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A Research Note on the Situational Contexts of Inter-Ethnic “Stand Your Ground” Incidents

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A Research Note on the Situational Contexts of Inter-Ethnic “Stand Your Ground” Incidents

Cover Page Footnote

Revised version of a paper presented at the 2016 annual meeting of the Georgia Sociological Association. The author wishes to thank Michelle McCormick and the anonymous reviewers for their critical observations on earlier manuscript drafts.

A RESEARCH NOTE ON THE SITUATIONAL CONTEXTS OF INTER-ETHNIC “STAND YOUR GROUND” INCIDENTS

Background

Florida led the nation in the development of self-defense Stand Your Ground (SYG) laws, which went into effect in that state on October 1, 2005. Since then, controversies have developed over the law's efficacy and implementation. Criticism of the law became especially pronounced after the Trayvon Martin-George Zimmerman incident drew national attention. This, and other high profile SYG cases involving inter-ethnic principals, has drawn the interest of the U.S. Commission on Civil Rights. This government agency has been investigating "whether there is possible racial bias in the assertion, investigation and/or enforcement of justifiable homicide laws in states with Stand Your Ground provisions" (Weiner 2014).

There have been few research efforts on SYG issues, and their findings are seemingly contradictory. Using state-level crime data from the FBI's Uniform Crime Reports, Cheng and Hoekstra (2013) concluded that SYG laws are not the deterrent to crime its advocates claimed it would be. Examining U.S. Vital Statistics, McClelland and Tekin (2012) found indications that SYG laws are associated with a significant *increase* in the number of homicides among Whites but not Blacks. In an analysis of FBI Supplementary Homicide Report data, Roman (2013) found strong statistical evidence that justifiable homicide rulings favored Whites in White-Black inter-ethnic confrontations. Roman further found that the White-Black disparity was especially pronounced in states with SYG statutes. All of these efforts utilized aggregate state-level official statistics.

A small second set of investigations have focused on SYG dynamics in individual states, notably Florida. Referring to a database created by the Tampa Bay *Times*, Lott (2014) stated that SYG actually benefitted Blacks who relied on the SYG defense, due to the fact that Blacks are more likely than Whites to be victims of violent crime, and therefore have to defend themselves more often.

McCormick (2014; 2015; 2016), who developed a larger database on Florida SYG incidents than did the *Times*, investigated a number of factors associated with this defense. As far as ethnicity is concerned, McCormick found that those of any ethnicity claiming the defense were significantly more likely to be successful if their alleged assailants were young, male, and/or a member of an ethnic minority. This finding is consistent with findings in the literature on those with a propensity for committing crimes of violence. As far as inter-ethnic SYG

incidents were concerned, however, McCormick (2016) found no statistically significant differences in SYG defense success based upon the ethnicity of either claimant or alleged assailant. An independent analysis of McCormick's database sponsored by the Commission on Civil Rights (2015) reached similar conclusions.

The disparities in these findings need to be addressed. Roman (2013) indicated one limitation to his aggregate data analysis, namely that it necessarily omitted the *context* in which inter-ethnic self-defense incidents occur. Indeed, he added that the differences he found may not be due to "conscious or unconscious racial animus in the justice system," but to the "facts associated with white-on-black homicides (which may) differ from the facts associated with black-on-white homicides." This research note seeks to explore those situational factors which may or may not be associated with successful SYG defenses involving inter-ethnic principals.

The Data

The author conducted a systematic search through the archives of Florida's major newspapers, and identified 311 Stand Your Ground incidents occurring from October 1, 2005 (date the law went into effect) through December 1, 2012. Data were collected on the date and location of the event, the backgrounds (i.e., age, sex, ethnicity, criminal record) of the principals, the circumstances surrounding the episode, and the legal outcomes. In addition to content analysis of newspaper accounts, supplementary and cross-checking data sources included web inquiries on names, a background verification service, on-line mug shot/arrest records, and court proceedings provided through county clerk of court web pages.

In addition to those delineated in earlier reports (McCormick 2014; 2015; 2016) certain data caveats pertinent here must be mentioned. In some instances, the ethnicity of a claimant or an alleged assailant was unknown. Because some principals were juveniles, certain personal information was, by law, withheld. Further, some Florida jurisdictions identify individuals as White or Black, so that the ethnicities of some principals were difficult to ascertain. Finally, as of this writing, while a SYG decision has been reached in all 311 cases, one pertinent to this inquiry is not necessarily final as its trial is in progress. Therefore, the as yet unreached decision by the trial judge or jury may result in the reversal of this claimant's denied SYG motion.

