



V-VICTA®

VirTra - Virtual Interactive Coursework Training Academy®

DUTY TO INTERVENE: NO SUCH THING AS A PROFESSIONAL BYSTANDER

Training Manual

VirTra

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TRAINING COURSE CERTIFICATION

This "Duty to Intervene" training course was certified by the IADLEST National Certification Program™ on 1/31/2023. Certification Number: 23572-2302



DUTY TO INTERVENE: NO SUCH THING AS A PROFESSIONAL BYSTANDER

TOPIC

Duty to Intervene: No Such Thing as a Professional Bystander

ESTIMATED TIME

2.5 Hours (up to 8 students and full class presentation).

- Introduction – 5 minutes
- Lecture – 60 minutes
- Break – 10 minutes
- Duty to Intervene video scenarios – 15 minutes
- Video discussion – 30 minutes
- “You Again” simulator scenario – 10 minutes
- Written test – 15 minutes
- Closing – 5 minutes

PERFORMANCE OBJECTIVE

At the end of the 2.5 hours of instruction, students will successfully:

- Understand how the public sees law enforcement and discuss significant failure to intervene incidents.
- Define what “Duty to Intervene” means.
- Understand when an officer must intervene, and who it applies to.
- Discuss significant court cases regarding duty to intervene.
- Understand why officers must intervene.
- Identify policy and legal requirements of duty to intervene.
- Identify criteria that constitute a failure to intervene.
- Understand the laws that guide failure to intervene claims.
- Understand the role training has in duty to intervene cases.
- Identify best practices on duty to intervene training and implementation.

CLASS SIZE

Designed for a class up to 8 students, with students individually going through the simulator training scenarios.

The following training plan and lesson plan is designed to be used with the VirTra simulator. Where as many of the techniques have been used over many years in LE, this training plan maximizes training time and leverages the strengths of the VirTra Training System.

The instructor shall first ensure that students are familiar with the presented material. The outline provides the overview of the Duty to Intervene and is provided to supplement and provide context to the use of the simulation scenarios.

The simulation scenarios are used as a tool to facilitate the understanding of the concepts. The first scenarios will be provided in a slower tempo with the use of the PLAY/PAUSE feature to elaborate on the training points. Once the first simulation is provided in this format the remaining scenarios will be provided to each pair of officers. The Socratic methodology should be used for event debriefing.

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- “What did you know?”
- “What did you see or hear?”
- “What did you do and the reason behind it?”
- “What would you do differently in the future?”

All officers will be allowed to watch the other pairs participate in the exercise. This is done to maximize the benefit of modeling for adult learners.

SAMPLE STUDENT GROUP SET UP

- A. Officer Yackley and Officer Emerson
 - B. Officer Danninger and Officer Ashley
 - C. Officer Bacon and Officer Adams
 - D. Officer Stephens and Officer Marks
-
- **First Scenario** - Executed in “PLAY/PAUSE” methodology for all students - key concepts are applied and discussed
 - **Second Scenario** - Group A participates while Groups B, C, and D watch
 - **Third Scenario** - Group B participates while Groups A, C, and D watch
 - **Fourth Scenario** - Group C participates while Groups A, B and D watch
 - **Fifth Scenario** - Group D participates while Groups A, B and C watch
 - **Sixth Scenario** - (Practical skills test) Class is sequestered with students brought one at a time (not pairs) to evaluate performance.

SCENARIO BANK TO BE USED

1. You Again
2. Protest Trouble
3. Weapon Confusion
4. Duty to Intervene Training Videos (4 videos included in the presentation)

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I. INSTRUCTOR INTRODUCTION

II. UNDERSTANDING LAW ENFORCEMENT'S DUTY TO INTERVENE

A. THE ISSUE

B. WHAT IS FAILURE TO INTERVENE?

C. WHERE DOES IT APPLY?

D. HOW DOES IT APPLY?

E. WHO DOES IT APPLY TO?

III. NOTABLE INCIDENTS & COURT DECISIONS

A. BYRD V. BRISKE (7TH CIR. 1972)

B. RODNEY KING (UNITED STATES V KOON (C.D. CAL. 1993))

C. SAMUELS V. CUNNINGHAM ET AL., 2003 U.S. DIST. LEXIS 14479 (DIST. DEL. 2003)

D. GALINDEZ V. CITY OF HARTFORD, 2003 U.S. DIST. LEXIS 17592 (DIST. CT. 2003)

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IV. WHY DUTY TO INTERVENE MATTERS

