



## Network Membership Benefit Broadened

Recognizing that armed citizens are more likely to defend against imminent attack by displaying a firearm than by shooting, the Armed Citizens' Legal Defense Network, Inc. has extended a primary membership benefit to provide assistance to Network members involved in this more common act of self defense.

From the beginning, one of our Network member benefits has been payment of a deposit against attorney fees, sent immediately to the member's attorney if the member is involved in a self-defense shooting. Initially, that deposit was \$5,000, and it was later increased to \$10,000.

As Network membership increases and the legal defense fund grows, we are able to broaden this benefit to encompass self-defense incidents during which the Network member displays a

firearm but does not shoot. Under certain circumstances, a member could be charged with misdemeanor brandishing or unlawful display of a firearm, or the felony crimes of second degree assault or aggravated assault. If this occurs, the Network will forward a fee retainer of \$5,000 for a misdemeanor charge, or \$10,000 for a felony charge. Of course, our original benefit of the immediate assistance of a \$10,000 fee deposit after a self-defense shooting, regardless of being charged with any crime, will remain intact.

The Network's instructions to the member's attorney is to use the funds to provide representation for the member during any post-incident questioning and to obtain the services of a private investigator to investigate the incident, securing a solid account of what occurred before witnesses become hard to locate and details are no

longer clear in memory. At no time is the member expected to repay the deposit against fees, though the attorney returns funds unused in the member's defense, once the case is over. These go back into the legal defense fund to assist the next member who must act in self defense.

By providing funding to assure that the Network member has legal representation as early as practical, we establish in the mind of the prosecuting attorney and police investigators that the member has a well-organized, capable defense that will do the work to establish exactly what led up to the self-defense incident and what occurred during the event. Recognizing this kind of capable defense, the prosecution may feel pressed to either develop a very viable case or if they are unable to do that, will likely delay and eventually dismiss charges. ●

## Nebraska Gun Group: From Zero to 5,000 in 3 Years

*Sometimes the most effective gun rights activists are the ones who work quietly and don't attract a lot of attention. Network Affiliated Instructor Chris Zeeb (<http://www.neccwtraining.com>) is a good example. Three years ago, disheartened by gun rights compromises at the Nebraska Legislature, he established a new gun owners group from nothing more than an idea. We spoke with Zeeb at a convention in January, and he graciously shared his story, which should prove inspirational for anyone who is dissatisfied with the status quo where they live.*

**eJournal:** Thank you for giving us this interview, Chris! Tell me a bit about yourself so we can understand what kind of guy just up and starts a 5,000-member state gun rights organization.

**Zeeb:** I grew up in Omaha, NE. My grandpa gave me a single shot shotgun, but I didn't grow up hunting or into firearms at all. When I was 18-19, I was in an armed robbery in a restaurant. It was around Christmas time, at 9 o'clock

on a Tuesday night in a Taco Bell. The armed robber was an 8-month pregnant female who took the manager hostage with a gun to her head.

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It was in a small suburb of Omaha, a small town of 10,000 people that is literally crime free—nothing happens there! I had never thought about having to protect myself, and what happened that night weighed pretty heavily on me. It festered inside of me and I thought, I could have been dead that night, I had no way to protect myself, nothing to do but sit there.

A couple of years down the road, someone broke into my home in Omaha. I was not there at the time, but that was an unbelievable feeling to walk in and realize it had happened. The Omaha police response was, "We'll have an officer there in two to three hours to check the house." I started living in fear then. I put an alarm on the house, and I went and bought a handgun. I had it under my mattress, just for my safety at home [Nebraska had no law allowing licensed concealed carry at the time], but I never shot it, never did any training with it, and fortunately, I never had to use it.

The burglar alarm went off in my Omaha home one night, and I had to grab that gun. Stupidly, I now realize, I went to clear my house. My heart just about beat out of my chest. I said, "OK, I need to go learn how to shoot; I need to understand this better." I found the point of contact was in my detached garage, so I went out the front door of the garage and found that the contact had broken, fallen off, and that was why the alarm went off.

That was only about 8½ years ago, and that was when I really started. I went through gun safety with my four young kids, and they begged me, "Dad, let's go out and shoot this thing." We went and shot pop cans and the gun turned out to be a jam-o-matic. I drove to the nearest gun store and said, "What is a good gun?" I have an uncle in law enforcement so I asked him, "What do you carry?" I bought a Glock, and I was immediately hooked. I got into competitive shooting, and I took every training class that I could.

**eJournal:** How did you locate good training?

**Zeeb:** We didn't have concealed carry [in Nebraska until 2006] so I took the NRA Basic Pistol Instructors class, and I started going around to other places just to get every little bit of training. I went to Front Sight and others.

I started to understand that I needed to carry the gun to protect myself. So on my own I started going to the legislature and lobbying. Every year for six years, concealed carry was introduced and every year it was shot down. Then in 2006, a new female senator was able to get enough support to get it passed.

I'd completed NRA instructor training, and taught in a college for about 10 years, so with my teaching experience and with my new-found love for firearms, I said, "I'm going to start doing concealed carry firearms training," and that is how I got into it. I started on Day One, Jan. 1, 2007, when we got concealed carry. My first class was January 2nd or 3rd, I think.

**eJournal:** Tell me about Nebraska's concealed carry law. Is training mandatory?

**Zeeb:** Yes, we have mandatory training and it is probably one of the strictest. You have to be certified by the Nebraska State Patrol to teach it, and the State Patrol must approve the curriculum that you are teaching. Class length is not mandated, but based on what we have to teach, I usually have six hours in the classroom plus two or three on the range.

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Teaching is my hobby, my part time job. I work in the restaurant business, and once or twice a month I teach a concealed carry class.

**eJournal:** You also were the founding president of the Nebraska Firearms Owners Association (<http://www.ne-braskafirearms.org/>), which must have started soon after Nebraskans got concealed carry. How did that come about?

**Zeeb:** There was a senator who introduced an assault weapons ban in Nebraska, to ban guns based on appearance. I testified at the public hearing, and the large national organization for firearms rights walked in to that hearing and they did not oppose that bill! They went neutral on the assault weapons ban bill. I was just dumbfounded. I thought, "You guys are supposed to be representing gun owners? Whom in Nebraska did you talk to that wants this law? You know what? That's it!"

