

U.S. LawShield

Student Guide

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Introduction

Thank you for enrolling in a training course powered by U.S. LawShield®. Within this guide, you will find summaries and video overviews of some of the most important legal topics related to firearms and self-defense.

Summaries of the following topics are included in this guide:

1. Reciprocity and Recognition
2. Permitless Carry
3. Transporting a Firearm in a Vehicle
4. Transporting a Firearm on an Airline
5. Where Firearms Are Prohibited Under Federal Law
6. Police Encounters While Armed
7. Alcohol and Controlled Substance Laws
8. Firearm Transfer and Purchase Laws
9. Use of Force Outside a Habitation
10. Duty to Retreat vs. Stand Your Ground Laws
11. Use of Force Inside a Habitation
12. Defense of Property Laws
13. Civil Liability
14. Post Incident Planning – The 911 Call & Statements to Police
15. Detention, Arrest and Trial

As a responsible firearm owner, we want to equip you with the resources you need to safely and legally carry your firearm throughout the United States. To do so, you will need to navigate a complex web of firearm and self-defense laws. This can seem like a daunting task, but that is precisely why U.S. LawShield was founded. From our network of several hundred Independent Program Attorneys (IPAs), to our workshops, seminars, and educational programs, to our firearm law publications, we (literally) wrote the book on firearm and self-defense laws. To date, we have proudly served more than two million people in their self-defense journey.

Our role doesn't stop at education. If a U.S. LawShield member is ever involved in a covered use of force incident, our Legal Defense for Self Defense® program enables them to access an IPA who is always standing by, ready to defend them in their greatest time of need. Members have 24/7/365 access to an attorney-answered emergency hotline and pay zero attorneys' fees for covered criminal and civil cases.

We hope the training course and this guide are only pieces of a much larger self-defense training journey for you, and we hope you'll consider U.S. LawShield as your partner in that journey.

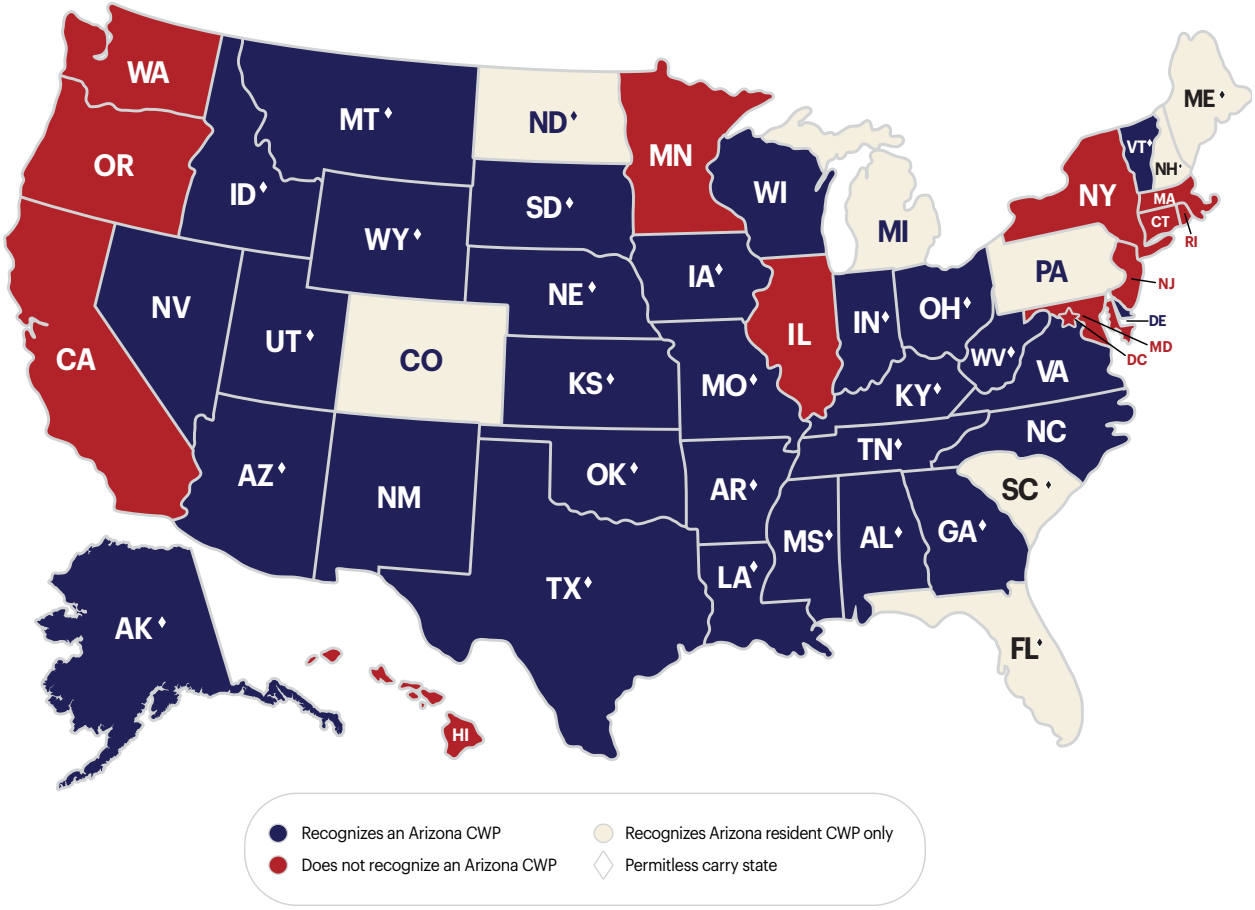
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Reciprocity & Recognition

Reciprocity refers to an agreement between states to recognize, or honor, a firearm carry permit issued by another state. This is sometimes done through formally signed agreements between the states, called "reciprocity agreements," and sometimes it is accomplished through state law.

As an example of how reciprocity functions, a Arizona Concealed Weapons Permit is currently honored in the blue and tan states on the below map. The blue states honor the Arizona permit no matter what state the permit holder resides in, while the tan states will only honor the Arizona permit if the permit holder is a resident of the State of Arizona. The tan states are referred to as "resident-only states."





While in a state that allows you to possess a loaded firearm, either through permit reciprocity or state law, transporting a firearm is significantly easier. If a state honors your permit, you are given much greater flexibility on where and how you can transport or possess your firearm. That doesn't mean, however, that the laws of the states you travel to are similar to your home state's laws. No two states have the same firearm laws.

When in states that do not recognize your permit, things can become even more complicated. Those who travel with firearms need to fully understand reciprocity, and the laws that regulate transport and possession where they are traveling. We will cover how to transport a firearm through a prohibited state in the Transporting a Firearm section of this guide.



Permitless Carry

Introduction to Permitless or Constitutional Carry

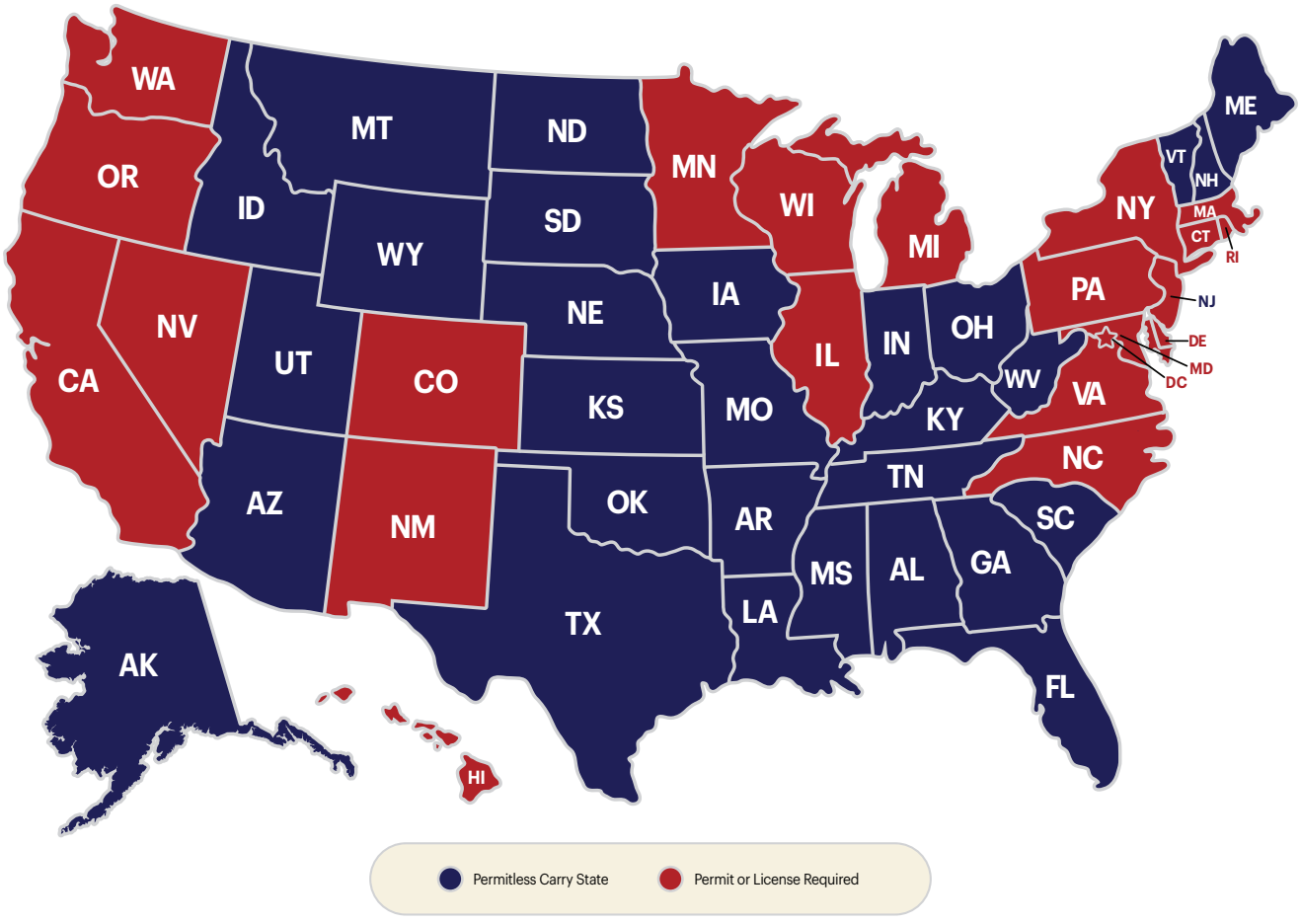
The terms "constitutional carry" and "permitless carry" refer to states that have laws allowing individuals to carry a loaded firearm in public without requiring a license or permit.

Proponents of permitless carry view it as an extension of the Second Amendment of the U.S. Constitution, with the right to bear arms being the only permit or license needed to carry a handgun. This idea centers on the belief that individuals not prohibited by law from owning a firearm should be able to carry it in public, openly or concealed, without fear of prosecution. Those who object to permitless carry generally do so on the basis that those who carry a firearm in public should be required to first demonstrate that they can safely handle it or provide a specific justification for needing the firearm.

Thankfully, the U.S. Supreme Court recently helped clarify this issue. Writing for the majority, Justice Thomas noted:

> The constitutional right to bear arms in public for self-defense is not a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees. The exercise of other constitutional rights does not require individuals to demonstrate to government officers some special need. The Second Amendment right to carry arms in public for self-defense is no different.
>
> New York State Rifle & Pistol Ass'n, Inc. v. Bruen, 142 S. Ct. 2111, 213 L. Ed. 2d 387 (2022)

Thanks to court victories, and a shift in public opinion, permitless carry has gained a lot of momentum in recent years, with 29 states allowing permitless carry in 2024.



However, it is important to note that permitless carry does not equal unrestricted carry. Much to the contrary, permitless carriers are generally subject to more laws than those who possess a permit. Permitless carriers will need to be aware of age restrictions, who may legally carry, how a person may carry, where carrying is allowed, and many other regulations. It is essential to understand the specific laws and restrictions of a state before carrying a firearm in public, especially without a permit.

A Word of Caution About Carrying Without a Permit

Obtaining a carry permit exempts you from several laws (both state and federal) that would otherwise apply to you if you didn't have a permit. As a simple example, let's discus something we all do almost every day – driving past a school.

The Federal Gun-Free School Zones Act makes it a FELONY, punishable by up to five years in prison, to possess a firearm within 1,000 feet of any kindergarten through twelfth grade public or private school. This includes simply driving past a school with a loaded handgun in your vehicle.



The Law:

It shall be unlawful for any individual knowingly to possess a firearm...at a place that the individual knows, or has reasonable cause to believe, is a school zone. 18 U.S.C.A. § 922(q)(2)(a)

There are only a few exceptions to the school zone rule:

1. If you are on private property not part of school grounds;
2. If the individual possessing the firearm is licensed to do so by the State in which the school zone is located;
3. If the gun is not loaded; and in a locked container, or a locked firearms rack that is on a motor vehicle

The most pertinent exception above is if the individual possessing the firearm is licensed to do so by the state in which the school zone is located. The Department of Justice clarified in a 2013 letter that this means you are breaking the law if you pass through ANY school zone in ANY state from which your permit wasn't issued.

> "The license must be issued by the State in which the school zone is located… a concealed weapons license or permit from any other state would not satisfy the criteria."
>
> U.S. Department of Justice. (2013). Interstate transportation of unloaded firearms with ammunition.



Permitless Carriers Beware!

This means if you are carrying a firearm without a permit, this federal law would be in full force against you. Technically speaking, you commit a felony every time you carry a loaded handgun within 1,000 feet of a K-12 school without a permit issued by the state where the school is located.

Transporting a Firearm

Vehicle Transport

VIDEO OVERVIEW

How a Federal "Safe Harbor" Law Helps You Transport a Firearm

No two states have the same laws, and the differences between states can be dramatic. Permit reciprocity and other differences between state regulation of firearms can create a difficult landscape for firearm owners to navigate. In 1968, and again in 1986, Congress set out to help hunters, travelers, and other firearm owners who were getting arrested for merely transporting firearms through restrictive states. To help simplify the complex web of state firearm laws, Congress passed the 1986 Firearm Owners Protection Act ("FOPA") as part of Senate Bill 2414. One of the stated functions of FOPA was "to permit the interstate transportation of unloaded firearms by any person not prohibited by Federal law from such transportation regardless of any State law or regulation." As Senator McCollum explained the law's purpose at the time:

> "This [law] is designed to be a "safe harbor" for interstate travelers. No one is required to follow the procedures set forth to section 926A, but any traveler who does cannot be convicted of violating a more restrictive State or local law in any jurisdiction through which he travels. Thus, section 926A will be valuable to the person who either knows he will be traveling through a jurisdiction with restrictive laws or is unfamiliar with the various laws of the jurisdiction he will be traversing. Many times people traveling in interstate commerce can unwittingly find themselves in violation of all kinds of technical requirements for possession of firearms. These laws and ordinances vary considerably"
>
> 132 Cong. Rec. H4102-04 (daily ed. June 24, 1986).

