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**Perception is Reality: A Qualitative Approach to Understanding
Police Officer Views on Civil Liability**

Frank V. Ferdik

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ABSTRACT

Civil litigation against law enforcement has grown since the 1960's. Though lawsuits are viewed as deterrence against police misconduct, scholars have noted that threats of litigation can negatively impact officer job performance, which may lead to poor police-community relationships. To date, few studies have investigated the topic of police officer perceptions of civil liability, and, whether lawsuit threats influence job performance. This study utilized a qualitative approach in order to access perceptions of liability held by 23 officers. Findings suggest that officers perceive litigation to be a hindrance to job performance and reference its risks and consequences. Policy implications are discussed.

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Perception is Reality: A Qualitative Approach to Understanding Police Officer Views on Civil Liability

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INTRODUCTION

Since its inception, policing in the United States has been marred by allegations of negligence, excessive use of force and even intentional homicide (Novak, Smith and Frank, 2003)¹. Mostly because of law enforcement's inability to internally regulate the behaviors of its officers, the public has sought alternative remedies to the problem of police corruption. One such remedy has resulted from our nation's courts. Specifically, it was the 1978 Supreme Court decision in *Monnell v. Department of Social Services* (1978) that afforded citizens the opportunity to bring legal action against police officers. Since then, civil litigation for police misbehavior has increased in frequency. The rationale for civil liability is based on the belief that holding officers liable for their behavior will decrease misconduct; however, critics have opined that "it (civil litigation) hampers, restricts and otherwise handicaps the effective operation of law enforcement agencies" (Young, 1996, p. 8).

Other critics such as Freckelton (2008) argue that concern for civil litigation may lead to police officers being reticent in their interaction with the community. For instance, an officer may neglect to respond to calls for service, lack a desire to interact with certain members of the public or even become hesitant in applying force when needed. Schofield (1990) adds that "law enforcement officers who have an exaggerated fear of liability may become overly timid or indecisive and fail to arrest or search—to the detriment of the public's interest in effective law enforcement" (Schofield, 1990, p. 26). Despite such pronounced claims, there has been little research documenting whether perceptions of civil liability mandates do in fact impact the decision-making behavior of officers. As a result, the present study qualitatively explores the perceptions of civil liability held by 23 officers from a mid-size southeastern police department. The goal of this research is to

¹ The author would like to thank Dr. Hayden P. Smith for providing invaluable feedback and assistance in the writing of this manuscript.

expand on past literature regarding this topic in order to better understand the perceived benefits and consequences associated with civil liability.

LITERATURE REVIEW

Civil liability claims are also termed U.S. Code Section 1983 lawsuits (Kappeler, 2001) and have grown exponentially in recent decades. Prior to the 1960's, it was a rarity for citizens to file lawsuits against law enforcement members. However, during the civil rights movements, anti-war protests and feelings of antipathy grew amongst the public and were largely directed toward making authoritative figures accountable for their behavior (Kappeler, 2001). Since most government officials are afforded considerable discretion in their decision-making (Lipsky, 1980), the rationale behind providing public members the opportunity to hold them civilly liable was to mitigate concerns over various modes of misconduct, especially those concerning constitutional violations (Lambert, Hall and Ventura, 2003). Whereas guilty parties in criminal proceedings are typically punished via terms of imprisonment, guilty parties to civil claims are generally required to recompense for their wrongdoing through monetary restitution (Freckelton, 2008). To date, the literature on civil liability has examined a variety of different aspects of this policy.

For example, Ross and Bodapati (2006) noted that over the past 3 decades, not only has there been a sharp increase in the number of lawsuits filed against our nation's officers, but that there has been a rise in the number of successfully litigated cases against them, their departments and municipalities. According to the International Association of Chiefs of Police (IACP), from 1967 to 1971, the number of civil suits filed against the police increased by 124 percent. Moreover, during the decade between 1967 and 1977, the yearly number of civil suits brought against law enforcement officials increased by more than 500 percent. Trends such as these have only continued to escalate in recent years with scholars estimating that more than 30,000 civil actions have been filed against police officers each year over the past fifteen years (Gaines & Kappeler, 2011).

