

Use-of-Force Legal Doctrines



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Distinct Use-of-Force Law Doctrines

Self-Defense

Castle Doctrine

Stand Your Ground

Defense of HDP

Self-Defense Immunity

The Legal Claim of Self-Defense

Every claim of self-defense is based on (up to) 5 legal elements.

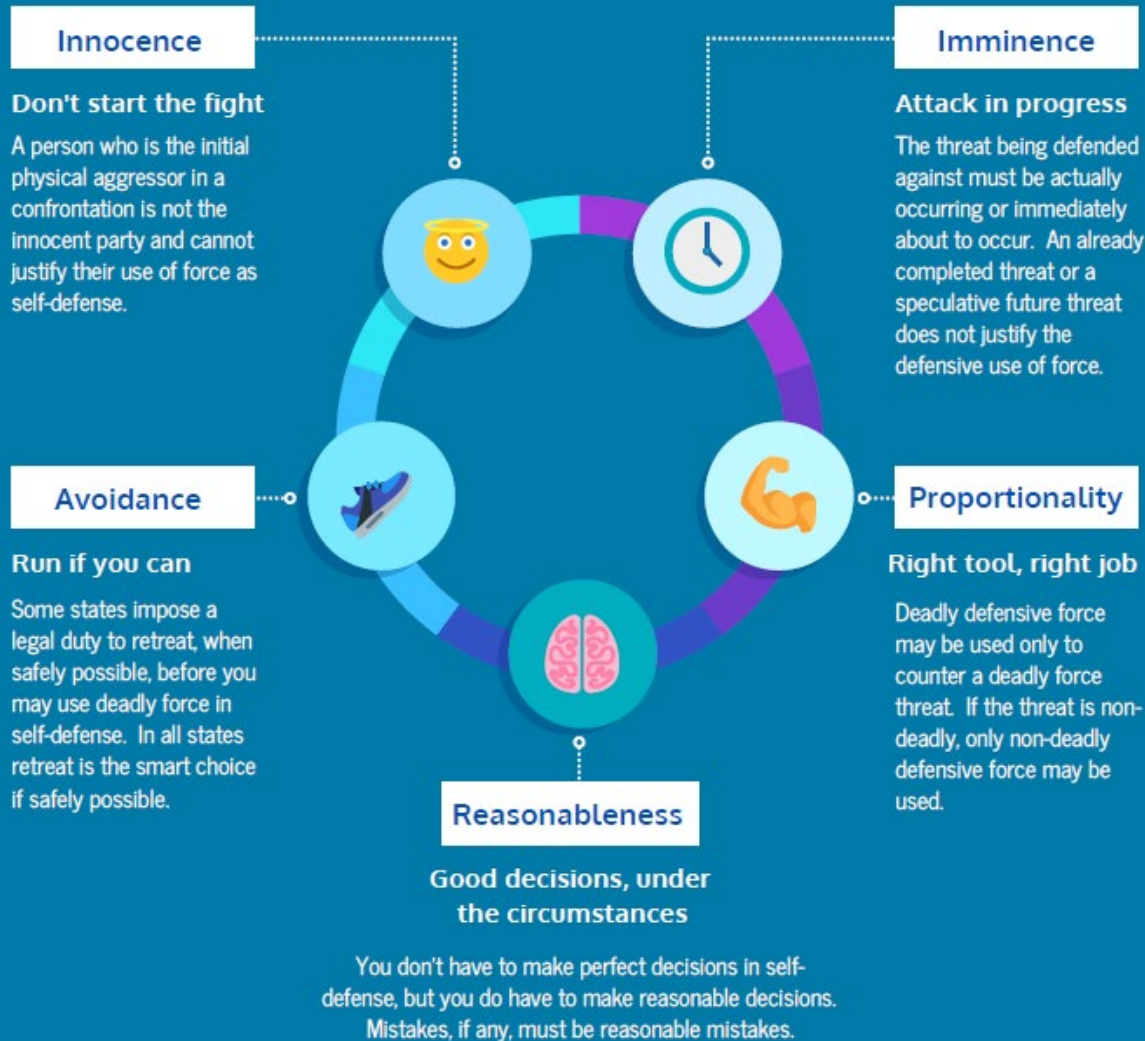
NOTE: If a prosecutor disprove ANY one of the requirements, your entire self-defense justification is invalid:

- **Innocence**
- **Imminence**
- **Proportionality**
- **Avoidance**
- **Reasonableness**

NOTE: You don't have to make perfect decisions in self-defense, but you do have to make reasonable decisions. Mistakes, if any, must be reasonable mistakes.

THE 5 ELEMENTS OF SELF-DEFENSE LAW

Every claim of self-defense is based on (up to) 5 legal elements. If a prosecutor disproves any one required element, your entire self-defense justification collapses.



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The Legal Claim of Self-Defense

Self Defense – The legal privilege to use force in self-defense

The scope of self-defense defined by the 5 elements of self defense.

In order for the use self-defense to be lawful, you must have been the INNOCENT party of an unlawful imminent threat of force that you reasonably and subjectively believed to be necessary.

If you meet the conditions of legal “self defense” then your use of force was not unlawful (you didn’t commit a crime) as your use of force was legally justified (lawful use of force in self defense).

But, if the prosecution can disprove ANY of the 5 elements beyond a reasonable doubt, you lose your claim to self defense.

Castle Doctrine

- **Castle Doctrine** – removes the element of avoidance. You are relieved of your legal duty to retreat in your home (i.e. your “Castle”).
- Meaning, if you’re attacked in your home, you’re not required to flee your home.
- This leaves only 4 required elements to self defense for prosecution.
- Castle Doctrine DOES NOT give you any special privileges for using force. It simply removes one of the elements (avoidance) leaving the remaining 4 required elements for a legal claim of self-defense.
- It DOES NOT give you permission to harm people because they came into your home, this is a common misconception.

Stand Your Ground

- **Stand Your Ground** - removes the element of avoidance and expands “castle doctrine” to ANY place where you have the legal right to be!
- Meaning, if you’re attacked any place where you have a right to be, you do not have a legal duty to retreat.
- This leaves only 4 required elements to self defense for prosecution.
- “Stand Your Ground” DOES NOT give you any special privileges for using force. It simply removes one of the elements (avoidance) leaving the remaining 4 required elements for a legal claim of self-defense.
- Stand Your Ground is NOT a “license to kill”!

Defense of Highly Defensible Property

- **Defense of Highly Defensible Property (HDP)** – Special provision under the law to use deadly force if attacked in your highly defensible property (HDP).
- HDP often includes your home, place of business, occupied vehicle, etc. as the laws vary depending on the state.
- Defense of HDP presumes that some of the other elements of self defense are also “satisfied”. It creates the legal presumption that you have a reasonable fear of an imminent, unlawful, deadly force attack!
- It is a rebuttable presumption. You can’t harm someone then make the claim if evidence shows your actions/use of force were deemed unreasonable.

Self Defense Immunity

- **Self Defense Immunity** – Has nothing to do with defining the scope of self-defense
- The 5 elements of self-defense defines the parameters for the use of force is permissible.
- Castle Doctrine and Stand your Ground REMOVE the self defense element of avoidance! They simply change the required elements from 5 to 4!
- Defense of HDP presumes that components of self defense were present.
- Self Defense Immunity basically means, if your use of force was self defense (meets the legal scrutiny) you're immune from prosecution (and civil suit). You won your case.

Questions

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Third Edition

THE LAW OF SELF DEFENSE

The Indispensable Guide
for the Armed Citizen

By Attorney
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