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# The Fight or Flight Response: A Look at Stand Your Ground

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The Stand Your Ground law's roots run deep throughout American history, but most recently it has been brought to light as a result of the infamous Trayvon Martin and George Zimmerman case. Prior to this case, there had not been an extensive amount of scholarly research done on this legislation specifically and its impact on society, particularly pertaining to race. While research on self-defense is available, the empirical research pertaining to the Stand Your Ground (SYG) law, prior to the Trayvon Martin case, is minimal. This article sheds light on two main research questions: 1) What factors are important in determining the conviction or acquittal in SYG court cases? And 2) Is there a policy-implementation gap in the SYG law?

We first present a historical overview of the law in order to identify the origins of the policy. Then, the article discusses the relevant empirical research. A secondary empirical analysis of Florida SYG cases is then conducted in order to compare policy intentions against reality. Therefore, this article identifies the underlying rationale for drafting and passing the SYG legislation and compares it with the actual outcome of the law through an analysis of about 200 court cases in the State of Florida. Special attention is given to the role that race and other factors play in influencing outcomes (i.e. court case verdicts) for the defendant.

### History of Stand Your Ground

The SYG law is an expansion of self-defense law that provides a justification for utilizing deadly force in order to protect one's self, family, or property. Florida statutes, sections 776.012 and 776.013, states that "a person is justified in using or threatening to use deadly force if s/he reasonably believes that using or threatening to use force is necessary to prevent imminent death or great bodily harm...[or a] forcible felony. A person...does not have a duty to retreat and has the right to stand his or her ground if ...not engaged in a criminal activity and is in a place where s/he has a right to be...A person is presumed to have a reasonable fear...if: the person against whom the defensive force was used or threatened was in the process of unlawfully and forcefully entering...a dwelling, residence, or occupied vehicle...[This] person who unlawfully and by force enters or attempts to...is presumed to be doing so with the intent to commit an unlawful act or involving force or violence." While this law does not establish a novel type of affirmative defense, it does expand the breadth of the self-defense justification by instituting that there is no duty to retreat anywhere (as long as someone has a right to be there).

Self-defense laws date back hundreds of years and can be traced back to principles of English law. In 17<sup>th</sup> century England, common law outlined both self-defense and defense of habitation laws, which eventually formed the Castle Doctrine Law (Levin 2010) that transferred to the United States. English common law specified that when being attacked or threatened by another, there was an obligation to retreat. Once retreat was no longer feasible, it was understood that the next appropriate response would be to reciprocate the force being received. Thus, the original self-defense justification was bound by a necessity requirement, meaning that retreat is no longer an option and it is necessary to meet force with force, and a proportionality requirement, stating that the level of force used is appropriate to the circumstances. Additionally, a homicide was only admissible on self-defense grounds if the defendant could prove that s/he was preventing death or serious bodily harm (Jaffe 2005).

England's self-defense law portrayed the value of human life, in that every attempt is made to spare the life of the people involved (Catalfamo 2007). However, the defense of habitation doctrine allowed for one exception to the English common law of self-defense in that once an intruder had entered a person's home, the inhabitant was able to use deadly force in order to prevent a violent felony. These common law rules made the United States' Castle Doctrine law, which also acknowledged the sanctity of the home, comparing it to a castle, where intruders were now beyond the protection of the original self-defense law (Suk 2008). Additionally, the Castle Doctrine law, also known as the defense of habitation, allowed exceptions to both the notion of necessity and proportionality. The former by saying that there was no need to retreat in one's own home and the latter by saying that deadly force was acceptable in the home despite the amount of force exerted and despite the reasonable fear of imminent death or serious bodily injury that was present (Jaffe 2005).

In the 19<sup>th</sup> century, most of America began to deviate from English common law practices, as seen by the abandonment of the duty to retreat from life-threatening situations in public spaces (Weaver 2008). For instance, in 1876, in the case of *Erwin v. State of Ohio*, the 'True Man Doctrine' depicted this view. This doctrine expanded the non-retreat privilege that was once confined to a man's private life (i.e. his home) to the public sphere. In this case, the Supreme Court of Ohio defined a true man as one who had no faults, who in essence did no wrong, thus he was not required to retreat from his assailant because he was in right standing. This doctrine accompanied a man [sic] wherever he went inside or outside his domicile. Thus, what began as a doctrine surrounding violations of territorial boundaries transformed into a doctrine dealing with individual rights and liberties.

As individual states varied in the extent to which the self-defense justification could be used, American common law also conflicted in which guidelines to apply. In *Beard v. U.S.* (1895) the Supreme Court stated that the

defendant had a legal right to stand his/her ground and protect his/her own life using whatever measures s/he deemed appropriate as long as s/he reasonably believed that s/he had to protect his/her life. Nevertheless, in *Allen v. U.S.* (1896) the Supreme Court maintained that there was still a duty to retreat in public spaces in order to save one's life and prevent harm. Hence, these two cases displayed the conflicting judicial opinions regarding one's obligation to retreat.

The U.S. Supreme Court settled the confusion in *Brown v. U.S.* (1921) by extending the privilege of non-retreat beyond one's home to include any plausible situation in which the defendant feared for his or her life (Levin 2010). This allowed the defendant to stand his or her ground, with deadly force, against an attack while still being within legal parameters of self-defense. Yet, even with common law established by the U.S. Supreme Court, there had still been differences between states and jurisdictions in regards to 1) the requirements of necessity and proportionality, 2) what defined a castle geographically, 3) which occupants received protection within the castle, and 4) what levels of intrusion required standing one's ground (Catalfamo 2007). Moreover, some states maintained that there was a duty to retreat in public spaces in order to avoid using deadly force while others abrogated this responsibility altogether (Jaffe 2005).

