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## **TESTIMONY OF HILARY O. SHELTON**

*Director, NAACP Washington Bureau &  
Senior Vice President for Policy and Advocacy*

**Before the Senate Judiciary Subcommittee on the  
Constitution, Civil Rights, and Human Rights**

On

# **“Stand Your Ground” Laws: Civil Rights and Public Safety Implications of the Expanded Use of Deadly Force**

*Tuesday, September 17, 2013*



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Good morning, Senator Durbin, Senator Cruz, and esteemed members of this panel. Founded more than 104 years ago, in February of 1909, the National Association for the Advancement of Colored People, the NAACP, is our nation's oldest, largest, and most widely-recognized grassroots based civil rights organization. We currently have more than 2,200 membership units across the nation, with members in every one of the 50 states.

My name is Hilary Shelton, and I am the Director of the NAACP Washington Bureau and the Senior Vice President for Policy and Advocacy. I have been the Director of the NAACP Washington Bureau, our Association's federal legislative and political advocacy arm, for over 16 years. It is fair to say that during that time, few issues have caused as much angst and raised as many deeply held concerns among our members and the communities we serve as that of "Stand Your Ground" laws. These laws, and their application, have sadly resulted in no less than the murder of people who are doing nothing more than walking down the street.

**THE SPREAD OF "STAND YOUR GROUND" LAWS**

In 2005, Florida enacted a "Stand Your Ground" law, which gives individuals the right to use deadly force to defend themselves without any requirement to evade or retreat from a dangerous situation, if they claim they felt their life was being threatened. Since that time, 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. These states are, in addition to Florida: Alabama, Alaska, Arizona, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nevada, New Hampshire, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, and West Virginia. Since 2005,

four states have adopted similar laws, but they apply only when the shooter is in his or her car. These four states are: Missouri, North Dakota, Ohio, and Wisconsin. Finally, 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 enable 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. These seven states are: California, Idaho, Illinois, New Mexico, Oregon, Virginia, and Washington. 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.

So in total, a majority of the U.S. states, 34, currently have some type of "Stand Your Ground," also known as "shoot first" law. It is important to note that despite the current controversy surrounding Stand Your Ground laws, in 2013, so far, legislators in only seven states (Alabama, Florida, Mississippi, New Hampshire, North Carolina, Pennsylvania and Texas) have introduced legislation to weaken or repeal their shoot first laws, and no state has ever acted to in any way diminish its Stand Your Ground law. The lack of action is further exacerbated by the fact that in 2013 so far in twelve states (Alaska, Alabama, Colorado, Connecticut, Florida, Georgia, Iowa, Nevada, Oklahoma, Pennsylvania, Texas and West Virginia) legislation has been introduced which would actually establish or expand shoot first provisions<sup>1</sup>.

Ironically, in Florida, defense attorneys are using "stand your ground" in ways state legislators never envisioned. The defense has been invoked in dozens of cases with minor or no injuries. It has also been used by a self-described "vampire" in Pinellas County, a Miami man arrested with a single marijuana cigarette, a Fort Myers homeowner who shot a bear and a West Palm Beach jogger who beat a Jack Russell terrier<sup>2</sup>. For a comprehensive review of how Stand Your Ground has been used in the state of Florida, I would recommend the article, *Florida's 'stand your ground' law yields some shocking outcomes depending on how law is applied*, in the Tampa Bay Times dated June 1, 2012. For your information and enjoyment, I have attached it to my testimony (see attachment #1)

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<sup>1</sup> Coalition to Stop Gun Violence, <http://csgv.org/issues/shoot-first-laws/>

<sup>2</sup> *Florida's 'stand your ground' law yields some shocking outcomes depending on how law is applied*, Tampa Bay Times, June 1, 2012 <http://www.tampabay.com/news/publicsafety/crime/florida-stand-your-ground-law-yields-some-shocking-outcomes-depending-on/1233133>

## **THE DISPARATE IMPACT OF STAND YOUR GROUND LAWS**

The case involving Trayvon Martin and George Zimmerman has motivated national debates not only about Stand Your Ground laws and issues of the use of self defense, but also about race in America. There can be little debate about one fact, however: the American criminal justice system, including but not limited to Stand Your Ground laws, continues to be carried out in a racially biased manner, to the detriment of racial and ethnic minorities Americans. From the days of slavery, through years of lynchings, the black codes, and Jim Crow laws, and even today, too many aspect of our criminal justice code, from traffic stops to capital punishment, has always been deeply affected by race.

