LAW ENFORCEMENT MANAGEMENT INSTITUTE

MUNICIPAL LIABILITY FOR TRAINING UNDER 42 U.S.C. SECTION 1983

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I. INTRODUCTION

Since the early 1980s America has experienced great increases in the amount of suits being filed each year. Targets of these suits generally are anyone with deep pockets; that is to say, these suits are directed at the one most perceived to have the greatest ability to pay, and not necessarily the one most responsible for the claimed wrong. Under the concept of agency law, an increasing target of these suits are municipalities through their police departments. Between 1966 and 1983, jury awards against municipalities that exceeded $1 million had increased from one to 350.[1] While some of these lawsuits are frequently dismissed, great sums of public monies and resources are expended defending these suits, not to mention the mental stress on those involved. The vast majority of these suits are brought under 42 U.S.C. Section 1983 by claimants contending that their constitutional rights have been deprived by the actions of the police. With this explosion in 42 U.S.C. Section 1983, suits in this area have become and will continue to be of great concern to professional police administrators.

A very important case was argued before the U.S. Supreme Court on November 8, 1988. This was City of Canton, Ohio v. Harris. It was decided on February 28, 1989, and with it the training of law enforcement personnel came to the forefront when Supreme Court Justice White delivered the opinion of the court. In this opinion the court held that inadequacy of police training may serve as a basis for Section 1983 municipal liability only where failure to train amounts to deliberate indifference to rights of persons with whom police come into contact.[2] Law enforcement trainers began a concentrated search to define the court's deliberate indifference standard and to determine its impact on law enforcement.

This paper explores the background behind Canton v. Harris and discusses other relevant cases in determining the extent of a municipality's liability for police training in today's litigation-driven society. The purpose of this research is to show that police administration can no longer look the other way in the hope that they may dodge the bullet of a lawsuit for failing to train their personnel. This research project is intended to educate the police administrator as to the extent of 42 U.S.C. Section 1983. The administrator should be acutely aware of its impact on the agency and the public which is served. Today's administrator must realize that it is no longer business as usual and that there are new responsibilities in determining the effectiveness of the training of personnel.

II. HISTORICAL BACKGROUND

42 U.S.C. Section 1983 survives today from its beginnings as part of the Ku Klux Klan Act of 1871. This was the last significant piece of legislation on court rights that came out of the Reconstruction era. Section 1 of the Ku Klux Klan Act of 1871 created a civil cause of action, enforceable in federal courts, against any person, acting under color of state authority, who deprives another of any rights, privileges or immunities secured by the Constitution or laws of the United States.[3] These acts were brought to the states by the ratification of the Fourteenth Amendment in 1868. Because of conservative feelings and interpretations, the Reconstruction laws did not have their intended impact until nearly a century later. It is ironic that nearly all of the rights that black citizens struggled for in the 1960s were already assured them by the United States Congress during the Reconstruction era. In 1954, things began to change in a significant way in the field of civil rights when the Supreme Court handed down its decision in the case of Brown v. The Board of Education,[4] which established that "separate but equal" no longer satisfied the Constitution within the field of education.[5] With additional litigation it quickly became apparent that Brown was not limited to public education. This means that state and local governments cannot operate any public facility on a segregated basis, nor can they compel or assist private individuals to engage in racially discriminatory practices.[6] This cleared the way for the courts to ensure that all persons were treated equally in their business and professional affairs. However, it took the Thirteenth

Amendment to address the discriminatory practices exercised by private citizens.[7] A landmark Supreme Court decision in Jones v. Alfred H. Mayer Co.[8] was handed down in 1968. Relating to the Thirteenth Amendment, the court interpreted the enabling clause of the Thirteenth Amendment in a way that gives wide-ranging authority to the U.S. Congress to enact legislation to rid the country of all badges and incidents of slavery and to stretch laws to the limits of the U.S. Constitution. Jones v. Alfred H. Mayer Co. also breathed new life into other Reconstruction era civil rights legislation. Now fully a century had passed before the courts had given interpretations that would allow the Reconstruction era legislation to have its full impact on the lives of all Americans, regardless of race. 42 U.S.C. Section 1983 reads:

> Every person who, under color of any statute, ordinance, regulation custom, or usage, of any state or territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit inequality or other proper proceeding for redress.

