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## A City Club Report on IP10: Castle Doctrine

City Club of Portland (Portland, Or.)

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# A City Club Report on IP10: Castle Doctrine

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In the Spring of 2014, petitioners began collecting signatures to place Initiative Petition 10 (IP 10) on the November 2014 Ballot. IP 10 has two parts. The first creates a presumption that any force, including deadly force, used by a resident to protect his or her property from an intruder is reasonable. The second part creates immunity from civil liability stemming from a trespasser who is injured.

As of July 2014, petitioners had failed to qualify for the ballot. In the interim your committee completed its review of IP 10, and submits the following report, with the hope that our work can inform City Club of Portland, as well as local, state and national communities, on future questions related to this issue.

Current Oregon law allows deadly force in defense of self, others or property only if the other person is using or about to use deadly force. The Oregon Supreme Court has said residents do not have a “duty to retreat” in their own home. All states, including Oregon, have a form of the Castle Doctrine, whether in statute or case law. In recent years, several states have expanded the doctrine, including so-called Stand Your Ground Laws, which extend the right to use deadly force to any place a person has the right to be.

Petitioners argued that the initiative is needed to clarify the law and protect homeowners from criminal and civil liability, but were unable to offer any examples of homeowners being unfairly prosecuted in Oregon. Attorneys who spoke to the committee worry that the change in the law would invite more homicides, and the available national data back up their claims. Representatives from the American Civil Liberties Union of Oregon stated that being killed is the most serious loss of liberty possible.

Your committee believes the initiative is unneeded to ensure residents have the right to protect their homes from intruders, up to and including deadly force. Oregon law requires that the use of such force be reasonable. The initiative would do away with that standard and tip the balance between property rights and the sanctity of human life, increasing the potential for unnecessary killings and deepening the racial disparities in the criminal justice system. The civil liability provision goes too far and does not allow legitimate cases access to the courts.

**Recommendation: The committee unanimously recommends a no vote.**

*City Club members will vote on this report between Wednesday, August 20, 2014 and Monday, August 25, 2014. Until the membership votes, City Club of Portland does not have an official position on this report. The outcome of the vote will be reported in the City Club of Portland Bulletin Vol. 97, No. 6 dated August 26, 2014, and online at [pdxcityclub.org](http://pdxcityclub.org).*

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## Introduction

The ballot title of IP 52 reads:

### **Expands laws allowing defensive use of deadly force; eliminates liability for adult trespasser's injury/death**

**Result of "Yes" Vote:** "Yes" vote presumes "resident" (defined) justifiably uses deadly force against "intruder" (defined) whether or not intruder uses force; eliminates liability for adult trespasser's injury/death.

**Result of "No" Vote:** "No" vote retains laws allowing defensive use of force, including deadly force, that person reasonably believes necessary; retains liability for injury/ death to adult trespassers.

**Summary:** Current law allows deadly force in defense of self, others, or property only if other person is using or about to use deadly force. Measure creates presumption that "resident" (defined) lawfully used deadly force against "intruder" (defined) because resident reasonably believed "intruder" was using or about to use deadly force; creates presumption that deadly force is justified whether or not "intruder" is using or threatening to use force. Currently, landowner may be liable to adult trespassers that landowner injures willfully or wantonly. Measure provides that "owner" (defined) is not liable for injury to adult trespasser caused by any condition of land or fixtures; provides exception for device(s) intended to injure persons. Measure does not change current laws allowing limited liability for child trespassers. Other provisions.

The proposed ballot measure would expand the state's "Castle Doctrine," creating a presumption that force, including deadly force, is justified to protect a person's home. A second provision creates immunity from lawsuits by trespassers who are injured.

### **Definition of Terms in IP 52**

"Intruder" means any person who is committing criminal trespass in the first degree, burglary in the first degree, or burglary in the second degree.

"Resident" means any person who is "lawfully present in a building or dwelling."

"Owner" is defined as the possessor of any interest in the land, including tenants, lessees, and occupants.

