



## Hold A Strong Point:

### Why Searching for Intruders Can Put You in Legal Danger

By

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**Note-1:** We are not lawyers. Artificial intelligence was used as an editorial and research-support tool in preparing this essay, including assistance with legal analysis, citation checking, organization, and wording. AI output was reviewed and edited several times by the author for accuracy, clarity, and suitability. This essay is for educational purposes only and should not be treated as legal advice. Readers should consult a qualified Maryland attorney for legal advice about self-defense, use of force, or defense of habitation.

A useful resource is found in Harris, R. S., IV & Cohen, M. E. (2024). *The Maryland use of force handbook*. Independently published. Those authors provide a comprehensive explanation of Maryland's use-of-force law. Mark Pennak, a lawyer and the president of *Maryland Shall Issue*, wrote the foreword.

**Note 2:** When we discuss this topic in our wear-and-carry course, many students are shocked. A surprising number come in with the belief that if someone breaks into their home, they can automatically shoot that person. A few even imagine themselves putting on their tactical gear to start searching their house. That is a dangerous misunderstanding. Please read this essay carefully.

## Overview

This essay explains the dangers armed homeowners face when they move room to room through their home searching for an unknown intruder and then shoot that person. While the fears, confusions and wishes to defend family members which lead to searching a home room-by-room are certainly understandable, this essay will argue that the search creates numerous and serious tactical, legal and ethical hazards. It outlines Maryland's laws regarding self-defense and the right to defend one's habitation, identifies circumstances under which a break-in would or would not justify the homeowner using deadly force and illustrates how the homeowner's conduct could potentially be evaluated by law enforcement, prosecution attorneys, judges, jurors and others. In essence, the primary message is that most responsible citizens who choose to keep a firearm in the home should usually immediately gather all family members, contact 911 and take up a position that affords them defensive cover. Deadly force should only be used if there is a justifiable reason to believe that an immediate threat exists to the lives of self and family members.

## The Context: Defending Against Intruders

Many people who keep a firearm in the home for personal protection believe they are doing the right thing when they hear a crash, breaking glass, or unknown movement late at night. They wake up, grab a handgun, and begin moving room to room to search the house.

Most of the time, that decision is not made out of aggression. It is made out of fear. It is made out of concern for family. It is made out of the natural desire to take action when something feels wrong inside your home.

That instinct is understandable. But understandable does not always mean wise. It does not always mean tactically sound. And it does not always mean legally safe.

In Maryland, the home receives special legal protection. If intruders enter your home, you do not have a duty to retreat. If you reasonably believe that you or your family

are facing an imminent threat of death or serious bodily harm, you may use the level of force reasonably necessary to defend yourself and others. (*Barton v. State*, 46 Md. App. 616, 420 A.2d 1009 (Md. Ct. Spec. App. 1980)). But that does not mean the home is a free-fire zone.

The legal question is not simply, “Did someone break into my house?” The legal question is: “At the moment force was used, did the homeowner actually and reasonably believe that deadly force was necessary to stop an imminent threat of death or serious bodily harm?” That question matters. It may determine whether a homeowner is viewed as a justified defender or as someone who used unlawful deadly force.

### **Maryland’s Self-Defense Framework**

For firearm owners (home defense and concealed carry) purposes, Maryland self-defense can be understood through five pillars: innocence, imminence, reasonableness, proportionality, and avoidance when safely possible.

First, the defender must be *innocent*. That means the defender must not be the aggressor or the person who provoked the conflict.

Second, the threat must be *imminent*. Force is justified to stop an immediate threat, not to punish a past act. A person cannot use deadly force for revenge, anger, frustration, or fear of what might happen later.

Third, the defender’s belief must be *reasonable*. It is not enough to say, “I was scared.” The question is whether the homeowner actually believed deadly force was necessary and whether a reasonable person in the same circumstances would have believed the same thing.

Fourth, the force must be *proportional*. Deadly force is not justified against every trespass, every burglary, or every suspicious noise. Deadly force is justified only when the threat reasonably appears to involve death, serious bodily harm, or a qualifying violent felony.

