

Proponent Testimony for H.B. 381

Thank you Chair Lang, Vice Chair Plummer, Ranking Member Leland and Criminal Justice Committee Members, for the opportunity to provide proponent testimony today concerning H.B. 381, which serves to enact modifications to law regarding self-defense, otherwise known as “Stand Your Ground”.

My name is Judi Phelps. I am a wife, a mom, an unarmed self-defense instructor, a firearms instructor and a small business owner of On Guard Defense. On Guard Defense is a training center and shooting range in the Hocking Hills region of southeast Ohio.

In my instructor role, I work with men and women to teach them ways to protect themselves from the criminal element. Much of my personal focus is on women because, quite frankly, there aren't many instructors out there that can relate to the many unique challenges women face every day and present the information in the ways women need to become confident and competent with their firearms. Just their demeanor and delivery of information, at times, can be overwhelming and intimidating to female students.

Women are different from men in many ways. We are often smaller and weaker than our male counterparts which place us at a severe disadvantage if we are attacked. That's why most of us take precautions when at home, at work or in transit to make the best decisions we can to avoid confrontations or situations that might place us at risk for being harmed.

Women also process information differently than men. We may take more time and patience to learn the mechanics of how things work, especially when it comes to using a weapon, because we are cognizant that it is a tool that has the potential to be dangerous to us or our loved ones if used incorrectly.

Most of us women don't even WANT to have to deal with weapons. Many of us live with the false assumption that if we take care in not going into “bad” places or avoid “bad” people that no harm will come to us. This is why many women I work with tend to come to me out of desperation. They are either ones that have survived having been victimized by a domestic partner or stranger already or are otherwise in a state of fear that they could be.

When I teach my students about ways to stay safe (whether armed or not), I focus on three primary goals: Avoid, Escape and Defend. I teach them the importance of practicing good Situational Awareness because, in doing so, these strategies will help us to Avoid or Escape a critical incident so that we can minimize the chances that the only option we are left with is to Defend – which is not a situation we ever want to be in.

Practicing good Situational Awareness means that when in public, we put away our cell phones in favor of having our heads upright and focused on what is going on around us and who is in close proximity that could become a potential threat. We evaluate the tone of voice folks use, whether or not they are exhibiting aggressive body language and we look

for escape routes to use if, God forbid, something or someone is perceived as a threat and we need to get away from it.

Time and again, we read news stories about women being abused, abducted, raped and killed. We don't want to be one of those statistics but we also tend to question whether, when faced with the potential of that happening, do we have the resources and rights we need to fight back?

If we've invested in time and training and choose to be armed, most of us wonder if we could even bring ourselves to use our weapons against someone else to defend ourselves. After all, we're nurtured at heart; we're compassionate; and, we're raised to be caretakers - not people who wish to do harm to others.

When I teach these ladies about what legal rules must be in place in order for them to use deadly force, we discuss the concept that we must not be at fault. Meaning, we cannot initiate, escalate or exacerbate a situation that leads to using deadly force.

We discuss that in order to use deadly force to defend ourselves that we must be in immediate fear of death or great / grave bodily harm and that NO lesser force is sufficient to stop the threat.

Finally, we talk about our duty to retreat. We talk about the fact that in order to use deadly force in self-defense that we MUST have no reasonable means to retreat or escape. This is where it gets murky for many women and the "what-if" questions ensue. What is "reasonable"?? That's a fair question and I always tell them that I am not an attorney; I cannot answer those types of "what-if" questions because there are too many elements involved so no answer is cut and dry - every situation is unique.

Instead, I tell them what I might do based on the "what-ifs" presented and always circle the wagons back to the concept of being an innocent party and being in fear of our lives in order to defend ourselves. I explain that if those rules apply and we are left with no other option that we must do whatever it takes to protect ourselves from harm.

These concepts are extremely overwhelming to women. They are confused by the notion that someone else - whether law enforcement, prosecutors, judges or juries -- could put themselves in our shoes to say how we were threatened and how scared we were in order to take such an action as to point a gun at someone or have to, God forbid, press that trigger. They wonder aloud whether they should even carry because they are left feeling that even if they defended themselves and survived that threat that the bigger threat could end up being victimized, once again, by the courts. They don't want to go to prison. They don't want to hurt or kill someone. They just want to be left alone and be safe.

