

AMERICAN BAR ASSOCIATION
NATIONAL TASK FORCE ON STAND YOUR GROUND LAWS

PRELIMINARY REPORT AND RECOMMENDATIONS

August 8, 2014

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NOTICE

This draft report is a circulated subject to further review and modification by the Task Force. The content of this report has not been presented in its entirety to, or approved by, the American Bar Association House of Delegates or the Board of Governors, and therefore

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Preface

In 2013, the National Task Force on Stand Your Ground Laws was convened by the American Bar Association entities identified below, to review and analyze the recently enacted Stand Your Ground laws in multiple states and their impact on public safety and the criminal justice system. The ABA sponsors of the Task Force include the Coalition on Racial & Ethnic Justice, the Center for Racial and Ethnic Diversity, the Commission of Racial and Ethnic Diversity in the Profession, Council for Racial and Ethnic Diversity in the Educational Pipeline, the Section on Individual Rights & Responsibilities, the Criminal Justice Section, the Young Lawyer's Division, the Standing Committee on Gun Violence, and the Commission on Youth at Risk.

The Task Force members are a diverse array of leaders from law enforcement, government, public and private criminal attorneys, public and private health, academic experts, and other legal and social science experts. Further, the Task Force's membership includes appointees from the above co-sponsoring ABA entities and strategic partners, including the Association of Prosecuting Attorneys, the Urban Institute, the International Association of Chiefs of Police and the National Organization of Parents of Murdered Children. Additionally, the Task Force has an Advisory Committee of leading academic and other legal and social science experts as well as victims' rights advocates.

The Task Force has conducted a comprehensive legal and multidisciplinary analysis of the impact of the Stand Your Ground laws, which have substantially expanded the bounds of self-defense law in over half of the jurisdictions in the United States. The study detailed herein is national in its scope and assess the utility of previous, current, and future laws in the area of self-defense across the United States.

In examining and reporting on the potential effects Stand Your Ground laws may have on public safety, individual liberties, and the criminal justice system, the Task Force has:

1. Examined the provisions of Stand Your Ground statutes and analyzed the potential for their misapplication and their risk of injustice from multiple perspectives, e.g. the individual's right to exercise self-defense, the victim's rights, and of the rights of the criminally accused.
2. Analyzed the degree to which racial or ethnic bias impacts Stand Your Ground laws. Particular attention was paid to the role implicit bias. First, the analysis focuses on how implicit bias may impact the perception of a deadly threat as well as the ultimate use of deadly force. Second, it looks at how implicit bias impacts the investigation, prosecution, immunity, and final determination of which homicides are justified.
3. Examined the effect that the surge of new Stand Your Ground laws had on crime control objectives and public safety.
4. Reviewed law enforcement policy, administrative guidelines, statutes, and judicial rulings regarding the investigation and prosecution of Stand Your Ground cases.

5. Conducted a series of regional public hearings to learn about community awareness, perceptions of equality in enforcement and application, opinions concerning the utility of the laws, and reactions to individualized experiences involving interactions with Stand Your Ground laws.

6. Prepared a final report and recommendations.

Dear Colleagues:

Since its inception in early 2013, this ABA National Task Force on Stand Your Ground Laws has served as a prevailing independent leader on the legal analysis and evaluation of the impact of state Stand Your Ground laws. Indeed, throughout its study of these laws, the Task Force has remained true to its mandate of conducting an expansive, multidisciplinary, candid and thorough investigation.

Our unique approach contemplated the assessment of oft ignored, yet intersecting topics of concern, such as the interplay between Stand Your Ground laws and implicit/explicit bias, balancing the rights of an accused with that of a victim, and exploring the tensions surrounding the initial justifications for the passage of the Stand Your Ground laws and the myriad of issues arising from their implementation.

This report represents the culmination of the Task Force's analysis of a substantial compilation of information: testimony from experts and stakeholders received at five regional hearings, extensive legal research on each jurisdiction's self-defense regime, quantitative assessments of national crime data relating to rates of justifiable homicides, and critical insights and expertise gleaned from our roundtable series among our Advisory Committee and Task Force.

This report summarizes the comprehensive legal study undertaken by the Task Force and makes recommendations concerning the utility of state Stand Your Ground laws as well as their impact on the criminal justice system, public safety and individual liberties.

We thank you for taking the time to review this report and also hope that it will serve as an important guide to individuals, organizations, state and federal policy makers and governmental agencies throughout the United States.

We encourage you to share your comments with the ABA Coalition for Racial & Ethnic Justice for inclusion in our online version comments section. We thank you for your support of the work of the Task Force.



Leigh-Ann A. Buchanan



Jack B. Middleton

Co-Chairs, National Task Force on Stand Your Ground Laws

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The ABA National Task Force gratefully acknowledges and thanks:

- ❖ Professor Tamara F. Lawson, our Reporter, for her dedicated effort, resources, cogent analysis and expertise, and substantial contribution to the drafting of this report.
- ❖ The dedicated members of its Advisory Committee, ABA liaisons, legal and other professionals whose commitment and efforts contributed substantially to the investigation, findings and recommendations found in this report.
- ❖ Our ABA Staff Director, Rachel Patrick, and Program Assistant, Deidra Franklin, as well as numerous research assistants, including Amanda Laber, Danielle Singer and Maya Garza.
- ❖ The generous sponsors who committed financial resources and pro bono services to ensure the success of our regional public hearing series, including Berger Singerman; McLane, Graf, Raulerson & Middleton; Philadelphia Bar Association; Gazelle Court Reporting Services, LLC; Warner Legal Video; Kaplan Leaman & Wolfe Court Reporting & Litigation Support; Veritext Legal Solutions; and History Miami.
- ❖ The many experts and individuals who testified before the Task Force during our series of regional fact finding hearings; their suggestions, experiences and insights have broadly informed our examination of the impact of the Stand Your Ground Laws on individuals and communities across the United States.
- ❖ You, the reader. The time you have devoted to reviewing this report demonstrates your commitment to increasing awareness of and support for the critical evaluation of Stand Your Ground Laws, which have dramatically altered the landscape of self-defense.

Thank you.

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I. Legal Summary of Stand Your Ground Laws

Self-defense is available in all states as a criminal defense. Self-defense law applies to both non-deadly as well as deadly encounters. Self-defense is a “justification” defense, which means if the self-defense applies, the act is justified and not a crime. In other words, it is not a crime to defend oneself, even with deadly force, *if* the force used is reasonably in response to an imminent threat, to which response is necessary, and the force used is proportionate to the perceived threat. The majority of states apply an objectively reasonableness standard to the exercise of self-defense. Thus, one need not be correct in the assessment of the imminence, necessity, or proportionality of the threat, but one must be objectively reasonable in the assessment of these elements. Prior to the enactment of Stand Your Ground laws, most states followed the traditional common law self-defense rule, which imposed a duty to retreat before using force in self-defense, if safe retreat was available. The underlying goal of the duty to retreat rule was to reserve the use of force to incidents where there was no other safe alternative than using force.

Stand Your Ground laws eliminate the duty to retreat rule but still maintain the reasonableness standard. In contrast to traditional common law self-defense rules that required a duty to retreat, under Stand Your Ground laws, an individual has no duty to retreat prior to using force in self-defense, even if a safe route of retreat or escape is available.² Instead, under Stand Your Ground law, an individual may stand his or her ground and meet force with force, including deadly force. Most Stand Your Ground laws apply the no duty to retreat rule to “anywhere a person has a lawful right to be.” Additionally, some states have statutes that provide immunity from criminal prosecution and civil suit to individuals that use force under Stand Your Ground laws. In states that provide statutory immunity, the immunity is granted or denied by a judge in a pre-trial hearing before the jury hears the case.

These recently enacted Stand Your Ground statutes exist within a vigorous policy debate. Proponents of Stand Your Ground laws contend these statutes affirm a core belief that all persons have a fundamental right to stand their ground and defend themselves from attack with proportionate force in every place they have a lawful right to be. Supporters suggest that the new law gives rights back to law-abiding people. Opponents of Stand Your Ground laws are concerned that the new statutes unnecessarily encourage the use of deadly force as a low cost license to kill instead of reserving it only as a protective measure.

II. Executive Summary of Findings and Recommendations

The ABA's National Task Force on Stand Your Ground Laws conducted a broad investigation of Stand Your Ground laws across the United States. Much of the recent media attention surrounding Stand Your Ground laws is due to the nationally publicized fatal shooting of the Florida teenager, Trayvon Martin, and the subsequent prosecution and acquittal of George Zimmerman. However, the Task Force's investigation went well beyond Florida's laws and did not focus on any one case. The Task Force explored the broad national landscape of Stand Your Ground laws and how they impact public safety and the criminal justice system. The Task Force analyzed the impact these laws have on a individual's right of self-defense, as well as a victim's right to be informed, present, and heard, and a criminal defendant's right to a fair and just trial. This report details the Task Force's investigation, including the public hearings that were conducted in five regional fora, the 50 state legal survey of the laws, and the latest social science data on the efficacy of Stand Your Ground laws. As of 2014, 33 states have Stand Your Ground laws.³ In these states an individual has no duty to retreat before using deadly force in self-defense, either at home or in public.

The national investigation revealed several important findings:

1. Based on recent empirical studies, Stand Your Ground states experienced an increase in homicides.
2. Multiple states have attempted to repeal or amend Stand Your Ground laws.
3. The application of Stand Your Ground laws is unpredictable, uneven, and results in racial disparities.⁴
4. An individual's right to self-defense was sufficiently protected prior to Stand Your Ground laws.
5. Victim's rights are undermined in states with statutory immunity from criminal prosecution and civil suit related to Stand Your Ground cases.

Based upon the testimony elicited at the public hearings and the research conducted by the Task Force, the Task Force recommends the following:

1. The Task Force recommends that the ABA develop a national public education campaign designed to provide educational resources and accurate information about Stand Your Ground laws. This campaign would serve as a first of many initiatives aimed at addressing the widespread public misperception that Stand Your Ground laws provide a blanket justification for the use of deadly force in public spaces.
2. For states that desire to combat violent crime, it is recommended that legislatures do not enact Stand Your Ground laws because empirical evidence shows that states with statutory Stand Your Ground laws have not decreased theft, burglary, or assault crimes.

3. For states that desire to reduce their overall homicide rates, it is recommended that legislatures repeal Stand Your Ground laws because empirical evidence shows that states with statutory Stand Your Ground laws have increased homicide rates.
4. For states that desire to reduce or eliminate racial disparities in the criminal justice system, it is recommended that legislatures amend or repeal statutory Stand Your Ground laws because implicit racial bias has been identified as a significant factor causing inconsistent outcomes in criminal cases involving Stand Your Ground laws.
5. For states with statutory immunity provisions applicable to the Stand Your Ground defense, it is recommended that legislatures modify these statutes to eliminate civil immunity provisions, which prevent victims and/or innocent bystanders and their families from seeking compensation and other civil remedies for injuries sustained.
6. Law enforcement agencies should be trained on best practices for investigating Stand Your Ground cases as well as required to keep detailed records of cases in which a homicide is ruled justified based on a Stand Your Ground law. Precise record keeping in these cases is needed in order to analyze the full impact Stand Your Ground laws have on the criminal justice system and the public's safety.
7. The Task Force further recommends the creation of a national database for tracking incidents involving the invocation of Stand Your Ground law defenses, from the law enforcement investigative stage and through prosecution and sentencing.
8. Juries should be instructed regarding limitations of the right to stand one's ground, including, but not limited to, that initial aggressors are not entitled to "stand your ground," that the alleged victim may also have a right to stand his or her ground, and that the ability to retreat can be considered in determining whether the use of deadly force was objectively necessary.
9. Stand Your Ground laws should not apply in circumstances where deadly force is used against a law enforcement officer and where the aggressor knew or should have known that the individual against whom deadly force is used is a law enforcement officer.
10. States should endeavor to develop safeguards to prevent racial disparities in the application of Stand Your Ground laws.
11. The ABA should investigate the impacts that gun laws have in Stand Your Ground states and their effect on public safety generally, as well as racial disparities specifically.

The order in which the above findings and/or recommendations are articulated conveys no special significance or priority. Section VI, Additional Recommendations, contains a more comprehensive list of the Task Force's recommendations, which are broadly categorized within five areas of focus – public safety, racial and ethnic minorities, training, legislative considerations and implementation concerns.

Share the Report. Direct colleagues to the online version, accessible from the ABA Coalition on Racial & Ethnic Justice's website (http://www.americanbar.org/groups/diversity/racial_ethnic_justice). A limited number of printed editions will also be available upon request to the ABA Coalition on Racial & Ethnic Justice (corej@americanbar.org).

Provide feedback. The Task Force's website will feature a Special Comment Page to post readers' comments about the Report. The Report is designed to spark candid dialogue and debate about what directions the legal profession, individuals, organizations, government agencies and policymakers should take now and in the future to increase understanding of and to eliminate the adverse effects of the implementation of Stand Your Ground laws.

III. Overview of National Fact Finding

A. Gathering the Information

1. Regional Hearings

- ❖ February 2013: Dallas, Texas, at the ABA Midyear Meeting
- ❖ May 2013: Chicago, Illinois
- ❖ June 2013: Philadelphia, Pennsylvania⁵
- ❖ August 2013: San Francisco, California, at the ABA Annual Meeting
- ❖ October 2013: Miami, Florida

The Task Force conducted five regional hearing during 2013 and received oral and written testimony from over 70 witnesses, comprised of policy makers, government officials, state prosecutors and public defenders, private lawyers, legal scholars, victims' advocates and concerned citizens. All the hearings were recorded and transcribed. The Western regional hearing was televised on C-SPAN and the Southeast regional hearing was broadcast live on 880 WZAB AM. The transcript of each hearing is electronically available as described in Section VII, Appendix.

2. Legal and Empirical Research

The Task Force, through its membership and advisory board, conducted a 50 state legal survey of Stand Your Ground laws, and a literature review of empirical studies and legal scholarship.