**eJournal:** So you formed a new gun-rights group. How?

**Zeeb:** I'm a cheap skate and I like to do things myself. I researched what I needed to do to start a non-profit organization and I started recruiting people. We formed a board of nine people of different interests, not just concealed carry. I wanted shotgun shooters and rifle people, too. I went down to the Secretary of State and I filed the paperwork to form the organization. The paperwork to start NFOA was filed in November 2008, and now we have around 5,000 members.

I've been in a lot of organizations. Since I'm a professional chef, I was part of the chef's association, but nobody wants to go to meetings, nobody wants to pay dues, or dues get cut from individual and company budgets. So I asked, "What is it going to take to run this organization? What are the costs?" Well, the costs are in staffing, so we are all going to be volunteers and save that money. When I started NFOA, I decided it was not going to cost anything to join. You do not pay any dues to become a member. It is completely free.

**eJournal:** But running an organization can cost money, plus organizing volunteers is not as easy as it sounds!

**Zeeb:** Oh, no, it is not! It comes down to this: a few do all the heavy lifting. I looked at the gun clubs and local ranges that I belong to. They mail out 200-800 newsletters at \$300 or \$400 a pop per month, and I decided we

wouldn't mail ANYTHING. Everything is done online, even the board meetings. It is impossible to get nine people together, so we have a separate part of NFOA's forum that is not open to the public [for use of the board]. We discuss and hash out what ever we need, we vote, and everything's on the record [in the board's forum]. There is no changing it, whatever is said was said.

**eJournal:** You started NFOA to lobby your legislators. Is that still your primary goal?

**Zeeb:** Legislation is our focus – representing the gun owners of Nebraska. We work year-round although the legislature is only in session 60 to 90 days at a time. For example, we've been working on the Castle Doctrine all year long. When a bill comes up, we take polls on our website, "Do you support this or not?" though we know what it is going to be before we put up the poll.

In fact our Castle Doctrine law is the big thing right now. Last year the NRA wrote a Castle Doctrine law, but it was shot down real quickly. It was convoluted and hard for anyone to understand. We get along well with the NRA and with their rep, but I've learned we need to take charge. This year, I wrote a nice clean, simple Castle Doctrine bill to change our laws, though I didn't use the term Castle Doctrine. [Update: Unfortunately, the bill is stuck in Committee at time of publication.]

**eJournal:** How do your current laws address self defense?

**Zeeb:** Right now, we have a duty to retreat except from your home so we are removing that and allowing you the right to stand your ground and meet force with force. In Nebraska law it specifically says, even if justified under the criminal code you are not released of civil liability. So, the second part provides civil immunity if you are found justified

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unless you recklessly or negligently injured someone else. Then the third thing: you would be allowed to use deadly force if someone unlawfully enters your home or occupied vehicle. Currently, if someone breaks into your home, they either have to produce a weapon or threaten you with deadly force before you can act. We say, look, if you are in your occupied vehicle or occupied dwelling and someone unlawfully enters it, that action establishes the presumption that they are there to do you harm. Then the burden of proof is not on you.

**eJournal:** I hope you succeed because it sounds like you've worked awfully hard on this.

**Zeeb:** Yes, but we have a lot of other legislation also in play this year, including a concealed carry signage uniformity bill. Right now they can post pretty much whatever they want wherever they want so you have people putting up little two-inch stickers in the bottom left of the door and things like that. [Update: by mid-April, this bill remained in committee.]

Then, I'm sure you probably heard about the high school shooting we recently had. A high school senior was suspended for 19 days for destruction of property for driving his car on the football field. They let him leave the building on his own, he went home to his father's apartment—his father is an Omaha police detective—and picked up the duty weapon his father left there and went back and shot and killed the assistant principal and another person. Now they've introduced a safe storage bill that would make you a convicted felon if someone stole your gun and used it. Of course, it would exempt the police so would do nothing to prevent what happened. We have to fight that.

**eJournal:** And NFOA remains a no-dues organization?

**Zeeb:** It is absolutely free! We appreciate donations. We have web-hosting fees and we have expenses, but people have been very, very generous and we've built up \$7,000-8,000 in the bank. A couple of times we've held rifle raffles that raised a few thousand dollars for us. People are always willing to buy a shot at winning a gun!

**eJournal:** Has NFOA changed since you started it?

**Zeeb:** We now recruit members at gun shows. There are a few guys on the board, who are gun show fanatics who always go to the gun shows and they take membership signups there. They've grown the numbers more than anything and I'm appreciative. The great thing is, we get a

lot of people who sign up at gun shows. The bad thing is that if you sign up at a gun show and you don't have an email address you are never going to get any correspondence from us.

**eJournal:** Well, it takes recruitment off your shoulders. Are you still in charge?

**Zeeb:** I was the president when we started three years ago. After the first year, I decided I wanted to step back from that role and let someone else do it. Andy Allen is now in his second year as president. Andy has done a good job building a relationship with the anti-gun Senator that introduced the assault weapons ban, who is the chairman of the judiciary committee. We hope some day to be able to do some firearms education in the schools. That senator is keen on education and is very open to that idea, though he is not a gun-friendly person. If all the other senators on the committee say, "Yes, we favor it," then he will favor it.

Andy has a different personality, a different way of looking at things, so we don't always see eye to eye. Sometimes we disagree, but that is what we need! We don't need one person's thoughts and ideas, we need different thoughts on things and we need to discuss those. He has done a good job.

**eJournal:** You were strong enough to let NFOA grow beyond you and freed yourself for more gun-rights work. What are your current aspirations?

**Zeeb:** Yeah, it is NOT about me. I just worked to get it started. I want to focus on growing this organization [NFOA] and making it effective. Education is a priority that we've been lax on. We haven't really gone out and done educational programs the way I'd like to. That is one of the organization's challenges for the future.

**eJournal:** Well, I think Nebraska's gun owners are lucky to have you on their side, Chris. I am glad you took the time to talk to me about NFOA. Thank you! ●

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## President's Message



Marty Hayes

### **Alcohol, guns and self defense don't mix!**

As an expert witness in self-defense cases, I have more than one time been engaged to speak to ballistic evidence and use of force issues in cases in which the lawful defender, while perfectly legitimate in his right to use force in

self defense, was also drunk at the time of the incident. Based on my experiences helping defend these cases, I have to ask, if you have to use a gun in self defense, PLEASE, PLEASE, PLEASE don't be drunk!