This specific "safe harbor" provision of the law, often referred to as the "McClure-Volkmer Rule," provides some protection for gun owners transporting firearms through restrictive states, subject to strict requirements.

The Law (McClure-Volkmer Rule):

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: Provided, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

(18 U.S.C. § 926A; 27 C.F.R. § 478.38)

Plain Language Explanation: When traveling through restricted states, such as states that do not honor your concealed firearm permit or otherwise allow you to possess a firearm, federal law still provides a safe harbor for you to transport your firearm in your vehicle, but you need to abide by specific rules. To ensure compliance with the above federal law, you must abide by the following five requirements:

1. You must be able to legally possess the firearm at your place of departure and your place of destination.
2. The firearm(s) you are transporting must not be prohibited in the state(s) you are transporting through.
3. The firearm(s) must be completely unloaded prior to entering a restrictive state.
4. The firearm(s) and ammunition must be stored separately (i.e. separate containers).
5. The firearm(s) and ammunition must be stored so they are not readily or directly accessible from the passenger compartment of the vehicle.



The unloaded firearm must be in the trunk of your vehicle, if you have a trunk. If your vehicle does not have a trunk, the completely unloaded firearm must be locked in a hard-sided container. The firearm may not be in the glove box or center console. Place the locked case as far away as possible from your position in the driver's seat. Place the ammunition is a separate location than the firearm, also as far as possible from your position in the driver's seat. Only the firearm must be locked in a case, but you can also lock the ammunition in a separate case if you desire.

Remember, if your vehicle has a trunk, both the firearm(s) and the ammunition must be stored in the trunk, and it is recommended that they be stored in separate containers. If your vehicle does not have a trunk, then your firearms must be locked in a hard-sided container, and both the firearm(s) and ammunition must be stored as far as possible from your position in the driver's seat.

Once the above five steps have been satisfied, you are entitled under federal law to lawfully transport a firearm in your vehicle through a restricted state. Some states do not require you to complete all of the above steps, but some do. New York, Maryland, New Jersey, and California, for example, are responsible for nearly every case on the books dealing with this law, and those states often prosecute gun owners aggressively. To ensure you are given safe harbor, make certain you always follow these five steps.

Finally, this law only provides safe harbor while actively transporting firearms/devices that are not otherwise prohibited in the restrictive state. This means you will need to know what firearms/devices are prohibited in the states you are traveling through, and you will also need to ensure that you are only transporting, and not vacationing in the restrictive states. These two issues are covered in more detail below.

What About Transporting High-Capacity Magazines, Silencers, "Assault Weapons" or Other Prohibited Items Through a State?

It is important to understand that, although this federal law allows you to transport some firearms through restrictive states, it may not allow you to transport items that are prohibited under state law, such as "high-capacity magazines" or "assault weapons" (as these terms have been defined by restrictive states). In one of the few cases that addressed this specific question, the court ruled that the federal law discussed above does not prohibit states from enforcing bans on large-capacity magazines or bans on other weapons, like "assault weapons." Specifically, the court warned that "The risk that a person transporting firearms in accordance with [the federal safe harbor law] will be arrested in New Jersey for possessing an illegal firearm or magazine is the same risk that person encounters whenever he or she drives through a state where such weapons are illegal." (Coal. of New Jersey Sportsmen v. Florio, 744 F. Supp. 602, 610 (D.N.J. 1990); see also State v. Rackis, 333 N.J. Super. 332, 755 A.2d 649 (App. Div. 2000)).

Meaning, if the item you are transporting is prohibited in the state through which you plan on transporting it, the federal law discussed in this section may not protect you. As such, it is essential that you know the laws of the states through which you will be transporting your firearms.



How Long Can I Be in a State and Still Be Considered "Transporting?"

Remember, this law only relates to transporting through a state, not vacationing there. If you are visiting a restrictive state for a prolonged period of time, such as a vacation, the federal law discussed in this section will not offer you safe harbor. You will need to verify what is required by the state where you will be visiting prior to transporting your firearm for a prolonged stay.

So how long can you be in a state and still be considered "transporting?" There is no solid answer to this question, as the law does not provide a time threshold. In one of the only cases dealing with this specific question, a man named Paul Guisti was arrested for having an unloaded .45–caliber pistol in a locked safe inside the living quarter of his boat. At the time of his arrest, he was navigating in the waters just off the shore of New York. Paul had skippered his boat from his home in Florida, along the eastern seaboard to New York, and then planned on returning to Florida, prior to being arrested. Given that Paul was acting as more of a tourist than a transporter while in New York, federal law did not protect him from prosecution. While upholding Paul's conviction, the court noted Paul was not transporting his gun interstate, but rather, admitted he was traveling along the Eastern seaboard and docking in various states for undefined periods of time. This is more of a tourist activity. The court reasoned as follows:

> The Court is not persuaded that [18 U.S.C. § 926A] applies to interstate travel which is in actuality a round-trip foray with a gun into states that the defendant is not entitled to possess the gun. The plain language of the statute mandates application only if the defendant was transporting the gun from one state to a different state. (People v. Guisti, 30 Misc. 3d 1229(A), 926 N.Y.S.2d 345 (Crim. Ct. 2011)).

Although it doesn't provide a clear answer on what timeframe would be considered transporting, it is clear the courts will look into the facts of each case to determine if you are a tourist or a transporter. In other words, if you plan on visiting Disneyland, staying multiple days to see the sights, or doing other tourist related activities, you should not plan on having the protection of federal safe harbor law.



What About Vehicles Without Trunks, Like Single-Cab Pickups or Motorcycles?

There are no known court cases addressing specific vehicle types. Congress did include an exception for vehicles lacking a trunk, such as pickup trucks or motorcycles. For these, the firearm must "be contained in a locked container other than the glove compartment or console." While debating how exactly someone should transport the firearm on their motorcycle, the Senate records state:

> It is anticipated that the firearms being transported will be made inaccessible in a way consistent with the mode of transportation–in a trunk in vehicles which have such containers, or in a case or similar receptacle in vehicles which do not. (S. Rep. No. 476, 97th Cong., 2d Sess. 25 (1982)).
>
> It is the clear intent of the Senate that State and local laws governing the transportation of firearms are only affected if—first, an individual is transporting a firearm that is not directly accessible from the passenger compartment of a vehicle. That means it cannot be in the glove compartment, under the seat, or otherwise within reach. The only exception to this is when a vehicle does not have a trunk or other compartment separate from the passenger area. The weapon must be contained in a locked container other than the glove compartment or console… Any ammunition being transported must be similarly secured. (132 Cong. Rec. S5358-68 (daily ed. May 6, 1986).

In one of the few cases that discussed this specific issue, a question was raised regarding the modes of transportation that would be covered. The court stated:

> In light of the plain meaning of the statute, fully corroborated by the legislative history, we hold that section 926A benefits only those who wish to transport firearms in vehicles—and not, therefore, any of the kinds of "transportation" that, by necessity, would be involved should a person … wish to transport a firearm by foot through an airport terminal or Port Authority site.
>
> Ass'n of New Jersey Rifle & Pistol Clubs Inc. v. Port Auth. of New York & New Jersey, 730 F.3d 252, 257 (3d Cir. 2013)

Because the law is not explicitly clear, the best available advice is to make the firearm as inaccessible as possible to you in the driver's or rider's position, ensuring that the firearm you are transporting is locked inside a hard-sided container, and the ammunition is stored separately from the firearm.



Transporting a Firearm

Airline Transport

Each year the Transportation Security Administration (TSA) catches approximately 4,500 firearms at checkpoints in commercial airports. The vast majority of these firearms are accidentally, or negligently, transported by gun owners who either didn't know the laws or weren't careful enough in complying with them.

VIDEO OVERVIEW

If you are planning on traveling with your firearm through a commercial airport, it is essential to know how to do so lawfully. Below, we will discuss the steps required to transport a firearm and ammunition, with instructions for before departing as well as once you arrive.



Transporting a Firearm

Instructions Prior to Departing for the Airport:

1. All firearms, firearm parts (including magazines, clips, bolts, and firing pins), and replica firearms—including firearm replicas that are toys— are prohibited in carry-on baggage. As such, you must transport all of these items in checked baggage only. Rifle scopes, however, are permitted in carry-on and checked baggage.

2. Firearms must be unloaded. Remove the magazine from any firearms even though the magazine may be unloaded. Under federal law (49 C.F.R. § 1540.5) a firearm may be considered "loaded" if the firearm has a live round of ammunition, or any component thereof, in the chamber or cylinder or in a magazine inserted in the firearm.

3. The firearm(s) must be locked inside a hard-sided container. The container must completely secure the firearm(s) from being accessed from any side. Locked cases that can be easily opened, or pried open on any side, are not permitted. Be aware that the manufacturer's container the firearm was purchased in may not adequately secure the firearm under these regulations.

4. You may use any brand or type of mechanical lock to secure your firearm case, including TSA-recognized locks. You are not, however, required to use TSA-branded locks.

5. The checked suitcase does not need to be locked, although it is advisable, but the case containing the firearm must be locked. You may check your encased firearm inside of a larger suitcase, or as its own checked baggage.

Instructions Upon Arrival at the Airport:

1. Immediately make your way to the baggage check counter, you may not use a kiosk or self-service checking service to check your luggage.

2. Upon arriving at the counter, verbally declare that you have a firearm in your suitcase. "I have an unloaded firearm locked in a case inside this piece of checked luggage" or similar statement will suffice.

3. The airline employee will then ask you to sign a certification declaring under penalty of federal law that the firearms are unloaded and locked inside a hard sided case. That signed certification, generally in the form of an orange 3x5 card.

4. The airline will then direct you on how TSA will process your luggage. This may involve a manual TSA inspection, or an electronic scan, but generally will not take more than fifteen minutes.

5. Only you should retain the key or combination to the lock unless TSA personnel request the key to open the firearm container to ensure compliance with TSA regulations. If the key is requested, it should be returned to you upon completion of the inspection.

6. TSA will then take custody of your firearms and you may proceed to the security checkpoint.

Keep in mind, bringing an unloaded firearm, ammunition, or even replica firearms to the security checkpoint all have potential criminal and civil penalties. Once you enter the secure checkpoint queue (the line), the crime has already been committed.

If you are traveling internationally with a firearm in checked baggage, please check the U.S. Customs and Border Protection website for information and requirements prior to travel.

49 C.F.R. § 1540.111

Transporting Ammunition

Ammunition is prohibited in carry-on baggage, but may be transported in checked baggage. Firearm magazines and ammunition clips, whether loaded or empty, must be securely boxed or included within a hard-sided case containing an unloaded firearm.

Ammunition may be transported in the same hard-sided, locked case as a firearm if it has been packed as described above. You cannot use firearm magazines or clips for packing ammunition unless they completely enclose the ammunition. A round of ammunition will not be considered exposed if it has an exposed primer. Firearm magazines and ammunition clips, whether loaded or empty, must be boxed or included within a hard-sided, locked case.

Small arms ammunition, including ammunition not exceeding .75 caliber and shotgun shells of any gauge, may be carried in the same hard-sided case as the firearm. Most airlines will limit the amount of ammunition that may be possessed to a maximum of 11 pounds (5 kgs) per container or customer.





Prohibited Areas

Where Firearms Are Prohibited

Carrying a firearm into a place where firearms are prohibited by state or federal law is a common way for concealed carriers to find themselves in legal trouble. These places are known as "prohibited areas," and they can vary greatly from state to state.

While you are permitted to carry your firearm into a bank in Utah, for instance, it is illegal to do so in Montana. Similarly, carrying a firearm into a bar is legal in Idaho, but not in Washington. It is important to note that prohibited areas are not always obvious and can be very difficult to predict. For example, it is illegal to carry a firearm to a political rally in Nebraska, within 1,000 feet of an execution in Texas, or into any building that serves alcohol in Illinois, if more than fifty percent of the establishment's gross receipts within the prior three-months were derived from the sale of alcohol.

Although the places prohibited by state law will vary, federal law applies in all 50 states. The places where firearms are prohibited under state law are covered in more detail in the training course. The places where firearms are prohibited under federal law are summarized below:

Federal Law Prohibited Areas:

1. Airport Secure Areas (49 C.F.R. § 1540.111(a))
2. Post Office Property (18 U.S.C.§ 930; 39 C.F.R. § 232.1)
3. Federal Facilities, Including Courthouses (18 U.S.C. § 930; 36 C.F.R. § 327.13; 18 U.S.C. § 922(q))
4. Military Bases (Army Reg. 190-14(2-6); 10 U.S.C. § 2674)
5. Veteran Affairs Property (38 C.F.R. § 1.218(a)(13))
6. Within 1,000 Feet of a Public, Parochial or Private K-12 School (18 U.S.C.A. § 922(q)(2)(A)). Exceptions apply.
7. Certain Other Federal Property:
    - US Army Corp of Engineers Property (36 C.F.R. § 327.13)
    - The Pentagon Reservation (32 C.F.R. § 234.10)
    - Government Accountability Office Grounds (4 C.F.R. § 25.14)
    - CIA Agency Installation Property (32 C.F.R. § 1903.10)
    - Certain FEMA Property (44 C.F.R. § 15.15)
    - National Military Cemeteries (32 C.F.R. § 553.33)
    - Certain Nuclear Facilities (42 U.S.C. § 2273)

School Zones

The Federal Gun Free School Zone Act (GFSZA) makes it a felony punishable by up to five years in prison to possess a firearm within 1,000 feet of any K-12 school in the United States.

The Federal Law:

It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone. 18 U.S.C.A. § 922.

The term "school zone" means in, or on the grounds of, a public, parochial or private school; or within a distance of 1,000 feet from the grounds of an elementary or secondary public, parochial or private school. 18 U.S.C.A. § 921.

