ORIGINATING STAND YOUR GROUND:

Racial Violence and Neoliberal Reason

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Abstract

Since the killing of Trayvon Martin, the Stand Your Ground law has come to emblematize contemporary racial injustice. Yet, the legitimacy of the statute endures, as more than thirty-three states maintain and enforce some version of Stand Your Ground. This article probes the legitimacy basis for Stand Your Ground by excavating and reconstructing its formative logic. Drawing on archival records of the Florida state legislature's 2005 pioneering of the statute, I examine how lawmakers justified its introduction, design, and enactment. I find that proponents of Stand Your Ground framed it as a response to the cost impositions of criminal prosecution and civil action. In introducing Stand Your Ground, they sought to protect self-defensive actors against the burdens of administrative and judicial proceedings by granting them civil immunity. During the mark-up process, legislators held an extensive debate over the intended beneficiaries and victims of Stand Your Ground. Racial codes animated this debate: "drug dealers," "gangs," and "cop killers" represented the types of criminal subjects whom the legal protections of Stand Your Ground should exclude, while "violent criminals" in the "bad part of town" represented the intended objects of the statute's authorization of deadly force. Ultimately, legislators translated the concerns raised during this debate into statutory design choices that baked race into Stand Your Ground.

Keywords: Neoliberalism, Racial Violence, Governance, Criminalization, Lawmaking, Political Rationality

INTRODUCTION

The story is all too familiar. On February 26, 2012, George Zimmerman—the volunteer neighborhood watchman of his community in Sanford, Florida—dialed 911 to report a "real suspicious guy." Through his car window, Zimmerman saw 17-year-old Trayvon Martin, who was returning home from a convenience store. Having profiled Martin as a burglar, Zimmerman exited his car to pursue and confront him—despite the dispatcher's instruction to wait for the police. The details of what happened next are uncertain, as only Zimmerman survived to narrate the confrontation. However, what is clear is that things ended when Zimmerman fatally shot Martin. Upon arrival, the police surveyed the scene and took Zimmerman into custody; but after a round of questioning, they released him (Botehlo 2012).

News of the shooting sparked national outrage. Particularly astonishing was the Sanford Police Department's decision to release Zimmerman that night—officers

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seemed to have exonerated him of murder without even the semblance of a criminal process. Martin's parents soon released a petition for Zimmerman's immediate arrest; community organizers coordinated mass protests, calling the glossed over killing a "modern-day lynching" (Goodman 2012); and, then-President Obama proclaimed that the shooting warranted a thorough investigation (Shear 2012).

As the case garnered national attention, Florida politics became the subject of intense scrutiny and state officials spoke out. Florida legislators lamented Martin's death, summarily denounced the Sanford Police Department's decision to clear Zimmerman, and construed the failure to arrest as an exceptional bureaucratic misstep (Bousquet 2012).[1] But, Sanford police maintained that releasing Zimmerman that night was statutorily mandatory, and therefore procedurally appropriate. In a letter released by the Sanford City Manager, former Chief of Police Bill Lee Jr. cited a then-little-known Florida law to explain the officers' decision:

> **Why was George Zimmerman not arrested the night of the shooting?**
>
> When the Sanford Police Department arrived at the scene of the incident, Mr. Zimmerman provided a statement claiming he acted in self-defense which at the time was supported by physical evidence and testimony. By Florida statute, law enforcement was PROHIBITED from making an arrest based on the facts and circumstances they had at the time (*CNN* 2012).[2]

Lee went on to quote Florida statute 776.032—better known as the Stand Your Ground law—which stipulates that a person is justified in using force, including deadly force, to defend his or herself in any place where he or she has the right to be, if the person reasonably fears imminent peril; that the person is not obligated to retreat before using deadly force; and that the person is immune from criminal prosecution and civil action. According to this statute, Lee argued, releasing Zimmerman was what the Sanford police were *supposed* to do.[3] This reasoning, however, failed to appease disgruntled local officials: the Sanford City Commission issued a 3-2 vote of no confidence against Lee and the City Manager eventually fired him (Rutl 2012). Still, in attempting to avoid blame, Lee implicated Florida law: major news outlets intercepted the letter and Stand Your Ground entered national discourse.

Martin's killing and Zimmerman's acquittal—as well as subsequent, highly politicized 'self-defense' cases—have afforded Stand Your Ground political infamy. In many ways, the statute has come to emblematize contemporary racial injustice. Yet, more than thirty-three states maintain and enforce some version of Stand Your Ground (Butz et al., 2015; Light 2017). In fact, not only does Stand Your Ground remain widely operable, but its diffusion is ongoing: between fall 2016 and spring 2018, state legislatures in Missouri, Ohio, Iowa, Idaho, Wyoming, Oklahoma, and Florida each adopted or voted to expand some version of Stand Your Ground (Alvarez 2017; Aubry 2017; Helmuth 2016; Phillips 2017; Spence 2018). The extensive reach and continued legislative uptake of Stand Your Ground despite its controversies indicate the statute's enduring legitimacy—but how did Stand Your Ground become a legitimate legislative option, in the first place? What scheme of political rationality rendered it viable as an alternative? More specifically, what decision-making calculus undergirded its statutory debut? Understanding the making of Stand Your Ground is vital to identifying the conditions of its possibility and interpreting its continued significance; but scholars have heretofore overlooked its legislative history. And, while the numerous accounts of the Zimmerman trial and other Stand Your Ground-related cases importantly posit race

as determinative of the law's implementation, they do little in the way of shedding light on the logics that legitimated its introduction.

Through an analysis of the Florida state legislature's pioneering of Stand Your Ground, this article excavates and reconstructs the statute's formative logic. The central questions of this article include: *What was the rationale for the Stand Your Ground law? What justifications did legislators offer for its introduction, design, and passage? Did race factor into its legislative rationale? If so, how?* In keeping with legal and historical accounts of its ideological precepts, I interpret Stand Your Ground as a case of neoliberal criminal justice reform—that is, the conditional provision of immunity from criminal prosecution and civil action for claimants of self-defense. I find that the justifications for its introduction, design, and passage articulate neoliberal reason with racial violence. The contributions of this article are triple. First, I probe the governing rationality that legitimated a now-pervasive mechanism of extra-state violence: Stand Your Ground. Second, I reconsider the material stakes of the statute and its implementation. And, third, I demonstrate the interplay between race and neoliberalism vis-à-vis decision-making.[4]

The current moment occasions this research. Given Donald Trump's ultimately successful campaign as the "Law-and-Order Candidate," his threats to impose martial law in Chicago, and his appeals to white nationalism, tracking shifting configurations of state-sanctioned racial violence has become imperative. Additionally, the 2018 Stoneman Douglas High School shooting reinvigorated gun control debates and demonstrated the need to remain abreast of gun-related laws and their lethal consequences. Lastly, Stand Your Ground continues to license violence. While national media outlets fail to report on all but few Stand Your Ground-related cases, thereby producing the impression that legal subjects only occasionally invoke the statute, suspects actually *routinely* cite Stand Your Ground—especially in cases of interracial violence in suburban and rural areas.[5] Reckoning with the continued significance of Stand Your Ground requires pursuing fuller accounts of its history and implications. This research contributes to that pursuit.

