

**Testimony before the U.S. Senate Judiciary Committee's Subcommittee on the
Constitution, Civil Rights, and Human Rights**

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

**John R. Lott, Jr.
President, Crime Prevention Research Center**

October 29, 2013

Thank you Chairman Durbin, Ranking Member Cruz, and distinguished members of the Subcommittee, for this opportunity to discuss “Stand Your Ground” laws. These laws help allow individuals to defend themselves. This is particularly important in high crime areas.

Over 30 states have adopted laws that remove the requirement for individuals who are defending themselves to retreat.¹ And these laws are hardly new. Some states have had these provisions for decades or even longer. The laws were often passed by overwhelming bipartisan majorities and signed into law by both Democrat and Republican governors. In many other states, such as California and Washington, these provisions originated in common law.

In the case of Florida, the law was passed unanimously by the state senate and by a 94 to 20 vote in the state house in 2005.² In 2004, then-state Senator Obama co-sponsored and voted for a bill that significantly broadened Illinois' 1961 Stand Your Ground law by providing immunity from civil liability for people who use deadly force to defend themselves or their property.³ With Democrats solidly in control of the state legislature and the governorship, this bill received overwhelming support: passing unanimously through state Senate and receiving just two “nay” votes in the state House before being signed by a Democratic governor.⁴

The difference between “Stand Your Ground” and “Castle Doctrine” laws is over where they apply, not what the rule is. Both laws remove the duty to retreat. Castle Doctrine laws apply to attacks within ones home as well as sometimes on one's property. Once you step off your property and onto the sidewalk Stand Your Ground laws apply.

Crime threatens people of all races and all political parties, and it is not surprising that these laws have been enacted with the support of politicians from all races and from both major parties.

Unfortunately, Stand Your Ground laws have recently become a racial issue. President Obama and Attorney General Holder has weighed in, linking race and Stand Your Ground laws.⁵ And on ABC News' This Week, Travis Smiley declared: "It appears to me, and I think many other persons in this country that you can in fact stand your ground

unless you are a black man."⁶

But the accusations have everything backwards over who benefits from the law. Poor blacks who live in high-crime urban areas are not only the most likely victims of crime, they are also the ones who benefit the most from Stand Your Ground laws. The laws make it easier for them to protect themselves when the police can't be there fast enough. Therefore, rules that make self-defense more difficult disproportionately impact blacks.

Blacks may make up 16.6 percent of Florida's population but account for 31 percent of the state's defendants invoking the Stand Your Ground defense. Black defendants who invoke this statute to justify their actions are actually acquitted 8 percentage points more frequently than whites who use this very same defense.

As most of you are aware, prior to "Stand Your Ground," citizens had to retreat as far as possible and then announce to the criminal that they were going to shoot. The "Stand Your Ground" law drops the original requirement to retreat. Nevertheless, under the law, lethal force is only justified when a reasonable person would believe that an attacker intends to inflict serious bodily harm or death and the response has to be proportionate to the threat.

One proposal advanced by the Trayvon Martin's family, the "Trayvon Martin Act," would amend Stand Your Ground laws to "make it illegal for a person acting in self-defense if that person was the initial aggressor." But Florida law already states that the Stand Your Ground provision is "not available to a person who . . . initially provokes the use of force against himself or herself, unless: (a) . . . he or she has exhausted every reasonable means to escape such danger other than the use of force which is likely to cause death or great bodily harm to the assailant . . . or (b) In good faith, the person withdraws from physical contact with the assailant and indicates clearly to the assailant that he or she desires to withdraw and terminate the use of force, but the assailant continues or resumes the use of force."⁷

The bottom line is simple: Under Stand Your Ground, if someone initially provokes another person, they must retreat.

Apparently forgotten are the reasons that "Stand Your Ground" laws exist. They originated to solve the real problems with the requirement to retreat. The required delay sometimes prevented people from defending themselves. Requiring an "appropriate retreat" adds additional confusion to those defending themselves and the concept is left to prosecutors to define. Sometimes overzealous prosecutors claimed that people who defended themselves could have retreated even farther (see Appendix for some cases).

Despite the ruckus over the law after the Zimmerman acquittal, his defense team never raised the "Stand Your Ground" law as a defense. This should be no surprise. After all, if Zimmerman was on his back and Martin held him down (as the forensic and eyewitness evidence indicates), Zimmerman had no option to retreat. So the law was completely

irrelevant.

