



FLORIDA LEGAL SERVICES, INC.



United States' Compliance with the International Covenant on Civil and Political Rights

Written Statement on Stand Your Ground Laws

**Submitted by Dream Defenders, Community Justice Project of Florida Legal Services, Inc.
and the National Association for the Advancement of Colored People**

**109th Session of the United Nations Human Rights Committee
13-31 October 2013**

I. Reporting Organizations

This Report is being submitted by a coalition of three organizations: The Dream Defenders, Inc.ⁱ, the Community Justice Project of Florida Legal Services, Inc.ⁱⁱ, and the National Association for the Advancement of Colored People (NAACP)ⁱⁱⁱ.

II. Introduction and Issue Summary

“Stand Your Ground” (SYG) laws extend immunity to prosecution or civil suit for the use of deadly force in self-defense beyond the home, without imposing a duty to retreat. That is to say, the laws expand what is known as the “Castle doctrine”—a common law doctrine by which deadly force may be used in self-defense or to prevent a forcible felony when one is in the safety of one’s home—to include “any other place where he or she has a right to be.”^{iv} Florida’s SYG law is among the most expansive of its kind, affording immunity from both criminal prosecution and civil action, where “criminal prosecution” is defined to include “arresting, detaining in custody, and charging or prosecuting the defendant.”^v

Florida was the first state to pass a “Stand Your Ground” law in 2005, and it was the site of the controversial killing of 17 year-old Trayvon Martin in late February 2012. Martin was a black high school student from Miami who had traveled to Sanford, Florida, to visit his father who lived in a gated community there. On February 26, 2012, Martin was walking home from the store when he was pursued by George Zimmerman, a 28 year-old neighborhood watch coordinator for the community. Believing Martin to be “suspicious,” Zimmerman called the police before leaving his vehicle to follow Martin and an altercation ensued. Though Martin was unarmed, Zimmerman discharged a gun he had concealed in his waist, killing the teenager. The police arrived two minutes later, took Zimmerman in for questioning but ultimately released him the same day. It was not until nearly six weeks later, amidst public outcry around the failure to charge Zimmerman for murder, that Zimmerman was ultimately taken into custody and charged by a special prosecutor named by the Governor of Florida.^{vi}

Since 2005, twenty-one additional states have adopted these “shoot first” statutes that generally permit the use of deadly force in public places with no duty to attempt to retreat. Four other states have adopted similar laws, but they apply only when the shooter is in his or her

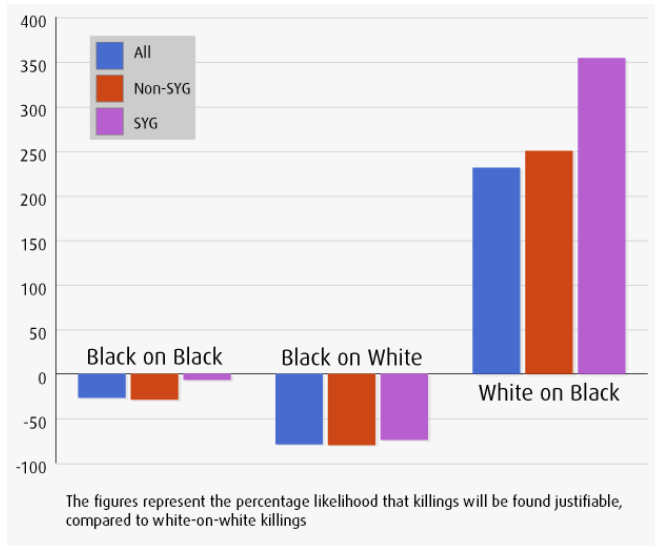
car. Seven additional states permit the use of deadly force in self-defense in public with no duty to retreat through a combination of statutes, judicial decisions, and/or jury instructions. These states are distinct from true “Florida-style” laws in several respects, however. For one, many of the shoot first protections established in these states may only be invoked during criminal trials, as opposed to the Florida law, which enables a shooter to escape liability in a pretrial hearing. Additionally, these states do not have some of the especially onerous elements found in the Florida law, such as the provision preventing law enforcement from arresting a shooter without probable cause that the force used was unlawful. Lastly, Utah has had a “Stand Your Ground” type law on the books since 1994, but it strengthened and clarified its law to be more in line with the Florida law post-2005.