Fifth, outside the home, Maryland generally requires *avoidance or retreat* before using deadly force when retreat can be done safely. Inside the home, however, Maryland recognizes the castle doctrine. The homeowner **does not have to retreat** from his or her own dwelling.

That last point is important, but it is often misunderstood. No duty to retreat does not mean no duty to act reasonably. No duty to retreat does not mean the homeowner may hunt through the house and shoot anyone found there. No duty to retreat means the homeowner is not legally required to flee before defending innocent life.

### **Defense of Habitation Is Not Automatic**

Maryland recognizes defense of habitation, but the defense still has limits. In *Joiner v. State*, No. 1949, September Term, 2023 (Md. App. Ct. May 30, 2025), the Appellate Court of Maryland quoted Maryland Criminal Pattern Jury Instruction 5:02 on defense of habitation and deadly force. The instruction requires more than entry into the home. It requires that the person entered or attempted to enter the home, that the defendant believed the person intended to commit a crime involving an imminent threat of death or serious bodily harm, that the belief was reasonable, that the defendant believed deadly force was necessary, and that this belief was also reasonable.

That means a homeowner cannot lawfully shoot merely because someone broke into the house. A break-in may be powerful evidence of danger, especially at night, but the use of deadly force still depends on the facts known to the homeowner at the time force is used.

Maryland Criminal Law § 6-202 distinguishes between first-degree burglary and home invasion. A person commits first-degree burglary by breaking and entering the dwelling of another with the intent to commit theft. A person commits home invasion by breaking and entering the dwelling of another with the intent to commit a crime of violence. Both are serious felonies, but their seriousness does not remove the requirement that the homeowner's use of deadly force be reasonable under the circumstances.

A homeowner who hears glass break at 2:00 a.m., hears unknown movement inside the house, gathers family members, calls 911, takes a defensive position, and prepares to stop a threat coming toward the family has a much cleaner legal and tactical story than a homeowner who leaves a defensible strong point and searches the home with a gun in hand.

The first homeowner is defending a protected strong point position. The second homeowner may be portrayed as hunting to initiate confrontation. That distinction can become critical after the shooting when prosecutors and defense lawyers get involved.

### **When the Legal Story Changes**

A homeowner does not become the aggressor merely by picking up a firearm after hearing breaking glass. A homeowner does not become the aggressor merely by preparing to defend family members. A homeowner does not become the aggressor merely because he or she is armed inside the home.

But the story can change if the homeowner leaves a place of relative safety (the strong point), moves through the home, searches room to room, finds an intruder, and shoots under circumstances where the intruder did not present an imminent threat of death or serious bodily harm.

For example, the legal analysis may change if the intruder was fleeing. It may change if the intruder was hiding but not threatening anyone. It may change if the intruder was surrendering. It may change if the homeowner could have safely held a strong point while police were on the way. It may change if the evidence suggests that the homeowner closed distance, created the confrontation, or used deadly force after the immediate threat had ended.

These are the kinds of questions investigators, prosecutors, judges, jurors, and civil attorneys may ask:

- Why did you leave your strong point?

- Why did you leave your family behind?
- Why did you not call 911 first?
- Why did you move toward the source of danger?
- Why did you close distance with an unknown person?
- Why did you search instead of securing a strong point?
- Why did you fire at the moment you fired?

Those are not minor questions. They can turn a claimed act of self-defense into a criminal prosecution.

### **Possible Criminal Consequences**

If a homeowner shoots an intruder without legal justification, the homeowner does not receive automatic immunity just because the other person was an intruder. If the shooting is not justified, the possible charges depend on the facts, including whether the intruder dies, whether the shooting was intentional, whether the State can prove premeditation, and whether there is evidence of imperfect self-defense.

If the intruder dies, the homeowner could face murder or manslaughter charges. If the State believes the killing was deliberate, premeditated, and willful, and that no legal justification existed, the charge could be first-degree murder under Md. Code Ann., Criminal Law § 2-201. Maryland law defines first-degree murder to include a deliberate, premeditated, and willful killing. A conviction can result in life imprisonment or life imprisonment without the possibility of parole.

