*I affirm: Resolved: It is morally permissible for victims to use deadly force as a deliberate response to repeated domestic violence.*

1. *All theory links must be established in CX to allow me to make concessions according to their interps. This checks abusive neg theory spreads forcing me to waste my 1AR on “I meets” and increases substance by reducing the chance of either debater going all in on theory. Also,* if the neg presents a better interp, don’t drop me; let us debate under theirs instead. Not doing so allows the neg to pick the weakest part of aff interps and turn it into a no-risk issue.

2. Aff gets RVIs to avoid making T a no-risk issue; otherwise, negs would exploit the aff time skew and run blippy shells to skew my strategy. RVIs discourage bad T since nobody will run abusive shells if they can lose off of them. Also, the AC is always vulnerable to T since the NC is reactive and can run theory on any of my interps, so aff RVI is key to avoiding unnecessary T.

3. Allow the aff to specify the United States.

a) Aff spec checks back structural harms to affirming since it limits the neg’s ability to overload me with generic dumps in the NC.

b) The neg gets to choose their advocacy based on the AC, so they can adapt regardless of the position I run.

c) Most topic lit specifies the US, so limiting the topic to the US limits infinite research burdens. Also, domestic violence is a term of art coined in US law.

4. Presume aff to offset the 4 minute 1AR time skew and allow me to compensate for the comparatively shorter speech times. Also, if there’s no offense at the end of the round, presume aff since I will have done everything the neg did in less time and thus did the better debating.

5. Skep implications.

A. Moral permissibility is the absence of opposing moral objections. Hanser:

Matthew Hanser, “Permissibility and Practical Inference” *Ethics* Vol. 115, No. 3, April 2005, pp. 447-449 http://www.jstor.org/stable/10.1086/428457

An agent who has insufficient reason for doing what he does need not on that account be acting morally impermissibly. So let us say that **an agent acts morally permissibly if and only if his action embodies a practical inference whose premises’ justifying force**, if any, **is not** successfully undermined or **defeated by any moral considerations.** Let us call such practical inferences “permissible.” An agent acts permissibly, then, if and only if his action embodies a permissible practical inference.6 (For the sake of simplicity I shall sometimes, in what follows, revert to the preliminary formulation of the view, omitting the qualification about moral considerations.) Returning to the observation with which this section began, we can see that the inferential account easily explains why permissibility judgments cannot have mere occurrences as their objects. The power to act is a rational power: it is the power to do things for reasons. According to the inferential account, acting permissibly is a matter of not going astray (in a certain way) in one’s exercise of this power. It is a matter, roughly speaking, of basing one’s practical conclusions on adequate reasons. Adverbial permissibility judgments thus evaluate actions qua exercises of agency and not merely qua physical occurrences. What of actions performed for no reason, assuming for the moment that such actions are possible? We can think of **an agent who acts for no reason** as drawing **[draws] a practical conclusion on** the basis of **no premises at all. If there is a moral reason for him not to act** as he does**, then the (nonexistent) justifying force of his premises is defeated by a moral consideration, and so he acts impermissibly. If there are no moral reasons for him not to act** as he does**, then the (nonexistent) justifying force of his premises is not defeated** by any moral considerations**, and** so **he acts permissibly. Even if there are actions performed for no reason,** then, **this needn’t be** seen asa **fatal** blow **to the inferential account.**

B. The resolution is not making a moral statement, but rather claiming no moral reason is adequate to reject it. If there can be no moral reasons, then morality’s function and content has not been denied, just our ability to meet its requirements. We can still understand morality as a concept and analyze what it permits as a result of not being able to prohibit anything, i.e. we can say that dragons are green even if dragons are imaginary subjects as the statement would become a null set.

C. Actions are permissible if they are either merely permitted or obligatory since it’s incoherent to obligate an agent not to do what they are otherwise obligated to do. If permissible is “A”, and prohibited is “not A”, then proving that “not not A” is true produces a double negative, rendering A true.

I value MORALITY. We have no way of verifying the existence of morality in nature since there is no naturally occurring epistemology. Thus, all moral judgments require an epistemic ethical theory to avoid the naturalistic fallacy. Collier:  
John Collier [History and Philosophy of Science University of Melbourne Parkville, Victoria Australia ] “Evolutionary Naturalism and the Objectivity of Morality” Biology and Philosophy, 1993  
Furthermore, **a transcendent objective morality**, if it did exist, would be irrelevant, since it **is** **epistemically inaccessible.** We have no way of knowing, Ruse says (personal communication), that God doesn't want us to torture innocent babies. On the other hand, Ruse believes that **the naturalistic fallacy rules out inferring moral imperatives from the fact that we have those values, so there is no internal, evolutionary justification of morality** (Ruse 1986, pp. 256-258). By denying that moral values can be justified objectively, he himself skirts the naturalistic fallacy. **Since there is no justification of morality, there is no need to explain why**, for example, **obligations have moral force. Morality**, on Ruse's view, **is a contingent phenomenon with no objective justification.** Morality is objective in the sense that **our moral goods are determined by our evolution** and our circumstances (Ruse and Wilson 1986, p. 188), **but these** moral goods **are not rationally justifiable, except inasmuch as we have** species-**relative** and history-dependent practical **justifications for our moral activity** (Ruse 1984, p. 177).

Chains of moral reasoning cannot reach valid conclusions without terminating in assertions. Taylor:  
(Charles Taylor, “Bourdieu: Critical Perspectives”, 1993, pg. 46)

