

SMART DEFENSE

PART 1, LEGAL



SELF-DEFENSE has become an all-too-common public concern these days, and rightly so. However, how we protect ourselves is important. Even more important are the self-defense laws of each state and how those laws are applied.

For example, let's say a neighbor throws a punch at us. Do we have the right to fight back, maybe by throwing our own punch . . . or even two or three punches for good measure? Maybe, maybe not. The law rules.

Thanks to *Findlaw.com*, we can gain some foresight regarding the Dos & Don't of self defense. After all, if we ever have to defend ourselves, we certainly want to have a SMART DEFENSE, not a DUMB DEFENSE or, worse, no Defense at all.

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Understanding How Self-Defense Law Applies

<https://www.findlaw.com/legalblogs/law-and-life/is-it-legal-to-fight-back-if-someone-hits-you/>

Let's start with the doctrine of self-defense. As a general rule, you have the legal right to use force to protect yourself against physical violence if you reasonably believe someone poses an imminent threat of bodily harm to you. If you are in reasonable fear and your use of force is justified, you cannot face criminal charges for any harm you cause your aggressor.

A few points:

- **Note that self-defense is about the prevention of harm, not retaliation.** If the aggressor stands down after hitting you, you don't automatically get to punch them back, no matter how fair that might seem.

- **To rely on self-defense, you must be lawfully present where you are.** Trespassers can't rely on self-defense.
- **Your response must be proportional.** If someone punches you, you can't pull out a deadly weapon like a gun and shoot them (well, you can, but a police officer will likely arrest you for aggravated assault). You can only use the amount of force necessary to eliminate the threat of harm to you.
- **You cannot rely on self-defense if you are the initial aggressor.** If you start the fight, you can be held liable for any personal injury you cause, even if you don't throw the first punch.

When Can You Use Deadly Force?

Suppose you're in a bar fight. The fight escalates and your aggressor pulls out a knife or a gun. A proportional response may involve the use of deadly force. The rules for using deadly force are a little different from non-lethal force.

Duty to Retreat

In many states, you have a "duty to retreat" before you can use deadly force (and in some states, any force). If you can safely avoid the risk of serious bodily injury by retreating in these states, you have a legal obligation to do so. This may seem unfair to some (such as survivors of domestic violence), but the law would prefer to leave the decision of using deadly force, when appropriate, to law enforcement.

Castle Doctrine

An exception to the "duty to retreat" is if you are attacked in your home (some states extend this to the workplace or an occupied vehicle). According to what's called the "castle doctrine," you may use deadly force to protect yourself or prevent a felony in your home.

<https://www.findlaw.com/criminal/criminal-law-basics/castle-doctrine-overview.html>

'Stand Your Ground' Laws

A slight majority of states go further than the castle doctrine. In a "stand-your-ground" state, you can legally respond to an immediate threat of death or serious physical injury with lethal force, regardless of where you are, without having to retreat.

Note that although you do not have a duty to retreat, you still must have a legal right to be present there and the force you use must still be proportional to the threat you face. You can face misdemeanor or even felony murder or assault charges under your state's criminal law if you use too much force and harm or kill your aggressor.

A Criminal Defense Lawyer Can Help

Most adults avoid fights when they can. But if you can't avoid it, you have the right to defend yourself. Just make sure you have the legal right to be where you are and use proportional force.

And if you end up in a criminal case, you should consult a criminal defense lawyer in your area. A criminal defense attorney can give you legal advice about your rights and help you decide what your best options are.

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