If the killing was intentional and unjustified, but the State cannot prove first-degree murder, the charge could be second-degree murder if the State can prove the required elements, including malice (Md. Code Ann., Criminal Law § 2-204). Maryland law states that murder that is not first-degree murder is second-degree murder. Second-degree murder is a felony punishable by up to forty years in prison.

If there are mitigating facts, such as an honest but unreasonable belief that deadly force was necessary, the case may involve Maryland's doctrine of imperfect self-defense. Imperfect self-defense does not produce an acquittal. Instead, it can reduce murder to voluntary manslaughter because it negates malice. In Maryland, manslaughter is a felony punishable by up to ten years in prison. In some cases, the sentence may be up to two years in a local correctional facility, a fine of up to \$500, or both. See Md. Code Ann., Criminal Law § 2-207.

If the intruder survives, the homeowner could face attempted murder or assault charges. Attempted first-degree murder is punishable by up to life imprisonment under Md. Code Ann., Criminal Law § 2-205. Attempted second-degree murder is punishable by up to thirty years under Md. Code Ann., Criminal Law § 2-206. A shooting could also support a first-degree assault charge because Maryland law prohibits intentionally causing or attempting to cause serious physical injury and also prohibits assault with a firearm. First-degree assault is a felony punishable by up to twenty-five years. (See Md. Code Ann., Criminal Law § 3-202).

The point is simple and serious: the presence of an intruder does not erase the requirement of justification. A homeowner who uses unlawful deadly force may face murder, manslaughter, attempted murder, or first-degree assault charges depending on what happened.

### **Worth the Risk?**

That raises the practical question: why would a homeowner increase legal, tactical, financial, and moral risk by searching the house when a safer option may exist?

In many home-defense situations, the better choice is to secure and defend a strong point. A strong point is a location inside the home that gives the homeowner a defensive advantage. It may be a bedroom, a hallway angle, the top of a stairwell, or another position that provides cover, concealment, distance, and control over access to family members.

A strong point allows the homeowner to do several important things. The homeowner can gather family members. The homeowner can lock or barricade a door. The homeowner can call 911. The homeowner can give 911 dispatch the exact strong point location inside the house. The homeowner can warn the intruders that police have been called. The homeowner can give clear verbal commands if necessary. Most importantly, the homeowner can protect innocent life without searching the house. That matters.

After a shooting, the legal focus will not be limited to how afraid the homeowner felt. It will not be limited to whether the homeowner is a good person, a responsible gun owner, or a loving parent. The focus will shift to what the homeowner did, what the intruder did, where each person moved, when 911 was called, whether commands were given, whether the homeowner created a secured strong point, and whether the shooting looked defensive or aggressive. That is where the danger begins.

Moving through a home with a firearm in search of an intruder may not look like self-defense to others after the fact. It may look predatory. It may look like escalation. It may look like the homeowner left a strong point and went looking for a fight. That is hard to say, but it needs to be said. In the courtroom, “I was searching my house” can become “You were hunting an intruder.” Once that frame is placed before a jury, everything changes.

### **Tactics Are Not Law**

Armed citizens must understand a hard truth: tactics are not law. A tactic may look impressive on the range. A tactic may feel empowering during training. A tactic may look effective in a social media video (for example, the Facebook videos showing a man clearing rooms with an AR-style rifle). But if that tactic increases legal exposure after a shooting, it may be a poor choice for the everyday citizen defending a home.

Clearing a house is dangerous work. Police and military teams conduct room-clearing operations with teams, equipment, communication, planning, and a defined mission. Even for trained professionals, clearing structures is dangerous.

For a single armed citizen, half awake, under stress, in a darkened home, searching for an unseen person while family members may also be moving around, the danger is enormous. Every step away from a secure position creates another decision point. Every decision point creates another chance for tragedy. The homeowner may encounter a family member moving through the home. The homeowner may misidentify a shadowy figure. The homeowner may confront a confused neighbor, an intoxicated person, or someone who entered the wrong house. The homeowner may create the very confrontation he or she hoped to prevent.