While such a statement is certainly quantifiable, as I will get to in a minute, I can also support this contention with an abundance of anecdotal evidence. Part of my job enables me to travel across our country, visiting and speaking with NAACP members and branches in cities and townships of all sizes. I can say unequivocally that at every stop I hear tell of NAACP members or their loved ones being treated unfairly by law enforcement with the perception that the disparate treatment is racially motivated. It is difficult for our faith in the American criminal justice system not to be challenged when our perception is that we cannot walk down the street, drive down an interstate, go through an airport, or even enter into our own homes without being stopped, or even worse, merely, we strongly believe, because of the color of our skin.

I hasten to add that the majority of law enforcement officials are hard working and courageous men and women, whose concern for the safety of those they are charged with protecting is paramount, even when their own safety is on the line. They are to be commended for their dedication and selflessness. However, if and when laws appear to be implemented in a racially unequal manner, the trust of law enforcement officials by the entire community can be, and will be, lost.

This perception is supported by hard data. The Urban Institute recently completed a study examining the Analysis of FBI Supplementary Homicide Report Data. The study found that homicides with a white perpetrator and an African American victim are ten times more likely to be ruled justified than cases with a black perpetrator and a white victim, and the gap is larger in states with Stand Your Ground laws. After accounting for a variety of factors, such as whether the victim and perpetrator were strangers, the gap is smaller, but still quite significant. Cases

with a white perpetrator and an African American victim are 281 percent more likely to be ruled justified than cases with a white perpetrator and white victim<sup>3</sup>.

In states with stand-your-ground laws, the shooting of an African American person by a white person is found justifiable 17 percent of the time, while the shooting of a white person by a black person is deemed justifiable just over 1 percent of the time, according to the study. In states without stand-your-ground laws, white-on-black shootings are found justified just over 9 percent of the time<sup>4</sup>.

An investigative report by the Tampa Bay Times last year also added more much-needed data to the debate surrounding the racially disparate impact of the stand your ground law in Florida. It analyzed 200 stand-your-ground cases in Florida and found that defendants who killed a black person were found not guilty 73 percent of the time, while those who killed a white person were found not guilty 59 percent of the time<sup>5</sup>.

Such findings “show that it’s just harder for black defendants to assert stand-your-ground defense if the victim is white, and easier for whites to raise a stand-your-ground defense if the victims are black,” says Darren Hutchinson, a law professor and civil rights law expert at the University of Florida in Gainesville. “The bottom line is that it’s really easy for juries to accept that whites had to defend themselves against persons of color.”<sup>6</sup>

### **THE ORIGINS OF “STAND YOUR GROUND LAWS”**

By all accounts, the various “Stand Your Ground” laws are just one of a package of social policies and proposed legislation which has been promoted throughout the fifty states by the American Legislative Exchange Council, or ALEC. ALEC, which was established in 1973, was first created to serve as a source for businesses – individual companies and corporations – to meet and interact with like-minded legislators and advance their agendas, usually at the state level.

At some point in the mid-2000’s, ALEC established its “Public Safety and Elections Task Force,” a group which strongly advanced “Stand Your Ground” type laws among the states, as well as other laws including laws promoting photo ID requirements for voting and private prisons. The

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<sup>3</sup> *Race, Justifiable Homicide, and Stand Your Ground Laws: Analysis of FBI Supplementary Homicide Report Data*, John K. Roman, July, 2013, the Urban Institute. <http://www.urban.org/UploadedPDF/412873-stand-your-ground.pdf>. p. 7

<sup>4</sup> Ibid, p. 8

<sup>5</sup> <http://www.tampabay.com/news/state-will-use-newspapers-analysis-for-stand-your-ground-review/1233646>

<sup>6</sup> [www.csmonitor.com/USA/Justice/2013/0806/Racial-bias-and-stand-your-ground-laws-what-the-data-show](http://www.csmonitor.com/USA/Justice/2013/0806/Racial-bias-and-stand-your-ground-laws-what-the-data-show)

Task Force would draft “model” legislation, which would be promoted at the state level by like-minded state legislators.

