We live in a society of laws—laws that impact on most areas of our lives. Gun ownership is one of the most heavily regulated of those areas. It is critical for the defensive gun owner to have at least a basic working knowledge of the local, state, and federal laws that govern the purchase, possession, transportation and transfer of firearms, as well as their use in defensive situations. Also essential is an understanding of the basic legal principles surrounding the use of deadly force in self-defense.

LEGAL REQUIREMENTS GOVERNING THE PURCHASE AND OWNERSHIP OF HANDGUNS

Nationwide, there are more than 20,000 federal, state and local laws regulating gun purchase and ownership. Many of these apply specifically to handguns.Outlined below are some of the provisions of the major gun laws currently in effect.

**Gun Control Act of 1968.** This law, passed partially in response to the tragic assassinations of Martin Luther King, Jr. and Robert F. Kennedy, Jr., eliminated the mail order purchase of modern firearms (those made after 1898) and established a variety of classes of persons prohibited from owning or possessing a firearm. These prohibited persons include felons, those who use illegal drugs, those who have been committed to a mental institution, those who are not U.S. citizens and those who have renounced their U.S. citizenship.

**Bureau of Alcohol, Tobacco and Firearms (BATF) Form 4473.** All persons purchasing a firearm—whether it is a rifle, shotgun or handgun—from a federally licensed gun dealer must complete a BATF Form 4473. This form contains information on the buyer, the serial number and description of the firearm or firearms purchased, and the name and address of the Federal Firearms License holder. Additionally, the Form 4473 has a section in which the prospective purchaser attests to whether he or she falls into any of the classes of persons prohibited from owning a firearm. Giving a false answer to any item on Form 4473 is a felony punishable by a fine or imprisonment.

**Brady Law.** This 1994 law was named for gun-control advocates James and Sarah Brady, who were instrumental in its adoption. In its initial form the law mandated a number of provisions for gun buyers, several of which have since expired. As of this writing, the Brady Law now requires a national computerized instant background check of all persons purchasing a firearm from a Federal Firearms License holder.

**Violent Crime Control and Law Enforcement Act**

This law, also known as the 1994 Crime Bill, prohibits the sale, transfer or possession of magazines for semi-automatic firearms having a capacity of more than 10 rounds. The law also contained a list of banned semi-automatic firearms (erroneously labeled as "assault weapons"), and established certain combinations of features (including, among others, pistol grips, flash suppressors and folding stocks) that may also make other firearms fall into the "assault weapon" category.
**Lautenberg Amendment.** This law, named for New Jersey Senator Ed Lautenberg, expands the list of persons prohibited from possessing firearms or ammunition to include anyone who has been found guilty of a misdemeanor crime of domestic violence. The prohibition also applies to persons under certain restraining orders. This far-reaching law is retroactive—that is, anyone who has ever been found guilty of, or who has pleaded guilty to such a crime, is subject to firearm forfeiture. The law also makes it a felony for anyone in the prohibited category to possess any firearms or ammunition.

**State and Local Laws.** In addition to federal laws, further restrictions are imposed by numerous state and local laws. For example, in some states a permit to purchase must first be obtained before a firearm can be bought. Successful completion of the permit process may result in the issuance of a gun owner identification card.

Many states and municipalities also have enacted laws that prohibit or restrict certain classes of firearms based on type (such as semi-automatic pistols or so-called Saturday Night Specials), magazine capacity or other characteristics, sometimes resulting in a list of state-approved guns. Waiting periods and background checks prior to purchase, and registration of guns owned, are also required by law in some jurisdictions. And, of course, there are almost always fees accompanying the permits, background checks and registration applications. Specific legal requirements will vary for each different state, and also may vary among the counties and municipalities within a state.

**Intrastate and Interstate Acquisition and Transfer.** Generally speaking, there are two ways to acquire a firearm: from a federally licensed dealer, or from a private individual. Federally licensed dealers include gun shops, professional gunsmiths, and other businesses, such as hardware stores and pawn shops. Whenever you purchase a firearm through a federally-licensed dealer, you must meet the requirements of law.

In many states, the transfer of a firearm by a resident of that state to a resident of that state whether as the result of sale, gift, loan, or bequest is considered a simple property transaction between two private individuals and need not go through a federally licensed dealer. In other states, some or all firearms transfers between individuals must go through a federally licensed dealer. Note that even in those states in which transfers between private citizens do not go through FFL holders, the seller still may not transfer a gun to an individual falling into any of the classes of persons prohibited by law from possessing a firearm.

