same ammunition or something very, very similar because good attorneys know that different ammunition and different powder charges can produce wildly different results.

For evidence to be admitted into court, it must reasonably adhere to basic scientific standards. It must be replicable: you've got to be able to replicate the ammunition you were using. That is what we're trying to accomplish with testing.

That's also one of the reasons we don't use reloads for self defense. If you reload, you're the ammunition manufacturer. If you stuff your own .38 Special case with powder and cap it off with the bullet, how is an expert going to replicate that for court? Maybe the test would be perfectly valid, but the expert's testimony would not be allowed into court. If the tests are not allowed into court, you may be convicted.

I'm reviewing a case right now where the medical examiner said there was stippling on the area around the wound, but no other

testing was done, so we don't know exactly how far the muzzle was from wound. There's no testing from that gun firing that particular type of ammunition to compare to the stippling pattern on the deceased. This defendant was convicted when they may be perfectly innocent.

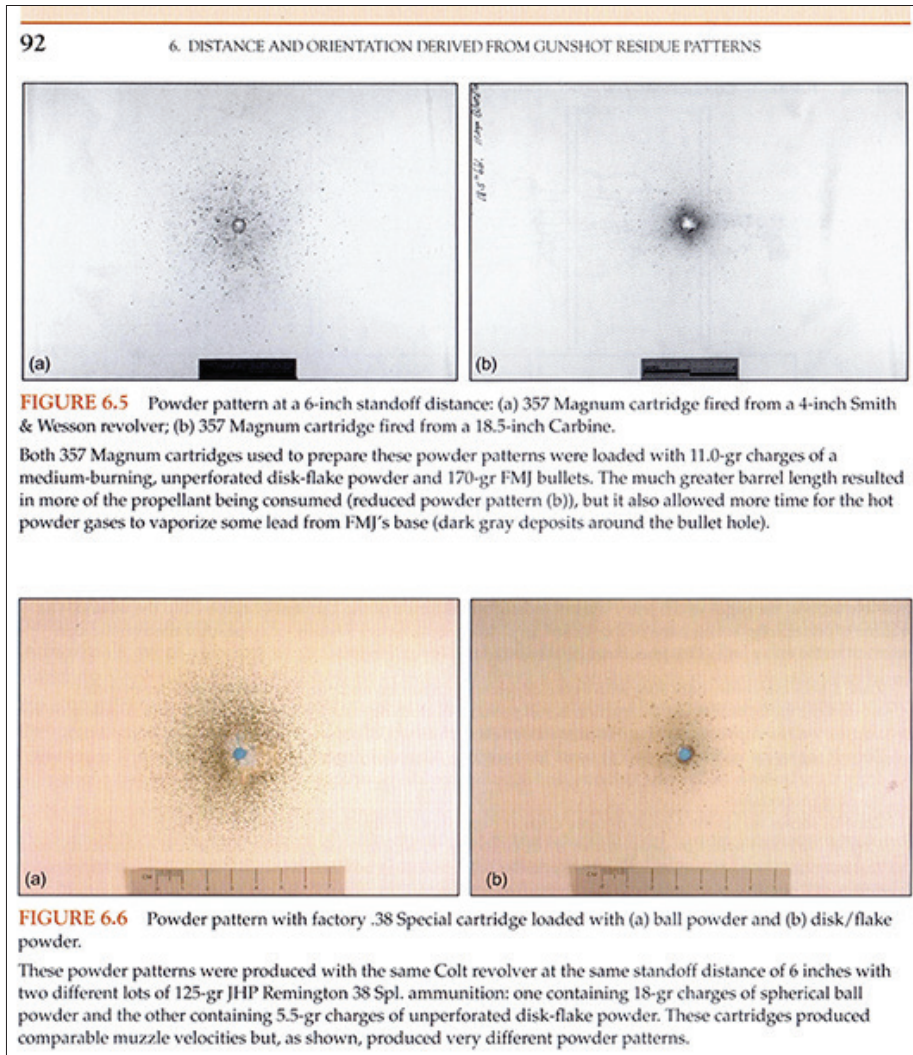
We've got to be able to do the tests. This is the primary reason you can't use hand loads for self defense.

eJournal: Manufacturers provide loading books that may specify "recipes," if you will, for example, how many grains of Hodgdon or whatever specific powder, primer and bullet weight and type. Some handloaders keep great records, and consistently use exactly the same components every time. Why isn't that reliable as evidence? If that hand-loader testifies, "I know the shot was with the load spelled out on page nine of my Hornady reloading manual" presumably that cartridge could be replicated.