However, there are significant questions as to whether these laws engender a “shoot first” mindset that leads to more homicides, while muddling proper investigations of those killings. These laws make it easier for people to murder other human beings and without facing legal consequences. They essentially eviscerate any deterrent to gun related homicides, and provide a road map to getting out of jail with blanket immunity. In fact, national studies have shown that the number of homicides has *increased* in those states that have implemented some form of SYG laws.

At the national level, a study by Texas A&M University professors revealed that homicides have gone up by 7 to 9 percent in states that have passed some form of SYG laws, compared to states that did not pass those laws over the same time period. They found no evidence of any deterrent effect over the same time period. According to the study and a sample of 21 states, SYG laws have induced an additional 500 to 700 homicides per year across the states that were sampled for the study. The study took into account a state’s population, pre-existing crime trends and other factors.^{vii}

The Trayvon Martin killing in February 2012 occasioned closer scrutiny of SYG laws throughout the U.S., revealing racial bias in the application of the law. Statistics based on a database compiled by the *Tampa Bay Times* of cases in which “stand your ground” was raised as a defense in Florida since the passage of the law show that a defendant who killed a white person was two times more likely to be convicted of a crime than when a defendant killed a black person.^{viii} Nationally, Chart 1 illustrates the disparity in courts’ determination of whether a homicide is justifiable based on the race of the defendant and the victim. As Chart 1 shows, in comparing the percentage likelihood that a killing would be found to be justified in relation to that rate in white-on-white homicides, white-on-black homicides are much more likely to be found justified in SYG states as compared to non-SYG states.^{ix}

Chart 1



Combined with the proliferation of concealed weapons permits and systemic racial bias in the U.S. criminal justice system, SYG laws increase the danger to which people of color are subjected, without offering adequate opportunity for redress. The Urban Institute’s Justice Policy Center conducted a study using the FBI’s Supplementary Homicide Report for 2005-2009 and the analysis revealed that though less than 2% of homicides are eventually ruled to have been committed in self-defense, that number contains a significant split between SYG states and those non-SYG states.^x In Florida and other SYG states, a homicide is nearly twice as likely to be ruled an act of self defense (2.6% as opposed to 1.46%). The data also revealed that such laws introduce bias against black victims and in favor of white shooters. In cases where the defendant was black and the victim was white, there was little difference between SYG states and other states (1.4% versus 1.1%). However, when the defendant was white and the victim was black, 16.9% of the homicides were ruled justified in SYG states and only 9.5% in non-SYG states. The study also showed that the odds that a white-on-black homicide is ruled to have been justified is almost 10 times the odds a black-on-white shooting is ruled justified.^{xi} (See Chart 2^{xii})

Chart 2

Table 2. Percentage of Homicides Ruled Justified, 2005–10

	Total	Non-Stand Your Ground states	Stand Your Ground states
White on white	2.21	1.68	3.51***
White on black	11.41	9.51	16.85***
Black on white	1.20	1.13	1.40
Black on black	2.43	2.15	3.16***
Total	2.57	2.15	3.67***

Source: 2005–10 FBI Uniform Crime Statistics Supplementary Homicide Reports.

* $p < 0.05$; ** $p < 0.01$; *** $p < 0.001$

In addition, data from Florida shows that its type of SYG law places no restrictions on the use of deadly force. Again, when considered together with the ability to carry concealed weapons, this creates a dangerous dynamic. Unarmed victims were attacked in 68.9% of all Florida cases where defendants claimed a stand your ground defense.^{xiii} Furthermore, in 70 cases (29.8%) the defendant pursued the victim. These data similarly show that stand your ground can unnecessarily escalate conflicts because there is no duty to retreat when possible to avoid a confrontation. Of the 235 Florida cases collected in the *Times* database as of August 2013, the defendant could have retreated to avoid the conflict in 135 cases (57.4%).