As evidenced above, the general standards regarding self-defense and one's duty to retreat have been defined by common law, with a limited number of statutory laws taken into account. However, in 2005, after a senator introduced the bill, Florida took the lead as the first state to codify the standards for applying this law. Prior to enacting such legislation Florida maintained a duty to retreat from attacks, except in one's home. But in 2005, the SYG law expanded the rights to those who are 'innocently' attacked. While some can argue that Florida essentially codified what common law by the U.S. Supreme Court already established, this was a significant shift from prior statutory law in Florida.

The new law changed Florida's existing standards in multiple ways. First, there were two presumptions added to situations in which intruders entered one's home: (1) a reasonable fear of death or serious bodily harm was automatically present and (2) the invader inevitably had a violent and felonious intent immediately upon intrusion. Thus, the defendant no longer maintained the burden of proof when attacked in his or her home. Second, the new law abrogated the general duty to retreat from attack in any and all circumstances where the individual had a legal right to be in. Thus, it extended the notion of one's 'castle' to include public spaces, which provided a myriad of castles to which an individual may stand his or her ground and utilize deadly force, including vehicles. However, only in one's home does the above two presumptions exist. Otherwise, an individual must prove reasonable fear and violent or felonious intent. Lastly, the law allowed immunity from criminal prosecution and civil liability if the SYG defense was invoked successfully. The only time an arrest and prosecution could occur is once an investigator maintained probable cause that the use of force was illegal, meaning it did not fall within the statutory confinements as delineated by Florida law (Catalfamo 2007; Jaffe 2005). Where common law had room for judiciary discretion, this legislation made it an explicit right for anyone to utilize deadly force in public domains without retreating. This Florida statute portrayed the importance of protecting the law-abider rather than the presumed criminal, whereas the prior self-defense statute emphasized the life of both parties.

### **Arguments For and Against Stand Your Ground Laws**

There have been many arguments put forth regarding SYG laws as it relates to usability, application, justice, discretion, and effectiveness. Proponents of the law state that the law allows innocent people to protect themselves anywhere against any perceived threat. Thus, this law serves as a safety mechanism to protect innocent lives and defend against any criminal or civil liabilities that can ensue as a result of acting in self-defense (see Jaffe 2005). However, opponents of the law claim that the law only escalates further violence and serves as a 'license to kill' when one could otherwise walk away, while also putting other innocent onlookers at risk (McClellan & Tekin 2012). Lastly, it has been stated by dissenters that individuals' rights were sufficiently protected before the enactment of such legislation, which obviates the need for the SYG law in the first place. Originally, self-defense laws had already given people, who were unable to retreat any further, the ability to utilize deadly force upon feeling reasonable or imminent threat (American Bar Association 2014). Despite the varying opinions of scholars and professionals, it is important to note the empirical studies that have been conducted on SYG laws as they relate to homicide rates, crime reduction, safety, and race.

Current empirical studies on SYG laws, though limited in scope, nonetheless add significant value to the knowledge base of the law's effectiveness. Most of the research on the effectiveness of the SYG law, in terms of reducing homicides, has concluded that states with such laws actually had increases in homicides (with the exception of Lott, 2010; for example see American Bar Association 2014; McClellan & Tekin 2012; Sherman 2012). Additionally, Cheng & Hoekstra (2013) found that there is no deterrent effect for the SYG law. They attribute this lack of deterrence to the immunity provisions given by the statute, which may remove any reservations for utilizing deadly force. McClellan and Tekin's (2012) attributed the increase in homicides (as a result of the use of deadly force)

to the specific part of the statute that expands territorial boundaries of one's 'castle' from the home. Thus, this finding refutes the proposition that these laws are intended to make a safer society.

While most research assessed the deterrent effect and safety effect of the law, not much has been done in examining if there are racial disparities in the outcomes. First, Roman (2013) studied the extent to which racial disparities exist in concluding whether or not a homicide was justified. His findings portrayed that there are evident disparities. For instance, White defendants (who have killed Black individuals) in comparison to Black defendants (who have killed White individuals) are found justified 11 times more often. Additionally, the American Bar Association (2014) found that there is an uneven distribution of justice and fairness due to implicit racial bias. In this same report, the American Bar Association cited a study done by the University of Miami that suggested marginalized and vulnerable groups have harder times invoking the SYG defense. Lastly, through an in-depth collection of SYG cases throughout Florida, the Tampa Bay Times descriptive analysis of the data collected also suggested there were racial disparities.

Additionally, Tampa Bay Times' findings revealed that the law was invoked in circumstances that protected repeat criminal offenders and in settings that it was not intended for (American Bar Association, 2014; Hundley, Martin & Humberg 2012). Also, it was noted that there had been inconsistent application of the law within and amongst various jurisdictions for very similar cases, but overall approximately 70% of individuals who raised this defense have been found innocent. Taken as a whole, the above studies have portrayed the inconsistencies of application and outcomes in relation to the SYG law as it relates to multiple factors, one of which is race, while also alluding to the increased use of violence leading to death as a result of the law. This current study seeks to reassess the Tampa Bay Times analysis in order to assess the role that certain factors, including that of race, play in affecting case outcomes through the use of inferential statistics rather than descriptive alone.