The tragedies suffered by the Sybrina Fulton with her son Trayvon Martin dying and Lucia McBath's son Jordan Davis would mark any parent for the rest of their lives. But no matter how tragic is Martin's death, it simply had nothing to do with Stand Your Ground laws. While Jordan Davis' killer, Michael Dunn, is currently claiming a Stand Your Ground defense, if a reasonable person would not believe that Davis intended to inflict serious bodily harm or death on Dunn, Dunn should be convicted and severely punished. If what the prosecutors allege is true, Florida's Stand Your Ground law will not protect Dunn.

With so many states having these laws for so many years without controversy, possibly the most surprising fact that no state that has adopted such a law has ever rescinded it. The only way that we can evaluate Stand Your Ground laws is by looking at their net effect on lives saved. In Florida, for example, in contrast to the Martin and Davis cases, there are fifteen cases where black men, who were being threatened, defended themselves and successfully relied on this law in their defense, with their charges either being dropped or they were acquitted.⁸

There are other dramatic cases from around the country where Stand Your Ground laws have saved the lives of blacks. For example, take a case two years ago involving Darrell Standberry in Detroit. Standberry, who was faced by an armed man who was trying to take his car, told WJBK television in Detroit: "If it wasn't for [the] 'stand your ground' law, right now I would be in jail, and my life could've been taken at that point."⁹ Other news stories, such as a case from Duval county, Florida, a case decided just a couple weeks after the Zimmerman verdict, have headlines such as: "Man says 'stand your ground' law saved his life."¹⁰

Those who claim racism point to data compiled by the Tampa Bay Tribune. Up through July 24th this year, the newspaper had collected 112 cases where people charged with murder relied on Florida's Stand Your Ground law, starting with cases filed in 2006. Their "shocking" finding: 72 percent of those who killed a black person faced no penalty compared to 59 percent of those who killed a white.¹¹

The result for Hispanics, that 80 percent of those who killed Hispanics are not convicted, is never really discussed. If these results really imply discrimination, why would Hispanics in Florida be discriminated against so much more frequently than blacks?

Racism shouldn't be tolerated. Yet, precisely because of its seriousness, false accusations of racism are also unacceptable. Those making explosive claims of racism should carefully back up their claims. Unfortunately, the Tampa Bay Tribune data is being misused. Just because two people are charged with murder doesn't mean the two cases are identical. In particular, black and white victims were usually killed by their own race. Ninety percent of blacks who were killed in cases where Stand Your Ground was invoked as a defense were killed by other blacks. Similarly, the vast majority of those who killed whites were white; and all the people who killed Hispanics were

Hispanics.

Race of Killer and person Killed in Florida's Stand Your Ground Cases			
	Race of Person Killed		
Race of Person Claiming to have acted in Self-defense	Black	White	Hispanic
Black	90.0%	7.7%	0.0%
White	10.0%	84.6%	0.0%
Hispanic	0.0%	7.7%	100.0%

Again, since most blacks are killed by other blacks, the high rate that those who kill blacks face no penalty means that blacks who claim self-defense under the Stand Your Ground law are convicted at a lower rate than are whites. About 69 percent of blacks who raised the Stand Your Ground defense were not convicted compared to 62 percent for whites. Interestingly, Hispanics who raise the Stand Your Ground defense are successful the most often – 78 percent of the time.

If blacks are supposedly being discriminated against because their killers so often are not facing any penalty, wouldn't it also follow that blacks are being discriminated *in favor* of when blacks who claim self-defense under the Stand Your Ground law are convicted at a lower rate than are whites? If this is indeed a measure of discrimination, rather than merely reflecting something else different about these particular cases, why are conviction rates so low for Hispanics who raise the Stand Your Ground defense? It appears as if the figures used to support racism are cherry-picked from the data.

Probability of Not Being Convicted			
Race of Person Killed		Race of Person Claiming to have acted in Self-defense	
Black	72.2%	Black	68.6%
White	58.7%	White	61.5%
Hispanic	80.0%	Hispanic	77.8%

There were also other important differences in the cases, differences not reflected in the simple averages. Using the Tribune data, blacks killed in these confrontations were 13 percentage points more likely to be armed than whites who were killed, thus making it more plausible that their killers reasonably believed that they had little choice but to kill their attacker. By a 43 to 16 percent margin, the blacks killed were also more often in the process of committing a crime. Further, there were slightly more cases with a witness around when a black person was killed (by a 69 to 62 percent margin).

