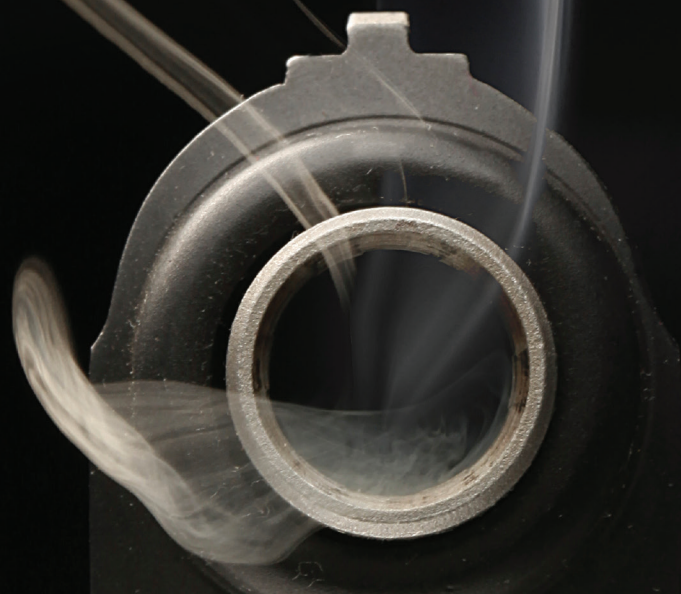


7 Proven Strategies to  
**Survive the  
Legal Aftermath**  
of Armed Self Defense



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## **7 Proven Strategies to Survive the Legal Aftermath of Armed Self Defense**

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Which kind of gun owner are you? Are you prepared ... or in denial?

*Introduction:*

## The Brutal Reality of Armed Self Defense in the Real World

If you think you're prepared for armed self defense just because you've seen it on TV and in the movies, you may be in for a horrible surprise.

It is almost NEVER like the movies. In the real world when your life is on the line, or your family is seconds from being killed, self defense is fast, brutal, and terrifying!

Imagine this ...

It's 3 a.m. You and your wife are asleep. Your children are down the hall. Suddenly, a loud crash wakes you up. You can't be sure, but it sounds like a window being broken downstairs.

Then you hear voices. Have a group of intruders entered your house? It sounds like they're moving through your home and coming closer.

Is this real? Can this really be happening?

You're still half asleep. And as the panic explodes in your brain, you fumble to open the drawer in the nightstand and grab a gun with shaking hands.

You want to wake your wife and secure your children. But seconds later, a dark figure appears at your bedroom door.

You can't breathe. It feels like your heart is leaping out of your chest.

There's no time to think. Your vision narrows. Your ears pound with the sound of your rapid heartbeat. The figure moves toward you.

It's like you're watching it all happen from across the room as you hear BANG BANG BANG!

Now your wife is screaming in terror. Your children run out of their room crying. The figure starts swinging his arms battering your face. There's something in his hand. A knife? Are you being stabbed? You can't see it. It's too dark. Everything is happening too fast.

You hear it again, seemingly from far away. BANG! BANG! BANG! BANG!  
Now you can't see the figure. Where did he go?

You knock over a lamp trying to turn it on. The adrenaline is racing through your veins. You stumble out into the hallway and almost trip over the figure lying on the blood-stained floor.

How did he get out here? You didn't see him run. You were desperately trying to protect yourself and your family from a home invasion, right?

As your wife grabs the sobbing children, you pick up the phone. You don't know if the person you shot is dead or if others are still in your house.

That's when you begin to feel sick to your stomach.

You don't even remember dialing 911 when the operator suddenly says, "911. What is your emergency?"

Your mind is racing and you can barely hear yourself talk, so you scream into the phone, "I killed him! I think. I don't know. The man had no right to be here and he tried to stab me and I pulled the trigger when I saw him and he got just what he deserved because we were all asleep and it's not like I wanted to shoot him but it just happened so fast and I don't even remember ..."

The 911 operator tells you to calm down and tell her what happened. You're upset and don't know what you're saying. You also don't realize that every word you say in your alarmed state is being recorded when you look down at the still body at your feet and gasp, "Oh my God!"

The "man" who attacked you is actually a young boy. And he doesn't have a knife in his hand ... he's holding a broken cell phone. And while your vision begins to clear, you can see gun shot wounds in his back. You realize you shot him as he turned to run away!

You keep rambling on the 911 call, "I didn't mean to do that. That was an accident. I swear he had a knife. I saw it. Or something. I don't know. Oh my God what have I done. This was a mistake. The gun just went off."

Now what? You know you were attacked. You know you had no choice. But will the police see it that way? What will a grand jury think when they hear you say on the 911 call that you shot a boy by mistake. What will a prosecutor say in court when he presents evidence showing you shot an "innocent" young man armed only with a harmless cell phone, then chased him down and shot him in the back as he ran away?

He may even argue that the boy is the victim because he didn't even see you and he was just waving his arms to defend himself against an "unprovoked" attack.

You find out later, the boy is part of a gang of young criminals who rob homes for cash and guns, sometimes severely beating the homeowners. But the jury never hears that. Perhaps all they hear is that no one else was in the house and the voices you heard came from the boy's phone with the speaker turned up.

The red and blue lights of several police cars flicker through your windows.

What will you say? What should you NOT say? Will you be arrested? Is there an aggressive prosecutor in your area who doesn't like people owning guns? Can you afford a lawyer if charges are brought against you? What will happen to your family? Will the boy's family sue you for everything you own?

You feel completely alone and helpless. You survived the physical attack and protected yourself and your family, but how will you survive the aftermath? You're not even sure you did the right thing. You start to doubt yourself. Another wave of panic washes over you.

You're alive. But it's starting to feel like your life just ended.

## **Being “In the Right” Won't Always Keep You Out of Jail**

If you're reading this, you're probably a gun owner. And you probably feel as we do that self defense is a natural right. Actually, few people would debate this general concept. It's been part of our culture and our laws for a long time.

However, there's a big difference between the general idea of defending yourself and the specific circumstances surrounding an act of self defense. In other words, while the law has always allowed for you to defend yourself, even with deadly force, determining whether you actually defended yourself legally or whether you acted inappropriately is where trouble awaits.

A lot can go wrong when you use a gun to defend yourself. Unlike Hollywood depictions of bad guys getting what they deserve and survivors living happily ever after, real life can get confusing. An attack happens fast. Your mind and body will go haywire. You have to make instant decisions based on limited information. And in your excited state, you can say and do things afterward that make you appear guilty of a crime even when you have acted legally.

It's not about what you do as much as what you can “prove” to authorities when they show up to investigate why there's a dead body on the ground. Evidence can appear to be contradictory or incomplete. And since it's unlikely that those evaluating your actions have ever experienced the terror or confusion of a life-or-death situation, they may have a hard time separating movie myth from real-world reality.

Bottom line, any time you use a gun to defend yourself, you run the risk of legal trouble. Self defense with a baseball bat seldom causes a problem. But self defense with a firearm presents a legal minefield because of the public's ignorance about firearms and the reality of violence and survival.

Is this the way it should be? No. But that's the reality and you need to be prepared for it.

## 5 Basic Ideas to Keep in Mind

Before we begin looking at the *7 Proven Strategies to Survive the Legal Aftermath of Armed Self Defense*, let's review some basic, but vital, concepts.

### **Death from self defense is still considered HOMICIDE!**

It is illegal to shoot people. Whether you're in the right or not, this is the default position the law takes when considering the use of deadly force. And this is where the investigation begins when authorities show up at the scene. Even when the evidence is overwhelmingly clear and there can be no doubt whatsoever that you acted reasonably, it is up to you to prove an "affirmative" defense.

### **What is an affirmative defense?**

In most legal cases, the burden of proof is on the state. A prosecutor must prove you are guilty of the crime of which you are accused. You don't have to prove anything.

To quote from Wikipedia:

*In an affirmative defense, the defendant may concede that he committed the alleged acts, but he proves other facts which, under the law, either justify or excuse his otherwise wrongful actions, or otherwise overcome the plaintiff's claim. In criminal law, an affirmative defense is sometimes called a justification or excuse defense. Consequently, affirmative defenses limit or excuse a defendant's criminal culpability or civil liability.*

*A clear illustration of an affirmative defense is self defense. In its simplest form, a criminal defendant may be exonerated if he can demonstrate that he had an honest and reasonable belief that another's use of force was unlawful and that the defendant's conduct was necessary to protect himself.*

In short, this means that when you defend yourself with a firearm, the burden of proof is on YOU. You admit that you committed homicide, but you must prove that the homicide was justifiable under the law.

### **There are many serious crimes you can be charged with.**

Every situation is different, and if you are unable to mount an effective defense, the

resulting legal charge depends on the facts of your case. Potential charges and the punishment for each can include:

- Capital Murder – Life in prison without parole or death
- Murder – Life or up to 99 years in prison
- Manslaughter – Up to 20 years in prison
- Aggravated Assault with a Deadly Weapon – Up to 20 years in prison
- Deadly Conduct: Discharge of a Firearm – Up to 10 years in prison
- Criminally Negligent Homicide – Up to 2 years in state jail
- Deadly Conduct – Up to 1 year in county jail

**You may have to defend yourself TWICE for the same crime.**

There's one thing TV crime shows teach everyone about the law: you can be prosecuted only once for the same crime. Right? Wrong. There are TWO legal systems in the U.S. There's the Criminal System (the State vs. You) and the Civil System (Another vs. You).