### **Empirical Methodology**

The data used for this study was taken from an in-depth data collection effort pioneered by the Tampa Bay Times. The Tampa Bay Times collected this data based on official court as well as news reports. The original data set was available publicly online, however the researcher coded and analyzed the data utilizing Stata. The original data set contained approximately 235 SYG cases that occurred between 2005 and 2013 within Florida.

For the purposes of this analysis some alterations were made to the dataset. First, 2 cases were removed which included people shooting animals. Second, 17 cases with missing information were also removed from the dataset. Apart from these 17 cases, there were some cases that had missing information that the researcher was able to research for the case and input the missing information (likewise for some of the pending cases). Moreover, considering that race was important to the analysis, we acknowledged some discrepancies with the original information published by the Tampa Bay Times in regards to Hispanic individuals being classified as White. Therefore, the variable was recoded to distinguish between White Hispanic and White non-Hispanic victims and defendants.

Also, cases that had multiple defendants on trial were separated into individual cases because often times the defendants faced different outcomes. In total, 6 cases with multiple defendants were expanded into 14 cases, so that each case had only one defendant. The final number of cases was 231 that were in the data set. However, in order to run the final analysis, those with pending outcome status were not included in the regression analysis ( $n = 221$ ).

The dependent variable was a binary variable, which captured the outcome of the case, essentially whether the defendant was charged (convicted) or not charged (acquitted). This variable was configured based on the original seven categories from the dataset of acquitted, dismissed, granted immunity, not charged, guilty, plea bargain, and pending. The first four were combined to signify the defendant/accused (the one claiming self-defense in the case) was not charged with any crimes (or acquitted). The next two categories (guilty and plea bargain) were combined to portray that the defendant was charged with a crime (or convicted). As stated above, the last category, pending, was excluded from the analysis.

The dependent variable was tested against a number of factors, which include basic demographic variables of the victim and the accused, for instance, race, age, and gender. Additionally, variables that are relevant to the actual stipulations of the SYG legislation were considered. Key determinants of successfully utilizing a self-defense justification (i.e. receiving an acquittal or not being charged) include variables that pertain to the victim, the defendant, and the overall case. First, if the victim was killed, had a weapon, initiated the conflict, and was partaking in criminal activity. Second, if the defendant pursued the victim, had the ability to retreat, and was on his or her property. Finally, whether or not there was a witness and if there was physical evidence are all important factors that can impact the case outcome (see Table 1 below). This study utilized a binary outcome model in order to assess the impact of race on the outcome of a SYG case. Specifically, the researcher utilized a logit model, which is fit by maximum likelihood. Moreover, additional descriptive statistics and cross tabulations (with chi-square) were used in order to answer the

research questions posed in the introduction.

**Table 1. Description of Variables**

| Variable Name   | Description  | Coding Scheme  | Hypothesized Relationship |
|-----------------|--|--|---------------------------|
| Outcome Dummy   | Was the defendant charged or not?                                | Convicted (Charged) = 1<br>Acquitted (Not Charged) = 0 | n/a                       |
| RaceAccDummy2   | Is the accused Black?  | Black = 1 Not Black = 0                                | Positive                  |
| RaceAccDummy3   | Is the accused Hispanic?   | Hispanic = 1<br>Not Hispanic = 0                       | Positive                  |
| RaceAccDummy4   | Is the accused another type of minority?                         | Other = 1<br>Not Other = 0                             | Positive                  |
| GenAcc          | Is the accused Male?   | Male = 1 Female = 0                                    | Positive                  |
| AgeAcc          | The age of the accused   | Numerical: 14-81 yrs old                               | Unclear                   |
| RaceVicDummy2   | Is the victim Black?   | Black = 1 Not Black = 0                                | Negative                  |
| RaceVicDummy3   | Is the Victim Hispanic?  | Hispanic = 1<br>Not Hispanic = 0                       | Negative                  |
| GenVic          | Is the victim Male?  | Male = 1 Female = 0                                    | Unclear                   |
| AgeVic          | The age of the victim  | Numerical: 9-79 yrs old                                | Unclear                   |
| VDSameRace      | Are the accused and the victim the same race?                    | Same Race = 1<br>Opposite Race = 0                     | Unclear                   |
| KilledVic       | Was the victim killed?   | Yes = 1 Not Yes = 0                                    | Positive                  |
| V_InitiateDummy | Did the victim initiate the confrontation?                       | Yes = 1 Not Yes = 0                                    | Negative                  |
| V_ArmedDummy    | Was the victim armed?  | Yes = 1 Not Yes = 0                                    | Negative                  |
| V_CrimeDummy    | Was the victim committing a crime that led to the confrontation? | Yes = 1 Not Yes = 0                                    | Negative                  |
| D_PursueDummy   | Did the defendant pursue the                                     | Yes = 1 Not Yes = 0                                    | Positive                  |

|                 |   |                     |          |
|-----------------|---|---------------------|----------|
|                 | victim?                                       |                     |          |
| D_RetreatDummy  | Could the defendant have retreated?           | Yes = 1 Not Yes = 0 | Positive |
| D_PropertyDummy | Was the defendant on his or her own property? | Yes = 1 Not Yes = 0 | Negative |
| WitnessDummy    | Were there any witnesses?                     | Yes = 1 Not Yes = 0 | Unclear  |
| WeapAccDummy    | Did the accused have a weapon?                | Yes = 1 Not Yes = 0 | Unclear  |
| EvidenceDummy   | Was there evidence?                           | Yes = 1 Not Yes = 0 | Unclear  |