Race, Neoliberalism, and Decision-Making

Analysts of racial politics theorize race and neoliberalism as co-constitutive organizing principles of contemporary governance. If neoliberalism is a historically contingent set of ideological commitments-cum-political practices—including the sweeping embrace of market values in political life, the privatization of formerly public goods, the deregulation of industries and capital flow, the elimination of social services, and the expansion of prisons, police, and the military (Harvey 2005; Prasad 2006; Wacquant 2009)—race serves as its enabling condition, a constraint, and a determinant of its outcomes. Indeed, scholars have charted out the persistence of race-based inequalities under neoliberalism (Dawson 2011; Dawson and Francis, 2015); demonstrated the use of racial discourse to conceal uneven political-economic developments (Johnson 2011; Soss 2011); described the effects of neoliberalism on intra-racial politics (Cohen 2012; Spence 2015); and identified how racialized discourses engendered the "neoliberal turn," in the first place (e.g., Gilens 2000).

Shared conceptual stakes aside, accounts of the relationships between race and neoliberalism vary in their methodological and empirical approaches, with some more conventional than others. In an essay on contemporary African American politics, Lester Spence (2012) contends that researchers typically pose neoliberalism as a catalog of political-economic arrangements and/or policy outcomes, while neglecting other sites of its expression and entanglement with race. Spence then maps a different

line of inquiry: he suggests that research on race and neoliberalism "[move] away from public policy outputs and away from the types of discourse used to justify or engender support for these outcomes, and [toward] considering the technical means by which individuals, populations, institutions, and spaces are governed (and are self-governed)" (p. 145). In disclosing techniques of governance as additional sites in which neoliberalism might find articulation, Spence announces opportunities to supplement research on neoliberalism and racialized outcomes with accounts of how decision-makers interpret political conditions and craft alternatives.

Wendy Brown's (2015) theorization of neoliberalism resonates with Spence's proposition. According to Brown, neoliberalism permeates political life as a governing rationality that evaluates individual behaviors and social relations according to market principles. *Neoliberal reason*, as Brown terms it, transposes politics into an economic idiom, casting governance in terms of cost/risk management. In this way, political conditions become intelligible as problems insofar as they are costly or risky, and changes are deemed necessary inasmuch as they promise cost/risk mitigation. Other modes of valuation—like assessing the justness of a set of conditions or the equitability of some governing practice—are displaced by this cost/risk management frame.

My analysis draws on Brown's theoretical specification in order to pursue Spence's charge. Taking as my case the legislative deliberations over Stand Your Ground—wherein lawmakers explained the cause for its introduction, outlined the stakes of its statutory design, and provided justifications for its enactment—I offer an account of the co-constitution of race and neoliberal reason as a decision-making calculus. If governance fundamentally concerns the evaluation of political conditions, the specification of problems, and the development of changes—and if context-specific ideological arrangements, orders of value, and modes of reason shape what is thinkable, doable, and/or necessary—then, I am concerned with the logics that rendered Stand Your Ground viable as an alternative.

I begin the analysis below by tracing the introductory justifications for Stand Your Ground. In short, I argue that the proponents of Stand Your Ground rationalized the statute by framing it as a solution to the costs and risks imposed by criminal prosecution and civil action. Criminal cases and civil disputes, these legislators argued, entail material loss and social alienation for the accused: private citizens who are charged, detained, convicted, and/or sued lose time, money, and social cachet as they undergo the constitutive processes of criminal prosecution and civil action. For example, if a private citizen self-defensively kills another person, s/he will be apprehended and subjected to a criminal process. The person incurs costs at each phase of the process: s/he feels stigmatized due to the arrest, loses work income while being detained, must pay for legal defense and afford court fees, etc. Moreover, even if the person is ultimately cleared of charges, the costs that s/he incurred while undergoing the criminal process are not reversed—e.g., acquittal does not recover the material loss experienced during detainment—and the person might still be vulnerable to civil action. Hence, criminal and civil proceedings impose costs on their subjects. Stand Your Ground would preclude these cost impositions by granting its beneficiaries immunity from criminal prosecution and civil action. That the costs imposed by criminal prosecution and civil action—rather than, say, an assessment of the moral justness of extra-state violence—anchored a debate over the use of deadly force bespeaks neoliberal reason.

However, if neoliberal reason rendered Stand Your Ground conceivable, race compelled legislators to scrutinize its practicability. Opponents and ambivalent supporters of Stand Your Ground worried that the statute might deputize and victimize the 'wrong people,' if its intended beneficiaries were not explicitly pinpointed. Relying on the discursive juxtaposition of 'law-abiding citizens' and 'street criminals'—where

the former is figured as white and the latter as black (Hinton 2017; Murakawa 2014; Weaver 2007)—legislators crafted the design of the statute during the amendment process to limit its legal protections to "lawful people." They achieved this by statutorily inscribing the exclusive conditions under which Stand Your Ground should operate: when "law-abiding people… [possess] reasonable fear of imminent peril." In justifying these vague stipulations, legislators posited "cop killers," "gangs," and "drug dealers" as street criminals whose putative threat would mark the proper bounds of the statute's enforcement. Ultimately, through the amendment process, legislators baked race into the statute.

In mining the formative logic of Stand Your Ground, I contribute to the growing literature on race and neoliberalism by: 1) demonstrating the interplay between race and neoliberalism vis-à-vis decision-making, and 2) identifying how racial-neoliberal logics might work to legitimate ostensibly non-economic, material practices—e.g., racial violence.

The History, Implementation and Implications of Stand Your Ground

The extant research on Stand Your Ground is extensive. Researchers have identified its historical antecedents and examined its enduring significance. Caroline Light's (2017) sociolegal history of lethal self-defense in American political culture exemplifies the former, as she traces Stand Your Ground's ideological precepts back to the post-emancipation era. Others, through myriad methods and approaches, analyze its racialized implementation, its legal implications, and its discursive influence. Notably, scholars have found links between race and case outcome in Stand Your Ground-related trials (namely that defendants who invoke Stand Your Ground are significantly less likely to be convicted if the victim is, or was, non-white) (Ackerman 2015; Wagner et al., 2016). Legal analysts have argued that the law's functions exceed its legal meaning, as it is often culturally or politically invoked in cases where it is legally inapplicable (Suk 2015); and some even suggest that it shapes perceptions of authority—that is, who can enact violence against whom, and when—among civilians (Lave 2013).

Still, while much ink has been spilled over the ideological precepts and political import of Stand Your Ground, little is known about its legislative history. Most researchers only speculate on how the law was crafted by assuming that its implementation is perfectly reflective of its design (Coker 2014). Others undermine the complexity of the lawmaking process by wholly attributing the bill's inception and passage to the National Rifle Association's (NRA) interest group advocacy (Franks 2014). Still others omit details of the statute's design and enactment, even as they account for its historical roots (Light 2017). The only work that attempts to mine Stand Your Ground's legislative history is *Tampa Bay Times* writer Ben Montgomery's (2012) oft-cited account of the bill's introduction in the Florida state legislature. But, Montgomery, too, undermines the complexity of lawmaking by simply linking the bill to a case mentioned twice during floor debates, leaving hours of discussion and other legislative records unexamined. Thus, the design and enactment of Stand Your Ground—its introduction into the legislature, debates over its statutory scheme, its amendments, and ultimate passage—have gone largely understudied.[6]

However, understanding the introduction, design, and enactment of Stand Your Ground is important for a few reasons. First, examinations of political decision-making provide insight into the conditions of possibility for policy and legal reforms, and supply analytic purchase on their ramifications. This is not to suggest that laws and policies perfectly reflect their original intentions—political decision-making almost always results in contradictory outcomes and unintended consequences—but that the

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logics behind laws and policies offer important interpretive insights. In the case of Stand Your Ground, most researchers, having only speculated on its formative logics, settle on one approach to interpreting the statute's sociopolitical implications. Specifically, they interpret Stand Your Ground as a law that centers narrowly on providing immunity from *criminal conviction* in cases of violent self-defense. Quantitative studies of the racially disparate implementation of Stand Your Ground, for example, often posit 'defendant conviction' as the sole dependent variable of the analyses.[7] More recent work in legal studies expands this interpretive frame a bit to consider the effect of Stand Your Ground on pre-trial criminal procedures (though little empirical work has taken this up) (Cavazos 2016).