"Trespasser" means any person, 18 years of age or older who unlawfully enters or remains on the land.

### **A Delicate Balance**

The initiative raises serious questions about the balance between personal security and property rights on one hand and the value of human life on the other. And the civil immunity issue raises the question of the proper role of juries and courts in resolving disputes.

This report looks at the background for the initiative, lays out the arguments for and against the two major provisions, and then analyzes those arguments. The report concludes with a recommendation on how to vote on the initiative.

## **Background**

The concept that “A man’s home is his castle” has deep roots in law and culture, reaching back to Roman times. (Lonag 2014)

In English common law, the home involved often was a real castle. Initially, the principle only applied to the nobility. But along with other reforms that chipped away at the power of the lords, the protection began to apply to all Englishmen, not just the dukes and earls. (Carpenter 2003)

This concept is at the heart of laws giving residents the right to use force to protect their homes from intruders and to deny the government access.

In 1763, British Prime Minister William Pitt wrote:

The poorest man may in his cottage bid defiance to all the forces of the crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the King of England cannot enter - all his force dares not cross the threshold of the ruined tenement! (Carpenter 2003)

Legal experts also cite the doctrine as a source for the Fourth Amendment to the U.S. Constitution, banning unreasonable searches and seizures by the government. (Hafetz 2002)

A companion piece of English common law provided that using force in such situations was only justified if no reasonable path existed to avoid the confrontation. This was known as a “duty to retreat.” It is also inherent in the right of self-defense.

It’s important to note that every U.S. state, including Oregon, has some kind of “Castle Doctrine,” either enshrined in statute or in case law, citing common law. The details vary widely. (Currier 2012)

But in 2005, the Florida Legislature, lobbied by the National Rifle Association, passed what has become known as the Stand Your Ground Law, which had several provisions, the most dramatic of which was an expansion beyond the Castle Doctrine to permit the use of deadly force in self-defense anywhere a person had a right to be.

Since 2006, 24 states have adopted expansions of the castle doctrine.

Co-petitioners Kevin Mannix, a former lawmaker, and Duane Ray Fletchall, a retired sergeant with the Marion County sheriff’s office, are attempting to bring a version of this expansion to Oregon.

Current Oregon law allows deadly force in defense of self, others or property only if the other person is using or about to use deadly force. The Oregon Supreme Court has said residents do not have a “duty to

retreat” in their own home. In other words, Oregon already has many of the same provisions of an expanded Castle Doctrine. (OregonLaws.org ORS 161.205 to ORS 161.219)

The initiative under consideration doesn’t expand the concept outside the home or business as Stand Your Ground laws do, but it features many other aspects of expanded Castle Doctrine laws, including:

- Language explicitly eliminating the duty to retreat
- Creation of a presumption that the use of deadly force against an intruder is justified
- Creation of immunity from civil liability for injuries suffered by trespassers

When former Rep. Mannix served in the Legislature in 1999, he sponsored House Bill 3054. That bill would have removed civil liability when trespassers are injured. It did not include the use of force provision in the current initiative. It was strongly supported by railroads, which were concerned about being sued by people who trespassed on their tracks. (Mannix 2014a)

HB 3054 passed but was vetoed by Gov. John Kitzhaber. (Kitzhaber 1999)

Mannix also circulated a similar initiative in 2008 but stopped working on the initiative to devote his energy to a measure that would create mandatory sentences for property crimes. (Mannix 2014a)

## **Discussion & Analysis**

Below is a summary of the arguments that supporters and opponents of the initiative made before your committee:

The initiative contains two provisions: the use of force provision and the civil liability provision.

Your committee has analyzed the two provisions of the initiative separately. The committee understands that voters will have to make one choice but believes they are quite different issues and that voters would have been better served if they had not been conflated. These are the arguments we heard and came across in our research.

