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NO GROUND TO STAND UPON?: EXPLORING THE LEGAL, GENDER, AND RACIAL
IMPLICATIONS OF STAND YOUR GROUND LAWS IN CASES OF
INTIMATE PARTNER VIOLENCE.

by

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M.A. University of Central Florida, 2010

A dissertation submitted in partial fulfillment of the requirements
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ABSTRACT

Within the past decade, the use of self-defense as defined under Stand Your Ground laws has been the subject of political and legal scrutiny. According to the American Bar Association (2015), twenty-three states have passed Stand Your Ground laws that eliminate the duty to retreat prior to using force in any place that an individual has the right to be. In addition, ten states allow individuals to use or threaten to use force in public or private spaces where they have a right to be under case law (not formal statute) but maintain stricter requirements for how self-defense must be proven in criminal proceedings. Several high-profile cases have served as catalysts for human rights organizations, civil rights activists, and politicians to question the necessity of Stand Your Ground laws, and these cases have also introduced the possibility that individuals who have traditionally been disenfranchised within the criminal justice system based upon race, class, and gender continue to be limitedly protected under this more “expansive” legislation. Where the limitations of these laws are becoming increasingly evident is with cases of intimate partner violence. However, there has not been any empirical investigation regarding how Stand Your Ground laws apply to intimate partner violence, and this is the case despite critical evaluations demonstrating self-defense law to be primarily androcentric in language and intent. This bias has been codified into Stand Your Ground laws, where intimate partner violence victims are required under Castle Law to have a protection order issued by the court to prove reasonable fear against their partner who may have a moral or legal right to the same property where the violence occurs.

The current study was designed to address this limitation in the research, and to provide the first known evidence of how statutory Stand Your Ground laws are being applied to cases of

self-defense that involve intimate partners. Information was gathered through three key analyses: (1) a content analysis of Stand Your Ground statutes; (2) a content analysis of criminal and appellate court cases; (3) a content analysis of newspaper coverage of these criminal and appellate cases. The results of these analyses demonstrate that there are more legal restrictions than protections for intimate partner violence victims; that there are gender disparities in sentencing outcomes that do not favor women who are victims of intimate partner violence; and that the media tends to use victim blame tactics that have clear implications based upon the gender and race of intimate partner violence victims. The results of this study offer much needed evidence of fundamental problems with contemporary Stand Your Ground laws that continue to condemn intimate partner violence victims, and are also used to make recommendations for how Stand Your Ground laws can be modified to offer unbiased legal protection to victims of intimate partner violence who experience a long-term cycle of abuse.

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CHAPTER ONE: INTRODUCTION

Particularly over the past decade, the use of self-defense has been subject to substantial political and legal reformations in the United States. According to the Law Center to Prevent Gun Violence (2014) and the American Bar Association (2015), a majority of states have Castle Doctrines and/or Stand Your Ground laws that expand the right to use deadly force as a means of self-protection. The Castle Doctrine is one of the oldest legal recognitions of self-defense, dating back to seventeenth century England where legal theorist Sir William Coke declared that “For a man’s house is his castle, *et domus sua cuique tutissimum refugium*¹” (Third Institute of the Laws of England, p. 162, 1644). Within English Common Law, an individual was required to first “retreat to the wall” before using self-defense; the only exception was when an individual used force to protect the sanctity of their home (Brown, 1991). Modern versions of the Castle Doctrine were adopted by the United States in the late nineteenth and early twentieth centuries that combined the English Common Law principles of self-defense with the defense of habitation. These laws allow individuals who are being attacked within their homes or surrounding property the right to use force without first having to retreat for the threatening or violent altercation (Brown, 1991; Levin, 2010). Stand Your Ground laws are even more expansive than modern Castle Doctrines in the respect that they permit individuals to use force to defend themselves in any space, public or private, without an imposed duty to retreat (Levin, 2010). Utah was the first state to adopt a *Force in Defense of Habitation* statutory law in 1985 (Utah Code Ann. § 76-2-405). Publicized controversies surrounding the enforcement of self-

¹ “and his home his safest refuge”.

defense law, such as *State v. Zimmerman* (2012), *State v. Dunn* (2014), and *State v. Alexander* (2012)², however, did not become commonplace until after Florida endorsed the first, and now commonly termed, “Stand Your Ground” law in 2005 (Fla. Stat. § 776.013). Since this time, Florida has paradoxically become the lynchpin of notoriety from critics who have found fault with meeting force with force, such as former U.S. Attorney General Eric Holder (Yu, 2013) and the National Association for the Advancement of Colored People (NAACP) (*The Huffington Post*, 2013), but also the prototype for other states who have adopted similarly worded Stand Your Ground laws. To date, twenty-three states, including Utah and Florida, follow Stand Your Ground through statutory law; ten states follow Stand Your Ground through case law, but maintain stricter legal requirements for proving self-defense in comparison to those states with statutory law; and nineteen states mandate, either through statute, case law, or jury instruction, that individuals first retreat before using force in self-defense (American Bar Association, 2015). Table 1 (see Chapter 5) lists the laws that are currently encompassed under each state.

While advocates of the Castle Doctrine and Stand Your Ground laws, such as the National Rifle Association (Ono, 2012) and political groups such as the American Legislative Exchange Council (ALEC) (Chokshi, 2013), have championed the legislation as protecting the safety and interests of law abiding citizens, some legal scholars have emphasized that the Castle Doctrine and Stand Your Ground laws have neglected the experiences of women in their construction and also contain discourse that adversely affects victims of intimate partner violence (Carpenter, 2003; Suk, 2008). Specifically, the Castle Doctrine and Stand Your Ground laws

² Although the cases of *State v. Zimmerman* (2012) and *State v. Alexander* (2012) are consistently referenced in debates surrounding the application of Stand Your Ground laws, it is important to note that the Florida Stand Your Ground law was not used as a part of the defense during trial. In *State v. Zimmerman*, the defense argued self-defense in accordance with Florida’s protection of persons statute, and in *State v. Alexander* the claim of self-defense under Stand Your Ground was denied by the judge at pre-trial hearing.

have traditionally contained a home presumption clause that strives to protect the formal institution of marriage and the sanctity of the home by restricting victims of intimate partner violence, the majority of which are women according to nationally representative surveys (Black et al., 2011; Catalano, 2013; Tjaden & Thoennes, 2000), from using force if their abusive partner has a legal or moral right to be on the property in which the incident occurs (Suk, 2008). These laws do allow for the use of force if the victim's fear of being seriously injured is reasonable in the presence of an imminent threat or if the victim has an active injunction or pretrial order of supervision against their abuser (Fla. Stat. § 776.013; Suk, 2008). However, these stipulations are still likely to exclude protections for those victims who retaliate in lieu of threats or minor provocation on the part their abuser, are unable to obtain a protection order for economic or safety reasons, or do not have a pending court case against their abuser. As a consequence, many victims of intimate partner violence must endure abuse to the extent that self-defense seems a reasonable and necessary last resort for self-preservation. Furthermore, through the lens of the criminal justice system and from the perspective of the media, many victims who encounter barriers to personal and community-based resources or who refrain from prosecuting their abusers may be perceived as culpable for their own abuse if they use self-defense instead of simply leaving their relationships.

Despite the limitations that victims of intimate partner violence would encounter in the event that they use the Stand Your Ground law as a legal defense for protecting themselves against their abusers, there is currently very limited knowledge regarding how Stand Your Ground laws have been applied to cases of intimate partner violence, and under what circumstances courts have and have not granted victims of intimate partner violence a Stand

Your Ground legal defense. Considering how pervasive Stand Your Ground laws have become, and with more states considering proposals for this legislation every year (Law Center to Prevent Gun Violence, 2014), there is undoubtedly an important need to better understand the possible shortcomings of this law to intimate partner violence victims, uncover trends in adjudication, and disseminate this information to politicians, special interest groups, and advocates. Furthermore, despite the fact that *State v. Zimmerman* (2012) served as a catalyst for increased debate about the constitutionality of Stand Your Ground laws, *State v. Alexander* (2012), which directly dealt with self-defense in the context of intimate partner violence that occurred between Marissa Alexander and Rico Gray in August 2010, did not receive national media coverage until after Trayvon Martin was killed by George Zimmerman in February 2012. Even with more attention given to *State v. Alexander* (2012), however, media coverage tended to focus on the background characteristics and actions of Marissa Alexander instead of her abuser and did not include explicit reference to the ways in which the Stand Your Ground law may have affected her trial since she was a victim of intimate partner violence (Columbia Broadcasting Services [CBS], 2013; National Broadcasting Center [NBC], 2012). While previous literature on intimate partner violence has criticized the way that media coverage tends to place responsibility on victims for provoking their abuse (Berns, 2004; Meyers, 1997) and reinforce stereotypes of victims based upon their gender, race, and social class (Dixon & Linz, 2000; Meyers, 2004) a specific analysis of news coverage on Stand Your Ground cases involving intimate partners has not yet been conducted. Since the media continues to play a significant role in how the public understands victimization, intimate partner violence, and the Stand Your Ground law an analysis of how the media frames victims in these self-defense cases is essential.

In addition, while Stand Your Ground statutes have only been around for a decade, feminist scholars have published information over the past forty years regarding how the Castle Doctrine has traditionally worked to marginalize the legal rights of women (Fineman, 1995; Gillespie, 1990). These critiques of the Castle Doctrine have recently been extended by legal scholars to determine the effects of the Stand Your Ground law on intimate partner violence victims' treatment within the legal system and incarceration following claims of self-defense (See Coker, 2014; Franks, 2014; Jackson, 2015). Additionally, there are numerous issues that have been raised within the legal research on Stand Your Ground laws, such as how race and class affect both perpetration and victimization (Jones, 2014; Lawson, 2012), and the role that firearms have played in both forming and supporting the expansion of these laws (Lave, 2012). Yet, while sociological research on the use of self-defense in violent relationships often contextualize their arguments in terms of gender, race, and socioeconomic status (Esqueda & Harrison, 2005; Wright, 2000), and also emphasize the correlation between abusers' access to firearms and the rate of intimate partner homicide (Kellerman et al., 1993; Vigdor & Mercy, 2006), these publications do not commonly discuss their findings in connection with legal reform or self-defense law. In order to adequately address the fundamental issues surrounding the applicability of Stand Your Ground laws to instances of intimate partner violence, information and findings from both of these disciplines needs to be more fully integrated into one evaluation.

The aforementioned gaps and limitations underscore the importance for a comprehensive study on the effects of Stand Your Ground laws on intimate partner violence victims. Indeed, the discourse of Stand Your Ground laws directly affects intimate partner violence victims but evidence on this matter that could inform policy is severely lacking or nonexistent. Thus, the

purpose of this dissertation is to provide this much needed evidence through three key analyses: (1) a comparison of Stand Your Ground statutes to determine the requirements for intimate partner violence victims to prove self-defense under this law; (2) a content analysis of criminal and appellate cases that reference the “Stand Your Ground” statute and involve intimate partner violence to highlight key themes underlying guilty and non-guilty verdicts as well as case dismissals; (3) a content analysis of local newspaper coverage on these cases to understand how the basic tenets of Stand Your Ground laws are being communicated, and how the defendant and victim are portrayed. This evaluation is guided by a critical criminological perspective, which specifically positions the “criminal processing system” as a means for individuals in power to consciously perpetuate social inequalities in order to maintain organizational self-interest or the status quo (Sykes, 1974). Overall, the results of this study are important to fostering a more inclusive discussion about the ramifications of the Stand Your Ground law on abused women and men who may engage in self-defense in order to protect themselves from their abusers. Furthermore, the results are also used to make recommendations for how Stand Your Ground laws can be modified as a means of offering adequate and unbiased legal protection to victims of intimate partner violence who experience long-term cycles of physical, sexual, psychological, and emotional abuse.

CHAPTER TWO: LITERATURE REVIEW

History of the Castle Doctrine and Stand Your Ground Law

Over the past century, there have been notable changes in the legal right to “stand one’s ground” in the United States. Clarifying the ways in which the requirements of self-defense have evolved provides context for the contemporary issues surrounding the popularly termed Stand Your Ground laws. The precedent for the right to kill in self-defense is historically grounded in thirteenth century English common law (Brown, 1991; Levin, 2010). Within his *Commentaries on the Law of England*, Sir William Blackstone supported the traditional tenets of English common law that directed the burden of proof onto the accused, maintaining the idea that the right to self-defend was not mutually exclusive with the right to kill (Brown, 1991). When instances of self-defense were brought before the court, the accused had to prove that they had retreated from or attempted to avoid the altercation before using force; they also had to prove that killing their opponent was reasonably necessary in order to preserve their own safety or life. In the event that these requirements could be proven, the defendant would be found guilty of “excusable homicide”, but pardoned by the King with no penalty (Brown, 1991).

The basic cornerstones of self-defense – the duty to retreat, reasonableness, and necessity - were established by English common law to maintain order and civility among its citizens. From the perspective of the state, the duty of an individual to retreat “to the wall” was necessary to avoid escalated conflict or death, and any residual disputes stemming from this matter would be settled by the court (Brown, 1991). However, while it was important to the state that order be maintained in the public sphere by requiring a duty to retreat, allowing a man to defend his home from intrusion was equally important (Brown, 1991; Levin, 2010). Indeed, the English believed

that “a man’s home was his castle”, and through the defense of habitation, which is known today as the Castle Doctrine, a man could protect his home by using physical or deadly force without an imposed duty to retreat. The basis for this distinction on how self-defense could be used within the home was entrenched in the idea that the home was a valued space where safety should be guaranteed (Carpenter, 2003; Catalfamo, 2007; Levin, 2010). Furthermore, a man’s home or property was connected to his privileged legal status and membership in the political community. In this regard, the home was not only viewed as private property but all domestic relations were considered private matters free from disruption and intrusion from any party, including public officials executing civil orders (Hafetz, 2002; Steinfeld, 1989).

With the settlement of America, English Common Law initially served as the benchmark for individual accountability in instances of self-defense and homicides linked to the use of self-defense (Brown, 1991). However, philosophical shifts in the late nineteenth and early twentieth centuries eliminated the duty to retreat as advocated in English Common Law in favor of the “true man doctrine” which allowed a man to defend his honor by standing his ground (Levin, 2010). The impetus for this ideological change was “a combination of Eastern legal authorities and Western judges who wrought the legal transformation from an English law that, as they saw it, upheld cowardice to an American law suited to the bravery of the ‘true man’” (Brown, p. 5). While the idea of “no duty to retreat” had become a part of common law in many states, it was officially declared a federal law by the U.S. Supreme Court following the case of *Brown v. United States* (1921), where Justice Oliver Wendell Holmes, Jr. stated:

Rationally, the failure to retreat is a circumstance to be considered with all the others in order to determine whether the defendant went farther than he was justified in doing, not

a categorical proof of guilt. The law has grown, and even if historical mistakes have contributed to its growth, it has tended in the direction of rules consistent with human nature. Many respectable writers agree that, if a man reasonably believes that he is in immediate danger of death or grievous bodily harm from his assailant, he may stand his ground, and that, if he kills him, he has not exceeded the bounds of lawful self-defense. (p.256 U.S. 335).

Here, the United States Supreme Court found no duty to retreat in cases where the defendant was not on his own property. Thus, in federal cases within the United States, a man could stand his ground in any space, public or private, where he felt he had a right to be (Ross, 2007). As Suk (2008) notes, “reliance on the concept of the true man, then, enabled judges to leverage this appealing idea of a man defending his home and family into a more general authorization of self-defense in public places, even where the home and family were nowhere to be seen” (p. 245). However, the decision of the Supreme Court also made clear that any claim of self-defense would be judged based upon the totality of circumstances (i.e. necessity, imminence, and retreat) surrounding the incident.

From the Supreme Court’s decision in 1921 through the late 1960s and 70s, debates regarding the right to use force in self-defense were not as prevalent as they had been in the early twentieth century. During this time, most states had adopted Castle Doctrines as a part of statutory law or through reception statutes that allowed English Common Law to serve as the basis of judicial decisions in the absence of rules on self-defense and retreat developed by the state (Brown, 1991; Hall & Clark, 2002). However, burgeoning crime during the 1970s and 80s as well as targeted policing on ghettos and the “war on drugs”, for instance, began to fuel fears

among the public (Brown, 1991). It is important to note that, despite these moral panics that ensued over media reports of violent crime and drug epidemics (Potter & Kaeppler, 1998), many jurisdictions still imposed a duty to retreat in public places through either state statute or judicial decision (Carpenter, 2003). Yet, with decades of renewed political discussion on the matter of self-defense, Florida reinvigorated the idea of the “true man” when it became the first state to adopt a formal Stand Your Ground statute in 2005. Signed into effect by former Florida Governor Jeb Bush, and heavily sponsored by former National Rifle Association President Marion Hammer and Florida Representative Dennis Baxley, the Stand Your Ground law expands upon the Castle Doctrine in three ways (Levin, 2010). First, it allows the resident of a domicile to use force or deadly force against an intruder in the presence or absence of reasonable fear. Second, an individual has no obligation to retreat prior to using force or deadly force in a public place where he or she has a right to be. Lastly, individuals can be granted immunity from civil and criminal action if they use self-defense as permitted under the law. The inclusion of no duty to retreat in the Florida Stand Your Ground law was of particular significance since prior to the passage of this law, Florida contained a Castle Doctrine but still mandated a duty to retreat in all public places before resorting to self-defense (Catalafamo, 2007).

Florida’s Stand Your Ground law has been touted by former Florida Governor Jeb Bush as “a good, common-sense, anti-crime issue” (Chapin, 2014) and supported by state representative Dennis Baxley who asserted that “we need to give that law-abiding citizen the benefit of the doubt and stand beside them and say if you can stop a violent act from occurring that's going to victimize you and your family, that we're going to stand with you” (*National Public Radio*, 2012). However, former U.S. General Attorney Eric Holder has denounced the

law as one that undermines public safety and victimizes innocent people (Yu, 2013), and groups such as Dream Defenders and the NAACP have censured this law as one that violates fundamental human rights (*The Huffington Post*, 2013). Yet, thirty-two other states in addition to Florida have transitioned from the Castle Doctrine to more sweeping Stand Your Ground legislation (American Bar Association, 2015), and thirteen of these states followed suit in adopting similar statutory legislation within one year of Florida having adopted their Stand Your Ground statute (American Bar Association, 2015). Thus, it is important to investigate the political and/or cultural motivations for other states to become so widely interested in Stand Your Ground laws particularly since Florida's version of this law has been widely contested. Furthermore, and related to the goals of the current study, the theory that Stand Your Ground laws violate the civil rights of individuals needs to be explored more thoroughly within the context of intersectionalities (i.e. race, class, and gender) as well as violence that may occur primarily within the home or private space.

Philosophical Differences in Self-Protection: Concerns for Domestic Violence Case Processing in Regional Areas

Pertinent to the historical basis for self-defense law in the United States is how the use of force has been accepted and interpreted in different regional areas. In this particular vein, research has been primarily interested the use of violence in the south. Nisbett and Cohen (1996), for instance, argue that the south has historically abided by and maintained a “culture of honor”, which refers to a sense of status and power that “differs from other cultures in that violence will be used to attain and protect this type of honor” (p. 5). These authors assert that economic disparities that emerged between the northern and southern regions of the United

States, which were defined in part by the backgrounds and skill sets of European immigrants who were settling in these regions (e.g. Puritans, Quakers, Dutch, and German farmers and artisans in the north; Scotch-Irish herders in the south), have fostered a stronger culture of honor in the south and even to the west. Empirical studies that have examined regional differences in homicide and violent crime have evidence to support that structural poverty as well as ideologies that encourage the acceptance of violence contribute to higher rates of crime in the south (Blau & Blau, 1982; Brown, Barnes, & Tamborski, 2012; Gastil, 1971; Hackney, 1969; Huff-Corzine, Corzine, & Moore, 1986; Loftin & Hill, 1974; Nisbett, Polly, & Lang, 1995) and the west (Nelson, Corzine, & Huff-Corzine, 1994; O'Carroll & Mercy, 1989; Parker & Pruitt, 2000). Yet, explanations for these higher crime rates are also a function of the population density of the area of study as well as the racial composition of those areas (Nisbett et al., 1995). Nisbett and colleagues (1995), for example, observed the greatest disparity in the homicide rate among small cities (population between 10,000 and 50,000), with small cities located in the south and southwest showing much higher rates when compared to those in the north and midwest. Furthermore, regional area had a significant effect on the homicide rate for Whites, but not for Blacks in this study. These findings are consistent with the work of other authors who report that absolute poverty, along with the percentage of the target population that is born in the south, are significant predictors of homicide for southern Whites, while cultural differences influence homicide rates for southern Blacks and Whites (Huff-Corzine et al., 1986).

The "culture of honor" theory has been discussed in the literature as one that influences social policy related to self-defense, such as firearm regulations, the duty to retreat, protection of the home and property, as well as domestic violence (Cohen, Nisbett Bowdle, & Schwarz, 1996;

Nisbett & Cohen, 1996; Vandello & Cohen, 2003). While much of the empirical research has primarily examined the “culture of honor” in relation to factors such as poverty and slavery in the southern region of the United States, it must be acknowledged that this concept has also been extended to understand cultural and social norms about violence in the west (Kowalski & Peete 1991; Parker & Pruitt, 2000). Ultimately, the primary concern is how these norms materialize in the form of institutional policies that support the right to self-protection in public and private spaces, and how these policies may then be affecting political decisions and social perceptions related to self-defense law and the protection of victims (Cohen & Nisbett, 1997). For instance, using various forms of archival data to compare southern, western, and northern states, Nisbett and Cohen (1996) discovered that southern and western states had more lenient gun control regulations; legislators representing southern states were less likely to vote in favor of gun control laws; western states were the least likely to mandate a duty to retreat; the south and west were more willing to allow individuals to use violence as a means of protecting themselves, and their homes and property; and that southern states were the least likely to have mandatory arrest laws for domestic violence. Converging with these laws is evidence from other scholars (Vandello & Cohen, 2003) that the preservation of male honor in a romantic relationship is predicated upon women’s loyalty and fidelity, and even in instances where violence is used to ensure this power dynamic, women’s commitment to their spouse or significant other is perceived as more important than their personal safety. Collectively, the aforementioned research provides some perspective into the historical, social, and structural organization of self-defense laws. Even though the majority of “Stand Your Ground states” are located in the southern census region (Law Center to Prevent Gun Violence, 2014; U.S. Census Bureau, 2010),

additional causal variables, such as poverty rates, racism, and the endorsement of firearm ownership, certainly intersect with political attitudes within geographic regions and contribute to more contemporary understandings of self-defense, violence against women, and intimate partner violence.

Although not yet adequately explored in connection with Stand Your Ground laws, intersections of geographic region and community structure, entrenched political views of women and minorities, and social class affect intimate partner violence. Social and economic disadvantage among White women, particularly in southern rural areas, has become the focus of more recent investigations of intimate partner violence (Farber & Miller-Cribbs, 2014). The Southern Rural Development Center (Harris & Zimmerman, 2003) has suggested that historical transitions in manufacturing, less investment in education and social programming, and higher rates of teenage pregnancy are among the reasons that poverty continues to be highly concentrated in the southern region of the United States. In connection with intimate partner violence, resource deprivation among women diminishes social and financial capital that is important to leaving relationships (Farber & Miller-Cribbs, 2014; Logan, Stevenson, Evans, & Leukefeld, 2004) and is also a reliable predictor of violence perpetration among men (Atkinson, Greenstein & Lang, 2005). A multitude of studies have helped to highlight the effects of rurality on intimate partner violence (DeKeseredy & Schwartz, 2009; Logan, Walker, Cole, Ratliff, & Leukefeld, 2003; Logan & Walker, 2011; Websdale, 1995; 1998). Websdale's (1995; 1998) ethnography of rural woman battering from the perspectives of survivors, police officers, judges, attorneys, social workers, and the staff of local women's shelters and the Kentucky Domestic Violence Association was one of the first comprehensive studies to uncover the alarming

patterns of intimate partner violence within this community setting. From Websdale's research, it becomes clear that rural residents are largely operating under a system of entrenched patriarchal beliefs that condones spousal abuse; that women are living extremely isolated lifestyles with limited personal resources and social connections; and that a "good ol' boy" network between some batterers and criminal justice officials has compromised intervention strategies. When the race of victims and perpetrators is considered within community or regional context, the majority of women who are victimized by intimate partners in rural communities are racially White (Grossman, Hinkley, Kawalski, & Mangrave, 2005), and many remain with their abusers due to isolation and/or embarrassment. Black women within these rural communities not only encounter hostility from their abusers but from others who harbor racist ideologies, making the possibility of developing social support networks and reaching service providers even less of a reality (Grossman et al., 2005). Conversely, survivors who reside in urban communities are characterized as majority Black or of color (e.g. Grossman et al., 2005) and are largely bound to their abusers by the lack of opportunity that characterizes the impoverished communities in which they live (Sampson & Wilson, 1995; Benson, Wooldredge, Thistlethwaite, & Fox, 2004). Regardless of individual level characteristics (ethnicity, social class, income level, educational attainment), there is a propensity for Black individuals to reside in more socially and economically disadvantaged neighborhoods in comparison to Whites, which may translate into more difficult resource acquisition.

Resource availability in certain regions may also serve as a comparative standard for the social status of White men. Although Blacks are at the greatest risk for poverty in the south, the highest concentrations of impoverished Whites are also found around this regional area of the

United States (Macartney, Bishaw & Fontenot, 2013). Competition for resources that threaten the perceived or actual availability of sustainable jobs and income among White men with histories of abuse may further aggravate victimization for women. Statistical evidence also shows a regional effect on firearm possession for Whites: southern Whites carry firearms at higher rates than northern Whites, and firearm possession is greater among southern women than northern women (Felson & Pare, 2010). Though these findings are not extended to the use of firearms (recreation vs. self-defense), the presence of firearms in homes with histories of violent incidents increases the risk that women will be killed by spouses, acquaintances, or family members (Bailey et al., 1997). By proxy, the higher concentration of firearms in the possession of southern White women may lead to an increase of self-defense claims among this population.

Gender and Racial Bias in Self-Defense Law

Nationally representative surveys on intimate partner violence report that women constitute the overwhelming majority of victims (Black et al., 2011; Catalano, 2013; Tjaden & Thoennes, 2000), and the preceding discussion indicated that there are numerous structural and cultural variables that influence men's violent behavior and women's decision to respond through the use of force. Gender has come to be a rather salient variable in more contemporary debates regarding both the Castle Doctrine and Stand Your Ground laws, and the controversial nature of these legal policies is couched within a discussion of social status, political structure, and violence against women. The United Nations (1993) defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." In Western societies,

feminist scholars employing a variety of theoretical perspectives and activists working with the Women's Liberation Movement have been largely responsible for identifying intimate partner violence and other inequities that disproportionately affect women, as resulting from structurally and culturally reified gender oppression. For example, in *Women's Lives, Men's Laws* (2005), Catharine MacKinnon discusses the institutional reality of the "treatment of women" as follows:

In the United States, with parallels in other cultures, women's situation is made up of unequal pay combined with allocation to disrespected work, sexual targeting for rape, domestic battering, sexual abuse as children, and systematic sexual harassment together with depersonalization, demeaned physical characteristics, use in denigrating entertainment, deprivation of reproductive control, and forced prostitution. To notice that these practices are done by men to women is to see these abuses as forming a system, a hierarchy of inequality. This situation has occurred in many places, in one form or another, for a very long time, often in a context characterized by disenfranchisement, preclusion of property ownership, ownership and use as object, exclusion from public life, sex-based poverty, degraded sexuality, and a devaluation of women's human worth and contributions throughout society. This subordination of women to men is socially institutionalized, cumulatively and systematically shaping access to human dignity, respect, resources, physical security, credibility, membership in community, speech, and power. (pp. 24-25).

Through MacKinnon's radical feminist critique, the ways in which women have been historically perceived and treated as property by men become evident. Within this argument, violence is a means by which men control women, and the broader political structure reinforces this gendered

power imbalance through patriarchal policies that socially and economically marginalize women as a specific social class. These particular power dynamics are also not exclusively found within the public sphere. MacKinnon (2005) notes that “The law does little to nothing about the crimes against women that position them to commit the crimes that do matter officially. For instance, women’s imprisonment in their home by violent men who batter them is not thought official, even though it is widely officially condoned” (p. 33). Indeed, scholars (Dobash & Dobash, 1979; Dobash, Dobash, Cavanagh & Lewis, 1998) working within the social sciences have identified the home, which has traditionally been viewed as a private, unregulated space where domestic matters occur, to be rife with what Johnson (1995) terms as “patriarchal terrorism” or the frequent and escalating abuse or coercion perpetrated by a husband in order to control his wife and reaffirm his power status. Martha Fineman, for example, argues in *The Neutered Mother, the Sexual Family, and Other Twentieth Century Tragedies* (1995) that legal texts, which have traditionally assumed the social construction of the “natural” family to be centered around the sexual bond between a man and a woman, have created pervasive ideologies about dependent relationships, the division of labor, and appropriate gender roles. Fineman suggests that legal thought has evolved to an extent that domestic violence has become more visible and regulated, and also to a point where women can transcend or challenge notions of the “female” role through greater access to the law. However, Fineman also reiterates that “the sexual family represents the most gendered of our social institutions, and this has remained true even after decades of an organized women’s movement. While other, nonfamily transformations have fostered male-female competitiveness, the family is one area where tensions generated by perceived changes in the status and position of women are registered most clearly” (p 149).

While MacKinnon's and Fineman's viewpoints on the structural causes of women's subordination do not wholly represent how other feminisms define subordination or oppression, their writings on feminist legal theory nonetheless serve as important frameworks for understanding how historical ideologies of gender and the privatization of violence have endured across institutional landscapes to shape the ways in which we attend to contemporary problems of self-defense and intimate partner violence. Undoubtedly, laws within the United States, particularly those associated with self-protection and property rights, have been primarily androcentric. According to Gillespie (1990), self-defense was generally thought of as a practice between men to settle fights or disputes outside of the home while women, whose duties of caretaking relegated them to the household, were assumed to have no reason to defend themselves in public places and the "discipline" that they may have experienced by their husbands was not legally recognized as abuse. As the twentieth century progressed and the public came to recognize intimate partner violence as a social problem through the battered women's movement, there were also more cases of battered women claiming self-defense against their abusive husbands or significant others within the home. Yet, most states at the time mandated a duty to retreat if the victim and assailant were cohabitants and did not apply self-defense under the Castle Doctrine to family violence (Suk, 2008). This was largely due to the assertion that because there is a shared possession of property among cohabitants, there is "not the typical intrusion contemplated in the use of the Castle Doctrine, nor the archetypical need to protect the sanctuary from an external threat" (Carpenter, 2003, p. 671). This discourse reaffirms that the legal right and responsibility of self-defense is primarily assigned to men. As a result, the Castle Doctrine and subsequent Stand Your Ground laws have been criticized as

unrealistic in the context of women's experiences of intimate partner violence. For instance, Gillespie (1990) discusses that the requirements of reasonableness and imminence, as well as the required or encouraged duty to retreat, are still culturally framed in terms of masculine behaviors or how a "reasonable man" would react to a violent altercation. The law and those involved, such as prosecutors and jurors, do not entirely consider that women may perceive their actions of self-defense as reasonable following a cycle of physical, sexual, and emotional abuse or that women's fear of harm or death may seem both reasonable and imminent in the face of threats from their abusers (Gillespie, 1990).

Although the feminist movement has addressed the fact that women's perspectives and experiences have been marginalized or discounted in self-defense law, "women" do not constitute a homogenous group nor are their experiences always unitary or shared. Harris (1990) argues, for instance, that feminist legal theory has traditionally relied upon gender essentialism which has privileged some voices while silencing others, particularly those of Black women. Scholars and social activists aligned with Black feminist thought have underscored the fact that the feminist movement has reinforced racism, sexism, and classism by an overreliance on the experiences of White upper class women which has served as a reference point for addressing gender inequality. In *Ain't I am Woman: Black Women and Feminism* (1981), bell hooks notes that Black and White women have not been subject to the same social status in America, and that racial imperialism has historically juxtaposed White women, even those who are oppressed or victimized, as superior to Black women and men. Furthermore, hooks (1981), Collins (2009), and Crenshaw (1991) have all remarked upon the influence of racist stereotypes, rooted in

slavery of Black men and women, on attributions of blame for violence in communities of color.

Specifically, Collins (2009) writes that:

Within U.S. culture, racist and sexist ideologies permeate the social structure to such a degree that they become hegemonic, namely, seen as natural, normal, and inevitable. In this context, certain assumed qualities that are attached to Black women are used to justify oppression. From the mummies, jezebels, and breeder women of slavery to the smiling Aunt Jemimas on pancake mix boxes, ubiquitous Black prostitutes, and ever-present welfare mothers of contemporary popular culture, negative stereotypes applied to African-American women have been fundamental to Black women's oppression. (p.5).

These particular stereotypes are also not exclusive to one type of community context. Legal scholars have discussed how these stereotypes affect the judgments of court officials and jurors, where women who do not exhibit behaviors consistent with a victim role are regarded as culpable for their abuse (Ammons, 1995) and the choice of women of color to fight back against their abusers or to protect their abusers from the criminal justice system have been dismissed by law enforcement officials as reflective of a culture of violence rather than an issue of socially and politically ingrained practices of oppression.

While there are undoubtedly many important instances where women have claimed self-defense against an attacker or intimate partner, *State v. Wanrow* (1977) is considered to be the most pivotal court case surrounding the questions of gender and racial bias in self-defense law. In this particular instance, Yvonne Wanrow's case was found by the Washington Supreme Court to be the subject of a restrictive self-defense instruction that resulted in her conviction of second-degree murder for the shooting of William Wesler and first-degree assault for the shooting of

Wesler's friend, David Kelly. Hours preceding the homicide, Wesler attempted to abduct and assault Wanrow's son while in the care of her friend Shirley Hooper. Although Hooper and Wanrow reported the incident to law enforcement, responding officers refused to arrest Wesler. Later that evening, Wesler entered Hooper's home in an intoxicated state, ignored Hooper's demands to leave, and approached Wanrow in a threatening manner. It is debated whether David Kelly entered Hooper's home, but nonetheless he sustained two gunshot wounds inflicted by Wanrow.

Wanrow's sentence was overturned by the Washington State Intermediate Court of Appeals. The appellate court ruled that the trial court erred in admitting into evidence a tape of the 911 call made by Wanrow following the shooting, and that this action violated privacy law (*Wanrow v. State*, 1975; 1978). The issues with the self-defense instruction, however, became evident within the state's appeal to the Washington Supreme Court. Upon upholding the decision made by the appellate court to overturn Wanrow's sentence, the Washington Supreme Court ruled that (1) the trial court erred in instructing the jury to consider only those events that occurred immediately at or immediately prior to the killing rather than, as Washington state law required, all of the facts and occurrences known to the defendant; (2) the jury instruction to evaluate the reasonableness of Wanrow's fear without considering her gender was prejudicial; (3) the trial court's use of objective standard of reasonableness without considering the context of the crime violated Wanrow's right to equal protection under the law (Coker & Harrison, 2013; *Wanrow v. State*, 1975; 1978). According to Coker and Harrison (2013), the social and legal significance of the Washington Supreme Court decision on the Wanrow case was far-reaching because it explicitly identified gender and women's experiences of violence as important

contextual variables that must be considered in self-defense cases. The publicity of the Wanrow case also coincided with increased media coverage and publications about intimate partner violence causation and perpetration, which created a broader dialogue and recognition of women's legal right to self-defense. In addition, while gender disparities in the applicability of self-defense law were the foremost concern in the landmark case *State v. Wanrow* (1977), there were other concerns upon appeal that Yvonne Wanrow's conviction may have been influenced by racial prejudice. These particular claims were evidenced by the judge's denial for the defense to introduce expert testimony regarding how racial tensions between Whites and Native Americans at the time may have influenced Wanrow's perception of Wesler as a reasonable threat (Coker & Harrison, 2013).

In recent years, Florida has been the focus of high-profile cases involving claims of self-defense. While not all of these cases have involved intimate partner violence, Florida nonetheless has a rich history of legislative changes surrounding how self-defense is interpreted in intimate partner violence cases and thus serves as a strong point of reference for the current discussion on Stand Your Ground laws. *State v. Bobbitt* (1982) was one of the first cases in Florida where a female defendant attempted to use the Castle Doctrine in a domestic violence case. In this instance, Elise Virginia Bobbitt fatally shot her husband, James William Bobbitt, after he beat her without provocation (Katheder, 1983). In ruling, the Florida Supreme Court upheld the duty for Elise Bobbitt to retreat and the rights of James William Bobbitt to protect the property on which the incident occurred stating that each had "equal rights to be in the castle and neither had the legal right to eject each other" (415 So. 2d 724 (Fla. 1982)). While the case of *State v. Bobbitt* set a standard that violence between cohabitants in Florida, which included a

large proportion of those experiencing intimate partner violence, would not be legally recognized under the Castle Doctrine, the courts began to regard intimate partner violence as a special exception under this law during the 1990s (Suk, 2008). In light of the Violence Against Women Act (1994) and mounting research regarding the detrimental economic and social effects of violence on battered women, the Florida Supreme Court upheld the Castle Doctrine as a viable defense in *Weiland v. State* (1999) and overturned the duty to retreat for cohabitants that it established in *State v. Bobbitt* (1982). In *Weiland v. State*, Kathleen Weiland was charged with first-degree murder for the fatal shooting of her husband, Todd Weiland, following an incident of domestic violence in their shared apartment. Although initially sentenced to eighteen years in prison, Kathleen Weiland's sentence was overturned on appeal by the Florida Supreme Court for two reasons stated by the Justices: (1) they could no longer agree to rely on the concepts of property rights as mandating a duty to retreat; and (2) with their increased knowledge of domestic violence victimization, they agreed that there should not be an imposed duty to retreat from the residence when a defendant uses deadly force against a cohabitant in self-defense. However, due to concerns that the full elimination of the duty to retreat within the home or shared property would instigate more violence among cohabitants, the court ruled in *Weiland* that while a cohabitant did not have to retreat from the home, every effort should be taken to retreat within the residence prior to using deadly force. Carpenter (2003) notes that while the efforts of the Florida Supreme Court were laudable given their attention to the issue of intimate partner violence, the decision to require victims to retreat within the home could prove more harmful or lethal than if these victims were to retreat by leaving the premises. Furthermore, juries hearing

defense cases for intimate partner violence may not be able to comprehend why an abuse victim chose to retreat into the home for safety rather than fleeing from the home altogether.

