

April 7, 1985

Mr. Justice:

Re: Pembaur v. Cincinnati, No. 84-1160

Response requested and received 3/22/85: The CA6 properly held that a single, discrete decision by a County Prosecutor is insufficient by itself to establish that the Prosecutor was implementing County policy. The Prosecutor gave advice based on the law at that time; surely the act of giving such advice should not constitute a policy for which the County can be held liable. Even assuming that the Prosecutor's single decision was policy, there was no proof that the particular injury resulted from that policy.

I continue to recommend hold for Tuttle, No. 83-1919.

Vicki