

Is it too much to expect to get the facts first?

By Jennifer Rubin

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The left never wants to let a tragedy go to waste. The tragic killing of Trayvon Martin has set off angry assertions that the so-called “stand your ground” laws are to blame and this is all the doing of the NRA. In the same breath that Mother Jones polemicist [David Corn](#) can acknowledge that he doesn’t know all the facts he declares that the legislation is the root of the problem. (“You know, a lot of this has to do with the Stand Your Ground laws, which allow people to go out there and say, well, I thought I was being threatened. And these are laws that the NRA is trying to get passed in every state of the union.”) Actually that doesn’t seem to be the case at all.

The [authors of the Florida legislation](#) explain that if the assailant George Zimmerman was pursuing Martin, the law is inapplicable:

Former state Sen. Durell Peaden and current state Rep. Dennis Baxley say the law they passed in 2005 was designed to protect citizens by giving them the right to “meet force with force.”

Both men say they don’t know all the facts of Trayvon’s case. But, they say they believe the law would not allow a person like George Zimmerman to pursue and confront a person like Trayvon and then use deadly force. Zimmerman has not been charged.

“They got the goods on him. They need to prosecute whoever shot the kid,” said Peaden, a Crestview Republican who sponsored the deadly force law in 2005. “He has no protection under my law.”

Peaden and Baxley say their law, at its heart, is a self-defense law. It says law-abiding people have no duty to retreat. Nowhere does it say that a person has a right to confront another. The law does say a law-abiding citizen can use deadly force if “if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony.”

That’s worth repeating: The Stand Your Ground legislation **does not** obviate the reasonableness requirement in state law. (In the words of the [applicable statute](#), a person need not retreat if he “**reasonably** believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony.”) (Emphasis added.) Those who have asserted or written otherwise should correct themselves.

So if Zimmerman pursued Martin, Stand Your Ground legislation is inapplicable; and if he acted unreasonably, self-defense doctrine (whether in or out of a Stand Your Ground jurisdiction) cannot save him from prosecution.

I say this as someone who doesn’t agree with the premise of Stand Your Ground legislation. As a societal matter I don’t think we should encourage people *not* to retreat when they can do so safely. But I will leave that argument for a case in which it appears to be on point.

The New York Times symposium on the topic is interesting. Both the right and the left commentators acknowledge that Stand Your Ground law in all likelihood has nothing to do with this case.

[Kenneth Nunn](#) from University of Florida Law School says the problem is racism, not the law: “Stand Your Ground does not permit the use of deadly force against an initial aggressor unless ‘the person reasonably believes that he or she is in imminent danger of death or great bodily harm and that he or she has exhausted every reasonable means to escape such danger.’ Ordinarily, one would expect that a reasonable force requirement would provide ample protection against idiosyncratic or morally suspect behavior. But this is not the case when victims happen to be black.”

Meanwhile from the right [Walter Olson argues](#):

Under any criminal law, injustice can result if cops get the facts wrong. The Sanford, Fla., police, accused of buying a dubious self-defense tale after the Trayvon Martin shooting, will now come under searching scrutiny for that decision. Sanford’s mayor says his town is eager to stand corrected by the evidence as a fuller story emerges.

So who’s left to disagree? Not the authors of Florida’s Stand Your Ground law, who told The Miami Herald that the law they sponsored applies only to cases of genuine self defense and won’t protect neighborhood-watcher George Zimmerman if critics of the Martin shooting are right about what he did that night.

If the left is going to attack gun laws, I think they better find another vehicle. That said, there is *certainly* a legitimate concern that the police bollixed the case. There is an internal review. There is a state task force. There is a Justice Department review. The facts will come out.

So for now the horrible death remains the predominate fact of which we are certain. Is this case of racism, as Nunn alleges? Of rotten police training, as others have suggested? Does it identify some infirmity in the common-law doctrine of self-defense going back hundreds of years? Was there some physical altercation (Zimmerman had [injuries](#) on his face and the back of his head), and if so, who instigated it?

I didn’t care for President Obama’s cloying and personalized remark that “You know, if I had a son, he would look like Trayvon.” Why is it always about *him*? I thought the president — like all of us — is supposed to care about those who look like his kids and those who don’t.

Nevertheless, unlike his grandstanding in the Cambridge case involving his friend [Henry Louis Gates](#), in this instance Obama appropriately told the public: “I think every parent in America should be able to understand why it is absolutely imperative that we investigate every aspect of this. and that everybody pulls together, federal, state and local, to figure out exactly how this tragedy happened. So I’m glad that not only is the Justice Department looking into it, I understand now that the governor of the state of Florida has formed a task force to investigate what is taking place, to do some soul searching to figure out how does something like this happen, and that means that we examine the laws and the context for what happened, as well as the specifics of the incident.”

That’s good advice for the public at large but most especially for the chattering class.