With Florida's decision to adopt the Stand Your Ground statute, there was some renewed hope that this law would better protect the rights of women. Specifically, Marion Hammer, who was the president of the National Rifle Association at the time that Florida adopted the Stand Your Ground statute, advocated for this law as a means of promoting the right of female victims to protect themselves against attacks outside of the home (Suk, 2008). Yet, subsection 2 of Florida Statute 776.013 states that defensive force does not apply if "the person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of not contact against that person". When Marion Hammer was asked during an interview with WEBY Northwest Florida radio as to why Stand Your Ground contains the domestic violence exception under the home presumption, she stated that it was due to prevailing law and that it was also a compromise between lawmakers and attorneys to ensure that "...in restoring your self-defense rights and your right to protect your home that they did not set up scenarios where people could murder people they did not like and claim it was lawful self-defense" (Center for Individual Freedom, 2005). Regardless of the intent of lawmakers when it comes to intimate partner violence as articulated through Florida Stand Your Ground law, the sanctity of the home continues to supersede the rights of these victims when it comes to self-defense.

The most recent shortcomings of the Florida Stand Your Ground law to protect victims are exemplified in the case of *State v. Alexander* (2012). This particular case dealt with an

incident where Marissa Alexander discharged a warning shot to deter her husband, Rico Gray, after he threatened to kill her. Alexander stated in her deposition that Gray initially prevented her from leaving the home, and that her attempt to fully retreat was hindered by the fact that she had forgotten to take her car keys with her to the garage. Furthermore, Alexander stated that her decision to brandish and discharge a firearm was because she feared her life to be in imminent danger. In their decision to sentence Alexander to 20 years in prison, the court claimed that her choice to reenter the home with a firearm was inconsistent with someone who feared for her life (*Alexander v. State*, 2013); Alexander was also publicly denounced for firing a warning shot in the presence of Grey's children who were in the home during the dispute (Dahl, 2012). An article published in *Time* (Cohen 2013) following the conclusion of Alexander's trial clarifies that outcome of this case as inextricably linked to Florida's 10-20-Life law (Florida Statute 775.087) which mandates an automatic 20 year sentence for the firing of a gun during the commission of a felony crime. Even though Marissa Alexander's Stand Your Ground defense was denied at pretrial hearing, this same article does raise the question as to how expansively Stand Your Ground laws should be interpreted by the courts in situations similar to Marissa Alexander's (Cohen, 2013). Also, despite the fact that Marissa Alexander was granted a retrial and the Florida Stand Your Ground law was amended to include a "warning shot" provision in 2013, Alexander was still denied a Stand Your Ground defense at her second pretrial hearing, and the warning shot law did not apply retroactively to her case, causing her to accept a plea deal in 2014. Indeed, this particular criminal case demonstrates that even if victims of intimate partner violence believe that they have a right to self-defense under Stand Your Ground laws their actions are still open to vast interpretation in criminal court when lethal force is used.

Furthermore, this case demonstrates how Stand Your Ground laws can ultimately be disregarded in favor of mandatory sentencing laws that are designed without any consideration of the context in which self-defense was used by intimate partner violence victims. Both instances underscore that increased awareness of the language of Stand Your Ground laws is necessary and that policy needs to be better informed by research regarding the cultural and social correlates of intimate partner violence, women's use of self-defense, and women's use of weapons in the commission of self-defense and intimate partner homicide.

Self-Defense and Intimate Partner Violence

Understanding Self-Defense in a Sociological Context

Although there is a distinction between the legal literature that focuses on the rise of the Castle Doctrine and Stand Your Ground laws and the social science or feminist literature on intimate partner violence and self-defense, these two disciplinary areas equally make note of the influence of gender. Just as legal scholars have highlighted that the language of the Castle Doctrine favors the self-defense rights of men and that the formulation of Florida's Stand Your Ground law did advocate for the rights of women to protect themselves against violent attacks by strangers outside of the home, government institutions and sociological studies, for instance, find that women are most often the victims of intimate partner violence (Tjaden & Thoennes, 2000; Black, 2011; Catalano, 2013) and are also more likely to use violence against their male partners to protect themselves or retaliate against ongoing abuse (Busch & Rosenberg, 2004; Elmquist et al., 2014; Hamberger & Guse, 2005; Kernsmith, 2005; Miller, 2001; Saunders, 1986; Stuart, Moore, Hellmuth, Ramsey, & Kahler, 2006). For example, the Centers for Disease Control and

Prevention (Black et al., 2011) reports that the lifetime prevalence rate of intimate partner violence is approximately 36% for women compared to 29% for men; 17% of women and 8% of men have experienced sexual violence perpetrated by an intimate partner; 24% of women and 14% of men have been severely physically assaulted by an intimate partner; and that nearly half of women and men have been psychologically abused by their intimate partners. Additionally, in their nationally representative study of 8,000 men and 8,000 women in the United States, Tjaden and Thoennes (2000) found that heterosexual women were 22.5 times more likely to be raped, 2.9 times more likely to be physically assaulted, and 8.2 times more likely to be stalked by a current or former marital or cohabiting partner in comparison to men. Although there is some empirical support for gender symmetry in the perpetration of intimate partner violence (DeMaris, 1992; Dutton & Corvo, 2006; Straus, 2011; Straus, Gelles, & Steinmetz, 2006), these studies have often neglected to take into consideration what Miller (2001) poignantly states in her research: “Often what is most revealing are the antecedents to the incidents that many battered victims share: They often act in self-defense, they may have long histories of victimization, and they may use a weapon to equalize the force or threat used by their partners who are bigger and stronger than they are” (p. 1340). In a clinical sample of men and women who were court mandated to treatment for domestic violence offenses, for instance, Hamberger and Potente (1994) found that women used violence against their partners to defend themselves, retaliate against previous violence, or in an attempt to escape. Men in this sample, on the other hand, were more likely to use violence to control or dominate their female partners. In a subsequent study by Hamberger and Guse (2005), men and women who were assaulted by their partners tended to claim that they used self-defense for similar reasons, such as attempting to escape or

reacting out of anger. Yet Hamberger and Guse mention that, overall, women are far less likely to be the primary aggressors and more likely to experience severe injury, fear and intimidation, and to involve law enforcement as a means of recourse. Furthermore, women in Dasgupta's (1999) study expressed personal reasons for aggressing against their partners such as protecting their family members and pets from threats of violence, restoring or preserving their sense of self-respect, and empowering themselves as tough women. Unfortunately, many of these particular reasons that women provide for engaging in self-defense are not congruent with the legal or social standards of reasonableness or imminence defined in the Castle Doctrine or Stand Your Ground laws.

Self-Defense Theory

The gendered nature of intimate partner violence and the propensity for women in particular to resort to violence as a defensive measure have been theoretically articulated in terms of a general "self-defense theory" that pulls together a series of empirical studies that explain the multitudinous reasons that women do not or cannot leave abusive relationships and the circumstances under which women have resorted to lethal violence against their abusers (Serran & Firestone, 2004; Wilson & Daly, 1992). This theory was developed in an effort to dispel the myth that women are pathological aggressors that needed to be controlled by men through the use of violence. Instead, Wilson and Daly (1992) posited that women's use of self-defense is linked to variables such as their level of absolute poverty, their abusive spouses' controlling and coercive behaviors, their sense of social and community support, and their need to protect their children. Placing this theory into practice, statistics from nationally representative surveys show that just over half of women are threatened by their intimate partner prior to being physically or

sexually attacked, compared to approximately one-third of men (Catalano, 2013), and that one in three women experience a combination of physical violence, rape, and stalking by an intimate partner (Black et al., 2011). Studies have also demonstrated that abusers will continue to perpetrate abuse even after women leave their relationships (Fleury, Sullivan, & Bybee, 2000; Mahoney, 1991). Women have reported that they have been stalked, intimidated, severely beaten, and sexually abused by their former partners following separation (Johnson & Hotton, 2003; Ornstein & Rickne, 2013). Other factors, such as lack of subsidized housing, stable employment, transportation, or child care complicate women's decisions to leave their abusive partners (Baker, Cook, & Norris, 2003; Jasinski, Wesely, Mustaine, & Wright, 2010; Browne & Bassuk, 1997). Additionally, some studies have found that the single greatest factor leading to lethality of either a male or female intimate partner is prior abuse (see Campbell, Glass, Sharps, Laughon, & Bloom, 2007 for a review). For instance, Felson and Messner (1998) found that 9.6% of women were motivated to protect themselves by using self-defense in comparison to 0.5% of men. Also, nearly half of the incidents in which a woman killed her male partner were precipitated by a physical attack as compared to only 1 out of 10 intimate partner homicides where a man killed his female partner.

Minor criticisms have been leveled against self-defense theory and are largely directed at methodology and classification of offenses. Serran and Firestone (2004) note that many studies that examine self-defense theory suffer from small samples that are not representative of all intimate partner violence victims; moreover, many of these studies maintain a gendered slant in favor of female victims and tend to disregard or minimize those instances where women are violent toward their male partners. In reference to the former, more qualitative approaches have

clarified the varying conditions that underlie women's violent behavior toward their intimate partners. For instance, Miller and Meloy (2006) identified three distinct behavior typologies that resulted in women's arrests for domestic violence: generalized violent behavior, which was defined as women's use of violence to handle circumstances between their intimate partners as well as non-intimates; frustration response behavior, which included women who used violence as a means to cease their spouses' violent episodes when other methods failed; and, defensive behavior, which referred to women who used violence in an effort to escape the impending threats or repeated violence of their abusers. In all of these instances, however, Miller and Meloy (2006) indicate that, even among the 5% of women in their study who resorted to generalized violent behavior, women's use of violence was not intended to control their partners nor did their use of violence appear to alter their abusive partners' behaviors. In reference to the latter criticism of self-defense theory, the primary focus on women as survivors of intimate partner violence and men as perpetrators of violence is to acknowledge the long-standing history of social policies that have contributed to violence against women. The Domestic Abuse Intervention Programs [DAIP], for instance, prioritizes the perspectives of women in their community approach – or Duluth Model – to addressing domestic violence (DAIP, 2014). However, this is not to suggest that the Duluth Model does not acknowledge that a small proportion of women are violent towards their partners without themselves having endured abuse (Paymar & Barnes, 2007). Nonetheless, effective policies on intimate partner violence and interventions must consider the context of women's experiences of abuse. Evidence from both the DAIP and other studies indicate that most women who batter are also being battered, and the DAIP also supports more gender appropriate counseling strategies, rather than male-centered

batterer intervention programs, for women who are arrested for intimate partner violence (Paymar & Barnes, 2007).

Battered Woman Syndrome and Self-Defense

Although there is adequate empirical evidence to show that the dynamics of women's and men's use of violence in intimate relationships are markedly different, questions of women's culpability and victimology are still pervasive. Worden and Carlson (2005), for instance, conducted a general population survey of 1,200 individuals about their attitudes and beliefs about domestic violence and found that nearly two-thirds believed that some violence is caused by women starting physical fights and that most women could find a way out of their relationship if they really wanted to; slightly under half of respondents endorsed the statement that "some violence is caused by the way women treat men"; and nearly one-quarter believed that women who are abused secretly want to be treated that way. Furthermore, misperceptions about the causality of women's violence have been found to undermine effective criminal justice responses to abused women who do not display behaviors concordant with the "worthy or pure victim" or "victim role" (Stephens & Sinden, 2000).

Over the past several decades, Battered Woman Syndrome has been recognized as a defense strategy and social frame for understanding why women perpetrate violence. Developed by psychologist and feminist scholar Lenore Walker (1977), Battered Woman Syndrome is classified as a subcategory of posttraumatic stress disorder and is characterized by symptoms such as re-experiencing a former abusive incident, avoidance of social situations, hyperarousal, relationship difficulties, and sexual dysfunction (Walker, 1977; 2006). This particular symptomology is not indicative of mental illness, but a long-term cycle of abuse that results in

psychological distress and learned helplessness (Walker, 1984). Women who develop a sense of learned helplessness, according to Walker (1984), feel that they lack control over their abuse, become increasingly passive, and feel that escape from the abusive relationship is impossible. Battered Woman Syndrome has become recognized as a credible basis for juries to evaluate women's claims of self-defense, to prove that the defendant believed she needed to use self-defense against an imminent threat of bodily harm, and to demonstrate the reasonableness of the defensive measures (Savage, 2006). Furthermore, evidence of Battered Woman Syndrome is admissible in both non-confrontational instances of self-defense, such as when a woman decides to kill her partner when he is unarmed or sleeping, as well as confrontational instances of self-defense (e.g. during a physical altercation) (Savage, 2006).

While Battered Woman Syndrome has proven successful in justly exonerating women from murder charges (Savage, 2006), portraying women's self-defense through a clinical lens has also resulted in stereotypes of women as irrational, submissive, and deficient (Corina, 1997). Corina (1997) discusses, for example, that the label "Battered Woman Syndrome" has resulted in termination of custody for women who are viewed as mentally unfit caretakers or as likely to return to their abusers. Others have suggested that women who adopt a submissive role are more successful in using Battered Woman Syndrome as a defense, which reinforces women's subordination to their spouses (Ferraro, 2003; Follingstad, Brondino & Kleinfelter, 1996). The emphasis that Battered Woman Syndrome places on women's submissiveness has also been to the legal detriment of women who do not fit that particular role (Baker, 2005). It has been suggested that the "the 'essentialist' battered woman profile is a White, middle class, passive, weak woman who, in a moment of terror, lost control and committed a crime because she was

being abused” (Ammons, 1995, p. 1016). Clearly, this conception of the “classic” battered woman does not translate to the experiences of all battered women. Within the criminal justice system, race has become a variable in judgments made about the “deviance” of a victim. Black women in particular encounter multiple structural and social oppressions that place them at a higher risk for intimate partner violence victimization and femicide (Hampton, Oliver & Magarian, 2003; Nash, 2005; West, 2004) and also have more negative experiences with White, and in some cases Black, officers (Robinson & Chandeck, 2000; Buzawa et al., 2012). These particular biases on the part of responding officers – a belief, perhaps, that violence is biologically determined and structurally or socially reinforced in populations of color – may certainly act as a deterrent for some victims to report intimate partner violence to authorities or move forward with prosecution (Sokoloff & Dupont, 2005). These biases permeate courtrooms as well. According to Allard (1991), stereotypes of Black women as the “strong matriarch”, “provocative Jezebel or Sapphire”, or “welfare cheat” (Ammons, 1995) reinforce societal misconceptions that Black women are less dignified than White women, and jurors, prosecutors, and judges who implicitly accept these biases will be more apt to conclude that Black women do not fit the role of a passive victim when Battered Woman Syndrome is considered in cases of self-defense.

From these examples, women are confronted with the difficult reality that they will either be regarded as abusers undeserving of gender-based protection under the law, or they will be forced to assume a victim role in order to protect their best interests in the criminal justice system. Furthermore, there is a paradox when a woman who has been abused will claim self-defense under the Stand Your Ground law which relies in part upon a reasonableness standard

and Battered Woman Syndrome which relies upon a psychological condition that presupposes a trauma-induced response. Women of color face an additional obstacle as their race is used as a means of questioning the credibility of their victimization and self-defense claim. The latter is particularly damaging, especially considered alongside research that shows Black women's culturally expected gender roles, violence within their relationships, and marginalized social position force or coerce them to crime (Richie, 1996).

Intimate Partner Homicide: Gendered Patterns of Perpetration and Victimization

As the previous discussion on women's general use of self-defense has suggested, prior and escalating abuse is an important predictor of lethality in intimate relationships and Battered Woman Syndrome is often employed in cases where women seriously injure or kill their abusive partners. Indeed, although the rate of serious intimate partner violence has sharply decreased for both women and men over the past twenty years, the proportion of women who are killed by their spouses has remained relatively stable (Catalano, 2013). The Bureau of Justice Statistics found that of the 3,032 homicides involving female victims in 2010, 39% were committed by an intimate partner whereas 3% of 10,878 male homicides were committed by an intimate partner (Catalano, 2013). Other studies reify this trend over time, with scholars such as Bachman and Saltzman (1995) finding that 29% of women were killed by their current husbands, estranged husbands, and boyfriends while 4% of men were killed by their current wives, estranged wives, or girlfriends, and Puzone, Saltman, Kresnow, Thompson, and Mercy (2000) reporting a nearly two-fold decrease for men's rates of intimate partner homicide relative to women's between 1976 and 1995. Other studies broaden the scope of this problem by highlighting that, although the majority of female homicide offenders' victims are male intimates (Greenfeld & Snell,

1999), reasons for women's perpetration are complex and often located within the context of current physical, psychological, and/or sexual victimization, marital status, and past criminal histories (Jordan, Clark, Pritchard, and Charnigo, 2012). Specifically, in their analyses of 379 records of male and female intimates convicted of lethal or serious assault, Jordan et al. (2012) concluded that women who kill or assault their partners cannot be categorized as simply passive victims. Instead, these authors provide evidence suggesting that there are a variety of different circumstances under which women kill or assault their intimate partners that should be considered, such as being victimized during adulthood, cohabiting with an intimate partner or being married to an abuser, having children who are exposed to violence within the household, and feeling entrapped in a relationship despite educational attainment and access to employment. Lastly, it is important to acknowledge that battered women often do not intend to kill their violent partners but do so in order to protect themselves and their children from escalating attacks and threats of death by their abusers (Bachman, Saltzman, Thompson & Carmody, 2002; Belknap, Larson, Abrams, Garcia, & Anderson-Block, 2012; Dobash, Dobash, Wilson, & Daly, 1992; Felson & Messner, 1998). Men who perpetrate intimate partner violence are more likely to kill their intimate partners following a long-standing pattern of having perpetrated physical and psychological abuse, or in response to actual or perceived estrangement from their partners (Campbell et al., 2003; Dawson & Gartner, 1998; Dobash et al., 1992)

Theoretical Perspectives on Intimate Partner Homicide

Three specific theoretical constructs have been consistently applied within the intimate homicide research that accentuate the gendered nature of offending and victimization as well as the circumstances that contribute to increases and decreases in incidence rates: exposure

reduction, backlash or retaliation, and economic marginalization. Exposure reduction refers to the potential of domestic violence policies, laws, and services to provide avenues for women that ultimately help to separate them from their abusers and minimize the opportunity for intimate partner homicide to occur (Dugan, Nagin, & Rosenfeld, 1999). Empirical tests of exposure reduction theory have garnered support for a negative relationship between intimate partner homicide and women's time spent apart from their abusers (Dugan et al., 1999; Dugan, Nagin, & Rosenfeld, 2003; Reckdenwald & Parker, 2010; Rosenfeld, 1997). More specifically, studies using panel data have demonstrated that the lethality rate between intimate partners declines when fewer individuals become married or engrossed in long-term relationships, and when the divorce rate increases (Rosenfeld, 1997; Dugan et al., 1999). In reference to the availability of resources, Reckdenwald and Parker (2010) demonstrated that legal services led to a reduction in both male and female-victim intimate partner homicide. Also, communities with strong legal advocacy, mandatory arrest laws, and warrantless arrest policies have all been associated with fewer spousal homicides although variations exist based upon race, gender, and marital status (Dugan et al., 2003).

Conversely, developed in part to explain violence between intimate partners that arose in connection with gender equality and growing opportunities for women's economic and social advancement (Williams & Holmes, 1981), the backlash or retaliation perspective acknowledges that the presence and availability of domestic violence resources, and the power of these resources to assist women in leaving their abusers, has the potential to significantly threaten men's feelings of authority and increase their use of violence. For instance, while Reckdenwald and Parker (2010) found that men's and women's rates of intimate partner violence victimization

decreased with the availability of legal services, the presence of more shelters was associated with an increase in intimate partner homicide victimization for both men and women.

Furthermore, while Dugan et al. (1999) reported that domestic violence services corresponded to a decline in the rate of married men killed by their intimate partners, these resources did not significantly lessen the rate of femicide for married women. Using panel data from the FBI Supplementary Homicide Reports from 1976-2003 and data from the National Crime Victimization Survey, for instance, Iyenger (2009) concluded that the rate of intimate partner homicide increased in states that adopted mandatory arrest laws due in part to increased retaliation from abusers and lowered reporting rates of victims. Lastly, while Dugan et al. (2003) suggest that more aggressive arrest policies are generally not associated with intimate partner homicide for married women, these authors found that married and unmarried White women were at a particularly heightened risk of being killed by their partners when prosecutors enforced protection order violations. These findings are consistent with more recent research that not only demonstrates the issuance of a protective order to increase the risk of continued violence to victims, but that the need for victims' future protection orders are associated with their batterers' prior violation of protection orders, criminal patterns of offending (sexual assault, physical assault, sexual assault, and harassment), and time spent in jail (Jordan, Pritchard, Duckett, & Charnigo, 2010).

More recent investigations of intimate partner homicide have also imparted an economic strain and marginalization framework in order to highlight the variables, such as poverty and unemployment, that can lead to both men's and women's perpetration of intimate partner homicide (Reckdenwald & Parker, 2010; 2011). Here, these authors have gathered evidence that

a decrease in women's deprivation and marginalization, which they measured as the percentage of females living below poverty and without jobs, significantly reduced male-victim intimate partner homicides between 1990 and 2000. In line with the exposure-reduction thesis, less economic deprivation corresponds to more financial dependence and options for women to terminate their abusive relationships and a lower likelihood that they will view killing their abusive partners as the only tangible way of ceasing their victimization.

Intimate Partner Homicide: The Debate Surrounding Firearms

The scope of research demonstrating trends in the risk of intimate partner homicide for women, and the policy implications that arise from empirical studies that have tested the aforementioned theories, has been recently reprioritized on the legislative agenda particularly in connection with the gun control debate. In July 2014, a Senate Judiciary Committee convened a meeting entitled "Violence Against Women Act Next Steps: Protecting Women from Gun Violence" to hear testimony from senators, advocates, and victims' families on the matter of strengthening background check laws and enacting legislation that will protect women from firearm-related intimate partner violence (C-SPAN, 2014). Senators Amy Klobuchar (D-Minnesota) and Richard Blumenthal (D-Connecticut) have introduced bills that would prevent individuals convicted of misdemeanor stalking, abusers in dating relationships, or those under temporary restraining orders from legally obtaining firearms. Currently, the Violence Against Women Act (1994; 2005) prohibits the purchase, possession, or distribution of firearms and ammunition across state or international lines by a person convicted of state or federal misdemeanor domestic violence or who is under an order for protection (Seghetti & Bjelopera, 2012). Furthermore, under the Lautenberg Amendment (1996) to the Gun Control Act of 1968

(18 U.S.C. Sections 921-925), it is unlawful for any person convicted of a domestic violence misdemeanor crime against a current or former spouse, parent, cohabitant (e.g. spouse, parent, or guardian), or individual with whom they share a child to possess firearms or ammunition (Nathan, 1999).

Understanding the Gun Control Act and Lautenberg Amendment in the Context of Intimate Partner Violence. The Gun Control Act (1968) generally provides support to federal, state, and local law enforcement officials in an effort to combat crime and violence. Section 922 (18 U.S.C. § 922 (a)) of this law defines restrictions on how licensed firearm dealers, manufacturers, importers, and collectors can sell or distribute firearms and ammunition through interstate or foreign commerce; in addition, certain classes of individuals are prohibited from receiving firearms and ammunition through sale or disposal (18 U.S.C. § 922 (d); Halstead, 2001). The Domestic Abuse Intervention Project (DAIP, 1980), the landmark case of *Thurman vs. City of Torrington* (1984), and the Violence Against Women Act (1994) collectively set the precedent for the Gun Control Act to be amended through the adoption of the Lautenberg Amendment on September 30, 1996 (Halstead, 2001). Named after its sponsor, New Jersey Senator Frank Lautenberg, the Lautenberg amendment included the following protections for domestic violence victims: (1) the amendment added individuals convicted of misdemeanor violence as persons prohibited from possessing a firearm and ammunition; (2) the amendment prohibits the known sale or distribution of firearms and ammunition to a person convicted of misdemeanor domestic violence. Under the Lautenberg amendment, a misdemeanor crime of domestic violence includes all misdemeanors involving the use or attempted use of physical force; this is true regardless of how the state statute or local ordinance defines a domestic

violence misdemeanor. Also, the Lautenberg amendment altered the “public interest exception”, prohibiting military personnel and federal, state, and local law enforcement officials convicted of misdemeanor domestic violence from being able to possess a firearm in both their official and private capacities (Halstead, 2001). Prior to the Lautenberg amendment, the public interest exception of the Gun Control Act allowed for the possession of a firearm in an official capacity, regardless of previous criminal record.

The Lautenberg amendment also provides law enforcement with the legal capacity to remove firearms from domestic violence situations, thereby reducing the possibility of deadly violence or intimate partner homicide. However, one of the primary challenges with the Lautenberg amendment is that domestic violence is only defined as “the use or attempted use of physical force”. Here, law enforcement officers and courts may question what types of acts constitute “physical violence” when confiscating firearms, issuing restraining orders, or sentencing batterers (Browning, 2010). Another related issue is that restraining order, misdemeanor, and firearm confiscation laws vary by state, and therefore not all batterers will face the same penalties nor will all victims receive the same protection. For instance, according to information collected by the Law Center to Prevent Gun Violence (2014), 13 states currently require law enforcement officials to remove a firearm from the batterer at the scene (“shall” states) and 5 states provide officers discretion to remove a firearm from the batterer at the scene (“may” states). Also, 15 states have laws that prevent individuals convicted of a misdemeanor domestic violence offense from purchasing or possessing a firearm and ammunition, 36 states restrict access to firearms and ammunition by offenders who are subject to restraining orders, and 15 states require that courts order the removal or surrender of firearms and ammunition

when a protective order is issued. Some states have additional regulations that law enforcement officers must arrest the batterer prior to confiscating a firearm; that the law enforcement officer must determine that the batterer poses a “credible threat” prior to confiscating a firearm at the scene of the alleged crime; or that guns must be in plain view in order to be seized (Law Center to Prevent Gun Violence, 2014).

Lastly, there have been challenges to the constitutionality of the Lautenberg amendment that relate to domestic violence (Golden, 2001; Halstead, 2001; Nathan, 1999; Pressler, 1998). First, it has been argued that the Lautenberg amendment violates Congress’ power to regulate the Commerce Clause. However, the Lautenberg amendment requires the government to demonstrate that the firearm, or any part of the firearm at issue, affected commerce or was received after being transported in interstate or foreign commerce. Additionally, opponents of this legislation have argued that the Lautenberg Amendment violates the Equal Protection Clause in the respect that harsher penalties may be imposed upon domestic violence misdemeanor offenses compared to other offenses, and by punishing misdemeanor but not felony offenses. In each of these instances, the court has ruled that no such violation has occurred. The court has specifically noted that the decision to prevent those convicted of domestic violence offenses from possessing a firearm is a rational application of the law, and that while there are anomalies in the law that may exonerate or pardon those convicted of a felony crime and restore their legal right to possess a firearm, the court will not base its decision on such anomalies. Also, critics have claimed that the Lautenberg Amendment violates the Ex Post Facto Clause of the Constitution by applying firearm restrictions to individuals convicted of misdemeanor domestic violence prior to the adoption of the amendment. The counterargument from the court has been

that the violations in question are linked to an incident that occurred after the enactment of the law, and not necessarily to a domestic violence crime that occurred prior to the enactment of the law. These critiques notwithstanding, courts have upheld the Lautenberg amendment as constitutional over the past twenty years. A recent example comes from the Supreme Court ruling in *United States v. Castleman* (2014) where James Castleman's conviction of misdemeanor domestic violence was affirmed despite Castleman's argument that his actions toward the mother of his child did not include the "use or attempted use of force". Citing other cases, the Supreme Court reasoned that when Castleman pleaded guilty to intentionally or knowingly causing bodily harm to the mother of his child, this admission also included the use of force to cause such injury.

Empirical findings: Intimate Partner Homicide and Self-defense. Despite the fact that legal protections exist at both the federal and state levels, several empirical studies exemplify why expanded legislation is still necessary (Catalano, 2013; Kellermann et al., 1993; Saltzman, Mercy, O'Carroll, Rosenberg, & Rhodes, 1992; Vigdor & Mercy, 2006). A recent report from the U.S. Department of Justice reveals that the use of a weapon is more common among male intimate partner victimizations, and that 4% of women and 8% of men were shot, stabbed, or assaulted with a weapon by their intimate partners (Catalano, 2013). The presence of firearms within the home also significantly increases the risk of lethality (Campbell et al., 2003; Kellerman et al., 1993; Saltzman et al., 1992). Specifically, it has been estimated that the presence of a firearm within the home increases the risk of death for abused women six-fold in comparison to women in abusive households without firearms (Campbell et al., 2003). Within practice and policy, these authors recommend that legal prohibitions on firearms for offenders

continue to be enforced and that the issuance of protection orders continue to include search and seizure procedures. This is particularly important since previous complaints of domestic violence to law enforcement can heighten the risk of lethality when firearms are contained within the home (Kellerman et al., 1993). Additionally, Vigdor and Mercy (2006), using data obtained from the FBI Supplementary Homicide Reports, demonstrated lower rates of female intimate partner homicide in states that had laws restricting firearms to batterers with active restraining orders against them compared to states without those laws. There are other important considerations as well, particularly that men are more likely to use a firearm to threaten to shoot or kill their partners, while only a small proportion of women use firearms (compared to their hands, fists, or other objects) to defend themselves against ongoing abuse or kill their partners in self-defense (Sorenson & Wiebe, 2004). Also, batterers may use firearms as a means of terrorizing or coercing their partners even if they do not intend to kill their partners (Wiebe, 2003).

The empirical findings on the connection between firearms and intimate partner homicide have important implications for abused women in the context of self-defense. Regarding the connection between protective orders and the risk for intimate partner homicide in households with firearms, judicial and police response has been inconsistent and not without controversy. The Supreme Court held in *Gonzales vs. City of Castle Rock* (2005), for instance, that an individual protected by a restraining order has no property right in the enforcement of that order (Buzawa et al., 2012). This decision removed liability from law enforcement agencies that choose not to enforce restraining orders at the request of victims. Although many state supreme courts may interpret violations of protection order claims more stringently, the federal ruling on

Gonzales may elevate the need for victims to use self-defense against their abusers as a measure or self-preservation where protection orders are not useful. Also, while it remains encouraging that Congress is considering proposals that expand the conditions under which victims of intimate partner violence are protected from lethal violence, Carlson (2014) cautions that “the broader availability of self-defense options falls from political purview as long as ‘self-defense’ remains popularly equated with gun rights” (p. 374). Here, Carlson asserts that the image of the woman as vulnerable or a helpless victim has become central to the rhetoric and political platforms of both those advocating for gun rights as well as for gun control. According to Carlson, pro-gun groups, such as the National Rifle Association, tend to use narratives that suggest women to be physically incapable of defending themselves from attacks without a firearm while anti-gun organizations, such as the Brady Campaign, support domestic violence prevention but also inadvertently reinforce the idea that women should avoid using firearms and instead seek assistance from law enforcement. The consequence of these extreme positions is a shifting focus away from political theories that focus on the social and cultural constructions of women’s use of self-defense towards a more simplistic argument of whether women should use a firearm to defend themselves (Kelly, 2004).

Portraying Women as Victims or as Instigators?: Media Coverage of Intimate Partner Violence

Social Construction of Intimate Partner Violence in News Media

The previous discussion on women’s use of self-defense alluded to the fact that the image of abused women, or how they are portrayed among special interest groups and within the legal system, affects how the general public perceives the seriousness of their victimization and their

need for protection. Along similar lines, online and print media coverage is a pervasive medium that has the power to frame the issues of intimate partner violence, intimate partner homicide, and violence against women, and influence society's perception of victims and offenders (Surette, 2007). Drawing upon Goffman's (1974) definition, a frame is a concept that is organized and governs social events and an individual's or collective group's subjective involvement in them. According to Goffman (1974), "the primary frameworks of a particular social group constitute a central element of its culture" (p. 27) and "...observers actively project their frames of reference into the world immediately around them, and one fails to see their so doing because events ordinarily confirm these projections, causing the assumptions to disappear into the smooth flow of activity" (p. 39). Within communication studies and sociology, "frame analysis" refers to how social issues are constructed and meanings are developed. Those studies that have analyzed the dominant frames used by the news and print media for intimate partner violence has concluded that these social issues are typically reported as isolated incidents rather than a large-scale social problem. Furthermore, the dominant frame tends to centralize the focus on the background characteristics and lifestyle choices of the victim, as well as how the victim's choices leading up to an injurious or lethal altercation implicates them as a co-conspirator or instigator of their own victimization (Berns, 2004; Richards, Gillespie, & Smith, 2011; Ryan, Anastario, & DaCunha, 2006; Taylor, 2009). This is particularly concerning when national surveys demonstrate that "crime" is a local topic of interest that is followed through news and print media by approximately two-thirds of adults in the United States (PEW Research Center, 2011).

Although a small, but growing number of studies have looked at the issues of intimate partner violence representations in the media, the findings have important implications for gender, race, and the ways in which self-defense is understood. Meyers (1997) suggests that "...the representation of women who fight back is tied to whether their actions are considered justified. Justification, however, is not determined by the type or degree of abuse a women is defending herself against but by whether she can be seen as having contributed to or provoked the violence against her" (p. 71). In their analysis of intimate partner homicides published in Washington State newspapers, for example, Bullock and Cubert (2002) reported that cases which included self-defense were most often framed as blaming the victim and excusing the perpetrator. From a gendered perspective, women's experiences of violence are often compartmentalized by the news into "virgin-whore" or "good girl/bad girl" dichotomies (Berns, 2004). Particularly when intimate partner violence is a contributing or motivating factor for a lethal or violent occurrence, the news media assigns a level of culpability to women that directly and indirectly blames them for being intoxicated during the incident, an unwillingness to report their abuser to the police or cooperate with the prosecution of their abusers in the past, engaging in extramarital affairs, having a history of violence towards their abusers (Bullock & Cubert, 2002; Meyers, 1997; Taylor, 2009). By focusing the blame on the victim, the news media ultimately absolve the abusers of any tangible responsibility for the lethal or harmful incident. For example, among the newspaper articles analyzed by Bullock and Cubert (2002) that included self-defense, perpetrators of intimate partner homicides were represented as defending themselves against abuse that was perpetrated by the victim, as suffering from psychological disorders, or as having been impaired by substance use. Racial stereotypes are also prevalent in

news stories involving sexual assault or intimate partner violence. Meyers (1997) describes an account where news coverage about an intimate partner homicide depicted the abuser, Dennis Walters, as driven by love and obsession when he murdered his wife, Wanda Walters. While the cycle of abuse that Wanda endured for years on Dennis' behalf was mentioned in published articles about this case, the importance of this evidence was overshadowed by the fact that Dennis Walters was a White, middle-class, well-known business leader within the local community, and that Wanda Walters was Black and of a lower-class background, had legally separated from Dennis, and had suggested on a few occasions that she had planned to resume dating following the finalization of their divorce.

These particular themes surrounding victim and offender accountability in instances of intimate partner are illustrated in recent media coverage of *State v. Alexander* (2012) and *Alexander v. State* (2013). These particular cases, which assumed media interest in the height of debate over the *State v. Zimmerman* (2012) verdict, arguably remain the most nationally covered self-defense cases involving intimate partners due to their connection to the Florida Stand Your Ground law. Following sentencing of Marissa Alexander to twenty years in prison in 2012, Assistant State Attorney Mark Caliel stated in reference to Alexander: "...she wanted to have her cake and eat it too. She was responsible for the choice of getting a gun. She was responsible for discharging the gun. And she also bears the responsibility of turning down the state's mitigated plea deal. And because of those three choices, she now faces 20 years in Florida State prison." (Broward, 2012). Another article published by Headline News (Thomas, 2013) points to the actions of Marissa Alexander leading up to the altercation and the trial, including that she had previously dropped assault charges against Rico Gray, injured him in past altercations known to

the police, did not reach out to law enforcement after firing a warning shot at Gray, and continued to visit Gray while on bail and awaiting trial. While this same article by Thomas (2013) attempts to explain the Florida Stand Your Ground law to the public, there is no mention of how the presumptions set forth in this law are applied to victims of intimate partner violence.