Hayes: The problem is that it's your word at a point when what is at question is also your word. I pretty much know all the "recipes" that I load for handgun ammunition, but that's just my word as far as what was used.

eJournal: At a time when you desperately need and want the independent expert's word about what happened.

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FIGURE 6.5 Powder pattern at a 6-inch standoff distance: (a) 357 Magnum cartridge fired from a 4-inch Smith & Wesson revolver; (b) 357 Magnum cartridge fired from a 18.5-inch Carbine. Both 357 Magnum cartridges used to prepare these powder patterns were loaded with 11.0-gr charges of a medium-burning, unperforated disk-flake powder and 170-gr FMJ bullets. The much greater barrel length resulted in more of the propellant being consumed (reduced powder pattern (b)), but it also allowed more time for the hot powder gases to vaporize some lead from FMJ's base (dark gray deposits around the bullet hole).

FIGURE 6.6 Powder pattern with factory .38 Special cartridge loaded with (a) ball powder and (b) disk/flake powder. These powder patterns were produced with the same Colt revolver at the same standoff distance of 6 inches with two different lots of 125-gr JHP Remington 38 Spl. ammunition: one containing 18-gr charges of spherical ball powder and the other containing 5.5-gr charges of unperforated disk-flake powder. These cartridges produced comparable muzzle velocities but, as shown, produced very different powder patterns.

Hayes: When the expert testifies, they're drawing on training and research like I cited from one of the reference books I use, [Shooting Incident Reconstruction](#), by Gary Haag and Lucien Haag.

eJournal: One facet that impresses me is the importance of the post-shooting investigation. You've said in earlier videos that sometimes small rural law enforcement departments lack highly professional investigators. Combined with your comments about analysis you've provided as a shooting reconstruction expert, I am convinced that as armed citizens, our defense attorneys need to be quick about hiring an expert who has the training and experience to perform an independent investigation because there are enormous questions that the evidence can answer but what if the evidence isn't preserved?

Hayes: Then the defense has to take its best shot and then you make the prosecution look inept for not preserving evidence that they should have preserved. *[Sighs]* I don't know how many times I have done that in court. Once, I tried to explain, "No, you don't put Campbell soup cans in the crime scene photograph to show where a shell casing is. You identify the case by a marker." That case actually turned out okay for the defense.

eJournal: I doubt you were maliciously trying to make the police look bad, but it's a serious, serious, serious problem if you are going to be sent to the penitentiary if your defense team can't make it understood that you acted in self defense.

We are able to make choices today, in advance, that facilitate one aspect of showing that our use of force was self defense, if only we will budget the money to buy commercially manufactured ammunition. Even then, there's an element of "buyer beware!" Even large ammunition manufacturers occasionally have stumbled into inflammatory product names. How sensitive are you to the name game?

Hayes: I remember when Winchester came out with their Black Talon line. White cops would be using Black Talon ammunition to shoot black criminals on the street? The name – just that stupid name – killed an otherwise very good ammunition design.

Today, there's one from Dynamic Research Technologies, with a similar issue. They produce, in fact, very high-quality frangible ammunition. I looked into carrying that for a while in my 10mm because it is such good ammunition. The problem is they named it DRT and what does DRT stand for in our little world?

eJournal: In our little sub-set or when we're texting, it means, "He's dead right there."

Hayes: Dead right there, yeah. I couldn't open myself up to that criticism. The other problem with DRT – and with any frangible ammunition – is whether you can look at a frangible bullet path inside a body. You can't

because there is no bullet path. When I do a shooting incident reconstruction, one of the major issues is where did the bullets enter the body and what path did the bullets take before they stopped. I do this with probably half the cases that I work on, and it confirms or disputes what I'm being told about what the dead person was doing. Bullet path can help me figure out where the gun was by determining if the path is horizontal, but if the bullet path is angled down, then you can say that the gun was up here *[gestures indicating high angle]*.