These are the facts of the world we women face every day. We live in fear of someone bringing harm to us and, if it does, will our government stand up and protect us from

further harm or will they just become yet another aggressor and someone or something to fear.

A black woman by the name of Marissa Alexander is a fine example of a woman who found out the hard way that in taking actions to protect herself from her estranged and violent husband that her ultimate enemy was the government that then identified her as a criminal and threw her into a prison cell.

Ms. Alexander was a Florida mom in 2010 when just nine days after giving birth to her baby and deciding she needed to escape an abusive relationship with her estranged husband, she returned to their marital home to collect some of her belongings when she knew he wouldn't be home. As she proceeded inside to gather her things, her estranged husband came home with two of his children in tow.

Things started fine as she shared some cell phone photos of their newborn baby which he hadn't bothered to go see at the hospital. When she put the phone down and went to use the restroom, her husband flew into a rage over seeing that she had also texted the photos to her ex-husband which was meant to be shared with her older children who were in his care at the time she was in the hospital giving birth to her baby – she just wanted them to see their new baby sister! That was enough for her estranged husband to become violent and threaten to kill her. She fled the home to the garage with the idea to leave but the garage door wouldn't work for her to do so. She grabbed her gun from the glove compartment and went back inside the house and fired a shot which she intentionally placed high on the wall in an effort to scare him and make him go away.

He went away. He called the cops and claimed she tried to kill him and his kids so she was arrested and sent to jail. Throughout the process, her estranged husband under sworn deposition admitted that he was abusive and threatening toward her and many other women before her, having been charged with domestic violence on three prior occasions. However, he ended up recanting that testimony at trial claiming him and his kids were the victims. It took only 15 minutes for the jury to deny Ms. Alexander's claims of self-defense as well as her claim to Stand [Her] Ground and found her guilty. She was sentenced to serve 20 years in prison.

Thanks only to a national outcry and unrelenting lawyers, Ms. Alexander finally was granted a plea deal which resulted in her serving three years in prison instead of twenty. Florida Governor Rick Scott also amended the Stand Your Ground law to include firing "warning shots". She is now a free woman but should have never served a single day in prison.

In more recent news, a white woman from Alabama by the name of Brittany Smith was charged with murder when in January 2018, she shot and killed a meth-head man in her own home who beat her severely, raped her and then attacked her brother who arrived to help.

Evidence presented in court overwhelmingly supported Ms. Smith's claims when many photos were shown depicting the horrific injuries that Ms. Smith sustained along with a positive result matching the MONSTER that raped her along with the thirty-three wounds he caused that covered her broken body.

At Ms. Smith's "Stand Your Ground" hearing on February 3, 2020 before female judge Jenifer Holt, she was denied her claims of self-defense and now faces life in prison. In her 19-page ruling, the judge found Ms. Smith's *"use of deadly force was not demonstrably justified because she doubted that Brittany had reason to believe that Todd [the MONSTER] was about to use deadly physical force, assault, burglary, rape, or sodomy when she shot him."*

These cases and many more illustrate that women, specifically, are not afforded rights under the law to protect themselves. We are increasingly being victimized by evil MONSTERS and, if we happen to survive, suffer further victimization at the hands of the very legal system that is supposed to protect us. How many more women have to be beaten, raped and killed before our legislators and courts will STAND FOR US to defend ourselves?

My testimony today predominantly focuses on women because I am a woman, I am a rape survivor and I WILL STAND for the rights of women to protect themselves.

While men are just as deserving as women to have laws that protect them in matters of self-defense, women desperately need the legal protection that Stand Your Ground laws, like H.B. 381, will afford us which is why I am so passionate about this cause.

I beg you to do what's right for the law-abiding women and men in the state of Ohio and pass H.B. 381.

I appreciate your time and attention to this matter and am glad to answer any questions you have for me.

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