Wittgenstein shows that the **[a] subject** not only isn’t but **[cannot] be aware of** a whole host of issues which nevertheless have direct,l bearing on **the correct application of a rule.** Wittgenstein shows this by raising the possibilities of misunderstanding. **Some outsider**, unfamiliar with the way we do things, **might misunderstand what to us are** perfectly clear and **simple directions**. You want to get to town? Just **[such as] follow the arrow**s. But suppose that what seemed the natural way of following the arrow to him or her was to go in the direction of the feathers, not of the points? We can imagine a scenario: [but] there are no arrows in the outsider’s culture, but there is a kind of ray gun whose discharge fans out like the feathers on our arrows…From the intellectualist perspective, it must be that **somewhere in our mind,** consciously or unconsciously, **a premise has been laid down about how you follow arrows.** From another angle, Once we see the stranger’s mistake, we can explain what he or she ought to do. But if we can give an explanation, we must already have an explanation. SO the thought must reside somewhere in us that you follow arrows this way…There are an indefinite number of points at which, for a given explanation of a rule and a given run of paradigm cases, someone could nevertheless misunderstand, as our stranger did the injunction to follow the arrows. For instance, I might say that by “Moses” I mean the man who led the Israelites out of Egypt, but then my interlocutor might have trouble with the words “Egypt” and “Israelites”. Nor would **these questions would not come to an end when we get down to words like red, dark, sweet.** Nor would even mathematical explanation be proof against this danger…We recognize an obsession of the modern intellectual tradition, from Descartes. It didn’t see this as a problem, because it thought we could find such secure foundations, explanations in terms of features which were self-explanatory or self-authenticating. That’s why the imagined interlocutor placed his hopes in words like red, dark, sweet, **referring to** basic **empirical experiences on which we** can **ground everything else**. The force of Wittgenstein’s argument lies in its radical undercutting of any such foundationalism. Wittgenstein stresses the unarticulated—at some points even unarticulable—nature of this understanding. **Obeying a rule is a practice**”. **Giving reasons for** one’s practice in **following a rule has to come to an end**. “[as] **One’s reasons will soon give out. And then one shall act**, without reasons”. Or later, “If I have exhausted my justifications I have reached bedrock, and my spade is turned. Then I am inclined to say: **‘[and say] This is simply what I do”.**

Justifications for our moral beliefs must arise from social consensus as it is the only coherent way to resolve the infinite regress of asking for reasons for following rules. Moral rules are adapted links between society’s perceptions and its consequent judgments. Taylor 2:

**The connections which form our background are** just de facto links, **not susceptible of any justification.** For instance, **justifications are simply imposed by our society; we are conditioned to make them.** They become “automatic,” which is why the question never arises. The view that society imposes these limits is the heart of Kripke’s interpretation of Wittgenstein. Or else they can perhaps be considered as “wired in.” **It’s just a fact about us that we react this way, as it is that we blink when something approaches our eyes, and no justification is in order**…It is his insistence that **as following rules is a social practice**. Granted, this also fits, perhaps, with Kripke’s version of the first view. But I think that, in reality, this connection of background with society reflections an alternative vision, which has jumped altogether outside the old monological outlook which dominates the epistemological tradition. Whatever Wittgenstein thought, this second view seems to me to be right. What the first cannot account for is the fact that **we do give explanations, that we can often articulate** reasons **when challenged. [For example] Following arrows towards the point is an arbitrarily imposed connection**; **it** that **makes sense, granted the way [society has decided] arrows move**. What we need to do is follow a hint from Wittgenstein and attempt to give an account of the background as understanding, **which [in turn] places [the arrow] in social space.**

Mutually recognized justifications within social structure determine the content of morality. Purely reason-based theories fail since we would never be able to submit a prior moral intuition to public scrutiny, resulting in the absence of any normative truth. Street:

[“Coming to Terms with Contingency: Humean Constructivism about Practical Reason,” Sharon Street, Professor @ NYU. <https://files.nyu.edu/jrs477/public/Sharon%20Street%20-%20Coming%20to%20Terms%20with%20Contingency%20-%20Humean%20Constructivism%20about%20Practical%20Reason.pdf>]

**Eventually** (at least in theory, if we pursue our reflections far enough) **we** get to a point where we have **arrive**d **at a coherent web of interlocking values, such that each one**, when taken in its turn and examined from the standpoint of the others, **stands up to scrutiny in terms of the standards those other values set.** Once one reaches such an interlocking, coherent web of normative judgments, one can ask: “But why should I endorse this entire set of normative judgments? What reason do I have to endorse this set as opposed to some other set, or as opposed to no set at all?” The proper answer at this point, according to the Humean constructivist, is that the question is illformulated. One cannot sensibly step back from the entire set of one’s interlocking normative judgments at once, and ask, from nowhere, whether this set is correct or incorrect, for on a constructivist view there are no independent standards to fix an answer to this question; this is the rejection of realism. It is 14 important to be clear here, lest it sound like the Humean constructivist is ruling out perfectly acceptable **questions such as “Do I have a reason to reject the values of the Taliban** in favor of my own**?”** or “Are the normative commitments of Albert Schweitzer or Mother Theresa superior to my own?” Such questions **are entirely in order**, according to the Humean constructivist—just **so long as one is**, at least implicitly, **posing them from the standpoint of some further set of values** (however vague or inchoate) **concerning what makes** one set of **normative commitments more worthy of endorsement than** an**other[s].** The one thing that **one cannot** do, sensibly, is to **step back from every** last one of one’s **normative judgment**s **at once and** try to **pose such questions from nowhere**—asking, while suspending one’s acceptance of any value that might be capable of settling the matter, whether one should endorse one’s own set of values, or some other set, or none at all. **If one tries this,** then **one has stepped**, for the moment, outside the standpoint of agency, **into a realm where there are no normative facts**, and one’s question is illformulated.

Social consensus is expressed in the form of contractual agreements, resolving the skeptical challenge. Even present an absolute good in nature, agents ought to uphold contracts to respect the worth of the other agents who have invested their trust in the agreement. Ripstein:  
(Ripstein, Arthur, University of Toronto Law Professor. Kant on Law and Justice. Pg. 14)

**A contract is** not understood as a narrow special case of the more general moral obligation of promise keeping14, but as **a** specifically **legal institution [that] govern[s] the transfer of rights**.15 **[The government] transfer[s] [its] powers** to you, **for [its] powers include** both my ability to do certain tasks, such as cutting your lawn, or paying you a sum of money, and my **legal powers to do things**, such as transferring piece of property to you. **If [it] fail[s] to perform as required, [it] wrong[s] you in** pretty much **the same way as I would** have wronged you **had I given** you **something**, either as a gift or in exchange for something else, **and then taken it back.** In a contract, I have given you that thing, as a matter of right, and so if I fail to deliver, I wrong you in the way I would if I took it back. **In cases of contract, one** person **has the use of the other's powers,** as specified by their agreement, **without having possession of the other** person.