B. Overview of the Regional Hearings

1. Southwest Regional Hearing: Dallas, TX – Feb. 8, 2013

The Southwest regional hearing in Dallas was the first hearing the Task Force conducted. It was held in conjunction with the 2013 ABA mid-year meeting and was well attended, “standing room only.” One issue that was repeated throughout the testimony was that Texas did not have Stand Your Ground laws, but instead only “castle doctrine” laws. Notwithstanding the local distinction in the label given to the law, the Texas self-defense law follows the “no duty to retreat” in public model, wherein one may stand one’s ground and meet force with force, including deadly force inside the home and outside the home. Further, it was mentioned in the testimony that Texas has a strong gun culture and many Texans own and carry firearms. The witnesses indicated that some individuals in Texas live in fear that their fellow Texans will be too quick to use their firearms and that this fear is heightened for African-American males. One witness, a law professor in Texas and former member of the United States military, highlighted the absurdity of encouraging deadly force in public and made the comparison that the Texas law provides a more lenient rule for a civilians’ use of a firearm than is available to a police officer or even a soldier at war, notwithstanding the fact that police officers and military officers receive extensive firearms and defensive training. One professor shared his study revealing that states with Stand Your Ground laws experienced an eight percent increase in the number of homicides relative to non-stand your ground states.

The Southwest hearing included the testimony of a crime victim, a victim of domestic violence. She testified, in graphic detail about how her ex-husband broke into her house with a gun and tried to kill her. She was able to defend herself with deadly force. Her testimony added the victim's rights perspective to the hearing. A victims' rights advocate testified that victims often wonder about the epidemic of violence created by stand your ground laws. A criminal defense attorney's testimony highlighted that Stand Your Ground laws blur the characterization of who the victim is.

A representative from the Texas legislature focused on the dangers of Stand Your Ground laws and people's perceptions of what the law actually allows. He also testified that black men are perceived as dangerous by default and that leads to situations where a person may perceive danger and use deadly harm when none existed. One judge testified that jury instructions in the area of Stand Your Ground are complicated, but that he had a good experience with juries in Dallas because of their ability to focus on the reasonableness of the actor's actions. Two criminal defense lawyers explained in their testimony the differences in the language of the laws between Texas and Florida. They believe that the distinction is an important one that fits and works well in Texas because there are no examples of serious injustices in the law in Texas. One attorney further added that the homicide rate had decreased in Texas, and that there was no shoot first mentality because an aggressor could not assert a Stand Your Ground defense.

2. Midwest Regional Hearing: Chicago, IL – May 2, 2013

Testimony from the Midwest regional hearing in Chicago was marked by localized issues of heightened gun violence in that region. Several witnesses were concerned about gun control. One testified regarding racial profiling and expressed the need for people to develop conflict resolution skills other than resorting to violence and the use of guns. Another expressed that there have been funding cuts for mental health facilities, education, and other family assistance programs, but the legislature passed a law that introduces more guns and violence into the community. Another witness criticized the National Rifle Association's support of Stand Your Ground laws.

One interesting feature of the Midwest hearing was the amount of empirical research discussed in the testimony. A study showed white killers of black victims comprise 3.1% of all homicides, but that cross-racial killing makes up 15.6% of all justified homicides. Another witness added further that there has been no increase in black on black homicides, but there has been an increase in white on white and white on black homicides. When compared to Stand Your Ground states, justifiable homicides account for 7.2% of homicides in "non-stand your ground" states. Another study shows that Stand Your Ground laws do not deter other violent crimes, but are associated with higher rates of homicides and manslaughters. Another witness expressed that criminal justice policy ought to be based on empirical evidence, and there is not very much in the way of research. But of the few studies that have been done, they show that Stand Your Ground laws have exactly the opposite effect to their stated purpose. Another study showed that 34% of white shooters are not charged or not convicted after shooting a black person compared to 3% of black people who are not charged or not convicted after shooting a white person.

Another witness testified about the economic and social conditions that influence vigilantism often associated with stand your ground laws. One witness even questioned whether Stand Your Ground laws are constitutional given the racial disparities in their application. The witness further testified that the immunity statutes foreclose any opportunity for the victims and their families to recover from the shooter. Two witnesses focused on the need for grass roots efforts in education, the need for the involvement of young lawyers divisions, and the need for the community to reach out to legislators to express their opinions against Stand Your Ground laws.

3. Eastern Regional Hearing: Philadelphia, PA – June 6, 2013

The witnesses from the Northeast regional hearing in Pennsylvania were informed regarding the issues surrounding Stand Your Ground laws. The witnesses' education on the law was due in large part to the fact that Pennsylvania's first Stand Your Ground bill, which mirrored Florida's law, was vetoed by former Governor Ed Rendell in 2006. The veto was newsworthy and created local debate regarding the pros and cons of Stand Your Ground laws. Gov. Rendell testified at the hearing and shared his perspectives and rationales behind his veto decision. Gov. Rendell explained he vetoed the bill because it espoused a "shoot first, think about it later mentality," and further, because it provided a solution to a problem that did not exist because existing castle doctrine laws sufficiently provided for the self-defense in the home. The local prosecutor testified that not one case had been cited to prove the necessity for Stand Your Ground laws, and that expanding the castle doctrine to public spaces helps to shield violent criminals from prosecution.

Witnesses testified that the veto fostered collaborative dialogue among the state's policy makers and key stakeholders. As a result, Pennsylvania's current Stand Your Ground law, enacted in 2011,⁶ was described by multiple witnesses as an improved version of Stand Your Ground law. Witnesses opined that Pennsylvania was able to draft a better law because of its intense study of the perceived pitfalls that Florida and Texas experienced with its laws. Some witnesses testified in opposition to Pennsylvania's "new and improved" version of Stand Your Ground stating that it was not only unnecessary, but also puts individuals at risk.

The Northeast hearing testimony included concern about perceived loopholes in current gun control laws. Several witnesses testified about gun licensing laws, background checks, and the necessity to tighten any loopholes in the gun permitting laws. One witness testified about what he called "the Florida loophole" in Pennsylvania's gun law, in which if an individual was not permitted to get a gun under Pennsylvania's law, but would qualify for a gun under Florida's law, which had a much lower standard, the gun permit would be issued without ever going to Florida. Witnesses stated that Pennsylvania has required background checks since 1998 before issuing a gun license, while Florida does not. A witness from the organization, Mothers in Charge, spoke about gun control and self-defense issues from the victim's perspective, objecting to gun violence and needless loss of life. Multiple witnesses also spoke to the fact that Stand Your Ground laws protect criminals and encouraged more violent crime including gang wars. This point was echoed again in the testimony gained in the Miami hearing.

A defense attorney testified in support of Stand Your Ground laws and the removal of the duty to retreat requirement. She explained that it is hard for a criminal defendant to show that there was "no safe retreat available" because it is too subjective of a standard. The witness further testified that most jurors don't understand the duty to retreat standard anyway because they don't grasp the graphic reality of the encounter. By removing that requirement, Stand Your Ground laws help defendants present their cases and make it easier to show that they acted reasonably in self-defense.

4. Western Regional Hearing: San Francisco, CA – August 9, 2013

Witness from the Western regional hearing in San Francisco testified that California's Stand Your Ground law is found in its case law, not its statutory law, but is even broader in scope than Florida's statute. The San Francisco District Attorney and Public Defender testified that the issue with problematic cases like the Trayvon Martin's killing is not Stand Your Ground laws, but implicit bias. Expert witnesses from Stanford University and the University of California at Berkeley testified on the issue of implicit bias. They first testified that the association between blacks and crime is strong enough to change people's memory and perception; the association between blacks and threats influence what people see, where they look, and how they respond; and these associations even influence what crime policies people see as fair and appropriate. The second testified that the word black is most often associated with the words poverty, dangerous, and lazy. He explained that studies show an increase in racial anxiety and that the anxiety is manifesting itself in Stand Your Ground laws. The local public defender spoke about inequalities in the criminal justice system due to implicit racial bias and the need to eliminate it.

Several witnesses testified that there was nothing wrong with the self-defense laws in place before Stand Your Ground laws were enacted. In their testimony they highlighted the concerns for racial profiling of blacks and the discriminatory application of Stand Your Ground laws. They testified that standards put forward in Stand Your Ground laws encourage tragic mistakes, poor judgment, and vigilantism. Other witnesses called for more research into the disparate impact of Stand Your Ground laws stating that they echoed the concerns of Attorney General Eric Holder and President Barack Obama, regarding a perceived disproportionate impact on racial and ethnic minorities— black males in particular.

Another witness focused on the policies behind the enactment of Stand Your Ground laws. He explained that while most people are concerned with the legal aspects of these laws, people who oppose Stand Your Ground need to understand the political backdrop in which the Stand Your Ground laws were passed, especially understanding the National Rifle Association's role in it. Several witnesses testified that California did not experience the same kind of problematic cases that Texas and Florida did because it lacks the same gun culture as those states. Therefore, they testified that more attention needs to be focused in places where the gun lobby's influence results in increased homicide rates.

5. Southeast Regional Hearing: Miami, FL – October 17, 2013

Most notably, the Southeast regional hearing in Miami featured testimony from the police community. A Miami homicide detective and police commander testified about first hand experiences with Stand Your Ground laws allowing drug dealers and other repeat offenders to avoid criminal charges due to “a technicality.” The detective testified further that Stand Your Ground laws created a negative problem for the Black community. He stated that the issue of racial stereotyping and the unfair perception that unarmed black males are a deadly threat is just one issue; another large issue is the fact that repeat offenders are going unpunished based on the loopholes of the Stand Your Ground laws. Additionally, these individuals are getting out of jail free and going on to kill more victims. A chief public defender’s testimony highlighted the discretion in the prosecution and the discretion in the judiciary to grant immunity from prosecution without the influence of a jury as another way Stand Your Ground laws are beneficial for criminals.

The Southeast hearing also included testimony from Florida lawmakers, who to some degree or another were involved in initial efforts to enact Florida’s Stand Your Ground law and subsequent efforts to pass amendments. A Florida state senator testified that during the Stand Your Ground hearings in the House of Representatives, a speaker predicted that the law would lead to racially motivated killings. The state senator’s testimony characterized Stand Your Ground as a law that creates victims and is the motivating force behind his pending proposed amendments to the law. Another Florida state senator testified about common misconceptions about Stand Your Ground and a poll that showed 60% of Floridians want to amend the statute. Both senators sponsored an amendment that called for guidelines for neighborhood watch programs, guidelines for police officers, and eliminating the immunity from civil suits provision.

One attorney testified that the loose standards and wide range of discretion given to prosecutors and law enforcement result in inconsistent and inadequate application of the law resulting in racial and minority disparities. Another attorney testified that courts in Florida do not apply stand your ground in the same way because some use it as an affirmative defense and others apply it as a complete immunity from prosecution. The same witness provided an example of how Stand Your Ground laws encourage violence. He testified that he represented a family whose son had been stabbed to death by two white teenagers. Those teenagers chased the victim down and stabbed him to death. After admitting that they planned in advance and staged the confrontation with victim, the teenagers said they thought they would get away with it because the police were likely to believe two white kids over a black kid.

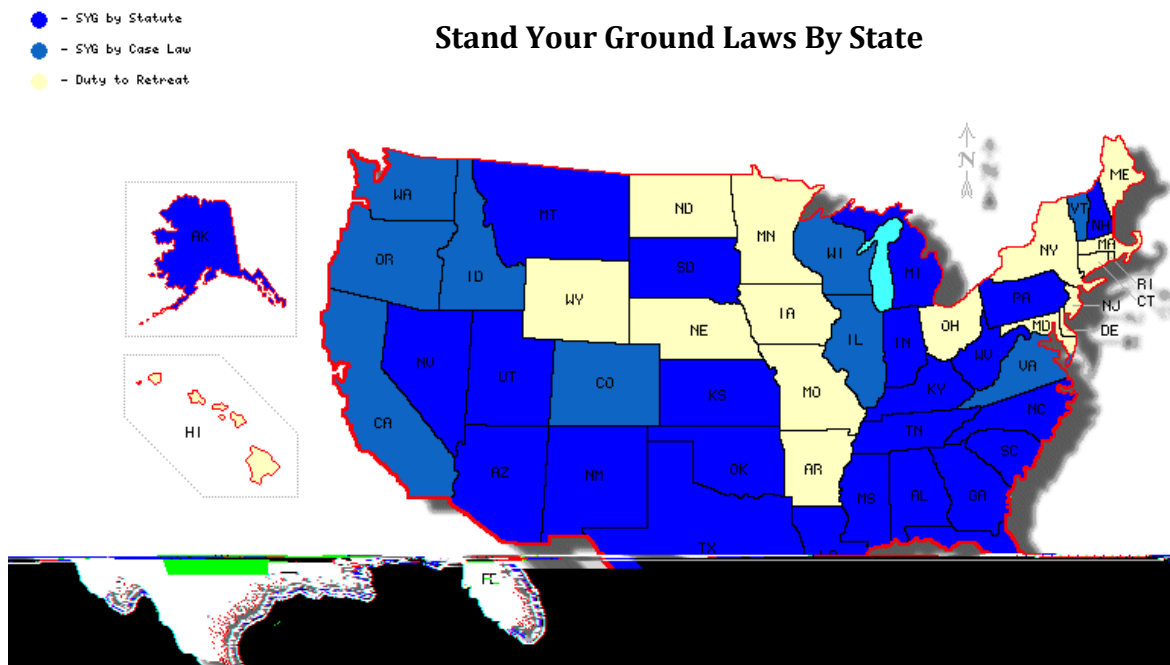
A witness from the University of Miami School of Law Human Rights Clinic testified that the clinic did a study that focused on Stand Your Ground laws as invoked by victims and survivors of domestic violence. The research showed that marginalized and vulnerable groups are less likely to successfully invoke a Stand Your Ground defense when compared to more privileged groups. Another witness testified that society is relying too much on the court system to address these problems without contemplating the need for society to consider biases and prejudices along with other issues to fully resolve Stand Your Ground law problems. An investigations editor and reporter from the *Tampa Bay Times* testified and explained the *Times’* findings on its small study of cases within the state of Florida wherein it found: 1) the majority of Stand Your Ground cases are non-deadly encounters, 2) sixty-percent of the individuals asserting the Stand Your Ground defense had

been arrested before, 3) the outcomes in Stand Your Ground cases revealed an uneven application of the law, and 4) the race of the victim was the dominant factor in determining the outcome of the case .

