

# Use of Force Overview



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# Self-Defense as Defined by Indiana Law

- A person is justified in using **reasonable force** against another **person to protect the person or a third person** from what the person reasonably **believes to be the imminent use of unlawful force**. **Ind. Code §35-41-3-2(c)**
- Even if otherwise justified, a person may not use force under some circumstances:
  - the person is **committing or is escaping after the commission of a crime**;
  - the person **provokes unlawful action** by another person **with intent to cause bodily injury to the other person**; or
  - the person **has entered into combat** with another person or is the **initial aggressor** unless the person withdraws from the encounter and communicates to the other person the intent to do so and the other person nevertheless continues or threatens to continue unlawful action.”

**Ind. Code §35-41-3-2(g)**

**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 Rule of Proportionality

- In all circumstances, to be justified, the use of force must be “reasonable”.
- What defines “reasonable force”?
- Generally, the force must be “proportionate” to the threat.
- If a person uses more force than is justified under the circumstances, legal justification for his actions is lost.
  
- “The amount of force a person may use to protect himself depends on the urgency of the situation. *Harmon v. State*, 849 N.E.2d 726, 730-731 (Ind. Ct. App. 2006). **However, if a person uses ‘more force than is reasonably necessary under the circumstances,’ his self-defense claim will fail.**

Case Law: (‘Where a person has used more force than necessary to repel an attack the right to self-defense is extinguished, and the ultimate result is that the victim then becomes the perpetrator.’)”

In other words, **the level of the threat defines the level of the response.**

# What is “Deadly Force”?

- Deadly force - force that creates a substantial risk of **serious bodily injury**.

Ind. Code §35-41-1-7

- ‘Serious bodily injury’ means bodily injury that creates a substantial risk of death or that causes:

- serious permanent disfigurement;
- unconsciousness;
- extreme pain;
- permanent or protracted loss or impairment of the function of a bodily member or organ; or
- loss of a fetus.

Ind. Code §35-41-3-2(g)

**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.

# When is “Deadly Force” Justified?

## Ind. Code §35-41-3-2(c),(d),(e)

Indiana law allows the use of “reasonable force,” including “deadly force” in four discrete circumstances:

- “if the person reasonably believes that that force is necessary to prevent **serious bodily injury** to the person or a third person:
- “if the person reasonably believes that that force is necessary to prevent . . . the commission of a **forcible felony.**”
- “if the person reasonably believes that the force is necessary to prevent or terminate the other person's **unlawful entry of or attack on the person's dwelling, curtilage, or occupied motor vehicle.**”
- if the person reasonably believes that the force is necessary to prevent or stop the other person from **hijacking, attempting to hijack, or otherwise seizing or attempting to seize unlawful control of an aircraft in flight.**”

# Use of force to protect property?

- Indiana law allows the use of “reasonable force” to protect property.
- You may NEVER use “deadly force” to protect property!
- And that includes pets and other owned animals

Ind. Code §35-41-3-2(e)

# Indiana Gun Laws – Where do you find them?

- Visit <http://iga.in.gov/>
- Click on *'Indiana General Assembly'*
- Click on *'Laws'*
- Then click on *'Indiana Code'*
  
- The direct link to the information presented:  
<http://iga.in.gov/legislative/laws/2020/ic/titles/001>



# Bonus Slides





# DEADLY FORCE CHECKLIST

## Your 7 Rules for the Justified Use of Force

*Deadly force may be used only when there is an immediate and unavoidable danger of death or great/grave bodily harm to an innocent person, where no other option exists other than the use of deadly force.*

- ✓ You must be reasonably in immediate fear of death or great/grave bodily harm to yourself or another person.
- ✓ You must be an innocent party.
- ✓ There must be no lesser force that is sufficient or available to stop the threat.
- ✓ You must have no reasonable means of retreat or escape.
- ✓ The attacker must have indicated his or her intent to cause great bodily harm or death to you or someone else.
  - *Some ways an attacker might show intent would include deliberately pointing a weapon at you or stating his or her plan to kill you.*
- ✓ The aggressor must have a conventional or unconventional weapon capable of inflicting great bodily harm or death.
  - *Guns and knives are not the only weapons that meet these criteria; many other common objects can be used as weapons. Additionally, an attacker may be able to inflict death or serious injury using only his or her hands or feet. If the physical differences between an attacker and his or her intended victim are so great as to make it clear that the unarmed attacker could cause death or great bodily harm, the potential victim can use deadly force to stop the attack.*
- ✓ The subject must have a delivery system — a means of using the weapon to inflict harm.
  - *A person armed with a baseball bat, having stated his or her intent to kill you, does not meet the criteria for an imminent threat if he or she is standing 50 yards away from you or on the other side of a fence.*



# LAW OF SELF-DEFENSE

WHEN CAN YOU LEGALLY USE DEADLY FORCE?

## IN INDIANA

INDIANA DOES NOT GIVE SPECIFIC EXAMPLES OF WHAT CONSTITUTES A FORCIBLE FELONY. THE FOLLOWING QUALIFYING CRIMES ARE GIVEN AS EXAMPLES:



Under I.C. 35-41-3-2, a person is justified in using deadly force and does not have a duty to retreat if "the person reasonably believes that force is necessary to prevent serious bodily injury to the person... or the commission of a forcible felony."