So even if you survive a criminal trial, you can still be charged in a civil trial where, to put it bluntly, the purpose is to punish you financially. The burden of proof is much lower in a civil trial, so it's easier to get a judgment against you than in a criminal trial.

You must be prepared for both. Spending your life in prison is a terrible fate. But spending your life paying off a massive financial bill may not be much better, and it's a burden that can not only ruin your life, but the lives of your entire family for years or decades.

**Answer honestly: Can you REALLY shoot someone?**

That may sound like a ridiculous question. After all, that's the whole reason you bought a gun, or carry a gun, in the first place. You know the world can be a dangerous place and you want to be ready to defend yourself effectively.

However, mentally planning to shoot someone and actually shooting someone standing in front of you are two different things. There are many people who are simply not able to pull the trigger when that life-or-death moment arrives. Human beings are programmed to feel aversion to taking other human lives. And there are many documented cases where people have been armed but unable to shoot.

While we strongly believe that you have a right to use deadly force when someone is threatening your life, we also believe you should be willing to think about self defense realistically. If you just can't imagine pulling the trigger and watching someone's life fade away, read no further. Most of the information in this publication will not apply to you.

On the other hand, if in your heart, you know you have the will, perhaps even the



moral duty, to pull the trigger in order to protect yourself or your loved ones, even if that act may result in the death of another human being, read every page that follows. Because shooting someone could be the most grave decision you ever make and it carries with it heavy responsibilities and sometimes overwhelming consequences.

**Strategy #1:**

## Be Sure You Understand Deadly Force & The Law

If you own or carry a firearm, you need to know what the law says about using deadly force. You don't have to be a lawyer, but you must at the very least understand the basics. The better you understand how the law views deadly force, the better you are able to act within the law and avoid legal complications.

Here is the accepted legal standard for justifiable deadly force:

*Deadly force is justified only to prevent the imminent danger of death or great bodily harm.*

This is a simple and direct definition, but to be sure you understand it, let's take a closer look.

### What is Deadly Force?

According to the Merriam Webster dictionary, the word "deadly" means "causing or able to cause death." Synonyms include lethal, fatal, and mortal. However, in legal terms, the definition is more inclusive.

According to *Black's Law Dictionary*, deadly force is the force likely or intended to cause death or great harm.

In other words, deadly force doesn't exist only when a death actually occurs, it also exists when death or great bodily harm is likely or intended. Therefore, deadly weapons can include guns, knives, cars, rocks, hammers, fists, or nearly any object that can cause death or great bodily harm.

For gun owners, the important thing to understand is that a gun is always considered a deadly weapon. And any use of a gun in a self defense situation can be considered deadly force, whether you pull the trigger and shoot someone center mass, fire a warning shot into the ground, or merely brandish the weapon. Once a gun is involved, deadly force is involved.

In addition, deadly force can only be used when you are faced with deadly force, meaning force which can put you in danger of death or great bodily harm.

### What is Great Bodily Harm?

Notice that our definition of justifiable use of deadly force refers not just to a situation where you are in danger of dying, but also a situation where you are in danger

of suffering “great bodily harm.” Some states define this in the law more clearly than others.

In layman’s terms, “great bodily harm” is a type of injury that is life-threatening or which causes permanent disfigurement or results in permanent disability. This may include being shot with a gun, stabbed with a knife, beaten with a baseball bat, or run over by a car.

It is impossible to list every possible object or force that could result in death or great bodily harm. And even if you provide examples, such as a hammer, which can clearly be used to beat someone to the point of disfigurement, disability, or death, this doesn’t mean a hammer is always considered deadly. Obviously, the specific circumstances must be considered.

### **What is “Imminent” Danger?**

Let’s take another look at our definition for the justifiable use of deadly force:

*Deadly force is justified only to prevent the imminent danger of death or great bodily harm.*

We’ve defined deadly force and great bodily harm. But the tricky part of this sentence is the word “imminent.” Again, from *Black’s Law Dictionary*, imminent danger means, “immediate danger, such as must be instantly met, such as cannot be guarded against by calling for assistance from others or the protection of law.”

So at its simplest, this means that the danger is happening now. You have to deal with it immediately and you can’t avoid it. Of course, this can raise additional questions.

What if a man is waving a knife? Is the danger imminent? If the man is across the street, maybe no. If the man is young and you are old, maybe yes. Self defense in the real world can be confusing in the details.

To help clarify this, many legal experts rely on a test that includes 3 elements: Ability, Opportunity, and Jeopardy.

**Ability** – Did your attacker have the ability to cause death or great bodily harm? This usually means, did the attacker have a deadly weapon, such as a gun or knife. Use of deadly force against an unarmed attacker may also be justified, such as when you are faced with multiple attackers or a single attacker who is capable of causing you serious harm because of size, strength, or some other factor. However, as in the famous Trayvon Martin case, this can lead to a claim of “disparity of force” and make your defense more difficult.

**Opportunity** – Was your attacker close enough to carry out the attack? If the

attacker was unarmed, he would have to be within arm's length. If he had a weapon, he would have to be close enough to use the weapon against you. How close is close enough? It depends on the weapon, the circumstances, and what the jury or judge thinks about it. Opportunity also means the attack must be here and now. Thinking that someone may harm you at a future date or at another place is not a legally acceptable justification for using deadly force.

**Jeopardy** – Did the attacker intend to cause you harm? Was your life in jeopardy? Someone can have a gun and be standing right in front of you, such as a concealed weapons license holder, but have no intention of causing harm. On the other hand, someone can have a golf club 20 feet away from you and demonstrate the intent to cause harm through verbal threats or by moving toward you swinging the club. In the first, there is probably no jeopardy. In the second, there probably is. What it boils down to is this: Do you genuinely believe you are in immediate danger and is using deadly force the only means of ending the threat? Assuming you don't initiate the conflict, you don't have a duty to retreat, and you honestly believe you are in danger, your use of deadly force may be justified.

As you can see, even though this is more specific than "imminent," it still leaves room for differing opinions. This leads us to another simpler but related concept.

### **The "Reasonable Man" Standard**

If someone comes at you firing a gun and screaming, "I'm going to kill you," it's clear that you're faced with the threat of death or great bodily harm and are almost certainly justified in using deadly force to stop the threat. However, if someone is walking toward you with a hammer, are you justified in using deadly force? While we could apply the Ability-Opportunity-Jeopardy test, ultimately the answer is, it depends on whether your actions are considered "reasonable."

While specific laws vary, it is generally accepted in every state in the U.S. that you have a right to defend yourself with deadly force. Whether you exercise this right legally is based on the "reasonable man" standard – would a reasonable person in the same situation be likely to use deadly force?

What is reasonable may depend on who you ask. One jury may think it's reasonable to shoot a guy swinging a baseball bat and another may not. So to some extent, you're at the mercy of the norms of your community. If they think they would act the same way you did, your actions are reasonable. If they think you went too far, your actions are not reasonable.

This is ultimately an unsatisfying state of affairs, but this is why using a firearm for self defense carries legal risk.

## Castle Doctrine and Stand Your Ground

The George Zimmerman trial brought considerable attention to “Stand Your Ground” laws in many states, even though Zimmerman did not use this in his defense. It also revealed the widespread misunderstanding about these laws.

On the anti-gun side of the issue, people seem to think that Stand Your Ground means you can pretty much shoot anyone and get away with it. On the pro-gun side of the issue, people seem to think that while it’s not exactly a get-out-of-jail-free card, it radically changes self defense laws to favor the use of deadly force. Neither of these interpretations is accurate.

Stand Your Ground is really about eliminating the “duty to retreat,” which is a provision of the law in various states.

In its most literal form, the duty to retreat means that a person who is under an imminent threat of death or great bodily harm must retreat from the threat as much as possible before responding with force in self defense, if it can be done safely.

Stand Your Ground laws are a revocation of the duty to retreat. These laws generally state that, under certain circumstances, individuals can use force, including deadly force, to defend themselves without first considering whether they can retreat from the danger.

The purpose behind these laws is to remove any confusion about when individuals can defend themselves and to eliminate prosecutions of people who legitimately use self defense even though they do not attempt to retreat from the threat.

There’s another legal concept that adds to the confusion people have about Stand Your Ground and that is Castle Doctrine. Castle Doctrine laws are similar to Stand Your Ground laws, but differ in that they usually apply only to certain locations, such as your home, car, or office.

The political controversy over Stand Your Ground laws are blown out of proportion. Despite what many people claim, they do not encourage a shoot-first-ask-questions-later attitude, nor are they proven to result in more injuries and deaths. Once a victim believes he faces imminent threat of death or great bodily harm, Stand Your Ground laws do no more than allow people to protect themselves without worrying about whether they have retreated sufficiently before using force.

Keep in mind that the laws on self defense vary from state to state. “Stand Your Ground” is a loose descriptive term and not a specific law. In fact, the words “Stand Your Ground” may not be found in the law at all.

## Exceptions to Justifiable Self Defense

When gun owners run afoul of the law, it's often because they don't know the rules or say or do something stupid because they're still suffering from the physical and psychological effects of a deadly force encounter.

However, there are also some specific exceptions to justifiable self defense.