A. MORAL DUTY

B. HIGHER STANDARD

C. COMMUNITY TRUST

D. KEEP EVERYONE SAFE

E. SAVE SOMEONE ELSE'S AND YOUR CAREER

V. POLICIES

A. WHY DO POLICIES FAIL?

B. HOW TO MAKE A SUCCESSFUL POLICY

VI. TRAINING

A. INTERVENTION POLICIES

B. COMMUNICATION & EMOTIONAL INTELLIGENCE



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C. DOCUMENT ALL TRAINING

D. FORMAL DISCUSSIONS

E. CONTROL TACTICS PROFICIENCY

F. PRACTICAL INTERVENTION PRACTICE & TRAINING

VII. PENALTIES

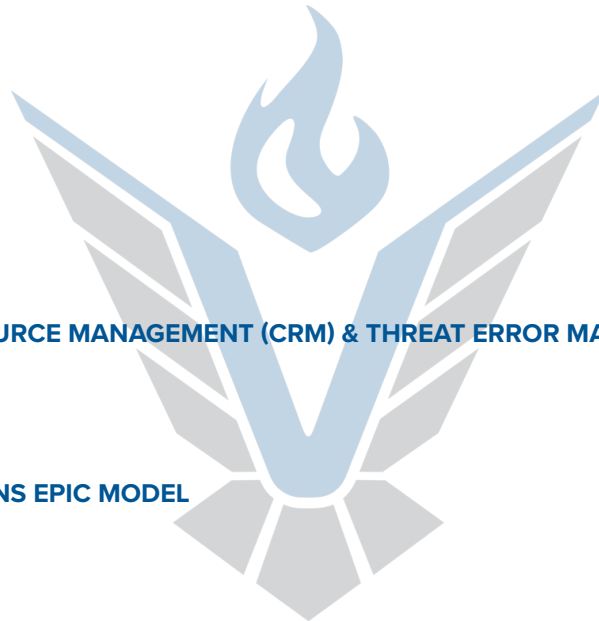
VIII. BEST PRACTICES

A. CREW RESOURCE MANAGEMENT (CRM) & THREAT ERROR MANAGEMENT (TEM)

B. NEW ORLEANS EPIC MODEL

IX. APPLICATION OF INTERVENTION

X. PRACTICAL EXERCISES



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I. INSTRUCTOR INTRODUCTION

Instructor will introduce themselves to the class. This introduction should be no more than 2-3 minutes long and establish why they are qualified to teach the course and how long they have been with the organization. This not a moment to brag, but to build confidence and trust from the attending students.

II. UNDERSTANDING LAW ENFORCEMENT'S DUTY TO INTERVENE

[Slides 3-10]

YouTube video: "Understanding Law Enforcement's 'Duty to Intervene'" - <https://www.youtube.com/watch?v=pAqNUojGPj4>

A. THE ISSUE

- a. Public perception
 - i. Law enforcement is being looked at under a microscope now more than ever.
 - ii. For the first time in over 25 years, America's confidence in the police has fallen below the majority level; to 28%.¹
 - iii. Use force too much and too often.
 - iv. Officers should be able to "de-escalate" everything and "talk people down" without shooting them.
 - v. 69% of people see recent police killings as part of a broader problem, with 29% saying they are just isolated incidents.²
- b. There is a national spotlight when things go badly.
 - i. Rodney King - 1991
 - 1. Beaten by LAPD officers.
 - 2. One officer found guilty, sparked the LA riots of 1992.
 - ii. Walter Scott - 2015
 - 1. Fled from traffic stop, shot 5 times.
 - 2. Officer said Scott grabbed his taser, but video showed this to be false.
 - 3. Officer sent to 20 years in federal prison.
 - iii. George Floyd - 2020
 - 1. Minneapolis officer kneeled on Floyd's neck for almost 9 minutes.
 - 2. One officer was charged with 3rd degree murder.
 - 3. 3 other officers charged for failure to intervene.
 - 4. Case is still in court.

B. WHAT IS FAILURE TO INTERVENE?

- a. Legal Definition:
 - i. An officer who purposefully allows a fellow officer to violate a victim's Constitutional rights may be prosecuted for failure to intervene to stop the Constitutional violation.³

C. WHERE DOES IT APPLY?⁴

- a. All courts have ruled that an officer's duty to intervene shall occur when there is unreasonable and/or excessive force.
- b. While all courts have the same standard on officers intervening when unreasonable or excessive

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force is being used, they vary slightly in the following situations:

- i. Unlawful arrest
- ii. Unlawful search
- iii. Other constitutional violations
- c. Make sure you are familiar with circuit court decisions that apply to your law enforcement agency.