There are a few exceptions to the federal law, including if:

1. You are on private property not part of school grounds;
2. You are licensed to do so by the State in which the school zone is located, or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;
3. The gun is not loaded; and in a locked container, or a locked firearms rack that is on a motor vehicle;
4. You are using the firearm in a program approved by a school in the school zone;
5. You are under a contract entered into between a school in the school zone and the individual or an employer of the individual;
6. You are a law enforcement officer acting in his or her official capacity; or

7. The gun is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

The most notable exception referenced above is number two, which states that if you have a permit issued by the state in which the school zone is located then the federal law prohibiting firearms within 1,000 feet of a school no longer applies to you. Keep in mind, however, that this does not apply to a state where your permit is honored through reciprocity but from which your permit was not issued. In 2013, The U.S. Department of Justice issued an opinion letter on this subject, in which they stated:

> The law provides certain exceptions to the general ban on possession of firearms in school zones. One exception is where the individual 'possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State'.
>
> The law clearly provides that in order to qualify as an exception to the general prohibition of the GFSZA, the license must be issued by the State in which the school zone is located or a political subdivision of that State. A concealed weapons license or permit from any other State would not satisfy the criteria set forth in the law.
>
> Source: Benedict, A. (2013, July 25). ATF Opinion Letter to The Oklahoma Second Amendment Association.

Although this law is rarely enforced against a permit holder who is merely driving through a school zone, it is nonetheless a violation of federal law and permit holders are advised to use extreme caution while traveling out of state.

Federal Buildings

As a general rule, any federally-owned or leased building ("facility") is off limits to firearms, regardless of what state or province you may be in.

The Law:

[W]hoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both.

Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.

18 U.S.C.A. § 930(a)

The term "Federal facility" means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties. 18 U.S.C. § 930(g)(1)

These facilities must be posted as off limits to firearms conspicuously at each public entrance, and no person can be convicted of an offense if such notice is not so posted at such facility, unless such person had actual notice that the facility prohibited firearms.

Actual notice could be a verbal or written communication given to you that firearms were prohibited on the property.

18 U.S.C. §930(h)

Post Office Property (Including Parking Lots)

A post office building is a federal facility and is thus off limits to firearms in accordance with 18 U.S.C.A. § 930. What distinguishes a post office is that not only is the post office building off limits, but so is the entire property, including the parking lot.



The Law:

No person while on postal property may carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, or store the same on postal property. 39 C.F.R. § 232.1(l)

This prohibition "applies to all real property under the charge and control of the Postal Service and to all persons entering in or on such property." 39 C.F.R. 232.1(a). This includes any portions of real property, owned or leased by the Postal Service, and that are leased or subleased by the Postal Service for their exclusive use. The regulation also authorizes the inspection of containers and vehicles on the property. 39 C.F.R. § 232.1(b)

Legal Challenges to the Postal Property Law

In a 2015 federal case in Colorado, a man named Tab Bonidy sued the United States Postal Service (USPS) for prohibiting him from carrying a firearm in his car while parked in a public post office parking lot. Bonidy argued that the USPS prohibition violated his Second Amendment rights, while the USPS argued that the prohibition was necessary for the safety and security of the post office.

In 2016, the Tenth Circuit Court of Appeals ruled in favor of the USPS, upholding the prohibition on firearms on USPS property.

Bonidy v. U.S. Postal Service, 790 F.3d 1121 (10th Cir. 2015)

Veteran Affairs Property

Veterans Affairs (VA) property is federal property and therefore subject to federal laws regarding the possession of firearms. In general, firearms are prohibited on VA property unless explicitly authorized by law or regulation. This includes both open and concealed carry, as well as the possession of firearms in locked vehicles on VA property.

The Law:

No person while on property under the charge and control of VA (and not under the charge and control of the General Services Administration) shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for official purposes.

38 C.F.R. § 1.218

Military Bases



In general, firearms are heavily regulated on military bases, and possession of firearms by military personnel and civilians is subject to specific rules and regulations. These regulations can vary by location and branch of service, but in general, firearms must be registered and stored in specific locations, such as armories or personal residence areas. Additionally, military installations are subject to federal laws regarding the transportation of firearms, which include requirements for unloaded and securely stored firearms during transport.

To comply with these regulations, individuals should contact their local installation for specific guidance on the storage and transport of firearms on base. They should also be aware that violation of these regulations can result in serious consequences, including criminal charges and possible dishonorable discharge from the military.

Unless you have written authorization, firearm possession is generally prohibited on military bases, and permit holders are advised to not take their firearm to a military installation unless they are certain they are in compliance with installation regulations.

Sources:

Department of Defense, Directive-Type Memorandum (DTM) 19-006: Department of Defense Firearms and Ammunition Policy, May 17, 2019.

Army Regulation 190-11: Physical Security of Arms, Ammunition, and Explosives, September 23, 2013.

Federal Land, National Parks, and Monumnets

In 1983, the Reagan administration issued regulations that banned the carrying of firearms in national parks and monuments. The regulation prohibited the use or possession of firearms on any federal lands or waters managed by the National Park Service. The administration argued that the ban would reduce violent crime and deter negative environmental impacts allegedly caused by firearms in national parks. However, the ban was controversial and drew criticism from gun rights advocates and some park officials.

The federal firearms ban remained in place for nearly three decades until May 22, 2009, when a new law overturned the prohibition. The new law, which was part of the Credit Card Accountability Responsibility and Disclosure (CARD) Act, allowed anyone to carry a firearm into any of the 392 locations under the control of the National Park Service so long as the state they are located in would otherwise recognize their right to carry a firearm, either through permit reciprocity or state law.

The law amended 16 U.S.C.A. § 1a-7b, and explicitly stated that "the Secretary of the Interior shall not promulgate or enforce any regulation that prohibits an individual from possessing a firearm including an assembled or functional firearm in any unit of the National Park System or the National Wildlife Refuge System." However, it is important to note that even though the law permits carrying firearms into national parks, it is still illegal to carry a firearm into any of the occupied buildings within the park, as these are considered "federal buildings."

The Law:

The Secretary of the Interior shall not promulgate or enforce any regulation that prohibits an individual from possessing a firearm including an assembled or functional firearm in any unit of the National Park System or the National Wildlife Refuge System if–

1. the individual is not otherwise prohibited by law from possessing the firearm; and
2. the possession of the firearm is in compliance with the law of the State in which the unit of the National Park System or the National Wildlife Refuge System is located.

16 U.S.C.A. § 1a-7b

Police Encounters While Armed

If you are stopped by a police officer while carrying or transporting a firearm, are you required to tell the officer? Even if you aren't required to do so, should you tell the officer? The answer to this question will depend on what state you are in at the time you are stopped. This is due to the fact that there are three different categories of states with regard to police encounters. We call them "duty to inform states," "quasi-duty to inform states," and "no duty to inform states."

VIDEO OVERVIEW

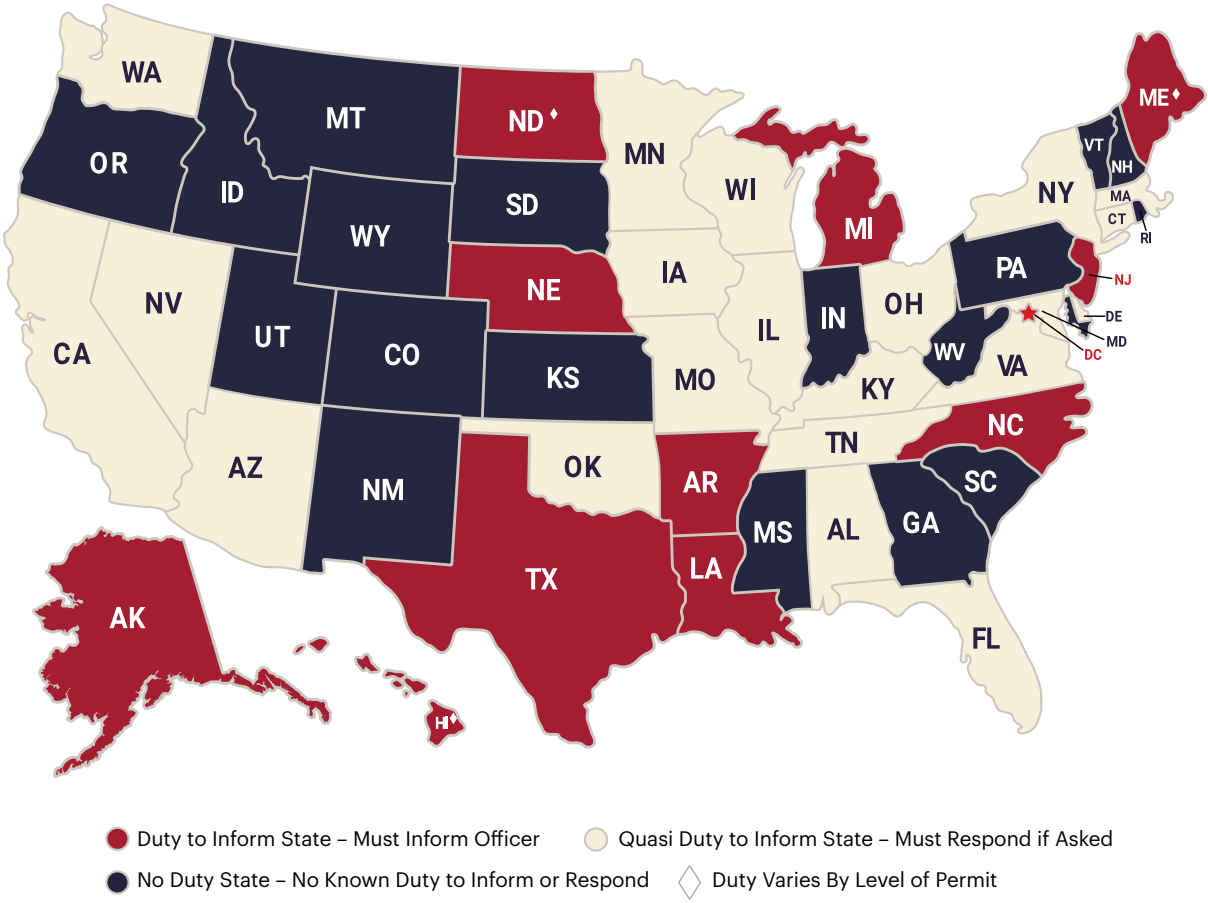
Duty To Inform States

Some states impose a legal duty upon permit holders that requires them to inform a police officer of the presence of a firearm whenever they have an official encounter, such as a traffic stop. These states are called "duty to inform" states.

In these states you are required by law to immediately, and affirmatively, tell a police officer if you have a firearm in your possession. As a quick reference, the duty to inform states at the time of publishing this guide are as follows:

- Alaska (Alaska Stat. Ann. §11.61.220)
- Arkansas (Code Ark. R. 130.00.8-3.2(a))
- Hawaii* (Haw. Rev. Stat. Ann. § 134-9.2(b))
- Louisiana (La. Stat. Ann. § 40:1379.3(I)(2))
- Maine* (Me. Rev. Stat. tit. 25, § 2003-A)
- Michigan (Mich. Comp. Laws Ann. § 28.425f)
- Nebraska (Neb. Rev. Stat. Ann. § 28-1202.04)
- New Jersey (N.J. Stat. Ann. § 2C:58-4.4(b))
- North Carolina (N.C. Gen. Stat. Ann. §14-415.11)
- North Dakota* (N.D. Cent. Code Ann. § 62.1-04-04)
- Texas* (Tex. Gov't Code Ann. § 411.205)
- Washington D.C. (D.C. Code Ann. § 7-2509.04)

* State-specific requirements include variations from quasi to immediate duty to inform for different situations.



If you find yourself in one of the "duty to inform" states, you must affirmatively inform an officer if you have a firearm. Failure to inform the officer while in one of these states can result in a criminal charge and suspension of your carry permit. As an example of what a duty to inform law looks like, consider what Michigan's law requires:

The Law:

An individual licensed under this act to carry a concealed pistol and who is carrying a concealed pistol or a portable device that uses electro-muscular disruption technology and who is stopped by a peace officer shall immediately disclose to the peace officer that he or she is carrying a pistol or a portable device that uses electro-muscular disruption technology concealed upon his or her person or in his or her vehicle.

Mich. Comp. Laws Ann. § 28.425f

When informing an officer that you have a firearm in your possession, we recommend following these four steps:

1. Keep your hands visible at all times. If you are in a vehicle, place your hands on the steering wheel until you have informed the officer of the presence of the firearm and fully complied with his or her instructions.

2. Advise the officer that you have a valid concealed firearm permit and there is a firearm in your vehicle/possession.

3. Advise the officer of the location of the firearm.

4. Comply fully with all instructions given by the officer. Do not reach for your weapon, your permit, or do anything that might be interpreted as reaching for your weapon. Keep your hands visible unless instructed to do otherwise.

Quasi-Duty To Inform States

In addition to the above "duty to inform states," some states have "quasi duty to inform" laws. These laws generally require that a permit holder have his/her permit in their possession and surrender it upon the request of an officer. The specific requirements of these laws will vary from state to state. It is important to note that being required to give an officer your permit once it is asked of you (quasi-duty to inform) and being required to affirmatively tell an officer you have a firearm without being prompted (duty to inform) are two very different legal requirements.

As an example of what a quasi-duty to inform law looks like, consider Arizona's law:

The Law:

A permittee who carries a concealed weapon, who is required by § 4-229 or 4-244 to carry a permit and who fails to present the permit for inspection on the request of a law enforcement officer commits a violation of this subsection and is subject to a civil penalty of not more than $300.

Ariz. Rev. Stat. Ann. § 13-3112

Unlike Michigan's law, Arizona does not require someone to immediately and affirmatively inform the officer they have a firearm, unless the officer asks.

No Duty To Inform States

The final category of states are classified as "no duty to inform" states. In these states there are no laws that require a gun owner to affirmatively inform an officer if they have a firearm. Additionally, there are also no laws that require them to respond or provide a permit if asked about the presence of a firearm.

Are You Required To Respond When Asked About Firearms?

It is important to note that if you are in a "no duty to inform state," failure to inform an officer or respond when asked if you have a firearm does not constitute probable cause to search a vehicle. (United States v. Robinson, 814 F.3d 201, 210 (4th Cir. 2016)). In fact, the courts have repeatedly held that a person who is approached by law enforcement is free not to entertain the encounter when the officer does not otherwise have an adequate basis to detain or arrest the person. An unwillingness to communicate with law enforcement is not a basis to initiate a detention. (Fla. v. Bostick, 501 U.S. 429, 437, 111 S. Ct. 2382, 115 L. Ed. 2d 389 (1991)).

What Are Stop and Identify Laws?

Even if you are not legally obligated to inform the officer of your firearm, that doesn't mean you are not legally required to communicate other information to the officer. Information you may be required to convey could include your name, date of birth, or address. At the time of this publishing, 25 states have "stop and identify" laws. These laws authorize police to lawfully order people whom they reasonably suspect of committing a crime to state their name and sometimes provide photo identification or their date of birth. These laws do not, by themselves, require the disclosure of firearms.