**Initial Aggressor** – Once again, laws vary from state to state. However, in most cases, if you are the one who initiates violence, you risk losing the ability to argue self defense. If you throw the first punch, then later start losing the fight and pull a gun to defend yourself, you may be considered the bad guy. On the other hand, if you are the initial aggressor, retreat, make it known that you are ending your participation in the encounter, and then you are attacked, your right to self-defense once again exists.

**Provocation** – The law recognizes that people have emotions and one of those emotions is anger. So if you provoke someone to the point where they attack you, you might be justified in using deadly force, or you might not. In simple terms, when you poke the bear, no one is surprised when you get mauled. It's harder to argue that you're the innocent victim when you're insulting someone's mother.

**Escalation** – Anything you do that causes a bad situation to get worse can be held against you. For example, if someone is verbally threatening you and you respond with counter threats, you are escalating the situation. Escalation means you may be playing a part in creating a deadly force encounter.

**Committing a Felony or Unlawful Act** – The affirmative defense of self defense does not apply during the commission of a crime or illegal act. So if you are robbing a gas station, physically assaulting someone, or otherwise committing a crime, and in the process you are faced with a deadly threat, you will have a very difficult time arguing self defense. It depends on the facts of the case, but in general the law is not designed to protect criminals.

**Mutual Combat** – This is a legal term that refers to a fight both parties enter into willingly. Old-fashioned schoolyard fights or even duels would be considered mutual combat because the combatants would set a time and place to meet and settle the score. This also applies to boxing matches, mixed martial arts, wrestling, or any other type of combat.

**Reengagements and Pursuit** – Given the premise that justifiable use of deadly force must be something that is thrust upon you and not something you cause or seek out willingly, you can hurt your self defense argument if your attacker runs away and you then chase him in order to continue the conflict. Example: You shoot someone who breaks into your house, the invader runs out the front door, and you

chase him down the street, shooting at him as he runs.

There is a single idea that threads its way through all these exceptions. In legal terms, we would say that if one of these exceptions applies to you, you have lost the **“mantle of innocence.”** In any self defense situation, it is imperative that your actions are viewed as reasonable and necessary.

You want to wear the mantle of innocence like a halo so people look at you and think, “Poor guy. He had no choice but to pull the trigger.” Once you lose the mantle of innocence, your legal ordeal becomes an uphill battle.

## Know the Self Defense Laws in Your State

They say that ignorance of the law is no excuse. And this applies to armed self defense in a big way. Whether your ignorance is voluntary (you just didn’t bother to learn laws readily available for study) or involuntary (you didn’t know because, for example, the law just passed and an ordinary person couldn’t be expected to know), it is your duty as a citizen to know the laws that apply to you.

You should know federal, state, and local laws. In general, it is state law that should most interest you since those are the criminal laws that would come into play in a self defense situation involving the use of a firearm.

### Federal Laws:

**Federal Firearms Regulations Reference Guide** - downloadable pdf  
<http://permanent.access.gpo.gov/lps41631/2005/p53004.pdf>

**BATFE’s Answers To Frequently Asked Questions** - downloadable pdf  
<http://www.atf.gov/files/firearms/industry/0501-firearms-top-10-qas.pdf>

**Guide to the Interstate Transportation of Firearms** - interstate transportation laws  
<http://www.nraila.org/gun-laws/articles/2010/guide-to-the-interstate-transportation.aspx>

### State Laws:

**State Gun Laws at a Glance** - <http://www.nraila.org/gun-laws.aspx>

**State-by-State Handgun Laws** - <http://www.handgunlaw.us/>

**The Traveler’s Guide to the Firearm Laws of the Fifty States** - book available for purchase  
<http://www.buckeyefirearms.org/2020-travelers-guide-firearm-laws-fifty-states>

**BATFE’s State Laws and Published Ordinances** (Firearms, 2010-2011) - details of state gun laws  
<http://www.atf.gov/publications/firearms/state-laws/31st-edition/index.html>

**Strategy #2:**

## Avoid Confrontation When Possible

In *The Art of War*, Sun Tzu observed, “The supreme art of war is to subdue the enemy without fighting.” That’s not only good advice for warfare, it’s good advice for self defense as well.

When it comes to justifiable use of deadly force, you should seek to avoid confrontation, unless you have no choice and your life is on the line. This is easier to say than to do because it requires that you be calm and peace-loving throughout your life, but ready to use with deadly force at any moment.

Here are some practical points that can help you avoid situations that can put you in both physical and legal peril.

**Should you defend others?**

There are some situations that can present ethical uncertainty. On one hand, it is our obligation to help our fellow citizens whenever they are in trouble. On the other hand, it can be difficult to assess a situation accurately in the heat of the moment.

If you see one man on top of another man throwing punches, should you intercede? How do you know who is the victim? Is the guy on top the bad guy? Or is he a victim turning the tables on his attacker? Is he a cop subduing a criminal? Or is this mutual combat where the two are both bad guys who got into a fight? Defending others takes you into very dangerous legal ground where an error in judgment can cost a life or rain down a legal nightmare on you.

**Should you stop a crime in progress?**

There is a thin line between being a good citizen and being a vigilante. The rule of thumb is to never get involved in any criminal activity unless you are threatened with death or great bodily harm. In most cases, you will do more good by reporting the crime to police and letting them handle it.

**What about defense of property?**

Is it legal to shoot someone who is attempting to take your car or big screen TV? In some places and in particular circumstances, it may be. But in most cases, it is not. Moreover, using deadly force and potentially taking a life just to protect an object is difficult to defend morally. Life should be taken only if life is being threatened. Objects can be replaced, lives cannot.

**Are you aware of your surroundings?**

Most people spend their lives in a perpetual state of distraction: daydreaming, fumbling with groceries, talking on the phone or texting, thinking about what they did



yesterday or plan to do tomorrow. This provides criminals a wide selection of potential victims, because bad guys almost always prefer surprise attacks.

Being aware isn't about living in fear or being paranoid 24-hours a day, eyes darting left to right, looking for attackers around every corner. It simply means maintaining a relaxed but active state of environmental perception. Who is around you? What is going on? What might happen? Where are your escape paths?

It's really just about paying attention and NOT being preoccupied. Attention is like a spotlight. When you shine it on one thing, that thing is easier to see while everything else is harder to see.

We might also say that situational awareness is about focus and what you choose to focus on at any given moment. Multi-tasking is a myth. While you might think you can focus on more than one thing at a time, your brain is really switching back and forth between the objects of your focus. So situational awareness is about making wise choices about where to focus your attention in different situations. The sooner you spot potential trouble, the more time and options you have to avoid a confrontation.

## The 5 Stages of Violent Crime

Most people see violence as a random event. But actually, violent acts, and crimes in general, follow a fairly regular process. Since the ultimate form of self defense is avoiding a fight altogether, understanding the crime process and spotting the signs of potential violence can help you stay safe.

There are different ways to describe the process of violent crime, but one of the most popular was developed by Marc MacYoung. It is used by the police and military as well as firearm and self defense instructors.

This process is divided into 5 stages. The first 3 stages are where criminals "set up" the crime, which is where awareness can help you avoid a violent encounter. The last 2 stages involve the physical attack, which is where self defense techniques come into play.

- Stage 1: Intent
- Stage 2: Interview
- Stage 3: Positioning
- Stage 4: Attack
- Stage 5: Reaction

Let's take a brief look at each of these stages.

### **Stage 1: Intent**

When a criminal commits a violent act, it is always a voluntary choice. Except for those who suffer from a severe mental illness, people don't just snap and suddenly start waving a knife at you. Even when a criminal appears to act on the spur of the moment, the act itself is always planned on some level, consciously or subconsciously.

In addition, there is always some level of mental and physical preparation. It may be putting on a loose sweatshirt to hide a weapon, a decision to take money from someone who appears an easy target, or just a wish to take out frustrations on someone because the criminal is having a bad day.

In most cases, this preparation creates "tells" that broadcast the intent. It could be obvious, such as keeping one or both hands hidden to grasp a weapon, or it could be very subtle, such as slightly more rapid breathing or eyes scanning people as they walk by.

It's important to be aware of your surroundings and listen to your gut when it tells you that something doesn't look or feel right about a person or situation.

### **Stage 2: Interview**

The interview is a test to assess whether you're a good victim. It's called an "interview" because in many cases, it's actually verbal communication with you.

For example, the criminal might ask you a question, such as "Hey man, you got the time?" or "Can you spare a couple dollars?" How you respond provides a lot of information. How firm or weak is your voice? Do you make direct eye contact or do you look at the ground? Does your body language suggest assurance or fear? Do you look strong or weak?

The criminal is looking for someone who will provide little or no resistance and poses no threat. Even if there is no verbal communication, you could be telegraphing what sort of victim you might be just by how you're dressed, how you walk, your size and posture, and your level of awareness.

You don't have to be a 6' 5" Navy Seal with bulging muscles and a steely gaze to deter criminals and "fail" the interview. But you're less likely to be chosen if you appear to be in good health, self assured, and aware of your surroundings. To take it up a notch, see the 45-minute National Geographic video on our website about projecting an alpha male aura:

<http://www.secondcalldefense.org/self-defense-news/how-deter-criminals-projecting-alpha-male-aura>

### **Stage 3: Positioning**

Assuming the criminal has the intent to commit a violent act and has identified one or more potential victims, the next stage is to get into a position to launch the attack.

