City of Fall River, Massachusetts

EXECUTIVE DEPARTMENT

CARLTON M. VIVEIROS
MAYOR

October 29, 1984

TO: All Boards, Commissions, Department Heads

FROM: Carlton M. Viveiros, Mayor

RE: City Wide Civil Rights Policy

As you know, my administration has supported, and will continue to support federal and state laws which specifically guarantee and protect the civil rights of all the residents of and visitors to the City of Fall River regardless of race, creed, age, gender, religion or handicap.

I am therefore directing all Boards and Commissions to review particular department policies to insure that such policies clearly express the dedication of the city to provide all of its citizens, the full and equal benefits and protection guaranteed under the Fourteenth Amendment of the United States Constitution, and the subsequent reenactment of Part 42, United States Code, Section 1983, which reads as follows:

> "Every person who under color of any statute, ordinance, regulation, customs, or usage, of any State or territory, or the District of Columbia, subject, or cause 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 By Law, Suit In Equity, Or Other Proper Proceeding For Redress."

Department policies are to include procedures for:

-Supervisory training sessions which emphasize compliance with department customs and practices relative to state and federal law.

-Clear guidelines for the supervision of employees to assure that practices are not engaged in which are not in conformance with state, federal law.

-Clear guidelines regarding disciplinary procedures to address violations of established departmental customs and practices by employees.

-Clear guidelines for investigation of written complaints of civil rights violations. The expeditious handling of such complaints and establishment of records system for filing complaints acted upon.

-Clear guidelines for internal as well as external investigations of civil rights violations.

-Clear definition of municipal, personal liability.

During the review it is important to remember that a practice is the policies and procedures established by Boards Commissions, Department Heads regarding the daily operation of particular departments.

Custom is established by the manner in which the policies and procedures are carried out by the employees.

If a practice which is not in conformance with the city wide and department policy is condoned or allowed to take place, the department head and the employee would be in conflict with the city policy to provide fair and equal treatment to all persons doing business with or serviced by the city and therefore be personally liable under 1983, M.G.L.Chapter 265 section 37, 39, Chapter 266 section 127A. (Attached)

Prior to distribution, department heads shall meet with the Director of Personnel Administration to review existing and /or revised policies in order to insure uniformity of customs and practices.

Employees will be given a copy of department customs and practices and the appropriate section of state law regarding the protection of Civil Rights.

As the function of municipal government is to serve the public, we are responsible to insure, by the plain terms of 1983, that all the rights, privileges and immunities provided all the people as secured under the United States Constitution, or federal and state laws are upheld and that no person is deprived the fair and equal application of those rights regarding employment opportunities within municipal government as well as the services provided to the public.

I am confident that I may expect you full cooperation regarding the reaffirmation by the city and all department of this very important Civil Rights Policy.

I know that, as usual, this matter will receive your prompt attention.

APPENDIX A

A. The Massachusetts Civil Rights Act, G.L.c.265, 37

General Laws c.265, 37, provides

> No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate, or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the Commonwealth or by the constitution or laws of the United States. Any person convicted of violating this provision shall be fined not more than one thousand dollars or imprisoned not more than one year or both; and if bodily injury results, shall be punished by a fine of not more than ten ;thousand dollars or by imprisonment for not more than ten years, or both.

B. General Laws c. 265, 39

General Laws ch. 265, 39, provides

> Whoever commits an assault or a battery upon a person or damages the real or personal property of another for the purpose of intimidation because of said person's race, color, religion, or national origin, shall be punished by a fine of not more than five thousand dollars or not more that three times the value of the property destroyed or damaged, whichever is greater, or by imprisonment in a house of correction for not more than two and one-half years, or both.

C. General Laws c. 266, 127A (applicable to vandalism and to destruction of religious facilities)

General Laws ch. 266, 127A provides

> Any person who willfully, intentionally and without rights, or wantonly and without cause, destroys, defaces, mars, or injures a church, synagogue or other building, structure or place used for the purpose of burial or memoralizing the dead, or a school, educational facility or community center of the grounds adjacent to and owned or leased by any of the foregoing shall be punished by a fine of not more than two thousand dollars, or not more than three times the value of the property so destroyed, defaced, marred or injured, whichever is greater, or by imprisonment in a house of correction for not more than two and one-half years, or both; provided, however, that if the damage to or loss of such property exceeds five thousand dollars, such person shall be punished by a fine of not more than three times the value of the property so destroyed, defaced, marred or injured or by imprisonment in a state prison for not more than five years, or both.