Only legal systems represent the moral and social obligations of individuals since social forms are the basis of moral criticism. Batnitzky:  
[“A Seamless Web? John Finnis and Joseph Raz on Practical Reason and the Obligation to Obey the Law” Oxford Journal of Legal Studies, Vol. 15, No. 2. (Summer, 1995), pp. 173]

While it is possible to improve on and to change social forms, and thereby create new and sometimes better values, **it is not possible to develop values that are** wholly **independent of existing social forms.** The moral person, for Raz is ‘he whose prosperity is so intertwined with the pursuit of goals which advance intrinsic values and the well-being of others that it is impossible to separate his personal well-being from his moral concerns’. **The moral person’s self-interested goals are intimately tied to** the goals of others and hence to the **goals of society. Thus, in any society in which law exists there must exist a** certain complex **social form constituting** a rule of recognition that determines the criteria any norm must satisfy to count as **a legal norm.** A social rule exists in a society when we find that **participants in the practice view the rule as a standard of conduct to which they both justify their own conformity to the rule and criticize those who deviate** from the rule.

Thus, the standard’s RESPECTING CONTRACTUAL SOCIAL CONSENSUS.

Two more warrants for the standard:

1. Contracts preclude the normativity of other ethical theories. Only contracts dictate action without begging the question of why actors ought to comply since they brought the expectations upon themselves and can’t justify disobeying. Also, questioning an agent’s motives for consenting to a contract does not deny the validity of the agreement but rather appeals to non-contractual moral theories, which is circular.

2. We can only guide ourselves if principles of action pass the test of rational reflection. Since agents autonomously consent to contracts, objective morality can only be expressed through contracts. Contractual agreements are justified because the maxim “violate contractual agreements” cannot guide action. Accepting this maxim would prevent anyone from making promises with others, because these promises could be broken at any time. This defeats the purpose of contracts, which is to bind individuals to what they rationally will.

I contend that members of ALL groups of victims of domestic violence are contractually permitted to kill in self-defense.

The Castle Doctrine permits lethal self-defense measures for victims of domestic violence. Jansen:

Steven Jansen, M. Elaine Nugent-Borakove “Expansions to the Castle Doctrine: Implications for Policy and Practice” National District Attorneys Association http://www.ndaa.org/pdf/Castle%20Doctrine.pdf

**Another** possible **explanation for calls to expand the Castle Doctrine is the vulnerability of some victims of domestic violence**, intimate partner violence, or stalking **to further victimization.** **The common protection afforded by the justice system** in these cases is a restraining or protection order, which **can be ignored or**, as in the case of Yvette Cade,1 **expire** without reinstatement. Ms. Cade’s estranged husband, against whom she had a restraining order, went to Ms. Cade’s workplace, doused her with gasoline, and set her on fire. Some experts, particularly in the law enforcement community, see the Cade case and many others like it as examples of the criminal justice system’s failure to protect victims. In fact, prosecutors and law enforcement officers indicated that the **failures can be so pervasive that** patrol **officers** might **suggest that victims** of domestic violence, intimate partner violence, stalking, or similar types of crime **acquire a weapon so they can defend themselves** if the need arises. These stories suggest that an expanded Castle Doctrine might benefit certain types of victims, particularly those in abusive relationships. However, it is not appropriate to use these situations as a justification for expanding the Castle Doctrine. First, there is no research to bear out the notion that arming victims deters attackers.2 Second, **the** traditional **Castle Doctrine** and normal theories of self defense **already allow[s] victims to defend themselves when under** persistent **attack** or threatened **in** the seclusion of **their own homes.**

The Castle Doctrine labels lethal force where one has a right to be as justifiable homicide, confirmed by *Weiand v. State*. Orr:

June, 2000 Volume LXXIV, No. 6 “Weiand v. State and Battered Spouse Syndrome: The Toothless Tigress Can Now Roar” Douglas A. Orr https://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/0/eedd58c673ec712885256adb005d6306?OpenDocument&Click=

Part three of this tripartite self defense standard[s], **the duty to retreat, is inapplicable** in a defendant’s own home **because** of **the** so-called “**castle doctrine**,” or privilege of nonretreat. The castle doctrine **provides that if an assailant threatens a victim** with violence **in the victim’s own home, the victim may turn aggressor without any duty of retreat**, **and** still be able to **justify his actions by claiming self defense.** This theory is premised on the notion that “a man’s home is his castle,” hence the name “castle doctrine.” Justice Cardozo explained,“**It** is not now and **never has been the law that a man assailed in his own dwelling is bound to retreat.** If assailed there, **he may stand his ground and resist the attack.** He is under no duty to take to the fields and the highways, a fugitive from his own home.”9Florida, and **most** other **states**,has **[have] adopted the castle doctrine exception to self defense**’s duty to retreat.

The Castle Doctrine precludes proportionality as per *State v. Thomas*. Suk:  
Jeannie Suk, THE TRUE WOMAN: SCENES FROM THE LAW OF SELF-DEFENSE, Assistant Professor of Law, Harvard Law School, 2010, http://www.law.harvard.edu/students/orgs/jlg/vol312/237-276.pdf

First, in the home, the law creates a presumption (hereinafter “home presumption”) that a resident coming upon an intruder who has entered “unlawfully and forcefully” reasonably fears “imminent peril, death or great bodily harm,” and is thus permitted to kill the intruder in self-defense.143 In other words, **the presumption is that a**n unlawful and **forceful intruder intends to kill.**144 Any killing of such an intruder is self-defense. **A** home **resident need not show that he feared for his safety.** To be sure, Florida previously did not impose a duty to retreat in the home if the home resident reasonably feared for his safety.145 But **the new law** goesbeyond the common law castle doctrine and **allows the** home **resident to kill the intruder even when there is no actual fear[,]**, reasonable or otherwise.This constitutes **the most significant accomplishment of the Castle Doctrine law.**

Suk 2 explains the ruling:

**State v. Thomas**, a 1997 Ohio Supreme Court case in which a woman killed her violent live-in boyfriend during a confrontation, and claimed self-defense based on Battered Woman Syndrome, **held that the castle doctrine applied to cohabitants of a home.** The court in this case gestured in the direction of the familiar traditional justifications for such an application of the doctrine. It articulated the rationale that **“a person in her own home has already retreated ‘to the wall,’ as there is no place to which she can further flee** in safety,” and the view—familiar from old cases like Jones and Tomlins— that **there is no distinction** to be made **between an intruder** attacker **and a cohabitant attacker.** But the court was clear that the traditional view was not doing all the work of justification for the rule it announced. The court indicated its understanding of DV and concern for battered women by citing a string of academic articles on battered women and self-defense. It stated that **in the case of domestic violence,** . . . **the attacks are** often **repeated over time, and escape from the home is rarely possible without the threat of** great personal **violence or death.**