D. HOW DOES IT APPLY?

- a. To prosecute an officer for failure to intervene, the prosecution must show:
 - i. The officer was aware of the Constitutional violation.
 - ii. The officer had an opportunity to intervene, and chose not to do so.
- b. To show that an officer knew what was going on, some of these factors may be considered:
 - i. Was the officer present before the force was applied?
 - ii. Was the officer in direct contact with the subject and/or offending officer during the contact?
 - iii. Was the officer able to see and/or hear what level of cooperation and/or resistance the subject was displaying?
- c. To show that an officer had an opportunity to intervene, some of these factors may be considered:
 - i. What was the physical distance between the officer and the incident?
 - ii. How much time had passed leading up to the use of force?
 - iii. Did the officer fail to take reasonable steps to prevent or stop the unreasonable/unjustified use of force?
 - iv. When the unlawful use of force was applied, how long did it occur?

E. WHO DOES IT APPLY TO?

- a. When it comes to an officer's duty to intervene, the courts have stated that it applies to EVERY officer of EVERY rank:⁵
 - i. Officers & Detectives
 - ii. Supervisors
 - 1. This includes ALL levels of command staff.
 - iii. Officers from different agencies
- b. Intervention is required regardless of the rank of the officer acting unlawfully.
 - i. An officer SHALL be required to intervene, even if the offending officer is a higher rank than them (ie, Chief, Lieutenant, etc.).
 - ii. A claim that the offending officer outranked you is not justification for failing to intervene.
- c. A claim that the offending officer is from another agency or jurisdiction is not justification for failing to intervene.

III. NOTABLE INCIDENTS & COURT DECISIONS

[Slides 12-16] Courts have been hearing cases about failure to intervene for about 50 years.

A. BYRD V. BRISHKE (7TH CIR. 1972)

- a. One of the first duty to intervene cases.
- b. The opinion in this case specifically addresses that an officer can be held liable for violating a person's rights, even if they didn't participate in the violation, but did nothing to stop it.
- c. Byrd was in a local Chicago tavern with some friends. An undercover Chicago officer enters the tavern and gets into a gunfight with one of Byrd's friends. The friend is killed, the officer is wounded and Byrd had also been shot in the leg.

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- d. Byrd leaves the tavern, and is stopped by Chicago police, who bring him back to the tavern.
- i. They make him walk despite having a bullet in his thigh.
- e. At the tavern, Byrd is dragged to the backroom and surrounded by approximately a dozen officers. He is beaten by an unknown number of the officers.
- f. Byrd is handcuffed and thrown head first into the prisoner transport, and is then taken to the prisoner hospital. He had injuries to his head, arms, back, ribs and thigh.
- g. Byrd's principal damage claim against the police officers is based upon the theory that, even if they did not personally participate in the violation of plaintiff's civil rights by beating him, they are liable in law for negligently or intentionally failing to protect the plaintiff from others who did violate his rights by beating him in their presence.⁶
- h. "We believe it is clear that one who is given the badge of authority of a police officer may not ignore the duty imposed by his office and fail to stop other officers who summarily punish a third person in his presence or otherwise within his knowledge."⁷

B. RODNEY KING (UNITED STATES V. KOON (C.D. CAL 1993))

- a. Full video: <https://www.youtube.com/watch?v=sb1WywlpUtY>
- b. In Byrd, the involved officers had struck the victim. In this case, Koon was the supervisor at the scene and didn't strike, nor was tried for assaulting King.
- c. Koon was tried for willfully permitting the other officers in his presence, and under his supervision, to unlawfully strike King.
- d. In 1991, Rodney King was in a pursuit with officers. He was under the influence and was on parole for a previous robbery conviction.
- e. After being cornered, King was ordered to the ground where he initially resisted officers attempts to take him into custody.
- f. Most of the incident was caught on video filmed from an apartment nearby.
- g. King was struck with a baton 33 times and kicked 7 times by officers.
- h. Four officers were charged locally. All four were acquitted of assault and 3 of the four were acquitted of using excessive force. The jury couldn't agree on a verdict for the fourth officer.
- i. The Department of Justice sought indictments on the officers. A grand jury returned indictments on 3 officers for unreasonable force and on Sergeant Stacey Koon for "willfully permitting and failing to take action to stop the unlawful assault" on King.
- j. Koon and another officer were found guilty while two others were acquitted.

