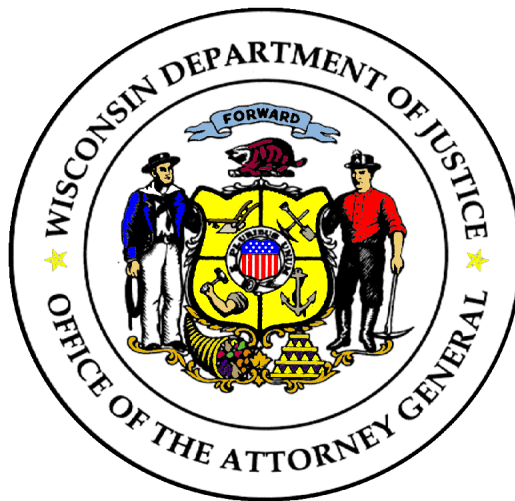


Firearm Safety Course

A Training Guide For Concealed Carry Licenses



**Wisconsin Department of Justice
January 2017**

ACKNOWLEDGEMENTS

This curriculum was drafted by Michelle Sandry and Glenn Rehberg. Student and instructor materials were created by Glenn Rehberg. Special thanks to the Tactical Advisory Committee and members of the Training and Standards Bureau for reviewing and contributing to the curriculum and course materials.

The following people modeled for photographs used in the course PowerPoint: Carrie Fox, Tom Bates, and Irvin Fuller.

The Wisconsin Department of Justice Training and Standards Bureau gratefully acknowledges the following contributors for permission to use their work:

- Kenosha News and Michael Lesnick (*Gun Safety Comes Too Late for Dad*, p. 18)
- Eau Claire Leader Telegram (*Charges Filed in River Falls Shooting Death*, Instructor Resources)
- National Rifle Association (*Eddie Eagle gun safety for children*, p. 21)
- WITN Television (*Kinston Officials: Off Duty Officer Accidentally Shoots Daughter*, Instructor Resources)

Revision history:

10/19/11, 10/20/11, 10/20/11a, 10/27/11, 11/15/11, 11/17/11, 12/13/11, 12/14/11, 01/11/12, 05/30/13, 01/06/15, 07/13/15, 09/04/15, 11/16/15, 02/08/16, 03/29/2016, 07/06/16, 08/19/16, 01/26/17

Copyright © 2017 by the Wisconsin Department of Justice. All rights reserved.

Permission is granted for these materials to be reproduced when reproduced in their original format and in their entirety.

DISCLAIMER

The purpose of this model curriculum is to support implementation of 2011 Wisconsin Act 35. Every effort has been made to be as accurate as possible. However, this document does not constitute either an informal or formal opinion of the Wisconsin Attorney General or the Wisconsin Department of Justice as described in Wis. Stat. § 165.015(1). It does not constitute legal advice or counsel. It does not create an attorney-client relationship. It creates no rights beyond those established under the constitutions, statutes, regulations and administrative rules of the United States and the State of Wisconsin. It does not attempt to provide answers to every question that may arise regarding the carrying of concealed weapons. Many factors may affect a person's decision whether to apply for a license to carry concealed weapons in Wisconsin. You should review the statutes governing CCW and consult a private attorney for specific information and advice when necessary and appropriate.

This document reflects the law as of the date of its publication. It may be superseded or affected by other versions or changes in the law.

THIS PAGE INTENTIONALLY LEFT BLANK

INTRODUCTION

This model curriculum has been developed to support implementation of 2011 Wisconsin Act 35.¹ This course provides an overview of handgun safety practices and concealed carry considerations. It is designed as a safety course, not a training course. For example, this course teaches you how to identify a loaded handgun and how to safely unload it, but does not teach how to load or fire a handgun. This course does not substitute for practice and training in handgun operation. Furthermore, it does not address all the provisions of Act 35, such as changes to laws governing knives or electric weapons.

Instructors acting under the authority of Wisconsin Department of Justice (DOJ) certification are required to teach this curriculum in its entirety. These materials may also be used by instructors certified by organizations other than the DOJ. However, those instructors shall not represent themselves or their course as certified by the DOJ.

Additional instructor materials, including an Instructor Guide, PowerPoint presentation, and Performance Assessment Tasks are available on the DOJ website: <https://www.doj.state.wi.us/dles/cib/conceal-carry/training-requirements>.

Finally, instructors must become familiar with Wisconsin Administrative Code JUS 17,² which implements the provisions of 2011 Wisconsin Act 35. Instructors must ensure their qualifications, courses, and certificates meet Wisconsin requirements.

COMPETENCIES AND LEARNING OBJECTIVES

In this course, students will learn the basics of firearm safety and Wisconsin requirements and considerations regarding the carry of a concealed weapon.

Competencies and Learning Objectives

1. Accept responsibility for firearm safety in your home and in public.
 - a. Adhere to firearm safety rules.
 - b. Identify safe firearm and ammunition use, handling, transport, and storage.
 - c. Advise your family on the safety rules for weapons in your home.
 - d. Advise your children what to do when they come across a weapon.
 - e. Review Wis. Stat. § 948.55, Leaving or storing a loaded firearm within the reach or easy access of a child.

2. Analyze considerations regarding the carry of a concealed weapon.
 - a. Identify ways to conceal a weapon.
 - b. Maintain control of your weapon.
 - c. Review techniques for avoiding and controlling violent confrontations.
 - d. Demonstrate what to do when you encounter law enforcement.

3. Review legally permissible possession, transportation, and use of firearms, including use of deadly force.
 - a. Review Wis. Stat. § 939.48, Self defense and the defense of others.
 - b. Review Wis. Stat. § 939.49, Defense of property and protection of retail theft.
 - c. List the locations where you cannot carry concealed.

4. Recognize the Wisconsin Department of Justice process for obtaining, maintaining, and renewing a concealed carry license.
 - a. Complete an application to obtain a permit to carry concealed.
 - b. Collect the items needed to be submitted with the application.
 - c. Review the process for renewing the license.
 - d. Provide a change of address when necessary.

TABLE OF CONTENTS

COMPETENCIES AND LEARNING OBJECTIVES	VI
TABLE OF CONTENTS	VII
TABLE OF FIGURES	8
FIREARM SAFETY	9
FOUR FUNDAMENTAL RULES OF FIREARM SAFETY	9
ADDITIONAL SAFETY CONSIDERATIONS	10
HOW TO SAFELY UNLOAD YOUR HANDGUN	11
Handgun Types	11
Revolvers.....	11
Pistols	12
Safety and “Unloaded” Guns	15
WEAPONS IN YOUR HOME	15
Safe Storage.....	15
Rapid Access.....	16
FAMILY SAFETY PLAN.....	17
Children and Weapons	17
More Tragic Examples	21
State Statute § 948.55	21
Proactive Learning.....	21
SAFE CARRY CONSIDERATIONS	23
IDENTIFY WAYS TO CONCEAL A WEAPON.....	23
Holster Considerations	23
Examples of Concealment Methods	24
MAINTAIN CONTROL OF YOUR WEAPON	25
Limit Who Knows You Carry	25
Travel Considerations.....	26
Get Additional Training	27
AVOID THE NEED TO USE YOUR WEAPON	27
Avoid Unsafe Areas Whenever Possible	27
Be Aware of Your Surroundings	27
Avoid and De-escalate Confrontations	27
WHAT TO DO WHEN YOU ENCOUNTER LAW ENFORCEMENT	28
LEGAL IMPLICATIONS OF CARRYING A CONCEALED WEAPON	29
ELEMENTS OF THE CONCEALED CARRY LAW	29
Licenses and Identification.....	29
LOCATIONS WHERE YOU CANNOT CARRY CONCEALED	30
Prohibited Locations	30
School Property	30
Within 1,000’ of School Grounds	31
Taverns and Alcohol	31
Employers, Businesses, and Property Owners.....	31
State and Local Governments	32
SELF DEFENSE AND THE DEFENSE OF OTHERS.....	32
Post-Incident Actions	34
DEFENSE OF PROPERTY	35

Civil Liability	35
OBTAIN, MAINTAIN, AND RENEW A LICENSE.....	37
OBTAIN A CONCEALED CARRY LICENSE	37
Eligibility	37
Ineligibility	37
Application Process	37
Proof of Training	38
MAINTAIN AND RENEW YOUR LICENSE	39
Change of Name and/or Address	39
Lost, Stolen, Damaged, or Destroyed Licenses	40
Suspension or Revocation of License.....	40
Renewing a License	41
Expired Licenses	41
APPENDIX A – WIS. STAT. § 948.55	43
APPENDIX B – WIS. STAT. § 939.48	45
APPENDIX C – WIS. STAT. § 939.49	49
APPENDIX D – PERSONS PROHIBITED FROM POSSESSING FIREARMS..	51
Wisconsin Law	51
Federal Law	52
APPENDIX E – WIS. STAT. § 895.62	55
APPENDIX F – KNIVES	57
APPENDIX G – AEROSOL SPRAYS	59
APPENDIX H – ELECTRIC WEAPONS.....	61
END NOTES	62

TABLE OF FIGURES

Figure 1: Double-action revolver	11
Figure 2: Loaded and unloaded revolver	12
Figure 3: Semi-automatic pistol.....	13
Figure 4: Chamber empty (L); cartridge remains in chamber (R).....	14
Figure 5: Unloaded (L) and loaded (R) magazine	14
Figure 6: Padlock around top strap	15
Figure 7: Pistol with cable lock.....	16
Figure 8: Rapid access lock box	16
Figure 9: Joshua Lesnick	18
Figure 10: Portable Lock Box.....	26

FIREARM SAFETY

Firearms are lethal instruments. If they are handled carelessly or irresponsibly, their hazard is obvious. This led to the development of safety rules that—when followed—prevent injuries and deaths. You will learn these fundamental safety rules; you will practice them throughout this class; and you will demonstrate proficiency following these rules to successfully complete this course.

Your safety, however, does not end with these rules. As a concealed carry license holder you must recognize other considerations that affect your physical and legal safety. This course will introduce additional safety concepts including storage practices, carry considerations, and legalities of use of force.

This chapter discusses the four fundamental rules of safe firearm handling. It then discusses safe practices for unloading, storing, and carrying your weapon.

FOUR FUNDAMENTAL RULES OF FIREARM SAFETY

You are responsible for learning the four fundamental safety rules and following them at all times. These rules must **always** be followed to prevent unsafe or unintentional firing.

If you are a new firearm user, train yourself to practice these rules until you can perform them subconsciously. If you are an experienced shooter, you must constantly be aware of the danger of familiarity, and how this familiarity can lead to complacency. In either case, always follow these fundamental safety rules whenever you handle a weapon.

Firearm accidents are most commonly caused by carelessness or ignorance.

1. *Treat every gun as if it is loaded.*

Even if you are *certain* the weapon is empty, always treat it as a loaded gun. Never accept another person's word that a gun is unloaded—verify this for yourself. Many people have been accidentally killed with “unloaded” guns.

2. *Never let the muzzle cross anything you are not willing to destroy.*

Imagine a laser beam coming out of the barrel of your weapon. Never let that laser touch anything—even for a moment—that you aren't willing to shoot. Keep the weapon pointed in a direction that will safely stop any bullet fired.

3. *Keep your finger off the trigger and outside the trigger guard until you want the gun to fire.*

Keep your index finger extended along the frame of the weapon until your sights are on your target and you want to fire. This prevents you from unintentionally firing because you were startled or clutched something with your other hand.

4. *Know your target and what's beyond it.*

Always positively identify your target as what you intend to shoot. Be absolutely certain of what or who you are shooting. Know that bullets may travel through a target and strike something behind it. You may miss your intended target, especially under stress.

ADDITIONAL SAFETY CONSIDERATIONS

The four fundamental safety rules listed above apply whenever you handle a firearm. Safe firearm ownership requires that you adhere to additional safe practices when carrying and storing weapons.

