

Use of Force: When Should You Pull the Trigger?

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The right to defend ourselves is not something given to us by government, but by God Himself.

Governments don't give you anything; they exist to take it away. Granted, some of that is necessary for an orderly society, but big government takes much more than We the People need for them to take.

But that's a subject for another day. Today, our concern is self-defense.

The Second Amendment to our nation's Constitution enshrines our God-given right to defend ourselves, by acknowledging our right to have the tools to do that with. While we normally think of this as talking about firearms, the Second Amendment is just as applicable to swords as it is to guns.

But having the right to defend ourselves and carelessly exercising that right are two totally different things. No law on the books gives anyone the right to react to a perceived threat with violence, nor should there be. Reacting to a perceived threat in what the military would call a "preemptive strike," which is extremely dangerous, as those perceptions could very well be wrong.

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I mention this to dispel another perception; that of using firearms preemptively to defend ourselves in a survival situation. I don't personally know anyone who carries concealed or is part of the prepping movement who is just itching for an opportunity to shoot someone, like some try to present us to be. However, I see a lot written about defense, specifically in the prepping and survival community, which can make us appear to be like that.

What I'm referring to are the articles talking about defending ourselves in the midst of societal breakdown. I see people talking about using sniper rifles to take out enemies from a long distance away, building bombs and booby-traps to defend their home, and killing those whose only crime is to try to steal some food because they are hungry. It would take a lot to bring the world to the point where that is necessary.

Don't get me wrong now; I'm not trying to preach some pacifist manifesto here. I just want to bring some balance and reason to the argument. I carry concealed every day and believe in using deadly force (if necessary) to defend home and family. But I don't want to go to jail for it.

Look at the aftermath of any disaster and you'll see two-legged predators out, trying to take advantage of the situation. While most of those are simple looters, there are also those who go far beyond that. The worse the situation, the more of those predators you can expect to find and the more dangerous the aftermath of the disaster will be. But those predators, by their very nature, are criminals, not law-abiding citizens like you and I.

Here's the basic problem. Many people equate a breakdown of society with a breakdown of law and order. While that is true, at least to some extent, it doesn't mean that law and order are done away with forever. There will probably be a time after the aftermath, when law and order are reestablished. When that happens, you can be sure that there will be plenty of people around who want to

prosecute those who were forced to use deadly force in self-defense.

Like I said, I don't want to go to jail for defending my family. So there's no way that I'm going to assume that just because lawlessness is rampant one day, it means that it will stay that way. We humans like order too much for that. Law and order will be reestablished and I want to be sure to be on the right side of it.

What the Law Says About Self-defense

Laws on self-defense vary from state to state, so take what I'm about to say with a grain of salt. You need to be cognizant of the laws in your state, not mine. I'll be speaking in generalities and you need to know the specifics of where you live.

In general, American criminal law allows for the use of deadly force in self-defense. That's not necessarily true in other countries. But here in the USA, if you kill someone in self-defense and it can be proven to be an act of self-defense, then you will avoid any punishment, although you may still need to go to court to prove your innocence.

Here's the caveat though.

The courts have to agree that your use of deadly force was "reasonable and necessary." You've got maybe a whole second to decide if you need to pull the trigger or not and they can take weeks to deliberate on the issue. That may not sound fair, but it's the reality we live in.

There are a few important terms that we need to understand here, in order to clarify what qualifies as self-defense:

- Imminent threat – to be imminent means that it is "right now;" not five minutes from now.
- Threat of life and limb – you or someone with you are at risk of being killed or seriously injured.
- The Reasonable Man Theory – this says that the actions taken are what a reasonable person would take in those circumstances.
- Excessive force – while not talked about as often, one of the principles which limit police action is that they are constrained to use the minimal necessary force, based upon the circumstances. Shooting an unarmed individual who throws a punch is excessive force. Shooting one holding a knife isn't.
- Castle Doctrine (otherwise known as "stand your ground") – states which apply this legal principle have decided that you don't have to retreat from your home or place of business to protect your life, but that you can defend yourself and your home.

Now, let's apply those definitions. Generally speaking, it is only considered self-defense when you are in imminent threat of life and limb. It is not considered self-defense if the threat is not imminent or if there is no threat of life or limb. This determination is based upon the Reasonable Man Theory; so essentially, any reasonable person on the street would do the same, if they were in your circumstances.

This is why I say that we should take a moment to think, before pulling the trigger.

How is the situation going to look to the police, to the prosecutor or to a jury? Is it clear that we acted in self-defense or not? Is there something you could do, short of having to shoot that person?

I think it's important to remember that in 70% of the cases where someone who carries concealed, doesn't have to use their firearm, just showing that they are armed is enough to stop a crime. Most criminals don't want to get into a firefight and only use guns to intimidate. If you show that you are not going to be intimidated, they are likely to flee. You don't necessarily have to shoot.

Obviously, our system is far from perfect; but again, it's the law we live under. In reality, it gives much more rights to you to defend ourselves, than we would find elsewhere in the world.

If you or I used deadly force to defend yourself in England, we'll go to jail for it. The same would happen in Mexico. So our rights to self-defense are much broader than other parts of the world.

Let's Talk "Reasonable"

Since so much of this is based on what is considered "reasonable," we need to make sure we have a good understanding of what exactly that means in a practical sense. The starting point for that is where we make the decision to act or not to act.

If your neighbor across the street is holding a rifle across their body and yelling that they are going to come kill you, they are not an imminent threat. There is no way that they can shoot you with that rifle in that position; nor can they hit you with it, like a club. So any action you take, other than to grab your own rifle (without making it obvious that you are) or calling the police isn't self-defense, it's preemptive. That all changes at the moment they point the rifle at you; then they become an imminent threat.