What Can We Do to Protect Our Towns and Cities

The court has said"The knowledge that a municipality will be liable for all of its injurious conduct whether committed in good faith or not should create an incentive for officials who may harbor doubts about lawfullness of their intended action to err on the side of protecting citizens' constitutional rights."

"Further, the threat of damages may encourage those in a policy-making position to institute internal rules and programs designed to minimize the liklihood of unintentional infringements on constitutional rights."

(a) Municipal liability can result from unwritten, as well as formally adopted, policies. All customs and policies, written and unwritten, should be reviewed and then placed in writing. A State Municipal Association can help with such a review.

(b) Poor administration can give rise to numerous problems. How an ordinance or resolution will be carried out should be reviewed by town Council. Notice and hearing opportunities should be provided for all procedures adopted by a city or town. The State of New Hampshire has a formal "Administrative Procedure Act", a statute requiring hearings after notice.

(c) Once policy and procedures are established and reviewed, they must be enforced. The best constitutional policies won't protect a town or city if they are enacted "because you have to" and then ignored.

There should be a periodic review of departmental procedures and policy by the city or town legal staff.

(d) All personnel of the town or city must be advised of the existence and procedures to be used in implementing policy. Copies should be maintained in all affected departments. A municipality may wish to include all policies and procedures in a packet to give new employees.

(e) Regular training sessions must be provided for those persons entrusted in carrying out policies; especially in areas which relate to federal laws.

(f) Employees must be well supervised to assure they don't regularly engage in practices which may be deemed customs, patterns or normal practices of the town.

(g) Supervisors must be trained in how to supervise, when to discipline and how to manage a department.

(h) Appointments and promotions must be carefully scrutinized both in formal "civil service" city positions and to independent boards and commissions.

(i) There must be formal procedures to investigate complaints, and they must be used. Internal investigations procedures must exist as well as external.

(j) Investigations of complaints must be handled expeditiously and written records must be kept.

(k) The municipality must be prepared to act on the result of its investigation to correct the problem, remedy the grievance and discipline any improperly acting employee.

(l) When disciplining employees, a city or town must document wrong-doing and respect the employee's constitutional rights. It can't just fire an errant employee. The city or town may have caused the employee to commit the infraction or given reason for the employee to believe he or she was doing the act expected of him/her.

(m) A city or town must keep records. It must get complaints in writing. Keep records of the notices, hearings, findings and action taken.

Just doing these things may give a city or town a defensive against a "1983" suit. It can be argued that the municipality is entitled to immunity based upon good faith, active efforts to comply with the dictates of the Constitution and federal laws. There will, in fact, be an active program designed to avoid Section 1983 violations. Surely the city, town or agency should not be able to be found guilty of reckless and gross negligence or intentional misconduct, which is at the heart of all successful 1983 suits.

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3. Independent Board and Agencies

A local government may be held liable for appointment of delegated authorities whose future unconstitutional acts are reasonably foreseeable at the time of appointment.

Zoning Board, Planning Boards, Housing Authorities can make the town or city liable for their actions even though the governing body is only directly responsible for initial appointments.

A city may well be held liable for the unconstitutional acts of its Board of Assessors even though the City Council or Board of Aldermen merely appointed the people if:

(a) the governing body had knowledge of the intentions of their appointee.

(b) failed to protest or restrain their appointees by removal or witholding funds.

(c) continued to support their appointee in the face of allegation or wrongdoing. The Court may consider the motivation of the governing body for failing to investigate the reasons for alleged wrong-doing.

(d) the appointing authority refused to overturn an unconstitutional action if it had such power.

II. What Kind of Acts

1. We must look to whether the frequency and pattern of the alleged unconstitutional act were sufficient to infer that the employer was, or should have been, aware of this employee engaging in the practice.

(a) An extremely widespread action would be sufficient even though it were recently initiated; or

(b) A long standing practice, even though infrequently done, may qualify it as a custom.

(C) Supervisory inaction in the face of repeated instances of employee misconduct is evidence of official acquiescence or approval.

