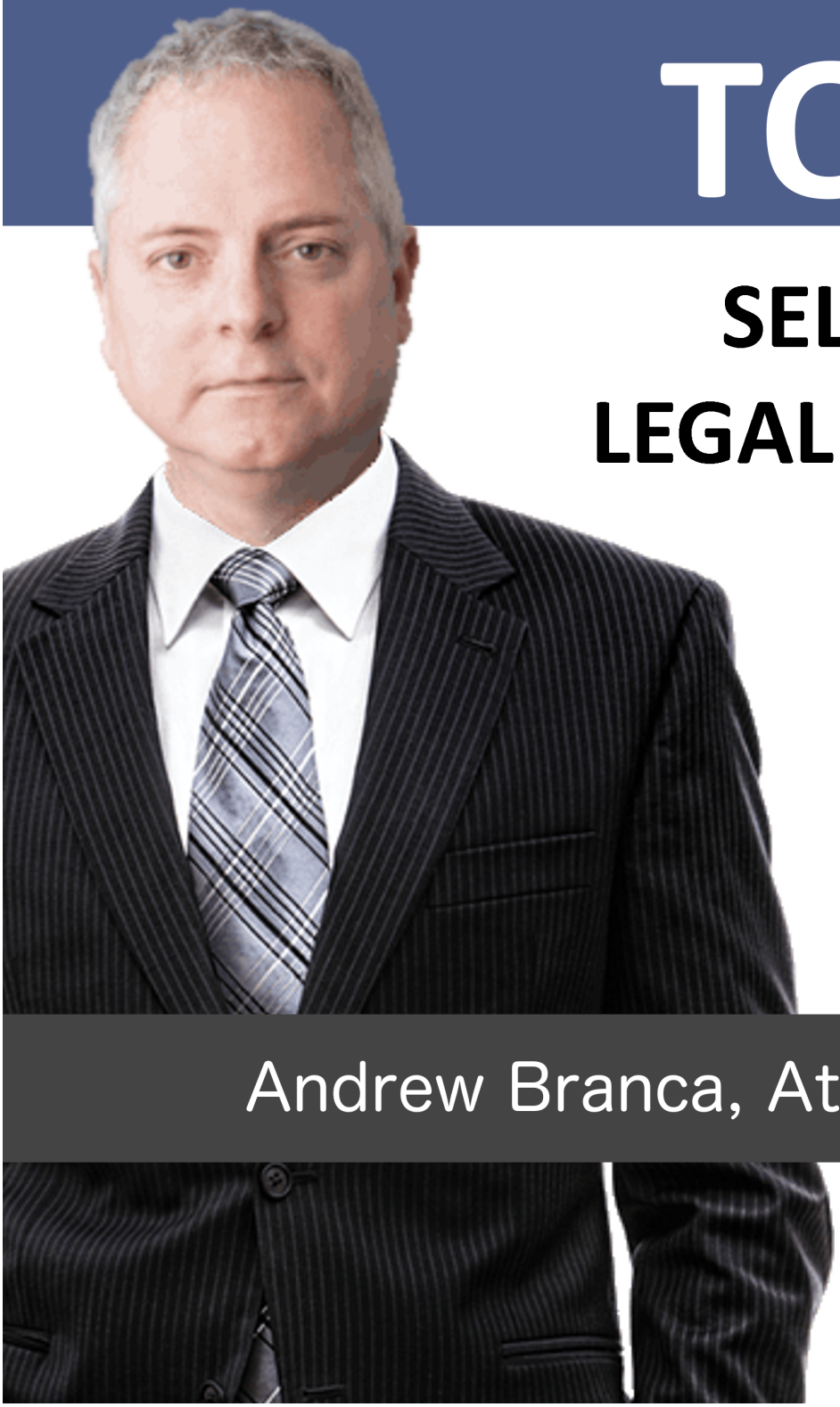
THE LAW OF
SELF
DEFENSE
Expert Report

TOP 10

SELF-DEFENSE LEGAL BLUNDERS



Andrew Branca, Attorney at Law

March 7, 2018

Top 10 Self-Defense Legal Blunders

Knowing what to do in an emergency can mean the difference between life and death. It can also be the difference between life and a sentence of 20-to-life. Having the wherewithal to not only survive a deadly encounter but to also know that you've minimized your legal risk is the ultimate goal of anyone intent on protecting themselves and their family. The first task – physical survival – might be achieved or lost within moments, but the second battle – the legal battle – can be a drawn-out, costly, and terrifying experience if the decisions made in those moments are not legally-sound.