C. Survey of Stand Your Ground Laws

1. 50 State Law Survey

As of 2014, 33 states have Stand Your Ground laws which are depicted in map below.⁷ The *References and Resources* section contains a more detailed 50 state statute chart detailing the varying scope of each state’s Stand Your Ground law.



D. Empirical Assessments of Stand Your Ground Laws

Notwithstanding the media coverage and policy debate, few empirical studies have yet to confirm or dispel the public and scholarly criticisms of Stand Your Ground laws, their true impact on crime and deterrence of crime, and whether there is a significant racial dynamic related either to the victims or beneficiaries of such statutes. The Task Force performed a critical assessment of the qualitative and quantitative analysis that substantively contributes to the sparse landscape of empirical examinations of Stand Your Ground laws and evolving discourse surrounding these laws. However, the Task Force identified a substantial gap in the empirical research designed to measure the impact of Stand Your Ground laws on violent crimes, particularly violence linked to the use of firearms. A comprehensive study combining both the quantitative analysis and qualitative legal analysis of Stand Your Ground statutes and actual real in which fatal gun violence is determined justified would supplement existing scholarship and provide an evaluation of not previously performed by any legal scholar or researcher.

1. Georgia State University

Chandler McClellan and Erdal Tekin, two Georgia State University economists, analyzed monthly data from U.S. Vital Statistics records to examine how Stand Your Ground laws impact homicides. The data chosen encompasses mainly firearm related homicides between 2000 and 2009, made available by the National Center for Health Statistics based on death certificates filed in each state. The study focused on firearm related homicides committed by private individuals. Comparing data from different states before and after adoption of Stand Your Ground laws, the study found a significant increase in the homicide rate after the adoption of Stand Your Ground laws. More precisely, the study focused on states with laws that explicitly extend the right to self-defense with no duty to retreat to “any place where a person has a legal right to be.”

McClellan and Tekin found that the homicide rate increased among white males, thus more white males were being killed per month as a result of Stand Your Ground laws. Numerically, this meant that the homicide rate increased by 7.1 percent overall, but among white males, the rate increased 12.2 percent, or 8.09 deaths per month.

Interestingly, McClellan & Tekin preliminarily find that Stand Your Ground laws have “no effect on blacks[.]” Instead, they conclude, Stand Your Ground laws only increase homicides of whites, and in greater number, white males. Yet, public opinion data from policy makers, law enforcement, legal practitioners, news reports, and those who interact with the criminal justice system on a daily basis directly contradicts McClellan & Tekin’s findings concerning the impact of Stand Your Ground laws on minorities. This anecdotal evidence consistently indicates a pervasive concern that racial minorities are more vulnerable to becoming a victim of “misperceived aggression” while unarmed, and ultimately killed in purported self-defense type encounters Stand Your Ground law operates to insulate the attacker from criminal (or civil) liability.

2. Texas A&M University

Mark Hoekstra, a professor of economics, and Cheng Cheng, a doctoral candidate, both of Texas A&M University, analyzed the impact of Stand Your Ground laws on state-level crime statistics using data obtained from the FBI Uniform Crime Reports from 2000 through 2010. The study queried whether Stand Your Ground laws impacted deterrence and homicide rates. The crimes considered were burglary, robbery, and aggravated assault. Homicides were defined as the sum of murder and non-negligent manslaughter. Using a comparison of effects in states that adopted Stand Your Ground laws versus the effects in states that chose not to adopt such laws, Hoekstra & Cheng study concluded that the laws did not deter crime and, in fact, led to an increase in homicides.

Homicides increased by eight percent, which quantitatively represents 600 additional homicides per year, a statistically significant change. Hoekstra & Cheng also found no deterrent effect on crimes. Hoekstra and Cheng considered possible explanations for this data, including the escalation of violence by criminals, the escalation of violence in otherwise non-lethal conflicts, and an increase in legally justified homicide that is misreported as murder or non-negligent manslaughter. The study noted a minor variation in police classifications of justified homicides, which was not statistically meaningful. Finally, Hoekstra & Cheng suggested that Stand Your Ground laws cause both parties in a conflict to believe that they have the right to shoot, leading to such an escalation of violence. Moreover, the study further found that the increase in homicide rates is connected to the immunity protections in the Stand

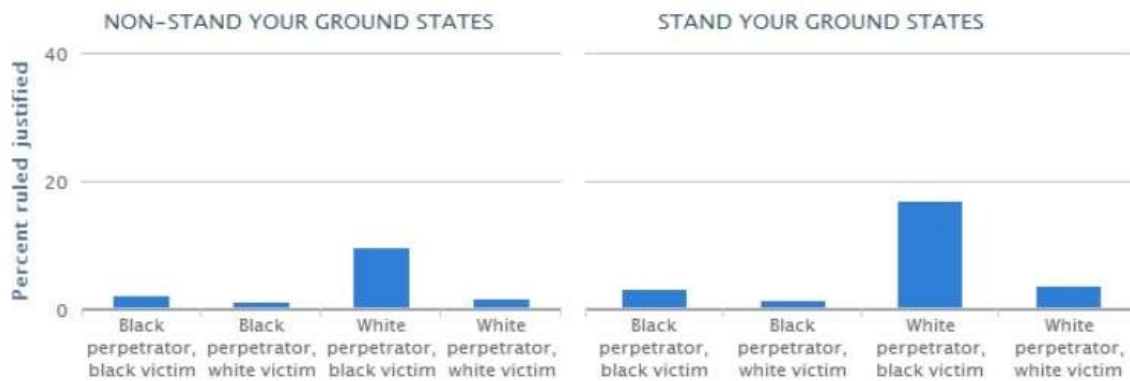
Your Ground laws that provide a low opportunity cost for exercising deadly force and therefore produce more killings.

3. Urban Institute

Dr. John Roman, a Task Force member and Senior Fellow at the Urban Institute, conducted an analysis of how Stand Your Ground laws impact justified homicide rates and whether there are any racial disparities in data measuring justifiable homicide rulings on a national scale. Roman analyzed data from the FBI Supplemental Homicide Reports to conduct a comparative analysis of justified homicide rates from 2005-2010 in Stand Your Ground states and “non-stand your ground” states. Roman specifically isolated the factor of race, which enable him to readily identify racial disparities in findings of justifiable homicides.

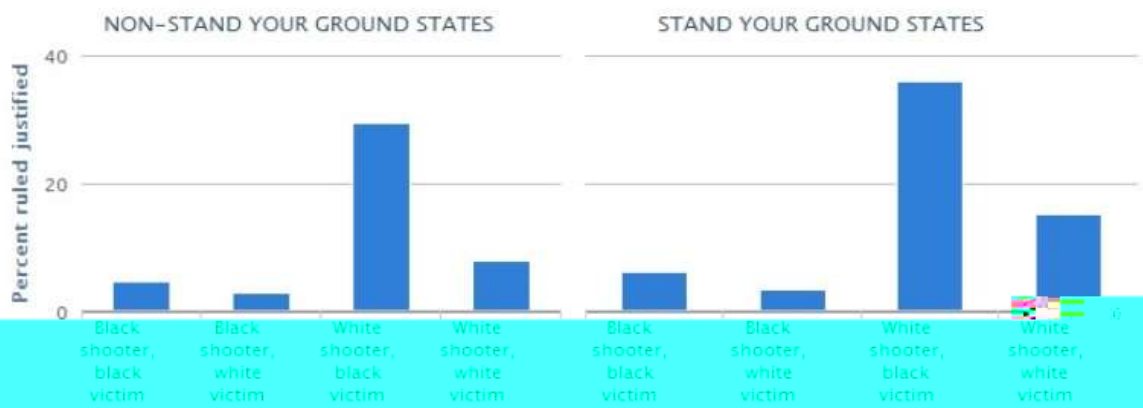
Homicides ruled justified 2005-2010

All cases



Gun homicides ruled justified 2005-2010

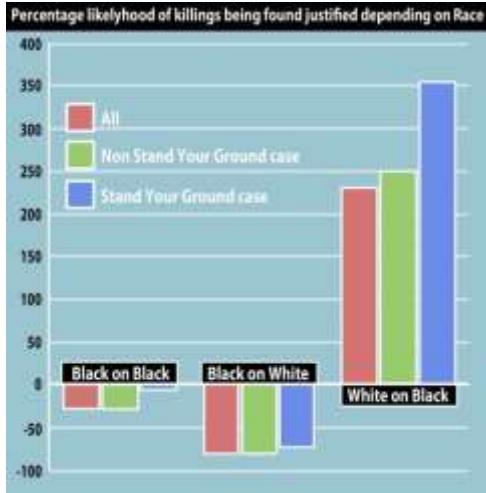
Two strangers who are not law enforcement



Source: FBI Supplementary Homicide Report

Note: The differences in rates of homicides ruled justified are all statistically significant at $p < .01$, except for black-on-black killings in non-Stand Your Ground states.

The resulting analysis of the data (see above) indicates statistically significant racial disparities in “non-stand your ground” states, and increased racial disparities in Stand Your Ground states. This chart below depicts as its baseline, white on white killings.



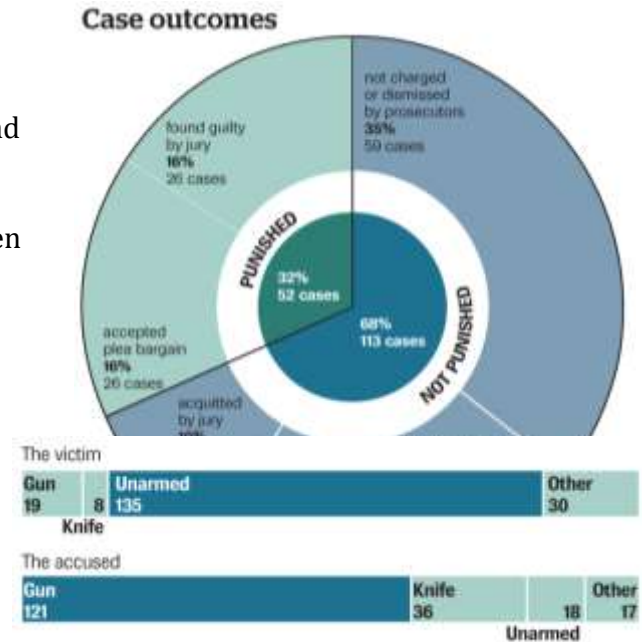
Thus, although racial disparities in the likelihood of being found to be justified exist, in Stand Your Ground states, the rate is significantly higher, such that a white shooter that kills a black victim is 350% more likely to be found to be justified than if the same shooter killed a white victim.

4. Tampa Bay Times

The Tampa Bay Times conducted a study of 235 Stand Your Ground cases, gathering qualitative data from media reports, public records and extensive interviews with prosecutors and defense attorneys. Although the Stand Your Ground statute was designed to permit individuals were engaged in lawful activity to protect themselves from actual harm, the results of the Times study revealed that Stand Your Ground law was being utilized under circumstances the legislature never expected, benefit groups the legislative never meant to protect (*e.g.*, habitual violent offenders) and causing large disparities along racial lines in case outcomes.

Interestingly, the Times study also revealed an important trend; cases with nearly identical factual circumstances resulted in inconsistent and opposite outcomes wherein one defendant is afforded criminal immunity, while another is convicted and received a tough sentence. The Times study, like the Roman analysis above, also indicated that racial disparities exist in the application of Stand Your Ground laws. Notably, the Times study determined, that a defendant in Florida who asserted a Stand Your Ground defense was 73 % more likely to achieve dismissal if the victim was black, compared to 59% if the victim was white. Other notable findings include:

- The majority of Stand Your Ground cases are non-deadly cases;
- 60% of the defendants raising the defense had been previously arrested
- 1 in 3 defendants raising the defense had been previously accused of violent crimes;
- Nearly 70% of individuals that invoke Stand Your Ground receive no punishment;
- Defendants asserting Stand Your Ground are more likely to prevail on the merits if the victim is black;
- Factually similar cases often yield inconsistent results; and
- As criminal defense attorneys consistently rely on the Stand Your Ground defense, the volume of Stand Your Ground cases drastically increases.⁹



Chris Davis, investigatory reporter and editor of the Times study, testified at the Task Force’s Southeast regional hearing that the data the Times’ analyzed was a small pool of data – only 235 cases involving Florida Stand Your Ground law, dating back through its enactment in 2005. Davis also testified that creating an accurate database was challenging in light of the that lack of standardized procedure or reporting obligation relating to Stand Your Ground law cases in Florida. The Times study, Davis cautions, although informative, is not conclusive and thus its readers should not draw too many conclusions from it.

IV. Stand Your Ground Themes

Legal scholars, researchers as well as the experts and witnesses who testified before the Task Force raised significant concerns about the public policy implications and application of Stand Your Ground laws for a variety of reasons.¹⁰ Some of the main questions that have emerged are: (1) do Stand Your Ground laws make our communities safer or do they instead encourage liberal use of firearms?¹¹; (2) do Stand Your Ground laws give the public a misperception that deadly force can be exercised with impunity due to the immunity statutes now in place in some states and thereby encourage instead of discourage violence?¹²; (3) are minorities less safe because they are likely to be stereotyped and perceived as threats even when unarmed?¹³; (4) have Stand Your Ground laws decreased crime or homicide rates in the states that have adopted this type of self-defense law since 2005?¹⁴; (5) should states move toward repeal of Stand Your Ground laws due to the ill-effects of these laws?¹⁵; and (6) do Stand Your Ground laws negatively impact prosecutors' ability to prosecute and punish real crime?¹⁶

A. Lack of Necessity

1. A Solution in Search of a Problem

Multiple witnesses from whom the Task Force received testimony focused consistently on the lack of evidence of a problem that Stand Your Ground laws needed to solve. Cogent legal analyses of Stand Your Ground laws reach the same conclusion: the ambiguous boundaries and inconsistent interpretations of Stand Your Ground laws may cause more problems than they are solving.¹⁷ District Attorney Edward Marisco, Jr., characterized Stand Your Ground laws a "a solution looking for a problem." Former Pennsylvania Governor Ed Rendell testified that he vetoed Pennsylvania's bill in part because, "it provided a solution to a problem that did not exist because existing law sufficiently provided for self-defense in the home. Several practitioners testified that proponents of Stand Your Ground laws could point to no examples of cases wherein traditional self-defense law would not have protected a law-abiding individual operating in justified self-defense.

