



SHACKLED FOR SELF-DEFENSE

HOW TO AVOID BECOMING AN INNOCENT
VICTIM OF THE JUSTICE SYSTEM



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Here's something that really stinks: You're right, yet you still lose. Sound impossible? Unfortunately, it's not. In fact, it happens every day.

When civilian mall commandos walk into a coffee shop all geared up with rifles, ammo belts and digital-camo attire "because Second Amendment!," they're right. In most states, there's no law against walking around with a gun across your back or on your hip. Besides being perfectly legal, the activity is within their constitutional rights. But when that happens, even though they're "right," we all lose, especially on the public-relations battlefield.

How many businesses have adopted "no guns" policies precisely because of this type of behavior? How many negative news stories have been added to the already-biased mix? How many neutral observers who know little about Second Amendment issues now have a bad opinion as opposed to a neutral or simply uninformed one?

Or, to get real about a common scenario, suppose your

five-star meal from Chez Raison D'être arrives cold. You can pitch a royal fit in the dining room and demand a new dish, but do you really want to eat what comes out of that kitchen after you just threw a tantrum about the chef? Without planting too much disgusting imagery in your mind, you might be right, but you'll still lose should you eat that remade meal.

And, in far too many legitimate and proper self-defense encounters, crime victims — who are forced into self-defense situations — lose everything.

Yes, even though they might never be convicted in criminal proceedings and even though they might eventually win civil cases filed against them for wrongful death, they're often left beaten, battered and destitute. Here's the shocking truth:

The criminal legal system cares little whether or not you're innocent.

In fact, as long as "justice" is ultimately served, the system is happy and deemed successful. The fact that the very same system ruined you is considered acceptable collateral damage.

It's all good as long as there's justice, right?

Let's consider some of the ways that life as you know it might be completely destroyed simply because you were forced to do the right thing in defending yourself against a deadly threat.



JAIL TIME

Guess what? Whether or not your self-defense case has any ambiguity at all regarding your righteousness, you stand a great chance of going to jail — at least for a while. On TV, people get bonded out of jail within a couple of hours. In real life, the average is about 20 days. That's three weeks of you sitting in a cage while everything in your life continues to move forward without you. You have no time to prepare or organize your affairs. Literally, within minutes of your self-defense encounter, you could be detained and incarcerated. No time to arrange childcare, find a dog sitter or pay the electric bill. Think about all those little things that you handle every single day of your life. Now picture what starts to happen when you simply disappear without notice. Those things get ignored, and your life system starts to break down like a car with the oil suddenly drained.

The fact that you might have spent days, weeks, months or even years in jail leading up to your trial and ultimate acquittal means nothing. You don't get that time back.

CUTTING A HUGE CHECK

If the judge allows, you can pay a bond to the court to guarantee that you'll show up for your trial months or years down the road. As we'll see in one of the case studies here, the amount of such a bond can be hundreds of thousands of dollars. If you don't have that much spare

coin under your mattress, you're going to have to work with a bail bonds company (if such companies are legal in your jurisdiction). If the company agrees to take your case, you'll pay 10 percent of your bond amount in turn for it to guarantee the total bond amount to the court. Oh, that 10 percent? That's a fee you don't get back, even if you're ultimately found innocent.

In the case we're going to discuss in a bit, the bondsman fee alone was \$22,500. Imagine trying to scare that up from a prison cell with no phone, email or other contact with the outside world.

REMEMBER YOUR JOB?

That great career you had but lost because you were in jail? You don't get that back either. While you can hope that someone can tell your employer that you won't be in for work the next day, how long do you expect your boss to tolerate your absence? Oh, add to that your soon-to-be-former employer's likely diminished desire to continue employing someone who is currently in jail for homicide. Yes, if you kill someone else in self-defense, you've committed a homicide. A successful outcome simply means that you won't be held accountable for that homicide because it was justified in the totality of the circumstances.

Whether you're self-employed or work for a company, your career doesn't care that you will be found innocent at some point down the road.

YOUR SAVINGS

If you're starting to see a pattern by now, you're on the right track. The legal system doesn't care that you spent your life savings and retirement plan on bail bonds and defense attorney fees, which usually start in the \$200-per-hour price range. Really good lawyers charge more than that — far more. While every case is different, a rule of thumb is that a self-defense case will easily move into the six-figure range just for attorney fees.