The perceived legitimacy of use of force in self defense takes a hard hit when the defender is legally intoxicated or even smells of alcohol. You see, most cops HATE drunks. Having worked the street for a number of years, I really developed a distaste for people who had been drinking, which I will freely admit makes me look at any drunk person's actions under scrutiny like that of an electron microscope.

I would hazard a guess that any cop worth his or her salt considers statements by an individual who has been drinking as less than trustworthy for a couple of reasons. First a drunk's perception of the incident certainly may have been skewed by the alcohol. Secondly, the police will likely suspect that statements by a drunken individual may be false, because they have been lied to so many times by drunks. "Honest, ossifer, I only had (hickup) two beers."

When you call 9-1-1 to report your shooting incident, do you want to be recorded, slurred words and all? Can't remember your address because you had been drinking? How about those silly giggles some people get when they have been drinking? "Yesth, maaa-a-amm, I sc-sc-schott the guy, he he he," recorded by the police dispatcher is going to sound really good in court, now, isn't it?

Next up on the hit parade as to why one should not carry while intoxicated, is the likelihood that while defending yourself, you may perceive events incorrectly. One of the results of intoxication is impaired mental faculties. Mistaking the intent of an aggressive individual might cause a drunken armed citizen to pull a gun WAY too soon, result-

ing in a charge of Aggravated or Second Degree Assault. One such case is fresh in my mind. A former student, after having "a couple" of beers, pulled a gun and threatened two door-to-door salesmen. I was actively involved in his defense, and frankly, he is VERY lucky to have ended up with a misdemeanor conviction for unlawful display of a firearm. VERY lucky.

Going hand in hand with skewed perceptions, is diminished inhibitions that go with drinking. Where a sober person might have waited slightly longer to see if their involvement in a situation was warranted, the drunk might be much more likely to intrude where he isn't needed or wanted. That intrusion could lead to an altercation that most sober people could avoid.

If the above issues were not enough to give a person pause before drinking while armed, there also exists the very distinct possibility that the fact that you were drunk at the time of the incident may tip the scales of justice in favor of the prosecutor, or the plaintiff if a civil suit resulted from your use of force. You see, a clear-cut case of self defense will likely not be prosecuted, even if the defender is intoxicated. It is the gray area cases, the cases where eye witness evidence is shaky at best (or perhaps non-existent) that are tried. Is the jury really likely to believe your story in a case of "he-said/she said," if you were intoxicated? I could recount several instances where the factor of alcohol either put the defender in jail, or the jury sided with the defender because the suspect or shooting victim had been drinking.

For all these reason, I want to ask a favor of Network members. PLEASE take your responsibility of being an armed citizen seriously. If you drink, take off the gun. ●

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## Affiliated Attorney Question of the Month

Thanks to the generous help of our Network Affiliated Attorneys, in this column we introduce our members to our affiliated attorneys while demystifying aspects of the legal system for our readers. This month, we conclude a question a member submitted for discussion—

**Many of us carry smart phones that are capable of voice recording as well as video recording. If a person involved in a self-defense shooting were to have the wherewithal to record the conversations with responding officers as well as video the physical evidence, would that be of benefit? Are there legal concerns such as gaining permission of those being recorded?**

The question generated so many responses that we've continued it over the past several months and complete it here. We thank our member for his question, and encourage other members to e-mail questions they'd like discussed to [editor@armedcitizensnetwork.org](mailto:editor@armedcitizensnetwork.org).

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The citizen's media law project posted the answer to this question sometime ago. Here is the link: <http://www.citmedialaw.org/legal-guide/california-recording-law>

In short, as far as audio is concerned, California is a two party consent state. Absent both parties' consent, it is deemed illegal wiretapping and you can also be sued for civil damages. The evidence is also inadmissible in court. The defense of necessity may become an issue if some-

one is charged with violating the statute, and you should query whether a prosecution would even be brought.

As for video, California v. Gibbons, 215 Cal. App. 3d 1204 (1989) held the result is the same.

### Warren D. Stephens

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This is a terrific question. At first blush it seems like a good idea. However, after giving it some thought I have some serious reservations.

My initial concern is that if you have the wherewithal to video the scene after a self-defense incident, your presence of mind could be a problem in a civil or criminal trial afterwards. It may appear that you were not adversely affected by the use of deadly force. Most people are greatly affected, but you were apparently unfazed, rather cold-hearted. Unlike the usual victim, one that has extraordinary mental confusion, anxiety, and adrenaline rush, you had the ability to not only think of videoing the scene, but were prepared to do so.

Videos can have a significant positive effect on the jury. A video, properly prepared, can be very important. However, it may be better to have it professionally done by someone who has some expertise and not related to, or directly involved in, the incident. Your attorney and investigator should be able to get the job done.

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Assuming the police are on your side after an incident, keeping them sympathetic is a top priority. The police may be offended and feel challenged by you making a video, as if they are not capable of doing their investigation. The police are there because the site is a crime scene. It is likely that you will not be allowed the opportunity to move about freely in any case.

There are situations where your personal video could cause additional problems. There are some jurisdictions that require consent by all those appearing in the video. A video or audio recording can also pick up comments that are damaging, or at least not helpful, to your position as a victim. While the audio portion of the video will be removed before it is shown to a jury (with the possible exception of your statements!), the unedited video may not be successful in convincing the state's attorney to drop the prosecution.

### **Doug McMillan**

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Just wanted to give you a brief answer on the question of the month regarding recording of conversations. Most of this revolves around state statutes rather than federal statutes as to the recording consent laws. Most of the laws, in particular the federal statutes (ex. Federal Wiretap Act, Title 18 Chapter 119) deal mostly with what is or is not allowed as it relates to a government actor (requirements for warrants/subpoenas etc.). I believe (though I haven't confirmed it) that ALL states prohibit an individual from listening and/or recording conversations of other parties, of which the recording person is NOT a party to the conversa-

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tion at all (eavesdropping).

Thirty-eight states and the District of Columbia PERMIT individuals to record conversations to which they are a party without informing the other parties that they are doing so. These laws are referred to as "one-party consent" statutes. As long as you are a party to the conversation, it is legal for you to record it. (Nevada also has a one-party consent statute, but the state Supreme Court has interpreted it as an all-party rule.) Twelve states require, under most circumstances, the consent of all parties to a conversation. Those jurisdictions are California, Connecticut, Florida, Illinois, Maryland, Massachusetts, Michigan, Montana, Nevada, New Hampshire, Pennsylvania and Washington. (Most of these, with a few exceptions are pretty non-gun friendly states anyway.) Sometimes these are inaccurately referred to as "two-party consent" laws. However, if there are more than two people involved in the conversation, all must consent to the taping.