The cohabitation clause of the Castle Doctrine does not prohibit victims from using deadly force. Carpenter:  
“Of the Enemy Within, The Castle Doctrine, and Self-Defense”, Catherine Carpenter, Marquette Law Review, Vol. 86, Issue 4, Spring 2003, Article I

Ultimately, when a jurisdiction rejects the Castle Doctrine because cohabitants share possession, it has balanced the rights of the deadly cohabitant's property interest with the innocent cohabitant's personal right of sanctuary, and has determined that the deadly cohabitant's property interest prevails. Whether the cohabitant exception is broadly defined, or modified by the limited duty to retreat, it is based on the underlying assumption that shared possessory interests prohibit the innocent cohabitant's full protection in the sanctuary. This section will challenge that assumption, arguing that the cohabitant exception is based on rigid principles of property interests that have been mistakenly coupled with requirements that originated in the common law defense of habitation. Specifically, the cohabitant exception is improperly based on three legal assumptions: 1) some type of an intrusion is required in order for an occupant to stand ground at home and use deadly force; 2) the deadly cohabitant does in fact maintain the status of lawful possessor throughout the deadly attack; and 3) the deadly cohabitant's lawful possession usurps the sanctuary's importance to the innocent cohabitant. A. The Requirement of an Intrusion **If cohabitants must retreat from the home** because they cannot eject each other, **it suggests that** the privilege of **non-retreat only applies against those whom the cohabitant can lawfully eject.** This situation would be primarily one where the trespasser’s intrusion threatens the possession and enjoyment of a resident. **Under this view, the deadly cohabitant's** right of **presence** in the home **would not**, by definition, **amount to** that level of **intrusion[.]** that would threaten the possession and enjoyment of the innocent cohabitant. Unfortunately, **[R]equiring that the innocent cohabitant’s** peaceful **possession be disturbed** before the Castle Doctrine applies **blurs the distinction between defense of habitation and self-defense.** While some level of intrusion is generally required for defense of habitation, there is usually no such requirement under the claim of self-defense in the home. **Emphasizing the status of the deadly aggressor** in a self-defense claim **is** most likely, then, **a**n unintended **confusion of** the principles of **defense of habitation.** If an intrusion is not a required element of self-defense in the home, then it follows that the Castle Doctrine’s applicability should not be based on the deadly cohabitant's lawful presence. **Without the need for** the underlying event – the **intrusion** – **the Castle Doctrine should apply equally to all unprovoked and deadly attacks, regardless of the status of the attacker.**

A battered victim’s unique situation precludes the state from legally prohibiting deadly force. Ripstein 2:  
Arthur Ripstein “Self-Defense and Equal Protection” Pittsburgh Law Review

In the case at hand, the accused's fear is a direct result of the law's failure to adequately protect herself from past attackers. **In a society of equals, the battered woman would have far wider avenues of escape [and]**;in a society that properly enforced rights, **the batterer would be less able to repeat his offense.** Were this pair of conditions met, battered women would seldom be able to claim self-defense because they would presumably have reasonable alternatives to killing their abusers. But they [these conditions] are not met, and that fact is important even in cases in which their beliefs about the dangers they face are unreasonable. The point here is not that we do a global measure of how much the accused has suffered and conclude that her past suffering is to be treated as punishment already received, a sort of "time served." [n89](http://www.lexisnexis.com.ezproxy.baylor.edu/lnacui2api/frame.do?reloadEntirePage=true&rand=1325730206790&returnToKey=20_T13616934121&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.586976.0114837025" \l "n89) Rather, the way we explain the wrongful act directly implicates the state's failings.  [\*711] The role of the law itself is crucial here if we are to avoid going to the opposite extreme and reducing the batterer's sentence because he too may have had some difficult experiences. **The battered** **woman** **who overestimates** the **danger** she faces **has learned to perceive danger in a certain way. Her learning to do so is a rational response** on her part **to dangers** that **she has faced** in the past. It is not just that she has been conditioned by a history of battering to fear a certain type of approach; rather, her history has made that sort of fear appropriate from the point of view of her security. It has also made it appropriate for her to perceive things as she does. Indeed, these are the very factors that make self-defense justifiable when a battered woman is confronted by her abuser. **And the state, by its inaction, has put her into the position of needing to depend on those coping mechanisms** in order **to protect her own life.** Now, the existence of a rational coping mechanism does not by itself either justify or excuse her behavior. But in this case, her rational behavior is itself a direct result of the failure of the law to provide her with the equal protection to which she is entitled. She is not relieved of responsibility because of some antecedent condition. Indeed, she is not relieved of responsibility at all. Instead**, the state, having failed her, has no business punishing her.**

Leonard bases her conclusions on studies done in the late 80s and early 90s before the advent of the Castle Doctrine in domestic violence cases. Prefer my evidence since it’s more recent and thus reflects modern legal precedent, which protects victims from conviction.

Leonard answers her own conclusion: high conviction rates are a result of lawyers concealing abuse. Leonard:  
 Elizabeth Ann Dermody Leonard, Convicted Survivors The Imprisonment of Battered Women Who Kill, December 1997

If, as research shows, women who kill their husbands or lovers most often do so in the context of defending themselves against ongoing violence, why is conviction so common? Stark (1990, p. 18) reports, “**Historically, lawyers defending women** who murdered batterers **concealed abuse, fearing it would be used against their clients in court.**” **Self-defense law allows a person to use** reasonable **force** against someone **when the person believes she is in imminent danger** of bodily harm; the level of force must be proportionate to the force used against her; and force is the only means of preventing that harm (Bannister 1993). **When a woman’s actions fit the legal requirements of self-defense law, she is more likely to be successful in court** (Bannister 1991).