Frequency of Inter-Ethnic SYG Incidents

The first observation to be made is that inter-ethnic SYG incidents are relatively rare. Indeed, in general, the literature reports that violent confrontations between members of different ethnicities are comparatively uncommon (see, for example,

Wickman and Whitten 1980). Roman’s (2013) analysis of Uniform Crime Report data from 2005 through 2010 found that only 8.8% of homicides were Black-on-White and 3.9% were White-on-Black. The overall percentage of homicides ruled justifiable in that time period was 2.57%.¹

The author’s data mirror this rarity, as viewed in Table 1. Overall, about one-fourth of the studied SYG cases involved an inter-ethnic confrontation. Given that the author’s database covers 7¼ years, an average of only 10 or so inter-ethnic cases occurred in any given year. When broken down into the

Table 1. Inter-Ethnic Stand Your Ground Cases in Florida, 2005-2012*

Claimant Ethnicity	Assailant Ethnicity			Total
	Black	Hispanic	White	
Black	-----	7 (2.3%)	14 (4.5%)	21 (6.8%)
Hispanic	11 (3.5%)	-----	13 (4.2%)	24 (7.7%)
White	23 (7.4%)	11 (3.5%)	-----	34 (10.9%)
Total	34 (10.9%)	18 (5.8%)	27 (8.7%)	79 (25.4%)

* All percentages are of the overall total of cases in the database (N = 311)

specific ethnicities of SYG claimants versus their alleged assailants, the uncommonness of inter-ethnic incidents becomes even more apparent. Least common were confrontations between Black SYG claimants and Hispanic assailants. Most common were incidents between White claimants and Black assailants. Put in perspective, there are roughly between one and three SYG episodes a year between individuals from Florida’s three main ethnic groupings.

These figures are such that any further subdivision of the data would result in numbers too small for meaningful statistical analysis. Therefore, the findings that follow must be viewed as, at best, exploratory and suggestive.

¹ It must be observed here that the concepts of “justifiable homicide” and a “Stand Your Ground” defense are not synonymous. Differences pertinent to the current issue are described in the discussion section of this manuscript.

Table 2. Inter-ethnic Florida SYG Cases, by Pre-Incident Relationship

	Black Claimants vs. Hispanic Assailants		Black Claimants vs. White Assailants	
Relationship	N	Successful SYG N	N	Successful SYG N
Family	0	0	2	0
Other Primary	3	2	5	2
Other Secondary	1	1	2	1
Strangers	3	3	5	4
Unknown	0	0	0	0
Total	7	6	14	7
	Hispanic Claimants vs. Black Assailants		Hispanic Claimants vs. White Assailants	
Relationship	N	Successful SYG N	N	Successful SYG N
Family	0	0	2	0
Other Primary	0	0	5	4
Other Secondary	3	1	3	0
Strangers	6	5	3	2
Unknown	2	2	0	0
Total	11	8	13	6
	White Claimants vs. Black Assailants		White Claimants vs. Hispanic Assailants	
Relationship	N	Successful SYG N	N	Successful SYG N
Family	2	1	1	1
Other Primary	7	6	3	2
Other Secondary	1	0	2	0
Strangers	12	8	5	4
Unknown	1	0	0	0
Total	23	15	11	7

Contexts of Inter-Ethnic SYG Incidents: Findings

There are several situational factors affecting the outcome of a Stand Your Ground defense (see McCormick 2014; 2015; 2016). These include the nature of the pre-incident relationship between the principals, the place where the incident occurred, the trigger that led to the use of force, and whether or not the alleged assailant was armed and/or committing a crime at the time of the incident. Each of these contextual issues, as they apply in inter-ethnic SYG incidents, will be examined in turn.