Evidence also indicates that SYG has contributed to the proliferation of guns since its passage. The number of concealed weapons permits in Florida has tripled since the “stand your ground law” was passed in 2005 to a total of 1.1 million.

While the killing of Trayvon Martin gained national attention, there are hundreds of similar cases where the “stand your ground” had been invoked. Because the Martin killing occurred in Florida, extensive data has been gathered on specific cases implicating the SYG law. The following are examples of other cases illustrating the inconsistency and discriminatory way in which the law has been applied:

- On November 23, 2012, Jordan Davis, another unarmed black male teenager was shot and killed by a 45-year old white male named Michael Dunn outside of a gas station in Jacksonville, Florida.^{xiv} Dunn pulled into the parking lot next to a black SUV with tinted windows playing loud music. When Dunn asked Davis, a passenger in the back seat of the SUV, to turn down the volume, an argument broke out. Dunn pulled out a gun, shooting at the SUV at least eight times, fatally wounding 17-year old Davis. Dunn claims that he fired in self-defense because he thought he saw a shotgun and he could not tell how many people were inside the SUV. No weapon was found on the scene. It is expected that Dunn will file a “stand your ground” motion in the trial, which is scheduled for September 23, 2013. This case illustrates the perversity of SYG laws, whereby a white defendant who initiated a deadly confrontation with an unarmed black victim and had the opportunity to retreat could be given blanket immunity.
- On June 26, 2011, Jack “Sandy” Newstedt of Sebastian, Florida had spent the night out with his friends to celebrate his 21st birthday. Early that morning, around 2:30 AM, the group returned to his friend’s home located in a subdivision marked by dense foliage and gravel roads. While Newstedt’s friends went inside the home, he became disoriented and wandered down the block to a house down the street. When Newstedt discovered the door was locked, he mistakenly believed his friends had locked him out as a prank. Newstedt knocked on the door, calling for his friends to let him in. Unbeknownst to Newstedt, the homeowner, Claiborne “Clay” Rowe stood on the other side of the door.^{xv} Thinking the knocks were coming from a potential intruder, Rowe called the police and grabbed his handgun. After a few minutes passed, but before the police arrived, Rowe opened up the door. When Newstedt, who was unarmed, stumbled into the house, Rowe fired a shot, killing him with a single gunshot wound to the chest.^{xvi} Calling it a justifiable homicide, the State Attorney chose not to file any charges against Rowe.^{xvii}
- As the submission by The Advocates for Human Rights, the University of Miami School of Law Human Rights Clinic and Legal Momentum describes in further detail,^{xviii}

Marissa Alexander, an African-American woman from Jacksonville, fired warning shots into the ceiling during a dispute with her abusive husband. Though no one was injured in the confrontation, she was unable to successfully invoke the “Stand Your Ground” defense because she could not demonstrate serious bodily injury, and the jury convicted her on three counts of aggravated assault with a deadly weapon, for which she received a 20 year sentence due to mandatory minimum sentencing laws.

- In Broward County, Florida, a fight broke out between two middle school students, a young boy and girl, while they were riding the school bus on the way home. The boy, was later convicted of battery by the Broward County Circuit Court. The judge rejected the boy’s defense utilizing “Stand Your Ground”. Upon review however, just days after the verdict in the George Zimmerman trial came down, the appeals court reversed the trial court’s decision, based on the young boy’s ability to assert a defense using this expansive law. This opinion suggests the concerning proposition that “Stand Your Ground” does not only apply to the threat of deadly force, and can be used in as common of a situation as a fistfight in a school bus.^{xix}

III. Relevant Question in List of Issues

The Human Rights Committee’s last consideration of the United States’ compliance with the ICCPR based on its Second and Third Periodic reports did not address the issue of gun violence or the proliferation of firearms. In the List of Issues to be considered with the Fourth Periodic Report of the United States, issue 9(a) specifically requests additional information on the applicability of “Stand Your Ground” (SYG) laws and any blanket immunity they provide to persons using force. List of issues fails to address the issue of racial bias in the application of SYG laws and potential concerns this raises with respect to equality before the courts (Art. 14), equality before the law and equal protection of the law (Arts. 2 and 26).