C. SAMUELS V. CUNNINGHAM ET AL., 2003 U.S. DIST. LEXIS 14479 (DIST. DEL. 2003)

- a. This case specifically addresses the issue of officers needing to have a reasonable opportunity to intervene in a case of unlawful use of force.
- b. This case establishes that mere presence during an unlawful application of force does not in and of itself make an officer liable.
- c. In this incident, Samuels was approached by 4 Wilmington, DE detectives as he was leaning into the window of an automobile.
- d. As the detectives approached, both the vehicle and Samuels fled.
- e. Samuels was eventually apprehended and handcuffed.
- f. After he was handcuffed, and 5th detective (Detective Hall) ran up and punched Samuels in the rib, fracturing it.
- g. Samuels sued all 5 detectives for the assault: Hall for the punch, and the other 4 who were present when it happened.
- h. The court concluded that the four detectives had no reasonable opportunity to intervene in the punch, and had no way to anticipate that detective Hall would punch Samuels.
- i. The claims against Hall were allowed to proceed to trial.

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D. GALINDEZ V. CITY OF HARTFORD, 2003 U.S. DIST. LEXIS 17592 (DIST. CT. 2003)

- a. This case speaks to the liability of the officer's municipality in duty to intervene cases.
- b. It shows that if an employer fails to appropriately investigate and discipline for cases of unlawful use of force, the employer can be held liable as well. Even with policies in place.
- c. Galindez was arrested by Officer Miller. The details surrounding his arrest are fuzzy, but we do know that Galindez was dragged by Miller to an ambulance, causing additional injuries. Galindez was forcibly removed from his apartment without a warrant and without any cause.
- d. Galindez filed a complaint alleging excessive force by Officer Miller.
- e. The complaint sat dormant with the internal affairs division for 17 months. No investigation was done until Galindez filed his lawsuit.
- f. The city asked to be removed from the suit, as there was no policy that allowed excessive force, and they have a complaint policy in place.
- g. The court outright rejected the argument that simply having a complaint policy can be used as a shield to hide behind.
- h. The court found that the city didn't follow its own policies, and showed a pattern of allowing complaints to sit.
- i. "...Hartford had a policy or pervasive pattern of deliberate indifference to the possibility that its officers were prone to use excessive force, as demonstrated principally by Hartford's failure to reasonably investigate complaints and the absence of punitive consequences for any accused officer..."⁸

IV. WHY DUTY TO INTERVENE MATTERS

[Slides 18-22]

A. MORAL DUTY

- a. The foundation of the law enforcement code of ethics.
 - i. "As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice."⁹

B. HIGHER STANDARD

- a. Society holds officers to a higher standard.
- b. Courts will always hold officers to a higher standard and base their decisions off of that standard.
- c. Officers must hold each other to that standard.

C. COMMUNITY TRUST

- a. Sir Robert Peel (father of modern policing) had 3 core ideas.
- b. His 3rd rule speaks directly to how police get public support and trust:
 - i. "The police earn public support by respecting community principles. Winning public approval requires hard work to build reputation: enforcing the laws impartially, hiring officers who represent and understand the community, and using force only as a last resort."¹⁰

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D. KEEP EVERYONE SAFE

- a. Using force only when necessary and to the degree it is necessary keeps officers and citizens safe.
- b. Not just physical safety
 - i. Mental health
 - ii. Lawsuits
 - iii. Criminal charges

E. SAVE SOMEONE ELSE'S AND YOUR CAREER

- a. Many times, officers make poor choices due to a high level of stress, or other factors.
- b. Stopping the action can give an opportunity for that officer to get appropriate training and/ or help so they can have a better career.
- c. Stopping an incident can also save your own job, as you cannot be a professional bystander.

V. POLICIES

[Slides 24 & 25]

A. WHY DO POLICIES FAIL?

- a. Culture
 - i. Code of silence.
 - ii. Case after case where officers do the right thing in reporting abusive use of force, and they are targeted.
 - iii. Years of service and seniority translates to respect and “can do no wrong” attitude.
 - iv. New officers are discouraged from reporting issues out of fear of losing their dream job.
 - v. Military style command structure. Fear of going against command staff.
- b. Leadership
 - i. If leadership isn’t actively working to fix a problem, then it’s just lip service.
 - ii. Must include every level of command staff in order to be effective.
 - iii. Supervisors should be encouraging front-line officers on reporting violations.
 - iv. Encourage training on recognizing and preventing abuse before it happens.
- c. Front-line officers
 - i. Fear in violating the “code of silence”.
 - ii. Are not empowered to step-in when they see something wrong, or to report something if they were unable to prevent it.
 - iii. Have not been shown ways to intervene. Lack of training.
 - iv. Concerned on how an intervention may affect their relationships, or even assignments.

B. HOW TO MAKE A SUCCESSFUL POLICY

- a. Clear, flexible and forgiving
 - i. Policies must define what their duty is so officers can appropriately use their judgement.¹¹
 - ii. It is not possible to create a policy using “if this...then this...”
 - iii. One of the easiest tests is “Would I want that done to me?”

