

Concealed Carry

Federal HR 218 and SB 189 permit "Qualified" active duty law enforcement officers to carry concealed firearms

- Must have on your person identification from the employing department as an active-duty law enforcement officer
- Review department policy regarding off-duty carry of agency-issued firearm
- Remember, federal concealed carry laws provide affirmative defense only against violation of state concealed carry laws. Civil and criminal liability may exist if actions deviate from that permitted by state or federal law

Firearm Safety General Safety Guidelines:

On Duty

- Keep firearm loaded
- Keep finger off the trigger until target in sight
- Never handle firearm under the influence of drugs or alcohol

Off Duty

- Keep weapon concealed (do not remove from holster in public unless intent to use it for defense of life)
- Keep safe distance from adversary when carrying or holding firearm
- Review department policy on the storage of your agency issued weapon including - vehicle, home, and areas where weapons are prohibited.

Maintenance

- Regular maintenance of a firearm is essential for its reliable functionality.
- Review and follow cleaning and maintenance procedures regularly.

Storage Considerations

- Always follow department policy on the storage of your agency issued weapon
- Consider storing the firearm in a locked case or cabinet and always render a stored weapon safe of ammunition separate by clearing ammunition from weapon.

Ethical Issues in the Use of Force

Every active-duty law enforcement officer retains his or her own moral beliefs. Ethically, active-duty law enforcement officers must rely on the guidelines set by their department's policy and the law. Their actions will be judged by the "reasonable person" and the "reasonable belief" standards described herein.

Remember: if you use force when not allowed OR use more force than that which is allowed by law, you may be susceptible to prosecution, civil liability and/or discharge.

You may also be held liable for failure to intervene where use of excessive force occurs in your presence and you fail to take measures to stop it from continuing.

50 ILCS 705/6.3 – Discretionary Decertification of Full-Time & Part-Time Law Enforcement Officers.

- 'Duty to Intervene' – means an obligation to intervene to prevent harm from occurring that arises when: an officer is present, and has reason to know –
 - That excessive force is being used or that any constitutional violation has been committed by law enforcement official; and
 - The officer has a realistic opportunity to intervene.

This duty applies equally to supervisory and non-supervisory officers.

Illinois Law Enforcement Training and Standards Board

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ANNUAL FIREARMS QUALIFICATION:

A REVIEW OF USE OF FORCE WITH A FIREARM

FOR ACTIVE-DUTY LAW ENFORCEMENT OFFICERS



**Illinois Law Enforcement Training &
Standards Board**

**The material in this brochure is a
'Review & Summary' of the Use of
Force laws in the State of Illinois
that affects active-duty & retired law
enforcement officers.**

**This document is not meant to
provide legal counsel as officers
should refer to the Use of Force
policy of their department as their
guide in decision-making as well as
review all applicable statutes in their
entirety with regards to Use of
Force.**

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Peace Officer Firearms Training Act

Peace Officer Firearms Training Act (50 ILCS 710/1) – Definitions

Peace Officer: - (i) any person who by virtue of his office or public employment is vested by law with a primary duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, and who is employed in such capacity by any county or municipality or (ii) any retired law enforcement officers qualified under federal law to carry a concealed weapon.

Firearm: any weapon or device defined as a firearm in Section 1.1 of “An Act relating to the acquisition, possession, and transfer of firearms and firearm ammunition, to provide a penalty for the violation thereof and to make an appropriation in connection therewith,” approved August 3, 1967, as amended.

Training may be the difference in protecting an active-duty law enforcement officer from civil or criminal liability when using deadly force and is required

Legal Aspects of the Use of Force

It is imperative that every active-duty law enforcement officer review and follow his or her department’s use of force policy. The following is a summary of the laws of the State of Illinois and the Illinois Constitution relating to the use of force.