Although it is not the focus of this topic, if you desire to be fully informed about police encounter laws, you should verify each particular state's "stop and identify" laws prior to traveling.

Even if Not Required, Should You Inform an Officer of Your Firearm?



Knowing one is generally not required to inform an officer about a firearm in "no duty to inform" states, the question often arises of whether one should inform an officer. The answer is maybe. Obviously, it is highly encouraged to be courteous and respectful when interacting with law enforcement. However, there are a few points of consideration related to informing an officer about a firearm that you should be aware of.

A potential outcome of informing an officer that you have a firearm is that the officer might then have the ability to perform what is called a Terry stop or a Terry frisk (called the "Terry doctrine"). The Terry doctrine stems from a 1968 Supreme Court case, Terry v. Ohio. In Terry, the United States Supreme Court held that an officer may perform a protective frisk and search pursuant to a lawful stop when the officer reasonably believes a person is "armed and presently dangerous to the officer or others" (392 U.S. 1, 24, 88 S.Ct. 1868, 20 L. Ed. 2d 889 (1968)). This also gives the officer authority to temporarily disarm the permit holder "in the interest of officer safety." The Court did caution that a search "is a serious intrusion upon the sanctity of the person" and should not be taken lightly. Still, the basis for the search itself is largely left up to the officer's discretion once he is made aware of the presence of a weapon.

This issue was recently highlighted in a 4th Circuit Court of Appeals case, United States v. Robinson. In Robinson, the court extended the Terry doctrine further than it previously had. In its ruling, the court ruled that not only does disclosing a firearm serve as a waiver of your Fourth Amendment rights, but also ruled firearms are "categorically dangerous" and thus merit a warrantless search/frisk:

> …an officer who makes a lawful traffic stop and who has a reasonable suspicion that one of the automobile's occupants is armed may frisk that individual for the officer's protection and the safety of everyone on the scene… It is also inconsequential that the passenger may have had a permit to carry the concealed firearm. The danger justifying a protective frisk arises from the combination of a forced police encounter and the presence of a weapon, not from any illegality of the weapon's possession.
>
> United States v. Robinson, 846 F.3d 694, 696 (4th Cir. 2017)

As Judge Wynn ominously wrote in his concurring opinion to that case, "…those who chose to carry firearms sacrifice certain constitutional protections afforded to individuals who elect not to carry firearms."

It is always recommended that you remain calm and respectful while interacting with law enforcement. Police officers, by and large, support the shooting sports community and are members of it themselves. We strongly encourage everyone to treat law enforcement with respect. With a proper understanding of the law, however, you can treat someone respectfully without waiving your constitutional rights.

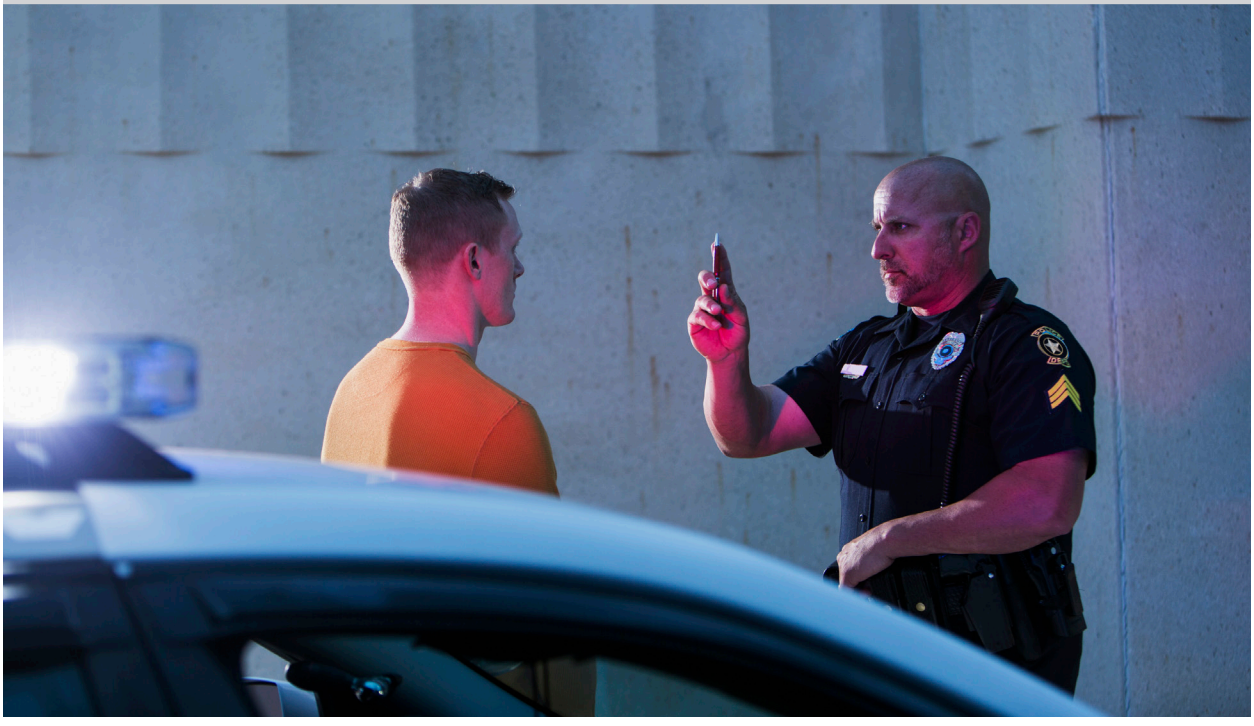


Alcohol and Controlled Substance Laws

Alcohol

All fifty U.S. states and the District of Columbia have laws making it a crime to drive with a blood alcohol concentration at or above the maximum proscribed level of 0.08 milligrams per deciliter. Like driving restrictions, the possession of a firearm while being under the influence of alcohol is also regulated by state, not federal, law. Most, but not all, states have laws in place that regulate possessing firearms while intoxicated.

"Intoxication" is defined in various ways by state law. The definitions of intoxication related to firearms range from being undefined in some states, to having specific numerical intoxication limits (e.g., 0.08 milligrams/deciliter blood alcohol concentration), to mirroring the state motor vehicle laws. While it is always recommended to avoid consuming alcohol while in possession of a firearm, please review your specific state's laws to verify legally proscribed limits.



Marijuana

UPDATED — RESCHEDULING STATUS



On April 23, 2026, the Acting Attorney General issued an order moving only two narrow categories into Schedule III, effective April 28, 2026: (1) FDA-approved drug products containing marijuana, and (2) marijuana subject to a state medical marijuana license. All other marijuana — including ordinary unlicensed recreational marijuana — remains a Schedule I controlled substance. A separate, expedited DEA administrative hearing began June 29, 2026 (expected to conclude no later than July 15, 2026) to consider whether marijuana should be rescheduled more broadly, including recreational use. That broader question is unresolved, any resulting final rule is likely to face legal challenges, and a final decision is not expected before late 2026 at the earliest. This document will be updated as that process develops.

Although legal for medicinal or recreational use in many states, marijuana remains classified as a scheduled controlled substance under the federal Controlled Substances Act (CSA), codified as 21 U.S.C. § 812.

Beginning with California in 1996, states began to pass their own laws regarding the medical use of marijuana. Over time, more states followed suit, either legalizing prescribed medical marijuana or, in some cases, extending legalization to unprescribed recreational use. It is important to note that despite state legalization, the federal government still retains the power to enforce federal laws, including laws prohibiting marijuana use or possession.

On December 18, 2025, President Donald Trump signed an Executive Order that directed the Attorney General to expedite the rescheduling of marijuana from schedule I to a schedule III drug under the CSA. On April 23, 2026, the Acting Attorney General acted on that directive in part, immediately moving FDA-approved marijuana drug products and state-licensed medical marijuana into Schedule III, effective April 28, 2026. Unlicensed recreational marijuana remains in Schedule I while a broader DEA rulemaking hearing — which began June 29, 2026 — considers whether to extend Schedule III status to marijuana more generally.

> "The Attorney General shall take all necessary steps to complete the rulemaking process related to rescheduling marijuana to Schedule III of the CSA in the most expeditious manner in accordance with Federal law, including 21 U.S.C. 811."
>
> Trump, D. J. (2025, December 18). Executive Order on Increasing Medical Marijuana and Cannabidiol Research

Unlike schedule I drugs, schedule III drugs may be lawfully prescribed by a licensed physician, and the possession of these prescribed drugs does not make the possession of a firearm inherently unlawful the way possession of a schedule I substance would. The April 2026 action placed FDA-approved marijuana drug products and state-licensed medical marijuana into Schedule III, but it remains an open legal question whether a state medical marijuana card or physician recommendation qualifies as a "prescription by a licensed physician" for purposes of federal firearm law. State medical marijuana programs typically issue recommendations or registry cards rather than a prescription dispensed under a federal DEA registration, so instructors should not assume state medical cardholders are automatically treated the same as patients taking a conventional prescription medication for purposes of 18 U.S.C. § 922(g)(3). ATF has not issued guidance resolving this question. Ordinary unlicensed recreational marijuana use remains classified as Schedule I and is unaffected by this narrower rescheduling action.

Historically, federal guidance has taken the position that if marijuana is possessed without a prescription, used in a manner not prescribed, or used by someone addicted to it, possession of a firearm is a federal offense. Federal law states that a person is addicted to a controlled substance when they have "lost the power of self-control with reference to the use of [a] controlled substance; and any person who is a current user of a controlled substance in a manner other than as prescribed by a licensed physician." (See 27 C.F.R. § 478.11). Federal law also prohibits selling or otherwise disposing of firearms to an individual who is an unlawful user of, or addicted to, any controlled substance. (See 18 U.S.C. § 922(g)(3)).

The Supreme Court Ruling: United States v. Hemani (June 2026)

The U.S. Supreme Court has ruled that the federal government cannot automatically strip a person's Second Amendment rights under 18 U.S.C. § 922(g)(3) based solely on regular marijuana use, without any showing that the use rendered the person dangerous or incapacitated. This decision will impact how laws are enforced by law enforcement agencies on the state and federal level. This document will be updated as these changes take effect. United States v. Hemani, No. 24-1234

On June 18, 2026, the Supreme Court issued its decision in United States v. Hemani, No. 24-1234, holding that the federal government's prosecution of a regular, unprescribed marijuana user under 18 U.S.C. § 922(g)(3) violated the Second Amendment. The case did not depend on rescheduling, a prescription, or any change to the CSA. It rested entirely on the Constitution.
The defendant in that case, Ali Hemani, admitted he used marijuana approximately every other day and kept a handgun in his home for self-defense. The government argued this alone — regular use of any amount of any controlled substance, with no showing of danger, incapacity, or addiction — was enough to automatically and permanently strip him of his right to possess a firearm and imprison him for up to 15 years. The Supreme Court disagreed, ruling 9-0 that the government failed to show this kind of automatic, categorical disarmament is consistent with the Nation's historical tradition of firearm regulation.

What This Means for Gun Owners

A marijuana user (unprescribed, recreational or prescribed) can no longer be automatically and categorically disarmed under § 922(g)(3) based on regular use alone. The government must now show something more — such as individualized proof that the person's drug use makes them dangerous, or that the person is an addict or was intoxicated at the time of possession.

This is separate from — and broader than — the rescheduling discussion above. Hemani protects regular marijuana users today, while the narrower Schedule III move now in effect, and any future broader rescheduling, would separately benefit only state-licensed medical marijuana patients and FDA-approved drug product users specifically.

The Form 4473 Problem Remains Unresolved For Now

ATF Form 4473, Question 21(e), still asks every firearm purchaser whether they are an unlawful user of, or addicted to, marijuana or any other controlled substance. The Hemani decision has not changed this question, and as of this writing, ATF has not issued revised guidance reflecting the ruling.

Gun owners who are regular marijuana users should understand: answering this question truthfully will still result in a denied transfer from a licensed dealer. Answering falsely is a separate federal felony under 18 U.S.C. § 922(a)(6) — punishable by up to 10 years in prison — and is completely unaffected by the Hemani decision.

Bottom line: the constitutional landscape has shifted in their favor, but the federal purchase and transfer process has not yet caught up. Caution is still warranted.

Note: This guide reflects the law as of April 23, 2026. Broader rescheduling of marijuana through the ongoing DEA administrative proceedings (hearing begins June 29, 2026) may result in further updates.

Other Controlled Substances

Federal drug and firearm laws intersect in 18 U.S.C. §922(g)(3), which incorporates the Controlled Substances Act (CSA) by reference and prohibits the purchase or possession of a firearm by any person who is "an unlawful user of or addicted to any controlled substance."

There are five different schedules of controlled substances regulated by the CSA, scheduled as I–V. The types of drugs that are regulated range from heroin as a Schedule I substance, to Robitussin AC as a Schedule V substance. There are thousands of drugs regulated under the Controlled Substances Act, many that are not generally known to be prohibited. As such, firearm owners need to be particularly cautious about possessing a firearm while technically being an "unlawful user" of a controlled substance. Even a gun owner that is prescribed a scheduled drug can be in legal jeopardy if it is proven that the drug was taken in a frequency or manner other than was prescribed by their phsysician.





Firearm Purchase and Transfer

The laws regarding the private party purchase/sale of firearms vary greatly by state, but there are some general rules you need to be aware of. Private sales (e.g. firearms sold by persons other than federally licensed firearm dealers or "FFLs") are legal in every state, although some are more regulated than others.

To Whom May You Sell/Give a Gun?



There are two different sets of laws (state and federal) that must be complied with when buying or selling a firearm. Under the Federal Gun Control Act of 1968, a person may sell a firearm to a resident of his state if he does not know or have reasonable cause to believe the person is prohibited from receiving or possessing firearms under federal law. A person may loan or rent a firearm to a resident of any state for temporary use for lawful sporting purposes if he does not know or have reasonable cause to believe the person is prohibited from receiving or possessing firearms under federal law. A person may sell or transfer a firearm to a licensee (FFL) in any state.

Likewise, a person may only acquire a firearm within the person's own state, except that he or she may purchase or otherwise acquire a rifle or shotgun in person at an FFL's premises in any state, provided the sale complies with state laws applicable in the state of sale and the state where the purchaser resides. See 18 U.S.C. § 922(a)(3) and (5); § 922(b)(3); 27 C.F.R. § 478.29 and § 478.30.