The sentencing of Marissa Alexander ignited public and media outcry regarding the applicability of Stand Your Ground laws and biases within their application to specific defendants. Questions were raised by NBC news, for instance, as to why Marissa Alexander's actions were treated punitively and her Stand Your Ground defense denied while Stand Your Ground was included in the jury instruction at the trial where George Zimmerman was acquitted; in these instances, the implication was that our justice system is not color-blind in a supposedly "post-racial" society (Carmon, 2014; Roth, 2013). State prosecuting attorney Angela Corey argued that focusing on race created a diversion around the actual circumstances of the events leading to Alexander's decision to discharge a firearm. Yet, United States representative Corrine Brown, accusing the court of overcharging Alexander, asked "How many times have they accepted Stand Your Ground if the person that was asking for it was black?" (Broward, 2012). Rallies that were organized by the Jacksonville community for Marissa Alexander immediately gained media attention, with local chapters of the NAACP becoming involved in these demonstrations (NBC News Jacksonville, 2012); national civil rights leader Reverend Jesse Jackson Sr.'s support for Marissa Alexander and criticism of the Stand Your Ground laws also captured media coverage (Treen, 2013). In addition, online petitions (e.g. "Free Marissa Alexander", "Justice for Marissa Alexander") and organized efforts, such as the Free Marissa Now Campaign which brought together activists and organizations with the purpose of ending

domestic violence and mass incarceration, undoubtedly placed pressure on the Florida legislature and appellate court to modify the Florida Stand Your Ground law and Marissa Alexander's sentence. In 2013, Marissa Alexander was granted a new trial by the Florida District Court of Appeals on three grounds: (1) the trial court, by including the phrase "beyond a reasonable doubt" in their jury instruction on aggravated battery, improperly moved the prosecution's burden to prove guilt beyond a reasonable doubt into a burden to prove self-defense beyond a reasonable doubt; (2) the trial court committed a fundamental error in providing the jury self-defense instruction after indicating that self-defense only applied if the victim suffered an injury, which did not occur in this case; (3) the trial court committed a fundamental error in requiring proof beyond a reasonable doubt that Marissa Alexander's husband committed aggravated battery prior to her firing a warning shot, or that he would have committed aggravated battery had a warning shot not been fired (121 So. 3d 1185 (Fla. 2013)). Other issues with the original trial included perjury by one of the state's key witnesses as well as an incomplete consideration of pretrial evidence such as Rico Gray's history of domestic violence (Johnson, Winslow & Powers, 2014). Around this same time, the Florida legislature also passed a "warning shot" amendment to its Stand Your Ground law that grants immunity to defendants with clean criminal records who threaten to use or discharge a firearm in order to deter an attack, but this particular legislation was not retroactive to any legal case including that of Marissa Alexander. As a result of Marissa Alexander not being able to use the Stand Your Ground law as a defense, she entered a plea of guilty in exchange for a reduced sentence that included three years' time served in prison.

This case, along with previous research on media reporting, illustrate that publicized accounts of women using self-defense are subject to multiple criticisms. One side of the media perspective on the victim questions why she did not do more to prevent her abuse, such as contacting law enforcement, pursuing legal action, or simply leaving. The other perspective, however, focuses on how the victim's assuming an active role in ending her abuse may have pushed her abuser to become more violent. As Meyer's (1997) notes, "...the act of self-defense appears justified only when the women's actions occur within the patriarchal notions of appropriate gender roles and behavior" (p. 80). Unfortunately, in the context of marital or romantic relationships, the dominant discourse of self-defense as being an aggressive response and the dominant ideology of women's passivity are clearly incompatible. Without more empirical evidence that discusses the social and legal implications of media coverage on women who have used self-defense against their marital or romantic partners, the particular trend of the media to perpetuate biases and stereotypes will undoubtedly continue as Stand Your Ground laws become even more widely condoned by state legislators. Nonetheless, the media can also serve as a viable means through which survivors of intimate partner violence, national organizations, and communities can advocate for social justice and legislative change. Even here, though, it remains important to view news media accounts through a critical lens to determine how victims of intimate partner violence are framed within their coverage.

Understanding the Context of Intimate Partner Violence: Women and Intersectionalities

Intimate Partner Violence and Racial Inequalities

Within her research on media and self-defense, Meyers (1997) concluded that self-defense needs to be understood within the context of multiple oppressions, especially since her particular findings underscore that the news tends to perpetuate racist and classist stereotypes to the same extent that this medium reinforces the appropriate gender roles of women. Recent self-defense trials in the state of Florida (e.g. *State v. Zimmerman* (2012), *State v. Alexander* (2012), and *State v. Dunn* (2014)) along with the tragedy surrounding the death of Michael Brown at the hands of law enforcement in Ferguson, Missouri (*The New York Times*, 2014) have prompted public protest and increasing media coverage, while new questions are being raised as to how the gender and race of both the offenders and victims influence the right to use self-defense as well as sentencing outcomes in cases of intimate partner violence and other violent offenses. While it is important to recognize that intimate partner violence is a phenomenon that affects women across age, cultural background, and social status, the greatest risk of victimization is found among women who are younger, identify as non-Hispanic White or non-Hispanic Black, and head households with children (Sokoloff & Dupont, 2005). Indeed, sociological studies have highlighted how the intersections of race, class, and gender along with oppressive social structures have created overlapping, yet unique barriers for women who are encountering abuse; many of these studies have made ethnic and racial minority groups the focus of investigation since women's experiences with victimization vary based upon cultural context (Hampton, Oliver, & Magarian, 2003; West, 2004). For instance, Hampton et al. (2003) suggest that lower class Black women encounter increased risk for intimate partner violence by virtue of historical

and contemporary patterns of racial and gender discrimination. These authors further suggest that Black men, who are disenfranchised from the political, economic, and educational opportunities of White men, resort to intimate partner violence as a means of reaffirming their masculinity and bolstering their social status. West (2004) calls for a more comprehensive approach that considers the complete social location and intragroup differences of abused Black women, noting that their marginalized status often compounds their experiences with poverty, other types of community violence, social perceptions of their victimization, and interactions with both the criminal justice system and other service providers. Other research has suggested that intimate partner violence among women identifying as Latina often occurs within a nexus of poverty, isolation, language difficulties, and minimal educational and occupational opportunities (Bonilla-Santiago, 2002) and that acculturation shifts have contributed to Latina women's rate of intimate partner violence and stalking following immigration to the United States (Sabina, Cuevas, & Zadnik, 2015). Compared to Anglo women, these particular challenges have been found to complicate Latina women's access to both formal and informal resources for intimate partner violence (West et al., 1998); in some instances, Latina women fear that their familial customs or overarching cultural stereotypes will result in discriminatory treatment by service providers (Rasche, 1988). Similar issues with acculturation and concern over discrimination affect abused Asian women's willingness to report their abuse. Also identified within these communities are problems with familial shaming or disavowal if authorities become involved in private household matters (Dasgupta, 2000; Huisman, 1996) to intimate partner violence being perceived by outsiders as a private or nonexistent issue (Raj & Silverman, 2003). The least amount of empirical investigation has been conducted on battered Native American women, yet

this group has been found to experience some of the highest levels of poverty and express the greatest need for housing and formal resource support (Grossman & Lundy, 2007). Collectively, the struggles of abused women in general, but particularly of women of color, bear importance to the discussion of reporting, accessing services, and cooperation within the criminal justice system. Within the present discussion of legal use of self-defense, acknowledging cultural and structural differences in how women experience intimate partner violence is a crucial step in understanding why self-defense may seem a viable choice when other forms of recourse are difficult to reach.

Self-Defense and Intimate Violence: Implications for Gender and Race

While the literature on self-defense has established that the motivations for women's use of force in abusive relationships should be treated as contextually different than a male batterer's use of violence (Renzetti, 1999), intersections of race, class, and gender are also salient to the discussion of how self-defense claims are perceived by the criminal justice system as well as the general public. Although some studies report that Black women are more likely than their White counterparts to report abuse to law enforcement (Bachman & Coker, 1995; Pearlman, Zierler, Gjelsvik, & Verhoek-Oftedahl, 2003), others contend that racial loyalty, or the decision to tolerate abuse in an effort to protect the greater good of the community, prevents Black women from seeking assistance from formal services such as law enforcement (Bent-Goodley (2001; 2004). Indeed, consistent with the "Black-as-criminal" stereotype, Black women who retaliate against their abusers are less likely to be perceived as victims and more apt to be labeled as instigators of the violent incident (Esqueda & Harrison, 2005). Furthermore, due to distrust of law enforcement or fear of economic issues if their abusers are incarcerated, Black and Latina

women will often become aggressive or uncooperative with responding law enforcement officials and legal counsel which further perpetuates the misperception of these women as fitting the definition of the aggressor rather than the victim (Wright, 2000). Also, the stereotypes of “Asian-as-immigrant” or “Latino-as-immigrant” have contributed to cultural misunderstandings of how abuse is experienced by women from these racial backgrounds. Studying Chinese-American families, for example, Gallin (1994) discusses how a “cultural defense strategy” has undermined the Battered Woman Defense in the criminal justice system, leading to reduced sentences for abusers, lower reporting rates for women, and the perpetuation of the belief that Chinese marital partners are inherently violent toward each other. Experiences with acculturation have also been linked to violence among Latino couples where changing gender and familial roles have been demonstrated to not only increase Latino men’s abuse towards their wives, but also increase these wives’ use of self-defense against their husbands (Caetano, Ramisetty-Mikler, & McGrath, 2004). Here again, the concern is that violence between Latino couples will be rationalized as a part of culture rather than identified as a problem of violence against women. As Lee (1996) notes, deeply ingrained racial stereotypes and preconceived notions of a victim as deviating from the “average” American have the potential to influence jurors and the legal system when it comes to decisions about the legitimacy of self-defense claims.

Understanding Self-Defense Through an Ecological Framework

As the review of legal and social science research has demonstrated, intimate partner violence and women’s use of force is best understood through a combination of historical, structural, and cultural perspectives. Yet, while the legal research published over the past few

decades has done an exceptional job of detailing concerns of racial discrimination in self-defense cases and also directing attention to the ramifications of self-defense laws for victims of intimate partner violence, few have centered their analyses around social scientific findings on women's use of self-defense. Likewise, social science literature has provided invaluable information regarding women's motivations for self-defense, but a discussion of the broader legal ramifications of using self-defense is lacking. To bridge these two areas of inquiry, Urie Bronfenbrenner's (1979) Ecological Systems Theory serves as a useful framework for understanding the social, historical, institutional, and individual intricacies that influence women's use of violence (Dasgupta, 2002). Specifically, Bronfenbrenner theorizes that four interrelated levels of society – the microsystem (e.g. family, peers, workplace), mesosystem (interaction of at least two microsystems), exosystem (media, social services, structures of society), and macrosystem (cultural ideologies and history) – function to constantly shape an individual's psychological development and the way that they react to their environment. According to Bronfenbrenner, Ecological Systems Theory also allows for an analysis of public policy that is informed by a researcher's discovery of elements within the environment that are critical to the cognitive, emotional, and social development of the individual.

Although Ecological Systems Theory has been readily used to study the psychological effects of women's sexual assault (Campbell, Dworkin, & Cabral, 2009), women's experiences of intimate partner violence victimization (Li et al., 2010), and men's perpetration of intimate partner violence (Reed et al., 2008), limited research has applied this framework to women's use of violence (Dasgupta, 2002). When the challenges that women from different social locations encounter in using self-defense are situated within an ecological framework, each system would

encompass the following elements of women's lives: the microsystem would include how women's histories of familial and intimate partner violence, violence experienced or witnessed within their communities, and familial roles affect women's self-concept. The exosystem would consist of those experiences – either positive or negative – that women have with law enforcement and other criminal justice officials, dealings with social service agencies, and exposure to media reports on intimate partner violence in the context of self-defense law. Lastly, the macrosystem comprises cultural histories of oppression, patriarchal gender role beliefs, and community-based sanctions on reporting violence. Taken together, this theoretical construction helps to clarify how women's social locations interact with neoliberal structures to promote tolerance or excusal of abuse to a point where women ultimately use violence against their abusers either out of frustration or as a method of protection. Additionally, this integrative theoretical approach can be applied to glean a more nuanced understanding of the social and cultural variables that interact within different subgroups of the population. Certainly, this approach is more suitable to fostering unified goals of policy advocates and practitioners who endeavor to analyze legal and social policy in order to best protect the safety of intimate partner violence victims.

Purpose and Goals of the Current Study

Legal research over the past several decades has done an exceptional job of reviewing trends and effects of the Castle Doctrine and Stand Your Ground legislation. Although several of these articles discuss these laws in reference to intimate partner violence, gender, and race, their conclusions for substantial policy changes do not always include rigorous methodologies that highlight differing outcomes of cases based upon incident, offender, and victim characteristics.

Sociological studies, on the other hand, have developed theories that apply to women's use of self-defense, but have yet to relate these theories to the Castle Doctrine and Stand Your Ground laws. The current study intends to bridge the legal and sociological scholarship in this area by qualitatively comparing the language of Stand Your Ground statutes across multiple states, and also by examining the circumstances under which these statutory laws have been successfully or unsuccessfully applied to criminal and appellate cases of intimate partner violence. The final part of this analysis examines the media response to highly publicized cases of intimate partner violence where Stand Your Ground was attempted or fully used as a defense. This particular part of the analysis is important to determining public sentiments toward case proceedings and outcomes based upon defendant and victim characteristics, such as race and gender, and to also understand the extent to which information about the Stand Your Ground laws is being presented. In order to fully understand the goals of this study, it becomes increasingly important to examine how laws, violence, and criminality are systematically structured. The next chapter brings the historical and contemporary application of self-defense law, considerations of gender, race, and class in crime and punishment, and ideologies of who and what is considered criminal, into one theoretical discussion that is guided by the principles of critical criminology. Following this theoretical discussion, the research questions, methodology, and findings will be presented and explained in more detail.

CHAPTER THREE: THEORETICAL FRAMEWORK

The literature review introduced several theories related to inequities in the application of self-defense law, the infliction of injurious or lethal violence in intimate relationships, and stereotypes that frame victims as “offenders” based upon race, gender, and social class. Since these theories are interrelated yet discussed in different ways throughout the legal and sociological literature, an overarching critical criminological perspective speaks to the commonalities among these theories and acts as a single guiding framework for a more in depth understanding of how inequality is structurally produced and reinforced through social interactions. This section will introduce the basic tenets of critical criminology and its meta-theoretical areas that encompass both historical and contemporary concepts as well as economic and cultural explanations of crime and offending.

Critical Criminological Perspective

Critical criminology arose as a school of thought during the 1970s as a means of focusing more attention on the social processes and systems that contribute to the stigmatization and marginalization of individuals within the criminal justice system and less on biological and psychological theories of offending. Prior to this time, there was a significant divide between criminal law and criminology as areas of study where the former focused on, for instance, arrest procedures, legal rules, and court proceedings, while the latter was more concerned with explanatory models of crime causation centered around delinquency and deviance. Taylor, Walton, and Young’s seminal work *The New Criminology: For a Social Theory of Deviance* (1973) is credited for fundamentally shifting the study of criminology towards a more systematic evaluation of how the political economy of industrialized societies precipitates conditions for

crime. For instance, these authors state that "...a criminology which is not normatively committed to the abolition of inequalities of wealth and power, and in particular of the inequalities in property and life-chances, is inevitably bound to fall into correctionalism. And all correctionalism is irreducibly bound up with the identification of deviance with pathology" (p. 281). While numerous critical criminological theories have developed over time, such as Marxist criminology, left realism, feminist criminology, and cultural criminology (see DeKeseredy & Dragiewicz, 2012, for a review), these schools of thought collectively eschew punitive approaches to policing and operate under the shared assumption that both social stratification and racial, gender, and class inequalities are the direct causes of crime (DeKeseredy & Schwartz, 1996; Sykes, 1974; Taylor, Walton, & Young, 1975).

There are three overlapping meta-theoretical frameworks that fall under the auspices of critical criminology: (1) historical materialism, which includes the radical underpinnings of Marxist criminology, the political economy of crime and punishment, and social class as shaping crime and justice policies; (2) identity, where crime and justice policies are experienced as a function of gender and race; (3) Ideation, which focuses on media and crime as communicative structures of law and justice. Throughout these meta-theoretical areas, the contributions from critical legal studies and feminist criminology must be considered. Proponents of critical legal studies assert that laws are an extension of the special interests and prejudices of those who hold power and wealth within society; these laws are then used to purposefully maintain class hierarchies and legitimize social injustice, or practices that lead to disparate economic, political, and social opportunity. Feminist criminology has a long history of critiquing the positive and negative effects of the criminal justice system on women who have been victimized by intimate

partners, and frames disparate economic, political, and social power in connection with a neoliberal system that creates laws which value the status of men over women (Maier & Bergen, 2012). All of these sub-disciplines and theoretical underpinnings of critical criminology bear particular importance to the current study's focus on the legal, gender, and racial implications of Stand Your Ground laws in cases of intimate partner violence. In essence, an analysis of critical criminology allows for a greater acknowledgment of who has the power to create these laws and how the exertion of legal policies by those in power affect certain groups of individuals who occupy historically vulnerable social and economic positions.

Historical Materialism: Status, Power, and Stand Your Ground Laws

Historical materialism is a concept and methodology originally articulated by Karl Marx and his colleague Friedrich Engels to explain the development of societies over time. According to Marx (Tucker, 1978),

The sum total of [these] relations of production constitutes the economic structure of society, the real foundation, on which rises a legal and political superstructure and to which correspond definite forms of social consciousness. The mode of production of material life conditions the social, political and intellectual life process in general. It is not the consciousness of men that determines their social being, but, on the contrary, their social being that determines their consciousness. At a certain stage of their development, the material productive forces of society come in conflict with the existing relations of production, or -- what is but a legal expression for the same thing -- with the property relations within which they have been at work hitherto... Then begins an epoch of social revolution. (p. 4).

Taylor, Walton, and Young's (1973; 1975) development of critical criminology was originally grounded in a Marxian analysis of crime that draws upon this materialist dialectic articulated by Marx and Engels. This particular analysis argues that crimes committed by individuals or organizations must be understood within the context of the society in which they occur (Matthews, 2012). While Marx and Engels were largely concerned with the social and historical development of capitalism, it is important to identify that neither developed a formal theory of crime within their writings. However, Engels wrote to a greater extent than Marx on crime and violence as originating from the demoralization of men in the proletariat (i.e. lower) class who avoided, submitted to, or rallied against oppressive laws. Engels, for instance, writes that:

The middle classes certainly are all in favour of the sanctity of the law. That is not surprising. They have made the law; they approve of it; they are protected by it and they gain advantages from it. The bourgeoisie appreciate that, even although some particular enactment may injure their interests, the whole body of laws protects their interests...but the worker naturally regards the law in quite a different way. He knows from long and bitter experience that the law is a rod which the bourgeoisie has in readiness for him. (pp. 257-258).

From the perspective of Marx and Engels, crime is a product of the ways in which societies change and reproduce class conflict. For Marxist criminologists, crime is viewed as a rational response by members of the working class to a capitalist system that has both exploited and deprived them of their basic needs. Indeed, Marxist criminologists have long debated the utility of definitions of crime, the applicability of a singular law to crimes that have similar outcomes, and the equitability with which laws are applied to individuals who represent different social

classes. In addition, Marxist criminologists (and scholars who use a Marxist theoretical approach to their studies) have paid attention to the ways in which changes in economic structure and social arrangements over time impact criminal justice response and policy, and create structural conditions that encourage individuals to engage in criminal behavior (Carlson, Gillespie, & Michalowski, 2010; Chambliss, 2009; Lynch, Groves, & Lizotte, 1994).

While Marxist criminology serves as a strong foundational understanding of critical criminology in connection with economic and political structure as well as social class, emerging theories on critical legal studies have also begun to incorporate Michel Foucault's concepts of disciplinary power and biopower into their inquiries on social processes (Golder & Fitzpatrick, 2009). Foucault's *Discipline and Punish* includes his most vibrant discussion of disciplinary power and serves as a methodology for understanding the transitions that have taken place in society's conception of crime as well as the punishment of those considered criminal. Generally, Foucault's guidelines for such study are "regard punishment as a complex social function; regard punishment as a political tactic; make the technology of power the very principle both of the humanization of the penal system and of the knowledge of man; try to study the metamorphosis of punitive methods on the basis of a political technology of the body in which might be read a common history of power relations and object relations" (Foucault, 1977, pp. 23-24). Foucault argues that society is an arrangement of institutions that act as the instruments of discipline, and it is these institutions that mandate power over the bodies of individuals (Foucault, 1977). In *Society Must be Defended*, Foucault supplemented his theory of disciplinary power over the body with that of biopolitics which signifies a regulatory power over the masses while signifying an emergence of a society in which political power has assigned itself the task of administering life

(Foucault, 1997). Foucault, for instance, argues that social institutions such as governments, laws, and politics are nothing more than “behavior control technologies” and that the State is one exercises the right to eliminate, isolate, or disqualify individuals based upon their political objectives of, for example, war and racism (Foucault, 1997).

The major themes of class status and the exercise of power over society appropriately factor into the question of who is ultimately supporting and funding more radical Stand Your Ground self-defense laws. The American Legislative Exchange Council (ALEC) is a non-profit organization which promotes itself as being “America’s largest nonpartisan, voluntary membership organization of state legislators dedicated to the principle of limited government, free market, and federalism” (ALEC, 2016). This organization also reports to consist of legislators, stakeholders, business leaders, and policy experts who work to preserve economic security and protect taxpayers (ALEC, 2016). Yet, the current ALEC board of directors consists of senators or representatives who politically identify as Republican. While ALEC claims to be nonpartisan, the fact remains that the legislation that this group promotes could be classified as serving a more conservative agenda. Indeed, ALEC was one of the original supporters of the Florida Stand Your Ground law. Prior to the murder of Trayvon Martin, companies such as Coca-Cola, Kraft foods, AT&T, Pfizer, and Walmart provided sizeable annual fees to be a part of the legislative process through this organization. While many of these companies denied colluding with ALEC on the Florida Stand Your Ground law, and many dissociated themselves with ALEC following scrutiny, this organization has a history of championing bills for small government, voter identification laws, and government deregulation (Chokshi, 2013). Thus, while ALEC claims to bring together “job creators and state legislators alike...to offer important

policy perspectives to ensure economic security and opportunity in their communities”, they are likely representing only those interests of their conservative constituents and fellow members of ALEC. Indeed, this organization includes the participation of wealthy individuals and conglomerates; it raises the question as to whether those who are not participating in the process, either by status or wealth, have their voices heard as “members” of a community or as taxpayers.

In connection with differences in power among those who create and advocate for Stand Your Ground laws, there is also an element of control present in the way in which special interest groups define the perceived need for individuals to defend themselves. The National Rifle Association, which is a politically powerful organization that consists of dues paying members and leaders with backgrounds in government and corporate industry, has fervently supported Stand Your Ground laws as protecting the second amendment rights and safety of Americans. A PEW Research Center study, *5 Facts About the NRA and Guns*, found that the reasons Americans give for owning guns has changed significantly since 1999, with self-protection being the primary reason that 48% of gun owners possessed a firearm in 2013 compared to 26% in 1999 (Drake, 2014). The NRA has appeared to largely centralize their message around the theme of self-protection while playing upon the vulnerabilities of distinct groups. To illustrate this point, “NRA Women” has a dual agenda of glamorizing women who own and use guns with series such as “Love at First Shot” and “Armed and Fabulous” while also presenting guns as a necessary preventative measure against victimization with programs such as “Refuse to be a Victim” and women’s stories of how firearms aided in their surviving an attack (National Rifle Association, 2015). During the Baltimore riots in March 2015, the NRA published on social media that “videos of rioters wreaking havoc in Baltimore and photos of them risking the lives of

innocents by punching, throwing objects, and, in one instance, drawing back a knife with which to stab a bystander were reminders that Stand Your Ground laws are an antidote for brazen in-your-face attacks on city streets. While these laws do not affect people peacefully protesting and incident or a situation with which they do not agree, the laws would affect rioters who physically attack innocents, if those attacks rise to the level of putting lives at risk" (Johnson, 2015). One of the fundamental problems with this statement is that the Baltimore riots were racially charged, and thus the NRA – whether inadvertently or deliberately – incited stereotypes and fears associated with urban youth and communities of color. Lastly, following his bid for the Republican presidential nomination in 2015, former Florida Governor Jeb Bush, who signed Florida's Stand Your Ground law into effect, stated in reference to President Barack Obama's foreign policy that he should "focus on taking weapons out of the hands Islamic terrorists, and not out of the hands of law abiding Americans" (Verhovek, 2015). This comment diverts attention away from the legitimate concerns and counterarguments that have been presented by those in favor of gun control and instead places the onus of attention on "foreign" terrorists while ignoring the plethora of mass shootings and acts of terrorism that occur by the hands of U.S. citizens.

From a critical perspective, organizations such as the NRA have had success in playing upon the fears that moral panics create among the American public; women's fear of crime, violent race riots, and terrorism are merely a few, but nevertheless strong examples. Through legislative power, whether that is exercised by an organization such as ALEC or through the NRA Institute for Legislative Action, pro-gun agendas have materialized in the form of Stand Your Ground laws that have become codified into law in twenty-three states. Unfortunately, the

Stand Your Ground laws remain substantially limited in scope when applied to victims of intimate partner violence, and also isolate victims from non-White or lower class communities that are stereotypically viewed as inherently violent.

Identity: Critical Feminist and Critical Race Perspectives and Intimate Partner Violence

Critical theory encompasses several generations of German philosophers and social researchers who are versed in the Western European Marxist tradition and who collectively define the Frankfurt School. According to these theorists, a theory is critical to the extent that it seeks human emancipation. Indeed, critical theories have emerged in connection with social movements against domination of individuals in modern society. One of the most pertinent applications of critical theory has been to women's experiences of subordination in the criminal justice and legal systems. Catharine MacKinnon and Nancy Fraser are two of the most prominent feminist theorists who have critiqued the legal system. In *Toward a Feminist Theory of the State* (1989), MacKinnon likens Marx's method of materialist dialectic of class consciousness to a feminist method of *consciousness raising* that critically constructs the meaning of women's social experience. MacKinnon (1989) asserts that within consciousness raising women realize that "the personal becomes the political" through four interrelated processes:

First, women as a group are dominated by men as a group, and therefore as individuals. Second, women are subordinated in society, not by personal nature or by biology. Third, the gender division, which includes the sex division of labor which keeps women in high-heeled low-status jobs, pervades and determines even women's personal feelings in relationships. Fourth, since a woman's problems are not hers individually but those of

women as a whole, they cannot be addressed except as a whole. In this analysis of gender as a nonnatural characteristic of a division of power in society, the personal becomes the political. (p. 95).

The result of consciousness raising, according to MacKinnon (1989), is both collective, in the sense that women embody shared feelings, thoughts, and experiences as products of their social conditions, and critical as women build community through the critique of their mutual condition. Foremost among women's consciousness raising has been the acknowledgment that male dominance is sexual and expressed as a form of women's objectification. Indeed, in the context of violence against women in both the private and public spheres, sexual harassment, battery, rape, prostitution, and the use of or engagement in pornography, are acts performed by men as a social group in pursuit of control over women's sexuality. As MacKinnon (1989) states "All this suggests that what is called sexuality is the dynamic of control by which male dominance--in forms that range from intimate to institutional, from a look to a rape--eroticizes and thus defines man and woman, gender identity and sexual pleasure. It is also that which maintains and defines male supremacy as a political system" (p. 137). Here, the liberal state has also coercively maintained the social order in interest of men through its legitimation of policies that formulate norms based upon a male perspective.

Along similar lines, Nancy Fraser (1995) argues that gender injustice has both a political-economic as well as cultural-valuation dimensions in modern societies. The former signifies a gendered division of labor where men occupy positions of higher-wage professional jobs and "productive" labor while women tend to be assigned to low-wage "pink collar" occupations or unpaid domestic labor. The latter involves the construction of androcentric norms and cultural

sexism that devalues women through harms such as domestic violence, sexual assault, harassment in public and private spheres, and unequal access to legal rights and protections. Fraser concludes that these “two faces” of gender “...intertwine to reinforce one another dialectically, as sexist and androcentric cultural norms are institutionalized in the state and the economy, while women’s economic disadvantage restricts women’s ‘voice’, impeding equal protection in the making of culture, in public spheres, and in everyday life. The result is a vicious cycle of cultural and economic insubordination” (p. 79).

While gender certainly remains at the forefront of structural explanations for intimate partner violence perpetration, other researchers have argued that a primary focus on gender undermines the importance of women’s complete social location in the context of risk for domestic abuse. Adopting a multicultural or intersectional perspective, as some feminists have done, has allowed for a more comprehensive structural analysis of domestic abuse based upon women’s race, class and gender (Anglin, 1998). Critical race theory is a burgeoning area of study that, according to Crenshaw (1995), “embraces a movement of left scholars, most of them scholars of color, situated in law schools, whose work challenges the ways in which race and racial power are constructed and represented in American legal culture and, more generally, in American society as a whole” (p. 1), and compels individuals to evaluate how laws have historically upheld ideals of White supremacy and culture as well as hierarchies of gender, class, and sexual orientation. The intersection of race and gender has become a salient aspect of this methodological inquiry in critical race theory. Patricia Hill Collins (2009), for instance, has identified a strong basis for black feminist thought by suggesting that “theories advanced as being universally applicable to women as a group upon closer examination appear greatly limited

by the White, middle-class, and Western origins of their proponents,” (p. 8). Collins (2009) recognizes that the black feminist experience arises out of three distinct and unique historicity’s: “1) the exploitation of Black women’s labor essential to U.S. capitalism – the “iron pots and kettles” symbolizing Black women’s long-standing ghettoization in service occupations – represents the economic dimension of oppression; 2) the political dimension of oppression has denied Black women the rights and privileges routinely extended to White male citizens; 3) controlling images applied to Black women that originated during the slave era attest to the ideological dimension of U.S. Black women’s oppression,” (p. 6). Specifically, Collins distinguishes Black Feminist Thought from traditional Western Feminism in the respect that although women of all races are subjugated through social class, gender, sexuality, religion, and citizenship status, Black women additionally encounter a disproportionately high degree of institutionalized racism. Entrenched in economic, political, and historical oppression and discrimination, these practices of institutionalized racism have undoubtedly resulted in black women’s poverty as racial discrimination still imbues numerous social structures, including school and universities, workplaces, stores, and housing communities.

Collins also includes domestic violence in her thematic discussion of Black women’s oppression. For instance, Collins (2009) states that “African American women’s experiences with pornography, prostitution, and rape demonstrate how erotic power becomes commodified and exploited by social institutions. Equally important is how Black women hold fast to this source of individual empowerment and use it in crafting fully human love relationships,” (p. 163). According to Collins, many Black women reject Black feminist thought mainly because they perceive it as threatening to the racial solidarity that exists within their families and their

romantic relationships. Thus, black women's decision to submit to sexual harassment, sexual exploitation, and intimate partner violence perpetrated by Black men may be in an attempt to maintain racial and familial solidarity. In a similar vein, Crenshaw (1995) notes that communities of color have often curtailed attempts to politicize domestic violence due to the fact that they are perceived as representing the interests of White women and because members of these communities do not want to be negatively perceived by the public as endemically violent.

While Collins and Crenshaw build upon the effects of institutionalized racism on Black communities, it is important to note that critical race theory has extended beyond comparisons of a Black/White binary. Latino critical theory (LatCrit Theory), for instance, calls specific attention to the ways in which other critical approaches to race and civil rights has excluded the specific problems of Latino individuals and communities, such as immigration, bilingualism, and the ways in which antidiscrimination laws – which were historically developed to respond to the injustices against African Americans - have not fully addressed the experiences and diversity of the Latino/a population (Montoya & Valdes, 2008; Stefancic, 1994). Latina feminists who have adopted a critical stance against intimate partner violence have primarily examined the ways in which multiple oppressions and cultural stereotypes contribute to women's abuse (Coker, 2000; Rivera, 1994; Valdes, 1999). Rivera (1994) suggested that Latina women have been subject to lower earning potential and socioeconomic mobility compared to men and women from other racial and ethnic groups. In addition, stereotypes of Latino men as “macho” or “hot-blooded” and Latina women as docile servants to their husbands and families has led to apologist attitudes that intimate partner violence is simply a part of culture rather than the institutional barriers that victims from these racial and ethnic groups encounter (Rivera, 1994).

Critical feminist and critical races theories as more radical types of feminist criminology have served as instrumental frameworks that place women's sexuality, domesticity, and subordination in the context of institutionalized sexism and racism. The institutions of power in this context are vast, but of specific interest here is a more critical evaluation of the Stand Your Ground laws in relation to gender and race. While Stand Your Ground laws can serve as important tools for women who are abused to assert a legal claim of self-defense, judges, prosecutors, and jurors "objectively" analyze the conditions of the Stand Your Ground laws – imminence and reasonableness – "through biased lenses that include male normativity, stereotypes, myths about domestic abuse, and the tendency to blame the victim" (Jackson, 2015, p. 1). Furthermore, although the term "person" has replaced "man" in contemporary self-defense laws to provide a sense of gender neutrality, courts still compare women's use of self-defense to a male standard (Jackson, 2015). While most empirical analyses of intimate partner homicides or assaults committed by women demonstrate that they receive more lenient sentencing outcomes in comparison to men who commit the same crime (Doerner & Demuth, 2014; Mustard, 2001), others have suggested that women are treated more harshly by the court system for defending themselves against their intimate partners (Raeder, 1993). In addition, the narratives that become available to male and female defendants are remarkably dissimilar: men who defend themselves or their homes against intruders are valorized as "real men" whereas women, who chiefly defend themselves against intimate partners rather than strangers, are minimized as "helpless" victims or psychologically dysfunctional (Coker, 2014). In this regard, Franks (2014) has argued that many courts interpret women's use of self-defense against abusive partners as acts of vigilantism. This is particularly the case since, as Franks (2014) discusses,

while Stand Your Ground laws grant immunity from prosecution for those who defend against attacks perpetrated by strangers, this law does not guarantee comparable immunity from prosecution or comparable presumption of reasonable fear for women who have defended themselves against intimate partners who have a documented history of being abusive.

The growth of crime legislation in the United States is not only gendered, but also consists of overt racial undertones. The social construction of homicide has conjured depictions of White, suburban, middle to upper-class individuals being at risk for victimization by young, Black, lower-class men (Jones, 2014). The fact remains, however, that most homicides are intraracial, with the vast majority of Whites being killed by other Whites, and Blacks being killed by other Blacks (FBI Uniform Crime Reports, 2013). Yet, the particular events leading up to *State v. Zimmerman* (2012) have played upon these fears, and the Stand Your Ground laws have been implicated in fueling the perceived right for individuals to act upon their subjective assessment of danger associated with racist stereotypes. To date, empirical data on victim/offender race in Stand Your Ground cases is lacking and what does exist provides equivocal results. The Tampa Bay Times (Martin, Hundley & Humberg, 2012), for instance, compiled nearly 200 cases where the Florida Stand Your Ground law was used finding that Whites were more likely to be both victims and defendants in fatal as well as nonfatal cases. This same news source also analyzed these cases and concluded that Whites and non-Whites had an equivalent success rate of being granted a Stand Your Ground defense and similar conviction rates when Stand Your Ground was denied as a defense, and that nearly equivalent percentages of Whites and non-White defendants were granted immunity in mixed-race cases involving fatalities. Yet, the Urban Institute (Roman, 2013) conducted an analysis using the FBI's

Supplemental Homicide Reports and determined that whites who defend themselves against Blacks in Stand Your Ground states are far more likely to be acquitted in comparison to Whites in states that do not have Stand Your Ground laws. However, Roman (2013) emphasizes that these results should be interpreted with caution since the data did not provide the circumstances or context of each case.

In spite of these findings, neither gender nor race should be discounted as important variables to the use of self-defense and Stand Your Ground case processing. The racial tensions and fears that influence perceptions about who is assumed to be criminal or dangerous also affects women of color in the criminal justice system. For example, Collins (2009) alludes that “violence against Black women tends to be legitimated and therefore condoned while the same acts visited on other groups may remain nonlegitimated and nonexcusable,” (p. 158). If the discussion of implicit biases in the legal self-defense literature is extended to cases intimate partner violence, it is quite possible that women of color, who are at an increased risk of encountering economic and social hardships that entrap them within their abusive relationships (West, 2004), are being held to different standards of culpability than their White counterparts or, at the very least, are encountering unique barriers that make proving imminence, necessity, and retreat a difficult endeavor.

Ideation: The Power and Structure of News Media

Cultural criminology is a fairly new type of critical criminology that analyzes the image, style, meaning, and representation of crime and control (Ferrell, 1995). This area includes the study of how individuals, groups, and communities come to be defined as deviant or criminal and therefore subject to stricter forms of social control and moral regulation (Muzzatti, 2012).

