

The Law on Using Reasonable Force

There are widespread concerns that the honest citizen faces an increasingly uneven playing-field against a rising tide of lawless thugs.

However, the law of self-defense has, for hundreds of years, provided a potentially limitless justification for acts of violence against attackers.

So wide-ranging is the protection that an individual may use violence and weapons resulting in serious injuries, and even death, depending on the circumstances in which they find themselves.

The Test

An individual charged with an offense such as assault may claim to have been acting in self-defense.

The question that will have to be answered is whether the amount of force used was, objectively, reasonable in the circumstances as the individual honestly believed them to be.

In other words, did he really believe that the only way to prevent himself, or someone else, being harmed was to hurt the attacker?

This is a question that will have to be answered by the jury.

In answering it the jury will take into account both the particular characteristics of the individual – such as their age, gender and relative

strength – and the circumstances surrounding their actions.

The jury will have to ask whether the average, reasonable person sharing the individual's characteristics would have acted in the same way if they had been in that situation.

However, if the individual suffers from a psychiatric condition which contributed to them acting in the way they did this cannot be used as an excuse and should not be taken into account.

What is Reasonable on the Spur of the Moment?

It is accepted by the courts that a person who is being attacked, or who genuinely believes that they are about to be attacked, is unlikely to have the time to sit down and consider all the options before taking action.

People who believe they are being attacked are going to act on the spur of the moment. Almost by definition the amount of force used will be considered to have been reasonable if the individual can show that they acted instinctively.

Self-Defense in the Home

When householders find that there is an intruder in their home, it is likely that almost any amount of force or violence they use to protect themselves and their family will be justified. If the force was used to protect or defend the occupants from harm it will probably have been reasonable.

Self-defense is a common law defense which means that case law determines the tests to be applied when an individual relies on it in court. One thing is clear from looking at the cases that deal with reasonable force - very few of them relate to householders tackling intruders.

Generally speaking, the Crown Prosecution Service does not prosecute householders who use violence in these circumstances. Therefore, despite the public perception, these incidents almost never come to court. The CPS and the police frequently conclude that householders have acted lawfully even in situations where weapons and considerable violence have been used against intruders.

The Law and Using Force against Someone Committing Crime

The law on the use of force against someone committing a crime is very similar to that on the use of force in self-defense.

However, unlike the law on self-defense, it has been set out in statute.

The Criminal Law Act 1967 states that an individual is entitled to use reasonable force to prevent a crime being committed.

Reasonable Force

The amount of force that will be justified will depend on the circumstances in which it is used.

However, in principle almost any level of force may be justified if an individual honestly believed it was necessary to prevent a crime taking place.

In deciding whether the amount of force used was reasonable a number of factors will be taken into account, including:

- The seriousness of the crime that an individual was acting to prevent – For example, it is unlikely that any force would be reasonable to prevent a thirteen year old schoolboy stealing a chocolate bar;
- Whether the crime could have been prevented in some other way – perhaps by alerting the police;
- The strength of the individual using force relative to the person committing the crime – If a karate black-belt or a body-builder who works as a bouncer uses force against a weaker person

there is a high risk that it will be excessive.

Mistaken Beliefs

When force is used, the individual does not have to have been right in his belief that he was acting to prevent a crime to use this as a defense. The belief does not even have to be objectively reasonable – other people may have thought it was ridiculous. However, the belief must have been honestly held when the force was used.

If a person only believed they were acting to prevent a crime because they were drunk or under the influence of drugs they will not be able to use this as a defense. In addition, the more unreasonable a belief seems, the less likely a jury or court will be to accept that the individual honestly believed it.

The Use of Force to Protect Property

When an individual takes action to prevent someone damaging or stealing his property, or the property of another person, he is entitled to use force. The amount of force that can be justified to protect property may well be lower than what can reasonably be used to protect human life. If this defense is raised two questions will have to be considered:

- Whether the force was used to protect property from an attack - or the threat of an attack - which would amount to a criminal or unlawful act;
- Whether, given the circumstances as the individual saw them, it would be objectively reasonable to use force in those circumstances.

The Crown Prosecution Service is reluctant to prosecute people who instinctively, and with good intentions, intervene to prevent a crime being committed.

When deciding whether a prosecution should be brought, the CPS is likely to consider very carefully all the circumstances of an individual case before making a final decision:

- Any injuries sustained
- The seriousness of the crime being prevented
- If the force was excessive
- How the force was inflicted
- Whether the individual was genuinely acting on the spur of the moment or whether he was acting as a vigilante or for revenge.