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- b. Practice and leadership
 - i. Leadership needs to lead by showing “moral courage”
 - ii. Stand with the policy. Enforce it. Teach to it.
- c. Discipline
 - i. If an officer violates it, stick to the policy, regardless of rank.
 - ii. A policy that isn’t practiced isn’t a policy at all.
 - I. Opens municipality up to liability
 - iii. Be fair. Be firm. Mistake vs. deliberate indifference?

VI. TRAINING

[Slides 27-32] In sports, athletes train for stressful moments over and over. In law enforcement, we don’t train enough on how to handle stress - we hope that this magical skillset will suddenly appear at the right time.¹²

A. INTERVENTION POLICIES

- a. Overly broad vs. too rigid
 - i. Officers still need to be able to do their job safely, and be allowed the ability to make decisions as situations unfold.
- b. Don’t usually take into account community recommendations
 - i. Involving the community can help with buy-in.
 - ii. Community action can also help educate both the citizens and the officers on what the concerns are.
 - iii. Opportunities to explain the “why” and “how” for each side.
- c. Don’t design policy just to avoid liability rather than fix a problem.
 - i. The key is preventing an issue in the first place, or eradicating a problem if you have one.
 - ii. As mentioned earlier, a policy that isn’t practiced isn’t a policy.
 - I. Won’t provide any liability protections
 - II. Isn’t improving or protecting officers.
 - III. Isn’t providing the service citizens deserve.

B. COMMUNICATION & EMOTIONAL INTELLIGENCE

- a. Emotional intelligence is a psychological theory that was developed by Peter Salovey and John Mayer in 1990.¹³
- b. Emotional Intelligence is defined as: “The ability to perceive emotion, integrate emotion to facilitate thought, understand emotions and to regulate emotions to promote personal growth.”¹⁴
- c. Of the 4 branches of emotional intelligence (Self-Awareness, Self-Management, Social Awareness, Relationship Management)¹⁵, we are going to focus on Self-Management.
 - i. Self-Management included the abilities to control yourself and adapt to the environment.
 - ii. This leads to the ability to realize that you’ve become emotionally compromised, leading to decisions being made out of emotion instead of logic.
 - iii. Impulse control, which is part of Self-Management, is especially important to an officer’s character and ethical behavior.
 - iv. Officers who exhibit a high level of impulse control stay composed and refrain from aggression, hostility and irresponsible behavior.¹⁶

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C. DOCUMENT ALL TRAINING

- a. Copies of policies, lesson plans, what was taught and who taught it.
- b. Document the number of hours of training each officer had.
- c. Go through refresher training, which must also be documented

D. FORMAL DISCUSSIONS

- a. Regular discussions about officer's duty to intervene can be considered training.
- b. Bring up recent incidents that have enough information for a healthy discussion.
- c. Roll-call training is a great opportunity to discuss current events.
 - i. Review video (body-cam, squad-cam, etc.)
 - ii. Review legal opinions and court decisions
 - iii. Look at incidents that had both good & bad outcomes. Show what a good intervention looks like as well as when an intervention didn't occur.
 - iv. Discuss situations where an intervention is not needed, and the use of force was appropriate for that particular incident.

E. CONTROL TACTICS PROFICIENCY

- a. Arrest and defense tactics need to be practiced on a regular basis.
- b. Officers that are proficient in their skills are more likely to use less force.
 - i. Inappropriate or improper application of control tactics will lead to additional force being applied.
 - ii. Officers can become frustrated when compliance is not achieved due to their ineffective applications of control tactics.
 - iii. Can lead to more force being used than should be necessary.

F. PRACTICAL INTERVENTION PRACTICE & TRAINING

- a. Officers should have "hands-on" training for intervention.
- b. The use of role-players and simulators can provide officers to opportunity to hone their intervention skills.
- c. Training can be tailored to match the specific agency's policy on intervention.
- d. It is important to include training events that don't require officer intervention. Don't just train to the bad. Train to the positive outcomes as well.

VII. PENALTIES

[Slide 34] Officers could face federal and/or local criminal charges, can be personally sued (denial of summary judgment) or face a loss of their job.

VIII. BEST PRACTICES

[Slides 36-38]

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A. CREW RESOURCE MANAGEMENT (CRM) & THREAT ERROR MANAGEMENT (TEM)

- a. Developed in the airline industry in the 1970's.
- b. Found that the flight crew wasn't communicating effectively with each other, which was leading to errors that could be fatal.
- c. Allows anyone in the flight crew the ability to take over if corrective action isn't taken.
- d. FAA and Department of Defense now require all air crews to take a CRM (or similar) course.
- e. This line of professional intervention has been applied in the medical field as well.