As to the scenario of a self defense shooting (or even a traffic stop for that matter), where law enforcement is involved, there is NO prohibition on making a recording of the conversation. Heck, for that matter, in a traffic stop there is likely a video camera running on the LEO's dash anyway! If it is a digital type recorder, it also establishes other very important things, such as time frames. (Arrival of authorities, time of day, what was said and by who, prior to arrival of law enforcement or following arrival, discussion with other witnesses, etc.)

It is an excellent means to establish other witnesses who might be present at the time of a shooting, but who in the interest of "I don't want to get involved," want to get the heck out of there. To quickly get their names, addresses and phone numbers as potential witnesses, BEFORE they leave the scene could also be of extreme benefit

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if later in a courtroom they remember things a little differently than they did at the time. ( Remember: not only is the self-defense shooter under stress, but the witnesses will be as well.) This can be critically important in the scenario where there might be one or more surviving bad guys who are more than happy, and have no reluctance to "lie through their teeth" on the stand (especially if it is a civil action where they might benefit monetarily by doing so). Here again, having the name, address and phone numbers of any witnesses who corroborate the self-defense shooter's testimony can be of incredible exculpatory value and could mean the difference.

Personally, I have carried a digital recorder for years, not so much for this purpose but for personal notes, dictation, etc. However since going to an iPhone, I now use that as well, AND it has video. Now that might be very useful in court as well, assuming it is admitted as evidence. The biggest difficulty for the most part is having the presence of mind in such a situation to remember to turn it on in the first place.

While the taping might be legal, the person should not be a JERK about it, i.e. sticking a video camera in the cop's face or having a passenger do so for you! I treat this more along the same line as concealed carry. Unless you are required to notify and get the consent of the other parties, it is best to keep it concealed. Not only to avoid confrontations, or creating more animosity with the officer, but also the other persons will modify their behavior (for a time) based on knowing they are being recorded. In the case of a shooting, it is very important in establishing WHO the victim really is, who the aggressor is/was, and what was done to avoid a deadly confrontation. If you are walk-

ing around after a legitimate self-defense shooting playing journalistic interviewer or photographer it will appear highly callous and very self serving, not only to the officers, but also to a jury! The recording won't do you any good if it is able to be taken out of context by an aggressive prosecutor, or subject to interpretation.

More importantly, thinking because you are recording it, that you can therefore run on at the mouth with all sorts of information (most of which if it is a legitimate shooting, is going to be skewed anyway) is a prescription for serious jail time. Have it running, but do NOT expect to have to use it and shut up! On this, I agree with Massad Ayoob and others, including the USCCA, on the amount of information given. As a lawyer, I used to think it best to "clam up" immediately. This will be negatively interpreted by the police as well as a jury. Since they are also used to dealing with perpetrators, not victims in this manner, screaming, "I want my lawyer!" over and over does nothing but imply a certain level of guilt. It's human nature. A VERY LIMITED amount of information is not only observed as being "victim" cooperative, but is also beneficial in finding evidence/witnesses which could be missed otherwise. (And, yes, I know, attorneys STILL argue about this all the time, as to information given, so this is only my personal opinion.)

1. He attacked me and I was afraid for my life. (Establishing the aggressor.)
2. I'll sign a complaint. (Establishing the victim.)
3. Point out evidence (or more importantly witnesses other than the perpetrator[s]), if available.
4. I will fully cooperate when I have talked to my lawyer, and therefore do not consent to any searches.

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5. When you want to say something else, go to Step 1.

This is the civilian equivalent of the name, rank and serial number drill.

Back to the original question of recording—and the reason the above MUST be considered—no one knows how they are going to react under the stress of a shooting situation. No one knows, unless you have some past experience, either a previous incident or military past! If you go on and on rattling off a bunch of facts, figures, distances, times, shots fired, justifications etc. from your (at this point) totally flawed memory, not only is your recording of the incident going to be useless, it will actually be HARMFUL to you, should it go before a jury. Now you are providing audio proof of what you said, which is more than likely going to be detrimental, not beneficial as it will likely NOT coincide with the investigated facts.

It is not valid to try and equate all interactions with law enforcement as the same. While recording a traffic stop with an abusive officer might avoid a 50 dollar ticket, doing the right things at the time of a shooting could avoid a 50 year sentence! Stress reactions are totally different. But having your own record for review could be of great benefit at a later date.

**Timothy A. Forshey**

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It's nice to know so many of the members of the Network are so thoughtful and proactive as to think of such a question! It's a great idea, and it's not without possible merit. My experience tells me that investigating officers will

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likely not allow themselves to be recorded, and the legality of doing so surreptitiously (providing that is even possible—the police may have already had you surrender your phone to them along with your firearm) varies from state to state. In Arizona, it is legal to surreptitiously record any conversation provided the person making the recording is a party to the conversation being recorded. In other states, however, doing so can even be a felony. Photos or video of the scene taken by the person having used (or having threatened to use) lethal force prior to the arrival of police could, certainly, be of use, but most likely best used only to contradict discrepancies revealed in the official version of the facts which come out later (what attorneys call “impeachment” evidence). Caution and discretion are required, however, as there is also a very real risk that something captured in such a movie/photo could be used against the armed citizen, instead of for them, as it would be discoverable evidence which may have to be disclosed to the State. To conduct, essentially a “parallel investigation” while the police go about their tasks at the scene of the incident is not likely to happen. While many citizens who have employed lethal force, for instance, to defend themselves/their family in their own home are unlikely to be taken into custody, the officers can always decide otherwise if they deem it necessary to secure the attention and cooperation of the “suspect.” Paying attention to your “own” investigation in favor of “theirs” will likely not help the armed citizen in the long run. ●

*We appreciate the contributions our affiliated attorneys make to the Network, including their interesting responses to questions in this column. Contact information for our Network affiliated attorneys is linked at [www.armedcitizensnetwork.org](http://www.armedcitizensnetwork.org). Member log in required.*

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## Affiliated Instructor Question of the Month