Pre-incident Relationships: Table 2 above examines the nature of relationships between claimants and alleged assailants prior to the SYG incident.² Claimants of all ethnicities tended most to have a secondary relationship with their assailants, typically as strangers. Somewhat less common were primary relationships, where the principals were neighbors or perhaps co-workers or acquaintances. Not unsurprisingly, inter-ethnic relationships were rarely family or family-like in their nature. Note that successful SYG defenses were fairly prevalent in all but the family category, which is consistent with the author's overall finding that success was significantly less likely in such settings. On the other hand, claimants of all ethnicities enjoyed a very high rate of success in their SYG defenses against strangers.

Incident Location: The author's general findings concerning the location of an SYG incident did not discover any statistically significant findings. However, a claimant's defense success was noticeably higher if the confrontation occurred in or around his/her residence or place of business. This generally seems to hold true when inter-ethnic incidents are examined, as exhibited in Table 3 below.

It is observed that if the locations are broadly collapsed into "primary" locations (a principal's home or business, or his/her neighborhood) and "secondary" locations (a public area like a park, a business, a bar, or a public street), success appears to be roughly proportionate for claimants regardless of

² Relationships have been collapsed into very broad general categories, as follows. "Family" relationships include those who were married or cohabiting, any type of blood or affinal kin relationship, ex-spouses and ex-lovers, and relationship triangle situations. The "Other Primary" category includes such primary and quasi-primary associations as friends and acquaintances, roommates, teammates, neighbors, rivals, and co-workers. "Other Secondary" connections involve legal transaction situations (e.g., landlord-tenant or cabbie-fare), illegal transaction situations (e.g., drug dealer-buyer or prostitute-john), or situations in which one principal was operating as a functionary (e.g., repo man, process server, bill collector). While the author's previous analyses included "Strangers" in the "Other Secondary" category, this is treated separately here because, of all relationship subcategories, this was by far the most numerous (nearly a third of all SYG cases studied).

Table 3. Inter-ethnic Florida SYG Cases, by Incident Location

	Black Claimants vs. Hispanic Assailants		Black Claimants vs. White Assailants	
Location	N	Successful SYG N	N	Successful SYG N
Claimant Home/Bus.	2	2	5	1
Assailant Home/Bus.	1	1	0	0
Neighborhood	1	0	2	2
Public Area	0	0	0	0
Business/Commercial	1	1	1	1
Bar/Lounge	0	0	2	1
Public Street	2	2	4	2
Total	7	6	14	7
	Hispanic Claimants vs. Black Assailants		Hispanic Claimants vs. White Assailants	
Location	N	Successful SYG N	N	Successful SYG N
Claimant Home/Bus.	3	2	7	4
Assailant Home/Bus.	0	0	1	0
Neighborhood	2	1	0	0
Public Area	0	0	1	1
Business/Commercial	3	2	0	0
Bar/Lounge	2	2	2	0
Public Street	1	1	2	1
Total	11	8	13	6
	White Claimants vs. Black Assailants		White Claimants vs. Hispanic Assailants	
Location	N	Successful SYG N	N	Successful SYG N
Claimant Home/Bus.	11	8	4	3
Assailant Home/Bus.	1	1	0	0
Neighborhood	5	4	3	3
Public Area	0	0	0	0
Business/Commercial	3	1	0	0
Bar/Lounge	3	1	3	0
Public Street	0	0	1	1
Total	23	15	11	7

their ethnicity. But (and this is potentially a big “but”) note that when a White claimant is in his/her home or business, the number of successful defenses against a Black assailant is high (eight out of eleven). However, when a Black claimant is in his/her home or business, the number of successful defenses against a White assailant is quite low (one out of five). Is this disparity indicative of bias in the way the criminal justice system operates, as a number of SYG critics have alleged? Is the disparity simply an anomaly resulting from the exceedingly small number of cases involved? Or is a dynamic occurring which a more aggregate treatment of the data has disguised? To shed some light on these questions, the author re-examined the original accounts of each of these cases.

In the cases where a White claimant, while in his/her home/business, was not successful with his defense against a Black assailant, two involved unsubstantiated claims of unprovoked attacks. The third involved a drug deal gone bad, when a young White couple robbed and killed their Black dealer, then attempted to claim self-defense. The eight successful SYG defenses all involved defenses against some sort of illegal intrusion, like a robbery, burglary, or sexual assault. In other words, in every single instance in which an alleged Black assailant was on a White claimant’s property, the assailant was committing a felony.

