



# Weapons Control

The recent stabbing of a 19-year-old man (reportedly a martial arts instructor) outside a Melbourne night club has reignited the weapons-control debate.

By William Lye



Of great concern is the number of teenagers who defy the law by continuing to carry weapons such as swords, sai, flick-knives and nunchakus. Such publicity may also make it more difficult for martial artists to continue practising with weapons without suffering prejudice or being negatively typecast.

It is important that bona fide martial arts practitioners have a good understanding of weapons control laws. In most Australian states and territories, there is now a hierarchy of non-firearms weapons, with a descending degree of regulation that reflects the offensive nature of each weapon and the risk it poses. The three categories of weapons are prohibited weapons, controlled weapons, and dangerous articles. The difficulty, however, is in the application of these laws.

For several years now it has been illegal to possess, use or carry a range of weapons defined as prohibited, unless you have an exemption or approval from the Chief Commissioner of Police. In Victoria, martial arts weapons are regulated by the Control of Weapons Act 1990. In December 2000 the Act was amended, with further sweeping changes, including an expansion of police powers allowing searches without warrant.

Schedule 2 of the Control of Weapons Regulations 2000 sets out 46 categories of prohibited weapons. These include flick knives, knuckle knife, machetes, throwing blades, slingshots, studded gloves – even whips with knotted or metal lashes. Some categories are specific, others broad. Bladed weapons take up 17 of the 46 categories. Clearly such weapons are of most concern to the legislature, but there's a lack of understanding of what is a sensible and reasonable prohibition. In many instances, the definition is uncertain.

For example, "flick knife" is defined as "a knife designed or adapted so that the blade is concealed when folded or recessed into the handle and which opens by gravity or centrifugal force, or by any pressure applied to a button, spring or device in or attached to the handle of the knife". So is the patented

'Wave Opening' feature of the Emerson foldable knife also a flick-knife according to the definition? The Emerson 'Wave' feature is actually a small hook on top of the blade that catches on the pocket as the knife is pulled out, back and down to activate the hook. It is said to be one of the fastest opening knives available – probably faster than a flick knife, which opens via a button.

There is no definition for foldable knives and it would appear not to fall within another



category. Arguably, such a knife could be considered a flick knife because it could be opened by gravity or centrifugal force when the Wave feature is applied. The uncertainty lies in that the knife is not opened by applying pressure to a "button, spring or device" in or attached to the handle of the knife, yet it is no less dangerous a weapon.

However, even knives that clearly fall outside the definition of "prohibited weapons" are still "controlled weapons", defined as such to allow their use in day-to-day business such as in the abattoir, farming or in sports. Under section 8(a)(ii) of the Vagrancy Act 1996, a person who is armed with a knife, with criminal intent, is guilty of an offence and liable to receive a maximum fine of \$5000 or five years imprisonment.

A knife is also a "dangerous article" within the meaning of the Act. A dangerous article is defined to mean an article adapted or modified so as to be capable of being used as a weapon, or any other article being carried with the intention of using it as a

weapon. Examples are screwdrivers, scissors, razor blades or even umbrellas. A person must not carry or possess a dangerous article in a public place without lawful excuse. The offence carries a maximum fine of \$6000 or six months imprisonment.

How do these laws affect the martial artist? For the wing chun practitioner, the "Butterfly Sword" is a prohibited weapon, therefore a permit is required to own one. This is a ridiculous prohibition. Ordinarily, the Butterfly Sword is not a weapon a person would carry in public, it is a weapon of traditional training. There is no definition of what amounts to a "Butterfly Sword", except that it is a "martial art weapon". It is unclear whether the legislature intended to ban Butterfly Swords with blunted blades and wooden or plastic replicas. To impose a blanket restriction shows inadequate understanding of the particular martial art and the training involved, but to be on the safe side, obtain an exemption or permit anyway.

If you are learning knife combat, make sure your martial arts membership is current and carry only training knives or those not categorised as a "prohibited weapon". The "lawful excuse" is that you are on your way to training.

As to what instruments fall within particular categories, much is open to interpretation. The list of "weapons" is endless, from syringes, broken bottles, garden and trade tools, to exotic ancient weapons like the Sun-Moon Tooth Saber.

In the coming issues we will explore the broader legal issues affecting martial artists. We will also look at various martial arts styles and their traditional weapons, including the legality of owning such weapons.

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