### **The use of force provision**

#### **Major Assertions Made in Favor:**

- Public Safety - Protects the right of every person to use whatever force is necessary to defend his or her home
- Could improve public safety in high-crime neighborhoods and rural areas, which are more vulnerable to home invasions
- Reduces the burden of residents having to hire lawyers and defend themselves
- Explicitly eliminates the duty to retreat
- Clarifies the law concerning defense of property

### **Major Assertions Made Against:**

- Increases the likelihood that people will be killed, undermining the sanctity of human life, and reducing public safety
- Is not needed because Oregon law already adequately protects the rights of individuals to protect their home
- Increases the potential for racial disparities in how the law is applied
- The language of the initiative is unclear

### *Public Safety*

The initiative would strengthen a resident's right to use any force to repel an intruder, removing nearly all threat of prosecution for people who defend their homes and other property with force, proponents argue. But proponents contend it doesn't grant total immunity. The presumption of reasonableness could be rebutted by evidence; for example, if there was evidence that a neighbor was asking to borrow a cup of sugar, and the homeowner knew it.

Mannix stressed to your committee that he was not basing his argument on any specific cases where a homeowner or resident was unfairly prosecuted in Oregon.

Another argument advanced in favor of the initiative is that citizens need to protect themselves and their property because law enforcement can't be counted on or trusted to do the job. Your committee believes that this might be true in poor urban areas where crime overwhelms the capacity of police to deal with it, and in rural areas where sheriff's offices are spread thin and lack voter support for increasing services.

Co-petitioner Fletchall did not respond to requests to give testimony to the committee. We also could not find any other law enforcement officials or organizations to offer testimony. We sought input from the Oregon Sheriff's Association, the Oregon Association of Chiefs of Police, and the Multnomah County District Attorney's office.

Although gun-owner's rights groups have been involved in working for expansions of the Castle Doctrine in other states, they are not actively engaged with this issue in Oregon.

The committee contacted Kevin Starrett, executive Director of the Oregon Firearms Federation, the state's principal gun-rights organization. Starrett stated that his group would probably support the initiative, but declined to offer testimony to the committee.

The National Rifle Association has weighed in on similar measures in other states, although not so far on this initiative in Oregon.

Chris Cox, executive director of the NRA's Institute for Legal Education, writing in support of a proposed Castle Doctrine law in Oklahoma in 2012, said: "Just as we work toward the day when all states allow all good citizens of age to carry firearms for protection, we will work until all states fully protect the right of law-abiding people to use force in defense of themselves and one another, without fear of prison or bankruptcy. Decent people have a right to nothing less." (Cox 2014)

Few Oregon-based organizations have taken an official position on the initiative. The American Civil Liberties of Oregon has concerns about this initiative but has not, as of this writing, taken a formal position on it. (Strauss 2014)

Strauss cited two major reasons.

First, the use of deadly force is the most serious deprivation of liberty, “creating a scenario in which it is more likely people will be killed without due process of law.”

The second objection is the likelihood of increasing racial disparities in how the law is applied.

The committee found limited data to support the arguments we heard, both pro and con, on expanding the Castle Doctrine.

In his testimony, Mannix said that he was not basing the initiative on any particularly bad cases. He characterized the initiative as an “overlay” rather than as a major change to the current system.

Mannix acknowledged that few prosecutors have brought or would bring a case against a homeowner who shot an intruder, and juries would be unlikely to convict if they did. (Mannix 2014)

This acknowledgment lends credence to the argument that the initiative is not necessary to safeguard Oregonians’ right to protect their homes and property.

A study of household burglaries by the Bureau of Justice Statistics, a federal agency, sheds some light on the perceived need for stronger Castle Doctrine laws. (Office of Justice Programs 2010)

The study found that an estimated 3.7 million burglaries occurred each year between 2003 and 2007, and that about seven percent involved some form of violent victimization.

Victims said they knew the offender in 65 percent of violent household burglaries, while in 28 percent of such burglaries, victims said the offender was a stranger. Residents were equally likely to be victimized by a current or former intimate partner as they were by a stranger.

