

# USE OF DEADLY FORCE

By: Joe Kalil



You become aware of a threat.



You react in the process of defending yourself.

Knives are very easy to conceal. Photo on left shows the author in close proximity, apparently unarmed, BUT, photo on right shows he is ready to attack with a knife. This knife is a Kershaw 1660CKT. It is very small, light and extremely sharp.

First and foremost, being armed is no mandate to act with bravado. On the contrary, it carries with it a moral and ethical obligation to avoid confrontations whenever possible. If a confrontation is unavoidable, then the armed citizen has an obligation to do whatever is reasonable to try to de-escalate the situation. The rule is to be non-confrontational. Behave politely and non-aggressively.

## WHEN IS IT UNIVERSALLY JUSTIFIABLE TO USE DEADLY FORCE?

You are universally justified in the necessary use of deadly force when there is a *reasonable* fear of *immediate* or otherwise *unavoidable* danger of *death* or *serious bodily injury* to the *innocent*. All of these factors must be present. The language and interpretation can vary substantially between countries and states, and in states with no preemption law it can vary between various local jurisdictions within a state.

### KEY WORDS:

**Necessary:** Unavoidably determined by prior conditions or circumstances, absolutely essential.

**Reasonable:** That which a sensible person (or 12 of your peers) would recognize as rational and normal if they had the same information and were facing the same circumstances as you.

**Immediate:** At the very moment. (A few states use the term *imminent* rather than immediate).

**Unavoidable:** If you can avoid the lethal confrontation by breaking contact with your assailant and retreating to cover, you should, and in some areas of the country, you must. Numerous states have recently passed the "Stand Your Ground" law. For example, Kentucky's new statute states, "A person does not have a duty to retreat if the person is in a place where he or she has a right to be."

**Death:** Loss of life.

**Serious Bodily Injury:** Any injury that cripples; permanently disfigures; or could cause death within minutes, hours, days, weeks or months. Temporary cosmetic injuries such as abrasions, black eyes, swollen lips and surface bruises are not considered serious bodily injury.

**Innocent:** Free from guilt or fault, harmless in effect or intention. You or the person you are defending must be free of fault, instigation or escalation. You can not start or condone a fight, then use deadly force and claim self-defense.

When do you know that you are in reasonable fear of immediate and other-



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wise unavoidable danger of death or serious bodily injury?

You know when your assailant has the *means, opportunity and intent*.

**Means/Ability:** Your assailant possesses the physical power to kill, cripple, or permanently disfigure through the use of physical strength, unarmed fighting skills, blunt weapons, edged weapons, firearms or other weapons. (Also see “disparity of force” below.)

**Opportunity:** Your assailant is capable of immediately inflicting injury by striking you at arm’s length with bare hands, conversational distances with blunt or edged weapons, or any reasonable range for a particular firearm. (See discussion of the “21 foot rule.”)

**Intent:** Your assailant is *acting or speaking* in a manner, that any reasonable and sensible person would assume indicates your assailant’s intention to kill, cripple, or permanently disfigure you.

### 21 FOOT RULE: HOW CLOSE IS TOO CLOSE?

Studies have measured the amount of time it takes the “average” man to present his handgun from the holster and fire a single shot to the center of mass of a human size target, and compared that to the distance a man armed with a contact weapon (edged or blunt weapon) could run and inflict a fatal wound. The time is 1.5 seconds, which works out to roughly 21 feet of travel. Therefore, when facing an opponent armed with a contact weapon who is 21 feet away, with nothing intervening between you and the weapon, you are in immediate danger of death or serious bodily injury.

### DISPARITY OF FORCE

There are limited circumstances in which deadly force would be justifiable when the assailants are not armed. Some examples might include multiple members



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of a gang attacking an individual, an assailant known to have special abilities (i.e., black belts) attacking a person without such training, a man attacking a woman, or a very large man attacking a small man. Of course, all of these examples are subject to interpretation and reason. The bottom line is that there are situations where unarmed assailants can employ physical force that can result in death or serious bodily injury.

### ESCALATION OF FORCE

This occurs when an apparently unarmed individual is in a confrontation with a second apparently unarmed individual, and produces a weapon, thereby escalating the conflict and increasing the required force to end it. You should NOT present your weapon unless your assailant has the means, opportunity and intent to kill or inflict serious bodily injury.

