Written Testimony Submitted for the Record

by

John Roman
Senior Fellow, Urban Institute

before the

Senate Committee on Judiciary

Subcommittee on Constitution, Civil Rights and Human Rights

‘Stand Your Ground’ Laws: Civil Rights and Public Safety Implications
of the Expanded Use of Deadly Force

Tuesday, October 29, 2013
10:00 AM

John Roman is a Senior Fellow at the Urban Institute. He is indebted to P. Mitchell Downey for his assistance in preparing the research this testimony is based upon. The views expressed here, however, are Roman’s own and should not be attributed to the Institute, its trustees, or its funders, or to any other person or organization with which he is affiliated.
Chairman Durbin, Ranking Member Cruz, and Members of the Committee, I thank you for the opportunity to testify about the effect of Stand Your Ground (SYG) laws on civil rights and public safety.

1. The Policy Problem

There are racial disparities throughout the juvenile and criminal justice system in America. African Americans are more likely to be stopped and frisked, to have their motor vehicle searched at traffic stops, and to receive longer prison sentences than are whites. One area of possible racial disparity—differences in findings that a homicide was ruled justified prior to a trial—had little attention before the investigation and trial of George Zimmerman for the murder of Trayvon Martin. Using data from the Federal Bureau of Investigations Supplementary Homicide Report (SHR), my research examined the effects of racial disparities in justifiable homicide findings on public safety:

- Are there racial disparities in the justification of homicides? That is, are homicides by shooters of differing races, or involving decedents of different races, ruled justified at different rates?
- Is the degree of disparity higher or lower in states that have SYG laws than in states that do not?
- In states with SYG laws, did the degree of disparity increase or decrease when SYG laws were passed?

The answer to the first question is clearly yes. The starkest contrast is between homicides of blacks committed by whites, of which 11.4 percent are justified, and homicides of whites committed by blacks, of which 1.2 percent are justified.

The answer to the second question is also clearly yes. States with SYG laws have higher disparities than states without SYG laws.

The answer to the third question is the most complex and relies on the smallest set of data. My preliminary answer to this question, too, is yes.

Before I turn to the details of how I reached these conclusions, let me summarize the implications of these findings. Justification of homicides is used in a racially disparate manner, and more so in states with SYG laws. Whether SYG laws are more likely to be enacted in those states with more disparity in justifications, and whether SYG laws increase the degree of disparity, or both, is not yet completely clear. But the implications are disturbing regardless. The purpose of enacting SYG is to increase the rate of justifiable homicide findings. In doing so, SYG could make disparities better, worse, or keep them constant. There is no evidence SYG reduces disparities in the SHR data. If it makes disparities worse, as our study suggests, that is poor policy. If it simply keeps the disparities the same but increases justifiable homicide findings, then it increases the number of people exposed to the disparity, which is also poor public policy.
2. The Research

After a homicide (including manslaughter), law enforcement submits additional information about the details of each case to the FBI, which makes those data publicly available through the SHR. Data from 2005 through 2010 (the latest year available) were downloaded from the National Archive of Criminal Justice Data maintained by the University of Michigan. In total, there were 82,986 observations across six years of data. This study used only those observations for which information about both victim and offender was available, which will only be possible in cases where the perpetrator was known (in 28,001 cases, the offender was not known or demographic information about the victim was unavailable). And, only those observations with a white or black victim-offender combination were retained (1,966 cases were excluded, including relatively similar numbers of cases across the four race groups [white, black, Asian or Pacific Islander, and American Indian or native Alaskan]). The final dataset included 53,019 observations.

3. Public Safety, Civil Rights, and Justifiable Homicide

From these data, four binary variables were coded that described each cross-race combination for white and black perpetrators and victims (white-on-black, black-on-white, black-on-black, and white-on-white). For all analyses, the reference group was white-on-white homicides. Overall, 44.14 percent of homicides were white-on-white, 43.18 percent were black-on-black, 8.77 percent were black-on-white, and 3.91 percent were white-on-black. Twenty-seven percent of homicides occurred in SYG states in the years(s) following the adoption of a SYG law.

Overall, 2.57 percent of homicides in the six-year period were ruled justified (1,365 out of 53,019). White-on-black homicides were most likely to be ruled justified (11.4 percent), and black-on-white homicides were least likely to be ruled justified (1.2 percent), and that disparity is statistically significant. That statistically significant difference remains after the analysis controls for other explanations for the disparity. Controlling for all other case attributes, the odds a white-on-black homicide is found justified are 281 percent greater than the odds a white-on-white homicide is found justified. By contrast, a black-on-white homicide has barely half the odds of being ruled justifiable. Statistically, black-on-black homicides have the same odds of being ruled justifiable as white-on-white homicides.

4. Stand Your Ground and Civil Rights

Overall, states with SYG laws have statistically significantly higher rates of justifiable homicides than non-SYG states. The presence of a SYG law is associated with a statistically significant increase in the likelihood a homicide is ruled justified for white-on-black, black-on-black, and white-on-white homicides. The change in likelihood for black-on-white homicides being found justified is not significant.

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1 The study uses race as defined by the US Census, rather than ethnicity. Combining race and ethnicity would have severely limited the power of the analysis as some race-ethnicity combinations have few observations in the data.

2 The list of SYG states was obtained from the American Bar Association’s Stand Your Ground National Task Force.
Comparing the three race combinations in SYG states to white-on-white homicides in SYG states finds that there is no difference in the odds of black-on-black homicides being found justified in SYG states. However, white-on-black homicides have statistically significantly higher odds of being found justified in SYG states, and black-on-white homicides have lower odds of being found justified.

5. Discussion and Conclusion
There are three important notes in interpreting these findings. First, in my research, the phrase “racial disparity” is value free: the presence of a racial disparity is a necessary but insufficient condition to identify racial animus in criminal case processing. Distinguishing racial animus within racial disparities is exceedingly difficult as existing datasets do not include such key measures as setting and context. However, the magnitude of the disparity is such that there can be no doubt that the disparity is real.

Second, every homicide that was not missing an important variable was included in this analysis; there was no sampling. The data are a census of all homicides in the United States between 2005 and 2010, where valid data was reported to the FBI. Third, the Bureau of Justice Statistics does not include Florida homicides in the data, because of how the data are reported. Given Florida’s size, and the unique aspects of its SYG law, particularly the immunity provision, including Florida might have a meaningful impact of the outcomes.

In conclusion, there is a substantial racial disparity in pre-trial findings that a homicide was a justified killing of a felon by a private citizen. Regardless of how the data are analyzed, substantial racial disparities exist in the outcomes of cross-race homicides. These findings hold throughout the analysis, from differences in average rates to bivariate tests of association to regression analysis. In addition, the recent expansion of Stand Your Ground laws in two-dozen states appears to worsen the disparity.