

## PRIVATE SHOOTING INCEDENT (You have now shot a bad guy)

Sgt. Stephen Clark

SAPS Westville (July 2015)

Like any intricate, expensive, dangerous, rare, item that carries a lot of responsibility to own or use, a firearm rates among the highest. Hence, the current Law (FCA 2000) quite rightly enforces a standard of physical proficiency and competency and legal knowledge before you take your new weapon out of the shop.

This article is not going to harp on about whether one should own a firearm for self-defence or not, it is aimed at those who already have one, or are thinking to get one and are prepared for an unlawful, lethal attack on themselves. This can be from a home invasion, a robbery in public or even a road rage incident gone wrong. See, like the list above, all those things one should do as much research about the ownership and use of them before and during time of ownership. Preparation for any circumstance is my watchword. (I roll my eyes to the point of pain when someone says, "I know about guns, I was in the ARMY". You should see some of those trying to remember which end of an R-1 to hold, let alone something newer they have never seen before.)

The internet has its uses. A lot of information in seconds. It could take days of looking through badly indexed books to find what Google can in .0063 of a second. The downside I find, and this particularly applied to "chat forums" is that you really don't know who the other person is giving you a certain piece of advice. More dangerously is if you take that advice and then make a cock-up. Who are you going to blame? Some random avatar on Facebook? When seeking knowledge and the references and experience of those you listen to is just as important as the information itself. "Learn from the Learned" said Cato.

I hate to say I am "old school" because I still subscribe to and read the printed word. A recent addition to the local newsagent magazine rack is GUN AFRICA. Now I'm certainly not advocating any particular periodical, but I have to mention I was inspired for this article by one of theirs and got permission from the Editor, Francois Rossouw, to use the very valid points he wrote about in his magazine. A good thing about this particular "gun mag" is that they do spend many pages on gunsmithing, practical exercises and legal knowledge. The latter, I have found is quite sound, hence my advocacy of it.

The title of the article was "you have just shot an attacker". Not, what do I do if... or, can I... We are tackling the immediate after effect. What I will discuss here also has relevance if you have used any other item than a firearm to neutralise an attacker. That could be a knife, spade or frying pan. This scenario also can be in your own home, or at any place where you have defended your life:

1. The first thing to ensure is that your family, or other innocent people are safe. Crooks have friends. You may have eliminated one from the equation but he may very well have armed buddies around. Look about you, clear your tunnel vision by physically turning your head and focussing on things at different distances from you. Look and see who is running away, who is crouching (hiding or another threat) and who is coming

towards you. Remember your ears may be ringing and the adrenalin dump will cause auditory seclusion anyway. You won't hear people even shouting at you. You will have to use your eyes to stay alive for the next few seconds.

2. Do not leave the scene of the shooting. If one of the attackers runs away, it is arguable if you want to chase him. Your job was to protect yourself and interested parties. What if, like I mentioned above, you missed one who stayed behind, now your family is at HIS mercy while you scamper off into the dark. Further, to the Police or any eyewitnesses, you leaving may look like you are fleeing the scene. Stay right where you are. What is done is done. I have myself seen a crook soak up eleven 9mm bullets at close range into his abdomen and still run 60 meters and drop his gun in a bin, before collapsing. If you don't hit the pump or electrical system, the machine will keep running until the oil pressure drops. The same suspect, lying on his back, now had nice fresh blood flow back to his brain, so he sat up and continued trying to escape. Leaving the scene or dropping your concentration could get you a nasty surprise. Nothing like pointing to a pool of blood and saying..."He WAS here, I promise!" In saying all that. If your life is still in danger and you are being overwhelmed or basically out gunned, you can perform a tactical retreat. But try not to "run away".