**Note also that, for legal purposes, transfer does not necessarily mean selling.** Anytime you allow a person to possess one of your firearms that is, have it under their physical or constructive control you have, for that period of time, transferred the firearm to that person. Thus, depending upon your state’s laws, allowing a person in a prohibited class to simply hold one of your guns in his or her hands (whether the gun is loaded or not) may constitute a transfer of possession, and thus may be illegal.

**Interstate transfers of handguns always must go through federally licensed gun dealers,** whether the transfer is between an individual and a gun shop, or between two individuals, in different states. If the transfer is between two individuals, the one transferring the gun may send it directly to the FFL holder in the recipient’s state of residence, who will transfer it to the recipient. Alternatively, the person transferring the handgun may take it to an FFL holder in his or her state of residence, who will arrange to ship the gun to the FFL holder in the recipient’s state of residence. In either case, the recipient will have to observe all the legal requirements, such as Form 4473 and Brady Law instant check provisions, that apply to a handgun sale.
Various jurisdictions may have additional laws regarding firearms sales and non-sale firearms transfers, such as gifts or bequests, as well as transfers to certain classes of people, such as minors. **Handgun Possession and Transportation.** Legally, possession is defined as the holding or occupancy of a thing such that physical control can be exerted over it. Legal ownership, or title, is not a requirement for possession. Many different federal, state and local laws relate to handgun possession under various circumstances. At the present time, federal law imposes few if any restrictions on possession in one’s home, business or vehicle, or in public places. However, federal law does prohibit possession of a firearm in federal government offices or buildings, such as post offices, IRS offices and the like. Possession may also be prohibited or restricted in other areas, including (but not limited to) military bases, some federal lands (such as national parks), and school zones. Note that a state or local carry permit does not nullify federal restrictions on gun possession on federal property.

Virtually all states and local jurisdictions have laws regulating handgun possession. The restrictions imposed by these laws vary considerably from jurisdiction to jurisdiction, and situation from situation. Your rights and obligations likely will vary depending upon whether you possess the firearm in your home, a temporary residence (such as a hotel or campground), or a vehicle. Even in your home or business, your specific rights may be contingent upon whether you are physically inside the structure, or outside on your own lawn or grounds. Moreover, your rights regarding possession on your person in public places will vary. Some states allow you to carry your handgun openly, without a permit; many others have a permit process if you wish to carry a concealed handgun, and other jurisdictions permit you to have your firearm on your person only if it is unloaded and locked in a case.

Many states, counties and municipalities also have laws prohibiting the possession of firearms in schools or government offices or buildings, similar to the federal laws previously mentioned.

Transporting a handgun within a jurisdiction is generally subject to that jurisdiction’s laws regarding possession in public. If you hold a state concealed-carry permit, for example, you can usually carry a firearm in the passenger compartment of a vehicle without having to laws regarding the transportation of hunting firearms to and from a game area. In other jurisdictions, you may legally transport your firearm in your vehicle only if it is unloaded, locked in a case and secured in a locked trunk or other inaccessible part of your vehicle, with ammunition in a separate inaccessible locked container. This is also the recommended method for carrying firearms in your vehicle on interstate (federal) highways. Some states and other jurisdictions require the registration of any firearm located within their boundaries, even temporarily, or totally prohibit the possession of certain types of guns.

The 1986 McClureVolkmer Gun Owner’s Protection Act exempts firearm owners who are transporting their arms interstate from the laws of such jurisdictions (as long as the gun owner is merely passing through the jurisdiction). The firearm should be locked in an inaccessible part of the vehicle as described above. Although the federal Gun Owner’s Protection Act overrides state and local law, in practice a gun owner may still be harassed or arrested by overzealous local law enforcement officials who don’t know about the federal law.
Transporting a firearm on public transportation a bus, train, subway or aircraft is regulated both by applicable local, state and federal law, as well as any specific requirements of the transportation company or authority. If you are transporting the firearm within the boundaries of a state and have a state-issued concealed carry permit, you may be able to carry your gun on any mode of public transportation. The most notable exception to this is an airline flight.

Only sky marshals and certain other types of law enforcement or security officers are allowed to carry firearms on their persons aboard commercial air-craft.

When transporting a firearm across state lines via public transportation, the firearm usually must be unloaded and locked in an approved case, and you must give the carrier written notice that a firearm or ammunition is being transported. This is also the procedure for transporting a firearm aboard any commercial airline. Other restrictions and procedures (such as a special check-in procedure) may also apply.