## Results

Approximately 62% of the Florida cases used in this analysis occurred in the Central Florida region, in the same region where the Trayvon Martin murder took place. More than half of SYG cases involved white offenders and white victims. Less than 10% of the victims and the accused were female. The mean age of the defendants and the victims were in the early to mid-thirties. Approximately 55% of the victims in the 221 cases were killed, while another 33.03% were injured. Guns seemed to be the weapon of choice of offenders, where 66.06% of the accused in these cases had a gun, while only 10.41% of the victims had guns. Only 14.93% of the cases involved a burglary, home invasion, or attempted trespass and 5.88% of the cases were drug or gang related. Of the 221 cases, 11.31% of those charged with the offences were acquitted, 4.07% had their cases dismissed, 19.91% were granted immunity, 20.36% were found guilty, 28.51% were not charged, and 15.84% were entered into a plea bargain. A victim initiated the confrontation in almost half of the cases. The defendant pursued the victim in 30.77% of the cases, and the defendant could have avoided the conflict in 57.01% of the cases. The accused was on his or her property in 30.77% of the cases. Almost 70% of the cases had a witness and half the cases physical evidence.

**Table 2. Binary Logit (N=221): Factor Change in Odds of: Charged vs. Not Charged**

| LR $\chi^2(20) = 66.23$ Prob $> \chi^2 = 0.0000$ Pseudo $R^2 = 0.2289$ |          |         |         |            |
|--|----------|---------|---------|------------|
| Log Likelihood = -111.54216  |          |         |         |            |
| Outcome Dummy  | Coef.    | Z-Score | P-Value | Odds Ratio |
| RaceAccDum~2   | -0.16452 | -0.327  | 0.744   | 0.8483     |
| RaceAccDum~3   | 0.71756  | 1.167   | 0.243   | 2.0494     |
| RaceAccDum~4   | 1.23128  | 0.996   | 0.319   | 3.4256     |
| GenAcc   | 0.33556  | 0.558   | 0.577   | 1.3987     |
| AgeAcc   | -0.00822 | -0.577  | 0.564   | 0.9918     |
| RaceVicDum~2   | -0.36398 | -0.732  | 0.464   | 0.6949     |
| RaceVicDum~3   | -0.34255 | -0.535  | 0.592   | 0.7100     |
| GenVic   | -1.34794 | -1.832  | 0.067** | 0.2598     |

|  |          |        |        |        |
|--|----------|--------|--------|--------|
| AgeVic   | 0.01424  | 0.940  | 0.347  | 1.0143 |
| VDSameRace   | 0.04667  | 0.105  | 0.916  | 1.0478 |
| KilledVic  | 1.07245  | 2.813  | 0.005* | 2.9225 |
| V_InitiateDummy  | -1.99188 | -4.732 | 0.000* | 0.1364 |
| V_ArmedDummy   | -0.36824 | -0.866 | 0.387  | 0.6920 |
| V_CrimeDummy   | -0.83657 | -1.425 | 0.154  | 0.4332 |
| D_PursueDummy  | 0.47461  | 1.153  | 0.249  | 1.6074 |
| D_RetreatDummy   | 0.48149  | 1.190  | 0.234  | 1.6185 |
| D_PropertyDummy  | -0.24081 | -0.571 | 0.568  | 0.7860 |
| WitnessDummy   | 0.22497  | 0.553  | 0.580  | 1.2523 |
| WeapAccDummy   | 0.59089  | 0.945  | 0.344  | 1.8056 |
| EvidenceDummy  | -0.34123 | -0.969 | 0.332  | 0.7109 |
| * significant at .01 level ** significant at .10 level |          |        |        |        |

The binary logistic regression analysis, as displayed in Table 2 above, shows that the model is statistically significant. The results show that the dependent variable is probably related to at least one of the independent variables. Additionally, the model explained 22.9% of the variance in the outcome of the case. Table 3, below, shows the overall predictive power of the model by measuring the proportion of correct predictions. This model correctly classified 73.76% of cases, indicating that the model has a somewhat high predictive power. The table also contains crosstabulations to show how many of those people who were charged and predicted to be not charged and who were not charged yet predicted to be charged.

**Table 3. Classification table & Measures of Fit**

| Classified  | -----True----- |                               | Total  |
|---|----------------|-------------------------------|--------|
|   | Charged        | Not Charged                   |        |
| +   | 47             | 25                            | 72     |
| -   | 33             | 116                           | 149    |
| Total   | 80             | 141                           | 221    |
| Classified + if predicted $Pr(D) \geq 0.50$<br>True D defined as OutcomeDummy !=0 |                |                               |        |
| Sensitivity   | Pr ( +   D)    |                               | 58.75% |
| Specificity   | Pr ( -   ~D)   |                               | 82.27% |
| Positive predictive value   | Pr ( D   +)    |                               | 65.28% |
| Negative predictive value   | Pr ( ~D   -)   |                               | 77.85% |
| Correctly Classified  |                |                               | 73.76% |
| Count R <sup>2</sup>  | 0.738          | Adjusted Count R <sup>2</sup> | 0.275  |

The model predicted 47 charged and 116 not charged, but incorrectly predicted 25 who were not charged to be charged and 33 people who were charged to be not charged. The Adjusted Count  $R^2$ , at the bottom of Table 3, shows the percentage of cases (27.5%) incorrectly predicted by the initial model that were correctly predicted by the final model. The sensitivity of the model shows the percentage of positive responses that were correctly predicted (58.75%). The specificity of the model is the percentage of negative responses that were correctly predicted (82.27%). The positive predicted value is the percentage of those who were predicted to have positive responses (here being charged) who actually had a positive response (62.28%). The negative predicted value is the percentage of those who were predicted to have negative responses (here not charged) who actually had the negative response (77.85%).