On the other hand, Blacks claiming SYG defenses in home locations against White assailants were engaged in markedly different situations. The four unsuccessful cases involved disputes between roommates, a cohabiting couple, a young woman and her boyfriend, and a boyfriend who shot his girlfriend’s son in her apartment. The one successful case concerned a drug deal gone bad, when a Black seller was attacked by a White buyer.

As far as these very limited data are concerned, then, Whites claiming SYG defenses of their homes or business against Black assailants tended to be facing true felonious assaults. Further, these assailants did not have very close prior relationships with claimants. These sets of principals were sometimes acquainted in some way or were neighbors, but most often were strangers. Blacks claiming defenses while in their homes, though, were involved in incidents triggered by arguments or disputes, and tended to know their White assailants rather well, sometimes intimately.

Incident Trigger: Of exceeding interest is the nature of an SYG incident’s trigger. That is, what precisely started the chain of events which led to the alleged defensive use of violence? McCormick’s overall data (2014) indicate that, about 60% of the time, an SYG episode escalated out of an argument or dispute. Roughly a fourth were defenses against alleged felonies or, more rarely, against criminal trespasses or interferences in the performance of a legally sanctioned act (such as a car repossession or a bar bouncer carrying out his duties). The triggers for the remaining cases were disputed or unknown.

Table 4. Inter-ethnic Florida SYG Cases, by Incident Trigger

	Black Claimants vs. Hispanic Assailants		Black Claimants vs. White Assailants	
Trigger	N	Successful SYG N	N	Successful SYG N
Argument/Dispute	4	3	12	5
Crime Defense	3	3	1	1
Disputed/Unknown	0	0	1	1
Total	7	6	14	7
	Hispanic Claimants vs. Black Assailants		Hispanic Claimants vs. White Assailants	
Trigger	N	Successful SYG N	N	Successful SYG N
Argument/Dispute	5	2	8	3
Crime Defense	6	6	3	3
Disputed/Unknown	0	0	2	0
Total	11	8	13	6
	White Claimants vs. Black Assailants		White Claimants vs. Hispanic Assailants	
Trigger	N	Successful SYG N	N	Successful SYG N
Argument/Dispute	10	6	6	3
Crime Defense	12	9	5	4
Disputed/Unknown	1	0	0	0
Total	23	15	11	7

However, in inter-ethnic situations, Table 4 depicts a very different distribution of SYG incident triggers. In the 88 cases where Blacks and Hispanics were the assailants, 48 (55.2%) were initiated by claims of defenses against crimes. While specific percentages vary a bit, this disproportionality holds for claimants of all three ethnic categories. However, in the 36 confrontations between Black or Hispanic claimants with White assailants 28 (77.8%) were instigated by an argument or dispute. Thus, how an SYG incident got started would look as if it were yet another factor to consider as a possible source of any

inter-ethnic disparity in the law’s implementation. It is observed, though, that the proportion of successful SYG defenses were roughly equivalent for claimants of all ethnicities, regardless of what triggered the episode.

Table 5. Inter-ethnic Florida SYG Cases, by Armed Assailants

	Black Claimants vs. Hispanic Assailants		Black Claimants vs. White Assailants	
Assailant Armed?	N	Successful SYG N	N	Successful SYG N
Yes	3	2	3	3
No	3	3	10	3
Disputed/Unknown	1	1	1	1
Total	7	6	14	7
	Hispanic Claimants vs. Black Assailants		Hispanic Claimants vs. White Assailants	
Assailant Armed?	N	Successful SYG N	N	Successful SYG N
Yes	4	3	3	3
No	7	5	10	3
Disputed/Unknown	0	0-	0	0
Total	11	8	13	6
	White Claimants vs. Black Assailants		White Claimants vs. Hispanic Assailants	
Assailant Armed?	N	Successful SYG N	N	Successful SYG N
Yes	7	6	3	3
No	14	8	7	3
Disputed/Unknown	2	1	1	1
Total	23	15	11	7

Armed Assailants: In earlier reports, the author found that in almost two-thirds of SYG incidents, the assailant was unarmed. If, however, the assailant was armed, claimant’s SYG defense chances were appreciably improved (McCormick 2014; 2016). Table 5 examines the frequencies of the database’s inter-ethnic SYG confrontations involving armed versus unarmed assailants. As

seen, in inter-ethnic situations, the assailant was unarmed more often than not. When the assailant was armed, an SYG defense was almost always successful, regardless of the ethnicity of the claimant or attacker. However, there is one possible area of racial disparity. The cumulative success ratio for situations for Hispanic or White claimants versus unarmed Black assailants was thirteen out of twenty-one, or 62%. But for situations involving Black or Hispanic claimants versus unarmed White assailants, the cumulative SYG success ratio was only six out of twenty, or 30%. It might seem, then, that unarmed Black assailants are at a distinct disadvantage in SYG determinations.