Mike Presdee's *Cultural Criminology and the Carnival of Crime* (2000) is credited for generating a theoretical model of crime that incorporates Mikhail Bakhtin's concept of the carnivalesque (which is theorized as transgressions that reverse or liberate the assumptions of dominant social norms) with critical theory, media studies, and cultural anthropology and posits that elements of "carnival" have emerged in both social and symbolic activity. News and print media, for example, have become one medium that manifests "carnival" or transgressive desires of individuals and contain "elements of the performance of pleasure at the margins in opposition of the dominant values of sobriety and restraint" (Presdee, 2000, p. 10). Indeed, news and print media coverage of crime has served as a major impetus for the development of cultural criminology. Critical criminologists have recognized that corporate media organizations do not merely report the news but, rather, determine what news becomes (Cohen, 1972; Cohen & Young, 1973; Gans, 1971). Cohen and Young (1973) were two of the first critical criminologists to identify that stories worthy of the title "crime news" commonly included themes around drugs, sex, and violent street crime committed by disenfranchised groups such as youths or immigrants. The rhetoric of this "crime news" often privileges an "expert analysis" that favors the perspective of the police and other bureaucrats within the criminal justice system and contributes to an end product that begins with the deliberate selection of topics according to socially constructed categories (Hall, Cuthcher, Jefferson, Clarke, & Roberts, 1978). Furthermore, and according to Gans (1971), the practices of news media have and continue to be shaped by Progressivist ideologies including ethnocentrism, democratic idealism, responsible capitalism, and moderation. With this in mind, cultural criminologists pay particular attention to the ways in which moral panics, which can be defined as a collective overreaction to a perceived crime

epidemic (Cohen, 1972), that are broadcast by the news are constructed to contain politically organized images and narratives that reflect and reinforce disparate social and economic relations, dominant culture, and the interests of powerful groups (Muzzati, 2012; Potter & Kaepler, 1998).

News and print media have the capacity to build the agendas of social issues by making them more or less visible within their reporting to the general public. In this way, the press assigns a “common sense” meaning over social facts while also reifying stereotypes and prejudices (Tuchman, 1978). Yet, the vast majority of daily newsroom operations and positions of power within this industry are dictated and occupied by White, middle-class men (Carter, Branston, & Allen, 2004). Thus, it is not necessarily surprising that despite the politicization of domestic violence and sexual assault over the past twenty years, news and print media tend to treat these occurrences as “bizarre spectacles”, use ambiguous language that obscures the gendered nature of battering, and assign responsibility to women for tolerating the abuse (Lamb, 1991; Potter & Kaepler, 1998). Intimate partner femicide is also depicted in the media as resulting from a spontaneous “crime of passion” – an outburst directed at a loved one in response to provocation that threatens the stability of a relationship – which frames this issue as a tragic consequence rather than one that originates from structural gender inequality (Bullock & Cubert, 2002). Furthermore, the frame that journalists and reporters choose to employ when covering stories of intimate partner violence and the way that they perceive victims is largely shaped by their own personal experiences and value systems as well as pervasive ideologies about crime, violence, gender, race, and social class (Plaisance & Skewes, 2003). For instance, Meyers’ (1997) interviews with journalists and reporters revealed that while most felt more sympathetic

to victims after covering stories about child abuse, sexual abuse, and domestic violence, some still felt that battered women were not legitimate victims since they engaged, for example, in drug use or remained with their abusive relationships after being severely injured or almost killed by their abusers. Furthermore, while some of these journalists and reporters believed themselves to be value-free and objective in their approach to stories about violence against women, other studies have shown that journalists' and reporters' perspectives of intimate partner violence are often guided by the opinions of "legitimate sources" working for the state such as law enforcement officials, defense attorneys, or judges (Richards et al., 2011), the vested interests of newsroom directors who endeavor to increase ratings and meet the political or entertainment needs of their audience (Chermak, 1998), and powerful interest groups that control the particular news channel or publication (Potter & Kaeppler, 1998). Of particular importance here is while reporters and journalists may claim to be operating with a sense of neutrality when they cover instances of violence against women, the fact remains that these individuals are trained to present viewpoints that are consistent with the dominant ideologies of their audience, advertisers, owners, and stakeholders (Gans, 1979; Potter & Kaeppler, 1998).

While the construction of women and violence needs to be viewed through both a critical and cultural lens, news and print media has been charged as upholding the White supremacist and male supremacist ideologies that are institutionalized in the media and exploit Black individuals (hooks, 1992). Indeed, popular media has created a stereotype of the "Black underclass" as dangerous members of society to the point where race has become evidence of criminality (Jones, 2009). For instance, the fact that Trayvon Martin was perceived as "out of place" as a young Black man in a gated community was enough to arouse the suspicions of

George Zimmerman, law enforcement, and some segments of society regarding his culpability in precipitating the crime. In years following the murder of Trayvon Martin, Stand Your Ground laws have become the subject of media studies; within textual analyses, the interconnection between race and perceived criminality is often found to function with a degree of entertainment value for the audience. Andrus (2012) used data from CNN and Fox News regarding coverage of *State v. Zimmerman* (2012) and found that while the Florida Stand Your Ground law was delivered in more factual and neutral terms, race served as one of the key reasons why this case was reported upon so broadly. Carodine (2014) states that “ there is also the problem of race itself, and more specifically racial minorities’ pain, being fully available, even demanded, for exhibition. Indeed, one of the historical and modern uses for people of color in the country has been as White people’s entertainment...if race is entertainment, it is no surprise that racialized evidence, particularly as utilized in the criminal justice system, has become entertainment” (p. 685). As bell hooks notes in *Black Looks: Race and Representation* (1992): “Commodification of blackness has created a social context where appropriation by non-black people of the black image knows no boundaries. If the many non-black people who produce images or critical narratives about blackness and black people do not interrogate their perspective, then they may simply recreate the imperial gaze-the look that seeks to dominate, subjugate, and colonize. This is especially so for white people looking at and talking about blackness” (p. 7).

Placing Theory into Practice: Implications for the Current Study

A significant number of states have incorporated the principle of “no duty to retreat” in any place where a person has a right to be into their self-defense statutes or have followed this standard through case law over the past ten years. Consequently, many theories have also

emerged that propose a link between “Stand your Ground” laws and gender bias, racial bias, and an increase in homicide rates. Empirical studies that test these relationships have become more widespread and accessible, especially over the past three years (McClellan & Tekin, 2012; Roman, 2013; Yim, 2015). Additionally, a significant amount of concern has been raised as to whether victims of intimate partner violence are entitled to the same protections under “Stand Your Ground” laws as individuals who are attacked by unknown assailants (Coker, 2014; Franks, 2014; International Covenant on Civil and Political Rights (ICCPR), 2013; Jackson, 2015). However, no known studies to date have analyzed intimate partner violence cases where self-defense is claimed by the defendant citing the Stand Your Ground law. This analysis is necessary to address the concerns of advocates that the Stand Your Ground laws perpetuate gender and racial stereotypes associated with victims and survivors of intimate partner violence as well as discriminatory or unfair practices of the criminal justice system towards these victims and survivors (ICCPR, 2013). The information circulating on these matters is vast, but many questions about how Stand Your Ground laws are applied in instances of intimate partner violence remain unanswered. Furthermore, what the public understands about intimate partner violence, Stand Your Ground laws, and how these two concepts converge in civil or criminal proceedings may cause confusion amidst varying presentations of information through major media outlets or special interest organizations. This study intends to contribute important knowledge to the field of intimate partner violence advocacy and public policy by analyzing court cases classified as “domestic disputes” for characteristics of the defendant, victim (complainant), incident/crime, and case outcome. To provide context for these findings, self-defense statutes for all states are reviewed to determine what requirements, if any, are necessary

for intimate partner violence victims to prove reasonable fear in the use of self-defense against their abusive partners. In addition, instances of Stand Your Ground domestic dispute cases that have been covered by local news networks are analyzed to determine any indication of victim blame, inaccuracies in the definition or characterization of intimate partner violence, and inaccuracies in the presentation of the Stand Your Ground laws. Based upon information and evidence from previous literature on intimate partner violence, self-defense, and Stand Your Ground laws, the following research questions will be investigated and addressed:

RQ1. Since Florida has served as a model for other statutory Stand Your Ground laws, are there more similarities than differences across states that have this legislation? Also, since the right to use self-defense has historically not been extended to cohabitants, do the Stand Your Ground laws contain certain conditions under which intimate partner violence victims must prove reasonable fear to use deadly force?

RQ2. Since studies show that women who are victims of intimate partner violence are more likely to use violence to defend themselves against their abusers, are more women than men defendants in domestic dispute cases involving Stand Your Ground?

RQ3. Will defendants who use a firearm in self-defense endure harsher sentences compared to defendants who use another type of weapon or no weapon?

RQ4: Based upon studies demonstrating clear gender disparities in the intent and application of self-defense law, are more women than men sentenced for crimes committed against their abusers?

RQ5. Based upon literature that argues the legal system to be racially biased in terms of profiling, arrest, and sentencing, will non-White defendants be subjected to longer sentences than White defendants?

RQ6. Will defendants who are criminally charged in domestic dispute cases have a greater chance of being found guilty in lieu of a Stand Your Ground defense? Are guilty convictions that are appealed largely unsuccessful in this context?

RQ7. Although Stand Your Ground laws eliminate the duty to retreat, will the opportunity for escape will be factored into whether defendants are granted immunity under Stand Your Ground laws?

RQ8. Although newspaper articles share factual information about Stand Your Ground domestic dispute cases, do they misrepresent these cases by eliminating many of the relevant details related to the wording of the Stand Your Ground laws and empirical studies on intimate partner violence?

RQ9: Do newspaper articles focus on the actions and responsibilities of women in the context of the trial, regardless of whether she is the defendant or the plaintiff? Are the histories and actions of men presented, but minimized?

CHAPTER FOUR: DATA & METHODS

Data and Methods

The first part of this study is a comparative analysis and review of Stand Your Ground statutes across twenty-three states. Each Stand Your Ground statute was identified through the LexisNexis Academic database. LexisNexis is a provider of computer assisted legal and business research. Within this online database, legal journal articles and law reviews, state and federal statutes, legal and public records, and both unpublished and published case opinions are available (LexisNexis, 2014). To find these statutes in LexisNexis Academic, the search terms were limited to “State Statutes and Regulations” and, under advanced search, statutory code, administrative code, and constitution were selected as search options for each individual state. Within the search results, a series of statutes would generate pertaining to “use of force in defense of persons” and “use of force in defense of habitation”. These statutes were then cross-referenced in LexisNexis Academic with the terms “domestic violence”, “domestic dispute”, “intimate partner violence”, and “family violence” to identify any subsections or case law that pertain to the applicability of the Stand Your Ground law to domestic violence or intimate partner violence.

Once these statutes were identified through the LexisNexis Academic database, the state, year that the statute was adopted, and the political position of the governor who signed the House Bill into formal statutory law were noted by cross-referencing through each state legislature’s website. In addition, a coding sheet was used to quantify the following in each statute: (1) whether the state has a legal presumption that the use of deadly force is lawful; (2) whether retreat is required in public and/or private spaces; (3) exemptions or conditions where reasonable

fear and imminence are not recognized under the law; (4) whether the statute grants immunity from arrest or criminal prosecution; (5) whether the statute guarantees civil immunity for individuals who use self-defense in accordance with the law. An additional coding sheet was used to specifically quantify (1) any mention of domestic violence or family violence; (2) requirements that a victim of domestic violence have an injunction, pre-trial order of supervision, or other legal document to allow the use of self-defense; (3) any direct mention of the protections for victims of domestic violence. Each statute was carefully analyzed for each item and coded accordingly. The specific statutes were then separated by item (e.g. legal presumption of the use of deadly force, immunity from criminal prosecution, protections for domestic violence victims) and counted individually to determine frequencies, commonalities, and patterns between state statutes.

The second part of this analysis compares criminal and appellate self-defense cases between married, dating, estranged or divorced, and domestic partners where the state's Stand Your Ground statute was referenced. Within this analysis, it is important to note that many states classify legal cases between both domestic and intimate partners as "domestic disputes". These particular cases can involve disputes between family members, married couples, or individuals who are in a romantic relationship but not married, and estranged partners. Intimate partner violence will be used in this study to refer to those cases where the victim and offender were either married, in a relationship, or estranged at the time of the incident involving self-defense.

While case decisions that cite a Stand Your Ground statute are becoming more common, cases that fit the criteria for inclusion in this study are not overwhelming. Depending upon when a state adopted their statutory Stand Your Ground law, there may only be one or two cases

available that include intimate violence between married, dating, divorced/estranged, or domestic couples/partners. To produce a larger and more inclusive population for this study, all twenty-three states that currently have statutory Stand Your Ground laws were included for analysis. LexisNexis Academic was also used for this part of the analysis. The “Search by Subject or Topic” was limited to “Federal and State Cases”. From here, advanced search terms were used to select one state (e.g. Alabama) and the statute for the state which was entered into the “Search Terms and Citation” box. With the results that generated, the search was narrowed by entering the terms “domestic violence” and/or “domestic dispute”. The cases in the remaining search results were then examined to determine the year in which the crime originally occurred. Any cases where the original crime occurred prior to the adoption of the state’s Stand Your Ground statute were excluded from the analysis as the court’s decisions would have been referencing legal requirements that did not include the “not duty to retreat” rule that demarcates Stand Your Ground laws. In addition to using LexisNexis for this part of the analysis, PACER, or Public Access to Court Electronic Records, was used as a search tool for case and docket information from appellate and district courts. PACER is a paid service that requires users to register online with payment information for immediate access to search for case information.

Once cases were identified through these databases, a coding sheet was used to quantify the following characteristics: (1) state of the offense; (2) gender and race of the defendant (3) gender and race of the victim (plaintiff); (4) relationship status of the defendant and victim; (5) criminal charge; (6) the level of the charge; (7) adjudication; (8) whether a weapon was used; (9) whether there was a fatality; (10) whether the defendant or victim was an initial aggressor; (11) whether the defendant pursued the victim; (12) if the victim was committing a crime that

precipitated the confrontation; (12) whether the defendant had an opportunity to retreat; (13) where the crime occurred; (13) whether witnesses were present; (14) if the defendant stated that he or she was fearful of the victim; (15) if there was an injunction filed prior to the offense; (16) if there were prior domestic or intimate partner violence incidents or other violent crimes on the part of the defendant or the victim. Concordant with the existing literature on intimate partner violence and self-defense case processing, these variables are important to assessing whether certain groups, such as women or individuals who identify as a racial or ethnic minority, are at an increased risk of being convicted. Following this part of the analysis on the court cases, a content analysis was conducted on each case as a means of uncovering any common themes in case processing. Particular attention was given to the differences in circumstance between cases where the defendant was granted immunity compared to those where the defendant was found guilty; the use of a firearm compared to those cases where another weapon or no weapon was used; and the mention of “retreat” in connection with the Stand Your Ground stipulation that individuals are not required to retreat prior to using deadly force against an imminent threat of severe bodily harm or death.

The final part of this study investigates how women in the self-defense cases included in this study are portrayed by the online newspapers that are local to where the crime occurred. The motivation to use local newspapers rather than national newspapers, such as the *New York Times*, was related to increasing the number of articles that covered all aspects of the case (i.e. from arrest through prosecution and sentencing). Previous research has cautioned that national news networks and publications are often focused on their own ratings and covering only the most sensational crimes, and relying upon national publications would likely produce a far less robust

result of articles covering a specific case from arraignment to sentencing (Chermak, 1995; Ryan, Anastario, DaCunha, 2006). Since cases of intimate partner violence that reference Stand Your Ground laws are not as pervasive as other types of crimes where Stand Your Ground has been used as a defense, a particular timeframe was not imposed as a search criterion of published articles. However, articles collected and analyzed about these cases often spanned from the initial arrest to the most recent events surrounding the case (i.e. trial, adjudication, or appeal). There are several comprehensive search databases, such as ProQuest Archiver, which were unfortunately unavailable as a research tool at the time of this study. However, LexisNexis Academic was used to access many of the local newspaper articles on these cases. ProQuest Archiver was also available for the Orlando Sentinel, which is local to where one crime occurred. A United States News Archives database available through the university library was also used to identify newspapers by state and city, and to access these newspapers' archives. The defendant and victim names were entered into the archive databases to generate results for published articles on the crime.

Consistent with sociological literature that has investigated the problems with which media coverage frames violence against women (Berns, 2004; Meyers, 1997), a coding sheet was used to quantify the frequency and type of direct and indirect victim blame tactics. Drawing upon research conducted by Taylor (2009), direct victim blame tactics included (1) focusing on the intimate partner violence victim's choice to leave the abuser, terminate the relationship, or return to the abuser; (2) the intimate partner violence victim's infidelity or sexual promiscuity; (3) the intimate partner violence victim's previous perpetration of violence against their abuser; (4) using negative language to describe the intimate partner violence victim. These blame tactics

were then compared based upon the gender and race of both the defendant and the victim (or plaintiff) in the case. To impart a fair analysis (i.e. approach the analysis without the assumption that most of the female defendants would be intimate partner violence victims), direct and indirect blame tactics were considered for cases involving male defendants and female victims; cases involving female defendants and male victims; and one case where there was a male defendant and a male victim. These articles were also coded for tone, which included five categories: 1) factual; (2) blames the victim of the case; (3) blames the defendant of the case; (4) blames both the victim and the defendant; (5) empowers the victim of domestic violence. Articles went through three rounds of coding to ensure consistency, and were assigned based upon the number of direct and indirect blame tactics used towards the defendant and the victim. For instance, an article that contained neutral information about the timeline of the case with few if any sources was considered “factual” (or neutral). Those articles that included more blame tactics centered towards the defendant in the case were coded as “blames the defendant”; articles that included more blame tactics centered toward the victim (or plaintiff) in the case were coded as “blames the victim”; and those that had an equivalent amount of blame tactics being used to frame the behaviors and choices of the defendant and the victim were coded as blaming both parties. Victim empowerment was included due to the fact that some news coverage of, for instance, the Marissa Alexander trial has covered the efforts of human rights organizations to advocate for racial equality and social justice.

Articles in this study were also coded for the amount of times they referenced or directly cited the state’s Stand Your Ground law or Castle Doctrine, and how many times they also included the terms “intimate partner violence”, “intimate partner abuse”, “domestic violence”,

“domestic abuse”, or “abuse”. Quantifying these terms and coding for context is important to the goals of this study since there are likely many individuals who use news sources as their primary methods of understanding the application of Stand Your Ground laws and how the parameters of these laws may or may not apply to cases of intimate partner violence. Furthermore, Taylor (2009) identified that using more neutral terms to describe domestic violence, such as “dispute” or “argument” assign equal blame to the victim and the perpetrator, and obscure the fact that domestic abuse is a cycle of violence consisting of physical, sexual, emotional, and verbal harm.

Analytic Strategy

Quantitative and qualitative content analysis were used at every phase of this research project to draw comparisons between statutory self-defense laws, self-defense intimate partner violence cases, and media reports of intimate partner violence self-defense cases. Following the identification of state statutes on self-defense, each statute was examined to determine if domestic violence exemptions were present and what conditions would exempt victims on intimate partner violence from being legally culpable for self-defense. Likewise, relevant intimate partner violence court cases were evaluated to determine the sociodemographic characteristics of the defendant and the victim, the characteristics of the crime, and the factors that may have influenced the court’s decisions uphold or dismiss the self-defense claim such as the use of a weapon, whether the victim was murdered, the opportunity to retreat (even though not required under Stand Your Ground laws), the presence of an injunction, and whether there were previous incidences of violence that made the defendant fear for his or her safety. Each court decision was also coded for major themes that influenced the adjudication of each case and

the decision of the prosecutor or presiding judge to uphold or dismiss the Stand Your Ground defense. For those cases where Stand Your Ground was dismissed at pretrial hearing, dockets were analyzed to determine what factors led the judge to grant this order. Lastly, the content analysis on online newspapers examined the journalists' use of language and tone to impart intimate partner violence victim blame, and the implications of this coverage based upon gender and race of the defendant and victim in the case.

CHAPTER FIVE: STATUTE REVIEW AND ANALYSIS

One of the primary goals of this study is to clarify the basic requirements of self-defense as expressed through formal state statutes that allow individuals to “stand their ground” as a means of protecting themselves or others from imminent harm. These states that have a statutory “Stand Your Ground” law expand upon traditional self-defense law in the respect that (1) individuals are legally permitted to use deadly force as a means of self-defense even when retreat could be safely achieved; (2) the right to use deadly force is not simply relegated to the home, as in traditional Castle Doctrines. Instead, the right to use deadly force is extended to public places. A complete understanding of the presumptions of reasonableness, necessity, and duty to retreat, along with the circumstances under which these presumptions do not apply, is important to being able to interpret the outcomes of legal decisions in self-defense cases and discern ways in which Stand Your Ground laws may need to be modified. This chapter presents the results of a comparative analysis of the requirements of Stand Your Ground statutes from twenty-three states³. Since this study also endeavors to investigate how Stand Your Ground laws, in particular, apply to cases involving intimate partners, attention is also given to any mention within these statutes or cases of how domestic violence, intimate partner violence (including dating violence), and family violence factor into the legal requirements to use self-defense.

³ In addition to the twenty-three states that currently maintain statutory Stand Your Ground laws, ten states allow individuals to use or threaten to use force in public or private spaces where they have a right to be under case law (not formal statute) but maintain stricter requirements for how self-defense must be proven in criminal proceedings, and seventeen states require individuals to retreat before using self-defense unless they are protecting themselves or others within their homes.

Stand Your Ground Statutory Law: Analysis of Current Legal Requirements for Self-Defense

Twenty-three states currently have “Stand Your Ground” laws as a part of state statute. These states include Alabama, Alaska, Arizona, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nevada, New Hampshire, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, and West Virginia (see Table 1). Table 2 presents specific information gathered from these twenty-three state statutes, which includes the state, self-defense statute that contains the Stand Your Ground law and year that the statute was enacted; the governor who signed the proposed Stand Your Ground legislation into formal law; whether the state has a legal presumption that deadly force is lawful; whether retreat is required in public and private (e.g. residence, dwelling, place of employment, occupied vehicle) places; exemptions or conditions where reasonable fear and imminence are not applicable; whether the state grants immunity from arrest or prosecution, or removes civil liability for individuals who use self-defense in accordance with the law.

Table 1: Self-defense Laws by State

<i>Stand Your Ground (Statutory Law)</i>	<i>Stand Your Ground (Case Law)^a</i>	<i>Duty to Retreat</i>
Alabama	California	Arkansas
Alaska	Colorado	Connecticut
Arizona	Idaho	Delaware
Florida	Illinois	Hawaii
Georgia	New Mexico	Iowa
Indiana	Oregon	Maine
Kansas	Vermont	Maryland
Kentucky	Virginia	Massachusetts
Louisiana	Washington	Minnesota
Michigan	Wisconsin	Missouri
Mississippi		Nebraska
Montana		New Jersey
Nevada		New York
New Hampshire		North Dakota
North Carolina		Ohio
Oklahoma		Rhode Island
Pennsylvania		Wyoming
South Carolina		
South Dakota		
Tennessee		
Texas		
Utah		
West Virginia		

Source: National Task Force on Stand Your Ground Laws (2015)

^a Statutes permit the use of deadly force in public places with no duty to retreat, but protections must be invoked during criminal trials and not at pretrial hearing

Table 2: Stand Your Ground Statutes: Characteristics by State

State	Statute, and Governor (Political Party)	Legal Presumption of Use of Deadly Force	Duty to Retreat (Public Places)	Duty to Retreat (Private Places)	Exemptions	Immunity from Arrest/Prosecution --- Immunity from Civil Liability
Alabama	Statute: ALA CODE §13A-3-23 <i>Use of Force in Defense of a Person</i> (2006) --- Governor: Bob Riley (R)	Yes	No	No (dwelling, premises, business, occupied vehicle, nuclear power facility)	Provocation; initial aggressor; withdraw and communicate; mutual combat	Yes --- Yes
Alaska	Statute: Alaska Stat. §11.81.335 <i>Justification: Use of Deadly Force in Defense of Self</i> (2006), (2013) --- Governor: Frank Murkowski (R)	No	No	No (permanent or temporary residence, workplace, or premises that is owned or leased)	Provocation; initial aggressor; withdraw and communicate; mutual combat; committing a felony or unlawful act	No --- Yes
Arizona	Statute: ARS §13-411 <i>Justification: Use of Force in Crime Prevention</i> (2006) --- Governor: Janet Napolitano (R)	Yes	No	No (residential structure, occupied vehicle)	Provocation; initial aggressor; withdraw and communicate; committing felony or unlawful act	No --- Yes
Florida	Statute: Fla. Stat. §776.012 <i>Use of Force in Defense of a Person</i> (2005) --- Governor: Jeb Bush (R)	Yes	No	No (dwelling, residence, or occupied vehicle)	Provocation; initial aggressor; withdraw and communicate; committing felony or unlawful act	Yes --- Yes
Georgia	Statute: O.C.G.A. § 16-3-23.1 <i>No duty to retreat prior to use of force in self-defense</i> (2006) --- Governor: Sonny Perdue (R)	No	No	No (Dwelling, motor vehicle, place of business)	Provocation; initial aggressor; withdraw and communicate; committing felony or unlawful act	Yes --- Yes

State	Statute, and Governor (Political Party)	Legal Presumption of Use of Deadly Force	Duty to Retreat (Public Places)	Duty to Retreat (Private Places)	Exemptions	Immunity from Arrest/Prosecution --- Immunity from Civil Liability
Indiana	Statute: Ind. Code § 35-41-3-2 <i>Use of force to protect person or property</i> (2006) --- Governor: Mitch Daniels (R)	No	No	No (dwelling, curtilage, occupied vehicle)	Provocation; initial aggressor; withdraw and communicate; mutual combat; committing a felony or unlawful act	No --- No
Kansas	Statute: K.S.A. § 21-5230 <i>Crimes and Punishments: Principles of Criminal Liability</i> (2006) --- Governor: Kathleen Sebelius (D)	Yes	No	No (dwelling or occupied vehicle)	Provocation; initial aggressor; withdraw and communicate; mutual combat; committing a felony or unlawful act	Yes --- Yes
Kentucky	Statute: K.R.S. § 503.050 <i>Use of Physical Force in Self-Protection</i> (2006) --- Governor: Ernie Fletcher (R)	Yes	No	No (dwelling)	Provocation; initial aggressor; withdraw and communicate; mutual combat	Yes --- Yes
Louisiana	Statute: LA Rev Stat § 14:20 <i>Criminal Law: Justifiable Homicide</i> (2006) --- Governor: Kathleen Blanco (D)	Yes	No	No (dwelling, business, occupied vehicle)	Initial aggressor; withdraw and communicate	No --- Yes

State	Statute, and Governor (Political Party)	Legal Presumption of Use of Deadly Force	Duty to Retreat (Public Places)	Duty to Retreat (Private Places)	Exemptions	Immunity from Arrest/Prosecution --- Immunity from Civil Liability
Michigan	Statute: M.C.L. § 780.972 <i>Use of deadly force by individual not engaged in commission of crime</i> (2006) --- Governor: Jennifer Granholm (D)	Yes	No	No (dwelling, business premises, occupied vehicle)	Provocation; initial aggressor; withdraw and communicate; mutual combat; committing a felony or unlawful act	No --- Yes
Mississippi	Statute: Miss. Code. Ann. § 97-3-15 <i>Homicide; justifiable homicide; use of defensive force; duty to retreat</i> (2006) --- Governor: Haley Barbour (R)	Yes	No	No (Home, Dwelling, Occupied Vehicle)	Provocation; initial aggressor; withdraw and communicate; mutual combat; committing a felony or unlawful act	No --- Yes
Montana	Statute: Mont. Code. Ann. § 45-3-110 <i>No Duty to Summon Help or Flee</i> (2009) --- Governor: Brian Schweitzer (D)	No	No	No (Home)	Provocation; initial aggressor; withdraw and communicate; committing a felony or unlawful act	No --- Yes
Nevada	Statute: NRS § 200.120 <i>“Justifiable homicide” defined; no duty to retreat under certain circumstances</i> (2011) --- Governor: Brian Sandoval (R)	No	No	No (case law) (dwelling or abode)	Provocation; initial aggressor; withdraw and communicate; committing a felony or unlawful act	No --- No

State	Statute, and Governor (Political Party)	Legal Presumption of Use of Deadly Force	Duty to Retreat (Public Places)	Duty to Retreat (Private Places)	Exemptions	Immunity from Arrest/Prosecution --- Immunity from Civil Liability
New Hampshire	Statute: RSA § 627:4 <i>Physical Force in Defense of a Person</i> (2011) --- Governor: John Lynch (D)	No	No	No (Home or curtilage)	Provocation; initial aggressor; withdraw and communicate; mutual combat	No --- No
North Carolina	Statute: N.C. General Stat. § 14.51.3 <i>Use of force in defense of person; relief from criminal or civil liability</i> (2011) --- Governor: Beverly Perdue (D)	Yes	No	No (dwelling, premises, place of business)	Provocation; initial aggressor; withdraw and communicate; mutual combat	Yes --- Yes
Oklahoma	Statute: 21 Okl. St. § 1289.25 <i>Physical or Deadly Force Against Intruder</i> (2006) --- Governor: Brad Henry (D)	Yes	No	No (dwelling, residence, occupied vehicle)	Provocation; initial aggressor; withdraw and communicate; mutual combat	Yes --- Yes
Pennsylvania	Statute: 18 Pa.C.S.A. § 505 <i>Use of Force in Self-Protection</i> (2011) --- Governor: Tim Corbett (R)	Yes	No	No (dwelling or place of work)	Provocation; initial aggressor	No --- Yes

State	Statute, and Governor (Political Party)	Legal Presumption of Use of Deadly Force	Duty to Retreat (Public Places)	Duty to Retreat (Private Places)	Exemptions	Immunity from Arrest/Prosecution --- Immunity from Civil Liability
South Carolina	Statute: S.C. Code Ann. § 16-11-440 <i>Protection of Persons and Property Act (2006)</i> --- Governor: Mark Sanford (R)	Yes	No	No (dwelling, residence, occupied vehicle, place of business)	Provocation; initial aggressor; mutual combat; withdraw and communicate; committing a felony or unlawful act	Yes --- Yes
South Dakota	Statute: S.D. Codified Laws § 22-18-4 <i>Justifiable use of force to protect property--Use of deadly force--Duty to retreat (2006)</i> --- Governor: M. Michael Rounds (R)	No	No	No (home)	Provocation; initial aggressor	No --- No
Tennessee	Statute: Tenn. Code Ann. § 39-11-611 <i>Self-defense (2007)</i> --- Governor: Phil Bredesen (D)	Yes	No	No (residence, business, dwelling, vehicle)	Provocation; mutual combat; withdraw and communicate	No --- Yes
Texas	Statute: Tex. Pe. Code Ann. § 9.31 <i>Self-defense (2007)</i> --- Governor: Rick Perry (R)	Yes	No	No (occupied habitation, vehicle, or place of business)	Provocation; mutual combat; withdraw and communicate; in response to verbal provocation; to resist search by peace officer	No --- Yes

State	Statute, and Governor (Political Party)	Legal Presumption of Use of Deadly Force	Duty to Retreat (Public Places)	Duty to Retreat (Private Places)	Exemptions	Immunity from Arrest/Prosecution --- Immunity from Civil Liability
Utah	Statute: Utah Code Ann. § 76-2-405 <i>Force in Defense of Habitation</i> (1985), (2010) --- Governor: Norman Bangerter (R) - 1985 Gary Herbert (R) - 2010	No	No	No (habitation, dwelling)	Provocation; initial aggressor; mutual combat; committing felony or violent act	No --- No
West Virginia	Statute: W. Va. Code § 55-7-22 <i>Civil relief for persons resisting certain criminal activities</i> (2008) --- Governor: Joe Manchin (D)	No	No	No (home, residence)	Provocation; initial aggressor; withdraw and communicate; committing felony or unlawful act	No --- Yes

Statute Characteristics

While the state of Utah was the first to adopt a *Force in Defense of Habitation* statutory law in 1985 (Utah Code Ann. § 76-2-405), Florida is considered to be the first state to pass an expansive Stand Your Ground self-defense statutory law that extends the right to use deadly force in any place that an individual has a right to be. In this regard, Florida's law has also served as a model for other states' legislatures who drafted and supported their own Stand Your Ground laws in years subsequent to 2005. The information in Table 2 shows that thirteen states – Alabama, Alaska, Arizona, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Oklahoma, South Carolina, and South Dakota – adopted formal Stand Your Ground statutes in 2006, within one year of Florida having passed this legislation. In addition, four states – Alabama, Kansas, Kentucky, and Oklahoma – have Stand Your Ground laws that are the most similar to Florida's legislation based upon the elimination of the duty to retreat, presumption that deadly force is lawful, immunity from arrest or criminal prosecution, and immunity from civil suits. Specifically, each of these states' Stand Your Ground laws provides that (1) an individual may use lethal force to protect themselves from serious bodily injury or death in any place that they have a right to be, even when instances of retreat may be possible; (2) an individual may use lethal force to prevent or cease the commission of forcible entry into a private space (dwelling, business, occupied vehicle) and/or the forcible removal of a person from a private space, even if the individual using lethal force does not own or occupy the property where the forcible entry occurred; (3) while law enforcement is permitted to use standard investigative procedures for a claim of self-defense, the individual claiming self-defense cannot be arrested unless law enforcement finds probable cause that the individual acted unlawfully; (4) individuals who claim

self-defense within the parameters of the state's Stand Your Ground law are immune from criminal prosecution. If an individual is charged with a misdemeanor or felony crime, they are entitled to have a pre-trial immunity hearing where the judge determines whether the case will be dismissed or proceed to trial; (5) individuals who use deadly force and are found to have acted in accordance with the law are immune from civil prosecution, which includes suits filed by innocent bystanders.

Additionally, Table 2 lists the Governor of each state who signed their state's Stand Your Ground law into effect along with the Governor's political party affiliation. Fourteen of the twenty-three statutory Stand Your Ground laws were approved by Governor's who identify as members of the Republican party and nine of these statutes were approved by Governor's who identify as members of the Democratic party. While Democratic Governor John Lynch of New Hampshire vetoed the passage of the state's Stand Your Ground law, this objection was overridden by the New Hampshire state legislature. Of the states that have Stand Your Ground laws that were supported by Governors of the Republican party, 7 are located in the southern U.S. census district (Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina, Texas); 4 are located in the western U.S. census district (Alaska, Arizona, Nevada, Utah); 2 are in the midwest U.S. census district (Indiana, South Dakota); and 1 is located in the northeast U.S. census district (Pennsylvania). Of the states that have Stand Your Ground laws that were supported by Democratic Governors, 5 are located in the southern U.S. census district (Louisiana, North Carolina, Oklahoma, Tennessee, West Virginia); 1 is located in the western U.S. census district (Montana); 2 are located in the midwest U.S. census district (Kansas, Michigan); and 1 is located in the northeast U.S. census district (New Hampshire).

Presumption of Lawful Deadly Force

In addition to expanding the rights of self-defense outside of the home and into public spaces, some statutory Stand Your Ground laws have also created a presumption that an individual's use of force is lawful within the home, dwelling, or occupied vehicle. Table 2 shows that 14 states – Alabama, Arizona, Florida, Kansas, Kentucky, Louisiana, Michigan, Mississippi, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, and Texas - have this specific presumption incorporated into their Stand Your Ground laws. Here, the use of deadly force is presumed to be lawful in the event that the individual who is using force reasonably believes that the assailant (or victim) was unlawfully entering a private space, such as a home, dwelling, business, or occupied vehicle, to commit a forcible felony (e.g. battery, burglary, kidnapping, rape, sexual assault). Florida statute 776.013, *Justifiable use of force*, for instance, provides that an individual is presumed to have held a reasonable threat of imminent bodily injury or death when using lethal force under the condition that lethal force was used to against an assailant who was unlawfully or forcefully entering a dwelling, residence, or occupied vehicle or who was forcefully attempting to remove another from a dwelling, residence, or occupied vehicle.

Two of these states that contain a presumption of lawful deadly force, Arizona and Texas, allow the threatened or actual use of deadly force to prevent the imminent or actual commission of a forcible felony to any place within the state where a person has a right to be (i.e. the presumption of lawful deadly force is not relegated specifically to a dwelling, business, or occupied vehicle such as in the aforementioned example of from the Florida statute 776.013). For example, Arizona statute A.R.S 13-411(A) and A.R.S. 13-411(C), *Justification; use of force*

in crime prevention; applicability, states that a person is presumed to be acting reasonably in the instance that they are preventing what they reasonably believe to be the commission of arson of an occupied structure, first or second degree burglary, kidnapping, manslaughter, first or second degree murder, sexual conduct with a minor, sexual assault, child molestation, armed robbery, or aggravated assault; and, A.R.S. 13-411(D), further elaborates that “this [subsection] includes the use or threatened use of physical force or deadly physical force in a person's home, residence, place of business, land the person owns or leases, conveyance of any kind, or any other place in this state where a person has a right to be”.