B. NEW ORLEANS EPIC MODEL

- a. EPIC = Ethical Policing is Courageous
- b. The program uses Peer Intervention
 - i. Immediate and consistent interventions reinforce the boundaries of acceptable behavior.
 - ii. It allows officers to know that they aren't alone.
 - iii. It emboldens fellow officers to step-in and help their co-workers.
- c. Goals
 - i. Have officers understand the benefits of intervening.
 - ii. Officers can recognize the signs that an intervention is necessary.
 - iii. Teach how to properly, safely and effectively intervene.
 - iv. Protect those officers who intervene and those who accept intervention.
- d. Video: Sergeant testimonial on EPIC in NOPD
 - i. <https://youtu.be/AwEOeJkwOxw>

IX. APPLICATION OF INTERVENTION

[Slide 40]

- A. Officers should detect the need for an intervention early into the event.
- B. Look for the following signs
 - a. Anger/rage
 - b. Profanity
 - c. Poor application of tactics.
 - d. Failure to apply good policing standards (distances, hands, etc.)
- C. If an officer notices that an intervention is needed, and there hasn't been any force applied yet, the EPIC model suggests using a 10 Code, such as 10-12.
 - a. "Officer Smith, 10-12!"
 - b. Allows immediate intervention without embarrassing the officer or alerting others.
 - c. Officers are trained to immediately shut down and re-assess or let other officers assist.
- C. If an officer notices that an intervention is needed, and force has already started, the EPIC model suggests using the 10 Code 10-100.
 - a. Considered a critical declaration, necessitating immediately stoppage of actions.

X. PRACTICAL EXERCISES

- A. Discussion Videos
 - a. Refer to supplemental document "Discussion Videos"
 - b. Use included videos titled "Video 1 – 4"

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- B. Training Videos
 - a. Use the “Duty to Intervene Videos” simulation.
 - b. A student officer should observe the video unfold in front of them. At the conclusion of the video, the student officer shall have a discussion with the trainer on whether or not they saw any instances where they should intervene.
 - c. Discussions should include what (if any) violation occurred, and how they would have handled the situation in the real world.
- C. “You Again” (simulator-based scenario)
- D. “Protest Trouble” (simulator-based scenario)
- E. Select Instructor Option “Officer Goes After Protester” for Duty to Intervene based scenario.

XI. QUESTIONS?

XII. CITATIONS

1. Anderson v. Branen (1994).
2. Boyd v. Benton County (2004).
3. Byrd v. Brishke, 466 F.2d 6 (7th Cir 1972).
4. Department of Justice. (n.d.). Law Enforcement Misconduct. Retrieved from The United State Department of Justice: <https://www.justice.gov/crt/law-enforcement-misconduct#intervene>
5. EPIC - Ethical Policing Is Courageous. (n.d.). Retrieved from <http://epic.nola.gov>
6. Galindez v. City of Hartford (U.S. Dist LEXIS 17592 2003).
7. Glennon, J., & Brown, K. (2020). Duty to Intervene: Policy, Practice, Training & Buy-In. Calibre Press.
8. Goleman, D. (1998). Working with emotional intelligence. New York: Bantam Books.
9. Jones, J., & Saad, L. (2020). June Wave 1. Gallup News Service.
10. Law Enforcement Code of Ethics. (2020). Retrieved from The IACP: <https://www.theiacp.org/resources/law-enforcement-code-of-ethics>
11. Livers v. Schenk (2012).
12. Priester v. City of Riviera Beach, Fla. (2000).
13. Putman v. Gerloff (1981).
14. Randall v. Prince George’s County (2002).
15. Salovey, P., & Mayer, J. D. (1990). Emotional Intelligence. Research Article. doi:<https://doi.org/10.2190/DUGG-P24E-52WK-6CDG>
16. Samuels v. Cunningham et al (U.S. Dist LEXIS 14479 2003).
17. Sanchez v. Hialeah Police Department (2009).
18. Scarry, L. (2020, September 11). Officer Duty to Intervene: What you need to know about officer duty to intervene. Retrieved from Lexipol: <https://www.lexipol.com/resources/blog/what-you-need-to-know-about-officer-duty-to-intervene/>
19. Sir Robert Peel’s Policing Principles. (n.d.). Retrieved from Law Enforcement Action Partnership: <https://lawenforcementactionpartnership.org/peel-policing-principles/>
20. Tanner v. San Juan County Sheriff’s Office (2012).
21. Turner, T. W. (2009, August). Understanding the Benefits of EMotional Intelligence for Officer Growth and Agency Budgets. The Police Chief, 76(8), pp. 91-96, 98, 100, 102.
22. United States v Koon (C.D. Cal. 1993).
23. Walker v. Jackson (2013).
24. Washington Post-Scharr School. (June 2-7, 2020). Washington Post-Schar School poll. Washington Post.