While you might think of criminals as morons, and in most cases you'd be pretty close to the truth, never underestimate the "street smarts" of those who routinely commit violent acts. Tactical positioning is something they understand and you probably don't, which gives them a big advantage.

Positioning involves several elements, including how close the criminal can get to you before you realize what's happening, whether you have an escape route, how many people are nearby who might render aid or call the police, etc. What the criminal is aiming for is to get up close and surprise you at a moment when you can't easily escape or effectively resist. He doesn't want a fight. He wants to overwhelm you.

#### **Stage 4: Attack**

At this stage, the criminal has chosen you as a victim and has made the decision to get what he wants from you. This could be a verbal attack or a physical attack or a combination.

For example, the criminal may yell at you aggressively to hand over your wallet. Or the criminal may throw a sucker punch to disorient you and gain immediate compliance for surrendering your wallet. Or the criminal may draw a knife threatening to stab you unless you give him your wallet. You'll never know what kind of attack is coming until it happens.

In the first 3 stages, you have a chance to avoid the conflict. But once you are the victim of an attack, you must focus on self defense and make a fast decision about how you will respond. Your response options range from trying to run away to drawing a weapon to stop the attack. Since every situation is different, only you can make this decision.

Plus, if you're properly aware of what is going on, you should be assessing the criminal just as he is assessing you up to the point of the attack. How much of a threat is he? Do you have reason to believe he is armed? Is he alone or does he have help nearby? How committed is he to doing you harm?

#### **Stage 5: Reaction**

This stage is about how the criminal reacts to the attack and to your response. Does he get a thrill from the attack? Does he escalate his violence when you resist? Does he retreat when he gets what he wants or does he want to prolong the situation?

Just as you won't know what sort of attack is coming, you won't know how the criminal will react once the attack is launched. You can't know what is going on in someone else's head, so this is where a simple mugging could turn into a murder or rape. You need to be prepared to respond effectively to both the attack and to how the attack develops.

While there is much more to know about violent attacks, for now, just realize that

crime is a process and is almost never random. As a crime is developing, you have a chance to spot the signals and avoid the violence. This is always your goal: to win the fight by seeing it before it happens and avoiding it before it starts.

**Strategy #3:**

## Beware the “Excited Utterance”

One of the most important concepts to understand in the laws of evidence is what legal experts refer to as the “excited utterance.”

An excited utterance is a statement made in response to a shocking event. It is an exception to the hearsay rule and is admissible as evidence against you. Why? The theory is that because it is spontaneous, unplanned, and made while still under the stress of excitement from the event, it is more reliable than a statement made at a later time when you’ve had a chance to think about what happened.

While there’s nothing wrong with this in theory, in practice, excited utterances can be big trouble. That’s because while you might be honest in a moment of extreme stress, you may also say things that you don’t mean to say.

No matter how prepared you think you might be to defend yourself, a life or death situation is like nothing you have ever experienced. It can cause extreme physical effects after a self defense shooting related to the “fight or flight” response hard-wired into your brain to aid in survival.

Your body will release a massive dose of adrenaline to give you the strength and willpower to fight and survive. But like any chemical, it also has negative side effects, including time distortion, tunnel vision, hearing loss, and emotional detachment. Even after you survive an attack, your body and mind will suffer from the effects of this dose of adrenaline for hours. You can experience nausea and vomiting, exhaustion, and the urge to pace, yell, or babble rapidly.

So in the minutes and hours after using your firearm to defend yourself, your body and mind will work against you. You will be unable to remember or describe what happened accurately. You will do things you would not ordinarily do and say things you do not mean to say.

And unfortunately, this is the same time you will deal with law enforcement. This is the time when you are likely to say or do something that can set the tone for the investigation that follows. For example, in the moments after you have survived a brutal attack where you thought you might die, you might say, “I can’t believe I just shot someone. I’m so sorry. I didn’t mean to shoot him.”

You may be simply expressing the shock that anyone might feel at having just shot someone. You could be honestly upset, wishing that you hadn’t been put in that difficult situation. Perhaps you are trying to convey the idea that you really didn’t want to shoot anyone, but you were forced to.

However, someone hearing your words might misinterpret what you're saying and think you're expressing regret for doing something wrong. They might hear you saying that you acted hastily and irresponsibly.

So the excited utterance is a two-edged sword. It may be an honest statement, but the meaning of the statement could be highly questionable. This is one reason why we recommend that you say as little as possible in the immediate aftermath of a self defense shooting.

Two points to keep in mind about excited utterances:

First, while the idea of keeping your mouth shut makes perfect sense to you as you sit calmly reading this, you need to remember that you won't be thinking so clearly at the moment when you need to understand this principle. In a high-stress, post-shooting situation, you may feel an overwhelming urge to talk. Your brain chemistry will be out-of-balance and you may not be able to make good decisions.

Second, law enforcement knows perfectly well that in a moment of stress you could say virtually anything. That's why when an officer is involved in a shooting, it is often department policy to shield the officer for several days. The officer is put on leave and not required to make any statements until he is in his right mind and has had a chance to speak with his attorney and carefully consider his statement. This is common sense, but it is a privilege not extended to the general public.

In summary, beware the excited utterance. No matter how badly you want to talk after a self defense shooting, the legal risk far outweighs any benefit.

## Use 4-square Breathing to Calm Down

This technique goes by a variety of names, including square breathing, box breathing, 4-part breathing, and so on. And the details may vary depending on who is teaching you. However, the idea is always the same: slow your breathing to combat the effects of the body's fight-or-flight response.

Here's how it works:

- Breathe in slowly through your nose for a count of 4.
- Hold your breath for a count of 4.
- Breathe out through your mouth for a count of 4.
- Hold for a count of 4.

When you breathe in, relax your chest and breathe with your diaphragm. Your belly should move, not your chest. This will help you take air deeply into your lungs. It may also help to close your eyes, but do this only if you are sure the immediate danger is over.

This technique is not magic. Don't expect it to completely reverse the effects you'll feel after a shooting. It can, however, help you relax enough to think more clearly, make better decisions, and remember your training before you call 911 and while you talk to authorities.

Most importantly, it can help you to avoid "diarrhea of the mouth," and do what most competent attorneys would advise in a situation like this: SHUT UP.

If you've had the foresight to become a member of Second Call Defense before a life-or-death encounter, you'll be able to call our Emergency Legal Hotline, and a staff attorney will remind you about how to do this breathing technique. But it's wise to practice in advance. Try it anytime you're stressed.

**Strategy #4:**

## Call 911 with a Singular Purpose

As we just discussed in Strategy #3, the authorities can use an “excited utterance” as evidence against you. And that applies not just to when you’re talking to police on the scene, but also to when you’re speaking to a 911 operator. This is likely to be your first contact with authorities, and may be just minutes, even seconds, after you have survived a life-or-death encounter with a bad guy.

In your adrenaline-charged mental state, you might say or do things that give police the wrong impression or create unnecessary legal problems. Chances are that if you’re going to say something stupid, it’s going to be on that phone call.

You have no legal obligation to call 911. However, as a law-abiding citizen, it’s your duty to notify law enforcement if you’re forced to defend yourself with a firearm. So we DO recommend that you make the call. NOT making the call, or delaying it too long, could be seen as an attempt to evade authorities or a means to give you time to tamper with evidence.

And not only do you want to call 911 when a shooting occurs, you want to be the *first* person to call. While it’s not part of any official rule book, there’s a standing assumption that the first call is usually from the “victim” not the perpetrator. So you are enhancing your “mantle of innocence” when you report the incident first.

If the person you shot, one of his friends, or a bystander makes the first call, the initial report may work against you. “Some guy just pulled out a gun and shot me!” If this happens, police will be responding to a shooting with the shooter at large, armed, and dangerous. This is never a situation you want to be in.

Here are some things you need to know about dealing wisely with the most important phone call you will ever make.

**911 calls are recorded – even when you’re on hold.**

If you remember nothing else, remember this. Every word you say, every sound you make, every noise in the background, anything said by others near your phone, all of it will be recorded. The recording starts the moment the operator picks up the phone and does not end until the connection is broken.

And one big secret that most people don’t realize is that even if the operator puts you on “hold,” you are STILL BEING RECORDED! Any private remark you make to your spouse, friend, the person you shot, or anyone will end up on that recording.

Moreover, these are not old-fashioned reel-to-reel “tapes,” these are digital record-



ings that are part of an emergency response system that will capture the phone conversation plus display the caller's name and address and log the exact time and duration of the call. Depending on the technology available, other information may also be available to the operator or dispatcher, including GPS coordinates. Recordings are archived for reference and evidence.

All of this is a good thing if you need help. But it can work against you if you say the wrong thing. Also, recorded calls give an incomplete picture of what is happening. People can listen to the recording and try to visualize the events they're hearing, but every person's imagination will fill in the blanks differently.

### **911 operators are trained to keep you talking.**

The modern 911 system is not part of a plot to trick you into legal blunders. It's designed to dispatch emergency personnel to assist you in a moment of dire need. But there are two sides to every coin. The good things about 911 come with potentially bad consequences.