IV. U.S. Government Response

The U.S. Government’s response on the issue of “Stand Your Ground” laws and gun violence does not adequately speak to the extent of its compliance with its obligations under the ICCPR, namely Article 6 on the right to life. The Fourth Periodic Report similarly does not mention either SYG laws or the use of firearms outside of the law enforcement context. However, as discussed above, SYG laws that extend immunity for the use of deadly force in self-defense beyond the home and do not impose a duty to retreat are overbroad and prone to amplifying existing racial biases in the United States’ justice system, so as to derogate an individual’s right to life, and, with respect to race, the rights to equality before the courts, equality before the law and equal protection of the law.

V. Legal Framework and General Comments

Article 6(1) of the ICCPR provides that:

“Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”

The Committee's General Comment 6 further describes the right to life as a "supreme right." In particular, GC 6 at Paragraph 3 states, "The protection against arbitrary deprivation of life which is explicitly required by the third sentence of article 6 (1) is of paramount importance" and imposes an obligation on States parties to "take measures ... to prevent and punish deprivation of life by criminal acts."^{xx}

Thus, laws such as SYG laws that have been shown to *increase* homicides while providing immunity without proper investigation of the use of force stand in direct contravention of the obligation under the ICCPR to prevent and punish deprivation of life.

VI. Recommended Questions

We recommend that the Committee pose the following questions to the U.S.:

1. How much federal funding goes to local law enforcement in states with "Stand Your Ground" laws and to what extent has the federal government examined the ways in which its funding contributes to a racially discriminatory prosecutorial apparatus that confers immunity on individuals who commit homicide?
2. Given the data that shows SYG laws have been applied in a racially discriminatory manner, what will the federal government do to protect racial minorities from being targeted without recourse?
3. What can the federal government do in terms of strengthening gun laws to ensure that SYG laws do not continue to increase the level of gun violence and homicides?

VII. Suggested Recommendations

1. Federal repeal of all state Stand your Ground laws and a required modification of state self defense laws to include the removal of blanket immunity and a duty to retreat;
2. Federal enactment of safe, sane, sensible and effective gun violence prevention legislation to include: a ban on military-style assault weapons; a ban on the manufacture or sale of high-capacity ammunition clips; an increase in the effectiveness and comprehensiveness of background checks; and a ban on "straw purchasers" of all sizes; and
3. Enactment of the federal End Racial Profiling Act to address the racially biased manner in which SYG and other laws are implemented through the U.S. criminal justice system.

ⁱ Founded in 2012 in the aftermath of the Trayvon Martin killing, The Dream Defenders, Inc., is a Florida-based non-governmental human rights organization, directed by black and brown youth who confront systemic inequality and the criminalization of youth by using nonviolent direct action and building collective power in their communities. Following the not guilty verdict in the trial of George Zimmerman, the individual responsible for the death of Trayvon Martin, the Dream Defenders launched its TakeoverFL campaign focusing on legislative change in three primary issue areas: ending the school to prison pipeline, racial profiling and repealing Florida's Stand Your Ground law. Ahmad Abuznaid, Legal Director of the Dream Defenders contributed to this submission.

ⁱⁱ The Community Justice Project, a project of Florida Legal Services, Inc. (CJP-FLS), was founded in 2008 to provide legal support to grassroots community organizations in Miami's low-income communities, and increasingly

to organizations working throughout Florida. Rooted in the law and organizing movement among poverty lawyers, the CJP-FLS's dynamic style of law practice is fundamentally based on the belief that those most impacted by marginalization or oppression lead their own fight for social justice. The following individuals from CJP-FLS contributed to this submission: Meena Jagannath, Eric Eingold, and Leah Weston.

ⁱⁱⁱ Founded in 1909, the National Association for the Advancement of Colored People (NAACP) NAACP is the United States' oldest, largest and most widely-recognized grassroots-based civil rights organization. NAACP currently have more than 2,200 membership units throughout the US. The following individuals contributed to this submission: Carol Kaplan, Hilary O. Shelton and Niaz Kasravi.

