

Summary Discussion

In conjunction with suggestions above and although the prevention of police misconduct was addressed in a broader context in Chap. 7, there are implications specific to the City of New York that result from the findings of the current study. The finding that overall the impact of police misconduct on the City's civil liability is the result of increases in the number of lawsuits being filed, i.e. the incidence of police misconduct means that training, both in the field and at the academy should include programs specific to the prevention of misconduct with a focus on its impact on the City's civil liability and social costs to its residents. If cadets are concerned about work-related lawsuits then the academy together with field training are the proper vehicles to reinforce and heighten such concerns. However, it is recognized that misconduct specific instruction alone may not be enough as police officers and officials are often unaware of the outcomes of police misconduct lawsuits. This suggests that police officers must be informed continually of the legal proceeding in which they are involved. Continued awareness of the existence and potential cost of police misconduct may mean regular updates of events in on-going lawsuits at roll call or, and, one-on-one meetings with supervisors so that they may be more aware of the impact of their conduct on their department and the City. This may entail the creation of a database specific to police misconduct actions and issuance of reports to individual officers and their supervisors keeping them apprised of the progress of the lawsuit.

In spite of these recommendations, it is realized that there will always be outliers, i.e., police officers who are undeterred by civil lawsuits. For example, a report by the New York Daily News detailed a two-month investigation of the most sued police officers in New York City. According to the report 55 NYPD officers, who

had more than 10 lawsuits against each of them, were responsible for a total of 609 misconduct lawsuits and \$6 million in civil liability. One particular officer had been sued 28 times in the past 8 years at a cost to the City of \$1.3 million. When presented with the cost of his conduct to the City, the detective allegedly replied “I am unaware of that” and “once it goes to court, I don’t follow it” (Paddock, 2014), supporting the contention of Fyfe and Skolnick (1993). From this it appears that existing accountability and transparency mechanisms need to be reformed and, where inadequate, new mechanisms such as mandated communication on the trajectory of the lawsuit, between the officer and City attorneys, put in place. Arguably, today more so than in the past, reforms particularly of accountability mechanisms, may be more accepting to the rank and file as 72% of law enforcement officers nationwide say that poor performing officers are not held accountable (Morin, 2017) implying a willingness to accept change. Part of such change could be a police department providing a contextual understanding of how, and when present and complementing each other, the 5 prongs—recruitment, selection, training, supervision and discipline—of the pentagon of police leadership work to achieve integrity (Haberfeld, 2012).

Nevertheless, if police misconduct lawsuits are inevitable, then the study suggests that current policies that have led to decreases in the average cost of a lawsuit for the years studied should continue. Specifically, the findings suggest that there should be a vigorous effort to increase the use of settlement rather than jury trials not only because on average a settlement is 37% less costly but additionally the time to get to disposition is on average approximately 50% less for a settlement than for a trial.

Finally, there are several possible limitations to the study. First, in using allegations of police misconduct to measure police misconduct, it is recognized that not all incidents of police misconduct result in a civil lawsuit. Indeed, police misconduct lawsuits are incidents of alleged misconduct that have been brought to the attention of the judicial system. As such it is possible that incidents of police misconduct may be more numerous than the number of lawsuits filed.

Second, there are frivolous lawsuits and therefore even when a settlement or judgment results, in other words an admission or finding of police misconduct, it is quite possible that what was alleged may not have occurred.

Despite these limitations, the use of lawsuits to examine police misconduct in Brooklyn provided a select sample of cases and arguably a reliable and credible source of information due to the scrutiny of many different professionals engaged in the adversarial judicial process and therefore these limitations did not threaten the validity of the study.

Table of Cases

Anderson v. Creighton, 483 U.S. 635 (1987)
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Canton v. Harris 489 U.S. 378, (1989)
City of Newport v. Fact Concerts, Inc., 453 U.S. 247 (1981)
City of Riverside v. Rivera, 477 U.S. 575 (1986)
Flournoy v. City of Chicago, 829 F.3d 869 (7th Cir. 2016)
Graham v. Connor, 490 U.S. 386 (1989)
Harlow v. Fitzgerald, 457 U.S. 800 (1982)
Lugar v. Edmondson Oil Co., Inc., 457 U.S. 922 (1982)
Memphis or her Community School Board v. Stachura, 477 U.S. 299 (1986)
Monell v. Department of Social Services of New York, 436 U.S. 658 (1978)
Monroe v. Pape, 365 US 167 (1961)
Owen v. City of Independence, 445 U.S. 622 (1980)
Pembaur v. City of Cincinnati, 475 U.S. 469 (1986)
Stein v. State 53 A.D. 2d 988 (1976)
Stinson v. City, 10-cv-04228 (S.D.N.Y.) (2017)
Tennessee v. Garner, 471 U.S.1 (1985)

References

- Fyfe, J. J., & Skolnick, J. H. (1993). Response to Mastrofski and Uchida. *Journal of Research in Crime and Delinquency*, 30(3), 359–368.
- Haberfeld, M. R. (2012). *Police leadership: Organizational and managerial decision making process* (2nd ed.). Upper Saddle River, NJ: Pearson.
- Morin, R., Parker, K., Stepler, R., Mercer, A. (2017). *Behind the Badge*. Pew Research Center, Retrieved July 3, 2017, from <http://www.pewsocialtrends.org/2017/01/11/behind-the-badge/>.
- Paddock, B. (2014, September 29). Detective is NYPD's most-sued cop, 28 lawsuits filed against him since 2006. *NY Daily News*.

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