In recent years, 42 U.S.C. Section 1983 has become a widely used vehicle for seeking private redress against law enforcement officers for the violation of basic civil rights.[9] In Houston, Texas, the number of complaints alleging police misconduct soared by 245% between 1980 and 1985.[10] This was largely brought about by a Supreme Court decision in Monroe v. Pape.[11] Prior to Monroe v. Pape, for almost 100 years the Supreme Court had

narrowly defined "conduct under color of state law" and "persons" who could be subject to liability under Section 1983.[12] In 1961 the decision in Monroe v. Pape addressed the issue of whether or not municipalities could be treated as "persons" under Section 1983.

III. MONROE V. PAPE

In Monroe v. Pape,[13] the court addressed the right of a Chicago family to sue under Section 1983. In this case, Monroe family brought suit against 13 police officers of the City of Chicago Police Department for violation of their rights under the Fourteenth Amendment. They alleged that:

> acting under color of the statutes, ordinances, regulations, customs and usages of Illinois and the City of Chicago but without any warrant for search or arrest, the police officers broke into petitioner's home in the early morning, routed them out from bed, made them stand naked in the living room, and ransacked every room, emptying drawers and ripping mattress covers; that the father was taken to the police station and detained on 'open' charges for ten hours while he was interrogated about a murder; that he was not taken before a magistrate, though one was accessible; that he was not permitted to call his family or his attorney; and that he was subsequently released without criminal charges being preferred against him.[14]

The officers' defense was based on the fact that actions were not authorized under state law and were even in violation of it; therefore, they could not be considered to be acting under the "color of" state law. The court in this noteworthy case disagreed and ruled that Section 1983's "under color of" state law requirement did not require actual state legal authorization for the acts complained of; it was sufficient that the state had placed the officers in a position where they were able to assert a "colorable claim" or "pretense" of

state authority for their conduct.[15] The court cited another case, United States v. Classic[16] in saying

> misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, an action taken 'under color of' state law. Monroe had a tremendous impact on Section 1983 by allowing court remedies for those wronged by abuse from police officers and others under the 'color of' one's position.[17]

It is written that the court's decision was based on the fact that Congress had failed or refused to adopt the Sherman Amendment to the Ku Klux Klan Act. The Sherman Amendment would have allowed municipalities to be held liable for actions committed by private citizens within their boundaries, when the actions of the private citizens were found to be of a riotous nature.[18]

IV. MONELL V. DEPARTMENT OF SOCIAL SERVICES OF THE CITY OF NEW YORK

In Monroe v. Pape, the Supreme Court decided that Congress did not intend for municipalities and other local government units to be included within the class of "persons" against whom a Section 1983 cause of action for monetary relief would lie.[19] This remained the status of the issue until 1978 when the court heard the case of Monell v. Department of Social Services of the City of New York.[20] With the hearing of this case the court took a new look at the issue of whether or not municipalities and other local government units are "persons" or not. The court decided that its earlier ruling was in error.

With this ruling the court made clear that municipalities and other local government units are "persons" subject to suit under Section 1983. The Monell court, nevertheless, declined to hold that municipalities are vicariously liable for the constitutional torts of their employees.[21] In the words of the court:

> We conclude, therefore, that a local government may not be sued for an injury inflicted solely by its employees or agents. Instead, it is when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under Section 1983.[22]

Under Monell, local government units are not liable for isolated and sporadic constitutional wrongs committed by their employees without any official sanction, custom or policy. Where, however, a constitutional invasion results from the implementation of official "policy or custom," the injured party may seek monetary relief against the responsible local government agency.[23] Monell left unanswered the question of what constitutes official "policy or custom."

V. CITY OF OKLAHOMA CITY V. TUTTLE

Three cases now come to the forefront surrounding the issue of law enforcement training and whether or not a municipality can be held liable for failing to train or inadequately training its police officers. In the case of Oklahoma City v. Tuttle,[24] the case surrounded the actions of Officer Rotramel, a member of the Oklahoma City police force. Officer Rotramel shot and killed Albert Tuttle outside the "We'll Do Club," a bar in Oklahoma City. Officer Rotramel, who had been on the force for ten months had responded to a call indicating that there was a robbery in progress at the club. The bulletin was in turn the product of an anonymous telephone call. The caller had reported the robbery in progress, had described the robber, and said the robber had a gun. When Officer Rotramel entered the bar he noticed Tuttle walking towards him. Tuttle matched the description given so he stopped him and requested that he stay in the bar. While questioning the bar maid, Tuttle attempted to leave and appeared to try and get to his boot. Tuttle finally broke away from Rotramel and, ignoring the officer's commands to halt, went outside.

