

Stand Your Ground...

(But be Careful)

SUBMITTED BY: **THOMAS J. ELLIOTT**

Gun violence and personal safety are issues of current public debate and concern. In our little town of Tualatin, there are multiple businesses offering assistance with concealed weapons permits. Since a significant segment of our society has chosen to be armed for personal safety reasons, it is probably a good time to consider when, and under what circumstances, the use of deadly weapons is permissible.

Under Oregon law, a person can use physical force in self-defense, but deadly force cannot be used unless the person reasonably believes that the other person is using, or is about to use, unlawful deadly force against the person, or the other person is committing a burglary in a dwelling or committing a felony crime involving the use, or threatened imminent use, of physical force against a person. Unless one of these circumstances exists, the use of deadly force is not justified under Oregon law.

On TV, we see characters “pulling out their piece” or “flashing their gun” in an effort to diffuse a potentially violent situation. But before you do the same, know that pointing a firearm at another is

illegal, resulting in either a jail sentence or a fine. Before you fire a warning shot within a city, understand that to do so is a Class C felony crime. Any use of a gun is a serious matter, and that’s true whether the gun is loaded or purportedly unloaded.

What exactly constitutes a dangerous or deadly weapon under Oregon law can be quite broad. A while back, I was involved in a case where one woman had another woman by the hair and was slamming her head into a concrete floor. The State alleged that the concrete floor was a dangerous weapon. The aggressor was charged with the Measure 11 crime of Assault II and was looking at 70 months in prison. A good rule of thumb in self-defense is that you can use no greater force than what is being used against you.

There is nothing wrong with defending yourself in Oregon, but those considering the use of deadly force in their personal defense would be well advised to consult with a lawyer about how, and under what circumstances, the person might consider the use of deadly force in their defense to be sure that it is consistent with both civil and criminal law. A key point to remember is that while the use of force may not constitute a crime, there is still a question of whether or not the use of the force exposes the person to civil liability for injuries sustained as a result of the use of force. In summary, defend yourself, but be careful. In most cases, the best defense is the use of the 911 system.



Thomas J. Elliott
is an Attorney/Partner
at Martin Elliott & Snell
in Tualatin and can
be reached at
telliott@mes-law.com.