2. Stand Your Ground Laws Used by Repeat Criminal Defenders

Supporters of Stand Your Ground laws maintain that these laws afford law-abiding individuals fundamental self-defense rights. A principle legislative purpose of Stand Your Ground laws is to allow law abiding individuals to defend themselves without the fear of prosecution. Durell Peaden, the former Florida senator who initially sponsored Florida's Stand Your Ground law, explained that the legislature never intended for people who put themselves in harm's way to benefit from their use deadly force.

Yet, anecdotal evidence suggests otherwise; it is habitual criminal offenders who are exploiting Stand Your Ground laws to avoid liability for their criminal offenses. On this issue, the Tampa Bay Times study reveals that of the 235 cases it examined, one-in-three defendants had been previously accused of violent crimes. For example, one defendant successfully invoked Florida's Stand Your Ground law in connection with drug charges on two separate occasions. Philadelphia District Attorney, R.Seth Williams, explained, "[c]riminals with illegal guns should not be permitted to shoot people on a public street and hide behind self-

In contrast, the broad definition of “unlawful” activity has caused concerns that Stand Your Ground laws unnecessarily exclude legitimate applications simply because of minor violations of criminal statutes or municipal ordinances. Florida Senator Chris Smith explained the rationale behind his legislative efforts to address this issue: “[t]he concern, especially from the immigrant community, and it's come up in central Florida a lot, is how far do you take that unlawful activity. If you're here as an illegal alien, you're actually involved in unlawful activity so you can't claim "Stand Your Ground." If you're speeding, is that unlawful activity? If your seatbelt is off while you're driving and you defend yourself in the car; is that unlawful activity? It's a very broad term.”

3. Stand Your Ground Laws Have No Deterrent Effect On Crime

Several empirical studies surveyed found that Stand Your Ground law had no deterrent effect on crime, specifically burglary, robbery, and aggravated assault. Yet, other studies indicated an increase in homicides in states with Stand Your Ground laws. Accordingly, researchers are concerned that increases in justified homicides following the enactment of Stand Your Ground laws favors amendment or repeal of these new laws and warrants a comprehensive national study.¹⁸ Ultimately, the data fails to bear out the crime deterrent/crime-reduction rationale espoused by proponents of Stand Your Ground laws. Rather, the anecdotal evidence gathered tells a story of surmounting problems with implementation of these laws and unintended, negative implications for racial and ethnic minorities, law enforcement, the criminal justice system and public safety. Thus, as Dr. Jerry Ratcliffe, Professor and Chair of the Department of Criminal Justice, Temple University, and Director of the Center for Security and Crimes Science, queried:

If our aim is to increase criminal justice system costs, increase medical costs, increase racial tension, maintain our high adolescent death rate and put police officers at greater risk then this is good legislation, but if we are to use science and data and logic and analysis to drive sensible public policy then there is no reliable and credible evidence to support laws that encourage stand your ground and shoot your neighbor. These laws are playing to a Second Amendment ideology that has no roadblocks and reliable scientific or evidential support. These laws are not solving a problem, they are creating one.

B. Impact on Public Safety

Stand Your Ground laws exist within a vigorous public policy debate. Proponents of Stand Your Ground laws contend these statutes affirm a core belief that all persons have a fundamental right to stand their ground and defend themselves from attack with proportionate force in every place they have a lawful right to be. Joshua Prince, a firearm law attorney, testified:

Clearly we have the inalienable right to our own preservation and with that comes the right to protect those that cannot defend themselves. Without such right we would have to stand idly by or even possibly retreat when we witness a neighbor being raped or an active shooter in our mall. Those of us who take our responsibility to our families and fellow citizens seriously will not stand idly by and watch those that we love, support and in some occasions do not even know die at the hands of a criminal or a deranged assailant.

Moreover, as a matter of public safety, proponents contend, individuals must have a means of protecting themselves, particularly in light of U.S. Supreme Court precedent holding that local law enforcement has no duty to protect individuals, but rather only a general duty to enforce the laws. *See South v. Maryland*, 59 U.S. 396 (1856). Advocates of Stand Your Ground laws cite slow police response timeframes and limited funding and police resources to adequately protect individuals and communities from legitimate public safety emergencies. “What we can take from this is that when seconds count the police are only minutes away, assuming first that they have the funding to protect; and, second, that they decide to protect you, your family and other innocents.” (Joshua Prince, Firearm law attorney).

Conversely, opponents of Stand Your Ground laws are concerned that Stand Your Ground laws unnecessarily encourage the use of deadly force as a low cost license to kill instead of reserving it only as a protective measure. “It encourages vigilante law. . . So one of the critical problems with the Stand Your Ground law is that before, that person would have had the impetus to leave, to go away. . . . But the Stand Your Ground laws allow people to stand, shoot, and murder with no consequences.” (Eva Patterson, Equal Justice Society).

Several witnesses testified regarding their perception that Stand Your Ground law had a negative impact in their communities. Many labeled it as “a license to kill.” Others raised concerns that, as social framework, Stand Your Ground laws do not place enough value on human life and further that they encourage non-violent conflict resolution instead of encouraging the use deadly force to resolve disputes. “It seems to me that I don’t quite understand how we expect and address issue[s] of violence with just more violence. . . . I just don’t understand why we can’t have a very basic discussion about the need for human beings to start acting like human beings, trying to find ways to love each other instead of kill each other.” (David Will, criminal law attorney)

In further explanation of his justification for vetoing a proposed Florida-style Stand Your Ground law in 2006, former governor Rendell reasoned:

1) The bill “would have threatened and not enhanced the public safety of Pennsylvania’s individuals;” 2) “the bill as passed encourages the use of deadly force even when safe retreat is available and advances a shoot first, ask questions later mentality;” 3) Rendell does “not believe that in a civilized society we should encourage violent and deadly confrontation when the victim can safely protect themselves.”

Commander Ervens Ford, a detective in the homicide unit of the City of Miami police department, testified:

[The] Stand your ground law is the reason folks are getting away with murder. Trayvon Martin is not the first case. Sherdavia Jenkins and the car stereo case with Judge Bloom were two other Florida cases that were cited in testimony, wherein it was implied that the killers got away with murder due to their successful defense motions under Stand Your Ground.

Commander Ford also drew attention to the increased use of Stand Your Ground in narcotics cases in which attorneys successfully assert Stand Your Ground defenses at the preliminary immunity

hearing stage, notwithstanding the failure of the criminal defend to initially he or she was acting in self-defense at arrest or arraignment. Ford stated he could name 100 different cases in Miami where at some point; Stand Your Ground became an issue.

C. Impact on the Justice System

Police chiefs and prosecutors across the country have opposed Stand Your Ground laws by arguing they undermine fairness in the criminal justice system, place officers at risk and provide a reliable way to avoid liability for criminal acts. Justice mandates that law enforcement and prosecutors closely and carefully assess every deadly force situation without favor toward the either party. Without such objectivity, individuals will view the criminal justice system with skepticism and disenfranchisement.

1. Police Investigation

Stand Your Ground laws have incited an active debate about the practical enforcement and safety issues its implementation has illuminated. "From a public policy perspective it clouds an administration of justice by removing the instances of investigation when someone is killed and creates an environment of flawed subjective analysis." (Goodwille Pierre, Vice-President, National Bar Association).

Police officers report varying degrees of confusion regarding how to properly apply Stand Your Ground laws. Most Florida police officers now defer decisions to arrest on Stand Your Ground cases to the prosecutor's office to make. This may be an unintended consequence of the law, as some Stand Your Ground statutes explicitly state in their language that the police should not vary from normal investigation procedures in Stand Your Ground cases. However, in jurisdictions with immunity from prosecution statutes, "criminal prosecution" is defined to include "detention, arrest, and charging." This broad definition leaves police officers unsure about when they can and should arrest suspects.

Police on the street are unclear when the immunity statute applies and therein the new law impedes their ability to arrest and detain suspects. In some jurisdictions, police officers even stopped investigating shootings involving self-defense claims and instead deferred to the prosecutors make initial charging decisions.¹⁹ Police officers are frustrated that Stand Your Ground law is being used as a loophole by repeat offenders and is less frequently asserted under factual circumstances intended by the legislators.

1. Police Safety

Law enforcement critiques of Stand Your Ground laws also cite to the differing standards governing the use of deadly force in public by police officers and public servants. A former JAG attorney testified:

As a former Army lawyer who served in Iraq, it is interesting to consider the difference in the application of deadly force domestically under Stand Your Ground and U.S. soldiers, sailors, airmen and Marines deployed in harm's way. While certainly not completely analogous, U.S. service members operating in the most hostile environments, formerly Iraq, now Afghanistan, must consider the feasibility of less than lethal action when confronting threats on today's nonlinear battlefield. It is troubling that

under Stand Your Ground, there are less restrictions imposed on U.S. service members using deadly force when they return to the United States than when they are deployed in a combat environment.

—Christopher Jenks, Ass't Professor of Law, Southern Methodist University and Criminal Justice Clinic Director

Furthermore, law enforcement officials are also concerned that officers will not be able to distinguish between criminals and individuals who are observed with a firearm and likewise for armed individuals to discern police officers in plain clothes. Indeed, as Dr. Jerry Radcliffe testified, “I worry that this is *carte blanche* for people to say that they are approached by somebody who wasn't in uniform, shoot first and then maybe have to apologize for it later if they deem to do so. I worry as a former police officer about the safety of police officers. Encouraging untrained individuals to take aggressive deadly force action can lead to more social harm, not less.” For these reasons, both prosecuting attorneys and law enforcement officials raised strong opposition to enacting the Stand Your Ground law in Florida and other jurisdictions.

Others, however, argue that Stand Your Ground laws are necessary to combat the failure of the existing system to hold law enforcement officers accountable for improper use of deadly force: “[t]he charging of police officers is extremely low even though the reasons for providing less scrutiny is their alleged specialized training. Therefore, we must insure that the police officers are not treated any differently than our citizens in determining justification as we all seek the same result, the protection of ourselves and other innocents.” (Joshua Prince, Firearms law attorney.)

Similarly, while most Stand Your Ground laws do not extend self-defense rights or immunity protections to using deadly force against a police officer, Indiana permits the homeowner to defend against the “unlawful intrusion by another individual or a public servant.”²⁰ In reaction to the Indiana Supreme Court decision in *Barnes v. State*, 949 N.E. 2d 572 (2011) (holding an individual does not have the right to resist unlawful entry by the police into his home), the Indiana legislature amended its Stand Your Ground statute to authorize the use of deadly force in self-defense against a police officer attempted to make an unlawful entry into one’s home.²¹

2. Prosecutorial discretion

Stand Your Ground laws have influence the breadth of prosecutorial discretion. A senior Miami prosecutor testified at the Southwest regional hearing about an unjust homicide case that his office could not charge because Stand Your Ground law made it too hard to prove, but the shooter was not in imminent threat and the victim was in the process of trying to flee when he was shot. The point being made by the prosecutor was that Stand Your Ground laws impact prosecutorial discretion. In the Stand Your Ground states that also have statutory immunity from prosecution, prosecutors are also influenced by knowing they may have to “try the case twice,” once at the immunity hearing, and once at the real trial, and therein are reluctant to prosecute Stand Your Ground cases. Further study and inquiry into the Tampa Bay Times’ study may reveal why there is such a high rate of prosecutors declining to prosecute Stand Your Ground cases.

3. Judiciary

Judicial confused over the proper application of Stand Your Ground law is evidenced by inconsistent outcomes in cases that were factually similar due to divergent judicial rulings.

At a February 2014, the Georgia Senate Judiciary Committee hearing held in connection with a pending bill to repeal Georgia's Stand Your Ground law, Janice Mathis, a witness spoke to the unequal application of Stand Your Ground laws within the same jurisdiction:

Superior Court judges in Georgia don't know what to do with the [Stand Your Ground] legislation. In Charlton County, [Georgia], you get one case where a man tries to use Stand Your Ground in the fatal shooting of a man who comes into a nightclub with a weapon drawn. He [the man who came in] looks like he is about to shoot. The defendant shot and killed the guy. He can't use Stand Your Ground. He is serving life plus ten years right now.

The application of this law places the decision on the judiciary, whether to grant immunity based on Stand Your Ground eligibility. The interpretation, however, has led to varying application by the police, who alter their investigation if they believe the party was standing their ground; prosecutors, who do not file charges if they believe the statute will come into use; and by judges, who arrive at radically different decisions in factually-similar cases, causing inconsistencies in justice. The Tampa Bay Times report, in fact, details cases that are nearly identical fact patterns, yet, different judges arrived at opposing decisions, with one defendant receiving immunity, while his counterpart receiving a tough sentence elsewhere.

Additionally, the Stand Your Ground law may start to crowd court dockets as police officers and defense attorneys both testified that Stand Your Ground is being raised in any case, drug cases, gang cases and the like. Inconsistent and/or erroneous jury instructions given in Stand Your Ground cases have also raised concerns and even resulted in the grant of a new trial.

4. Jury

Are Stand Your Ground laws causing confusion among jurors ? One defense attorney testified that the Stand Your Ground law was a "good law" because it removed the "duty to retreat" rule which jurors don't understand anyway. However, others, including criminal defense attorneys, took issue with placing the complex, factual analysis associated with a Stand Your Ground defense before a sole arbiter:

Traditional self-defense laws at a trial in front of a jury, rather than putting it in front of a judge who has all sorts of competing values, including in this state reelection, to consider when deciding these cases, traditional self-defense laws are more than enough to deal with these issues.

— Ed Shohat, criminal defense attorney and Miami-Dade County Community Relations Board representative

Additionally, other witnesses indicated the potential for juror bias in Stand Your Ground cases, due in part to the operation of implicit biases and socialized perceptions of youth, racial and ethnic minorities and women.

D. Implicit Racial Bias

When the place where you stand is shaky, you can't be sure the actions you take are appropriate or efficacious. This law is on shaky ground because it exacerbates the tension that already exists between persons and classes who are different from us and individuals with whom we have strained relationships. It accommodates the unfounded fear on the part of those who may harbor unresolved anxieties. It perpetuates a foolish bravado of those who feel a bold security when they have a gun in their hand, and it exonerates an arrogance and/or ignorance.