Only three variables were found to be significant predictors of the dependent variable, none of which pertained to race (see Table 2 above). Two of the variables (*KilledVic* and *V\_InitiateDummy*) were significant at the 1% significance level, whereas the last variable (*GenVic*) was significant at the 10% level, holding other variables constant. The odds of the accused getting charged when the victim is a male are about 0.2598 as high as the odds when the victim is a female, holding other variables constant in the model. The odds that someone will be charged when the victim initiated the conflict are 0.1364 times as high as the odds that someone will be charged when the victim did not initiate the conflict, holding other variables constant. The odds that someone will be charged when the victim is killed is 2.9225 times as high as the odds that someone will be charged when the victim is not killed, holding other variables constant. Therefore, in cases with female victims, where the victim died, or where the victim did not initiate the conflict, defendants have a higher probability of getting convicted.

Although race was not found to be a statistically significant factor in explaining whether or not the defendant was convicted or acquitted, the cross-tabulations show that race is related to other variables. The initial descriptive data showed that, as suggested in the literature, SYG law offenses involve predominantly White individuals. While Whites and Hispanics make up only 45% of all criminal offenders nationally, 66.07% of offenders under the Florida SYG are Hispanic and White. While Whites and Hispanics make up only 50.3% of the victims nationally, 64.25% of victims under the Florida SYG are Hispanic and White. The vast majority of White and Black defendants' cases had Black-on-Black and White-on-White – with 75-79% of the cases with similar race victims and defendants (see Table 5 below).

**Table 5. Contingency Table: Race of Defendants and Victims in all cases**

|                       |                          | Race of the victims in the case |         |          | Total      |         |
|-----------------------|--------------------------|---------------------------------|---------|----------|------------|---------|
|                       |                          | White                           | Black   | Hispanic |            |         |
| Race of the defendant | White                    | Count                           | 94      | 16       | 9          | 119     |
|                       |                          | % within Race of Accused        | 78.99%  | 13.45%   | 7.56%      | 100.00% |
|                       |                          | % within Race of Victim         | 81.03%  | 20.25%   | 34.62%     | 53.85%  |
|                       | Black                    | Count                           | 11      | 53       | 6          | 70      |
|                       |                          | % within Race of Accused        | 15.71%  | 75.71%   | 8.57%      | 100.00% |
|                       |                          | % within Race of Victim         | 9.48%   | 67.09%   | 23.08%     | 31.67%  |
|                       | Hispanic                 | Count                           | 8       | 9        | 10         | 27      |
|                       |                          | % within Race of Accused        | 29.63%  | 33.33%   | 37.04%     | 100.00% |
|                       |                          | % within Race of Victim         | 6.90%   | 11.39%   | 38.46%     | 12.22%  |
|                       | Other                    | Count                           | 3       | 1        | 1          | 5       |
|                       |                          | % within Race of Accused        | 60.00%  | 20.00%   | 20.00%     | 100.00% |
|                       |                          | % within Race of Victim         | 2.59%   | 1.27%    | 3.85%      | 2.26%   |
| Total                 | Count                    | 116                             | 79      | 26       | 221        |         |
|                       | % within Race of Accused | 52.49%                          | 35.75%  | 11.76%   | 100.00%    |         |
|                       | % within Race of Victim  | 100.00%                         | 100.00% | 100.00%  | 100.00%    |         |
|                       |                          | Pearson chi2(6) = 102.2686      |         |          | Pr = 0.000 |         |

When cross-tabulating the race of the defendant and the race of the victim with the outcome of the case, the tabulations were not significant however they are still reported here. Of the 70 cases with Black defendants, 18.57% were found guilty in court and 14.28% were found guilty through plea-bargain. By comparison, 21% of Whites and 22.22% of Hispanics were found guilty in court while 15.97% of Whites and 14.81% of Hispanics were guilty as a result of a plea-bargain. The lack of statistical significance confirms the original finding that race is not a significant factor in determining the outcome of the case.



Additionally, the relationships between the race of the victim and if the victim was armed, if the victim was committing a crime, and if the defendant pursued the victim were found to be statistically significant at the 5% level (see Tables 6 and 8 below). Also, the race of the defendant and if the victim was armed was found to be significant. In all of these cross-tabulations, the null hypothesis, which states the variables are independent and have no relationship, can be rejected. Therefore, it is safe to conclude that there is some relationship between race and the variables listed above.

