

Task Force on **CITIZEN SAFETY** and **PROTECTION**



Report of the **Governor's Task Force on Citizen Safety** **and Protection**

Lieutenant Governor Jennifer Carroll
Chairwoman
December, 2012

**REPORT OF THE GOVERNOR'S
TASK FORCE ON CITIZEN SAFETY AND PROTECTION**

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Mission Statement, Guiding Principles, and Scope of Work

MISSION STATEMENT

“The Task Force on Citizen Safety and Protection will review Chapter 776, F.S., and its implementation, listen to the concerns and ideas from Floridians, and make recommendations to the Governor and Florida Legislature to ensure the rights of all Floridians and visitors, including the right to feel safe and secure in our state.”

GUIDING PRINCIPLES

1. *Provide forums where Floridians have the opportunity to be heard regarding Chapter 776, Florida Statutes.*
2. *Develop trust by bring objectivity to the meetings, listening with an open mind and maintaining a calm and productive environment.*
3. *Ensure an open and honest discussion of relevant laws, rules, regulations, and programs.*
4. *Protect the rights of all Floridians and visitors to feel safe and secure in our state.*

SCOPE OF WORK TO ACCOMPLISH MISSION

1. *Determine where and when public hearings should be held in the state with a rationale based on Guiding Principles.*
2. *Define the listening processes to be used in these public hearings.*
3. *Develop communication plan with multiple and varied media forms to ensure all interested citizens have the opportunity to participate.*
4. *Review and discuss Chapter 776, F.S. and its implementation.*
5. *Conduct meetings and consolidate information including relevant data, including national comparisons.*
6. *Prepare a report for Governor Scott and the Florida Legislature by the start of the legislative session.*

Methodology

The Task Force on Citizen Safety and Protection was established by Governor Rick Scott on March 22, 2012. Governor Scott appointed Lieutenant Governor Jennifer Carroll as Chair and Reverend R.B. Holmes, Jr. as Vice Chair. Governor Scott charged the Task Force with holding public hearings, taking testimony, soliciting ideas, reviewing all matters related to the rights of all Floridians to feel safe and secure in our state, and draft a report to the Governor and the Legislature.

The Task Force established Guiding Principles and a Scope of Work to accomplish the mission. In accordance, the Task Force established meeting dates and locations that encompassed a cross-section of the state in terms of geographic locations. The Task Force set meeting agendas that included presentations by subject matter experts and testimony from the general public. To accomplish the task of reaching the broadest segment of the population, all meetings were aired live on the Florida Channel and a website and social media accounts were developed to provide a transparent process and to allow input from citizens. The website, <http://www.flgov.com/citizensafety>, includes input from citizens, all materials reviewed by the Task Force, agendas, meeting minutes, speaker bios, archived video of meetings, and contact information.

The Task Force held public meetings in Tallahassee, Longwood, Arcadia, West Palm Beach, Cutler Bay, Jacksonville, and Pensacola.

The Task Force invited subject matter experts to make presentations that were relevant to the mission. The subject matter experts included individuals with expertise in law enforcement investigations, prosecution, legal defense, neighborhood watch, private security, data analysis (university professors), civil rights, and second amendment rights.

Core Recommendations

After holding seven public meetings across the state, hearing from a broad array of relevant subject matter experts, and considering over 9,000 pieces of correspondence, 550 phone calls, 60 comment cards, 140 public comments at Task Force meetings, and over 30 documents, the Task Force recommends the following:

- 1. The Task Force concurs with the core belief that all persons, regardless of citizenship status, have a right to feel safe and secure in our state. To that end, all persons have a fundamental right to stand their ground and defend themselves from attack with proportionate force in every place they have a lawful right to be and are conducting themselves in a lawful manner.**

- 2. The Task Force recommends the Legislature examine the term “Unlawful Activity” as used in Chapter 776, Florida Statutes and provide a statutory definition to provide clarity to all persons, regardless of citizenship status, and to law enforcement, prosecutors, defense attorneys, and the judiciary.***

***Discussed definition of “unlawful activity” to give guiding language to the courts to ensure uniform application of the law with the intent to protect the innocent person.**

