National Task Force on Stand Your Ground Laws

FINAL REPORT AND RECOMMENDATIONS

September 2015

The National Task Force on Stand Your Ground Laws is a project of the Coalition on Racial and Ethnic Justice.
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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 Lawyers 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, and the public and private health sector. They also include public and private criminal attorneys, 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 assesses the utility of previous, current, and future laws in the area of self-defense across the United States.
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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 the risk of injustice from multiple perspectives, e.g., the individual’s right to exercise self-defense, the victim’s rights, and 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 of 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 has 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.

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 policymakers, 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
Acknowledgments

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, and 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, Maya Garza, and Kathryn Lecusay.

- 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.
AMERICAN BAR ASSOCIATION
Coalition On Racial And Ethnic Justice
Section Of Individual Rights And Responsibilities
Commission On Youth At Risk
Center For Racial And Ethnic Diversity
Council For Racial And Ethnic Diversity In The Educational Pipeline
Commission On Hispanic Legal Rights And Responsibilities
Commission On Sexual Orientation And Gender Identity

REPORT TO THE HOUSE OF DELEGATES
RESOLUTION

RESOLVED, that the American Bar Association urges all federal, state, local, and territorial legislative bodies and governmental agencies to:

(a) refrain from enacting Stand Your Ground Laws that eliminate the duty to retreat before using force in self-defense in public spaces, or repeal such existing Stand Your Ground Laws;

(b) eliminate Stand Your Ground Law civil immunity provisions that prevent victims and/or innocent bystanders and their families from seeking compensation and other civil remedies for injuries sustained;

(c) eliminate the Stand Your Ground defense in circumstances where deadly force is used against a law enforcement officer; and

(d) develop strategies for implementing safeguards to prevent racially disparate impact and inconsistent outcomes in the application of Stand Your Ground Laws;

(e) modify existing or proposed Stand Your Ground laws to ensure that the laws do not protect the use of deadly force against a person who is in retreat; and

(f) modify existing or proposed Stand Your Ground laws to ensure that the laws do not protect a person who is the initial aggressor in an encounter.

FURTHER RESOLVED, that the American Bar Association urges that jury instructions be drafted in plain language to enhance clarity and the jurors’ understanding of the applicable Stand Your Ground Laws and their limitations;

FURTHER RESOLVED, that the American Bar Association urges law enforcement agencies to:

(a) develop training materials for officers on best practices for investigating Stand Your Ground cases; and

(b) create or participate in a national database to track Stand Your Ground cases from the investigative stage through prosecution and final disposition;

FURTHER RESOLVED, that the American Bar Association:

(a) implement a national educational campaign to provide accurate information about Stand Your Ground Laws to the general public; and

(b) investigate the impact that gun laws have in Stand Your Ground states.
Legal Summary of Stand Your Ground Laws

Self-defense is available in all states as a criminal defense and applies to both non-deadly as well as deadly encounters. Self-defense is a “justification” defense, which means if 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. Instead, under Stand Your Ground laws, 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 who 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.
Executive Summary of Findings and Recommendations

The ABA’s National Task Force on Stand Your Ground laws conducted a broad investigation of these 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 an 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, a fifty-state legal survey of the laws, and the latest social science data on the efficacy of Stand Your Ground laws. As of 2014, thirty-three states have Stand Your Ground laws. 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. An individual’s right to self-defense was sufficiently protected prior to Stand Your Ground laws.
5. Victims’ rights are undermined in states with statutory immunity from criminal prosecution and civil suits 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:

Legislatures

1. 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. For states that have already enacted Stand Your Ground laws, it is recommended that they repeal these laws.
2. 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.
3. 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.

4. For states with statutory immunity provisions related 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.

5. For states that apply the Stand Your Ground defense to the exercise of force against a police officer, it is recommended that legislatures modify these statutes to eliminate the Stand Your Ground defense in circumstances where deadly force is used against a law enforcement officer or where the aggressor knew or should have known that the individual against whom deadly force is used is a law enforcement officer.

6. For all states with Stand Your Ground Laws, it is recommended that legislatures develop safeguards to prevent racial disparities in the application of Stand Your Ground laws.

**Law Enforcement Agencies**

1. It is recommended that law enforcement agencies 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 public safety.

2. It is recommended that law enforcement agencies create a national database to track cases involving the use of Stand Your Ground law defenses, from the investigative stage through prosecution and sentencing.

**Jury Instructions**

1. It is recommended that jury instructions be drafted in plain language to enhance clarity and understanding regarding applicable Stand Your Ground laws and their limitations. For example, one or more of the following limitations could apply: 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.

**American Bar Association**

1. It is recommended 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. It is recommended that the ABA urge the Department of Justice to support original research on implicit bias, specifically the ways in which racial bias exacerbates perceptions of threat that lie at the heart of the Stand Your Ground defense.

3. It is recommended that the ABA investigate the impacts that gun laws have in Stand Your Ground states and their effect on public safety generally, as well as upon racial disparities specifically.

The order in which the above findings and/or recommendations are articulated conveys no special significance or priority. Section V, 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.
Executive Summary of Findings and Recommendations

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
     ABA Midyear Meeting
   - May 2013
     Chicago, Illinois
   - June 2013
     Philadelphia, Pennsylvania
   - August 2013
     San Francisco, California
     ABA Annual Meeting
   - October 2013
     Miami, Florida

The Task Force conducted five regional hearings during 2013 and received oral and written testimony from over seventy witnesses, comprised of policymakers, government officials, state prosecutors and public defenders, private lawyers, legal scholars, victims’ advocates, and concerned citizens. All of 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 fifty-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 does not have Stand Your Ground laws but instead has “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 individuals may stand their 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. Witnesses, such as Warren Seay, President of the DeSoto Independent School District Board of Trustees, 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. Christopher Jenks, a law professor in Texas and former member of the U.S. military, highlighted the absurdity of encouraging deadly force in public and made the comparison that Texas law provides a more lenient rule for a civilian’s 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 training.
Overview of National Fact Finding and defensive training. Mark Hoekstra, another professor, submitted his study revealing that states with Stand Your Ground laws experienced an 8 percent increase in the number of homicides relative to non-Stand Your Ground states.