**Table 6. Contingency Table: Race of Victims and if Victim was Armed or Committing Crime**

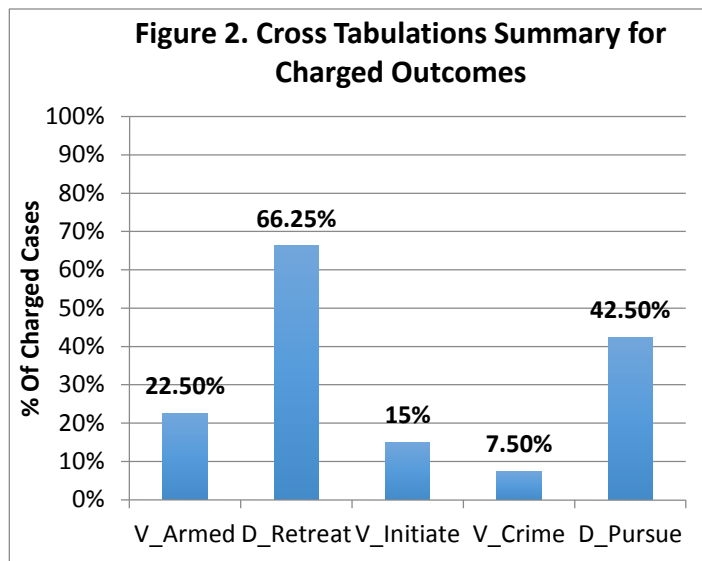
|                                      |           | Was Victim Armed? |        |         |                                      | Was Victim Committing Crime? |        |         |         |         |
|--------------------------------------|-----------|-------------------|--------|---------|--------------------------------------|------------------------------|--------|---------|---------|---------|
|                                      |           | No                | Yes    | Unclear | Total                                | No                           | Yes    | Unclear | Total   |         |
| Race of the victim                   | White     | Count             | 86     | 24      | 6                                    | 116                          | 98     | 14      | 4       | 116     |
|                                      |           | % of race         | 74.14% | 20.69%  | 5.17%                                | 100.00%                      | 84.48% | 12.07%  | 3.45%   | 100.00% |
|                                      | Black     | Count             | 43     | 30      | 6                                    | 79                           | 50     | 23      | 6       | 79      |
|                                      |           | % of race         | 54.43% | 37.97%  | 7.59%                                | 100.00%                      | 63.29% | 29.11%  | 7.59%   | 100.00% |
|                                      | Hispanic  | Count             | 13     | 12      | 1                                    | 26                           | 15     | 10      | 1       | 26      |
|                                      |           | % of race         | 50.00% | 46.15%  | 3.85%                                | 100.00%                      | 57.69% | 38.56%  | 3.85%   | 100.00% |
| Total                                | Count     | 142               | 66     | 13      | 221                                  | 163                          | 47     | 11      | 221     |         |
|                                      | % of race | 64.25%            | 29.86% | 5.88%   | 100.00%                              | 73.76%                       | 21.27% | 4.98%   | 100.00% |         |
| Pearson chi2(6) = 11.7686 Pr = 0.019 |           |                   |        |         | Pearson chi2(6) = 16.1080 Pr = 0.003 |                              |        |         |         |         |

Contingency table 6 shows that 74% of cases with White victims the victim was not armed, compared to only 54% of cases with Black victims and, 50% of cases with Hispanic victims. Thus, Hispanics and Blacks victims were more likely to be armed in comparison to the cases where there was a White victim. However, when cross-tabulating the defendant’s race and if the victim was armed, the results show that in 76% of cases with White defendant, 54% Black defendant, and 37% of Hispanic defendant the victim was not armed. Therefore, Black and Hispanic defendants utilize the self-defense claim more often when there is a victim that is armed in comparison to White defendants. Table 6 also shows that in only 12% of the cases with White victims was the defendant committing a crime. Whereas, in 29% of cases with Black victims and in 39% of cases with Hispanic victims the victim was committing a crime. Lastly, table 7 shows that in 28% of the cases that had White victims, the defendant pursued the victim. Yet, in 33% of the cases that had Black victims and in 35% of the cases that had Hispanic victims, the defendant pursued the victim.

**Table 7. Contingency Table: Race of Victims & if Defendant Pursued**

|                    |           | Did defendant pursue?     |        |            |         |         |
|--------------------|-----------|---------------------------|--------|------------|---------|---------|
|                    |           | No                        | Yes    | Unclear    | Total   |         |
| Race of the victim | White     | Count                     | 62     | 33         | 21      | 116     |
|                    |           | % of race                 | 53.45% | 28.45%     | 18.10   | 100.00% |
|                    | Black     | Count                     | 31     | 26         | 22      | 79      |
|                    |           | % of race                 | 39.24% | 32.91%     | 27.85%  | 100.00% |
|                    | Hispanic  | Count                     | 16     | 9          | 1       | 26      |
|                    |           | % of race                 | 61.54% | 34.62%     | 3.85%   | 100.00% |
| Total              | Count     | 109                       | 68     | 44         | 221     |         |
|                    | % of race | 49.32%                    | 30.77% | 19.91%     | 100.00% |         |
|                    |           | Pearson chi2(6) = 19.7363 |        | Pr = 0.003 |         |         |

The cross-tabulation of if the defendant was on his or her property was not statistically significant when cross-tabulated against the outcome of the case. Figure 1 lists the statistically significant relations. In approximately 23% of cases where the defendants were charged (either found guilty or plea bargain), victims were armed with a weapon, and in only 7.5% of the cases the victims were committing a crime. In more than 65% of the cases where the defendants were charged, the defendant had the ability to retreat from the confrontation (see Figure 2 below). In only 15% of the cases when the defendants were charged, the victims initiated the confrontation and in about 43% of the charged cases the defendants pursued the victim. All of these cross-tabulations are significant at the 0.10 or better.



### Discussion

This analysis of data from the 221 Florida SYG cases is very important in understanding how the law is being implemented, and whether it is implemented in a way consistent with its original intent. The binary logistic regression model suggests that what common sense and the Florida Law emphasized were not necessarily significant in predicting the outcome of the case. Of the 20 independent variables, only 2 were statistically significant at the 0.01 or better level: KilledVic and V\_InitiateDummy, and 1 was significant at the 0.10 level: GenVic. Defendants were less likely to be convicted in cases where victims initiated the confrontation and a victim died. Similarly, defendants were more likely to be convicted if the victim was a female.

