



Hanson and Schmidt Conceal Carry
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Use of Force

Illinois law recognizes only two types of force.

Ordinary Force- is any force other than force intended, likely or actually does cause death or great bodily harm.

Some examples are:

1. Physical presence
2. Verbal direction
3. Verbal command
4. Physical Intervention

Deadly Force- is force that is intended, likely or actually does cause loss of life or great bodily harm

Great Bodily Harm-

1. Any broken bone or teeth
2. Loss of consciousness
3. Temporary or permanent loss of eyesight
4. Single cut or laceration requiring numerous stitches
5. Numerous abrasions and lacerations
6. Permanent disfigurement
7. Any other serious injury
- 8.

Illinois law addresses the topic of justified use of force differently than any other area of the law. Chapter 720, Act 5 of the ILS defines all criminal offenses by describing what you cannot do and what crime it is if you commit such action.

However, when explaining the justified use of force, the laws of Illinois take a different approach. Since Illinois law considers the use of force against a person almost always the wrong thing to do, in this instance the law is very specific in defining when force is justified.

Ordinary force may be justified in the enforcement of rules and regulations, the defense of property, to prevent a crime or affect an arrest if necessary. There are even instances where ordinary force is all that is needed to protect yourself or another. The rule of thumb in these instances is to use commonsense and keep in mind the law will only tolerate the minimum amount of force necessary to control any given circumstance. Once under control the use of any force must be terminated. Any continuation of unnecessary force is not legally justified and can/will cause charges to be brought



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against a person. In defining this type of common sense, the law uses the terminology: "action taken by a prudent person." The true test as to whether your actions are or were reasonable is--will it stand up to the scrutiny and be consistently agreed upon by other "prudent" persons that the action that you took was necessary and appropriate.

The use of "Deadly Force" is much more clearly defined. First of all you must remember that Illinois law considers Conceal Carry Permit Holders as private persons and NOT peace officers. Whereas peace officers are given nine guide lines where deadly force may be justified, private persons are given only three rules where the use of deadly force may be justified. Deadly force or great bodily harm can never be used or justified when other options are/were available, or if the use of force was/is done due to anger, revenge, irrational fear, any ethnic, religious or sexual prejudice, or any other immoral, unethical, illegal or any other unjustifiable motive.

Failure of a private person to take all these circumstances into a prudent and reasonable consideration, prior to the use of deadly force can and most likely will result in serious criminal and civil prosecution. Now that all this is understood, the three rules of law that may allow the legal justified use of deadly force are as follows:

1. To prevent imminent death or great bodily harm to you
2. To prevent imminent death or great bodily harm to another
3. To prevent the commission of an in-progress forcible felony

NOTE: We recommend you commit all three of these rules to memory.

The first two rules "to protect yourself or another from imminent death or great bodily harm" are easily understood, providing that you remember the threat or illegal use of force must be real and imminent and no other reasonable alternative is available.

However, the third rule is not as easily understood, and careful consideration must be given to what this rule actually means in order to avoid persecution for the unjustified use of deadly force.

There are three points that are to be clearly understood before deadly force can be legally considered. Even if the basic legal requirements are satisfied in the deployment of the deadly force, there may be other moral and ethical issues. Should the use of force in any given instance not be consistent with the common perception of the general public's opinion, then these issues can also give cause for criticism, civil prosecution, and in some cases even criminal prosecution. These issues greatly complicate one's understanding of the justified use of force, because it is not a simple white and black rule as defined by law, but rather a situation where public opinion has a great impact on whether the force used is justified or not. This public opinion, of course, is never known



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until after an incident. To complicate the problem even further, this public opinion changes from one political and geographical area to another.

To better understand the problems that we face in regards to the use of force in the intervention of crime, we must understand certain legal definitions that are pertinent to the statement “to prevent the commision of an in progress forcible felony”

First “in progress”, this means that the crime is definitely going to happen or is actually happening at the instant and is never justified in the apprehension of a fleeing offender under any circumstances. In a situation where an offender has committed a crime, and is escaping, pursuit may indeed be warranted. However, ordinary force would be the appropriate type of force to use; up to the point where the offender clearly has demonstrated they will use deadly force against you or another to escape. At this point the use of deadly force may be justified against the offender, not to affect the arrest, but rather to defend yourself or another from the offender’s unjustified use of deadly force in attempting their escape. You must still remember that all other reasonable alternatives must have been exhausted, and all prudent care is taken to insure that innocent bystanders are not injured or killed.

Second, Forcible felony- Simply Defined- this is a felony crime that uses or threatens to use force or violence against a person.

Note: not all felonies are forcible felonies and a forcible felony is always a crime that uses or threatens to harm a person. Therefore a forcible is always a crime against a person, never a crime against property.

Some Crimes that are **Forcible Felonies** are:

- Robbery
- Armed robbery
- Aggravated Robbery
- Aggravated Battery
- Criminal Sexual Assault
- Murder
- Kidnapping
- Arson
- Burglary (only if the felony element of the Burglary is a forcible felony)

Some crimes that are **not Forcible Felonies**:

- Theft
- Felony Theft



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Damage to Property
Felony Damage to Property
Assault
Aggravated Assault
Battery
Criminal Trespass to Property
Disorderly Conduct
Burglary (if no forcible felony is committed as an element of the burglary)

Any verbal insults, vulgar language, or any other inappropriate verbal communication is not any type of crime, unless the verbal communication is threatening the imminent use of unlawful force. This would only be the offense of Assault, a misdemeanor.

Third, Political environment, as a rule toe position of the Chicagoland area is on of anti-gun and ani-violence. Where this is certainly the civilized and morally right philosophy, it does not always take into consideration that not everyone follows this philosophy. This can pose a problem for a person who deploys deadly force in the protection of life. There are those lawmakers and other groups that strongly feel that deadly force is never justified, regardless of the circumstances, and they regularly and loudly voice their opinions whenever given the opportunity. This type of opinion can have a great impact on justifying or not justifying the use of force by law enforcement.

Finally, the last concern that an individual must consider prior to the deployment of force, especially deadly force by the use of a politically controversial tool such as a handgun, baton, or other weapon, is that the individual competent with that weapon and can they use that weapon well enough to resolve any given situation with minimum force without endangering others?