2. Negligence - What if you are simply negligent? Courts have held that something more, such as reckless or intentional misconduct, is required. The question of negligence usually arises in cases of police or other law enforcement personnel misconduct cases. The question usually arises whether supervisory personnel, whose actions are taken to be those of the municipality, failed in some duty to control, train, discipline, supervise or otherwise guide the action of police officers.

If something happens once or only a specific instance of poor judgement is alleged, it will not be assumed, usually, to be the town or city's fault.

3. Supervisory Inaction

A. Cases again generally required that there be more than negligent inactions on the part of the supervisor or municipality. Usually deliberate indifference to misconduct or a showing of reckless or willful inaction are required in order to hold the town or city liable.

However, a very interesting liability arises under this standard. "If a municipality completely fails to provide training for its police force or trains its officers in a reckless or grossly negligent manner so that future misconduct is almost inevitable, the town or city will be held to be exhibiting deliberate indifference to the resulting violation."

Particular problems often arise from part time or occasional "specials" who have little or no formal training.

B. There is another kind of inadequate training allegation which courts have upheld, i.e. an innocent bystander was shot when police were pursuing a believed kidnapper....

(a) The officer received training ten (10) years ago at the State academy.

(b) Every six (6) months the officers requalified on stationary targets. No training was provided in moving targets, night shooting or shooting in residential neighborhoods.

(c) The officers participated in no simulations or saw no films designed to teach them how state law, city regulations and policies applied in practice.

(d) The town was mostly residential.

The court also found inadequate supervision in this case as there was only one meeting to explain the department's regulations on shooting and that was two years earlier when the regulations were adopted.

C. Discipline and the lack of it can also be a contributing factor. Where a town's procedure of reprimand is so inadequate as to ratify unconstitutional conduct, the municipality may be found liable.

In one case a town was held liable where allegations of misconduct were merely referred to the County Prosecutor's Office, and no action was taken in a previous incident where the Chief of Police felt wrong-doing existed, but the County Prosecutor declined to prosecute.

When police officers receive no on-going training in the use of weapons, where there is no written, followed department policy to review every shooting incident, where there is a cover up or whitewash of an officers wrong-doing in a shooting incident or where officers receive no effective discipline for fault in a shooting incident, the town or city will be liable for inadequate supervision and training.

Even where supervisors don't know about abuses the municipality may be held liable for the fact the <u>they should have known.</u> If a town has someone responsible for checking out shooting incidents and he or she doesn't do it, the town will be charged with a failure to perform a duty. Evidence might be failure to take action necessary to prevent the next in a series of episodes.

4. Employment Decisions

A municipality may expect itself to be held strictly liable for adverse employment decisions, and especially dismissals which deprive an employee of a right under the Constitution or federal law. Courts generally rule any employment decision is an act of the municipality no matter who made it, as long as that person had authority to make the decision.

MUNICIPAL AND PUBLIC OFFICIALS LIABILITY

OVERVIEW

Liability - the condition of being actually or potentially subject to an obligation; the condition of being responsible for a personal or actual loss; legal responsibility.

In the course of everday affairs, individuals accept that they will confront a large number of risks. Some of these risks arise from our voluntarily acting; some result from an ommission. At times, we are required by law to insure against risks as in the case of driving an automobile. Other times, we voluntarily insure ourselves against a potential loss as in the case of fire insurance for our homes.

Municipalities are exposed to similar risks. The subject of municipal and public officials liability has assumed a greater role in ordering municipal affairs in the past few years. The cases where liability may attach are as varied as the many functions a municipality may engage in. There has been a virtual explosion of municipal liability as the result of court interpretations of statutes and long held doctrines at both the federal and state level. An awareness of the possible risks confronted by a municipality and its officials will be helpful in limiting exposure. This article will review the basics of liability and major cases and statutes which bear on the subject.

MUNICIPAL AND PUBLIC OFFICIALS LIABILITY DISTINGUISHED

It is necessary to distinguish between public officials liability and municipal liability. They are not necessarily synonymous. For example, it is possible that a public officials may be held liable in a case where he acted beyond the scope of his authority or with malice, and yet the municipality may be exonerated. Similarily, in a case involving a violation of an individual's civil rights, a municipality may be found liable while the officials may be exonerated. This will all become clear as we proceed.

FEDERAL LAW

Two fields of federal law are of particular importance when discussing the issue of municipal liability - Civil Rights and Antitrust. These two areas have experienced a parallel development in the courts.