Illinois Use of Force Laws (720 ILCS 5/7 et seq)

5/7-1 Defense of Person

- Reasonable belief that such conduct necessary to defend self or another against third party’s imminent use of unlawful force
- Deadly force only if reasonable belief that such force is necessary to prevent imminent death or great bodily harm to self or another, or to prevent the commission of a forcible felony (720 ILCS 5/2-8)

5/7-2 Defense of Dwelling

- Reasonable belief that such conduct necessary to prevent or terminate such other’s unlawful entry into or attack upon another then in the dwelling, or
- Deadly force only if entry is made or attempted in violent, riotous or tumultuous manner and necessary to prevent assault or personal violence to occupants, or to prevent the commission of a felony in the dwelling.

5/7-3 Defense of Other Property

- Reasonable belief such conduct necessary prevent or terminate another’s trespass.

- Deadly force only if necessary, to prevent commission of forcible felony (720 ILCS 5/2-8)

5/7-5 In Making an Arrest (Peace Officer)

- Officer need not retreat or desist when someone resists;
- Force justified with reasonable belief that conduct necessary to effect the arrest and defend self or another from bodily harm;
- Deadly force only if reasonable belief that such force is necessary to prevent death or great bodily harm to self or other, or both that:
 - Such force is necessary to prevent arrest from being defeated by resistance or escape and the officer believes the person to be arrested is likely to cause great bodily harm to another; and,
 - The person to be arrested committed or attempted a forcible felony which involves the infliction or threat of great bodily harm or attempting to escape by use of deadly weapon or indicates he will endanger human life or inflict great bodily harm unless arrested without delay.

A police officer is not justified in using force likely to cause death or great bodily harm when there is no longer an imminent threat. shall not use deadly force against a person

5/7-6 Private Person in Making an Arrest

- Any force which would be justified in using if summoned or directed by peace officer
- Deadly force justified only if reasonable belief that such force is necessary to prevent death or great bodily harm to self or another

5/7-8 What is Deadly Force?

- Force likely to cause death or great bodily harm including, but not limited to:
 - firing a firearm in the direction of the person to be arrested without intent to kill or inflict great body harm; and
 - firing a firearm at a vehicle in which the person to be arrested is riding
- Discharge, by peace officer, of a firearm using ammunition designed to disable or control without creating the likelihood of death or great bodily harm shall not be considered deadly force

5/7-9 Prevention of Escape

(a) A peace officer or other person who has an arrested person in his custody is justified in the use of force, except deadly force, to prevent the escape of the arrested person from custody as he would be justified in using if he were arresting such person.

(b) A guard or other peace officer is justified in the use of force, which he reasonably believes to be necessary to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.

(c) Deadly force shall not be used to prevent escape under this Section unless, based on the totality of the circumstances, deadly force is necessary to prevent death or great bodily harm to himself or such other person.

Reasonable...

- Reasonable belief: The person concerned, acting as a reasonable person, believes that the described facts exist
- Reasonable Force: minimum amount of lawful aggression sufficient to achieve legitimate law enforcement objective
- Totality of the circumstances: Age, alternative means, continuing danger, presence of weapons, resources available likelihood of danger, presence of bystanders (all things relevant)
- In the law, the totality of the circumstances test refers to a method of analysis where decisions are based on all available information rather than bright-line rules. Under the totality of the circumstances test, courts focus “on all the circumstances of a particular case, that are known or reasonably should be known, rather than any one factor.”

Protections of the U.S. Constitution

4th Amendment prohibition of unreasonable search and seizure

- Excessive Force may be 4th amendment violation resulting in criminal liability
- Tennessee v. Garner: 471 US 1 (1985): The use of deadly force against a fleeing felony must take into consideration the on-going danger presented by the suspect.
- Danger presented by fleeing suspect is important

8th Amendment prohibition of cruel and unusual Punishment

- Excessive force on prisoner may be 8th Amendment violation resulting in criminal and/or civil liability

What is “reasonable”?

- Depends on the facts and circumstances of each particular case including the severity of the crime, the immediate threat to safety of officers and others, whether the suspect is resisting arrest, etc. Graham v. Connor, 490 U.S. 386 (1989).