YOUR HOME

And how about your residence, the one you used to pay for with that career you lost? If you have savings, you could continue to pay your rent or mortgage, but remember: You just blew all your savings (and then some) on bail and attorney fees, and you don't get that money back. Maybe you had to mortgage your home to help pay legal bills; the local district attorney won't be reimbursing you for that either, even if you win your criminal case.

YOUR POSSESSIONS

If you rent, there's a great chance you'll be evicted in short order. Most landlords aren't going to want a confirmed street homicide on their books, even if you are later found innocent. Since you're in jail and broke, you probably won't be paying rent, and the eviction clock will start ticking the minute you're arrested. If you're in jail when you get evicted, guess where all your stuff goes? Out to the street, where it will be picked over and taken by anyone driving by.

All these things — and more — can and do happen to law-abiding citizens who are guilty of absolutely nothing other than being attacked by some violent criminal.

CIVIL COURT

Oh, one more thing: Up until now, we've just been talking about the criminal case. If you shot and hurt or killed your attacker, you might get the opportunity to rewind and replay the entire procedure in civil court. While you won't be in jail awaiting your trial, you'll still spend more money than you can possibly imagine trying to defend yourself from losing more money than you can possibly imagine in the civil suit. And don't forget that you might be made a pariah by the media, neighbors, co-workers, politicians looking to score quick brownie points and a host of others. The fact that you're innocent and might ultimately win the civil case means — you guessed it — absolutely nothing.

FOUR CASES

Let's consider four actual cases in which the armed citizen lost everything. As you'll see, sometimes a self-defense encounter survivor loses it all even after being found innocent by the criminal and civil justice systems.

Few cases are clear-cut, and we can make all sorts of hindsight judgments from the comfort of our armchairs after the fact. You might see some actions in some of these cases that you consider errors in judgment. Perhaps if the armed citizen had done something differently, he might have avoided the entire situation. We're not going to second-guess every action here; that's for a different learning forum. Besides, it's human nature to consider ourselves perfect when analyzing the actions of others, right up to the point where something similar happens to us.

Everyone has heard of the George Zimmerman case. If you stop and sift through all the assumptions, accusations and political rhetoric, it wasn't a particularly unusual self-defense case. Just to illustrate how other factors can make anything and everything go wrong, let's assume, for discussion's sake, that Trayvon Martin was a 35-year-old male instead of a teenager. Now let's look at the case summary.

The facts seem to show that Zimmerman had gone on his way when his attacker circled back to "take care of him." With an attacker on top of him, pounding his head on the sidewalk, the elements of legitimate self-defense were all there: ability, opportunity and jeopardy. With these three elements in place, the fact that Martin did not have a gun was absolutely, completely irrelevant. Being young, strong and on top of Zimmerman, he had the ability to inflict grave bodily harm or death. In the midst of the attack, sitting on top of Zimmerman, he had the opportunity to inflict harm or death. And finally, pounding Zimmerman's head on the sidewalk and going for his gun, there was certainly jeopardy.

Looking at the case, it seems like a clear-cut self-defense scenario. In fact, the DA initially declined to press charges because the self-defense actions were deemed "clean." But introduce a dose of racial tension, a rabid media and a couple of politicians looking to cause a ruckus, and everything changed. Zimmerman's life was ruined, lawyers charged him \$2.5 million in fees, and the media got big ratings off his hide for a long, long time.

You might be thinking that the Zimmerman case was one of those rare exceptions that turned into a media circus. Not so. In fact, similar but lower-profile cases are far too common. We're going to examine four different real-life cases where even though the concealed carry permit holder was innocent, there was still hell to pay.

CASE NO. 1

ROAD RAGE: INNOCENT AND RUINED



Jay Rodney Lewis moved to Des Moines, Iowa, to start a new job with an IRS call center. His past employment included security officer and law enforcement positions, so he was familiar with self-defense procedures and had a concealed carry permit.

Just before midnight on Oct. 29, 2011, Lewis was headed back to his apartment in West Des Moines when he encountered a Ford Taurus driven by James Scott Ludwick. Ludwick was driving four others home from a Halloween party when he started that classic "I'll pass you and then slow down" routine that kicks off so many road-rage incidents. While Lewis didn't know this at the time, the aggressive driver was a multiple-conviction felon and had a 0.189 blood alcohol level. (For perspective, that's almost 2.5 times the legal limit.)