But what if the gun wasn't up there? Logically, then, this is how it occurred: the guy was leaning forward when he was shot. You need to be able to determine the path that the bullets take once they hit the body because that will tell you where the gun was, where the shooter was, and how the bullets came to strike the body. What was the person doing? Were they leaning forward? Were they standing erect?

Another of the issues is explaining bullets that hit in the back. We know from testing and research through the [Force Science Institute](#) that a person can spin and turn in a quarter- to a half-second. How long does it take a person to fire more than one shot? If you're shooting rapidly, it takes about a quarter of a second between shots. A lot of people are prosecuted for shooting their attacker in the back when they shouldn't have been prosecuted because the shooting started facing the front and the assailant turns as the shots hit – bang, bang, bang – and then the person stops shooting. We need

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the bullet path through the body to be able to show that. That means not carrying frangible ammunition.

I'm sorry, a lot of frangible ammo is really great stuff, but I can't use it myself. The only time I would use it would be if I had to make sure it didn't penetrate through interior/exterior walls in a house.

eJournal: There are a lot of variables influencing the ammunition selection decision and I just don't think we can go to an expert and say, "Tell me what to carry!" Do they know enough about your personal circumstances to address all the factors? Understanding that most probably aren't going to drop \$59.95 on a shooting incident reconstruction textbook, what resources would you suggest?

Hayes: It would be well worth it to go to one of Dr. James Williams' Tactical Anatomy courses, and he is, in fact, certifying instructors to bring his knowledge out into the general public. Search out one of his instructors and take a course and learn this stuff. They're going to have ammunition recommendations in class, and you can draw some conclusions for yourself.

eJournal: As one example, I'm seeing a Tactical Anatomy Summit with Chuck Haggard, Andy Anderson, and Steve Moses, all three of whom are influential instructors in the armed self-defense space (<https://defenderoutdoors.com/courses/tactical-anatomy-summit/>). For our members today, what's the bottom line? What do you want us to take away from this interview?

Hayes: Training. You need to be trained well enough that under extreme stress you can put bullets right here *[taps top of ster-*

num]. You need to be trained well enough that you don't shoot all over the place. That's really the bottom line. Any of the good reputable handgun ammunition brands will do just fine if you hit them right there. That's really the bottom line.

If you're not trained that well, get some training. I don't want to hear of one of our members shooting an assailant in the leg and shooting him in the gut and shooting him in the shoulder in a defensive shooting. We'll still help you out, but you could have really helped yourself by being a better shot. That's really the bottom line for me.

eJournal: Thank you for coming in here today and sharing your knowledge and experience as an expert and showing where that knowledge comes from. People love to argue about the bullet wars in shooting clubs and gun stores and sometimes lose sight of the fact that it's a multifaceted study, and more serious than just a heated discussion on social media, for example.

Hayes: It is a serious study, and I should thank Evan Marshall and Ed Sanow, the late Jim Cirillo, Massad Ayoob, John Farnam and all the others I studied with over the years who really helped me learn and understand this topic, too.

Marty Hayes, J.D. is president and a founder of Armed Citizens' Legal Defense Network. He brings 30 years experience as a professional firearms instructor, 30 years of law enforcement association and his knowledge of the legal profession both as an expert witness and his legal education to the leadership of the Network.



President's Message **Legalities of the Byrna**

by Marty Hayes, J.D.

This is a message I have been wanting to do for some time, ever since the Byrna pepper gun came on the market. In fact, you cannot listen to conservative radio without hearing advertising for the Byrna.

Those ads are well done, but in my opinion, somewhat misleading. Why?

First, the Byrna is not all that effective. It is only as effective as pepper spray, and the delivery systems of a good can of pepper spray is much better than the Byrna. I went on YouTube and looked at a few Byrna videos, and do not see the disabling effects of Byrna, as I see after a good shot of OC-10.

Second, while it may be LEGAL to own and carry the Byrna in all 50 states because it does not meet the legal definition of a firearm, when you pull it out of the holster and threaten someone with it, you have committed the crime of assault. Assault – the threat of physical force – depends on the mindset of the person assaulted.