There are multiple reasons for which law enforcement officials can be held civilly liable, with scholars producing disparate findings on each motive. Literature focusing on the nature of these civil claims has found that wrongful death suits

(Kappeler *et al.*, 1991; Stevens, 2001), police pursuits (Pipes and Pape, 2001), excessive use of force (Thurm, 1992), failing to arrest drunk drivers (Kappeler and del Carmen, 1990), abandonment of high crime areas (Vaughn, 1994), police sexual violence (Escholz and Vaughn, 2001; Kappeler and Vaughn, 1997), police supervisors violating the freedom of speech rights of subordinates (Vaughn, 1997), violating the freedom of speech rights of citizens (Vaughn and Kappeler, 1999), and retaliation against citizens who criticize the police (Vaughn, 1996) generally constitute the range of claims filed against police officers. Additionally, literature on the topic of civil liability and its relation to policing has investigated the potential administrative causes for police liability lawsuits (Worrall, 1998), the numbers and types of liability lawsuits (Kappeler *et al.*, 1993), critical issues of tort law and even implications for the future in terms of how law enforcement officials can protect themselves from suits (Kappeler, 2001).

Other studies on liability issues have focused on the financial burden incurred by the individual officer involved in the claim, the department and taxpayers as a whole. Collins (1998) found that the cumulative cost of insurance, litigation expenses, out-of-court settlements and punitive damage awards “can make civil liability an extremely expensive proposition to officers, agencies, governments, and, ultimately, the taxpaying public (Collins, 1998, p. 122). A 2007 study by the National Institute of Municipal Law Officers (NIMLO) found that 215 municipalities surveyed had more than \$4.3 billion worth of claims in pending liability suits. Scholars have argued that if these figures were applied to the 39,000 local governments, there could be as much as \$780 billion in pending liability litigation against them (Barrineau, 1994; Bates *et al.*, 1981).

Though there is ample research concerning the prevalence, cost and impact of this policy, relatively few studies have investigated the perceptions officers have regarding liability. Of the few, Scogin and Brodsky (1991) found that 9 percent of the officers they surveyed felt that their fear of being held civilly liable reached a point of irrationality. Officers expressed their risk management precautions in terms of “treating people fairly” and “going by the book of procedures...the department provides.” The authors concluded by stating that “law enforcement candidates have real concerns about work-related lawsuits” (Scogin and Brodsky, 1991, p. 45). These findings were replicated by Kappeler (2006) who found that

50 percent of 220 police cadets in a statewide training academy were worried about civil liability, and 31 percent thought they worried to excess. Female officers showed less anxiety over litigation, even when controlling for age, race, education, years of experience and job assignment (Kappeler, 2006).

Garrison (1995) surveyed 50 law enforcement officials from state, municipal and university agencies throughout Pennsylvania and found that 28 percent of respondents agreed that “the idea that a police officer can be sued bothers me.” Garrison (1995) also found that state police officers were generally more “hostile to the idea of civil liability” and less likely to believe “that it was a deterrent to police misconduct” than were university and municipal police officers. A survey of 658 sworn police officers from 21 agencies across the U.S. found that 15 percent ranked civil liability third among the top ten most serious challenges they face on the job (Stevens, 2000). In a larger study of Cincinnati police officers performed by Hughes (2001), it was found that while most officers had not been sued, they reported knowing a colleague who had been involved in a litigation claim for occupational behavior. Curiously, though 45 percent of the police reported that while civil liability impedes effective law enforcement, a greater majority also reported that fear of being sued did not register with them when stopping citizens.