That is why the strong point matters. The strong point does not guarantee safety. Nothing does. But it gives the homeowner a cleaner defensive posture, a safer family plan, and a better legal story.

### **How the Justice System May See It**

The justice system weighs objective evidence. As mentioned earlier, it will not feel what the homeowner felt. It will not wake up in the dark to the sound of breaking glass. It will not experience the confusion, fear, adrenaline, and protective instinct that flood the body during a possible home invasion.

Instead, the justice system will study evidence. Investigators will look at diagrams. They will review timelines. They will inspect bullet paths. They will examine shell casings. They will listen to 911 recordings. They will interview others who were in the house. They will study where each person moved. They will ask whether the homeowner called police. They will ask whether the homeowner issued commands. They will ask whether the homeowner held a defensive position or moved through the house searching.

This is why behavior before the shooting matters so much. The legal outcome may turn on whether the homeowner appeared to be defending innocent life or actively searching for a confrontation.

Real life is complicated. No single rule covers every home-defense emergency. There may be times when movement is necessary. A parent may need to reach a child. A homeowner may need to move to protect an injured family member. A person may need to escape a fire, avoid an immediate threat, or get to someone who cannot get to the strong point.

There is a clear difference between moving to save innocent life and moving to investigate a noise. There is also a clear difference between holding a defensive position and systematically searching the house for an intruder. Responsible armed citizen-guardians must understand that difference.

### **Proper Training Is Critical**

Proper training is about far more than marksmanship. It teaches judgment. It teaches restraint. It teaches communication. It teaches movement only when movement is necessary. It teaches the value of distance, cover, angles, light, family planning, and decision-making under stress. It also teaches that a firearm is not a magic wand. It is a tool of last resort. Most of all, proper training teaches this: do not go looking for trouble with a gun in your hand.

The best defensive outcome is often the one where no shots are fired. Gather your family. Create distance. Call 911. Hold a strong point. Prepare to defend innocent life if the threat comes to you. Do not move through the house searching for someone unless movement is necessary to protect life.

Because after the smoke clears, the question may not be whether you were scared. The question may not be whether you meant well. The question may not even be whether you believed you were protecting your family. The question may be whether your actions looked like defense or aggressive pursuit.

If you left safety, moved through the house, searched room to room, closed distance, and found the person you later shot, a prosecutor may argue that you were not defending

against a threat that came to you. Instead, they may argue that you went looking for one. That is the nightmare every armed citizen should avoid.

The lesson is simple, serious, and unforgiving: protect your family, create distance, call 911, hold a strong point, and respond if the threat comes to you if it comes at all. Do not give a prosecutor the story they need to turn your act of protection into an act of pursuit.

## References

Barton v. State, 46 Md. App. 616, 420 A.2d 1009 (Md. Ct. Spec. App. 1980).

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Maryland Code Annotated, Criminal Law § 2-201. Murder in the first degree.

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Maryland Code Annotated, Criminal Law § 2-205. Attempt to commit murder in the first degree.

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State v. Faulkner, 301 Md. 482, 483 A.2d 759 (Md. 1984).

### **About the Author**

Francis (Frank) Duffy is a veteran of the 6th and 5th U.S. Army Special Forces Groups (the Green Berets), a graduate of the Army Ranger School, and a Green Beret combat diver. He is also a certified executive protection specialist.

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### **About the Spartan Firearms Training Group**

The Spartan Firearms Training Group, LLC ([www.spartanftg.com](http://www.spartanftg.com)) is a Special Forces Veteran-Owned business formed in 2015 by Paul and Francis Duffy. At the end of March 2026, we entered into our 11th year of business, and we have trained thousands of Maryland residents in a variety of ways, including:

- Concealed carry training (Initial and renewal—Maryland & Washington, DC)
- Handgun Qualification License (HQL) training
- Emergency Casualty Care training
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- Private group training

Our training calendar can be found at [Firearms Training Maryland | Events Calendar](#)

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**When facing a life-threatening event, you will fall to the level of your training, not rise to the level of your expectations!**