The Southwest hearing included the testimony of Laura Teames, 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 victims’ rights perspective to the hearing. Betty Schlesinger, a victims’ rights advocate, testified that victims often wonder about the epidemic of violence created by Stand Your Ground laws. Eric Davis, Assistant Public Defender for the Harris County Public Defender’s Office, highlighted that Stand Your Ground laws blur the characterization of victim and perpetrator.

Texas State Representative Garnet Coleman 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, which leads to situations where a person may perceive danger and use deadly harm when none existed. Judge Robert Burns testified that jury instructions in the area of Stand Your Ground are complicated but that he has had good experiences with juries in Dallas because of their ability to focus on the reasonableness of the actor’s actions. Joseph Mongras and Nicole Knox, two private criminal defense lawyers, explained in their testimony the differences in the language of the laws between Texas and Florida. They believe that the distinctions are important and fit and work well in Texas because there are no examples of serious injustices in the law in Texas. Ms. Knox 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. Ellen Douglass, Vice President of Regions and Affiliates of the National Bar Association, testified regarding racial profiling and expressed the need for people to develop conflict resolution skills other than resorting to violence and guns. Attorney Martin Perez expressed concern 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. David Will, a former assistant public defender, 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. One study discussed by participants showed that white killers of black victims comprise 3.1 percent of all homicides, but that cross-racial killing makes up 15.6 percent of all justified homicides. Jack Cutrone, President of the National Criminal Justice Information Authority, 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 percent of homicides in “non-Stand Your Ground” states. Another study showed that Stand Your Ground laws do not deter other violent crimes but are associated with higher rates of homicides and manslaughters. Mr. Cutrone noted that criminal justice policy ought to be based on empirical evidence, but there is not very much in the way of research. Of the few studies that have been conducted, they show that Stand Your Ground laws have exactly the opposite effect of their stated purpose. Another study showed that 34 percent of white shooters are not charged or...
convicted after shooting a black person, while only 3 percent of black people are not charged or not convicted after shooting a white person.

Kareem Pender, Senior Director of Human Capital and Education Programs for the National Urban League, testified about the economic and social conditions that influence vigilantism often associated with Stand Your Ground laws. Janette Wilson, Senior Advisor to Reverend Jesse Jackson, questioned whether Stand Your Ground laws are even constitutional given the racial disparities in their application. She further testified that the immunity statutes foreclose any opportunity for the victims and their families to recover from the shooter. Mario Sullivan of the American Bar Association’s Young Lawyers Division 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 well-informed regarding the issues surrounding Stand Your Ground laws. The witnesses’ understanding of 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. Mr. Rendell testified at the hearing and shared his perspectives and rationales behind his veto decision. Mr. Rendell explained he vetoed the bill because it espoused a “shoot first, think about it later mentality.” He also vetoed the bill because individuals already had the right to use self-defense in the home under existing castle doctrine laws. Ed Marisco, District Attorney for Dauphin County, 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 shield violent criminals from prosecution.

Ed Marisco and Seth Williams, both district attorneys for Philadelphia, testified that the veto fostered collaborative dialogue among the state’s policymakers and key stakeholders. As a result, Pennsylvania’s current Stand Your Ground law, enacted in 2011, was described by multiple witnesses as an improved version of the Stand Your Ground law that had been proposed earlier. 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 their laws. Shire Goodman, Executive Director of CeaseFire, and Pennsylvania State Representative Curtis Thomas, 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. Mr. Thomas testified that this law has empowered criminals to possess weapons and gives criminally minded individuals a license to kill.

The Northeast hearing testimony expressed concern about perceived loopholes in current gun control laws. Mayor Rick Lowe and Dorothy Johnson Speight, founder of Mothers in Charge, testified about gun licensing laws, background checks, and the need to tighten any loopholes in the gun permitting laws. Mr. Lowe testified regarding what he called “the Florida loophole” in Pennsylvania’s gun law: if an individual was not permitted to get a gun under Pennsylvania’s law but could under Florida’s law, which had a much lower standard, the gun permit would be issued without ever going to Florida. He stated that Pennsylvania has required background checks before issuing a gun license since 1998, while Florida does not. Ms. Speight spoke about gun control and self-defense issues from the victim’s perspective, objecting to gun violence and needless loss of life. Recurring in these witnesses’ testimony were concerns that Stand Your Ground laws protect criminals and encouraged more violent crime, including gang wars. This point was echoed again in the testimony at the Miami hearing.
Chief Public Defender Keir Bradford-Gray 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. She further testified that most jurors do not understand the duty to retreat standard anyway because they do not 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

Witnesses 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, and is even broader in scope than Florida’s statute. San Francisco District Attorney George Gascon and Public Defender Jeff Adachi testified that the issue with problematic cases like the Trayvon Martin killing is not Stand Your Ground laws, but implicit bias. Mr. Adachi spoke about inequalities in the criminal justice system due to implicit racial bias and the need to eliminate it.

Expert witnesses, Dr. Jennifer Eberhardt from Stanford University and Professor John Powell from 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. Professor Powell 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.

Eva Paterson, Co-founder and President of Equal Justice Society, Yolanda Jackson, Deputy Executive Director and Diversity Director of the Bar Association of San Francisco, and Judge Arthur Burnett, National Executive Director of the National African-American Policy Coalition, testified that there was nothing wrong with the self-defense laws in place before Stand Your Ground laws were enacted. They highlighted the concerns for racial profiling of blacks and the discriminatory application of Stand Your Ground laws. Ms. Jackson testified that standards put forward in Stand Your Ground laws encourage tragic mistakes, poor judgment, and vigilantism. Ms. Jackson and David Muhammad 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.

Marc Philpart 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 the National Rifle Association’s role in it. Mr. Gascon and journalist Bob Egelko 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 Commander Ervens Ford testified about first-hand experiences with Stand Your Ground laws, which
allowed 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 significant 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 and then killing more victims. A chief public
defender’s testimony highlighted the discretion
that prosecutors and the judiciary have to grant
immunity from prosecution without the influence
of a jury as yet another way Stand Your Ground
laws are beneficial for criminals.