Possible explanations for this disparity may lie in an examination of the situational contexts in which they occurred (Table 6). In terms of pre-incident

Table 6. Contexts of Inter-Ethnic SYG Cases Involving Unarmed Black and White Assailants

Context	Assailant			
	Black		White	
	N	%	N	%
Pre-Incident Relationship				
Family	1	4.8	4	20.0
Other Primary	4	19.0	8	40.0
Secondary	16	76.2	8	40.0
Total	21	100.0	20	100.0
Incident Location				
“Primary”	12	57.1	11	57.9
“Secondary”	9	42.9	8	42.1
Total	21	100.0	19*	100.0
Incident Trigger				
Argument/Dispute	11	52.4	16	80.0
Crime Defense	10	47.6	4	20.0
Total	21	100.0	20	100.0
Crime-Committing Assailant				
Yes	8	38.1	3	15.0
No	13	61.9	17	85.0
Total	21	100.0	20	100.0

* One location unreported

relationships, observe that unarmed Black assailants were most likely to have had secondary contact with Hispanic/White claimants (usually as strangers). On the other hand, unarmed White assailants were more likely to have had family or other primary ties with Black/Hispanic claimants. While the location of the SYG incident does not appear to be a factor, incident trigger and whether or not the assailant was committing a crime at the time of the incident seem to be relevant. About half of the confrontations with unarmed Black assailants entailed crime defense claims. However, SYG altercations between unarmed White assailants and Black/Hispanic claimants were almost always (80%) started by arguments or disputes. Also note that about a third of the unarmed Black assailants were engaged in a crime at the time of the incident, while only 15% of unarmed White assailants were. Thus, in this small subcategory of inter-ethnic SYG confrontations, Hispanic/White claimants facing unarmed Black assailants were perhaps disproportionately more likely to be defending themselves against strangers who were assaulting them and/or committing a crime at the time of the incident. But Black/Hispanic claimants facing White unarmed assailants tended to be in altercations with someone they knew.

Crime-Committing Assailants: Finally, whether or not the assailant was committing a crime during an inter-ethnic SYG confrontation may have had an effect on the legal outcome. In his analysis of the entire database (McCormick 2016), the author found that assailants were committing criminal acts during about one-fourth (22.5%) of the SYG cases, and that this was a highly significant factor in successful defenses. The data for that portion of the database's inter-ethnic cases are portrayed in Table 7 below. As with the author's general finding, in inter-ethnic situations a claimant's SYG defense against a crime-committing assailant was a near certainty, regardless of his/her ethnicity.

However, observe that there seem to be ethnic differences in the behavior of assailants. In only six cases out of twenty-seven (22%) were White assailants committing crimes during confrontations with Black and Hispanic claimants. For Hispanic assailants against Black and White claimants, this ratio was seven out of eighteen (39%). But for Black assailants against Hispanic and White claimants, this ratio was sixteen out of thirty-four (47%). That is, in about half of their inter-ethnic encounters with members of other ethnic groups, Blacks were carrying out some type of criminal activity. This is a conclusion that is compatible and associated with other findings here. Unsurprisingly, specific examination of crime-committing incidents showed that claimant-assailant relationships were usually secondary and involved defenses against alleged felonies. This was true regardless of the ethnicity of either claimant or assailant. Conversely, incidents in which assailants were not committing a crime tended to involve claimants engaged in an argument or dispute with unarmed assailants they knew.