When Rotramel cleared the threshold to the outside door, he saw Tuttle crouched down on the sidewalk with his hands in or near his boot. Rotramel again ordered Tuttle to halt, but when Tuttle started out of his crouch, Officer Rotramel fired his weapon. Officer Rotramel testified that he believed that Tuttle had removed a gun from his boot and that his life was in danger. Tuttle died from his wounds and when Tuttle's boot was removed at the hospital, a toy pistol fell out. Testimony at trial was that this was a single

incident in Rotramel's record and that based on expert opinion of Rotramel's actions and the Oklahoma City police training curriculum that Rotramel's training was grossly inadequate. The jury found that Rotramel's act had deprived Tuttle of life without due process of law by using excessive force. The jury also found that Rotramel was entitled to qualified immunity to the extent that he had acted in good faith and with reasonable belief that his actions were lawful.[25] The jury ruled against the city and awarded respondent $1,500,000 in damages.[26] The city appealed. The court, however, decided against the city and stated:

> absent more evidence of supervisory indifference, such as acquiescence in a prior matter of conduct, official policy such as to impose liability... under the Federal Civil Rights Act cannot ordinarily be inferred from a single incident of illegality such as a first excessive use of force to stop a suspect; but a single, unusually excessive use of force may be sufficiently out of the ordinary to warrant an inference that it was attributable to inadequate training or supervision amounting to 'deliberate indifference' or 'gross negligence' on the part of the officials in charge. The plaintiff must show a causal link between the police misconduct and the adoption of a policy or plan by the defendant municipality.[27]

VI. CITY OF SPRINGFIELD V. KIBBE

In 1986 the court again had the opportunity to review a case where the issue was whether or not the municipality could be held liable for the inadequate training of its police officers. This case was City of Springfield v. Kibbe.[28] In this case Springfield police officers responded to a call reporting that someone had called an apartment's occupants and threatened to come after them with a knife. Later calls reported that an individual identified as Clinton Thurston had broken the apartment door and assaulted a woman. When officers arrived they discovered that Thurston had abducted the woman and driven away. A short while later Thurston's car was spotted and after being stopped by an officer in an unmarked police vehicle, Thurston drove off and a chase ensued. After attempts to stop Thurston had failed and shots had been fired at the wheels of Thurston's car, Officer Perry on his motorcycle pulled alongside of Thurston's car. Thurston swerved and Officer Perry dropped back. On the second attempt to pull alongside Thurston's car, Officer Perry fired twice into Thurston's car. Apparently the second shot struck Thurston in the head. After the car rolled to a stop, Thurston was taken to a hospital where he later died.[29]

Lois Thurston Kibbe, the administratrix of Thurston's estate, filed suit under Section 1983 alleging that the City of Springfield deprived Thurston of his civil rights, and that the City of Springfield's police training was inadequate and it deprived Thurston of his life without due process of law.[30] The United States Court of Appeals for the First Circuit upheld the lower

court ruling that found for the plaintiff and awarded monetary damages against the city.[31] Several issues were addressed by the court. First was the issue of adequate or inadequate training for the police officers and whether or not it made for a viable issue for municipal liability under Section 1983.[32] Next the court addressed a ruling from Tuttle which is the "single incident rule" and whether or not one act by one officer is limited in its application.[33] Last was whether a

> policy of inadequate training can be inferred from the conduct of several police officers during a single incident without evidence of prior misconduct, or without a conscious decision by policy makers, or without proof that recognized standards of police training were violated.[34]

The court later withdrew its permission to hear the case because the appellants had waved their challenge to the jury charge by failing to make a timely objection, although four justices dissented stating that the case was properly before the court.[35]

In the opinion given by the justices, more than mere negligence would be necessary to impose liability on a municipality for inadequate training, that the inadequate training in itself showed either "deliberate indifference" or a reckless disregard for the consequences.[36] The court further stated that the plaintiff needed to show proof that a policy existed, that it was a faulty policy and that the policy caused the constitutional harm.[37] Although it was indicated by the court that some liability could be assigned to the city for

inadequate police training, the issue was largely left without a definitive opinion.

VII. CANTON V. HARRIS

In Canton v. Harris, the United States Supreme Court held that inadequate police training may serve as the basis for municipal liability in a civil rights action only where the failure to train amounts to "deliberate indifference" to the rights of persons with whom the police come into contact.[38] In April 1978, respondent Geraldine Harris was arrested by an officer of the Canton, Ohio Police Department. Harris was brought to the police station in a patrol wagon.