It appears that civil litigation may also be a concern for police administrators. For instance, Vaughn *et al.* (2001) examined the attitudes of 1,050 police chiefs towards civil liability and found that although they believe it renders more cumbersome officer duties, the chiefs also reported that concern for liability did not lead to any behavioral changes (Vaughn *et al.*, 2001). In a rare study that examined concern of civil litigation by both police and correctional officers, Hall *et al.* (2003) found that 23 percent of respondents in both categories reported having been sued for something arising from performance of their duties. They also found a positive relationship between the level of education and additional years of on the job experience and being sued. Regarding vicarious experience with litigation, Hall and colleagues found that 62 percent of respondents knew a colleague who had been sued for performance of official duties. Moreover, 62 percent either agreed or strongly agreed with the statement: “in my opinion, public safety officials should be held liable to civil liability for violating the rights

of citizens” (Hall, *et al.* 2003, p. 538). Finally, 48 percent of respondents either agreed or strongly agreed that the threat of liability deters misconduct among criminal justice employees, and that 62 percent either disagreed or strongly disagreed that the threat of liability hinders their ability to perform their duties (Hall, *et al.*, 2003). This suggests that for those officers who perform their job in an ethical manner, civil litigation will have a negligible impact on their performance. At the same time, civil litigation can provide a tool in the fight against police misbehavior.

Novak, Smith and Frank (2003) examined whether experience with and attitudes toward civil liability influence the behavior of police officers when affecting arrests, using force, searching, and initiating encounters with suspects. Multivariate results indicated a tenuous attitude toward civil liability and that this is an inconsistent predictor of police officer behavior. More concretely, the study found that officers did not have strong beliefs of liability deterring misconduct and that most thought liability had little to no effect on officer behavior; in fact, compared to officers who had not been sued, officers who had used impact weapons in a higher proportion of encounters with citizens (Novak, Smith and Frank, 2003).

To date, the empirical research on the topic of police officer perceptions of civil liability has considerable limitations. First, most of the literature is somewhat dated with many of these studies conducted over 20 years ago. Reliance on this outdated research stands in contrast to the development of proactive policing strategies that have occurred over this same time period. Also, this research only provides a generalized sense of officer concerns, while neglecting to include specific areas over which officers may be preoccupied. Furthermore, many of the findings were based on survey research alone, which despite its advantages, often times restricts respondent’s to predefined response categories, thus limiting personal information. The present study adds to the existing knowledge of police officer perceptions of civil liability by conducting intensive interviews with 23 law enforcement officials in order to obtain their worldview interpretations of how liability affects not only their occupational lives, but their personal lives as well. Utilization of this methodological approach offers an opportunity to gather

additional data that can be used to increase our understanding of police culture and behavior, especially as it relates to this component of the profession.

METHODS

Data for this investigation were obtained from in-depth interviews conducted with law enforcement officials from a mid-size police department in the southeastern United States, which currently is home to 300 officers. Interviews were conducted between January and March 2012. Sampling was purposive in nature in that the researcher was interested in obtaining worldviews regarding liability held by officers who had experience with this policy. The Assistant Chief and Assistant Deputy Chief recruited such officers for the interviews. The final sample featured 23 officials—all of whom were male. Permission was granted by each to tape record the interviews, which greatly assisted in accurately documenting their words. Interviewees were offered strict confidentiality with the researcher promising to delete all information on the tapes after it was transcribed, as well as not documenting any personal information, e.g. names and badge numbers. During the transcription phase, in fact, the research categorized each interviewee simply as, “officer,” and gave a pseudonym to the city in which the interviews took place. All information related to informed consent and confidentiality was included in the interview guide².

The in-depth interviews were semi-structured, with open-ended questions that allowed for considerable probing, and typically lasted between 30 to 45 minutes. The guide for the interviews was created according to past surveys on civil liability, but also featured additional questions pertaining to proactive policing techniques. Topic areas consisted of: (1) the police officer’s general perceptions on civil liability; (2) training on liability; (3) liability risks; (4) vicarious exposure to liability; (5) indemnification procedures; (6) drawbacks of liability; and finally, (7) positive aspects of liability.

