

May 31, 1985

Mr. Justice:

Re: City of Oklahoma City v. Tuttle, No. 83-1919

Justice Brennan's new draft joins part II of Justice Rehnquist's opinion, which discusses why the Ct reaches the issue raised by the single incident jury instruction even though it is not clear that petr objected to the instruction. I agree with Justice Brennan that part II of the plurality opinion is necessary to the judgment and therefore recommend that you go along with Justice Brennan's revision.

Vicki