



Sixth DVD Production Underway

by Network President Marty Hayes, J.D.

Videography on our sixth educational DVD, entitled *Dynamics of Violent Encounters* is officially under way, having accomplished a great start at the 2011 Rangemaster Tactical Conference in Tulsa, OK last month. During May, Network Vice President Vincent Shuck and I traveled to the United States Shooting Academy facilities in Tulsa and videographed three separate events with the help of 24 volunteer participants, kicking off production on this educational program.

This will be our most ambitious educational DVD project to date. It focuses on explaining many of the different issues involved in self-defense incidents. For example, in the first segment, we conducted what I term an

“enhanced Tueller Drill” which showed not only how quickly someone can run in 21 feet, but we extended the range out to 40 feet, and had the participants start from lying on their stomach, starting on their knees, starting standing relaxed and starting from a ready crouch. We intend to help the viewer understand the time it takes to get up from the ground, up on to the knees, and to study the body physiology that it takes to get into motion.

This line of inquiry is a direct result of a murder case on which I am currently working and the filming did double duty: to help Network members viewing the DVD understand how to recognize these cues and to explain what they perceived, and the other to help an innocent man find justice.

Other topics the sixth DVD addresses include turning speed, asking how fast can a person turn while being shot (sometimes resulting in shots in the back)? How about reaction time? How long does it take a person to react to a stimulus, either to start shooting or stop shooting? How easy is it to be disarmed if someone attacks an armed citizen in an attempt to gain control of the weapon? These questions are important, and usually require an expert to explain it in court.

When finished, the video will first be sent to our members, then used in our CLE training program to educate both defense and prosecution attorneys to some of these issues.

More about the Tactical Conference on page 8

Network member Jules Klapper helps with demonstrations for our next DVD at the Tactical Conference in Tulsa.

Photos by Gail Pepin



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Who You Gonna Call?

by Gila Hayes

“I just completed some training, and the only real bummer was the part about what comes after using a gun in self defense,” said the voice over the phone. “Maybe I shouldn’t even defend myself if the aftermath

is that bad! I might be better off dead!” That initial over-reaction is a repeated theme, and one I’ve heard many times as gun owners come to grips with the truth that while surviving a criminal’s attack is top priority, their ordeal

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is far from over at the conclusion of the assault. Learning about what society, the criminal justice system, and your own physiological and emotional backlash piles on, adds considerable gravity to the study of self defense.

Post shooting teams for law enforcement personnel are making progress helping their survivors of violent encounters with strict procedures put in place to address post-shooting concerns. Network member and clinical psychologist Tony Semone has for years worked as a police psychologist and is a court-recognized expert on psychological aspects bearing on use of deadly force in self defense and its aftermath. He also teaches law enforcement about post shooting survival. As such, he is well aware that any of the interventions undertaken on behalf of an officer after a shooting must not create openings for misuse later in court. Fresh back from lecturing on this very topic at a SWAT conference, Semone outlined in a recent interview a number of concerns that warrant our attention.

I asked Semone about parallels between the armed citizen's post-shooting experience and that of law enforcement. While the dangers are similar, the biggest difference lies in the protocols enforced by many law enforcement agencies to protect their officers after a shooting. After surviving criminal attack, the armed citizen walks a tight rope without a net of similar protections. These legal risks start as early as the first contact with law enforcement after a self-defense shooting.

Semone is a big proponent of Massad Ayoob's five part statement for answering on-scene questioning. These steps (see sidebar to right) are detailed in the DVD sent every Network member, *Handling the Immediate Aftermath of a Self-Defense Shooting* with Massad Ayoob and Marty Hayes. Police can expect a supervisor responding to the scene to make sure an officer involved in a shooting isn't set upon by the press, is moved from the scene where he or she won't have to watch the bodies being taken away, and is not questioned by other officers on the scene.

Conversely, Semone notes, "The disadvantage for the citizen is that there is no such hierarchy," adding

that the individual will have to construct their own protocols. These begin with Ayoob's five-step statement, Semone emphasized, then he noted additional concerns and possible solutions.

Get Medical Assistance

If shot, the criminal assailant will receive first attentions of emergency medical services, and triaging procedures can delay or entirely ignore treatment of the armed citizen, Semone notes. "On scene, the citizen needs to be attended to by EMS," he stresses. "That is particularly true if the citizen has preexisting medical problems, particularly cardio-vascular, essential hypertension or they have a heart implant or what ever. They need to have EMS respond to them."

Semone recommends asking to be checked over by medical responders. We know of cases where attack survivors suffered untreated concussions after being in a fight; where knife wounds went undiscovered and untreated for some time; even gunshot wounds found later of which the survivor was initially unaware. These are all legitimate reasons to insist on receiving medical evaluation.

The armed citizen needs an interlude to decompress, away from the jostle and fray of law enforcement and the public, Semone continues. This initial pause is essential for the citizen to gather his or her thoughts and is critical in preventing injudicious and probably inaccurate responses to questions about details like distance, rounds fired, what was said, and locations of participants.

After a shooting, the citizen not only still is under the effects of body alarm reaction, now he or she is likely further frightened by questioning from law enforcement. Being interrogated, potentially handcuffed and detained in a police cruiser and made to feel like a criminal all contribute to dissociation or an altered state of consciousness that is already part of surviving a deadly force attack, Semone explains.

"It wouldn't be surprising that in that moment the armed citizen could make statements that he has no business making," Semone notes.