A close look at the statute's legislative history, though, points to ramifications of a different order. Whereas the existing work treats Stand Your Ground as a statute that renders its beneficiaries immune from criminal liability, thus legally inculpable—that is, protected against conviction—the originators of Stand Your Ground announced it as a statute that would render its beneficiaries immune from criminal prosecution as well as civil action, and thereby *materially secured*—that is, protected against the costs imposed by administrative and judicial proceedings, like attorney fees, court costs, and civil damages. In other words, while the existing work focuses on the preemption of imprisonment, the originators of the statute emphasized the preclusion of costs. This difference in emphasis is subtle but critical, because it begs a different set of empirical questions for assessing the sociopolitical implications of Stand Your Ground. For example, in addition to asking about the frequency at which violent actors avoid conviction via Stand Your Ground, researchers might also ask: Which of the costs commonly incurred by suspects of violent crime do claimants of Stand Your Ground circumvent? How often do they evade bail, attorney fees, court costs, and other expenses? Whose assets does Stand Your Ground protect? Does the statute prevent or otherwise affect interracial wrongful death or personal injury lawsuits? What impact does its invocation have on the assessment of civil damages? Prompted by the legislative history behind the statute, questions like these assume a different take on Stand Your Ground and press toward a fuller account of its ramifications.

Furthermore, understanding the design and enactment of Stand Your Ground is important given the process by which the statute propagated across states. After Florida passed Stand Your Ground, the NRA vowed to push similar statutes in state legislatures across the nation using Florida's version as a template. In a 2005 interview, Wayne LaPierre, NRA Executive Vice President, described Florida's enactment of Stand Your Ground as "the first step of a multi-state strategy" (Roig-Franzia 2005). In another interview, then-NRA lobbyist Marion Hammer confirmed their plan: "As [NRA] executive vice president Wayne LaPierre has said we are going to move across the nation from the red states to the blue states" (Christensen 2005). The American Legislative Exchange Council (ALEC) facilitated this project by creating model legislation based on Florida's law, which enabled legislators elsewhere to introduce similar bills. And, as of spring 2018, more than thirty-three states have adopted some version of Stand Your Ground (Light 2017, p. 162).[8]

If legislators and interest groups modeled subsequently passed Stand Your Ground laws after Florida's statute, understanding the rationale for and design of Florida's statute is crucial for interpreting the law's diffusion and understanding its enduring significance.[9] And, while analyses of Stand Your Ground's historical antecedents might point to the ideas that prefigured its conception, they do not account for the particular logics deployed to substantiate the introduction, design, and enactment of the statute. This article intervenes on these gaps in the literature with a focused account of Stand Your Ground's legislative history.

Empirical Approach

Again, my analysis centers on the Florida state legislature and its pioneering of Stand Your Ground. I trace the drafting of the statute, charting how legislators justified its introduction, design, and enactment. Legislative records from the State Archives of Florida—including committee meeting minutes, staff analyses and audio recordings of floor debates during the legislature's 2005 Regular Session—serve as my primary sources of evidence.[10] Where appropriate, I supplement this data with news sources detailing local happenings in Florida (e.g., events that legislators cite while making claims). And, I intersperse my discussion with relevant legal cases to further animate my findings.

I parse the debates using a blend of policy process theories. First, I employ John Kingdon's (2010) policy window framework to examine the conceptual origin of the Stand Your Ground bill. Kingdon's framework enables me to identify what catalyzed the bill and how legislators justified its introduction. To further clarify the legislative debates, I track legislators' uses of "causal stories"—that is, anecdotes used to substantiate political claims (Stone 1989). And, after examining the bill's introduction, I analyze the debates over its design using Anne Schneider and Helen Ingram's (1993) policy and social construction framework, which posits intersubjective meaning-making as a key factor of legislative behavior and policy formulation. Their work—especially their discussion of the 'beneficiaries' and 'losers' of a policy—provides a method for interrogating the use of racial codes in legislative debates. Combined, these analytics support me in charting the formative logic behind the statute.

This research design has a few limitations. First, because this is a case study, my empirical findings regarding Stand Your Ground's rationale are not necessarily generalizable, as debates over the statute in other states may have proceeded differently. Additionally, my project centers on the official legislative history of Stand Your Ground, and therefore does not fully account for the factors of legislative choice that are not reflected in the archive. Still, my aim is not to provide an exhaustive history of Stand Your Ground, nor is it to make a claim about how every state rationalized its version of the law. Instead, by charting the rationale for what became model legislation, I uncover the fundaments of a now-pervasive statute and offer a reconsideration of its material stakes. I also use this case to demonstrate how race and neoliberalism co-constitute a decision-making calculus.

Finally, a note on the organization of this article. The flow of legislative debates on Stand Your Ground was capricious. There were many fits and starts during committee meetings and floor debates; discussions were routinely interrupted by unrelated announcements; and repetition often stalled advancement from one point to the next. Therefore, rather than presenting my evidence in the order that it appears in the archive, I organize it according to key junctures—i.e., the introduction of the bill and the definition of the problem; the framing of Stand Your Ground as an alternative; challenges levied by opponents and ambivalent supporters; consequent amendments; and its ultimate passage—bringing greater coherence to the bill's legislative history. My objective is not simply to showcase archival minutiae, but to mine the statute's formative logic by synthesizing the records of its making.

Problem Definition: The Costs of Criminal Cases and Civil Disputes

Meteorologists remember 2004 as "The Year of Four Hurricanes." In late fall of that year, a record four hurricanes successively pounded the Florida peninsula within the span of five weeks, wrecking the state. The storms killed at least 160 people and caused billions of dollars in property damage, thereby prompting then-governor Jeb Bush to

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declare a state of emergency. This devastation and Florida's recovery spawned numerous issues that the state legislature would debate in its 2005 session, including funding for disaster relief, hazard mitigation in costal redevelopment efforts, contracts for storm-recovery financiers—and extra-state violence.

Reports of theft, burglary, and home invasion increased in the aftermath of the hurricanes. Many homeowners called the police alleging that "looters [were] plundering" their communities. However, due to the myriad issues competing for their attention, officers often responded to crime reports belatedly or not at all. Sluggish and non-responsive law enforcement intensified feelings of personal insecurity and induced dissatisfaction with criminal justice administration, prompting some Florida residents to take the law into their hands. For example, one news interviewee, annoyed with slow police response times and frustrated with theft, vowed to kill alleged looters himself, in lieu of waiting for officers: "Sons of bitches! They have no respect for people, even in times like these. If I see 'em, I'll shoot 'em! They're gone" (Van Sant 2004). Having provoked anxieties over criminal activity, primed discontent with law enforcement, and compelled vigilantism, the 2004 hurricane season created a window of opportunity for Florida legislators to reevaluate the legal response to extra-state violence. Enter: Stand Your Ground.

