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## Lawmakers may have gone too far this time

By DAVID RAYBIN

It is impossible — and unnecessary — to completely remove guns from our society. Our Constitution places "arms" second only to speech and religion.



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In my view, the right to keep and bear arms is not the same thing as being able to "fire at will" at every perceived threat. Our Tennessee General Assembly may have gone too far this year in decriminalizing the use of deadly force.

Most of the rest of the world already sees us with a cowboy hat on our heads and a six-shooter on our hips. Think about the large number of firearm references in our very language. A person who is unprepared may be going around "half-cocked." To be calm and ready for a fight is to "keep your powder dry." If you are impetuous you are said to have a "hair trigger."

Self-defense has always been a part of our law. The parameters of self-defense were set by the courts, which engrafted limitations depending on whether the self-defense was with lethal or non-lethal force. The necessity of deadly force was directly related to an imminent — quite literally "an at the moment" — danger of death or bodily harm.

### **Issue was debated in 1989**

The defense of property, on the other hand, could be accomplished only with non-deadly force reflecting the notion that human life was more precious than physical possessions. When it came to deadly force, the judges instructed us that there was a duty to retreat. Again, a person's "honor" was less important than being required to have your back to the wall before you blasted away. The only exception to the retreat duty was if you were in your own home. This was known as the "Castle Doctrine" and permitted a person to employ deadly force at their front door if necessary but only if there were some threat of an attack.

I served as a member of the Tennessee Sentencing Commission and we long debated the "retreat requirement" in making our recommendations for the new 1989 criminal code. In the end we elected to adopt the so-called "true man rule" which does not mandate a duty to retreat when attacked no matter if you were in your home or on the street.

The new law erodes the concept of necessity so that "forced entry" into any residence, building, or vehicle allows those within to fire at will. Where before there was a requirement of some actual danger, the new law is nothing less than shoot first and ask questions later.

The recent legislation makes one immune to both criminal and civil liability under this new, greatly expanded definition of righteous gunplay. We have all but done away with government sponsored executions but now allow our citizens the right to impose capital punishment on a trick-or-treater who bangs too loudly at the door. This new "taking-the-law-into-your-own-hands" mentality has manifested itself into a legislative reaction that our police and prosecutors can no longer protect us. I reject that idea.

We should stick to our guns and insist that this new legislation is scaled back next year so that it becomes nothing more than a flash in the pan.