- Secure your weapon away from children and other unauthorized persons. Weapons should never be left unattended unless properly secured.
- Obtain training in firearm use. Merely possessing a firearm doesn't make you a safe or accurate shooter, in the same way that owning a piano doesn't make you a musician. Your safety—and the safety of those around you—demands that you can operate your weapon competently.
- Handle weapons only while sober. Never handle weapons after consumption of alcohol. Some over-the-counter and prescription drugs can also affect your ability to safely handle a firearm. It's against the law to handle a firearm while under the influence of an intoxicant or with a detectable amount of any restricted controlled substance.³
- Properly maintain your weapon. A broken, neglected, or poorly maintained firearm may not function when you need it, or may fire when it should not.
- Use the correct ammunition. Ammunition must be of the correct type for the handgun, and must be kept dry, free from oil or grease, and away from excess heat.
- Inspect and maintain your accessory equipment. Always use a quality holster that was originally designed to carry that particular firearm.
- Read and follow the instructions in your weapon's owner's manual, ammunition boxes, and any related accessories.

Always remember that firearms are lethal devices. A momentary lapse in concentration or attentiveness can have fatal results. Whenever you handle a firearm, give it your full care and attention—your safety and the safety of others depends on it.

HOW TO SAFELY UNLOAD YOUR HANDGUN

An important part of firearm safety is the ability to determine whether a weapon is loaded, and knowing how to safely unload. As part of this course you will be taught to determine whether your handgun is loaded and how to safely unload it.

Failure to perform unloading sequences in the proper order can leave a weapon loaded while you mistakenly believe it is unloaded. If you are ever uncertain or unable to determine whether a weapon is loaded, immediately obtain competent assistance.

Some handguns have idiosyncrasies not covered in this manual. Talk to your instructor about the particular handgun you intend to carry. *You* are responsible for knowing how to safely load, operate, fire, and unload your handgun.

Handgun Types

Safe handling and unloading requires you to know the name of essential parts of your handgun. Self-defense handguns usually fall into two common types—revolvers and pistols. “Revolvers” hold ammunition in a cylinder which rotates into a firing position before each shot is fired. “Pistols” store ammunition in a magazine but fire it from the chamber of the barrel.

Revolvers

The main components of a revolver are shown in Figure 1. Most self-defense revolvers are “double-action,” which means that pulling the trigger cocks and releases the hammer and rotates the cylinder.⁴ The cylinder of these revolvers usually swings out for rapid loading and unloading.

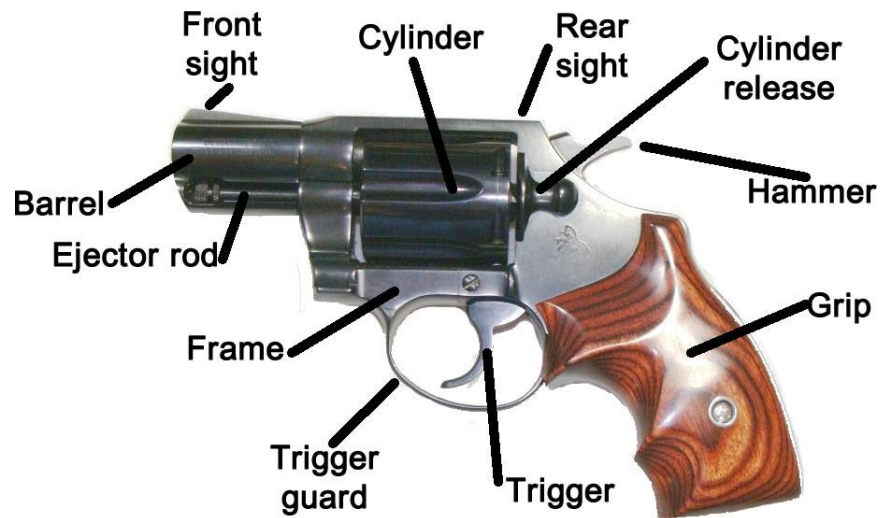


Figure 1: Double-action revolver

To unload a revolver, perform the following actions. *Remember to keep the revolver pointed in a safe direction with your finger outside the trigger guard.*

1. Activate the cylinder release. (Depending on your model, it may need to be pushed forward, pulled back, or pressed inward.)
2. Swing the cylinder out of the revolver. This will make the rear of the cylinder visible.
3. Visually and physically examine the cylinder chambers for ammunition. *Look into each cylinder. Feel the rear of the cylinder to confirm no ammunition is present. (See Figure 2)*
4. If cartridges are present, point the revolver up and press down sharply on the ejector rod. This extracts and ejects cartridges in the cylinder. Re-examine the chambers to confirm all of them are empty.



Figure 2: Loaded and unloaded revolver

Pistols

The main components of a pistol are shown in Figure 3. The slide of a semi-automatic pistol moves back and forth when firing, using the energy of the fired cartridge to load the next round.



Figure 3: Semi-automatic pistol

Pistols contain cartridges in two locations: the barrel's chamber and a detachable magazine. *If a user does not follow the correct sequence when unloading a pistol, a cartridge may remain in the chamber even when the magazine is removed.*

A pistol is not unloaded just because the magazine is removed. Ammunition may be in the chamber, ready to fire.

To unload a pistol, perform the following actions. *Remember to keep the pistol pointed in a safe direction with your finger outside the trigger guard.*

1. Press the magazine release and remove the magazine. (The magazine release is usually just behind the trigger guard, although a few pistols locate this at the bottom of the magazine.) Set the magazine aside.
2. Pull the slide to the rear while keeping your hand away from the ejection port. Lock the slide to the rear using the slide stop.⁵ If a round was in the chamber, it should have been extracted from the chamber and ejected from the gun (see figure 4).
3. Visually and physically examine the chamber of the barrel for the presence of a cartridge.⁶ *Look into the chamber. Feel that the magazine has been removed and the chamber is empty.*



Figure 4: Chamber empty (L); cartridge remains in chamber (R)



Figure 5: Unloaded (L) and loaded (R) magazine

Pistols may or may not have a manual safety. Safeties are usually small levers or buttons that, when activated, block the firing mechanism. Some safeties also prevent the slide from moving. Safeties are mechanical devices that can malfunction, fail, or be inadvertently deactivated. Never rely on them. *Users must always follow all the fundamental rules of firearm safety even when a safety is activated.*

Safety and “Unloaded” Guns

Although you have now unloaded your handgun, all the fundamental rules of firearm safety still apply. “Unloaded” guns kill many people every year. There is always a risk of human error. A moment of distraction is all that’s necessary for a life-ending tragedy. You must still obey the four fundamental rules of firearm safety at all times.

WEAPONS IN YOUR HOME

While a weapon may be a tool to help defend yourself or your family, it can become a deadly hazard when accessible to untrained, careless, or irresponsible guests, visitors, or family members. Every year many people are accidentally shot or killed by a family member.

Families have different situations, requirements, and needs. During this training course you will develop a safety plan for your family. Two key components of any safety plan include ensuring your family knows the fundamental rules of gun safety and storing firearms appropriately.

The most secure way to store a handgun is unloaded, locked up, with ammunition locked in a separate location.

Safe Storage

You are responsible for maintaining control of your weapon at all times. If you are storing a weapon that does not need to be immediately accessible, it’s best to unload the weapon, lock it up, and lock ammunition in a separate location.

You have many options for securing your weapon. You can individually lock up weapons using gun locks, or you could purchase a lock box or safe that can hold multiple guns. Different models offer different levels of security. For example, there’s an obvious difference between a sheet metal lock box and a 500-lb gun safe. Use a secure storage method that meets the needs identified in your family’s safety plan, discussed next.



Figure 6: Padlock around top strap

There are many types of locks that can help you store individual weapons safely. *Trigger locks* are designed to block access to the trigger and prevent the gun from being fired. *Cable locks* can block the gun's action and prevent it from being loaded. *Lock boxes* are designed to prevent access by persons without the key or access code. Keep the keys with you to ensure the weapon cannot be accessed.



Figure 7: Pistol with cable lock

There are several ways to securely store an unloaded revolver. If you are using a commercial gun lock, follow the manufacturer's instructions. A secure and inexpensive method is to place a padlock around the revolver's top strap. This prevents the cylinder from closing and allows the revolver to be chained to an immovable object (Figure 6).

To securely store an unloaded pistol, you may place a cable lock through the empty magazine well and ejection port. This prevents insertion of a magazine and prevents the slide from closing. It also allows the pistol to be securely locked to an immovable object (Figure 7). Many Wisconsin law enforcement agencies offer free cable locks through Project ChildSafe.⁷ Another alternative is disassembling the pistol and placing a padlock through the slide's ejection port.



Figure 8: Rapid access lock box

Lock up ammunition in a separate location away from the weapon.

Rapid Access

Although handguns are most secure when unloaded and

disabled with a gun lock, some people wish to store weapons in a rapidly-accessible manner. This requires a great deal of caution. If done improperly, the weapon remains accessible to unauthorized users.

If you want to keep a gun accessible, several companies manufacture rapid-access lock boxes and safes. These units require a key, fingerprint, or a user-programmed code or combination to open. These containers take only a second to open, but help prevent unauthorized access by children or visitors.

FAMILY SAFETY PLAN

You should create a family safety plan to reduce the possibility of a firearm accident in your home. As every family's circumstances are different, you must tailor your plan to your particular situation.

Here are some introductory questions to consider when developing a safety plan for your family. Because families are different, this is not a comprehensive list. Give careful thought to your situation and how your safety plan can best protect you and your loved ones.

- Who should have access to the weapon? Who should not?
- Are weapons sufficiently secure to prevent unauthorized access?
- Where should the weapon be stored? In what condition? How will it be locked up?
- Where should the ammunition be stored? How will it be locked up?
- Where will the keys be stored?
- Is authorized access convenient, so users do not take shortcuts or fail to secure a weapon?
- Who should be taught the fundamental rules of gun safety?
- Are family members aware of the hazards weapons can pose?
- Is the plan updated as children age or family circumstances change?
- Have all family members discussed the plan? Are they in agreement?

Children and Weapons

Children can easily find a handgun hidden in the nightstand. Putting a gun “out of reach” on a high shelf does not keep it away from a child—it just makes the child pull over a chair so he can reach high enough. Wisconsin statute § 948.55 states that leaving or storing a loaded firearm within the reach or easy access of a child can be a crime.

A proper family safety plan prevents children from accessing firearms. The following news article illustrates the potential tragedy of easy firearm access.⁸



Figure 9: Joshua Lesnick

Gun safety comes too late for dad

By MARK HORNICKEL

mhornickel@kenoshanews.com

As a federal police officer, Michael Lesnick always hoped he would never have to shoot someone.

But on the morning of Nov. 29, 2007, he was faced with something much worse. His 3-year-old son, Joshua, found his father's gun in a bedroom nightstand, shot himself in the chest and died.

"After this happened, I didn't want to look in the mirror," Lesnick, 43, of Kenosha, said in a recent interview. "I see my son's killer every day when I look in the mirror. I did everything but pull the trigger, but put the gun in his hand."

Lesnick, who said he wanted to share his experience now because he has completed his court sentence, is trying to relay his story to other gun owners — particularly law enforcement officers,

who might have become as complacent with their guns as he says he did.

"The message is about keeping guns secured and put away," said Lesnick, who spent six years working as a federal police officer in North Chicago and was a certified firearms instructor.

"Familiarity breeds contempt and complacency. Cops are handling guns all the time. Sometimes you get lax wearing body armor, and I just want to remind everybody of the safety procedures."

In June 2008, Lesnick was sentenced to one year of probation after pleading no contest to a misdemeanor charge for keeping a loaded firearm near a child, as a party to the crime. A judge also ordered him to pay a \$500 fine and have counseling.

Lesnick's wife, Jessica, 35, pleaded guilty to the same crime and was sentenced to 18 months probation in August 2008. She declined to be interviewed for this story.

Fateful night

According to reports, police were called to the Lesnicks' Kenosha home on Nov. 29, 2007, after Joshua suffered a single gunshot wound. He was taken to St. Catherine's Medical Center, where he was pronounced dead.

