

PreDefence

Self defense before SHTF

<http://predefence.com>

A tale of 2 self defense legal strategies - IMOP vs SODDI

Categories : [Uncategorized](#)

Tagged as : [ability](#), [jeopardy](#), [legal](#), [means](#), [opportunity](#), [preclusionself defense law](#)

Shit has happened, and you find yourself having to talk to a judge. What legal strategies are available to you? What approach should your lawyer take?

(We've talked about talking to cops [before](#), and some of the things you should keep in mind (yes, the video is long, i.e. longer than 30 seconds, but watching it gives you a much better handle on things). We've also talked about [not getting arrested](#) as well.)

While this is absolutely **NOT** legal advice, this is a principle you should be aware of and keep in mind. (It's much easier to avoid being bitten in the arse if you know what alligators look like.)

2 defenses

There are two types of defenses: affirmative, and negative.

Self defense is an affirmative defense. This means that you've admitted to the crime they are accusing you of, but you're saying that in this case it's excusable and was justified.

Get this straight - killing someone, punching someone, fighting, they're all illegal. There are certain circumstances when they're **acceptable**, but they remain illegal. So claiming self defense is admitting to a crime.

Think of it like a cop running a red light to catch a Bad Guy. It's illegal for anyone to run a red light (even a cop), but when the cop has an acceptable reason, then he's excused for doing so. (Usually this takes the argument of competing harms - he prevented a bigger harm than he committed).

So when you stand in front of the judge and say: "It was self defense," you are saying: "Yes, I hit/killed him ... but I had good reason."

Now here's the important bit: You don't then, later on, get to try to deny that you hit the dude. That chicken has flown the coop.

You have now made it a case of guilty until proven innocent

And it is up to your lawyer to prove that what you did was excusable.

PreDefence

Self defense before SHTF

<http://predefence.com>

It's no longer up to the prosecutor to do all the hard work. Now it's up to you.

An affirmative defense switches roles

The usual role are:

-prosecutor has to prove your guilt

-defense lawyer just has to punch holes in the prosecutor's case

Self defense switches that around. Now you have to prove why it was OK that you used force. And the prosecutor gets to sit back and snipe away at your case, trying to undermine everything you're saying.

So it's up to you to explain (articulate) exactly why they shouldn't throw you in prison for what you did.

Enter IMOP.

Intent, Means, Opportunity, Preclusion

You essentially need to prove two things.

Number 1: That you reasonably believed that you were about to be attacked (basically that you knew that harm was about to befall you - although "knew" might be the wrong word).

Number 2: That leaving (or submitting) wasn't an option, or couldn't have worked.

We show that we "reasonably expected" that harm was on its way through [Intent, Means, and Opportunity](#).

And we show that the non-force options weren't available to us through Preclusion.

I, M, O ...

"**Intent**" means the BG's intent. What actions did he take, what behaviours did he display, that

PreDefence

Self defense before SHTF

<http://predefence.com>

indicated that he had the intention to cause us harm? If the attack/mugging/etc. has already started, e.g. you've already been punched, then this part is usually easily taken care of. But if you're fortunate enough to spot the attack before it arrives, and you acted pre-emptively, then you need to show how you knew he was going to punch/rob/rape you.

The Intent aspect can trip people up when it comes to excessive force. Maybe you punched the BG three times, but after the second hit he doubled over and moved away from you ... Well, his Intent changed didn't it. The eye contact, the movement following you, the excessively close distance between you, they all changed.

Intent, Means, Opportunity, Preclusion are not static. They are dynamic and can change throughout an encounter.

Means:

Did the BG have the means to cause you harm. You 6 foot 4 bodybuilder, him 5 foot 1 skinny fat and missing an arm? Probably doesn't have too much in the Means department. But give 1-arm no-muscle a knife in his (only) hand, and now he has very effective Means. (This is why people get in trouble for punching/shooting the guy after he's dropped the knife. You know, like all those YouTube knife videos showing you how to stab the guy with his own knife .. oh wait, he didn't have a knife any more? "That's right officer, I took it away from him!" And you then stabbed him? "Darn skippy, the guy attacked me!" So you stabbed a man who wasn't holding a weapon? "Well yeah, but he had it a second ago."