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Ayoob's Five-Step Statement

When law enforcement arrives, Ayoob recommends limiting information to the following five statements:

1. Tell responding officers "I'm the victim; he is the perpetrator."
2. Tell responding officers, "I will sign a complaint."
3. Point out pertinent evidence.
4. Point out any witnesses who saw what happened.
5. Conclude by saying, "Officer, you will have my full cooperation after I have legal counsel here."

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Treatment or examination by EMS provides the citizen a period of separation from law enforcement. "EMS can, in fact, intervene between the citizen and law enforcement, and say, 'Excuse me, officer, I have got to check this guy out,'" he explains. "That gives the citizen an opportunity to begin to decompress."

Reiterating the likelihood of being in an altered mental state following a critical incident, Semone stresses the importance of practice to memorize making the proper steps after a shooting. Force on force training should not only drill on the tactics of self defense, but also interaction with authorities immediately thereafter, he posits. Instead of the common scenario-based training in which the student goes through the scene and then immediately explains to instructors what they saw and did, Semone believes it better to actually practice invoking Ayoob's five steps, ask for EMS evaluation, and insist on time for decompression before making a full statement. Role play giving police the information recommended in Ayoob's five steps, and closing with, "Just as you would, officer, if this was you who had done the shooting, I need to have some time to get my wits together."

Semone explains that not only are recollections of what happened during a life-and-death event distorted or forgotten in the immediate aftermath, but also that retrieving those memories becomes increasingly unlikely if the survivor is unable to decompress. If immediately taken into custody, and then held in jail, the likelihood of recovering memories about what happened during a shooting grows ever slimmer. "The longer the armed citizen stays in custody, post shooting, the less likely it is that he will be able to give a coherent narrative because

that experience becomes another stressor in its own right," Semone explains.

Getting Emotional Help

Another common service offered police after a shooting is access to counselors and chaplains and reassurance from their peers, Semone continued. For the armed citizen, the need for these kinds of supporting services is equally great, but talking to the wrong people risks a subpoena bringing a witness into court to report emotional outbursts like, "I wish I could have done something different," or, "The person I shot was just a kid! Oh, God, I feel so guilty," or worse. If a prosecutor or plaintiff's attorney attempts to portray an armed citizen's self-defense shooting as an over reaction to being robbed at knife point, or a panicked response to discovering a stranger inside the home in the middle of the night, these kinds of statements, played and replayed over and over for the jury can eclipse the factual evidence that an attacker bent on violence left the citizen no choice but death or self defense. Without

any doubt, the armed citizen must guard against making these kinds of outbursts in the hearing of people who do not have recognized privilege to refuse to divulge what they were told.

Unfortunately, with the exception of attorneys and their clients, we find considerable variation from state to state in who has privilege. In some states, psychologists have privilege, but mental health professionals, counselors or therapists may not, Semone reports. Rarely can spouses be compelled to give damaging testimony against one another, unless one has committed a crime against the other, so that exception doesn't apply to our discussion. Be aware,

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Lost Memories

From study of critical incidents and memory, Semone is convinced that being in a self-defense shooting inevitably creates an altered state of consciousness that distorts perceptions. He cites studies by Alexis Artwohl, Bill Lewinski and Massad Ayoob to support his suggestion. "Nobody wakes up in the morning figuring, 'by the end of the day, I'm going to shoot somebody to death,' and this is especially so for the private citizen. Given paucity of force on force training they undergo, it is particularly likely that they aren't going to be thinking about what the hell to do," he explains.

"Humans regularly operate in a divided state of consciousness," he continues. "We only pay attention to that which has meaning for us in the moment and nobody can pay attention to everything at once." Yet after a shooting, aggressive law enforcement inquiries demand an unreasonably detailed recall of details. This is not realistically available from the survivor of a life-threatening event.

Semone cites an article by Bruce Siddle and Dave Grossman on memory impairment, a version of which is published [online](#). In short, Siddle and Grossman concluded that it took as long as 72 hours before investigators could expect officers to have the best recall about details of a critical incident. That is why it is so important not to try to explain the entire incident moments after it occurred.

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however, that a valid marriage between the spouses is required before that privilege may be asserted. Further, depending on state, the privilege not to give damaging testimony about what a spouse witnessed may apply only to criminal cases. What is known as a confidential communication exclusion may apply to both civil and criminal cases, depending on jurisdiction. In short, the question of who it is safe to talk to after a critical incident is complex, and made more so by the patchwork of laws in force.

Semone noted that talking to a priest, rabbi, pastor or chaplain was, to his knowledge, almost entirely safe and he would not expect the clergy to be compelled to divulge statements made by parishioners. Obvious exceptions include abuse cases. Though surveys show that over three-quarters of Americans consider themselves to be part of a religious congregation, attendance at church services is a lot rarer. From a practical standpoint, while the communication may be protected, seeking emotional help from a cleric with whom one has little acquaintance seems an unlikely step. Further, Semone suggested that an immediate request to speak with clergy could be misinterpreted by police to indicate feelings of guilt over the shooting.

The armed citizen will have to keep foremost in mind that no matter how great the need to talk out or justify their self-defense actions, most of their nearest acquaintances and friends will have absolutely no privilege exempting them from being required to testify to what they were told. Forming pre-existing relationships with people who can help during and after an emergency merits serious thought.