Predictably, a fender bender ensued, and Ludwick and another male exited the Taurus, approached Lewis' car and began beating on the windows. Lewis drew his .380 handgun and told the attackers to get back. After it appeared that Ludwick and his cohort had backed off, Lewis exited his vehicle to check for damage. That's when the driver of the other vehicle and another passenger of that car approached Lewis again. Lewis dialed 911 for assistance right away, and, as a result, most of the encounter was recorded. On the tape, Lewis can be heard saying, "Just stay where you are. Get back! Get back! I'm going to start shooting!" And later, "Get away from me. Get away from me!" (In fact, the record shows that Lewis told his aggressor to "get back" 11 different times.)

At that point, a single shot was heard on the tape as Lewis fired and struck his attacker once in the chest, causing a non-fatal injury. Lewis reported the incident to the 911 dispatcher on the phone and waited for law enforcement, securing his gun when officers arrived at the scene. When the police arrived and the dust settled, it wasn't Ludwick and accomplice who were arrested; it was Lewis. Shortly after that, Lewis was charged with two counts of intimidation with a dangerous weapon and one of going armed with intent.

As an IRS call center employee, Lewis was earning just more than \$32,000 per year at the time and was unable to make the \$22,500 bond fee, much less the total \$225,000 bail amount. Obviously, Lewis didn't have the available funds to hire a quality attorney and had to rely on the public defender. As a result, he remained in jail until his trial.

During the 112 days that Lewis sat incarcerated, awaiting his trial, he was evicted from his apartment complex. (Those compassionate folks tacked a notice on his door and later initiated eviction proceedings for "lack of response" to the notice.) They knew full well that Lewis was in jail and couldn't even see the notice, much less respond, but that didn't concern the landlord, who eventually won a default eviction judgment because Lewis didn't show up in court. All parties were well aware that Lewis was in jail awaiting trial and couldn't make a court appearance to defend against eviction proceeding, but no one cared. In fact, the landlord's lawyer tacked a note on the door stating that Lewis was a "clear and present danger to the health and safety of other tenants." During the eviction, his valuable possessions were seized and the rest of his stuff was literally tossed in the street. As for his job, he lost that too.

During the trial process, prosecutors dropped most of the charges but pressed forward with the "reckless use of a firearm causing injury" complaint. After the jury heard the story, they quickly declared Lewis innocent of all charges because, in their view, he acted in self-defense. Later, the jury forewoman stated, "He gave them fair warning. Normally, anybody who would pull a gun on someone, you would think that they would stop. That wasn't the case here. You could clearly hear on the 911 call where he warned Mr. Ludwick."

All's well that ends well, right? Well, not in this case. On Day 113, when Lewis regained his freedom, he had literally nothing. No home, no job, no possessions and no money. He slept in a car until a local church arranged a hotel room for him.

CASE NO. 2

A RELAXING HIKE GONE BAD



On May 11, 2004, 57-year-old retired Spanish teacher Harold Fish went for a daylong hike on Arizona's Pine Canyon Trail in the Tonto National Forest. As he was heading back to his car, he encountered another individual camped near a vehicle. That man, Grant Kuenzli, had two dogs on loan from the local Humane Society. As Fish approached, he offered a wave to the man. At that point, the two dogs, according to Fish, charged him while barking, snarling and baring teeth. Fish fired two warning shots into the nearby brush to stop the dogs.

Fish testified that immediately after the warning shots, Kuenzli charged him, yelling things like, "I'm going to hurt you!" and, "I'm going to kill you!" According to Fish, things happened just that fast: "One minute, I'm just walking through the woods, oblivious to him or anything else. And the next minute, I've got two dogs barking and snarling, trying to bite me, and an angry man following right after them, yelling that he's going to get me, going to kill me, swinging his fists."

Fish shot Kuenzli three times in the chest, and Kuenzli dropped to the ground. According to his testimony, Fish then attempted to offer aid and call for help. Being out of cellphone range, he ran to the nearby highway and flagged down a motorist who summoned paramedics using his OnStar system.

Help arrived, and Fish cooperated with sheriff's detectives, one of whom later commented to the media that he thought Fish had acted in self-defense. As news of the incident got out, friends and acquaintances of the victim came forth and painted a picture of what a nice man he was and how he could never hurt anyone. Others spoke of the dogs and described them as friendly and non-threatening. At that point, Fish's world turned upside down. The Coconino County Attorney's Office decided to press charges, and Fish went on trial about two years after the incident, charged with second-degree murder.