Increase your prospects for staying out of jail by avoiding these 10 common self-defense legal blunders people too often make when dealing with an attacker and the criminal justice system afterward.

1. Firing a Warning Shot

Just ask Marissa Alexander, once facing a mandatory 20-year prison sentence and ultimately pleading to avoid a re-trial, for firing a shot she insists was only a warning. Nobody but Alexander knows her actual intent in firing, but isn't that the point? *Who is to say?* Certainly firing a weapon in an encounter could be perceived as ill intentioned, and consistent with the *felony of aggravated assault*, even if it was only meant to deter and no one was hit by the shot. And what if someone *is* hit? If they're killed, that's almost certainly *involuntary manslaughter*. Indeed, intending a mere warning suggests *even you didn't believe* you were facing an imminent deadly force threat.

2. Altering Evidence

We've all heard the expression, "if you shoot someone outside your house, make sure you drag them into your house before you call the police." Such tampering with evidence is classic *consciousness of guilt evidence*, and could make what might well have been a lawful self-defense shoot look to police, prosecutors, and a jury exactly like manslaughter. The jury could well be instructed by the judge that this kind of consciousness of guilt conduct is evidence from which they are permitted to infer that not only does *the prosecution* believe you're guilty, but apparently *even you believe you're guilty*. After all, if you believed that the actual scene was *consistent with a lawful use of force in self-defense*, why would you *tamper with it*? Obviously you must have thought it suggested guilt. Do not do this to yourself!

3. Standing Your Ground

I am a strong proponent of stand-your-ground laws as *good public policy*. But if you have the option to safely retreat from a fight, and don't do so, you're the kind of person who pays for my costly German motorcycle habit. Even in the large majority of stand-your-ground states *the prosecution is still allowed to argue* that although you had *no legal duty to retreat*, you *could have*, with complete safety, and *a reasonable person would have*, and therefore your use of force was not *reasonable*. The jury will be instructed that *one of the required elements of self-defense is reasonableness*. *Lose that*, you lose *self-defense*. Do yourself a favor: *always retreat if safely possible*.

4. Not Calling the Police

This most commonly occurs when a confrontation didn't end in physical harm, and you figure *"No harm, no foul,"* and go on your way. Then the cops show up at your house with a warrant, because that *other person* filed a complaint that *you* assaulted *them*. Guess what? *You are now the respondent* to that complaint. (Naturally, they forget to mention that they were mugging you at the time you "threatened" them with force.) You'd think that the bad guys wouldn't call the cops, but they *do*—how dare you foil their "work"! Especially if weapons have come into play, even if not actually used, make sure you're the *complainant* and *not* the *respondent*.

5. Failing to Get LOUD!

Your *voice* is a *powerful defensive weapon*. For one thing it might attract assistance and witnesses, both of which are good for good-guy cases of self-defense. For another, it can help *strip away the ambiguity* from a possible threat and allow you to act decisively in self-defense. Yell at that guy to stay back, and maybe he will—which would be great. But if he *continues to close distance*, as you're screaming at him *not to*, you now have evidence that you can articulate of conduct of his that is *consistent with being a threat* and *inconsistent* with someone just happening to be going about their day.

6. Not Identifying Exculpatory Evidence

Good guy cases of self-defense don't tend to get into trouble because there's too much evidence in a case, they tend to get into trouble when there's *too little evidence* and the claim of self-defense looks *speculative* or *fabricated*. Don't let the evidence and witnesses who can support your claim of self-defense *disappear* simply because some dude on the internet told you to "never say anything to the police." You need that exculpatory evidence and witnesses. If the bad guy's knife isn't in evidence *it doesn't exist for legal purposes*. And that knife is *why* you were compelled to shoot him. That knife *is your legal justification* for deadly defensive force. Make sure it's not overlooked as evidence.

7. Being the Hero

Coming to the defense of strangers is always a touchy subject (defending friends and family are a different matter entirely). Many people feel a *moral imperative* to intervene on behalf of those they perceive as victims of predatory violence. I'm not here to tell anyone that such a decision is wrong, but I do urge everyone to *make such decisions in an informed way*. Understand that *any fight* involves a *greater-than-zero risk of death* and a *greater-than-zero risk of going to jail* for much of the rest of your life. Also, will that woman you 'rescued' from her abusive SO suddenly realize she'll lose her sugar daddy to jail if she testifies truthfully, and perhaps testify less than truthfully? *Be careful!*

8. Lacking a Non-Lethal Defense

The FBI/DOJ tell us that we're *five times more likely to face a simple assault or battery* (a non-deadly force attack) than an *aggravated assault or battery* (a deadly force attack). In most cases *a gun is not the legally permitted response to a non-deadly force attack*. But when a person's only defensive tool is that gun, the fear and stress of even a non-deadly force attack often compels them to pull that deadly-force response out. Because they weren't facing a deadly force threat that could justify such a response, *they* often end up charged with *felony aggravated assault*, even if they never fire a shot. Have some *non-deadly means of defense*: OC spray, a Taser, martial arts, *something*. Don't leave yourself with only a *hammer*, when the threat you face will *only rarely be nail*.

