

concerning when the police may use deadly force consistently with the due process clause.

5. RECOMMENDATION: I recommend CFRecord.

There is a response.

July 4, 1984

Charny

Opin in petr

X SM 7/13

I see little to be gained by calling for the record. The CAIO expressly found "plenty of independent proof of lack of actual training." Petr 9a. The possibility that this independent proof may have come from the mouth of the policeman and the risk that his testimony is unreliable are irrelevant for present purposes: the point is that the CAIO did not premise municipal liability under Morell on a single episode of misconduct alone. I question whether a legal rule about what kind of evidence satisfies Morell is practicable in this context, but even if a rule can be reached, this isn't the case to take up the question. I have to add, though, that the jury went pretty far in finding petr liable under Morell when the policeman fired in violation of departmental policy.