Due to the language of the law, it is quite surprising to find out that other factors, pertinent to the actual legislation, were not significant predictors. For instance, neither whether the defendant was on his or her property or was able to retreat, nor whether the victim was armed mattered in determining the case outcome. These variables should have played a role when considering the historical dimensions of the SYG law. Yet, these very important variables are insignificant predictors. Both of the previous laws, and the SYG law, state that one must fear serious bodily harm or death in order to use deadly force, however in a large percentage of the cases the victim was not armed. Additionally, the victim being armed was not significant in affecting the outcome of the case. It begs questioning to how someone can fear for his or her life especially in scenarios when the victim was not armed, the defendant could have retreated, and the defendant pursued the victim.

The question of race and the SYG law is very important as it has many dimensions. The study did reveal that Whites were more likely to be defendants and victims in the cases, however it remains necessary to state that race did not matter when determining the outcome of the case. The race of the victim was correlated with the victim being armed, the victim committing a crime at the time of the conflict, and the defendant's pursuit of the victim. This points to possible behavioral tendencies of certain races over others in regards to self-defense. Many articles state that Blacks are negatively impacted in regards to unfair application of the law and that there are fewer penalties when a victim is Black, thus suggesting that race matters in predicting the outcome of a SYG case. Nonetheless, despite evident racial disparities when looking at descriptive statistics alone, this article refuted the findings of other scholars.

Stand Your Ground is not a law to convict people; rather it is a law to acquit them. The fact that Whites disproportionately use this law may be an indication that Blacks are not invoking the defense equally. Not all cases automatically get the SYG defense, so it may be that Blacks are not getting the opportunity to use this defense and as such were not accounted for on the list. However, one must take into account while not all individuals receive this defense at the onset of hearing, which would initially qualify the defendant for an immunity hearing, once a jury is in place the jury receives instructions that outline the law of self-defense regardless (see *State v. Zimmerman Jury Instructions*, 2012). Thus, it is important to identify these discrepancies that may distort potential racial biases in the application of the law.

When trying to understand the policy-implementation gap, the historical intentions of the law must be taken into account in comparison with the actual findings. The historical intentions of the SYG law were to allow innocent individuals to protect themselves against criminals in any public setting without consequences. However, the findings suggest that only 21% of the cases captured victims committing a crime and in almost 70% of cases the victim was

not armed. Is the law addressing its original intent? The finding that in 57% of cases, defendants could have avoided the conflict reinforces this concern.

The increase depicted from the data set in the amount of cases that had occurred from 2005 to 2013 were indicative of similar findings, as seen in the literature review, that since the establishment of the law there had been increases in homicides and/or homicide attempts based on self-defense justifications. Moreover, the same increase alludes to the fact that there is not a deterrent effect found as a result of Stand Your Ground. However, the fact that only a small percentage of victims were committing a crime in the first place begets questioning of whether the law, in actuality, is used to deal with the issue of criminal intent and reasonable fear against criminality. So, in reality there is no deterrent effect found by the law because people are not invoking the law in situations where criminals are attacking, rather it is being invoked for other purposes and situations, as the Tampa Bay Times originally noted.

Nevertheless, implementation of the SYG law is not always contrary to the intent of the law. In more than 65% of the cases where the defendant was found guilty, s/he could have retreated to avoid the confrontation. This could indicate that the people deciding the outcome are taking the defendant's ability to retreat into consideration. However, the ability to retreat was not statistically significant in the binary logistic model. Additionally, in more than half the cases where the circumstances of the case were drug or gang related, the defendant was not charged. This questions the statute's requirement that a person cannot utilize the self-defense claim if s/he were involved in criminal activity.

This analysis is not without limitations. First, one of the major limitations deals with the accuracy and the breadth of the cases included in the analysis. There is no official tracking system that captures all of the SYG cases in Florida, thus a third party collected information on cases that were made public. This means that there could have been many cases that have been swept under the rug. Also, there is a limited sample size in that only Florida was examined out of the 33 states that have some form of SYG laws. Additionally, the fact that a third party collected the data takes away the ability of scientific research to verify the collected data.

Moreover, while the original outcome contained 7 categories, this analysis condensed the outcomes into 2 categories. Therefore, pertinent differences between categories may be masked, particularly as it pertains to race. Lastly, the analysis cannot suggest any causal relationships, especially because there is no data prior to the SYG law on self-defense cases to compare. So for instance, while this analysis showed that most of the SYG cases are not at the defendant's home or on his property, one cannot conclude that it is a direct result of the law. Even though the law removed the duty to retreat in public places, thus it only makes sense to conclude that less retreating would be done in public places, this analysis did not include data that looks at the details of cases prior to the SYG law being in effect.

## Conclusion

The 2005 Florida SYG legislation was triggered by a case between James Workman and Rodney Cox that occurred the year prior. In this case, James Workman, who was asleep in his RV with his wife, shot another man, Rodney Cox, whom he thought was an intruder. While the facts of the case have been distorted and retold in various fashions, the detail that pushed the SYG law into effect was the fact that James Workman had to wait months prior to finding out if he was innocent. Therefore, he had an extended period of time of which he anticipated the prosecutor's decision of pressing charges or declaring the case as a justified homicide. In the end, the case was declared a justified homicide, however the case was broadcasted in a manner that portrayed the need to protect those who are merely protecting themselves against intruders (i.e. "criminals").