Offenders were unarmed in 61 percent of the violent household burglaries. In 12 percent of violent household burglaries the offender possessed a firearm.

There is also some national data to support the argument that expanding the doctrine leads to more homicides, and racial disparities.

A Texas A&M University study of 20 states that expanded Castle Doctrine laws between 2000 and 2010 found that the laws did not deter burglary, robbery or aggravated assaults, but did lead to an 8 percent increase in homicides. (Cheng 2013)

A 2013 Urban Institute study looked at FBI homicide statistics between 2005 and 2010. (Roman 2013)



The study found that, overall, less than two percent of homicides are ruled to be self defense. However, that figure moved to closer to three percent in states that adopted Stand Your Ground (SYG) Laws, and close to one percent in states without SYG laws.

The ACLU is highly concerned about racial disparities in Oregon. Strauss said there are already differences in who ends up becoming involved in the criminal justice system, and this initiative could make that situation worse.

The Urban Institute study found racial disparities.

Out of 53,000 homicides in the database, 23,000 had a white shooter and a white victim. The shooting was ruled to have been justified in just two percent of cases. In states with a SYG law, the shooting was ruled to be justified in 3.5 percent of cases, compared to less than two percent in non-SYG states. In cases where both the victim and shooter are black, the numbers are almost identical, if slightly lower.

The starkest contrast was between homicides of blacks committed by whites, of which 11.4 percent are ruled justified, and homicides of whites committed by blacks, of which 1.2 percent are ruled justified. States with SYG laws have higher disparities than states without SYG laws.

The study noted that racial disparities do not always mean the killings were racially motivated.

When questioned about the potential of the change to undermine race relations by strengthening the link between ignorance, fear, and violence, Mannix argued that the initiative would enhance the safety of minority residents. He claims African-Americans were most likely to be victims of home invasions, and they would welcome the added security. (Mannix 2014)

The committee solicited testimony from groups representing African-Americans and other minorities, but could find none who wished to speak to the committee. The committee reached out to the Urban League and the Commission on Hispanic Affairs.

It's important to note that these studies do not relate directly to this proposal in Oregon. The committee found no research into the results of the exact change proposed in the initiative.

However, your committee believes that these studies indicate the direction Castle Doctrine expansions tend to take a state – more killings, tipping the balance in favor of the sanctity of property over the sanctity of human life.

#### *States reconsidering expanded Castle Doctrine laws*

Killings have prompted some states to begin rethinking their recent expansion of the Castle Doctrine.

In Montana, prosecutors have charged a 29-year-old Missoula man in the killing of a 17-year-old German exchange student in the garage where he was staying. The possibility that the state's Castle Doctrine law may exonerate the shooter – as well of a handful of other high-profile homicides – have prompted calls for a re-examination of the Castle Doctrine law. (Chaney 2014)

In San Francisco, prosecutors earlier this year declined to charge a man who shot and killed a 26-year-old neighbor who mistakenly entered the wrong apartment. (Sanchez 2014)

A recent Associated Press article detailed several killings involving residents and intruders that have raised concerns about Castle Doctrine laws. (Bever 2014)

In one case, a Minnesota man who shot two teenagers claimed he was afraid after a series of break-ins. But prosecutors said he moved his truck to make it appear he was gone and camped out in his basement with food and guns. In Florida earlier this year, an auto-dealer reportedly recruited a friend to wait with him at his dealership after his property was burglarized the night before. When the alleged teen thieves returned, he confronted them — with gunfire. (Forliti 2014a, 2014b)

#### *New law not needed*

Thomas S. Sermak, a Salem criminal defense attorney, said that under current state law, one is allowed to use deadly physical force to protect one's home if one reasonably believes the intruder intends to commit burglary (trespass with the intent to commit a crime), and one can protect any building, home or otherwise, from arson or crimes of force or violence. (Sermak 2014a, 2014b)

The proposed change would expand the use of deadly force to include the defense of virtually any building from anyone unlawfully on the property, Sermak said. This means, for example, that a shopper at Walmart could kill someone who had been excluded from the property for shoplifting and would be trespassing by coming in the store.