Federal Law On Selling Firearms (18 U.S.C. § 921, § 922, § 923)

Under the Gun Control Act of 1968, any person who is "engaged in the business" of selling firearms must be a federally licensed firearm dealer (FFL). One is "engaged in the business" of selling firearms if he or she "devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms." FFLs have several duties they must fulfill prior to selling a firearm, including performing a background check and maintaining meticulous records of all sales.

Excluded from the federal requirements (and thus, the federal recordkeeping/background checks) are private parties who "make occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sell all or part of his personal collection of firearms."

Thus, under federal law, a private party is not required to perform a background check, inspect a purchaser's identification, or keep a record of the sale of a firearm. However, state laws may impose such a duty.

LEGAL UPDATE:

On April 10, 2024, the U.S. Attorney General signed a final rule that changed how the ATF interprets private party firearm sales (ATF Rule 2022R-17F). The rule more expansively defines who would be considered "Engaged in the Business" as a dealer in firearms. Under the new rule, if you are included within the broader definition of one who is "Engaged in the Business" of selling firearms, you must be a federally licensed firearm dealer. You can read more about the ATF's interpretation of the new rule by clicking here.

State Laws Related To Selling Firearms

Some states impose the same extensive background check duties on private parties as federal law imposes on federal dealers. For example, some states require the transfer of a privately owned firearm be done through a federally licensed dealer (i.e. no private party transfers of handguns).

Other states have less burdensome procedures, but still require some sort of recordkeeping, background check, or reporting. This can vary from a simple record (bill of sale) kept in your possession, or a report that must be filed with law enforcement within a certain time period. To complicate matters further, several municipalities have imposed their own recordkeeping requirements in addition to what the state and federal laws already require.

Finally, there are also states that do not regulate the private party transfer of firearms in any significant way. In these states background checks, recordkeeping or state filings are not required for private party sales.

It is crucial that you verify with your state and local law enforcement what procedures may be required prior to selling or purchasing a handgun from a private party.

Summary

In summary, under federal law, there are three people to whom you may not sell or give a firearm:

1. Anyone prohibited from possessing a firearm under federal law;
2. Anyone who currently resides in another state than yourself; and
3. Anyone under the age of 18.

State laws may add additional restrictions.

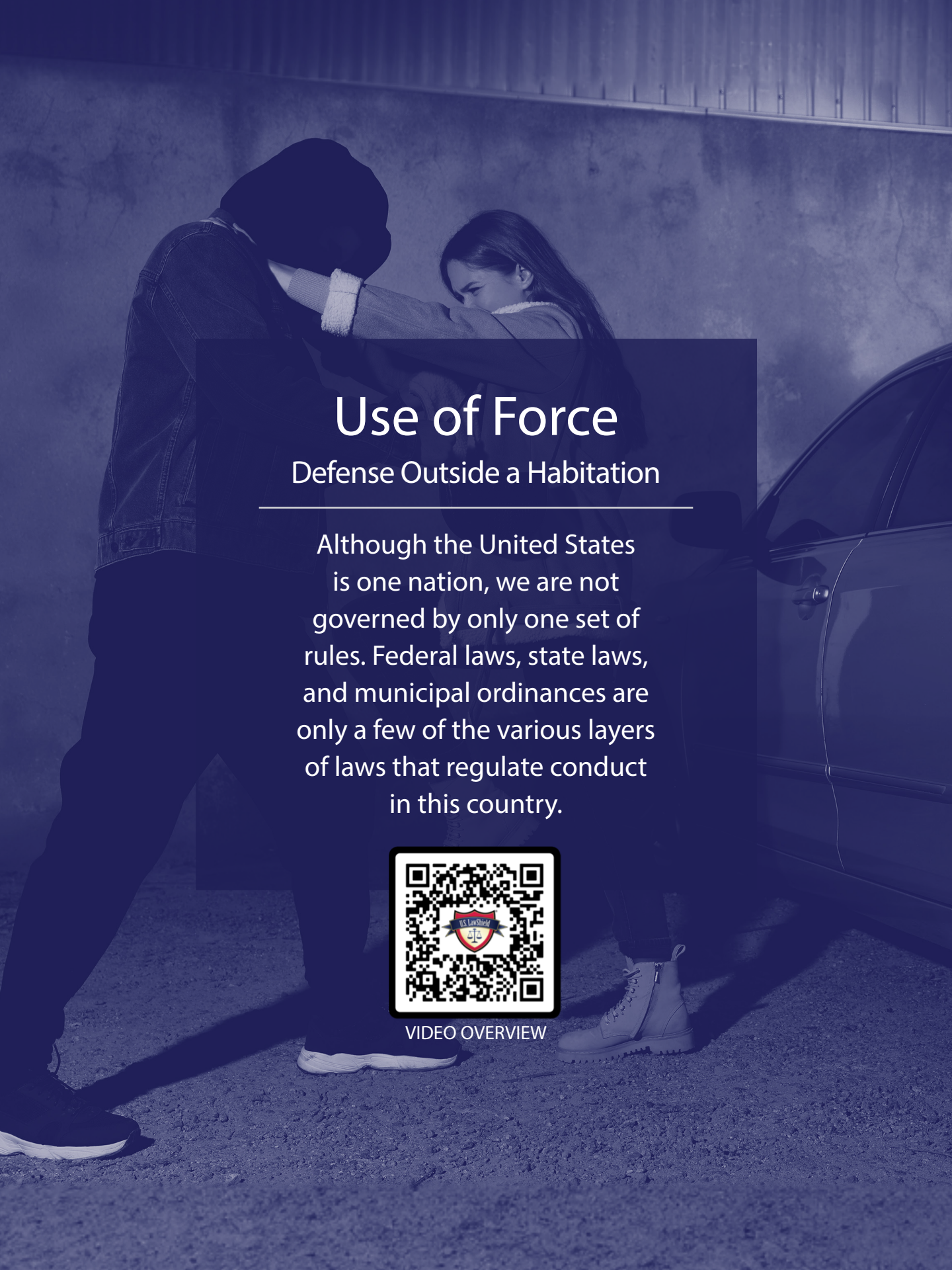
Straw Purchase Overview

Purchasing a firearm on behalf of someone else, at the other person's request, is an illegal act known as a "straw purchase." A straw purchase occurs when Person A buys a firearm for Person B, at Person B's request. Straw purchases are illegal because criminals and other people who cannot pass a background check often ask those with clean criminal backgrounds to buy guns for them, thus circumventing the mandatory background check.

What About Gifts?



Where a person purchases a firearm with the intent of making a gift of the firearm to another person, the person making the purchase is indeed the true purchaser and it would comply with the law. For example, if Mr. Jones bought a firearm with his own money to give to Mr. Smith as a birthday present, it would not be considered a straw purchase so long as Mr. Jones was not directed or compensated by Mr. Smith to do so. The use of gift certificates would also not fall within the category of straw purchases. The person redeeming the gift certificate would be the actual purchaser of the firearm and would be properly reflected as such in the dealer's records.



Use of Force

Defense Outside a Habitation

Although the United States is one nation, we are not governed by only one set of rules. Federal laws, state laws, and municipal ordinances are only a few of the various layers of laws that regulate conduct in this country.

VIDEO OVERVIEW

Many are surprised to learn, for example, that murder is generally a state law crime and is only prosecuted under federal law in very limited circumstances. In fact, the vast majority of self-defense rules are creations of state law. As such, these rules will vary significantly from state to state. Even within a particular state, there are also variables that will affect which specific laws apply to each situation. For example, there are separate laws that apply to self-defense inside a habitation, and those will not apply while walking down the street. However, there are certain principles related to self-defense that are broadly applicable to all circumstances and can help provide us with general guidance.

In this section we will provide an overview of some of the most common self-defense rules, be it outside a habitation, inside a habitation, or defending one's property.

Let's first discuss when you are allowed to use deadly force to defend yourself or someone else during a violent encounter outside of your habitation. We will define the term habitation in a moment, but for now simply consider it to be your home. Generally speaking, the use of deadly force (or a firearm) is only justified to prevent death, serious injury, or a violent felony. In an attempt to simplify the analysis as much as possible, there are three primary rules that must be satisfied prior to using deadly force outside of your habitation.

Self-Defense Rule Number 1: Immediacy - There must be an immediate or imminent threat.

The term imminent is synonymous with immediate. In the criminal law system, an imminent threat is an immediate, real threat to one's safety sufficient to cause a reasonable and prudent person to defend themself. Meaning, in order to satisfy this rule, the threat must be actually occurring at that time. It isn't happening tomorrow, and it didn't happen yesterday. What specifically constitutes imminent in all circumstances is difficult to define, but courts have agreed it must be an event that is "almost immediately forthcoming." The court will make a determination of imminence based upon the nature of the danger, the immediacy of the danger, the attacker's prior violent acts or violent propensities, and any other relevant factors.

If the attacker has withdrawn and no longer poses an active threat (i.e. they are fleeing the scene), your use of deadly force may be viewed as retaliatory in nature and thus, unjustified. This is why many assume the erroneous conclusion that shooting someone in the back automatically negates a claim to self-defense. That's not necessarily true, as there are hundreds of examples of justified deadly force involving wounds to an attacker's back. However, the underlying principle that if an attacker is fleeing, they generally no longer present an imminent threat is well founded.

If the threat is indeed imminent, however, the analysis then moves to Self-Defense Rule Number 2.

Self-Defense Rule Number 2: Reasonableness - The threat must be reasonably likely to cause serious injury or death.

Even if a threatened attack is imminent, the threat must also be reasonably likely to cause serious injury or death for you to be justified in the use deadly force. Two key terms must be defined in order to understand this rule. "Serious bodily injury" is defined as bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. "Reasonably likely" means a degree of probability greater than 5 on a scale of 1 to 10. Meaning, you must believe you are more likely than not to be seriously injured or killed. Sadly, there is no scientific formula for determining if a particular situation is reasonably likely to cause you serious injury or death; it requires you to use your own judgment. The courts have cautioned, however, that a reasonable belief must be one in which "the actor is not reckless or negligent in holding."

Based on the cases we have studied, there are four common factors you can look for to help determine if a situation is reasonably likely to cause serious injury or death.

Factor 1:	The Presence of a Weapon - If the attacker has a weapon, such as a bat, knife, gun, or other serious instrument of harm, you are generally justified in believing you will be seriously injured or killed.
Factor 2:	Multiple Attackers - As the number of attackers increases, so too does the likelihood that you will be seriously injured or killed. Two attackers are generally more serious than one, three more than two.
Factor 3:	A Significant Disparity in Physical Capability or Size - Disparity refers to the difference in size or physical capability between you and the attacker. To justify deadly force, the disparity between you and the attacker must be so significant that no reasonable person would interpret it as a fair fight. Physical disabilities, ailments, or other factors will be considered when making a disparity claim.
Factor 4:	A Unique History of Violence Between You and the Attacker - If you have a particularly violent history with the individual who is now threatening you with harm and that history reasonably indicates that the individual is likely to present you with serious injury or death, then that history may be considered in justifying the use of defensive force. For example, a woman who has suffered through years of repeated, forceful physical abuse at the hands of her husband has a greater sensitivity to danger, which has come about because of the intimacy and history of the relationship, and is more justified than most to anticipate future acts of violence. Courts have repeatedly ruled that one's unique history of violence is particularly relevant to the reasonableness of self-defense actions. Bechtel v. State, 1992 OK CR 55, 840 P.2d 1, 10

When a prosecutor reviews a self-defense case to determine if it was justified, they are often looking for one of the above four factors. If your attacker does not present one of the above four factors, it doesn't necessarily mean you aren't justified in using deadly force, but it significantly increases the likelihood a jury will hear the case. Consider the highly publicized 2012 Florida case of George Zimmerman and Trayvon Martin, in which Zimmerman was charged with second-degree murder for shooting Martin during an altercation. In that case, Martin did not have a weapon, there were not multiple attackers, there was not a significant disparity in physical force or capability (Zimmerman was shorter but approximately 30 pounds heavier), and there was no unique history of violence between Martin

and Zimmerman. Given the absence of those factors, it was left to a jury to decide Zimmerman's fate in a trial that reportedly cost Zimmerman $2.5 million in legal fees.

Even if Self-Defense Rule Numbers 1 and 2 are satisfied, however, there is still one more rule to consider.

Self-Defense Rule Number 3: Proportionality and Necessity - Deadly force must be your only reasonable option, and your use of force must be proportionate to the threat.

Is deadly force your only reasonable option to avoid serious bodily injury or death? Are any other options available? Imagine you are involved in the following scenario:

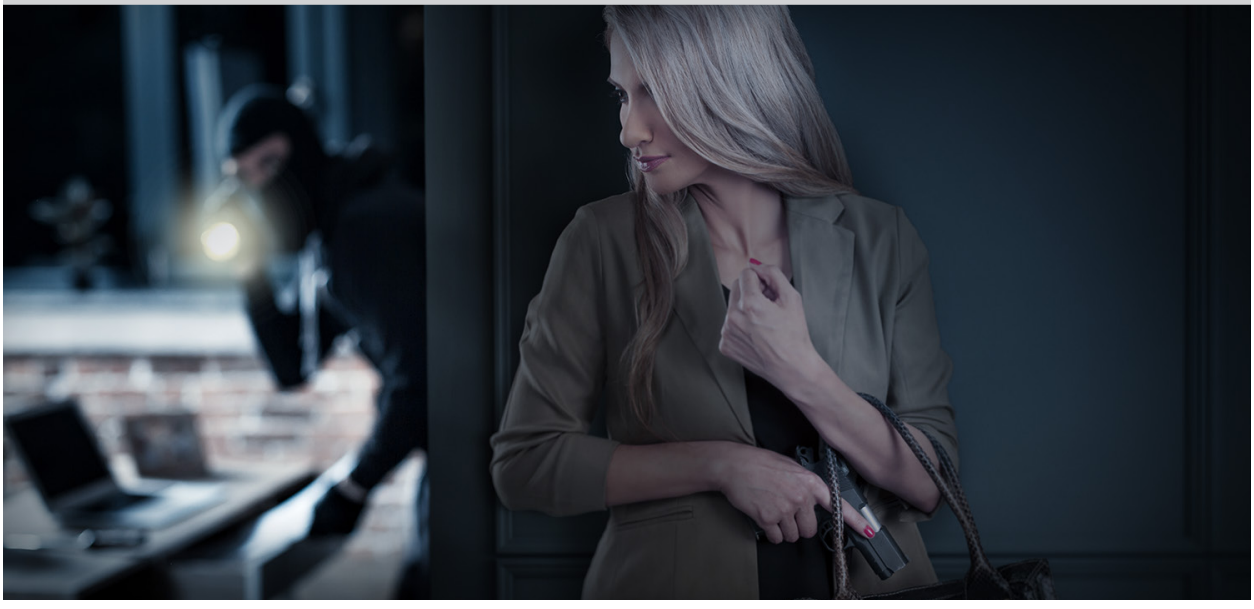
> While driving home one night with your spouse and newborn child, you are followed and harassed by a vehicle, which ultimately passes you and comes to a stop in an empty intersection. The driver of the vehicle exits in the middle of the intersection, carrying a baseball bat, and proceeds to strike the hood of your vehicle. Would you be justified in using deadly force at that moment? Don't answer yet, let's analyze the three rules in order.