The trial got interesting. Nearby campers testified that they heard gunshots much earlier than Fish had reported. The judge refused to allow the jury to hear that Kuenzli had a large screwdriver in his back pocket and allowed

prosecutors to describe him as "unarmed" during the trial. Also, while Fish's history as a gun owner was fully disclosed to the jury, along with accusations of him being a bloodthirsty gun nut, Kuenzli's past was deemed inadmissible. That was particularly damaging to the defense, because testimony showed him to be, in the words of a former employer, a man who "would go from zero to hot in a very short amount of time." Others made these types of observations about Kuenzli:

"He had one of the hottest and quickest boiling points of any of the people I've ever dealt with."

"His look was one of 'I would like to rip your throat out.'"

"The man is either going to kill somebody or somebody is going to kill him. And that was my feeling ... that was just a gut reaction."

Even one of the two dogs was later reported as an aggressive "biter" by the local dogcatcher.

The jury heard none of this, but the real straw that broke the camel's back was a change in state law that took place before the trial. Without going into gory details, the state changed its self-defense statutes from an assumption of "guilty until proven innocent" for self-defense cases to one of "innocent until proven guilty." However, the judge in the case issued instructions to the jury under the old guidelines, placing the burden on Fish's defense team to prove his innocence.

The result of all this was a verdict of guilty along with a 10-year mandatory sentence. While better than the maximum 22-year possibility, it was still disastrous for Fish. On top of that, Fish racked up nearly \$500,000 in legal bills throughout the ordeal.

Fish's conviction was overturned several years later, but the real damage had already been done. Many argue that Fish did exactly the right things: He was in fear for his life, he issued verbal warnings, and he didn't shoot until it was his only remaining option. He voluntarily, fully cooperated with the investigating officers. In spite of all that, an aggressive prosecutor, prodded by the victim's family and friends, destroyed Fish's life.



CASE NO. 3

MAN VS. MOB: NO SHOTS FIRED

Here's a case where things quickly spun out of control for a concealed carry permit holder who never even fired a shot. Many will look at this story and rightly come to the conclusion that this armed citizen increased his risk by inserting himself into a protest environment filled with anger and frustration. Yes, he was simply present, filming a Black Lives Matter protest in Portland, Oregon, on July 7, 2016. Nonetheless, staying home and watching events on TV would have resulted in a peaceful day at home rather than a life-changing disaster. We include the story here as an illustration of how quickly a situation can turn ugly, especially in a mob environment when tensions are already running high. Thinking of checking out that upcoming protest? Stay home.

Michael Strickland was attending the BLM protest and filming the events of the day. After a couple of known violent activists with criminal records recognized him as a blogger and filmmaker representing "the other side" of the debate, the crowd quickly turned on him. The interesting thing about this case is that there are several videos that show exactly what transpired.

Inspired by a couple of agitators, a dozen or so nearby protesters started to turn on Strickland. Some were wearing masks and brandishing flagpoles, presumably to use as weapons. From the first words, the videos show Strickland starting to move backward while telling them to keep their hands off of him. Right off the bat, he was pushed and shoved. In fact, the videos follow the conflict for what appears to be an entire city block, with Strickland steadily retreating from the crowd the entire time.

At some point, as protesters were closing in on Strickland, he drew his Glock 27 and yelled at people to get back. While hard to tell from the videos, it appears that Strick-

land never even put his finger on the trigger. Complete and total chaos ensued. A couple of individuals tried to diffuse the situation, while others became even more aggressive and continued to get in Strickland's face. After some seconds, Strickland reholstered his gun and continued his slow and steady retreat while the shouting and arguing continued. Eventually, the Portland SWAT team arrived on scene and arrested Strickland. None of his attackers who started the whole incident were arrested.

The trial process might be one of the worst examples of "partisan justice" ever. Strickland was originally charged with two misdemeanors and released. After the local district attorney discovered that he was a "right-wing" blogger, the charges were expanded to 11 misdemeanors and 10 felonies. Bail was set at a whopping \$250,000 — the standard bail for a murder case.

Remember, no one was hurt in this altercation.

The DA suppressed the video of the event, which would have exonerated Strickland or, at minimum, showed the public what actually transpired. During early trial proceedings, the defense discovered that at least two of the opposing protesters were in the jury pool, so there was little hope of an impartial jury trial. The defense elected to have a bench trial in hopes that an impartial judge would consider the facts and evidence, though that was not to be either. Less than five minutes after closing arguments, the judge pronounced Strickland guilty on all counts.

