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Stop a thief ? go to jail

by BRIAN LOCKHART

Several years ago, someone I know was woken up at about 3 a.m., by the unmistakable sound of someone in his house ? who shouldn't have been there.

He picked up the baseball bat he always kept bedside for just an emergency and went to investigate.

Upon making his way to the first floor, he realized the sound was coming from the garage.

He opened the door to the garage and was confronted by an unknown male in the dark, who proceeded to approach him.

My friend swung the baseball bat and dropped the intruder to the floor, where he was held until police arrived and arrested the man for breaking and entering, or some similar charge.

Later, I asked him why he felt the need to clobber the guy with the bat.

His response was, ?It was the middle of the night, it was dark and there was a stranger in my house. I wasn't going to wait until he shot me to find out if he had a gun.?

That made perfect sense. In a threat type of situation, you shouldn't have to wait until you are hurt in order to stop an attack.

In Canada, the laws around self-defence, aren't very clear. In fact, if you're a homeowner, you may end being being charged with a crime if you try to stop someone from entering your home illegally and you crack them across the head with a nine-iron.

The law states that how you respond to a threat, should be considered ?reasonable under the circumstances.' That is a wide definition considering the way you feel during a threat, will be a lot different than how a judge feels about that same threat, hearing of it as a third party and not experiencing the terror of a home invasion.

Being the victim of a robbery can be a terrifying experience. Many people who have experienced this have never returned to work at the same place or the same type of job because of the trauma involved.

During a robbery, you are confronted by a stranger making demands. Most likely you can't even see who it is because they are wearing a mask or some kind of disguise. They are probably holding a weapon and threatening to harm you if you don't comply.

The experts say to remain calm and just hand over the money.

That's an easy solution when you are speaking from your desk in an office somewhere, offering advice. It's a different situation when someone is pointing a gun at you.

What if you are being robbed by someone holding a knife or gun? Do you simply wait until that person stabs or shoots you? Then ? it's too late.

You may remember Barbara Turnbull - an 18-year-old store clerk in Mississauga, who followed the advice of staying calm and handing over the money. She was shot in the throat, for no reason, and left a quadriplegic.

There is a case in Peterborough that will be going to the courts.

A store clerk was working the midnight shift at a convenience store. He was speaking to a customer when another man entered the store with a baseball bat.

A scuffle ensued and the clerk was struck by the bat. The clerk managed to get a hold of the bat and went after the suspect striking him with the bat.

The clerk has been charged with aggravated assault ? for beating a robber who entered his store, threatened him, and then struck him with a weapon.

I think the reaction of the clerk was ?reasonable under the circumstances.' He was probably scared and worried the guy would come back.

It wouldn't be the first time a criminal returned to the scene of a crime and killed someone in retaliation.

The man who tried to rob the store was charged with assault with a weapon, possession of a weapon and robbery. If convicted, he probably won't see more than a few months in jail.

The clerk, who was doing his job, is facing a charge that could net 14 years in prison if the maximum sentence is applied. Think about that for a moment.

?Reasonable under the circumstances' only applies to someone who wasn't there.

I don't believe in the ?stand your ground' laws in some southern U.S. states, where you can pump a guy full of lead for trespassing, but you certainly should be allowed to defend yourself when threatened.

Police were just following the law in the Peterborough case, but I think it would have been better if they, and the City Council, just gave the convenience store worker a pat on the back, and thanked him for stopping a crime in progress.