– Rev. Leonard Leach, Mt. Hebron Missionary Baptist Church

Particularly relevant to the analysis of Stand Your Ground laws is the issue of implicit bias and cultural misperceptions of racial minorities as “more violent” or “more aggressive,” even when exhibiting the same behaviors as Caucasians.²² Legal scholars have applied implicit bias research regarding cross-cultural fear and perception to the reasonableness prong of the non-Stand Your Ground self-defense statutes and opined that race and racial stereotypes are important public policy considerations when enacting, amending or repealing laws that eliminate one’s “duty to retreat,” like Stand Your Ground statutes.²³

Testimony from witnesses bears out this concern. Ed Shohat, a criminal defense attorney and member of the Miami-Dade County Community Relations Board, testified that “minority communities are deathly afraid that Stand Your Ground law sits side-by-side with racial profiling; the ticket to vigilante justice. Further, two experts, psychologist Dr. Jennifer Eberhardt and Professor John Powell, described the importance of how implicit biases impact the application and efficacy of stand your ground laws. Psychologist Dr. Jennifer Eberhardt explained that stand your ground laws give people broad leeway in determining what constitutes a threat, how to act upon those perceived threats, and how that renders blacks vulnerable. She described several studies that explore the association between black and crime and how that association can influence a person’s perception and memory. In one of the studies, simply exposing a person to a black face facilitated that person’s ability to see weapons, regardless of the person’s prejudice level. She described another study that found people were quicker to shoot black men with guns than white men with guns, and if there existed any doubt, would shoot a black person with no gun over a white man with no gun. “In the absence of laws that constrain the use of force in the service of defense . . . blacks are more likely to draw out attention and more likely to be perceived as threatening.”

Professor John Powell testified that a study found the word black was associated with the words poverty, dangerous, and lazy. He explained that these cultural associations impact a person’s perception especially under stress. He also spoke about a study that showed that white America has a growing anxiety about race and Stand Your Ground laws are an example of institutionalizing the fear of white Americans. As Texas Representative F.Garnett Coleman explained, concerns about racialized perceptions informed his decision-making process regarding efforts to enact the Texas Stand Your Ground law:

[W]hen the Senate bill passed in 2007, there were 13 of us who voted no on the floor of the House on that bill, and the reason we voted no is because all of us you understood that that would mean that if you were of

color that you'd be a target. And how did we know that? Because we were of color. And we know that we had been targets in the past.

In addition to the empirical evidence of implicit bias to which Professors Eberhardt and Powell testified, San Francisco District Attorney, George Gascon, and San Francisco Public Defender, Jeff Adachi, both testified that implicit bias plays the most significant role in the troubling outcomes in inter-racial homicide incidents. Race, is the more significant factor than whether the incident occurred in a Stand Your Ground jurisdiction or not. Professor Fingerhut of Florida International University testified to a similar point in stating that Stand Your Ground laws highlight what separate us . . . no judge will be able to fix that,” eluding to the underlying implicit racial bias at the root of some of the problematic cases. “The law can open door, and break down wall, but it cannot build bridges,” Fingerhut said. He explained that part of the problem is “seeing the other as other.”

Throughout the testimony the theme of implicit racial bias and racial profiling were raised, wherein the overarching concern being that existing racial tensions are further exacerbated by stand your ground laws in a myriad of ways. Some witnessed testified that racial bias was at the root of the problem with Stand Your Ground laws.

E. Empirical Evidence of Racial Disparities

In Stand Your Ground states, the Urban Institute’s study indicated that racial disparities exist in the application of Stand Your Ground laws, such that a white shooter that kills a black victim is 350% more likely to be found to be justified, than if the same white shooter killed a white victim. This study shows that the racial disparities that already exist in justified homicides in all states is heightened in Stand Your Ground states. Tampa Bay Times reporter, Chris Davis, testified that the Times’ study found that the race of the victim was the dominant fact that determined the outcome in Florida Stand Your Ground cases. In cases where the race of the victim was white, the suspect claiming self-defense was unlikely to go free; but in cases in which the race of the victim was black, the suspect claiming self-defense was likely to go free.

F. Fear Experienced by Black Males in Stand Your Ground States

It is my continued hope that we pursue the eradication of this unjust law for no other reason than, as an African American male, the idea that we are creating a precedent in which the lives of African American men are summarily devalued in a society, that over its existence, has placed monetary value on those same lives but now has gotten to a point where that same life has zero value is overly problematic.

— Florida Sen. Dwight Bullard

Warren Seay, a young black male law student and Dallas County elected official, testified at the Dallas hearing and explained the fear he experiences knowing that the majority of the public fears him as a deadly threat due to the color of his skin, irrespective of his college degree, membership on the board of trustees of his local school district, and third-year law student at South Methodist University School of law.

Professor Powell's testimony recounted his personal experience with deciding whether to give his son a cell phone, who, at the time, was in high school. "I was a little concerned. So I did a little research. And in that year when he was about 15 years old . . . there had been a number of killings of young black men when police stopped them I cars. And a number of times the police wrongly assumed when they were picking up their cell phone that they actually had a gun. During that same period, there had not been one killing of a white young man making that mistake." Although his son was very upset about not getting a cell phone, Professor Powell told him the reason was because "[y]ou're black in America. There's an assumption, a perception, a deadly perception that you've done something wrong."²⁴

G. The Challenges Presented by the Reasonableness Standard & The Perception of Threat

The standard applied in self-defense law, including stand your ground cases is reasonableness. Although, the individual using the stand your ground defense may have no duty to retreat prior to responding in self-defense, her or she must act reasonably in perceiving the imminence of the threat, the necessity to respond to the threat, and whether the threat is a deadly or non-deadly threat.

Criminal defense attorneys who testified acknowledged the advantages of mounting a defense in Stand Your Ground jurisdiction. They, however, also identified some of the benefits existing prior to the new Stand Your Ground laws:

I am not a proponent of all the aspects of this new expanded Stand Your Ground law, I am not, however, I do think that there is areas to tweak upon the old self-defense doctrine that does encompass real life situations and real life threats to people and the subjectivity that they have, that they understand of the violence they are faced with based on known history of certain individuals, and I don't think the old doctrine allowed for that. So do I believe we need this broad of an expansion, no, I don't, but I do believe we need some form of measurable understanding of the real fear and real harm that people are faced with.

— Keir Bradford-Gray, Chief Public Defender of Montgomery County, Pennsylvania

Critics of Stand Your Ground laws often point to the lack of an external, objective trigger to justify the use of deadly force. Pennsylvania's Stand Your Ground law, however, attempts to address the vulnerability of the reasonableness standard by inserting additional objective criteria within its statute. Pennsylvania's prerequisites to asserting a Stand Your Ground defense require a defendant to: (i) be in the public space at issue lawfully, (ii) not be engaged in crime, (iii) observe the attacker visibly display a weapon; and (iii) believe the use of deadly force is necessary to prevent death, kidnapping, serious bodily injury or rape. Pennsylvania policy makers testified that its 2011 Stand Your Ground law constitutes a marked improvement over other states with a "blanket" no duty to retreat in public. Indeed, firearm advocates concur: "I think that those guidelines are better than an extreme lunge to completely eliminating the duty to retreat in all circumstances. And I think they are better than what we had before, and I think they provide a clear focus upon which we can analyze situations of self-defense and by which prosecutors can easily determine cases that simply cannot get protection of Stand Your Ground laws here in Pennsylvania." (David Green, Firearm Owners Against Violence).

Many argue that the “duty to retreat” obligation placed an unreasonable burden on individuals legitimately acting in self-defense. Proponents of this view often cite to Justice Oliver Wendell Holmes’ articulation of the difficulty imposed under the “duty to retreat” hindsight analysis: “[d]etached reflection cannot be demanded in the presence of an uplifted knife. Therefore, in this Court, at least, it is not a condition of immunity that one in that situation should pause to consider whether a reasonable man might not think it possible to fly with safety or to disable his assailant rather than to kill him.” *Brown v. United States*, 256 U.S. 335, 343 (1921). As one witness explained, “I recognize that at least one utility of Stand Your Ground laws are that it relieves citizens’ hesitancy that may be attended in making a determination of the viability of the withdrawal in the heat of the moment. The prevalent and unfortunate lethality of firearms render withdrawal not viable in many circumstances.”

H. Interplay between Firearm violence and Stand Your Ground laws

Notably, a number of witnesses raised concerns that gun control laws are the root problem with Stand Your Ground laws. Shira Goodman, of Ceasefire PA, testified:

Gun violence has already been unacceptably high, and it seems that is what it has done in the other states. It changes incentives. The cost of using lethal force are reduced, the assessment that one may use when determining whether they should use force or try to retreat is changed, and that is not a good thing, changing that calculus, making people think about what they are doing.

Yet, advocates of Stand Your Ground laws contend that firearm possession has deterred crime in the United States. However, as Professor David Hemenway, Professor of Health Policy at the Harvard School of Public Health at Harvard University, observed, “[n]o credible evidence exists for a general deterrent effect of firearms. Gun use in self-defense is no more likely to reduce the chance of being injured during a crime than various other forms of protective action.²⁵ The recent empirical research relating to homicide rates in Stand Your Ground states addressed earlier in this Report fully supports Professor Hemenway’s supposition. Even Dr. Gary Kleck, a noted pro-gun researcher and staunch advocate for Second Amendment rights concluded: “There is little or no need for a gun for self-protection [for most Americans] because there’s so little risk of crime. People don’t believe it, but it’s true. You just can’t convince most Americans they’re not at serious risk.”²⁶

Moreover, the Harvard Injury Control Center examination of “Gun Threats and Self-Defense”²⁷ identified the extent that firearms play in protection of oneself or the home. This study debunked a touted myth that firearm use as self-defense by individuals was a common occurrence and that few criminals were shot by home owners. Instead of thwarting criminal assaults, research by the Harvard Injury Control Center determined that most purported self-defense gun uses involved the escalation of arguments, which is not what a civilized society would want to promote. As testimony from the Western regional hearing indicated, the “no duty to retreat” rule (judicially recognized in California since 1875) has had an inconsequential on crime rates. Rather, in California, the lack of gun culture and the smaller number of gun owners, compared to Florida and Texas was the true source of reduced violence crime.

Additionally, the Tampa Bay Times study, which only focused on stand your ground cases in Florida noted that the majority of the cases that utilized the stand your ground defense involved exercises of non-deadly force in self-defense, and therefore did not involve gun violence.

I. Innocent Bystanders & Victims

The statutory immunity provisions of certain Stand Your Ground laws prevent victims from obtaining redress through the criminal justice system and prohibits subsequent civil suit and thus substantially restricts the available remedies, such as compensation, typically available to innocent bystander and other victims.

The Sherdavis Jenkins case is but one tragic example highlight the sense of injustice many families of innocent bystanders experience. The Sherdavis Jenkins case was the first nationally televised Stand Your Ground case aired on the television show, *The First 48*. Two gentlemen were shooting at one another, both involved in criminal activity. Sherdavis was sitting on the porch playing with her older sister and one of the assault rifle rounds stuck her. The shooter brought up Stand Your Ground as a defense and won his motion. He was sentenced for having a weapon. But Stand Your Ground should not have been an issue for somebody involved in the narcotics trade with a terrible past criminal history being armed with an assault rifle in a neighborhood full of kids.

Several witnesses also spoke to the issue of giving a voice to victims, who are silenced by cases involving Stand Your Ground law: “[i]f I’m attacked and I try to fight to defend myself but lose my life, I will not be able to use the Stand Your Ground defense and no one will be able to hear my complaint.” (Goodwille Pierre, Vice-President, National Bar Association). Stand Your Ground laws often exacerbate the complexity of analyzing who is the victim, particularly in violent altercations which result in fatalities. “Oftentimes the distinction between who is the victim is blurred. And as a defense lawyer, it’s something you look forward to in having lax self-defense laws because it makes it easier to defend.” (Eric J. Davis, Assistant Public Defender, Harris County Public Defender’s Office)

J. States’ Efforts to Amend or Repeal Stand Your Ground Laws

Although the Texas Castle Doctrine Statute has been in place since 2007 and Florida Stand Your Ground laws in Florida since 2005, the real outrage, the public clamor for changes or repeal of these types of laws that have now been passed in more than 30 states, didn’t begin until the tragic shooting of Trayvon Martin. Since that time everything about these so-called Stand Your Ground laws, self-defense laws have come under great scrutiny, not only here in Texas but around the country

— Texas Rep. Royce West

Concerns over the adverse ramifications of the elimination of the duty to retreat in public spaces, such as those highlighted in this Report, coupled with a series of high-profile cases illuminating unanticipated applications of Stand Your Ground laws has lead policymakers in at least 10 jurisdictions to explore tempered modifications or outright repeal of Stand Your Ground statutes. The Task Force has identified numerous movements toward amending certain Stand Your Ground laws; however, to date no repeal campaign has proved successful:

- **Alabama:** Although it ultimately died in committee, Representative McCampbell’s April 2012 bill sought to limit individuals who “actively pursues an aggressor after an initial confrontation,” from justified use of physical force in self-defense.

