

Use of Force in Self-Protection. a. Use of force justifiable for protection of the person. Subject to the provisions of this section and of section 2C:3-9 , the use of force upon or toward another person is justifiable when the actor reasonably believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion.

b. Limitations on justifying necessity for use of force.

(1) The use of force is not justifiable under this section:

(a) To resist an arrest which the actor knows is being made by a peace officer in the performance of his duties, although the arrest is unlawful, unless the peace officer employs unlawful force to effect such arrest; or

(b) To resist force used by the occupier or possessor of property or by another person on his behalf, where the actor knows that the person using the force is doing so under a claim of right to protect the property, except that this limitation shall not apply if:

(i) The actor is a public officer acting in the performance of his duties or a person lawfully assisting him therein or a person making or assisting in a lawful arrest;

(ii) The actor has been unlawfully dispossessed of the property and is making a reentry or recaption justified by section 2C:3-6 ; or

(iii) The actor reasonably believes that such force is necessary to protect himself against death or serious bodily harm.

(2) The use of deadly force is not justifiable under this section unless the actor reasonably believes that such force is necessary to protect himself against death or serious bodily harm;

nor is it justifiable if:

(a) The actor, with the purpose of causing death or serious bodily harm, provoked the use of force against himself in the same encounter; or

(b) The actor knows that he can avoid the necessity of using such force with complete safety by retreating or by surrendering possession of a thing to a person asserting a claim of right thereto or by complying with a demand that he abstain from any action which he has no duty to take, except that:

(i) The actor is not obliged to retreat from his dwelling, unless he was the initial aggressor ; and

(ii) A public officer justified in using force in the performance of his duties or a person justified in using force in his assistance or a person justified in using force in making an arrest or preventing an escape is not obliged to desist from efforts to perform such duty, effect such arrest or prevent such escape because of resistance or threatened resistance by or on behalf of the person against whom such action is directed.

(3) Except as required by paragraphs (1) and (2) of this subsection, a person employing protective force may estimate the necessity of using force when the force is used, without retreating, surrendering possession, doing any other act which he has no legal duty to do or abstaining from any lawful action.

c. (1) Notwithstanding the provisions of N.J.S.2C:3-5 , N.J.S.2C:3-9 , or this section, the use of force or deadly force upon or toward an intruder who is unlawfully in a dwelling is justifiable when the actor reasonably believes that the force is immediately necessary for the purpose of protecting himself or other persons in the dwelling against the use of unlawful force by the intruder on the present occasion.

(2) A reasonable belief exists when the actor, to protect himself or a third person, was in his own dwelling at the time of the offense or was privileged to be thereon and the encounter

between the actor and intruder was sudden and unexpected, compelling the actor to act instantly and:

(a) The actor reasonably believed that the intruder would inflict personal injury upon the actor or others in the dwelling; or

(b) The actor demanded that the intruder disarm, surrender or withdraw, and the intruder refused to do so.

(3) An actor employing protective force may estimate the necessity of using force when the force is used, without retreating, surrendering possession, withdrawing or doing any other act which he has no legal duty to do or abstaining from any lawful action.