**USE OF DEADLY FORCE IN SELF-DEFENSE**

There are many legal definitions, theories and principles surrounding the use of deadly force for self-protection. It is beyond the scope of this chapter to discuss these in detail; only a brief outline of the major concepts can be presented. You are strongly advised to consult an attorney for a more thorough explanation of your rights and responsibilities in relation to armed self-defense in your jurisdiction.

**The “Reasonable Man” Standard.** In judging the legality of a person’s conduct, it is often necessary to determine whether a party acted in a way that was appropriate or reasonable. This determination is often made by judging whether a hypothetical “reasonable man” would act in a similar way under the same conditions. By such a “reasonable man” standard, for example, shooting an intruder who approached you with a weapon despite your verbal warnings likely would be deemed justifiable, because the reasonable man would consider the intruder’s actions to be immediately life-threatening. Shooting an unarmed intruder who is 50 feet away and who does not approach you might not be considered justifiable, because a reasonable man would not necessarily consider such a person a threat requiring the use of deadly force.

Be aware that a judge or jury, in applying the “reasonable man” standard to an action, is making a judgment about a chain of events that occurred under stress and over the course of a few seconds or less. What may seem reasonable to you or to most people under the conditions of an immediate violent attack might be unreasonable to a jury sitting in the comfort and safety of a courtroom.

**Use of Reasonable Force.** The degree or amount of force you can use in defending yourself must be reasonable that is, proportional to the level of threat presented. In rough terms, you can’t use a gun to defend yourself from a slap in the face. A 300-pound, 30-year-old professional football player attacked by an unarmed 135-pound, 70-year-old man would not be justified in using deadly force to defend himself, due to the relatively low level of threat the smaller, older man represented to him. On the other hand, if the 70-year-old attacker was armed with a knife or gun, the football player might then be justified in using deadly force to defend himself (if certain other conditions are also met).

By law, you can sometimes use force in a number of circumstances to protect your property from theft or vandalism, for example, or to remove a trespasser from your property. The amount of force you are legally allowed to use, however, must be only that amount required to effect the desired result only that force needed to keep an angry neighbor from smashing up your car with a baseball bat, for example, and no more. Deadly force is not legally justified in such situations.
There are some fairly universal guidelines. Deadly force can only be used by an innocent victim of an attack, and only when that attack represents a threat of serious bodily harm or death; it cannot be used to defend property rights. This threat of serious bodily harm or death must be imminent (about to happen immediately) and within the ability of the attacker. In addition, in some situations, the victim of an attacker must first retreat (or attempt to do so if safely possible) before being able to utilize deadly force in self-defense.

**Ability of an Attacker.** An attacker is considered to represent a threat to life or limb only if they are actually capable of causing death or serious injury. In the sample situation presented earlier, a small, elderly, unarmed man generally would not be considered to have the ability to threaten the life or limb of a large, young, muscular man. Even if the elderly man demonstrated the intent to kill the younger man (as by screaming, “I’ll kill you!”), deadly force would generally not be justified in repelling his attack, as the hypothetical “reasonable man” would not consider him capable of following through on that intent.

**Presence of an Imminent Threat.** Another requirement for the use of deadly defensive force is that the threat of death or serious bodily harm must be imminent—that is, about to occur immediately. A future threat to your life and limb does not generally justify the present use of deadly force. For example, if a predator threatens, “Someday soon I’m going to catch you alone and blow you away,” you cannot respond by immediately using deadly force against him—even if he is, say, a paroled murderer whom you know is fully capable of making good on his threat. You will be legally able to defend yourself with a deadly weapon only at the point that his threat becomes real and imminent.

**Innocent Victim of Attack.** For you to claim justifiable self-defense in your use of deadly force, you must not yourself have caused or incited your assailant’s attack. For example, you cannot provoke a person into attacking you and then shoot him or her in self-defense. Nor can you respond to an attacker in a way that further incites or inflames him or her. For example, if you were to innocently step on another person’s shoes, he might react by shoving you. You are not entitled to escalate the situation to the level of deadly force by using

**Duty to Retreat.** In many self-defense situations, you have a duty to retreat from a confrontation before you can legally use deadly force to defend yourself. Duty to retreat simply means that you must attempt to physically escape or evade a confrontation if you can do so safely. You are not obligated to retreat if doing so will expose you to greater danger.

Most states require you to retreat from confrontations occurring in public. In many jurisdictions, however, you may not be obligated to retreat from an attacker in your own home or on your own property. Consult an attorney for the laws applicable in your area.