Besides information on the victim's and defendant's race and gender, the Tampa Bay Tribune collected a lot of other useful information on the cases: whether the victim initiated the confrontation, whether the defendant was on his own property when the

shooting occurred, whether there was physical evidence, whether the defendant pursued the victim, and the type of case (a drug deal gone bad, home invasion, etc.). This detailed information about cases is valuable and has not been available in other studies.¹²

Surprisingly, the Tribune never examined whether this additional data they collected might explain the different conviction rates for whites and blacks. When examining the cases more closely, it appears that there is no evidence of discrimination. While the results are not statistically significant, the regressions suggest that any racial bias would go the other way, that killing a black rather than a white increases the defendant's odds of being convicted. That result holds whether looks at only those cases in which one person was killed or those in which one or more people were killed.

The regressions I have run on the Tribune data also indicate that, under the same circumstance, white defendants are more likely to be convicted than black defendants (see Appendix). Whether the person killed initiated the confrontation and whether there was an eyewitness were the most important factors in helping to predict whether there was a conviction.

In the third edition of my book *More Guns, Less Crime*, I provided the first published peer-reviewed study examining Stand Your Ground laws using national data. I found that they lowered murder rates by about 9 percent and that overall violent crime rates also declined.^{13,14}

Urban Institute report and other evidence

In contrast to the Tampa Bay Tribune data, a recent Urban Institute study by John Roman claims to have found: “Stand Your Ground laws appear to exacerbate those [racial] differences, as cases over all are significantly more likely to be justified in SYG states than in non-SYG states.”¹⁵ Roman acknowledges that his data lacks details available in the Tampa Bay Tribune data: “The data here cannot completely address this problem because the setting of the incident cannot be observed.”¹⁶ Indeed, Roman’s estimates contain virtually none of the information available in the Tampa Bay Tribune data set. For example, his data has no information on whether an eyewitness saw the confrontation, or whether there existed physical evidence. And it has no information on who initiated the confrontation, where the attack occurred, or the type of case.¹⁷

Nevertheless, even using the limited information, Roman draws the wrong conclusion from his analysis. To the extent to which the Urban Institute study proves anything, it proves the *opposite* of what Roman claims.

Table 3 describes the likelihood a homicide is ruled justified when there is a single victim and single shooter, they are both male, they are strangers, and a firearm is used. In the six years of FBI data, this fact pattern occurred in 2,631 cases.

Table 3. Percentage of Homicides Ruled Justified, Martin Case Attributes, 2005-10

	Total	Non-Stand Your Ground states	Stand Your Ground states
White on white	16.28	12.95	23.58**
White on black	42.31	41.14***	44.71***
Black on white	8.57	7.69**	11.10
Black on black	10.14	10.24***	9.94***
Total	14.90	2.15***	3.67

Source: 2005-10 FBI Supplementary Homicide Reports.
 * $p < 0.05$; ** $p < 0.01$; *** $p < 0.001$

Roman’s evidence on how the racial composition of justifiable homicide cases differs between non-Stand Your Ground and Stand Your Ground states is shown in his Table 3 (reproduced here).¹⁸ The share of justifiable homicides for white on black is indeed higher in Stand Your Ground states (41.14 in non-Stand Your Ground states and 44.71 in Stand Your Ground states), though the difference isn’t statistically significant.¹⁹ But the increase for black on white justifiable homicides is much larger in percentage terms (7.69 in non-Stand Your Ground states and 11.10 in Stand Your Ground states). Indeed, in non-Stand Your Ground states, white on black justifiable homicides are 5.3 times greater than black on white ones, but that ratio falls by twenty percent, to 4.0 times, in Stand Your Ground states.²⁰

In addition, Roman’s data not only supports the notion that Stand Your Ground laws help blacks, but his data is actually biased against this finding. Roman doesn’t seem to recognize that there are biases in how the justifiable homicide data are collected. While typically about 35 states report this type of data,²¹ a large percentage of the jurisdictions even within those states don’t report such data. Police initially report the cases as criminal homicides. However, if a homicide is later determined to be “justifiable,” they frequently never go back and recode the data. The problem is greatest for deaths where the greatest amount of time has elapsed between the death and it is determined to be justifiable. Some evidence suggests that recoding is less likely to occur in the larger urban areas, where a greater percentage of crimes involves blacks.²² If so, the larger changes in shootings by whites found in Roman’s study could simply result for jurisdictional differences.

