12.08 ASSAULT OR BATTERY — SELF DEFENSE, DEADLY FORCE

Even in self-defense, a person may not use deadly force against another person unless (1) the person reasonably believes that [he][she] is in danger of death or serious bodily harm; and (2) this danger can safely be prevented only by the immediate use of deadly force. Deadly force means an amount of force that is likely to kill the other person or cause serious bodily harm.

A person may not use deadly force if there is a reasonable way for [him][her] to escape the danger by retreating. [However, a person need not retreat from [his][her] own home if [he][she] is not the initial aggressor.]

**Use Note**

This instruction should be used in cases where the issue of whether the defendant used deadly force is raised. It should follow Instruction 12.06. The last sentence may be applicable when the issue of retreat from one's home is raised.

**Comment**

There are no Alaska civil cases which contain a reference to the use of deadly force. It is generally accepted, however, that deadly force is authorized only in cases where deadly force is threatened. The Restatement, in addition, requires a defendant to retreat where reasonable to do so (except from the defendant’s own home) to avoid the need to use deadly force. Restatement (Second) of Torts § 65.