**Brandishing.** In many if not most jurisdictions, brandishing, or displaying your firearm in a threatening or aggressive manner, is illegal and may undermine your claim of legitimate self-defense. As a practical matter, if you brandish your firearm to deter an attacker, it may be unclear to both witnesses and law enforcement authorities exactly who is the aggressor and who is the victim.

**Castle Doctrine.** This doctrine, derived from English common law and expressed in the familiar saying, “A man’s home is his castle,” gives you special rights in your own home that you may enjoy nowhere else. For example, in many jurisdictions you have no duty to retreat from an attacker in your own home. Also, in some jurisdictions, the very presence of an intruder in your home may
allow you to treat him as a threat. Some jurisdictions also allow you to extend the Castle Doctrine beyond your home to include any place you might be domiciled for the night, such as a friend’s house, hotel room, campground and so on. Other rights may also derive from the Castle Doctrine, depending upon the laws in your jurisdiction.

**Cessation of Threat.** You are entitled to use deadly force against an attacker only as long as they present a threat. Once the threat has ceased—as by their flight, surrender, or inability to continue the attack so must your use of lethal force.

**THE LEGAL AFTERMATH OF A SHOOTING**

NOTE: This chapter is not intended to take the place of consultation with a qualified attorney, nor should it be construed as providing general or specific legal advice. The information contained herein is intended to provide broad general guidelines regarding the legal ramifications that might stem from a self-defense shooting in some jurisdictions. For more specific information, consult an attorney familiar with the laws relating to firearms and self-defense in your jurisdiction.

Whether it involves the acquisition and mastery of shooting skills or the development of a defensive mindset, preparedness is the key to prevailing in a violent attack. Preparedness of a different type is also essential to survive the potential legal aftermath of a defensive shooting. The prudent gun owner must be come thoroughly familiar with the potential legal ramifications of defensive gun use in his or her jurisdiction.

It is important for the defense-oriented gun owner to secure legal representation before he or she is involved in a shooting situation.

Selecting a lawyer out of the telephone book at the police station is not likely to provide you with the kind of representation you will need. Any attorney you select should be thoroughly familiar with all applicable federal, state and local laws regarding firearm ownership and self-defense. The attorney should also be apprised of any particulars of your own situation that would be relevant to any police investigation that would follow defensive firearm use.

Contact your state bar association for a list of attorneys in your area, along with their specialties. Members of your gun club may be able to recommend attorneys with experience in Second Amendment and self-defense cases. Also, firearm-friendly attorneys may post their cards at gun shops or on gun club bulletin boards. As a service to its members, the NRA also offers a referral service that matches attorneys with those needing legal representation.

The following describes some of the possible legal outcomes that may be faced by a survivor of a self-defense shooting.

**ARREST**

In all jurisdictions, a shooting that results in injury or death will entail an investigation. It may be sufficiently clear from the circumstances of the incident that your actions were completely in legitimate self-defense; in such cases, depending upon the discretion allowed the police and prosecutor’s office, you may only have to face the inconvenience of a police questioning. Under other circumstances for example, if you knew and had previously quarreled with the person you shot the police and prosecutor may consider your actions to be illegal. In such circumstances, you likely will be arrested, booked, finger-
printed and photographed. You will be put into a cell and held until the charges against you are dropped, or your bail is secured by your attorney. Either way, you will spend at least a few hours in jail, and possibly several days.

FIFTH & SIXTH AMENDMENT PROTECTIONS

The Fifth Amendment of the United States Constitution provides you with certain rights and protections, chief among them being that you have no obligation to talk to the police until you have consulted with your attorney.

The Sixth Amendment gives you the right to have your attorney present during all questioning. When the police arrive, you can refuse to answer their questions until your attorney is present.

Of course, you should exercise some common sense in this; you may not need a lawyer to respond to such questions as “Where’s the bathroom?” Also, you may want to provide police with information that they need to ensure the immediate safety of the area, such as “Which way did the assailant flee?” However, most attorneys advise that you politely but firmly refuse to discuss the shooting incident until you have consulted with legal counsel. Under the stress and emotions that follow involvement in a life-threatening situation, you may not think or communicate clearly, and may utter something that could be used against you in a subsequent legal proceeding.

Even before you become involved in a defensive shooting, it is highly advisable to discuss with your attorney exactly what you may and may not say to police should you have to use a firearm in self-defense. Just as you prepare mentally and physically to survive a violent encounter, this legal preparation may help you better negotiate the criminal justice system.