Variously called Senate Bill 436, House Bill 249, the "deadly force bill," and the "home protection act," Stand Your Ground was first introduced by State Sen. Durell Peaden (R) in the Florida Senate Criminal Justice Committee on February 9th, 2005. Peaden—a now-deceased staunch conservative and gun rights advocate who represented the majority-white, rural district in the northwestern-most part of Florida—fashioned Stand Your Ground as the solution to a double-faced problem. On one hand, Peaden problematized criminal prosecution, deeming it an arduous and costly process. He argued that being arrested and detained, hiring lawyers, and undergoing criminal trial constitutes a cumbersome ordeal that materially burdens self-defensive citizens. At the end of the Senate Criminal Justice Committee discussion on the bill, Senator Peaden offered the following anecdote to demonstrate this point:

> [In my district] a 77-year-old guy and his wife were in a trailer after their home was blown away, and someone broke into their trailer. Wife was disabled. They didn't know whether the guy was trying to burglarize or what he was doing. They shot him. They shot him because he forcibly entered the building. *This man had to wait three or four months… before charges were ever dropped*. Now, what are you going to do? A 77-year-old man? *He's going to sit there and have to hire a lawyer for $20,000 to defend what he had done?* The things he had done were right according to case law, but *why should those people have to pay for their defense when their actions were defensible?*[11]

Peaden was referring to the widely-publicized James Workman case. James and Kathryn Workman moved into a FEMA trailer outside of their home after Hurricane Ivan—one of the four hurricanes—severely damaged their home's roof. One night, Kathryn Workman spotted a man (Rodney Cox) in their yard and thought he may be trying to break in. James Workman exited the trailer to confront him, the two had a physical altercation, and Workman shot and killed Cox. Workman was not arrested that night, but the Florida State Attorney's Office launched an investigation into the case to determine if he would be charged. Ultimately, after a two-month investigation, no charges were entered (Montgomery 2012).

The details of this case point to an important nuance of the legislative rationale for Stand Your Ground: criminal conviction was not the primary target-problem. Again,

James Workman was *never convicted* of any crime. Therefore, by invoking his case, Peaden was not positing conviction as the object of debate. Instead, Peaden speculated on the prolonged legal and financial uncertainties that Workman faced in order to impugn the material burden of criminal prosecution. He criticized the three-month investigation and denounced the prospect of Workman paying for legal defense, thereby indicating that investigations and prosecutions cost their subjects time and money. His co-sponsors corroborated this framing, contending that Workman was in a state of "legal limbo"—that is, vexed by the threat of incarceration and financially uncertain—due to the "lengthy investigation." In this way, the bill's introductory justifications defined criminal prosecution as a costly, thus problematic legal process.

This material framing of criminal prosecution in Stand Your Ground's legislative origin is further evidenced by the provisions of its preliminary statutory scheme. The original bill proffered the insulation of private citizens against criminal prosecution and civil action, i.e., arrest, detainment, prosecution, and civil suit. (Importantly, the bill defined "criminal prosecution" as "arresting, detaining in custody, and charging or prosecuting [via trial] the defendant."[12]) It even stipulated that law enforcement agencies and state attorneys would be liable to *compensate* wrongfully arrested, detained, charged, and/or prosecuted subjects for "attorney's fees, court costs…loss of income, and all [other] expenses incurred."[13] In this way, a beneficiary of Stand Your Ground could completely elude legal action in the wake of a so-called justifiable homicide case *and* seek reimbursement from the state if s/he, say, missed work because s/he was wrongfully detained, according to the law. Though legislators later changed this reparative stipulation,[14] its inclusion among the original bill's provisions indicates the primacy of the cost impositions of criminal prosecution in the statute's formative logics.[15]

Moreover, as Peaden stressed the costs imposed by criminal prosecution, his co-sponsors reinforced this introductory framing by pointing to the material consequences of civil suits as well as the immaterial costs of legal proceedings, more broadly. Specifically, they argued that criminal prosecution is costly as well as stigmatizing—that it assigns social opprobrium to its subjects, even as it is financially burdensome—and that the costs imposed by criminal procedures are supplemented by those assessed in civil disputes. State Rep. Dennis Baxley, also a Republican and 2004 winner of the National Rifle Association's "Defender of Freedom" award (Kroll 2012), underscored these points while introducing Stand Your Ground during the House Judiciary Committee meeting. He argued that citizens are too often "*treated as the criminal* in lengthy investigations of whether or not they'll be charged for defending themselves," and that this unwarranted treatment could affect one's relationship to the law. He went on to declare that Stand Your Ground would prohibit "prosecution of victims for defending that which [they] have a constitutional and legal right to defend" and that it would preclude "civil lawsuits by criminals and relatives of criminals injured or killed while attacking law-abiding citizens."[16]

Baxley's justificatory remarks identified the power of criminal prosecution to designate categories of legal subjecthood: he suggested that prosecution can recast "citizens" as "criminals," thereby legally disempowering them. Moreover, by pointing to "civil lawsuits" in the aftermath of violent self-defense cases (e.g., wrongful death and personal injury disputes), Baxley reiterated the material burden of legal processes—that is, he pointed to civil damages as additional cost impositions. Put differently, in the wake of committing defensive homicide, one might not only lose work income while being detained, have to pay for bail, and afford legal fees to mount a defense in criminal trial court, but s/he might also be sued for damages and incur shame as a result of the criminal process. And, importantly, these ramifications are

possible irrespective of criminal trial outcomes—that is, one can lose income while being detained and is vulnerable to civil suit even if s/he is ultimately exonerated of any crime. In these ways, criminal cases and civil disputes entail material loss and social alienation for the accused.

To raise the stakes of this material framing of criminal prosecution and civil action, Stand Your Ground's proponents linked the cost impositions of legal processes to the risks of criminal violence—the second face of the problem. If criminal cases and civil disputes variously burden private citizens, they reasoned, the prospect of such proceedings also produces risk for those who encounter imminent peril. Put differently, criminal and civil proceedings constitute a set of encumbrances that loom over citizens and converge on them in moments of life or death. When confronted by criminals, citizens must contemplate the cost of arrest, detainment, prosecution, trial, and civil liability *before* defending themselves—and that moment of contemplation leaves them vulnerable to violent victimization. Marion Hammer, then-NRA lobbyist and chief supporter of Stand Your Ground, first drew the connection between the cost of legal processes and imminent peril during the Senate Criminal Justice Committee hearing on the bill:

> I quite frankly thought that this would be a good opportunity to explain why we really need this bill… You can't expect a victim to *wait before taking action* and say: "Excuse me, Mr. Criminal: Are you here to rape and kill me? Or do you just want to beat me up and steal my TV set? And, by the way, do you have a weapon?" *On the spur of the moment*, when these things happen, you have to be able to make a decision to protect yourself. *And you don't want to be worried about being second-guessed by somebody with 20/20 hindsight*… not when you have *a split-second* to decide to protect yourself and your family.[17]

In Hammer's formulation, the "victim" is a potentially self-defensive actor that is hindered by the threat of criminal procedures. She is compelled to consider potential investigatory and criminal trial questions "on the spur of the moment," in the face of a violent criminal. And, given that she only has a "split second to decide" to defend herself, that moment of contemplation is endangering.

Senate Criminal Justice Committee members echoed Hammer's concerns and corroborated them with personal accounts of procedure-related apprehension during encounters with criminality. Three committee members, for instance, noted that they had been victims of multiple burglaries, and each reported feeling hesitant to fend off alleged burglars due to anxieties around potential liabilities. In one case, the alleged burglar reportedly stood over the committee member with a pistol as he slept and exclaimed, "I'm going to kill you, you fat son of a bitch!"[18] Despite owning a weapon, however, the frightened senator hesitated to defend himself.