One of the Network's great strengths is its affiliation with firearms instructors and attorneys. With the goal of introducing more of these professionals to Network members, in this edition, we are delighted to continue the *Question of the Month* feature. This month, we asked the Network Affiliated Instructors:

**What are some of your favorite realistic self-defense shooting drills? Do you wait for the student to reach an advanced skill level, or do you begin introducing real-life concerns in beginner-level classes? How do you expose shooters of limited skill to these concerns?**

### Rob Pincus

I.C.E. Training Company  
P O Box 1061, Virginia Beach, VA 23451  
855-468-4789 – <http://www.icetraining.us>

Almost all plausible self-defense shooting situations are going to require the processing of information IMMEDIATELY prior to the defensive shooting. Recognizing the existence of and identifying a threat are some obvious examples. I say that you must integrate the processing of information into the execution of the complex motor skill, if you want to truly be training for defensive (or counter ambush) shooting. If the student knows EXACTLY what they need to do just before the shooting command, as in: "On the buzzer, fire multiple rounds to the chest." Pause. BUZZ... Then that student is taking a free throw, not being forced to truly execute the complex motor skill on demand. Free throws allow you to execute a skill on your own terms, with a focused mind and blocking out distractions. In the shooting world, free throws build complacency and overconfidence in true defensive shooting ability.

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Defensive shooting training should be done with a student in front of a target, which offers multiple options for engagement, such as small shapes and large shapes (differing by at least two times in size). This set up allows the training partner or instructor to give different commands, which immediately need to be processed so that the student knows exactly what and how to shoot. Most shooters engage a one-inch circle at 12 feet very differently than a 12-inch circle at the same distance, at least psychologically.

In a typical two-day course with no pre-requisites, I get students responding in this way within the first hour and continue with these types of drills, which I call Balance of Speed and Precision Drills, throughout 90% of the course. Certain special drills and skill development sessions require the shooter to know what is coming, but we acknowledge that those are not truly counter ambush in nature.

### David S. Jenkins


Rochester Personal Defense, LLC  
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I usually get students working within ten yards or less. Most of your defensive critical incidents are going to actually be within two to three yards anyway. Safe and efficient deployment with a good measure of accuracy will get them to build a lot of confidence while building their skills. As most of my defensive-oriented classes go, I get them thinking about WHY they carry and WHAT they will face during and after an incident. Then we talk about how to avoid it. Tossing in the basic ideas of self defense and putting the context behind it works well.

*Continued on page 11*

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### John D. Farquhar

Mad Duck, TTC  
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I like the close retention hit drill, center alignment to target drill (retention), right and left handed shooting, lateral movement drill, multi attacker drill, and the Mark Wilson drill (chest, pelvis, head). Some are demonstrated, some even beginners can do slowly, but some are shown as “see what you do if you come back.” We do keep the ratio of one instructor to two students on the line.

90% of my students have never shot one handed, let alone shooting with the non-dominant hand. At the beginning level, we have them take one lateral step to get the idea of movement as most act like they are rooted in concrete when shooting. Even the multi attacker drill is fairly easy for new shooters.

### Jim Crable

1810 Marion Street, Madison, IN 47250  
812-265-2358 – [jcrable@roadrunner.com](mailto:jcrable@roadrunner.com)

I feel this is an important subject. Some state requirements just shoot a few rounds at a target at about seven yards and that is it. I teach an Ohio CCW class. Ohio does not mandate a certain course of fire but suggests some shooting stages. These include different types of shooting one may encounter in real life and I applaud the Ohio Attorney General for being proactive in this regard.

For the initial CCW class, I incorporate extremely close shooting, sighted and point shooting, varying distances and shooting from cover. I also add two-handed, strong hand and support hand shooting, and initiate the students to shooting while moving. There is not a lot of

time to go into much detail but the student is shown “real life” shooting. It opens some eyes.

In more advanced classes, there is time to practice more of the different shooting positions. It makes the classes more interesting and the students receive a real dose of what to expect in a real shooting incident. IDPA matches allow for a continual supply of possible stages to use in classes.

As with any class, I tell the students that the class alone will not make them proficient. Take what is shown and practice on a regular basis. That will make them much better prepared for the situation that we all hope never comes.

### Greg Boggs

Old West Enterprises  
345 Village Farms Lane, Folsom, LA 70437  
[www.floridaparisheskeetclub.com](http://www.floridaparisheskeetclub.com)  
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On August 15, 2010, the state of Louisiana passed an amendment to their CCW law. Previously, no CCW licensed individual could carry in a house of worship. In the law as amended, if the CCW carrier was appointed by the house of worship to carry a firearm and if that person completed an eight-hour course in tactical training then that person was authorized by law to carry a concealed firearm in a house of worship.

Since I am one of the senior active shooter instructors for law enforcement in the state, my church asked me to put together a program for our church. My class consisted of approximately 60 hours of tactical training that included use of force, situational awareness, team formations, threshold evaluation, room entries as well as shoot/no shoot scenarios with airsoft pistols and 3D targets.

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We also spent considerable range time including meeting POST qualification standards as well as decision-making drills coupled with a number of other drills. Lastly, the students were put through force on force training with airsoft pistols in a variety of scenarios.

Since completing this training for my church, I have been approached to deliver this training to a number of other houses of worship. This training is certainly advanced training for CCW students, but is excellent training for the real world. I used the Armed Citizen's Legal Defense Network material for this class as well as in the other CCW and Personal Protection courses that I teach. Your material is excellent, and I have strongly recommended that students join the organization.

**Denny Magnusson**

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I like to go to multiple targets as soon as I think the students have reached a level high enough to handle it. Moving from different targets is something I learned from the great late Ray Chapman. Shoot carefully and move quickly!

With my security company, we do a shoot in the middle of the night both in the summer and also when it is minus-40 in the winter. I feel if you are going to carry under those conditions, you should be able to qualify, whether it is snowing, raining, and both bitter cold and warm in the summer or in the dark or with a bright moon. I feel the dark situation works well once they quit moaning about it.

Some of my students simply can't do a lot of running around, so for them I try to get them used to loading and firing and more loading and firing under a stress situation like me hollering at them when they don't expect it.

