

Topic:

CRIMINAL LAW; SELF DEFENSE; REAL PROPERTY;

Location:

CRIMINAL LAW;

Scope:

Court Cases; Connecticut laws/regulations;



October 25, 2002

2002-R-0847

USE OF SELF-DEFENSE

By: Christopher Reinhart, Associate Attorney

You asked about the use of self-defense by homeowners. This report generally describes Connecticut's self-defense laws.

SUMMARY

A person may use physical force (self defense): to protect himself or a third person, his home or office, or his property; to make an arrest or prevent an escape; or to perform certain duties (for example, a corrections officer may use force to maintain order and discipline, a teacher to protect a minor, and a parent to discipline a child). A person cannot use physical force to resist arrest by a reasonably identifiable peace officer, whether the arrest is legal or not (CGS § 53a-23).

Self defense or justification is a defense in any prosecution (CGS § 53a-16). The person claiming justification has the initial burden of producing sufficient evidence to assert self-defense. When raised as a defense at a trial, the state has the burden of disproving self defense beyond a reasonable doubt (CGS § 53a-12).

PHYSICAL FORCE IN DEFENSE OF PERSON

A person is justified in using reasonable physical force on another person to defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force. The defender may use the degree of force he reasonably believes is necessary to defend himself or a third person. But deadly physical force cannot be used unless the actor reasonably believes that the attacker is using or about to use deadly physical force or inflicting or about to inflict great bodily harm.

Additionally, a person is not justified in using deadly physical force if he knows he can avoid doing so with complete safety by:

1. retreating, except from his home or office in cases where he was not the initial aggressor or except in cases where he is assisting a peace officer at the officer's directions;
2. surrendering possession to property the aggressor claims to own; or

3. obeying a demand that he not take an action he is not otherwise required to take.

Lastly, a person is not justified in using physical force when (1) with intent to cause physical injury or death to another person, he provokes the person to use physical force, (2) use of such force was the product of a combat by agreement not specifically authorized by law, or (3) he is the initial aggressor (unless he withdraws from the encounter, effectively communicates this intent to the other person, and the other person continues to or threatens to use physical force) (CGS § 53a-19).

PHYSICAL FORCE IN DEFENSE OF PREMISES

A person who possesses or controls property or has a license or privilege to be in or on it is justified in using reasonable physical force when and to the extent he reasonably believes it to be necessary to stop another from trespassing or attempting to trespass in or upon it. The owner can use deadly physical force only (1) to defend a person as described in CGS § 53a-19, (2) when he reasonably believes it is necessary to prevent the trespasser from attempting to commit arson or any violent crime, or (3) to the extent he reasonably believes it is necessary to stop someone from forcibly entering his home or workplace (and for the sole purpose of stopping the intruder) (CGS § 53a-20).

PHYSICAL FORCE IN DEFENSE OF PROPERTY

A person is justified in using reasonable physical force when and to the extent he reasonably believes it necessary to (1) prevent attempted larceny or criminal mischief involving property or (2) regain property that he reasonably believes was stolen shortly before.

When defending property, deadly force may be used only when it is necessary to defend a person from the use or imminent use of deadly physical force or infliction or imminent infliction of great bodily harm (CGS § 53a-21).

SUPREME COURT DECISION ON SELF DEFENSE

In 1984, the Connecticut Supreme Court articulated the test for determining the degree of force warranted in a given case. Whether or not a person was justified in using force to protect his person or property is a question of fact that focuses on what the person asserting the defense reasonably believed under the circumstances (*State v. DeJesus*, 194 Conn. 376, 389 (1984)). The test for the degree of force in self-defense is a subjective-objective one. The jury must view the situation from the defendant's perspective; this is the subjective component. The jury must then decide whether the defendant's belief was reasonable (*DeJesus* at 389 n.13).

CR:ts