- **Georgia**: In 2012, Georgia saw two attempts to repeal its Stand your Ground law. The first bill died in committee. The second bill remains pending and the subject of action. The sole hearing convened relating to the necessity for repeal was widely criticized as truncated, incomplete and unduly restrictive in terms of the breadth of inquiry.
- **Indiana**: Outside the limited context of lawful/unlawful entry into the home, Indiana's Stand Your Ground law, and its wholesale elimination of the duty to retreat in public remains unchanged. Notably, in 2012, Indiana successfully amended its statute to clarify that police officers entering the home or searching the home must have a valid warrant, and without a valid warrant, an individual could "stand his/her ground" against the police officer and exclude the police officer from the residence, if reasonably necessary, in self-defense.
- **Florida**: Following the 31 day sit-in at Florida Governor Rick Scott's office demanding a special legislative session to review Florida's Stand Your Ground laws, the youth activist movement, "Dream Defenders" failed to secure the necessary 96 votes, instead receiving in support from only 42 lawmakers. Florida House Speaker Will Weatherford, however, promised the Dream Defenders that he would hold a hearing on Stand Your Ground laws in Fall 2013. Legislator, Alan Williams, subsequently sponsored a bill to repeal Florida's Stand Your Ground in Florida about which he appealed, "Let's repeal and start over Let's repair the broken hearts that so many families are feeling right now because they have lost loved ones." Florida's Criminal Justice Subcommittee convened and received five hours of testimony regarding the bill and voted 11-2 against the bill to repeal. A separate bill to amend Florida's Stand Your Ground law died on May 2, 2014.
- **Kentucky**: In March 2012, Representative Higdon introduced a bill to provide emergency medical technicians paramedics the same protections against civilian use of deadly force that police officers have when entering the home or vehicle to assist. This bill remains in committee.
- **Louisiana**: In May, 2014, Representative Bishop introduced a bill to repeal Louisiana's Stand Your Ground law. In June 2014, proponents abandoned all efforts to repeal in favor of a bi-partisan effort to study the impact of Louisiana's Stand Your Ground law.
- **Michigan**: Former Governor Jennifer Granholm, who originally signed Stand Your Ground into law in Michigan, later favored repealing it. Although there are multiple news reports regarding the increase in justified homicide rates in Detroit, there has been no repeal or amendment of the Stand Your Ground statute.
- **New Hampshire**: New Hampshire proposed an amendment to abolish its Stand Your Ground law. The proposed bill passed the house but failed in the senate. Notwithstanding much debate and controversy within the state regarding the law, the original version of New Hampshire's Stand Your Ground law remains in effect.
- **Pennsylvania**: The former governor of Pennsylvania, Ed Rendell, vetoed Pennsylvania's original stand your ground legislation proposed in 2006. The original proposed version

was a mirror of Florida's law. A subsequently a more detailed bill for a stand your ground law was proposed, debated, and passed by the legislature and signed into law by the new governor in 2011.

- **South Carolina**: Following the failure of a 2012 effort to repeal South Carolina's Stand Your Ground Law initiated by Representative Bakari Sellers, in 2014, Representative Harold Mitchell announced the submission of a new repeal bill.

K. Governmental Inquiries Into Stand Your Ground Laws

1. United States Commission on Civil Rights

In May 2013, upon the proposal of Commissioner Michael Yaki, the U.S. Commission on Civil Rights voted 5-3 to investigate racial bias in Stand Your Ground laws, which marked the first full-blown investigation by the commission in decades. Although the USCCR lead investigation remains pending, Commissioner Yaki shared his motivation for encouraging the investigation:

I wanted to make sure that we understood clearly what was going on with these laws. I understand and I think no can argue that the combination of permissive gun laws and laws of the Stand Your Ground are just a deadly cocktail throughout this country, and especially for young African-American males. But I want to make sure that we have facts to back it up. The commission has always been the fact-finder for Congress and for other jurisdictions. This, I hope, possibly with the right help, with the right information, could rise to that kind of level in terms of its ability to impact public policy debate.

2. United States Senator Richard Durbin

Senator Durbin conducted a hearing in October 2013. The hearings resulted in a written plea to Attorney General Holder requesting in connection with establishing better methods of collecting data included in the FBI Supplemental Homicide Report.²⁸

3. Florida Governor Rick Scott

Florida Governor Rick Scott convened a Task Force on Individual Safety and Protection to review Florida's Stand Your Ground laws, chapter 776 of the Florida statutes. It issued a report on February 21, 2013 endorsing Florida's existing Stand Your Ground as its first recommendation:

The Task Force concurs with the core belief that all persons, regardless of citizenship status, have a right to feel safe and secure in [the state of Florida.] To that end, all person who are conducting themselves in a lawful manner have a fundamental right to stand

their ground and defend themselves from attack with proportionate force in every place they have a lawful right to be.

Notably, the Governor's Task Force specifically identified both a concern and need for further inquiry into the indisputable racial disparities present in the application of Stand Your Ground laws:

The Task Force recommends the Legislature consider funding further study of the correlation and causation to include variable such as race, ethnicity, gender, application and fairness of the [stand your ground] law in regards to the expansion of self defense laws in the State of Florida, including a statistical comparison with other states. The Task Force recommends any report be issued by 2015 with periodic updates.²⁹

4. Florida State Senator Chris Smith

On April 2, 2012, Florida State Senator Chris Smith convened the Florida Stand Your Ground Task Force charged with reviewing Florida's Stand Your Ground law in chapter 776 of the Florida statutes. The following recommendations were unanimously agreed upon: 1) Stand Your Ground cases should be presented to a grand jury, 2) educate the public and law enforcement, 3) create a system to track self-defense claims in Florida, 4) amend the imminence requirement, and 5) change the title of the statute.

5. Louisiana State Legislature

On June 2, 2014, the Louisiana House of Representatives unanimously adopted a Resolution, sponsored by Bishop, to have the "Louisiana State Law Institute to evaluate Stand Your Ground laws in Louisiana as well as provisions of law from other states regarding the issue, and make any recommendations regarding any changed to those laws which may result from that evaluation."³⁰

V. Additional Recommendations

The Task Force further recommends the following:

A. Public Safety & Education

1. The Task Force recommends that the ABA convene a series of national town halls directed toward encouraging dialogue about the impacts of Stand Your Ground laws on public safety, such as: (1) the increase in homicides, (2) the lack of decrease in theft crimes, and (3) the potential disparate impact on racial and ethnic minorities.

B. Racial & Ethnic Minorities

1. States should develop safe(al 4)-2(a)9(g)hcation

5. The Task Force recommends that existing mandatory and discretionary concealed carry and firearm license training curricula incorporate specific training on Stand Your Ground laws. In that regard, the Task Force further recommends the ABA convene a working group to develop standards and an educational toolkit for use by agencies that conduct such firearm license training.

D. Legislative Steps

1. States modify Stand Your Ground laws to eliminate civil immunity provisions, which prevent innocent bystanders and their families from seeking compensation and/or civil remedies for injuries sustained.

2. The Task Force recommends establishing regional working groups of legal experts and other stakeholders to provide advisory or technical support to state legislators involved in process of evaluating, reevaluating and/or modifying existing Stand Your Ground laws.

3. The Task Force recommends that state Stand Your Ground laws should be reevaluated with an eye towards the following modifications:

a. Stand Your Ground laws should clarify and specifically delineate the circumstances under which "unlawful activity" would operate as a bar to asserting a defense of the use of force. Specifically, the Task Force recommends evaluations address:

i. Whether the commission of criminal misdemeanors, violations of municipal ordinances, minor traffic infractions preclude the application of Stand Your Ground law; and

ii. Additional guidance to judges, prosecutors and defense attorneys of the original intent behind the unlawful activity prohibition.

iii. Citizenship status should not be a justifiable basis to preclude individuals from utilizing a Stand Your Ground law defense.

b. Where not otherwise expressly included in the statutory language, strengthen import of the imminence, necessity, and proportionality requirements within Stand Your Ground laws.

c. That Stand Your Ground law should not protect the use of deadly force in self-defense against a person(s) in retreat.

4. The Task Force recommends that Stand Your Ground laws be modified to eliminate any existing subjective standards applied to one's determination of whether the use of deadly force is justified. A revised standard, where applicable, would only permit the use of deadly force when an objectively reasonable person would deem it imminently necessary and proportionate.

5. The Task Force encourages the modification of existing Stand Your Ground laws to include a requirement that the aggressor visibly display a deadly weapon before an individual can claim Stand Your Ground protection in connection with the use of deadly force in public spaces.

E. Implementation Considerations

1. Courts should uniformly instruct juries regarding limitations of the right to Stand Your Ground, including, but not limited to, that (i) initial aggressors are not entitled to Stand Your Ground, (ii) the alleged victim may also have a right to stand his or her ground, and (iii) the ability to retreat can be considered in determining whether the use of deadly force was objectively necessary.

2. The Task Force encourages the development of state-wide prosecutorial commissions or prosecutor state associations with jurisdiction to review Stand Your Ground cases and make training recommendations.

3. The Task Force further encourages the formation of Stand Your Ground oversight boards comprised of independently appointed private individuals and legal professionals.

4. The Task Force recommends that States clarify the definition of "unlawful activity" in existing Stand Your Ground law limit the potential for inconsistent application of the law within the same jurisdiction.

5. The Task Force concurs with Senator Dick Durbin's recommendation for research on: (i) trends in justified homicide and whether Stand Your Ground laws have a statistically significant impact on the incidence and outcomes of uses of lethal force, and (ii) uses of lethal force by individuals issued a concealed carry permit that assess whether Stand Your Ground laws have a statistically significant impact on the incidence and outcomes of uses of lethal force.

VI. Biographies

JOSE ARROJO is the Chief Assistant State Attorney in the Miami-Dade State Attorney's Office, one of the largest prosecutors' offices in the nation, where he supervises felony litigation, including investigations and prosecutions of targets involved in public corruption, narcotics, organized crime, gang, and insurance fraud activities. Mr. Arrojo also supervises the review of police use of deadly force, wiretap, racketeering, and death penalty matters. Mr. Arrojo has held adjunct and contract instructor positions with the University of Miami, Barry University and Miami-Dade College in undergraduate legal studies programs. Mr. Arrojo is active in providing instruction on all areas of criminal justice system to police, prosecutors, private industry, and other criminal justice system stakeholders. He currently serve as a member of the Florida Bar's Criminal Rules Committee, co-chair the ABA Criminal Justice Section's Racial and Ethnic Justice and Diversity Committee, Member of the ABA National Task Force on Stand Your Ground Laws and ABA Commission on Youth at Risk.

MARIO L. BARNES is a Professor of Law and the Associate Dean for Faculty Research and Development at University of California, Irvine, School of Law. Professor Barnes received his B.A. from the University of California, Berkeley in 1990 and his J.D. in 1995 from the U. C. Berkeley, Boalt Hall School of Law. At Boalt, he was Co-editor-in-Chief and published the first issue of the *African-American Law & Policy Report* (now *Berkeley Journal of African-American Law and Policy*). Professor Barnes is a twelve-year veteran of the U.S. Navy. Prior to receiving his honorable discharge in 2002, he served as a prosecutor, defense counsel, Special Assistant U.S. Attorney, and Deputy Admiralty Counsel in the Office of the Judge Advocate General. He also served on the commission that investigated the 2000 terrorist bombing of the USS Cole. He joined the University of Miami law faculty in 2004, after receiving an LL.M. from the University of Wisconsin Law School, where he also served as a William H. Hastie Fellow from 2002-2004. Professor Barnes writes and teaches in the areas of criminal law, constitutional law, national security law, and race and the law. In 2008, he was awarded the American Association of Law Schools Minority Groups Section Derrick A. Bell, Jr. Award, which honors excellence in teaching, scholarship and activism by a junior scholar.

LEIGH-ANN A. BUCHANAN is business litigation attorney at the law firm of Berger Singerman LLP where she concentrates her practice in complex commercial and transnational litigation, white-collar criminal defense and international commercial arbitration. Ms. Buchanan counsels multinational corporations, regional companies, minority-owned businesses, start-up ventures and public-private partnerships in matters involving shareholder/partnership and other business disputes, commercial fraud, trade litigation, commercial real estate and controversies affecting real properties. Ms. Buchanan received her law degree from the University of Miami School of Law and her undergraduate degree in International Affairs, *summa cum laude*, from Bethune-Cookman University. Ms. Buchanan was appointed to serve on the American Bar Association's Coalition on Racial and Ethnic Justice and to lead the ABA's National Task Force on Stand Your Ground Laws as co-chair. Ms. Buchanan currently serves as the President of the Wilkie D. Ferguson, Jr. Bar Association, Founder & Chair of the International Human Factor Youth Leadership Program and as a member of the Executive Committee of the Friends of New World Symphony. She has been recognized as one of South Florida's 40 Under 40 Professionals of Today and Tomorrow by Legacy Magazine and selected as a finalist for the Greater Miami Chamber of Commerce HYPE Award.

EDWIN BURNETTE is the Vice President of Defender Legal Services at the National Legal Aid & Defender Association. He is a longtime trainer with the National Legal Aid and Defender Association and the National Defender Leadership Institute and is currently working with the American Bar Association and American University in Washington, DC. Mr. Burnette completed his term as Chief Executive and Chief Attorney of the Law Office of the Cook County Public Defender in March of 2009. He served as Public Defender for six years. Prior to his appointment as First Assistant Public Defender, Mr. Burnette, from March 1991, he was a supervising attorney for the First Municipal Division and an Assistant Public Defender from June 1987. Mr. Burnette served 15 years with the United States Marine Corps and his military positions included operational law specialist, senior defense counsel, company commander, head legal assistance attorney, chief prosecution attorney, trial defense counsel for the Office of the State Judge Advocate, and appellate defense counsel for the Department of the Navy. He also sits on the Office of the State Public Defender, Board of Commissioners, and the 1st Judicial District Character and Fitness Committee for the Illinois Board for Admission to the Bar.

NORA DEMLEITNER is the Dean and Roy L. Steinheimer, Jr. Professor of Law at Washington and Lee University School of Law. Dean Demleitner received her J.D. from Yale Law School, her B.A. from Bates College, and an LL.M. with distinction in International and Comparative Law from Georgetown University Law Center. After law school Dean Demleitner clerked for the Hon. Samuel A. Alito, Jr., then a member of the U.S. Court of Appeals for the Third Circuit. She testified in front of the U.S. Senate on behalf of Justice Alito's nomination to the U.S. Supreme Court. Dean Demleitner teaches and has written widely in the areas of criminal, comparative, and immigration law. Her special expertise is in sentencing and collateral sentencing consequences. At conferences around the country she regularly speaks on sentencing matters, often in a comparative context, and on issues pertaining to the state of legal education. Dean Demleitner is an editor of the Federal Sentencing Reporter, and serves on the executive editorial board of the American Journal of Comparative Law. She is the lead author of Sentencing Law and Policy and her articles have appeared in the Stanford, Michigan, and Minnesota law reviews, among others. Dean Demleitner is an elected member of the American Law Institute and the International Society of Comparative Law and a Fellow of the American Bar Foundation.

JARED HAUTAMAKI is an attorney advisor in Office of Enforcement and Compliance Assurance, Office of Site Remediation Enforcement, Regional Support Division at the Environmental Protection Agency.