Michael Lesnick was at work at the time. Jessica Lesnick, who was at home with Joshua and the couple's 5-year-old son, reportedly was in a second-floor bathroom when the shot from the .40-caliber semi-automatic gun rang out. She then found Joshua lying on the floor of her bedroom.

The 5-year-old was not in the room with Joshua and was not hurt.

As a toddler, Joshua was so curious, his parents nicknamed him "Monkey Moo," his father remembered. A week before his death, Lesnick caught the boy after he'd dragged a kitchen chair to a countertop and climbed it to reach for some candy stored above the refrigerator.

"Josh was an incredible baby," Lesnick said. "He was a wonderful, inquisitive little boy. Everybody that ever met him fell in love with him. He touched so many."

On the day he died, Joshua had gone into his parents' bedroom, Lesnick believes, to look for a pair of flashlights he and his brother loved to play with. Lesnick kept the flashlights in a nightstand next

to a box that held the gun. Joshua had never gone into the bedroom before, and Lesnick never thought one of his boys would attempt to handle the gun.

"The boys were fascinated with them," Lesnick said of the flashlights. "I did not think they had the physical strength to fire that gun. I relied on a very bad idea."

Gun locks not in use

A judge said Lesnick had gun locks in the house but was not using them. Lesnick's attorney argued the father kept loaded firearms within reach in case he had to thwart an attacker in his home, and that gun locks or keeping the guns unloaded would have compromised his response time.

"I wish that it was locked," Lesnick says now. "There are safes, and for those who cannot afford gun locks or safes, 99 percent of police departments across the nation will give you a gun lock for your firearm."

The Lesnicks cooperated fully with authorities, and Michael Lesnick said he has no immediate reaction to observers who think their court sentences were too harsh. Most people have reacted in two extremes — they hold him and his wife responsible for Joshua's death, or they feel the parents' pain, Lesnick said.

"It's not like I was Joe Crackhead," he said. "This was a mistake. That's an understatement. A gun in a bedside nightstand is not in the plan."

Trying to recover

Since Joshua's death, the family has struggled to recover the lives they knew.

The tragedy hurt the Lesnicks' marriage, and the couple is divorcing. After Joshua's death, Jessica Lesnick also was caught shoplifting multiple times; court records show she was charged with retail theft five times, but two of those charges were later dismissed, and she pleaded guilty to the others.

"The way she dealt with it was very different than the way I dealt with it," Lesnick said. "It caused the death of our marriage."

Lesnick wants to return to law enforcement but realizes he may not get that opportunity now. He had left his federal police job about a year before Joshua's death and had been working a security job at the time.

"A conviction makes it hard to return to that field," he said. "I still want to help people. I still want to get that message out."

Message resonates

Lesnick has dispatched his story to law enforcement friends and networks across the country. He's received numerous responses, including one from an Arkansas sheriff's deputy who said he woke up his wife and had her move his two guns into a locked case above a closet.

"You may well have prevented similar tragedies," the deputy and father of two young children wrote to Lesnick. "They never have touched my firearms before, so I have become lax in putting them away. ... I probably would not have thought twice about it had it not been for you."

In spite of the tragedy, Lesnick said he remains a supporter of gun ownership and gun rights. He also wishes Wisconsin would join the majority of states in the country by creating a concealed-carry law. Only Wisconsin and Illinois do not issue concealed-carry permits.

"Ultimately I would like to see Wisconsin join the rest of the country in creating a concealed-carry law so that Joe and Judy citizen can legally (carry a weapon)," he said.

But Lesnick said his son's death has put a renewed emphasis on gun safety and education. He acknowledges guns should be secured and kept away from ammunition to prevent similar accidents.

"It needs to be secure so that no one can get their hands on it," Lesnick said. "It would have been no less a tragedy if someone had stolen a gun and shot someone's son."

*Shortly after this article was published Mike & Jessica reconciled.
They reside in southeast Wisconsin with their surviving children.*

More Tragic Examples

In Wisconsin, three four-year-old boys shot themselves in separate incidents when they found accessible handguns—one in a bedroom, one in a car⁹, and one in his residence.¹⁰ In another incident, a two-year-old shot and killed his mother while she was driving in Milwaukee.¹¹

The State of Washington saw three shootings of young children, all within a month of each other. Two children died in separate incidents when parents left loaded guns in vehicles.¹² A third child was critically injured when a classmate inadvertently fired a handgun he found unsecured in his mother's residence.¹³

In 43 weeks in 2015, 43 children aged 1-to-3 years old shot someone. In less than a year, 13 toddlers died, 18 were injured, 10 injured other people, and 2 killed other people.¹⁴

You wouldn't leave knives, gasoline, or lighters accessible to young children. Ensure your family's safety plan prevents children from gaining access to weapons.

State Statute § 948.55

Wisconsin statute § 948.55 states that leaving or storing a loaded firearm within the reach or easy access of a child could be a crime.¹⁵

If you have children, frequently reevaluate your plan as your children age. A ten-year-old with a screwdriver might easily defeat a plan that could protect a two-year-old. Even if you don't have children, ensure your safety plan protects all visitors to your home.

Leaving or storing a loaded firearm within reach or easy access of a child can be a crime.

Proactive Learning

Family safety plans don't end at your home's doorway. Even though you safely secure your guns, children may encounter weapons at the homes of friends or neighbors. Every year young children get access to guns. Sometimes these children shoot themselves; sometimes they shoot a playmate. Children need guidance and training on what to do if they encounter a firearm. The National Rifle Association's "Eddie Eagle" program teaches a simple lesson that may help prevent tragedy if children find an unsecured weapon.¹⁶

***If you find a gun, STOP!
Don't Touch.
Run Away.
Tell a Grown-up.***

You will help prevent tragedy by storing weapons safely. You can also help protect your children by teaching them appropriate behavior.

SAFE CARRY CONSIDERATIONS

You have already read the fundamental safety rules and learned how to properly unload and store a handgun. If you choose to carry a handgun, additional safety considerations come into play. You must identify safe ways to carry and maintain control of your handgun, avoid situations that may lead to gunfire, and know how to best interact with law enforcement officers to prevent the risk of mistaken-identity shootings.

IDENTIFY WAYS TO CONCEAL A WEAPON

For the purposes of this course, “concealed” means indiscernible from ordinary observation. This chapter identifies common and safe methods to conceal a handgun. You will find some methods more effective or suitable for your particular needs. Regardless of which method you choose, you must use proper equipment and techniques to carry safely. Unsafe carrying methods will dramatically increase the chance of losing your gun or an accidental discharge.

Every carry method has advantages and disadvantages. Every carry method has safety-related considerations that you must take into account. Ensure that the method you use allows you to carry the handgun safely, access the gun if needed, and draw without pointing the handgun at an unintended target.

Holster Considerations

Handguns should always be carried in some type of holster. Good holsters protect the trigger, which helps prevent accidental discharges, and keep the gun oriented for a fumble-free draw. Regardless of what is shown on television, you cannot safely carry a handgun by simply sticking it in your pants. In reality, simply sticking a gun in your pants is unsafe. It often results in the weapon shifting, falling out, or sliding down your leg. Even worse, the trigger and safety are not protected from movement. To prevent these or other problems, use a quality holster.

A handgun should always be carried in a holster.

A good holster will do all of the following:

- Cover the trigger to prevent accidental discharges.
- Stay in place for a fumble-free draw.
- Be comfortable enough to wear for long periods of time.
- Provide good concealment.
- Retain the gun securely within the holster to prevent loss.
- Release the gun when you draw it.

Examples of Concealment Methods

There are several ways to safely carry a concealed handgun. All methods have advantages and disadvantages and it is beyond the scope of this course to address them all. Your instructor will illustrate some common, safe, mainstream methods, but it is impossible to say which is best for you. Some holsters provide outstanding concealment but may be very slow to draw from. Other holsters may be very fast, but fail to adequately conceal your handgun. Your chosen method will ultimately take into your consideration your training, experience, physique, clothing, comfort level, and individual needs. If you are unsure about which method(s) might work for your situation, discuss this with your instructor.

Waistband Holsters

The waistband is an easy-to-reach location and a good belt helps support the handgun's weight. Holsters may be worn either inside or outside of the waistband. Most of these holsters require some sort of covering garment.

Ankle Holsters

As their name implies, this type of holster is concealed on the ankle. One safety consideration is that you are immobilized while drawing the firearm.

In-Clothing Holsters

Handguns may be concealed in special holsters worn under the shirt. Examples include belly bands with integral holsters, specialized undershirts, or holsters secured to a bra. One possible concern is that many of these holsters require two hands to draw the weapon.

Pocket Holsters

Safe pocket carry requires the use of a holster to protect the trigger and keep the handgun properly oriented for a smooth draw. Do not put anything except the handgun and holster in that pocket. When you are seated you may have limited access to front pants pockets.

Shoulder holsters

These harnesses suspend a holster under the arm, resulting in a few unique safety considerations. Do not point the weapon at bystanders or yourself while drawing. Because the weapon is carried butt-forward, it may be more difficult to retain in a struggle.

Off-Body Carry

Firearms may be carried in purses, fanny packs, or day planners with special handgun compartments. These methods present unique safety considerations.

- It's very easy to find examples of owners accidentally leaving firearms behind. A quick internet search will reveal stories of guns forgotten in restrooms in courthouses, schools, stores, churches, and gyms. In some cases the firearms were returned; in others, stolen; and in some cases,

- people have been accidentally shot by the person who discovered the firearm.
- Another security consideration is the increased possibility of theft. If your purse or day planner is stolen, the criminal has your home address *and* a firearm.
 - Finally, only use a product that was designed specifically for firearm carry which utilizes an integrated holster. Do not insert anything except the handgun in the holster compartment—the extra object could catch on the trigger, deactivate a safety, or otherwise endanger yourself or others.

MAINTAIN CONTROL OF YOUR WEAPON

A key component of firearm safety is maintaining control of the weapon. When you keep control of the weapon you ensure it is not accessible to unauthorized users, children, or criminals. This enhances your safety and the safety of the general public.

Some methods of maintaining control have already been discussed. If you use an off-body carry method such as a purse or fanny pack, avoid setting the weapon down as much as possible. It's more difficult to lose a weapon that you are wearing than a weapon you can set down and walk away from. Thefts of purses and briefcases happen even in relatively secure workplaces—prevent your weapon from being misplaced or stolen.

Use a carry system that retains your weapon. You can evaluate this using an unloaded weapon. If you can do a somersault or cartwheel without any effect on your handgun, your holster will suffice for most likely scenarios. On the other hand, if moderate exercise like jogging would dislodge your gun, your carry system is inadequate—you may be unable to retain your gun in a struggle, fall, or accident. Even some commercial holsters may fail this test, so select your holster wisely.

Limit Who Knows You Carry

Your safety may be improved by limiting the number of people who know you carry a concealed weapon. What is the benefit of sharing this with casual acquaintances? Once that information is common knowledge it is impossible to limit its spread. Burglars have targeted the homes of law enforcement officers, because those homes might contain a handgun. Co-workers can change and new neighbors will eventually move in next door. You can't control their access to something that is common knowledge.

An openly carried or poorly concealed weapon can also result in unwanted attention of many different sorts.¹⁷ By keeping your weapon concealed, observers will be unaware you are armed. If you ever need your weapon to

defend yourself, you benefit from having the element of surprise. Enhance your safety by using good concealment methods.

You can enhance your personal security by keeping your weapon concealed and by limiting the number of people who know you carry a concealed weapon.

Travel Considerations

You should plan how to maintain control over your handgun when you travel. For example, you might go to a business and learn it prohibits carry of concealed weapons, and be unable to carry your handgun inside. Without previous planning, it will be difficult or impossible to complete your travels while maintaining secure control over your weapon.

While it may be legal to leave your handgun in your vehicle,¹⁸ locked vehicles are not very secure. The chance of a “smash-and-grab” theft increases when you are observed leaving valuables or a gun in a car. Whenever possible, plan ahead so you will not leave a gun in your vehicle.