It is important to note here that there is a distinction between when it is legally justifiable to use non-lethal versus lethal force as a means of self-defense. All twenty-three statutes express that an individual is justified in using non-lethal physical force to protect themselves or a third party against a reasonable threat or use of unlawful physical violence by an assailant, so long as the degree of force used by the person as a means of self-protection does not exceed the degree of force perpetrated by the assailant. For instance, a person who is being shoved by an assailant is not legally justified in shooting the assailant in self-defense, unless, for instance, the assailant had brandished a firearm or used a degree of violence that led the victim to believe that they were reasonably in fear of serious bodily injury or death. Deadly force is recognized as a viable means of self-defense under all twenty-three state statutes when the individual using force encounters a reasonable threat of imminent death or severe bodily harm or when an individual is using force to stop the commission of a forcible felony (e.g. burglary, kidnapping, sexual assault). However, the differences among these statutes is in reference to whether the law presumes an individual to be justified in using deadly force under the auspices of the law versus

whether a there is a specific presumption that an individual was justified in using deadly force *or* whether an individual is only permitted to claim self-defense under certain circumstances. For instance, Georgia statute § 16-3-21, *Use of force in defense of self or others; evidence of belief that force was necessary in murder or manslaughter prosecution*, “a person is justified in using force which is intended or likely to cause death or great bodily harm only if he or she reasonably believes that such force is necessary to prevent death or great bodily injury to himself or herself or a third person or to prevent the commission of a forcible felony.” Here, the law does not assume that the use of deadly force was justified based upon individual claim.

Duty to Retreat – Public and Private Spaces

As previously mentioned, Stand Your Ground laws allow individuals to use non-lethal and lethal force to defend themselves without any imposed duty to retreat. Prior to the Stand Your Ground laws, the “no duty to retreat” standard was exclusively applied when an individual was protecting their home under the Castle Doctrine. In this regard, Stand Your Ground laws are considered to be extensions of the Castle Doctrine. Consistent with this premise, Table 2 demonstrates that all twenty-three states with statutory Stand Your Ground laws do not require an individual to retreat prior to using force in self-defense; similarly, all twenty-three states do not require an individual who has a right (either through title, contract, or invitation) to first retreat before using non-lethal or lethal force against an assailant who is unlawfully entering the property with the intent to commit a felony or violent crime. With this in mind, a trier of fact is not legally permitted to weigh an individual’s failure to retreat as evidence of unreasonable or unnecessary use of non-lethal or lethal force.

Self-Defense: Exemptions

Each state has certain conditions under which the presumptions of reasonableness and imminence do not apply, and thus where the use of force in self-defense is unlawful. Table 2 lists the specific exemptions for each of the twenty-three Stand Your Ground statutes. Every state contains an exemption against lawfully claiming self-defense when the person who uses force in self-defense provoked the attack ($N = 23$); the person who uses force in self-defense was the initial aggressor of unlawful physical force ($N = 23$). Additional exemptions include evidence that the initial aggressor communicates a withdrawal from the altercation, but the person who was defending themselves, a third party, or their property proceeds to pursue the initial aggressor ($N = 20$); the force was a product of a combat agreement entered into by both parties but not authorized by law ($N = 14$); the person claiming self-defense was also committing a felony crime or unlawful act at the time that they defended themselves ($N = 13$); when the person using self-defense is resisting lawful search by a peace officer ($N = 1$).

Criminal Immunity: Arrest and Prosecution

According to the information in Table 2, Stand Your Ground laws in 6 states – Alabama, Florida, Kansas, Kentucky, Oklahoma, and South Carolina – prevent law enforcement from arresting an individual who claims self-defense unless there is clear evidence to disprove the claim. This differs from other states that have Stand Your Ground statutes, and states do not follow Stand Your Ground through formal statute or require a duty to retreat, in the respect that law enforcement can make an arrest under probable cause, or the reasonable basis that an individual claiming self-defense had actually committed a crime. Furthermore, 8 states that have Stand Your Ground statutory laws – Alabama, Florida, Georgia, Kansas, Kentucky, North

Carolina, Oklahoma, and South Carolina – entitle an individual who has claimed self-defense to a pretrial immunity hearing where the prosecution and defense present evidence to a judge who renders a decision, based upon factual evidence, on the defendant’s guilt or innocence. If immunity is granted by a judge in these states, then the law protects the individual from criminal prosecution. However, a defendant must proceed to trial when a judge does not grant immunity at a pretrial hearing. In these instances, the jury panel decides guilt or innocence based upon the factual evidence. In other states that have Stand Your Ground statutes, and states do not follow Stand Your Ground through formal statute or require a duty to retreat, a defendant is subject to a criminal trial and evidence is weighed by a jury in rendering a decision on guilt or innocence.

Immunity: Civil Hearings

Table 2 presents information on states with Stand Your Ground statutes that protect individuals – when they have been granted immunity or been found by a jury to have used self-defense in accordance with the law – from civil liability suits filed by the victim, their families, and, in some instances, bystanders. The vast majority of states in this sample (18 out of 23) grant civil immunity. These states include Alabama, Alaska, Arizona, Florida, Georgia, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, and West Virginia. Under the Stand Your Ground statute, ten of these states (Alabama, Arizona, Kansas, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas) grant individuals immunity against civil suits from any party claiming personal injury or monetary costs associated with personal injury

or the death of the victim. The other 8 states, including Florida⁴, that grant immunity from civil liability under their Stand Your Ground statute are more restricted and specific, applying only to civil suits brought forth by the victim or the victim's family. Furthermore, 12 states - Alaska, Florida, Kentucky, Louisiana, Michigan, Mississippi, Montana, New Hampshire, Oklahoma, Pennsylvania, South Carolina, and Tennessee - require a victim to pay the court-related expenses of the individual granted immunity from prosecution in the event that the victim files a civil suit against the immunized defendant.

Legislatures in 3 states with statutory Stand Your Ground laws, which include Kansas, Louisiana, and Utah, have imparted conditions into their civil immunity clauses. Kansas (§ 21-3219) grants defendants immunity from civil prosecution, but case law has prohibited defendants from using self-defense as a legal defense to brandishing a deadly weapon or threatening another with a deadly weapon. Louisiana (§ L.S.A-R.S. 9:2800.19) will grant civil immunity to an individual who uses force to defend themselves or their habitation, but not to defend a third party. Lastly, immunity is not granted by Utah (§ 78B-3-110) courts in cases where a felon made a clear attempt to retreat from the altercation prior to the defendant's use of force.

Stand Your Ground Statutory Law: Domestic Violence and Family Violence

The self-defense statutes of the twenty-three "Stand Your Ground" states were examined for language that applies to situations of domestic violence, intimate partner violence, and/or family violence. Ten states have statutes that specifically mention requirements which must exist in order for a victim of domestic violence or family violence to prove reasonableness and necessity for the use of force, including deadly force, against their abusers under the law. These

⁴ Florida has limited its immunity provisions to civil actions by person, personal representative, or heirs against whom force was used through HB-89 (2014): "warning shot" amendment

states are Alabama, Arizona, Florida, Kentucky, Georgia, Michigan, North Carolina, Oklahoma, South Carolina, and Tennessee. Table 3 provides information regarding which self-defense statutes contain information on domestic violence, intimate partner violence, and/or family violence; what type of violence is specifically referenced in the statute; whether a protective order is necessary for a victim of domestic violence, intimate partner violence, or family violence to demonstrate reasonableness, imminence, and necessity for self-defense; whether the statute requires victims to retreat prior to using deadly force; and whether any specific protections exist among self-defense statutes regarding domestic violence, intimate partner violence, and/or family violence.

Table 3: Stand Your Ground Statutes: Domestic Violence

State	Statute	Mentions Domestic Violence, Intimate Partner Violence, and/or Family Violence	Injunction or No Contact Order Necessary to Demonstrate Self-Defense	Required Duty to Retreat for Victims of Domestic Violence, Intimate Partner Violence, or Family Violence	Statute Mentions Protections for Victims
Alabama	ALA CODE § 13A-3-23 <i>Use of Force in Defense of a Person</i>	Yes (Domestic Violence)	Yes	Yes – if there is <i>not</i> an active injunction or no contact order (dwelling, residence, or vehicle)	No
Arizona	A.R.S. § 13-419 <i>Presumption; exceptions; definitions</i>	Yes (Domestic Violence)	Yes	Yes – if there is <i>not</i> an active injunction (residential structure or occupied vehicle)	Yes
Florida	Fla. Stat. § 776.013 <i>Home protection; use of deadly force; presumption of fear of death or great bodily harm</i>	Yes (Domestic Violence)	Yes	Yes – if there is <i>not</i> an active injunction or no contact order (dwelling, residence, or occupied vehicle)	No
Georgia	GA. Code Ann. § 6-3-23 <i>Use of force in defense of self or others</i>	No	Not Stated	Not Stated	Yes
Kentucky	K.R.S. § 503.055 <i>Use of defensive force regarding dwelling, residence, or occupied vehicle – Exceptions</i>	Yes (Domestic Violence)	Yes	Yes – if there is <i>not</i> an active injunction or not contact order (dwelling, residence, or occupied vehicle)	Yes
Michigan	M.C.L. § 780.951 <i>Individual using deadly force or force other than deadly force; presumption; definitions</i>	Yes (Domestic Violence)	Yes	Yes – if there is <i>not</i> an active injunction, pretrial supervision order, probation order, or parole order of no contact (dwelling, business, occupied vehicle)	Yes

State	Statute	Mentions Domestic Violence, Intimate Partner Violence, and/or Family Violence	Injunction or No Contact Order Necessary to Demonstrate Self-Defense	Required Duty to Retreat for Victims of Domestic Violence, Intimate Partner Violence, or Family Violence	Statute Mentions Protections for Victims
Oklahoma	Okla. Stat. § 8-14 <i>Defense of Property – Justifiable Use of Deadly Force in Defense of Habitation</i>	Yes (Domestic Violence)	Yes	Yes – if there is <i>not</i> an active protective order or no contact order	No
South Carolina	S.C. Code Ann. § 16-11-440 <i>Presumption of reasonable fear of imminent peril when using deadly force against another unlawfully entering residence, occupied vehicle or place of business</i>	Yes (Domestic Violence)	Yes	Yes – if there is <i>not</i> an active order of protection, restraining order, or condition of bond	No
Tennessee	T.C.A. § 39-11-612 (c) and (d) <i>Defense of a third person</i>	Yes (Domestic Abuse)	Yes	Yes – if there is <i>not</i> an active injunction for protection from domestic abuse or no contact order	No

Statute Characteristics

Although in recent years the Stand Your Ground laws have become commonly equated with the concept of self-defense, each state has many different statutes pertaining to self-defense. One of the most important distinctions is that all of the states with statutory Stand Your Ground laws also have Castle Doctrines that allow individuals to use deadly force to defend their homes and, in some instances, any place that one legally occupies. However, the Castle Doctrine has historically centered on the defense of habitation from external intruders and not from cohabitants including spouses, and family members or intimate partners who share property or are invited to be on the premises. As evidenced by the information in Table 3, many of presumptions pertaining to domestic violence and self-defense are located within the state statutes regarding the use of force to defend property. Other statutes that focus on the use of force in defense of other persons include the presumptions and exceptions within the law that pertain to domestic violence. Domestic violence is the most commonly referenced crime between spouses or intimate couples under self-defense statutes containing the presumptions and exceptions to use deadly force within the home or other property.

Of additional note, 6 of the 9 states listed in Table 3 that make mention of domestic violence are located in the southern U.S. census district (Alabama, Florida, Georgia, Kentucky, South Carolina, Tennessee), 2 are located in the western U.S. census district (Arizona, Oklahoma), and one is located in the midwest U.S. census district (Michigan). In addition, the presumptions and exceptions surrounding the use of deadly force when domestic violence is

involved is similar among these nine state statutes; as the remainder of this analysis will show, most of the language is to the detriment of victims.

Protective Orders and Duty to Retreat

The most common finding, present in eight of the nine statutes (the exception being Georgia), is that an individual who uses force against a current or former partner, which is defined as any individual who shares a legal or moral right to the same property as the individual who is using force, must have an active injunction or no contact order to claim that their use of deadly force was both reasonable and necessary against an imminent threat of bodily injury, death, or forcible entry of a dwelling, residence, business, and/or occupied vehicle. Two of these states, Arizona and South Carolina, do not explicitly mention the term “domestic violence” when discussing the need for an injunction in order to demonstrate that the use of force was both reasonable and necessary against their spouse or romantic partner. However, the requirement for a protective order is assumed to extend to cover domestically violent situations and is likely one of the most common situations where an injunction would be issued by a court. In the presence of an active injunction or no contact order, the victim of domestic violence would have no duty to retreat before using deadly force to defend themselves against their abusers. This is particularly the case in the event that an abuser violates the injunction or no contact order by attempting to forcibly enter the property of the victim or attempt to commit a felony crime against the victim. However, these statutes make it clear that cohabitants have a duty to retreat prior to using deadly force in the absence of any type of protective order.

Protections for Victims of Domestic Violence

Four states (Arizona, Georgia, Kentucky, and Michigan) were found to have incorporated language into their Stand Your Ground statutes that provide greater acknowledgment and enforcement of protections for victims of domestic violence and family violence. Shortly following the adoption of the Stand Your Ground statute, the state of Arizona introduced a Senate Bill (2006 Ariz. SB 1145) where the legislature stated that

[We are] alarmed by the increasing number of injuries and fatalities caused to victims of domestic violence”. A person should be entitled to safe and peaceful enjoyment within the home even from residents of the same household. It is the intent of the legislature that all citizens, law enforcement personnel and the state courts be given notice that the justification in use of force provided in section 13-411, Arizona Revised Statutes, is applicable to all victims of domestic violence as defined by section 36-3001, Arizona Revised Statutes, whether such domestic violence occurs in a private or public place and whether or not the victim and the perpetrator of domestic violence are residents of the same home.

Within Arizona’s statute, domestic violence includes any attempt to cause severe physical injury to a family or household member or placing a family or household member in fear of imminent harm; “family or household member” includes a spouse, former spouse, parent, child, or other adult person related by consanguinity or affinity who is residing or has resided with the person using force, or who has a child in common with the person using force.

In addition, Georgia statute §16-3-23.1 (*No Duty to Retreat Prior to use of Force in Self-Defense*) allows defendants who are being prosecuted for murder or manslaughter to offer evidence that they had been a victim of family violence or child abuse by the deceased, and to present expert testimony on their state of mind at the time of defense including relevant facts related to the experience of family violence and child abuse. Similarly, evidence of Battered Spouse Syndrome is considered admissible in cases of self-defense if the defendant acted in accordance with the law on self-defense. Under Kentucky's statutes on the *Use of Defensive Force Regarding a Dwelling, Residence, or Occupied Vehicle* (§ 503.055) and *Protection of Another* (§503.070), the court will admit any evidence presented by the defendant to demonstrate the existence of prior acts of domestic violence and abuse by the plaintiff. According to Kentucky state law "'Domestic violence and abuse' means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple" (KRS § 403.720). Within KRS § 403.720, the term "family member" includes current spouses, estranged spouses, parents, grandparents, children, step-children, or any other child who was victimized in the home where the abuse occurred.; members of unmarried couples include individuals who have a child in common or who are, or have in the past, shared a residence together. Lastly, Michigan's statute (§ 780.951) protects spouses and romantic partners, whether currently involved in a relationship or estranged, from abusers who claim that they used force in self-defense. This statute specifically states that the presumptions of reasonableness and imminence are not valid when the individual using lethal or non-lethal force has a documented history of domestic violence as an aggressor, and this individual uses lethal or non-lethal force

against (1) a current or former spouse, or dating partner; (2) an individual with whom they have a child in common (3) a resident or former resident of the same household.

CHAPTER SIX: ANALYSIS OF COURT CASES

The previous chapter presented an analysis of the requirements, presumptions, and exceptions of using self-defense among twenty-three states that follow Stand Your Ground through statutory law. In addition, specific information was presented regarding how the law of self-defense currently applies in these twenty-three states to situations involving intimate partner violence. More cases are emerging that involve defendants who claim self-defense under their state's Stand Your Ground law, and in recent years the issue of intimate partner violence has become more of a focal point in relation to this legislation. Even though there are clear restrictions for intimate partner violence victims within expansive Stand Your Ground laws, there is currently limited data demonstrating how these laws have been applied in cases involving intimate partners and which variables may influence adjudication. Thus, another goal of this study is to analyze court cases that reference the Stand Your Ground statute and include violence between spouses, dating partners, or intimate partners. This data has important implications for policy regarding intimate partner violence, firearms, and the right to self-defense; indeed, distinguishing patterns based upon defendant and victim characteristics (e.g. gender, race, relationship status), characteristics of the crime (e.g. lethality, weapon use), and adjudication can provide stronger evidence of particular problems underlying expansive self-defense laws for victims of intimate partner violence and contribute to clearer directives for amending self-defense policies.

Court Case Analysis: General Findings

This population includes 57 cases classified as “domestic disputes” across 18 states that have a “Stand Your Ground” statute. With the exception of one case where there were two victims and one defendant, each case consisted of one victim and one defendant. These cases were selected based upon the defendant raising a legal self-defense claim referencing the “Stand Your Ground” statute in an effort to seek immunity or an acquittal. Five states with “Stand Your Ground” statutes were omitted from this analysis since there were no reported court decisions for domestic dispute cases involving intimate partners that specifically referenced the Stand Your Ground statute. These states include Alaska, Montana, North Dakota, Oklahoma, and South Dakota. Table 4 presents the states that were included in this analysis, the number of reported court decisions that fit the criteria of the study, and the specific cases that were referenced and coded for analysis.

Table 4: Court Cases Included for Analysis

State	Court Cases (Frequency)	Criminal or Appellate Case
Alabama	1	<i>Gaines v. State</i> (2013)
Arizona	2	<i>Hellard v. State</i> (2012) <i>State v. Adaptar Rios</i> (2011)
Florida	15	<i>State v. Alexander</i> (2012) <i>Bartlett v. State</i> (2008) <i>State v. Bryant</i> (2011) ^a <i>State v. Curry</i> (2011) <i>Dennis v. State</i> (2009) <i>State v. Fahrer</i> (2009) ^b <i>Gilliland v. State</i> (2013) <i>State v. Goss</i> (2010) <i>Hower v. State</i> (2012) <i>Leasure v. State</i> (2012) <i>State v. Maret</i> (2012) ^a <i>McAdams v. State</i> (2014) <i>State v. Reed</i> (2010) ^a <i>State v. Smithey</i> (2014) <i>State v. Thompson</i> (2015) ^c
Georgia	3	<i>Neal v. State</i> (2012) <i>Palmer v. State</i> (2015) <i>State v. Yapo</i> (2009) ^a
Indiana	6	<i>Cuevas v. State</i> (2009) <i>Embry v. State</i> (2010) <i>Perez v. State</i> (2008) <i>Scott v. State</i> (2009) <i>Williams v. State</i> (2009) <i>Wilson v. State</i> (2010)
Kansas	1	<i>Gaines v. State</i> (2015)
Kentucky	3	<i>Commonwealth v. Hasch</i> (2013) <i>Stokley v. Commonwealth</i> (2012) <i>Wigginton v. Commonwealth</i> (2015)

State	Court Cases (Frequency)	Criminal or Appellate Case
Louisiana	3	<i>State v. Hunter</i> (2014) <i>State v. Malone</i> (2008) <i>State v. Newton</i> (2015)
Michigan	5	<i>People v. Flanagan</i> (2012) <i>People v. Owens</i> (2010) <i>People v. Sanford</i> (2013) <i>People v. Scherer</i> (2013) <i>People v. Williams</i> (2015)
Mississippi	1	<i>Sanders v. State</i> (2011)
Nevada	1	<i>Grimes v. State</i> (2014)
New Hampshire	1	<i>State v. Pennock</i> (2015)
Pennsylvania	1	<i>Commonwealth v. Peck</i> (2015)
South Carolina	4	<i>State v. Jones</i> (2012) ^a <i>State v. Manning</i> (2014) <i>State v. Sims</i> (2015) <i>State v. Edwards</i> (2015) ^a
Tennessee	2	<i>State v. Elmore</i> (2012) <i>State v. Taylor</i> (2014)
Texas	4	<i>Edwards v. State</i> (2009) <i>Gray v. State</i> (2012) <i>Hernandez v. State</i> (2015) <i>Mayes v. State</i> (2014)
Utah	2	<i>State v. Fitz</i> (2005) <i>State v. Salt</i> (2009)
West Virginia	2	<i>State v. Frazier</i> (2012) <i>State v. Surbaugh</i> (2012)

^a Defendant granted immunity

^b Charges dropped against defendant

^c Pending case(s)

Table 5 presents the frequencies for the background and relationship characteristics of the defendants and victims, the legal classification of the crimes, and the characteristics of the crimes. Defendants in these cases do not overwhelmingly represent one gender or racial category. Only slightly more defendants in these cases are male ($N=32$) than female ($N=25$), and

only slightly fewer victims are female ($N=32$) than male ($N=26$). Similarly, only slightly more defendants are racially identified as non-White ($N=30$) compared to White ($N=27$); victims who are racially White ($N=31$) marginally surpass the number of victims who are racially non-White ($N=27$). Indeed, most incidences occurred between defendants and victims of the same race ($N=55$), with only 2 incidences occurring between those of a different race. Almost half of the incidents occurred between defendants and victims who were engaged in a dating relationship; nearly one-third occurred between defendants and victims who were married. Of note, but not presented in Table 5, 55 couples are classified as having been in a heterosexual relationship and 2 were in a same-sex relationship.

The criminal charge for the cases includes simple assault, aggravated assault, domestic battery, domestic violence assault, attempted manslaughter, manslaughter, attempted murder, first-degree murder, second-degree murder, and reckless homicide. Just over half of defendants ($N=30$) were charged with a crime that involved attempted or completed manslaughter or murder. The level of the charge includes misdemeanor and felony, and most defendants committed a crime that was classified as a felony ($N=45$). The majority of defendants ($N=49$) were found guilty by circuit courts. Sixteen of these 49 cases occurred in states that entitle a defendant claiming self-defense under the Stand Your Ground law to a pre-trial immunity hearing; in all 16 of these cases, a judge heard the evidence and denied the self-defense claim, ordering the case to proceed to trial where a jury ultimately found the defendant guilty. In the remaining 33 cases where a defendant was found guilty and not to be acting in self-defense, there was no pre-trial hearing and the decision was decided by a jury. Appeals were filed in 45 of the cases in this sample, with at least one of the grounds for appeal being error in self-defense

instruction or admissibility of evidence focused around the self-defense claim. In 33 of these 45 cases, the appellate court moved to uphold the decision of the circuit courts that self-defense under the “Stand Your Ground” statute was not a viable defense. Reasons cited for affirmation of the ruling by the circuit courts included insufficient evidence to prove that the use of deadly force was necessary and/or that a threat of severe injury or death was imminent. However, in 11 cases the appellate court decided to reverse or amend the decision of the circuit courts based, in large part, upon error in jury instruction on the defendant’s self-defense claim.

The characteristics of the crime were also taken into consideration for these court cases. A weapon was used by the defendant in the commission of the crime in 41 of the cases, and the most common weapon used was a firearm ($N=19$). As a result, slightly more victims were killed by the defendant ($N=30$) than non-fatally wounded or injured ($N=27$). In a most cases ($N=34$), it was unclear based upon physical evidence, witness testimony, and defendant and/or victim testimony whether the defendant was the initial aggressor. Also, in 79% of cases it was either unclear whether the defendant pursued the victim at any point during the altercation or the defendant was found not to have been pursuing the victim as an aggressor; this finding was in large part due to conflicting testimony between the defendant and victim, or the fact that the victim was killed and no witnesses were present to counter the testimony provided by the defendant. Although a duty to retreat is not required under the Stand Your Ground statute as well as through Castle Law, there are instances where the opportunity to retreat is raised by the prosecution or defense to argue against the defendant’s necessity to use lethal force. In approximately 44% ($N=25$), it was determined that the defendant had an opportunity to retreat either within the home or outside of the home prior to using lethal or non-lethal force. In nearly

81% of cases, the victim was not found to be committing a felonious crime that precipitated the altercation. Nonetheless, approximately 66% ($N=38$) of defendants described being fearful of the victim or in fear for their lives when they used force.

The location of the offense included the defendant's home, the victim's home, shared property or residence, or a public place. The crime most commonly occurred on property that was shared by the defendant and the victim ($N=27$). A protection order was only present during the crime in 2 cases: one was filed by a female victim and the other by a female defendant prior to the commission of the crime. Most defendants and victims did not have a documented history of domestic violence arrests and prosecutions. Of those cases where prior domestic violence offenses were present ($N=18$), 12 defendants had a prior domestic violence offense and 4 victims had prior offenses. In 2 cases, both the defendant and the victim had prior domestic offenses.

Table 5: Frequencies for Intimate Partner Violence Cases Referencing Stand Your Ground Self-defense Statutes (N=57)

Variables	Frequency (Percentage)
<i>Sociodemographics</i>	
Defendant's Gender	
Male	32 (.56)
Female	25 (.44)
Victim's Gender ^a	
Male	26 (.46)
Female	32 (.54)
Defendant's Race	
White	27 (.47)
Non-white	30 (.53)
Victim's Race ^b	
White	31 (.54)
Non-white	27 (.46)
Relationship Status	
Married	18 (.32)
Dating	28 (.49)
Divorced/Estranged	9 (.16)
Domestic Partner	2 (.03)
<i>Legal Classification</i>	
Criminal Charge	
Simple Assault	3 (.05)
Aggravated Assault	10 (.17)
Domestic Battery	12 (.21)
Domestic Violence Assault	1 (.02)
Attempted Manslaughter	2 (.03)
Manslaughter	8 (.14)
Attempted Murder	1 (.02)
Second-degree Murder	12 (.21)
First-degree Murder	5 (.09)
Reckless Homicide	2 (.04)
Charges Dropped by Prosecution	1 (.02)
Level of Charge	
Felony	45 (.79)
Misdemeanor	11 (.19)
Charges Dropped by Prosecution	1 (.02)

Variables	Frequency (Percentage)
<i>Legal Classification (cont.)</i>	
Adjudication	
Dismissed	6 (.11)
Guilty	49 (.85)
Not Charged	1 (.02)
Pending	1 (.02)
Defendant's Self-Defense Claim	
Denied	48 (.84)
Upheld	7 (.12)
Withdrawn	2 (.04)
Appeal of Conviction	
Motion Reversed	11 (.19)
Motion Denied	33 (.58)
In Progress	1 (.02)
Not Applicable	12 (.21)
<i>Characteristics of Crime</i>	
Weapon ^c	
Firearm	19 (.33)
Knife	15 (.26)
None	19 (.33)
Other	7 (.12)
Victim Fatality	
Yes	30 (.53)
No	27 (.47)
Initiator of Confrontation	
Defendant	12 (.21)
Victim	7 (.12)
Both	4 (.07)
Unclear/Disputed	34 (.60)
Was Victim Committing Crime?	
Yes	4 (.07)
No	46 (.81)
Unclear/Disputed	7 (.12)
Defendant Described Being Fearful of Victim?	
Yes	38 (.66)
No	19 (.34)

Variables	Frequency (Percentage)
<i>Characteristics of Crime (cont.)</i>	
Did Defendant Pursue Victim?	
Yes	12 (.21)
No	20 (.35)
Unclear/Disputed	25 (.44)
Defendant Opportunity to Retreat	
Yes	25 (.44)
No	7 (.12)
Unclear/Disputed	25 (.44)
Location of Offense	
Defendant's Property or Residence	19 (.33)
Victim's Property or Residence	9 (.16)
Shared Property or Residence	27 (.47)
Public Place	2 (.04)
Witnesses	
Yes	23 (.40)
No	34 (.60)
Protection Order	
Yes	2 (.04)
No	55 (.96)
Prior Domestic Violence Crimes ^d	
Defendant	12 (.21)
Victim	4 (.07)
Both	2 (.04)
No Record	39 (.68)

^{a,b} One case included one defendant and two victims.

^c Three cases involved instances where a weapon was used by both the defendant and the victim.

^d This only includes crimes that were officially reported to law enforcement. It does not include instances where police were called and no arrests were made, nor does it include instances where there was a history of abuse that was unreported.

Gender and Racial Patterns

Due to the fact that many political and advocacy groups have raised questions regarding how Stand Your Ground laws affect defendants based upon their gender and race, it is important to specifically investigate the incident characteristics and outcomes based upon these variables and to identify patterns specifically related to lethality and sentencing outcomes. Table 6 presents the data from the sample of cases, but more specifically classified by defendant gender. Regardless of defendant gender, similarities emerge when demographic variables are considered. In cases where the defendant is female, the victim (complainant) is male in the majority of incidents; in cases where the defendant is male, the victim (complainant) is typically female. An equal number of female defendants identify as white or non-white, and only slightly more male defendants identify as white than non-white. The crimes that are committed also tend to be intraracial, where both the defendant and victim are of the same racial category. Also, both female and male defendants tend to commit crimes against romantic partners or spouses.

Notable differences become apparent based upon defendant gender when the legal classification of the crime is taken into account, particularly with regard to weapon use, victim fatality, and the criminal charge applied to the defendant. In nearly all (96%) cases involving female defendants, a firearm, knife, or other weapon (e.g. iron, hot oil) was used during the altercation as a means of self-defense. Comparatively, just over half of male defendants committed assault, battery, or strangulation that clearly involved physical force, but not the use of an external weapon, to defend themselves. Due to this disparity in weapon use, 80% of cases with female defendants involved the fatality of their spouse or partner compared to 28% of cases

with male defendants. In addition, and related to the disparities in fatality rate between female and male defendants, over two-thirds of female defendants were charged with second-degree murder, reckless homicide, or manslaughter compared to male defendants who were more often charged with simple assault, aggravated assault, or manslaughter. The majority of female defendants (76%) and male defendants (94%) were found guilty. Given that female defendants across this population were charged with manslaughter or murder, they are subject to longer periods of incarceration (particularly if a firearm is used) than male defendants who often received shorter sentences, probation, and mandated batterer intervention programming for misdemeanor or felony assault offenses. For instance, with the exception of the five female defendants who were granted immunity, all of the other female defendants ($N=21$) received sentences that were no less than two years. While some male defendants are also serving lengthier sentences for aggravated assault with a deadly weapon, manslaughter, or first-degree murder ($N=20$), there are also 10 male defendants who received sentences of less than two years. This finding is concerning, especially in light of data from these cases showing that while only one of the female defendants had prior arrests or convictions for domestic violence crimes while 36% of male defendants had arrest or court records documenting domestic violence crimes.

There are less pronounced differences between defendants based upon their gender when self-defense and characteristics of the crime are examined, but these differences are important nonetheless. First, both female and male defendants have been largely unsuccessful in claiming or proving self-defense under the “Stand Your Ground” statute. In over half of cases involving both female and male defendants, the judge has denied the use of “Stand Your Ground” during a

pretrial hearing or the jury disbelieved the defendants' self-defense claims based upon the evidence presented at trial. However, when examining the population of female defendants and male defendants separately, slightly more female than male defendants have had their charges dismissed by a judge or dropped by the prosecution at sentencing hearings. For both female and male defendants, appeals have also been largely unsuccessful. Fifty-seven percent ($N=33$) of both female and male defendants who had their cases heard by an appellate court did not receive a sentence reversal or new trial. The basis for the defendants' appeals have been largely based upon the following evidence negating a self-defense claim: (1) testimony from responding officers and medical examiners regarding the lack of physical evidence of a physical altercation or the use of self-defense; (2) the admission of non-prejudicial evidence of prior acts of domestic violence or assault perpetrated by the defendant upon the victim to demonstrate a lack of reasonable fear; (3) whether the degree of force used by the defendant was reasonable or excessive in the context of an imminent or non-imminent threat; (4) where the crime occurred; (5) who initiated the incident; and whether retreat was possible, although such retreat is not required before using self-defense under the "Stand Your Ground" law.

Across these cases, the characteristics of the crime show that, although many aspects are unclear or disputed based upon lack of witnesses, victim fatality, or contradictory statements given by the defendant and victim, male defendants were more apt to be the initiator of the confrontation ($N=10$) than female defendants ($N=2$); male defendants were less likely to describe having been fearful of the victim ($N=13$) compared to female defendants ($N=25$); and male defendants, based upon the testimony and evidence provided, had more opportunity to retreat from the altercation ($N=18$) than female defendants ($N=7$). This latter point is important to

supporting the argument that it was unnecessary for a defendant to use deadly force against their victim, and also to demonstrate in some instances that a defendant withdrew from an altercation but then continued to pursue the victim at a later point in time. Furthermore, for both male and female defendants the incident occurred on property that they shared. However, 96% of defendants, both male and female, did not have an active injunction filed against the victim at the time of offense. Coupled together, this finding is particularly problematic since the presumption of death or great bodily harm does not apply under the Stand Your Ground law in the event that the person against whom the defensive force is used or threatened has a legal right to be on the property where the crime occurs *unless* there is an active injunction for protection or no contact order against that person.

Table 6: Characteristics of Relationship, Crime, and Adjudication by Defendant Gender (N=57)

Variables	Female Defendants (N=25) Frequency (Percentage)	Male Defendants (N=32) Frequency (Percentage)
<i>Demographics</i>		
Victim's Gender^a		
Male	24 (.96)	2 (.06)
Female	1 (.04)	31 (.97)
Defendant's Race		
White	12 (.48)	17 (.53)
Non-white	13 (.52)	15 (.47)
Victim's Race^b		
White	13 (.52)	18 (.56)
Non-white	12 (.48)	15 (.47)
Relationship Status:		
Married	8 (.32)	10 (.31)
Dating	13 (.52)	15 (.47)
Divorced/Estranged	3 (.12)	6 (.19)
Domestic Partner	1 (.04)	1 (.03)
<i>Legal Classification</i>		
Criminal Charge		
Simple Assault	--	3 (.09)
Aggravated Assault	4 (.16)	6 (.19)
Domestic Battery	1 (.04)	11 (.34)
Domestic Violence Assault	--	1 (.03)
Attempted Manslaughter	--	2 (.06)
Manslaughter	4 (.16)	4 (.13)
Attempted Murder	--	1 (.03)
Second-degree Murder	11 (.44)	1 (.03)
First-degree Murder	2 (.08)	3 (.09)
Reckless Homicide	2 (.08)	--
Not Charged	1 (.04)	--
Level of Charge		
Felony	23 (.92)	22 (.69)
Misdemeanor	1 (.04)	10 (.31)
Not Charged	1 (.04)	--
Adjudication		
Dismissed	4 (.16)	2 (.06)
Guilty	19 (.76)	30 (.94)
Not Charged	1 (.04)	--
Pending	1 (.04)	--

	Female Defendants (N=25)	Male Defendants (N=32)
Variables	Frequency (Percentage)	Frequency (Percentage)
<i>Adjudication (cont.)</i>		
Defendant's Self-Defense Claim		
Denied	19 (.76)	29 (.91)
Upheld	5 (.20)	2 (.06)
Withdrawn	1 (.04)	1 (.03)
Appeal of Conviction		
Motion Reversed	6 (.24)	5 (.16)
Motion Denied	10 (.40)	23 (.72)
In Progress	1 (.04)	--
Not applicable	8 (.32)	4 (.13)
<i>Characteristics of Crime</i>		
Weapon^c		
Firearm	13 (.52)	7 (.22)
Knife	10 (.40)	5 (.16)
None	1 (.04)	18 (.56)
Other	3 (.12)	4 (.13)
Victim Fatality		
Yes	20 (.80)	9 (.28)
No	5 (.20)	23 (.72)
Initiator of Confrontation		
Defendant	2 (.08)	10 (.31)
Victim	4 (.16)	3 (.09)
Both	2 (.08)	2 (.06)
Unclear/Disputed	17 (.68)	17 (.53)
Was Victim Committing Crime?		
Yes	3 (.12)	1 (.03)
No	21 (.84)	31 (.97)
Unclear/Disputed	1 (.04)	--
Defendant Described Being Fearful of Victim?		
Yes	25 (1.0)	13 (.41)
No	--	19 (.59)
Did Defendant Pursue Victim?		
Yes	3 (.12)	8 (.24)
No	9 (.36)	12 (.38)
Unclear/Disputed	13 (.52)	12 (.38)

Variables	Female Defendants (N=25) Frequency (Percentage)	Male Defendants (N=32) Frequency (Percentage)
<i>Characteristics of Crime (cont.)</i>		
Defendant Opportunity to Retreat		
Yes	7 (.28)	18 (.56)
No	7 (.28)	--
Unclear	11 (.44)	14 (.44)
Location of Offense		
Defendant's Property or Residence	9 (.36)	10 (.31)
Victim's Property or Residence	2 (.08)	7 (.22)
Shared Property or Residence	14 (.56)	13 (.41)
Public Place	--	2 (.06)
Witnesses		
Yes	7 (.28)	15 (.47)
No	18 (.72)	17 (.53)
Protection Order ^d		
Yes	1 (.04)	1 (.03)
No	24 (.96)	31 (.97)
Prior Domestic Violence Crimes^e		
Defendant	2 (.08)	10 (.31)
Victim	4 (.16)	--
Both	--	2 (.06)
Not applicable	19 (.76)	20 (.63)

^{a,b} One case included one defendant and two victims.

^c Three cases involved instances where a weapon was used by both the defendant and the victim.

^d One protection order was filed by a female defendant; the other protection order was filed by a female victim of a male defendant.

^e This only includes crimes that were officially reported to law enforcement. It does not include instances where police were called and no arrests were made, nor does it include instances where there was a history of abuse that was unreported.