### WHAT IS A FORCIBLE FELONY?

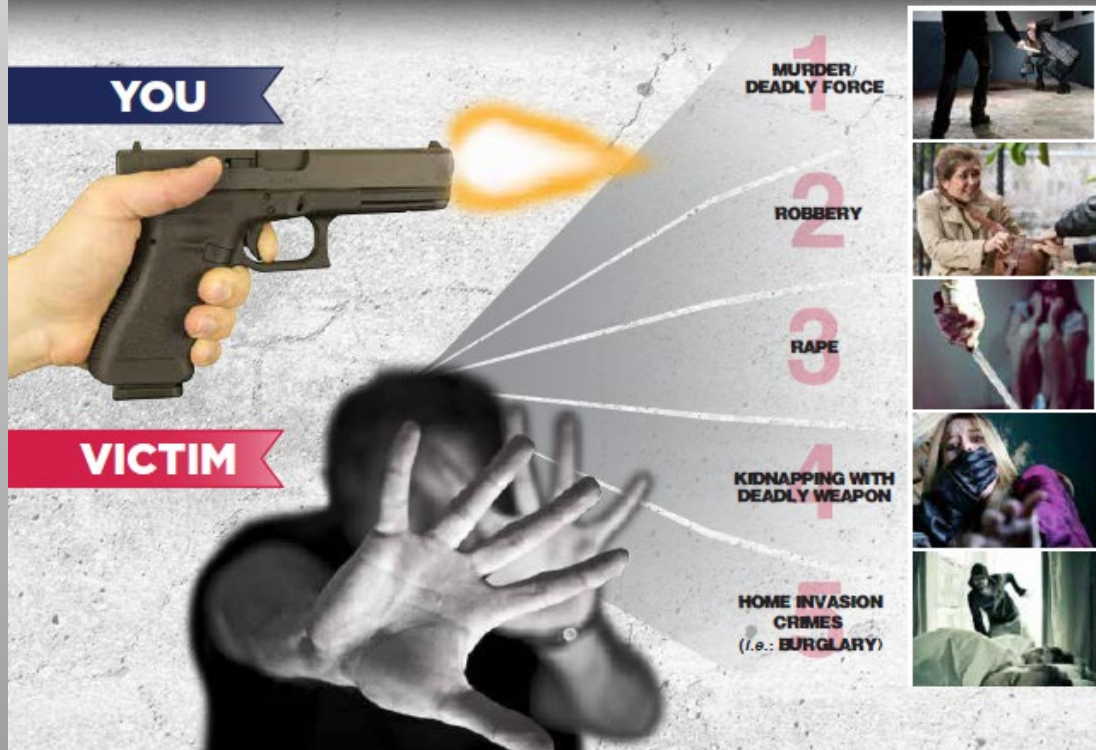
A felony that involves the use or threat of force against a human being, or in which there is imminent danger of bodily injury to a human being. I.C. 35-31.5-2-138

# LAW OF DEFENSE OF OTHERS

WHEN CAN YOU LEGALLY USE DEADLY FORCE?

## IN INDIANA

INDIANA DOES NOT GIVE SPECIFIC EXAMPLES OF WHAT CONSTITUTES A FORCIBLE FELONY. THE FOLLOWING QUALIFYING CRIMES ARE GIVEN AS EXAMPLES:



Under I.C. 35-41-3-2, a person is justified in using deadly force if "the person reasonably believes that force is necessary to prevent serious bodily injury to the person or a third person or the commission of a forcible felony."

# PROTECTION OF YOUR PROPERTY

WHEN CAN YOU LEGALLY USE DEADLY FORCE?

## IN INDIANA

**TRESPASSER**

**DON'T SHOOT! Deadly Force is **NOT** Legally Justified!**

**YOU**

Nonforcible Crimes Such As...



TRESPASSING

CRIMINAL INTERFERENCE  
WITH PROPERTY LAWFULLY  
IN YOUR POSSESSION



Deadly Force is **NOT**  
Legally Justified



Indiana State Law allows for the use of force, **NOT** deadly force, to terminate a trespass or criminal interference with property.

**TRESPASSER**

**Deadly Force **IS** Legally Justified!**

**YOU**

Commits or Attempts to Commit...



ARSON

ROBBERY/ BURGLARY

ANY FORCIBLE  
FELONY



# DO I HAVE TO RETREAT?

AM I LEGALLY REQUIRED TO RETREAT?

## IN INDIANA

■ The words “Stand Your Ground” are not found in the Indiana Code. “Stand Your Ground” is the popular name for a legal doctrine referred to in the law as “No Duty to Retreat.” If you qualify under the statute, a prosecutor or law enforcement officer cannot argue that you had a reasonable “escape route” or that you should have had to “fall back” before justifiably using force or deadly force.

**INDIANA  
LAW PROVIDES**

**NO RETREAT  
IS LEGALLY NECESSARY  
IF:**



You reasonably believe there will be an imminent use of unlawful force; and



You reasonably believe force or deadly force is necessary to prevent serious bodily injury or a forcible felony.



I.C. 35-41-3-2  
contains the “No Duty to  
Retreat” law.

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# **Distinct Use-of-Force Law Doctrines**

Self-Defense

Castle Doctrine

Stand Your Ground

Defense of HDP

Self-Defense Immunity

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