

What is an offensive weapon. (Police Definition)

The definition of an offensive weapon is any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him, or by some other person. (N.B. this definition includes a disguised knife).

It is an offence to have in your possession an offensive weapon in a public place.

Obviously the knives and swords used by Members of the World Tang Soo Do Association for training purposes could be considered to fall under this definition. Even though they do not have a cutting edge or blade they do have a point and could be used to cause injury to another person.

Possession of Blades/Points

Section 139 of the Criminal Justice Act 1988 prohibits the possession in a public place of any article which has a blade or is sharply pointed, (including a folding pocket knife if the cutting edge of its blade exceeds 7.62cm/3 inches) (Archbold, 24 -125)

Section 139A of the 1988 Act extends the geographical scope of both of the above offences to school premises.

18. For the purposes of sections 139 and 139A of the Act:

- a butterknife, with no cutting edge and no point is a bladed article; (*Booker v DPP 169J.P. 368, DC*);
- a screwdriver is not a bladed article; (*R v Davis [1998] Crim L.R. 564 CA*);
- a "lock knife" does not come into the category of "folding pocket knife" because it is not immediately foldable at all times; (*Rv Deegan [1998] 2 Cr.App,R 121 CA*).

Possession of an Offensive Weapon

Section 1 of the Prevention of Crime Act 1953 prohibits the possession in any public place of an offensive weapon without lawful authority or excuse. (Archbold, 24.106a)

The term 'offensive weapon' is defined as: "***any article made or adapted for use to causing injury to the person, or intended by the person having it with him for such use***". The courts have been reluctant to find many weapons as falling within the first limb of the definition and reliance should usually be placed upon the second. On that basis, it must be shown that the defendant intended to use the article for causing injury (24-115 Archbold).

Lord Lane, CJ. in *R v Simpson (C)*, (78 Cr.App.R.115), identified three categories of offensive weapons:

- those made for causing injury to the person i.e. offensive per se. For examples of weapons that are offensive per se, see Criminal Justice Act 1988 (Offensive Weapons) Order 1988, (Stones 8-22745) and case law decisions. (Archbold 24-116). The Criminal Justice Act (1988) (Offensive Weapons) (Amendment) Order 2008 came into force on 6th April 2008 with the effect that a sword with a curved blade of

50cm or more (samurai sword), has been added to the schedule to the Criminal Justice Act 1988 (Offensive Weapons) Order 1988;

- those adapted for such a purpose;
- those not so made or adapted, but carried with the intention of causing injury to the person.

In the first two categories, the prosecution does not have to prove that the defendant had the weapon with him for the purpose of inflicting injury: if the jury are sure that the weapon is offensive per se, the defendant will only be acquitted if he establishes lawful authority or reasonable excuse.

Defence

The defendant is entitled to be acquitted if he shows on the balance of probabilities that:

- he had "good reason or lawful authority" for having the bladed or pointed article; or
- he had the article for use at work; or
- he had the article for religious reasons; or
- he had the article as part of a national costume; (Archbold 24-125).

The defendant does not discharge the burden of showing "good reason" just by providing an explanation that is not contradicted by the prosecution evidence: (Archbold 24-128)

The only one that applies to martial artists is "the reasonable excuse" as none of the above four categories apply.

It is therefore recommended that all members of the W.T.S.D.A. ensure that any training weapons including bo staffs are always kept in a case or bag, which if possible should be kept locked. It is also recommended that they be kept in the boot of a car to transport them to and from training sessions. And that they are not left in vehicles overnight or unattended.