DATA ANALYSIS

Amendments to the initial version of the guide were made following the first few interviews. Information related to the media’s role in shaping police officer perceptions of liability, whether officers felt that the tort system needed to be

² For anyone interested in viewing the interview guide, please contact the author.

reformed, or how officers cope with liability concerns was originally not included in the interview guide. Since many of the initial interviewees considered these and other relevant topics to be pertinent to the overall subject-matter, they were subsequently incorporated. It was also important to look for themes and concepts that emerged not only during the interviews, but during the transcription process as well. The practice of writing memos during the data collection phase assisted in accomplishing this objective. Also, by probing respondents on particular issues and being attentive to markers, the researcher analyzed not only the responses, but visual and linguistic cues that sometimes offered additional insight into the subject matter (Hesse-Biber and Leavy, 2011). Finally, the qualitative data analysis software, Atlas.ti, was used to assist with the analysis and management of the data.

FINDINGS³

Nearly every officer offered candid insight into their personal perceptions of how civil liability affects them in both their professional and personal domains. Many of the interviewees even became emotional when discussing how civil liability has impacted their lives and the lives of some of their colleagues. An exploration of the data via Atlas.ti produced an initial list of 30 topic areas that resulted from the interviews. The researcher then condensed these topics into four main categories that include: (1) perceived risks; (2) consequences; (3) defense measures against civil liability; and (4) positive aspects of civil liability. Each category contains several sub-categories which will be expanded upon.

PERCEIVED RISK-COLLEGE STUDENTS

According to many respondents, the college-district area of South City in which most of the local university students congregate for socialization and drinking purposes posed the greatest likelihood of being held civilly liable. Officers viewed the combination of the physiological effects of alcohol or drugs and the problem of underage drinking as contributory factors. Adding to this, several officers believed that since many students had connections to attorneys, if any police action was taken against them, the officers would be threatened with a liability suit. Overall then, when asked whether community characteristics or certain parts

³ Several quotations from respondents were not included; however, for those interested, the author can provide a transcribed version of the interviews.

of town increased susceptibility to liability claims, nearly every officer concurred that the college-district posed the greatest litigation risk.

Interestingly, students majoring in criminal justice, law or even students who have taken only one or two criminal justice classes seemed to be the most vexing members of the crowd since they are likely to question the authority of the officers. Knowledge acquired in these classes apparently emboldens them to make such statements as, “do you have probable cause to arrest and/or search me?,” “I know my rights and you have to read me my Miranda warnings before you slap the cuffs on me,” or “I know the law and I know that what you are doing is illegal and I will have your badge.” Of the 23 officers interviewed, 20 affirmed that these statements were routinely expressed by these students when officers were executing their job commands. One officer highlighted the attitude of these students as such, “this is the worst crowd because a lot of times these kids have mommy and daddy who either are lawyers or know lawyers who will protect them and since they know so, they will behave as they want.” An overarching point this officer was trying to make was that this particular group will invoke such resources not just for defensive purposes, but to render cumbersome police work.

It is not just the students themselves that pose a liability concern, but even their apparent disrespect for law enforcement. As one officer explained:

We live in an entitlement society where people are trying to get the better of you without exerting too much energy. Perception is reality my friend...and...my perception is that people want stuff provided to them and think they can get it from a lawsuit...Instead of following orders and doing what is right, you decide to question me, or worse, file a suit against me for doing my job when you violated the law. That is disrespectful and something I see all too often not just with college kids, but with a grand portion of the population anymore. I was raised to be respectful of elders, cops and people in authority; I guess that mindset has...gone away.

According to respondents, since public members do not appreciate having their rights and freedoms restricted, when this occurs, they will go to various lengths to not only defame the officer in question but place him/her in financial hardship. The perceived litigious or “sue happy” nature of the American society, as exemplified by college students, is further viewed as making police work increasingly challenging.