"The measure does nothing to increase a property owner's already adequate right to protect himself or his property from any real threat," he said. "It does absolve the property owner from any obligation to exercise reasonable discretion before taking or attempting to take a human life in defense, not of his home, but of his property. It is not necessary and sends the wrong message as to the value Oregonians place on human life over property."

The committee contacted the Oregon Association of Chiefs of Police, Oregon Sheriff's Association, and the Multnomah County District Attorney's office, but could not find any local law enforcement groups or officials who were prepared to comment on the initiative. But the Association of Prosecuting Attorneys, a national group, issued a statement in 2012 opposing the expansions of Castle Doctrine laws in the states. (Association of Prosecuting Attorneys 2012)

Under long-standing case law, "the right of self-defense and the right to defend one's home against invasion are well established," noted R. Seth Williams, the District Attorney of Philadelphia and a member of the APA's Board of Directors.

Protecting lives "will come with the reduction – not expansion – of the justified use of deadly force," Williams said in the statement.

The immunity from prosecution contained in these laws is greater than the legal protections given to police officers who are involved in a shooting in the line of duty, the prosecutor's group said.

"This grant of immunity, both civil and criminal, can sharply undermine the ability of law enforcement and prosecutors to protect the public by prosecuting acts of gun violence."

### *Language Issues*

Proponents argue that the change is needed to clarify existing statutes. But critics pointed to a lack of clarity in the initiative.

One major source of confusion is the presumption that a homeowner's actions are reasonable. Under current law, a homeowner who kills an intruder would have to show that his or her fear was reasonable. Under the initiative, that fear is presumed to be reasonable.

The question is whether that presumption is rebuttable, i.e., that a prosecutor could produce evidence to show that a homeowner's fear was unreasonable. Mannix, the initiative's proponent, believes that this presumption is rebuttable. Sermak, the criminal defense attorney, disagrees, pointing out that the initiative doesn't say that. Sermak also noted that, even if the presumption is rebuttable, it is likely that any witness to the altercation would be dead — a consideration that might increase the chances that a homeowner would shoot to kill. (Mannix 2014; Sermak 2014a, 2014b)

It's a critical legal distinction and one that would be left to courts to interpret. If the presumption is rebuttable, the burden of proof lies with the state, which must show that the use of force was unreasonable, instead of the shooter having to show that it was. It's always difficult to prove a negative. If it is not rebuttable, then there is no burden of proof required at all.

Either way, critics argued, it encourages vigilantism and undermines the concept of proportionality that the use of force should be in proportion to the threat.

And voters may be confused about the definition of a trespasser. It may not be clear, for example, that a shoplifter who is banned from entering a store is considered a trespasser if he returns and could then be shot and killed by a shopper. (Sermak 2014a, 2014b)

### **Civil liability for injury to trespassers**

The second part of the initiative establishes that a property owner has immunity from civil liability if adult trespassers injure themselves — unless he sets a trap of some kind and lures the intruder onto the property.

Here are the arguments and discussion related to this provision:

#### **Major Assertions Made in Favor**

- Protects property owners from frivolous lawsuits, ensuring that they can do what is necessary to protect their homes without spending a lot of money on lawyers
- Reduces the likelihood that insurance companies will settle cases

#### **Major Assertions Made Against**

- Frivolous lawsuits are rare, and legitimate cases should have access to the courts and juries
- Negligent property owners should be held accountable

- The civil liability issue should be presented as a separate initiative

Proponents cited a 2010 case in Clackamas County where someone ignored “no trespassing” signs and entered Austin Hot Springs, became injured, and sued. (Mannix 2014)

In statements to the committee, Mannix acknowledged that such suits do not generally succeed, but they force defendants to spend time, money, and effort defending themselves.

The initiative reduces the likelihood that insurance companies will settle cases because of the cost of defense – and increases the odds against plaintiffs, said Mannix, who has experience as a lawyer representing businesses facing lawsuits.