State Sen. Evelyn Lynn (R) went even further in describing her encounters with burglary. She reported that her home was burglarized on three occasions. Each time, upon the police's arrival, she would vow to protect herself against future incidents: "'I'm going to get a knife and keep it under my pillow; I'm going to get a gun.'" However, in reply, the responding officers cited the burden of criminal prosecution as a caution against self-defense: "Oh no, no, no, no, you don't want to do that, because, if *you* hurt anybody, *you* will be liable, *you* will have to go to court, *you* will go to jail *etc. etc. etc.*"[19] This reportedly left Senator Lynn anxious about criminal proceedings, unsure about her right to defend, and therefore disempowered. Thus, like Hammer, she framed criminal procedures as looming encumbrances that impede potentially life-saving action.[20]

In short, Stand Your Ground was forged in response to a composite problem: the cost impositions of criminal prosecution and civil action, on one hand, and the risks they produce in the face of imminent peril, on the other. Criminal cases and civil disputes entail material loss and social alienation for the accused; private citizens face criminal violence. Fearing loss and alienation, private citizens hesitate to defend themselves when confronted by criminals, which increases their vulnerability to violent victimization. Senator Peaden articulates this even more plainly in his concluding remarks on the bill during the Senate Judiciary Committee hearing:

> The origin of this bill came from an incident in Pensacola, in my district, where a 77-year-old elderly gentleman and his wife had had their home destroyed—and they'd been living in a trailer, and somebody broke into the trailer. The gentleman shot him—the assailant—as he should have. He was sitting around there three or four months waiting to see whether he was going to be charged or not. *Now, I can't see where somebody 77-years-old gets their house broken into, has to hire a lawyer, has to worry about even being charged.* Last week… in Walton County, Defuniak Springs, in my district, there was a deputy sitting at home watching television; somebody broke down his front door. *He threw the guy out, [but] he came in and broke it again. And, he had to shoot the man to protect his life and his family*. I think this bill is a long time in coming.[21]

Here, the two cases represent the two sides of the double-faced problem that precipitated Stand Your Ground: the former case highlights the cost impositions of criminal prosecution, while the latter case attests to the threat of imminent peril. Together, they narrate the catalyzing problem.

Solution: Civil Immunity as Cost Preclusion

If criminal cases and civil suits pose cost impositions that loom over private citizens and impede life-saving action, proponents of Stand Your Ground sought to aid self-defense by preempting criminal prosecution and civil action. That is, they aimed to curb the prospective burdens of criminal procedures and civil disputes such that self-defensive actors could disregard legal costs in moments of "split-second" decision-making. They intended to create the conditions for citizens to defend themselves "on the spur of moment" by relieving them of the looming impositions that might induce hesitation—like the prospect of "[hiring] a lawyer for $20,000," residing in "legal limbo" for "three or four months," paying court costs, being sued by an assailant's relatives, and/or otherwise being "treated [as] criminal."

The bill proposed three changes in pursuit of this goal. First, it proposed the codification and expansion of the Castle Doctrine. As many have explained, the Castle Doctrine—a legal precedent, rooted in common law—has long advised that residents who are attacked in their homes are not obligated to retreat before defending themselves; they may use force, including deadly force, to fend off intruders. Proponents of Stand Your Ground aimed to enshrine this judicial precedent in Florida statute and broaden its provisions beyond the home, thereby making it an administrative rule that would be applicable for any person in any "place where he or she has a right to be." Second, the bill would import the assumption that private citizens possess "reasonable fear of imminent peril" when using violence to fend off assailants, thus instructing law enforcement to presume innocence when responding to scenes of self-defense. And, lastly, the bill would proffer immunity against criminal prosecution and civil action (Catalfamo 2007).

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Legally, these changes would insulate self-defensive actors against criminal procedures and civil disputes; effectively, they would secure self-defensive actors against the cost impositions of criminal and civil proceedings, thereby rendering them materially secured in the face of criminal violence. Free of the duty to retreat, backed by the presumption of innocence, and protected against criminal prosecution and civil action, self-defensive actors would not need to factor the looming cost impositions of arrest, detainment, trial, or civil suit into their decision-making, "on the spur of the moment." When threatened, they could violently defend themselves without hesitation.

Racializing the Intended Beneficiaries and Victims of Stand Your Ground

After the introduction of Stand Your Ground, its opponents and ambivalent supporters began to scrutinize its potential impact. Two parallel questions anchored legislative concerns during the mark-up process: 1) If passed, who would Stand Your Ground deputize? and 2) Who would it victimize? Or, to draw on Schneider and Ingram's (1993) method, who would be the 'beneficiaries' and 'losers' of Stand Your Ground? The bill's original statutory scheme proposed changes that would preclude criminal prosecution and civil action in cases of violent self-defense, but the instructions on the applicability of its protections were vague. Therefore, some legislators worried that the statute might unwittingly legitimize criminal violence and undue victimization.

Rep. John "Jack" Seiler—a Democrat and representative of an urban, liberal district in southeastern Florida—was especially concerned with who Stand Your Ground might deputize. Shortly after the introduction of the bill during the House Judiciary Committee hearing, Seiler raised the following provocation:

> I fully support your Castle Doctrine. I think you're absolutely correct: that ought to be the law in Florida. My concern is, if I read [the bill] correctly, if a person is attacked in any other place beyond that castle, they are going to be immune from criminal prosecution based on [this bill]. So, you might have a shooting in the street! And they're going to say: "I have a right to be in the street." *You might have a criminal who says, "I have a right to be in the street. I believed I was attacked, and I'm immune under 776.032."*[22]

While Seiler agreed with the proposed extension of immunity, he worried that Stand Your Ground might authorize criminality. In offering the possibility of emboldened criminals, Seiler prompted a debate about who Stand Your Ground would benefit.

Concerns regarding the intended beneficiaries of Stand Your Ground recurred throughout the mark-up process. During the Senate Criminal Justice Committee meeting, some members expressed worry that the bill would support criminals in "shooting one another in cars, then claiming they were immune,"[23] while others wanted to be sure that the bill would "protect the right people."[24] Similarly, some House Judiciary Committee members argued that the bill could facilitate shootouts in the street and recommended that it specify that only "lawful [people] lawfully doing something" are entitled to its provisions.[25] Likewise, House Justice Council members suggested that the bill could potentially enable criminals to "wage war on the streets of Miami"[26]—and this pattern continued.

Notably, as the debates over the intended beneficiaries of Stand Your Ground ensued, criminality began to take shape in legislators' remarks. That is, legislators invoked specific tropes to further emphasize the potential consequences of the bill's vagueness. Consider Rep. Seiler's repeated references to criminals *qua* "gangs" during

the House Judiciary Committee meeting. Take special note of how he gradually particularizes the reference:

> So, you might have a shooting in the street! And they're going to say: "I have a right to be in the street." You might have a criminal who says, "I have a right to be in the street. I believed I was attacked, and I'm immune under 776.032."
>
> …
>
> *Let's say it's two gangs*. One's going to say: "I met force with force, and under 776.032, I was justified in using such force because the statute says so, and I'm immune from criminal prosecution because the statute says so." And, I don't think that's your intent.
>
> …
>
> Think about this: *This could be two gangs* deciding to have a fight in the street. *This could be in downtown Miami*. Two gangs say: "We will meet in the street," and the one gang attacks the other gang first. They both have a right to be in that street. They both have a full constitutional right to be *standing on Biscayne Boulevard*, and one attacks the other first. They could shoot'em and they could kill'em. And the police show up and the gang lawyer says: "Hey, 776.032: we are immune from criminal prosecution." I don't think that's the intent of this bill.[27]

Here, Rep. Seiler insists that the vagueness of the bill might not only legitimize criminality, generally defined, but specifically *gang violence in downtown Miami on Biscayne Boulevard*. In other words, Seiler challenged the practicability of the statute by posing the idea of a particular type of criminal, a gang member, acting as one of its beneficiaries.

