

Warning Shots???

by Matt Schlueter



Self-Defense in America today is governed by individual state laws which vary from state to state across our nation. In some states the defender does not have to flee, in others the defender does not have to flee if they are in their own home, and some the defender has the duty to retreat the aggressor before using deadly force to defend themselves. With this complicated maze of state to state laws how does one know what to do?

For the above reasons it is very important for persons who incorporate firearms into their personal protection plans to attend a firearms training class on personal protection where there is also a legal portion taught. This way they can learn about their state laws and how they apply to them when considering the use of a firearm to defend their lives.

Unfortunately our society is full of misconceptions about what a person can and can't do regarding self-defense passed on from one individual to another.

One such example was by Vice President Joe Biden during a January 13, 2013 interview he told our nation his opinion on self defense and what to do if faced with a home invasion.

"Buy a shotgun, buy a shotgun," Biden went onto explain what he told his wife to do if faced with a home invasion.

"I said, 'Jill, if there's ever a problem, just walk out on the balcony ... take that double-barrel shotgun and fire two blasts outside the house,'" Biden said.

Joe later explained during the interview he learned his lessons on gun safety from his father, who was a hunter.

To me it appears Joe gave this advice to his wife before he became Vice President and received a secret service detail to protect him and his family.

Follow along with me as we discuss warning shots and some of the possible legal issues if one was to decide to fire them to scare off a possible attacker.

"WARNING SHOTS?"

The NRA Personal Protection in the Home class covers the basic knowledge, skills and attitude essential to the safe and efficient use of a handgun for protection of self and family, and provides the information on the law-abiding individual's right to self-defense. This

class also covers the simple fact a firearm used for self-defense, is a tool of last resort to defend their lives.

Every person who handles or fires a firearm must understand the importance of knowing what your muzzle is covering, and knowing where your round or shot will impact if it misses or passes through its target. You are legally responsible for every round you fire. In most states warning shots are prohibited in self defense situations by law. This law is commonly known as a reckless discharge of a firearm.

Let's take Joe Biden's advice to his wife Jill in his scenario, Jill fires off both barrels of Joe's shotgun from out on the balcony. I am going out on a limb here and assume Joe left her with some good quality defensive rounds for his shotgun. When Jill fired off those the rounds, she is responsible for each projectile launched into the air. For shotguns it would be each pellet, this equates into about 12 individual rounds for typical self-defense loads with buckshot. They could travel quite a distance and it is unknown who could be injured or what property might be damaged upon impact. Jill could be legally liable, both criminally and civilly, for every projectile that left the gun when she fired the warning shot or shots.

For those who would argue, lets shoot at the ground or other safer direction, I would like to point out the shooter is still responsible for those projectiles if they ricochet or change direction later impacting a person or object causing injury, death, or damage.

If you would chose to fire a warning shot are you really in imminent fear of great bodily injury or death? If you possess a firearm to defend yourself from an imminent threat of great bodily injury or death, would you choose to fire a warning shot vs. shooting to stop the threat of imminent danger of great bodily injury and/or death.

So let me be clear, deadly force should only be used when there is a reasonable belief that it is necessary to defend your life, or that of another person in imminent danger of great bodily injury or death, from the use of deadly force. Necessity consists of two factors - imminent danger and the absence of safe alterna-

tives. Imminent is described as a pending action; meaning immediate or instant. A safe alternative would be to avoid the confrontation.

In my state of South Dakota a citizen who fired a warning shot could face criminal charges and civil charges.

Readers I would like you to consider my article on why warning shots are not acceptable and in some states illegal. While looking at the following news stories where citizens have been arrested and or convicted for firing warning shots when confronting criminals. ■

NEWS STORIES:

June 7th, 2012

Living Safe: Homeowner's arrest raises questions about self-defense

February 7th, 2013

Utah homeowner arrested for shooting at burglar

February 21st, 2013

New Hampshire man arrested for firing gun into ground while catching suspected burglar

May 28th, 2013

Man Attempts to Stop Felon and Charged

Disclaimer: Nothing in the article is to be considered legal advice and if you have questions about what is legal when it comes to self-defense in your state please seek out a NRA Citizens Firearms Class on Personal Protection, Post-Certified Law Enforcement Officer, or an Attorney.

Sources:

Biden encourages Americans to use shotguns to scare off intruders <http://www.foxnews.com/politics/2013/02/20/biden-encourages-americans-to-use-shotguns-to-scare-off-intruders/>

South Dakota State Law:

SDCL 22-14-7: Reckless discharge of firearm or shooting of bow and arrow.

SDCL 22-16-34: Justifiable homicide—Resisting attempted murder—Resisting felony on person or in dwelling house.

SDCL 22-16-35: Justifiable homicide—Defense of person—Defense of other persons in household.

SDCL 22-18-4: Justifiable use of force to protect property—Use of deadly force—Duty to retreat.

News Stories: June 7th, 2012

Living Safe: Homeowner's arrest raises questions about self-defense http://www.yourhoustonnews.com/ranch/living/living-safe-homeowner-s-arrest-raises-questions-about-self-defense/article_d35b0c7e-9b88-5645-a5e3-0ba3bb1b367c.html

February 7th, 2013

Utah homeowner arrested for shooting at burglar <http://www.azcentral.com/news/free/20130207utah-homeowner-arrested-shooting-burglar.html>

February 21st, 2013

New Hampshire man arrested for firing gun into ground while catching suspected burglar

Read more: \1 "ixzz2fZel6ZmE" <http://www.foxnews.com/us/2012/02/21/new-hampshire-man-faces-felony-charge-after-firing-gun-into-ground-near-burglar/#ixzz2fZel6ZmE>

May 28th, 2013

Man Attempts to Stop Felon and Charged

<http://www.kdrv.com/man-attempts-to-stop-felon-with-firearm/>