Routinely storing a gun in your vehicle is discouraged. Although a gun in the glove box might make you *feel* safer, it may not accomplish much. In a sudden attack it is unlikely that you will have time to lean over, open the glove box, obtain a firing grip, pull out the gun, turn it towards the threat, aim, and then begin shooting.

On the other hand, a gun left in the glove box might be carelessly handled by passengers or children. Examples of Wisconsin children obtaining weapons from glove boxes have already been provided. Furthermore, a gun in a glove box is easily stolen. For example, on June 11, 2016, three pistols were stolen from three unlocked vehicles in just one Wisconsin community.¹⁹ Another Wisconsin community saw at least three handguns and an AR-15 stolen from unlocked vehicles in just a few weeks.²⁰ Even locked vehicles can have valuables stolen via “smash-and-grabs.”²¹



Figure 10: Portable Lock Box

If you *must* leave a gun behind temporarily, use a safe or lock-box that is cabled to a seat post or bolted to the vehicle frame. This may discourage theft and may impede unauthorized access to the weapon.

Get Additional Training

If you carry a firearm, seek out additional training. This course introduces basic safety concepts but does not address how to properly grasp a handgun, how to deal with close-quarter threats, or how to perform basic weapon retention tactics. Criminals try to take weapons away from trained police officers. Given the opportunity, there is no reason to believe an assailant would hesitate to try to take away your gun. If you pull out your gun and are not prepared to defend it, your firearm could be taken away and be used against you.

AVOID THE NEED TO USE YOUR WEAPON

As will be discussed later in this course, you are only entitled to use your weapon in situations that place you or others in danger of great bodily harm or death. Obviously you would be better off to avoid such a situation in the first place—because your gun is no guarantee that you will survive the encounter!

The best way to win a deadly confrontation is to avoid the situation in the first place.

Avoid Unsafe Areas Whenever Possible

Whenever possible, completely avoid situations or events that are frequent precursors to violence. You're much safer when you avoid people with impaired judgment and avoid locations with routine or predictable violence. If you plan to go somewhere so unsafe that you want to take a gun, is it necessary to go there at all, even if you are armed? It's foolish to intentionally place yourself in a situation where you might have to shoot someone.

Be Aware of Your Surroundings

In your everyday activities, be mentally awake and aware of your surroundings. If you are "switched on" you are much more likely to successfully recognize, avoid, and if necessary, confront danger.

Sufficient awareness may allow you to recognize potential danger in time to avoid it. Trust your intuition. If you sense that a situation is uncomfortable or potentially dangerous, leave!

Avoid and De-escalate Confrontations

As a license holder, never act in ways that could escalate to a deadly encounter. For example, what could happen if you become involved in a "road rage" incident and use your firearm, even if you weren't the first person to use force? At the very least your actions leading up to the event will be put under a microscope. If

your behavior could be seen as having provoked the event, you could even lose your ability to argue it was legal self defense.²²

If you become involved in a confrontation, attempt to de-escalate the situation. Avoid engaging in a power struggle, and remember that arguing with an enraged person is seldom successful. Instead, try to avoid becoming emotionally involved. Maintain or increase your distance from the other person while speaking in a slow, firm, respectful, and controlled voice. If it is safe to leave, do so immediately. If you are unable to escape the situation, maximize your distance, attempt to reduce the other person's anger over a period of time, and avoid reacting to inflammatory insults.

If you find yourself in a conflict, do everything possible to de-escalate the situation.

WHAT TO DO WHEN YOU ENCOUNTER LAW ENFORCEMENT

It can be stressful to be contacted by a law enforcement officer. You are required to display your photo identification and concealed carry license when requested by a law enforcement officer.²³ You can take additional actions that will make the encounter go as smoothly as possible.

1. If you are in a vehicle, roll down your window. At night, turn on the vehicle's dome light. Stay in the vehicle unless the officer specifically tells you to get out.
2. Keep your hands where the officer can see them. If you are in a car, the best place to put them is on the steering wheel.
3. Immediately and calmly tell the officer that you have a concealed carry license. After you've told the officer you have a concealed carry license, inform the officer that you are also carrying a weapon. When possible, tell the officer about your license before saying, "I have a gun."
4. Tell the officer where your permit and weapon are located. Do not reach for them unless specifically told to do so by the officer. Don't make any quick movements.
5. Cooperate fully with the officer.

In some circumstances a law enforcement officer may take temporary possession of the weapon to ensure the safety of the officer and others. However, in routine non-arrest contacts, the officer will return the weapon at the end of the stop.

LEGAL IMPLICATIONS OF CARRYING A CONCEALED WEAPON

Thus far this guide has discussed how to enhance your *physical* safety. However, your *legal* safety is also at risk if you carry or use a weapon improperly. This chapter addresses when and where you can carry a concealed weapon, and under what circumstances you may use lethal force.

ELEMENTS OF THE CONCEALED CARRY LAW

Your legal safety depends on you knowing how, what, when and where you can legally carry your weapon. The DOJ has created a comprehensive “Frequently Asked Questions” (FAQ) document that provides a more comprehensive overview and answers many common questions. It is available on the DOJ website.²⁴ Key elements of Wisconsin’s concealed carry law are summarized below. For complete information, refer to Wis. Stat. § 175.60.

Your legal safety depends on you knowing how, what, when and where you can legally carry your weapon.

Licenses and Identification

A Wisconsin concealed carry license allows you to carry a handgun, electric weapon, or billy club. It does not permit carry of a machine gun, rifle, or shotgun. A license is not required to carry a concealed knife.²⁵

When you are carrying a concealed weapon you must carry your concealed carry license *and* current and valid photo identification (your unexpired Wisconsin driver’s license or Wisconsin identification card).²⁶ However, you are not required to carry your concealed carry license or photo identification in your home, place of business, or on land you lease or legally occupy.

You must show your concealed carry license and your photo identification to a law enforcement officer upon the officer’s request when the officer is acting in official capacity.²⁷ If you fail to carry or display your license and photo identification, you may be cited. However, if you present, within 48 hours of the request, your license and identification to the law enforcement agency employing the officer who requested the documents, the citation will be voided.²⁸

Weapons in Vehicles

Concealed carry license holders may carry a loaded, concealed handgun in a vehicle. Note, however, that rifles and shotguns have different legal

requirements. Although *2011 WI Act 51* removed the requirement that rifles and shotguns be “encased,” it is still illegal to conceal a long-gun in a vehicle. A firearm within reach on a seat is concealed.²⁹ Rifles and shotguns in a vehicle must be unloaded, and must be readily visible from outside the vehicle or be out of reach of the driver and passengers.

LOCATIONS WHERE YOU CANNOT CARRY CONCEALED

It’s important to note that Wisconsin law differentiates between the carry of a handgun with a license, the carry of a handgun without a license, and the carry of other types of firearms such as rifles or shotguns. *This student guide only summarizes the carry of a handgun with a license.* Do not rely on the information below for non-license carry, or carry of anything other than a handgun. For additional information, refer to DOJ’s FAQ document and state statute.

Furthermore, federal law applies to federal government property and locations. Possession of a Wisconsin concealed carry license does not necessarily authorize carry of a weapon on federal property. Finally, a Wisconsin concealed carry license may or may not be accepted in other states. Each state has the power to regulate what non-resident permits—if any—it accepts.

Prohibited Locations

You cannot carry a handgun in the following locations:³⁰

- Any portion of a building that is a police station, sheriff’s office, state patrol station, or the office of a DOJ special agent.
- Any portion of a building that is a prison, jail, house of correction, or secured correctional facility.
- The Sand Ridge Secure Treatment Center, the Wisconsin Resource Center, or any secured unit or secured portion of a mental health institution, including a facility designated as the Maximum Security Facility at the Mendota Mental Health Institute.
- Any portion of a building that is a county, state, or federal courthouse.
- Any portion of a building that is a municipal courtroom if court is in session.
- A place beyond a security checkpoint in an airport.

School Property

It is a felony to carry a firearm in a school or on the grounds of a school unless one of the following exceptions applies.³¹

- For use in a program approved by a school in the school zone.
- In accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual.

- The firearm is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on the school premises is authorized by school authorities.
- The firearm is unloaded, in a motor vehicle, and is either encased or is in a locked firearms rack.
- Carry by a law enforcement officer or qualified former law enforcement officer.³²
- Carry by a state-certified commission warden acting in his or her official capacity.
- Carry by a person legally hunting in a school forest if the school board has decided that hunting may be allowed in the school forest.

Within 1,000' of School Grounds

It is against the law to carry a firearm within 1,000 feet of school grounds unless:

- one of the “school property” exceptions shown above applies; or
- you are on private property that is not part of school grounds; or
- you have a concealed carry license.

Taverns and Alcohol

A licensee may carry a concealed handgun in a tavern only if they are not consuming alcohol on the premises.³³ It is a class A misdemeanor (9 months jail and/or \$10,000 fine) for any person, whether or not they are a licensee, to go armed with a firearm while under the influence of an intoxicant, or with a detectable amount of any restricted controlled substance in the bloodstream.³⁴

It is a crime to carry a firearm while under the influence of an intoxicant.

Employers, Businesses, and Property Owners

Employers may prohibit employees from carrying a concealed weapon on the job. That prohibition does not apply to the employee’s own motor vehicle, even in the employer’s parking lot.

Businesses and property owners may generally prohibit people from carrying firearms in their buildings and property. These prohibitions do not typically extend to parking areas, and there are limiting qualifications for apartment buildings, etc. See “*RESTRICTIONS BY BUSINESSES AND PROPERTY OWNERS*” in the DOJ’s FAQ document. Notice can be delivered verbally or via signs posted at common entrances.³⁵

State and Local Governments

State and local governments may prohibit people from carrying weapons into government buildings. Notice can be delivered verbally or via a sign posted at common entrances. License holders can carry a handgun on public government land, including local and state parks and wildlife refuges.

SELF DEFENSE AND THE DEFENSE OF OTHERS

Wisconsin Statute § 939.48(1) states that you cannot use deadly force unless you reasonably believe that such force is necessary to prevent imminent death or great bodily harm to yourself, or in specific circumstances, to someone else. That statutory requirement contains critical information and requires careful analysis.

Deadly force. The first element of the statute is “deadly force.” You are using “deadly force” every time you shoot at someone. Bullets can maim or kill. Gunshot wounds are not minor ‘remote-control punch’ injuries, like sometimes portrayed in TV or movies. Even if you could guarantee your bullet would strike the assailant’s arm or leg—a virtual impossibility—that bullet could still cause death. Shooting someone is always the use of deadly force.

Reasonable belief. You must “reasonably believe.” That means a person of average intelligence in the same situation could be expected to believe the same thing when faced with the same situation. Your belief must be *objectively* reasonable. For example, a person could have a sincere *subjective* belief that anyone wearing red pants is a deadly threat, but that belief is not objectively reasonable. Finally, a belief can be reasonable even if it is mistaken. For example, if someone points a gun at you it would be reasonable for you to believe your life was in imminent danger. If the gun was later found to be unloaded, your belief would have been mistaken but still would have been “reasonable.”

Death or great bodily harm. Next, there must be an “imminent threat of death or great bodily harm.” “Great bodily harm” means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.³⁶ Great bodily harm is the most serious injury possible without causing death. Great bodily harm is more serious than “substantial bodily harm,” which is “bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a petechia; a temporary loss of consciousness, sight or hearing; a concussion; or a loss or fracture of a tooth.”³⁷ If you are not in danger of death or great bodily harm, you are not justified in using deadly force.

Imminent Threat

The threat of death or great bodily harm must be “imminent.” Imminent means “about to happen.” In order for the danger to be imminent, the subject’s threat must meet all three of these criteria:

- Intent
- Weapon
- Delivery system

Intent is an indication that the subject intends to cause great bodily harm or death. Intent might be shown by acts, such as pointing a weapon at you or rushing at you with a knife, or may be verbal, such as stating they are going to kill you.

Weapon means that the person has a conventional or unconventional weapon capable of inflicting death or great bodily harm. Guns and knives are examples of conventional weapons. Unconventional weapons such as baseball bats, chains, bricks, and broken bottles can also cause death. Some people can inflict death or great bodily harm with their hands or feet. For example, repeated kicks to the head are certainly capable of maiming or killing.