- a. Task Force member Katherine Fernandez Rundle proposed a definition as “Unlawful activity” means any criminal activity that is punishable under the laws of this state, but does not include activity that is a ‘noncriminal’ violation as defined in s. 775.08(3).**

- b. Task Force member Krista Marx proposed that the definition should include temporal proximity of the unlawful activity to the use of force.**
- c. Task Force member Stacy Scott proposed that some county or municipal ordinance violations should not be included in the definition.**
- d. Task Force member Edna Canino proposed that the definition exclude citizenship status.**

The Task Force heard numerous “what if” examples related to the definition of “Unlawful Activity” as used in Chapter 776, Florida Statutes. Questions that were raised included whether the term applied to all unlawful activity including misdemeanors, ordinances, and minor traffic violations. A lack of definition of the term could cause inequality in the application of the law across the state. The Task Force does not intend to usurp the authority of the legislature by drafting specific language but merely advise the legislature that there may be unintended consequence and misapplication of the law if the term is not clarified.

1. **The Task Force recommends associations, law enforcement agencies, prosecutors, defense attorneys, and the judiciary increase training and education regarding self defense laws to ensure uniform and fair application of Chapter 776, Florida Statutes and other related criminal statutes.**

The Task Force heard testimony from citizens, law enforcement, prosecutors, and defense attorneys that Chapter 776, Florida Statutes, although well intended, is not always fairly and equitably applied across the state. The Task Force heard examples of specific self defense cases where individuals felt the law was not fairly applied. Although the Task Force's mission was not to retry individual cases, there was enough evidence presented to suggest that education among the parties including law enforcement, prosecutors, defense attorneys, the judiciary, and the citizens of the State of Florida could contribute to a more uniform, just, and fair application of the law.

2. ***The Task Force recommends the Legislature review applicable standards for recognized neighborhood watch groups, as defined in s. 30.60 and s. 166.0485, Florida Statutes, to define the role of neighborhood watch participants as limited to observing, watching, and reporting potential criminal activity to law enforcement. The participant's purpose is not to pursue, confront, or provoke potential suspects.***

The Task Force heard testimony from a neighborhood watch volunteer, crime prevention coordinator, and private security companies regarding standards for neighborhood watch groups.

The standards for neighborhood watch groups ranged from the loosely organized to sophisticated organizations that employed written policies and procedures and strict standards for volunteers. The Task Force learned through these presentations that neighborhood watch volunteers are residents of their respective communities who volunteer their time; however, there are usually no requirements to participate or training provided to them. This could result in occurrences of volunteers acting outside the scope of the intent of neighborhood watch, which is to observe and report only.

- 3. The Task Force recommends the Legislature examine the definition of “criminal prosecution”, as defined in 776.032(1), Florida Statutes, to remove any ambiguity for law enforcement to fully complete their investigation.***

The Task Force heard examples of law enforcement expressing concern for the definition of “criminal prosecution.” The concerns were that law enforcement was not assured of the ability to fully investigate by detaining or arresting upon probable cause a person engaged in use of force.

- 4. The Task Force has considered the Florida Supreme Court’s 2010 decision in Peterson v. State . The Task Force believes the pre-trial adversarial proceeding set out in that case is proper.***
- 5. The Task Force recommends the Legislature consider whether civil immunity provision should extend to innocent third-party victims.***

6. ***The Task Force recommends the Legislature consider funding further study of the correlation and causation to include variables such as race, ethnicity, gender, application and fairness of the law in regards to the expansion of self defense laws in the State of Florida, including a statistical comparison with other states. The Task Force recommends any report be issued by 2015 with periodic updates.***

7. ***The Task Force recommends the Legislature review Florida's 10-20-Life law to eliminate any unintended consequences, disproportionate use of the law, and to restore some sentencing flexibility to the courts.***

8. ***The Task Force considered a recommendation to change the word "presumption" to the word "inference" in 776.013(1) and (2), Florida Statutes. However, the Task Force rejects that recommendation.***

APPENDIX A TASK FORCE CHARGE

APPENDIX B
TASK FORCE MEMBERSHIP

APPENDIX C
MAP OF TASK FORCE MEMBERS
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APPENDIX D
CHAPTER 776, FLORIDA STATUTES