The Southeast hearing also included testi-
mony from Florida lawmakers, who to some
degree were involved in initial efforts to enact
Florida’s Stand Your Ground law and subsequent
efforts to pass amendments. Florida State Sena-
tor Dwight Bullard noted that during the Stand
Your Ground hearings in the House of Represen-
tatives, it was predicted that the law would lead
to racially motivated killings. State Senator Bull-
ard’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. Florida State Senator Chris Smith tes-
tified about common misconceptions about Stand
Your Ground and a poll that showed 60 percent
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.

Aziza Botchway, Chair of the Miami-Dade
Chapter of the National Congress of Black
Women, testified that the loose standards and
wide range of discretion given to prosecutors and
law enforcement result in inconsistent and inade-
quate application of the law, which leads to racial
and minority disparities. Marwan Porter, an attor-
ney and representative of the Wilkie D. Ferguson,
Jr. Bar Association, testified that courts in Flor-
da do not apply Stand Your Ground uniformly
because some use it as an affirmative defense
while others apply it as a complete immunity from
prosecution. He 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
who chased the victim down and stabbed him.
After admitting that they planned in advance and
staged the confrontation with the victim, the teen-
agers said they thought they would get away with
it because the police were more likely to believe
two white kids over a black kid.

Charlotte Cassel 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. Professor Scott Fingerhut from Florida
International University College of Law testified
that society is relying too much on the court sys-
tem to address these problems without contem-
plating the need for society to consider biases and
prejudices along with other issues to fully resolve
Stand Your Ground law problems. Journalist
Chris Davis from the Tampa Bay Times testified
and explained the Times’ findings from its small
study of cases within the state of Florida where it
found that (1) the majority of Stand Your Ground
cases are non-deadly encounters, (2) 60 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 vic-
tim was the dominant factor in determining the
outcome of the case.
C. Survey of Stand Your Ground Laws

1. Fifty State Law Survey

As of 2014, thirty-three states have Stand Your Ground laws, which are depicted in the map below. The References and Resources section of this report contains a more detailed fifty-state statute chart detailing the varying scope of each state’s Stand Your Ground law.

Stand Your Ground Laws By State
- SYG by Statute
- SYG by Case Law
- Duty to Retreat

D. Empirical Assessments of Stand Your Ground Laws

The first comprehensive, multijurisdictional empirical studies of Stand Your Ground laws have now appeared. While the Task Force expects more studies in the future, the data-based studies of the impact of Stand Your Ground laws that researchers have already completed loom particularly large, because states created the current statutes without the benefit of knowing for certain what the impact of the laws would be. Proponents of the law argued that these laws would cut the rate of serious felonies, particularly homicide; opponents feared a spike in deadly violence. Neither side had any hard evidence to back up these assertions. Now, with multiple years of data available for analysis, a fact-based picture emerges. Two studies—one by Chandler McClellan and Erdal Tekin at Georgia State University, the other by Cheng Cheng and Mark Hoeskstra at Texas A&M University—directly contradict
the idea that Stand Your Ground laws lead to less violence. A third study, by John Roman, Senior Fellow at the Justice Policy Center at the Urban Institute and member of the Task Force, yields valuable insights into how Stand Your Ground laws may exacerbate existing racial disparities in the criminal justice system. Additionally, a survey of cases by the Tampa Bay Times examines whether the Stand Your Ground laws actually protect law-abiding citizens.

1. Georgia State University

Chandler McClellan and Erdal Tēkin, 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 encompassed 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 Tēkin found that the homicide rate increased among white males, with more white males 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 and Tēkin found that Stand Your Ground laws have "no effect on blacks[.]" Instead, they concluded that Stand Your Ground laws only increase homicides of whites, and in greater number, white males. Yet, public opinion data from policymakers, law enforcement, legal practitioners, news reports, and those who interact with the criminal justice system on a daily basis directly contradicts McClellan and Tēkin’s findings concerning the impact of Stand Your Ground laws on minorities. This data 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, and that Stand Your Ground laws operate 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 and Cheng’s study concluded that the laws did not deter crime and, in fact, led to an increase in homicides.

Homicides increased by 8 percent, which quantitatively represents 600 additional homicides per year, a statistically significant change. Hoekstra and Cheng also found no deterrent effect on crimes. They 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 and Cheng suggested that Stand Your Ground laws cause both parties in a conflict to believe that they have the right to shoot, leading to 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. Dr. Roman analyzed data from the FBI Supplemental Homicide Reports to conduct a comparative analysis of justified homicide rates from 2005 to 2010 in Stand Your Ground states and “non-Stand Your Ground” states.

Dr. Roman specifically isolated the factor of race, which enabled him to readily identify racial disparities in findings of justifiable homicides.

The resulting analysis of the data (see below) indicates statistically significant racial disparities in “non-Stand Your Ground” states, and increased racial disparities in Stand Your Ground states.

This chart to the right depicts as its baseline, white on white killings.

**Homicides ruled justified 2005–2010**

All cases

**Gun homicides ruled justified 2005–2010**

Two strangers who are not law enforcement

*Note: The differences in rates of homicides ruled justified are all statistically significant at \( p < .01 \), except black-on-black killings in non-Stand Your Ground states.*
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 who kills a black victim is 350 percent 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 who were engaged in lawful activity to protect themselves from actual harm, the results of the *Times* study revealed that the Stand Your Ground law was being utilized under circumstances the legislature never expected and benefitted groups the legislative never meant to protect (e.g., habitual violent offenders). The study also showed that the law also resulted in 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 where one defendant was afforded criminal immunity while another was convicted and given a lengthy sentence. The *Times* study, like Dr. Roman’s analysis discussed earlier, 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 percent more likely to achieve dismissal if the victim was black, compared to 59 percent if the victim was white. Other notable findings include:

- The majority of Stand Your Ground cases are non-deadly cases;
- 60 percent of the defendants raising the defense had been previously arrested;
• One in three defendants raising the defense had been previously accused of violent crimes;
• Nearly 70 percent of individuals that invoke Stand Your Ground receive no punishment;
• Defendants asserting a Stand Your Ground defense 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 has drastically increased.  

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 dating back to the law’s enactment in 2005. Davis also testified that creating an accurate database was challenging in light of the lack of standardized procedures or reporting obligations 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.