If they reasonably believe you are threatening them with physical force, then the elements of the crime have been fulfilled. It is only your claim of self defense which, if deemed reasonable to the trier of fact, would make your threatening to use the Byrna legal.

What about mistaken identity? If you decide someone is a threat and pull your Byrna and tell them to back off, the person who was just harassing you may believe you just pulled a gun on them. If they then decide to pull their own stolen 9mm and shoot, it

is going to be a bad day for you. How about that orange color? That helps with the mistaken identity issue, but your posture, a classic shooting stance, will be more convincing than the color of the gun you are holding.

Another issue not discussed in the promotional material is the effectiveness of the projectile, which is more or less a modified paint ball projectile. If the person is wearing soft, bulky clothing the pepper balls will likely not burst. That relegates it to the use during warm weather, when no bulky coats are worn.

For the reasons above, for me personally, I will be staying away from it. Still, it is not all bad.

For the person who lives in a state where concealed carry is not an option, then it probably has a lot of merit. It still is not a fight stopper, although it perhaps is a reasonable deterrent to a non-lethal attack. For women who also face the threat of kidnapping and rape, it would make a pretty good deterrent, especially when the attacker(s) are not deploying deadly weapons, but instead relying upon size and strength. A Byrna in a “gun purse” with your hand on the Byrna while walking to your car in the dark parking lot makes a lot of sense.

Lastly, while it is advertised as non-lethal, you better be prepared to justify the person dying or suffering debilitating injury. A Byrna projectile in the eye socket will likely permanently blind the subject in that eye. If the person you shot stumbles out into traffic and gets run over by a truck, can you justify your use of force? It had better have been a serious attack against you, where use of a real firearm would have also been legal.



If you have first-hand experiences with the Byrna, I would love to hear about them. Contact me at mhayes@armedcitizensnetwork.org.



Attorney Question of the Month

Recently, a Florida sheriff's officer wounded a man during a traffic stop while pulling a legally carried .45 caliber Glock from the man's inside the waistband holster. Florida law imposes no duty to inform law enforcement about weapons one has during police contact, but the motorist had volunteered the detail. See <https://www.news4jax.com/news/local/2024/12/14/gun-unexpectedly-fires-while-jso-officer-tries-to-remove-it-from-mans-waist-during-traffic-stop-police-say/>

The episode raises concern, both for residents of states that impose a duty to inform, as well as armed citizens who live where there is no statutory requirement to inform police you are armed. We asked our affiliated attorneys about duty to inform and related issues and appreciated their many responses to the following questions –

1. Does your state law require citizens to tell police they are armed if contacted by law enforcement? What is the penalty for failing to disclose that information?
2. Is that requirement applicable to any in-person contact or is it specific to traffic stops? In cars, does it apply to passengers, as well as drivers?
3. If a citizen is specifically asked by law enforcement if they are armed, is lying a crime in itself? How is this typically punished?

We will run two installments of this question, owing to the number of responses our affiliated attorneys provided.

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Yes, Michigan requires immediate disclosure to a law enforcement officer at the beginning of the stop that the stopped person is armed (MCL 28.425f(3)). It applies to any time when stopped by a police officer, whether stopped in a vehicle or otherwise. It applies to anyone who is stopped per the statute, and as such passengers in a stopped vehicle should also immediately disclose, as well.

Since a failure to disclose during a stop in Michigan is a civil offense with a \$500 fine and a suspension of your CPL for six months for the first offense, it is not advisable to fail to do so nor to lie about doing so. While lying to a law enforcement officer during a criminal investigation is a crime in and of itself in Michigan, that statute does not apply in this instance as

the failure to disclose is considered a civil infraction which is below the threshold that requires the underlying crime to be a misdemeanor. However if you were carrying without a license – which is a felony – lying during the investigation can indeed be penalized as a crime in and of itself.

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In Georgia, there is no affirmative requirement to tell an officer that you are armed.

If specifically asked if you are armed, lying would be a misdemeanor, punishable by up to 12 months in jail and a \$1,000 fine. But, there is no requirement to respond and refusing to respond is not a crime.

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1. Arizona-Yes. But only if the officer asks. Failure to do so violates ARS 13-3102 (A)1(a) - misconduct involving weapons. Class 6 felony.
2. Any contact, not just in a motor vehicle All persons, not just the driver, but only if asked.
3. Class 6 felony, for the misconduct. Also subject to False information an M1.

