

# Cities, Counties Lose Immunity In Rights Suit

WASHINGTON (AP)—By a 5-4 vote, the Supreme Court ruled yesterday that the nation's cities and counties enjoy no legal immunity when they violate someone's federal civil rights.

Completing a dramatic, two-year turnaround from its rulings that until 1978 gave cities and counties immunity from such lawsuits, the court stripped away legal protection for even those official acts carried out in "good faith."

The justices said cities and counties, unlike their employees, are never entitled to a qualified "good faith" immunity from a lawsuit charging that individual rights protected by the Constitution or federal law were violated.

The court's dissenters said the decision "converts municipal governance into a hazardous slalom through constitutional obstacles that often are unknown and unknowable."

Most states give political subdivisions at least a qualified immunity from lawsuits based on state law violations. But that immunity no longer exists for lawsuits based on constitutional or federal law violations.

## Majority Opinion

The court's majority opinion, written by Justice William J. Brennan Jr., was based on his interpretation of an 1871 civil rights law and "by considerations of public policy."

"The knowledge that a municipality will be liable for all of its injurious conduct, whether committed in good faith or not, should create an incentive for officials who may harbor doubts about the lawfulness of their intended actions to err on side of protecting citizens' constitutional rights," Brennan said.

"The threat that damages might be levied against the city

may encourage those in a policy-making position to institute internal rules and programs designed to minimize the likelihood of unintentional infringements on constitutional rights," he said.

Yesterday's decision represented a victory for former Independence, Mo., Police Chief George Owen, who sued the city after his 1972 firing.

## Statement Read

Owen served as police chief from 1967 until 1972. He was fired after a city councilman read a statement described by one lower court as "impugning Owen's honesty and integrity."

The statement alleged that Owen had misappropriated money and that numerous irregularities had occurred within the department.

Owen was denied a hearing to

*Continued on Page 2, Col. 1A*

# Cities, Counties Are Liable

*Continued From First Page*

clear his name.

In early 1979, the 8th U.S. Circuit Court of Appeals ruled that Owen's constitutional rights had been violated. But it said he was not entitled to the money damages he had previously been awarded by a federal trial court — all the money he would have earned to retirement.

In reversing the appeals court ruling, the Supreme Court did not make clear whether Owen can collect the damages he sought or whether his case is subject to further litigation.

Brennan was joined by Justices Byron R. White, Thurgood Marshall, Harry A. Blackmun and John Paul Stevens.

Justice Lewis F. Powell Jr. led the dissenters, who included Chief Justice Warren E. Burger and Justices William H. Rehnquist and Potter Stewart.

"The decision will hamper local governments unnecessarily," Powell said.

"Because today's decision will

inject constant consideration of liability [under the 1871 law] into local decision making, it may restrict the independence of local governments and their ability to respond to the needs of their communities."