Monell Liability and Failure to Train

Version 1.0 · Current · October 2026

What It Is

Monell v. Department of Social Services (1978) established that municipalities and local government entities can be sued under 42 U.S.C. § 1983, but not simply because they employed someone who violated the Constitution. Ordinary respondeat superior – the rule that an employer is liable for an employee's acts within the scope of employment – does not apply to municipal § 1983 claims. A city is not automatically liable because one of its officers used unconstitutional force. Liability attaches only when the execution of a municipal policy, custom, or deliberately indifferent institutional practice caused the constitutional injury.

This is a demanding standard by design. It separates individual officer liability from institutional liability, and it requires plaintiffs to connect the constitutional injury to something the organization itself did or failed to do. That connection must be specific; it cannot rest on the logic that a violation occurred, therefore training must have been inadequate.

The Four Routes to Liability

1. Formal policy

The clearest case is a written policy, regulation, or directive that is itself unconstitutional or directs employees to act unconstitutionally. These cases are comparatively rare in modern excessive-force litigation because agencies do not typically adopt written policies authorizing unconstitutional force.

2. Custom or practice

A practice need not be formally written to qualify as municipal policy. An informal but persistent, widespread, and well-settled practice – one sufficiently entrenched to carry the force of law – can establish Monell liability. Isolated incidents will ordinarily not suffice; the pattern must be systematic enough that policymakers knew or should have known about it.

3. Final policymaker decisions

A single decision by an official who holds final policymaking authority over the subject matter can constitute official municipal policy under *Pembaur v. City of Cincinnati* (1986). Final policymaking authority is determined by law – by state statutes, municipal charters, and the formal allocation of authority – not by rank, practical influence, or how often the official's decisions go unreviewed. A police chief is a final policymaker for some purposes in some jurisdictions and not others. The organizational chart does not answer the legal question.

4. Failure to train or supervise

City of Canton v. Harris (1989) established that inadequate training can support municipal liability, but only where the failure rises to deliberate indifference to the constitutional rights of persons police encounter. This means more than showing that better training would have been possible, or that an expert would have designed the program differently, or that this incident exposed a training gap. It means the municipal deficiency was so serious that it could fairly be treated as a deliberate policy choice.

Deliberate Indifference

Deliberate indifference is a stringent standard, not a negligence inquiry. The ordinary route to establishing it is to show that policymakers had notice – from prior incidents, complaints, lawsuits, use-of-force reviews, or other evidence of recurring constitutional risk – and failed to respond. A municipality that collects complaint data but tolerates recurring patterns of the same violation, without retraining, policy revision, or discipline, has made something close to a deliberate choice to accept those outcomes.

Connick v. Thompson (2011) significantly narrowed the single-incident exception left open in *Canton*. The Court held that a pattern of similar prior violations is ordinarily required and that the "obvious need" exception applies only where the need for particular training is patently obvious – the *Canton* example being arming officers with firearms and sending them to arrest fleeing felons without training them on the constitutional limits of deadly force. One constitutional violation, however serious, does not ordinarily establish that training was deliberately indifferent.

"Moving Force" Causation

Even where policy, custom, or deliberate indifference is established, the plaintiff must prove that it was the moving force behind the constitutional injury. The causal chain must be specific: not merely that the department had imperfect training and the officer violated the Constitution, but that the particular institutional failure caused the particular injury. This requirement prevents Monell from collapsing back into respondeat superior through indirect reasoning.

No Qualified Immunity for Municipalities

Municipalities do not receive qualified immunity. *Owen v. City of Independence* (1980) established this directly. An individual officer may obtain qualified immunity because the law was not clearly established; that outcome does not shield the municipality from liability on Monell grounds if the constitutional violation, policy, custom, and causation elements are otherwise met.

This asymmetry is practically significant: a plaintiff who cannot recover from the individual officer due to qualified immunity may still pursue the municipality. The analysis runs on separate tracks.

What Becomes Monell Evidence

The following institutional practices and records can become evidence in Monell litigation:

Prior incidents. Repeated use-of-force incidents with similar fact patterns – same force type, same tactical circumstances, similar injuries – can establish notice of a recurring constitutional risk. The incidents do not need to have resulted in judgments; complaints, grievances, and internal findings can each contribute.