GUN CONFISCATION

If you are arrested by the police, they may also take your defensive firearm and, sometimes, any other firearms in your home. After all, from their point of view, you may be a suspect in a felony assault with a deadly weapon or, if your attacker dies, homicide. The problem often lies in getting them back. In some areas particularly, those in which officials are hostile to Second Amendment rights you may have to go to court to secure the return of your guns.

Furthermore, police departments usually mark items taken as evidence. If you are lucky, they may put their mark a number or letters scratched or stamped into the metal in an unobtrusive location. Also, the police may or may not treat your guns with the same care as you would. In a “worst-case” situation, you may receive your guns back with dings and scratches from careless handling, evidence marks on external surfaces, and bore corrosion from having been fired and not cleaned. (If a department suspects that any of your firearms may have been used in a crime, technicians may fire them to obtain reference bullet specimens.)
SEARCH OF YOUR HOME

A full discussion of the rules governing permissible police searches is well beyond the scope of this text. Generally, to conduct a search in your home, police need a warrant for that location specifying what is being sought. There are several exceptions to this requirement, however; consult your attorney for more information. Any normal law-abiding person may have objects, records, and so forth that are not at all illegal, but may be of a sensitive, private or even embarrassing nature. Such objects may become public knowledge as a result of a search. Of perhaps greater concern, during a search the police will almost certainly observe and make note of (mentally, at least) any books, magazines or other items that may cast doubt on the justifiability of your defensive shooting.

For example, the fact that you possess material relating to sniping techniques or paramilitary operations may work against you in a court of law should you face criminal or civil charges as the result of your defensive gun use. The fact that you are simply a military history buff will likely not counter the perception among some of the jury that you are a bloodthirsty, trigger-happy gun owner looking for an opportunity to apply the killing techniques you enjoy reading about. Similarly, inflammatory signs in your home or office, such as “Protected by .38 Special” or “If I Find You Here Tonight, They’ll Find You Here Tomorrow Morning” may also serve to undermine your claim of justifiable self-defense.

CRIME SCENE RESTRICTIONS

The area in which a shooting—even a justifiable one—takes place may be treated by police as a crime scene. This area could be immediately roped off and access granted only to police officers or crime scene technicians. While evidence is being gathered you might not be allowed to enter or cross the area, even if it is your own bedroom or office. In the meantime, you may have to put up with a seemingly endless parade of evidence collectors, photographers, and other investigators in your home or business. In a cut-and-dried, clear cut case of self-defense, you may be inconvenienced for only an hour or so but be forewarned that crime scenes sometimes are restricted for days or weeks until the forensic investigations are completed.

SUSPENSION OF GUN OWNERSHIP OR CARRY PERMITS

If you have a carry permit from your state, or if your state requires a permit merely to own a firearm, you should anticipate that it will likely be suspended or revoked following your arrest for shooting your assailant, particularly if the criminal charges against you are not dropped but are pursued by prosecutors. You may have to reapply for that permit once you are cleared of all criminal charges.
Factors that influence the decision to use a firearm for self defense

First consider -----

A person can be held criminally and civilly liable for wrongfully pointing or discharging a pistol at another person. This could result in trauma to yourself and your family, the loss of freedom, loss of employment, related wages and health benefits, and future wages and employment. There is always the possibility of prosecution and/or a wrongful death lawsuit.

Factors about you

- Your experience
- Your training
- Your decision making capabilities
- Reflex shooting habits
- Does think of alternatives ideas or methods
- No alternative self-defense devises
- Thinks it only happens to the other person

Other factors of influence

Definitions and explanations

Disparity of Force is defined as a situation that any reasonable person would conclude places you at an overwhelming disadvantage in your effort to protect yourself against immediate and serious bodily injury.

Here are some examples of Disparity of Force:

- Size
- Age
- Weight
- Relative strength
- Large man against small man.
- Able bodied man against disabled man.
- Man against woman.
Two or more men against one man.

Two or more juveniles against one man or one woman.

Man or woman known to have training in the martial arts against untrained man or woman.

Generally speaking, you can only legally use a reasonable use of force necessary including deadly force when your adversary demonstrates the ability, opportunity and intent to inflict immediate and serious bodily injury or death to you or those around you.

The difference in the disparity of force can put the person at an obvious disadvantage requiring the person to select other “reasonable” options for self-defense.