Fast-forward to the sentencing phase: Strickland was sentenced to 40 days in jail and probation. Now, as a convicted felon, Strickland loses his Second Amendment rights forever. He's appealing, but one has to wonder what his chances are in that legal and political environment.



CASE NO. 4

OFFICER STOPS SWITCHBLADE-WIELDING ATTACKER ... AND GOES TO JAIL

Next a look at a case involving a Toronto Police Service Officer to show just how much a politically driven peanut gallery with little practical knowledge can influence a case. Worse yet, this one involved a police officer who, at least in theory, would get the benefit of the doubt from "the system."

The political peanut gallery phenomenon is not limited to Canada; it happens here every day. As you've seen from numerous officer-involved shootings later determined by evidence to be "good shoots," facts don't always matter after the politicians and media choose to pick up a case.

On July 27, 2013, 18-year-old Sammy Yatim boarded a Toronto streetcar carrying a 4.7-inch switchblade knife. Oh, Yatim was also on ecstasy at the time. Anyway, he proceeded to approach Bridgette McGregor while waving his knife. Bridgette's sister Christie testified during the subsequent trial that she thought Yatim had "got her" with the knife blade. Apparently, Bridgette used her purse as a shield, which was struck by the knife as she escaped the scene. Chaos ensued as Yatim threatened other passengers and exposed himself.

Officer James Forcillo entered the scene and repeatedly ordered Yatim to drop the knife and not to advance. As Yatim approached Forcillo, the officer fired three shots, sending Yatim to the ground. Within seconds, the officer fired six more shots because, as he later testified, Yatim was still trying to fight and still had possession of the knife.

In a somewhat unprecedented move, Forcillo was charged with not only second-degree murder but attempted murder too. The fact that the first three shots proved fatal to the attacker appeared to be irrelevant. Forcillo was cleared of second-degree murder but found guilty on the attempted murder charge and sentenced to six years in a penitentiary simply for doing his job and protecting passengers from an armed attacker.

So, exactly how out-of-touch were some who protested and weighed in on the case? Graffiti communicating such sentiments as, "The Good Die Young, RIP Sammy" were spray-painted around Toronto after the event. The good die young? Meaning the "good" who attack people with switchblade knives on public streetcars? Those good people? That's the type of mob mentality that might target you after a justifiable self-defense action.

The reason we included this case is to illustrate the type of "Monday morning quarterbacking" that can (and will) be conducted by those without even the slightest shred of relevant knowledge. Looking at this case, the accusations were filled with phrases like, "He should have done more to de-escalate the situation" and, "He was trained to deal with situations like that." So, an attacker with a deadly weapon is coming at you, and you're expected by the peanut gallery to "de-escalate?" To "find some other way?"



WHAT TO DO?

These cases relay a variety of nightmare scenarios that can and do happen, even in legitimate self-defense situations. Many would argue that in each of these cases, the legally armed citizen did as much right as could be expected in the face of a split-second, life-or-death encounter. Yet all of them suffered for it. Sometimes, it was political pressure and public sentiment that “called for blood.” In other cases, poorly informed prosecutors, judges and juries based decisions on completely unrealistic expectations like, “Why didn’t you just shoot to wound or de-escalate the situation some other way?”

Whatever the reason, you can’t count on “being in the right” to protect you. You can be right, yet lose it all. So, what to do?

First, invest in quality self-defense training as if your life depends on it, because it might. The more you know about avoidance, de-escalation and exactly how to handle a life-threatening encounter, the lower the odds that

you’ll do something wrong. The better decisions you can make before and during a crisis, the more you’ll reduce the odds of the system latching onto a questionable decision that could hurt you.

Second, plan ahead. Just as you have homeowner’s insurance to protect against the unlikely event of a fire, consider getting your ducks in a row on the self-defense front too. At a minimum, contact an attorney experienced in self-defense cases and “open an account,” so to speak. If he or she knows you and you have a number to call, that can save a lot of grief should you ever require legal help. Better yet, consider enrolling in a self-defense protection plan. These services offer immediate assistance with bail funds, attorney retainer fees, legal costs and even loss-of-wages reimbursement. Having a legal safety net just might make all the difference.

Above all, don’t be lulled into a false sense of security because you think you’re right. There are far too many circumstances under which someone like you did everything right, yet still lost it all.

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