9. Defending Your Ego

We all have egos, and none of us likes to be insulted—especially not in front of family or friends. But the moment you get engaged in a confrontation you've just incurred those *greater-than-zero risks of death and jail* I've already discussed. There are circumstances where *incurring those risks is worth it*—for example, if there's an imminent threat to your own life or the life of someone whom you feel you have a duty to protect. But is *mere ego* worth incurring those tremendous risks? Remember 'sticks-and-stones may break my bones'? Before you get into that confrontation, make sure the *stakes* are *really* worth the *risks*.

10. Ignorance of the Rules of Engagement

What you don't know can hurt you. Ignorance of the use-of-force rules of engagement (ROE) is no different. Nearly every case I consult on involves a *normally law-abiding person* who *genuinely believes they acted in lawful self-defens*e, but who stands *credibly charged with a felony* because they *violated one of the five legal elements of self-defense*. The sad part is that they *didn't do so out of malice*, but *out of simple ignorance*—they didn't know where the legal boundaries were, and they stepped over them *without ever realizing they were doing so*. Well, at least not until they found themselves charged.

The good news is that the law of self-defense need not be as complicated as the legalistic language of statutes, court decisions and jury instructions can make it seem. In fact, there are *only five elements* of a self-defense claim, just like there are only four rules of gun safety. The law of self-defense is not rocket science—but it does have to be approached in a *deliberate and well-organized manner*, a process that is *enormously facilitated* if there's someone on hand who can *translate all that legalese into plain-English*.

That's our goal at **lawofselfdefense.com**: To translate the law of self-defense into plain English so that it is both understandable and actionable for the law-abiding armed citizen. Our mission is to help you avoid violating the law of self defense by accident or ignorance, and thus avoid incurring legal risk when you shouldn't, but also to help you know when it's time to defend yourself and your family *decisively*, because you know that *the legal conditions for use of force have been met*.

11. BONUS: How Law of Self Defense LLC Can Help You Easily Master Self Defense Law

We make use of a great many educational channels to help law-abiding armed citizens master the law of self-defense and effectively mitigate their risks in both the physical and the legal fight.