STUDENT NAME: _____

DATE: _____

1. An on-scene officer that is not involved in the application of excessive force on a subject cannot be held liable.
 - A. True
 - B. False
2. An officer cannot legally intervene on a supervisor (Sergeant, Lieutenant, etc.) due to the command structure hierarchy.
 - A. True
 - B. False
3. Generally speaking, statistics have shown that _____% of police contacts end with officers using or threatening to use force.
 - A. 20-25%
 - B. 10-15%
 - C. 1-3%
 - D. 25%+
4. In fiscal year 2019, law enforcement agencies across the U.S. paid out approximately _____ in police misconduct cases.
 - A. \$750 million
 - B. \$500 million
 - C. \$300 million
 - D. \$125 million
5. Which one of the 4 categories of emotional intelligence can be focused on to help avoid overuse/ inappropriate use of force?
 - A. Self-Awareness
 - B. Relationship Management
 - C. Social Awareness
 - D. Self-Management

PRE-TEST KEY

1. B 2. B 3. C 4. C 5. D

All scoresheets and rubrics must be retained in department records for 30 years.***DUTY TO INTERVENE: NO SUCH THING AS A PROFESSIONAL BYSTANDER***

STUDENT NAME: _____

DATE: _____

Written Test (2 pts each)

1. For the first time in over 25 years, American's confidence in law enforcement is:
 - A. Greater than 75%
 - B. At 50%
 - C. Less than 50%
 - D. The same, no change
2. What are the two requirements to show that an officer failed to intervene? Choose two.
 - A. They were aware of the Constitutional violation.
 - B. They struck the subject more than 3 times.
 - C. They had a reasonable opportunity to intervene and chose not to.
 - D. The officer used discriminatory language.
3. You cannot be held liable for failure to intervene in a case that involves an officer for a different agency than yours
 - A. True
 - B. False
4. Which court case clearly established that "...a police officer may not ignore the duty imposed by his office and fail to stop other officers who summarily punish a third person in his presence or otherwise within his knowledge."
 - A. Rodney King (United States v Koon)
 - B. Samuels v. Cunningham et al
 - C. Galindez v. City of Hartford
 - D. Byrd v Brishke
5. Officers who have better control tactic skills tend to use excessive force _____ often than lesser skilled officers.
 - A. Less
 - B. More
 - C. Equally

6. When looking at an officer's emotional intelligence, Self-Management allows the officer to control:
- A. Hostility
 - B. Impulses
 - C. Irresponsible behavior
 - D. All of the above
7. Which of the following might be indicators that an intervention may be necessary?
- A. Anger/rage
 - B. Profanity
 - C. Poor application of tactics
 - D. All of the above
8. What is the New Orleans Police duty to intervene program called?
- A. NODI
 - B. EPCOR
 - C. EPIC
 - D. NOIC
9. Which of the following are good roll-call training opportunities? Choose as many that apply.
- A. Review squad/body cam video
 - B. Review legal/court decisions
 - C. Review only incidents that turned out badly
 - D. All of the above
10. A policy that isn't _____ isn't a policy at all.
- A. Written
 - B. Practiced
 - C. Punishable
 - D. Forgiving

TEST KEY

1. C 2. A&C 3. B 4. D 5. A
6. D 7. D 8. C 9. A&C 10. B

All scoresheets and rubrics must be retained in department records for 30 years.

DUTY TO INTERVENE: NO SUCH THING AS A PROFESSIONAL BYSTANDER

XV. RUBRIC

	Exceeds Expectations	Meets Expectations	Needs Improvement	Below Expectations
Understand what a failure to intervene is.	Can give the legal definition of what a “failure to intervene” is. Can state who it applies to. Can give examples of failure to intervene. Can cite legal cases regarding the failure to intervene by officers.	Can give a definition of what a “failure to intervene” is, but may miss specific legal terms. Can state who it applies to. Can give a few examples of failure to intervene. Can cite legal cases of failure to intervene, but may not know all of the names.	Can describe failure to intervene but unable to use specific legal terms/requirements. Can list who it applies to, but fails to include all requirements. Can cite legal decisions, but are unable to recall specific facts and people involved in those cases.	Cannot define what failure to intervene is. Cannot state when it applies. Cannot give examples of failure to intervene. Cannot cite any significant legal cases regarding failure to intervene.
Successfully complete the scenario “Protest Trouble”	Student maintains their position on the security line. Student addresses their fellow officer using the duty to intervene techniques that were taught. Student successfully has the on-screen officer retreat behind the security line without assaulting the protester.	N/A	N/A	N/A
Successfully complete the scenario “Weapon Confusion”	Student addresses the on-screen officer using the duty to intervene techniques that were taught. Student successfully intervenes with the on-screen officer. The on-screen officer disengages from the situation and allows the student to take over.	N/A	N/A	N/A