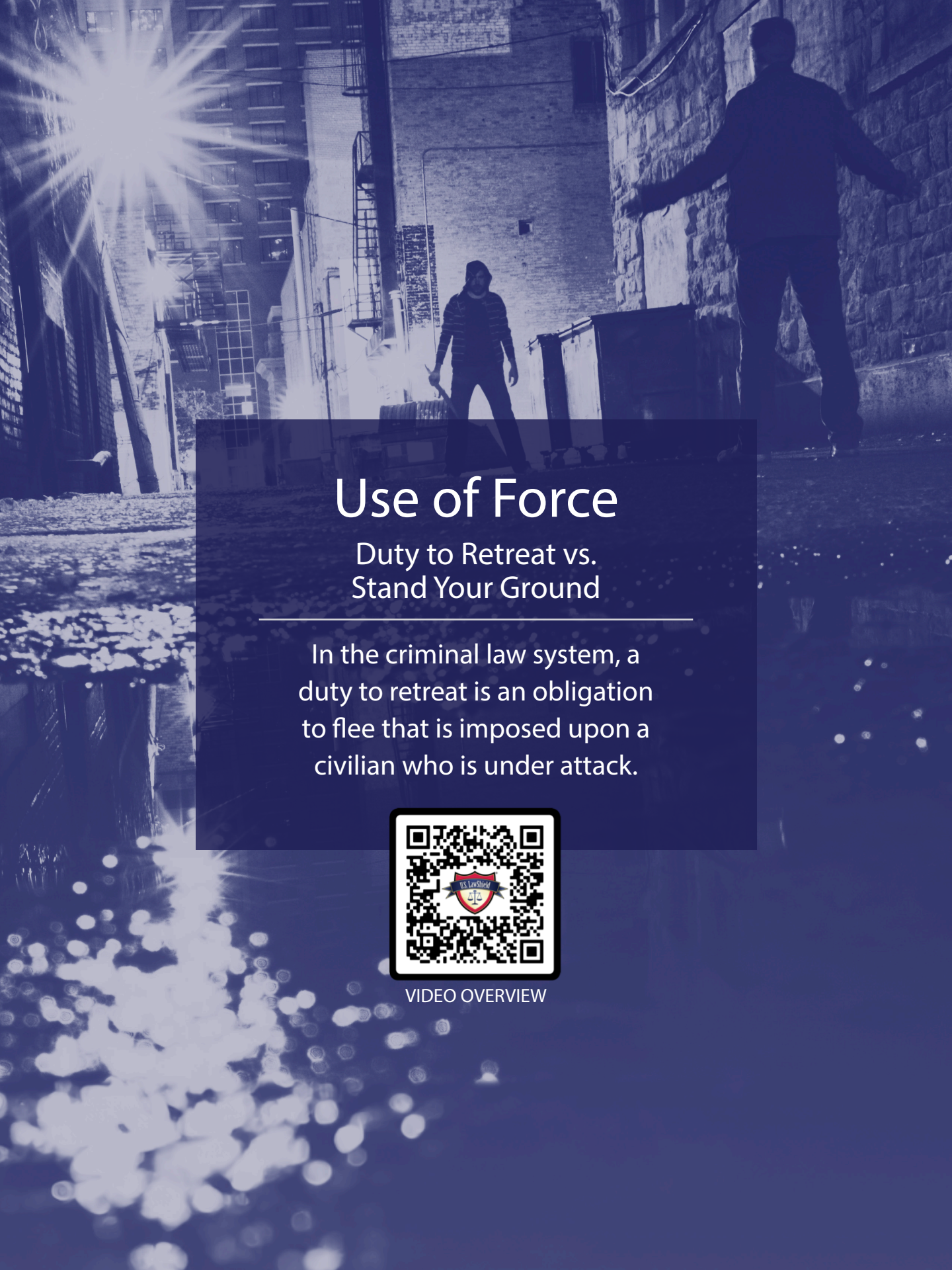
Is it imminent? Yes. The attacker is actually threatening you at that moment and is actively engaged in the attack. Second, is it reasonably likely to cause serious injury or death to yourself, your spouse, or your child? Although you're in the vehicle, we can reasonably assume that the presence of a weapon (e.g. a baseball bat) still constitutes a reasonable threat of serious bodily injury. What about the last rule? Is deadly force your only reasonable option under these circumstances? Remember, it was an empty intersection. Assuming your vehicle is not blocked in, you have a clearly reasonable option to mitigate the risk, which is simply to drive away. Now, whether you are legally required to drive away (called a "duty to retreat") is a separate topic we will cover later, but for purposes of this discussion, assume that if you have a clearly safe option to avoid using deadly force, you should always do so.

Similarly, it is essential to understand that you are only justified in using the same amount of force against an attacker that they are attempting to use against you. This is a legal concept called proportionality. Proportionality refers to the principle that the use of force in self-defense should be in proportion to the threat or grievance provoking the use of force. Said another way, you may respond with equal or lesser force but never with greater force. If your response is proportionately greater than the force being used against you, you may now be criminally charged.

In summary, the following factors must be met in order to use deadly force outside of a habitation:

1. There must be an imminent threat; that is
2. Reasonably likely to cause serious bodily injury or death; and
3. Deadly force (or your firearm) must be your only reasonable option to avoid the harm.





Use of Force

Duty to Retreat vs. Stand Your Ground

In the criminal law system, a duty to retreat is an obligation to flee that is imposed upon a civilian who is under attack.

VIDEO OVERVIEW

If applicable, it applies to the victim of unlawful force prior to their ability to use deadly force to defend him or herself. The duty to retreat makes self-defense unavailable to those who use deadly force when they could have retreated from the confrontation safely.

Critics of duty to retreat laws point out that, in function, these laws impose a legal obligation on the victim of a crime in order to protect an attacker. Imposing legal burdens on the victims of violent crimes is something that runs contrary to mainstream American sentiment. As the courts have noted, "the tendency of the American mind seems to be very strongly against the enforcement of any rule which requires a person to flee when assailed." For this reason, only a minority of states have duty to retreat laws in place.

The alternative to duty to retreat laws is no duty to retreat laws or stand your ground laws as they're commonly called. Stand your ground states impose no duty to flee upon victims and instead state that one can stand their ground and meet force with force whenever one: (1) is attacked in any place where he or she is lawfully present; (2) reasonably believes that force is needed to protect himself, herself, or others from imminent death or serious bodily injury; and (3) is not engaged in unlawful activity at the time of the event.

To illustrate the stark difference between these two legal ideologies, consider the below examples:

Duty to retreat example (Nebraska):

- The use of deadly force shall not be justifiable if…The actor knows that he can avoid the necessity of using such force with complete safety by retreating or by surrendering possession of a thing to a person asserting a claim of right thereto... Neb. Rev. Stat. Ann. § 28-1409(4)

Stand your ground example (Florida):

- A person who uses or threatens to use deadly force … does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be. Fla. Stat. Ann. § 776.012(2)



As you can see, not only does Nebraska legally obligate an actor to retreat, but they may further be obligated to surrender possession of a thing (i.e. a wallet) that someone else is asserting a claim to prior to being justified to defend themself. That is a dramatically different standard than Florida, which simply allows a person to stand his or her ground so long as the person is not trespassing or committing a crime.

As is the case with Nebraska, even if a state has a duty to retreat law, a person is generally only required to make efforts to retreat if they can do so in complete safety.

Use of Force

Defense Inside a Habitation

> For a man's house is his castle, et domus sua cuique est tutissimum refugium [and each man's home is his safest refuge].

-Sir Edward Coke, The Institutes of the Laws of England, 1628.

VIDEO OVERVIEW

The "castle doctrine" is a legal doctrine that coined its name from the long-held legal principle that one's house is their castle. It designates one's place of residence (or in some states, any legally occupied structure or modality) as a place in which one enjoys amplified legal protection from trespass and violent attack. The doctrine gives a person the legal right to use deadly force to defend that place and/or any third party found therein from violent attack, felonies, or an illegal entrance which may reasonably lead to violent attack. As the State of New Jersey defines it:

> The "castle doctrine" is a long-standing American legal concept arising from English common law that provides that one's abode is a special area in which one enjoys certain protections and immunities, that one is not obligated to retreat before defending oneself against attack, and that one may do so without fear of prosecution.

Some states have statutorily enacted castle doctrine laws, some have judicially created protections (called "common laws"), and others have no amplified protections in the home at all.

The underlying logic behind granting someone amplified legal protections inside a habitation relates more to the criminal than the homeowner. It can be reasonably assumed that a criminal who breaks into a tool shed or steals a bike off your front lawn does not intend to cause you physical harm (at least not at that moment). In that instance, their motivation appears to be the theft of property, which although still a crime, does not generally justify deadly force. However, the type of criminal who makes the conscious decision to enter a habitation does so accepting there may be occupants inside and enters nevertheless. This is a higher level of criminal and thus, merits a proportionately higher level of response by the occupants.

So, what is considered a habitation? This answer will depend largely on state law, as the terms habitation, home, or curtilage will be defined differently from state to state. Let's look at two examples:

North Carolina:
"Home" means a building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence. N.C. Gen. Stat. Ann. § 14-51.2

Ohio:
"Dwelling" means a building or conveyance of any kind that has a roof over it and that is designed to be occupied by people lodging in the building or conveyance at night, regardless of whether the building or conveyance is temporary or permanent or is mobile or immobile. As used in this division, a building or conveyance includes, but is not limited to, an attached porch, and a building or conveyance with a roof over it includes, but is not limited to, a tent. Ohio Rev. Code Ann. § 2901.05

Often the terms habitation, home and dwelling will include hotel rooms, tents, campers, or any dwelling where you will be lawfully sleeping that night. It is important to become informed on each state's castle doctrine laws as they often dictate the reasonableness of force in defense of habitations, property, and real property. The primary factor influencing if a structure would be considered a habitation is if a criminal would reasonably anticipate people would be occupying the structure. For this reason, a criminal breaking into a detached tool shed is objectively less of a threat than one breaking into a home.

Many states have instituted castle doctrine laws, with varying degrees of formality. Some state laws include a presumption of reasonableness when one uses deadly force against an intruder, while others simply dictate that there is no duty to retreat while inside a habitation. Let's look at a particularly strong castle doctrine example from Utah:

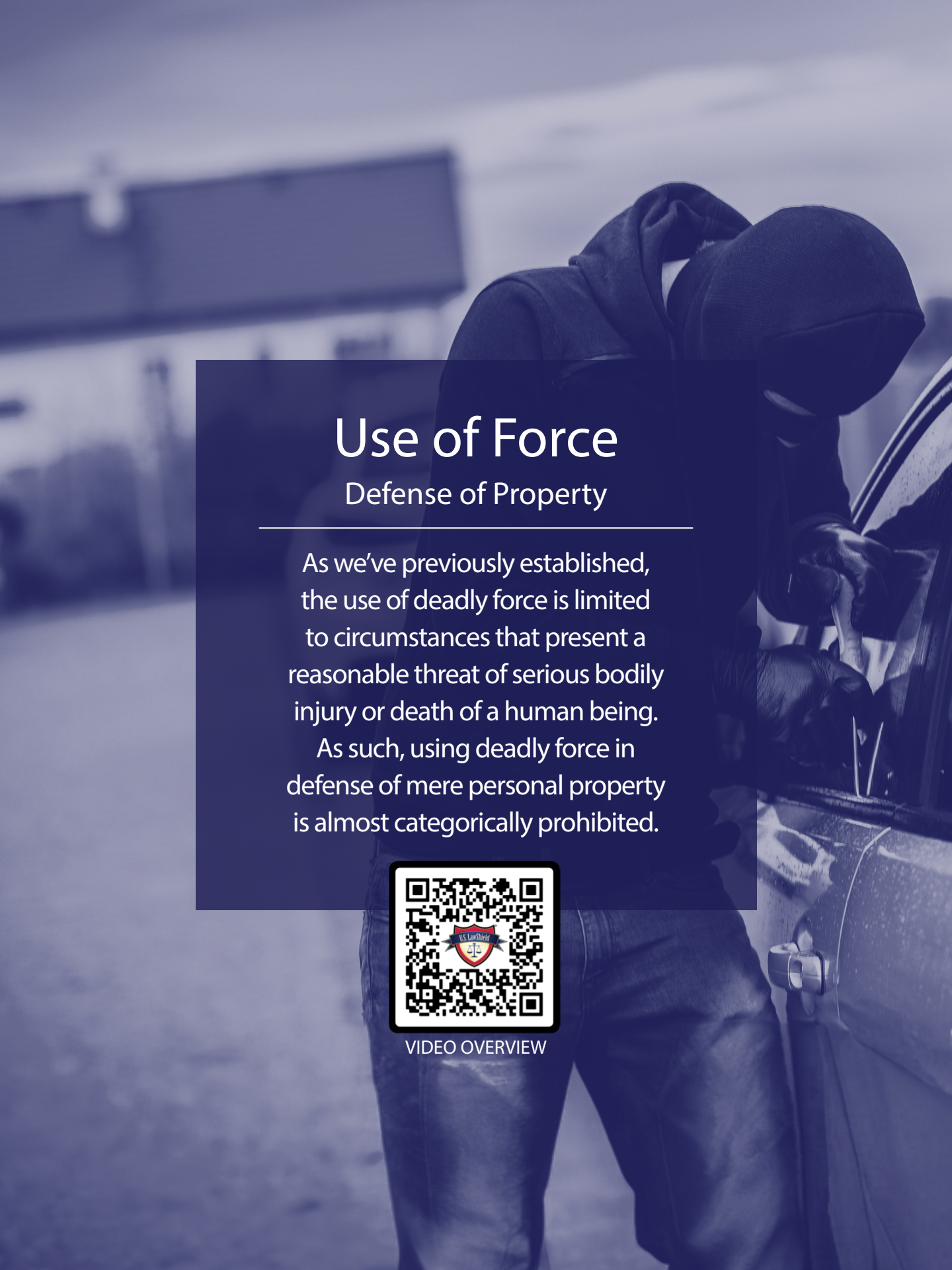
The Law:

A person is justified in using force against another when and to the extent that he reasonably believes that the force is necessary to prevent or terminate the other's unlawful entry into or attack upon his habitation; however, he is justified in the use of force which is intended or likely to cause death or serious bodily injury only if the entry is made or attempted in a violent and tumultuous manner, surreptitiously, or by stealth, and he reasonably believes that the entry is attempted or made for the purpose of assaulting or offering personal violence to any person, dwelling, or being in the habitation and he reasonably believes that the force is necessary to prevent the assault or offer of personal violence;

The person using force or deadly force in defense of habitation is presumed for the purpose of both civil and criminal cases to have acted reasonably and had a reasonable fear of imminent peril of death or serious bodily injury if the entry or attempted entry is unlawful and is made or attempted by use of force, or in a violent and tumultuous manner, or surreptitiously or by stealth, or for the purpose of committing a felony.

