



# **INTERVENING INTO A DEFENSIVE SITUATION AS A THIRD PARTY. IS THIS A WISE MOVE?**

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# DEFENSIVE FORCE PROTECTION IN PA

- Defensive Force may well be considered by the law as deadly force, which can be used in PA to protect yourself, or others from death, serious bodily injury, sexual assault, or kidnapping.
- PA requires no special relationship with the other party and simply uses a three part test to determine when someone is justified in using defensive force in order to protect a third party.

## THREE CRITERIA IN PA

- **The following three criteria need to be met in PA for justification when use of force is applied on behalf of a third person;**
  - 1. If you were in the same position as the party you seek to protect, you would have the legal right to use the force you are going to use**
  - 2. The third party you seek to protect would be legally justified in using such force to protect him/her self**
  - 3. You must believe your intervention is necessary to protect the third party**

# REASONABLE BELIEF STANDARD

- **The reasonable belief standard is followed in these types of situations.**
- **The reasonable belief standard is measured objectively based upon facts as known to you at the time of the encounter.**
- **Subjectivity does not come into play and is not considered from a legal standpoint.**
- **The reasonable belief standard will often be inferred from the “totality of the circumstances” which means all the facts as known by the individual at the time of the use of force instance. This is the same type of standard used in police use of force cases.**

# ASSISTING A POLICE OFFICER IN PA

- **It is important to note that there is no duty of a private citizen acting to assist a third party police officer in PA. This is even if you believe all three criteria are met.**
- **It is simply a personal choice of whether to help a third party and or police officer in PA.**
- **There is neither a criminal or civil liability in the event that someone chooses not to help a third party. PA makes this decision a choice of the citizen.**

# MAKING THE CHOICE TO ACT OR NOT ACT

- **We are lucky to live in a state that recognizes how everyone is safer when law abiding gun owners, who may be the only ones in a position to help a distressed third party, are afforded legal protection if they choose to come to a stranger's aid.**
- **Now lets take a look at some of those laws in PA**

# PA TITLE 18 CHAPTER 5 – USE OF FORCE

## JUSTIFICATION

- **Section 503 Justification Generally – Conduct which the actor believes to be necessary to avoid a harm or evil to himself or to another is justifiable if:**
  - **1. The harm or evil sought to be avoided by such conduct is greater than that sought to be prevented by the law defining the offense charged.**
  - **2. Neither this title nor other law defining the offense provides exceptions or defenses dealing with the specific situation involved.**
  - **3. A legislative purpose to exclude the justification claimed does not otherwise plainly appear.**

## PA TITLE 18 CHAPTER 5

- **505 Use of force in self-protection:**
  - **A. Use of force justifiable for protection of the person – The use of force upon or toward another person is justifiable when the actor believes that such force is immediately necessary for the purpose of protecting him/her self against the use of unlawful force by such other person on the present occasion.**



## PA TITLE 18 CHAPTER 5

- **506 Use of force for the protection of other persons:**
  - **Justified when the actor used such force to protect himself against the injury he/she believes to be threatened to the person whom he/she seeks to protect.**
  - **Under the circumstances as the actor believes them to be, the person whom he/she seeks to protect would be justified in using such protective force.**
  - **The actor believes that his intervention is necessary for the protection of such other person.**

## PA TITLE 18 CHAPTER 5

- **508 Use of force in law enforcement:**
- **States that a police officer, or any person he/she has summoned or directed to assist him/her, need not retreat or desist from efforts to make a lawful arrest.**
- **He/she is justified to use any force which he/she believes to be necessary to defend themselves or another from bodily harm while making the arrest.**
- **Deadly force is only justified if necessary to prevent death or serious bodily injury to him/herself or others. This is during the arrest process as needed or directed.**

# GOOD SAMARITAN'S ACT IN PA - THE GOOD SAMARITAN AND RELATED ACTS 42 PA CSA § 8331-8338

- **§ 8332. Nonmedical good Samaritan civil immunity (a) General rule.--Any person who renders emergency care, first aid or rescue at the scene of an emergency, or moves the person receiving such care, first aid and rescue to a hospital or other place of medical care, shall not be liable to such person for any civil damages as a result of any acts or omissions in rendering the emergency care, first aid or rescue, or moving the person receiving the same to a hospital or other place of medical care, except any acts or omissions intentionally designed to harm or any grossly negligent acts or omissions which result in harm to the person receiving the emergency care, first aid or rescue or being moved to a hospital or other place of medical care.**

# GOOD SAMARITAN ACT IN PA - THE GOOD SAMARITAN AND RELATED ACTS 42 PA CSA § 8331-8338

- § 8331.3 Criminal victim aid good Samaritan civil immunity (a) General rule.-- Any person who provides or obtains or attempts to provide or obtain assistance for a victim of a personal injury crime at the scene of the personal injury crime or attempted personal injury crime shall not be liable for any civil damages as a result of any acts or omissions in providing or obtaining or attempting to provide or obtain assistance, except any acts or omissions intentionally designed to harm or any acts or omissions that constitute gross negligence or willful, wanton or reckless conduct.

## ITEMS OF INTEREST MOVING FORWARD

- **It should be noted that individuals need to understand that if they intervene, they can be subject to arrest, be charged and prosecuted for a crime which will incur legal defense expenses and potential jail time if convicted of a crime.**
- **Note: The Good Samaritan act typically does not cover this type of prosecution (criminal) but still has been used in cases across the country.**

# ITEMS OF INTEREST

- It can be incredibly difficult to ascertain the true circumstances of a situation, especially if you come upon it without knowing or seeing the onset.
- In example – a person can see a man committing what they presume to be a robbery of a woman only to find out they just interfered with an undercover officer making an arrest whether it is a felony or a misdemeanor.
- This type of a circumstance is rare and the courts have typically ruled in the favor of the would be citizen attempting to help out. All crimes are based upon intent. If intent to commit a crime do not exist, the courts are to acquit.
- It is absolutely imperative to know the circumstances if you decide to step in.

## IN CLOSING

- **In general, if you see something say something, call 911 or act on it to assist if you feel justification. Myself, I will always step in to help a fellow officer when off duty. I will identify myself and your should to by telling the officer that you are there to help. I hope that this information will be helpful moving forward and adds to your survival and action plans. Again, thanks to Kim, Chip and the rest of the Board of Directors at FOAC for the opportunity to share these monthly tips with everyone. Please be safe! Stay Free and God Bless America and the 2<sup>nd</sup> Amendment! ED**