3. Forget your "panic button". Get on to 10111 and speak to the Police IMMEDIATELY. You are now involved in a serious scene. Any delay in calling the Police may be seen as suspicious. Yes, I have arrived at a place where the suspect is nearly half an hour dead and everyone looks very uncomfortable when I ask the simplest questions like, "How long ago did this happen?" Remember too, all calls to the Police are recorded. Be careful and say things simply. The temptation to babble is real. Don't say more than you need to. Keep to the basics, "My name is XYZ, I have a suspect in my house. Shots have been fired. Here is my address..." There is no way you should deny anything, but just be cautious admitting things. If you did shoot the suspect then that is a fact. If you deny it one minute or refuse to answer and then admit later, you must understand that will be viewed with suspicion. The Police do not look to arrest or charge people who have lawfully defended themselves, I don't care what stories you have read or heard. But try not to talk yourself into trouble. Further, ask the Police call taker to send an ambulance. First it shows that you have respect for human life, irrelevant as to who attacked you, but also, you never know who else might need medical attention. Your spouse or even you can go into shock and there will be nothing better than having medics already on the scene.

4. If you wish, call your attorney and inform him of what has happened. Very likely, if he is a good one, he will calm you and explain what procedure will follow. If you want him to come to the scene, understand that it is going to cost you money and he will not be able to interfere with or obstruct the Police's duty or actions. This is not American TV.

5. Please DO NOT be tempted to touch or move anything. If you want to be safe and kick the suspect's weapon out of reach then do so, but TELL the Police, uniformed and detective what you did and why. (remember the suspect mentioned in point 2) In this

example, you are not tampering with the scene, you are keeping yourself safe. DO NOT be tempted to alter anything else. I want to hand out hospital time when “experts” tell me “you must drag him inside” or “get a knife in his hand” If a guy comes to shoot me, why the hell must I put one of my own kitchen knives in his hand? What if your suspect is the one in 23 people that are left handed? You must know I arrested a guy because the suspect he shot in his driveway had a knife in his hand that matched the set in the dining room. How flipping stupid are you? Just remember that when all this has happened you are going to be entering shock. You are in no rational mental condition to be clever enough to start manipulating crime scenes. The detectives and forensic investigators see more crime scenes in a week than you will in a lifetime. They do know what they are doing and they do know an altered state when they see one. Here I am going to add the suspect too. If you drag, kick stab, punch a body after death, it will show up by the time a post mortem is done. DON'T DO IT.

6. It drives me nuts, but there is little worse than arriving at a serious scene like this and everyone and his uncle has had a walk around. Blood, footprints everywhere, half of them belong to people who have already left. Spent cartridges kicked down the passage or across the car park or crushed by big feet. Even if your Security Company guys arrive, please help by cordoning the scene as soon as possible. Even if that means closing your front door and not letting anyone into the house. NOBODY need to go and wander around and look. Once the Police arrive they will take over the cordon and control of the scene. It may be your house/yard but for a time it will be my crime scene and I will control who comes in. I know you will be traumatised, just understand we have a job to do.

7. Start taking your own photos of the scene as it lies. Remember the allegations in the Pistorius trial. Remember my advice not to move anything? This is your chance to prove that things were in situ when the Police arrive. DO NOT circulate the pictures to all your buddies. If you want to go to jail fast, see how social media can twist things. Do not discuss too much with witnesses, especially independent witnesses. Take their details, take a pic of them so you know who they are and give their details to the Police. Key things to photograph: The position of the suspect, in relation to other landmarks or features. Take the pic from a distance so that background can be seen. The weapon. Again a close up so that it can be clearly identified and then further back so you can see how it is lying and relation to what. Photo any other noteworthy features. If a door was damaged from force. A tool used, like a crowbar or screwdriver. Bullet holes in walls or the floor. Where spent cartridges lie, again in relation to a wall or on a carpet. If you can, try take all the photos from the same direction so you don't lose perspective on what you are looking at. In saying all this, please remember my advice on trampling the scene and kicking things around. Be careful to preserve the scene.

8. When the Police arrive, please do not have weapons in your hands. If you have a firearm, holster it. I mean that sincerely. You do not need to have a gun in your hand when we are there, I assure you. On that point, we live in a multicultural society. I have arrested white guys for armed robbery. I don't know you. When I arrive on a scene I have

been called to and someone comes running or even walking towards me with a gun in his hand, he is a threat until I am satisfied he is not. Please understand, I don't know you. I don't know if that person is one of the crooks making a late escape and making a story that he is the home owner. Put the damn thing away until we ask for it. As with altering the scene. Do not unload it, clean it, drop it in the pool or whatever. Any alteration you make to that scene, including the weapon you used can be viewed with suspicion. Further, our ballistic guys are very good at their job. Please don't try and file your firing pin or something similarly stupid. That screams "I did something wrong". When the Police ask to examine your weapon, whatever it is, tell them first where it is, and if it is not on your person, where it is lying. If it is on you, or in a pocket, say so. If asked for, you must surrender it for examination. It will be handled carefully and bagged in the safety condition it is in. If asked for you must produce your firearm licence. Please understand. This is not the time for you to get cocky and remind everyone of your rights and start quoting the FCA. We know your rights and you will be reminded of them before you are asked to make any statement.