Plaintiff lawyers will sometimes file suits just to force a settlement, he said.

On the other hand, the Oregon Trial Lawyers Association strongly opposes the civil immunity portion of the initiative, said Charles Tauman, a member of the association’s board and a former executive director. (Tauman 2014)

“The purpose of the civil courts is to provide accountability and responsibility for someone who is injured,” Tauman said.

He said the state of the law is a “bit unsettled” when it comes to property rights and the rights of third parties. Third parties can include people allowed to come on your property, people invited on to your property and trespassers. But, Tauman argued that this initiative grants immunity for what would otherwise be wrongful acts.

Resolution of disputes of this kind should be up to a jury, he said.

Tauman also objected to what he said was the “sloppy drafting” of the initiative. He said the combination of the criminal and civil aspects into one initiative smacked of piggybacking, the political trick of coupling a less popular concept to a more popular one.

Tauman also pushed back against the notion that the current system encourages frivolous lawsuit by trespassers who are injured. “To the people who died or were seriously injured, it isn't frivolous,” he said. “Juries are pretty good about sorting these issues out.”

Addressing the issue of defendants settling rather than spending money to fight a meritless lawsuit, Tauman said, “No one forces you to settle. This is not a problem that needs to be solved by eliminating access to a jury.”

He said the contingency-fee system also acts as a deterrent to frivolous lawsuits.

In his 1999 message vetoing HB 3054, Kitzhaber said, “While such immunity from liability for landowners is perhaps appropriate in some cases, the myriad of possible applications makes it poor public policy in general.” (Kitzhaber 1999)

“For example, the bill would apply to trespassing teenagers, notorious for impulsive behavior and could be seriously injured by a known hazard. Should a landowner be absolved of responsibility for serious, long-term injury to a young adult caused by a known, preventable hazard simply because an act of vandalism occurred?”

Kitzhaber said the courts are the right place to resolve such disputes.

## **Conclusion**

A Marquette Law Review article published in 2003, well before the current spate of Castle Doctrine law expansions, states the problem posed by these laws:

“First there is the overriding desire to protect the sanctity of life whenever possible. Second, and in seeming conflict, is the principled belief that the sanctity of one's home must be recognized, even in the face of loss of life.” (Carpenter 2003)

The proposed ballot measure to expand Oregon’s “Castle Doctrine” is not needed to ensure property owners have the authority to defend their home. The law is poorly written, and would undermine the value of human life. It has the potential to encourage vigilante justice and unnecessary killing. These effects could fall more heavily on minority communities.

The committee is persuaded that current law adequately protects the right of homeowners to protect their property, and rightfully includes a requirement that the fear that prompts the use of deadly force be reasonable. A presumption that the fear is reasonable, even if rebuttable, could slow or even preclude an investigation into the facts.

The initiative unnecessarily undermines the value of human life for little or no gain in personal security.

Some committee members were more sympathetic to the civil immunity issue but, in the end, the group was persuaded by the arguments posed by Kitzhaber in his veto message of HB 3054, and by trial attorney Charles Tauman. (Kitzhaber 1999; Tauman 2014) Nuisance or frivolous lawsuits are rare; the contingency fee system acts as a brake on filing such suits. And legitimate cases should be decided by juries. The law should not grant unlimited immunity.

## **Recommendation**

The committee unanimously recommends a “no” vote on IP 10.

## **Signatures**

*Respectfully submitted,*

Maria Thi Mai, Chair

Duncan Hwang, Vice Chair

Jim Mayer, Lead Writer

Debra Brown

Annette Majekodunmi

Margaret Malarkey

Cezanne Miller

Dawn Sieracki

Dave Weber

## **Acknowledgements**

The committee wishes to express its appreciation to the following City Club members for their help and support:

Elizabeth Friedenwald, research adviser

Allison Schisler, research associate

Greg Wallinger, research and policy director

## **Witnesses**

\*Kevin Mannix

\*Becky Strauss, ACLU

\*Richard McBreen, Oregon Criminal Defense Lawyers Association

\*Thomas S. Sermak, criminal defense attorney

\*Charles Tauman, Oregon Trial Lawyers Association

## **Appendices**

### **A Note on Values**

The committee believes that the following values are widely held among Oregonians and help organize good thinking about the initiative.