A second unpublished study is one by Mark Hoekstra and Cheng Cheng at Texas A&M University. It has also received some attention for claiming that Stand Your Ground laws “lead to more homicides. Estimates indicate that the laws increase homicides by a statistically significant 8 percent”²³ While Hoekstra and Cheng acknowledge that many states had adopted Stand Your Ground and Castle Doctrine laws prior to 2005, they do not explain why they exclude the passage of these laws from their analysis.²⁴ The issue is of particular concern given that previous work indicates that those excluded earlier states with Stand Your Ground laws showed drops in violent crime. Further,

Hoekstra and Cheng never explain why they only look at crime data from 2000 to 2010 when obviously all the data they use is available for decades prior to that period of time.

There are other questionable issues with the Hoekstra and Cheng study. For example, no other gun control laws were accounted for. It seems obvious that the impact of Stand Your Ground laws outside of people's homes will depend on how many people carry concealed handguns, yet Hoekstra and Cheng make no attempt to account for the number of concealed handgun permit holders in a state. As for the Castle Doctrine, the impact on the law depends on whether people can use guns defensively, which in turn hinges on guns being easily accessible rather than required to be locked away and unloaded. Yet, again, Hoekstra and Cheng make no attempt to account for changes in these storage laws. My research, which does account for these various factors, found that Stand Your Ground and Castle Doctrine laws reduce violent crime.²⁵

Conclusion

One great tragedy in the US today is that blacks are much more likely to be victims of violent crime. Police are important in protecting people, but as the police themselves understand, they can't be there all the time to protect victims. It is hardly surprising then that the evidence discussed here by both the Tampa Bay Tribune data and the Urban Institute study shows is that blacks are more likely than whites to have their homicides judged to be "justifiable." Blacks, who are most likely to be victims of violent crime, simply have to defend themselves more often. If there is any evidence that Stand Your Ground laws are applied with bias, it is that their application has been applied with bias against whites, not blacks. But it appears that all people benefit from these laws.

Appendix on examples of cases where prosecutors deemed the defendant had not retreated sufficiently before using their gun defensively

Here are some cases where people acting in self defense were prosecuted because prosecutors didn't think that they had retreated as far as possible before defending themselves.

-- Austin, Texas (1998) Man shot someone he had discover in his girlfriend's car. The shot was fired when the man lowered his hands and began to "turn around as though to attack."²⁶

-- Black Oak, Arkansas (February 1999): A 75-year-old man was knocked down twice, being kicked repeatedly. The second time that he was knocked down, the 75-year-old man pulled out his revolver and fatally shot the other man once in the chest.²⁷

-- East Baltimore, Maryland (June 2001): Two businessmen were acquitted of gunning down a drug addict who had broken into their warehouse.²⁸

-- Palmer, AK (October 2003): A preacher was acquitted of two counts of manslaughter. Two men who were burglarizing the chapel at about 5 AM charged the preacher who shot them.²⁹

-- West Palm Beach, Florida (October 2006): Norman Borden was walking his dogs at 2 AM when three men approached him. The men threatened to hurt Borden's dogs. At that point Borden showed them his gun and they left. However they returned armed with bats and "they headed straight to Borden, and he fired."³⁰

-- Georgia (November 2006): John McNeil, a black man, shot Brian Epp, who was white. Epp had allegedly threatened McNeil's son and refused to leave McNeil's property. McNeil was convicted, but he was released early from his prison term. "State NAACP President Rev. William Barber called Tuesday's release 'a kind of partial repentance' by the Georgia criminal justice system."³¹

Data Appendix: Running Regressions on the Tampa Bay Tribune Data

The Tribune has collected a lot of information on everything from the race and gender of the person shot and the shooter to the following questions:

Did the victim initiate the confrontation?

Was the victim armed?

Was the victim committing a crime that led to the confrontation?

Did the defendant pursue the victim?

Could the defendant have retreated to avoid the conflict?

Was the defendant on his or her property?

Did someone witness the attack?
Was there physical evidence?

Case type

Alleged Home Invasion
Alleged sexual assault
Argument over love interest
Argument turned violent
Attempted car theft
Attempted home invasion
Attempted robbery
Burglary
Citizen enforcing the law
Dispute over money/property
Domestic argument
Domestic dispute
Drug deal gone bad
Fight at bar/party
Home invasion
Neighborhood dispute
Retaliation
Road Rage
Robbery
Roommate Dispute
Teenage bullying
Trespassing
Unknown
Unprovoked attack

Case year

The regression looking at the odds of someone being convicted of murder for those who have killed one or more people are shown here:

```
. xi: logit convicted VictimHispanic VictimWhite VictimBlack  
VictimMale DefendantHispanic DefendantWhite DefendantBlack  
DefendantMale DidVictimInitiateConfrontation  
WasTheVictimArmed WasVictimCommittingCrime  
DidDefendantPursueVictim CouldDefendantRetreat  
WasDefendantonHisProperty DidSomeoneWitnessAttack  
WasTherePhysicalEvidence othermurdered casetype_2-  
casetype_25 year_2006-year_2012 if pending=="Decided", or  
robust
```

Logistic regression

Number of obs = 78
Wald chi2(32) = .