PERCEIVED RISK-MEDIA AND TECHNOLOGY

When asked what he thought of the media and its role in liability, one officer stated, “If you watch it, they do not want good stories, especially not good stories about the police. Any media representation of the police will be biased....no matter what...it’s all about how can we bring down the man!” Some officers even believed that the media, in attempts to dramatize stories, will portray officers as “incompetent,” “fallible,” or even “cruel and worthy of punishment.” Though over half of the officers did not so much have an unfavorable view of the media, they were cognizant of how it sensationalizes stories for ratings. Apparently if those stories negatively depict officers, it is done for economic rather than political or personal reasons. Many officers also thought that the proliferation of technological hand-devices such as Smart-Phones, each equipped with video-recording features, increases officer vulnerability to litigation.

Asked whether some of the officers could provide examples of the media contributing to the perceived risk of liability, over two-thirds recalled this episode:

There were three officers trying to affect an arrest on a suspect but his friend, who evidently was a law student, kept interfering. He kept yelling “You do not have probable cause, you can’t arrest my friend.” For about ten minutes the officers were trying to plead with the guy to stop interfering until it finally escalated to a point where they had to arrest him. The area where this occurred is full of cameras and evidently the girlfriend of the guy who kept interfering works for the local news station. She got hold of some of the videotapes and broadcast over the local news a story that completely misrepresented what actually occurred. The tape only showed the five seconds of the officers grabbing the suspect and arresting him, and not the preceding ten minutes where they kept asking him to stop interfering. The media lets you see what they want you to see, and in that particular episode, they only let the public see that portion of the tape which obviously painted us in a bad light.⁴

PERCEIVED RISK-INSUFFICIENT TRAINING

Insufficient training that does not prepare officers for the real-life circumstances they will encounter on the streets was a common perceived risk of liability held by many respondents. Over half of the officers opined that additional training on liability was a necessity because they are required to know the legal framework

⁴ The officer(s) involved in this episode were sued by the student and as of the writing of this paper, the case is still pending trial.

within which they perform their job. Absent such information, the potential for liability increases as a result of not being informed of changes resulting from case, state or federal legislation. One officer remarked that “I do not think they do enough training in regards to personal and civil liability. If you do not agree with this point of view, then you are a fool.” Failure to understand the intricacies of liability can expose officers to its repercussions, as referenced by one particular officer when claiming that “we should receive additional training on how to prevent the threat of liability because if we do not, how do we know how to do our job?”

PERCEIVED RISK-INEXPERIENCE AND COMPLACENCY⁵

Adding to the above risk factors is the fact that inexperienced officers, defined by respondents as those who have been employed for less than one year, are more at risk for being sued than veteran officers because they are still adapting to the job. Rookie officers may not have the background knowledge required to face certain situations, and this can only be obtained through experience. One officer commented on this by stating “some of these younger officers have to sit and think about their actions, and when you are in a life or death situation...it does not matter, you have to make a decision because if you do not, you may open the door to reverse liability; that is, to not coming home tonight.” Inexperience was seen by several as a risk factor, yet other officers believed that the complacency that sometimes comes with years of experience also opens the door to the potential for litigation claims.

Repetition of routine duties can create a complacent state of mind that is unreceptive to the unordinary. If and when this occurs, according to respondents, officers may fail to act when necessary and be held accountable as a consequence. Complacency in police work may result from years of repetitive and seemingly mundane work and many of the officers commented that “when you start to get used to certain things and don’t think about them, that is when you find yourself in trouble. Even a routine traffic stop can open you up to liability because what if the guy has a gun or drugs and you fail to search the car or take preventive measures...Well, you see what I mean.”

⁵ One officer stated that community policing invites liability because it mandates increased officer involvement in the lives of citizens.

CONSEQUENCES

LOSS OF SELF-CONFIDENCE AND/OR PASSION FOR THE JOB

Some of the most significant consequences that can result from civil litigation, according to the respondents, include both losing the passion to be a police officer, and confidence in one's abilities to perform the job. While arresting a "severely intoxicated" woman, one officer remarked that she retaliated against him with an \$18 million lawsuit. Luckily for the officer, eye witness testimony helped exonerate him of all charges. However, he did explain that for the duration of the trial—roughly one year—the resulting stress and mental exhaustion adversely influenced his perception of people, the job and life. Being subjected to civil litigation claims, especially for such exorbitant amounts, evidently altered this officer's frame of mind with respect to this profession and even the citizens with whom he must deal.