This anecdote, if nothing else, should have portrayed the fact that although the accused had to wait months prior to knowing if he was innocent, he was still found innocent under the former self-defense laws that existed. Thus, it reinforces the fact that under the former self-defense statutes, individuals' right to self-defense and any protections were already established for law-abiding individuals. Moreover, after advocates of the SYG bill retold the story remaining facts of the case were released, which countered the original criminal identity and malicious intent of Mr. Cox. While a longer investigation is not a good thing, it is important to exercise due diligence in investigating any case in which a life is lost. However, the current SYG statute complicates thorough investigative procedures by police officers due to the immunity clause.

Taken together, the aforementioned studies have alluded to some of the key problems that are associated with the SYG law as depicted by anecdotal evidence, testimony, and case studies, particularly as it relates to the policy-implementation gap. First, the ambiguity of the law has led to inconsistent interpretations of the law as it relates to the prohibition of engagement in any unlawful activity by the person who is using deadly force and claiming the SYG defense. As the term 'unlawful activity' has not been defined, it is hard to know when it applies, which is why there have been cases that people have successfully claimed SYG although the self-defense was a result of prior criminal activity. Therefore, it is important to delineate what constitutes illegality.

Second, there is a lack of objective standards in order to evaluate the circumstances that lead to self-defense

measures, which creates a bias based on subjectivity. For instance, the law requires a reasonable fear of imminent harm or death, but it is unknown what constitutes reasonableness. Moreover, when there are no witnesses and lack of evidence, whoever is left standing can claim self-defense as a justification, which is why the law is referred to by opponents as ‘the last man standing’, ‘shoot first’, ‘legalization of murder’, or ‘make my day.’ Third, since it is based on subjective emotions and feelings of fear this has the potential to play into implicit racial bias as blacks are perceived as more dangerous and violent. These negative connotations and stereotypes that come with the mere image of a person and the color of his or her skin can trigger feelings of fear even if no threat is present. This can explain why there are high numbers of cases that have victims who are unarmed.

Fourth, there are issues relating to the vagueness of the law, the interpretation and who decides when the law applies. Since different authorities (e.g., Judges, Prosecutors, Police, Jury) can decide the legality and applicability of SYG at various phases of the incident, it is all left up to interpretation. For instance, the Tampa Bay Times dataset held cases where the judge initially denied the defendant immunity, yet when the initial decision was appealed the jury acquitted the defendant. Also, there are particular issues with jury instructions and when and how the law is invoked. For instance, if the person is not claiming it in the beginning of the case, then s/he forgoes the immunity trial, which leaves the decision to a jury. Even if the prosecuting attorney doesn’t raise the law in his or her defense, the jury is still given instructions based on the law.

The two questions asked in this paper were: What factors are important in determining the conviction or acquittal in SYG court cases? Is there a policy-implementation gap in the SYG law? The factors that matter most in determining court case outcomes include the death of a victim, the gender of a victim, and if the victim initiated the conflict or not. To answer the latter question, it appears that there is a gap between the actual policy and the way it is enforced.

The current analysis concludes that the SYG law has had divergences amongst its foundational intentions and realistic outcomes. Additionally, the historical importance of the law was grounded in the need to protect innocent citizens against criminal offending, whereas the current trends show a limited amount of such cases actually being brought forth. When considering the origins of the law coupled with the fact that homicides have increased since the 2005 SYG legislation was enacted, a return to the original self-defense law is warranted. It is imperative for individuals to protect themselves, but at what costs?

Moreover, while most laws and criminal procedures have been construed differently for different races, the statistical analysis shows that race is not a statistically significant predictor of outcomes in regards to the specific cases within the State of Florida. A more in depth analysis can look at the types of incidents that took place in regards to the specific circumstances of each case and see if race is a predictor of outcomes, for instance in domestic violence cases or in home invasion cases, rather than looking at all SYG cases as a whole. This can then determine when race matters, if it matters at all.

Furthermore, this study yields other important questions for future studies. Scholars need to assess the extent to which race impacts certain legal official’s (e.g., prosecutors, judges, jury members, police) individual decisions as it pertains to the Stand Your Ground law. A recent story has displayed the extent to which there can be an unfair application of the defense from the onset of initial hearings as it pertains to race. Michael Giles, a young Black male, was sentenced to a 25-year sentence for aggravated battery with a deadly weapon for responding to a perceived threat. He was not given an opportunity to invoke the SYG defense. It was reported that Mr. Giles’ first lawyer persuaded him to not invoke the defense, which led to his present lawyer asking for post-conviction relief due to the misrepresentation and ineffectiveness of his former attorney (Ramsey 2013). Therefore, whether Black or Hispanic defendants are afforded the same opportunity as Whites to invoke the self-defense protection in the first place is of importance to future research.

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**Dr. Mohamad G. Alkadry** serves as Associate Professor and Director of the Florida International University (FIU) Master of Public Administration Program. He also serves as an affiliate faculty member of the FIU Women’s Center. He received his Ph.D. from Florida Atlantic University (2000) and his Masters of Public Policy and Public Administration from Concordia University in Quebec (1996). His undergraduate work was done at Carlton University in Canada (2002, 2004) and the American University of Beirut in Lebanon. Dr. Alkadry has over 30 peer-reviewed publications and one edited book (with Hugh Miller): *These Things Happen: Stories from the Public Sector*. His work appears in *Review of Public Personnel Administration*, *International Journal of Organizational Theory and Behavior*, *Public Administration Review*, *Administration and Society*, *Public Integrity*, *Journal of Education Finance*, *Social Work in Health Care*, *Public Productivity and Management Review*, *Public Administration and Management*, *Administrative Theory and Praxis*, among other journals. He recently published a book (with Leslie E Tower) entitled:

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