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In DC you are required to disclose in the course of an investigative stop. That includes passengers in a vehicle, as well. Penalty is a misdemeanor and potential revocation of your carry license.

In Virginia there is not a duty to disclose but if you have a Virginia concealed handgun permit it will turn up when they run your license.

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There is no requirement in New York State to advise a police officer that you are armed, but New York Penal Law § 400.00(8) requires:

“Every licensee while carrying a pistol or revolver shall have on his or her person a license to carry the same. Every person licensed to possess a pistol or revolver on particular premises shall have the license for the same on such premises. Every person licensed to purchase or take possession of a semiautomatic rifle shall have the license for the same on his or her person while purchasing or taking possession of such weapon. Upon demand, the license shall be exhibited for inspection to any peace officer, who is acting pursuant to his or her special duties, or police officer ... Failure of any licensee to so exhibit or display his or her license, as the case may be, shall be presumptive evidence that he or she is not duly licensed.”

Thus, if a law enforcement officer asks if you are carrying a gun, you should be honest, and absolutely must show your license if asked.

While there is no specific criminal statute that makes it illegal to lie about being armed, if you do lie and the lie is discovered, you may well be charged with obstruction of justice because you are impeding a police officer in the performance of his duties. Also, if a law enforcement officer learns that you have lied, or even failed to advise him of your being armed, likely you are going to be in a world of hurt because that officer is going to detain you and examine everything about you, or connected to you, to determine if you can be arrested.

I have been stopped for traffic violations, and not advised the officer that I was armed, because I remained inside the car (which police prefer) and was not asked anything about my being armed. However, had I been asked to get out of my car, I would have advised the officer immediately that I had a pistol, and then followed his instructions.

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In California, state law does not impose a duty to inform police if one is a CCW licensee or carrying a firearm. And that infor-

- 1. Does your state law require citizens to tell police they are armed if contacted by law enforcement? What is the penalty for failing to disclose that information?*
- 2. Is that requirement applicable to any in-person contact or is it specific to traffic stops? In cars, does it apply to passengers, as well as drivers?*
- 3. If a citizen is specifically asked by law enforcement if they are armed, is lying a crime in itself? How is this typically punished?*

mation does not show up when the police run a person in their system. However, California police do have a legal right to inspect a CCW license and any firearm carried.

Additionally, many issuing agencies make it a condition of CCW license that the licensee must inform police if encountered in an official capacity. For example, it is a condition of CCW licenses issued by the L.A. County Sheriff Department that the person must inform officers of their license upon official contact. However, other agencies, such as the Torrance

Police Department, impose no such additional condition.

In general, we encourage CCW licensees to disclose that status to the police, especially if they are carrying a firearm. By simply saying, “Good afternoon, officer. Just so you know, I have a CCW license,” think about what you have just told the police officer: “I am background checked, trained, and vetted; a police – I have no criminal record, and I’m a good guy.” If I’m carrying, I definitely do not want the officer to notice that on his own.

The idea is to make the officer feel safe. Then, the officer is in control. Some may respond something like, “Okay, don’t go for yours and I won’t go for mine.” Or, the officer may have you step out so that they can disarm you for the remainder of the encounter.

They may call the issuing agency to verify your license – that’s okay. Be respectful and comply. By the time they’re done inspecting your license and gun, they may forget why they stopped you in the first place!

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In North Carolina, no specific law requires a citizen to proactively inform a law enforcement officer that they are armed, whether openly or with a concealed carry permit. However, there are certain situations where disclosure is required:

Concealed Carry Permit Holders:

GS 14-415.11(a): If you have a concealed carry permit and are carrying a concealed handgun, you must inform the officer of this fact when asked for your driver’s license or other identification.

[Continued next page]

General Encounters:

There is no legal duty to inform an officer if you are openly carrying a firearm. However, it is generally considered a good practice to be transparent and inform the officer, especially during traffic stops or other interactions where the presence of a firearm might be relevant.

Penalties for Non-Disclosure:

Concealed Carry Permit Holders: Failure to inform an officer about a concealed handgun when asked for identification can lead to charges related to violating permit conditions, potentially resulting in criminal charges, fines, and suspension or revocation of the permit.