The Civil Rights Act of 1871, codified at Part 42 United States Code Section 1983 provided a federal cause of action for the violation by any "person" acting under color of state law of "any rights, privileges, or immunities secured by the Constitution and laws..." This law was originally enacted to protect the rights of the newly emancipated slaves after the Civil War. Until 1978, the only defendents amenable to suit under Section 1983 for unconstitutional government action were government officials; the governments themselves were immune from suit (Monroe v. Pape 365 US 167 (1961)).

In 1978, however, the United States Supreme Court held that municipalities were "persons" within the meaning of this statute and were therefore subject to suit (Monell v. Dept. of Social Services 436 US 658 (1978)). Since that time, municipalities have experienced a tidal wave of litigation involving 42 USC 1983.

MUNICIPAL CIVIL RIGHTS LIABILITY UNDER 42 USC 1983

Municipal Liability - When is a town, city or agency liable for its employees actions? Perhaps more frequently than you might expect.

A town may find yourself on the paying end of a suit involving hundreds of thousands or even millions of dollars plus very substantial attorney's fees.

The U. S. Supreme Court has held that a city or town is a "person" subject to liability under 42 United States Code Section 1983 for any action found to be unconstitutional which implements or executes a policy statement, ordinance, regulation or decision officially adopted and promulgated by that body's officers. A town may even be liable for governmental "custom" though that custom has not received the official approval of the units governing body.

However, what you can't be held liable for is an unconstitutional act of an employee solely because the doer is an employee.

I. Whether the municipality is or is not responsible for the employee's act depends upon (1) Who acts and in what capacity, and (2) What kind of act.

1. Final Authority

(a) It must be determined that the person commiting the act has final authority. If in the ordinary course of activity the employee can make final decisions, it will normally be assumed by a court that the action was an official policy.

(b) It is usually held that a person is a final authority if the employee succeeds in excercising power even if that excercise is ultimately held improper.

(c) Formal powers do not always reflect real authority. The Board of Selectmen or City Council may have formal authority to overrule a department head, police or fire chief; but if they rarely do, the official is assumed to have final authority in a hiring or dismissal.

The Courts hold that if the act or omissions of an employee is in an area where he or she has final authority then the conduct is the responsibility of the city or town.

2. Delegated Authority

If an employee decides upon a goal or method of achieving a town meeting, Board of Selectmen's/City Council's decision which violates the Constitution, the municipality is liable.

(a) The delegation may be written or unwritten. If an employee makes a policy or performs or act which is reasonably related to carrying out his or her primary responsibility and that act has not been expressly precluded as a method of carrying out the municipality's decision, it is ordinarily considered to be within the scope of the employee's authority.

It is clear that a departmental policy or custom is sufficient to impose liability on the municipality. The customs or policies of a Police Department carrying out town or city ordinances are well within delegated authority.

MUNICIPAL LIABILITY

THE CONDITION OF BEING ACTUALLY OR POTENTIALLY SUBJECT TO AN OBLIGATION; THE CONDITION OF BEING RESPONSIBLE FOR A PERSONAL OR ACTUAL LOSS; LEGAL RESPONSIBILITY (SOCIAL RESPONSIBILITY)

42 USC 1983
1871 FEDERAL CIVIL RIGHTS ACT
KU KLUX KLAN ACT

EVERY PERSON WHO, UNDER COLOR OF ANY STATUTE, ORDINANCE, REGULATION CUSTOM OR USAGE, OF ANY STATE OR TERRITORY OR THE DISTRICT OF COLUMBIA, 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 IN EQUITY, OR OTHER PROPER PROCEEDING FOR REDDRES

KU KLUX KLAN

THE CONSTITUTION: AS ORIGINALLY WRITTEN AND INTENDED. FINEST SYSTEM OF GOVERNMENT EVER CONCEIVED BY MAN. WHITE, NON-JEWISH AMERICAN CITIZENS PLEDGING THEMSELVES TO PROTECTION, PRESERVATION, ADVANCEMENT OF THE WHITE RACE.

MONELL v. DEPT. OF SOCIAL SERVICES

IN 1978, THE U.S. SUPREME COURT HELD THAT MUNICIPALITIES WERE "PERSON WITHIN THE MEANING OF THIS STATUTE AND WERE THEREFORE SUBJECT TO SUIT. SINCE THEN) MUNICIPALITIES HAVE EXPERIENCED TIDAL WAVE OF LITIGATION INVOLVING 42 USC 1983.