So the idea of using a sniper rifle (or scoped hunting rifle) to take out a violent gang several houses away, that is approaching your house, can't be considered self-defense. For it to be self-defense, they would either need to take an intentional shot at your house, or actually come on your property armed and threaten you.

Even showing that you are armed, unless your firearm is holstered, can be considered to be a criminal act. It's called "brandishing a weapon" and is generally considered to be a provocative violent act. So you want to be careful about even showing a gun, making sure that if you do, it is done in a way that is clearly non-threatening.

If they are threatening you with a knife from the curb, they aren't an imminent threat, even if they point that knife at you or are preparing to throw it. However, if they are within 21 feet of you and there is no obstacle between you (like a barred gate), they are an imminent threat. That's because in most cases they can reach you and stab you with the knife, faster than you can draw a pistol from a holster.

But at the moment that any criminal turns away from you, they are no longer an imminent threat, regardless of what they have done or what type of weapon they are holding. The basic assumption is if they turn away, they are quitting. So if you take action at that point, you are considered the aggressor and will face criminal charges.

There is one huge flaw in this whole system, but it's one we can't really do anything about. That is, the initiative lies with the criminal. You have to let them take the first violent action, or you are not acting in self-defense. That can be extremely dangerous, especially considering that their action could be taking a shot at you. Hopefully, they won't be a very good shot.

Defending Home & Others

State laws differ on the right to defend others and the right to defend property. Once again, you need to know the law for the state in which you live; but in most states you are allowed to defend others, with the same restrictions as you have for defending yourself.

One of the real dangers in this is that you could walk into a situation and not fully understand what is going on. Let's say that you walk into a store and see a man holding a gun, which he has pointed at a woman. In such a circumstance, it would be natural to assume that he was the aggressor; but he might be acting in self-defense, because she just tried to stab him. Criminals know the laws they are going to break and will try to use them to create misperceptions which are advantageous to them.

Once again, it's a good idea to pause, before pulling the trigger. Your appearance with a gun may be enough to diffuse the situation. If so, that's actually to the better. Remember the 70% statistic?

Perhaps the most controversial part of the whole self-defense debate is the Castle Doctrine. Most states have some form of this written into law, but not all states do. In states which don't have any form of the Castle Doctrine enshrined in their law, the use of deadly force in self-defense is not considered legal in the courtroom, even if the law allows it, unless you don't have any other option. If you can get out of your home, you are required to do so.

Bombs & Booby-Traps

What's even more dangerous, from a legal viewpoint, than how some people talk about their guns, is talking about using booby-traps, including some that trigger bombs, as part of their self-defense efforts. US law makes this illegal in all 50 states.

The problem is this: such devices are totally indiscriminate in who they attack and they are intended to attack autonomously. What this means is that if you set up a booby trap in your yard, your trap could seriously hurt some neighbor kid that climbs over your fence to get to their ball that they inadvertently kicked into your yard. Should that happen, it would be as if you hurt them yourself, legally speaking.

In such a case, having your property "posted" wouldn't do you the least bit of good in a courtroom. Not only does the child's ability to read come into question, but you and I both know that kids don't read such signs. You would still be the one who had set the trap, so it would be seen as if you pulled the trigger.

The only real solution here is to only use such traps in the event of a breakdown of society and to use them very cautiously even then. That means limiting yourself to traps that will do minimal damage, such as using caltrops. While you will still have inflicted injury on them, it would be a minimal and temporary injury.

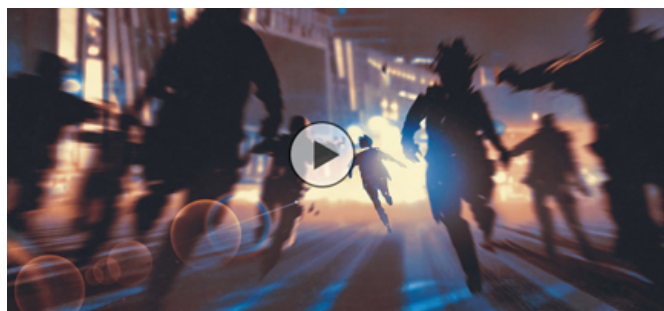
In a Survival Situation

We have to assume that all of these laws will still be in effect in a survival situation, just as they are today. The bad guys, being bad guys, won't pay any more attention to the law than they do today; if anything, they'll pay even less attention to it. But that doesn't give you and I the legal right to act like them. We must always be sure that our actions are above reproach.

So, how do we do that, while still ensuring our family's safety? That's a hard question to answer, because there are several ways of doing it. So let me tell you how I'm planning on dealing with it. That is to wait until the last possible moment, before pulling the trigger. I will give the bad guys the chance to shoot first, as well as any possible chance to retreat. But when I do pull the trigger, I'll use the maximum violence and firepower I can, with the intent of defeating them with overwhelming force.

At the same time, I have a family member who is the designated recorder. Their job is to take a video of the event, from the first moment we know there is a threat, up until the threat is gone. That video could end up being the best possible evidence to show that we acted in self-defense.

That's not a perfect solution, but it is the best balance between protecting my family and protect myself legally, that I can come up with.



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SEE HOW

Disclaimer: The information written above is given to provide you with information that you can think on in coming up with your own solution to the problem of defending home and family. I am not a lawyer and nothing I have said should be construed as legal advice. Research the laws in your state and if necessary, consult with a lawyer before making your own plans.

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