High conviction rates are the result of legal error and biased application, not the content of the law. Leonard:   
Elizabeth Ann Dermody Leonard, Convicted Survivors The Imprisonment of Battered Women Who Kill, December 1997

It appears that even when self-defense laws fit the homicide event, **lawyers and judges may not apply the laws properly in cases of battered women homicide offenders.** Maguigan’s (1991) **analysis** of 223 appellate cases of battered women who killed **reveals that** approximately **40 percent of the cases were overturned, a rate five times higher than other criminal convictions.** Why the high rate of turnovers? Maguigan reports that **many judges refuse to apply the law fairly** to battered women defendants, **and** that trial and appellate **attorneys are waiving or failing to pursue reversible or appealable errors on the part of trial judges.**

AT Elliott Definition

Elliot is discussing ethics in practice rather than the actual theories.

Elliot presumes that morality exists in her book. Her interpretation takes the form of “if morality exists, then permitted means within the moral system.” The AC conditionally denies the antecedent, thus her definition doesn’t function.

AT Some States Don’t Have Castle Doctrine

1. Extend Ewing. Ewing doesn’t specify the Castle Doctrine, only other forms of self-defense law.

2. Most states have Castle Doctrine provisions. That’s Orr 1.  
  
“Alabama, Alaska, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Washington, West Virginia, Wyoming” (36 total)

AT Excused v. Justified

1. Killing in self-defense is legally classified as justifiable homicide. That’s Orr 1; even if that’s not enough, Wright explains:  
Nancy Wright, law professor at Santa Clara Law School, “Voice for the Voiceless: The Case for Adopting the "Domestic Abuse Syndrome" for Self Defense Purposes for All Victims of Domestic Violence Who Kill Their Abusers”, Criminal Law Brief, Volume 4, 2009

**Self-defense**, **in the case of** both **battered women** and battered children, **is based on the principle that a person "who is unlawfully attacked by another and who has no opportunity to resort to the law for his defense, should be able to** take reasonable steps to **defend** himself [or **herself**]." n107 **A homicide committed in self-defense is classified as a "justifiable homicide" as opposed to an "excused homicide."** n108 **Justification "declares the allegedly criminal act legal," and therefore only requires "an objective evaluation of the criminal act."**

2. The Castle Doctrine also proves the absence of a prohibition on lethal self-defense, so the action can’t be excused from a violation it can’t commit. That’s Jansen.

AT Determinism

1. It’s just as likely that the chemical processes of the victim’s brain predetermine their actions in response to threats, so neither actor is responsible and permissibility affirms.

2. Determinism is non-debate functional— it’s incoherent to give both of us a loss, but neither of us deserved a win if our performance was predetermined. Since someone has to be rewarded to determine the winner of a debate, it is necessary to reject the notion of determinism within the activity.

3. Determinism would trigger presumption since the judge ultimately gets to decide the outcome of the round, not the debaters (and presumption affirms in the AC).

4. All people that can formulate second-order volitions are responsible for action—even if actions are predetermined, we can consider an individual a responsible agent who enacts free will if they can formulate reason for acting internally. Frankfurt:  
Frankfurt, Harry. "Freedom of the will and the concept of a person." *Journal of Philosophy*. LXVIII.1 (1971): Re-Printed in “The Importance of What We Care About p.23-24.

Now freedom of action is (roughly, at least) the freedom to do what one wants to do. Analogously, then, **the statement that a person enjoys freedom of the will means** (also roughly) **that he is free to want what he wants to want**. More precisely, it means that he is free to will what he wants to will, or to have the will he wants. Just as the question about the freedom of an agent's action has to do with whether it is the action he wants to perform, so the question about **the freedom of his will has to do with whether it is the will he wants to have.** **It is in securing the conformity of his will to his second-order volitions**, then, **that a person exercises freedom of the will.** And it is in the discrepancy between his will and his second-order volitions, or in his awareness that their coincidence is not his own doing but only a happy chance, that a person who does not have this freedom feels its lack. The unwilling addict's will is not free. This is shown by the fact that it is not the will he wants. It is also true, though in a different way, that the will of the wanton addict is not free. The wanton addict neither has the will he wants nor has a will that differs from the will he wants. Since he has no volitions of the second order, the freedom of his will cannot be a problem for him. He lacks it, so to speak, by default. People are generally far more complicated than my sketchy account of the structure of a person's will may suggest. There is as much opportunity for ambivalence, conflict, and self-deception with regard to desires of the second order, for example, as there is with regard to first-order desires. If there is an unresolved conflict among someone's second-order desires, then he is in danger of having no second-order volition; for unless this conflict is resolved, he has no preference concerning which of his first-order desires is to be his will. This condition, if it is so severe that it prevents him from identifying himself in a sufficiently decisive way with any of his conflicting first-order desires, destroys him as a person. For it either tends to paralyze his will and to keep him from acting at all, or it tends to remove him from his will so that his will operates without his participation. In both cases he becomes, like the unwilling addict though in a different way, a helpless bystander to the forces that move him. Another complexity is that a person may have, especially if his second-order desires are in conflict, desires and volitions of a higher order than the second. There is no theoretical limit to the length of the series of desires of higher and higher orders; nothing except common sense and, perhaps, a saving fatigue prevents an individual from obsessively refusing to identify himself with any of his desires until he forms a desire of the next higher order. The tendency to generate such a series of acts of forming desires, which would be a case of humanization run wild, also leads toward the destruction of a person. It is possible, however, to terminate such a series of acts without cutting it off arbitrarily. When a person identifies himself decisively with one of his first-order desires, this commitment "resounds" throughout the potentially endless array of higher orders. Consider a person who, without reservation or conflict, wants to be motivated by the desire to concentrate on his work. The fact that his second-order volition to be moved by this desire is a decisive one means that there is no room for questions concerning the pertinence of desires or volitions of higher orders. Suppose the person is asked whether he wants to want to want to concentrate on his work. He can properly insist that this question concerning a third- order desire does not arise. It would be a mistake to claim that, because he has not considered whether he wants the second-order volition he has formed, he is indifferent to the question of whether it is with this volition or with some other that he wants his will to accord. The decisiveness of the commitment he has made means that he has decided that no further in order volition, at any higher order, remains to be asked. It is relatively unimportant whether we explain this by saying that this commitment implicitly generates an endless series of confirming desires of higher orders, or by saying that the commitment is tantamount to a dissolutionof the pointedness of all questions concern- ing higher orders of desire. Examples such as the one concerning the unwilling addict may suggest that **volitions of the second order,** or of higher orders, **must be formed deliberately** and that a person characteristically struggles to ensure that they are satisfied. But the conformity of a person's will to his higher-order volitions may be far more thoughtless and spontaneous than this. **Some people are naturally moved by kindness when they want to be kind, and by nastiness when they want to be nasty, without any explicit forethought and without any need for energetic self-control.**

