

WHAT DO I DO IF **ATTACKED** IN A PUBLIC PLACE?

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Violence in public places has been steadily increasing. Unfortunately altercations often occur in a public location, such as a bar or club, a store, or a park or public street. When an attack occurs, what can you do to defend yourself and who is liable for any harm you suffer?

Self-Defense

The first concern when attacked is defending yourself, your family, and your possessions. As a general rule, normal citizens are authorized to use force to defend themselves if they have an objectively reasonable fear of harm to themselves or others. The force must typically be commensurate to the level of threat, such that lethal force would only be acceptable if the threat of serious bodily injury or death appears possible. If, for example, someone is merely threatening to smack another person, then such a level of force would no longer be considered self-defense.

However, a growing number of states have begun to allow increasingly asymmetric responses to threats from others. This has been done in response to interest groups who suggest that it is difficult to gauge whether a response is reasonable when not experienced in the heat of the moment. As a result, a growing number of states allow for a subjective standard when analyzing whether a response was a reasonable self-defense (i.e., whether the defender believed in his or her own mind at the time of the incident that the threat was one warranting a particular level of violence in self-defense).

Historically, when confronted in a public place, if it was possible to flee the situation, that was one's legal obligation. This is still the case in many states. But, a recent trend has seen a number of states enacting so-called "stand your ground" legislation. These laws remove the legal requirement to withdraw from a confrontation when possible, authorizing people to meet force with reasonable force up to, and including, lethal violence.



Because these laws vary so widely, and their interpretations are equally varied, it is important that anyone curious about these issues contact either a law enforcement agency or an attorney for more information. You can find a list of attorneys in your area by visiting HG.org and using the lawyer search service.

Who is Liable for Injuries Resulting from Attacks in Public Places?

For many, this question can be just as complicated as the self-defense laws. When an attack occurs in a public place, there are a number of parties who may be legally responsible.

Of course, the attacker is the party most responsible. That person will have primary liability in any civil lawsuit. But, if the individual is a minor, his or her parents or legal guardians may be the ones required to pay for the minor's misconduct.

If the attack occurred on property owned by another, there may be liability on the part of the property owner. Did that individual or entity do what it should have to protect people from possible violence? Did it have any sort of security in place? Was law enforcement called in a timely manner? Was the property owner's response appropriate for the circumstances? Did the property owner (or the owner's insurance carrier) pay for any injuries or property damage caused in the event? All of these factors and more may determine whether the property owner owes the victim any compensation for injuries or damages suffered as a result of the attack.

If the attack occurred on public property, such as a park, street, or in a public building, liability it is even more cloudy. Usually the government is not liable for these events unless it knew, or should have known, that such attacks were likely but failed to take action. Thus, a fight in the street is less likely to trigger liability on the part of the government than a fight in a secured building, like a courthouse. The same questions will arise (as in the case of any other property owner) as to whether the government acted appropriately in responding to the threat of violence on its property.



Where to Start?

If you or someone you know has been attacked in a public place, the first thing to do is call the police. Failing to notify law enforcement can actually impair your ability to make civil claims later for injuries or damages suffered in the attack. If injured, you should also seek medical attention. Some states may limit recovery if an injury is not treated within a set period of time after an incident.

Once the immediate threat has passed, it would be wise to consult with an attorney. An attorney will not only be able to help you understand your legal rights and possible bases for legal action, but should be able to advise you about possible threats of counter-suit or criminal charges if you employed any sort of violence in self-defense.



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WE THE PEOPLE
THE SECOND AMENDMENT.

*“The right of the people
to keep and bear arms
shall not be infringed.”*



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