DAVID A. HARRIS is a Distinguished Faculty Scholar and Professor of Law at the University of Pittsburgh. Professor Harris studies, writes and teaches about police behavior and regulation, law enforcement, and national security issues and the law. Professor Harris is the leading national authority on racial profiling. His 2002 book, *Profiles in Injustice: Why Racial Profiling Cannot Work*, and his scholarly articles in the field of traffic stops of minority motorists and stops and frisks, influenced the national debate on profiling and related topics. His work led to federal efforts to address the practice and to legislation and voluntary efforts in over half the states and hundreds of police departments. He has testified three times in the U.S. Senate and before many state legislative bodies on profiling and related issues. His 2005 book, *Good Cops: The Case for Preventive Policing*, uses case studies from around the country to show that citizens need not trade liberty for safety; they can be safe from criminals and terrorists without sacrificing their civil rights if law enforcement uses strategies based on prevention. He gives speeches and does professional training for law enforcement, judges, and attorneys throughout the country, and presents his work regularly in academic conferences. Professor Harris also writes and comments frequently in the media on police practices, racial profiling, and other criminal justice and national security issues.

JOSHUA HARRIS is an appellate prosecutor at the Norfolk County (MA) District Attorney's Office. He has also worked at the district attorney's offices of Philadelphia and Manhattan. He graduated from Amherst College, *magna cum laude*, and the Georgetown University Law Center. While at Georgetown, he served on the Judiciary Committee staff of U.S. Senator Patrick Leahy during the confirmation process for U.S. Supreme Court nominees John Roberts, Harriet Miers and Samuel Alito. In addition to his service on the Taskforce, Mr. Harris is also active in the ABA as current co-chair of the Young Lawyers Division's Criminal Justice Committee.

STEVEN JANSEN is the Chief Operating Officer for the Association of Prosecuting Attorneys (APA). Prior to joining APA, Mr. Jansen was the Director (2005-2009) of the National Center for Community Prosecution (NCCP) at the National District Attorneys Association (NDAA) in Alexandria, Virginia. Mr. Jansen is a former prosecutor from Michigan, who during his tenure worked in two different jurisdictions (Macomb and Wayne County). While at Wayne County in Detroit, MI, he quickly gained experience as a trial lawyer assigned to the Circuit Court Trial Division. In 2002, as a community prosecutor, Mr. Jansen exhibited a proven ability to implement projects designed to reduce gun violence and provide for safer communities. He vertically prosecuted criminal cases arising out of targeted areas and restructured a non-fatal shooting response team. Mr. Jansen, while working with the Special Operations Unit as an advisor to H.I.T. (Homicide Investigative Taskforce), was responsible for the investigation and vertical prosecution of gang members in Detroit. Mr. Jansen is a member of the International Association of Chiefs of Police (IACP), serving as a member of the IACP's Crime Prevention Committee and Firearms Committee. He is also a key advisor to the IACP's Great Lakes States Committee on Gun Violence Reduction

JAMES M. JONES, PH.D., is a Professor of Psychology and Director of the Center for the Study of Diversity at the University of Delaware. Dr. Jones earned a BA from Oberlin College an MA from Temple University; and his Ph.D. in social psychology from Yale University. He was been on the faculty of the Psychology and Social Relations Department at Harvard University, and has taught in the Psychology Department at Howard University. Dr. Jones published the first edition of *Prejudice and racism* in 1972, and the second edition in 1997. His most recent book, *The Psychology of Diversity: Beyond prejudice and racism*, with Jack Dovidio and Deborah Vietze, was published in August of this year. Dr. Jones is a social psychologist, and serves on several editorial boards including the *Journal of Black Psychology*, and is past-President of the *Society of Experimental Social Psychology* and the *Society for the Psychological Study of Social Issues*. He was awarded the 1999 Lifetime Achievement Award of the *Society for the Psychological Study of Ethnic Minority Issues*, the 2007 Distinguished Psychologist Award by the *Association of Black Psychologists*, and the 2011 Lifetime Contribution to Psychology award from, the *American Psychological Association*.

TAMARA F. LAWSON is a tenured Professor of Law at Saint Thomas University School of Law. Currently, she teaches Criminal Law, Criminal Procedure, Evidence, and a seminar on Race and the Law. Professor Lawson was twice awarded Professor of the Year for Upperclass Students in the 2004-05 and the 2005-06 academic years. Prior to joining the law faculty, Professor Lawson served as a Deputy District Attorney at the Clark County District Attorney's Office in Las Vegas, Nevada, from 1996-2002. As a criminal prosecutor, Professor Lawson was assigned to the Special Victims Unit for Domestic Violence, as well as other departments in the prosecutor's office. She successfully argued multiple cases before the Nevada Supreme Court, including death penalty appeals. In addition to general criminal cases, Professor Lawson, in her capacity as Deputy D.A., handled environmental crimes, involuntary mental

commitments, and bail bond hearings. Professor Lawson's research and writing interests include criminal law, criminal procedure, evidence, trial advocacy, cyber-crime, international criminal law, race and law, and professional responsibility. Her articles have been published in Law Reviews and Journals throughout the United States.

CYNTHIA LEE is the Charles Kennedy Poe Research Professor of Law at George Washington University School of Law. Prior to law teaching, Professor Lee practiced with Cooper, White & Cooper in San Francisco, California and was a member of the firm's criminal defense practice group. She also clerked for Judge Harold M. Fong, U.S. District Court for the District of Hawaii. Professor Lee started teaching law in 1993 at the University of San Diego School of Law, where she received the Thorsness Prize for Excellence in Teaching in 1996. In August 2001, she joined the GW Law faculty. Professor Lee teaches and writes in the areas of criminal law and criminal procedure. She also teaches Professional Responsibility and has taught seminars on race and the criminal justice system and the Fourth Amendment. Professor Lee has written numerous law review articles and three books, *Murder and the Reasonable Man: Passion and Fear in the Criminal Courtroom* (NYU Press 2003); *Criminal Law: Cases and Materials* (West 2005) (with Angela Harris); and *Searches and Seizures: The Fourth Amendment, Its Constitutional History and the Contemporary Debate* (Prometheus Books 2011). Professor Lee was elected to membership in the American Law Institute in 2004, and served as chair of the AALS Criminal Justice Section in 2008.

JULIET LEFTWICH is the Legal Director of the Law Center to Prevent Gun Violence (formerly Legal Community Against Violence), a national law center that provides legal assistance and expertise to legislators seeking to advance effective, legally-defensible laws to reduce gun violence. The organization was founded by lawyers in the wake of the 101 California Street assault weapons massacre in downtown San Francisco in 1993. Ms. Leftwich oversees the Law Center's legal activities nationwide. She has worked extensively on the development and drafting of state and local gun laws throughout the United States, and has testified at numerous public hearings in support of such laws. She is also an expert on the Second Amendment. Ms. Leftwich obtained her undergraduate degree from the University of California at Berkeley and her law degree from the University of California at Davis. She is a member of the American Bar Association's Standing Committee on Gun Violence and Association of Bay Area Government's Youth Gun Violence Task Force, and has served as Co-Chair of the Alameda County Bar Association's Gun Violence Prevention Committee. In 2013, she was appointed as an American Bar Association advisor to the Study Committee on Firearms Information of the National Conference of Commissioners on Uniform State Laws.

DAN LEVEY is the Executive Director of the National Organization of Parents of Murdered Children, Inc. (POMC), has been a dedicated advocate for victims' rights since his brother Howard was murdered in 1996. Mr. Levey previously served as Director of the Office of Victim Services at the Office of the Arizona Attorney General (2009-2012) and as Advisor for Victims to Arizona Governor Janet Napolitano (2003-2009). During his tenure at the Governor's office, Mr. Levey helped to create a comprehensive victim services section in the Arizona Department of Corrections. Mr. Levey served as a Special Assistant for Victims and a victim advocate for the Arizona Attorney General's Office (1999-2002). Mr. Levey's focus has been to improve public policy concerning the treatment of crime victims and their families, and he has been involved in crafting numerous pieces of victims' rights legislation. He has also testified before the United States Congress and the Arizona State Legislature on behalf of crime victim legislation. In Arizona, Mr. Levey has been appointed to the Governor's Commission to Prevent Violence Against Women, the Attorney General's Arizona Forensic Science Advisory Committee, the Interstate Compact

Commission, and the Arizona Supreme Court's Commission on Victims In the Court and its Capital Case Commission.

KIM MCLAURIN is the Associate Dean for Community and External Affairs & Associate Clinical Professor of Law at Suffolk University School of Law. Professor McLaurin received her undergraduate degree from Hampton University and she is a graduate of Brooklyn Law School. Following law school graduation, Professor McLaurin accepted a position at the Legal Aid Society of New York City and was employed in various legal positions within the Legal Aid Society until June 2008. Professor McLaurin most recently served as the Attorney in Charge of the Juvenile Rights Division within the Queens Office of the Legal Aid Society. In this position, Professor McLaurin was responsible for the operation of an interdisciplinary trial office of approximately forty staff members. Professor McLaurin was directly responsible for the office's representation of children involved in Family Court matters, including juvenile delinquency and child protective cases.

JACK B. MIDDLETON is the senior member of the litigation department at McLane, Graf, Raulerson & Middleton. He focuses his practice on arbitration and mediation, bringing his 50 years of experience as a trial lawyer and 24 years of service as a New Hampshire District Court Judge to the table. Jack is a former member the ABA's House of Delegates (served 1984-2005) and past Secretary of the American Bar Association and President of the New Hampshire Bar Association. Mr. Middleton is a member of the American and NH Bar Associations; a certified civil trial specialist by the National Institute of Trial Advocacy; a fellow in the American College of Trial Lawyers; and an accredited mediator. Mr. Middleton is a past member of the ABA's House of Delegates (served 1984-2005), former Secretary of the American Bar Association, past President of the New Hampshire Bar Association, the New England Bar Association, the National Conference of Bar Foundations, and the National Conference of Bar Presidents, and is a former chairman of the New Hampshire Bar Foundation. Mr. Middleton is also a Life Fellow of the American Bar Foundation.

HON. DAVID PERKINS is a Judge in the 36th District Court of Michigan, which serves the city of Detroit. Judge Perkins previously served as a court referee for the 3rd Circuit Court's Family Division, where he presided over neglect and delinquency juvenile cases, and serves as jurist for the juvenile drug court and teen court. Prior to joining the circuit court in 1997, Judge Perkins was magistrate for the 30th District Court, and served as a general practitioner for his own law firm. Judge Perkins also previously was a partner at the Law Offices of Dozier, Turner, Braceful & Perkins, an assistant corporate counsel for Wayne County, and served as a judge advocate in the Michigan Air National Guard. Judge Perkins is a member and past-president of the Association of Black Judges of Michigan, a member and past president of the D. Augustus Straker Bar Association, a board member of the Wolverine Bar Association, as well as a member of the state Bar of Michigan, National Bar Association, and American Bar Association. Judge Perkins is also active in his community, serving on numerous boards. Judge Perkins has a bachelor's degree in biological sciences from Rutgers University and a degree from the Howard University School of Law.

L. SONG RICHARDSON is a Professor of Law at the University of Iowa School of Law. She received her BA from Harvard College and her JD from The Yale Law School. Professor Richardson's current research uses the science of implicit social cognition to study criminal procedure, criminal law and policing. Currently, she is working on a book that examines the legal and moral implications of mind sciences research on policing and criminal procedure. She is also co-editing a book titled *The Future of Criminal Justice in America* that will be published by Cambridge University Press. Professor Richardson's

scholarship has been published by law journals at Cornell University, the University of California, Duke, Iowa, Northwestern University, the University of Minnesota, and Indiana (Bloomington), among others. Professor Richardson's legal career has included partnership at a boutique criminal law firm and work as a state and federal public defender in Seattle, Washington. She was also an Assistant Counsel at the NAACP Legal Defense and Educational Fund, Inc. Immediately upon graduation from law school, Professor Richardson was a Skadden Arps Public Interest Fellow with the National Immigration Law Center in Los Angeles and the Legal Aid Society's Immigration Unit in Brooklyn, NY. Professor Richardson has been featured in numerous local and national news programs, including 48 Hours.

JOHN ROMAN, PH.D., is a senior fellow in the Justice Policy Center at the Urban Institute, where he focuses on evaluations of innovative crime-control policies and justice programs. He is also the executive director of the District of Columbia Crime Policy Institute, where he directs research on crime and justice matters on behalf of the Executive Office of the Mayor. Dr. Roman is directing several studies funded by the National Institute of Justice, including two randomized trials of the use of DNA in motor vehicle thefts and burglary investigations, an evaluation of post-conviction DNA evidence testing to estimate rates of wrongful conviction, and a study on why forensic evidence is rarely used by law enforcement to identify unknown offenders. Dr. Roman manages the national evaluation of adult drug courts, directs a study on the social benefit of informal social controls of postal carriers, and is working to develop the first social-impact bonds in the United States. He also serves as a lecturer at the University of Pennsylvania and an affiliated professor at Georgetown University.

JOE VINCE has 30 years of policing experience at both the Federal and state ranks having extensive expertise in the area of violent crime prevention, intervention, and enforcement. As a Special Agent, Mr. Vince has worked numerous investigations relating to almost every type of crime. Mr. Vince has held many high level management positions within ATF, both in the field and at Headquarters to include: directing investigations in both Miami and Chicago; Special Agent in Charge Intelligence Division; Chief, Firearms Division; and Chief, Crime Gun Analysis Branch. Mr. Vince instituted the Youth Crime Gun Interdiction Initiative (YCGII), which was adopted as a national Presidential Initiative. Mr. Vince received three Vice-Presidential Hammer Awards for technological advances in Firearms Interdiction Strategies that make Government work better and cost less. Mr. Vince continues to be an active member of the law enforcement community by consulting to various police agencies, prosecutors, and city managers. In addition, Mr. Vince is an active member of the International Association of Chiefs of Police (IACP) and serves on the Association's Fireman's Committee. Mr. Vince also serves on the State and Local Law Enforcement Advisory Board (SLLEAB) for the Counter drug Intelligence Executive Secretariat (CDX), United States Department of Justice. Furthermore, he is a member of the American Society of Law Enforcement Training (ASLET).

GAREN J. WINTEMUTE, MD, MPH, is the inaugural Baker-Teret Chair in Violence Prevention at the University of California, Davis. He practices and teaches emergency medicine at University of California Davis Medical Center, Sacramento and is professor of emergency medicine at the University of California Davis School of Medicine. Dr. Wintemute's research focuses on the nature and prevention of violence and on the development and evaluation of violence prevention measures and policies.