Utah Code Ann. § 76-2-405

As you can see, Utah not only allows for an amplified level of self-defense inside a habitation, but the law also actually grants an automatic presumption of reasonableness to anyone who uses deadly force against an unlawful home invader. As opposed to the standard innocent until proven guilty standard, Utah's castle doctrine law creates a very innocent until proven guilty framework that is much more difficult for prosecutors to overcome. Not all states will have laws as strongly worded as Utah, but most provide some form of additional protections for defensive incidents inside of a habitation.



Use of Force

Defense of Property

As we've previously established, the use of deadly force is limited to circumstances that present a reasonable threat of serious bodily injury or death of a human being. As such, using deadly force in defense of mere personal property is almost categorically prohibited.

VIDEO OVERVIEW

Although most states will allow the use of force in defense of property (i.e. physically restraining someone until the police arrive), the use or threatened use of deadly force is not permitted. Consider the below Connecticut law as an example:

The Law:

A person is justified in using reasonable physical force upon another person when and to the extent that he reasonably believes such to be necessary to prevent an attempt by such other person to commit larceny or criminal mischief involving property, or when and to the extent he reasonably believes such to be necessary to regain property which he reasonably believes to have been acquired by larceny within a reasonable time prior to the use of such force; but he may use deadly physical force under such circumstances only in defense of person as prescribed in [the law for defense of persons].

Conn. Gen. Stat. Ann. § 53a-21

Texas appears to be the only state that has legal provisions for deadly force involving personal property, but only under very limited circumstances.



The Law:

A person is justified in using deadly force against another to protect land or tangible, movable property if …he reasonably believes that:

(A) the land or property cannot be protected or recovered by any other means; or

(B) the use of force other than deadly force to protect or recover the land or property would expose the actor or another to a substantial risk of death or serious bodily injury.

Tex. Penal Code Ann. § 9.42

Even in Texas, the courts have carefully scrutinized the motivations and reasonableness of deadly force when only personal property is in danger. In one of the few rulings on this topic, the court noted, "If defendant killed deceased with malice and not to prevent him from fleeing with property taken …, although deceased might have been actually fleeing with [the] property, defendant would be guilty of murder." Alsup v. State, 120 Tex. Crim. 310, 49 S.W.2d 749 (1932), quoting Vernon's Ann.P.C. art. 1222, subd. 5

Finally, the question arises as to situations where the criminal may escalate the threat from one involving only property (i.e. theft) to one involving human life. For example, if you confront someone who is stealing tools from your shed, and they respond by threatening you with those tools, what are you legally allowed to do? In this instance, we are no longer bound by the rules regulating defense of property, and instead we are now governed by the rules applicable to defense of persons outside a habitation (as discussed earlier). However, a key factor here is that it must be the criminal that escalates the threatened force, not you. If you present deadly force to a mere property thief (i.e. racking a round in the chamber of a firearm or firing a warning shot), that thief may react more aggressively than they otherwise would have. In that instance, it may be found that you escalated the force and thus, you may be found criminally liable for what happens next.

This principle was illustrated by the 2020 case of Ahmaud Arbery in Georgia. There, the 25-year-old Arbery was followed by three men who suspected Arbery of committing a property crime. Upon confronting Arbery, two of the men presented weapons (a .357 revolver and a shotgun). After attempting to gain control of one of the weapons, Arbery was subsequently shot and killed. Although only one pulled the trigger, and all three made a claim of self-defense, all three men were ultimately convicted of a litany of charges, including felony murder. In making her closing arguments at trial, the prosecutor argued "you can't create the situation and then go 'I was defending myself.'"

Because no self-defense situation is identical, it is often hard to draw a clear line between when someone is merely committing a property crime and when someone presents a more dangerous threat. However, as a general rule, if you reasonably feel only property is being threatened, the law strongly discourages the threatening or use of deadly force.

Civil Liability

Much of what we have covered so far has dealt with criminal law. However, civil law also plays a significant role in claims of self-defense.

VIDEO OVERVIEW



In criminal law, the government brings an action against an individual, most often seeking to impose a punishment of imprisonment and fines. Civil law actions, however, are most commonly initiated by individuals against other individuals, and the remedy sought is generally money. It is important to remember that both criminal and civil actions can be commenced simultaneously and are processed through different court systems. This means it is not uncommon for an actor to be defending themself from criminal charges (e.g. second-degree murder) and a separate civil lawsuit brought by the family of the deceased attacker. Even if someone is not charged criminally, they can still be sued civilly. This means that the victim of a violent crime whose actions are determined to have been justified self-defense could still potentially be sued by their attacker's family.

Imagine you've survived the scariest moment of your life: successfully defending yourself against an attacker. You've also made it through an exhaustive criminal case in which you were exonerated after asserting that you acted in justified self-defense. It appears your life can return to normal.

Not so fast…

Depending on your situation, you could be facing another legal battle in civil court brought by the attacker or their family. Sound impossible? It's not and, in some states, it's more likely to happen.

If you lose in civil court, you'll likely be responsible for medical bills, pain and suffering, lost wages, and any other damage you caused to the bad guy. If the attacker dies and it's found to be a wrongful death, you could be responsible for any medical bills and funeral costs, plus the family's loss of companionship and the loss of financial contributions the attacker might have provided during his life.

To address the potential for frivolous civil lawsuits, some states have implemented protective measures in the form of civil immunity statutes. These statutes serve to shield victims from certain civil lawsuits. If your state has a civil immunity statute in place, you generally enjoy protection from being sued by your attacker or attacker's family as long as your use of force is deemed to be criminally justified. This legal framework provides a layer of protection for individuals who, in the course of defending themselves, might otherwise be subjected to additional legal challenges in the form of civil lawsuits.

The good news is that U.S. LawShield® members don't have to go through this alone. From the moment you are forced to defend yourself until your last day of court, an Independent Program Attorney will be with you every step of the way. This is yet another reason to cover yourself in the blanket of protection offered by a U.S. LawShield membership.



Post Incident Planning

The 911 Call & Statements to Police

VIDEO OVERVIEW

The 911 Call:



Once you are certain your life is no longer in danger, the first thing you need to do after acting in self-defense is contact law enforcement. Knowing what to say—and what not to say—after using force in self-defense will play a major role in the legal treatment of your case. Anyone would be nervous about speaking with law enforcement under these circumstances, the tips provided in this section will help you to navigate this interaction so you don't "overshare" with the operator, and accidentally jeopardize your legal defense:

Warning!

All 911 calls are recorded, so be careful with what you say! This applies not only to the time after the dispatcher answers the call, but often starts the moment you dial 911. Calls are often recorded before the operator picks up.

Do not say more than necessary. Any information you provide during the 911 call is admissible at trial as non-hearsay evidence, and can have a negative impact on your future legal defense. Although it's much easier to monitor your words when reading off a list, the reality is that emergency situations are seldom "textbook" and for your own safety, you will probably need to deviate some from a written script. Thankfully, the information that must be provided is fairly standard, and can generally be covered by the following talking points to help prevent "oversharing."

	What Is Your Emergency?
	What Is Your Location?
	What Are Your Injuries?
	Weapons?
	Identify Yourself

What Is Your Emergency?

The first words you will usually hear are "what is your emergency?" Although this question may be difficult to answer, this information is necessary for responding units and you probably won't get much further without answering. The dispatcher needs to know what type of emergency, so they know who to send and what they need to be prepared for. Providing this information up front may buy you some time before they push too much more for all the details.

Tell them you were attacked and provide enough context to figure out what kind of help to send:

"Someone broke into my house and attacked me!"

"Someone stabbed me and I need an ambulance"

In addition to answering their question, this also establishes that you are the victim, which could be an important factor in influencing how you are treated when officers arrive on the scene.

Location

Your exact location is the most important piece of information needed for emergency responders to send help. They will generally try to get this information before even asking for your name. In the event you get disconnected, this is the most vital piece of information they need. Provide the best description possible – even if it requires a little extra effort.

Ideally provide the exact address, best point of entry, gate codes, or any other information they may need to gain access and find you. If you're not able to provide an address, be as specific as possible (intersection, quadrant, landmarks, building or business name).

Injuries

To determine the services sent and the type of response needed, the dispatcher will need to clarify the extent of any injuries. This is a good time to double-check yourself and others for any overlooked injuries. If anyone, including yourself, is injured, dispatch is also able to provide instructions for life-saving care. Request any emergency services needed for you, bystanders, and your assailant. If someone has been shot, request an ambulance and police.

Weapons

At some point early on in this conversation, the dispatcher is going to want to clarify the presence of any weapons and the location and condition of those weapons. This information is used to coordinate response by law enforcement and to adjust the response plan. U.S. LawShield Independent Program Attorneys generally recommend not discussing weapons on the 911 call.

However, if you feel it is necessary to provide this information to dispatch provide a simple, but detailed location and condition of any weapons so officers know what to expect. If you are still in danger, explain that to the dispatcher and assure them that you will turn the situation over to the police and put your gun down as soon as they arrive. They may request more information if you are going to have a gun in your hand upon officer arrival.

If there is no longer an imminent threat to your safety, you may desire to unload your firearm. However, U.S. LawShield Independent Program Attorneys warn that in some circumstances, unloading your gun after

a shooting could be construed as tampering with evidence and do not recommend unloading doing so. Whether loaded or unloaded, your firearm should be out of your reach, but still visible to responding officers when they arrive.

Identify Yourself & Others

Provide your name and physical description. They will generally ask for your age (or date of birth), height, weight, hair color, clothing description, and as much of that information as you can provide about anyone else present.

If asked, you may also want to provide some basic identifying information about the attacker so responding officers can quickly differentiate you from the attacker. If the attacker has left the area, provide as much detail as possible about their direction of travel, any weapons they may have, and any insight you may have as to their destination.

Breathe

Once you have conveyed this urgent information to dispatch, take a few deep breaths and try to calm your mind and body. The opportunity to stop talking will help calm your mind and provide an opportunity to focus and think more clearly. At this point dispatch will probably let you know if it's okay to hang up, or depending on the situation, they may ask you to stay on the line until officers arrive.

U.S. LawShield Independent Program Attorneys DO NOT recommend staying on the line with dispatch, as doing so will prevent U.S. LawShield members from calling the Emergency Hotline before police arrive. Calling the Emergency Hotline can give you access to your attorney prior to speaking with law enforcement, and the guidance your attorney will provide can be critical.

If you decide to stay on the line with dispatch, you can simply tell them you need to focus your attention on the situation and can leave them on speaker phone if they need anything. If you elect to hang up on dispatch, let them know you are doing so, and assure them you will watch for responding officers and comply with their instructions. Hanging up unexpectedly or without an explanation can create mixed signals and concerns for officer safety, resulting in adjustments or delays in their response that may not be in your favor.



Preparing for Emergency Responders to Arrive:

What you do during that "in-between" time after calling law enforcement, but before they show up on the scene, may also play a significant role in the way your self-defense case is treated. Here are some tips to consider.

- The Firearm Will Need To Be Collected As Evidence:
  If you place your firearm in your safe, or hide it, you are risking your gun safe and/or home may be searched under the "exigent search" exception to the 4th Amendment's warrant requirement. While a warrant is generally required, the exigent search exception allows a warrantless search of a person, vehicle or home in circumstances where there is an imminent danger to human life, or the destruction of evidence.

  If law enforcement asks to search your property, it may mean they do not have the legal right to do so without your consent. If you are asked, you should not give consent. While they still might conduct a search, be clear that you do not consent. Do not ever attempt to physically prevent a search.

- If Possible, Get The Gun Out of Your Hand: Ideally, your firearm should be unloaded, locked open, out of reach, and immediately visible to officers upon arrival. A gun in your hand, or easily accessible to you, could appear to be a threat to responding officers.

  Your holster is not a good option unless it's your only option to keep it safe and out of the reach of others.

A firearm in your holster is still easily accessible and will require extra caution as police approach you. They are not going to let you walk around with it in your holster, and need to collect it as evidence, which means it will somehow have to be removed from your holster in a manner that everyone else is comfortable with.

Unless accessibility to others is a concern, keeping the gun easily visible and as near the scene as safely possible is preferred. Putting it somewhere out of sight or taking it away from the scene could be interpreted as an attempt to manipulate or hide evidence.

- Preserve the Scene:
  Be careful with evidence. Do not leave the scene, but if the threat has been eliminated you should leave the immediate area (i.e. room) without manipulating or touching anything that might be used as evidence.

  Do not collect shell casings, do not move objects, and touch as little as possible. You do not want your post-incident actions, which might take place while in a state of shock and you may not even recall at a later point, to be interpreted as an attempt to tamper with evidence.

- Prepare for Detention and Evidence Collection:
  When law enforcement arrives on the scene they will begin collecting evidence immediately. Try to position yourself so that you are easy to locate and identify, facing the expected point of entry, hands empty and visibly in the air to communicate that you are not a threat.

  Assume you will be held at gun point, be given aggressive verbal commands, and be handcuffed upon police arrival. Remember, at this point it's just a safety procedure to ensure that everyone is safe. Try to remain calm and listen closely to the officer's commands, there will be time to clarify your side of the story later. This may mean they will place you in handcuffs in order to preserve their ability to collect evidence and process the scene. This is called an investigatory detention, and does not mean you are under arrest.

Police will generally begin to gather evidence quickly, some of which includes:

- Gunshot Residue (GSR) Samples: Gunshot residue results from the discharge of a firearm. This includes primer, powder, and/or projectile material and products of their combustion. The residue is often deposited on the hands of a shooter, and the intensity and pattern of the residue is often analyzed by investigators. You can anticipate that an officer will collect gunshot residue samples from your hands by wiping an adhesive coated disc in a systematic pattern, generally focusing on the web area between the junction of the thumb and forefingers and down the forefinger. This is generally done prior to you being fingerprinted, being allowed to wash your hands, or sometimes before even being handcuffed.