General Encounters:

There are no specific penalties for not informing an officer about openly carrying a firearm in situations where there is no legal duty to disclose.

However, it's important to be aware that the officer's perception and response might be influenced by the presence of a firearm, even if it's carried legally. I believe failure to disclose if asked

could be charged as resisting delaying or obstructing an officer, a charge that you might be able to beat, but I recommend that you generally do not answer an officer's questions. You should usually politely decline. In the case of a weapon, I recommend you keep your hands in plain sight and do not reach for anything before you get the officer's acquiescence. I would suggest you inform any officer that you encounter that you have a weapon unless you are on premises that specifically prohibit carrying weapons, ie: schools.

Important Notes:

- Always be respectful and cooperative with law enforcement officers.
- Communicate your intentions and actions to avoid misunderstandings.
- If you are unsure about the specific laws or requirements related to carrying firearms in North Carolina, it is always best to consult with a legal professional.

Thank you, affiliated attorneys, for sharing your experience and knowledge. Members, please return next month for the second installment of responses to this question.

Book Review

FlexCCarrySM Solutions: A Positive Guide to Off-Body Carry

[Launch Pad Publications LLC](https://www.launchpadpublications.com/), Oct. 3, 2024
Paperback – 80 pages, 6x9 inches \$24.95
Heavily illustrated, color
<https://www.amazon.com/dp/B0DJKVXDTY>
ISBN-13: 979-8991672405
By Vicki Farnam

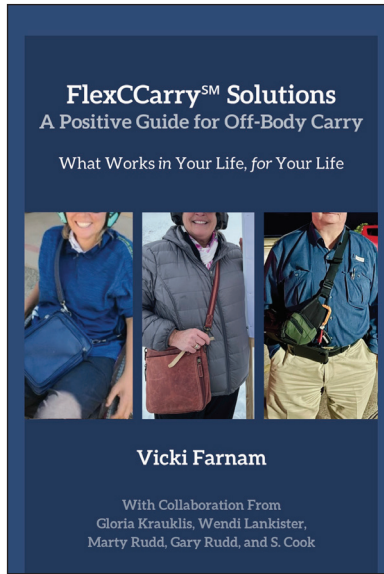
Reviewed by Gila Hayes

I read a book about concealed carry this month that is short on superfluous words and fluff and long on specifics. Addressing the contentious topic of off-body gun carry, longtime firearms instructor Vicki Farnam asks, “What is more important? Where a handgun is carried for self defense, or if a handgun is carried for self defense? If a handgun is carried for self defense, can it only be carried on a waistband belt with a holster attached to it? Or, can it also be carried in a dedicated pocket in a FlexC-CarrySM Daily Go Bag with a strap attached to the upper body, above the belt?” Put that way, the answer seems obvious, and I was intrigued to learn more.

That Farnam has the chops to assert these views is indisputable. She has been teaching firearms for over twenty-five years with Defense Training International, Inc. where, in addition to the fundamental defensive firearms skills, tactics and mindset, she contributes an important facet with her studies and instruction about women’s learning and communication styles as regards armed self defense, and more recently, safe every day carry in non-traditional holsters. As she writes in her latest book’s introduction, done correctly, FlexCCarrySM is “a functional and justifiable addition to the body of knowledge of defensive firearms skills.”

Instead of the oft-vilified “off-body carry” terminology, Farnam employs the term FlexCCarrySM Solutions, as a more accurate description of “handbags, sling bags, backpacks, tote bags, waist packs, and briefcases with dedicated pockets to hold your handgun.”

Those carry methods accommodate daily gun carry for those with “wardrobe styles, work requirements and environments, physical challenges, and medical issues” into which belt holsters don’t fit. “Who are we firearms instructors who may not have those issues to dictate and demand that someone else use traditional carry to defend themselves?” she challenges. Of considerable poignancy are the obstacles faced by those



with “physical, medical, and mobility challenges (e.g., wheelchairs) that can leave a person vulnerable to threats from violent people and prevent traditional methods of carry.”