Although most respondents stated that they would never allow these fears to impede job performance, several did reference how some officers involved in litigation claims, and others who heard of these "horror stories," either requested transfers out of certain districts, or resigned altogether. At least one-third of the officers interviewed shared similar feelings and thought that the "second-guess" factor not only might lead to hesitance in performing the job, but may become a rationale for questioning one's ability to be a police officer. Comments such as "this job is unlike any else because it requires a certain set of traits in order to be done effectively," were commonly expressed by respondents. Many repeated that the most significant of those traits is confidence, and if this is lacking, the officer will be ill-prepared for the job. Furthermore, second-guessing themselves occupationally, for several officers, sometimes led to second-guessing themselves as people too. Feelings of inadequacy and the fostering of low self-esteem were substantial consequences of reduced confidence, mostly resulting from liability fears and experiences. Moreover, fear of liability, as expressed by many of the interviewees, caused some of the officers to view certain communities and people with heightened suspicion, which even led to an inability to do the job, as well as a strain between public and police.

OCCUPATIONAL APPREHENSIVENESS

Hesitance in the line of duty was yet another answer provided by respondents when asked what consequences may arise from concern for civil liability. Nearly two-thirds of the officers agreed that “freezing up” or “failing to take action when required” are drawbacks of being preoccupied with litigation issues. Occupational duties associated with this profession are numerous, and if officers become reluctant to fulfill them, they not only place themselves in legal trouble, but jeopardize both their safety and that of the public. A result of this can be the infliction of serious bodily injury or death to involved parties in scenarios where a suspect is in possession of a weapon and threatens to use it. If the officer fails to respond because of trepidations for liability, a host of ramifications may arise. According to respondents, this line of work necessitates quick thinking and action that cannot be put into effect if the officer is pre-occupied with potential consequences. Second-guessing what needs to be done in those types of situations, therefore, was perceived as a liability itself.

LOSS OF SUPPORT/PROFESSIONAL ISOLATION

Several of the respondents were of the mindset that if an officer were sued for something arising from performance of duties, other officers would cease contact with that individual. It is not so much that other officers are unwilling to stand by their partners, but that they do not want to be included as parties to the suit. This may result in the officer “being isolated” by others and having to face the hardships of the lawsuit independent of any assistance. Justifying this point of view is the fact that other officers do not want to be forced into a situation where they have to defend their livelihood, or worse, place their loved ones in a precarious financial state⁶.

DEFENSE MEASURES AGAINST LIABILITY

RELYING UPON GUIDELINES

While some officers lamented that liability training was inadequate, others countered this claim. Adherence to departmental training and policies can

⁶ One respondent remarked that after a former colleague of his was sued, this officer was forced to leave the department, was involved in a “tumultuous divorce,” and ultimately left the state due to the hardships brought on by the lawsuit. This story provided an example of the isolation civil claims can bring about.

indemnify officers from the prospects of being held liable. Regardless of the claim or individual filing it, any officer who is sued for job-related duties but who abided to the policies will be protected⁷. Additionally, with the exception of two officers, every interviewee concurred that the most solid form of defense against liability claims was “doing the right thing.” When asked to expand on this, many officers stated that it simply means following what is in one’s heart, and what one believes to be the action that will benefit the greatest number of people. Many cited Supreme Court cases such as *U.S. v Leon* (1984) and *Massachusetts v. Sheppard* (1984), in which the justices ruled in favor of the officer in question because the actions were predicated upon “good faith.” Adding to this, several officers stated that though they derive a great deal of their ethics and morals from departmental codes, “religion” and a “strong commitment to family and friends” reinforce those ideals.