- Photographs: Photographs of any injuries to your body, or gunshot residue on your body/clothing will be collected.

- Clothing: Officers are instructed to gather clothing or other material showing evidence of gun powder residue or shot holes. They may ask you to change clothing and will carefully photograph and package the clothing you were wearing at the time of the incident.

- Witnesses: Officers will identify any potential witnesses and gather statements. Officers will also look for any audio or video recordings in the area that might contain evidence.

Although you may be asked to consent to the collection of this evidence, law enforcement likely does not need it. Generally speaking, this evidence will be gathered with or without your consent.



Statements to Law Enforcement:

Will refusing to speak to law enforcement, or provide a statement, cause them to arrest you?

Possibly...but it is easier to get released from temporary detainment than from a wrongful conviction. Police officers are trained to get information from you without making the interaction seem like a formal interrogation.

For consideration, here are the questions an officer is expected to answer after a shooting:

- Are you injured?
- If you know of anyone who was injured, what is his or her location?
- In what direction did you fire your weapon(s)?
- If any suspects are at large, what are their descriptions?
  - o What was their direction of travel?
  - o How long ago did they flee?
  - o With what weapons are they armed?
- Does any evidence need to be preserved?
  - o Where is it located?
  - o Did you observe any witness(es)? Where are they?

From the moment an officer arrives on the scene, everything you say and do can be scrutinized months later in court. As the oft-cited Miranda Warning states: "You have the right to remain silent. Anything you say can and will be used against you in a court of law." Knowing this, there are some important things to consider prior to giving a statement to law enforcement.

Psychological and Physiological Considerations:

Studies have shown that those forced to use deadly force experience a range of psychological, emotional, and physiological reactions that distort time, distance, sight, and sound.

The stress of a deadly force event can cause an acute stress response in the body, which results in a range of psychological, emotional, and physiological reactions. Many individuals found their recollection of events related to the shooting to be imperfect. For example, in some cases individuals cannot even recall firing their guns. The number of rounds fired is also often incorrectly recalled by the actor, as is the position or proximity of the attacker at the time of the shooting. Due to these physiological reactions, statements given to police immediately following a use of force incident are often factually incorrect.

Common Side-Effects of Acute Stress Response Include:

- Difficulty concentrating
- Not recalling firing the gun at all
- Inaccurately recalling the number of rounds fired
- Inaccurate recall of distances
- Time distortions
- Memory gaps and false memories

Consider how law enforcement are advised to handle statements after their own use of force incidents. The International Association of Chiefs of Police (IACP) Police Psychological Services Section recommends against an officer providing a statement at the scene, and instead recommends delaying the collection of statements from 48 to 72 hours. The purpose of this pre-statement decompression period is to allow the officer sufficient recovery time to help enhance recall. It also provides them with time to speak with their legal counsel, and sometimes even review video footage of the incident.

For these same reasons, we recommend delaying an official statement to law enforcement for at least 48 hours (recommended 2 sleep cycles) to provide adequate decompression time and a chance to speak with your attorney. Do not provide a detailed statement to law enforcement until you have time to decompress and speak with your attorney.

So, what do you say at the scene?

Brief Public Safety Statement

Prior to invoking your right to remain silent, be prepared to provide a very limited "public safety statement" that conveys certain key information to law enforcement. For example, if the intruder is hiding somewhere in your house when the police arrive, or if you saw the perpetrator pitch his weapon into your backyard, you should convey that information. Law enforcement are trained to gather immediately necessary public safety information, including the following:

- The location of any unsecured weapons
- The location of injured persons
- A description of at-large suspects and their mode and direction of travel, time elapsed since they fled, and weapons that were available to them
- A description and location of known victims or witnesses

Be as concise as possible when you provide your public safety statement. Do not elaborate or share details of the actual self-defense incident.

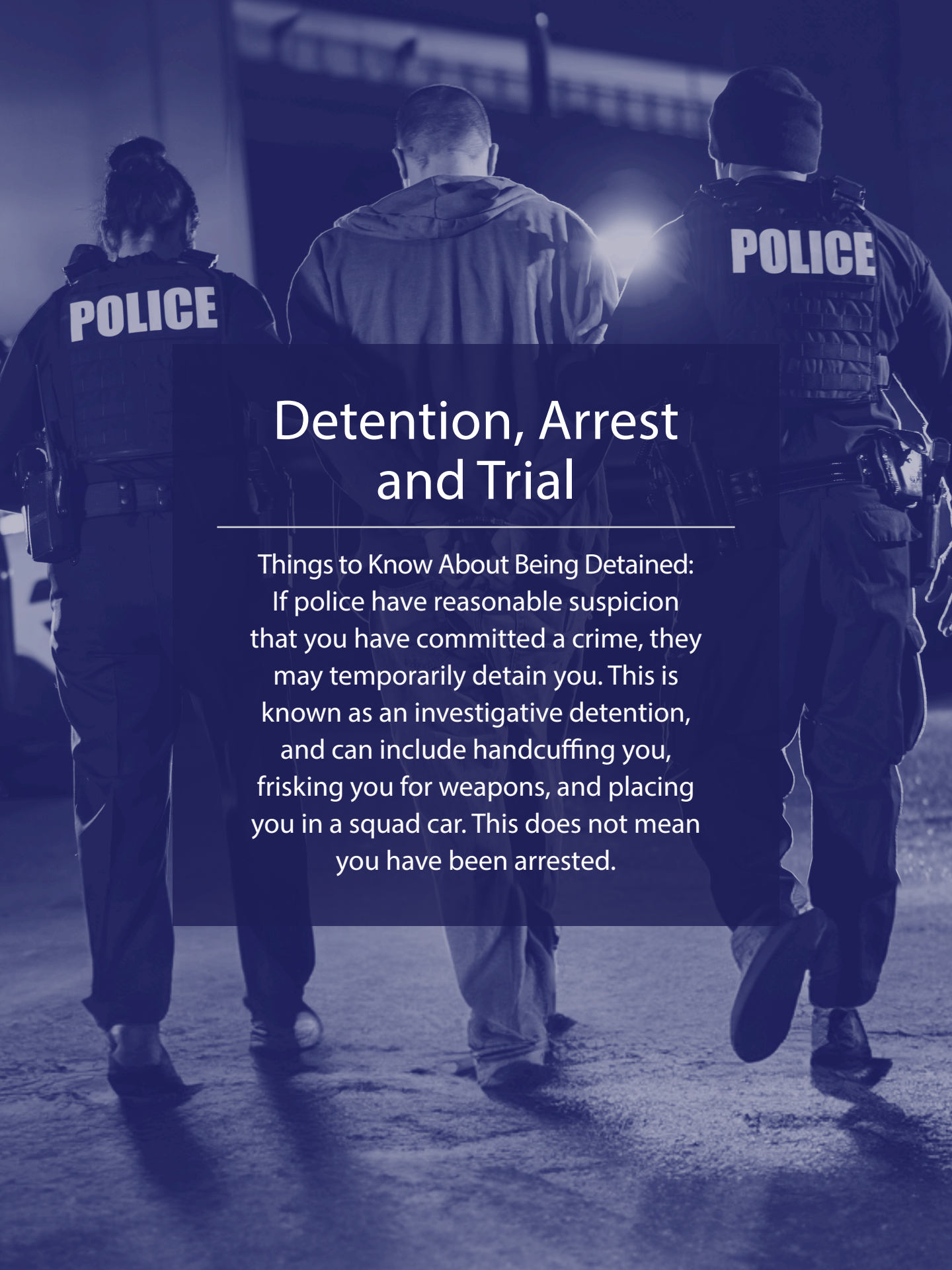
Affirmatively Invoke Your Rights

After you have provided your public safety statement, it is now time to affirmatively invoke your rights and stop talking. Although each situation will dictate a different interaction, you should generally invoke your constitutional rights by saying "I am happy to cooperate, but I choose to invoke my right to remain silent until my attorney is present."

Preserving your rights does not mean you have to be confrontational or adversarial with law enforcement. You can be cordial and preserve your rights at the same time.

Once you affirmatively invoke your rights...exercise them! The police should not continue questioning you without your attorney present, but remember, if you continue speaking it will be treated as a waiver of your rights. After invoking your rights, you must exercise those rights. This means staying silent and letting your attorney handle communication with law enforcement. Protect yourself, don't let the legal system take advantage of you after an incident.

And U.S. LawShield® members... If you have been involved in a self-defense incident, remember to call the emergency hotline and speak with your Independent Program Attorney!



Detention, Arrest and Trial

Things to Know About Being Detained: If police have reasonable suspicion that you have committed a crime, they may temporarily detain you. This is known as an investigative detention, and can include handcuffing you, frisking you for weapons, and placing you in a squad car. This does not mean you have been arrested.



The length of time you may be detained will vary depending on the circumstances and jurisdiction. For example, the United States Supreme Court has ruled that ninety minutes was too long in one case, but that twenty minutes was reasonable in another. Generally speaking, you will not be detained for more than two hours. Note, however, in 2010 the Supreme Court held that a police interrogation may go on indefinitely until you invoke your legal rights - so INVOKE YOUR RIGHTS! If you have any doubts about if you are being detained, you can ask the officer if you are being detained or if you are free to leave.

Before arrest, the 5th Amendment ensures you cannot be compelled to incriminate yourself, protecting your right to remain silent. After arrest, both the 5th and 6th Amendments guarantee the right to legal counsel and a fair trial, ensuring due process.

Keep in mind, even though you may invoke your 5th Amendment right to remain silent, you are still being video and audio recorded while in police custody. Statements you make and actions you take while in a police vehicle, police station, or around an officer are almost certain to be recorded.

At the end of your investigative detention, officers will either make the determination to arrest you, or release you. If you are released, you may be given a citation and summons to appear in court, or simply released without a summons.



Things to Know About Being Arrested:

At the conclusion of your detention period, if officers determine they have probable cause that you have committed a crime, they may arrest you. Under the Fourth Amendment, probable cause — which amounts to more than a bare suspicion but less than evidence that would justify a conviction — must be shown before an arrest warrant or search warrant may be issued. If you are arrested, you will generally be handcuffed and informed of your Miranda rights, including the right to remain silent and the right to an attorney. This notification is typically given verbally. You will then be provided a brief description of the reason for the arrest, including the specific charges or offenses you are accused of committing.

You will then be transported to a booking facility, where you will be identified, searched, photographed, fingerprinted, and given a health screening. Once that process is complete, you will generally be placed in a temporary cell prior to an initial appearance before a judge. The initial appearance will generally occur within 24-72 hours of being arrested. At the initial appearance, you will be informed of the charges against you, advised of your constitutional rights, and either have an attorney appointed for you, or asked if you would like to hire your own attorney. The judge also considers bail, sets conditions of release if applicable, and schedules future hearings.

Considerations While in Police Custody:

The days after an arrest can be confusing and panic-inducing. Your world was just turned upside down. There will be confusion about your charges and how long you will be in custody. You will be limited on your ability to communicate with your family and attorney. Here are some tips to keep in mind should you ever find yourself in police custody.

- Assume all communications are monitored and recorded.
  A common mistake made by those in custody is discussing the events leading to their arrest with their family and friends during phone calls, letters, or jail visitations. These communications are monitored, and can be used against you at trial. Do not discuss any details of the events with anyone, including other inmates in custody. Finally, be cognizant of the tone of all your communications in jail. Laughing, telling jokes or making light of the case can harm you in court, as well as the court of public opinion.

- Only speak about the case with your attorney.
  Your attorney will take the required steps to establish a secure phone line or room to meet with you and discuss the case, ensuring the conversation is protected by attorney client privilege. Prior to that time, do not discuss the case with anyone, including your own attorney on an unsecured line.

- Do not communicate with witnesses.
  You should be very careful about communication with potential witnesses, including your own family members. Simple statements can be used in an attempt to prove the criminal charge of tampering with a witness. Ideally, all communications with potential witnesses should be screened and sent through your defense attorney.

- Prepare for the bond hearing.
  In most states, the soonest you could be released if you are being held on felony charges would be at your bond or bail hearing. A bond hearing, also known as a bail hearing, is a court proceeding held shortly after an individual's arrest to determine whether they should be released from custody pending their trial. During the hearing, the judge evaluates various factors, including the severity of the alleged offense, the defendant's criminal history, ties to the community, and the risk of flight or danger to the public if released. Based on these considerations, the judge decides whether to set bail, deny bail (remand the defendant into custody), or release the defendant on their recognizance without bail.

  Bail is the monetary amount required to be paid in full to the court in order to get out of jail. A bond is required if a person is unable to pay the full cash amount of bail. To be released on bond, a percentage of the total bail amount is paid to a professional bail bondsman, who will act as a surety and pay the remaining amount of bail if the defendant fails to appear at their assigned hearing.

- Prepare for trial.
  Depending on the outcome of your bond hearing, you will either be released from custody while your trial is pending, or you will continue to be held in jail. Either way, the real work now begins as your attorney starts preparing for trial. Hundreds of pages of motions, filings, expert witness reports, and other documents will be drafted. As we discuss below, this is a time consuming and extremely expensive process.

How Much Does A Self-Defense Trial Cost?

Many are surprised to learn how truly time consuming and expensive criminal trials can be. Consider the following data points on the costs of a murder trial, from research conducted by Terance D. Miethe at the University of Nevada, Las Vegas:



How Long Does It Take To Go To Trial?

According to research conducted by the National Center for State Courts, the average time it takes for a felony case to go to trial, from the time of arrest, is 256 days. Misdemeanor cases take an average of 193 days. Although this is an average, there will be considerable variation among courts depending on current caseload and severity of the charges.

Surprisingly, most felony cases (74%) are resolved through a guilty plea by the defendant. Of the felony cases that go to trial, 68% result in a conviction. Although you are presumed innocent until proven guilty, statistically speaking the odds are stacked against a defendant at trial. As such, having a skilled and experienced legal team to defend you in court is crucial.

Jury Trial Outcome				
Jury Trial	Conviction	Acquittal	Dismissal	Other
Felony	68%	27%	4%	1%
Misdemeanor	77%	19%	3%	1%



Join U.S. LawShield Today!

As discussed above, the estimated legal cost of a self-defense trial ranges from $229,357.00 to $484,878.00. These staggering costs are just one of the reasons more than two-million people have trusted U.S. LawShield to provide education and legal representation for both criminal and civil cases. U.S. LawShield members enjoy zero attorneys' fees for covered events—no limits, caps or deductibles, and 24/7/365 emergency access to an attorney-answered hotline.

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