**Karl Rehn**

KR Training/A-Zone Range

801 Dellwood Street, PMB 171, Bryan, TX 78958  
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Most of the beginner level students I get are interested in taking the Texas Concealed Handgun License course, which includes a timed-fire shooting test. Part of the test requires firing two shots in three seconds at a three-yard B-27 target, starting at a ready position. At the end of Basic

Pistol 1, I explain that the two shots in three seconds drill is intended to simulate a real defensive shooting situation.

In Basic Pistol 2 and in the CHL course, students shoot the two shots in three seconds drill on the clock. I explain that the drill isn't that realistic, and that a more realistic drill is drawing from concealment and shooting three rounds at a three-yard target in three seconds.

In my post-CHL classes, students shoot the drill from concealment, with increasing accuracy requirements at higher levels. Three shots in three seconds at three yards, into six-inch target seems to be a pretty good baseline measure of defensive pistol skill.

**Jon Abel**

Be Safe With Guns  
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When we talk self defense we are really talking counter ambush skills. As permit holders and law-abiding citizens, our first responsibility is to avoid any dangerous encounter in the first place; that is the most important drill I stress to students.

The most powerful weapon any one of us possesses does not need to be confined to a range, a shoot house or a simulator. We can hone our skills anywhere anytime and we should because heaven forbid someone threatens our lives or the lives of those we love, it can be anywhere and anytime. There are no advanced skills needed to practice the most important aspect of defensive shooting. You just need discipline. Recognizing that you need to defend the life of yourself or others as soon as possible is the single most important thing you can train for in the context of defensive shooting. A person can practice and refine

*Continued on page 13*

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*Continued from page 12*

their drawing and shooting to achieve two or three high center chest shootings in 1.5-2.5 seconds in a matter of hours but if it takes that same person four, five or six seconds to recognize a threat, game over.

Hopefully we have now established the single most important aspect of defensive shooting and we know to stay off cell phones, iPods and other gadgets that require us to "lower our shields" in public to a two-foot radius around our heads. We have established that being aware of our environment through sound, sight, smell and "gut" is the most important thing we can train, now let's address those one to two seconds that we have no other alternative but to use deadly force. For that, I have to go with a proven and established drill that Rob Pincus has developed for Combat Focus Shooting: "Extend, Touch, Press." For the hundreds of students I have trained in the past few years "Extend, Touch, Press" is the 30-second defensive firearms training class.

### **Jim Trockman**

Evansville, IN – 812-867-9888

<http://gunsitelinks.com> – [jim@gunsitelinks.com](mailto:jim@gunsitelinks.com)

I believe all the questions you asked are excellent, but I'd like to focus on this one: Do you wait for the student to reach an advanced skill level, or do you begin introducing real-life concerns in beginner-level classes?

Subject: Why closing the non-dominant eye to obtain a sight picture is a myth.

Most shooters have no reason to struggle with eye dominance if their fundamentals are intact. Place a black dot about one inch in diameter on a wall. Step back and take a look at the dot. How many eyes are you closing to see the dot? None, of course! Let's say you had a good NRA instructor, and have been taught to relax, keep your eyes on the target, your weight slightly forward, and your head erect. You have now created a sight picture in which an imaginary line, let's call it a "line of sight," runs from the target (in this case the black dot) to both of your eyes. From a low ready position, the handgun will naturally rise to the line of sight and the gun is aimed straight to that dot! With both eyes open, the gun comes up to the same dot whether you are right eye dominant, left eye dominant, or cross-dominant. Closing one eye to shoot is a myth perpetuated by the movies, and instructors who haven't yet questioned this ancient way of teaching fundamental shooting skills.

There's more: It is widely know that closing one eye

during a lethal encounter cuts back on about one third of the peripheral vision, making tunnel vision during an adrenaline rush even more dangerous. This is true especially with multiple threats. Why then, should students be taught how to shoot incorrectly in the first place? It could possibly put them in a compromised position at a time when they are fighting for their life.

Even seasoned professionals use lasers on their self-defense handguns, such as the ones manufactured by Crimson Trace. Would you close one of your eyes to find that little red dot to make sure it is placed correctly on the threat? Of course not.

See Section E of the Army Marksmanship Unit's study of monocular and binocular vision in the Encyclopedia of Bullseye Shooting, which, although lengthy and maybe initially boring to some, provides the science behind the fact that keeping both eyes open while shooting is the best and only choice <http://www.bullseyepistol.com/annex2.htm>.

You may ask at this point, why do some shooters have double vision when both eyes are open, and must close one eye in order to see the target? Everyone's eyes are different, and no matter how hard they try, those two targets just won't disappear. I was once told to shoot the target on the side of the dominant eye; another time I was told to shoot the target that appeared the darkest. Here is the correct solution for this problem, taught to me by Travis Tomasi at the 2011 SHOT Show: If a shooter sees two targets, he should squint the non-dominant eye just enough to make the second target go away, but not more! Re-open the non-dominant eye as quickly as possible, assess the situation then proceed accordingly.

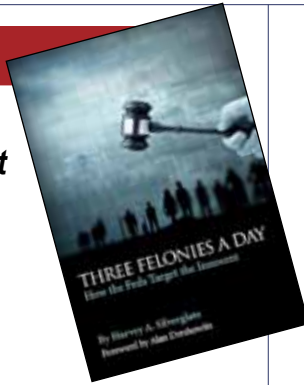
In my personal experience, and in my experience as an NRA instructor, practicing by shooting instinctively (pointing and shooting, indexing, call it what you may) solves this problem. The need to squint the non-dominant eye will dramatically diminish and eventually disappear. There are two methods that will dramatically speed the process of overcoming double vision. One is practicing with both eyes open while dry-firing with the aid of a Crimson Trace laser, and the other is also by dry-firing using the newly endorsed NRA training device known as a SIRT (Shot Indicating Resetting Trigger).

So, there you go: my #1 drill for beginning students is to teach them how to commit to motor memory behavior which assures they will be able to shoot defensively correctly when trouble starts, by keeping both eyes open and focused on the threat! ●

## Book Review

### **Three Felonies a Day How the Feds Target the Innocent**

By Harvey A. Silverglate  
Encounter Books, 900 Broadway, Ste.  
601, New York, NY 10003  
ISBN 978-1-59403-255-4



*Reviewed by Gila Hayes*

I'll admit right up front that I found *Three Felonies a Day* a hard book to read, owing in part to vast differences between author Harvey Silverglate's political leanings and my own. Still, I ploughed through this book, not only to learn how the U.S. government tramples the legal rights of its citizens, but also hoping to find strategies to correct such abuses.