PROCEDURAL DEFENSE MECHANISMS

More technical defense measures against liability were courtesy summons, technology, the Police Benevolent Association (PBA) and “putting valuables in someone else’s name.” With regards to the first, if an officer is called to a scene and there are multiple opinions as to the events that transpired, the officer, instead of arresting the individuals and opening the possibility for an unlawful arrest suit, will issue a courtesy summons to everyone involved that mandates a court appearance. For instance in assault scenarios, if both parties are claiming that the other initiated the assault and the officer has little evidence to corroborate either claim, a summons will be issued, thereby holding both sides accountable without invoking an arrest. Unfortunately, and according to three officers, “Courtesy summons are great for reducing the possibility of a lawsuit, but sometimes in situations where an arrest needs to be made, the officer is hand-cuffed and may have to let the guilty party go. This can be extremely frustrating.”

Technology, though perceived by some officers to be a risk-enhancer, could actually serve to mitigate liability concerns, as evidenced by one officer who stated:

⁷ One officer remarked that this police department operates under a “plus 1” use of force policy, which means that for every form of force a citizen uses against the police, the officer may respond with a level of force that is considered one unit above that of the citizen’s. As long as officers abide by this, they should be protected from liability.

When I arrested...a girl, she started banging her head against the cage. She was bleeding a little bit and despite me telling her to stop, she continued. Once she did, she said 'I'm gonna sue you.' I said you can go ahead and do that, but do you see that little camera right there, yeah...you have been recorded this whole time and whatever claim you bring will be debunked by the image.

Much like with training, there seems to be a dichotomy in the role technology plays with respect to civil liability. On the one hand it may render officers more vulnerable to liability, while on the other hand, it can shield officers from potentially outlandish claims.

The final two defense strategies implemented by several officers consisted of participating in the Police Benevolent Association and signing over valuables such as one's home or automobile to another person. Twenty-one of the twenty-three officers interviewed were a part of the PBA, which requires a monthly fee of \$10 and should the officer ever have a suit filed against him/her, the association will provide legal counsel and representation and apprise the officer of any actions that need to be taken and what can be done to combat the lawsuit. Every officer stated that most police departments will provide this type of service and that "it does a lot to ensure that our livelihood is not put into too much jeopardy." Finally, four officers stated how they protected themselves from liability claims, both as police officers and in general, by placing valuables in their significant other's name. Should a lawsuit be filed, according to these respondents, the plaintiff will be unable to acquire any goods⁸.

POSITIVE ASPECTS OF LIABILITY

ACCOUNTABILITY

Although most officers perceived of liability in a negative light, some did see positives to holding officers liable for their actions. When questioned about this, one officer stated:

One time in my life I would have said no to the question of whether holding officers civilly liable has positive aspects. However, the minute we as a country start limiting someone's right to protect what they see as inalienable and valuable, we descend into anarchy. We cannot simply restrict people's freedom, if we do not allow for a checks and balances

⁸ One officer explained how he was once sued, but because he placed his valuables in his wife's name, the plaintiff was unable to acquire anything.

system, we begin to chip away at the foundations of what built this country.

Other officers offered similar sentiments. To them, apparently, the constitution affords citizens the right to defend themselves and restriction of this ability undermines the foundations upon which the country was founded. Furthermore, and as illustrated in the last quote, sometimes the end result of these lawsuits may actually favor the police in terms of establishing clearer occupational guidelines. Adding to this was the idea that by making police officers more aware of their surroundings, more critical of the jobs they have to perform and more receptive to change and recommendations, this institution can amend any fractured relationships with the community and produce better-quality officers.

DISCUSSION AND LIMITATIONS

Research on the topic of police officer's perceptions of civil liability has produced mixed results. Some studies found officers to have an irrational fear of being sued, while others found that officers do not even think about liability. Seeking to expand on extant literature, the present study investigated the personal opinions of 23 officers regarding civil liability. Specifically, the researcher wanted to know if the possibility of being held civilly liable impacts officer job performance, while also trying to uncover other issues of importance related to this topic. Four primary findings resulted from this investigation: (1) there are factors that increase the risk of officers being held civilly liable, (2) there are consequences resulting from liability, (3) some officers utilize defense measures against civil claims, and (4) most officers thought it necessary to hold law enforcement civilly liable for its actions.