Log pseudolikelihood = -22.785937 Prob > chi2 = .
Pseudo R2 = 0.5735

convicted	Odds Ratio	Robust Std. Err.	z	P> z
VictimHisp~c	.0000949	.0003103	-2.83	0.005
VictimWhite	.238639	.4879525	-0.70	0.483
VictimBlack	3.390464	9.382387	0.44	0.659
DefendantH~c	5.55e-13	1.35e-12	-11.61	0.000
DefendantW~e	7.55e-11	2.26e-10	-7.78	0.000
DefendantB~k	1.91e-12	.	.	.
DefendantM~e	.2819811	.5277879	-0.68	0.499
DidVictimI~n	.0078562	.0144318	-2.64	0.008
WastheVict~d	.0895871	.2060086	-1.05	0.294
WasVictimC~e	2.951656	9.628308	0.33	0.740
DidDefenda~m	1.935009	3.692359	0.35	0.729
CouldDefen~t	1.207219	1.75638	0.13	0.897
WasDefenda~y	3.68262	2.776331	1.73	0.084
DidSomeone~k	34.60143	52.71921	2.33	0.020
WasTherePh~e	.236634	.2656798	-1.28	0.199
othermurde~d	54.95588	119.1862	1.85	0.065
casetype_3	240.5917	643.6653	2.05	0.040
casetype_4	71.61738	152.6067	2.00	0.045
casetype_8	4369.197	16026.35	2.29	0.022
casetype_9	1132.737	3854.253	2.07	0.039
casetype_10	183.0676	402.9866	2.37	0.018
casetype_12	468.6694	1215.575	2.37	0.018
casetype_13	553160.6	2506482	2.92	0.004
casetype_14	1170.289	3029.217	2.73	0.006
casetype_15	84.6564	416.3267	0.90	0.367
casetype_17	24.15446	60.33759	1.27	0.202
casetype_25	37.81938	87.88588	1.56	0.118
year_2006	.1661872	.3844092	-0.78	0.438
year_2007	.0113472	.0417041	-1.22	0.223
year_2008	.0095219	.0326906	-1.36	0.175
year_2009	.3936484	.9631961	-0.38	0.703
year_2010	44.73127	123.881	1.37	0.170
year_2011	.0005799	.001551	-2.79	0.005

Note: 0 failures and 1 success completely determined.

The regression looking at the odds of someone being convicted of murder for those who have killed one person is shown here:

xi: logit convicted VictimHispanic VictimWhite VictimBlack
VictimMale DefendantHispanic DefendantWhite DefendantBlack

```

DefendantMale DidVictimInitiateConfrontation
WastheVictimArmed WasVictimCommittingCrime
DidDefendantPursueVictim CouldDefendantRetreat
WasDefendantonHisProperty DidSomeoneWitnessAttack
WasTherePhysicalEvidence othermurdered casetype_2-
casetype_25 year_2006-year_2012 if pending=="Decided" &
MurderVictim2sRace == "NA", or robust

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Logistic regression
Number of obs =    66
Wald chi2(29) =    .
Prob > chi2 =    .
Log pseudolikelihood = -20.7842 Pseudo R2 = 0.5408

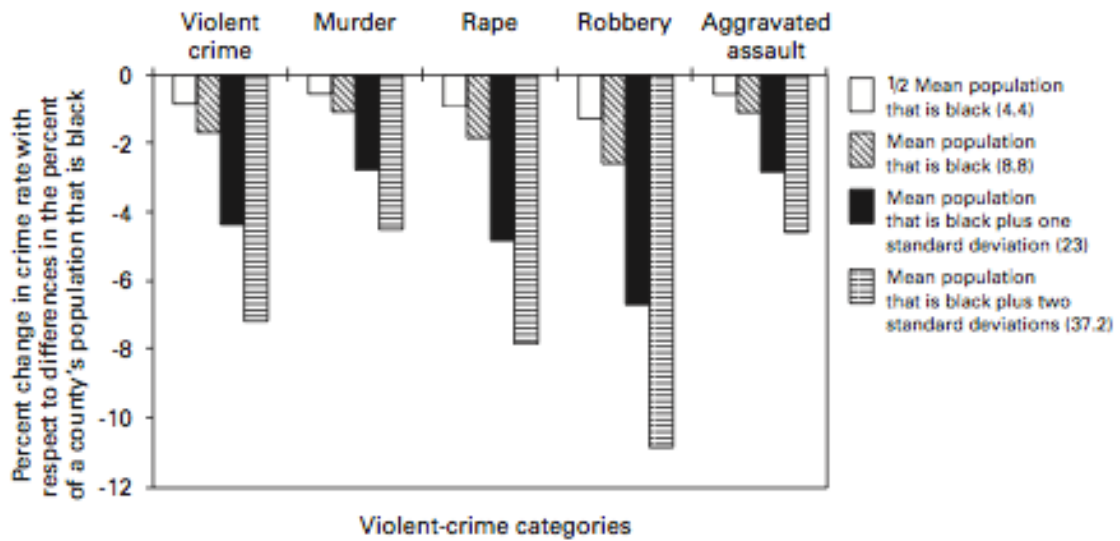
```