E. Social Psychological Research Related to Stand Your Ground Laws

Dr. James M. Jones, from the University of Delaware, and Dr. Jennifer Eberhardt and Nick Camp, from Stanford University, prepared a report for the Task Force on the social psychological research that impacts Stand Your Ground laws. Portions of Drs. Jones and Eberhardt’s report entitled Problems That Arise When Stand Your Ground Laws Are Applied in Cross-Racial Situations: An Annotated and Analytical Bibliography of Relevant Social Psychological Research, is excerpted here and additional sources are referenced in the Appendix, Section VII.

This annotated bibliography identifies psychological mechanisms germane to Stand Your Ground law and their potential for differential invocation and application across social groups. Drs. Jones and Eberhardt argue that the greater leeway Stand Your Ground laws give defendants in making decisions of self-defense, the greater the opportunity for biased social influences to govern
perception and action. Relevant psychological research shows that (1) basic perceptual and brain processes respond to group differences in ways that bias cognitive and affective judgments; (2) the stereotypical association of black males with aggression and crime (Cottrell & Neuberg, 2005; Devine, 1989; Devine & Elliot, 1995) interact with these basic processes to predispose defendants to perceive blacks as potential threats; (3) the reaction to these based perceptions and judgments is characterized by aggression and violence; and (4) basic psychological research shows that Stand Your Ground laws provide a recipe for racial bias that undermines both legal and social justice.

1. Perception of Group Membership Is Early and Deep

While the bulk of this bibliography enumerates research at an intermediate level of analysis (i.e., perception, behavior, and judgment) and in the context of particular social groups (i.e., American white and minority groups), psychological science demonstrates that group membership is processed early at a neural level. Indeed, from an age of only three months, infants begin distinguishing and preferentially attending to own-race faces (Pascalis et al., 2005). Differential brain responses to black and white faces occur as early as 122 months (Ito & Urland, 2003) and can be seen in medial temporal regions responsible for basic face perception (Golby, Gabrieli, Chiao, & Eberhardt, 2001). In addition to demonstrating the depth of racial identity’s influence on processing (for a review, see Ito & Bartholow, 2009), social neuroscience research has shown similar preferential processing for experimentally defined ingroups (Ratner & Amadio, 2012; Van Bavel, Packer, & Cunningham, 2011), suggesting that social groupings perceivers bring to a situation are consequential for neural processing as well as more macroscopic cognition and behavior. These basic mechanisms of intergroup perception combine with learned stereotypes linking minorities to threats, guiding perception, behavior, and judgment.

2. Stereotypes Shape What People See

Research from perceptual and social psychology has examined how stereotypes linking members of particular social groups to threat can influence every stage of perception, from visual attention to the interpretation of behavior. Taken together, these studies show a consistent pattern of results, demonstrating that black targets come under increased scrutiny as sources of threat and are more likely to have their behavior construed as aggressive, particularly in situations that highlight self-protection as a relevant goal.


In this seminal study, white participants viewed an interaction between confederates in which one confederate shoved the other. The race of the confederates was manipulated across participants. The shove was viewed as more violent when it was performed by a black (versus white) actor; additionally, white confederates’ shoves were attributed to situational factors, while black actors’ shoves were attributed to dispositional factors. This pattern is suggestive that race influences perceptions of how aggressive an action is, as well as whether this action is permissible given the situational context or indicative of an individual’s ill intent.


In studies with police officers and undergraduates, the authors tested the effects of the stereotypical association between blacks and crime on visual perception, finding that presenting black faces facilitated the
identification of crime-related stimuli (e.g., knives, guns) and that priming crime directed attention towards black faces. Could the association between blacks and crime lead individuals to more readily perceive threats from blacks and attend to blacks under conditions of suspicion?


In this meta-analysis, the authors examine emotion recognition within and across cultures, finding evidence for own-group advantage, especially for majority group members, who were poorer at recognizing the emotions of minority group members. These findings suggest that majority group members may be inaccurate in judging hostility or anger in minority group members.


In this study, participants were shown facial animations of black and white targets that progressed from angry to neutral or neutral to angry expressions. Participants high in implicit prejudice were faster to detect the onset of anger and slower to detect its offset in black (but not white) targets, suggesting that prejudicial attitudes play an early role in shaping emotion perception.


Does the motivation to protect oneself from harm lead individuals to perceive greater anger in minority faces? In two studies, Maner and colleagues had participants view film clips that elicited a self-protective motive (escaping a killer), a romantic motive, or no motive. Participants with a self-protective motive perceived greater anger in black and Arab faces relative to white faces, suggesting that such motives can lead perceivers to perceive ill intent more readily in minorities.


In this article, the author reviews the literature on “weapon bias,” or the tendency to mistakenly identify tools as weapons after exposure to black faces. The bias is exacerbated as a function of the strength of the participant’s black-crime association and the cognitive ability available to overcome this association (e.g., self-regulatory resources, longer response deadlines). The review raises the question of whether, under certain conditions, unarmed blacks may be mistakenly perceived as armed.


In this landmark study, the authors presented black and white middle-school students with scenarios in which a student behaves ambiguously aggressive towards another (e.g., poking the other student repeatedly with a pencil), manipulating the race of both characters in the scenario. The authors’ analysis revealed that black actors performing identical actions as white actors were nonetheless perceived as more aggressive. Jones’ (1983) secondary analysis of Sagar and Schofield’s data revealed diverging effects of own versus
other-race actors such that white participants rated black actors as more aggressive than black participants rated white actors. These data suggest that perceptions of hostility or ill-intent conveyed by the same action can vary as a function of the identity of the person performing it as well as the identity of the perceiver.


In two studies, Schaller et al. tested the hypothesis that environmental conditions that suggest danger (physical darkness) bring online the black-danger stereotype. Among participants who had chronic beliefs in a dangerous world, darkness led to the activation of stereotypes linking blacks to danger. These findings suggest that, for some individuals, environmental cues signaling threat can activate stereotypes linking minorities to threats.


Do black male faces capture attention as potential sources of threat? Using a visual attention task, the authors found that participants’ attention was captured by black faces relative to white faces, but that this difference disappeared in the absence of threat cues (i.e., when the faces displayed diverted versus direct gaze). Indeed, endorsement of stereotypes linking blacks to aggression predict this attentional bias towards black faces (Donders and colleagues, 2008). Under circumstances of potential threat, blacks could potentially experience increased scrutiny. See also Richeson, Todd, Trawalter, and Baird (2008), in which the authors find fear-related activation in the amygdala is heightened for black faces relative to white faces, except when gaze is averted.