### WHAT ABOUT RETREAT?

As mentioned previously, many states have passed the “Stand Your Ground” law, which states that a person does not have a duty to retreat if that person is in a place where he or she has a right to be. However, regardless of the jurisdiction, retreat is

a good idea and should be exercised if it is a viable alternative and does not place you or those around you in greater danger. Retreat establishes that you did everything possible to avoid the danger before it became necessary to shoot. If you detect an emerging threat or your “sixth sense” is telling you something is wrong, depart from the area for a safer location. There is no shame in running from a fight. *The best gunfight is the one you avoid!*

### DEFENDING YOURSELF

*If you must defend yourself, three factors determine the outcome of a gunfight: accuracy, speed and power.*

**Accuracy:** You must hit your assailant in a vital area with well placed shots. Even if you shoot first and you are shooting a more powerful firearm, if you miss completely or hit in a non-vital area, you will not stop your assailant.

**Speed:** You must hit your assailant before you are hit. Even if you are the more accurate shooter and you are shooting a more powerful weapon, if he hits you first, you are likely to lose.

**Power:** You must hit your assailant with enough power to cause enough damage

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Author is attacked by a knife wielding assailant at approx. 21 feet. NOTE: An assailant at 21 feet armed with an edged or blunt weapon is as much a threat to you as you are to them. If you are an experienced shooter, you may get one or two shots off, but you will likely be seriously harmed even if you hit the assailant. If this happens in real life, MOVE, preferably to cover.

to incapacitate him quickly, thus stopping the attack. Even if you shoot first and hit in a vital area, if your weapon is not of sufficient power to cause an incapacitating wound, you will not stop your assailant.

Therefore, accuracy, speed and power are all important in order to survive a deadly attack. Speed and accuracy are improved with training and practice. Power is determined by the type of firearm and ammunition that you carry. A good rule of thumb is to *carry the most powerful handgun that you can quickly and accurately shoot*. Another consideration must be choosing a handgun of a size and weight that doesn't preclude comfortably carrying it.

### RESEARCHING SELF-DEFENSE LAWS

If you routinely carry a concealed deadly weapon for your protection, it is your responsibility to know the law regarding firearm possession and justifiable use of force. It is strongly recommended that you conduct a thorough investigation of the all of the relevant federal, state and local statutes and ordinances. Research specific instances of self-defense shootings and their final dispositions, as well as the conduct of the prosecutors in the criminal courts in your district that have been in such situations.

You may discover examples of what others did right or wrong, which will help guide you in your efforts to avoid making critical errors. Be wary of advice from others, even lawyers and law enforcement officers who do not specialize in self-defense law.

### AFTERMATH OF A SHOOTING

The act of preserving your life is more than likely just the beginning, rather than the end of your problems. You may face criminal charges against you despite your belief that you were justified. If criminal charges are pursued, the question of whether the use of force was ultimately justified is decided by a jury. It is quite possible to have 99 out of 100 reasonable people agree with your actions and still end up in prison on the decision of 12 jurors. However, the most important fact is that you were able to save your own life and possibly the lives of those you love.

It is a good idea to locate a self-defense attorney now, and keep their contact information with you, so if something happens, you will be able to start the legal process right away. Keep copies of all your licenses, insurance and legal contacts someplace where a family member can access them.

*Some things to remember:*

- Be as reasonable and prudent as possible when dealing with a confrontation.

- Never do anything illegal or unethical, such as tampering with evidence.

- Be careful of what you say to witnesses, police, medical personnel, and even family members following a confrontation. Wait until you have the advice of counsel before making any statements!

### BOTTOM LINE:

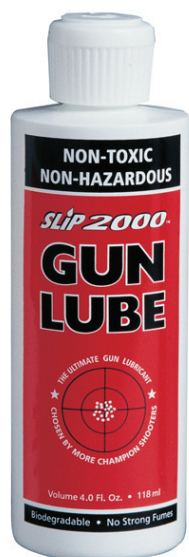
The law-abiding citizen should make every possible effort to avoid using deadly force. Prevention, avoidance, de-escalation, and retreat are all good alternatives, allowing you a much better opportunity to maintain your freedom and return home safely to your family.

Joe Kalil is a former Army officer and pilot. He is a Certified NRA Instructor; KY, OH, UT and FL concealed carry instructor; "Master" IDPA shooter; Glock Armorer; member of the KC3 (KY Coalition to Carry Concealed) Board of Directors; and graduate of numerous professional shooting schools. Joe owns his own company, Defensive Handgun Training LLC [www.DefensiveHandgunTraining.com](http://www.DefensiveHandgunTraining.com) and can be reached at: [JoeKalil\\_DHT@insightbb.com](mailto:JoeKalil_DHT@insightbb.com)

*Disclaimer: The information in this article is not intended to specifically present all aspects of this topic. A lawyer was not consulted and neither the author nor CCM are attempting to instruct you on when to shoot or not to shoot.*

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An isolated exterior zip fastening compartment (lined in 1000 Denier Cordura® Nylon) measures 7" high x 8" wide and may be used to conceal and readily access a firearm. The casual-chic Patricia Day Bag retails for \$295, is available in Sand Dollar or Navy, and may be found at:



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