In particular, the operators are trained to keep you on the phone and keep you talking. They do this because they want to gather as much information as possible in an effort to help responders deal quickly and effectively with the situation. But the system does not take into account your mental state or your legal rights. It's a system set up to help you, but can end up doing you great harm.

### **This is the beginning of the case against you.**

Because a 911 call may be the earliest report of a shooting and because of the "exited utterance" legal exception to the hearsay rule, you can expect authorities to carefully examine every bit of information from your call. All of it can be used against you. The operator can even be compelled to testify against you.

This means that when your finger touches those three numbers, 9-1-1, on your phone's keypad, you are initiating the investigation into your self defense shooting. And when you hear the operator say, "911. What is your emergency?" the words you say in response can set the tone for how the rest of your life will play out.

So when you pick up the phone to dial 911, don't think of it as reporting an event. For your own legal protection, think of it as *a request for authorities to investigate a homicide for which you are responsible!*

### **911 operators have no legal authority.**

Let's clear up a major myth about 911 operators. They are NOT law enforcement. They are employees trained to take calls and dispatch police, fire, and medical first responders. They cannot order you to do anything. You have no legal obligation to answer their questions or obey their instructions.

In the George Zimmerman case, the mainstream media gave people the impres-

sion that Zimmerman “disobeyed” a direct order from police when the 911 operator suggested he should stay in his truck. While it’s true that he would have avoided the entire incident if he had never gotten out of the truck, he didn’t break a law or violate any regulation. The operator simply had no authority to order Zimmerman to do or not do anything.

We mean no insult to 911 operators, many of whom do a great job and bring help to countless citizens every year. However, the fact remains that 911 operators are NOT police, have NO legal authority, and you are NOT obligated to do anything they say.

### **STOP. Breath. Collect your thoughts.**

We’ve talked about the physical and psychological effects adrenaline can have on you. We’ve discussed how this can cause you to say and do things that lead to legal trouble. And we’ve pointed out how the 911 call is actually the beginning of a police investigation. So this is a good time to remind you that it’s wise to take a moment to calm yourself before making the most important call of your life.

Use 4-square breathing or any other relaxation technique you prefer. You can’t spend a lot of time on this, especially if you want to bring medical help as soon as possible for the person you’ve shot or perhaps even for you or your family. However, calling in a panic won’t necessarily speed up response. You need to come down off the adrenaline rush at least enough to think clearly and speak carefully.

### **Call 911 with a specific and limited agenda.**

Your call has one purpose and one purpose only: to summon help. You’re calling to report an incident and bring responders to the scene. That’s it. You have no other objectives.

You should not make a statement, offer a reason for the shooting, plead your case, express your sorrow, or seek assurance that you did the right thing. The more you talk, the more likely you are to say something you shouldn’t say. And since you’re being recorded, every extra word increases your odds of incriminating yourself.

You should speak as calmly and clearly as you can and not allow yourself to get pulled into a drawn-out conversation about details. It’s possible the operator may need you to repeat your name, address, or other facts. So you should be cooperative in clarifying this information.

However, once you have accomplished your objectives, hang up. Don’t ask to hang up, just hang up. Your next call should be to your lawyer or to Second Call Defense if you’re a member.

## The Essentials of Your 911 Call

Let's now get down to brass tacks. Here is the specific information you should share with the 911 operator:

- Your full name
- Street address you are calling from
- Very brief description of what happened
- Request for ambulance and police
- Your location at the address
- Description of yourself

So your phone call would go like this:

**Operator:** 911. What is your emergency?

**You:** *Operator, my name is <your name>. I'm at <street address>. I was attacked and feared for my life. There has been a shooting. Send an ambulance and the police. I'll be <your location at the address>. I'm <physical description> and I'm wearing <description of your clothing>.*

Let's say you're a white man with a wife and two kids. The call would sound like this:

*Operator, my name is Sam Smith. I'm at my home at 123 Main Street. I was attacked and feared for my life. There has been a shooting. Send an ambulance and police. I'll be standing at the front door with my wife. My children have gone next door to our neighbor's home. I'm a white male, 6 feet tall with glasses and brown hair. I'm wearing blue jeans and a green t-shirt.*

End the call. As we discussed previously, the operator may need you to repeat the address or ask for your phone number, but you should avoid providing any details about the incident. If you need to, explain that you are upset, feel sick, and need to hang up.

**Strategy #5:**

## Don't Make a Stupid "Heat of the Moment" Mistake

By now you should know that when it comes to armed self defense, it's usually not the shooting itself that trips you up legally. More often than not, it's what you do afterward that gets you in hot water.

Assuming you have made your 911 call, kept it brief, and limited your information to the essentials we gave you, your second call should be to arrange legal representation. While you may be absolutely certain that you have done nothing wrong, you need representation anyway. This isn't about being right or wrong, it's about avoiding mistakes and protecting your rights.

Ideally, you will be able to call a competent attorney nearby who has experience dealing with criminal cases and knows the laws related to firearms and self defense. Assuming you don't get voice mail (few attorneys answer outside of business hours) and you have money for a retainer, your attorney will advise you to say nothing and assert your 5th Amendment rights until he or she can meet with you personally and take on your case.

**Note for Second Call Defense Members Only:**

As a member of Second Call Defense, you don't have to worry about arranging legal representation at a moment when you're upset, confused, and scared. Your membership benefits operate as a ready-to-go plan that you can activate with one phone call.

The Second Call Defense Emergency Legal Hotline is a private number printed on your membership card. This hotline is manned by an experienced criminal defense attorney 24-hours-a-day, 7-days-a-week, including all holidays. You can call from any location in the United States plus U.S. Territories for immediate assistance.

Explain what happened. The Second Call Defense Attorney will help you interact with police. If necessary, you can hand the phone to police and the attorney can speak with them directly. This means you do not have to deal with police alone. We will be there with you to guide and advise.

In addition, we will immediately notify your emergency contacts, arrange for legal representation in the jurisdiction of the shooting, wire an attorney retainer, set up a bail bond if necessary, and take care of any other details.

Apart from calling the emergency number, there is nothing for you to remember, do, or worry about. Everything will be done for you immediately the moment you call us and we will continue to assist throughout the entire process until you are released, found not guilty, or charges are dropped.

### **How to deal with police on the scene**

Just as calling 911 takes a certain amount of emotional control and discipline in order to avoid saying too much or saying the wrong thing, such is the case when speaking to responding police. The rule of thumb is be courteous and cooperative, but limit your comments to the bare minimum.

Here's what you should say when speaking to police:

- Officer, this person attacked me.
- I will sign the complaint.
- Here is the evidence (whatever tool the assailant used to attack you).
- These are the witnesses (if there are any).
- You will have my full cooperation within 24 hours after I meet with my attorney. Until then, I wish to assert my 5th Amendment right and remain silent.

Every self defense situation is different. It is impossible to predict how local authorities will react to your particular situation. However, you should mentally and emotionally prepare to be arrested and taken to jail. In some jurisdictions, the police will arrest anyone who shoots another person regardless of the circumstances. So don't be surprised or alarmed if this happens.

Once a police officer makes the decision to arrest you, there is nothing you can say to avoid going to jail. Don't argue. Don't try to plead your case. Just SHUT UP! Cooperate fully with all police commands, but say nothing more about the attack.

## **10 Stupid Mistakes to Avoid**

**NEVER do anything in a panic.** This is easy to say, but hard to do when you're jazzed up on adrenaline and you're not thinking clearly. You may assume that only other people panic, but that's your ego talking. When your body chemistry is messed up, even the toughest tough guys can do foolish things. Just as you go through your day assuming an attack might happen at any time, you should also assume that you'll experience some level of panic immediately after a shooting. Expect it. Prepare for it. Deal with it. Don't say or do anything while you're "out of your mind." Breath. Calm down. Regain control.

**NEVER leave the scene.** Unless you're in danger, stay put. You may feel an over-

whelming need to seek out friends or family or run away, but don't. That could be misinterpreted as fleeing the scene which could give the appearance of guilt.

**NEVER move or tamper with evidence.** It's natural to want to "tidy up," especially if you're in your home. In fact, this is one of the many psychological reactions you can have in a high-stress situation. Fight this urge. Touch nothing. If there are others nearby, make sure they do the same. Any unnecessary touching or moving of things in or around the scene will be viewed by authorities as tampering with evidence and could make them assume you're trying to hide something or interfere with their investigation.

**NEVER have your gun in your hand when the police arrive.** Police may be responding to a "man with a gun" or "shots fired" call and won't know who's the good guy and who's the bad guy. They will view anyone holding a gun as a threat and will deal with you as such. In short, re-holster your gun or set it down if you don't want to get shot.

**NEVER make a statement to police before you talk to your lawyer.** We've said it before, but it's so important we want to keep repeating it. Police have a job to do and you need to be cooperative, but in the moments after a shooting a cop's job and your job are not the same. Apart from following the tips we shared with you earlier, you don't want to say anything else. Just assert your 5th Amendment rights and shut up. You don't want to say too much because anything you say will be used against you.

**NEVER fall for good cop / bad cop.** You think you're too smart to fall for this technique, but you're not. Police have been using it for a long time and it works! You'll be upset and you'll want to talk, especially to anyone who appears sympathetic. Law enforcement officers are not necessarily your enemy, but they're not your friend either. Shut up. Talk to your lawyer before you make any official statement to police.

