

You Are In Danger

You are not bleeding. You've been attacked on the street, totally unexpectedly, and fortunately, you survived relatively unharmed. But your attacker is lying in the street, bleeding and with broken bones.

Now, what do you do? You look around and don't think you see anybody, but you're not sure.

Do you quietly run away from the situation and hope no one followed you and took your picture? Or do you call 911, which brings out the police? And, if you call the police, what do you say, especially since they will most likely take you down to the police station to make a statement?

What happens if you don't call, but the victim calls the police and says you attacked him without warning or provocation? Are you going to go to jail?

If all you know is Judo, Ju-Jitsu, Karate, or another fighting art, and that is where your training stops, **you had better read this book before you talk to the police.**



**The author during a demonstration.
And yes, when he had more hair. 😊**

Preface

In the unfortunate situation where you seriously injure your assailant, do you call 911 have them notify the police? This book discusses the pros and cons of running or calling.

Did you know the police are allowed to lie to you? The “bad cop” might sit down across from you, looks you in the eye, and asks:

“Did you see the Caucasian couple in their sixties across the way? Bill Hammermill was the man with white hair, black glasses, and brown shit standing next to his wife. Well, they both said it seemed like once you subdued the attacker, you kept hitting him with excessive force. What do you have to say?”

Confused, intimidated, and uncertain, you might say, “gee, I was only defending myself, but maybe I hit the victim harder than I thought, and maybe I could have stopped sooner.” Unfortunately, for you, there were no witnesses, and nobody made any statements. You said too much and talked yourself in a jail cell.

Even if you win a criminal case, you still can face a civil lawsuit. The attorney’s fees in a case that goes through trial, can be \$25,000 to \$50,000, Surprisingly, in civil lawsuits, your homeowner’s insurance policy might provide you with an attorney, free.

Learn what your rights are, what to say to the police, and how to increase your chances of staying out of jail.

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Chapter 1

Introduction



If you are trained in ju-jitsu, karate, muay-thai, aikido, boxing, wrestling, or any other fighting art, but have no idea what to do after you have disabled an attacker, ***you are only half-trained***. You can defend yourself physically, but how about legally? The legal assault may be worse than the physical altercation if you don't know what to do. In fact, if you don't know your rights and how to act with the police, you might just talk yourself into jail.

In the unfortunate situation where you seriously injure your assailant, do you run, call 911 and the police, or what? Even when I received my third-degree black belt I had no idea, nor did anyone at my school. It wasn't until I went to law school that I finally learned the law.

To Call 911

The first question is, do you have to call 911 after you defend yourself? In my opinion, so much depends on the circumstances of your combat (as will be discussed later).

As to the “black letter law,” since I am have retired as an attorney, I am speaking as a layman. I don’t think there is any statute that says you have to call the police. First off, you have the Fifth Amendment right against self-incrimination, which is also duplicated in all the state constitutions. Secondly, although there are instances the law that *affirmatively* says you can’t leave the scene, such examples seem limited to vehicular hit and run infractions. I have never found any *statute* stating you have a legal duty to remain at the incident. It is the same concept as when you run through a stop sign, if there is nothing in the statutes, you don’t have a duty to report the blown stop sign to the police. Thirdly, if you haven’t used excessive and *unreasonable* force in subduing your attacker, you haven’t broken the law. There is no crime. Finally, it is my gut-level belief that if caught, and you used excessive force, the punishment is that such information is brought to the attention of the jury.

If you flee the scene, the district attorney will probably tell the jury a comment like an innocent person would immediately call, so the person must have known he used excessive force.” I feel it is a blatantly unfair tactic, but as such happens often, you should expect it. In my law school evidence class, our professor was a retired California Supreme Court judge. When asked by a student about such comments regarding a shooting, the professor replied that any good defense attorney would object. He had the class memorize the old U.S. Supreme Court case of *Alberty v. U.S.* 162 U.S. 499 (1896).