As armed citizens, a part of survival preparation needs to be answering questions like, "Who can I call for immediate help after using deadly force in self defense?" Give thorough consideration and practice to how you can alert family members to your needs following a critical inci-

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dent without making inculpatory statements. These considerations should be discussed with family members so they understand why a call for help cannot answer all their questions, as well as being sure they know who to call to safely provide you with legal and emotional intervention if ever you must use deadly force in self defense.

Summary

After using deadly force in self defense, Semone recommends taking the following steps:

1. Invoke the Five-Step Statement as taught by Massad Ayoob on the Network's membership DVD entitled *Handling the Immediate Aftermath of a Self-Defense Shooting*. Members should review this program occasionally.
2. Request emergency medical services evaluation
 - a. Ask EMS to remove you from the scene to a safe place.
3. Request transport to medical facility, if EMS indicates need, or if citizen believes he/she has acute need for qualified medical help.

On a related topic, most large hospitals have a behavioral medicine service, the current euphemism for mental health services, Semone notes. The citizen could request debrief by a member of that staff, as ordinarily those communications would be privileged.
4. Contact attorney.
5. Contact family (or have attorney to do it if citizen is in custody)
 - a. Alert family to "Mark of Cain" effects as outlined by Massad Ayoob in his DVD lecture [Post Shooting Trauma](#)
 - b. Warn family about newspaper/media response
 - c. Request consultation with chaplain, psychologist, or other licensed mental health professional who can invoke confidentiality. Prior arrangements are best: get to know this person in advance. ●

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Vice President's Message



J. Vincent Shuck

NRA 2011

The Network has enjoyed a presence at the NRA annual meeting for the past several years and again attended last month's NRA meeting in Pittsburgh. We met several Network members who stopped by the booth to say hello, enrolled a record number of new members, and exchanged Network

information with current as well as new corporate sponsors. In essence, Pittsburgh and the NRA welcomed the Armed Citizens' Legal Defense Network.

Our exhibit presence aside, the meeting was great. Over 71,000 attendees and more than 500 exhibitors filled the convention center and near-by hotels. Walking along the exhibit floor aisles was often shoulder-to-shoulder. Attendees from practically all walks of life stopped at our booth or walked by. We saw judges, clergy, current military and veterans, LEOs, businessmen and women, attorneys, media staff, and Wayne LaPierre, the NRA Executive Vice President, even paid us a visit.

The mix of attendees as noted by my above category list was particularly interesting. Also, lots of families passed by or stopped at the booth. It was refreshing to see moms and dads with young children, some in strollers, on the exhibit floor. It seemed to me that the parents were proud to show their brood the value of freedom and what the Second Amendment includes.

Marty started the meeting on Friday attending the Annual National Firearms Law Seminar where he shared Network brochures with attorneys who could become affiliated with the Network and represent Network members after a self-defense incident. Brady, the Network's special projects manager, and I spent most of our time in the booth.

The new member sign ups and member renewals were vigorous. In fact, we set a record for member recruitment during a NRA meeting. After listening to our summary of the Network, individuals understood the Network's mission and realized that the Network's educational activities and financial support are unique.

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NRA's Executive Vice President Wayne LaPierre with Network President Hayes.

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Our involvement with corporate support is expanding just like the Network's membership. During the meeting I had a chance to renew some contacts with our friends at several current corporate sponsors. In addition to thanking our ongoing sponsors, including Galco, CorBon and Crimson Trace, we continued our discussions with new corporations. New relationships were finalized with [CCW Breakaways](#) a producer of clothing for concealed carry situations, and [Blade-Tech](#) a manufacturer of popular tactical equipment and holsters. Both have agreed to include Network information in packages shipped from the company to consumers. Also, one of our first donations from a firearms manufacturer was confirmed – watch for the announcement of the auction posting of a .380 Guardian from [North American](#)



Wright answers a conventioneer's questions about the Network.

[Arms](#). Finally, several other corporate relationships are in the works and should develop into marketing activities and donations to support the Network's Legal Defense Fund.



L-R: Brady Wright and Vincent Shuck in our booth at the NRA Convention.

Plans to attend the 2012 meeting are already underway with booth selection completed and housing for Network staff approved. Next year's meeting will be held in St. Louis on April 13 – 15. This is a great meeting for you to plan to attend. Where else can you see, touch and evaluate practically every firearm currently on the market and visit most of the companies associated with the shooting and hunting industry? And, we have some unique plans for our booth next year that you will like – stay tuned.

Seriously folks, you will enjoy the NRA meeting. I highly recommend it!

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Marty Hayes

President's Message

I'm Flattered!

It is said that imitation is the sincerest form of flattery. If that is true, then the Network, which is comprised of me, you and the other 4,000 members, should feel flattered indeed, because recently, the United States Concealed Carry Association, an organization which I

have been associated with for over two years and served on their advisory board, announced release of its own version of a self-defense legal plan. As the journal editor Gila Hayes points out in her closing remarks in this edition, we don't know what the details are yet. I recommend a person check out their plan when the details are released, and then compare it with what belonging to the Network means.

Now, why would I recommend that?

When I was a boy, a very good man, mentor and friend, once explained for me the saying "build a better mouse-trap and the world will beat a path to your door." I have remembered that conversation for the past 40 years, and it has guided my business and work decisions ever since. When I started the Firearms Academy of Seattle, Inc. over 20 years ago, I felt that if I offered better classes, for less money, eventually that fact would be discovered and people would respond to our offerings. We have been phenomenally successful, without ever having to try to convince someone they need to take our classes through overt marketing. We simply offer our classes through our web site, and roughly a thousand people a year come and train with us. By spending minimal advertising and marketing dollars, we can offer a better product for less money.