**NEVER try your case on the spot.** Police have more than one way to get you to talk. Aside from good cop / bad cop, they might challenge your use of deadly force. You'll want to argue your case, but don't. Again, shut up. You're not a lawyer and you're not in a courtroom, not yet anyway. There is nothing you can say to a police officer that will "get you off the hook." There is no hurry to make a statement. It can wait.

**NEVER lecture police on the law or your rights.** One of the worst things you can do is get belligerent or act superior. Police are human beings and will react like anyone else if you challenge their authority, belittle their intelligence, or talk down to them. No matter what police say, even if they say or do something you believe to be incorrect, this isn't the time to get into a debate.

**NEVER fail to say "sir" or "ma'am."** Most police are good, decent people who have a difficult job. Treat them with respect. Phrases such as "yes sir" and "no sir"

will go a long way toward showing responding officers that you are the respectable, upstanding citizen you know yourself to be.

**NEVER be surprised if you're treated like a criminal.** It's best to assume that you will be handcuffed, placed prone on the ground, locked in the back of a cruiser, or even jailed. It takes time to sort out the truth of any shooting, and police are likely to do any or all of these things. Don't take it personally. Don't resist or argue. Cooperate fully and just let it all happen.

**Strategy #6:**

## **VERBALLY Assert Your 5th Amendment Rights**

By now, you should have a pretty good idea about how to interact with police immediately after a self defense shooting. You need to inform police you have been the victim of a crime, avoid making a statement to anyone, invoke your rights, and get legal representation immediately.

However, let's dig just a little deeper into how the 5th Amendment comes into play during a police investigation. You need to understand the Miranda warning police read to you and why "taking the fifth" is more than refusing to speak.

### **What the Miranda warning means to you**

The Miranda warning, sometimes referred to as your "Miranda Rights," is a warning police give to criminal suspects after they are taken into custody.

The purpose of the Miranda warning depends on whether you are the law enforcement officer or the suspect. From a suspect's point of view, it is to remind you that you have a 5th Amendment right to remain silent and not incriminate yourself. From an officer's point of view, it is to help preserve the admissibility of your statements in a criminal proceeding.

As we repeatedly tell our members, the police are not necessarily your enemy. But after a self defense shooting, they are not your friend either. So what you say can have serious consequences.

The exact wording of the Miranda warning differs from place to place. Every jurisdiction has its own rules on what an officer must say to you when you have been arrested or taken into custody. However, here are the typical elements:

- You have the right to remain silent.
- Anything you say or do may be used against you in a court of law.
- You have the right to consult an attorney before speaking to the police and to have an attorney present during questioning now or in the future.
- If you cannot afford an attorney, one will be appointed for you before any questioning, if you wish.
- If you decide to answer any questions now, without an attorney present, you will still have the right to stop answering at any time until you talk to an attorney.
- Knowing and understanding your rights as I have explained them to you, are you willing to answer my questions without an attorney present?



This seems pretty straightforward, but like most legal issues, it is not. There are plenty of variations and exceptions depending on the situation. While we could try to explain this in detail, we think it's best to keep things simple. After all, you're not a lawyer. And in the minutes and hours after a self defense shooting, you're likely to be confused and unable to make sound decisions.

In layman's terms, you should assume that if an officer is reading you a Miranda warning, it's likely that you are suspected of doing something illegal and that police will be paying very close attention to what you say and do from that point forward. Your words and actions could become part of the evidence used to convict you of whatever you are suspected of doing.

You don't have to talk if you choose not to. And you can hold off speaking to police until after you've spoken to a lawyer. This doesn't mean you just stand there in total silence, but you should avoid saying anything more than the bare minimum. Remember the "script" we suggested in Strategy #5:

- Officer, this person attacked me.
- I will sign the complaint.
- Here is the evidence (whatever tool the assailant used to attack you).
- These are the witnesses (if there are any).
- You will have my full cooperation within 24 hours after I meet with my attorney. Until then, I wish to assert my 5th Amendment right and remain silent.

However, considering the amount of adrenaline pumping through your veins at this moment, even saying this could backfire if you start babbling about being attacked and pointing out evidence.

In short, the Miranda warning is just that, a WARNING. You could be in trouble so don't start talking and make it worse. When in doubt, shut up. Even if you're desperately wanting to talk, shut up anyway. There is very little, if anything, you can say that will help you. Most of what you say could hurt you.

So, what does the Miranda warning mean to you? SHUT UP!

## Avoiding the New 5th Amendment Trap

We've been telling you over and over that you need to shut up. But something happened not long ago that makes shutting up a little more risky from a legal point of view.

The Supreme Court ruled in *Salinas v. Texas* (2013) that your silence can be used against you.

As we have just seen, once you are arrested, the police are required to read you the Miranda warning which advises you of your 5th Amendment rights: You have the right to remain silent, anything you say or do may be used against you in a court of law, and so on.

This case asked the question, what about remaining silent before you are arrested? The defendant, Salinas, had not been under arrest when police started questioning him. At some point in the questioning, he just stopped talking.

The Supreme Court said that since Salinas had not invoked his 5th Amendment protections, the police could use his silence against him.

In his dissenting opinion, Justice Stephen Breyer says this:

*I would hold that Salinas need not have expressly invoked the Fifth Amendment. The context was that of a criminal investigation. Police told Salinas that and made clear that he was a suspect. His interrogation took place at the police station. Salinas was not represented by counsel. The relevant question—about whether the shotgun from Salinas' home would incriminate him—amounted to a switch in subject matter. And it was obvious that the new question sought to ferret out whether Salinas was guilty of murder.*

We agree. As citizens, we should not be required to invoke a right in order to enjoy its protection. But regardless of what we think, the ruling is what it is. And it's just one more reason to know your rights and exercise them intelligently.

You can invoke the 5th Amendment at any time and should do so, even before arrested. And you must do so VERBALLY. You have to say the words outloud to police: "Officer, I invoke my 5th Amendment right to remain silent."

**Strategy #7:**

## Be Prepared for Law Enforcement to Do Their Job

When we talk about protecting yourself legally in a criminal investigation, it's easy to get the wrong idea about our attitude toward law enforcement.

For the record, we are 100% pro police. We count police officers as some of our very best friends, and quite a few of our members are current or retired officers. In fact, our membership protects law enforcement, military members, and security personnel while off-duty. Serving in law enforcement is a calling. It's a high-stress, high-risk job that asks too much and pays too little.

Our advice isn't meant to make you think cops are the enemy, but just to make sure you understand that they are not your friend either. They have a tough job to do and it is imperative that you are realistic about what will happen when police arrive at the scene. All they know is that someone has been shot and you are the shooter. It's their job to figure out what happened and take the appropriate action.

### The Reid Interrogation Technique

If you've ever been involved in a traffic accident with another driver, you know that responding police have one primary task: to assign blame. One way or another, either you or the other driver is going to get nailed for the accident.

Shooting investigations are similar. Once police show up, their task is to find someone who is most likely to be guilty of a crime and gather evidence to prove it.

This is fine as long as the police investigate someone who has done something wrong. But when you have justifiably used a firearm to defend yourself, and the police suspect you of wrongdoing, you're in for a terrible experience.

One thing investigators are trained to do is ask questions, and one of the most popular ways to do this is with the "Reid Technique." This is a multi-part method to gather facts, including a 9-step interrogation designed to pressure you into revealing information that could be used against you in a court of law.

The investigating officer first performs a "factual analysis" to eliminate improbable suspects and determine who is most likely to be guilty of a crime.

Next comes the "behavior analysis interview" which includes a question and answer session. In addition to simple questions, the officer also asks questions intended to

provoke reactions that can be interpreted as truth or deception.

Finally, there's the "interrogation." This is referred to as an "accusatory process" because the investigator tells you there is no doubt about your guilt and tries to make you believe he or she understands why you did what you're accused of doing. It's not so much a series of questions as it is a monologue by the investigator.

Here's how this process is summarized on Wikipedia:

*The actual demeanor of the investigator during the course of an interrogation is ideally understanding, patient, and non-demeaning. His or her goal is to make the suspect progressively more and more comfortable with acknowledging the presumed truth about what they are alleged to have done. This is accomplished by the investigators' first imagining and then offering the subject various psychological constructs as justification for their behavior.*

*The first admission of guilt is usually obtained by asking the alternative question "Did you plan this out or did it just happen on the spur of the moment?" This technique uses language that contains the unspoken, implicit assumption of guilt. A famous version of this trick is, "Ma'am, have you stopped embezzling money from the bank yet?" The person under interrogation must catch the hidden assumption and contest it to avoid the trap. Otherwise, once the subject confesses to the proposed scenario, then active persuasion stops and the interrogator attempts to develop from the subject corroborating information that can be used to shore up the credibility of the confession. Critics regard this strategy as hazardous, arguing that it is subject to confirmation bias (likely to reinforce inaccurate beliefs or assumptions) and may lead to prematurely narrowing an investigation.*

*Nine steps of interrogation*

*The Reid technique's nine steps of interrogation are:*

*Step 1 - Direct Confrontation. Lead the suspect to understand that the evidence has led the police to the individual as a suspect. Offer the person an early opportunity to explain why the offense took place.*

*Step 2 - Try to shift the blame away from the suspect to some other person or set of circumstances that prompted the suspect to commit the crime. That is, develop themes containing reasons that will justify or excuse the crime. Themes may be developed or changed to find one to which the accused is most responsive.*