convicted	Odds Ratio	Robust Std. Err.	z	P> z
VictimHisp~c	.0009022	.002332	-2.71	0.007
VictimWhite	.4247123	.9166847	-0.40	0.692
VictimBlack	1.174415	4.496167	0.04	0.967
DefendantW~e	34.6601	89.92937	1.37	0.172
DefendantB~k	4.915077	12.41981	0.63	0.529
DefendantM~e	.340511	.5529446	-0.66	0.507
DidVictimI~n	.0137108	.0348234	-1.69	0.091
WastheVict~d	.0721759	.2389135	-0.79	0.427
WasVictimC~e	3.043378	12.33578	0.27	0.784
DidDefenda~m	1.635232	3.278233	0.25	0.806
CouldDefen~t	1.475613	2.438766	0.24	0.814
WasDefenda~y	4.778653	5.087016	1.47	0.142
DidSomeone~k	22.62614	40.55751	1.74	0.082
WasTherePh~e	.2503723	.2216539	-1.56	0.118
casetype_3	7.49e+08	1.75e+09	8.77	0.000
casetype_4	8.24e+08	2.21e+09	7.63	0.000
casetype_8	1.74e+10	3.81e+10	10.76	0.000
casetype_9	2.10e+09	5.48e+09	8.22	0.000
casetype_10	1.60e+09	2.58e+09	13.13	0.000
casetype_12	1.84e+09	5.58e+09	7.04	0.000
casetype_13	1.08e+12	3.20e+12	9.37	0.000
casetype_14	1.46e+09	4.26e+09	7.24	0.000
casetype_15	4.84e+08	1.89e+09	5.12	0.000
casetype_17	1.11e+08	3.26e+08	6.34	0.000
casetype_25	2.62e+08	.	.	.
year_2006	.6355305	1.720501	-0.17	0.867
year_2007	.0931599	.4768633	-0.46	0.643
year_2008	.0573326	.2092783	-0.78	0.434
year_2009	1.008875	2.457142	0.00	0.997
year_2010	63.62403	200.2368	1.32	0.187

Note: 1 failure and 0 successes completely determined

Appendix: Reduction in Crime Rates from Right-to-carry laws based upon the percentage of the population that is black

Results shown on page 183 of the third edition of *More Guns, Less Crime* (University of Chicago Press, 2010).



Endnotes

¹ John R. Lott, Jr., *More Guns, Less Crime* (University of Chicago Press, 2010, 3rd edition).

² There were 38 Democrats in the state House at that vote and the Democrats were almost equally divided in the state Senate. The legislative history for “HB 249 CS - Protection of Persons and Property” is available here (<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=15498>).

³ “Stand Whose Ground: President Obama vs. Senator Obama,” *Wall Street Journal*, July 23, 2013 (<http://online.wsj.com/article/SB10001424127887324783204578622102597966828.html>).

⁴ John Fund, “Obama Voted to Strengthen Illinois’s Stand Your Ground Law in 2004,” *National Review Online*, July 22, 2013 (<http://www.nationalreview.com/corner/354059/obama-voted-strengthen-illinois-stand-your-ground-law-2004-john-fund>).