This is the same guiding philosophy that is the foundation of the Network's economic structure. We know we have a very good idea: one that you have responded to. We don't have to send out daily e-mails to hundreds of thousands of people, crying, "The sky is falling" nor exclaiming that we have just realized we have a problem. No,

we have simply developed a network of good people—firearms instructors, students, armed citizens and attorneys—who understand that the Network will be there for them to the best of its ability. We don't promise the moon, but instead, offer a clear understanding of who we are and what we do.

Three and a half years ago, it was my vision to have a network of people who share a common goal and bond. If a prosecutor or plaintiff's attorney attacks one of this group in the courts, then we all rally behind that person and help them fight that legal attack. As I envisioned such a large group of people organized and ready to help one of their own, I realized large groups need some structure in order to accomplish a goal. Vincent, Gila, and I established that structure by forming the Armed Citizens' Legal Defense Network.

When I started discussing this concept with people, I got a lot of blank stares, rolled eyeballs, but also enough people instantly "got it" to make the idea worth pursuing. Undaunted, we continued to explain the problem and the solutions that the Network embodied. Soon more and more people understood the concept behind the Network and membership blossomed. We knew then, as we know now, that we don't have to be the biggest organization to succeed; we only have to be the best. That has been our goal from the start.

How do we grow stronger, in the face of increased competition? That is easy! If each member of the Network recruited one additional member—and how hard could that be?—then our Network's size would double, as would the legal defense fund. We are growing now because of word of mouth and recommendations from our enthusiastic members, affiliated instructors, affiliated attorneys and most recently, our many affiliated gun shops. Please, keep up the good work. And if you haven't yet started sharing the concept of the Network with your gun-toting buddies, now is the time. When people compare and contrast the value of being a member of the Armed Citizens' Legal Defense Network with that of other plans, then we will actually grow even stronger than we are now.

As Martha Stewart says, "That's a good thing." ●

Report from the Tulsa Tactical Conference

by Marty Hayes

I outlined our progress on the Network's sixth educational DVD on the front page, explaining that the first filming on that project took place at the Tactical Conference in Tulsa last month. In addition to doing the filming on Sunday, the previous day saw Vincent and me partaking in several training sessions and the tactical shoot. Again, conference host Tom Givens outdid himself and arranged to have many outstanding trainers teaching a potpourri of training classes, from shotgun to handgun to snubby revolver.

And, speaking of snubby revolvers, I put out a fun challenge to the participants, to shoot the tactical match with snubbies. Alas, only two others picked up the challenge, Claude Werner (who is oft times referred to as the King of the Snubby Revolver) and Rob Pincus, best known from his Combat Focus Training courses, and *The Best Defense* TV show.

We carry snubby revolvers from time to time, and it was a very good training day for each of us, working out the bugs of shooting high level competition with guns that are obviously handicapped. The big lesson I took away was that I need to work on improving the sights on mine. My old eyes simply no longer focus correctly to see a snubby revolver sight picture, so I need to make some changes. For example, on the close stages where the Crimson Trace Laser was visible to me on the perfectly white targets, I rocked. Unfortunately, on the distance shots, I could only guess as to if the sights were lined up. It was a diffi-

cult, but rewarding day. The final score between the three of us was skewed in favor of the person who was smart enough to load some reasonably high power .38 loads, as he had shot on the John Hearne Tactical targets before, and knew that they are set up for a minimum 9mm, and work much better with .40 and .45.



Left: Claude Werner teaches a class at the Tactical Conference focusing on use of snub-nosed revolvers for self defense.

Below (L.-R.): Only Rob Pincus, Claude Werner and the author shot snub-nosed revolvers in the tactical match.



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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 column just wrapped up a topic about recording witnesses and responding officers after being in a self-defense incident, but several members have posed follow up questions, so the *Attorney Question of the Month* for June deals with a closely related subject and with these answers we will conclude the discussion about recordings.

One member asks, "If I am in a two-party/all-party consent state, do the restrictions about recording conversations apply to someone recording an attacker's words and actions, using products like this?" The link leads to a catalog page selling a lapel-mounted video recorder.

Another follow up question also primarily applies to two-party or all-party consent states. "How is it that law enforcement is allowed to use dash cam recordings in court if my own video is inadmissible for having been illegally recorded?"

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I have no attorney's qualms with taking "smart" phone pictures or videos after a self-defense incident to preserve the existence and location of evidence, identify reluctant witnesses, or to aid law enforcement by identifying an escaping criminal perpetrator. I do, however, have reservations about the routine wearing of a body camera (with or without audio), whether lawful or unlawful (because of an

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all party consent statute). First, I think unless such device is customarily worn because of occupational considerations, it will seem odd (and possibly incriminating) to most judges and jurors. Second, I think it may be tactically improvident because it may inflame someone who, believing their image or voice is being intercepted, then escalate an otherwise controllable situation. Third, I think it is quite possible that something embarrassing or an outcome-changing act may be recorded. For example, the wearer may utter a later regretted epithet or "fighting words" which could negate a clear cut act of lawful self defense.