*Step 3 - Try to discourage the suspect from denying his guilt. Reid training video: "If you've let him talk and say the words 'I didn't do it'[...]the more dif-*

*difficult it is to get a confession.”*

*Step 4 - At this point, the accused will often give a reason why he or she did not or could not commit the crime. Try to use this to move towards the confession.*

*Step 5 - Reinforce sincerity to ensure that the suspect is receptive.*

*Step 6 - The suspect will become quieter and listen. Move the theme discussion towards offering alternatives. If the suspect cries at this point, infer guilt.*

*Step 7 - Pose the “alternative question,” giving two choices for what happened; one more socially acceptable than the other. The suspect is expected to choose the easier option but whichever alternative the suspect chooses, guilt is admitted. There is always a third option which is to maintain that they did not commit the crime.*

*Step 8 - Lead the suspect to repeat the admission of guilt in front of witnesses and develop corroborating information to establish the validity of the confession.*

*Step 9 - Document the suspect’s admission or confession and have him or her prepare a recorded statement (audio, video or written).*

As you can see, this is less about finding truth than it is about using psychological manipulation to get a confession. As with good cop / bad cop, it may look obvious as you read this in the relative calm of your home or workplace, remember that after a shooting you will be in a state of shock. You will experience a swirl of intense emotions and physical effects that will prevent you from thinking clearly for hours, even days.

Police use the Reid Technique because they know how vulnerable you are and will take full advantage of this to assign blame and “get their man.”

Again, this is what the police are supposed to do. Their motives are good. However, in self defense shootings, innocent people often fall victim to aggressive investigative techniques like this. Even if you don’t give a confession, you could be manipulated into saying enough to give a prosecutor evidence to convict you.

Knowing what the police are doing can help you avoid this trap. But, as always, our advice remains the same. Don’t try to outsmart the police, just shut up. Assert your 5th Amendment right of remaining silent and talk to legal counsel before talking to the police.

## 5 Self Defense Myths That Can Land You in Jail

They say that ignorance of the law is no defense. But it's usually not what you don't know that gets gun owners in trouble, it's what you *think* you know that can get you cuffed and thrown behind bars. Unfortunately, many gun owners are seriously misinformed or even in complete denial when it comes to the realities of using a firearm for self defense and how police will deal with them.

We talk to thousands of gun owners each year. While many understand the legal risks of self defense, the misinformation some people assume to be fact is both sad and astonishing.

### **Myth #1: Police arrest only bad guys.**

Sounds good. But that's idealism, not realism. Good guys get in trouble all the time. You can see someone fall down choking, render aid, then get sued because the guy died or lived and sustained injuries. "Good Guy" is not a sound defense.

Gun owners are in denial in many ways, but this is probably the most common. It seems so commonsense to think that if you honestly believe your life is in danger and you abide by the law to defend yourself, you won't end up being treated as the bad guy. But that's not the way the world works. You know you're the good guy, but authorities don't. Witnesses don't. Prosecutors don't.

It boils down to this: if you're realistic enough to understand that sometimes bad things happen to good people in one situation (like being physically attacked), then you should be able to understand that sometimes bad things happen to good people in another situation (like being legally attacked).

And just as it's wise to prepare to defend yourself against the first, it's equally wise to prepare to defend yourself against the second. A physical threat is usually over in a few seconds. A legal threat can dog you and your entire family for years, even for a lifetime.

### **Myth #2: The police are your friend.**

We've said it before. Law enforcement officers are not your enemy, but they're not your friend either. Their job is to respond to the scene of a possible crime, assign blame, and present evidence to a prosecutor.

You must try to see your situation from their point of view. They deal with crime every day. They see people do bad things then lie about their actions. There comes a time when law enforcement officers have seen so much crime and have been lied to so much, they start doubting everybody, especially when guns are involved.

Use a baseball bat to defend yourself and you face almost no legal peril. Use a gun in the exact same situation, and you're in the middle of a homicide investigation.

**Myth #3: Stand Your Ground is a “get-out-of-jail-free card.”**

The press has done a terrible job explaining what Castle Doctrine, Stand Your Ground, and similar laws really do for you. If all you do is read your local newspaper, you'd think once Castle Doctrine becomes law in your state, you're free to shoot bad guys at your leisure and have nothing to worry about when law enforcement shows up.

In reality, Castle Doctrine is little more than a traditional concept in common law that says you have a right to defend your home and yourself. The actual legal details differ from state to state. And the “fact pattern” in every case is different.

While it may be true that Castle Doctrine laws give authorities a way to think about armed self defense, it's not a get-out-of-jail-free card nor will it prevent police from arresting you, subjecting you to an intense interrogation, or recommending charges be brought against you. In some areas of the country, every gun-related case is automatically brought before a grand jury as part of a routine investigation.

**Myth #4: Brandishing, shooting to wound, and warning shots help you avoid trouble with police.**

This is another example of how TV and movies warp reality. In the la-la land of fiction, good guys avoid killing people with make-my-day threats, trick shots to hit a hand or knee, and shots into the air or ground to scare off bad guys. And the police react by patting the good guys on the back for their quick thinkin' and fine shootin'.

Of course, real life is not like the movies. And police don't pat anyone on the back for pulling a trigger. Brandishing can escalate a situation and can be considered a threat of deadly force. Shooting to wound and warning shots can be considered attempted murder. A good rule of thumb to avoid legal trouble is this: a gun should only be used when there's no other choice, and it should come out of the holster only when your life is in danger and you are ready to shoot center mass.

**Myth #5: Insurance will pay off while police investigate a “legal” shooting.**

Have you actually read your insurance policy? Have you asked your insurance agent specifically if it covers you if you shoot someone on purpose? Police investigations and insurance policies mix about as well as oil and water.

Most homeowner liability policies contain a provision that excludes coverage for injury or damage intentionally caused by the insured. This is sometimes called the “intentional injury exclusion.” A few policies include language for a “reasonable force” exception for “bodily injury resulting from the use of reasonable force to protect persons or property.” But this protects you only for “liability” claims in a civil case after you're acquitted or charges are dismissed.

The truth is, when police investigate a potential crime, insurance agents scurry. The money you were counting on for legal bills won't appear. And you're all alone.

**Case Study:**

## The Sad Story of Jay Rodney Lewis

In the preceding pages, we've shared a lot of information with you to help you understand the risks you face when you use a gun to defend yourself. And we've tried to impress on you the importance of knowing the law and having legal help readily available to protect your rights.

To help this sink in, let's look at a real-life case involving a gun owner who found himself in a bad situation, did what he thought was necessary to survive, but ended up being crushed by the legal system.

His name is Jay Rodney Lewis.

Lewis is a Kansas native who moved to West Des Moines, Iowa for a new job. A former security guard and law enforcement officer, Lewis is also a hunter and gun collector with a permit to carry a concealed weapon.

His troubles began one night as he was driving home and had a traffic accident with another man and a car full of his buddies. As Lewis was checking his car for damage, the angry driver and one of his friends came at him.

Lewis called 911. You could hear him telling the two "just stay where you are. Get back! Get back! I'm going to start shooting!" Then, "Get away from me. Get away from me!" Bang.

The evidence seemed overwhelming that it was self defense. The other driver was a felon with multiple convictions and had a blood-alcohol level of 0.189 when tested at the hospital that night. But Des Moines police arrested Lewis for failing to back off and avoid the gunplay. He was charged with two counts of intimidation with a dangerous weapon and one of going armed with intent.

Lewis was asked to post \$225,000 cash for bail. Unfortunately, Lewis earned only \$32,359 a year and just didn't have the money. Plus because he couldn't afford a good lawyer, he relied on a busy public defender. So he sat in jail.

Meanwhile, his apartment complex evicted him because of the arrest and posted a notice on Lewis' door, which he never saw because he was in jail. And since his relatives were in Kansas, there was no one to help him or inform him or his lawyer what was about to happen next.

When the eviction date arrived, the evicting deputy entered Lewis' home and seized four handguns, three rifles, and a shotgun that had been left in the apartment. And



all his clothing and furniture were removed from the apartment and dumped on the curb. Not surprisingly, everything he owned disappeared, stolen by neighbors or hauled away by the sanitation department. This included a laptop containing the only copy of his fourth novel (a western).

“That was several decades of my life that got flushed down the toilet,” Lewis said. “I had a beautiful flat-screen TV. It’s now in somebody else’s living room. ... For a while there, every time I turned around it was like, can it possibly get any worse?”

Prosecutors eventually dropped most of the charges. His trial on the sole remaining count, reckless use of a firearm causing injury, resulted in jurors finding that Lewis acted appropriately in defending himself.

So Lewis was found not-guilty. But that wasn’t much comfort because his life had already been turned upside down. He spent 112 days in jail, lost his job and all his possessions, and found himself literally homeless and penniless. All because someone *thought* he committed a crime and he didn’t have the resources to afford a lawyer or bail.

It’s a sad story, but not an unusual one. It happens all the time to decent men and women who use a firearm in self defense.

## Which kind of gun owner are you? Are you prepared ... or in denial?

As a gun owner or someone who carries open or concealed, you've probably talked to people who were in denial about the realities of self defense.

Think about some of the things they say when the topic of violence and using a gun to defend yourself comes up in the conversation ...

