

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

May 4, 1978

MEMORANDUM TO THE CONFERENCE

RE: No. 75-1914 Monell v. Department of Social Services
of the City of New York

Enclosed is completed draft revised primarily to accommodate the suggestions of Potter, Byron and Lewis. Those appear at pages 25, 26, 27, 30-35, 38-39 and 41.

The changes at 11, 13-14 and 20-22 are for purposes of clarification and organization only.

I hope that this circulation can be the basis for a final resolution of the Court's opinion.

W.J.B. Jr.

5/4/78

WJB has made all the changes that we asked him to make. You should not feel any reluctance in joining this opinion. I wonder if you could point out a problem that I have with the first sentence at the top of p. 33. Although WJB does not intend such a meaning, the phrase "where state law did not impose such an obligation" could lead to an interpretation that respondeat-superior liability is possible where state law imposes such liability. I would prefer that the phrase be deleted. I recognize that this language appeared in previous drafts, but I just noticed for the first time. ^{it}

Sam