As for the pure legal aspects of making a recording that prima facie violates an all-party consent statute, a lawyer, as an "officer of the court," must advise against such conduct. Nonetheless, few legal questions are answered directly or without raising other questions. Thus, in many states, one or more of the following must be considered: Is the statute enforceable and enforced? Is a violation a criminal offense or merely a rule of evidence exclusion? Is there a self defense or emergency exception to the interception law? (Probably not). If there is the usual law enforcement exception, does it apply to civilians seeking to obtain evidence of a crime in progress? (Probably not unless done at the behest of and with the active involvement of law enforcement). Is there an exception for public interceptions, where nobody is deemed to have an expectation of privacy? (Maybe). Does the wearer enjoy special status that may allow for interception? (For example, a paramedic, process server, bail bondsman, or tow operator). Is there an exception for an interception made for noncommercial purposes or in good faith? (Maybe, but it may just

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lessen the punishment or nature of the criminal charge). If a recording violates an anti-interception statute and is thereby rendered inadmissible in legal proceedings, may a prosecutor nevertheless use it to make a charging decision and/or show it to a grand jury? (Maybe).

I think an old adage applies to unconsented electronic interceptions and recordings in a state having an all party consent requirement. When in doubt.... don't.

Graham Baker

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Here are some quick thoughts about this month's question that I hope are useful to the membership.

Usually, the restrictions on recording in two-party/all-party consent states—meaning every party to the recording must be aware the conversation is being recorded—applies to private conversations and not activities that take place in public. One ordinarily has an expectation of privacy in a conversation he's engaged in on a telephone or in his home. That's not necessarily so on a public street, in a shopping mall, or some public venue such as a city hall or a sports event.

When a police officer conducts a traffic stop and engages his dash cam, you typically have no reasonable expectation of privacy on the public street. That's one reason he can make the recording. Also, your state may specifically permit this through statute or case law. You also typically are aware that you are being recorded. This is not necessarily a bad thing. I am often frustrated when I realize that critical minutes of a dash cam video have some-

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how disappeared, or that the camera wasn't turned on to view the erratic driving the officer claims prompted him to stop a vehicle.

A handful of states have begun to make it a criminal act to record police activity, and this is a shame. It needs to be challenged in court. I have not reviewed the individual statutes to learn whether they make it a crime to record any police activity or if a citizen is permitted to or prohibited from recording police engaging the person making the recording. It is interesting to imagine what might happen if one had video to rebut statements of police and whether, even if the recording was made illegally, it would be admissible in court.

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I assume that two-party consent states require both parties to a conversation to agree to recording or the recording is illegal and, presumably, inadmissible. If such is so, I would still think recording would be good as it might convince a District Attorney not to charge the citizen who defended himself. Further, if matters got to trial, I feel there might be an argument for admissibility despite the statute.

Peter N. Georgiades

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This question has arisen in the course of my "Pennsylvania Firearms Law" survey course. I find it a little unsettling to think that people are squandering their limited money

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and attention span on how to videotape a shooting in which they are involved. I regard it as one more distraction from much more important aspects of personal defense, like posting a competent response. The more worried one is about the abstract legal aspects of pressing the trigger, the more likely he is to wait just a little too long.

It is a mistake to try and generalize all "two-party consent states," as though the law were the same in all of them. This surreptitious recording issue is very tricky, and the law is not settled in many states. The outcome can turn upon amorphous concepts like "expectation of privacy." An analysis that does not focus on the law of a particular state at a particular time, and which is not very fact specific, is meaningless.

I believe that if any of your members is forced to fight for his or her life during a sudden emergency, taking movies will be the last thing on their minds ... or at least it should be. I'm not one of those folks who automatically presumes that everyone who carries a gun will fall to pieces in an emergency; some do, some don't. If they do fall apart, they will not be able to use their front sight or assess before unloading down range. If they don't fall apart, they will be able to use their front sight and assess before unloading down range. But in every case, I am sure, even the coolest heads will be quite preoccupied. During a gunfight is no time to be screwing around with high-tech toys; neither is during the investigation in the immediate aftermath.

Video can hurt a person as much as help them, even when they were acting reasonably and believed they were in the right. This is in part because video does not always show the part you wanted. More important, I easily see that having a video setup ready to roll might be perceived as elaborate preparation for a planned event. You really

do not want a shooting in which you are involved to be regarded as a planned event, because premeditation drives the cost of being even a little bit wrong way up. And saying you walk around all the time with a gun-camera primed to go isn't a very comforting explanation for your preparation to take home movies of an emergency.

Cops can explain why they had a dashboard camera. Average Joes have enough trouble explaining to some jurors that carrying a gun is not the same thing as expecting trouble, or looking for it. Add in video and mood lighting... you look like a nut, even to me.

And then there is the matter of recording innocent bystanders and responding officers, who make much more sympathetic plaintiffs than your attacker might. Although it is now settled in Pennsylvania that recording video of police in public places in the performance of their official duties does not violate the wire tap law vis-a-vis those police, that does not necessarily go for the guy standing next to him.

This is one more thing to keep track of in an emergency, and one more set of evidentiary disputes. It may build in a criminal charge or private civil suit unrelated to the actual matter of defending oneself.

Lest you think this is academic, in 2010 I had a client who recorded part of a transaction that turned out to be fraudulent, on a phone in New York, which is a "one party" state. When my client sued the crook, the crook sued my client under Pennsylvania's Wire Tap Law, which provides for a private right of action, treble damages and counsel fees. My client wound up deciding to drop his fraud claim in Pennsylvania in order to get rid of the private action for violation of privacy rights. The law in Pennsylvania recognizes New York law as controlling where the site of the

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Continued from page 11

recording was New York; but we had an extraordinarily unqualified (elected) judge, and my client was from out-of-state. He just did not want to pay the \$15,000 it would have taken to vindicate his position.