Table 7 presents the data from the sample of cases, but demarcated by the race of the defendant. Among the variables related to demographics, adjudication, and characteristics of the crime, there are not many differences based upon defendant race. More pronounced differences are observed among the relationship of the defendant to the victim, the level of charge for the crime, whether witnesses were present during the altercation, and prior domestic violence crimes. Two-thirds ($N=20$) of non-White defendants were in a dating relationship with the victim while nearly half ($N=13$) of White defendants were married to their victims. Although fewer non-White defendants ($N=12$) committed a crime that resulted in the fatality of their victims when compared to White defendants ($N=15$), more non-White defendants ($N=26$) than White defendants ($N=18$) were charged with a felony; in non-fatal cases, non-White defendants did not have their sentences reduced to a misdemeanor to the same degree as White defendants. Witnesses were present in more than half of cases involving non-White defendants than in cases involving White defendants (26%). Also, prior crimes involving domestic violence were also documented in 40% ($N=12$) of cases with non-White defendants compared to 22% ($N=6$) of cases involving White defendants.

Table 7: Characteristics of Relationship, Crime, and Adjudication by Defendant Race (N=57)

Variables	White Defendants (N=27) Frequency (Percentage)	Non-White Defendants (N=30) Frequency (Percentage)
<i>Demographics</i>		
Defendant's Gender		
Male	16 (.59)	16 (.53)
Female	11 (.41)	14 (.47)
Victim's Gender^a		
Male	13 (.44)	12 (.40)
Female	15 (.56)	18 (.60)
Victim's Race^b		
White	28 (1.0)	2 (.07)
Non-white	--	28 (.93)
Relationship Status:		
Married	13 (.48)	6 (.20)
Dating	9 (.33)	20 (.67)
Divorced/Estranged	4 (.15)	4 (.13)
Domestic Partner	1 (.04)	--
<i>Legal Classification</i>		
Criminal Charge		
Simple Assault	2 (.07)	1 (.03)
Aggravated Assault	4 (.15)	6 (.20)
Domestic Battery	6 (.22)	6 (.20)
Domestic Violence Assault	--	1 (.03)
Attempted Manslaughter	--	2 (.07)
Manslaughter	5 (.19)	5 (.17)
Attempted Murder	--	1 (.03)
Second-degree Murder	4 (.15)	6 (.20)
First-degree Murder	3 (.11)	2 (.07)
Reckless Homicide	2 (.07)	--
Not Charged	1 (.04)	--
Level of Charge		
Felony	18 (.67)	26 (.87)
Misdemeanor	8 (.30)	4 (.13)
Not Charged	1 (.04)	--

Variables	White Defendants (N=27) Frequency (Percentage)	Non-White Defendants (N=30) Frequency (Percentage)
<i>Adjudication (cont.)</i>		
Adjudication		
Dismissed	1 (.04)	5 (.17)
Guilty	25 (.92)	24 (.80)
Not Charged	1 (.04)	--
Pending	--	1 (.03)
Defendant's Self-Defense Claim		
Denied	25 (.93)	23 (.77)
Upheld	2 (.07)	5 (.17)
Withdrawn	--	2 (.07)
Appeal of Conviction		
Motion Reversed	8 (.30)	4 (.13)
Motion Denied	15 (.55)	19 (.63)
In Progress	--	--
Not applicable	4 (.15)	7 (.23)
<i>Characteristics of Crime</i>		
Weapon^c		
Firearm	10 (.37)	11 (.37)
Knife	7 (.28)	6 (.20)
None	12 (.44)	8 (.27)
Other	--	6 (.20)
Victim Fatality		
Yes	15 (.56)	12 (.40)
No	12 (.44)	18 (.60)
Initiator of Confrontation		
Defendant	9 (.33)	4 (.13)
Victim	3 (.11)	4 (.13)
Both	--	4 (.13)
Unclear/Disputed	15 (.55)	18 (.60)
Was Victim Committing Crime?		
Yes	--	3 (.10)
No	27 (1.0)	23 (.77)
Unclear/Disputed	--	4 (.13)
Defendant Described Being Fearful of Victim?		
Yes	18 (.67)	21 (.70)
No	9 (.33)	9 (.30)

Variables	White Defendants	Non-White Defendants
	(N=27)	(N=30)
	Frequency (Percentage)	Frequency (Percentage)
<i>Characteristics of Crime (cont.)</i>		
Did Defendant Pursue Victim?		
Yes	7 (.26)	5 (.17)
No	8 (.30)	12 (.40)
Unclear/Disputed	12 (.44)	13 (.43)
Defendant Opportunity to Retreat		
Yes	11 (.41)	15 (.50)
No	1 (.04)	5 (.17)
Unclear	15 (.55)	10 (.33)
Location of Offense		
Defendant's Property or Residence	10 (.37)	9 (.30)
Victim's Property or Residence	3 (.11)	4 (.13)
Shared Property or Residence	13 (.48)	16 (.53)
Public Place	1 (.04)	1 (.03)
Witnesses		
Yes	7 (.26)	16 (.53)
No	20 (.74)	14 (.47)
Protection Order ^d		
Yes	--	2 (.07)
No	27 (1.0)	28 (.93)
Prior Domestic Violence Crimes^e		
Defendant	4 (.14)	8 (.27)
Victim	1 (.04)	3 (.10)
Both	1 (.04)	1 (.03)
Not applicable	21 (.78)	18 (.60)

^{a,b} One case included one defendant and two victims.

^c Three cases involved instances where a weapon was used by both the defendant and the victim.

^d One protection order was filed by a female defendant; the other protection order was filed by a female victim of a male defendant.

^e This only includes crimes that were officially reported to law enforcement. It does not include instances where police were called and no arrests were made, nor does it include instances where there was a history of abuse that was unreported.

To further investigate any differences in incident characteristics and case outcomes, the data were compared based upon defendants of the same gender, but of different racial categories. Specifically, White female defendants were compared to non-White female defendants and White male defendants and were compared to non-White male defendants. The results are provided in Table 8. The characteristics of the defendant and victim, legal classification, adjudication, and characteristics of the crime are similar in many respects for White and non-White female defendants. There are some notable differences, though, between White and non-White female defendants in regards to relationship status, level of charge, and appeal of conviction. Over half of the White female defendants were married to the victim in the case while 71% of non-White female defendants were in a dating relationship with the victim. In reference to the level of charge, while nearly equivalent proportions of White ($N=9$) and non-White ($N=10$) female defendants were found guilty of committing a crime, 3 non-White defendants had their cases dismissed based upon the evidence demonstrating the use of self-defense within the parameters of the law compared to only 1 White defendant. Regarding decisions of appellate courts on sentencing, female White defendants had their motions reversed more often whereas more female non-White defendants' motions to appeal their sentence were denied. Out of the 6 cases where a female White defendant filed an appeal, the sentence was reversed and a new trial was ordered for 4 defendants. Yet, 7 out of the 9 convictions that were appealed by female non-White defendants were affirmed by the appellate courts.

Comparisons made between White and non-White male defendants reveal similar results to the comparisons made between female defendants based upon race. Almost as many White male defendants were charged with a misdemeanor ($N=7$) as were charged with a felony ($N=9$).

Three-quarters of non-White defendants, however, were charged with a felony crime while only 25% were charged with a misdemeanor. In terms of case processing and adjudication, all White male defendants and 87% of non-White defendants were found guilty of committing a crime against the victim. Although 2 non-white defendants' cases were dismissed at pre-trial hearings by a judge (affirming the defendants' self-defense claims against the victims based evidence presented by the defense), more White defendants had their convictions reversed by an appellate court than non-White defendants. Of the 16 cases where a White male defendant filed an appeal, 4 cases were reversed. Yet, of the 13 cases where an appeal was filed by a non-White male defendant, only 1 case was reversed. Lastly, and related to the characteristics of the crime, nearly two-thirds of cases involving non-White male defendants involved witnesses to the crime while 70% of cases with White male defendants did not have any witnesses.

Table 8: Characteristics of Relationship, Crime, and Adjudication - Comparison of White and Non-White Defendants of the Same Gender

	White Female Defendants (N=11)	Non-White Female Defendants (N=14)	White Male Defendants (N=16)	Non-White Male Defendants (N=16)
Variables	Frequency (Percentage)	Frequency (Percentage)	Frequency (Percentage)	Frequency (Percentage)
<i>Demographics</i>				
Victim's Gender ^a				
Male	11 (1.0)	13 (.93)	2 (.13)	--
Female	--	1 (.07)	15 (.94)	16 (1.0)
Victim's Race ^b				
White	11 (1.0)	2 (.14)	17 (1.0)	--
Non-White	--	12 (.86)	--	16 (1.0)
Relationship Status				
Married	6 (.55)	2 (.14)	6 (.38)	4 (.25)
Dating	3 (.27)	10 (.71)	6 (.38)	9 (.56)
Divorced/Estranged	2 (.18)	1 (.07)	3 (.19)	3 (.19)
Domestic Partner	--	1 (.07)	1 (.06)	
<i>Legal Classification</i>				
Criminal Charge				
Simple Assault	--	--	2 (.13)	1 (.06)
Aggravated Assault	--	4 (.29)	4 (.25)	4 (.25)
Domestic Battery	1 (.09)	--	5 (.31)	4 (.25)
Domestic Violence Assault	--	--	--	1 (.06)
Attempted Manslaughter	--	--	--	--
Manslaughter	3 (.27)	3 (.21)	2 (.13)	4 (.25)
Attempted Murder	--	--	--	1 (.06)
Second-degree Murder	3 (.27)	6 (.43)	1 (.06)	--
First-degree Murder	1 (.09)	1 (.07)	2 (.13)	1 (.06)
Reckless Homicide	2 (.18)	--	--	--
Not Charged	1 (.09)	--	--	--

<i>Legal Classification (cont.)</i>				
	White Female Defendants (N=11)	Non-White Female Defendants (N=14)	White Male Defendants (N=16)	Non-White Male Defendants (N=16)
Variables	Frequency (Percentage)	Frequency (Percentage)	Frequency (Percentage)	Frequency (Percentage)
Level of Charge				
Felony	9 (.81)	14 (1.0)	9 (.56)	12 (.75)
Misdemeanor	1 (.09)	--	7 (.44)	4 (.25)
Not Charged	1 (.09)	--	--	--
Adjudication				
Dismissed	1 (.09)	3 (.21)	--	2 (.13)
Guilty	9 (.81)	10 (.71)	16 (1.0)	14 (.87)
Not Charged	1 (.09)	--	--	--
Pending	--	1 (.07)	--	--
Defendant's Self-Defense Claim				
Denied	9 (.81)	11 (.79)	16 (1.0)	13 (.81)
Upheld	2 (.18)	3 (.21)	--	2 (.13)
Withdrawn	--	--	--	1 (.08)
Appeal of Conviction				
Motion Reversed	4 (.36)	2 (.14)	4 (.25)	1 (.08)
Motion Denied	2 (.18)	7 (.50)	12 (.75)	12 (.75)
In Progress	--	--	--	--
Not applicable	5 (.45)	5 (.36)	--	3 (.19)
Characteristics of Crime				
Weapon^c				
Firearm	5 (.45)	6 (.43)	3 (.19)	4 (.25)
Knife	5 (.45)	5 (.36)	4 (.25)	1 (.08)
None	1 (.09)	--	10 (.63)	8 (.50)
Other	--	3 (.21)	--	3 (.19)

Characteristics of Crime (cont.)

Variables	White Female Defendants (N=11)	Non-White Female Defendants (N=14)	White Male Defendants (N=16)	Non-White Male Defendants (N=16)
	Frequency (Percentage)	Frequency (Percentage)	Frequency (Percentage)	Frequency (Percentage)
Victim Fatality				
Yes	10 (.91)	10 (.71)	5 (.31)	4 (.25)
No	1 (.09)	4 (.29)	11 (.69)	12 (.75)
Initiator of Confrontation				
Defendant	2 (.18)	--	6 (.38)	4 (.25)
Victim	1 (.09)	3 (.21)	2 (.13)	1 (.06)
Both	--	2 (.14)	--	2 (.13)
Unclear	8 (.72)	9 (.64)	8 (.50)	9 (.56)
Was Victim Committing Crime?				
Yes	--	3 (.21)	3 (.19)	1 (.06)
No	11 (1.0)	10 (.71)	13 (.81)	15 (.94)
Unclear/Disputed	--	1 (.07)	--	--
Defendant Described Being Fearful of Victim?				
Yes	11 (1.0)	14 (1.0)	4 (.25)	5 (.31)
No	--	--	12 (.75)	11 (.69)
Did Defendant Pursue Victim?				
Yes	2 (.18)	1 (.07)	7 (.44)	5 (.31)
No	4 (.36)	4 (.29)	2 (.12)	7 (.44)
Unclear/Disputed	5 (.45)	9 (.64)	7 (.44)	4 (.25)
Defendant Opportunity to Retreat				
Yes	3 (.27)	5 (.36)	8 (.50)	10 (.63)
No	2 (.18)	4 (.29)	--	1 (.06)
Unclear	6 (.54)	5 (.36)	8 (.50)	5 (.31)

<i>Characteristics of Crime (cont.)</i>				
	White Female Defendants (N=11)	Non-White Female Defendants (N=14)	White Male Defendants (N=16)	Non-White Male Defendants (N=16)
Variables	Frequency (Percentage)	Frequency (Percentage)	Frequency (Percentage)	Frequency (Percentage)
Location of Offense				
Defendant's Property or Residence	5 (.45)	4 (.29)	4 (.25)	6 (.37)
Victim's Property or Residence	--	--	3 (.19)	3 (.19)
Shared Property or Residence	6(.54)	10 (.71)	8 (.50)	6 (.37)
Public Place	--	--	1 (.06)	1 (.06)
Witnesses				
Yes	1 (.09)	6 (.43)	5 (.31)	10 (.63)
No	10 (.91)	8 (.57)	11 (.69)	6 (.37)
Protection Order^d				
Yes	--	1 (.07)	--	2 (.13)
No	11 (1.0)	13 (.93)	16 (1.0)	14 (.87)
Prior Domestic Violence Crimes^e				
Defendant	1 (.09)	1 (.07)	3 (.19)	7 (.44)
Victim	1 (.09)	3 (.21)	--	--
Both	--	--	1 (.06)	1 (.06)
Not applicable	9 (.81)	10 (.71)	12 (.75)	8 (.50)

^{a,b} One case included one defendant and two victims.

^c Three cases involved instances where a weapon was used by both the defendant and the victim.

^d One protection order was filed by a female defendant; the other protection order was filed by a female victim of a male defendant.

^e This only includes crimes that were officially reported to law enforcement. It does not include instances where police were called and no arrests were made, nor does it include instances where there was a history of abuse that was unreported.

Key Patterns in Stand Your Ground Defense Processing

An analysis of the circumstances and outcomes of each case was conducted, and three key patterns emerged that have the potential to negatively affect victims of intimate partner violence and influence the decision of the courts to uphold or dismiss a self-defense claim based upon the Stand Your Ground statute. Since many intimate partner violence victims are women (Catalano, 2014; Black et al., 2011), the following results underscore how Stand Your Ground laws, and other self-defense laws such as the Castle Doctrine, both indirectly and directly limit the legal avenues for this population when it comes to the use of self-defense as a protective measure.

Theme One: Immunity tends to be granted in situations where defendants were fearful of the victim, had no opportunity to escape, and where the crime occurred on the defendant's property. Table 9 presents frequencies for the variables that most commonly factored into the decision of the judge to grant immunity to a defendant. These variables include the relationship status of the defendant and victim; what type of weapon, if any, was used; whether the defendant described being fearful of the victim; whether the defendant had an opportunity to escape rather than become an aggressor; and where the offense occurred. Although immunity was granted or charges were dropped in only 12% of the cases in this study, the most common characteristics of an immunity case included: (1) a defendant and victim who were dating; (2) violence that occurred on the defendant's property where a firearm was not used; (3) a defendant who was fearful of their victim and had no opportunity to escape prior to using force or deadly force. These factors are consistent with the basic tenets of the Stand Your Ground laws, where a

reasonable amount of force can be used against an aggressor in self-defense but only if the threat is imminent and the use of force is necessary to preserve one's safety. In addition, given that immunity tended to be granted in cases where the defendant and victim were dating (rather than married) and in cases where the violence occurred on the defendant's property, speaks to the basic tenets of the Castle Doctrine which removes the duty to retreat only in instances where the aggressor (the victim or plaintiff in these cases) does not have a moral or legal right to the property where the crime occurs. Importantly as well, the defendants were female and the victims were male in 5 of the 7 cases where immunity was granted or charges were dropped. Also, the defendants and victims were non-White in 5 of the 7 cases where immunity was granted or charges were dropped.

These themes in case processing are illustrated by the facts and outcome of *State v. Jones* (2012). The defendant, Whitlee Jones, was originally charged with second-degree murder for stabbing her boyfriend, Eric Lee, following an argument that ensued over Lee wanting to take possession of Jones's cell phone. Although Jones had attempted to leave the residence, which she shared with Lee, multiple times throughout the evening, Lee punched, pushed, and pulled Jones's hair to keep her from leaving. The incident escalated to where Lee grabbed Jones and was getting ready to strike her, wherein Jones used a knife to stab Lee in an attempt to flee. During pre-trial hearing, the circuit court judge granted Jones immunity and dismissed her case based upon the following decision:

Defendant's actions complied with [these] self-defense elements. Defendant stated that she believed if she did not act as she did, then she would have been killed. Nothing suggests that Defendant was at fault for bringing on the difficulty. Throughout the

evening, her actions demonstrated that she wanted to get away from Mr. Lee and retain her phone. Based on Mr. Lee's behavior throughout the night, Defendant's belief that she was in danger was reasonable for both her and a reasonably prudent person. Earlier in the evening, less than forty-five minutes before the final altercation, Mr. Lee had perpetrated at least two crimes against Defendant, both of which would be classified as "violent" in its everyday meaning and under Section 16-1-60 of the South Carolina Code of Laws: Kidnapping and Criminal Domestic Violence of a High and Aggravated Nature ("CDVHAN"). The Act specifically allows for people to act to prevent the commission of a violent crime as defined in Section 16-1-60.

An additional example that demonstrates this pattern in the court's decision to grant immunity is *State v. Bryant* (2011). Rotesia Bryant, the defendant, was charged with manslaughter for the fatal stabbing of her boyfriend, Harold Carter. Bryant stated that she was in the process of moving out when Bryant physically attacked her, pinned her to the bed and proceeded to beat her several times. During the attack, Bryant reached for a pair of scissors and stabbed Carter in the chest. Bryant claimed self-defense because she was in fear for her life, although she openly claimed in court that she did not intend to kill Carter when she stabbed him. Due to the history of domestic violence calls to Bryant's and Carter's shared residence, and Carter's criminal history, Bryant's motion to dismiss the case based upon the Florida Stand Your Ground law was granted at a pre-trial conference.

However, while these aforementioned examples illustrate how victims of intimate partner violence may be protected from criminal prosecution under Stand Your Ground laws, more defendants in this study who also claimed to be victims of intimate partner violence, for instance,

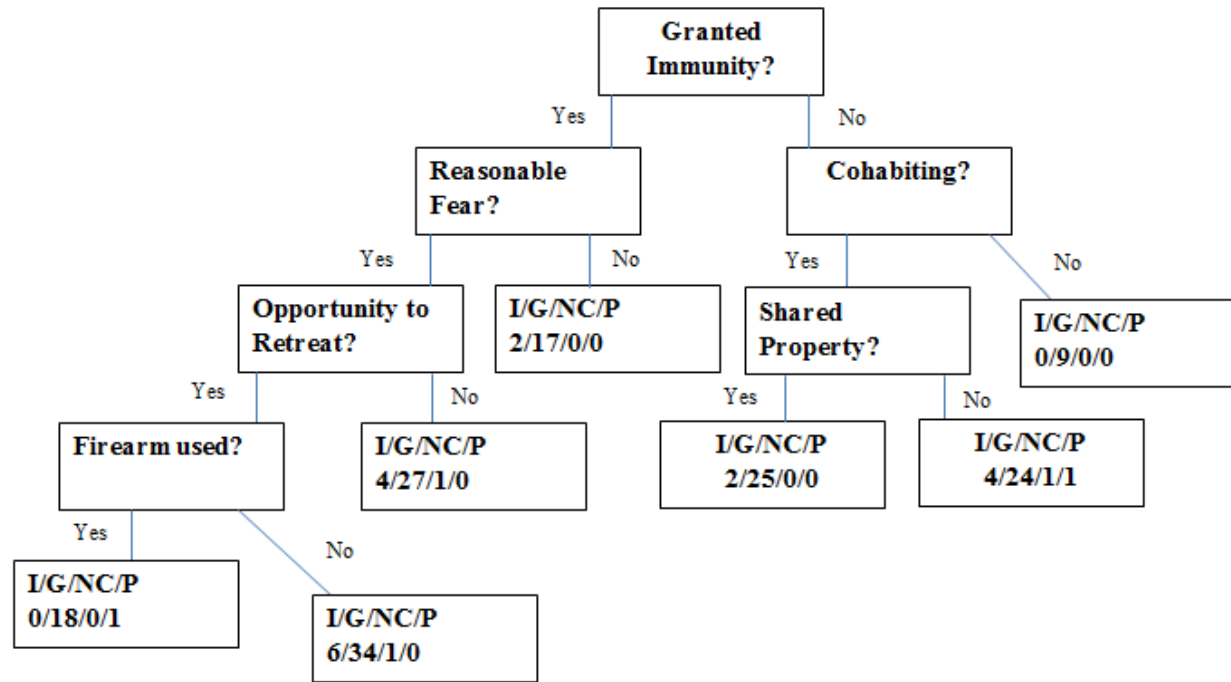
used a firearm to defend themselves or were sharing property with their abuser. Despite the fact that many of these victims described having feared for their lives prior to using force, and despite the fact that they may or may not have had an opportunity to escape from the violence, immunity was not granted in the majority of these cases. Ultimately, while some commonalities exist between cases where immunity was granted it appears that the decision to grant immunity is more often based upon the judge's interpretation of that state's Stand Your Ground law in connection with the characteristics of the crime. As more research is done in this area, the case outcomes should be assessed for significance in connection with defendant and/or crime characteristics. Figure 1 provides a flowchart with particular variables that should be considered when designing a classification tree for significance testing.

Table 9: Characteristics of Cases: Immunity vs. Guilty Verdicts

Variables	Immunity Granted or Case Dismissal (N=7)	Guilty Verdict (N=50)
	Frequency (Percentage)	Frequency (Percentage)
<i>Sociodemographics</i>		
Relationship Status:		
Married	2 (.29)	16 (.32)
Dating	5 (.72)	23 (.46)
Divorced/Estranged	--	9 (.18)
Domestic Partner	--	2 (.04)
<i>Characteristics of Crime</i>		
Weapon^a		
Firearm	--	19 (.38)
Knife	3 (.43)	12 (.24)
None	3 (.43)	16 (.32)
Other	1 (.14)	6 (.12)
Defendant Described Being Fearful of Victim?		
Yes	5 (.71)	33 (.66)
No	2 (.29)	17 (.34)
Defendant Opportunity to Retreat		
Yes	2 (.29)	23 (.46)
No	4 (.57)	3 (.06)
Unclear	1 (.14)	24 (.48)
Location of Offense		
Defendant's Property or Residence	5 (.71)	14 (.28)
Victim's Property or Residence	--	9 (.18)
Shared Property or Residence	2 (.29)	25 (.50)
Public Place	--	2 (.04)

^aThree cases involved instances where a weapon was used by both the defendant and the victim.

Figure 1: Classification Tree for Immunity Cases



Note: Each terminal node of the classification tree contains frequencies of I (Immunity), G (Guilty), NC (Not Charged (Charges Dropped)), and P (Pending) cases indicated by the dichotomies leading to the terminal node.

Theme 2: The Application of the Stand Your Ground Law is influenced by the consistency of the defendant's story and the timeframe leading up to the use of lethal force. In instances where defendants provided conflicting statements to the responding officers and in their testimony regarding the incident, the self-defense claim under Stand Your Ground was dismissed by a judge at pretrial hearing or by a jury. In cases where the defendant continued to change their story, the prosecution tended to raise questions regarding the veracity of their overall claim of self-defense (e.g. committing a crime out of jealousy, rage, or the "heat of passion" instead of self-defense) and, when evidence of an altercation was present, the necessity of using deadly force when an opportunity may have been presented to avoid the use of force altogether. Related to this problem, the length of time that elapsed between the "end" of a violent incident and the defendant's use of lethal force was raised as an issue by the prosecution in some cases. Specifically, the prosecution questioned whether the defendant, who very well may have been assaulted or threatened by the victim beforehand, needed to use force or if they could have taken measures to avoid the incident.

The case of *State v. Bartlett* (2006) illustrates the point that self-defense claims become undermined when a defendant begins to change their statements to responding officers regarding the events leading up to the lethal or non-lethal incident. Laurie Bartlett argued that she stabbed her boyfriend, Ernest Lamar, to prevent him from raping her. Bartlett initially told responding officers that Lamar was intoxicated and accidentally fell on the knife. However, Bartlett later recanted that story and claimed that Lamar had been drinking and taking Lortab, and attempted to rape her after grabbing her hair, choking her, repeatedly punching, slapping, and kicking her,

and hitting her with his fists. Following testimony from the responding officer that Lamar's stab wound was at a "downward angle" and was inconsistent with an accidental wound, the judge rejected Bartlett's claims of self-defense under the Florida Stand Your Ground law and charged her with manslaughter. Bartlett was sentenced to 10 years in prison to be followed by 5 years of probation. Bartlett appealed her conviction and the Florida Supreme Court reversed the sentence and ordered a new trial, stating that "the evidence was inconclusive and disputed as to whether Appellant had acted with justifiable force in self-defense. Thus, it is misleading and incomplete for the State to conclude that Investigator Walton's objectionable testimony is *merely* cumulative". However, the circuit court once again found no evidence that self-defense was justifiable and sentenced Bartlett to 8 years in prison.

An additional case, *State v. Sanders* (2008) underscores that a defendant's self-defense claim is attenuated when there was an opportunity for them to avoid lethal force. Although a duty to retreat is not required under Stand Your Ground laws, an opportunity to exit the premises where the incident occurs speaks to the necessity of the defendant having to use force and also imparts questions about which party – the defendant or the victim – may be acting as the aggressor when lethal force is used. In *Sanders*, the defendant, Edna May Sanders, stated that she was in fear for her life and the lives of her children after her spouse, Sherman Sanders, had gone to the bedroom and was found reaching for his gun following a physical violence that the victim had instigated against the defendant. To prevent what she thought was an imminent and reasonable threat based on her history of having been abused by Sherman Sanders, Edna Sanders threw hot oil on Sherman Sanders which resulted in his death. At trial, the prosecution focused part of their argument on Edna Sanders's necessity to use the hot oil as a weapon by making note

of the possibility that – during the time that Sherman Sanders was going to the bedroom to allegedly obtain his firearm – she could have left through the front door prior to Sherman having pointed his gun at her. Edna Sanders was charged with second-degree murder and sentenced to life in prison. Upon review of the evidence, the appellate court ruled that the trial court erred when refusing to include a jury instruction on the defendant having no duty to retreat under the Mississippi Castle Doctrine (Miss. Code Ann. § 97-3-15 (3)(4) (Rev. 2006)) and subsequently remanded her case for a new trial. Nonetheless, the defendant ultimately pleaded guilty instead of enduring a new trial, and was sentenced to 20 years in prison.

Theme 3: Use of a Firearm Overshadows Stand Your Ground in Intimate Partner Violence Self-Defense Cases. Firearms were the most common weapon used ($N=17$) by the defendant among cases where a weapon was used ($N=36$) in the incident. In each instance where a defendant used a firearm, they were found guilty of felony aggravated assault with a deadly weapon or were found guilty of first or second-degree murder and sentenced to prison terms ranging from 10 years to life. In only one instance, a jury acquitted the defendant of a murder charge in lieu of a reckless homicide charge.

Overall, these sentences tend to be lengthier than those where a knife or other weapon was used due to felonious nature of the crime and mandatory sentencing laws. For instance, Florida's 10-20-life law (Fla. Stat. § 775.087) mandates a minimum sentence of 10 years for possessing a firearm during the commission of a felony crime, 20 years in prison for discharging a firearm during the commission of a felony crime, and a minimum sentence of 25 years to life for non-fatally or fatally shooting a victim in the commission of a felony crime. This pattern with firearm sentencing is of particular concern since more women than men used a firearm

during the altercation where self-defense was alleged to occur. Women were the defendants in 65% ($N=13$) of the 20 cases in this study where a firearm was used. By comparison, men were the defendants in 95% ($N=18$) of the 19 cases that did not involve a weapon. Interestingly, in all cases where immunity was granted or charges were dropped, a knife or other weapon was used in 4 cases and no weapon was used in 3 cases.

This particular trend may set a precedent for intimate partner violence victims that the use of lethal force via firearm is an automatic sentence, regardless of the actual threat of harm by the abuser or the history of abuse in the relationship. For instance, in *Commonwealth v. Hasch* (2012), the defendant, Janice Hasch, and the victim, Jerald Hasch, had a history of domestic violence calls to their shared residence. Janice stated to the responding officers that the Jerald had become enraged after she found his gun while cleaning. Janice testified that Jerald had lunged at her to try and take possession of the gun, and that she retreated into the bedroom out of fear that the Jerald was going to use the firearm to kill her. After Jerald forced his way into the bedroom, Janice shot and killed Jerald out of fear for her life. The jury acquitted Janice on the second degree murder charge and found her guilty of reckless homicide to serve a sentence of 2 years. An additional illustration of this theme is in the high-profile case of *State v. Smithey* (2014). In *Smithey* the defendant, Anita Smithey, shot and killed her estranged husband, Robert Cline III, after she claimed that he raped her. Despite the fact that evidence showed that Anita Smithey sustained physical trauma from being sexually assaulted and statements that she feared for her life after he held a knife to her throat while raping her with his fist, the judge and jury heard evidence from the prosecution that Anita Smithy and Robert Cline III still met once a week to have consensual sex at her home and had exchanged several text messages with Cline III on a

regular basis. Furthermore, the prosecution claimed that Smithey did not fear for her life, but instead was angry that Cline III would not leave and so she shot him and subsequently attempted to stage a scene where it looked as if self-defense had occurred. In this regard, the prosecution maintained that Smithey self-inflicted injuries, such as a stab wound to her side, to make it appear as if the shooting was necessary in lieu of an imminent threat. Smithey was charged in 2015 to 40 years in Florida state prison for second-degree murder.

Other Considerations: Does Stand Your Ground Protect Victims of Intimate Partner Violence? Although there are clear issues in the application of the Stand Your Ground laws to cases of intimate partner violence, there are also instances where Stand Your Ground laws are not misused in the sense that it does not automatically protect perpetrators who claim “self-defense” against their current or estranged spouse or partner. In *State v. Hower* (2010), for example, Brian Hower was charged with fatally strangling his soon-to-be ex-wife, Bonnie Hower, following an argument revolving around the custody of their two children. Following the death of his wife, Brian Hower discarded her remains in the woods behind their shared home. Brian Hower claimed Stand Your Ground, stating that he strangled his wife only after she charged at him with a knife. However, witnesses for the prosecution noted that Hower mentioned on numerous occasions that he would, if necessary, kill his wife to avoid losing his children. Witnesses also testified that Brian Hower was often verbally and physically abusive to Bonnie Hower, although no pre-existing complaints were filed with the state of Florida. A jury rejected Hower’s claim of self-defense and the judge sentenced Hower to life in prison. Also, in *State v. Manning* (2014), Theodore Manning (the defendant) was sentenced to 30 years in prison for the murder of his girlfriend, Nikki McPhatter, following a mutual argument over the

seriousness of their relationship. During the argument, Manning stated that he asked McPhatter to leave his residence and she refused. At this point, Manning argued to the court that McPhatter was transformed from an invited guest who had the right to be on his property to a trespasser upon which he had the right to use deadly force. Although Manning stated that McPhatter pointed a gun at him and that this caused him to fear for his life, this testimony of “reasonable fear” was not consistent with the fact that McPhatter was shot in the head and her body was found inside an abandoned car that had been set on fire. In this regard, Manning’s claim of self-defense under the state’s Stand Your Ground law was dismissed by the judge at pre-trial hearing as well as by the jury at the criminal trial.

Along with these specific examples, victims of intimate partner violence who are tried as defendants for defending themselves against their abusers can be granted immunity under Stand Your Ground laws as previously illustrated. However, caution must be taken in generally concluding that statutory Stand Your Ground laws favor victims of intimate partner violence. Ultimately, there have been decades of documented issues with self-defense law when it comes to the matter of intimate partner violence; many of the arguments for self-defense law reform predate the adoption of Stand Your Ground statutes. In addition, Stand Your Ground laws are not, in language and intent, necessarily beneficial or harmful as a statute. Instead, the particular issues with self-defense law are inherent to how the statutes and case law are interpreted and applied by judges, legal counsel, and juries. Indeed, it is here that issues with gender and race of the defendant and victim – and potential biases and misconceptions about intimate partner violence – become most concerning for case outcomes.

CHAPTER SEVEN: ANALYSIS OF MEDIA COVERAGE

The preceding chapters presented the findings of a content analysis of statutory Stand Your Ground laws as well as domestic dispute court cases that reference Stand Your Ground statutes. Several key concerns were raised regarding the legal protections for victims of intimate partner violence under statutory Stand Your Ground laws. Furthermore, patterns emerged that demonstrated issues in the application of these laws particularly when the gender of the defendant was considered as well as when a firearm was used as a means of self-defense. While this information is certainly useful to understanding case outcomes based upon the legal requirements of Stand Your Ground laws, there are only a few empirical studies on Stand Your Ground laws to date where comparisons can be made between variables such as case outcomes, defendant and victim characteristics, homicide rates, etc. Despite this lack of empirical inquiry, Stand Your Ground laws remains a hot-button political issue and one that has been covered extensively by a variety of different media outlets: local and national newspapers, television stations, radio news broadcasts, and online news websites. In this regard, the knowledge that most individuals may have about Stand Your Ground laws is likely not coming from empirical study but, rather, from print and online news media outlets. Thus, the final goal of this study is to conduct a content analysis of Stand Your Ground intimate partner violence cases that have been covered by newspapers local to where the crime occurred to determine (1) how the information about Stand Your Ground laws is being presented; (2) whether domestic violence or intimate partner violence is specifically referenced or defined; (3) direct and indirect victim blame tactics; (4) the overall tone of the article.

Article Frequencies

While the population for the current study contained 57 court cases between intimate partners where a Stand Your Ground statute was referenced, 25 of these cases were covered by newspapers local to the area where the crime occurred. Table 10 provides the percentages and frequencies of the newspaper coverage by defendant and victim gender, defendant and victim race, level of charge, and lethality. A total of 116 articles were collected from newspapers regarding these 25 cases. Due to the fact that many of the newspapers covered the cases from the arrest through the trial, 77% of the articles were multiple stories published on a single case at various points in time when arraignments and trials were occurring. Incidents that were female-perpetrated received far more coverage (78%) compared to those that were male-perpetrated (22%). Furthermore, the majority (59%) of cases that were reported by newspapers involved White defendants and White victims or complainants. Seventy four-percent ($N=86$) of the newspaper articles focused on crimes where a murder had been committed. With the exception of cases involving aggravated assault (most of which included coverage on the Marissa Alexander trial), most newspaper coverage were on incidents that involved manslaughter (27%; $N=31$) or second-degree murder (25%; $N=29$).

Table 10: Article Frequencies (N=116)

	Frequency (Percentage)
<i>Background Characteristics: Gender</i>	
Female Defendant/Male Victim	90 (.78)
Male Defendant/Female Victim	24 (.20)
Male Defendant/Male Victim	2 (.02)
<i>Background Characteristics: Race</i>	
White Defendant/White Victim	68 (.59)
Non-White Defendant/Non-White Victim	47 (.40)
Non-White Defendant/White Victim	1 (.01)
<i>Characteristics of Crime</i>	
First-degree murder	14 (.12)
Second-degree murder	29 (.25)
Manslaughter	31 (.27)
Reckless Homicide	7 (.06)
Aggravated Assault	27 (.23)
Domestic Battery	1 (.01)
Simple Assault	3 (.03)
Charges Dropped by Prosecution	4 (.03)
<i>Lethality</i>	
Yes	86 (.74)
No	30 (.26)
<i>Articles – Multiple from Series on Same Incident</i>	89 (.77)

The incidents that received the most coverage, when compared to those cases where no newspaper coverage could be found, tended to focus around controversies of Stand Your Ground laws (e.g. “Charleston prosecutors challenge use of ‘stand your ground’ law in domestic disputes at home”), national coverage of the incident (“48 Hours’ examines Oviedo murder”), or the unusualness of the crime (e.g. “Utah Environmental Activist Sentenced to Jail for Assault”). Since all of these cases included claims of both self-defense and intimate partner violence, the

following sections will examine how newspaper reports on these cases incorporated information about domestic violence, intimate partner violence, family violence, and self-defense law – specifically Stand Your Ground laws and the Castle Doctrine. In addition, the ways in which these articles impart methods of blame into their narratives – through the use of defendant and victim behaviors, sources referenced by the authors, and overall tone of the article – will be examined.