1. A primary duty of the state (in any of its manifestations) is to protect the lives of its citizens.
2. In service of this duty, it is appropriate for the state to have a near-monopoly on the use of violence, including deadly violence.

3. This monopoly is not absolute—citizens have the right of self-defense in cases where the state does not or cannot protect their lives. The law enforcement environment in many rural counties of Oregon is dire: the state (in the guise of county government, as well as at the state level) is failing in its duty to protect the lives and safety of its citizens.
4. The right of self-defense is not the same as vigilantism; self-defense must be defensive and includes a duty to retreat to a place of refuge.
5. A person's home must be considered a place of refuge; once she is in her home, a person has fulfilled her duty to retreat.
6. The constraint of due process is a necessary condition of the legitimacy of the state's monopoly on the use of violence.
7. Any decisions regarding law or public policy should include 1) an awareness of the high probability of unintended consequences and 2) good-faith efforts to think carefully about them, with an eye toward limiting the negative ones.
8. Laws, whether passed by the legislature or the result of the initiative process, should be carefully articulated and as clear as possible. The terms of initiatives should not, as far as is possible, require an understanding of recondite technical terminology on the part of voters. The terms of laws and initiatives should leave as little as possible to the vagaries of court interpretation.

### **A Note on Process**

Your committee thought the best way to orient ourselves from the beginning of our investigation was with the initiative itself. Thus we began with the text of the initiative and with its chief petitioners. We contacted Kevin Mannix and Duane Ray Fletchall. We made a number of attempts to contact Fletchall, but never heard back. Mannix, however, was immediately forthcoming and graciously met us at City Club to explain the initiative to us as our first witness.

He explained both sections of the initiative, as reported elsewhere in this report.

We next thought to hear more from other interested and informed parties, hoping to hear opinions and arguments on both sides of the issue.

We had difficulty finding institutions that had official positions, but representatives of various likely institutions did agree to meet with us at City Club to explain their own views, and in some cases to make surmises as to what their organization's position would be if it were to adopt a position.

But even here, we had difficulty finding as many witnesses as we had hoped for going in. And even more troubling, we couldn't find anyone to come and testify in favor of the initiative.

In the face of the paucity of witnesses, we put more of an emphasis on documentary research based on published material on the national level than we might otherwise have been inclined to do.

The documentary evidence included:

—News reports of the Castle Doctrine going tragically awry [this was anecdotal evidence, and thus of limited value]

—News reports of the positions of institutions in other states [anecdotal in a sense, but of more validity than the above, since the positions were based on wider data]

—Academic/law review studies of various aspects of Castle Doctrine laws in other states (including empirical studies of relevant consequences)

Discussion among committee members occurred throughout the process, both face to face in weekly meetings and online. After hearing from witnesses, and having had a chance to review documentary evidence, further discussion occurred, and at that point the first straw poll was taken. It was clear that the vote on the committee would be unanimously opposed to the initiative, and Jim Mayer began the writing the report.

The committee offered editing suggestions over the next few meetings, and the draft of the report came together.

## **About the City Club**

City Club of Portland brings together civic-minded people to make Portland and Oregon better places to live, work and play for everyone. For more information about City Club of Portland or for additional copies of this report, visit [www.pdxcityclub.org](http://www.pdxcityclub.org), email [info@pdxcityclub.org](mailto:info@pdxcityclub.org) or call 503-228-7231.

City Club of Portland  
901 SW Washington St.  
Portland, OR 97205  
[twitter.com/pdxcityclub](https://twitter.com/pdxcityclub) • [facebook.com/pdxcityclub](https://facebook.com/pdxcityclub)

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