

Assistant Majority Leader Dick Durbin  
Chairman, Judiciary 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”

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**As Prepared for Delivery**

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The debate over “stand your ground” laws raises fundamental questions about self-defense in America.

In recent years, we’ve seen a dramatic increase in laws expanding the situations in which a person can legally use deadly force in response to a perceived threat. Florida passed the first of this new wave of “stand your ground” laws in 2005.

Prior to 2005, Florida law held that a person outside his home could not use deadly force and then claim self-defense if the person could have safely avoided the confrontation. This “duty of safe retreat” sought to prevent public disputes from escalating into violence.

But the gun lobby pushed to change Florida’s law so people could shoot someone who threatened them without trying first to avoid a confrontation.

Florida wasn’t the first state to adopt this “stand your ground” principle, but Florida’s 2005 law expanded the principle in dramatic new ways:

- The law grants criminal and civil immunity for uses of deadly force in “stand your ground” situations;
- It replaces a defendant’s burden of proving reasonableness with a presumption of reasonableness when the defendant shoots anyone who intrudes upon his home, porch or vehicle;
- And it even allows the use of deadly force when a threat is not imminent.

The gun lobby wanted to spread Florida’s law across the nation. So the National Rifle Association went to ALEC, the American Legislative Exchange Council, and asked them to promote it.

ALEC is an organization that brings corporate lobbyists and state legislators together for conferences where they draft model bills that they then work to get enacted.

In 2005, ALEC adopted model legislation that was nearly identical to Florida’s law. They then began shopping it in statehouses. Within a year, 13 more states had passed similar laws. Today 25 states, not counting Florida, have passed a law based in whole or in part on the ALEC model.

ALEC called the enactment of these laws one of “ALEC’s successes.” CNN described ALEC as being “behind the spread of stand your ground laws” and the Wall Street Journal said ALEC was a “key advocate” for them.

Now that ALEC-style “stand your ground” laws are in effect for over half the country, we are seeing their national impact when it comes to public safety and civil rights. As we will hear from our witnesses today:

- The laws have led to increases in homicides and firearm injuries - including 600 additional homicides per year - with no deterrent effect on other crimes like robbery or assault. This point was made in several studies, including recent research from Texas A&M University.
- The laws have allowed shooters to walk free in shocking situations - shootouts between rival gangs, drug deals gone bad, and more. This point will be made by the testimony of David LaBahn, President and CEO of the Association of Prosecuting Attorneys.
- In some devastating cases, the laws have emboldened those who carry guns to initiate confrontations where they end up killing unarmed children. The testimonies of Sybrina Fulton and Lucy McBath about the devastating losses of their sons make that point more effectively than I ever could.
- And the laws increase racial disparities in the justice system. One study found that in “stand your ground” states nearly 17% of homicides involving white shooters and black victims were ruled justified, compared to only 1% of homicides with black shooters and white victims. Also, at my request, the Congressional Research Service analyzed FBI data on justifiable homicides before and after the 2005 wave of “stand your ground” laws and found that racial disparities clearly increased. I will put this CRS memo in the record.

It is time for “stand your ground” laws to be carefully reconsidered. Whatever the motivations were behind the passage of these laws, it is clear that these laws often go too far in encouraging confrontations to escalate into deadly violence. They are resulting in unnecessary tragedies, and they are diminishing accountability under the justice system.

I’m pleased that efforts to reconsider these laws are now underway. Earlier this month, one of the legislators who drafted Florida’s law joined with one of its chief opponents in a bipartisan effort to revise the law. Those revisions have now passed in a State Senate Committee.

Much more needs to be done. But we seem to be moving past the question of whether “stand your ground” laws should be fixed and are now looking at how best to fix them. I urge other states that have “stand your ground” laws to revisit them as well.

To the extent that “stand your ground” laws were passed based on the ALEC model, I would note that few who are connected with ALEC appear wedded to that model today.

In fact, I reached out to every company and organization that was publicly listed as a member or sponsor of ALEC since 2005 to ask if they supported ALEC’s model bill. I heard back from over 140 of them, and only one said yes, they did support it. Even ALEC issued a statement saying they no longer have a policy on “stand your ground.”

It is also important that Congress review “stand your ground” laws because of the way proposed federal legislation implicates those laws.

Just this past April, 57 Senators voted for a gun lobby amendment that would allow a person who receives a concealed carry permit in one state to carry his gun in every state – even if the person would be disqualified from getting a permit in other states because of misdemeanor convictions, inadequate training or other factors.

Congress should think carefully about how proposals like this would mix with “stand your ground” laws.

Today, we have before us a distinguished lineup of witnesses who will talk about the impact of “stand your ground” laws on public safety, civil rights, and American families, and the ways we can work to fix them. I look forward to their testimony.