Stand Your Ground Statutes, Legal Requirements, and Self-Defense

One of the overarching goals of this particular analysis was to determine how media outlets – in this case, local newspapers – are presenting information about the Stand Your Ground statutes and the legal requirements for self-defense. Across all 116 articles that included both male and female defendants, 55 (47%) included the term “self-defense” in relation to the defendant and the term was referenced in coverage of cases involving female defendants in 95% of those 55 cases. In addition, 24 (21%) of these articles included either one or a combination of the following terms categorized under the auspices of self-defense law: “necessity”, “imminence”, “reasonableness” or “reasonable fear”, and “retreat”. However, only 44 (38%) articles explicitly mentioned the terms “Stand Your Ground” or “Castle Doctrine” in their coverage of the arrest and/or trial proceedings of defendants; of this group of articles, the majority ($N=40$; 90%) covered cases involving female defendants and male victims, and most were in the state of Florida or South Carolina where there have been recent debates at the state level regarding how the law should be applied, particularly in cases of intimate partner violence. Only three of these articles included specific quotes from the Stand Your Ground statute – two

were in South Carolina and one was in Florida - and none of these articles made any mention of the exemption in the statute that required victims of domestic violence to have an injunction or no contact order to demonstrate reasonable fear.

Domestic Violence and Intimate Partner Violence

Although all of the cases that were covered by these newspapers involved violence between spouses, dating partners, estranged or divorced couples, or domestic partners, none included a specific definition of domestic violence, domestic abuse, intimate partner violence, intimate partner abuse, or family violence. This was the case even though the context for domestic violence or intimate partner violence was referenced in 27% ($N=31$) of the 116 articles. Most of the articles that provided the context for domestic violence or intimate partner violence included female defendants ($N=28$; 90%) where only three of the news stories included male defendants. The accounts of domestic violence or intimate partner violence were typically provided by the defendant or victim, legal counsel, or detectives. The presence of an injunction or the violation of a protection order was only mentioned in three articles that included female defendants.

The terminology that is used to describe a violent incident between spouses, dating partners, estranged or divorced couples, and domestic partners is also important to consider, especially since the use of gender-neutral terms have been known to be an indirect tactic in media reporting that assigns equal blame to both the perpetrator and victim (Taylor, 2009). Twenty-three of the 116 articles specifically used the terms “domestic violence”, “domestic abuse”, or “abuse” to describe and define the incident that occurred between the defendant and

the victim. Consistent with the previous patterns, the majority of these articles ($N=18$; 78%) were reporting on cases with female defendant. By contrast, 45 of the 116 articles used neutral terms to describe the incident. These terms included, but were not limited to, “domestic dispute”, “fight”, “argument”, “bickering”, “spat”, “heat of passion”, “mutual combat”, and “jealous rage”. Other articles described the relationship between the defendant and the victim using neutral terms. An example is found in an article covering two cases in South Carolina where female defendants were granted immunity. Assistant Solicitor Culver Kidd is cited as arguing that “the law has been used by women who escalated ordinary domestic disputes into deadly ones...” (Knapp, 2015b). In the same article, Kidd is further quoted as stating that the defendant should be faulted for “‘bringing about’ and ‘antagonizing’ what would have been ‘an otherwise garden-variety domestic squabble’” (Knapp, 2015b). As an additional example, the son of Lillian and Robert Fahrer described the couple as having had a “rough relationship” (Davis, 2009).

Methods of Blame

Male Defendants

Of the 32 self-defense cases included in the current study that involved male defendants, 11 were covered by newspapers local to the area where the crime occurred. In total, there were 26 articles published on these 11 cases. Within the 26 articles, 69% ($N=18$) included statements that directly blamed defendants for the crime. Direct blame tactics included the criminal history of violent offenses, admission of guilt in committing the current assault or murder, and negative language used to describe the defendant’s actions or behaviors prior to or following the crime.

For example, one article that reported on the case of Edward Stokley, who admitted to shooting his girlfriend, Lavena Gibson, stated that his sentence was increased from 20 years to 50 years because he was “a persistent felony offender” and “had a violent bank robbery in his past” (Hewlett, 2011). Another article following the case of Brian Scherer noted that his current conviction for domestic violence was a third offense, and also presented a quote from the presiding judge to Scherer that read: “you’re an extremely violent person....this is your 11th conviction for assault...you need to be put away for the maximum time allowed by law...you have just not learned” (Lancour, 2012). In *The Herald-Dispatch* coverage of Robert Frazier’s trial, where he was accused and convicted of murdering his girlfriend, Kathryn Gale Smith, the Assistant Prosecutor for the case is cited as stating Howard to be “an uncaring man who changed out of bloody clothes, but failed to call 911 for help” and later directly quoted as stating that “He’s over hanging out at the Marathon station, while the woman that he loves is laying in the bedroom with a fatal gunshot wound to her face. He never calls (911). Never said it was an accident. Never does anything” (Johnson, 2010).

Despite the fact that over two-thirds of the newspaper articles featuring male defendants included details or context that directly blamed them for the crimes, 77% ($N=20$) also attributed negative behaviors or statements to their victims. Direct victim blame tactics used by these articles, which place emphasis on the victims’ choices that contributed to their injuries or deaths, included the following: (1) focusing on the victim’s choice to leave the defendant, terminate the relationship, or return to the defendant; (2) the victim’s infidelity or sexual promiscuity; (3) the victim’s previous engagement in violence against the defendant; (4) using negative language to describe the victim. Several examples illustrate how these tactics are incorporated into the

context of the newspaper coverage of these crimes and used to frame the victim. First, a series of three articles in the *Herald Leader* (Hewlett, 2010a,b; Hewlett, 2011) followed the case of Edward Stokley who admitted to shooting and killing his ex-girlfriend, Lavena Gibson. While some of the blame was focused on Stokley for having been a violent felony offender who threatened to harm Gibson for leaving him, the context for the crime was centralized around the couple's "on again-off again relationship" and the fact that "The fatal shooting occurred when Gibson, who had decided to leave Stokley, returned to the home that she shared with Stokley and his mother to retrieve her belongings". This frame, whether intentional by the reporter or not, placed blame on Gibson's actions for inciting the incident on a day where it was reported that Stokley had no other plans but to spend time with his mother, sister, and friends (Hewlett, 2011). A second example is provided within *The Post and Courier* coverage of Theodore Manning who was found guilty of killing his girlfriend Nikki McPhatter. The opening sentence in two of these articles states that "A North Carolina woman was killed after she came to South Carolina to break up with the boyfriend she met on the internet and get back some jewelry she had given him for repairs" (*The Post and Courier*, 2009). Here while the articles emphasize that Manning committed this murder, the focus is initially placed squarely upon the relationship that was described by Manning as being "friends with benefits".

An additional example, which involves the direct victim blame tactic of sexual promiscuity, comes from newspaper coverage in the *Tampa Bay Times* and the *St. Petersburg Times* which reported on the murder of Lynda McAdams. One article emphasized that Lynda McAdams's estranged husband, Michael McAdams "snapped" and was in a "jealous rage" when he shot and killed Lynda and her "new boyfriend" after he witnessed them "going at it" in their

home. This article also included information from a taped transcript with detectives where Michael McAdams stated that “He told his wife she could see other men – just not in their house. He still loved her and hoped to one day win her back”. (Moorhead, 2011). The *St. Petersburg Times* further included in their story that Lynda McAdams had wanted a divorce and that authorities believed that this divorce was the motive for the killings (Spencer, 2009). *The Birmingham News* also reported on the trial of Michael Denail Gaines who was tried for shooting and killing his fiancée, Erika Jean. The coverage presents background on the couple, noting that Gaines was a “disabled navy veteran” while Jean was “a dancer at a West Birmingham strip club”; Jean’s relatives are also cited in the article as testifying that “life quickly improved for the mother of two. She quit the strip club job, enrolled in junior college and stopped dressing provocatively” (Velasco, 2011). This article further elaborates on the fights that were alleged to be mutual, where the couple “fought frequently over money, child discipline and jealousy” and “both emerged from some of those fights with facial scratches or other wounds” (Velasco, 2011).

Indirect tactics of victim blame were also prevalent among these 26 newspaper articles that covered crimes committed by male defendants. Specific examples of indirect tactics included: (1) focusing on the good-nature of the defendant and their contributions to the community, or using positive language to describe the defendant; (2) associating the defendant’s behavior with physical disability or emotional instability; (3) focusing on the emotional distress of the defendant over the crime that was committed; (4) emphasizing drug or alcohol abuse of the defendant as contributing to the crime; (5) emphasizing that the defendant and victim had argued over finances. Several examples highlight how these particular tactics were included within the newspaper articles to provide context for victim blame. *The Salt Lake Tribune*

published two articles regarding the trial and conviction of Jeffrey Charles Salt for the assault on his ex-girlfriend. The assault was alleged to occur when the victim tried to leave following “a fight” over the couple’s recent breakup (Falk, 2012a). However, these articles proceed to underscore that Jeffrey Charles Salt – who had no prior criminal record - was a well-known and respected environmental activist and that his conviction devastated his position in the community and threatened his reputation as the “Great Salt Lakekeeper” (Falk, 2012b). The use of positive or sympathetic language to describe the defendant can also be found in the Michael McAdams case out of Florida where a quote from the defense attorney described McAdams as “...a broken man faced with losing his family and his home” (Moorhead, 2011) and a neighbor also was quoted as stating that “He seemed like a nice gentleman. I was pretty shocked. It’s hard to believe someone you know has been murdered” (Spencer, 2009).

Other articles focused on the mental health and psychological issues of the defendant and the emotional distress of the defendant over the incident with the victim. In the case of William Peck, an article provides a quote by the defense lawyer stating that Peck, who was accused and later convicted of choking his girlfriend, had “significant mental health issues that...contributed to his actions that day” and that Peck had “suffered some unbelievable horrors” and abuse as a child (Hessler Jr., 2014). Indeed, an article published in *The Times Herald* following Peck’s conviction reported that Peck was applying for Veterans Treatment Court where “...a veteran must suffer from traumatic brain injury, post-traumatic stress disorder, military sexual trauma or psychological or substance abuse problems that require treatment which contributed to their crimes” (Clark, 2014). As an additional example, in the *Lexington Herald-Leader* which covered the Stokely trial, Stokely was described by the public defender as “full of sorrow and

pain before and during this trial” and that “this was a terrible event for everyone involved” (Hewlett, 2011). Also, in another case involving the stabbing of Marcel Ivory by his partner Kristin Hunter, Hunter was described by his attorneys as having called 911 immediately after the stabbing and as “visibly remorseful and in hysterics when paramedics and police arrived” (Freund, 2014a). In the same article, Hunter’s sister stated that “He cries every single night. He loved Marcel. No matter what happens, he will have to live with this for the rest of his life” (Freund, 2014a).

In addition, a few articles related the defendant’s actions to either their alcohol or drug use or the victim’s use of these substances. *The San Pedro Valley News-Sun* followed the trial and appeal of Alger Frederick Hellard, who was accused of murdering his wife Tammy Hellard. Frederick Alger Hellard claimed that he had accidentally shot his wife after they had both been drinking alcohol on the night of the incident. However, while the article never stated how Frederick Alger Hellard’s alcohol consumption affected his judgment beyond the fact that he accidentally shot Tammy Hellard, the article continued to point out that “Hellard testified that his wife took two Xanax pills within a couple of hours on the evening of the shooting. She also drank more than a dozen bottles of beer and had a blood alcohol content of 0.202 at the time of her death.” (Shacat, 2011). An additional example of the mention of drug use is found in the news coverage of Robert Frazier’s murder trial, where the public defender was quoted as stating that Kathryn Gale Smith (the victim) “started the argument that ended with her death”...because Smith “became angry upon seeing Frazier and his ex-wife smoking marijuana that she intended to sell” (Johnson, 2010).

Arguments over money or finances were not as commonly reported in articles involving male defendants, but there are two cases where this financial difficulty was briefly cited as one of multiple reasons that the incident occurred. For example, *The Northwest Indiana Times* commented within their articles on the arrest and prosecution of Jose Cuevas Jr. that he assaulted and attempted to murder his wife after she refused his sexual advances, where he proceeded to accuse her of rekindling their marriage so that she could receive child support (Reilly, 2008). The other case was that of Michael Denail Gaines, who was tried for murdering his fiancée, Erika Jean where it was noted the two had “fought frequently over money, child discipline and jealousy” (Velasco, 2011) and this had contributed to mutual fights that led to the incident where Gaines killed Jean.

While many of these articles clearly include direct or indirect language and frames that assign some of the blame for the incident to the victim, some stories also included positive language about the victims that attested to their good character. Examples include the case of Robert Frazier where her uncle stated that the victim, Katherine Gale, “Was a wonderful woman. She had some faults, but we’re all not perfect” (Johnson, 2010); and the case of Michael McAdams where a neighbor is quoted stating of the victim, Lynda McAdams, that she will miss horseback riding with her friend and that “It’s not something I would think anyone would have done to her” (Spencer, 2009).

Female Defendants

Of the 25 self-defense cases included in the current study that involved female defendants, 14 were covered by newspapers local to the area where the crime occurred. In total,

there were 90 articles published on these 14 cases. Within the 90 articles, 73% ($N=66$) included statements that directly blamed defendants for the crime. While the articles following cases including male defendants tended to use both direct and indirect tactics to focus partial responsibility for the incident on the victim, the articles that covered cases involving female defendants tended to use the same types of direct and indirect tactics to frame their culpability for the crime. This was the case because more court cases involving female defendants claimed that their use of self-defense was in relation to past abuse perpetrated by the victim. Indeed, a known history of intimate partner violence was only reported in 3 of the 26 (12%) newspaper articles with male defendants while it was referenced in 28 of the 90 (31%) newspaper articles involving female defendants. For instance, a case in Kentucky noted that Stacey Wiggington's sentence was reduced in the fatal stabbing of her husband, Billy Riley, based upon "records of physical abuse and threats from Riley since the 1990s" and the fact that Riley had violated the terms of a protective order in the past (*West Kentucky Star*, 2013). An additional case in South Carolina noted that the defendant, Heather Sims, provided an account at pre-trial hearing of her husband's (the victim's) history of assaulting her when she was pregnant where he "grabbed her arms and showed her against the wall, banging her head" (Ropp, 2015). Nonetheless, direct blame tactics were prevalent and included: (1) focusing on the defendant's choice to leave the victim, terminate the relationship, or return to the victim; (2) the defendant's infidelity or sexual promiscuity; (3) the defendant's previous engagement in violence against the victim; (4) using negative language to describe the defendant. Several examples illustrate how these blame tactics were incorporated into newspaper coverage on the crimes.

Articles featuring stories including female defendants often framed the defendants' guilt around not leaving or returning to the victim who had a history of being abusive in the relationship. For instance, an article by the *Tampa Bay Times* titled "Police Say Woman Killed Boyfriend" included information from family members that Deshana Goss (the defendant) and Branden Wilde (the victim) had a long history of fights and that Goss's mother had tried to convince her to leave Wilde, but the two had always gotten back together (Pereaz & Valentine, 2010). *The Florida-Times Union* closely followed the timeline, trial, and appeal of the Marissa Alexander case, and one of the articles included information about the fact that Alexander had left and returned to her relationship with Rico Gray, the plaintiff (Hannan, 2014). Specifically, this article described how Alexander had been choked by Gray three months after they began dating, but she continued the relationship after Gray "cried a few days later" and had, at the time, excused Gray's behavior stating that "...he was sorry about it and that he just snapped" (Hannan, 2014). There were also two other incidents described in this article, one where Alexander was thrown into a closet by Gray and another where Gray "heat-butted her in the face" when she was five weeks pregnant. Alexander stated that she still had compassion for Gray and wanted to try and understand why he was so angry.

In other instances, the defendant alleged that the victim had abused them in the past, but no instances were ever officially reported to the police. In these cases, at trial and in newspaper coverage, this was used to impart responsibility onto the defendant for the incident. For instance, in a series of newspaper articles published by *The Sea Coast Echo* on the trial and appeal of Edna Mae Sanders, the Assistant District Attorney is quoted as asking Sanders why she did not report any instances of abuse against herself and her children to the police and why she remained in the

relationship (Bremer, 2008). Another article in the same publication provides another quote from the Assistant State Attorney: “police had never received any calls or reports of violence by Sherman Sanders, despite his wife’s claims. And although she claimed her husband had abused her, Fisher said, Edna Mae Sanders had ‘moved with him from one geographical location to another’ following Hurricane Katrina” (Welsh, 2009). Additionally, the series of articles in *The Orlando Sentinel* that covered the Anita Smithey case involves the direct tactic of blaming the defendant for relationship issues and for sexual promiscuity all the while focusing on the defendant never having really been a “victim”. This series of articles presented evidence and statements that tended to discredit the defendant. Specific examples include Smithey’s decision to move out and request a divorce from the victim; Smithey’s willingness to still meet her estranged husband for sex once per week and, according to her and witness testimony, play “date rape” and occasionally use “a knife as a prop”. Despite the fact that these articles presented Smithey’s arguments that she had been raped and physically assaulted the night of the incident, more of the emphasis was placed on police and prosecutor opinion that Smithey’s claim of self-defense was more an attempt to appear as a victim.

Lastly, several of the articles covering cases with female defendants used negative language or accounts to describe the defendant. The indictment against Edna Mae Sanders stated that her act of throwing or pouring oil on the victim was “eminently dangerous to others and evincing of a depraved heart, regardless of human life, against the peace and dignity of the state of Mississippi” (Bremer, 2007). In the Anita Smithey case, Robert Cline’s daughter stated that “She has no heart, at all...I’m sorry, but she doesn’t” (Stutzman, 2015).

Indirect tactics of blame were also included within these 90 newspaper articles that covered crimes committed by female defendants but as with direct victim blame tactics, these indirect tactics were often applied to the defendants, and not the victims in the cases. Specific examples of indirect tactics included: (1) associating the victim's behavior with physical disability or emotional instability; (2) emphasizing drug or alcohol abuse of the victim as contributing to the crime; (3) emphasizing that the defendant and victim had argued over finances; (4) positive language used to describe the victim. Several examples highlight how these particular tactics were included within the newspaper articles to provide context for blame. The *Daytona Beach News Journal* published several articles on the Cindy Gilliland case that included indirect blame tactics of substance use as well as financial difficulties. While these articles drew attention to the fact that several witnesses testified that Bradley Stradtman (the victim) was an alcoholic who abused Gilliland, these articles also brought attention to the fact that the couple was "bickering" about money and infidelity, and that Gilliland invited Stradtman to live with her so she could receive a "free ride" (Edwards, 2012). Stradtman was also characterized in a few of these articles by his father as being a "loving guy" who everyone liked. The case of Tamra Leasure, which was covered by the *Tampa Bay Times*, emphasized in each article that Arthur Tilley was an alcoholic who, according to Leasure's daughter, wanted to marry Leasure but was also becoming possessive and trying to control their lives. Also present within these articles was information that Leasure had attempted to terminate the relationship with Tilley, and it was suggested that she was seeing other men. At one point, Leasure presented statements that Tilley had placed a plastic bag over his head and threatened to end his misery over her. Yet, one of the articles ended with the statement from detectives who had asked

Leasure “how an unarmed, 5-foot-6 man who had been drinking heavily was going to kill her”, to which “Leasure said she did not know” (Wang, 2011).

Several articles included statements that indirectly blamed the defendants by supplying statements from prosecutors, detectives, and family members that attest to the good character or nature of the victims. For instance, even though A’Kara Edwards was granted immunity under the South Carolina “Stand Your Ground” law, articles in *The Post and Courier* included statements from the prosecutors that Whipple had never raised his hand to Edwards and that Edwards’s decision to go outside and confront Whipple escalated an already volatile situation that led to Whipple’s death. Furthermore, Whipple’s mother was quoted that “Edwards’s push for immunity mischaracterized her son as a villain. His alleged behavior was out of character and that he had been raised to never hurt a woman” (Knapp, 2015). In the Smithey case reported by *The Orlando Sentinel*, Robert Cline was characterized by his children as a “hero and a loving single father who baked cupcakes and fixed his daughter’s hair” (Stutzman, 2015). Lastly, in the Edna Mae Sanders case, the Deputy Sheriff noted about the victim that “He seemed like an honest man. I had no reason not to believe him” (Bremer, 2008).

Positive language was occasionally used to characterize the defendants, and in 10 of the 90 articles the tone was even empowering for defendants who were deemed to be victims of domestic violence or intimate partner violence. The mother of Heather Sims stated that her daughter was “cheerful” and “life-loving”...and that she had been “beaten down by her abusive husband to the point that her ‘shining light had been taken away’” (Ropp, 2015a). An article published by the *Florida-Times Union* following Marissa Alexander’s plea quoted a professor of sociology from the University of North Florida: “Many people can resonate with her story

because she appeared to be getting such a raw deal with the possible sentence of 60 years....Her story is a perfect exemplification of blaming the victim” (Hannan, 2015). Another article in the *Florida Times-Union* titled “Marissa Alexander stands for us all” provides a quote from an activist on Alexander: “Alexander represents millions of women who every day face continued violence from a brutal partner, who do not want violence but must do something to defend themselves” (Gilbert, 2013).

It is important to note as well that male victims in these cases were sometimes directly and indirectly blamed in these articles, but the tone here tended to focus on the alleged or documented histories of their perpetration of abuse. The *Florida-Times Union*, for example, stated that Alexander had “no criminal history” prior to being arrested for firing a shot at Rico Gray, while Gray had past arrests for abusing Alexander as well as three other women with whom he had marital or dating relationships (Hannan, 2014e). Another series of articles from *The Tampa Tribune* and the *St. Petersburg Times*, which covered the case of Lillian Fahrer, included a quote from the Assistant State Attorney stating that “He [Robert Fahrer] had a history of being violent toward her [Lillian Fahrer]” (Leskanic, 2009) and that “There were previous cases in which Robert Fahrer was the culprit and Lillian Fahrer was the victim” (Moorhead, 2009).

There were very few examples in these articles, however, of other direct or indirect methods of victim blame. One article covering the case of the defendant, Julia Surbaugh, included information that the state theorized that the shooting occurred as a result of Michael Surbaugh’s (victim) intention to leave his wife to be with his new girlfriend (*State Journal*, 2015). There was one brief mention at the end of an article in *The Orlando Sentinel* that covered

the Anita Smithey case of the fact that Robert Cline (the victim) had been sending suggestive texts to another woman the night that he was killed (Stutzman, 2014c). There were also a few instances of indirect victim blame where the articles would focus on the distress that the defendant experienced after committing the crime. In the Gilliland case, neighbors described her as “wailing and sobbing” after stabbing Stradtman and that “It was deep-seated guttural pain from her gut. It wasn’t ‘Oh (no), I’m busted;’ it was horrible. It came from her soul... You cannot fake that” (Longa & Gant, 2010). Another article quoted the attorney of A’Kara Edwards who stated that “She [Edwards] has a lot of remorse of what happened...It’s something that she has to live with” (Knapp, 2015c).

Tone of Article

Analyzing the tone of the article is important to determining the frame that reporters are using to contextualize the circumstances of the case and assign culpability to the defendant and/or victim. The first part of this analysis coded the titles of the articles as either (1) neutral; (2) blaming the victim; (3) blaming the defendant; (4) victim empowering. Across all 116 articles, 23 (20%) of the titles were coded as “neutral”. The “neutral” category meant that the titles mentioned the timeline on a trial without naming the defendant or victim, or was focused generally on the law. Examples include “Honeymoon ends in attempted murder charge” and “Local stabbing cases may shape ‘stand your ground’ defense”. In addition, 8 articles had titles that implied victim blame in the title and 75 articles had titles that implied defendant blame. Examples include “Anita Smithey gets 40 years for fatally shooting estranged husband” and “Pasco jury convicts Michael McAdams of first-degree murder in the deaths of wife, new

boyfriend”. Lastly, a group of articles with female defendants had titles that were coded as “victim empowering”. Many of these articles were in a series that covered the Marissa Alexander trial, and the content was structured around activism and being a survivor of domestic violence. Examples of these titles include “Marissa Alexander stands for us all” and “Black women deserve justice as well”.

While the tone of article titles may initially suggest that the content will be purely factual, victim blaming, defendant blaming, or victim empowering, this is not always the case. Thus, the content of each article was coded to fit one of four categories: (1) factual; (2) blames the victim of the case; (3) blames the defendant of the case; (4) blames both the victim and the defendant; (5) empowers the victim of domestic violence. Table 11 shows frequencies and percentages for each category by the gender and race of the defendants and victims. Factual articles included content that did not use direct blame tactics to describe the behaviors and choices of the defendant and/or the victim. Instead, these articles covered a series of events leading up to a trial or appeal and only the facts of the case with few, if any, quotes or narratives from sources such as detectives, attorneys, neighbors, or family members. This type of content was not commonly found among newspaper articles covering both male ($N=2$, 8%) and female ($N=9$, 10%) perpetrated incidences. In terms of the race of the defendant, the factual tone was used in an equivalent number of newspaper articles reporting on cases with White defendants ($N=6$, 9%) and non-White defendants ($N=5$, 10%).

Articles categorized as blaming the victim included more direct or indirect methods of blame focused on the complainant rather than the defendant, including statements from sources that reified that the complainant was assigned responsibility for the incident. Few newspaper

articles primarily directed the blame onto the victim of the crime. Among articles covering cases involving male victims or complainants, only 8% of the included a tone that blamed them for precipitating the crime; similarly, only 11% of the articles covering the proceedings of cases with female victims or complainants had a tone that was exclusively that of victim blame. In addition, an equivalent percentage of newspaper articles covering the cases on White ($N=7$, 10%) and non-White defendants ($N=5$; 10%) included the tone victim blame. More commonly, the newspaper articles had a tendency to use a tone that either exclusively blamed the defendant for the crime ($N=41$; 33%) or blamed both the defendant and victim (or complainant) equally for the crime ($N=45$; 36%). Among those articles focusing on male-perpetrated crimes, 11% implied blame towards the defendant and 11% implied equal blame towards the defendant and victim. This pattern was also consistent among articles that covered cases with female defendants, where one-third of the articles included a tone that blamed the defendant and 38% blamed both the defendant the complainant for precipitating the crime. When the tone of the newspaper articles are examined by the race of the defendant, similar patterns emerged. With White defendants, the tone of the articles was equally divided between blaming the defendant ($N=27$) and blaming both the defendant and victim ($N=27$) for the events leading up to the incident. With non-White defendants, slightly more of the newspaper articles assigned a tone of blaming both the defendant and the victim for causing the incident ($N=18$) than assigning this blame solely to the defendant ($N=14$).

Lastly, articles that were coded as empowering for victims of intimate partner violence included an overall frame that discussed the incident in connection with gender and/or racial

inequality in the legal system as well as the double-victimization of survivors by the legal system when claiming self-defense against their abusers. Sources cited in these articles included advocates, social activists, and occasionally an attorney who specialized in defending survivors of domestic violence in the legal system. All of the cases that used this tone were covering cases involving female defendants, and all but one of these articles focused on a case that involved a non-White defendant. Indeed, most ($N=6$; 86%) of this group of articles were found in a series from *The Florida-Times Union* covering the Marissa Alexander trial, appeal, and plea deal.

Tone: Gender and Race

Since one of the objectives of this study was to examine how the news media portrays victims and survivors of domestic violence based upon their gender and race, any direct mention of the gender and race of either the defendant or victim was noted while coding the articles. While the preceding analysis demonstrated that intimate partner violence victims were often directly and indirectly blamed for contributing to their own victimization, none of the articles included terminology that would be interpreted as demeaning to victims of intimate partner violence based upon their gender or racial identification. On a positive note, some of these articles specifically linked gender and race with current accusations that Stand Your Ground laws are applied at the expense of women and individuals of color. For instance, Ropp's (2015e) article includes the following statement which was taken from an interview with the defendant's friend: "...Heather's conviction has set woman's [sic] rights back 50 years, sending the message to men that it's okay for them to treat their wives any way they want to, but woe to any woman who fights back". As an additional example, Broward (2012e) included a statement given by

domestic abuse attorney Michael Dowd that the Marissa Alexander case is disturbing, sends a “terrible message to battered women”, and was “one of the worst injustices against an abused woman that he has seen in his 30 years of practice”. Lastly, Gilbert (2013) incorporated information about race and domestic violence into her article on Marissa Alexander. Citing an attorney as her source for this information, Gilbert (2013) emphasized that “...while men commit 95 percent of abuse, women are 20 percent of arrestees. The inequity is especially true for Black women” as well as that “African-American women are twice as likely as White women to be convicted for murdering abusive husbands. Myths about Black women being ‘domineering’ or ‘aggressive’ can keep judges or jurors from believing a Black woman genuinely acted in self-defense”. Although these types of messages were the exception among the articles referenced in this study, they nonetheless frame the issue of intimate partner violence in connection with gender and racial inequality in the legal system, creating a space where readers can begin to critically evaluate this law rather than simply focus their attention on the unusualness of the crime or blaming the victim of intimate partner violence.

Table 11: Article Tone by Defendant Race and Gender

Category	Female Defendants (N=90)		Male Defendants (N=26)		White Defendants (N=68)		Non-white Defendants (N=48)	
	Frequency	Percentage	Frequency	Percentage	Frequency	Percentage	Frequency	Percentage
Factual	9	.10	2	.08	6	.09	5	.10
Blames the Victim	10	.11	2	.08	7	.10	5	.10
Blames the Defendant	30	.33	11	.42	27	.40	14	.29
Blames Both the Victim and Defendant	34	.38	11	.42	27	.40	18	.38
Empowers Domestic Violence Victims	7	.08	--	--	1	.01	6	.13

CHAPTER EIGHT: DISCUSSION AND CONCLUSIONS

The past decade has witnessed significant and controversial changes to self-defense law in the United States. Although the principle of “standing one’s ground” dates back to the early twentieth century in relation to jury instruction on self-defense, this concept has gained notoriety over the past ten years as states have begun to adopt formal Stand Your Ground statutes that eliminate the duty to retreat. Highly publicized cases such as *State v. Zimmerman* (2013) and *State v. Alexander* (2012) introduced controversy regarding the purpose of Stand Your Ground laws. Although the Florida Stand Your Ground law was ultimately not used as a defense in *State v. Zimmerman* (2013) and was also denied as a defense at pre-trial hearing in *State v. Alexander* (2012), these cases have stimulated conversation on the overall necessity of this law and other Stand Your Ground laws as well as how these laws should be applied during criminal proceedings. Of additional importance, these particular cases have also reintroduced the possibility that certain groups of individuals who have been historically disenfranchised within the criminal justice system based upon their gender, race, and/or social class remain limited by Stand Your Ground laws which were paradoxically designed with the intention of expanding personal protection. Where this has been particularly evident is with cases of intimate partner violence. For the past four decades, scholars and advocates have remarked at the way in which the Castle Doctrine, in particular, largely excludes intimate partner violence victims from being able to use self-defense against their abusers due to the shared right to property (Fineman, 1990; Suk, 2008). Despite a breadth of theoretical information and case studies on the shortcomings of

the Castle Doctrine and self-defense law for intimate partner violence victims, Stand Your Ground laws have merely encompassed these problems rather than addressed them.

The purpose of the current study was to provide new empirical evidence to this body of research which has identified self-defense law to be historically structured at the expense of intimate partner violence victims. Indeed, no known study to date has examined how Stand Your Ground laws have specifically been applied in cases of intimate partner violence. This study was designed to address this limitation in the empirical research. Evidence was gathered through an in depth analysis of Stand Your Ground statutes and court cases. The overarching goal of this analysis was to reveal important trends in language, case characteristics, and case outcomes for victims of intimate partner violence. Furthermore, newspaper coverage of these cases was analyzed to understand the ways in which the media interprets Stand Your Ground laws and frames intimate partner violence. Determining the efficacy of Stand Your Ground laws in cases of intimate partner violence is becoming increasingly important, especially when there is the opportunity for policy reform.

Review of Findings

Self-defense Statutes

The first research question endeavored to understand the similarities and differences across Stand Your Ground statutes: *Since Florida has served as a model for other statutory Stand Your Ground laws, are there more similarities than differences across states that have this legislation? Also, since the right to use self-defense has historically not been extended to cohabitants, do Stand Your Ground laws contain certain conditions under which intimate*

partner violence victims must prove reasonable fear to use deadly force? It was expected that Florida, as the first state to adopt a Stand Your Ground law through formal statute in 2005, would serve as the prototype for twenty-two other states that subsequently incorporated the Stand Your Ground language through statutory law. Florida is considered to have one of the most expansive Stand Your Ground laws (American Bar Association, 2015), and this is the case because the law eliminates the duty to retreat, presumes that the use of deadly force is lawful, and grants immunity from arrest, criminal prosecution, and civil prosecution. Alabama, Kansas, Kentucky, and Oklahoma were identified through the current analysis as having Stand Your Ground legislation that was equally expansive, and this can be attributed to the fact that the language of these statutes is nearly identical to Florida's statute. Alaska, Indiana, Montana, Nevada, and New Hampshire, while containing elements of Florida's Stand Your Ground law within their own statutes, are considered to be among more restricted Stand Your Ground laws in the respect that they do not presume that the use of deadly force is lawful and also do not grant immunity from arrest or criminal prosecution.

The other part of this research question focused on whether other states' Stand Your Ground statutes would be as restrictive as Florida's when intimate partner violence is considered. With respect to intimate partner violence, Florida's Stand Your Ground statute provides that the presumption of "reasonable fear of imminent peril of death or great bodily harm" does not apply when "the person against whom the defensive force is used or threatened has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person" (Fla. stat. 776.013). It was expected that

other states that adopted Stand Your Ground laws would contain this same exemption, which has traditionally been a component of Castle Law. Only eight other states were found to have incorporated this exemption into their statutes. However, the fact that fourteen states do not mention this presumption should not be misinterpreted as being positive for intimate partner violence victims. Instead, the fact that these statutes do not address intimate partner violence can translate into a varied and inconsistent application of the law when cases of self-defense between married, dating, or estranged partners are processed in the courts. Only four states (Arizona, Georgia, Kentucky, and Michigan) were found to incorporate specific protections for intimate partner violence victims under their Stand Your Ground statutes. These findings are encouraging and can serve as examples for how other states can modify the language of their Stand Your Ground statutes. However, these protections were not apparent in any of the court cases from Arizona, Georgia, Kentucky, and Michigan included within this study where a defendant claimed to have used self-defense to protect themselves from ongoing abuse.

Self-defense Cases

The second research question was devised to explore possible gender disparities in the intent and application of Stand Your Ground laws to cases of intimate partner violence: *Since studies show that women who are victims of intimate partner violence are more likely to use violence to defend themselves against their abusers, are more women than men defendants in intimate partner violence cases involving Stand Your Ground?* Based upon decades of research that show women to be victims of intimate partner violence at rates that far surpass men (Black et al., 2011; Catalano, 2014), it was anticipated that more women than men would be defendants

in these cases. This expectation was not supported by the results as there were more male defendants than female defendants in the cases which were analyzed. Nonetheless, some striking differences were observed between male and female defendants related to the characteristics of the crime and sentencing outcomes. The third research question (*Will defendants who use a firearm in self-defense endure harsher sentences compared to defendants who use another type of weapon or no weapon?*) and fourth research question (*Based upon studies demonstrating clear gender disparities in the intent and application of self-defense law, are more women than men sentenced for crimes committed against their abusers?*) aimed to understand whether sentencing outcomes were different based upon the gender of the defendant, and whether weapon use factored into the severity of the sentence. The analysis of court cases revealed that cases with female defendants more commonly included the use of firearm (and a weapon in general), the fatality of their victim, and felony charges for murder, manslaughter, or reckless homicide. Cases including male defendants were far different, with most cases involving no weapon use or fatalities of their victim, and charges that included misdemeanor or felony battery or assault. These results are consistent with the research on self-defense, where weapons are often used by female victims to equalize force between themselves and their abusers (Catalano, 2013; Miller, 2001). These findings are also consistent with the literature on intimate partner homicide, where weapon use is more common among male intimate partner victimizations (Catalano, 2013).

The fifth research question explored whether non-White defendants would be subject to longer sentences than White defendants: *Based upon literature that argues the legal system to be racially biased in terms of profiling, arrest, and sentencing, will non-White defendants be subject to longer sentences than White defendants?* Findings from the current analysis demonstrate that

there are clearer implications regarding the applicability of Stand Your Ground laws based upon the gender rather than the race of the defendant. Defendants in intimate partner violence cases who were non-White were not subject to harsher sentences under Stand Your Ground laws when compared to their White counterparts. However, slightly more non-White defendants were charged with a felony compared to White defendants. Additionally, more non-white defendants had prior charges for domestic violence compared to White defendants. This documented history of violence was, in some instances, a pivotal factor in the judge's decision to grant the defendant immunity for using self-defense. Indeed, most defendants who were granted immunity were non-White females.

