

Legal Issues

Legal Issues in the Use of Force

If you are in danger, your first attempt should be to flee the area or the home. Your personal safety is your first priority. Property can be replaced, but the value of your life and health is beyond measure.

You should familiarize yourself with your state's laws on the use of physical or deadly force in case you are ever in a situation where escape is not an option. One of the major legal issues in many states is that you, as a victim or potential victim, must evaluate the degree of the threat and only use an equivalent force, not a stronger one, in retaliation.

In a threatening situation, your first course of action should always be to tell the attacker to stop. That means giving clear verbal instructions before using any type of force against the perpetrator. Should the attack continue, there are various types of force that may be used, but deadly physical force may only be justified if you are threatened with deadly physical force. Otherwise, the attacker could legally file a suit against you for excessive use of force. That is why it is so important to remain level-headed and to have a previous understanding of your rights and options.

If you *reasonably believe* that your attacker is attempting to kidnap or rape you, or a member of your family, you may use whatever force is needed to deter the attacker, including deadly physical force.

There are five questions you should ask yourself if being attacked:

1. Do you have the **EXPERIENCE** to use the method of force you are considering? For example, have you practiced getting out of a neck hold without maiming or blinding your attacker?
2. Do you have full **KNOWLEDGE** of the use of that method? For example, if you have pepper spray and are planning to use it, do you know how to use it properly?
3. Would the use of force be considered **REASONABLE**? If your attacker is reaching for your purse is it reasonable to stab him with a kitchen knife? Probably not. A better course of action would be to give up the purse and run.
4. Is the use of force **NECESSARY**? Is this the only way to get away safely? The use of force should only be a last resort, not a first instinct.
5. Would the use of force be considered **JUSTIFIABLE**? In a court of law, if your attacker accused you of shooting him when he was only interested in stealing your car, you could easily be found liable for the excessive use of force.

Your company should have an approved and established policy on the use of force. Consult with your local law enforcement agencies to develop a policy that will be in accordance with local laws. Though it is difficult to think clearly while being attacked, knowing your policy takes some of the doubt out of the situation and may help defend your course of action in a court of law.

Source: New York State Association of REALTORS®.

REALTOR® Safety Week
2003

One week, for life.



NATIONAL ASSOCIATION
OF REALTORS®
The Voice for Real Estate®

Real Strength.
Real Advantages.