HISTORY - FEDERAL CIVIL RIGHTS - USE OF FORCE STANDARDS

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1066 - (England) (October 14th) ***Battle of Hastings*** - The battle between the Normans of Duke William of Normandy (William the Conqueror) and the Saxon army led by King Harold II. This was the point when William gained control of England.

1100 - (England) ***Charter of Liberties*** (also called the "***Coronation Charter***") - An agreement between King Henry I and his nobility. It bound the King to certain laws regarding the treatment of church officials and nobles. A forerunner to the Magna Carta.

1215 - (England) (June 15th) ***Magna Carta*** (a.k.a. "***The Great Charter***") established for the first time a very significant constitutional principle: that the power of the king could be limited by a written grant. The Magna Carta was signed by King John at the Runnymede.

(38) In future no official shall place a man on trial upon his own unsupported statement, without producing credible witnesses to the truth of it.

(29) No Freeman shall be taken, or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we pass upon him, nor condemn him, but by lawful Judgment of his Peers, or by the Law of the Land. We will sell to no man, we will not deny or defer to any man either Justice or Right.

(39) No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land.

(40) To no one will we sell, to no one deny or delay right or justice.

(54) No one shall be arrested or imprisoned on the appeal of a woman for the death of any person except her husband.

1628 - (England) ***The Petition of Right*** - protections against the abuse of royal prerogative

1679 - (England) ***Habeas Corpus Act***

1689 - (England) ***English Bill of Rights***

1754 - ***Albany Plan of 1754*** - authored by Benjamin Franklin

1776 - (July 4th) ***Declaration of Independence*** - established the principles which the U.S. Constitution made practical

1781 - (March 1st) ***Articles of Confederation and Perpetual Union*** ratified - first governing document of the United States of America. Articles were replaced by the U.S. Constitution on May 23, 1788.

1788 - (May 23rd) ***U.S. Constitution*** ratified when 9th state (NH) ratified.

1789 - (March 4th) ***U.S. Constitution*** took effect
Supreme Law of the Land – Art. VI, cl. 2 of the Constitution: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be

made, under the Authority of the United States, shalt be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

1791 - (December 15th) ***Bill of Rights*** (first ten amendments to the U.S. Constitution) ratified
- 4th Amendment - "seizures" – objective reasonableness
- 5th Amendment - "due process" – subjective intent
- 8th Amendment - "convicted & incarcerated" – cruel and unusual punishment

1866 - (April 9th) ***Civil Rights Act of 1866*** (precursor to F.C.A. 1871 - 42 U.S.C. §1983)

1868 - (July 9th) ***14th Amendment*** (to the U.S. Constitution) ratified
- 14th Amendment attempted to make the protections of the first ten Amendments (Bill of Rights) applicable to non-federal governments

1871 - (April 20th) ***Ku Klux Klan Act of 1871***, ch. 22, §1, 17 Stat. 13 is the larger act of which 42 U.S.C. §1983 is one part (a.k.a. Federal Civil Rights Act of 1871) enacted (precursor to 42 U.S.C. § 1983). A main reason behind its passage was to protect southern blacks from the KKK by providing a civil remedy for abuses then being committed in the south.

1961 - (February 20th) ***Monroe v. Pape****, 365 U.S. 167 (1961)* - found 42 U.S.C. § 1983 applicable to non-federal governments) gave private litigants a federal court remedy as a first resort rather than only in default of (or after) state action. Court held that "Congress did not undertake to bring municipal corporations within the ambit of [§ 1983]." *Id*. at 187.
- The City of Chicago is not liable under § 1979, because Congress did not intend to bring municipal corporations within the ambit of that section. Pp. 187-192.

1961 - (June 19th) ***Mapp vs. Ohio****, 367 U.S. 643 (1961)* - criminal procedure case where U.S. Supreme Court found that the 4th Amendment protection against "unreasonable searches and seizures" must be extended to states as well as the federal government.

1973 - (June 29th) ***Johnson v. Glick****, 481 F.2d 1028 (2d Cir. 1973)* - "In determining whether the constitutional line has been crossed, a court must look to such factors as the need for the application of force, the relationship between the need and the amount of force that was used, the extent of injury inflicted, and whether force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm." *Id.* at 1033.

1976 - (October 19th) **The Civil Rights Attorney's Fees Awards Act of 1976** (42 U.S.C. § 1988)

1978 - (June 6th) ***Monell v. New York Department of Social Services****, 436 U.S. 658 (1978)* - In *Monell* the U.S. Supreme Court declared that if the policy of the agency was the cause of the constitutional deprivation, then the city or the county could be sued as if it were a "person," for the court said:
- "When the execution of a government's policy or custom, whether made by its lawmakers or by those who edicts or acts may fairly be said to represent official policy, inflicts the injury, then the government is responsible under Section 1983." *Id.* at 694.
- "Local governments (like every other Section 1983 person) may be sued for constitutional deprivations visited pursuant to governmental 'custom' even though such a custom has not received formal approval through the body's official decision-making channels." *Id.* at 689.

1980 - (April 16th) ***Owen v. City of Independence, 445 U.S. 622 (1980)*** - A municipality has no immunity from liability under 42 U.S.C. § 1983 flowing from its constitutional violations and may not assert the good faith of its officers as a defense to such liability.