Delivery system means that the person has the ability to use the weapon to harm you. For example, a person with a knife 50 yards away on the other side of a high fence does not have the ability to use the weapon against you.

Preclusion

Necessary. You must reasonably believe that deadly force is *necessary* before you can use it. This means that even when a person has the intent, weapon, and delivery system to put you under imminent threat of death or great bodily harm, you can only use deadly force if no other *reasonable* option is available. You may not have the time or ability to do anything else except shoot, and you are not expected to make unreasonable or ineffective attempts to stop the assault before shooting. For example, a person being shot or stabbed cannot be expected to try using pepper spray before employing deadly force. Still, deadly force should only be used as a last resort.

You can only use deadly force if no other *reasonable* option is available.

Castle Doctrine

Under certain conditions, use of deadly force may be presumed lawful when someone forcibly enters your home, business, or vehicle while you are present.³⁸ However, you must still follow all firearm safety rules, including rule four—be certain of your target. There are tragic examples of homeowners mistakenly shooting family members believed to be intruders. Regardless of the castle doctrine, you must satisfy the target requirements shown below.

Target Requirements

If you are under imminent threat of death or great bodily harm and have no other reasonable choice than to shoot, you still must meet three target requirements:

- Target acquisition. You must have a target. Firing your gun indiscriminately is not acceptable—you must have a specific target.
- Target identification. You must identify your intended target as the source of the threat. Just because you have acquired a target doesn't mean that it is the *correct* target.
- Target isolation. You must be able to shoot without recklessly endangering innocent bystanders.

You must stop shooting when you recognize the threat of death or great bodily harm has passed. For example, if your assailant runs away and no longer poses a threat, you must stop shooting. Chasing after your assailant is not recommended.³⁹

Post-Incident Actions

If you use your handgun to defend yourself—whether or not shots were fired—immediately report the incident to law enforcement. You might call, or have a friend or family member call and explain that they are reporting it for you. State whether there was a shooting or if you are holding someone at bay. Describe your clothing and where your gun is now. If anyone was injured, request an ambulance. If your assailant fled, give a description of the suspect, any involved vehicle and license plate, and the last known direction of travel.

If you shot your attacker, decide whether it is safe to approach before rendering first aid. Your best course of action may be to summon law enforcement to stabilize the scene so medical professionals can begin to attend to the suspect.

When law enforcement officers arrive, avoid meeting them while visibly armed. If you are with a friend or family member, consider having that person guide law enforcement officers to your location. If possible, holster your firearm or set the gun down before officers arrive. Officers may not know you are the “good guy” and you do not want to be mistaken for a suspect with a gun.

Responding officers do not have the benefit of knowing what happened before they arrived—they must focus on stopping any ongoing violence and preventing further bloodshed. Until officers sort out who is who, anyone with a gun is a potential threat. Even if you are the person who called, officers will stabilize the event by disarming *everyone* until the situation is fully understood. You should expect to be handcuffed, and expect your weapon to be seized.

Some companies sell “concealed carry badges.” Badges may expose you to charges of “impersonating a peace officer” and do not change the procedures shown here.

Never turn towards officers with a gun in your hand. Immediately comply with all instructions given to you by responding law enforcement officers.⁴⁰

Law enforcement will conduct an investigation to determine what happened. When possible, point out any witnesses that saw the attack, and any evidence that would help show what happened. You will be asked to provide a statement. Law enforcement cannot just assume your actions were appropriate—you will have to justify your acts. You can assist the investigation by providing a clear, coherent statement explaining what you saw, what your assailant did, and why you acted as you did.

DEFENSE OF PROPERTY

Wisconsin statute § 939.49 states people have a right to use reasonable force to defend their belongings, but deadly force is not reasonable solely for defense of property. Wisconsin places the sanctity of human life above anyone's belongings.

These examples illustrate the difference between self-defense and defense of property:

- A robber points a handgun at you and demands your wallet. Because the robber is imminently threatening you with death, you might shoot to protect your life. You would not be shooting solely to defend your wallet.
- You look outside and see someone trying to steal your car. You order him to stop but the suspect starts the engine. You would not be justified in shooting, as you are not in danger and would solely be preventing the theft of property.

License holders should consider the potential ramifications of becoming involved in defense of property. Is the property worth the potential risk you might assume trying to stop its theft? When might it be better to call law enforcement rather than becoming directly involved?

Civil Liability

Wisconsin's concealed carry law does not exempt individual license holders from civil liability for their actions. You could be sued and found liable for property damage, injury, or deaths caused by your actions.

The only liability protection provided by Wisconsin statute is for the following actors:⁴¹

- *A person who does not prohibit an individual from carrying a concealed weapon on property that the person owns or occupies is immune from any liability arising from his or her decision.*

- *An employer who does not prohibit one or more employees from carrying a concealed weapon* is immune from any liability arising from that decision.
- *A person providing a firearms training course in good faith* is immune from liability from any act or omission related to the course if the course is one of the courses listed in statute.

Wis. Stat. § 895.62 also affects liability in certain situations, and is shown in Appendix E.

However, even with these statutory provisions, there may be circumstances where the actors described may be exposed to liability. A discussion of such situations is beyond the scope of this course.

OBTAIN, MAINTAIN, AND RENEW A LICENSE

You must meet certain criteria to obtain a concealed carry license. After receiving a license, you must follow certain procedures to maintain it, and follow other procedures if you want to renew it. This chapter will discuss how to perform each of these steps.

OBTAIN A CONCEALED CARRY LICENSE

Applicants must meet certain criteria to be eligible to obtain a Wisconsin concealed carry license.⁴²

Eligibility

An applicant must:

- Be 21 years of age or older.
- Not be prohibited from possessing a firearm under state or federal law.
- Not have been ordered as a condition of bail or release in a criminal case from possessing a dangerous weapon.
- Be a Wisconsin resident or a military resident.⁴³
- Provide proof of the firearms training required for a license.

Ineligibility

The following people are ineligible for a concealed carry license:

- A person under 21 years of age.
- A person who is prohibited from possessing a firearm under state or federal law (see Appendix D).
- A person who has been ordered as a condition of bail or release in a criminal case from possessing a dangerous weapon.
- A person who is not a Wisconsin resident or military resident.
- A person who has not provided proof of the training required for the issuance of a license.

Application Process

You may apply online, or you may download, complete, and return a paper application. In either case, there are common reasons that otherwise eligible applications are rejected. Carefully follow the directions shown below and on the DOJ license application to prevent application errors.

To apply online:

1. Go to the Department of Justice's concealed carry website, <https://concealedcarry.doj.wi.gov>. Click on "Apply for a new license" and follow the directions shown.
2. You will be required to upload a digital copy of your proof of training (see below). Acceptable file formats include .jpg, .jpeg, or .pdf.
3. You will pay online by bank transfer or credit/debit card.

To apply via paper application:

1. Download your application from the Department of Justice website, <https://www.doj.state.wi.us/dles/cib/conceal-carry/ccw-paper-forms>.
2. Be sure you print legibly and sign in all places necessary.
 - a. Military residents must provide the driver's license or identification number from their home state of residency.
3. Collect the documents that must be submitted with the application:
 - a. Check or money order for the correct amount, payable to "Wisconsin Department of Justice." Checks must have the name and address printed on the check (no "starter" or "counter" checks).
 - b. Proof of training (see below). Your document will not be returned, so use a clear, easily-readable photocopy of the original document.
4. Mail the completed materials to:

Wisconsin Department of Justice
ATTN: Firearms Unit
P.O. Box 7130
Madison, WI 53707-7130

Proof of Training

Act 35 requires applicants to provide proof of firearms safety training. Documents that will be accepted as proof of meeting the law's training requirement include:

1. A Wisconsin Department of Natural Resources hunter education certificate, or another state's government-issued hunter education certificate recognized by the WisDNR.⁴⁴
2. An unrevoked concealed carry license from another state or jurisdiction. The license may be current or expired. You must include affirmation form DJ-LE-289, available on the DOJ website, verifying the license is not revoked for cause.
3. Proof of military, law enforcement, or security firearms training.
 - a. *Former military*: DD214 or DD256 form showing either "honorable" or "general under honorable conditions" discharge from the US military after completion of basic or officer training, or a certificate of completion of basic or officer training with a service record of successful completion of small arms training and certification.
 - b. *Active military*: Certificate of completion of basic or officer training with a service record of successful completion of small arms training.

- c. *Law enforcement*: Certification letter from the Wisconsin Law Enforcement Standards Board or *Law Enforcement Standards Board Transcript of Recruit Course Completion*, or comparable documents from another state.
 - d. *Security*: Department of Safety and Professional Services Firearms Certification of Proficiency, or comparable documents from another state.
4. A Department of Justice Firearm Safety Course certificate (issued by DOJ-certified instructors).
 5. Proof of successful completion of a firearms safety or training course. This requires a course certificate *and* evidence the course met the minimal instruction requirements.
 - a. The course must have been conducted face-to-face.⁴⁵
 - b. The course certificate must be from a firearms safety or training certificate taught by a national or state organization that regularly certifies firearms instructors, or by an instructor certified by a national or state organization that regularly certifies firearms instructors, or offered to the public by a law enforcement agency. The copy of the certificate or affidavit from that course must contain all of the following information:
 - i. The applicant's name.
 - ii. The name of the firearms safety or training course.
 - iii. The date on which the applicant completed the firearms safety or training course.
 - iv. The name of the instructor who taught the firearms safety or training course and the name of the agency or organization that certified the instructor.
 - c. In addition to the certificate, the applicant must provide sufficient evidence that the course met minimal instructional requirements. Sufficient evidence consists of one of the following:
 - i. A signed statement by the instructor who taught the course affirming that the course was a training course as defined in Jus 17.03(7)
 - ii. Information on the certificate or affidavit sufficient to establish that the course was a training course as defined in Jus 17.03(7).⁴⁶
 - iii. A signed statement by the applicant that the course was a training course as defined in Jus 17.03(7).⁴⁷

MAINTAIN AND RENEW YOUR LICENSE

Change of Name and/or Address

If you move and/or change your name, you must notify the Department of Justice within thirty (30) days. You may notify the DOJ by downloading, completing, and

mailing the forms listed below, or you may complete the process online at the DOJ concealed carry website, <https://concealedcarry.doj.wi.gov>.

If you change your legal name and wish to send in a paper form, complete form DJ-LE-293, available on this page: <https://www.doj.state.wi.us/dles/cib/conceal-carry/ccw-paper-forms>. Mail the form and the correct fee to the address below. When you receive your new license, you must return your previous license to the department personally or by certified mail.

If you change your address and wish to send in a paper form, complete form DJ-LE-285, available on this page: <https://www.doj.state.wi.us/dles/cib/conceal-carry/ccw-paper-forms>. Mail the form and the correct fee to the address below.

Wisconsin Department of Justice
ATTN: Firearms Unit
P.O. Box 7130
Madison, WI 53707-7130

Lost, Stolen, Damaged, or Destroyed Licenses

If a license is lost, stolen, or destroyed, you may request a replacement. A new license number will be assigned. You may complete this process online, or may mail form DJ-LE-285 to the DOJ at the address above.

If your license was damaged, send any remaining portions of the license along with form DJ-LE-285 and the correct fee to the above address. You will retain your license number, but the process cannot be completed online.

Suspension or Revocation of License

The DOJ will be notified of court actions that would suspend or revoke a CCW license. A license will be suspended if a court orders the licensee not to possess a dangerous weapon as a condition of bail. A license will be revoked if the license holder is no longer eligible to possess a weapon. Additional legal actions that would suspend or revoke a CCW license include arrests or convictions for drug-related offenses.

If a license is suspended or revoked, the DOJ will notify the licensee by mail. The licensee must return the license personally or by certified mail within seven (7) days of suspension or revocation to the DOJ at the address above. Intentionally failing to do so is a crime.