Seiler's remarks constitute one instance of a larger pattern in the drafting process: legislators drew on tropes of 'street crime' to make their claims. 'Street crime,' as political historians point out, is a racialized category of criminality invoked by political elites to justify criminal justice policies. Having gained traction amid the conservative backlash to the Civil Rights Movement, the idea of "crime in the streets" or examples of the "street criminal" operate in sites of decision-making as racial codes that appeal to the fear of black communities (Hinton 2017; Mendelberg 2001; Murakawa 2014; Weaver 2007). If "gang violence" is a sub-category of street crime, Seiler's invocations of "gangs" operate as racial codes that refer to black communities. Indeed, the final iteration of his concern—not just criminals, not just gangs, but *gangs in Downtown Miami on Biscayne Boulevard*—further indicates his appeal to race-specific anxieties over crime, as perceptions of and responses to crime in Miami are notoriously racialized (Alpert et al., 2007).

In keeping with Seiler's talk of "gangs," legislators with similar concerns about the beneficiaries of Stand Your Ground employed comparable tropes of street crime—namely "drug dealers"[28] and "cop killers."[29] That is, they queried the bill's statutory design by suggesting that its lack of specification would render "drug dealers" and "cop killers" technically entitled to its legal provisions. Like "gangs," these tropes circulate as racial codes used to substantiate racialized political choices. In the drafting of Stand Your Ground, legislators invoked these tropes to suggest constraints on the applicability of the statute.

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If the decades-long circulation of "gang," "drug dealer" and "cop killer" as racial tropes is not enough to evidence the racial underpinnings of this debate, then one might look to the fact of their grouping for confirmation: assuming that these legislative concerns are not random, what makes "gang," "cop killer," and "drug dealer" coherent as an assembly of tropes? What common feature makes *these* sorts of criminality pertinent to *this* debate? They do not all signify violence: neither drug possession and distribution nor gang affiliation necessarily involve violence. And, they arguably are not all particularly serious offences—in fact, the deployment of "gangs" as a category of criminality is questionable, because gang affiliation itself is not necessarily a crime.[30] Instead, they find intelligibility via race: what they share is embroilment in a racialized discourse of crime, which codes black subjects as "street criminals" and treats them as problems for governance. Hence, insofar as legislators announced concerns about Stand Your Ground potentially deputizing "gangs," "drug dealers," and "cop killers," they were actually concerned that black subjects might become its beneficiaries.

Following the debate over the intended beneficiaries of Stand Your Ground, legislators held a similar discussion regarding its potential victims. The bill imported the assumption that self-defensive actors possess "reasonable fear of imminent peril," and some worried that this vague stipulation might legitimate unwarranted targeting. Rep. Susan Bucher's (D) remarks during the House floor debate on the bill capture this concern:

> When you look at this bill, I don't know what reasonable belief is, but I'll bet you my reasonable belief and some of your reasonable beliefs differ pretty greatly. *None of us want to allow criminals to run the streets*; *we don't want to impinge on the value of free people. But we do want to have some common sense*. You know, my belief and somebody else's belief that I'm in imminent danger would be tremendously different, I'm sure.[31]

Attempting to balance legislators' shared contempt for street criminals with their investment in public safety, Bucher pointed to the "reasonable fear" clause as language that might be exploited for baseless victimization. Others corroborated Bucher's remarks, noting that this stipulation would hinge on private citizens' idiosyncratic feelings and produce lethal consequences.[32]

Legislators further specified their concerns about who Stand Your Ground would victimize by offering hypotheticals that demonstrated the statute's potential to enable unwarranted violence. For example, Rep. Shelley Vana (D) offered the following scenario to question the bill's prospective implementation:

> **Rep. Vana**: I'm trying to find out some practical applications and what would happen in certain circumstances. So, could you tell me: If I am in my home, and I have insomnia, I get up, it's pitch black outside. I see someone standing outside of my house, in my lawn, on my lawn, or close to my lawn, getting ready to throw something at my house. Would I be justified [in shooting] because I thought someone was going to throw something at my house that could harm me? Could I shoot that person?
>
> **Rep. Baxley**: Representative Vana… You don't always have time to evaluate in two seconds what [a potential assailant's] intention is. And, if you believe that they are using [force] to do harm to you and your family, that they are attacking you, then you have the right to protect yourself, your property, your home, your family.

> **Rep. Vana**: Thank you, Representative Baxley. So, you're telling me that, in this scenario, I could shoot my paper delivery person and be justified in doing so?[33]

Rep. Vana's sarcasm indicated the potential for wrongful victimization under Stand Your Ground: here, the ambiguity of "reasonable fear" would allow the shooting of an unthreatening newspaper delivery person. Many legislators reiterated this concern by offering similar scenarios—e.g., What if one purports being afraid of a Halloween trick-or-treater? Or the Avon Lady? Or even a canvassing state lawmaker? Could that person shoot with impunity, under Stand Your Ground?

Despite these suggestions, however, proponents of Stand Your Ground maintained that the "reasonable fear" stipulation was instructive enough. They argued that there are certain situations in which fear did not hinge on an idiosyncratic belief, but was a sensible reaction to putatively dangerous people, and that Stand Your Ground was intended for those situations. In other words, clarifying "reasonable fear of imminent peril" was unnecessary, because the definition of "imminent peril" is axiomatic. Rep. Donald Brown (R) gestured toward this point during the House Floor debate:

> There have been all kinds of horror stories that have been described [like]: what if you're jaywalking while you executed the right under this bill? Been fears about meeting force with force. Members, the other day I sent you an email, and I warned you, that as you consider good bills in this legislative session *[there is] no extent to which some people will not go to find the Boogeyman… when I see the Boogeyman, I know what to do with him. And, I think we need to vote this bill out, because if he shows up at my door, I'm ready for him.*[34]

In Brown's view, legislators need not invent or find 'Boogeymen'—that is, criminal subjects that warrant lethal violence—by way of conjecture, because real 'Boogeymen' are conspicuous: you know them when you see them, and you know what to do with them.

Later during the same debate, Rep. Jeff Kottkamp (R) restated this point, in no uncertain terms:

> *How many times have you heard this: "You better not go to a certain part of town, because that's a bad part of town"?* What does that really mean? It means crime is so bad that law-abiding citizens are afraid to go to certain parts of town. You know, when that happens, we're simply allowing violent criminals to control our communities. Now, some people might think that's okay, but I disagree. I think it's time to let law-abiding citizens take a stand against violent criminals… *Today, people are afraid to protect themselves from violent criminals for fear of prosecution—or even worse: to be sued by the very people who break into their home and threaten to harm them and their families.* This bill goes to the very core values of a free people. Let's send a message to those that would harm law-abiding citizens. Not only will you do the time if you do the crime, but you should be afraid… [law-abiding citizens] might just fight back.[35]

Here, Rep. Kottkamp recirculates the street criminal trope, this time as the intended victim of Stand Your Ground. The statute, according to him, would target the criminals who inhabit the "bad part of town." (One wonders if the "bad" parts of town that concern Kottkamp overlap with the areas of 'gang violence in downtown Miami on Biscayne Boulevard' that concern Seiler.)

