

### Key Cases

United States v. Thomas, 34 F.3d 44 (2nd Cir. 1994)

### Key Cases (cont)

Regina v. Dudley and Stephens (1884) Three seamen and one boy stranded at sea; the boy was sick. Two of the men ate the boys flesh and drank his blood, one did not. The two men raised a defense of *necessity* at trial, stating it was necessary to kill the boy in order for others to survive. Guilty; necessity cannot be used in murder cases.



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### Key Cases (cont)

Ferguson, Missouri Grand jury hears testimony about the case where Officer Darren Wilson shoots and kills Michael Brown in Aug. 2014. Eyewitnesses testify, as does the officer and ballistics reports are received into evidence. The Grand Jury did not indict and protests resulted. Officer claimed self-defense as he stated Brown had charged at him.

### Key Cases (cont)

Treyvon Martin Community watch coordinator, George Zimmerman, was charged with the 2nd degree murder in the killing of an unarmed 17-year-old, Treyvon Martin. Zimmerman's defense was self-defense based off "Stand Your Ground" law. Zimmerman argued that he had no choice but to shoot Martin after he attacked Zimmerman.

### Key Cases (cont)

Daniel Penny Daniel Penny, a former Marine, was charged with manslaughter under the laws of the State of NY for putting a subway rider, Jordan Neely, on an uptown F train, in a chokehold after Neely threatened people on the train (calls to 911 said that he'd tried to attack people or indicated he'd harm riders, and several testified at trial that they feared for their lives). One female witness testified that he made lunging movements that alarmed her enough that she shielded her 5-year-old from him. Experts on both sides testified as to the cause of death (State – the chokehold, Defense – combined effects of K2, schizophrenia, his struggle and restraint and a blood condition that can lead to fatal complications during exertion). Neely was unarmed. The jury was deadlocked on the manslaughter charge so in a somewhat unusual move dismissed that charge which left standing the charge of criminally negligent homicide causing another person's death. This charge in NY means engaging in serious "blameworthy conduct" while not perceiving such a risk. Penny's defense was that he was protecting himself and other subway passengers from a volatile, mentally ill man who was making alarming remarks and gestures. Multiple witnesses testified that Neely said he did not care if he died and went to jail. Prosecutors said Penny reacted too forcefully by holding him in the chokehold for approximately six minutes. The jury acquitted Penny of criminally negligent homicide.



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### Key Cases (cont)

CLT Case of Door Dash Driver  
In January 2025, a Door Dash driver, making a delivery uptown, told police he left his car running and saw a person in it when he returned. A struggle ensued and the person, a 15-year-old, was killed. The Door Dash driver, 28, has been charged with first-degree murder. This case is ongoing and the defendant is awaiting court-appointed counsel.

### Key Cases (cont)

Brock Turner Case in Palo Alto, CA  
In 2016 former Stanford swimmer Brock Turner was sentenced to a 6-month jail term after being convicted of assaulting an unconscious woman on campus following a fraternity party that both had attended. This case led to changes in CA law which now requires affirmative consent ("yes means yes" law). The law goes further than the common "no means no" standard, which has been blamed for bringing ambiguity into investigations of sexual assault cases. The law seeks to improve how universities handle rape and sexual assault accusations and to clarify the affirmative consent standard. This means that a sexual encounter should be considered assault unless each participant got a clear "yes" before every sexual act. States of NY and CT passed similar laws. ABA House of Delegates and Nat'l Assn of Crim Def Attys refuse to adopt this Affirmative Defense standard saying that it violated DP of the 5th and 14th A by shifting the burden of proof to the D.

### Vocabulary

**affirmative consent** a knowing, voluntary, and mutual decision among all participants to engage in sexual activity.



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### Vocabulary (cont)

**affirm-  
ative  
defense** a defense in which the defendant introduces evidence, which, if found to be credible, will negate criminal liability or civil liability, even if it is proven that the defendant committed the alleged acts.

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### Vocabulary (cont)

**apparent  
danger** a form of imminent danger that is said to exist when the conduct or activity of an attacker makes the threat of danger obvious.

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### Vocabulary (cont)

**castle  
exception** an exception to the retreat before using deadly self-defense if a party is in their own home.

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### Vocabulary (cont)

**consent** a person voluntarily and willfully agrees in response to another person's proposition.

### Vocabulary (cont)

**deadly force** refers to force which is likely to cause death or serious bodily injury.

### Vocabulary (cont)

**defense** an act of protecting one's own interests.



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### Vocabulary (cont)

**excuse** an explanation stated in court as the grounds for exempting oneself from liability.

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### Vocabulary (cont)

**execution-of-public-duty-defense** police officers may not be prosecuted where lawfully exercising their authority.

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### Vocabulary (cont)

**express consent** verbally expressed willingness to engage in a specified activity.

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### Vocabulary (cont)

**fleeing** a now-defunct law enforcement practice that permitted officers to shoot a suspected felon who attempted to flee from a lawful arrest.

### Vocabulary (cont)

**imperfect defense** a defense that someone uses when they tried to defend themselves or someone else but does it in a way that isn't fully legal or reasonable. It doesn't get them off the hook completely, but it can lead to a lesser charge or a lighter punishment because their actions were partly understandable.

### Vocabulary (cont)

**justification** a type of defense that exempts the defendant from liability because the defendant's actions were justified, or not wrong.



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### Vocabulary (cont)

**necessity** a defense to liability for unlawful activity where the conduct cannot be avoided and one is justified in the particular conduct because it will prevent the occurrence of a harm that is more serious.

### Vocabulary (cont)

**perfect defense (alter ego rule)** a defense that results in an acquittal, making defendant innocent.

### Vocabulary (cont)

**perfect self-defense** a claim of self-defense that meets all of the generally accepted legal conditions for such a claim to be valid.



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### Vocabulary (cont)

**reasonable force** a degree of force that is appropriate in a given situation and is not excessive; the minimum degree of force necessary to protect oneself, one's property, a third party, or the property of another in the face of a substantial threat.

### Vocabulary (cont)

**retreat rule** a doctrine in criminal law that states that if someone is being attacked, they must try to retreat to a safe place before using deadly force in self-defense.

### Vocabulary (cont)

**self-defense** the use of force to protect oneself from an attempted injury by another.



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### Vocabulary (cont)

**stand your ground** a statute that permits the use of deadly force to repel life- or limb-threatening force in public spaces with no duty to retreat.

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