Completely free will is not a necessary condition of moral autonomy; people can still be responsible for responding to their desires even when the desires are externally imposed. Frankfurt 2:

A person’s will is free only if he is free to have the will he wants. This means that, **in regard to any of his first-order desires, he is free either to make that desire his will or to make some other first-order desire his will instead.** Whatever his will, then , the will of the person whose will is free could have been otherwise; he could have done otherwise than to constitute his will as he did. It is a vexed question just how “he could have done otherwise” is to be understood in contexts such as this one. But although this question is important to the theory of freedom, it has no bearing on the theory of moral responsibility. For **the assumption that a person is morally responsible for what he has done does not entail that the person was in a position to have whatever will he wanted.** This assumption does entail that the person did what he did freely, or that he did it of his free will. **It is a mistake**, however, **to believe that someone acts freely only when he is free to do whatever he wants or that he acts of his own free will only if his will is free.** Suppose that a person has done what he wanted to do, that he did it because he wanted to do it, and that the will be which he was moved when he did it was his will because it was the will he wanted. Then he did it freely and of his own free will. **Even supposing that he could have done otherwise, he would not have done otherwise**; and even supposing that he could have had a different will, he would not have wanted his will to differ from what it was. Moreover, **since the will that moved him** when he acted **was his will because he wanted it to be, he cannot claim that** his will was forced upon him or that **he was a passive bystander** to its constitution. Under these conditions, it is quite irrelevant to the evaluation of his moral responsibility to inquire whether the alternatives that he opted against were actually available to him.

5. The ability to rationalize naturalism denies the validity of naturalism itself. Lewis:  
[C.S. Lewis](http://www.davidbergan.com/Summa/C.S._Lewis) (May 20, 1946)[[1]](http://www.davidbergan.com/Summa/Religion_without_Dogma%3F#endnote_Title) contained in *God in the Dock* edited by Walter Hooper

What we should speak of ashis"thoughts" [are] were merely the last link of a causal chain in which allthe previouslinks were irrational. He spoke as he did becausethe matter ofhis brain was behaving in a certain way: and the whole history of the universe up to that moment had forced it to behave in that way. What we called his thought was essentially a phenomenon of the same sort as his other secretions-the form which the vast irrational process of nature was bound to take at a particular point of space and time. Of course it did not feel like that to him or to us while it was going on. He appeared to himself to be studying the nature oftilings , to be in some way aware of realities, even supersensuous realities, outside his own head. But if strict naturalism is right,he was deluded: he was merely enjoying the conscious reflection of **irrationally** determined eventsin his own head. It appeared to him that his thoughts (as he called them) could have to outer realities that wholly immaterial relation which we call truth or falsehood: though, in fact, being but the shadow of cerebral events, it is not easy to see that they could have any relation to the outer world except causal relations. And when Professor Price defended scientists, speaking of their devotion to truth and their constant following of the best light they knew, it seemed to him that he was choosing an attitude in obedience to an ideal. He did not feel that he was merely suffering a reaction determined by ultimately amoral and irrational sources, and no more capable of tightness or wrongness than a hiccup or a sneeze. It would have been impossible for Professor Price to have written, or us to have read, his paper with the slightest interest if he and we had consciously held the position of strict naturalism throughout. But we can go further.It would be impossible to accept naturalismitselfif wereally and consistently believed naturalism. For naturalism is a system of thought. But for naturalism all thoughts are mere events with irrational causes. It is, to me at any rate, impossible to regard thethoughtswhich make up naturalismin that way and, at the same time,to regard them as a real insight into external reality.Bradley distinguished idea-event from idea-making,15 but naturalism seems to me committed to regarding ideas simply as events.For meaning is a relation of a wholly new kind, as remote, as mysterious, as opaque to empirical study, as soul itself. Perhaps this may be even more simply put in another way. Every particular thought (whether it is a judgment of fact or a judgment of value) is always and by all men discounted the moment they believe that it can be explained, without remainder, as the result of irrational causes. Whenever you know what the other man is saying is wholly due to his complexes or to a bit of bone pressing on his brain, you cease to attach any importance to it. But if naturalism were true, then all thoughts whatever would be wholly the result of irrational causes. Therefore, all thoughts would be equally worthless. Therefore, naturalism is worthless. If it is true, then we can know no truths.It cuts its own throat. I remember once being shown a certain kind of knot which was such that if you added one extra complication to make assurance doubly sure you suddenly found that the whole thing had come undone in your hands and you had only a bit of string. It is like that with naturalism. It goes on claiming territory after territory: first the inorganic, then the lower organisms, then man's body, then his emotions. But when it takes the final step and we attempt a naturalistic account of thought itself, suddenly the whole thing unravels. The last fatal step has invalidated all the preceding ones: for they were all reasonings and reason itself has been discredited.

6. Determinism is compatible with free will. Best: [“A Case For Free Will And Determinism,” Ben Best. <http://www.benbest.com/philo/freewill.html>]