**Furtive Movement**

A movement, gesture, or intent (based on the circumstances at the time) that a reasonable person would perceive as a threat.

**Perception is reality**

*Circumstances as they appeared at the time of the incident.* Your decision is based on what you perceived to be true, even if later it proves to be wrong. If it looks like it is, moves like it is and talks like it is then it must be one.

**This can work both ways.** If someone perceives you as a threat based on your action; that person might respond with a use of force against you. Be careful how you deal with people and how they may perceive your actions. Remember, that person may be carrying a handgun.

**Prior Knowledge**

Firsthand knowledge regarding a person’s specifics acts or reputation of violence that affects your decision that he/she is a threat to your safety. This must be your personal knowledge, not hearsay or rumors. Example; He carries a knife and you know he has threatened/assaulted other people with the knife. Now this person is after you. This firsthand information can cause you to fear for your life and take appropriate self-defense action.
The 21 ft. reaction gap

The distance the average person can run and attack you with a contact weapon (e.g., knife, club, or other impact weapon) if there is no object to stop him. It’s highly unlikely that you can recognize and respond to that threat in time by drawing a handgun and shooting to stop the person. (Action always beats reaction). Therefore a person with a knife can run at you from 21 ft. and assault you before you can draw your handgun (unless you have practiced and are very skilled with your equipment). Keep in mind that a person standing 21 ft. away can be a real danger to you. You are not at a safe distance.

Fifth and Sixth Amendment Protection

The Fifth Amendment of the United States Constitution provides you with certain rights and protections, chief among them being that you have no obligation to talk to the police until you have consulted with your attorney.

The Sixth Amendment gives you the right to have your attorney present during all questioning, making any statements or signing any documents.
Honest and Reasonable

What does “honestly and reasonably believed” mean?

You should consider all the circumstances surrounding the situation;

The condition of the people involved, including their relative strength;

Whether the other person was armed with a dangerous weapon or had some other means of injuring the defendant,

The nature of the other person’s attack or threat, and whether you knew about any previous violent acts or threats made by the other person. You may consider specific acts of violence or the person’s general reputation for cruelty or violence in determining whether you fear for your safety in a given situation.

It is a subjective test; sometimes called the “Reasonable Man” standard. To determine if a person’s actions were appropriate or reasonable, a determination is made by judging whether a hypothetical “reasonable man” would act in a similar way under the same conditions. Depends on the makeup of the jury and jurisdiction,

Deadly Force

Deadly Force response is defined as any force used by a person that has a reasonable probability to cause death.

Force

Force is the attempt to establish control through physical means, in the presence of resistance? All force is a means of control, however, control can at times be achieved without the use of physical force.

Nonlethal Force

Nonlethal Force is any force used by a person that will not reasonably be expected to, or have the likely potential to cause death.
Last Resort situations

Last Resort situations are those wherein certain immediate and drastic measures must be undertaken by a person in order to protect human life. Force used in these situations may involve the use of techniques or weapons not covered in this manual or not generally thought of as “weapons” (exa cars, baseball bat bricks, etc; however, they remain to be measured by “reasonable” and “necessary” use of force standards.

Objectively Reasonable Force

Objectively Reasonable Force - Individual people may respond differently to a subject’s actions. People are not required to choose the least intrusive control method, only a reasonable one. Guidance on objectively reasonable force comes from current case law, which indicates that the reasonableness of the use of force will be judged by looking at the moment the force was used.

When utilized, a person’s action will be judged in light of what a reasonable person would have done given the same set of circumstances.

Rebuttable Presumption

Both in common law and in civil law, a rebuttable presumption is an assumption made by a court, one that is taken to be true unless someone comes forward to contest it and prove otherwise.

A rebuttable presumption is often associated with prima facie evidence.

Rebuttable presumptions in criminal law are somewhat controversial in that they do effectively reverse the presumption of innocence in some cases.
**Totality of Circumstances**

*Totality of Circumstances* describes the facts and circumstances confronting the person, at the time force is used. These include, but are not limited to:

Type of crime committed or attempted
Relative size/stature,
Multiple subjects/ persons
Relative strength;
Subject access to weapons;
Subject under the influence of alcohol or drugs;
Exceptional abilities/skills (e.g., martial arts);
Injury to, or exhaustion of the person;
Weather or terrain conditions;
Immediacy of danger;
Distance from the subject;
Special knowledge (e.g., subject’s prior history of violence, etc.)

Exigent Conditions: number of people, number of subjects involved, and availability of the person to defend themselves or other reasonable courses of action.