My advice has been, and in most cases will continue to be, that one focus his time, money and attention on training to do the right thing - effectively. Leave the toys at home.

Roger R. Laguna, Jr. Esq.

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In Pennsylvania, this is a complex area of law. In short, video cameras recording visual images of public events "on the street" are allowed at the same time that voice/sound recordings are not. Recording voice and sound is specifically governed or prohibited by Pennsylvania's Wire-Tap Act. It essentially says you cannot use electronic devices to record another person's voice. The caveat is, of course, you can do so if the person being recorded gives permission.

There is no law in Pennsylvania that prohibits recording visual images. The caveat for visual recordings is that you cannot "peep" with the camera into areas where a person would have a reasonable expectation of privacy. You can record them on the street, the beach, front yard, even if they don't know about it. At the same time, you cannot record them in a bathroom, bathtub, changing room, etc. unless they consent.

Police can use dash cams to record visual events of drivers, DUIs, pedestrians, etc. because there is no rea-

sonable expectation of privacy in these areas. Police cannot use the dash cam in Pennsylvania to record your voice or sounds, because that is a violation of the Pennsylvania Wire-Tap Act. You can likewise videotape police or anyone else on "the street," but you cannot record their voice without them knowing and consenting.

Recording any person's voice in Pennsylvania on a phone, iPod, or cassette recorder, for example, is a violation. You cannot do it, nor can police, unless police have a warrant from a judge, or unless everyone being recorded consents. ●

Follow up to previous months' discussion

Readers who enjoyed previous columns about recording post-shooting events, will want to listen to the audio recording of the February arrest of Mark Fiorino after a fracas he had with Philadelphia police, resulting in charges of disorderly conduct and reckless endangerment stemming from open carry of a handgun.

Political activism leads the reasons why open carry advocates don't conceal, especially in states like Pennsylvania, in which licensed concealed carry is legal. Much like protesting in Birmingham in 1963, be ready to do the jail time if some aspect of your activism is illegal. It will be interesting to see what role if any the recording plays any role in Fiorino's case.

A hat-tip to two of our Network affiliated attorneys who forwarded the link to this [Fox News](#) report about the Mark Fiorino case.

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. 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?

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I start my Defensive Handgun (introduction to defensive training) program with the lesson "Taking A Bad Guy at Gunpoint." During this lesson I not only cover commands but talk about techniques and tactics, command presence, command voice, situational dominance and dominant attitude. While they practice taking each other at gunpoint with dummy guns, I look at the platforms they use and the gun handling skills they have so I have an idea of what I am working with. The exercise ends with them taking me at gunpoint and my critiquing their delivery.

The last exercise of the day is a scenario of the students engaging an emotionally disturbed person (EDP) and controlling and de-escalating the situation as best they can. The clients are on the firing line holding the "EDP"

represented by their targets while I role-play the EDP verbally behind the line. The clients must verbally engage me and keep up with the communication. I can say what ever I want and take the communication wherever I want; all clients must keep up with the verbal communication.

Sometimes I am aggressive and defiant and sometimes I am passive but I am never compliant. I will run the clients through as much emotional turmoil as I can, working to confuse and disturb their emotions as much is reasonable. My goal is to make them understand that this is negotiation time; they are not in control just because they have a gun and that if they do not stay on top of the situation it can go down hill very fast. They have two rounds in their pistol and are instructed that if it is appropriate they must "stop the threat." I use a whistle to indicate this. The signal to fire throughout the day is the whistle, so in this exercise the whistle indicates that they are faced with "the immediate, otherwise unavoidable danger of death or grave bodily harm to the innocent" and that the only time they are to fire is when they hear the whistle.

There have been times when the clients have gotten so upset that they fire without the signal. Sometime I will go

Continued on page 14

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to the side and fire a couple of rounds down range which most of the time causes part or all of the line to fire. I then explain the noise was a car backfiring or the shots were from a neighbor who came into the back yard and shot the EDP without justification. If they do wait for the whistle they are required to fire the two rounds and hit a 8 1/2" x 11" piece of paper set at center of mass with both shots.

This is not an easy scenario and it is not meant to be. I have accepted that I will not see many of these folks in the future. I feel that it is my duty to show them that the responsibility they are asking for is a heavy burden and that they must take it seriously. I refused to give a certificate to one lady who got so upset she shot the EDP in the back during the scenario and then said "I told you I have the gun and I am in control of what you do." I have been told by the sheriff's office I am the only instructor in the area who ever "failed" a student and they thanked me.

With the advanced group I worked with, we did "Open Your Eyes Surprise" drills. These were situational drills that included shoot targets and no shoot targets and required the folks to think and assess the situations. Other stressors were running and exercising before drills (to cause elevated heart rate and breathing), causing their guns to malfunction during the exercises, removing hats, coats and gloves in cold weather, "moving off the X" during drills, starting drills at "toe to toe" distance and other things that either I or the clients could think of. This program was designed as a "street survival" program and popular with those that asked for higher levels of training.

As an instructor I feel it is our responsibility to help our clients learn. In Basic Handgun Skills I do not discuss defensive use of force because these folks are just learning the operation of the firearm. As the people ask for more

responsibility, it is our duty to help them move out of their comfort zones and grow and learn to survive the events they may one day face.