1985 - (March 27th) ***Tennessee v. Garner****, 471 U.S. 1 (1985)* - 4th Amendment - U.S. Supreme Court held that (under the 4th Amendment) a police officer may not use deadly force "unless it is necessary to prevent escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others." *Id. at 3*.

1986 - (March 4th) ***Whitley v. Albers, 475 U.S. 312 (1986)*** - 8th Amendment - "'[T]he unnecessary and wanton infliction of pain ··· constitutes cruel and unusual punishment forbidden by the Eighth Amendment.'" *Id*. at 319.

1986 - (March 5th) ***Malley v. Briggs****, 475 U.S. 335 (1986)* - qualified immunity protects all but the plainly incompetent or those who knowingly violate the law.

1987 - (June 1st) ***Turner v. Safely, 482 U.S. 78 (1987)*** - 8th Amendment - Is a corrections regulation, procedure, or policy reasonably related to legitimate penological interests of the facility. If yes, then the regulation will be valid even if it burdens a prisoner's constitutional rights. A 4 part test: (1) reasonably related to legitimate penological interest, (2) alternative means of exercising the constitutional right remain open, (3) valid rational connection to the interest, and (4) not an exaggerated response.

1989 - (February 28th) ***Canton v. Harris****, 489 U.S. 378 (1989)* - an "inadequate training" claim could be the basis for § 1983 liability in "limited circumstances." *Id., at 387*. The Court held that a plaintiff seeking to establish municipal liability on the theory that a facially lawful municipal action–where, an allegedly inadequate training *program*--has led an employee to violate a plaintiff's rights must demonstrate that the municipal action was not simply negligent, but was taken with "deliberate indifference" as to its known or obvious consequences. *Id., at 388*.

1989 - (March 21st) ***Brower v. County of Inyo****, 489 U.S. 593 (1989)*
- A "seizure" occurs when there is a " ... governmental termination of freedom of movement through means intentionally applied." *Id. at 597*.
- held that a "[v]iolation of the Fourth Amendment requires an intentional acquisition of physical control. A seizure occurs even when an unintended person or thing is the object of the detention or taking, but the detention or taking itself must be wilful. This is implicit in the word 'seizure,' which can hardly be applied to an unknowing act ... " *Id. at 596*.
- "[T]he Fourth Amendment addresses 'misuse of power,' [citation omitted] not the accidental effects of otherwise lawful conduct." *Id. at 596*; *Milstead v. Kibler, 243 F.3d 157 (4th Cir. 2001)*.

1989 - (May 15th) ***Graham v. Conner****, 490 U.S. 386 (1989)* - All claims that law enforcement officials have used excessive force -- deadly or not -- in the course of an arrest, investigatory stop, or other "seizure" of a free person are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard.

1992 - (Feb. 25th) ***Hudson v. McMillian, 503 U.S. 1 (1992)*** - 8th Amendment - In making this determination in the context of prison conditions, we must ascertain whether the officials involved acted with "deliberate indifference" to the inmates' health or safety. *Id*. at 8.

1994 - (June 6th) ***Farmer v. Brennan**, 511 U.S. 825 (1994)* - distinguished the "deliberate indifference" test under the 8th Amendment from the "deliberate indifference" (*Canton*) test under the 4th Amendment. The Court said:
- The 8th Amendment has a "subjective component." The subjective test does not permit liability to be premised on obviousness or constructive notice [the Canton test].
- "This case requires us to define the term 'deliberate indifference,' as we do by requiring a showing that the official was subjectively aware of the risk." *Id. at 829*.
- We may infer the existence of this subjective state of mind from the fact that the risk of harm is obvious. *Id*. At 842.

1994 - (Sept. 13th) ***42 U.S.C. § 14141, 14142*** - Police Pattern and Practice.
§ 14141. Cause of action
(a) Unlawful conduct - It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(b) Civil action by Attorney General - Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

1997 - (April 28th) ***Board of the County Commissioners of Bryan County, Oklahoma v. Brown**, 520 U.S. 397 (1997)* – Single incident – "In Canton, we did not foreclose the possibility that evidence of a single violation of federal rights, accompanied by a showing that a municipality has failed to train its employees to handle recurring situations presenting an obvious potential for such a violation, could trigger municipal liability." *Id. at 408*.

2001 - (June 18th) ***Saucier v. Katz**, 533 U.S. 194 (2001)* - Two-part qualified immunity analysis.
The two-part test to be applied in determining whether the presumption of qualified immunity is overcome. First, "taken in the light most favorable to the party asserting the injury, do the facts alleged show the officer's conduct violated a constitutional right?" *Saucier*, 533 U.S. at 201. Second, is the right violated clearly established?" *Id*. This second question must be answered in light of the specific context of the case, not as a broad, general proposition. *Brosseau v. Haugen*, 543 U.S. 194 (2004) (citing *Saucier*, 533 U.S. at 201). "The relevant, dispositive inquiry in determining whether a right is clearly established is whether it would be clear to a reasonable officer that his conduct was unlawful in the situation he confronted." *Saucier*, 533 U.S. at 201.

2002 - (June 27th) ***Hope v. Pelzer, 536 U.S. 730 (2002)*** - 8th Amendment – Determination whether punishment is cruel or unusual is made in the context of prison conditions by ascertaining whether the prison officials involved acted with deliberate indifference to the inmates' health or safety.