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If Reps. Seiler, Kottkamp, and others invoked race implicitly via tropes of street criminality during the mark-up process, two concluding remarks made by black women representatives during the final floor debate rendered race explicit. Just before the House voted on the bill, Rep. Joyce Cusack (D) exposed the racial underpinnings of the debate, while basing her disapproval of Stand Your Ground on her concerns about who it would victimize:

> [What are we saying] as it relates to imminent danger? … *How many of you would feel threatened if my nephew and his friends were approaching you on the street? How many of you would think that you were in "imminent danger"?* Because of this law that you're trying to pass now, you would have the right to shoot any of them and say that you've done it in the name of the law. This is a bad precedent.[36]

Rep. Cusack, a black person, raised the possibility of her black nephew being perceived as a threat (and therefore a target) under Stand Your Ground. In so doing, she unmasked the racialization of the bill's intended victims.

Just after Cusack's remarks, Rep. Priscilla Taylor (D) switched her position on the bill and expounded on how race might underwrite victimization:

> After having been [the] victim of a home invasion, when I read this bill, I immediately said that I would support it… And then I thought: *What is a reasonable threat?* It then occurred to me: *What would happen if a teenager, or a young adult, approached me—someone who looked different than I look, or someone who dressed different—and I actually felt threatened?* What would happen if I presumed that there was a threat, when actually there was not a threat? I would hate to think that I would react and take someone's life or do bodily harm to someone who actually only looked a little different than I look. For that reason, I cannot support this bill.[37]

According to Rep. Taylor, markers of race could become determinants of victimization under Stand Your Ground: one might interpret physical difference as threat and act accordingly. These remarks punctuated the drafting process by making plain its racial underpinnings.

In summary, twin concerns about who Stand Your Ground might benefit and victimize animated its drafting. Legislators drew on tropes of street criminality—e.g., "gangs," "drug dealers," "cop killers," and "violent criminals" in the "bad part of town"—to insist that black subjects should not be the beneficiaries of Stand Your Ground but were its intended victims. Though the legislators variously cloaked race throughout the mark-up process, the concluding remarks of Representatives Cusack and Taylor exposed the racialization of the debates. Their unfortunate prescience, however, did not impact the legislative action being taken.

Amendments: A Clean Hands Doctrine

Proponents of Stand Your Ground responded to the racialized concerns regarding its intended beneficiaries and victims in two ways. First, regarding its intended victims, they refused to amend the "reasonable fear of imminent peril" stipulation. As I discussed above, they maintained that this stipulation was sufficient because "imminent peril" is axiomatic—e.g., anyone who is familiar with the "gangs" that inhabit the "bad parts of town" knows imminent peril. Accordingly, proponents of the statute worked to defeat all amendments that would have clarified or deleted the "reasonable fear" stipulation.

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Second, regarding its intended beneficiaries, proponents of Stand Your Ground proposed an amendment that would exclude "[those] engaged in unlawful activity" from its provisions. Senator Rod Smith (D) first offered and explained this amendment during the Senate Criminal Justice Committee hearing on the bill:

> [This amendment will clarify that] you may not use this as a defense if you yourself are engaging in unlawful activity. *We're not going to have drug dealers shooting one another in cars then claiming they were immune for shooting the guy in the car*. It's kind of a *clean hands doctrine* in the sense that you may not use this presumption if you fall within [that category].[38]

With this amendment, Smith aimed to mark the proper bounds of the statute's legal protections by circumscribing its intended beneficiaries: only "law-abiding citizens" would be entitled to its provisions. This way, "drug dealers" (as well as "cop killers" and "gangs") could not lay claim its protections. Smith's amendment passed unanimously during the Senate Criminal Justice Committee meeting (and a similar amendment was passed on the companion bill in the House).

If race animated the debates over who Stand Your Ground would benefit and victimize, the design choices that responded to this debate baked race into its statutory scheme. By maintaining the vague "reasonable fear" stipulation, legislators depended on race to clarify that which is sensibly threatening; and, by officially excluding people "engaged in unlawful activity" from its provisions, legislators sought to bar black subjects (variously coded) from its provisions.

CONCLUSION

The Florida State Senate passed Stand Your Ground by a unanimous vote on March 23, 2005. The House subsequently passed the bill by a vote of 94 – 20, with 6 abstaining, on April 5, 2005. And, then-governor Jeb Bush signed the statute into law on April 26, 2005. After its enactment, Stand Your Ground incited a "procedural evolution" that altered the steps of criminal/civil case processing in Florida: state courts would offer pre-trial hearings that allow claimants of self-defense to appeal to the stipulated immunities of Stand Your Ground. If a claimant is found eligible for protection under Stand Your Ground, the court rules that s/he is immune from criminal prosecution and civil action (Cavazos 2016).

I have argued that the formative logic of Stand Your Ground centered on cost preclusion: proponents of the bill presented it as a way to shield self-defensive actors against the cost impositions of criminal prosecution and civil action. They aimed to reduce the prospective burdens of criminal and civil proceedings for self-defensive actors in order to render them materially secured and therefore unflinching in the face of imminent peril. However, legislators did not want the provisions of Stand Your Ground to apply too widely, lest the statute deputize and endanger the 'wrong people.' Accordingly, they circumscribed the protections of the statute by limiting its applicability. Racial codes like "gang," "drug dealer," and "cop killer" sustained their effort to limit its scope.

Race and neoliberal reason co-constituted the decision-making calculus behind Stand Your Ground. Neoliberal reason rendered the costs of criminal prosecution and civil action intelligible as problems, and framed the window of opportunity for the introduction of Stand Your Ground; race compelled concerns about the scope of its provisions and required constraints on its applicability. Taken together, they

substantiated the introduction, design, and enactment of the statute. This exemplary case of legislative deliberation, then, demonstrates the interplay between race and neoliberalism vis-à-vis decision-making.

In addition to providing insight into race, neoliberalism, and their co-articulation among decision-makers, this analysis of Stand Your Ground also calls for a reconsideration of its material stakes. Most accounts of Stand Your Ground narrowly interpret the statute in terms of criminal case outcomes; however, its formative logic and statutory design point to the preclusion of legal costs, more broadly. Following this insight, we might regard Stand Your Ground not only as a technology of racial violence—or, a law that authorizes white vigilantism—but also as a *mechanism of asset protection*—or a set of procedural changes that safeguards its beneficiaries against costs. Though it is beyond the scope of this research, reckoning with this alternate framing requires new empirical questions about the ramifications of Stand Your Ground.

In closing, and as a final point of interpretive insight, I would like to offer a comparison that situates Stand Your Ground within an unfamiliar universe of cases and highlights its effects anew. Typically, analysts of racial violence pose Stand Your Ground as a reiteration of Lynch Law (Kyles 2018; Strausberg 2018; Williams 2018). If Lynch Law was the set of ideological commitments and political-economic arrangements of the nineteenth and twentieth centuries that informally licensed white vigilantes to criminalize and kill black people (Wells 1996; Goldsby 2006), Stand Your Ground is a statute that formally authorizes similar modes of racial violence in the twenty-first century. Indeed, many imply this line of continuity by associating the killing of Trayvon Martin with that of Emmett Till (Anderson 2013; Mills 2013).