When she arrived at the station, Harris was found sitting on the floor of the wagon. She was asked if she needed medical attention, and she responded with an incoherent remark. After she was brought inside the station for processing, Mrs. Harris slumped to the floor on two occasions. Eventually, the police officers left Mrs. Harris lying on the floor to prevent her from falling again. No medical attention was ever summoned for Mrs. Harris. After about an hour, Mrs. Harris was released from custody and taken by an ambulance (provided by her family) to a nearby hospital. There Mrs. Harris was diagnosed as suffering from several emotional ailments; she was hospitalized for one week and received subsequent outpatient treatment for an additional year.[39]

Mrs. Harris later filed suit against the City of Canton alleging many state law and constitutional claims against the city and its officials. In her suit, Mrs. Harris sought to hold the city liable under 42 U.S.C. Section 1983 for its violation of her right, under the due process clause of the Fourteenth

Amendment to receive necessary medical attention while in police custody.[40] Harris alleged that the city inadequately trained its police officers and that inadequate training caused the deprivation of her rights.[41] Harris introduced evidence, the Canton Police Regulations, that the City of Canton had a custom or policy of vesting complete authority with the police supervisor as to when medical treatment would be administered to prisoners.[42] In addition, testimony also suggested that Canton shift commanders were not provided with any special training (beyond first aid training) to make a determination as to when to summon medical care for an injured detainee.[43] The District Court issued instructions to the jury to find the City of Canton liable for failing to train its officers only if the plaintiff was successful in proving that the city had acted recklessly, intentionally or with gross negligence.[44] All of Mrs. Harris' claims were rejected by the jury, save one, that the city had failed to provide her with medical care.[45]

On appeal, the Sixth Circuit affirmed this aspect of the district court's opinion, holding that "a municipality is liable for failure to train its police force, where the plaintiff . . . proves that the municipality reacted recklessly, intentionally, or with gross negligence."[46] Also stated by the Court of Appeals was that the plaintiff must prove "that the lack of training was so reckless or grossly negligent that deprivations of person's constitutional rights were substantially certain to result."[47] The Court of Appeals found that there had been no error in submitting Mrs. Harris' "failure to train" claim

to the jury.[48] However, the Court of Appeals reversed the judgment for respondent and remanded the case back for a new trial. The court felt that the District Court's jury instructions might have led the jury to believe that it could find against the city on a mere respondent superior theory.[49] The City of Canton responded by petitioning for "writ of certiorari." Justice White delivered the opinion of the court. The court ruled that the lower court provided an overly broad instruction as to when a municipality can be held liable under the failure to train theory. The Supreme Court held that the inadequacy of police training was only liable under Section 1983 where the failure to train amounts to deliberate indifference to the rights of persons with whom the police come into contact.[50] This rule is most consistent with the admonition in Monell,[51] that a municipality can be liable under Section 1983 only where its policies are the "moving force [behind] the constitutional violation."[52] Only when a municipality's failure to train its employees in a relevant respect evidences a "deliberate indifference" to the rights of its inhabitants can such a shortcoming be properly thought of as a city "policy or custom" that is actionable under Section 1983.

If determining whether or not a training program is adequate or not, the question becomes whether such inadequate training can justifiably be said to represent city policy.[53] Justice White wrote:

> It may seem contrary to common sense to assert that municipality will actually have a policy of not taking reasonable steps to train its employees. But it may happen that in light of the duties assigned to

> specific officers or employees the need for more or different training is so obvious, and the inadequacy so likely to result in the violation of constitutional rights, that policymakers of the city can reasonably be said to have been deliberately indifferent to the need. In that event, the failure to provide proper training may fairly be said to represent a policy for which the city is responsible and for which the city may be held liable if it actually causes injury.[54]

Common sense should indicate to policymakers that their officers will be arresting felons and will be armed while accomplishing this task, and the need to train their officers in the constitutional limitations on the use of deadly force should be so obvious that not to do so would certainly raise the issue of "deliberate indifference."[55]

Justice White also wrote that the plaintiff also must demonstrate that the "identified deficiency in a city's training program must be closely related to the ultimate injury."[56] Justice White offered this conclusion:

