

Stand Your Ground Works -- for Criminals

By Fred Grimm, The Miami Herald

Aug. 05--A gang of young street thugs drove into a rival gang's turf, guns at the ready, looking for a fight.

Thirty shots were fired that day in 2008. A 15-year-old kid was killed. Two of the invading gang members faced homicide charges.

But the case fell apart this spring, lost in the chasm between gun reality and the gun myths promulgated by the Florida Legislature.

The actions of the two gun-wielding Tallahassee gangbangers, a Leon County Circuit Court judge ruled, were protected from prosecution by the 2005 "Stand Your Ground" law that expanded the definition of justifiable self-defense into something vague and plainly dangerous.

Someone claiming to feel "threatened" no longer has an obligation to retreat, call police or avoid the use of deadly force. "What this means, as illustrated by this case, is that two individuals, or even groups, can square off in the middle of a public street, exchange gunfire, and both be absolved from criminal liability if they were reasonably acting in self-defense," wrote Circuit Judge Terry Lewis.

'LIKE THE WILD WEST'

"It is very much like the Wild West," said the judge, as he tossed out the charges against the two Tallahassee gun thugs in May. "Maybe that is not what was intended, but that seems to be the effect of the language used."

"Before this law, I kind of had an obligation to avoid going to a gunfight, to avoid deadly force," Second Circuit State Attorney Willie Meggs said Wednesday. "Before this law, I kind of had an obligation to call the police. Now, I can go to a gunfight and stand my ground."

Meggs, president of the Florida Prosecuting Attorneys Association back in 2005, had warned that Stand Your Ground legislation would spawn unintended consequences. He called it the "shoot your Avon lady law."

The narrative in 2005, when this law was shoved through the Legislature by the National Rifle Association, was that this would protect innocents forced to fend off home invaders, muggers or carjackers. The mere claim of fear would now come with the legal presumption that deadly force was justifiable.

BAD GUYS ARE HELPED

The law has complicated once-routine homicide prosecutions. "We have been forced to spend significant time and resources litigating defense motions which, in essence, seek court-ordered immunity for defendants charged with violent crimes," Palm Beach State Attorney Michael McAuliffe told me via e-mail Wednesday.

McAuliffe described a 2007 first-degree murder case that twice hung with juries unable to resolve the murky reach of Stand Your Ground. "The confusion that can surround the "Stand Your Ground" law makes for difficult hurdles even in cases where we have violent, aggressive conduct. The law has the great potential to be misapplied and could well protect violent criminals in specific cases."

Miami-Dade prosecutors are grappling with similar complications. And lawyer Zachary Weaver, in a 2009 study of Stand Your Ground for the University of Miami Law Review, warned that the amorphous law has given defense lawyers as much a "plea-bargaining chip" as an actual defense.

None of this is surprising to anyone who listened to the warnings of prosecutors or police chiefs back in 2005. And none of this has inspired legislators to rethink a flawed piece of legislation.

"It's unfortunate," Meggs said Wednesday. "We can't seem to get their attention."