

# I Was Arrested For A Bar Fight, But The Day After It Happened. Why & What Should I Do?

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Dear Ask the Attorney:

I was at a bar I hang out at a lot a couple of nights ago and drank a little too much. This guy bumped into me hard, I pushed him back. Someone threw a punch at me and I hit him back. It was broken up by the bouncers and my friends dragged me out and drove me home. The next day the cops showed up at my house and I was arrested for assault and battery. I didn't start the fight. Why was I arrested and what should I do?

C.B.

***Our guest blogger is Michael R. Ascher, Esq., a partner in the law firm of Einhorn Barbarito. Mr. Ascher is engaged in a litigation practice handling both criminal and complex civil matters. His practice includes all categories of criminal cases including drunk driving offenses, sex offenses, drug and white collar crimes, computer crimes, assault and battery, conspiracy, fraud and theft cases and matters involving the Department of Child Placement and Permanency (DCPP – formerly DYFS).***

Dear C.B.

Your story is not unique. People are often charged with offenses under similar circumstances. You have been charged with simple assault. A violation of NJSA 2C:12-1(a). This is a disorderly persons' offense, not a crime. It carries with it a maximum jail time exposure of 6 months and \$1,000 fine. If you were to be convicted of the offense, it would go on your record. It could also result in you either being placed on a period of probation or being sent to an anger management program. The sentence would depend on whether or not you have any prior convictions. Based upon your version of events, it would appear that you have a defense to the charges. You were not the aggressor. Rather it appears that you

found yourself confronted by aggressive behavior of another. Under the circumstances, you may assert self-defense.

At this juncture, you should not give any statements to the police, unless and until you obtain the services of a lawyer. Unfortunately, anything you say without the benefit of counsel, “can and will be used against you”. It is unwise to give a statement when you do not know exactly what the allegations are and who made them. In an investigation, the police will usually not provide you with all the information needed to evaluate your position. That information can only be obtained by an attorney who can acquire all statements and reports the police have compiled against you. During the investigation, if you are asked to give a statement, you should decline and demand a lawyer be present. You must use the “magic words” that you want a lawyer and wish to remain silent

A lawyer would be able obtain all “discovery materials” which consists of police reports, videos and other like documentation which will be undertaken to determine whether or not the system was maintained by the establishment. If it does exist, every effort should be undertaken by counsel to obtain the video so that it can be reviewed. Actually, it may be advantageous for you to hire a private investigator who could interview all witnesses and obtain statements from them.

Although a conviction of simple assault does not constitute a crime, if you were convicted it would be placed upon your record and could interfere with your ability to obtain employment or further education in the future. You certainly should attain the advice and services of a competent criminal defense attorney to assist you during these difficult times.