9. At some point you will be asked to make a written statement. It is unlikely that you will be made, shivering in your underpants on your driveway, to start writing a lengthy booklet. You have the right to remain silent. If you exercise that, just know that the detectives will only have the physical evidence to work on and your version will not be included in the preliminary investigation. When asked when you will be prepared to make the statement, it will be hard to commit, but in the next day or two, I believe will be reasonable. The lawyer you phoned earlier; have a chat with him as to what you should say. A detective can retake many statements from a witness, as a Public Prosecutor desires clarification on a particular point. Hence, it is important to get all the main facts down as soon as possible. Even if you make small notes yourself then and there. The statement that will be taken from you is called a "warning statement." It is NOT under oath. It is your version of the events as they appeared to you, to the best of your ability. Do not lie, falsify information, create facts or omit important things. Keep it basic and to the point. Remember that the detective is impartial. He or she collects evidence and that evidence is weighed to decide whether to prosecute or not.

10. So it is very likely the weapon you used will be taken by the Police and entered as an exhibit. (You will be provided an SAP13 number. It will read like this: SAP13/123/2014) The weapon will be examined forensically and a report issued to the detective. So too will all spent cartridges after they have been photographed by a Police photographer. The scene will also be dusted for fingerprints and examined for other matter such as blood trails, foot prints and other DNA. Really, in my experience, the only reason you would be arrested at that scene is if it is clear on the facts, as they appear right there, that you may have committed a crime. Defending your LIFE against an UNLAWFUL attack is not a crime. Many occasions when I have investigated allegations that "law abiding citizens" got locked up after defending their family is because they broke one of my "do not's" above. Arrest is not to punish you. It is to put you in a place where your attendance in court is assured.

11. What next? Well a docket will be compiled slowly but surely with all the statements (including yours) and evidence from official photographers, post mortem examiner and ballistics. That docket (which will read “murder” as it was the intentional killing of a human being) will go to court with a vital piece of paper. That piece of paper is the covering minute from the lead investigator. It will contain the facts of the case and his true belief as to what occurred based on those facts, as well as what he believes should be the next step. A Senior Public Prosecutor will now examine the case. As I said earlier, they may ask for more statements, clarifying particular points. Eventually the SPP will make a decision. If you acted within the law, that decision will read “Decline to Prosecute”. Your firearm will be handed back to you and a Detective will inform you of the decision. That may seem like an intense and lengthy examination for something that took you 3 seconds to do. Well, even we in the Police go through the same process, but we have the IPID to deal with too. And they looove to prosecute Policemen. Hence, you can see that how this ends up relies heavily on how well you were prepared for the incident. How well have you trained with that defensive weapon? Do you know the actual law or believe what your drunk buddy honked about over the bar?  
“All is ready if our minds are so” Henry V

An afterword I must add is that you must allow for the fact that you may have to undergo some level of debriefing or counselling. This is not because I think you are soft, but because I know that current society is maybe aware of violence, but we are not really mentally and emotionally prepared for a fight to the death. Not many people imagine rolling around on their own lounge floor with a bad guy’s fetid breath in their face, feeling your strength ebb away and his muscles slowly overcome you. You very likely will experience some trauma. You will need some support. Whether that comes from a religious minister or a professional counsellor, get it. And remember to get your family and even other witnesses to seek it too. Post-traumatic stress (PTSD) is real. Don’t be in a state of re-victimization because you can’t get the incident out of your head.

Learn, live, learn and move on.

It’s your life.

Take it seriously.

Thank you to the gents at Gun Africa for a mature and relevant article and the permission for me to use excerpts out of it.

Sgt Stephen Clark  
SAPS Westville