Tactical West, LLC

Kevin McNair

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www.tacticalwest.com

In my classes, we start by introducing several videos that show "real world" scenarios that students could encounter. Then, throughout the day, we discuss how they would react to such events and options, if any, they have if they were faced with such unfortunate scenarios.

It's interesting, based on the backgrounds of the students involved, how they tend to differ on their opinions and levels of involvement. We then discuss legalities, duties to retreat and that this isn't the Wild West and they really don't want to engage in a shoot out unless it's absolutely a last resort and they fear for their lives or the lives of their family and there aren't any other options.

We require extensive classroom participation as well as live fire range exercises above and beyond the minimum standards required by the state to optimize single-hand and two-hand shot placement accuracy and proficiency on a humanoid target. Students are encouraged to continue regular range practice on a frequent basis after successful class completion.

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DVD Review

Lessons from the Street

Personal Firearm Defense Series

Tom Givens introduced by Rob Pincus

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Reviewed by Gila Hayes



Rob Pincus had added another extremely valuable program to the extensive collection of 45 instructional DVDs he has been producing since 2006. In *Lessons from the Street*, instructor and [Rangemaster](#) owner Tom Givens outlines the facts and details of ten self-defense shootings in which graduates of his training programs were involved.

Personal Firearms Defense DVDs usually feature Pincus as host, and throughout most programs he interviews guests and leads the discussion. *Lessons from the Street* is an exception. In it, Givens speaks directly to the viewer, relating the details of ten of his students' shootings. These reports, coupled with Givens' introductory remarks and conclusions, make an indelible impression. Each segment begins with Givens' instruction on the issue or issues of which the incident is illustrative. Then, after outlining the situation and outcome, Givens succinctly draws the conclusions, and as in all Personal Firearm Defense DVDs, a screen or two of verbiage puts the summary in a note-taking format, before the speaker moves on to the next segment.

Pincus returns to the program at the end, and wraps up the program, asking questions about movement, shooting stance and gun position during the students' shootings, distances involved, locations and environments where attacks occurred, multiple assailants, and more.

High Crime Area

Tom Givens' range and firearms school, Rangemaster, is in Memphis, TN. Violent crime rates for the Memphis metropolis are so high that the city is consistently in the top ten most violent cities in the nation. Couple Tennessee's reasonable concealed carry licensing program with the area's high crime rate, and you'll understand why some 50 Rangemaster students have been involved in shootings.

Givens estimates that of the thousands of students he trains yearly, about four per year will be involved in shootings, though that figure only recognizes students who contact him or his staff to talk about what happened, so are at best estimates. Of the many cases of which he knows,

Givens selected ten that were illustrative of what he deems the most important principles, and it is these on which he concentrates in this presentation.

Givens opens the program by discussing a shooting involving a middle aged Thai immigrant who was completely new to guns when she obtained training at Rangemaster. Working at a convenience store, she had been the victim of violent, armed robberies before and wanted to be better prepared. Not long after her training, an armed robber engaged her in a very brief encounter in the convenience store.

Training provided not only confidence to act, but supported her determination not to be put on the floor and executed. When confronted by the armed robber, the woman sidestepped and fired her gun. The robber did not get a shot off.

The middle-aged immigrant woman's story makes a great start to this DVD, illustrating determination, preparation, and awareness leading up to a successful outcome.

The next story, however, shows the armed citizen caught flatfooted. While the man's decisions run counter to the conventional wisdom in armed tactics, it illustrates thinking on the fly, waiting for an opportunity to gain the upper hand, and when that opportunity arises, acting decisively and making the most of the element of surprise that a concealed handgun gives the intended victim. You have to be able to think, not just blindly react, Givens stresses.

Other incidents Givens relates illustrate principles including not attracting a criminal's attention, awareness, decisive reactions, the value of prior training and resultant skill. Sometimes these points are illustrated by situations in which poor decisions led to the confrontation. "I hesitate to blame victims when bad things happen," Givens says several times. However, since viewers only "know" these

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folks by first name, it seems that there is no harm done and the principles thus taught may allow DVD viewers to change their behavior, where they go and what they do, before they facing similar problems.

Mythbusters

If you think you are most likely to need your gun when some bozo breaks into your house at 2 a.m., think again. In fact, most residential burglaries happen at mid-day because the occupants are gone, Givens lectures. In fact, many of the shootings analyzed on this DVD occurred at shopping malls and public places where you might think you'd find safety in numbers, but Givens explains how that erroneous premise does not apply to human society.

In one incident, a man is visiting his mother's home and is surrounded by small children when he is assailed by a youth who, while passing by, begins to bother the children. "Why would you carry a gun with you when you go to visit your mother?" Givens asks rhetorically. While always having a gun for self defense is a repeated theme, in this segment the critical element is also the shooter's well-practiced ability to delivery accurate hits at long distances. After the man shoood the youth away, the aggressor went to his home, retrieved a handgun, and returned to begin shooting at the Rangemaster student from across the street. The student moved to cover and drew fire away from the vulnerable children, then came out and fired one shot that hit accurately and stopped the incident.

Things That Might Happen to You

As the DVD program continues, Givens relates additional stories emphasizing communication between family members, quick accessibility to defensive firearms, and coming to terms with the reality of interpersonal violence. "Why should someone what to hurt me?" is not a useful line of inquiry during an attack, Givens stresses. Deal with

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motivation later, he urges, but during the attack, job one is stopping the attacker from inflicting harm. One episode hinges on a young man who simply cannot believe that a deranged man is intent upon harming him, thinking all the while the situation is building up to a shooting, that the assailant has mistaken him for someone else. Your perception is irrelevant, Givens emphasizes, what is relevant is that there is a man here who is posing a threat. You have to realize, "This could happen to me," he concludes.