Farnam refutes common arguments including danger of purse paraphernalia contacting the trigger, purse security and theft, as well as accessibility for drawing speed – all factors used to belittle carry in non-traditional holsters. Resolve those issues through bags with dedicated handgun pockets, VELCRO® on the side of that pocket that’s next to the body and attached to that VELCRO® a holster that covers the trigger guard, she teaches.

Farnam outlines additional features that make up a good daily go bag, including high quality zippers or hardware, sturdy material that doesn’t mold to the outline of the pistol, and a closure that stays shut when the bag is inverted. If your handgun doesn’t fit well in a holster that’s supplied with your bag, replace it with one that fits, she urges, explaining that “re-holstering is one of the most dangerous things we do with handguns.”

The four universal safety rules apply to any gun handling, and for FlexCCarrySM, as with any other situation, require strict application. Of particular concern for those carrying in a daily go bag (DGB), Farnam stresses, is mindful focus on safety “every time 1) you pick up the DGB, 2) take off the DGB and put it down and 3) any circumstance where your hand goes to the master grip on the handgun.”

For safe practice and repetition of safe bag use, buy a replica of your handgun, Farnam continues, recommending Ring’s Blue Guns, plastic molded to the exact shape of a huge variety of firearms (<https://www.blueguns.com/>). An abundance of colored photos illustrates the steps of drawing and holstering in a variety of daily go bags.

The illustrations, coupled with my own experience, emphasize that the biggest safety concern is keeping the hand stabilizing the carry bag out of the muzzle’s path when drawing the gun out of the dedicated pocket before orienting it toward the threat. In the seven steps of the FlexCCarrySM draw, Farnam repeatedly emphasizes, “At no time should the muzzle point at the support hand, nor in any other unsafe direction.” Refining that safety procedure during familiarization and practice is a very strong argument for her insistence on using a non-firing replica in the shape of your gun.

[Continued next page]

Farnam takes care at the end of the instructive chapter to explain that “While it is difficult to discern in these photos, the muzzle is never pointed at the body nor arm. It is actually pointing at the void between them.” The pictures show how larger bags that give access to the dedicated gun pocket via a side zipper provide a wider margin of safety between the stabilizing hand and the muzzle of the gun as it is drawn. The generous number of illustrative photos make this a very useful book.

Some holster bags feature locking zippers or other locks to secure the separate holster pouch, and Farnam stresses that if employing that safety measure, locking and unlocking the compartment when setting down and picking up the bag is an essential part of the routine. She offers a thought-provoking suggestion that a daily go bag might be best dedicated solely to safety supplies like guns, less-lethal options, and first aid supplies. Decide what’s essential and carry only that, she advises.

Farnam closes with advice to take firearms training, then notes that skill development and practice must be on going, so “re-view and analyze your training to identify what works for you in everyday life or what works for you in that moment of extreme

anxiety.” Daily carry entails regular challenges, she advises, and decisions made to address our challenges must come out of a “solid foundation” based on training and practice. “Use your agile and flexible mind to seek the answers to your questions and find the method of carry that works best for you,” she encourages in closing.

Members, if you FlexCCarrySM (thanks for the new term, Vicki) or have a loved one or associate who would be more consistently armed by using alternative carry methods, I strongly recommend the attitude, instruction and inspiration in Vicki Farnam’s new book *FlexCCarrySM Solutions*. In addition to the mindset, safety and techniques she outlines, a generous resources list directs the reader to an array of alternative carry bags to fit the range of situations into which armed citizens go.

Alternative carry modes is not just a women’s issue! Journalist, producer and gun TV personality Michael Bane recently shared his own experiences, favorite techniques, and opinions on his podcast at <https://www.michaelbane.tv/the-controversial-concepts-of-off-body-carry/64243/> in reaction to Farnam’s book *FlexCCarrySM Solutions*. It is well worth the time to listen to Michael’s voice of experience about this topic, too.



Editor's Notebook

Ay, Caramba!

by Gila Hayes

I always enjoy the *Friday Deals and 2A Updates* that hit my email inbox from Ammo.com every week. I would probably be richer if I didn't open and read it, but there's something comforting

about having several cases of carry ammo tucked away against shortages and ever-rising prices. I also scan the three or four little news bits with which the fun folks at Ammo.com lead their [2A Updates](#). A recent edition caught my eye with a study of deaths from "stray bullets."

