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OPPOSING VIEWS

Truth About “Stand Your Ground” Self-Defense Laws

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In recent days a great deal of ill-informed commentary has appeared about the “stand your ground” self-defense law enacted in Florida and many other states since 2005 ([earlier](#)) and how if at all it applies to the February 26 confrontation between George Zimmerman and Trayvon Martin. The *Orlando Sentinel* invited me to sort things out for readers and the resulting op-ed is [here](#).

Much of the piece is devoted to clearing away myths:

Let's start with one of the most common misreadings of the law, namely that (in the words of Washington Post columnist [E.J. Dionne](#)) it sets out a rule of “Feel threatened, just shoot.” Florida law justifies lethal self-defense in a public place only under reasonable belief that force is necessary to prevent imminent death or great bodily harm.

Belief that's not reasonable is of no account. No wonder, according to [Sentinel reporting](#), Central Florida police regularly arrest people who try to claim self-defense after committing violent acts, and courts regularly convict them. That's consistent with the “stand your ground” law.

The best-known provision of “stand your ground” rejects the so-called “duty to retreat.” Under that rule, prosecutors could sometimes overcome an otherwise valid claim of self-defense by arguing that you could have safely fled your attacker. But — to clear up another misconception — the old duty of retreat would not have put Zimmerman at fault for following Trayvon around the neighborhood. Instead it came into play only when a confrontation had boiled up to a point of imminent violence.

Evidence remains inconclusive on some crucial points, in particular what happened immediately before the two men got into a scuffle in which Martin inflicted injuries on Zimmerman, who then shot him. (Jacob Sullum has a [good summary](#) of the current state of reporting, which is changing rapidly.) Under most likely scenarios, however, Zimmerman's guilt or innocence as a substantive matter is the same under Stand Your Ground as under Florida's pre-2005 law, because the prosecutors' case probably would not hinge on the “duty to retreat.” The 2005 law does afford him some procedural advantages, however; and it also has a number of other provisions (applying to immunity in defense of property and of third parties' safety, for example) that may well be worth a second look but are not relevant to the Martin/Zimmerman case. On the key legal issue of “provocation” as it applies to violent fights, by the way, Michael Mannheimer has a [very useful post](#) at PrawfsBlawg. You can read my new *Orlando Sentinel* piece [here](#).