To reinstate a suspended license, the licensee must submit documentation that he or she is no longer subject to the prohibition underlying the suspension. If a license was revoked, the person must apply for a new license.

Note: It is unlawful to possess a firearm if you are prohibited from doing so by law or a court, regardless of your license status.

Renewing a License

Concealed carry licenses are valid for five years from the date of issue. Licensees will receive a letter at least 90 days before expiration, containing instructions for renewing the license.

You may renew online, or you may download, complete, and return a paper application. Carefully follow the directions below and on the DOJ license application to prevent application errors.

To renew online:

1. Wait to receive your renewal letter from the DOJ. This letter will be sent to the address you have on file with the DOJ at least 90 days before your expiration.
2. Go to the Department of Justice's concealed carry website, <https://concealedcarry.doj.wi.gov>.
3. Click on "Apply for Renewal of Your License" and enter your User ID (which is printed in your renewal letter). Follow the directions shown.
4. You will pay online by bank transfer or credit/debit card.

To renew via paper application:

1. Download the renewal application, form DJ-LE-287R, from the Department of Justice website, <https://www.doj.state.wi.us/dles/cib/conceal-carry/ccw-paper-forms>.
2. Be sure you print legibly and sign in all places necessary.
3. Enclose a check or money order for the correct amount, payable to "Wisconsin Department of Justice." Checks must have the name and address printed on the check (no "starter" or "counter" checks).
4. Mail the completed materials to the address on the renewal application.

Expired Licenses

If a licensee does not renew their license prior to its expiration, the original license shall expire and be invalid. Expired licenses can be renewed up to 90 days after the expiration date. Renewals received beyond 90 days after expiration will be returned. After 90 days, licensees must submit a new application with the appropriate fees and documentation.

THIS PAGE INTENTIONALLY LEFT BLANK

APPENDIX A – WIS. STAT. § 948.55

948.55 Leaving or storing a loaded firearm within the reach or easy access of a child.

- (1) In this section, "child" means a person who has not attained the age of 14 years.
- (2) Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child is guilty of a Class A misdemeanor if all of the following occur:
 - (a) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.
 - (b) The child under par. (a) discharges the firearm and the discharge causes bodily harm or death to himself, herself or another.
- (3) Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child is guilty of a Class C misdemeanor if all of the following occur:
 - (a) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.
 - (b) The child under par. (a) possesses or exhibits the firearm in a public place or in violation of s. 941.20.
- (4) Subsections (2) and (3) do not apply under any of the following circumstances:
 - (a) The firearm is stored or left in a securely locked box or container or in a location that a reasonable person would believe to be secure.
 - (b) The firearm is securely locked with a trigger lock.
 - (c) The firearm is left on the person's body or in such proximity to the person's body that he or she could retrieve it as easily and quickly as if carried on his or her body.
 - (d) The person is a peace officer or a member of the armed forces or national guard and the child obtains the firearm during or incidental to the performance of the person's duties. Notwithstanding s. 939.22(22), for purposes of this paragraph, peace officer does not include a commission warden who is not a state-certified commission warden.
 - (e) The child obtains the firearm as a result of an illegal entry by any person.
 - (f) The child gains access to a loaded firearm and uses it in the lawful exercise of a privilege under s. 939.48.
 - (g) The person who stores or leaves a loaded firearm reasonably believes that a child is not likely to be present where the firearm is stored or left.
 - (h) The firearm is rendered inoperable by the removal of an essential component of the firing mechanism such as the bolt in a breech-loading firearm.
- (5) Subsection (2) does not apply if the bodily harm or death resulted from an accident that occurs while the child is using the firearm in accordance with s. 29.304 or 948.60(3).

THIS PAGE INTENTIONALLY LEFT BLANK

APPENDIX B – WIS. STAT. § 939.48

939.48 Self-defense and defense of others.

- (1) A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by such other person. The actor may intentionally use only such force or threat thereof as the actor reasonably believes is necessary to prevent or terminate the interference. The actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.
- (1m)
- (a) In this subsection:
1. "Dwelling" has the meaning given in s. 895.07(1)(h).
 2. "Place of business" means a business that the actor owns or operates.
- (ar) If an actor intentionally used force that was intended or likely to cause death or great bodily harm, the court may not consider whether the actor had an opportunity to flee or retreat before he or she used force and shall presume that the actor reasonably believed that the force was necessary to prevent imminent death or great bodily harm to himself or herself if the actor makes such a claim under sub. (1) and either of the following applies:
1. The person against whom the force was used was in the process of unlawfully and forcibly entering the actor's dwelling, motor vehicle, or place of business, the actor was present in the dwelling, motor vehicle, or place of business, and the actor knew or reasonably believed that an unlawful and forcible entry was occurring.
 2. The person against whom the force was used was in the actor's dwelling, motor vehicle, or place of business after unlawfully and forcibly entering it, the actor was present in the dwelling, motor vehicle, or place of business, and the actor knew or reasonably believed that the person had unlawfully and forcibly entered the dwelling, motor vehicle, or place of business.
- (b) The presumption described in par. (ar) does not apply if any of the following applies:
1. The actor was engaged in a criminal activity or was using his or her dwelling, motor vehicle, or place of business to further a criminal activity at the time.
 2. The person against whom the force was used was a public safety worker, as defined in s. 941.375 (1) (b), who entered or attempted to enter the actor's dwelling, motor vehicle, or place of business in the performance of his or her official duties. This subdivision applies only if at least one of the following applies:
 - a. The public safety worker identified himself or herself to the actor before the force described in par. (ar) was used by the actor.
 - b. The actor knew or reasonably should have known that the person entering or attempting to enter his or her dwelling, motor vehicle, or place of business was a public safety worker.
- (2) Provocation affects the privilege of self-defense as follows:
- (a) A person who engages in unlawful conduct of a type likely to provoke others to attack him or her and thereby does provoke an attack is not entitled to claim the privilege of self-defense against such attack, except when the attack which ensues is of a type causing the person engaging in the unlawful conduct to reasonably believe that he or she is in imminent danger of death or great bodily harm. In such a case, the person

engaging in the unlawful conduct is privileged to act in self-defense, but the person is not privileged to resort to the use of force intended or likely to cause death to the person's assailant unless the person reasonably believes he or she has exhausted every other reasonable means to escape from or otherwise avoid death or great bodily harm at the hands of his or her assailant.

- (b) The privilege lost by provocation may be regained if the actor in good faith withdraws from the fight and gives adequate notice thereof to his or her assailant.
 - (c) A person who provokes an attack, whether by lawful or unlawful conduct, with intent to use such an attack as an excuse to cause death or great bodily harm to his or her assailant is not entitled to claim the privilege of self-defense.
- (3) The privilege of self-defense extends not only to the intentional infliction of harm upon a real or apparent wrongdoer, but also to the unintended infliction of harm upon a 3rd person, except that if the unintended infliction of harm amounts to the crime of first-degree or 2nd-degree reckless homicide, homicide by negligent handling of dangerous weapon, explosives or fire, first-degree or 2nd-degree reckless injury or injury by negligent handling of dangerous weapon, explosives or fire, the actor is liable for whichever one of those crimes is committed.
- (4) A person is privileged to defend a 3rd person from real or apparent unlawful interference by another under the same conditions and by the same means as those under and by which the person is privileged to defend himself or herself from real or apparent unlawful interference, provided that the person reasonably believes that the facts are such that the 3rd person would be privileged to act in self-defense and that the person's intervention is necessary for the protection of the 3rd person.
- (5) A person is privileged to use force against another if the person reasonably believes that to use such force is necessary to prevent such person from committing suicide, but this privilege does not extend to the intentional use of force intended or likely to cause death.
- (6) In this section "unlawful" means either tortious or expressly prohibited by criminal law or both.

939.48 - ANNOT.

"[T]here is both a subjective component to self-defense—that is, the defendant must actually believe he or she was preventing or terminating an unlawful interference; and an objective threshold component—that is, the belief must be reasonable." State v. Hampton, 207 Wis.2d 367, 380-81, 558 N.W.2d 884 (Ct. App. 1996). "The reasonableness of the belief is judged from the position of 'a person of ordinary intelligence and prudence' in the same situation as the defendant, not of a person identical to the defendant placed in the same situation as the defendant." Hampton, 207 Wis. 2d at 381.

939.48 - ANNOT.

The right to resist unlawful arrest is not part of the statutory right to self-defense. It is a common law privilege that is abrogated. State v. Hobson, 218 Wis. 2d 350, 577 N.W.2d 825 (1998), 96-0914.

939.48 - ANNOT.

While there is no statutory duty to retreat, whether the opportunity to retreat was available goes to whether the defendant reasonably believed the force used was necessary to prevent an interference with his or her person. A jury instruction to that effect was proper. State v. Wenger, 225 Wis. 2d 495, 593 N.W.2d 467 (Ct. App. 1999), 98-1739.

939.48 - ANNOT.

Although intentionally pointing a firearm at another constitutes a violation of s. 941.20, under sub. (1) a person is privileged to point a gun at another person in self-defense if the person reasonably believes that the threat of force is necessary to prevent or terminate what he or she reasonably believes to be an unlawful interference. State v. Watkins, 2002 WI 101, 255 Wis. 2d 265, 647 N.W.2d 244, 00-0064.

939.48 - ANNOT.

Sub. (1m) does not justify continued use of deadly force against an intruder when that intruder is no longer in the actor's dwelling. The applicable definition of the actor's dwelling, s. 895.07(1)(h), requires that the part of the lot or site in question be "devoted to residential use." While s. 895.07(1)(h) lists several parts of a residential lot that are part of a "dwelling," it does not include a parking lot. The common denominator of the listed parts of dwellings is that all are property over which the actor has exclusive control. An apartment building parking lot is not exclusive to one tenant or devoted to the residential use of any one tenant. State v. Chew, 2014 WI App 116, 358 Wis. 2d 368, 856 N.W.2d 541, 13-2592.

THIS PAGE INTENTIONALLY LEFT BLANK

APPENDIX C – WIS. STAT. § 939.49

939.49 Defense of property and protection against retail theft.

- (1) A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with the person's property. Only such degree of force or threat thereof may intentionally be used as the actor reasonably believes is necessary to prevent or terminate the interference. It is not reasonable to intentionally use force intended or likely to cause death or great bodily harm for the sole purpose of defense of one's property.
- (2) A person is privileged to defend a 3rd person's property from real or apparent unlawful interference by another under the same conditions and by the same means as those under and by which the person is privileged to defend his or her own property from real or apparent unlawful interference, provided that the person reasonably believes that the facts are such as would give the 3rd person the privilege to defend his or her own property, that his or her intervention is necessary for the protection of the 3rd person's property, and that the 3rd person whose property the person is protecting is a member of his or her immediate family or household or a person whose property the person has a legal duty to protect, or is a merchant and the actor is the merchant's employee or agent. An official or adult employee or agent of a library is privileged to defend the property of the library in the manner specified in this subsection.
- (3) In this section "unlawful" means either tortious or expressly prohibited by criminal law or both.