VII. Appendix

This compilation of informational sources serves as framework from which to gain a more in-depth understanding the Task Force's investigation and findings as well as to identify resources to aid in implementing the Report's recommendations. The list herein is not meant to be extensive or exhaustive. A more comprehensive list is available on the Task Force's project website. (http://www.americanbar.org/groups/diversity/racial_ethnic_justice.html). Please visit the website to submit additional resources and research for the expanded online version.

A. Regional Hearing Witnesses Roster & Transcripts

Southwest Regional Public Hearing, Dallas, Texas (February 8, 2013)

[\[View Transcript Online\]](#)

1. Texas Sen. Royce West;
2. Emmanuel Obi, J.L. Turner Legal Association;
3. J. Goodwille Pierre, Vice President of National Bar Association;
4. Texas Rep. Garnet Coleman;
5. Honorable Robert Burns, Dallas County Criminal Court, Criminal Division;
6. Janice Harris Lord, Founder of Trauma Support Services of North Texas;
7. Laura Teames, victim advocate;
8. Betty Kay Schlesinger, victims' rights activist;
9. Mark Hoekstra, Professor of Economics, Texas A & M University;
10. Warren Seay, President of the DeSoto Independent School District Board of Trustees;
11. Christopher Jenks, Assistant Professor of Law at Southern Methodist University and Director of the Criminal Justice Clinic;
12. Eric J. Davis, Assistant Public Defender of Harris County Public Defender's Office;
13. J. Joseph Mongras, Chair of the Dallas Bar Association Criminal Law Section;
14. Nicole Knox, criminal defense attorney;
15. Lynn Pride Richardson, Public Defender for the Dallas County Public Defender's Office;
16. Craig Watkins, Dallas County District Attorney;
17. Pastor Reverend Leonard Leach, Mount Hebron Missionary Baptist Church;
18. Jose Arrojo, Chief Assistant, Miami Dade County Office of the State Attorney

Midwest Regional Public Hearing, Chicago, Illinois (May 2, 2013)

[\[View Transcript Online\]](#)

19. Honorable Dorothy Brown, Clerk, Circuit Court of Cook County;
20. Lee Goodman, Organizer, Stop Concealed Carry Coalition;
21. Ellen Douglass, Vice President of National Bar Association;
22. Martin Perez, attorney;
23. Jack Cutrone, Executive Director of Illinois Criminal Justice Information Authority and President of National Criminal Justice Association;
24. John A. Fairman, President of Cook County Bar Association;
25. Mario Sullivan, Past-Chair of ABA Young Lawyers Division;
26. Ngozi C. Okorafor, President of Black Women Lawyers Association;
27. Kareem Pender, Senior Director of Human Capital and Education Programs for the National Urban League;

28. David F. Will, Henderson Adam, LLC;
29. Reverend Dr. Janette C. Wilson, Senior Advisor to Reverend Jesse L. Jackson and Rainbow PUSH Coalition

Northeast Regional Public Hearing, Philadelphia, Pennsylvania (June 6, 2013)

[\[View Transcript Online\]](#)

30. Edward G. Rendell, former Governor of Pennsylvania and former Mayor of Philadelphia;
31. Pennsylvania Rep. W. Curtis Thomas;
32. Dorothy Johnson Speight, Founder of Mothers in Charge;
33. David Green, Member of Board of Directors of Firearm Owners Against Crime;
34. Shira Goodman, Executive Director of CeaseFire, PA;
35. Joshua Prince, attorney;
36. Elizabeth Avore, Senior Counsel in the Office of New York City Mayor Michael Bloomberg;
37. Troy Crichton, Assistant Defender in the Defender's Association of Philadelphia and representative of the Barristers' Association in Philadelphia;
38. Jerry Ratcliffe, PhD, Professor and Chair of the Department of Criminal Justice at Temple University and Director of the Center for Security and Crimes Science;
39. Edward M. Marsico, Jr., District Attorney for Dauphin County and Pennsylvania President of the District Attorney's Institute;
40. Keir Bradford-Gray, Chief Public Defender of Montgomery County;
41. R. Seth Williams, District Attorney of Philadelphia

Western Regional Public Hearing, San Francisco, California (August 9, 2013)

[\[View Transcript Online\]](#)

42. Eva Paterson, Co-founder and President of Equal Justice Society;
43. Patricia Rosier, President of the National Bar Association and General Counsel for American General Securities;
44. Yolanda Jackson, Deputy Executive Director and Diversity Director of The Bar Association of San Francisco;
45. Judge Arthur Burnett, National Executive Director of the National African-American Policy Coalition;
46. Marc Philpart, Senior Program Associate at Policy Link and Co-Director of Leadership and Sustainability Institute for Black Male Achievement;
47. David Muhammad, CEO of Solutions, Inc. and Coordinator for California Alliance for Youth and Community Justice;
48. George Gascon, District Attorney for City and County of San Francisco;
49. Bob Egelko, attorney and journalist;
50. Judge Demetrius Shelton, Administrative Judge for City of Oakland;
51. Jennifer Eberhardt, PhD, Assistant Professor in Psychology at Stanford University;
52. Honorable John F. Lakin, Circuit Court Judge, 12th Judicial Circuit of Florida;
53. Juliet Leftwich, Legal Director for the Law Center to Prevent Gun Violence;
54. Jeff Adachi, Public Defender of the City and County of San Francisco and Board Member of California Attorneys for Criminal Justice;
55. John Powell, Professor, Executive Director of the Haas Institute for Fair and Inclusive Society and Robert Dean Haas Chancellor's Chair in Equity and Inclusion at the University of California at Berkeley.

Southeast Regional Hearing, Miami, Florida (October 17, 2013)

[\[View Transcript Online\]](#)

56. Ciara Taylor, Political Director for the Dream Defenders;
57. Marwan Porter, attorney and representative of the Wilkie D. Ferguson, Jr. Bar Association;
58. Aziza Botchway, Chair of the Miami-Dade Chapter of the National Congress of Black Women;
59. Charlotte Cassel, law student and fellow in the University of Miami School of Law Human Rights Clinic;
60. Meena Jagannath, attorney with Florida Legal Services Community Justice Project;
61. Father Roger Tobin;
62. Guy Robinson, Chief Assistant Public Defender at the Miami-Dade Public Defender's Office;
63. H. Scott Fingerhut, Professor of law at Florida International University School of Law;
64. Ed Shohat, representative of the Miami-Dade County Community Relations Board;
65. Florida Sen. Dwight Bullard;
66. Commander Ervens Ford, Miami Police Department;
67. Chris Davis, Investigations Editor and Reporter, Tampa Bay Times;
68. Florida Sen. Chris Smith;
69. Florida Sen. David Simmons.

Written Testimony

70. F. Patrick Hubbard, Motley Distinguished Professor of Law, University of South Carolina School of Law
71. Devariste Curry, attorney

B. 50 State Chart of Stand Your Ground Law Statutes

State	No Duty to Retreat	Civil Immunity	Criminal Immunity
Alabama	x	x	X
Alaska	x	x	
Arizona	x	x	
Arkansas			
California	x		
Colorado	x		
Connecticut			
Delaware			
Florida	x	x	x
Georgia	x	x	x
Hawaii			
Idaho	x	x	
Illinois	x		
Indiana	x		
Iowa			
Kansas	x	x	x
Kentucky	x	x	x
Louisiana	x		
Maine			
Maryland			
Massachusetts			
Michigan	x	x	
Minnesota			
Mississippi	x		
Missouri		x	
Montana	x	x	
Nebraska			
Nevada	x		
New Hampshire	x		
New Jersey			
New Mexico	x		
New York			
North Carolina	x	x	x
North Dakota			

State	No Duty to Retreat	Civil Immunity	Criminal Immunity
Ohio			
Oklahoma	x		
Oregon	x		
Pennsylvania	x	x	
Rhode Island			
South Carolina	x	x	x
South Dakota	x		
Tennessee	x		
Texas	x	x	
Utah	x		
Vermont	x		
Virginia	x		
Washington	x		
West Virginia	x	x	
Wisconsin	x	x	
Wyoming		x	

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Marvin Zalman, *Qualitatively Estimating the Incidence of Wrongful Convictions*, 48 CRIM. L.

Lydia Zbrzezny, *Florida's Controversial Gun Policy: Liberally Permitting Citizens to Arm Themselves and Broadly Recognizing the Right to Act in Self-Defense*, 13 FLA. COASTAL L. REV. 231 (2012).

State Statutes

ALA. CODE §13A-3-23 (2006).

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State v. Gallo, 76 So. 3d 407, 409 (Fla. 2nd DCA 2011).

State v. Yaqubie, 51 So. 3d 474, 476 (Fla. 3rd DCA 2010).

Velasquez v. State, 9 So. 3d 22, 24 (Fla. 4th DCA 2009).

Empirical Studies

[Georgia State University](#)

[Texas A&M University](#)

[Tampa Bay Times](#)

[Urban Institute](#)

Federal and State Investigations of Stand Your Ground Laws

U.S. Senator Durbin's Letter to Attorney General Holder

[Report from Florida Governor Rick Scott's Task Force](#)

[Report from Florida Senator Chris Smith's Task Force](#)

[Louisiana House Resolution to direct the Louisiana Institute to study Stand Your Ground](#)

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² “Stand Your Ground” laws only deal with whether there is a duty to retreat in public spaces. However, there traditionally is no duty to retreat in the home. This is called the castle doctrine. It is often discussed along with “Stand Your Ground” despite the distinction between public and private spaces.

³ Alabama, Alaska, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

⁴ Recent empirical studies supports a preliminary finding that racial disparities exist; one small study, in one state, determined that race was the most significant factor in determined whether a self-defense incident would be labeled as justified, and a larger national study found, that in cases where whites killed blacks it was 281% more likely to be labeled as justified.

⁵ The Northeast regional public hearing was sponsored by the Philly Bar Association.

⁶ Pennsylvania’s law requires a certain set of circumstances to exist before “no duty to retreat in public” is triggered: 1) must be there lawfully, 2) must not be engaged in crime, and 3) the attacker must display a weapon, or 4) one believes deadly force is necessary to prevent death, kidnapping, serious bodily injury or rape. The policy makers at the hearing testified that Pennsylvania’s amended 2011 law was an improvement upon the other states with a “blanket” no duty to retreat in public and that the stated conditions placed upon the no duty to retreat in Pennsylvania provided a clear focus of parameters around which to measure self-defense situations. 18 PA. STAT. ANN. § 606 (2014).

⁷ Alabama, Alaska, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

⁸ John Roman, *Race, Justifiable Homicide, and Stand Your Ground Laws: Analysis of FBI Supplementary Homicide Report Data*, URBAN INSTITUTE (July 2013) available at <http://www.urban.org/UploadedPDF/412873-stand-your-ground.pdf>.

⁹ Source: Statewide media, police and court reports [Darla Cameron, Tampa Bay Times].

¹⁰ Hundley & Martin, 2012.

¹¹ Montgomery & Jenkins, 2010; Palazzolo & Barry, 2012; Rios, 2012, Shurtleff, 2013; Simon & O’Neill, 2012.

¹² Lawson, 2013.

¹³ Lee, 2013; Richardson & Goff, 2012; Lee, 1996.

¹⁴ Cheng & Hoeskstra, 2012; McCellan & Tekin, 2012.

¹⁵ Leubsdorf, 2013; Love, 2013; Schultze, 2012.

¹⁶ Jansen & Nugent-Borakove, 2007; Williams, 2012; MacLean & Wilks, 2012.

¹⁷ Weaver, 2008.

¹⁸ Fisher & Eggen, 2012.

¹⁹ Wallace, 2006; Timoney, 2012; Curtis, 2012.

²⁰ Indiana Code § 35-41-3-2

²¹ Due to the ruling in *Barnes*, the amendment to Indiana’s law was enacted in 2012, and triggered the following string of news headlines: “Indiana law lets individuals shoot cops;” “Indiana law lets individuals shoot at police;” “How were the National Rifle Association and Indiana’s “law and order Republicans” able “to get cop-killing legalized?”

²² Duncan, 1976; Sagar & Scholfield, 1980.

²³ Lee, 2013; Lee, 2003; Richardson & Goff, 2012; Lawson, 2013.

²⁴ In 1983 New York editorial writer Brent Staples penned an article entitled Black Men in Public Space. In it he describes experiences that black males experience in urban cities related to the public’s fear, woman clutching their purses, people crossing the street, or locking their car doors, all because a black male was

walking down the street. As one witness commented, nearly 30 years after Staples' editorial, not much has changed with respect to the general public's fear of black males in public spaces.

²⁵ Hemenway, David, *Private Guns Public Health*, The University of Michigan Press, 2004, page 78.

²⁶ *Ibid.*

²⁷ Harvard Injury Control Research Center – *Gun Threats and Self Defense Gun Use*, Hemenway, David. Survey research and self-defense gun use: An explanation of extreme overestimates. *Journal of Criminal Law and Criminology*. 1997; 87:1430-1445; Hemenway, David. The myth of millions of annual self-defense gun uses: A case study of survey overestimates of rare events. *Chance* (American Statistical Association). 1997; 10:6-10; Cook, Philip J; Ludwig, Jens; Hemenway, David. The gun debate's new mythical number: *How many defensive uses per year?* *Journal of Policy Analysis and Management*. 1997; 16:463-469.

²⁸ Senator Durbin's letter to Attorney General Eric Holder was also executed by Senator Hirono, Member Cummings, Member Conyers, Member Guterrez, Member Fudge, and Member Scott. Senator Durbin , specifically calling for law enforcement to provide more clarification in its police reports regarding whether: 1) the homicide was justified under "stand your ground," 2) the location of the homicide, 3) any arrest or prosecution resulted, 4) the victim or offender was armed, 5) the incident was labeled "murder," "nonnegligent homicide," and/or "justified homicide."

²⁹ Report of the Governor's Task Force on Citizen Safety and Protection, February, 21, 2013.

³⁰ Louisiana House Resolution No. 149 (June 2, 2014), available at <http://www.legis.la.gov/legis/ViewDocument.aspx?d=912656&n=HR149%20Enrolled>.