The wounds and fatalities attributed to celebratory gunfire are pretty sobering. My imagination serves up a scene from an old Western movie, when the outlaws gallop out of town hooting and hollering and shooting into the air. Today, police and medical reports show that New Year's Eve continues to be marred by injuries and death and property damage from celebratory gun fire, not only in South America and the Middle East, but in the good old U.S.A., too. While I view that as good reason to avoid crowded venues, whether celebratory or of a less positive nature, the bigger lesson is acknowledging that bad things happen, and not writing off the sound of gunfire with the weak explanation too often heard, "I thought it was just fireworks." You know the difference – take action to escape to safety. While statistics suggest the likelihood of being killed by a "stray" bullet is small indeed, the percentage goes way up if you're out in the open where that kind of foolishness is going on.

Thoughts On Charity

Will you allow me an off-topic rant? When I was a child growing up, individuals practiced charity and donating to relief efforts was a way of life. In addition to contributing when the collection plate was handed around, churchgoers tithed, giving 10% of their income to the church to support its ministries. Thus funded, churches sponsored missionary families to go abroad and help needy people. Children learned to practice charitable giving, even if only to put a nickle in the church collection plate, or volunteer on a food donation drive to serve Christmas dinner to poor families in town, or sorting and mending used clothing to be sent to overseas mission schools.

I got to thinking about the practice of charitable giving when the hue and cry over the Trump administration's 90-day pause on the millions flowing out of the US Agency for International Development dominated the news in mid-February. Headlines, not surprisingly, featured HIV patients cut off from antiretroviral therapy, starving and sick people going without food and medicine given to impoverished nations – in short, all the charities to which individuals donated when I was growing up.

Faith-focused charities are only a few of the worthy causes I remember from childhood. On the secular side, ranchers in our community were generous in their support of youth programs like 4H and Future Farmers of America (FFA), and the community was quick to rally to round up housing, food and clothes for neighbors who lost everything in a fire or a weather catastrophe. Workers in the region's open pit coal mines funded trusts and foundations to help families of fellow workers who suffered misfortune. Charity was close to home! Generosity was a mix of gratitude for help received when your own family was down combined with, I suspect, the unspoken prayer that disaster would pass by your door this year.

Imagine my shock last month when the church I grew up in publicized that its relief efforts in Africa and South America were "directly harmed" when the Trump administration paused USAID funding distributions. Turns out the church's relief agency relied on over \$60 million from USAID in 2023 for more than 60% of its budget. While I remember our family contributing to mission fundraising pleas during Bible school and church services, along going door to door and soliciting community support during fundraising drives, I do not remember the church depending on government funding 60 years ago. I was shocked to learn how dependent its mission efforts had become on the government collecting taxes on our earnings and redistributing that money as it pleases.

In striving to understand why we have allowed the government to steal the blessing of practicing charity individually, I realized Americans today have a much harder time opening their wallets for charities. Although GivingUSA.org reports that charitable donations rose a meager 1.3% in 2023, adjusted for inflation, that turns into negative numbers. "Notably, the number of donors has decreased, with small-dollar contributions (less than \$500) experiencing the most significant drop," notes the [Giving Tuesday](#) third quarter report.

I sought reports from several sources and viewpoints. Sure enough, Forbes.com admitted in a February 6 online article that the 135-year old United Way, once thought to be the biggest grass-roots charity ever, is struggling with falling donations, higher costs, and absent volunteers. A few months ago, the second half of Indiana Attorney Alex Ooley's video blog [Forge of Freedom](#) introduced listeners to the famous speech Davy Crockett gave in Congress entitled, "[Not Yours to Give](#)," the basis of one of the best Davy Crockett stories ever. It is retold at <https://fee.org/resources/not-your-to-give/> which Alex narrates. Read or listen, but ponder the wisdom in those words.

I'll close my rant with this observation: Charitable giving, while certainly benefiting the recipient, also does inestimable good for the giver. It takes us outside our own concerns and underscores that even in times of trouble and heartache, there often is far greater misery and need elsewhere. Giving what we can to alleviate another's woes improves our mental and emotional health. I hope we can take the practice of forced charity away from the government and return to true individual charity.

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