



Justifiable homicide or vigilante justice?

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When does a private citizen cross the line from self-defense to vigilante justice? Many Texans are still grappling with this distinction after Joe Horn was officially cleared in July of wrongdoing in the shooting deaths of two undocumented Colombian immigrants.

Horn, a 62 year-old retiree, shot and killed Diego Ortiz and Miguel de Jesus, claiming that they were in the middle of burglarizing a neighbor's property.

Family members of Ortiz and de Jesus were saddened by the jury's decision not to indict Horn. Diamond Morgan, Ortiz's widow said it was "horrible" especially since Horn was so "eager to shoot" and had taken the "law into his own hands."

Stephanie Storey, de Jesus' fiancée, expressed disbelief over the failure to indict Horn. "He shot two individuals in the back after having been told over and over to stay inside [his home]." She added that it was "his choice to go outside and his choice to take two lives."

The shooting incident occurred last year on June 14 in Pasadena, Texas. Horn called 911 to report that two men were burglarizing a neighbor's home. While Horn was speaking to the dispatcher, he became concerned that the police would not arrive in time to stop the burglary. He then told the dispatcher that he had a gun and asked if the dispatcher wanted him to "stop [the burglars]." The dispatcher instructed Horn to remain in his home, but he went outside and confronted Ortiz and de Jesus. Horn shouted "Move, you're dead!" and shot the men in the back. Both men died at the scene.

Tom Lambright, Horn's attorney, said that Horn was "afraid for his life" and that that he had done what he thought was necessary in order to "protect his house, his neighborhood, his community."

Lambright and Horn have repeatedly stated that Horn's actions were an act of self-defense that is legal and justified according to Texas law. While speaking to the 911 dispatcher, Horn mentioned that he had a right to protect himself because the "laws have been changed in this country since September 1st."

The 'law' that Horn was referencing was the Texas Castle Law, which went into effect on January 1, 2007. The Castle Law allows citizens to use force if someone illegally enters or is attempting to enter their home, car or workplace. It does not require a citizen to retreat before using deadly force if the citizen is anywhere he or she has the right to be. Most importantly, the new law protects citizens from being sued by injured attackers or their families if the use of force was used to protect a citizen's home, car or their workplace.

There are various versions of the castle law or 'stand your ground laws' that have been passed by thirty-six states throughout the country. Twelve states, including Texas, have castle laws that justify the

use of deadly force without requiring a person to retreat. Other states have castle laws that only pertain to home invasions and/or when a person is to retreat before using deadly force. Texas Governor Perry describes his state's castle law as one that gives Texans the right to protect themselves from criminals and to be protected by "state law when circumstances dictate that they use deadly force."

Critics of the Texas Castle Law argue that the law is unnecessary, since chapter nine of the state's penal code addresses the issue of justifiable deadly force to prevent robbery, theft or some other "type of criminal mischief." It also allows citizens to prevent a suspect from fleeing if the "land or property cannot be protected or recovered by any other means."

Marsha McCartney, a Dallas resident and member of the Brady Campaign to Prevent Gun Violence, calls the Texas law a death sentence for criminals who would never face that in court.

"People don't get the death penalty for breaking and entering," McCartney said. "Defending your family, defending yourself against someone who is armed is one thing. But now it's like we don't need to call the police anymore."

Texas Republican Senator Jeff Wentworth, the author of the castle bill, told the Houston Chronicle it was never intended to apply to a neighbor's property. "You're supposed to be able to defend your own home, your own family, in your house, your place of business or your motor vehicle."

In the case of the Horn shootings and subsequent trial, it's clear the law goes far beyond the confines of one's own castle. And the flexibility of this and similar laws appears to be giving rise to a trend of permissible shootings. Criminal justice analysts state that there appears to be a connection between the passage of castle laws and the rise of justifiable homicides.

The FBI defines justifiable homicides as "certain willful killings" that "must be reported as justifiable or excusable." In 2007 the FBI reported that 391 killings by police were ruled justifiable, the most since 1994. Furthermore, the 254 killings by private individuals ruled as self-defense were the most since 1997.

James Alan Fox, a professor at Northeastern University, thinks that the FBI numbers show an emerging "shoot-first" mentality by police and private citizens. He believes that the castle laws show a "clear message that citizens may be able to defend themselves" without much legal retribution.

As for the actions of Joe Horn, a close review of the 911 transcripts reveals a nervous Horn watching his neighbor's house being robbed and worrying the police would not be able to get there in time to stop them. That he feared for his life instead of simply desiring to end the crime occurring across the street seems a bit of a stretch, but the defense was nonetheless effective in court.

"The use of deadly force is carefully limited in Texas law to certain circumstances" and "in [this] case, however, the grand jury concluded that [Mr. Horn's] use of deadly force did not rise to a criminal offense," said Harris County District Attorney Kenneth Magidson.