*"That can't happen to me. That's the sort of thing that only happens in bad neighborhoods. If you don't go looking for trouble, everything will be okay. And even if someone did attack me, I'd just call the police."*

That's pretty serious denial, isn't it? These are the same sort of people you see on TV after a shooting or violent event who cry, "This was a complete surprise. Who would have thought it could happen here?"

Denial kills. It renders people helpless in the face of evil. Why? Because, to paraphrase a famous movie, "They can't handle the truth."

But you're not like them, are you? You look at the world around you and clearly see things for what they are. And you act like a mature, responsible adult when it comes to protecting yourself and your loved ones. You don't want to hurt anyone, but you've prepared yourself to do whatever it takes to react swiftly and aggressively if you are ever in fear of death or great bodily harm.

So as a mature, responsible adult, shouldn't you also be willing to clearly see the legal dangers that accompany a self defense shooting? Shouldn't you be prepared to do whatever it takes to react swiftly and aggressively if you are ever in fear of legal or financial danger?

In today's world, you MUST be prepared to defend yourself TWICE! First against the physical threat and second against the legal threat. If you own or carry a firearm, you're prepared for the first ... but are you prepared for the second?

Earlier in this publication, we suggested that you should ask yourself whether you could really shoot someone. What was your answer? Are you prepared to take a life to defend your life? If your answer is yes, then you're the kind of person who sees the world clearly and is prepared to survive a physical attack.

And that means you're also the kind of person who should be prepared to survive a legal or financial attack.

## What is Second Call Defense all about?

We started Second Call Defense for one very simple reason: we are all gun owners and concealed carry license holders and we wanted protection for ourselves.

We were familiar with the horror stories of innocent gun owners subjected to devastating legal consequences after using a firearm in self defense. And we didn't want to become one of those stories. So we started looking at our options. Frankly, there wasn't anything available that met our needs.

### Insurance?

We looked at homeowner and umbrella liability policies from many insurance companies. Most flatly refuse to cover a shooting. Some claim to offer liability coverage, but the policy language is sketchy and it's hard to get any clear answers to specific questions about guns and self defense. Insurance companies just aren't comfortable with firearms, and most agents can't promise what is or is not covered.

Most homeowner policies specifically exclude coverage for injury or damage intentionally caused by the insured. If your policy includes a "reasonable force" exception, you may have a certain amount of liability coverage, but the law prevents an insurance company from offering coverage while you are considered the defendant. So you are ineligible for any insurance coverage until you spend your own money to prove your innocence using the affirmative defense of self defense.

### Pre-paid legal?

There are law firms all over the country that have been hopping on the bandwagon to offer protection for gun owners. You send them a monthly or annual fee and they promise to defend you after a defensive gun usage.

Most claim that there are no limits on their defense, but we've seen the confidential contracts some of these firms ask their "network lawyers" to sign which do, in fact, put strict limits on how much time and money can be spent on defense. And many of these firms won't cover bail, civil damages, accidents, expert witnesses, wage compensation, and other expenses.

### Illegal "risk pooling"?

Some organizations promising to protect gun owners may be breaking the law. When there's no insurance backing, and when it's not a law firm selling their services as a "subscription," the organization may be hoping to pay for financial aid to members based on fees collected. That's called "risk pooling," and unless they are an insurance company, it could be illegal. Be cautious and check the details to be sure.

Bottom line, we found no options that offered us the sort of comprehensive and realistic legal and financial protection we wanted. So ... we decided to create it ourselves. And that was the beginning of Second Call Defense.

## Immediate Trigger to Trial Protection

It took us several years to work out all the details, but in the end, we created what amounts to a complete and ready-to-go plan, including legal and financial services that spring into action immediately.

We wanted to be realistic. We knew that if we were ever involved in a shooting, we would be upset and it would be difficult to think straight. There would be great risk for saying or doing something stupid that could get us in big trouble. So we wanted the process to be simple.

As simple as making a phone call. And that call would be all that was needed to start a process to get an attorney to defend our rights, immediate cash to pay for bail, notification for our friends and family, and everything else that we might need. And it would all happen automatically without having to remember anything except to make that call.

We settled on the name **Second Call Defense** because you really need to make two calls: the first to 911 and the next to an Emergency Legal Hotline that would be manned 24-hours-a-day, 365-days-a-year, including holidays ... not just manned by an operator but by a real lawyer.

And we wanted even more. We demanded that Second Call Defense offer ...

- Immediate, real-time protection after you pull the trigger. No delays. No red tape. Protection that starts RIGHT NOW when you call the Emergency Legal Hotline.
- No out-of-pocket costs. No hidden expenses. No charging up a credit card or borrowing money from savings or family. IMMEDIATE up-front money for attorney retainer, bond, and more right when you need it.
- Protection in most states, anywhere and everywhere it's legal to have a gun even when traveling or on vacation. Because who knows where you'll be when you have to defend yourself? Not available in NJ, NY, and WA.
- Coverage for all legal weapons. We carry firearms, but why have protection for just one kind of weapon? If you're attacked, you have to use whatever is available.
- Coverage for off-duty law enforcement and non-deployed military. They are generally protected when they're on the job, but too many of our finest men and women are legally naked when the uniform comes off.
- No membership requirements other than residence in the U.S. No CCW permit. No hoops to jump through. If you're a United States resident, you qualify for membership. Period.

## Member Services

So what do we provide when you join Second Call Defense? Everything we wanted for ourselves ...

### **Training & Education** – *expert information on legally exercising your Second Amendment rights*

- Member Newsletter
- Self Defense News
- Online Lethal Force Seminar
- Online Training Videos
- Special Guides & Checklists

### **Rapid Response** – *immediate real-time assistance by legal defense experts*

- 24/7 Emergency Legal Hotline
- Personal Crisis Manager
- Nationwide Attorney Network Access
- Local Attorney Referral
- Choice of Defense Attorney (Criminal)
- Emergency Contact Notification
- Expert Witness Coordination
- Gun Retrieval or Replacement
- Up to 40 Sessions of Psychological Support
- On-Site Assistance

### **Financial Support** – *up-front money, no out-of-pocket costs, nothing to repay*

- Up to \$100,000 Immediate Cash for a Bond up to \$1,000,000
- Up to \$100,000 Immediate Attorney Retainer
- Up to \$5,000 Aftermath Site Clean-up
- Up to \$750/day Compensation While in Court
- Essential Defense Expenses, Including:
  - Court Filings
  - Subpoena Costs
  - Expert Witness
  - Scientific Defense Studies
  - Private Investigator

### **Legal Protection** – *Criminal Defense with Your Choice of Attorney*

- UNLIMITED
- Protection for all Legal Weapons

### **Legal Defense & Indemnity** – *Civil Suit Defense Protection*

- UNLIMITED Civil Suit Defense Protection
- Up to \$1,000,000 Civil Suit Damages Protection
- Up to \$300,000 Accidental Shooting Protection

## Who is behind Second Call Defense?

The people behind Second Call Defense include Second Amendment advocates who have been fighting for gun owner rights for decades, including leaders from Buckeye Firearms Association in Ohio, attorneys who specialize in guns and self defense, and hundreds of firearm instructors in nearly every state.



**Sean Maloney** - Sean is a Defense Attorney with a firearms practice emphasizing all areas of firearm-related law in both State and Federal Courts. He is a firearms law consultant who has appeared as an expert witness in a variety of lawsuits related to firearms. Sean is also a multi-discipline firearms instructor, Continuing Legal Education Instructor, and a national speaker on topics related to the 2nd Amendment, self-defense, lethal force, and concealed carry.



**George Lang** - George is the grandson of a Cuban immigrant, a lifelong conservative and political activist, and a philanthropist and business owner. He's also a Special Deputy for the Butler County Sheriff's Office, Concealed Handgun License Holder, and currently an Ohio State Senator



**Bill Marquet** - Bill is a successful entrepreneur with over 45 years' experience in business and marketing. He's a staunch Second Amendment supporter, and has been a gun enthusiast and collector for over 55 years.

*As a responsible gun owner, you need to be **TOTALLY PREPARED** with ...*

## **The most comprehensive protection for armed self defense in America!**

We hope this guide has helped you understand the risks and responsibilities of using a gun for self defense. If you remember nothing else, remember this ...

As an American citizen, you have the God-given right to defend yourself and your loved ones. But in today's mixed-up world, the moment you pull the trigger, you're at risk for devastating legal consequences. You can be arrested, jailed, sued, fired, and bankrupted, even when you have legally and justifiably used a gun in self defense.

If you own or carry a firearm, you've already taken the first step to defend yourself. Now it's time to take the second step and JOIN SECOND CALL DEFENSE.

Join today and you'll enjoy peace of mind knowing that fellow Second Amendment advocates stand by 24-hours-a-day, ready to defend you. You will have immediate legal and financial protection at your fingertips the very moment you pull the trigger.

### **Join Second Call Defense Today and Get Your **First Month Free!****

Join Online:

**[www.SecondCallDefense.org](http://www.SecondCallDefense.org)**

Join by Phone:

**1-877-502-3300**

To get your First Month Free use this Special Offer Code:

**SURVIVE**

*Enter this code on the enrollment form online or tell the phone operator.  
You will receive a check to reimburse you for your first month's membership fee.*