Table 7. Inter-ethnic Florida SYG Cases, by Crime-Committing Assailant

	Black Claimants vs. Hispanic Assailants		Black Claimants vs. White Assailants	
Committing Crime?	N	Successful SYG N	N	Successful SYG N
Yes	3	3	3	2
No	4	3	9	4
Disputed/Unknown	0	0	2	1
Total	7	6	14	7
	Hispanic Claimants vs. Black Assailants		Hispanic Claimants vs. White Assailants	
Committing Crime?	N	Successful SYG N	N	Successful SYG N
Yes	6	5	3	2
No	5	3	9	4
Disputed/Unknown	0	0	1	0
Total	11	8	13	6
	White Claimants vs. Black Assailants		White Claimants vs. Hispanic Assailants	
Committing Crime?	N	Successful SYG N	N	Successful SYG N
Yes	10	10	4	4
No	11	4	7	3
Disputed/Unknown	2	1	0	0
Total	23	15	11	7

Otherwise, in situations where no crime was occurring, there seems to be no difference in claimant rates of success against assailants, regardless of the ethnicity of the principals. Indeed, the lowest rate of success in a non-crime situation was with White claimants, who wielded successful SYG defenses against Black assailants only four out of eleven times.

Discussion

The data presented here suggest that any inter-ethnic disparities in the application of Stand Your Ground laws are rooted in the situational contexts of SYG incidents themselves. As Roman (2013) posited, any inter-ethnic differences may be embedded in the circumstances associated with such encounters. The data presented here propose such differential encounter factors as the nature of any pre-incident relationship between the principals, the location of the incident, what triggered the incident, and whether or not the alleged assailant was armed and/or committing a crime at the time of the incident. Hence, these data raise several questions about the nature of inter-ethnic SYG confrontations. Were these confrontations between strangers? In incidents in or around a claimant's home or business, were they defending themselves from an illegal intrusion or reacting to an argumentative circumstance with someone they knew? Was the trigger that set off the chain of events leading to the violence set off by an argument or dispute, or by a defense against a felonious assault? Given high rates of defense success for claimants in situations facing armed and/or crime-committing assailants, are there important ethnic differentials here? And lastly, are there inter-relationships among these situational factors?

These questions call for further research, but such research faces at least two important problems, both revolving around the creation of a viable database. First, relative to the world of violent behavior, there are relatively few instances of Stand Your Ground events to cover. As Roman (2013) found with national data on homicides, only a miniscule percentage were ruled justifiable. This author examined SYG in Florida, which was the first state to enact such a law. Florida is the third most populous state in the nation, yet a mere 311 cases were found to have occurred in the first seven years or so since the law went into effect. This is an average of about 43 or 44 SYG events a year. Presumably, the number would be fewer in those states, usually less populous, which have since enacted similar laws.

The second problem concerns the acquisition of accurate Stand Your Ground data itself. To the author's knowledge, few if any jurisdictions keep specific records of such events. Further, if they did, who would record it and what would they record? The author found that SYG decisions were made by a variety of legal actors: the police, prosecutors, Grand Juries, judges in pre-trial evidentiary hearings, trial judges/juries, and appellate courts. Would, or could, various jurisdictions create records encompassing all of these SYG situations (and do so in a standardized manner)?

The closest officially kept statistic to SYG seems to be "justifiable homicides," which, as shown by Roman (2013) is a useful place to start. However, justifiable homicides and SYG incidents are not at all synonymous.

According to the FBI's *Uniform Crime Report Handbook* (2004), to be categorized as justifiable, a homicide must be the result of a law enforcement officer acting in the line of duty or the result of a citizen defending himself/herself from an individual committing a felony. In Florida, the use of force by law enforcement officers is covered by statutes other than SYG. Indeed, SYG has been specifically ruled not to apply to the police.³ Further, SYG episodes are more often than not started by arguments or disputes, not the commission of crimes. And, while an SYG incident must necessarily include the threat of death or great bodily harm, a significant proportion of SYG incidents do *not* end in a fatality. Of course, justifiable homicide statistics do not reflect the number or percentage of Stand Your Ground defenses that were rejected by the criminal justice system.

Further and more definitive research on inter-ethnic SYG events must focus on their situational contexts. To determine the nature and extent of any inter-ethnic disparities in the law's application, interested parties must compile a robust database (presumably nation-wide) and do so through acceptable research techniques which obviate the lack of official statistics.

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³ In one of the author's cases, a police officer was accused of using excessive force in dealing with an overly exuberant street party celebrant. The officer's attempted SYG defense was disallowed for this very reason.

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