As the court said, and which your attorney should repeat:

“[i]t is a matter of common knowledge that men who are entirely innocent do sometimes fly from the scene of a crime through fear of being apprehended as the guilty parties or from an unwillingness to appear as witnesses... Innocent men sometimes hesitate to confront a jury -- not necessarily because they fear that the jury will not protect them, but because they do not wish their names to appear in connection with criminal acts, are humiliated at being obliged to incur the popular odium of an arrest and trial, or because they do not wish to be put to the annoyance or expense of defending themselves.”

For a short while in my early years, I taught arrest and other techniques to certain members of the San Francisco Police Department. I recall one officer, his name was Ted, same as mine. After class one day, I asked him what he recommended in a self-defense situation on the streets. I can still paraphrase his exact words:

I don't know the official policy of the Police Department. If I were a layman who knew ju-jitsu and had to defend myself on the street, how I would respond would largely depend if I had any witnesses who would support me. Alternatively, if I didn't have supporting by-standers, would there be any witnesses who could identify me in a lineup.

Assuming I had no witnesses, I probably wouldn't call the police. I especially wouldn't call if I thought the man I just beat up was a member of a gang or likely had gang-member friends. If I was ever brought to trial, I might have to concern myself with the victim's associates. Further, in the cases

where I have appeared at trial as a witness for people I have arrested, I have found to juries be unpredictable. I'm not sure I would want to trust my fate to them if I had no witnesses to the fight who could back up my story to self-defense.

Naturally, one policeman's observation from years ago is not much to rely upon, yet because of the cops experience it is perhaps suggestive.

The police interrogation worked out well for my roommate, but if you read the trial notes, you will find such is not always the case after defending yourself. Often, due to lack of knowledge and misunderstanding of the procedure, you unnecessarily end up in jail.

My Roommate's Fight

My college roommate and dear friend (Jim McMasters) had to fight once on the street to protect himself, and the police were called. Jim was a big man, and more importantly a black-belt in Karate.

One evening Jim was walking alone about 6 pm in the evening on his way back to college. Two guys surrounded Jim and demanded his money. Both were tall, heavy, mean looking individuals. Jim explained he had no money, and yelled to the three or four people on their porch watching the situation to call the police. Nobody did anything, and then the two brutes attacked. The first threw a round-house punch to Jim's face. Jim blocked, wrapped his arm around the attacker's arm, and broke his elbow joint. The second thug threw a punch, and Jim kicked the attacker between the legs so hard he lifted the man several inches off the ground. It took a doctor to pull the attacker's testicles back into proper location, which caused no end to laughter when the police later called to report such news to Jim.

When the police finally arrived, all witness, plus Jim himself, testified that these two men attacked him without warning. Even after speaking to the bystanders, the cops still took Jim to the police station. I guess maybe it was policy procedure for an investigator to question Jim at the station before he was released. It wasn't a long interview, but it was still a scary trip for Jim.

As he was released, the cop who initially drove Jim to the station asked McMasters to show him the move that broke the attacker's elbow so easily. Jim spent 10 minutes training the two cops on the technique. Then, Jim demonstrated two or three other moves, for a total of about 20 minutes. It was an easy ending, but then Jim had going for him, witnesses' statements, a two-against-one situation, and Jim's own testimony.

Did I Ever Have to Fight?

I never had to fight, although I had two situations where I expected I would have to defend myself. In the first case, in college, I wrote what I now call a badly-worded "legal release," that the party of the first part (the attacker) released the party of the second part (Ted Gordon) from any injuries or death because the party of second part was a legal weapon, by reason of having a black belt in ju-jitsu. Oh, I was so proud of that four-paragraph document, even though it was all "bull shit."

I even used it once. It was against a 6 foot 2 inch, 260-pound, football lineman at my university. He didn't like the fact that I was paying attention to his "girl," and he challenged me to a fight. I said I would be happy to fight, but first, he had to sign the release. After reading the document, the football player decided a physical battle was not necessary. The most humorous part is an athletic, big man can often harm someone a hundred pounds lighter, even if he ultimately loses

the fight. Fortunately, I never had to find out. The moral of the story is you can often talk your way out of a confrontation with jokes, amiability, or bluffing.