Complaint and investigation patterns. Systematically inadequate investigations, repeated exonerations of obviously problematic conduct, or failure to pursue corrective action are potential evidence that an informal policy of tolerance exists.

Training records. What training exists, who received it, how often it is updated, and whether it reflects controlling constitutional law. An agency that trains on less-lethal force mechanics but does not train on the constitutional limits of when lethal force may begin or when it must stop has documented a potential gap.

Use-of-force review documentation. Whether supervisors identify recurring patterns, whether reviews result in corrective action, and whether the review system is capable of detecting constitutional problems – all of this can be relevant to whether policymakers had notice.

Disciplinary records. A pattern of no-discipline outcomes for recurring constitutional violations can support an argument that tolerance is institutional rather than individual.

Edged-Weapon Encounters

Monell claims arising from edged-weapon incidents most commonly target:

Failure to train on the specific encounter type. Generic use-of-force training may not address the timing constraints in edged-weapon encounters – minimum deployment distances for CEW, action-reaction dynamics, the difference between weapon possession and active threat, when force must stop after the subject falls. An agency whose officers have not been trained on these distinctions, but whose prior incidents should have flagged the gap, may face a failure-to-train claim.

Failure to deploy or develop crisis resources. An agency that has CIT-trained officers but does not route them to crisis calls, or that has no co-responder protocol for welfare-check calls that may involve edged weapons, may face Monell exposure if a constitutional violation follows a foreseeable mental-health crisis encounter. *City of Canton*'s arming-officers analogy maps directly: an agency that regularly deploys officers to psychiatric crisis calls without crisis-specific training has notice of the obvious need.

Failure to supervise stop-shooting discipline. If an agency's use-of-force review has consistently failed to identify or correct incidents where officers fired shots after the threat ended, a pattern may exist. *Waterman*

and *Zion* both establish that the temporal division of force is constitutionally required; an agency whose review system cannot identify the relevant distinction has documented a potential deliberate-indifference gap.

Inadequate use-of-force review. Reviews that classify any incident as within policy without examining whether force continued after threat cessation, whether de-escalation was available, or whether tactical decisions contributed to the use of force may collectively demonstrate institutional notice followed by institutional tolerance.

Policy Implications

1. Use-of-force review systems should detect patterns, not just classify individual incidents. An agency whose review process asks only "was this use of force within policy" and answers yes without examining tactical antecedents, force duration, or comparison to prior incidents does not have a system capable of generating the institutional learning that Monell doctrine requires.
2. Training records should reflect controlling constitutional law in the relevant circuit. An agency whose training materials predate significant circuit decisions – on officer-created jeopardy, on stop-shooting analysis, on the temporal structure of force – cannot demonstrate that training addressed known constitutional requirements.
3. Internal investigations function as both accountability and institutional learning mechanisms. Consistently superficial investigations that exonerate problematic conduct create a record of notice without response, which is close to the definition of deliberate indifference.
4. Identify who legally possesses final policymaking authority. The organizational chart may not correspond to the legal answer. Agencies and their counsel should understand which officials' decisions can be attributed to the municipality itself.
5. Recurring tactical situations should trigger training revision. An agency that has repeatedly encountered the same force scenario without updating training has documented knowledge of the recurring problem. Monell's notice-plus-inaction formula fits this pattern precisely.
6. EMS staging, post-force care, and body-worn camera protocols affect Monell exposure across multiple theories. Systematic failure to stage EMS for foreseeable force calls, systematic deactivation of BWC after force is applied, or systematic failure to communicate force mechanisms to paramedics can each, if persistent enough, support a claim that the pattern reflects institutional policy rather than individual choices.

HOW TO CITE

Edged-Weapon Response Lab. (2026). *Monell Liability and Failure to Train*. In *EWRL Evidence Library* (Version 1.0). https://droptheknife.org/bulletins/monell_failure_to_train (https://droptheknife.org/bulletins/monell_failure_to_train)