DEFINING THE "POLICY OR CUSTOM" REQUIREMENT OF MONELL

IF POLICY MANDATES OR CONDONES MISCONDUCT, THE GOVERNMENTAL ENTITY IS LIABLE UNDER MONELL. . ."CUSTOM" MAY APPARENTLY BE ESTABLISHED BY PERSONNEL OF ANY RANK, & IS VIRTUALLY BY DEFINITION NOT WRITTEN. "CUSTOM" COULD SEEMINGLY EMBRACE MORE SUBTLE ENCOURAGEMENT OR TOLERATION OF CONSTITUTIONAL DEPRIVATIONS. TACITLY ENCOURAGING OR TOLERATING REPEATED CONSTITUTIONAL VIOLATIONS BY ONE'S SUBORDINATES CAN ACCOMPLISH THE SAME END AS AFFIRMATIVE COMMANDS, OFTEN WITH THE SAME DEGREE OF CULPABILITY.

NIMLO: WHEREAS, THE INCREASE IN LITIGATION AND THE ATTENDANT FINANCIAL CONSEQUENCES TO MUNICIPALITIES HAS BECOME A MATTER OF GRAVE CONCERN, NIMLO FINDS A MODEL POLICE COMMUNITY RELATIONS PROGRAM WOULD HOLD HOPE AS A LIABILITY AVOIDANCE TECHNIQUE.

GILBERT G. POMPA, DIRECTOR OF THE COMMUNITY RELATIONS SERVICE OF THE U.S. DEPT. OF JUSTICE STATED THAT THROUGH IMPROVEMENT IN THE POLICE COMMUNITY RELATIONS PROGRAMS, MUNICIPALITIES CAN AS A BY-PRODUCT IMPROVE THEIR LIABILITY POSTURE.

COMMUNITY MECHANISM

COMMUNITY ACCOUNTABILITY THROUGH EDUCATION, NEGOTIATION, LITIGATION JUDGMENT: COMMUNITY JURIES (LAY JUDGES)

Edward D. McClure
Community Relations Specia
CRS, U.S. Dept. of Justice

THE CHIEF'S COUNSEL

Defining the "Policy or Custom" Requirement of *Monell*

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In 1978, the United States Supreme Court abolished any absolute immunity from civil rights suits governmental entities had previously enjoyed. But in abrogating the immunity, *Monell v. New York City Department of Social Services*[1] also limited such lawsuits under 42 U.S.C. § 1983 for constitutional torts to situations in which the governmental entity had established a "policy or custom" of misconduct.

As might be expected, plaintiffs in Section 1983 actions have subsequently explored the limits of "policy or custom" in an effort to involve the financial resources of a governmental body. When successful, these plaintiffs are then able to collect judgments from a solvent defendant rather than relying solely on the ability of an errant police officer to pay.

Finding and identifying governmental policy is usually quite simple. Obviously, city ordinances, resolutions, general orders of the police department, or standard operating procedures promulgated by agencies qualify as official "policy." If this policy mandates or condones misconduct, the governmental entity is liable under *Monell*.

The government's vulnerability for troublesome policy decisions does not, therefore, usually involve written, considered policies. Rather, it lies in the growing recognition that the official who makes official governmental policy need not be what is thought of as a policymaking official.[2] A sergeant, corporal or lieutenant may, for example, be a policymaker for *Monell* purposes almost every time a supervisory decision is made.[3]

"Custom," on the other hand, opens even more avenues of potential liability. It is a particularly insidious term because it is not limited, like official written policy, to that which is intended by the municipality, chief of police or even supervisors.

Custom may apparently be established by personnel of any rank, and is virtually by definition not written. As one commentator has noted:

> Custom . . . could seemingly embrace more subtle encouragement or toleration of constitutional deprivations. For example, promoting or failing to discipline police officers who commit illegal searches, so long as such lawless tactics result in major arrests, can serve to encourage further abuse. More generally, tacitly encouraging or tolerating repeated constitutional violations by one's subordinates can accomplish the same end as affirmative commands, often with the same degree of culpability.[4]

It is not, therefore, sufficient that police departments concern themselves with writing and enforcing official policies to avoid potential liability under Section 1983. It is now also necessary to consider those practices, some known and some unknown, that may become so commonplace as to qualify as a custom.