In April, 2012, ALEC announced that in light of the public outrage over the activities of the Public Safety and Elections Task Force that it was disbanding the task force, as it dealt with non-economic issues, and reinvesting the resources in the task forces that focus on the economy<sup>7</sup>. This decision to disband the Public Safety and Elections Task Force and to stop its promotion of non-economic policies was further avowed at a meeting almost exactly one year ago between the Executive Director of ALEC, the Chairman of its Board of Directors, and several representatives of the NAACP, including members of our national Board of Directors and me.

Yet I would argue that the disbandment of the Public Safety and Elections Task Force was too little, too late. The damage is still being done, and the work of the now defunct task force continues to wreak havoc across our country. Since April of 2012, when ALEC announced the termination of the task force, 62 proposed Stand Your Ground or voter Photo ID requirement bills, legislation using the ALEC model legislation language, have been introduced in states throughout the country<sup>8</sup>. Furthermore, since that time, five states enacted additional strict Voter ID restrictions, and two states passed recklessly dangerous Stand Your Ground laws. The disbanding of the Task Force has not resulted in the subsequent rescission of a single piece of ALEC-sponsored legislation.

It should be noted that in addition to the NAACP’s strong opposition to Stand Your Ground Laws and strict voter photo ID requirements, the NAACP is also opposed to numerous ALEC-sponsored legislation, including bills to expand states’ use of private prisons; diminish or eviscerate workers’ rights and benefits (including, but not limited to, workers in the public sector); encourage the use of taxpayer money on private educational institutions at the expense of public facilities; weaken environmental protections; defeat comprehensive health care reform; and promote reforms of state and federal liability laws so that it is harder for individuals to hold reckless, abusive or harmful businesses accountable for their products or actions. Many, if not all, of these initiatives are troubling, provocative, dangerous, ultimately racist in their implementation and in some cases, literally deadly.

## **SUMMARY**

The NAACP is staunchly opposed to “Stand Your Ground” laws. They are applied in a racially biased manner, and the bottom line is, as we saw in Sanford, FL, that they make it easier for

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<sup>7</sup> *ALEC Eliminates Task Force That Did NRA’s Bidding*, Media Matters, April 17, 2012, <http://mediamatters.org/blog/2012/04/17/alec-eliminates-task-force-that-did-nras-biddin/184470>

<sup>8</sup> *ALEC at 40: Turning Back the Clock on Progress and Prosperity* Center for Media and Democracy, 2013,

people to murder other human beings and not face any legal consequence. As such eviscerating any deterrent to gun related homicides, and even providing a road map to getting out of jail scot-free.

Numerous studies have shown that Stand Your Ground laws do not deter crime: to the contrary, “justifiable homicides” nearly doubled from 2000 to 2010 in states with Stand Your Ground laws, with a sharp increase after 2005, when Florida and 16 other states passed these immoral laws. While the overall homicide rates in those states stayed relatively flat, the average number of so-called “justifiable” homicide cases per year increased by more than 50% in the decade’s latter half<sup>9</sup>. One study also found that homicides overall increased by 500 to 700 per year in Stand Your Ground states<sup>10</sup>.

In addition to the added violence, however, which Stand Your Ground laws have precipitated, these laws are being carried out in such a dangerous, reckless, troubling, and frankly racist manner that they further erode the confidence of entire communities in the American judicial system, in their legislatures, and in the government itself. In order to restore this much-needed confidence, to save lives, and to make our neighborhoods and communities safer, the NAACP strongly encourages the repeal of all state Stand Your Ground laws and the restoration of sane and sensibly balanced policies of self defense that does not rely on antiquated and barbaric code of the old west, to shoot first and ask questions later.

U.S. Attorney General Eric Holder summed it up quite profoundly at the NAACP National Convention in Orlando, Florida on July 16, 2013, just 30 miles from Sanford, Florida. He stated that Stand Your Ground Laws “try to fix something that was never broken<sup>11</sup>.” They have solved no problems and have made American communities more dangerous. The complete text of Attorney General Holder’s comments is also attached to my testimony (see Attachment #2).

Thank you again, Senator Durbin, for your inspired leadership in this area. We stand ready to assist you.

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<sup>9</sup> *Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Expansions to Castle Doctrine* Cheng Cheng and Mark Hoekstra, Texas A & M University,

<sup>10</sup> Ibid

<sup>11</sup> “Attorney General Eric Holder Addresses the NAACP Annual Convention” July 16, 2013 <http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-130716.html>