⁵ Attorney General Eric Holder claimed that repealing “Stand Your Ground” laws would help blacks. Patrick Howley, “Blacks benefit from Florida ‘Stand Your Ground’ law at disproportionate rate,” *The Daily Caller*, July 16, 2013 (<http://dailycaller.com/2013/07/16/blacks-benefit-from-florida-stand-your-ground-law-at-disproportionate-rate/>).

President Obama has made many comments on the subject. In one comment, President Obama noted: “If I had a son, he’d look like Trayvon.” Jeff Mason and Daniel Trotta, “Obama gets personal over killing of black Florida teenager,” *Reuters*, March 23, 2012 (<http://www.reuters.com/article/2012/03/23/us-florida-shooting-obama-idUSBRE82M0QF20120323>).

⁶ Alyssa Giannirakis, “Tavis Smiley: You Can ‘Stand Your Ground Unless You Are A Black Man’,” *ABC News*, July 14, 2013 (<http://abcnews.go.com/blogs/politics/2013/07/tavis-smiley-you-can-stand-your-ground-unless-you-are-a-black-man/>).

⁷ The 2011 Florida Statutes, Title XLVI, CRIMES, Chapter 776 Justifiable Use of Force, 776.012: Use of force in defense of person (<http://www.husseinandwebber.com/florida-stand-your-ground-statute.html>). The provisions are the same for other states, such as Pennsylvania (<http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/18/00.005.005.000..HTM>).

⁸ These are cases from the beginning of 2006 to July 24th, 2013. “Florida’s Stand Your Ground Law,” *Tampa Bay Times*, August 10, 2013 (<http://www.tampabay.com/stand-your-ground-law/fatal-cases>). A breakdown of fatal cases where they classify the accused is black and the victim is white finds four cases where the charges were dropped or the black was found “not guilty.”

⁹ Randy Wimbley, “Detroit man says 'stand your ground' kept him out of prison,” *Fox 2 News*, August 2, 2013 (<http://www.myfoxdetroit.com/story/23035397/detroit-man-says-stand-your-ground-kept-him-out-of-prison>).

¹⁰ Leslie Coursey, “Man says ‘stand your ground’ law saved his life,” *WTEV Channel 47* in Jacksonville, July 26, 2013

(<http://www.actionnewsjax.com/content/topstories/story/Man-says-stand-your-ground-law-saved-his-life/SQNPxo275UqMpfF-7g8iOQ.csp>).

¹¹ Using earlier data, the Tampa Bay Tribune had reported the percent of those who killed a black person and faced no penalty as 71 percent.

¹² John Roman, "Race, Justifiable Homicide, and Stand Your Ground Laws," The Urban Institute, July 2013 (<http://www.urban.org/UploadedPDF/412873-stand-your-ground.pdf>). Roman concluded that when white defenders kill black attackers, "the justifiable homicide rate is 34 percent," compared to a 3% rate when the defender is black and the attacker white. Roman concludes that this proves racism, but there is one big problem with this discussion: it assumes that the underlying true rate of justifiable homicides for the two groups of cases is the same. If the underlying rates are different, there could be no discrimination or even the opposite discrimination of what is claimed.

This paper also doesn't understand how the FBI's justifiable homicide data is measured. While often about 35 states report this data, a large percentage of the jurisdictions in even those states don't report the data. What states and what jurisdictions within those states report this data changes dramatically over time. The implication is any changes over time might simply arise from changes in the states or portions of states that are reporting this data. The biggest problem involves how this data is collected. Police initially report the cases as criminal homicides. If it's later determined to be justifiable, they don't frequently don't go back and recode the data. The problem is greatest for those deaths where the greatest amount of time elapses between the death and it is determined to be justifiable. There is also some evidence that recoding is less likely to occur in the larger urban areas where you are likely to have a greater percentage of crime involving blacks. If so, the larger changes in shootings by whites found in Roman's study would simply result for jurisdictional differences. John Barnes, "Justified to kill: Why there are more self-defense killings in Michigan than anyone knows," MLive, June 12, 2012 (http://www.mlive.com/news/index.ssf/2012/06/justified_to_kill_why_there_ar.html).

¹³ John R. Lott, Jr., *More Guns, Less Crime* (University of Chicago Press, 2010, 3rd edition).