The word "freedom" does not mean "freedom from causality or materialism", it means "freedom from compulsion or restraint". Thus, if **[free] will** exists, it **can exert its influences through causal relations. Causality provides constraints, not unfreedom. Gravity limits** the **conditions under which a person can fly, but it does not prevent flying.** The causal sequences by which nerve stimulation results in muscular action give the will the freedom to manifest itself in the world. Determinism is often erroneously equated with fatalism, which is the true opposite of freewill. Under fatalism the will is ineffectual, no matter how much it struggles. Under determinism there is no limit to how effectual the will can be. Causality determines the nature of will, but does not prevent any action which is not in violation of physical law. A will is not unfree by virtue of the causal roots of its origin and existence (heredity and environment). **Causality creates a will, but does not subject the will to ongoing compulsion.** To justify a causeless will on the grounds that a person can choose what he or she does not really wish to choose (wills what is not really willed) is self-contradictory. First Cause refers to an uncaused cause. Absolute causality requires that every effect has a cause, which implies infinite regression when each cause is interpreted to be an effect of a prior cause. How can there be an infinite chain of prior causes to all phenomena? Ultimate First Cause seeks to sidestep this infinite regression. But this is like asking for a beginning or end of time — or an end of space. The non-infinite is harder to conceive of than the infinite (space ending at a wall beyond which there is nothing?), even though the infinite cannot be fully comprehended. A physicist might assert that the [Big Bang](http://en.wikipedia.org/wiki/Big_Bang)  was the beginning of time & space just as a Deist might assert that a Creator was the beginning of time & space. "What created the Big Bang or the Creator?", and "What came before the Big Bang or the Creator?" are assumed to be prohibited or meaningless questions. Aside from Ultimate First Cause used to avoid infinite regresssion, First Cause can be invoked to avoid causality of choice, or to describe will as an uncaused cause. All theories of First Cause (uncaused "choice") imply a spiritual, non-material "chooser". Whether choices are the product of material causes is entirely a scientific question — not a question of "self-evident axiom". A claim that knowledge is not possible without this spiritual First Cause chooser loads the definition of "knowledge" with spiritual assumptions. Although most people acknowledge that the random will of indeterminacy is not a free will many people nonetheless seek "freedom" in causelessness. But if freewill is an uncaused cause, how can it be anything other than random? Ironically, there are two opposite classes of defenders of the theory that a freewill is a First Cause (uncaused cause). One class of defenders of First Cause finds freewill in the most whimsical and spontaneous of actions. But how can such actions be anything other than a consciousness manifesting pseudo-randomness from unconscious impulses? Can such acts — which clearly don't spring from intention — really be the mark of freedom? The other class of defenders of First Cause will find freedom in the greatest acts of deliberation and effort. **A person's will is composed of many desires** and many kinds of desires (and fears) which can come in conflict. **Deliberation** and effort **can resolve these conflicts, but resolution of conflicting desires is not** an **uncaused** process. A person may choose not to eat "junk food" because the desire for good [health](http://www.benbest.com/health/health.html) outweighs the desire for momentary gratification. A person's desire to fulfill a duty may outweigh the desire for entertainment — or vice versa. A person may be prudent enough to avoid letting anger dictate her or his behavior. **Bodily reflexes incline a person to withdraw a hand from hot water, but** interneurons from **higher brain centers can allow someone to keep a hand in hot water.** If "lower motives" incline me to strike a person out of anger, but "better judgement" inclines me to refrain, the fact that "higher motives" have taken precedence does not make those motives any less caused (First Cause) than the anger. The will is simply the sum of a person's desires, motives and tendencies. **Although the will is created by external factors, once it has come into existence it becomes a control centre (rather than a marionette on strings.**

Consistency with contractual agreements is the only universalizeable moral theory since we can’t rationally will non-compliance. Engstrom:  
Stephen Engstrom, “The Form of Practical Knowledge”, Harvard University Press 2009. Pg 202-203

**Suppose there were a law of false promising that all persons followed** out of their shared recognition of its validityand hence knew to be a law without needing to discover it through experience of its effects. **Then everyone would** practically **recognize**, in the concrete instance as well as in abstract, **that all persons are to conduct themselves according to this law. Hence everyone** could at least in principle and therefore **would** in the practical cognitively ideal case **recognize** (in accordance with the expectation grounded in their shared practical knowledge) **any false expression of a practical judgment** that might be addressed to them to be the false expression it is **and so** would not-indeed, **could not**-**believe it** (d. 8:426). Now **the possibility of** the addressee's **believing that a practical judgment is being expressed is**, of course, **a condition of the possibility of what is willed in the false promising,** namely **to induce** in the addressee **the false belief that a** certainpractical **judgment has been expressed, which** in turn **is necessary if the latter is to be induced to suppose,** erroneously, **that a genuine agreement** in willing **has been reached. The attempt to will the maxim of false promising as a universal law thus leads to a contradiction,** in that it involves the attempt to will, or to deem it good, that such false beliefs be induced while recognizing that they cannot be.

AT *Gartland*

The *Gartland* decision is outdated; the New Jersey Legislature passed new self-defense laws that align with the AC advocacy. **Suk:**Jeannie Suk, THE TRUE WOMAN: SCENES FROM THE LAW OF SELF-DEFENSE, Assistant Professor of Law, Harvard Law School, 2008 <http://www.law.harvard.edu/students/orgs/jlg/vol312/237-276.pdf>

The court could have relied on common law cases and applied the “true man” idea to the battered woman, who should in principle be able stand her ground in her home whether the attacker was an intruder or an intimate, just as the true man was able to defend himself against a cohabitant in Alabama as early as 1884.106 Instead, Gartland took a differently gendered route that turned on the special circumstances of battered women, adapted uncritically from the accounts of feminist scholars and advocates who emphasized battered women’s impaired autonomy.107 In **asking the legislature to reconsider the statutory duty to retreat, the court specifically presented the issue as the application of the castle doctrine “in the case of a spouse battered in her own home.”**108 It noted that at the time of the drafting of the statute, “the public was not fully aware of the epidemic of domestic violence.”109 **A few years later, in 1999, New Jersey did revise its self-defense law specifically to provide that a DV victim had no duty to retreat.**

AT *Shaw*

The rulings in *Weiand* and *Thomas* referenced by Suk 1 and 2 in the AC based their ruling specifically on the conditions of domestic violence. *Shaw* cannot account for the unique circumstances of domestic violence since it concerned male roommate; prefer my specific case-law. **Suk:**  
Jeannie Suk, THE TRUE WOMAN: SCENES FROM THE LAW OF SELF-DEFENSE, Assistant Professor of Law, Harvard Law School, 2008 <http://www.law.harvard.edu/students/orgs/jlg/vol312/237-276.pdf>

A distinctive discernible concern was the castle doctrine’s implications for family strife. An illustrative example is the 1981 case of ***State v. Shaw***, in which the Connecticut Supreme Court interpreted the castle doctrine provision of the state’s self-defense statute as providing a cohabitant exception to the castle doctrine.72 The court reasoned: “In the great majority of homicide the killer and the victim are relatives or close acquaintances . . . . We cannot conclude that the Connecticut legislature intended to sanction the reenactment of the climactic scene from ‘High Noon’ in the familial kitchens of this state.”73 As it happens, Shaw’s facts **did not actually involve spouses or family members, but rather male roommates. The defendant rented a bedroom in a house owned and occupied by the man he was accused of assaulting.**

Also, the *Weiand* and *Thomas* rulings postdate *Shaw* by 10 years, making them better indicators of modern common law.

