



The debate over stand-your-ground laws, explained

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Markeis McGlockton parks his car and heads into a convenience store with his five-year-old son.

A few minutes later, he notices a man screaming and cursing at his girlfriend, who is waiting in the vehicle with their younger children. McGlockton rushes out and pushes the man to the ground. The man draws a concealed handgun. McGlockton backs away, hands raised, but the man shoots him in the chest anyway. McGlockton retreats to the convenience store where he collapses in front of his son.

Or perhaps the story goes like this: Michael Drejka sees a man park illegally in a handicap-accessible spot. He confronts the woman sitting in the car about their uncourteous behavior, and the argument escalates. From nowhere, the man returns to the vehicle and violently slams Drejka to the ground. Fearing for his safety, Drejka draws his firearm and justifiably shoots the man once in the chest.

These two ways of understanding the death of Markeis McGlockton stand at the heart of the debate over stand-your-ground laws—self-defense laws that have been enacted in roughly half of all U.S. states—and his tragic death has reignited questions over the effectiveness of these laws and whether their enforcement is disproportionately affected by implicit biases.

Stand-your-ground laws, a history

Self-defense laws fall roughly into three categories: duty-to-retreat laws, castle doctrines, and stand-your-ground laws.

Speaking broadly, a duty-to-retreat law limits the use of deadly force to a last resort. As the name implies, if you can reasonably escape a threatening situation—say, by retreating into your home or driving away—then you have a duty to do so. In cases where deadly force is used in self-defense, such laws require a heavier burden of proof to support that such force was necessary.

Castle doctrines state that you may defend yourself as needed within the bounds of your personal property. If an intruder attacks you in your home, for example, you have no duty to retreat and may use force, even deadly force, to defend yourself. Castle doctrines encompass personal property such as offices and, in some states, even vehicles.

Finally, there are stand-your-ground laws. In 2005, Florida was the first state to pass such a law. The Florida statute states that people have "no duty to retreat" and have "the right to stand his or

her ground," even going so far as to use deadly force if they reasonably believe it is necessary "to prevent imminent death or great bodily harm" to themselves or another. Critics sometimes refer to such laws as "shoot-first laws".

Many other states have enacted similar laws since, but it is difficult to say precisely how many. This is because some states have adopted stand your ground in practice through judicial precedent, rather than officially legislating such statutes. As a result, the American Bar Association [pdf] claimed 33 states had stand-your-ground laws by 2014, while the National Conference of State Legislatures lists only 25.

The Giffords Law Center cites 28 states as employing stand your ground, but points out that California, Idaho, Illinois, New Mexico, Oregon, Virginia, and Washington permit deadly force in public without a duty to retreat. The difference, the law center notes, is that these states only allow shoot-first protections to be invoked during a criminal trial, whereas Florida-style laws can be used to protect shooters in pretrial hearings or prevent law enforcement from charging shooters altogether.

We can see this discrepancy in the Michael Drejka case. The Pinellas County Sheriff did not file charges against Drejka, claiming Florida's stand-your-ground law as justification. But after reviewing the case, state prosecutors ultimately filed charges for the crime of manslaughter.

There is no federal stand-your-ground law.

Arguments for and against stand-your-ground

Proponents of stand-your-ground laws argue that these laws keep law-abiding citizens safe. They also see duty-to-retreat polices as detrimental to victims, placing the burden of protection on them and unfairly making them liable for the outcome of altercations they did not initiate.

Former Illinois Representative Richard Morthland argued such a case: "[S]tates are turning to these measures to uphold the principle that our laws must protect the innocent over the criminal, the peace-loving over the violent, and the law-keeper over the law breaker. In a situation where a citizen is under attack, it cannot be incumbent upon that individual to take extraordinary measures to avoid conflict that he or she did not initiate."

Writing for the National Review, Ilya Shapiro, a senior fellow in constitutional studies at the Cato Institute, follows a similar argument, noting that citizens harmed by duty-to-retreat laws include victims of domestic violence.

"Feminists thus support SYG and point out that 'you could have run away' may not work when faced with a stalker," he writes. "It's bad enough for an innocent person to find herself threatened by a criminal, but to then have to worry about whether she can retreat, lest she face prosecution, is too much to ask."

Opponents of stand-your-ground laws, on the other hand, believe such policies encourage vigilantism and give malcontents legal protection to escalate altercations until they perceive bodily harm. Further, even those acting in good faith may lack the training or understanding to properly assess a situation should they enact stand your ground to prevent a perceived felony.

"We need policies that defuse confrontations in public places, especially since more than 11 million Americans now have licenses to carry," writes Robert Spitzer for The New York Times.

"The police and prosecutors need to be able to conduct full, unencumbered investigations. And gun owners need to admit what most of them already know: that firearms' lethality and ease of use make fatal miscalculation more like."

They point to George Zimmerman, who was instructed by law enforcement not to get out of his SUV or approach Treyvon Martin, as an example of what can happen when citizens take the law into their own hands. Similarly, officials have alleged that Michael Drejka has a history of starting altercations with other drivers and brandishing his weapon during bouts of road rage.

"In short, Stand Your Ground laws encourage the use of deadly force," says Philip J. Cook, ITT/Terry Sanford Professor Emeritus of Public Policy Studies. "These laws open the door to a more dangerous world where everyone feels pressure to carry a gun — and if they feel threatened, to shoot first and tell their stories later."