The sixth research question attempts to understand trends in dismissals or guilty verdicts, and whether appeals were successful: *Will defendants who are criminally charged in intimate partner violence cases have a greater chance of being found guilty in lieu of a Stand Your Ground defense? Are guilty convictions that are appealed largely unsuccessful in this context?* Among the cases that were included for analysis in this study, there were only 7 instances where immunity was granted or charges were dropped by the prosecution. Most defendants ($N = 50$; 88%) who were criminally charged in these cases were found guilty. In addition, while the defendant filed an appeal in 45 of the cases included in this study, over half of the motions were denied. There are also important patterns to consider with case outcomes based upon the defendant's gender and race. Across all cases more men than women were found guilty. This outcome may indicate a positive effect of the Castle Doctrine, where men who experience retaliation from their abused partners are not considered "self-defense victims" under the law. However, women who were found guilty in these cases received longer sentences than men.

Indeed, the decision of the court to dismiss a Stand Your Ground defense and sentence some of these women to lengthy prison terms, especially when there was a clear history of intimate partner violence perpetrated by the complainant, only magnifies our legal system's misunderstanding of the causes and consequences of intimate partner violence. Yet, of the few cases where immunity was granted or charges were dropped by the prosecution, the majority of defendants were non-White women. This particular finding should not be misconstrued to mean that non-White women who defend themselves are offered a greater degree of protection under Stand Your Ground laws. Indeed, two of the cases where immunity was granted occurred in South Carolina where there is currently a vibrant debate occurring between prosecutors and judges as to whether the state's Stand Your Ground law should apply to cases of domestic violence, and whether the specific language of "any place" a defendant has "a right to be" extends to the home (Knapp, 2014). Furthermore, while all defendants, regardless of gender and/or race, are largely unsuccessful in having their convictions overturned through appeal, more White defendants has had their convictions reversed compared to non-White defendants.

The seventh research question was specific to which circumstances led to an order granting immunity: *Although Stand Your Ground laws eliminate the duty to retreat, will the opportunity for escape be factored into whether defendants are granted immunity under the Stand Your Ground law?* Among those cases where immunity was granted, the most common theme was that the defendant had been prevented from leaving by the victim of the crime, which was sufficient evidence to prove reasonable fear. In addition, the physical evidence in these cases demonstrated other important things about the defendant and the victim of the crime: (1) the defendant was not the primary aggressor; (2) the defendant never pursued the victim of the

crime; (3) the victim of the crime had attacked the defendant. These overarching findings indicate that an intimate partner violence victim's decision to defend themselves must be a rather immediate response in order for Stand Your Ground to be legally recognized. Any measure of self-defense that occurs following the arbitrary "ending" of the violent incident is viewed as inconsistent with a victim who feels that his or her life is in imminent danger. Again, this finding demonstrates a misunderstanding of intimate partner violence victimization among the legal system. Many intimate partner violence victims who attempt to leave their abusers are threatened with continued violence and even death (Campbell, Glass, Sharps, Laughon, & Bloom, 2007). Even though one violent encounter has ended, it is entirely possible that self-defense is a response to another equally violent encounter that occurs only minutes later or to a cycle of emotional and physical abuse that has continued for years.

Media Coverage

The gender and race of the defendant and victim are important variables to consider not only in self-defense case processing, but also in connection with media coverage of these cases. The content and proceedings of these cases are most accessible to the general public through various media outlets. Therefore, common misunderstandings about Stand Your Ground laws or the context of a particular case may be perpetuated among the public based upon how newspapers, in the instance of this study, are presenting information. The final two research questions were created to understand the tone and specificity of newspaper coverage of the self-defense cases included in this analysis. The first question was: *Although newspaper articles share factual information about Stand Your Ground intimate partner violence cases, do they*

misrepresent these cases by eliminating many of the relevant details related to the wording of Stand Your Ground laws and empirical studies on intimate partner violence? Less than 5% of the 116 articles directly quoted from the state's Stand Your Ground statute, and none of the articles covering cases in states where there was a requirement for intimate partner violence victims to have an injunction to prove reasonable fear actually cited this part of the statute in their articles. Also, none of the articles provided a legal definition of domestic violence or a definition of domestic abuse taken from, for instance, the U.S. Department of Justice (2015). Even though the terms "domestic violence", "intimate partner violence, or "abuse" were mentioned in just over one-quarter of the newspaper articles, they were incorporated into the stories in such a way that it was assumed the reader should know what types of behaviors are encompassed under these terms. The absence of this information is problematic because it directs attention away from the requirements of the law in the context of intimate partner violence as a major public health issue, and toward the role of the defendant and the victim in precipitating the crime. This construction leads readers away from a critical analysis of the law and towards more superficial blame tactics that may result in gross misinterpretations of Stand Your Ground laws and misunderstandings of intimate partner violence.

The second research question was created to understand victim blame tactics: *Do newspaper articles focus on the actions and responsibilities of women in the context of the trial, regardless of whether she is the defendant or the plaintiff? Are the histories and actions of men presented, but minimized?* Along with these articles only having marginally included specific information about Stand Your Ground laws or intimate partner violence, these articles also tended to assign at least part of the blame on the victim of intimate partner violence for

instigating or aggravating the incident. This was the case when the actual victim of intimate partner violence was the defendant who had claimed self-defense in the assault or murder of their partner, and also evident when the victim of intimate partner violence had been assaulted or killed by their abusive partner. Consistent with previous studies on media coverage of intimate partner homicides (Bullock & Cubert, 2002; Meyers, 1997, 2004; Taylor, 2009), direct blame tactics included using negative language to describe the intimate partner violence victim, focusing on the victim's choice to remain with her or his abusive partner or return to the abusive relationship, and including information related to the victim's actions which placed a strain on the relationship including asking for separation or divorce, sexual promiscuity, and infidelity. Also consistent with Taylor's (2009) study, indirect blame tactics included imparting sympathy for the abuser. This included mention of the abuser's use of alcohol or narcotics, psychological or emotional difficulties, and using positive language to describe the abuser. In addition, financial difficulties were mentioned in a few articles that placed equal blame on the victim and abuser.

The aforementioned results were expected in respect to the content of the articles, but another part of the analysis included an investigation of the overall tone of the articles. Here, it was found that most of the articles included information about the defendant and the victim – regardless of gender or race – that equally blamed each for contributing to the violence in some way. Even though these articles included victim blame tactics, there were also instances where the defendant (whether claiming to be an intimate partner violence victim or not) was also directly blamed through, for example, the use of negative language, emphasis on prior criminal charges, and engagement in mutual fights. Contrary to expectation, this histories and actions of

men were not minimized in these articles, especially when the defendant was male. Only one case with a male defendant involved his alleged history of abuse (*State v. Hunter*, 2015); the remaining cases involving male defendants included a claim of self-defense for an incident that occurred outside of the context of an ongoing cycle of abuse perpetrated by the victim(s) named in the case. Nonetheless, the actions of the defendant typically focused on their prior history of committing violent crimes and their behaviors following the crime in question that demonstrated callousness toward the victim (e.g. not immediately calling 911, covering up the crime, meeting other women, etc.). This finding was different from the results that Bullock and Cubert (2002) found among their analysis of self-defense cases, where perpetrators of intimate partner homicide were portrayed as victims themselves or suffering from some type of impairment. While these elements were certainly present in newspaper coverage of male-perpetrated cases of fatal and non-fatal intimate partner violence, fewer male defendants were framed as helpless victims in the articles included within this study.

One finding that was accounted for in coding newspaper articles but not articulated as an original research question in this study pertained to victim empowerment in the media. The results from the content analysis of the newspaper articles supported previous research by Meyers (1997) that the representation of women who fight back to protect themselves against abusers is associated less with the abuse and more with whether she is framed as culpable for having provoked the violence in some way. Notably, however, there were seven articles which used a frame of victim empowerment and also directed attention to how intimate partner violence disproportionately affects women generally, and specifically women of color. Most of these newspaper articles were following the Marissa Alexander trial, and the frame of victim

empowerment was due to campaigns initiated by activists and anti-domestic violence organizations, censure of the case by the NAACP, and Jesse Jackson publicly speaking out against the arrest, prosecution, and sentencing of Alexander (Broward, 2012e; Treen, 2013). This frame of victim empowerment is certainly positive in the respect that it can encourage a discussion about intimate partner violence and the criminal justice system that goes far beyond superficial blame tactics. However, the amount of coverage devoted to the Marissa Alexander trial also raises interesting questions about how the news media attends particularly to the issue of race. Similar to Andrus's (2012) finding that race served as the primary reason that the media reported so broadly on *State v. Zimmerman* (2012), this study also concludes that the race of Marissa Alexander and Rico Gray served as the impetus for media outlets to report upon this case to such a great extent. The sheer volume of newspaper articles published on this case far surpassed those of other cases in this study: out of the 116 articles, 22 were related to *State v. Alexander* (2012) or *Alexander v. State* (2013). Interestingly, however, the *State v. Alexander* (2012) and *Alexander v. State* (2013) trials did not have a temporal effect on the newspaper coverage of other Stand Your Ground intimate partner violence cases; this appears to be the case due to the fact that many of the other trials had occurred prior to or in 2012 when the issues surrounding Marissa Alexander's arrest and prosecution were brought to light through various national and local media outlets. In addition, the amount of articles in this study that were published on women who committed crimes also speaks to how gender becomes a more important variable of interest for the media when reporting on self-defense incidents compared to self-defense law where more neutral language is used.

Policy and Research Implications

The findings from this study present several implications for current research and policy on self-defense, intimate partner violence, and Stand Your Ground laws. This study has provided new empirical evidence to an existing body of literature which has identified self-defense law to be structured at the expense of intimate partner violence victims. The results of the statute analysis underscored the fact that Stand Your Ground laws, while generally considered more broad-reaching in their protections, create a standard that is more restrictive for intimate partner violence victims. Nine statutes explicitly require victims of intimate partner violence to obtain an injunction, which serves as a legal standard by which reasonable fear of an imminent threat can be identified when two individuals share property rights. However, most victims do not obtain an injunction because doing so would significantly increase their risk of severe abuse or lethality (Sheehan, Murphy, Moynihan, Dudley-Fennessey, Stapleton, 2015; Stoeber, 2014). Indeed, only two defendants in this study had an active injunction against their abuser during the time that the violent incident occurred. When Stand Your Ground laws were proposed and adopted through formal statute, there was an opportunity to address this concern. Unfortunately, however, Stand Your Ground laws merely codified this language without acknowledging how it may affect intimate partner violence victims. What is particularly concerning in terms of policy is that sponsors of Stand Your Ground laws have, on few occasions, noted that domestic violence was not considered in the proposals for the legislation. For instance, with three cases of intimate partner violence having resulted in immunity in the past two years, Solicitors and judges in South Carolina have been debating the intent and

language of the state's Stand Your Ground law. Representative Murrell Smith (R-South Carolina) stated that domestic violence was not a situation which was considered when he introduced the Stand Your Ground legislation in 2005, but that the application of this law to self-defense cases involving domestic violence is at the discretion of the judge (Knapp, 2014). However, Assistant South Carolina Solicitor Culver Kidd stated in an interview with *The Post and Courier* (Knapp, 2014) that the legislature's intent was to "provide law-abiding citizens greater protections from external threats in the form of intruders and attackers"...and that "applying the statute so that its reach into our homes and personal relationships is inconsistent with (its) wording and intent". As an additional example, Florida, which has served as a standard for other states' Stand Your Ground laws, does not allow co-habitants to use this law against one another. This co-habitant exception includes force that would be used by a victim of intimate partner violence against their abuser. According to Franks (2014), "The law states that the presumption of reasonableness in using deadly force does not apply against a co-habitant against whom there is no order of protection or no contact. That is *not* the same thing as stating that there affirmatively is a presumption of reasonableness in using deadly force against a co-habitant against whom one does have an order of protection or no contact. The benefit here is at best ambiguous." (p. 1115). Here, Franks (2014) argues that even when a victim has an injunction, the Florida Stand Your Ground law does not guarantee any specific protection. These particular examples support the need for a critical evaluation of how Stand Your Ground laws have institutionalized norms about intimate partner violence, and when the use of self-defense is deemed "appropriate" between a victim and their abuser. The current debate in South Carolina

has also provided an opportunity, for instance, to include the perspectives of survivors rather than just those with legislative power.

Another implication of this study relates to possible gender and racial bias under Stand Your Ground laws. Several law reviews have shown how Stand Your Ground laws have contributed to a gender divide in case processing by exploiting the image of women as helpless victims and promoting the use of violence by men (Franks, 2014; Jones, 2013). Furthermore, law reviews have also emphasized how Stand Your Ground laws have become equated with racial injustice that has historically plagued the U.S. criminal justice system (Gruber, 2014). When data from the analysis of court cases is considered alongside the language of the Stand Your Ground statutes, it becomes clear that women are more likely than men to be marginalized under these laws. More women who were defendants in these cases claimed self-defense in the context of long-standing abuse, while more men who were defendants claimed self-defense following an instance of violence not associated to a cycle of abuse. These differences are consistent with research on self-defense that demonstrates different motivations for women and men to use self-defense (Hamberger & Guse, 2005). What was more striking about these results in regard to the criminal justice system, however, is that many of these women are serving longer sentences than men. There are several factors that contribute to this disparity that need to be addressed through more comprehensive policies on self-defense in the context of intimate partner violence. First, the use of a weapon, and particularly a firearm, was higher among female defendants across criminal and appellate Stand Your Ground cases in this study. Indeed, organizations such as the NRA and ALEC have sponsored Stand Your Ground laws, and the “safety” of women has become central to pro-gun campaigns that further political goals (Carlson,

2014). Specifically, the NRA claims that women can empower themselves through firearm ownership, encouraging them not to become victims of violence. At the same time, the Stand Your Ground legislation that this organization promotes has not even marginally protected the legal rights of women to defend themselves against what national data (Catalano, 2014) shows are their most likely attackers: intimate partners. Second, and undoubtedly a function of women's tendency to use weapons in self-defense, fatalities were higher among cases involving female defendants. As a result, women whose self-defense claims were rejected by the judge or jury were sentenced to longer prison terms. These findings lend support to the theory that the courts are comparing women's use of self-defense to a male standard (Jackson, 2015), eschewing research on intimate partner violence that shows, for instance, that women are more likely to kill their partners in response to a physical attack (Felson & Messner, 1998). To illustrate this point, Battered Woman Syndrome was not widely used as a defense strategy by female defendants even though histories of abuse were common. However, Stand Your Ground laws are premised around a standard of reasonableness that comes with assessing the imminence of a threat to one's safety whereas Battered Woman Syndrome is a response based upon psychological trauma. The latter is not compatible with the traditional tenets of self-defense law, and women who claim to have "stood their ground" in self-defense against their partners certainly do not correspond to image of passivity associated with Battered Woman Syndrome. More research needs to be done to compare cases of intimate partner violence where these two defense strategies are used at different points in case processing (e.g. pretrial hearing vs. jury trial). Also, those advocating for change to Stand Your Ground laws need to critically evaluate and question why the language of these statutes continue to prevail to the detriment of intimate partner violence victims. The

motivation to maintain exemptions for intimate partner violence victims under Stand Your Ground laws may certainly be political. For instance, over half of the Stand Your Ground statutes were signed into effect by governors identifying as Republican (see Chapter 5, Table 2). The conservative base has been largely responsible for supporting initiatives related to the expansion of Stand Your Ground laws, such as the “warning shot” amendment in Florida (HB 227), while Democratic governors have supported proposals to scale back or eliminate this law (Jones, 2016). Along similar lines, the political motivations may also create a regional effect on the acceptance of these exemptions for victims of intimate partner violence. Indeed, there are regional differences in social policy related to self-defense, such as firearm regulations, the duty to retreat, protection of the home and property, as well as intimate partner violence (Cohen, Nisbett Bowdle, & Schwarz, 1996; Nisbett & Cohen, 1996; Vandello & Cohen, 2003). For instance, states located in the south (where the majority of Stand Your Ground statutes are found) tend to allow individuals to use violence as a means of protecting themselves, and are the least likely to have mandatory arrest laws for intimate partner violence. Future research should examine these political and/or regional trends in connection with Stand Your Ground intimate partner violence court cases.

Within this study, the gender disparity was far greater than the racial disparity in terms of characteristics of the crime, criminal charge, and case outcomes. However, when gender and race intersect, non-White women are equally as disadvantaged under this law as White women. Race is a complex variable that has been of foremost concern among the few empirical studies conducted on Stand Your Ground laws to date. Some studies have found that defendants are more likely to be convicted when the victim is White versus non-White (Ackermann, Goodman,

Gilbert, Arroyo-Johnson, & Pagano, 2015), and that White defendants who claim self-defense against Black victims are more likely to be acquitted in Stand Your Ground states (Roman, 2013). Another study, though, found that White and non-White defendants are convicted at similar rates when Stand Your Ground immunity is denied (Martin, Hundley & Humberg, 2012). In spite of these findings, defendant and victim race must not be discounted as important variables in Stand Your Ground case processing in general, but especially when intimate partner violence is considered. The fewer number of Stand Your Ground intimate partner violence cases in this study involving non-White defendants may at first seem surprising, but social and structural factors that affect racial minorities might lead to underreporting of both intimate partner violence and the use of self-defense or retaliation by victims. Crenshaw (1991) discusses how women of color who are victims of intimate partner violence are less likely to independently access formal support agencies or be reached by these agencies' methods of communication; more likely to be uncooperative with prosecutors and have their cases dropped by the courts; and less likely to have their cases result in a conviction if they do go to trial. Other authors have reiterated that women of color will often forgo contacting law enforcement about their victimization in lieu of protecting their communities or partners from stigmatization and biased treatment (Wright, 2000). More research needs to investigate the possible connection between Stand Your Ground laws and racial demographics of the victim and defendant before substantive conclusions can be made regarding the effect of these laws, for example, on the homicide or conviction rates for individuals of color. Within these investigations, intimate partner violence also needs to be a variable that is accounted for in the incident and case outcomes.

Gender and race also factor prominently into news coverage of intimate partner violence, and the results of this analysis have implications for research and practice. Invariably, the news media has served an important role in what the public has come to know about Stand Your Ground laws. Based upon the findings from this study, the overarching issue with the news media's approach is that their coverage is void of any meaningful discussion about Stand Your Ground laws or the Castle Doctrine. When these laws were mentioned in newspaper articles, the terms "reasonable fear", "imminence", and "necessity" were occasionally referenced as requirements that the defendant needed to prove in order to claim self-defense. In addition, while the newspaper articles framed their coverage around the severity of abuse and the recounting of the incident from sources (e.g. law enforcement, attorney, defendant, victim, witness), the focus on this coverage was directed toward the "spectacle" of the violence rather than on creating an actual understanding of intimate partner violence. The news media has been heavily criticized for continuing to use ambiguous language to describe intimate partner violence, assigning responsibility to the victim, and for using a tone that portrays intimate partner violence or intimate partner homicide as isolated tragedies rather than pervasive issues that are rooted in inequality (Bullock & Cubert, 2002; Lamb, 1991; Plaisance & Skewes, 2003; Potter & Kaepler, 1998). The latter would contribute to a more critical evaluation by making the information about Stand Your Ground laws and legal proceedings more accessible to the public through news reporting, rather than restricted to those who have the ability to access these documents through databases or personal sources. The way in which these articles are being structured is clearly not intended for the purpose of educating the public about the law, which is evidenced by the vast amount of misinformation that can be found on personal blogs and

websites through simple internet searches. The orientation of the media will likely not change, however. Therefore one of the implications of this study is to demonstrate the importance for research on policy issues that affect intimate partner violence victims to be made more widely available through reliable, yet easily accessible mediums to provide a more complete picture of the issues.

Strengths and Limitations

This study is the first known examination of how Stand Your Ground laws have been applied to cases of intimate partner violence over the past ten years. Several articles have critically evaluated the limitations of Stand Your Ground laws when applied to intimate partner violence victims (Catalfamo, 2007; Coker, 2014; Franks, 2014; Johnson, 2015; Suk, 2008), and these evaluations inspired the current study's endeavor to gather information from statutes and court cases to illustrate where the application of Stand Your Ground laws is particularly deficient. Through multiple analyses, the results of this study provide initial evidence of patterns related to the characteristics of the defendant and victim, characteristics of the crime, and adjudication; the results of the court cases also underscore that Stand Your Ground laws, although clearly being cited by victims of intimate partner violence as a possible legal defense, were not designed to protect this category of victims. There is a pressing need for more research in this area and for other scholars from various fields to collect more information through arrest reports and court transcripts regarding how the law is being applied and the differences between cases resulting in guilty verdicts versus immunity. This study limited the collection and analysis of court cases to those states that have statutory Stand Your Ground laws. Future research

should also consider collecting cases from states that follow the “no duty to retreat” rule through case law and from states that mandate retreat. Comparisons need to be made between these cases to make even stronger conclusions about the effects of self-defense law on intimate partner violence case outcomes.

Another limitation of this study is related to access of information. The collection of court cases was limited to LexisNexis Academic and PACER; while these databases were certainly useful to identifying cases that fit the criteria for this study, there are likely more cases that can be identified through databases that have more restricted access, such as Westlaw. In addition, the criteria for this study limited the number of cases which could be analyzed. Indeed, there are some states for which searches generated no results for intimate partner violence cases involving self-defense and reference to the state’s Stand Your Ground statute. One possible reason for this lack of cases could be related to when a state’s Stand Your Ground law was adopted as a part of the self-defense statute. For instance, New Hampshire’s Stand Your Ground statute was adopted in 2011, and very few cases in general have referenced the Stand Your Ground statute let alone cases involving intimate partner violence. Another possibility is that many intimate partner homicide or intimate partner violence cases may involve evidence of Battered Woman Syndrome or Battered Spouse Syndrome, which can involve circumstances (e.g. a victim of intimate partner violence shoots her abuser while they are asleep) that do not “fit” a self-defense claim under the law.

Lastly, one of the greatest limitations of this study that can be addressed through future research is the potential bias inherent to the sample of court cases used in this study’s analysis. Indeed, not all cases of self-defense are brought before a prosecutor and, even when cases are

presented to a prosecutor criminal charges are not always filed. For instance, although victims of intimate partner violence may choose to report their abusers to law enforcement, many decide not to press charges through the legal system due to safety or economic concerns (Buzawa et al., 2012). In the current sample of cases where the victim of intimate partner violence was the complainant and also not killed, the victim either independently desired to pursue charges against their abuser or the crime occurred in a jurisdiction that followed a “hard” no-drop prosecution policy for intimate partner violence offenses. In addition, previous research has found that certain characteristics of the defendant tend to persuade prosecutors from either filing or dismissing charges (Hirschel & Hutchison, 2001; Schmidt & Steury, 1989; Worrall, Ross, & McCord, 2006). These variables include, but are not limited to, the presence of victim injury; whether the victim argues against the arrest and prosecution of her or his abuser; the offender’s prior criminal history and/or prior documented history of domestic violence against the victim; whether a weapon was used by the offender; and, the personal choice of the offender to appear at a sentencing hearing. Gender and race also factor into prosecutorial decisions. Worrall et al. (2006) found that cases with male offenders are more likely to be prosecuted compared to those involving female offenders in domestic violence cases. Other studies not exclusive to the study of domestic violence case processing, but important nonetheless, find that Black and Latino offenders in particular are more likely to be arrested, prosecuted, and be treated more punitively compared to White offenders (Wu, 2016). Taking these factors into consideration, it is entirely probable that the cases included within the current study were prosecuted based upon the severity of the crime and injury to the victim, whether a weapon was used, and prior criminal history of the offender. In addition, it is also likely that more non-White victims of intimate partner

violence are not contacting law enforcement or agreeing to press charges against their abusers due the secondary victimization that they may encounter in the criminal justice system. In order determine which variables are affecting prosecutorial decisions, future research should compare those cases where self-defense was claimed and charges were dropped by the prosecution compared to those that proceeded to either a pre-trial hearing or full trial.

Future Directions for Policy on Stand Your Ground Laws

The findings of this study highlight significant issues with intimate partner violence case processing through Stand Your Ground statutory law. Foremost among policy concerns should be the gender disparity in both case characteristics and sentencing outcomes. For instance, even though there is empirical evidence that demonstrates more men than women will be prosecuted in intimate partner violence cases (Worrall et al., 2006), the elements of the crime – severity of injury, weapon use, and past criminal history, for instance – that factor into prosecutorial decision making will affect men and women differently when self-defense is a part of an affirmative defense. For instance, this study found that more female defendants tended to inflict greater injury upon the victim through the use of a weapon; yet, many of these female defendants claimed that their decision to use self-defense was linked to a cycle of abuse that had been perpetrated by the victim (complainant). However, more male defendants in the Stand Your Ground cases had previous criminal histories when compared to female defendants. These concerns with prosecutorial decision-making should be considered alongside the fact that, across the entire sample of court cases, a Stand Your Ground defense was most often denied by the judge at a pretrial hearing or the self-defense claim was rejected by a jury. In this regard, more

female defendants are incurring longer sentences based upon the severity of the crime and subsequent legal penalties associated with their criminal charge. In addition, although the racial disparities were not as pronounced as gender disparities in this study, structural disadvantage and institutionalized racism may converge in the criminal justice system to the extent that charging and sentencing outcomes are different for non-White and White defendants. Within the current study, more non-White defendants were charged with a felony in comparison to White defendants despite the fact that a nearly equivalent proportion of non-White and White defendants were charged with manslaughter or murder (i.e. non-White defendants did not receive plea deals and reduced sentences to the same degree as White defendants).

A part of this problem as well, and also entirely relevant to policy related to Stand Your Ground laws, is that victims of intimate partner violence are being held to a different legal standard compared to those who are not victims of intimate partner violence. In addition, recent Stand Your Ground cases in South Carolina have highlighted that the language of Stand Your Ground laws is open to varying interpretation by presiding judges when a victim of intimate partner violence uses self-defense against their abuser. However, in cases where immunity is not being granted, juries are being given an instruction in Stand Your Ground cases that challenges them to consider the context of intimate partner violence within a legal standard of reasonableness and imminence. And, even when evidence of past intimate partner violence is introduced by the defense at trial, the effects of enduring a cycle of abuse and the definition of what is “reasonably necessary” and “imminent” become highly contradictory.

Despite these challenges, those interested in intimate partner violence prevention as well as public policy would be remiss to completely disregard Stand Your Ground laws as efficacious

for women and men who are victimized. While not overwhelmingly so, Stand Your Ground laws have the potential to legally protect those who are abused by their partners from prosecution; this was clear in the cases where perpetrators of intimate partner violence were not granted a Stand Your Ground defense and in the cases where victims of intimate partner violence were granted immunity. Where this law ultimately fails is in its limited acknowledgment and understanding of intimate partner violence and how the concepts of imminence, reasonableness, and necessity as a basis of self-defense materialize differently in cases of intimate partner violence compared to other types of violent crimes. For instance, intimate partner violence victims live in constant fear of repeat victimization by their abusers. Necessity of self-defense is also linked to barriers that hinder victims' ability to leave or retreat, such as lack of transportation and money, fear of retaliation or more severe violence by their abusers if they leave, or concern that their children or family may be harmed if they attempt to report abuse, leave, or file for an injunction (Anderson & Saunders, 2003). For these reasons, the focus of policy reform should not be to repeal Stand Your Ground laws. Indeed, doing so would not address any of the shortcomings of this law when intimate partner violence is considered. Instead, efforts should be focused on modifying the language that places emphasis on the need for a victim of intimate partner violence to have an active injunction to prove that they are reasonably fearful of their abuser. Furthermore, the abuser's violation of an injunction should not be the standard for a victim to demonstrate an imminent threat. A more qualitative body of research has shown that safety is a foremost concern when survivors decide to leave a relationship, report abuse to law enforcement, or obtain an injunction or press charges against their abuser (Goodman, Dutton & Bennett, 2000). Moving forward with an intimate partner

violence case may imply to the abuser that the survivor desires to end the relationship, retain custody of children, and reclaim their independence and power. Thus, having an injunction as a requirement to prove reasonable fear and imminence places the victim in a more dangerous situation, and one that may be injurious or lethal even before an injunction is granted. There has always been a need for self-defense law to recognize these issues, and Stand Your Ground laws are clearly no exception.

When considering future directions and policy recommendations for Stand Your Ground laws, another focus should be on clarifying its intent in regards to intimate partner violence. Carpenter (2003) notes that “Rather than providing a settled exception to the generalized duty to retreat, the Castle Doctrine has evolved into a confusing patchwork of rules on when, and against whom, one may assume the privilege of nonretreat.” Some judges have interpreted the language of this law to include the use of force between intimate partners, and the term “in any place” has been interpreted by judges to include the home, occupied vehicle, or business (see *State v. Jones*, 2014 and *State v. Williams*, 2015, where immunity was granted to the defendants based upon these interpretations). The fact remains, however, that many states with statutory Stand Your Ground laws codify the principle set forth in Castle Law which requires cohabitants of the same home, including victims of intimate partner violence, to retreat prior to using force. Since South Carolina has recently provided a forum where the issues of interpretation of the Stand Your Ground language can be considered, one solution would be to revise the language of the “home presumption” so that self-defense law does not rely upon a duty to retreat in situations of intimate partner violence. By minimizing the duty to retreat as concern, the burden of proof would no longer be placed upon the defendant (who is quite often the victim) to meet this

“obligation” in order for their claim of self-defense to be seriously considered. Instead, the burden of proof would be on whether the defendant acted reasonably given the context of the crime and the degree of force that is used (Carpenter, 2003). This is a medium between the restrictions of the home presumption and the extremeness of the Stand Your Ground law as it applies to other self-defense situations. That is, it retains but lessens the requirements of the duty to retreat within the home; by keeping the home presumption there would still be a legal way to dissuade violence (either domestic or non-domestic) from happening within the home.

Reform is occurring with the Stand Your Ground laws, but the effects of these changes are not necessarily addressing the issues of intimate partner violence that clearly is an important variable to consider in the context of general self-defense law, but specifically Stand Your Ground laws. *State v. Alexander* (2012) inspired the creation of the “warning shot” legislation, and while at face-value this may appear to be progress for intimate partner violence victims (and for all individuals who need to use force to protect themselves), there is a far greater likelihood – based upon the evidence gathered on weapon use and fatalities in this study, as well as national data on intimate partner homicides (Catalano, 2013) – that victim of intimate partner violence will use a firearm to kill their abuser following a threat of death rather than to discharge a warning shot in an attempt to scare their abuser during an already volatile situation. Also, the Florida Senate recently voted to approve an amendment to the Florida Stand Your Ground law that would shift the burden of proof in pre-trial hearing from the defendant and to the prosecution. If this bill is signed into law, the state attorney would be required to prove with clear and convincing evidence why the defendant should not be able to use Stand Your Ground as a defense; this would cause clear issues when the victim is killed during the incident and/or

when there are no witnesses (e.g. in the current study, over half of the cases involved fatalities but less than half included witnesses). In this instance, the law may actually favor abusers who falsely claim to be victims who needed to defend themselves against their intimate partners. And, this proposed amendment to the law does not change any of the requirements for intimate partner violence victims to retreat or obtain an injunction in order demonstrate reasonable fear – evidence that undoubtedly will be reviewed by the state attorney in disproving a self-defense claim under Stand Your Ground laws.

All things considered, the evidence presented from the analysis of should be expanded upon in order to present adequate and valid evidence to legislators that will clarify the ramifications of Stand Your Ground laws on victims of intimate partner violence and abuse. A significant problem with Stand Your Ground is that it was implemented at the behest of interest groups and this broad stroke legislation disregarded decades of research on the particular vulnerabilities of intimate partner violence victims. Fostering meaningful change and understanding may require a more coordinated community response that highlights both intergroup as well as intragroup differences in how women and men construct violence at the individual, social, and structural levels. Researchers have a significant stake in this process as many individuals, and abuse victims for that matter, may be unaware of how Stand Your Ground limits intimate partner violence victims' use of self-defense. It would also be beneficial for others to continue collecting data through various methodologies on Stand Your Ground laws and intimate partner violence so that victims will be able to maintain their true right to self-protection under the law.

APPENDIX: CODING SHEETS

Coding Sheet: Statutes

State Statute:

Year Statute Adopted:

Census Region:

Date of Review:

Coding for Statute:

	Frequency	Descriptors
Statute Characteristics		
Legal presumption to use deadly force	Yes No	
Duty to retreat (public places)	Yes No	
Duty to retreat (private places)	Yes No	
Exemptions	Provocation Initial aggressor Mutual combat Withdraw and communicate Committing a felony	
Immunity from arrest or prosecution	Yes No	
Immunity from civil liability	Yes No	
Domestic Violence or Intimate Partner Violence		
Mentions domestic violence or intimate partner violence	Yes No	
Injunction or no contact order necessary for intimate partner to use self-defense?	Yes No	
Required or encouraged duty to retreat for victims of domestic violence before using force?	Yes No	
Statutes directly mentions the protections for domestic violence victims	Yes No	

Coding Sheet: Court Cases

Court Case: State and County of Offense:

Court(s):

Sources:

Date of Review:

	Frequency	Descriptors
Sociodemographics		
Defendant's Gender	Male Female	
Victim's Gender	Male Female	
Race/Ethnicity of Defendant	White Black Latino/Hispanic Other	
Race/Ethnicity of Victim	White Black Latino/Hispanic Other	
Defendant/Victim Relationship	Married Dating Cohabiting Divorced	
Legal Classification		
Criminal Charge	Aggravated Assault Domestic Battery Manslaughter First-degree Murder Second-degree Murder	
Level of charge	Misdemeanor Felony	

Legal Classification (cont.)		
Stand Your Ground Defense	Dismissed Granted	
Battered Woman Syndrome	Dismissed Granted	
Adjudication	Dismissed Guilty Pending	
Decision of Appeal	Motion Reversed Motion Denied	
Characteristics of Crime		
Weapon	Firearm Knife Other _____ No Weapon	
Victim Fatality	Yes No	
Initiator of Confrontation	Defendant Victim Both Unknown	
Was Victim Committing a Crime that Precipitated Confrontation?	Yes No Unknown	
Did Defendant Pursue Victim?	Yes No Unknown	
Did Defendant Have an Opportunity to Retreat?	Yes No Unknown	

Characteristics of Crime (cont.)		
Location of Offense	Defendant's property Victim's property Shared property Unknown	
Witnesses	Yes No Unknown	
Protection Order or No Contact Order	Yes (filed by defendant) Yes (filed by victim) No	
Defendant Described Being Fearful of Victim	Yes No Unknown	
Prior intimate partner violence crime	Defendant Victim Both	

Coding Sheets: Newspaper Articles

Title of Article _____
 Name and Date of Publication _____
 Section Where Article Appeared _____
 Date of Review _____

Coding for Defendant:

	Frequency	Descriptors
Background Characteristics		
Gender	Male Female	
Race/Ethnicity	White Black Latino/Hispanic Other _____ Not provided	
Social Class (Neighborhood Characteristics)	Lower class/poor Middle class Upper class/wealthy Not provided	
Familial Upbringing	Lower class/poor Middle class Upper class/wealthy Not provided	
Age		
Occupation		

Coding for Victim

	Frequency	Descriptors
Background Characteristics		
Gender	Male Female	

Background Characteristics (cont.)		
Race/Ethnicity	White Black Latino/Hispanic Other _____ Not provided	
Social Class (Neighborhood Characteristics)	Lower class/poor Middle class Upper class/wealthy Not provided	
Familial Upbringing	Lower class/poor Middle class Upper class/wealthy Not provided	
Age		
Occupation		

Coding for Defendant and Victim Behaviors

Behaviors		
Substance Abuse	Yes No Not provided	
Emotional or Psychological Disorder, or Physical Disability	Yes No Not provided	
Infidelity or Sexual Promiscuity	Yes No Not provided	
Separation or Divorce from Victim	Yes No Not Provided	
Financial Difficulties	Yes No Not provided	

Behaviors (cont.)		
Charged with Criminal Offense (other than IPV)	Yes No Not provided	
History of Intimate Partner Violence		
Had Called Police to Report Victim for IPV	Yes No Not provided	
Previously Filed Charges Against Victim for IPV	Yes No Not provided	
Sought Injunction Against Victim	Yes No Not provided	
Previously Dropped Charges Against Victim for IPV or Did Not Cooperate With Authorities	Yes No Not provided	
Previously Charged With Committing IPV Against Victim	Yes No Not provided	
Refused To Leave Abuser (Victim) or Returned to the Abusive Relationship With the Victim	Yes No Not provided	
Continued to Contact and/or Visit Offender in the Presence of an Injunction or No Contact Order	Yes No Not Provided	
Expressed That They Were Fearful of Victim	Yes No Not Provided	

Coding for Context

	Frequency	Descriptors
Crime		
Type of Crime Committed	Homicide Femicide Assault Other _____	
Responsibility for Crime (tone)	Attributed to Victim Attributed to Offender Attributed to Both Neutral/Factual	
Intimate Partner Violence Definition	Yes No	
Self-defense		
Victim or Offender Claimed Self-Defense or Retaliatory Violence	Yes No Not provided	
Stand Your Ground Statute Cited?	Yes No	
Citing of Any Requirements for Self-defense in the Context of Intimate Partner Violence?	Yes No	
Citing of Battered Woman Syndrome?	Yes No Not Applicable	
Cites Duty to Retreat, Imminence, and/or Necessity	Yes No	
Relates Self-defense to Weapon Use	Yes No	
Relates Self-defense to Intimate Partner Violence	Yes No	

Relationship		
Relationship status	Married Dating Cohabiting Estranged Not provided	
Sources		
Source of information about relationship or incident	Police Family members Friends Coworkers Advocate Prosecuting or defense attorney Other _____	

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