AT Leonard

Leonard bases her conclusions on studies done in the late 80s and early 90s before the advent of the Castle Doctrine in domestic violence cases. Prefer my evidence since it’s more recent and thus reflects modern legal precedent, which protects victims from conviction.

Leonard answers her own conclusion: high conviction rates are a result of lawyers concealing abuse. Leonard:  
 Elizabeth Ann Dermody Leonard, Convicted Survivors The Imprisonment of Battered Women Who Kill, December 1997

If, as research shows, women who kill their husbands or lovers most often do so in the context of defending themselves against ongoing violence, why is conviction so common? Stark (1990, p. 18) reports, “**Historically, lawyers defending women** who murdered batterers **concealed abuse, fearing it would be used against their clients in court.**” **Self-defense law allows a person to use** reasonable **force** against someone **when the person believes she is in imminent danger** of bodily harm; the level of force must be proportionate to the force used against her; and force is the only means of preventing that harm (Bannister 1993). **When a woman’s actions fit the legal requirements of self-defense law, she is more likely to be successful in court** (Bannister 1991).

High conviction rates are the result of legal error and biased application, not the content of the law. Leonard:   
Elizabeth Ann Dermody Leonard, Convicted Survivors The Imprisonment of Battered Women Who Kill, December 1997

It appears that even when self-defense laws fit the homicide event, **lawyers and judges may not apply the laws properly in cases of battered women homicide offenders.** Maguigan’s (1991) **analysis** of 223 appellate cases of battered women who killed **reveals that** approximately **40 percent of the cases were overturned, a rate five times higher than other criminal convictions.** Why the high rate of turnovers? Maguigan reports that **many judges refuse to apply the law fairly** to battered women defendants, **and** that trial and appellate **attorneys are waiving or failing to pursue reversible or appealable errors on the part of trial judges.**

AT *Bobbitt*

*Weiand v. State* postdates. It overturned the *Bobbitt* ruling specifically in domestic violence cases. Orr:

Next **the court decided to overrule *Bobbitt* because of its implications for victims of domestic violence**. The court’s concern was that imposing a duty to retreat from the home would adversely impact victims of domestic violence. Citing studies and articles that suggest women who back off or away from violent confrontations do more to perpetuate their cycle of violence and victimization than to break it, **the court concluded that forcing women to walk away from their abuser may actually increase the threat to their lives**, not minimize it. Most pointedly, the court cited a Florida Governor’s Task Force on Domestic Violence report that states, “**forty-five percent of the murders of women were generated by the man’s rage over** the actual or impending **estrangement from his partner.**” The court concludes this argument by stating that retaining a duty to retreat from the home handicaps women and wives from defending themselves against an aggressor spouse.

AT *Hegdes*

They should’ve read the case; *Hedges* limits, but still affirms, the Castle Doctrine. Orr:

The court also distinguished between applying the castle doctrine to victims of spousal abuse, and applying it to other defendants attacked by members of their household. For this reason, the court decided to limit or recede from *Hedges*. ***Hedges*held** that **there was no duty to retreat from one’s own residence where the attacker was** not an intruder, but was **an invitee** (such as a visiting boyfriend might be) to the premises. **The jury instruction indicates that a limited privilege of nonretreat should apply equally to all residing at the dwelling**, “[b]ecause this instruction will apply to both invitees and co-occupants alike, we recede from *Hedges* to the extent that*Hedges* does not require a middle-ground instruction for invitees.” Therefore, **if a woman is being battered** by her visiting boyfriend (an invitee) **she must retreat from his attack but she need not flee her home.** Certainly, **the castle doctrine remains fully intact** with respect to trespassers and other noninvited or unwelcome persons: no retreat is required.

AT OMG TRAYVON REP DA HOODIE DATS RACIST YO

1. Trayvon’s case doesn’t answer the contention evidence. My cards are specific to the application of the Castle Doctrine to victims of domestic violence, not all claims of self-defense.

2. Trayvon’s case deals with out-of-home Stand Your Ground laws as they are applied only in the state of Florida. My evidence is specific to domestic relationships and examines cases from all over the country.

Extra Ripstein

You have a right to defend your independence under equal freedom. Ripstein 2:

Second, **Kant**’s conception of coercion **judges the** **legitimacy** **of** any particular coercive act **[coercion]** not in terms of its effects but **against the background** idea of a **system of equal freedom.** That is, unlike Bentham, he begins with the concept of a rule, but the rules in question govern the legitimate use of force in terms of reciprocal limits on freedom. **Coercion is objectionable where it is a hindrance to** a person’s right to **freedom**, **but legitimate when it** takes the form ofhindering **[hinders] a hindrance to freedom. To stop you from interfering with another person upholds the other’s freedom.** Using force to get the victim out of the kidnapper’s clutches involves coercion against the kidnapper, because it touches or threatens to touch him in order to advance a purpose, the freeing of the victim, to which he has not agreed. **The use of force is rightful because** an incident **of the victim’s antecedent right to be free. The kidnapper hinders the victim’s freedom;** forcibly **freeing the victim hinders that hindrance**, and in so doing upholds the victim’s freedom. In so doing, it *also* makes the kidnapper do what he should have done, that is, let the victim go, but its rationale is that it upholds the victim’s right to be free, not that it enforces the kidnapper’s obligation to release the victim. **The use of force** in this instance **is an instance of the victim’s right to independence, and so is a[n]** consistent **application of** a system of **equal freedom.**

Add to AT Internalism file later-

Katsafanas card in conjunction with cards about how Gauthier fails to establish a conception of rationality.

(\_\_\_) Proportionality ought not to be a requirement since the victim can’t be expected to know the intention of the attacker. For example, if someone attacks you in an alley, you are justified in using deadly force even if it is later discovered that the attacker had no weapon and only intended to rob you. Since you’d have no way of knowing the level of force being directed against you until the attacker actually shot you, it makes no sense to require a defender to make their defense directly proportional.

(\_\_\_) Direct proportionality is flawed because it would require the victim to replicate the exact abuse they suffered both trivializing their suffering and being impossible because the fact that they are victim to begin with demonstrates their inferiority in confrontation.

(\_\_\_) Proportionality is nonsensical since it would require victims to wait until after the attack had happened in order to ascertain proportionality at which point it may be too late.