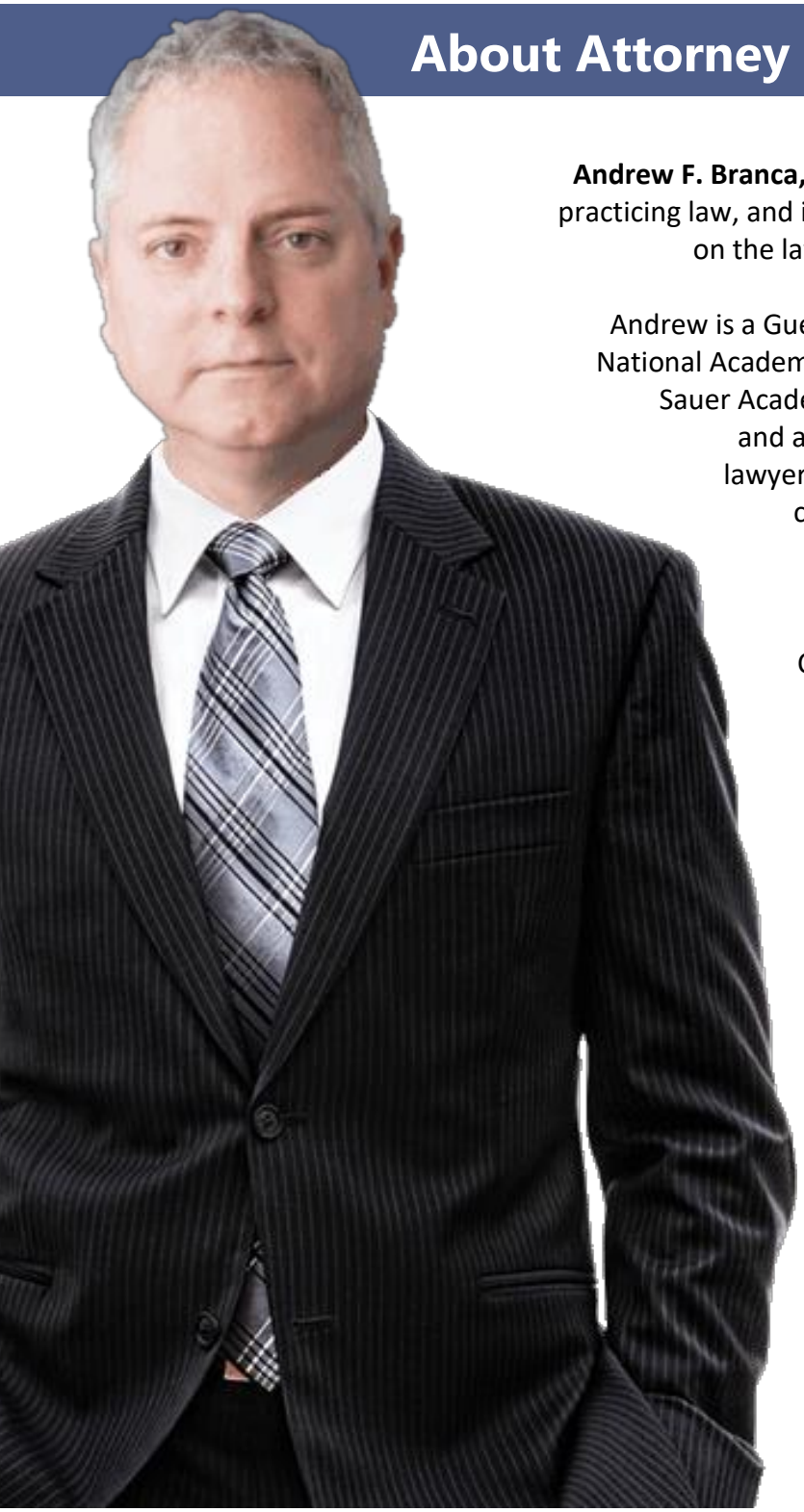
Many of these channels are free, such as our weekly **"Law of Self Defense Live Sessions"** conducted as webinars every Wednesday, and the **"Law of Self Defense Case of the Week"** segments we syndicate to self-defense podcasts and radio shows (*at no charge to them*, we're just trying to get the information out there).

Other channels are very inexpensive, such as our **Law of Self Defense Patreon page** starting as low as $1/month for basic access, and at the $4.99/month level including a free copy of our best-selling book and/or DVD (each normally $20)

We also offer comprehensive, multi-hour instruction in both our **LEVEL 1 and LEVEL 2 Classes**, with the **LEVEL 1 Class** offered in traveling **live in-person**, monthly **live online** (taught live, but streamed), and **multi-disc DVD formats** (4-disc set, plus state-specific DVD supplements). These classes typically start *as low as $99/person* for 6-8 hours of instruction. The **LEVEL 2 Class** is currently offered only as life in-person classes.

In closing, I hope you found this report informative and thought-provoking, sufficiently so that you'll **take a look at what else we have to offer**, and I look forward to working with you in the future.
--Attorney Andrew F. Branca

About Attorney Andrew Branca



Andrew F. Branca, Esq. is currently in his third decade of practicing law, and is an internationally-recognized expert on the law of self-defense of the United States.

Andrew is a Guest Lecturer at the FBI's Investigation's National Academy, a former Guest Instructor at the Sig Sauer Academy, an NRA Life-Benefactor Member, and an NRA Certified Instructor. He teaches lawyers how to argue self-defense cases as a certified instructor with the Continuing Legal Education (CLE) system in numerous states around the country. Andrew is also a host on the Outdoor Channel's TV show "The Best Defense" and contributor to the National Review Online.

Andrew has been quoted by the Wall Street Journal, the Chicago Tribune, the Washington Post, and many other media, including nationally syndicated broadcast media. Recently, Andrew won the UC Berkeley Law School debate on "Stand-Your-Ground," and spoke at the NRA Annual Meeting Law Symposium on self-defense law. He was also a founding member of USCCA's Legal Advisory Board.

In addition to being a lawyer, Andrew is also a competitive shooter, an IDPA Charter/Life member (IDPA #13), and a Master-class competitor in multiple IDPA divisions.

Law of Self Defense, LLC is an educational and legal consulting enterprise focusing exclusively on American use-of-force law, and is led by Attorney Andrew Branca, an internationally recognized subject-matter