*Three Felonies a Day* is based on case after case of an all-powerful government spending the resources of the nation to prosecute its own citizens for felonies both real and imagined. Why hasn't the citizenry risen up in protest? Ignorance, Silverglate suggests. Stiff minimum sentences and the risk of conviction faced by even innocent defendants fuel a wildfire of plea-bargaining, he explains. Plea-bargained cases are kept out of the public view, and thus don't inflame revolt.

Silverglate's examples cite defendant after defendant who pled guilty to lesser crimes to avoid conviction on a truly devastating charge. Toward the end of Chapter 6, the reader learns that even the America Bar Association under threat of criminal prosecution once negotiated a settlement instead of fighting the government's intrusion into its operations. The American Civil Liberties Union (ACLU) agreed to a gag order during litigation with the government. "One of the nation's premier civil liberties and free speech litigating organizations was in a position in which it was not clear what it could and could not disclose," Silverglate decries.

Silverglate assigns the blame to vague, unspecific legislation, coupled with a growth explosion of statutes enacted by Congress in the U.S. Code. "All segments of civil society and wide variety of seemingly innocuous behaviors are at risk of being criminalized by an overzealous Justice Department," he writes."

After a lengthy recitation of cases in which elected politicians were targeted and ruined by federal prosecutors, he writes, "The pliability of federal law makes it all too easy for a self-serving U.S. attorney to take down his or her po-

litical adversaries." This is done by making deals with a small-time player and coercing them to give damning testimony against a more prominent target, he outlines.

This method, which Silverglate calls "climbing the ladder," is applied with equal aggression in cases against surgeons, pharmaceutical company executives, investment bankers and investors whose stories are given as examples. And the felony may not even relate to the suspected wrongdoing that put events in motion, he adds, citing how suspicions of insider trading morphed into the felony of lying to a federal investigator in the celebrated case against Martha Stewart.

When Silverglate describes breaches of privileged communications between attorneys and clients, using as an example a case about tax shelters, the reader might snort, "Those wealthy cheats deserve their punishment," failing to see that a government that lies and cheats when prosecuting investment bankers, real estate developers, or pharmaceutical companies will just as happily use those methods when pursuing you or me. Unable to sympathize with either the criminal or his attorney, citizens tacitly approve unscrupulous prosecution, failing to see who the next unpopular defendant might be.

In a chapter that reads like a crime novel, Silverglate relates how prosecuting organized crime opened the door for government interference in how attorneys defend their clients. Again, it is tempting to think, "The mob had to be stopped at all costs," while ignoring that in order to avoid career-ruining obstruction charges against themselves, attorneys now must weigh just how vigorously they will defend their clients. After explaining how one attorney was jailed for obstruction of justice, Silverglate opines that the lawyer's conviction, following an appeal, established that attorneys were expected to act in the FBI's best interests, not that of their clients.

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Americans value the ideal of an unregulated news media, but most wonder if the free press still exists. Silverglate offers the answer in Chapter 7. While most states have shield laws allowing reporters to keep secret the sources of their information, there is no such protection against federal intrusions.

Operating "under a veritable Sword of Damocles" despite America's claims of a free press, reporters face prosecution, jail time, and fines levied against their publisher, should refusal to divulge a source be judged contempt of court under the many vague government standards currently used by prosecutors and judges. "Since there is no limit to the fines that may be imposed, a judge has the power to bankrupt even the wealthiest media organization," explains the Silverglate, concluding that the government's power to impose fines "under the vaguest of circumstances and legal tests," is similar to the aphorism that "the power to tax is the power to destroy." He adds that the freedoms "ostensibly protected by the First Amendment" are no longer secure. He blames the Vietnam war years for the federal government's drive to subjugate the fourth estate, though he later admits that federal prosecutors also use the Sedition Act of 1898 and the 1917 Espionage Act, which predate the Vietnam war years considerably.

Chapter Eight outlines tactics used in prosecuting national security charges. "The Department of Justice has the tools to charge a wide range of members of civil society with serious national security-related violations, even when those alleged violations do not, by any reasonable stretch of the imagination, truly pose a danger to the nation's security," Silverglate writes.

After reading this chapter, I wondered if national resources wouldn't be better spent enforcing more restrictive immigration laws, and instead of expecting government to stop homegrown terrorists, might not those with whom they rub shoulders daily exercise humanity's God-given responsibility to protect their own communities instead of expecting government to detect and stop all the dangers?

These are concerns author and attorney Silverglate does not address, though he does write, "Law under our chosen system performs its highest purpose when it limits government power, since history and experience show that governments tend to overuse their perceived authority."

On surface consideration, *Three Felonies a Day* could read as simply nothing more than a very depressing in-

dictment of a corrupt legal system without any redemption in sight. Silverglate's political leanings make him quick to point the finger at an authoritarian government he believes has incorrectly persecuted academics, artists, attorneys, corporations, immigrants, reporters, politicians, and captains of industry, though the reader can also clearly hear his warnings about a government bent on obliterating any challenge to its supremacy.

Silverglate comes closest to suggesting a solution when he writes, "The battle to restore proper balance between the power of federal prosecutors and civil society cannot be fought along lines separating liberals from conservatives, law-and-order advocates from libertarians, populists from industry leaders, reporters from moguls, or any of the other categories into which our increasingly fractious society sorts us...When the feds appear on the scene, claiming to represent the public interest by going after some citizen who had no reasonable way of knowing that his or her conduct could be deemed a felony, do not ask for whom the bell tolls. It tolls for all."

Quoting the truism that people get the government they deserve, he notes that "an alert citizenry willing to exercise its constitutional right, indeed obligation, to petition the government for a redress of grievances," is just as important as a "vigorous judiciary and legislature," in putting "the brakes on excessive prosecutorial zeal."

And still, I must ask, "How?" I think that as gun owners we must stop being one-issue voters, if we plan to pass along a free America to future generations. The standard for anyone we're willing to elect to office needs to be, "Will this candidate actively work to dismantle the power the federal government has assumed?" Though *Three Felonies a Day* does a fine job of defining the problem, we also need solutions and strategies to overcome the hazards so vividly outlined in this book. ●

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Gila Hayes

## Editor's Notebook

### Watch those Representatives

Most of us are keeping one eye focused on our state legislatures, as illustrated by Chris Zeeb in his story starting on the front page of this journal. Just a few weeks ago, one of Washington's anti-gun senators used budget concerns to veil an at-

tack against our self-defense rights.