My second almost fight was when I was attacked in my law office. When I started as an attorney, you take whatever type of case walks in the door, until you have enough business that you can finally begin to specialize. Anyway, in those early days, I did some divorces, and very few people knew I was a third-degree black-belt. In representing a wife, the husband felt I took unfair advantage because he didn't like what the law decreed. So, he came to my office, began throwing punches telling me if I didn't withdraw the judgment he was going to beat me to a pulp.

He was throwing punches but stopping about two inches from my face. I was totally calm, just waiting for this "punk" actually to hit me so I could attack in self-defense. Very few untrained people can accept someone punching inches from their face, but a trained fighter knows when a punch might land and when it will not.

I was fortunate he didn't hit me. I would have used the first and most basic move in our Karate training, a three-step technique. After blocking the punch and stepping inside, I would have shot an elbow strike to his heart. I don't know how much damage that would have done. I do know my wife was in a head-on car accident many years later, and her chest slammed into the searing wheel. The doctor told me that her bruise to the heart meant she had a 50% chance of surviving the night. If she slept through the night without a problem (which she did), then she would be fine. I have no idea what a powerful elbow strike to the heart could have medically caused.

The elbow strike would have been immediately followed with a strong judo chop to the side of the neck. I don't know what damage could have occurred. I suspect how hard you hit and which vertebrae you strike would influence the potential for damage. Fortunately, the

idiot didn't hit me and find out how hard I could hit. Who knows what damage I might have done.

The third a final move of the three-part defense, is a leg sweep (“osoto gari”) where you throw him to the ground. The idiot could have hit his head and got a concussion or hurt his back. Again, I have no idea, because I've never been in a real fight and seen what action my strikes and throws would have had. Of course, maybe he would just have been sore and would any permanent damage. In any event, as to my legal liability, I certainly took the proper approach and let the husband strike the air while I did nothing.

Fortunately, my 60-year old “law partner” heard the commotion, did not know I knew martial arts and chased the punk out of the building. I was as relieved as I was disappointed. I sure wanted to hit that idiot.

Win the Battle, But Lose the War

The real question is why didn't I decimate the idiot who was throwing punches at me? The answer as I said at the beginning of the book, is if you only know how to defend yourself with martial arts, you are only half trained. I didn't want to risk dealing with the aftermath of an attack.

As you will find out in another chapter, anytime, you injure an attacker, especially if he suffers bodily harm, you face the risk of a criminal investigation by the police. It cost the attacker nothing to file a police complaint, and because of his injuries, you might risk being found to have used excessive force.

Then, as a later chapter will tell you, the attacker can almost always lie and find a civil attorney to sue you for assault and battery. Even if you win the lawsuit civil lawsuit, it might cost you \$25,000 – \$50,000 in attorney's fees just to defend yourself.

One thing you learn as you rise in the ranks of martial arts is that your ego doesn't need to prove you are the stronger, meaner, and better fighter. You know you are, and that should be sufficient. Unless you have absolutely no choice, my advice is **always** to walk away and ignore a potential flight.

Conclusion

If I was attacked in a dark, frightening, back alley, and I was wondering if the injured attacker had friends nearby, would I want to stay in that unfriendly backstreet? Conversely, would my reaction be different if the attack occurred in a well-manicured neighborhood sidewalk during the day with many on-lookers watching from their porch? So much depends on circumstances. And, if I did have to fight, I would have to reasonably defend myself so I could claim the legal umbrella of the right of self-defense.

Also it is a good idea to remind your lawyer and the police of the quote by Justice Oliver Wendell Homes, who said that, "Detached reflection cannot be demanded in the presence of an uplifted knife." *Brown vs. U.S.*, 256 U.S. 335 (1921).