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Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

Truogon!

December 23, 1988

Re: City of Canton v. Harris, 86-1088

Dear Byron,

I am in general agreement with your approach in this case, and in particular I agree that a city can be held liable for a lack of training under the "policy" prong of Monell in certain circumstances. As the proposed opinion indicates, "it may happen that the need for training is so obvious, and the inadequacy so likely to threaten injury to the public, that policy makers of the city can reasonably be said to have been deliberately indifferent to the need." Slip op., at 10-11. For purposes of clarity, I suggest that you consider replacing "threaten injury to the public" in this phrase with "result in the violation of constitutional rights."

To my mind, it could be shown that the need for training was obvious in one of two ways. First, a municipality could fail to train its employees concerning a clear constitutional duty implicated in recurrent situations which the employee is certain to face. For example, the city policymakers know to a moral certainty that their officers will be required to arrest fleeing felons. The city has armed its officers with firearms, in part to allow them to accomplish this task. Thus, the need to train officers in the constitutional limitations on the use of deadly force, see Tennessee v. Gardner, 471 U.S. 1 (1985), can be said to be "so obvious," that failure to do so could properly be characterized as "willful indifference" to constitutional rights.

I think that the claim in this case, that police officers were inadequately trained in diagnosing the symptoms of emotional illness, falls far short of the kind of "obvious" need for training, which in my view would support municipal liability. There are no clear constitutional obligations in this area, and the diagnosis of mental illness is not normally associated with police encounters with the citizenry. In my view, the lack of training at issue here is not the kind of omission that can be characterized, in and of itself, as a "deliberate indifference" to constitutional rights.