Communities frequented or inhabited by certain individuals (i.e., college students) as well as the media and technological devices increased officer susceptibility to lawsuits. Disrespect and a lack of taking responsibility for one's own actions by public members added to this list of risks. Police officers want to know that they are being respected for the profession they have chosen, and individuals who fail to demonstrate deference are the ones most likely to question their authority and file a claim. Knowledge of this is vital because if officers can minimize these threats and/or learn how to anticipate and proactively manage them, execution of their job commands may be facilitated, and threats of liability may decrease.

Failure to take action in situations that require it, social isolation, losing one's livelihood and a diminished desire to work within the profession were referenced as drawbacks of civil liability concerns. Psychological inhibitions such as these may manifest themselves as roadblocks to adequately performing this job. Should this occur, the public may lose trust and confidence in the abilities of law enforcement to fulfill their occupational demands, thereby weakening partnerships between both sides. Additionally, safety issues may begin to take precedence, especially in scenarios where officers must use force. Strategies used to combat both the fears and threats of liability included placing valuables in the names of loved ones, abiding to a certain code of morality and ethics, which were often contingent upon strong social and spiritual ties, as well as using technology and training to the officer's advantage. These coping mechanisms, according to several respondents, offer needed assistance when attempting to silence those anxieties that often accompany thoughts of being sued. However, some officers were quick to note that additional defense measures are required.

Several officers voiced concerns that there is insufficient training on liability, and that even if there were enough, little time can be devoted to it. Efforts to assist officers at understanding the dynamics of civil liability should be undertaken by departments whereby trained attorneys in this field of law apprise officers of any recent legislative changes that impact the policing profession. Not understanding the causes and effects of liability may weaken police-community partnerships, and even increase the financial burden placed upon all involved parties. Some officers even remarked that when an officer is sued, little assistance is provided to him/her by co-workers. Law enforcement officials should develop additional camaraderie amongst one another in an effort to help their counterparts in times of crises. Human beings often necessitate emotional support and uplifting from friends and family, and if this is lacking, officers involved in liability claims may lose confidence in themselves as police officers — to the detriment of both the department and public.

It should be noted that the sampling and selection strategies utilized for this project were not without limitations. First, the findings from this study cannot be generalized to other officers and/or departments. Also, the fact that the researcher could not select the officers for the interviews presented another limitation since

this undermined randomization of the selection procedure. Additionally, with the exception of one African American, all interviewees were White, male and fell between the ages of 23 and 41. Each officer had 3 years of on-the-job experience in policing—most all of which completed with this department. All interviewed officials were either line officers or currently fulfilling the rank of sergeant. Since the sample was limited to just this population of police officers, again, generalization of their responses to others is inhibited. Despite all this, liability concerns are greatest amongst these types of officers since they interact more with the public (Vaughn, Cooper and del Carmen, 2001), which formed the rationale for their selection. Even though the findings are limited from an external validity standpoint, the information solicited offered valuable information that policy-makers and police reformers can use to both improve police-community relations, and officer understandings of liability.

This study helped better understand some of the dynamics involved in police-citizen encounters, especially since it examined the role reversal between the two in which the citizens, through the threat of lawsuits, become the agents of behavioral control over the police. By understanding how police respond to this and what their worldview interpretations are regarding liability, interested stakeholders are offered insight into the discipline of police studies. Unfortunately, given the above referenced limitations, additional research could expand on these findings in several ways. First, future researchers with established relationships with police departments can question additional officers on the multifaceted dimension of liability and contribute to our growing knowledge of this topic. Results from other qualitatively-based studies on liability, if conducted, can form the base for surveys that can be disseminated across the country in order to enhance generalization of qualitative findings. Ultimately, gaining a better understanding of how police and public interact and how deterrence measures such as civil liability influence those associations can improve any friction between the two and create a more productive police-community relationship.

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