3. Stereotypes Shape How People Respond

Thinking is for doing and perceiving is for acting. The research summarized above demonstrates how intergroup processes and social stereotypes influence the perception of minority actors, guiding attention and construal towards the conclusion that a black target is more likely to pose a threat to one’s safety. What consequences do these perceptions have for behavior “in the moment”? In the following section, Drs. Jones and Eberhardt highlight several lines of research in this area suggesting that the perception of blacks as threats can translate to diminished empathetic responses, greater hostility, and a tendency to respond violently towards black targets.


Does the brain represent pain differently for members of our own versus other groups? In this study, the authors showed black and white participants film clips of black and white hands being punctured by a needle. Participants showed more empathetic brain activity when a hand of their own race was punctured, an effect that was exacerbated by the degree to which participants had negative associations with the other race (for similar results, see Xu, Zuo, Wang, & Han, 2009). Subsequent studies have explored this “empathy gap” at different levels of analysis: White participants are less likely to mentally simulate black actors’ actions relative to white actors’ actions (Gutsell &
Inzlicht, 2010), more likely to believe blacks experience less physical pain than whites (Trawalter, Hoffman, & Waytz, 2012), and are less likely to support policies that support black victims of natural disaster due to reduced empathy (Johnson, Olivo, Gibson, Reed, & Ashburn-Nardo, 2009). This body of research suggests that intergroup processes not only exaggerate perceptions of threat in outgroup members, but also minimize perceptions of physical pain. Such tendencies to represent blacks’ experiences as less “real” could lower whites’ threshold for inflicting pain towards perceived black aggressors and increase the threshold at which such violence is seen as excessive.


In a series of studies, the authors test how stereotypes, even when presented outside of conscious awareness, can influence affective reactions. Participants subliminally primed with black (versus white) faces were more hostile towards their interaction partners in a cooperative task (see also Bargh, Chen, & Burroughs, 1996). Subsequent research has suggested a mechanism for this effect: exposure to a social category is sufficient to prime preparatory behaviors for interacting with those group members (Cesario, Plaks & Higgins, 2006). This research suggests that simple exposure to members of different social groups has early, consequential, and divergent effects on behavior.


How do racial stereotypes influence time-sensitive decisions to react to potential threats with violence? In a series of studies, the authors had participants participate in a police simulation in which they had to shoot armed black and white targets and avoid shooting unarmed ones; participants showed a “shooter bias” towards shooting unarmed black targets consisting of two components: faster reaction times for shooting armed black targets relative to armed white targets and a greater tendency to erroneously shoot unarmed black targets relative to unarmed white targets (for a similar paradigm, see Greenwald, Oakes, & Hoffman, 2003). Subsequent studies have demonstrated the breadth of the effect, (e.g., police officers are faster at shooting armed black versus armed white targets, Correll, Park, Judd, Wittenbrink, et al., 2007), as well as mediators of the bias, including the salience of the black-crime stereotype (Correll, Park, Judd, & Wittenbrink, 2007) and the racial stereotypicality of the target (Ma & Correll, 2011).

Notably, this bias is most pronounced when targets appear in settings that are ostensibly safe (e.g. suburban neighborhoods, office parks) and attenuated when stimuli are presented in apparently unsafe environments, where participants show a higher rate of shooting unarmed white targets (but not a reduced rate of shooting unarmed black targets, Correll, Wittenbrink, Park, Judd, & Goyle, 2011). In other words, in physical settings similar to that in the Trayvon Martin case, racial biases are exacerbated, and in dangerous settings, violent responses are increased regardless of target race. Taken together, the literature on the shooter bias suggests that the association between blacks and criminality translates to an increased tendency to detect threats in black targets and erroneously respond with force.
L egal scholars and 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. Some of the main questions that have emerged are: (1) Do Stand Your Ground laws make communities safer or do they instead encourage liberal use of firearms? (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? (3) Are minorities less safe because they are likely to be stereotyped and perceived as threats even when unarmed? (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? (5) Should states move toward repeal of Stand Your Ground laws due to the ill-effects of these laws? and (6) Do Stand Your Ground laws negatively impact prosecutors’ ability to prosecute and punish real crime?

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. District Attorney Edward Marisco, Jr., characterized Stand Your Ground laws as “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 where 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 state 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 revealed 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, “criminals with illegal guns should not be permitted to shoot
people on a public street and hide behind self-defense laws. . . . Drug dealers who engage in fire fights in our neighborhoods should not be permitted to escape punishment because they claim they were standing their ground.” In many instances, courts have sanctioned such outcomes as a proper application of Stand Your Ground laws.

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 State 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 laws have no deterrent effect on violent crimes, specifically burglary, robbery, and aggravated assault. Other studies indicated an increase in homicides in states with Stand Your Ground laws. Increases in justified homicides following the enactment of Stand Your Ground laws favors amendment or repeal of these laws and warrants a comprehensive national study.19 Ultimately, the data fails to bear out the crime deterrent/crime-reduction rationale espoused by proponents of Stand Your Ground laws. Rather, the 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 laws had a negative impact in their communities. Many labeled it as “a license to kill.” Others raised concerns that, as asocial framework, Stand Your Ground laws do not place enough value on human life and further that they encourage violent conflict resolution instead of discouraging the use of 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:

(l) 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) he does “not believe that in a civilized society we should encourage violent and deadly confrontation when the victims 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 defendant to initially argue that 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 either party. Without such objectivity, individuals will view the criminal justice system with skepticism and disenfranchisment.

1. Police Investigation

Stand Your Ground laws have incited an active debate about the practical enforcement and safety issues that 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 in Stand Your Ground cases to the prosecutor’s office. 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 also unclear when the immunity statute applies, and the new law impedes their ability to arrest and detain suspects. In some jurisdictions, police officers have even stopped investigating shootings involving self-defense claims and instead deferred to the prosecutors to make initial charging decisions. Police officers are frustrated that Stand Your Ground laws are being used as a loophole by repeat offenders and that the defense is less frequently asserted under factual circumstances intended by the legislators.

