

LIMITATIONS ON USE OF FORCE IN LAW ENFORCEMENT
(N.J.S.A. 2C:3-7b)

There are, however, limitations on the use of force a person may use in effecting a lawful arrest. The use of force is not justified unless:

(1) The defendant makes known the purpose of the arrest or the defendant reasonably believes that the purpose of the arrest is otherwise known by the person arrested or cannot reasonably be made known to (him/her), and

(2) When the arrest is made under a warrant, the warrant is valid or the defendant reasonably believes it to be valid.

Accordingly, before you can find the defendant not guilty of the offense charged by reason of this defense, you must find that the defendant complied with at least one of these requirements.

In addition, there are limitations on the amount or degree of force a person may use in effecting an arrest. Deadly force is defined as "force which the actor uses with the purpose of causing, or which he knows to create a substantial risk of causing, death or serious bodily harm." "Serious bodily harm" means bodily harm which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ or which results from aggravated sexual assault or sexual assault. The use of deadly force is not justifiable unless:

(1) The actor effecting the arrest is authorized to act as a peace officer or has been summoned by and is assisting a person whom he reasonably believes to be authorized to act as a peace officer, and

(2) The actor reasonably believes that the force employed creates no substantial risk of injury to innocent persons, and

(3) The actor reasonably believes that the crime for which the arrest was made was homicide, kidnapping, sexual assault, criminal sexual contact, arson, robbery, burglary of a dwelling, or an attempt to commit one of these crimes, and

(4) The actor reasonably believes:

(a) There is an imminent threat of deadly force to himself or to a third party, or

(b) The use of deadly force is necessary to thwart the commission of a crime listed above, or

(c) The use of deadly force is necessary to prevent an escape.

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Therefore, if you find that the force used by the defendant was deadly force, before you can find the defendant not guilty, you must further find that all of the aforementioned requirements have been satisfied. If you find that deadly force was used and that the defendant was not authorized to act as a peace officer or someone summoned by and assisting a person whom (he/she) reasonably believes to be acting as a peace officer, the use of deadly force is not justified and you cannot find the defendant not guilty by reason of this defense.