

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE ANTONIN SCALIA

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Stevens
Justice Scalia
Justice Kennedy

From: Justice O'Connor

Circulated: FEB 4 1988

Re-circulated:

Re: No. 86-1088 City of Canton, Ohio v. Harris, et al.

IN DRAFT

SUPREME COURT OF THE UNITED STATES

Dear Sandra,

No. 86-1088

I would be pleased to join your opinion.

GERALDINE HARRIS ET AL.

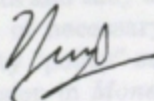
ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

(February —, 1988)

JUSTICE O'CONNOR, concurring in part and dissenting in part.

I join Parts I, II, and all of Part III of the Court's opinion except footnote 11, *see ante*, at 11, n. 11. I thus agree that where municipal policy makers are confronted with an obvious need for training and personnel to avoid the violation of constitutional rights, and they are deliberately indifferent to that need, the lack of adequate training may be appropriately considered a constitutional injury. *See* *Monell v. New York City Dept. of Social Services*, 436 U. S. 658 (1978). As the Court observes, "[o]nly where a failure to train reflects a 'deliberate' or 'culpable' policy—a 'policy' as defined by our

Sincerely,



Justice O'Connor

cc: The Conference

Further agree that a § 1983 plaintiff's "deliberate indifference" claim must prove that the lack of training is the proximate cause of the constitutional injury at issue and that this entails more than simply showing "but for" causation. *Ante*, at 11-12. Lower requirements of fault and causation in this context would "open municipalities to unprecedented liability under § 1983," *ante*, at 12, and would pose serious federalism concerns. *Ante*, at 13.

My single point of disagreement with the majority is thus a small one. Because I believe, as the majority strongly hints, *see ibid.*, that respondent has not and could not satisfy the