2. 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, Assistant 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. Similarly, there is concern that armed individuals will not be able 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 ensure 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.” 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 attempting to make an unlawful entry into a person’s home.21

3. Prosecutorial Discretion

Stand Your Ground laws have influenced 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 the Stand Your Ground law made it too hard to prove, although the shooter was not facing imminent threat and the victim was in the process of trying to flee when he was shot. The prosecutor’s point 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 again at the real trial. Consequently, many 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.

4. Judiciary

Judicial confusion 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 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 uneven 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 his or her ground; by 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 have nearly identical fact patterns but opposite decisions, with one defendant receiving immunity while his counterpart received a tough sentence.

Additionally, the Stand Your Ground law may start to crowd court dockets, as both police officers and defense attorneys testified that Stand Your Ground is being raised in numerous cases ranging from drug to gang cases. 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.

5. 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 do not 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 re-election, to consider when deciding these cases, 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.23 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.24

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. Dr. 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 blacks 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 ser-
vice 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 State Representative F. Garnett Colemen explained, concerns about racialized perceptions informed his decision-making process regarding efforts to enact the Texas Stand Your Ground law:

[When 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 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 Dr. Eberhardt and Professor 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 interracial 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 separates us . . . no judge will be able to fix that,” alluding to the underlying implicit racial bias at the root of some of the problematic cases. “The law can open doors, and break down walls, 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, with the overarching concern being that existing racial tensions are further exacerbated by Stand Your Ground laws in a myriad of ways. Some witnesses 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 who kills a black victim is 350 percent 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, a suspect claiming self-defense was unlikely to go free; however, in cases where the victim was black, a 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 State Senator 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 status as a 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 when he 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 their 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.”

— 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 (1) be in the public space at issue lawfully, (2) not be engaged in crime, (3) observe the attacker visibly display a weapon and (4) believe the use of deadly force is necessary to prevent death, kidnapping, serious bodily injury, or rape. Pennsylvania policymakers testified that its 2011 Stand Your Ground law constitutes a marked improvement over other states with a “blanket” no duty to retreat in public law. Indeed, firearm advocates concur: “I think that those guidelines are better than an extreme lunge 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 is 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 costs 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.” 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.”

Moreover, the Harvard Injury Control Center’s examination of “Gun Threats and Self-Defense” 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 homeowners. 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 effect 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 and Victims

The statutory immunity provisions of certain Stand Your Ground laws prevent victims from obtaining redress through the criminal justice system and prohibit subsequent civil suits, which substantially restricts the available remedies, such as compensation, typically available to innocent bystanders and other victims.
The Sherdavis Jenkins case is but one tragic example highlighting 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 struck her. The shooter brought up Stand Your Ground as a defense and won his motion. He was sentenced for having a weapon. However, the Stand Your Ground defense should not have been able to be used by an individual involved in the narcotics trade, with a past criminal history, and who was 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 that 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... 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 State Representative 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 ten 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 an individual 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 thirty-one 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 ninety-six votes, instead receiving support from only forty-two 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 law, stating “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 repealing it. 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 and 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, State Representative Wesley 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 bipartisan 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. Subsequently, a more detailed 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, Representative Harold Mitchell announced the submission of a new repeal bill in 2014.

K. Governmental Inquiries into Stand Your Ground Laws

1. U.S. Commission on Civil Rights

In May 2013, upon the proposal of Commissioner Michael Yaki, the U.S. Commission on Civil Rights (USCCR) 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 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. **U.S. Senator Richard Durbin**

U.S. Senator Richard Durbin conducted a hearing in October 2013, which resulted in a written plea to Attorney General Holder requesting the need to establish better methods of collecting data included in the FBI Supplemental Homicide Report. ²⁹

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, which are found in Chapter 776 of the Florida statutes. It issued a report on February 21, 2013, endorsing Florida’s existing Stand Your Ground law 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 persons 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 variables 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. ³⁰

4. **Florida State Senator Chris Smith**

On April 2, 2012, Florida State Senator Chris Smith convened the Florida Stand Your Ground Task Force, which was charged with reviewing Florida’s Stand Your Ground law. The following recommendations were unanimously agreed upon: (1) Stand Your Ground cases should be presented to a grand jury; (2) the public and law enforcement need to be educated about the law; (3) a system to track self-defense claims in Florida should be created; (4) the imminence requirement should be amended; and (5) the title of the statute should be changed.

5. **Louisiana State Legislature**

On June 2, 2014, the Louisiana House of Representatives unanimously adopted a resolution sponsored by State Representative Wesley 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 changes to those laws which may result from that evaluation.” ³¹
The Task Force further recommends the following:

A. Public Safety and 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, including (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 and Ethnic Minorities

1. States should develop safeguards to prevent racial disparities in the application of Stand Your Ground laws.

2. The Task Force recommends further research into whether Stand Your Ground laws have a disparate impact on racial and ethnic minority groups. Such research should include: (1) an analysis of what role, if any, does implicit bias may play in the application of Stand Your Ground laws; and (2) an assessment of Stand Your Ground cases, from investigation through verdict to sentencing, to identify equal or unequal application of the law across racial lines.

C. Training

1. Law enforcement agencies should receive training on best practices for investigating Stand Your Ground cases as well as adopt requirements for keeping clear records of cases in which a justified homicide determination is made and based on Stand Your Ground laws. Precise record keeping in such cases is necessary in order to analyze the full impact Stand Your Ground laws have on the criminal justice system and on public safety.

2. The Task Force recommends the creation of a national database for tracking incidents involving the invocation of Stand Your Ground defenses, from the law enforcement investigative stage through prosecution and sentencing.

3. The Task Force recommends the development of best practices and a training curriculum for law enforcement officers concerning the investigation of cases involving Stand Your Ground laws. The Task Force further recommends that the developed training materials address the issue of confusion surrounding the authority of law enforcement officers to investigate, detain, or arrest a suspect who utilizes deadly force in self-defense in a manner that implicates a Stand Your Ground law. Law enforcement training materials should also include a toolkit of investigative strategies for on-scene evaluation of self-defense claims, particularly claims that may implicate Stand Your Ground laws.