THIS PAGE INTENTIONALLY LEFT BLANK

APPENDIX D – PERSONS PROHIBITED FROM POSSESSING FIREARMS

Wisconsin Law

Wisconsin law prohibits the following people from possessing a firearm:⁴⁸

- Anyone a court has ordered as a condition of release on bail to be prohibited from possessing a dangerous weapon.
- Anyone convicted of a felony in Wisconsin, unless the person has been pardoned of the felony and has been expressly authorized to possess a firearm under 18 USC app. 1203; or has been relieved of disabilities under 18 USC 925(c).
- Anyone convicted of a crime elsewhere that would be a felony if convicted in Wisconsin, unless the person has been pardoned of the felony and has been expressly authorized to possess a firearm under 18 USC app. 1203; or has been relieved of disabilities under 18 USC 925(c).
- Anyone adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult in this state would be a felony, unless a court subsequently determines that the person is not likely to act in a manner dangerous to public safety.
- Anyone found not guilty of a felony in Wisconsin by reason of mental disease or defect, unless, a court subsequently determines that: 1) the person is no longer insane or no longer has a mental disease, defect or illness, AND 2) the person is not likely to act in a manner dangerous to public safety.
- Anyone found not guilty or not responsible for a crime elsewhere that would be a felony in this state by reason of insanity or mental illness, disease or defect, unless, a court subsequently determines that: 1) the person is no longer insane or no longer has a mental disease, defect or illness, AND 2) the person is not likely to act in a manner dangerous to public safety.
- Anyone committed to treatment under § 51.20(13)(a) and ordered not to possess a firearm under § 51.20(13)(cv)1., unless the prohibition has been cancelled.
- Anyone ordered not to possess a firearm under § 51.20(13)(cv)1, 51.45(13)(i)1, 54.10(3)(f)1, or 55.12(10)(a) (mental health commitments), unless the court order has been cancelled.
- Anyone enjoined under an injunction issued under § 813.12 or 813.122 (harassment or domestic abuse) or under a tribal injunction, as defined in § 813.12(1)(e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under § 941.29 and that has been filed

under § 806.247(3), unless the person is a peace officer and the person possesses a firearm while in the line of duty or, if required to do so as a condition of employment, while off duty; OR, 2) the person is a member of the U.S. armed forces or national guard and the person possesses a firearm while in the line of duty. (Note – the prohibition against firearm possession under this subsection does not apply to any correctional officer employed before May 1, 1982, who is required to possess a firearm as a condition of employment. This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity.)

Federal Law

Federal law prohibits the following people from possessing a firearm or ammunition that has been shipped or transported in interstate or foreign commerce:⁴⁹

- A person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- A person who is a fugitive from justice;
- A person who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
- A person who has been adjudicated as a mental defective or who has been committed to a mental institution;
- A person who, being an alien—
 - is illegally or unlawfully in the United States; or
 - except as provided in subsection 18 USC 44 § 922(y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(26));
- A person who has been discharged from the Armed Forces under dishonorable conditions;
- A person who, having been a citizen of the United States, has renounced his or her citizenship;

- A person who is subject to a court order that—
 - was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
 - restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and;
 - Either
 - includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
 - by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
- A person who has been convicted in any court of a misdemeanor crime of domestic violence.

THIS PAGE INTENTIONALLY LEFT BLANK

APPENDIX E – WIS. STAT. § 895.62

895.62 Use of force in response to unlawful and forcible entry into a dwelling, motor vehicle, or place of business; civil liability immunity.

- (1) In this section:
 - (a) "Actor" means a person who uses force that is intended or likely to cause death or great bodily harm to another person.
 - (b) "Dwelling" has the meaning given in s. 895.07(1)(h).
 - (c) "Place of business" means a business that the actor owns or operates.
- (2) Except as provided in sub. (4), an actor is immune from civil liability arising out of his or her use of force that is intended or likely to cause death or great bodily harm if the actor reasonably believed that the force was necessary to prevent imminent death or bodily harm to himself or herself or to another person and either of the following applies:
 - (a) The person against whom the force was used was in the process of unlawfully and forcibly entering the actor's dwelling, motor vehicle, or place of business, the actor was on his or her property or present in the dwelling, motor vehicle, or place of business, and the actor knew or had reason to believe that an unlawful and forcible entry was occurring.
 - (b) The person against whom the force was used was in the actor's dwelling, motor vehicle, or place of business after unlawfully and forcibly entering it, the actor was present in the dwelling, motor vehicle, or place of business, and the actor knew or had reason to believe that the person had unlawfully and forcibly entered the dwelling, motor vehicle, or place of business.
- (3) If sub. (2)(a) or (b) applies, the finder of fact may not consider whether the actor had an opportunity to flee or retreat before he or she used force and the actor is presumed to have reasonably believed that the force was necessary to prevent imminent death or bodily harm to himself or herself or to another person.
- (4) The presumption described in sub. (3) does not apply if any of the following are true:
 - (a) The actor was engaged in a criminal activity or was using his or her dwelling, motor vehicle, or place of business to further a criminal activity at the time he or she used the force described in sub. (2).
 - (b) The person against whom the force was used was a public safety worker, as defined in s. 941.375(1)(b), who entered or attempted to enter the actor's dwelling, motor vehicle, or place of business in the performance of his or her official duties. This paragraph applies only if at least one of the following applies:
 1. The public safety worker identified himself or herself to the actor before the force described in sub. (2) was used by the actor.
 2. The actor knew or reasonably should have known that the person entering or attempting to enter his or her dwelling, motor vehicle, or place of business was a public safety worker.
- (5) In any civil action, if a court finds that a person is immune from civil liability under sub. (2), the court shall award the person reasonable attorney fees, costs, compensation for loss of income, and other costs of the litigation reasonably incurred by the person.
- (6) Nothing in this section may be construed to limit or impair any defense to civil or criminal liability otherwise available.

THIS PAGE INTENTIONALLY LEFT BLANK

APPENDIX F – KNIVES

On February 6th, 2016, Governor Walker signed 2015 Wisconsin Act 149.⁵⁰ This Act made several changes to weapon-related laws in Wisconsin.

1. The Act removed knives from §941.23 (*carrying a concealed weapon*), and created §941.231 (*carrying a concealed knife*).
2. Under newly-created §941.231, the concealed carry of a knife is a class A misdemeanor only if you are prohibited from possessing a firearm under §941.29. If you could legally possess a firearm, you can legally carry a concealed knife.
3. The Act removed knives from §175.60 (*license to carry a concealed weapon*), because a CCW license is no longer required to carry a concealed knife.
4. The Act completely repealed §941.24 (*possession of switchblade knife*). Knives that used to be prohibited (switchblades, butterfly knives, balisongs, etc.) are no longer illegal, and are no longer any different under the law than any other knife.
5. This Act added knife carry to behavior protected under §947.01(2), which specifies that carrying or going armed with a firearm or knife, whether worn openly or concealed, is not disorderly conduct absent other facts or circumstances that indicate a criminal or malicious intent.
6. This Act added knives to §66.0409 (*local regulation of weapons*). This statute prevents local units of government from enacting or enforcing any ordinance that more strictly regulates firearms or knives than a similar state statute. Examples of local ordinances that are no longer enforceable include restrictions on the sale of knives; ordinances limiting blade lengths; ordinances prohibiting switchblades or butterfly knives; etc. However, a local unit of government can prohibit the possession of knives in buildings owned, occupied, or controlled by that unit of government.

Bottom line: Everybody can carry an exposed knife of any kind. The only people who can't carry a concealed knife are people who cannot legally possess a firearm.

Q: Does this mean people can carry switchblades on school grounds?

A: No, Act 149 did not change Wis. Stat. [§948.61](#) (*dangerous weapons other than firearms on school premises*). This statute prohibits dangerous weapons—as defined by Wis. Stat. [§939.22\(10\)](#)—on school grounds. Because knives are still classified as dangerous weapons by §939.22(10), they are prohibited on school grounds.

Q: Does a “no weapon” sign posted at a local business per Wis. Stat. §943.13(2)(bm) apply to concealed knives?

A: Yes. [Wis. Stat. §943.13\(2\)\(bm\)](#) allows businesses and property owners to post signs prohibiting firearms, thereby placing conditions on the use of their property. Using that precedent, a “no weapons” sign is likely to satisfy the requirements of [§943.13\(1m\)\(b\)](#). In addition, while not punishable as a criminal offense, property owners may place some restrictions on what is carried into a building, or prohibit persons who are carrying those items from entering. For example, the property might prohibit baseball bats, golf clubs, axes, long pointed sticks, backpacks, coolers, glass bottles, food purchased elsewhere, *etc.*, even though no criminal offense is involved.

Q: Can people carry switchblades into a police department, county courthouse, etc.?

A: While [Wis. Stat. §175.60\(16\)](#) prohibits licensees from carrying a concealed “weapon” into law enforcement agencies, jails, prisons, courthouses, *etc.*, this prohibition only applies to weapons specified in [§175.60\(1\)\(j\)](#). Act 149 removed knives from that definition, so §175.60 no longer prohibits knives in these areas. However, there may be other laws that prohibit knives in a particular area. For example, it is still illegal to carry knives beyond an airport security checkpoint, despite Act 149.

Q: Can local units of government prohibit the carry of knives in government buildings?

A: Yes. Act 149 created Wis. Stat. §66.0409(3)(c), which states, “*Nothing in this section prohibits a political subdivision from enacting or enforcing an ordinance or adopting a resolution that prohibits the possession of a knife in a building, or part of a building, that is owned, occupied, or controlled by the political subdivision.*”

Q: Can a juvenile carry a concealed knife?

A: Yes. Act 149 created Wis. Stat. 941.231 (*carrying a concealed knife*), which states, “Any person who is prohibited from possessing a firearm under [s. 941.29](#) who goes armed with a concealed knife that is a dangerous weapon is guilty of a Class A misdemeanor.” However, §941.29 doesn’t include a prohibition based solely on age. While Act 149 did not change [Wis. Stat. §948.60](#) (*possession of a dangerous weapon by a person under 18*), the definition of “dangerous weapon” in §948.60(1) does not include knives. So unless otherwise prohibited (ex: on school grounds, or 941.29 prohibitions), a juvenile appears able to carry a concealed knife.

APPENDIX G – AEROSOL SPRAYS

In December 2013, [2013 Wisconsin Act 77](#) went into effect, loosening previous regulations on pepper spray. Aerosol sprays are now controlled by Wis. Stat. §941.26(4), as follows:

- A concealed carry license is not required to carry pepper spray.
- It is illegal to possess pepper spray if you have been convicted of a felony, or have been convicted of a crime in another state that would be a felony in Wisconsin.
- Only aerosol sprays containing oleoresin of capsicum and inert ingredients are permitted. Any spray that contains another gas or substance that causes bodily discomfort is illegal.
 - “Pepper spray” (oleoresin of capsicum) is legal
 - Any product that contains “tear gas” (CN or CS gas) is illegal
- Use of pepper spray is a misdemeanor, unless it is used in self-defense as allowed in Wis. Stat. §939.48.
- The use of pepper spray against a police officer or in the commission of a crime is a felony.
- It is illegal to sell or give pepper spray to anyone under the age of 18, except by a parent, guardian, or legal custodian.
- Possession of pepper spray by anyone under 18 is illegal, unless the spray was given to the person by their parent, guardian, or legal custodian.

941.26 Machine guns and other weapons; use in certain cases; penalty.

(4)

- (a) Subsections (1g) to (3) do not apply to any device or container that contains a combination of oleoresin of capsicum and inert ingredients but does not contain any other gas or substance that will cause bodily discomfort.
- (b) Whoever intentionally uses a device or container described under par. (a) to cause bodily harm or bodily discomfort to another is guilty of a Class A misdemeanor.
- (c) Paragraph (b) does not apply to any of the following:
 1. Any person acting in self-defense or defense of another, as allowed under s. 939.48.
 2. Any peace officer acting in his or her official capacity. Notwithstanding s. 939.22 (22), for purposes of this subdivision, peace officer does not include a commission warden who is not a state-certified commission warden.
 3. Any armed forces or national guard personnel acting in the line of duty.
- (d) Whoever intentionally uses a device or container described under par. (a) to cause bodily harm or bodily discomfort to a person who the actor knows, or has reason to know, is a peace officer who is acting in an official capacity is guilty of a Class H felony.
- (e) Whoever uses a device or container described under par. (a) during his or her commission of another crime to cause bodily harm or bodily discomfort to another or who threatens to

use the device or container during his or her commission of another crime to incapacitate another person is guilty of a Class H felony.