¹⁴ Other research by Cheng and Hoekstra (December 2012) claims to find increases in murder rates with the adoption of Castle Doctrine and Stand Your Ground type laws, but there are several unexplained issues with the paper: no explanation is offered for why only laws instituted after September 2005 are studied and there is no attempt to account for other types of gun control laws such as Right-to-carry laws. This last one is particularly important because the extent to which the Stand Your Ground law should have an effect should vary with the percent of the population with concealed handgun permits. Cheng Cheng and Mark Hoekstra, "Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Castle Doctrine," Texas A&M University Working Paper (December 17, 2012).

¹⁵ John K. Roman, *Race, Justifiable Homicide, and Stand Your Ground Laws: Analysis of FBI Supplementary Homicide Report Data*, URBAN INSTITUTE, (July 2013): p. 9.

¹⁶ John K. Roman, *Race, Justifiable Homicide, and Stand Your Ground Laws: Analysis of FBI Supplementary Homicide Report Data*, URBAN INSTITUTE, (July 2013): p. 11.

¹⁷ Roman notes: “Several facts about the Martin homicide are known. Zimmerman and Martin were strangers, they were the only two people involved in the incident, neither was law enforcement, a handgun was used in the homicide, Zimmerman was white, Martin was black, and Zimmerman was older than Martin.” But this is only a small of the information available in the Tampa Bay Tribune data set that is listed out in the appendix. John K. Roman, *Race, Justifiable Homicide, and Stand Your Ground Laws: Analysis of FBI Supplementary Homicide Report Data*, URBAN INSTITUTE, (July 2013): p. 9.

¹⁸ Note that Roman’s analysis is hardly typical. The preferred way academics analyze such data is a panel analysis where the change in a state’s justified homicide rate would be looked at before and after a state adopts a Stand Your Ground law. Looking at changes in each state before and after a law changes is crucial for trying to take into account differences across states. But his analysis, with no explanation, departs from the traditional analysis: arbitrarily lumping states into 10 different groups makes it impossible to see if there is a change in a state’s justifiable homicide rate after that particular state changes its law.

¹⁹ Roman provides information on whether these estimates are statistically significantly different from zero, but not on whether they are statistically different from each other.

²⁰ The estimates in Roman’s Table 4 could have dealt with this question by interacting the coefficients for black on black, white on black, and black on white with the Stand Your Ground dummy variable to see how those race coefficient variables change with whether the Stand Your Ground law is in effect.

²¹ “More Killings Called Self-defense,” Wall Street Journal, April 2, 2012 (<http://online.wsj.com/news/interactive/STAND0330?ref=SB10001424052702303404704577311873214574462>).

²² John Barnes, “Justified to kill: Why there are more self-defense killings in Michigan than anyone knows,” MLive, June 12, 2012 (http://www.mlive.com/news/index.ssf/2012/06/justified_to_kill_why_there_ar.html).

²³ Mark Hoekstra & Cheng Cheng, *Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from the Castle Doctrine*. Texas A&M University working paper, (December 17, 2012): p. 4, available at <http://ssrn.com/abstract=2079878>.

²⁴ See John R. Lott, Jr., *More Guns, Less Crime* (University of Chicago Press, 2010, 3rd edition): p. 332 for a list. For example, even during the period from 2000 to 2004, state law changes are ignored. Utah’s 2003 change is not included. And major changes in Illinois’ law in 2004 are also not included.

²⁵ John R. Lott, Jr., *More Guns, Less Crime* (University of Chicago Press, 2010, 3rd edition): Chapter 10 and particularly pp. 330-333.

²⁶ Leah Quinn, “Saustrop acquitted in 1998 killing; Jurors reach their verdict three hours after telling judge they were deadlocked,” The Austin-American Statesman, May 27, 2000.

²⁷ Associated Press, “Jury Sent Home, to Return and Continue Deliberations,” Associated Press Newswire, Sept. 28, 1999. Associated Press, “Man Killed After Argument,” Associated Press Newswire, Feb. 26, 1999. Associated Press, “Wallace Found Guilty of Negligent Homicide,” Associated Press Newswire, Sept. 29, 1999.

²⁸ Allison Klein, “Judge acquits two men who shot intruder,” Baltimore Sun, January 24, 2003.

²⁹ Phillip D. Mielke, “Pastor acquitted in fatal shooting of intruders at his church,” Associated Press (AK), October 27, 2003.

³⁰ Nancy L. Othon, “Free but in fear of reprisal man acquitted of murder, but living under threat,” South Florida Sun Sentinel, July 1, 2007.

³¹ “Wilson man released from Georgia prison after six years,” WRAL, February 13, 2013 (<http://www.wral.com/wilson-native-who-maintained-innocence-to-go-free-tuesday/12096265/>)