4. The Task Force recommends that the ABA develop a training curriculum and educational materials for the judiciary on Stand Your Ground laws, which the Task Force hopes will promote fairness and consistency in the application of Stand Your Ground laws.
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 that 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 should 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 that evaluations address:
      i. Whether the commission of criminal misdemeanors, violations of municipal ordinances, and minor traffic infractions preclude application of the Stand Your Ground defense.

ii. Additional guidance to judges, prosecutors, and defense attorneys regarding 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 the importance 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 a person’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 the fact that (1) initial aggressors are not entitled to Stand Your Ground, (2) the alleged victim may also have a right to stand his or her ground, and (3) 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 laws that 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 (1) 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 (2) 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.
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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 stop 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.

JOSHU 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 Task Force, 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, Michigan, 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-fatalshooting 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 B.A. from Oberlin College, an M.A. from Temple University, and his Ph.D. in social psychology from Yale University. He was 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. He is also 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 2004–2005 and the 2005–2006 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 to 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 District Attorney, 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 teaching law, 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 George Washington Law School 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.

KIM MCLAURIN is the Associate Dean for Community and External Affairs and Associate Clinical Professor of Law at Suffolk University School of Law. Professor McLaurin received her undergraduate degree from Hampton University and 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 fifty years of experience as a trial lawyer and twenty-four 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 (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 Thirty-Sixth District Court of Michigan, which serves the city of Detroit. Judge Perkins previously served as a court referee for the Third 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 Thirtieth 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.

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 is an affiliated professor at Georgetown University.

JOE VINCE has thirty years of policing experience at both the federal and state ranks, with 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, including: 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 the 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.
This compilation of informational sources serves as a 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 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 Witness Roster and 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
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
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]

1. Honorable Dorothy Brown, Clerk, Circuit Court of Cook County
2. Lee Goodman, Organizer, Stop Concealed Carry Coalition
3. Ellen Douglass, Vice President of Regions and Affiliates of the National Bar Association
4. Martin Perez, Attorney
5. Jack Cutrone, Executive Director of Illinois Criminal Justice Information Authority and President of National Criminal Justice Association
6. John A. Fairman, President of Cook County Bar Association
7. Mario Sullivan, Past Chair of ABA Young Lawyers Division
8. Ngozi C. Okorafor, President of Black Women Lawyers Association
9. Kareem Pender, Senior Director of Human Capital and Education Programs for the National Urban League
10. David F. Will, Henderson Adam, LLC
11. 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]

1. Edward G. Rendell, former Governor of Pennsylvania and former Mayor of Philadelphia
3. Dorothy Johnson Speight, Founder of Mothers in Charge
4. David Green, Member of Board of Directors of Firearm Owners Against Crime
5. Shira Goodman, Executive Director of CeaseFire, PA
6. Joshua Prince, attorney
7. Elizabeth Avore, Senior Counsel in the Office of New York City Mayor Michael Bloomberg
8. Troy Crichton, Assistant Defender in the Defender’s Association of Philadelphia and representative of the Barristers’ Association in Philadelphia
9. 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
10. Edward M. Marsico, Jr., District Attorney for Dauphin County and Pennsylvania President of the District Attorney’s Institute
12. R. Seth Williams, District Attorney of Philadelphia

**Western Regional Public Hearing**

*San Francisco, California*

(August 9, 2013)

[View Transcript Online]

1. Eva Paterson, Co-founder and President of Equal Justice Society
2. Patricia Rosier, President of the National Bar Association and General Counsel for American General Securities
3. Yolanda Jackson, Deputy Executive Director and Diversity Director of The Bar Association of San Francisco
4. Judge Arthur Burnett, National Executive Director of the National African-American Policy Coalition
5. Marc Philpart, Senior Program Associate at Policy Link and Co-Director of Leadership and Sustainability Institute for Black Male Achievement
6. David Muhammad, CEO of Solutions, Inc. and Coordinator for California Alliance for Youth and Community Justice
7. George Gascon, District Attorney for City and County of San Francisco
8. Bob Egelko, attorney and journalist
9. Judge Demetrius Shelton, Administrative Judge for City of Oakland
10. Jennifer Eberhardt, PhD, Assistant Professor in Psychology at Stanford University
11. Honorable John F. Lakin, Circuit Court Judge, 12th Judicial Circuit of Florida
12. Juliet Leftwich, Legal Director for the Law Center to Prevent Gun Violence
13. Jeff Adachi, Public Defender of the City and County of San Francisco and Board Member of California Attorneys for Criminal Justice
14. 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]

1. Ciara Taylor, Political Director for the Dream Defenders
2. Marwan Porter, Attorney and Representative of the Wilkie D. Ferguson, Jr. Bar Association
3. Aziza Botchway, Chair of the Miami-Dade Chapter of the National Congress of Black Women
4. Charlotte Cassel, Law Student and Fellow in the University of Miami School of Law Human Rights Clinic
5. Meena Jagannath, Attorney with Florida Legal Services Community Justice Project
6. Father Roger Tobin
7. Guy Robinson, Chief Assistant Public Defender at the Miami-Dade Public Defender’s Office
8. H. Scott Fingerhut, Professor of Law at Florida International University School of Law
9. Ed Shohat, Representative of the Miami-Dade County Community Relations Board
10. Florida Sen. Dwight Bullard
11. Commander Ervens Ford, Miami Police Department
12. Chris Davis, Investigations Editor and Reporter, Tampa Bay Times
13. Florida Sen. Chris Smith
14. Florida Sen. David Simmons

Written Testimony

1. F. Patrick Hubbard, Motley Distinguished Professor of Law, University of South Carolina School of Law
2. Devariste Curry, Attorney

B. Fifty State Chart of Stand Your Ground Law Statutes

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C. Additional Social Psychological Sources

Further portions of Drs. Jones and Eberhardt’s report entitled Problems that Arise When Stand Your Ground Laws Are Applied in Cross-Racial Situations: An Annotated and Analytical Bibliography of Relevant Social Psychological Research, are excerpted here along with additional works cited.

