



**Testimony of Kathy Griesmyer
OPPOSE SB 1313: Stand Your Ground
Before Senate State Affairs Committee
February 26, 2018**

The ACLU of Idaho stands before you in opposition to SB 1313 which aims to amend Idaho's current justifiable homicide and self-defense statutes and instead introduces controversial "Stand Your Ground" (SYG) and "Castle Doctrine" gun law into Idaho Code. This bill would give an individual the right to use deadly force to defend themselves without a duty to retreat from a dangerous situation if the individual believes force is necessary to prevent their death or serious bodily injury. This raises serious concerns regarding increases in vigilante justice, loss of due process, and a rise in racial disparities regarding the application of SYG defenses.

First and foremost, SB 1313 is unnecessary. Idaho law currently recognizes one's right to self-defense, and it does not include a duty to retreat. Even further - Idaho law already allows a person to use force—including deadly force—in self-defense whenever the use of force is reasonable under the circumstances.¹ This reasonableness requirement gives Idahoans the ability to protect themselves while recognizing that it is always better to avoid taking a life if possible. Instead, SYG laws are associated with a clear increase in homicides² and evidence strongly indicates that these laws do not deter crime.³

SYG laws jeopardize the well-respected principle of due process. The most serious deprivation of liberty that a person can inflict is killing another individual. The irreversibility of a homicide means that an error discovered after a death has occurred cannot be corrected. By increasing the circumstances in which private individuals may use lethal force without fear of legal consequences, SYG laws increase the number of people who are killed without due process of law. For example, since the passage of Florida's SYG law in 2005, the number of justifiable homicides has tripled, according to Florida Department of Law Enforcement data.⁴ In the five years before the law's passage, Florida prosecutors declared "justifiable" an average of 12 killings by private citizens each year. In the five years after the law passed, that number spiked to an average of 36 justifiable killings per year.⁵ FBI statistics confirm similar increases in a number of other states with SYG laws.⁶ Prior to the passage of Georgia's SYG law, prosecutors found "justifiable" an average of 7 killings by private citizens each year; since the law was passed, the average number is 14 killings a year.⁷ In Texas, the average was 26 "justifiable" killings a

¹ State v. McGreevey, 105 P. 1047, 1051 (Idaho 1909); see also State v. Iverson, 316 P.3d 682, 690 (Idaho Ct. App. 2014).

² Fisher, M., & Eggen, D. (2012, April 7). 'Stand your ground' laws coincide with jump in justifiable-homicide cases. *Washington Post*. Retrieved from <http://wapo.st/2fZbeSM>.

³ Cheng, C., & Hoekstra, M. (2012). *Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Castle Doctrine*. Cambridge, MA: National Bureau of Economic Research. <http://bit.ly/2awzR9J>.

⁴ Fisher & Eggen, *supra* note 6.

⁵ *Id.*

⁶ *Id.*; Bloomberg: Stand Your Ground Has Made America Less Safe (MSNBC television broadcast, Apr. 11, 2012).

⁷ Bloomberg, *supra* note 98.

year; now the number averages 45 a year.⁸ Overall, there has been a 25 percent increase in justifiable civilian killings since 2005, when SYG laws began to sweep the nation.⁹

SB 1313 also has the potential to endanger the lives of Black, Hispanic and other Idahoans of color across the state by exacerbating racial disparities and implicit bias. Research has consistently shown that Black people in particular are perceived to be more dangerous than White people. An Urban Institute study examining data from the Federal Bureau of Investigations Supplementary Homicide Report found that juries are more likely to find that a killing was justified when the shooter is white and the victim black. Conversely, when the victim was white and the shooter was not, the shooter is more likely to face legal consequences.¹⁰ For example, consider the Florida case of Marissa Alexander. She is a 36-year-old black mother of three and a domestic violence victim who was sentenced to 20 years in prison after a jury rejected her claim to a stand your ground defense. She had fired a warning shot into the air to scare off her abuser husband who had threatened her days after she gave birth to her daughter. She ended up serving almost half a decade in prison before being released earlier this year.¹¹

This racial disparity is detailed in a blog post that cites to an Urban Institute report by the same author, John Roman, published in July 2013, which concludes:

“According to a statistical analysis of homicides drawn from the Supplemental Homicide Reports between the years of 2005 and 2010, cases involving a white shooter and a white victim are ruled justifiable less than 2 percent of the time. If the shooter is black and the victim white, the rate of justifiable cases falls to below 1 percent. If, however, the shooter is white and the victim is black, the shootings are deemed justifiable 9.5 percent of the cases in non-Stand Your Ground states. In Stand Your Ground states, that rate jumps to about 17 percent. Now take a situation similar to the Zimmerman case, which involves a homicide between a shooter and victim, neither being law enforcement, both men, and a firearm used to kill. A little less than 3 percent of black shooter and white victim homicides are deemed justifiable, while white shooter and black victim homicides are ruled to be justifiable about 29 percent in non-Stand Your Ground States and almost 36 percent in Stand Your Ground states.”¹²

Racial disparities are already well established in Idaho. According to the Sentencing Project, Idaho ranks 15th in the country for highest incarceration rates of Black prisoners per capita – despite Black community members only representing .80 % of Idaho’s total population. Idaho also ranks 2nd in the country for highest incarceration rates of Hispanic prisoners per capita – despite Hispanic community

⁸ *Id.*

⁹ Henry Enten, et. al., ‘Justified’ homicides up 25 percent since states passed Stand Your Ground Laws, THE GUARDIAN (Apr. 5, 2012).

¹⁰ John Roman, Ph.D., *Race, Justifiable Homicide, and Stand Your Ground Laws: Analysis of FBI Supplementary Homicide Report Data*, Urban Institute, 6-10 (2013).

¹¹ Hauser, Christine. “Florida Woman Whose ‘Stand Your Ground’ Defense Was Rejected Is Released.” *New York Times*. 07 Feb. 2017. Web 25 Feb. 2017 <https://www.nytimes.com/2017/02/07/us/marissa-alexander-released-stand-your-ground.html>

¹² *Id.*



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members only representing 12.3% of Idaho's total population. We should be working to overcome racial disparities in Idaho, not exacerbating them by enacting legislation that will only further entrench divisions in our community.

With common law principles and current Idaho law, Idahoans already have the right to defend themselves with appropriate force in situations where they face imminent harm and safe retreat is not an option. SYG laws have nothing to do with legitimate self-defense, but instead open the door for violent, sometimes fatal, mistakes; unnecessary and avoidable escalation of overheated situations; and vigilantism. For these reasons, we ask you to vote no and hold SB 1313 in committee.