> To adopt lesser standards of fault and causation would open municipalities to unprecedented liability under Section 1983. In virtually every instance where a person has had his or her constitutional rights violated by a city employee, a Section 1983 plaintiff will be able to point to something the city 'could have done' to prevent the unfortunate incident. Thus, permitting cases against cities for their 'failure to train' employees standard of fault would result in defacto respondent superior liability on municipalities--a result we rejected in Monell. It would also engage the federal courts in an

> endless exercise of second-guessing municipal employee-training programs. This is an exercise we believe the federal courts are ill-suited to undertake, as well as one that would implicate serious questions of federals.[57]

The case was ultimately sent back to the 6th Circuit for it to determine if Harris should have a new trial so she may have a chance to prove her case. With the court's stated opinions in Canton, it seems logical to assume that if the case has no obvious constitutional violations, then the question would be whether it was apparent that the need for training was so obvious that constitutional violations would occur without the proper training. The deliberate indifference standard appears to offer a standard of proof so high that municipalities should only be held liable for their own actions, and not that of their employees. Nevertheless, it is still incumbent on every police administrator to make changes in the organization in order to reduce their risk of liability.

VIII. LEGAL LIABILITY REDUCTION

It is absolutely essential that today's police administrator begin to take a proactive role in his/her agency to reduce the risk of Section 1983 suits. He or she must assume the role of a risk manager, along with other duties. The damage done to a law enforcement agency and the community it serves can be far more devastating than that which can be measured in dollars and cents. The emotional strain on individual members and the confidence loss by a community can be far more costly than a court judgment.

Liability reduction efforts by a police administrator should include, but are not limited to the following: (1) policy development; (2) training in the policies and the procedures by which to employ policy; (3) training at all levels of supervision; (4) discipline; (5) policy review and revision; (6) documentation; and (7) legal support. Should the police administrator choose not to take these precautions, he or she will surely find the lion's share of his resources fighting lawsuits instead of crime.

Policies and Procedures

Police administrators do not have a crystal ball by which they can determine every occasion in which a written policy will be needed. However, the police administrator must provide articulate written evidence in the form of a policy and procedures manual. For one to assume the position that not having written policies would assist him or her in a suit would be a grievous error, as policies and the policymakers have become topics of some court opinions.

Regardless of the size of the agency or the likelihood of an incident, all high-risk situations warrant being addressed in policies, as well as in any situation where deadly force may be used. The function of a well-written policy is to state the agency's objectives, establish some ground rules for the exercise of discretion and educate all members of the agency. Where feasible, a comprehensive policy statement should accompany a policy. A policy should be tailored to a department's needs, its peculiarities, and its training capabilities. When developing a policy, an eye should always be kept to 42 U.S.C. Section 1983. A written policy should also provide a basis for the holding agency members accountable for their actions. The issuance of policies should not be left to happenstance. There should be a controlled process by which all policies and procedures are issued to members of the agency and a permanent record, with the member's acceptance signature, kept in a secured file.

Training

Over the last two decades as police department budgets are squeezed tighter and tighter, many departments have chosen to take funds from their training sections. At the same time, courts have been increasing their attention to the adequacies of police training. An initial first step would be to start with those actions that are most often, because of their very nature, to engage one's agency in a Section 1983 suit. Among these would be training in the use of firearms, high speed pursuit driving, use of force, execution of high risk warrants, only to list a few. Next would be training in policy and procedures is often overlooked in many agencies. As often as not, policy and

procedures are simply passed out at line-up without any explanation as to their content or meaning. The issuance of any new or revised policy or procedure should be accompanied by adequate time to train the officers in its use. During this training all members of the agency should be reviewed on the purpose for the policy, any historical background to the policy, and they should be reminded of the constitutional issues that make policies and procedures so important. Special attention should be given to the supervisors of the department to insure that there is a consensus on the interpretation and application of the new or revised policies or procedures. If the reasons for the issuance of new policies or procedures, or the revision of old ones is not made known and clearly understood by the members of the agency, then discipline and supervision can be made difficult or impossible to achieve.