Opportunity: The guy has the means to harm you; his intent isn't in question either (he phoned up everybody you know, plus the local TV station to declare how he's going to kill you. And he's got a knife and screaming that his ancestors are in his head telling him to kill you slowly). But the problem is he can't reach you because you're inside your house, and he's stuck outside your locked doors. If he doesn't have the opportunity to harm you, then you're not legally justified in harming him to save yourself.

(Morally might be a different matter, but nobody (smart) ever claimed that legal and moral had anything to do with each other:

<https://www.youtube.com/watch?v=NPRIHwwVlug>

Preclusion: the big daddy

Preclusion means "was it possible for you to **not** use force?" But more than that. Beyond could you have escaped or submitted, can you articulate why it wasn't possible to either escape or submit?

PreDefence

Self defense before SHTF

<http://predefence.com>

Remember, the courts, the cops, and the rest of the world are perfectly fine with you allowing yourself to be mugged. They have no problem with you standing by while home invaders do unmentionable things to your family. It's perfectly legal for you to let everyone you love be murdered by attackers.

Self defense laws usually state something along the lines of "... you **may** prevent harm ..." Doesn't say you have to. So the onus is on you to articulate (i.e. explain in such a way that you get the other person to see your side) why submitting to the BG's demands, or why running away, were **not** possibilities for you.

And to be fair, giving the mugger your wallet is a viable tactic. Depending on the situation it's possible that he'll take the wallet and leave.

And running away is a beautiful thing. Leaves the problem way back theeeeeere, behind you.

But if you're not going to submit, then you need to be able to articulate that the mugger was not calm and professional, then he was nervous, that after giving him the wallet he then asked for another thing, and another. Then he told you to walk around the corner to a more isolated secondary crime scene. A place where he could have more time and privacy alone with you, indicating that your possessions were not the only thing he wanted.

You also need to be able to articulate that leaving your family alone with the home invader while you ran away was **not** an option as you needed to prevent harm from coming to them as well.

Normal reactions

Most people live social lives, where social responses work for everything. They never meet anyone intent on harming them. So for the benefit of these people, it helps if you can articulate (not explain, articulate) why normal social responses didn't, and could not have, worked.

You tried stepping back to move away from the men, but they just moved closer than before. You asked them politely to give you space, and said you couldn't help them, but they looked around for witnesses and stepped closer again. You tried to escape behind you, but there was another man there, with his hand behind his back.

Normal people don't "get" force, so you have to explain it to them if you ever claim "self defense".

Which brings us to SODDI

PreDefence

Self defense before SHTF

<http://predefence.com>

Legal strategy 2: Some Other Dude Did It (SODDI)

If the cops turn up to talk to you about a violent incident (remember, "violence" is what the BG does, "force" is what the GG does), and you claim that SODDI, you're denying having done anything illegal.

When you say "self defense officer", you just said "yes, it was me, but you see ..." SODDI is saying "it wasn't me".

What this means is that if it comes to trial, you're now (officially, even if not in practice) innocent until the prosecutor proves you guilty.

Which means the prosecutor has to prove that you were there and actually did the crime.

And the defense lawyer gets to sit back and poke the biggest holes possible in the prosecutor's case.

When to use them

Here's the thing: they're both valid legal strategies... for the right situation.

Claiming SODDI when you got attacked in a home invasion, you were the only one home, and your CCTV cameras all show you doing it... well, it makes you look like you're trying to hide something.

Getting into a fist fight in an alley because the guy insulted your mother, and then **you** went up to **him** to get physical ... well, it's going to be tricky proving that your actions were reasonable when you could've walked away.

Here's the rule of thumb

If you're innocent, go with Self Defense. (This assumes you can articulate why your actions were justified, i.e. IMOP.)

If you're guilty ... well SODDI gives a guilty person the best chance of getting acquitted on a technicality or lack of evidence. (Remember, claiming self defense means they don't need any evidence.)