

Self-Defense and the Law

General Guidelines and Overview of the Potential Legal (Civil and Criminal) Ramifications from the Actual Use of Self-Defense Techniques

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Generally, the improper, negligent, unwarranted, or excessive use of self-defense techniques may result in criminal and/or civil liability.

A(1) Self-defense responses of eye gouges, bone breaking, dislocating joints, and other techniques of mayhem or death must be brought within the legal restraints imposed by America's legal system, which requires "parity in force" (type and force of response may only be equal to type and force of an attack), unless extenuating circumstances are present (i.e. being unarmed against an armed attacker, multiple attackers, or a vast disparity of age, size and strength).

A(2) Self-defense skills should not be utilized in a directly aggressive, offensive or attacking fashion, but rather, should be deployed only in situations of self-defense.

NOTE: You should consult with an attorney to discuss the laws of your state concerning the use and possession of weapons, assault and battery, negligent/intentional homicide, and defense of self, others and property if you train in any Martial Art.

GENERAL GUIDELINES

1. Self-defense is a right to resist physical harm, offensive touching, force or violence by a **sufficient and reasonable amount of force or violence** to ensure self-protection under the totality of the circumstances (i.e., size, weight, strength of the people involved, use or non-use of weapons, type of attack and amount of force utilized in attack).

2. Insults, cursing, jokes or comments and other "fighting words" are **not sufficient provocation to justify a physical response or retaliation**. Words alone cannot justify an attack "in the name of self-defense."

3. The right of self-defense arises only when you are **apprehensive** (viewing the immediate future with anxiety or alarm) about being assaulted and/or battered. You need not fear the intended contact will be successful, but rather, only reasonably believe an attack (unjustified/unconsented contact) will occur unless prevented by running away or physically responding.

4. In an ordinary assault and battery situation (nondeadly force) you do not (legally) **have to retreat**. You can stand your ground and use just enough force as is necessary to repel the attack, insure safety and that which is not likely to cause serious bodily injury.

5. The use of **deadly or lethal force** in a self-defense situation is only justified if you have a **reasonable and honest belief that you are in imminent fear of loss of life or serious bodily injury** (i.e., gross disparity in size, strength or age, involvement of weapons, or multiple attackers).

NOTE: Unless you are within your own home, you are **legally required to retreat** before using deadly or lethal force (force intended or likely to cause serious bodily injury or death) on your assailant, **unless you reasonably believe you cannot retreat safely**. The requirement of retreat does not require turning self-defense (retreat) into self-destruction.

KEY NOTE: In self-defense (response to an attack), the amount of force utilized and the lethal or nonlethal techniques utilized may only be equal to that of the attack upon you and that which you honestly and reasonably believe (under the circumstances) to be necessary to insure your safety. You subject yourself to the possibility of a civil lawsuit for monetary damages and/or criminal prosecution with imprisonment, for using excessive force.

6. A **preemptive strike** (landing the first blow to insure your own safety) is permissible as long as you have a **reasonable and good faith belief you are about to be attacked**. In this situation, for your conduct to be justified, you must be without fault.

7. The duration of your right to self-defense is limited. It stops, and so must you, when there is an end to the **immediate threat which gave rise to your right to defend yourself** (i.e., attacker grabs or punches at you; you block and strike the assailant, dropping him/her to their knees, at this point there is no longer an "imminent threat" to you — if you proceed to "finish off" the assailant by breaking their jaw with a kick to the face, you may be held accountable both civilly and criminally).

NOTE: Despite the general laws referenced above, if you are responding in a moment of actual/apparent peril, you are not required to precisely gauge the absolute minimum and proper amount of force to be used against your assailant. "...the law does not require detached reflection in the presence of an upraised knife." It is not likely that the law will deem a defensive act "excessive force," if it is obviously not vindictive and due to an actual confrontation requiring an immediate response.

8. If you intervene to defend a third person (relative, friend or stranger) from an assault or battery, you only have the victim's rights of self-defense. You, in essence, step into their shoes and the guidelines referenced above apply (i.e., response to imminent danger; use "parity in force" of the attacker; lethal versus nonlethal techniques; duration; and/or preemptive strike). You must have an honest and reasonable belief that help was needed.

BIBLIOGRAPHY AND RECOMMENDED READING

American Law and the Trained Fighter, Carl Brown

Martial Arts and the Law, Dr. Karl J. Duff

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NOTES; and KEY NOTES