Research on race and perception suggest that the stereotypical associations between blacks and threat can bias individuals towards perceiving hostility in minorities and responding in kind. Lowering the threshold for permissible self-defense may give these biases more influence in guiding behavior. Ultimately, however, the question of whether an act of violence was justified falls to the courts. Might race influence these judgments? The following studies raise the possibility that race influences our judgments of guilt and culpability, from determination of innocence or guilt to the perception of the harm inflicted and appropriate recompense. [Drs. Jones and Eberhardt] review key findings from this literature below. Beyond individual cases, stereotypical associations can shape individuals’ support for laws or institutions. In a separate subsection, [Jones and Eberhardt] highlight some areas in which the connection between racial stereotypes and support for punitive policies could inform our understanding of Stand Your Ground.

Stereotypes shape our proximal judgments:


In an archival study of capital punishment decisions, the authors found that, controlling for a range of factors, the more stereotypically black the defendant’s appearance, the more likely that the defendant would receive the death penalty. The correlation between Afrocentric features and sentencing severity extends to length of incarceration (Blair, Judd, & Chapleau, 2004). These findings raise the question of whether juries would treat some defendants more punitively than others in determining the severity of the consequences of standing one’s ground.


The authors tested whether mock jurors’ decisions were influenced by accusations of crimes consistent (e.g., black defendant charged with auto theft) or inconsistent (e.g., black defendant charged with embezzlement) with the racial stereotype. Participants sought less additional information overall and more confirmatory evidence in stereotype-consistent conditions, effects mediated by dispositional attributions of criminality (see also Gordon 1990, 1993). These results suggest that jurors may process self-defense justifications for violence differentially based on the race of the defendant.


In this review, the authors survey the archival and experimental literature on jury decisions in cases with black and white defendants. In cases where race is not salient, White jurors are more likely to render guilty verdicts for black versus white defendants; however, in situations where race is made salient through the fact pattern of the case, diverse jury composition,
or race-relevant voir dire questioning, this discrepancy is eliminated. In cases where race is not apparent to jurors or they are instructed to ignore it, might a Stand Your Ground defense be more successful for white defendants?

**Stereotypes shape support for institutions and policies**


How do racial evaluations influence whites’ endorsement of ostensibly race-neutral policies on crime? In this paper, the authors manipulated whether a passage describing a furlough program for prisoners referred to black or white inmates, and correlated participants’ evaluations of these prisoners with their support for punitive crime policies. Participants’ evaluations of black prisoners more strongly predicted support for strict crime policies than their evaluations of white prisoners. The finding that whites’ attitudes towards crime policies are tied to their attitudes towards blacks (see also Hurwitz, 2005) suggests that support for policies like Stand Your Ground that are ostensibly race-neutral can draw from racialized perceptions of crime.


In this study, the authors tested whether priming race shifted participants’ perceptions of juvenile culpability and support for adult-like sentencing. By simply identifying a juvenile offender as black (versus white), Rattan et al. found that participants viewed juvenile offenders (regardless of race) as more blameworthy for their offenses, which in turn led to increased support for stricter sentencing for juveniles. In cases where jurors must decide whether defendants are culpable of harming another or whether they were justified in standing their ground, race may play a role in determinations of blameworthiness.

**Additional Works Cited by Drs. Jones and Eberhardt**


Hundley, K., Martin, S. T., & Humberg, C. (June 1, 2012). Florida ‘stand your ground’ law yields some shocking outcomes depending on how law is applied, *Tampa Bay Times*.


Bibliography


Elizabeth Sarine, Regulating the Social Pollution of Systematic Discrimination Caused by Implicit Bias, 100 CAL. L. REV. 1359 (2012).


The 10 most infamous ‘Stand Your Ground’ cases, THEGRIO, MSNBC (Apr. 25, 2012, 5:00 PM), http://thegrio.com/2012/04/25/10-most-infamous-stand-your-ground-cases/.


**State Statutes**

AL.A. CODE §13A-3-23 (2006).
FLA. STAT. § 776.051 (2008).
FLA. STAT. § 776.06 (1999).
FLA. STAT. §§ 776.05, 776.07, 776.041 (1997).
FLA. STAT. § 790.06 (2012).

**Case law**

*Dennis v. State*, 51 So. 3d 456, 462 (Fla. 2010).
*Penley v. Eslinger*, 605 F.3d 843, 854 (11th Cir. 2010).

*South v. Maryland*, 59 U.S. 396 (1856).

**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
1. Nothing contained in the report is to be considered as the rendering of legal advice for specific cases, and readers are responsible for obtaining such advice from their own legal counsel. These materials and any forms and agreements herein are intended for educational and informational purposes only. © Copyright 2014 American Bar Association.

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.


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 that determined whether a self-defense incident would be labeled as justified. A larger national study found that in cases where whites killed blacks, the killing was 281 percent more likely to be labeled as justified.

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

6. Pennsylvania’s law requires a certain set of circumstances to exist before “no duty to retreat in public” is triggered. The actor must: (1) be lawfully present, (2) not be engaged in a crime, (3) not be in illegal possession of a firearm, (4) believe deadly force is immediately necessary to prevent death, kidnapping, serious bodily injury or rape, and (5) be confronted with an attacker displaying or using a deadly weapon. Additionally, the “no duty to retreat” provision does not apply if the person against whom the force is used is a police officer. 18 Pa. Con. Stat. § 505 (2014).


9. Statewide media, police, and court reports [Darla Cameron, Tampa Bay Times].
10. Dr. James M. Jones, Dr. Jennifer Eberhardt & Nick Camp, Problems That Arise When Stand Your Ground Laws Are Applied in Cross-Racial Situations: An Annotated and Analytical Bibliography of Relevant Social Psychological Research. This report was prepared for the National Task Force on Stand Your Ground Laws of the American Bar Association’s Coalition on Racial & Ethnic Justice in collaboration with the American Psychological Association.
21. Ind. Code § 35-41-3-2
22. Due to the ruling in Barnes, an amendment to Indiana’s law was enacted in 2012, which 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?”
25. 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 thirty years after Staples’ editorial, not much has changed with respect to the general public’s fear of black males in public spaces.
27. Id.
29. Senator Durbin’s letter to Attorney General Eric Holder was also executed by Senator Hirono and U.S. Representatives Cummings, Conyers, Gutierrez, Fudge, and Scott. Senator Durbin specifically called 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, and (5) the incident was labeled “murder,” “nonnegligent homicide,” and/or “justified homicide.”


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