In Washington, we treasure RCW 9A.16.110, which assures us that if a prosecutor pursues criminal charges against the victim who defended herself or himself, that the innocent victim at least has the ability to recover the expenses for defending in court the hard decision they had to make while they were being attacked.

While RCW 9A.16.110 has been invoked in various cases, reimbursements are estimated at below \$250,000 per year. Still, this anti-gun representative got his bill's first reading on April 9th, and scheduled its hearing before the Ways and Means Committee a mere four days later. Fortunately, someone was watching the Ways and Means Committee, and on Monday, the National Rifle Association's legislative update announced the hearing, and from there the protest spread! By Tuesday morning, along with many others in this state, I was emailing all the representatives on the Ways and Means Committee, charging that the bill was, "... a poorly masked attempt to inhibit the ability of law-abiding citizens to defend themselves against violent crime."

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I was heartened to receive several responses from representatives who said they would oppose the bill. Then, as quickly as it had arisen, the tempest passed. The hearing was pulled from the schedule. Of course, we will need to watch closely to be sure the sneaky representative from the 48th district doesn't try to tack it on to another bit of legislation. The episode reminded me of a truism, attributed to a variety of wags, but thought to come from an opinion issued by a New York judge in 1866, that opines, "no man's life, liberty, or property are safe while the Legislature is in session."

Why am I telling you this story? Among gun owner organizations, the biggest player of all, the National Rifle Association, comes in for a lot of criticism. This time, the earliest notifications about the threat to our unique and valued 9A.16.110 came from [www.nraila.org](http://www.nraila.org), the website of the NRA's Institute for Legislative Action. Starting on Monday afternoon, it seemed that every gun owner I know in Washington State was forwarding a link to the NRA-ILA's warning. By 1 p.m. the following day, the Second Amendment Foundation had joined the fray along with a host of smaller organizations and email groups all encouraging gun owners to write, call or email their representatives along with the members of the Ways and Means Committee.

Still, the first warning came from NRA-ILA. Without that


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J. Vincent Shuck, Vice President  
Gila Hayes, Operations Manager

We welcome your questions and comments about the Network. Please write to us at [info@armedcitizensnetwork.org](mailto:info@armedcitizensnetwork.org).



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announcement, my little flurry of emails to the Ways and Means Committee, along with many of those of hundreds of other Washingtonians, would have gone out at least 12 hours later, possibly too late to kick the hearing off the schedule. I, for one, appreciate the NRA's efforts that kept us informed of committee-level legislative activity.

### Who Can Use a Public Defender?

Just as the last edition of this journal was in its final proofreading, an interesting case in Colorado came to our attention. The facts of the case are tawdry – a man killed his ex-wife's lover, shot the lady's divorce attorney and tried to kill the judge who presided over their divorce. It's the kind of news spot that TV stations sprinkle in to spice up a slow news day, but those details weren't what caught our attention.

What we found interesting was a report on [denverpost.com](http://denverpost.com) reporting that the judge in this man's murder case had ruled that he was not entitled to a public defender, owing to some \$221,556 assets it was said he possessed. News interviews with attorneys in his area noted that "several local defense attorneys" estimated that at least half of that \$220,000 would be used up were one of them to mount a "robust and competent" defense, owing to the complexity of the case. Other lawyers were quoted as suggesting the defendant should "expect to pay a fee 'north of \$100,000.' 'It could go up from there,'" said one.

This little blurb emphasizes several sobering realities: first, in these days of tight budgets, I expect the judges making eligibility decisions may well follow the Colorado judge's example. Do a Google search for "income limit for public defender" and you'll see that various states enforce some very low-income limits that pretty much exclude the lower middle class from access to a public defender.

Second, the attorneys in Colorado gave a pretty realistic, if chilling, estimate of the cost of putting on a vigorous and skilled defense in a complex case.

Think "your" potential shooting would be simple? Think again. What if you have to defend against multiple assailants and shoot several? What if some of them are unarmed? What if...well, the list of complicating factors is nearly endless, and you get the picture. When the gun comes out of the holster in public, the word "simple" ceases to be applicable.

In closing I'd like to point you toward a tremendous article I ran across in the January-February 2011 issue of Women & Guns magazine, which you can read online at <http://www.womenshooters.com/0111issue/macnutt0111.html> . In this column, the magazine's legal columnist Karen McNutt outlines many principles, concerns and ideas that run parallel to the Network's educational materials. I always find it is useful to read familiar ideas and concepts as stated in the words of others, and I think this article provides excellent food for thought for readers of either gender. Don't miss it!

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*See full review in April 2011 Journal*

# Armed Citizens' LEGAL DEFENSE NETWORK, INC.



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Print this application form and FAX it to 1-360-978-6102 (if you are using a VISA/MC), or mail it to P.O. Box 400, Onalaska, WA, 98570 with your check for the membership option(s) on the application below. If you have any questions, please call 360-978-5200.

When your application is accepted, you will receive three DVDs concerning the lawful use of deadly force for self defense (Multi-year memberships receive additional DVDs, plus receive new DVDs as soon as they are produced). With membership purchase, you will become immediately eligible to have any future case of self-defense reviewed by one of our Network experts at no charge, and the deposit against paid to your attorney and grants of financial assistance for any litigated self-defense cases initiated after membership application (please read <http://www.armedcitizensnetwork.org>). You will also receive a membership card, and a user name and password for the member's Internet forum and other areas of the Network web site restricted to members only, as well as your coupon code for the 20% discount at the Network's on-line book and DVD store.

We look forward to your participation in the Network as part of a family of armed citizens who passionately care about the right to armed self defense, and want to protect themselves from the legal nightmare that sometimes accompanies a lawful act of self defense.

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How did you hear about the Network? \_\_\_\_\_

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*With my signature, I hereby attest that under the laws of the United States of America, I am not legally prohibited from possessing firearms, that I am 18 years of age or older, and that I legally reside in the United States. I understand that any grant of benefits is limited to lawful acts of self defense with no additional criminal charges (unlawful possession of concealed handgun, for example) associated with the incident.*

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Please Print Name

\_\_\_\_\_  
(1) Additional Household Member Applicant's Signature

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