A notorious recent addition to the definition of "custom" comes from the case of *Webster v. City of Houston*.[5] In affirming an award of damages against the City of Houston for the acts of three officers in using a "throw down" pistol to justify a shooting, the Fifth Circuit "throw downs" in existence was so pervasive that it constitute custom of the city.

As distasteful as the *Webster* case is for law enforcement, it is more important in its legal implications than as merely an isolat example of misconduct. The court based its finding on testimo that 75 to 80 percent of the officers in the Houston Police Dep ment either carried a "throw down" in 1977 or had access to o Also critical in the finding was the testimony by one of the officers: was just common fact. It had happened before."[6] The officer al said of his superiors: "They don't directly condone. They know happens."[7]

The importance of this aspect of *Webster* is that courts are n willing to find the required "custom," making a city liable, in ev those situations where the misconduct is not condoned, but simp occurs with some regularity. Clearly, the court in *Webster* w putting police agencies on notice that they will share in liability for individual's misdeeds if they are either culpably ignorant of a wi spread practice or choose to look the other way.

In many large departments, it will be difficult to meet the burd imposed by *Webster*. General supervision will seemingly not s lice; only supervision close enough to detect and curb pervasi practices will protect the department from this expansion of *Mon*

The *Webster* court did, however, recognize limits to the sup visory duty of a department. As noted in the following langua quoted with approval by the court in *Webster*:

> The frequency and pattern of the practice alleged to be a custom or usage must be sufficient to give rise to a reasonable inference that the public employer and its employees are aware that public employees engage in the practice and do so with impunity.[8]

If a long-standing practice does exist in a department, can it l cured? *Webster* suggests that it can. The court noted that "desp the widespread knowledge as to the use of a throw-down, the H had never told officers not to use a throw-down weapon."[9]

While unconstitutional practices may develop in a departme they may not necessarily lead to liability if the agency takes aw affirmative action to remedy the situation. This involves consta vigilance and a willingness to initiate corrective measures, rath than hoping that they will never become known, but it does offer valuable return on the investment in closer supervision.

Another lesson to be learned from *Webster* is that covering misconduct may be taken by a court as evidence that the depa ment is a participant in the practice, even if there was no offic policy condoning the misdeed and it was not known to supervisor The court in *Webster* characterized the cover-up as effectiv encouraging future unlawful acts, permitting the jury to conclu that the use of "throw downs" was part of official city policy.[10]

Finally, custom was established by reference to evidence th instructors at the Houston Police Academy were alleged to ha casually mentioned the use of throw down weapons in an approvi way. This tacit approbation, taken with allegations of at least o prior instance of a "throw down" being used within the departme sufficiently involved the City of Houston in the "custom" to hold liable.

The threat of governmental liability under the "custom" exceptio of *Monell* has lacked real definition until *Webster*. With the holding this case, every department must concern itself more deeply w actively moving to prevent and correct any practice that may eith cause or encourage a deprivation of rights.

Webster means that attention to official written policy is only pa of the answer to *Monell*. The larger and more difficult job is t constant scrutiny of every phase of the department's work and t eradication of any notion that "ignorance is bliss." Indeed, aft *Webster*, ignorance is truly a costly luxury.

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[1] 436 U.S. 658 (1978).
[2] See Schnapper, *Civil Rights Litigation After Monell*, 79 COLUM. L. REV. 213, 221 (1979).
[3] *Ibid.* at 222. For a discussion of how supervisors affect a city's liability under Section 1983, s Rosenberg, *Civil Liability and the First Line Supervisor*, FBI POLICE J. 1 (June, 1982).
[4] Note, *Municipal Liability Under Section 1983: The Meaning of "Policy or Custom"*, 79 COLUM. REV. 304 (1979).
[5] 689 F.2d 1220 (5th Cir. 1982).
[6] *Ibid.* at 1223.
[7] *Ibid.*
[8] Schnapper, *Civil Rights Litigation After Monell*, 79 COLUM. L. REV. 213, 224 (1979), quoting City of Houston, 689 F.2d 1220, 1229 (5th Cir. 1982).
[9] Webster v. City of Houston, 689 F.2d 1220, 1227 (5th Cir. 1982).
[10] *Ibid.*