Recognizing the link between Lynch Law and Stand Your Ground is imperative, as it attests to the long history and continued significance of state-sanctioned racial violence and supplies meaning to Stand Your Ground. However, researchers might gain additional analytic purchase on the statute as well as the discursive terrain in which it found legitimacy by considering its links to issues and practices with which it is contemporaneous. Consider, for example, "Carry Guard," the new insurance program of the NRA. Dubbed "murder insurance" by anti-racist activists (Langford 2018), Carry Guard protects its policyholders from the cost impositions of criminal and civil proceedings, in the event that they self-defensively harm or kill another person. Here is its promotional description:

> You defend your life with a firearm. Defend your life savings with industry leading insurance… If you're ever forced to use a firearm in self-defense, you could soon find yourself at the center of a legal nightmare that could cost you your life savings—or even cost you your freedom and years of your life… [This insurance package] offers comprehensive personal firearms liability insurance, including self-defense insurance, for those who lawfully carry firearms and their families, including protection against civil liability, the cost to defend against civil and criminal legal actions and immediate access to attorney referrals. It also includes supplementary payments as needed for bail, criminal defense legal retainer fees, lawful firearm replacement, compensation while in court, psychological support and cleanup costs for any covered claim resulting from the use of a legally possessed firearm—including an act of self-defense (National Rifle Association 2018).

The promise of Carry Guard mirrors the formative logic of Stand Your Ground. If Florida legislators crafted Stand Your Ground to preclude the costs of criminal and civil proceedings for claimants of self-defense, Carry Guard works to indemnify its policyholders against those same costs. Both aim to extricate vigilantism from

legal encumbrances. More than mere coincidences, the affinities between Stand Your Ground and Carry Guard offer insights into the meanings of each. For a more robust understanding of Stand Your Ground, then, researchers might not only interpret it as a reiteration of Lynch Law, but also as a component of a larger suite of racial-neoliberal, cost-saving measures.

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NOTES

1. In the article, Dennis Baxley—one of Stand Your Ground's sponsors—notes that he thinks the police have misinterpreted Stand Your Ground and that it does not apply in Zimmerman's case.
2. Emboldened words and capitalized letters in the original.
3. Lee later retracted this suggestion, as Stand Your Ground came under fire.
4. Throughout this article, I invoke "governing rationality," "decision-making calculus," "formative logic" and "legislative rationale" as animating concepts. I do not mean to imply that these are interchangeable terms. Rather, I am attempting to move between registers to consider how this exemplary case of political deliberation—i.e., the legislative introduction, design, and enactment of Stand Your Ground—reflects and provides insights into broader discursive conditions—i.e., the racial-neoliberal order. I pose "legislative rationale," "formative logic," and "decision-making calculus" as conceptual tools for synthesizing legislative justifications, and I take "political rationality" and "governing rationality" as tools for considering the broader discursive terrain.
5. As an indication of where and how often Stand Your Ground is invoked, see the *Tampa Bay Times* 'Stand Your Ground' database: Florida Stand Your Ground Law Cases Database. http://stand-your-ground-law.s3-website-us-east-1.amazonaws.com/data.
6. Other notable accounts of the bill's introduction include: *National Public Radio* (2013), *Tampa Bay Times* (2012), and O'Neil (2012). However, these accounts also undermine the complexity of lawmaking by focusing only on the NRA lobbyist who supported the bill, excluding key political actors from their analyses.
7. For example, see Ackerman and colleagues (2015).
8. For more on Stand Your Ground's diffusion across states, see Butz and colleagues (2015).
9. It is worth reiterating that my aim is not to generalize my findings to every state that has a Stand Your Ground law. Instead, I am treating Florida's pioneering of Stand Your Ground as a formative case that might offer interpretive insight into the now-pervasive statute. In this way, I am taking cues from similarly framed case studies of racial policies that began in one state and spread across the country. See, for example, Zimring and colleauges (2003).
10. I accessed the archival records in the form of .exe and .mp3 files. Debates on the bill lasted for about four and a half hours. My analysis entailed listening to each debate, transcribing legislative announcements of support or dissent on the bill, and drawing out patterns among these remarks using a blend of policy process theories. I paid special attention to how legislators introduced the bill and/or amendments to it during committee meeting and floor debates.

11. Durrell Peaden, S. 625/1055, Senate Criminal Justice Meeting, § Senate Criminal Justice Committee (2005), emphasis added.
12. Durrell Peaden, Protection of Persons/Use of Force, Pub. L. No. SB 436 (2004).
13. Ibid.
14. Legislators removed liability for state actors so as to not displace the cost impositions of criminal prosecution onto the state. When justifying this change during the Senate Criminal Justice Committee Hearing, Senator Peaden noted that he wanted to be sure to protect "everybody, including the law enforcement officers and ultimately the state attorneys and the citizens." The bill, however, still held that plaintiffs of civil actions brought against claimants of Stand Your Ground would be liable to compensate them for legal costs, loss of income, and other expenses. In any case, the bill figures the cost impositions of criminal and civil proceedings as its primary target-problem.
15. Another way to read this stipulation would be as an enforcement incentive: the stipulation would have motivated law enforcement to implement the statute by assigning costs to shirking its instructions. The details of the stipulation, though, still reveal how legislators understood the stakes of criminal prosecution and civil action.
16. Dennis Baxley, S. 414/1503, House Judiciary Committee, § House Judiciary Committee (2005), emphasis added.
17. Marion Hammer, S. 625/1055, Senate Criminal Justice Committee, § Senate Criminal Justice Committee (2005), emphasis added.
18. James King, S.625/1055 Senate Criminal Justice Committee Meeting (2005).
19. Evelyn Lynn, S. 625/1055, Senate Criminal Justice Committee, § Senate Criminal Justice Committee (2005), emphasis added.
20. It is important to note that these expressions of disdain for criminal procedures are not without precedence. Public officials recurrently debate the necessity and implications of regulations on legitimate violence and law enforcement. For example, see Catalfamo (2007) for debates on the "duty to retreat" and Leo and Thomas (1999) for debates on *Miranda*.
21. Durrell Peaden, S. 625/1065, Senate Judiciary Committee, § Senate Judiciary Committee (2005), emphasis added.
22. John Seiler, House Judiciary Committee Meeting, § House Judiciary Committee (2005), emphasis added.
23. Rod Smith, Florida Senate Criminal Justice Committee Hearing, § Senate Criminal Justice Committee (2005).
24. Mike Haridopolos, Florida Senate Criminal Justice Committee Hearing, § Senate Criminal Justice Committee (2005).
25. John Seiler, House Judiciary Committee Meeting (2005).
26. Marion Hammer, House Justice Council Hearing, § House Justice Council (2005).
27. John Seiler, House Judiciary Committee Meeting (2005), emphasis added.
28. Rod Smith, Florida Senate Criminal Justice Committee Hearing (2005).
29. David Murrell, S.625/1055 Senate Criminal Justice Committee Meeting, § Senate Criminal Justice Committee (2005).
30. Instead, gang membership is often the impetus for the enhancement of some punitive measure. That is, if someone is convicted of something, his/her penalty will be harsher, if s/he is a member of a gang. However, his/her gang membership alone does not constitute a crime.
31. Susan Bucher, Florida House of Representative Floor Debate (2005), emphasis added.
32. Arthenia Joyner, Florida House of Representatives Floor Debate (2005).
33. Dennis Baxley and Shelley Vana, Florida House of Representatives Floor Debate (2005).
34. Donald Brown, Florida House of Representatives Floor Debate (2005), emphasis added.
35. Jeff Kottkamp, Florida House of Representatives Floor Debate (2005), emphasis added.
36. Joyce Cusack, Florida House of Representatives Floor Debate (2005), emphasis added.
37. Priscilla Taylor, Florida House of Representatives Floor Debate (2005), emphasis added.
38. Rod Smith, Florida Senate Criminal Justice Committee Hearing (2005), emphasis added.

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