Supervisory Training

Training for supervisors is an area that is often neglected. Some attention is usually given to the first line supervisor after the person has been promoted. However, many beginning supervisors enter their new positions ill-prepared to assume the responsibilities of the role. This, by far, is one of the greatest mistakes a law enforcement agency can make. Where seldom thought of this is minor, sending a person into a supervisory role without training can be just as incomprehensible as sending a person out on patrol without first having gone through a basic police academy. It is suggested that supervisors receive training prior to assignment in their role and again within the first year. Annual training should occur in areas of policy as the first line supervisor is the agency's first line of defense when it comes to liability. This type of training should not be hit-or-miss; it should be agency-

wide and at all levels of supervision and the attitude of "once-trained-always-trained" should be vigorously avoided. The courts have held that supervisors can only be held personally liable for their unconstitutional action or inaction. The courts have noted that a police supervisor is not liable simply because a subordinate employee who works for him violates someone's rights. Instead, supervisors are only liable where they personally cause constitutional injury by being deliberately or consciously indifferent to the rights of others in failing to properly supervise a subordinate employee. For this reason, the need for adequate supervisor training should be self-evident.

Discipline

Disciplinary actions can become a very negative force in an agency if not handled correctly. A fair and impartial process for disciplinary actions must be in place so that when supervisors assume their role as policy enforcers, disciplinary actions can become an appropriate and positive response to violations of policy. Employees should receive a clear message from management that discipline is not a tool by which management is "getting even" with an employee but a training tool by which to guide the behavior of its members in a constructive and positive manner. Specific procedures for investigating citizen complaints should be established and carefully followed. Investigations should be initiated promptly upon receipt. The investigation should be completed in a timely manner and the facts presented to a disciplinary board promptly upon completion. All reports and recommendations should be in writing and retained in an appropriate file. Final disciplinary actions should be in writing and fully documented. No

disciplinary decision should be made without consideration of all facts and review of past actions.[58]

Policy Review and Revision

The field of law enforcement appears to be ever-changing. It is imperative that today's police administrators accept and embrace this change. It is no longer acceptable to sit back and continue to do things as they have always been done. Liability issues of today will no longer allow it. The police administrator today must scour the headlines, magazines, journals, legal updates and any and all sources for new information. That will assist him or her in continuously updating policies and procedures. Policies and procedures should be reviewed annually for any changes that need to be made. It is also vital that when the changes are made that the information is disseminated to all concerned in a timely manner, along with the reason for the changes.

Documentation

While training has been shown to be essential in defining oneself against liability suits, a very important part of that defense is one's ability to prove that the training did, in fact, occur. Documentation is equally as important to defending against the suit as the training itself. Each agency must keep meticulous records on its training program. Every fact, such as hours involved, qualifications of instructors, testing procedures and results, locations, dates, and times must be recorded and placed in a central repository for training records. These records should all be up-to-date and accurate. There should be a person assigned to coordinate training and to be

responsible for maintaining the records, should this person ever be required to testify in court. In defense of a liability suit, their expertise will be of tremendous value. Individual members of an agency should be encouraged to maintain their own records as to their individual training.

Legal Support

> A legal writ has said, with a grain of truth, that suing police officials has become a popular sport in the United States. While no comprehensive figures are readily available, it is reported that in one state alone claims amounting to more than $325 million in 1983 were filed against police officers.[59]

With these dollar figures in mind, it is incomprehensible that a city would not provide full-time legal assistance to the police department from an attorney that specializes in the area of law enforcement. With the ever-increasing number of civil suits, the new laws passed each year, and the new interpretations of old laws, it is exceedingly dangerous for a municipality to depend on an attorney who is a generalist. This specialist should advise the chief administrator on legal issues and provide timely updates on new legal issues and court decisions. The department's legal advisor should take a proactive role in the development and review of policies and procedures regarding training. The advisor's input would be extremely valuable in avoiding the pitfalls of litigation. Proper legal counsel for the police in today's litigation-driven society should be looked upon as essential as the law itself is in policing our society.

IX. CONCLUSION

Various courts have spent an indefinable amount of time analyzing suits where the actions of police officers are at issue. Often this intense scrutiny of the facts centers around the actions taken by the officers and whether or not the training that the officers received to prepare them for police work was adequate or not.

In Canton v. Harris, the courts arrived at a standard for municipalities which they defined as that of "deliberate indifference." Even though the standard is now set, litigation in the area of 42 U.S.C. Section 1983 will surely continue. Also, police officers will continue to make quick decisions that may be scrutinized at length by the courts using the Canton v. Harris standard. To reduce the risk of liability, administrators must become increasingly progressive in their thinking and establish a proactive stance as a risk manager.

Even though some would want to cry foul with the standard provided in Canton v. Harris, it appears that the courts have given a fair standard by which to measure one's performance. This standard can be achieved by providing adequate training to police officers and at the same time the added benefit of increased professionalism will be attained.

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