^{iv} Fla. Stat. § 776.013(3)

^v Fla. Stat. § 776.032(1).

^{vi} Note that the "Stand Your Ground" defense was not invoked in the Martin case, and thus was not the reason why George Zimmerman was ultimately acquitted. This case, however, symbolizes how the mentality promoted by SYG laws can lead to a situation in which law enforcement does not immediately arrest individuals like Zimmerman or fully investigate incidents in which an individual has lost his/her life. It is also widely believed, based on post-trial interviews, that the rationale behind SYG laws also influenced the jurors who rendered a not guilty verdict in Zimmerman's trial.

^{vii} See Cheng Cheng & Mark Hoekstra, *Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Castle Doctrine*, Nat'l Bureau of Econ. Research, Working Paper No. 18134 (Fall 2012), available at: http://econweb.tamu.edu/mhoekstra/castle_doctrine.pdf (Last accessed: Sept. 5, 2013)

^{viii} Susan Taylor Martin, Kris Hundley and Connie Humburg, *Race plays Complex Role in Florida's 'Stand Your Ground' Law*, Tampa Bay Times (Jun. 2, 2012), available at: <http://www.tampabay.com/news/courts/criminal/race-plays-complex-role-in-floridas-stand-your-ground-law/1233152> (hereinafter "Tampa Bay Times Article")

^{ix} Sarah Childress, *Is There Racial Bias in "Stand Your Ground" Laws?* Frontline PBS (Jul. 31, 2012) available at: <http://www.pbs.org/wgbh/pages/frontline/criminal-justice/is-there-racial-bias-in-stand-your-ground-laws/> (Last accessed: Sept. 6, 2013)

^x John K. Roman, *Race, Justifiable Homicide, and Stand Your Ground Laws: Analysis of FBI Supplementary Homicide Report Data*, Urban Institute (July 2013), available at: <http://www.urban.org/UploadedPDF/412873-stand-your-ground.pdf> (Last accessed: Sept. 5, 2013)(hereinafter "Urban Institute Report") See also Patrik Jonsson, *Racial bias and 'stand your ground' laws: what the data show*, Christian Science Monitor (Aug. 6, 2013), available at: <http://www.csmonitor.com/USA/Justice/2013/0806/Racial-bias-and-stand-your-ground-laws-what-the-data-show> (Last accessed: Sept. 6, 2013).

^{xi} Urban Institute Report at 7.

^{xii} Chart appears in *id.*

^{xiii} Tampa Bay Times Article. This is based on the 192 cases that the authors of the article analyzed as of the writing of the article, where the victim was unarmed in 135 of those cases.

^{xiv} *Id.* This story comes from a database of stand your ground cases that the Tampa Bay Times reporters assembled for the story, available at http://tampabay.com/stand-your-ground-law/cases/case_259.

^{xv} Tr. of Dream Defender's People's Session, Test. of Bethany Spagnola, p. 24, ll. 11-13. Aug. 1, 2013 (hereinafter "Spagnola Test.").

^{xvi} Spagnola Test., p. 25, ll. 6-13.

^{xvii} Joseph W. Fenton, *Mother upset over state not charging shooter of her son*, Vero Beach 32963 Online, http://vb32963online.com/STORIES%202011/AUGUST%202011/vb32963_summerplace_shooter_not_charged_iss ue34_082511.html (last visited Sept. 6, 2013).

^{xviii} Written Statement on Violence Against Women, Submitted by The Advocates for Human Rights, the University of Miami School of Law Human Rights Clinic and Legal Momentum, 109th Session of the United Nations Human Rights Committee, 13-31 October 2013.

^{xix} News Service of Florida, *'Stand Your Ground' At Issue In Broward School Bus Fight*, CBS Miami (Jul. 18, 2013), available at: <http://miami.cbslocal.com/2013/07/18/stand-your-ground-at-issue-in-broward-school-bus-fight/>. (Last accessed: Sept. 6, 2013)

^{xx} Human Rights Committee, General Comment 6: The Right to Life (Article 6) (1982). Available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument) (Last accessed: Sept. 5, 2013).