- (g)**
 - 1. Any person who sells or distributes a device or container described under par. (a) to a person who has not attained 18 years of age is subject to a Class C forfeiture.
 - 1m.** Subdivision 1. does not apply to an actor who is a parent, guardian, or legal custodian of a person who has not attained 18 years of age if the actor gives the person the device or container.
 - 2. A person who proves all of the following by a preponderance of the evidence has a defense to prosecution under subd. 1.:
 - a. That the purchaser or distributee falsely represented that he or she had attained the age of 18 and presented an identification card.
 - b. That the appearance of the purchaser or distributee was such that an ordinary and prudent person would believe that the purchaser or distributee had attained the age of 18.
 - c. That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser or distributee and in the belief that the purchaser or distributee had attained the age of 18.
- (j)** Whoever intentionally sells a device or container described under par. (a) without providing the purchaser with a proper label on the device or container and written safety instructions for using the device or container is guilty of a Class A misdemeanor.
- (k)**
 - 1. Except as provided in subd. 2., any person who has not attained the age of 18 years and who possesses a device or container described under par. (a) is subject to a Class E forfeiture.
 - 2. Subdivision 1. does not apply if the person's parent, guardian, or legal custodian purchased the device or container for him or her or gave the device or container to him or her.
- (L)** Any person who has been convicted of a felony in this state or has been convicted of a crime elsewhere that would be a felony if committed in this state who possesses a device or container described under par. (a) is subject to a Class A misdemeanor. This paragraph does not apply if the person has received a pardon for the felony or crime.
- (m)** The department of justice may not promulgate or enforce any rule that regulates a device or container described under par. (a).

APPENDIX H – ELECTRIC WEAPONS

Electric weapons (such as Tasers™ and “stun guns”) are controlled by [Wis. Stat. §941.295](#), as follows:

- A concealed carry license is generally required to possess or carry an electric weapon, whether concealed or openly carried, unless you are in your dwelling, place of business, or on land you own, lease, or legally occupy.
- Mere “transporting” of an electric weapon is legal if it is enclosed within a carrying case (but you may not “possess” or “go armed with” the electric weapon without a concealed carry license).

941.295 Possession of electric weapon.

(1c) In this section:

- (a) “Electric weapon” means any device which is designed, redesigned, used or intended to be used, offensively or defensively, to immobilize or incapacitate persons by the use of electric current.
- (b) “Licensee” has the meaning given in s. 175.60 (1) (d).
- (c) “Out-of-state licensee” has the meaning given in s. 175.60 (1) (g).

(1m) Whoever sells, transports, manufactures, possesses or goes armed with any electric weapon is guilty of a Class H felony.

(2) Subsection (1m) does not apply to any of the following:

- (a) Any peace officer. Notwithstanding s. 939.22 (22), for purposes of this paragraph, peace officer does not include a commission warden who is not a state-certified commission warden.
- (b) Any armed forces or national guard personnel while on official duty.
- (c) Any corrections personnel in a county or in the department of corrections while on official duty.
- (d) Any manufacturer or seller of electric weapons, unless the manufacturer or seller engages in the conduct described in sub. (1m) with the intent to provide an electric weapon to someone other than one of the following:
 1. A person specified in pars. (a) to (c), a licensee, or an out-of-state licensee.
 2. A person for use in his or her dwelling or place of business or on land that he or she owns, leases, or legally occupies.
- (e) Any common carrier transporting electric weapons.

(2g) The prohibition in sub. (1m) on possessing or going armed with an electric weapon does not apply to any of the following:

- (a) A licensee or an out-of-state licensee.
- (b) An individual who goes armed with an electric weapon in his or her own dwelling or place of business or on land that he or she owns, leases, or legally occupies.

(2r) The prohibition in sub. (1m) on transporting an electric weapon does not apply to any of the following:

- (a) A licensee or an out-of-state licensee.
- (b) An individual who is not a licensee or an out-of-state licensee who transports an electric weapon if the electric weapon is enclosed within a carrying case.

END NOTES

- ¹ 2011 WI Act 35 may be downloaded at <http://docs.legis.wisconsin.gov/2011/related/acts/35>.
- ² JUS 17 may be viewed here: http://docs.legis.wisconsin.gov/code/admin_code/jus/17.
- Permanent rules replaced emergency rules effective June 1, 2013.
- ³ For example, this man shot accidentally shot himself during a dentist appointment while under the influence of nitrous oxide. [*Ohio man accidentally shoots himself during dentist appointment*](#), WISHTV, (downloaded 9/6/2016).
- ⁴ “Single-action” revolvers are not commonly used for self-defense and are not addressed in this guide. Follow the owner’s manual and consult your instructor.
- ⁵ Some pistols are not equipped with slide stops and do not allow their slides to be locked to the rear.
- ⁶ There are multiple reasons a cartridge could remain in the chamber, including a defective extractor, dirty chamber, or faulty ammunition. Furthermore, some pistols (such as the Beretta 21A and similar models) were designed without an extractor and require a different unloading method—consult those guns’ owner’s manuals.
- ⁷ “Project ChildSafe - Putting a lock on safety in your home.” The list of participating agencies is here: <http://www.projectchildsafe.org/safety/safety-kit/Wisconsin> (accessed Nov. 21, 2016).
- ⁸ Reprinted with permission of Kenosha News. Originally published on August 29, 2009 at http://www.kenoshanews.com/news/gun_safety_comes_too_late_for_dad_6267259.html
- ⁹ [*No Charges in Accidental Shooting of 4-Year-Old*](#), Milwaukee Journal Sentinel, May 23, 2014 (accessed January 6, 2015), and [*Guilty: Grandmother of Four-Year-Old Boy Who Shot Himself in the Head Reaches a Plea Deal*](#), Fox 6 Now, November 4, 2014 (accessed January 6, 2015).
- ¹⁰ [*4-Year-Old Accidentally Shot Himself. Police Say*](#), Milwaukee Journal Sentinel, published and accessed 10/3/2016.
- ¹¹ [*Two-Year-Old Fatally Shot His Mother in the Back on Highway 175: “Everyone’s Heart is Broken,”*](#) Fox 6 Now, published and accessed April 27, 2016.
- ¹² [*3-Year-Old Boy Kills Himself with Gun Found in Car During Stop at US Gas Station*](#), Yahoo News, published March 14, 2012, (accessed March 29, 2012).
- ¹³ <http://www.seattletimes.com/seattle-news/mother-of-boy-in-bremerton-school-shooting-pleads-guilty> (accessed September 3, 2015).
- ¹⁴ <https://www.washingtonpost.com/news/wonk/wp/2015/10/14/people-are-getting-shot-by-toddlers-on-a-weekly-basis-this-year> (accessed April 27, 2016)
- ¹⁵ See Appendix A of this student guide for the full text of the statute.
- ¹⁶ “Eddie Eagle GunSafe® Program.” <https://eddieeagle.nra.org> (accessed March 29, 2016).
- ¹⁷ [*Man Practicing Open Carry law Robbed of Gun*](#), KOIN 6, October 7, 2014; [*Man Steals Gun from Man in Line at Phoenix McDonalds*](#), The Arizona Republic, April 30, 2016; [*Man Wearing Handgun Open Carry Robbed in Newport News, Police Say*](#), Daily Press, February 2, 2016; [*Man Robbed with His Own Concealed \[sic\] Handgun*](#), Herald Democrat, June 27, 2016; [*Attacker Steals Man’s Concealed \[sic\] Handgun in Walmart Bathroom, Police Say*](#), Mail Tribune, September 18, 2015 (all accessed July 5, 2016); [*Video Released in Attack on \[Un\]Concealed Gun Carrier*](#), Tampa Bay Times, January 21, 2015 (accessed Nov. 21, 2016).
- ¹⁸ See “Employers, Businesses, and Property Owners” in the next chapter of this Guide.
- ¹⁹ DeForest, WI Police Department, Facebook page (June 11, 2016 at 1:34pm) and Wisconsin Crime Alert Network notices.
- ²⁰ [*Hartford Police Arrest Man in String of Firearm Thefts, Recover Stolen AR-15 rifle*](#), WTMJ-TV, July 29, 2016 (accessed August 3, 2016).
- ²¹ [*PD: 2 Handguns, 2 Shotguns Stolen from Vehicle Parked Near Mall*](#), WISC-TV, Dec. 12, 2016.
- ²² Wis. Stat. § 939.48(2)
- ²³ Wis. Stat. § 175.60(2g)(c)
- ²⁴ <https://concealedcarry.doj.wi.gov>
- ²⁵ [*2015 Wisconsin Act 149*](#) created Wis. Stat. § 941.231, which states that carrying a concealed knife is illegal if the person is prohibited from possessing a firearm under Wis. Stat. §941.29.

-
- ²⁶ Active service members of the U.S. armed forces stationed in Wisconsin but maintaining residency in another state must carry their military photo identification and state-issued driver's license or identification card. Wis. Stat. § 175.60(1)(dm)
- ²⁷ Wis. Stat. § 175.60(2g)(c)
- ²⁸ Wis. Stat. § 175.60(17)(a)
- ²⁹ Wisconsin case law states that a firearm placed on the passenger seat within reach is concealed; *State v. Walls*, 190 Wis. 2d 65, 526 N.W.2d 765 (Ct. App. 1994.)
- ³⁰ Wis. Stat. § 175.60(16) The prohibitions listed do not apply to parking facilities in those locations; courthouse carry by a licensed judge or a licensed person with written permission of a judge; or courthouse carry by licensed district attorneys or assistant district attorneys.
- ³¹ Wis. Stat. § 948.605(2)(b) and 18 USC 922(q)(2)(B)
- ³² Amended by 2015 Wisconsin Act 23
- ³³ Wis. Stat. § 941.237(3)(cx)
- ³⁴ Wis. Stat. § 941.20(1)(b)
- ³⁵ These prohibitions require signs measuring at least five inches by seven inches that inform people firearms or weapons are prohibited. These signs should be posted in prominent places near all entrances to the building or grounds where the restriction applies. Signs for posting land must be at least 11 inches square and be placed in conspicuous places for every 40 acres to be protected. Wis. Stat. § 943.13
- ³⁶ Wis. Stat. § 939.22(14)
- ³⁷ Wis. Stat. § 939.22(38)
- ³⁸ Wis. Stats. § 895.62 and § 939.48(1m) are shown in their entirety in the Appendix.
- ³⁹ See Wis. Stat. § 939.48(2)
- ⁴⁰ Here is a real-world example of how things could go wrong. A homeowner called police after a man with a gun robbed his wife in the driveway. The last thing police heard on the 911 call was, "Is that him?" Upon police arrival they found an armed man where the caller had said the robber was—near the car—but it was the homeowner. <https://www.yahoo.com/news/indiana-man-mistakenly-shot-cop-why-did-shoot-210033444.html> (downloaded 8/30/16). Another hypothetical example: An officer hears shots and arrives on scene before you call 911. The officer finds you standing over a body with a gun in your hand and commands you to drop the weapon. You, meanwhile, are in a chaotic situation unlike any you may have experienced before. Startled by the officer's order, you spin towards the sound. The officer knows that you're armed, you've shot one person already, you're defying his order to drop the gun, and you're turning to bring your gun to bear on the officer. The officer may very likely shoot you.
- ⁴¹ Wis. Stat. § 175.60(21)(b)-(d)
- ⁴² Wis. Stat. § 175.60(3)
- ⁴³ [2015 Wisconsin Act 67](#) allows a "military resident" to obtain a Wisconsin CCW license. "Military resident" means an individual who is in active service in the U.S. armed forces and is stationed in this state for a term that is scheduled to be at least one year in duration. Wis. Stat. §175.60(1)(dm)
- ⁴⁴ The Wisconsin DNR recognizes all other 49 states' hunter education certificates. Hunter education certificates issued by a non-government agency are not acceptable.
- ⁴⁵ Learner-led or self-directed learning—the delivery of learning experiences to independent learners who lead and manage their own experience, delivered via web pages, multimedia presentations, computer applications, online presentations, or similar methods—is not instructor led.
- ⁴⁶ The department has provided a model training certificate for this purpose at: <http://www.doj.state.wi.us/dles/cib/conceal-carry/training-requirements>
- ⁴⁷ See question # 17 on the license application
- ⁴⁸ Wis. Stat. § 941.29
- ⁴⁹ 18 USC Ch. 44 § 922(g)(1)-(9)
- ⁵⁰ <http://docs.legis.wisconsin.gov/2015/related/acts/149>