For instance, in *Youngberg v. Romeo*, the Court recognized a liberty right to "minimally adequate or reasonable training to ensure safety and freedom from undue restraint."[685] Although the lower court had agreed that residents at a state mental hospital are entitled to "such treatment as will afford them a reasonable opportunity to acquire and maintain those life skills necessary to cope as effectively as their capacities permit,"[686] the Supreme Court found that the plaintiff had reduced his claim to "training related to safety and freedom from restraints."[687] But the Court's concern for federalism, its reluctance to approve judicial activism in supervising institutions, and its recognition of the budgetary constraints associated with state provision of services caused it to hold that lower federal courts must defer to professional decision-making to determine what level of care was adequate. Professional decisions are presumptively valid and liability can be imposed "only when the decision by the professional is such a substantial departure from accepted professional judgment, practice, or standards as to demonstrate that the person responsible actually did not base the decision on such a judgment."[688] Presumably, however, the difference between liability for damages and injunctive relief will still afford federal courts considerable latitude in enjoining institutions to better their services in the future, even if they cannot award damages for past failures.[689]

The Court's resolution of a case involving persistent sexual offenders suggests that state civil commitment systems, besides confining the dangerously mentally ill, may also act to incapacitate per-

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[685] Youngberg v. Romeo, 457 U.S. 307, 319 (1982).

[686] 457 U.S. at 318 n.23.

[687] 457 U.S. at 317–18. Concurring, Justices Blackmun, Brennan, and O'Connor, argued that due process guaranteed patients at least that training necessary to prevent them from losing the skills they entered the institution with. Id. at 325. Chief Justice Burger rejected any protected interest in training. Id. at 329. The Court had also avoided a decision on a right to treatment in O'Connor v. Donaldson, 422 U.S. 563, 573 (1975), vacating and remanding a decision recognizing the right and thereby depriving the decision of precedential value. Chief Justice Burger expressly rejected the right there also. Id. at 578. But just four days later the Court denied certiorari to another panel decision from the same circuit that had relied on the circuit's *Donaldson* decision to establish such a right, leaving the principle alive in that circuit. Burnham v. Department of Public Health, 503 F.2d 1319 (5th Cir. 1974), *cert. denied*, 422 U.S. 1057 (1975). *See also* Allen v. Illinois, 478 U.S. 364, 373 (1986) (dictum that person civilly committed as "sexually dangerous person" might be entitled to protection under the self-incrimination clause if he could show that his confinement "is essentially identical to that imposed upon felons with no need for psychiatric care").

[688] 457 U.S. at 323.

[689] *E.g.*, Ohlinger v. Watson, 652 F. 2d 775, 779 (9th Cir. 1980); Welsch v. Likins, 550 F.2d 1122, 1132 (8th Cir. 1977). Of course, lack of funding will create problems with respect to injunctive relief as well. *Cf.* New York State Ass'n for Retarded Children v. Carey, 631 F.2d 162, 163 (2d Cir. 1980). The Supreme Court has limited the injunctive powers of the federal courts in similar situations.