You may not be in an "average" self-defense incident, Givens concludes. In the ten incidents Givens reports, we see big variations in numbers of rounds fired, various numbers of assailants and widely divergent distances between assailant and armed citizen, in this ten-incident sample alone.

Likewise, few armed citizens actually have to use a self-defense gun, but of the approximately 50 Rangemaster students who have been involved in shootings, few were in locations where being selected for victimization would have seemed so likely that a casual gun owner might say, "I need to take my gun this time." Givens repeatedly comments that the student was in a situation where needing a gun seemed unlikely, yet they had made the decision to carry a gun for self defense and as a result were ready and able to save their lives when a violent criminal targeted them.

Givens is a talented speaker and storyteller, so listening to his presentation is both interesting and compelling. More importantly, from ten briefings, he extracts a number of vital lessons, the better to be remembered because they are indelibly attached to real life stories about real people who got guns and got training. When faced with the choice of being victimized, killed or crippled, or using their firearms in defense, they chose to fight back. Their stories teach us much.

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Gila Hayes

Editor's Notebook

Benefits of Competition

Many Network members and interested non-members have called or e-mailed me to ask if USCCA's recently announced legal defense plan would eclipse the Network. I am happy to answer without reservation, "No, although no

one really knows what the latest plan actually entails, I believe the Network will only be strengthened by competition."

It is all but impossible to accurately compare protections offered by various plans, and in particular no one is entirely certain exactly what the latest program will provide. Our member benefits are, and have always been, spelled out in mind-numbing detail for anyone to analyze on [the Network web site](#). Since the Network is a membership support organization, we don't have loss limits or other limits on financial benefits. Our only limits are imposed by the amount available in the legal defense fund.

Three and a half years into the Network's lifespan, we have had just one member needing these benefits. When the call for help came, Network President Marty Hayes immediately got the Network Affiliated Attorney in that county working on behalf of our member. After the attorney met with the member and the member became his client, we forwarded the attorney's deposit against fees from the legal defense fund to pay for that member's representation. We are not willing to share details of the case, as it is privileged, as should be any information about any case involving a member of the Network. But, as you can see, we put our money where our mouth is. The Network's commitment to members is a matter of honor with us.

Of course, we are also prepared for times when the state is determined to blindly pursue charges against the armed citizen, as happened in the [Arizona case](#) which both Hayes and Network Advisory Board member Massad Ayoob helped defend. This case illustrates the difficulty in "grey area" shootings in which the justifiability of the armed

citizen's actions is clouded by details that society in general does not understand. The misunderstood element this time was using a gun to defend against attack by a man and two women who were unarmed, which the prosecution portrayed as excessive in defense against fists and feet. The expertise of Ayoob and Hayes helped tip the scales. None of the Network's legal defense funds were spent testifying at and advising on the Arizona case, but Hayes contributed considerable time and effort to a case that showed how badly defending yourself can be misrepresented.

Getting back to the questions at hand: These are the kinds of cases that concern gun owners and make them ask what kinds of protections are available for them that would assist in either type of situation. When asked to analyze cost for value of prepaid legal plans or of insurance, an absence of details about competing plans makes answering most questions pretty darned difficult. Maybe that's why people call the Network asking for help to figure out what is best; they hope that we have an inside track on what the other plans are offering.

Up until now, with alternatives limited to insurance or prepaid legal plans, it has been easy to tell those who called to ask what they should do that having either or both was not a bad idea, or if on a tighter budget, to carefully read the description of membership benefits on the

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The eJournal of the Armed Citizens' Legal Defense Network, Inc. is published monthly on the Network's web site at <http://www.armedcitizensnetwork.org>.

To submit letters and comments about content in the eJournal, please contact editor Gila Hayes by E-mail sent to [edi-tor@armedcitizensnetwork.org](mailto:editor@armedcitizensnetwork.org).

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

- Marty Hayes, President
- 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.

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Network web site and make the choice that best fits their circumstances. Those folks often became Network members, and we've been proud to look out for the education and freedom of these members. Now, with the latest introduction, armed citizens will need to seriously study both the details of the latest plan and our outline of benefits Network members receive and then make an educated decision based on their own needs and circumstances.

Having poured three and a half years of unrelenting effort into getting the Network running and growing strongly, I'm always happy for the chance to discuss what the Network does with anyone who calls to ask. That's natural: anyone would welcome the chance to talk about that for

which they have great passion. While I can't make the final decision about how an armed citizen decides to provide for his or her legal defense, when a member or potential member calls to ask what is the difference between various plans, it gives me a golden opportunity to describe how the Network educates and defends its members. And that is why competition is good for business!

By raising questions, by stimulating concern about the legal aftermath of self-defense actions and creating interest in the protections Network members enjoy, this latest entry into legal defense planning gives the Network countless opportunities to outline the benefits of Network membership and to help armed citizens understand how critical Network membership is.

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Those who cannot learn from history are doomed to repeat it. — Paraphrased from George Santayana

Lessons from the Street



Learn from the experiences of other armed citizens, as Network Advisory Board member Tom Givens of Rangemaster tells the stories and builds on the lessons from ten self-defense shootings in which his students were involved. One hour program includes introduction and conclusion by Personal Defense Network host Rob Pincus.

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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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