

California Self Defense and Knife Law

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SELF DEFENSE

WHEN CAN YOU USE SELF DEFENSE?

- You can use self defense and defend yourself from attack if you “**reasonably believes**” that bodily injury is about to be immediately inflicted on him. Once you **reasonably believe** that bodily injury is about to be inflicted on you, you may use “all the force you believes “**reasonably necessary**” to prevent yourself from being injured. --See **CALJIC 5.30**
- There is a common theme that runs throughout the law of self defense; that theme is “**reasonableness.**” For example “reasonably believes” or “reasonably necessary.” What this means is that most people, if they were in your shoes, would have done the same thing you did or thought the same thing you thought.

DO YOU HAVE TO BE IN ACTUAL DANGER TO USE SELF DEFENSE?

- NO. In order to use self defense, you don't have to be in actual danger; it only has to **reasonably appear** to you that you are going to be harmed. But remember this has to be a REASONABLE appearance of harm.
- What this means is that you don't have to wait for someone to strike you first before you can use reasonable force to defend yourself. You can strike first as long as your believe that this person is about to be immediately assault you-- and that your belief is “reasonable” under the circumstances. --**CALJIC 5.51**

CAN YOU EVER USE A KNIFE TO DEFEND YOURSELF WHERE THE OTHER PERSON IS UNARMED?

- YES AND NO. Where someone assaults you with fists only, you can't defend yourself with a deadly weapon, i.e., a knife, **unless** you *reasonably* believe that the person assaulting you is going to “inflict great bodily injury” on you. --**CALJIC 5.31**

IF YOU ARE ATTACKED OR THREATENED WITH ATTACK AND YOU HAVE A CHOICE OF FIGHTING OR RUNNING AWAY, DO YOU HAVE TO FIRST TRY TO RUN AND AVOID THE FIGHT?

- NO. If you are attacked, or threatened with an imminent attack, and you have a choice to either retreat or fight, you don't have to retreat. Under the law, you have a right to “stand your ground” and defend yourself, even if you could have avoided the situation by retreating. In fact, you may even pursue your assailant until you “secure yourself from the danger.” **CALJIC 5.50**

ONCE YOU BEGIN DEFENDING YOURSELF CAN YOU KEEP BEATING THE PERSON, OR DO YOU HAVE TO STOP AT SOME POINT.

- The right to self defense lasts only as long as the real or apparent threatened danger continues to exist. When the danger ceases to appear to exist, the right to use force in self defense ends. **CALJIC 5.52**

SELF DEFENSE DURING MUTUAL COMBAT:

- The right of self defense is only available to a person who engages in mutual combat if he had done **ALL** of the following:

1. he has actually tried, in good faith, to refuse to continue fighting
2. he has clearly informed his opponent that he wants to stop fighting
3. he has clearly informed his opponent that he has stopped fighting
4. he has given his opponent the opportunity to stop fighting

After he has done these four things, THEN he has the right to self defense if his opponent continues to fight. **CALJIC 5.56**

SELF DEFENSE WHERE YOU STARTED ASSAULTED HIM FIRST

- The right to self defense is only available to a person who initiated an assault if he has done the ALL following:

1. he has actually tried, in good faith, to refuse to continue fighting
2. he has clearly informed his opponent that he wants to stop fighting
3. he has clearly informed his opponent that he has stopped fighting

After he has done these things, he has the right to self defense if his opponent continues to fight. **CALJIC 5.54**

CAN YOU USE FORCE TO DEFEND ANOTHER PERSON?

Yes. If you reasonably believe that bodily injury is about to be inflicted upon another person, you can use reasonable force to protect that person from attack.

In doing so, you may use all the force and means which you believe to be reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. **CALJIC 5.32**

KNIFE LAW

Switchblade Law: (California Penal Code Section 653(k))

California Penal Code Section 653(k) states it is a misdemeanor to possess in public or in a car a switchblade knife that is "**2 or more inches**" in length.

What is a switchblade?

According to the language in California Penal Code Section 653(k), a switchblade is "a knife having the appearance of a pocketknife and includes a spring-blade knife, snap-blade knife, "gravity knife" or any other similar type of knife, with blades 2 or more inches which can be released automatically with the flick of a button, pressure on the handle, flip of the wrist or other mechanical device or is released by the weight of the blade itself."

This law also prohibits "butterfly" or "balisong" knives with blades 2 or more inches long.

This law does not prohibit knives that "open with one hand utilizing thumb pressure applied solely to the blade of the knife or a thumb stud attached to the blade, as long as the knife has a detent or other mechanism that provides resistance that must be overcome in opening the blade or that biases the blade back toward its closed position.

Some knives must can be easily opened with the flick of a wrist after the blade has been manually partially opened. These knives are not illegal. A knife is a gravity knife only if it can be easily opened with the flick of the wrist from a closed position. See the case of In Re Roderick S. 125 Cal App 3rd 48.

Knives on School Grounds: (California Penal Code Section 626.10)

While on public or private school property, it is illegal to possess any knife with a blade "**longer than 2.5 inches,**" or any dirk, dagger, ice pick, any folding knife with a blade that locks into place, a razor with an unguarded blade, a taser, or a stun gun or any bb gun pellet gun or paint. Violation of this law is a misdemeanor.

There is an exception, however to bringing an otherwise illegal knife onto school grounds if it is for education purposes and you have permission from school officials.

Dirk or Dagger Law (California Penal Code Section 12020)

California Penal Code Section 12020(a) and(c), make it a **felony** to carry concealed upon one's person a "dirk" or "dagger." Remember, the statute only prohibits possession when "concealed," not their manufacture, sale, or use.

What is a "dirk" or "dagger"?

A dirk and a dagger are the same thing. They are defined as "any knife or other instrument with or without a hand-guard that is capable or ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position."

A non-locking folding knife, or a pocket knife or any folding knife that is not prohibited by 653(k) is "capable of ready use as a stabbing weapon" and therefore a dirk or dagger, only if the blade of the knife is exposed and locked into position.

A knife carried in a sheath which is worn openly suspended from the waist of the wearer is not a concealed weapon.

A dirk or dagger must be "capable of ready use." So, if the knife needs any kind of assembly before it can be used it is not illegal as a dirk or dagger because it is not capable of ready use.

12020 also makes illegal the straight possession of certain knives even if they are not concealed; it prohibits the straight possession of ballistic knives, belt buckle knives, lipstick case knives, cane swords, shobi-sues, air gauge knives and writing pen knives.