DUTY TO INTERVENE: NO SUCH THING AS A PROFESSIONAL BYSTANDER

Successfully complete the “You Again” scenario	Student addresses the on-screen officer using the duty to intervene techniques that were taught. Student successfully intervenes with the on-screen officer. The on-screen officer disengages from the situation and allows the student to take over.	N/A	N/A	N/A
Understand why officers must intervene	Student can define the moral duty and the officer code of ethics. Student can detail how society holds officers to a higher standard. Student knows Sir Robert Peels 3rd rule. Student can explain how they are responsible to keep everyone safe and how they could save their or another’s career.	Student can give an overview of moral duty and the officer code of ethics. Student can detail how society holds officers to a higher standard. Student can give a general overview of Sir Robert Peels 3rd rule. Student can give some details how they are responsible to keep everyone safe and how they could save their or another’s career.	Student can give a brief explanation of moral duty and the officer code of ethics. Student understands how society holds officers to a higher standard, but cannot give details. Student can give a brief explanation of Sir Robert Peels 3rd rule, but unable to cite specifics. Student can give few details how they are responsible to keep everyone safe and how they could save their or another’s career.	Student cannot define the moral duty and the officer code of ethics. Student cannot detail how society holds officers to a higher standard. Student does not know Sir Robert Peels 3rd rule. Student cannot explain how they are responsible to keep everyone safe and how they could save their or another’s career.
Identify policy and legal requirements of duty to intervene	Student can identify why policies fail, including police culture and leadership issues, and give many examples. Student can articulate what makes a successful duty to intervene policy, citing many examples of what should be included.	Student can give a general overview why policies fail, including police culture and leadership issues, and can give some examples. Student can give a general overview of what makes a successful duty to intervene policy, citing some examples of what should be included.	Student can generally explain why policies fail, including police culture and leadership issues, and can give only one or two examples. Student can generally explain what makes a successful duty to intervene policy, citing only one or two examples of what should be included.	Student cannot explain why policies fail, including police culture and leadership issues. Student cannot give any examples. Student cannot articulate what makes a successful duty to intervene policy, and cannot cite any examples of what should be included.

DUTY TO INTERVENE: NO SUCH THING AS A PROFESSIONAL BYSTANDER

Understand the role training has in duty to intervene cases.	Student can explain in detail how communication and emotional intelligence plays a role in training and duty to intervene. Student can detail what should be documented regarding training. Student can explain how regular training can help avoid the need to intervene.	Student can explain how communication and emotional intelligence plays a role in training and duty to intervene, but may miss some points. Student can give a generalized overview of what should be documented regarding training. Student can give some examples of how regular training can help avoid the need to intervene.	Student can generally explain how communication and emotional intelligence plays a role in training and duty to intervene but cannot give examples. Student can give few details of what should be documented regarding training. Student can give one or two examples of how regular training can help avoid the need to intervene.	Student cannot explain how communication and emotional intelligence plays a role in training and duty to intervene. Student cannot explain what should be documented regarding training. Student cannot explain how regular training can help avoid the need to intervene.
Identify best practices on duty to intervene training and implementation.	Student can explain the New Orleans EPIC model. Student can explain the Crew Resource Management and Threat Error Management techniques and how they apply to intervention. Student can detail how to best apply an intervention.	Student can explain most of the New Orleans EPIC model. Student can explain most of the Crew Resource management and Threat Error Management techniques and how they apply to intervention. Student can give several examples of how to best apply an intervention.	Student can explain the idea behind the New Orleans EPIC model. Student can give a generalized explanation of the Crew Resource management and Threat Error Management techniques. Student can only give a couple of examples of how to best apply an intervention.	Student cannot explain the idea behind the New Orleans EPIC model. Student cannot give a generalized explanation of the Crew Resource management and Threat Error Management techniques. Student can't give examples of how to best apply an intervention.
Pass the written examination	Score 70% or better on the final examination for Duty To Intervene.	N/A	N/A	N/A

XVI. STUDENT ATTENDANCE ROSTER

TOPIC: DUTY TO INTERVENE	DATE: _____
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[illegible]

I certify that each person listed on this roster was present in class for the entire number of training hours reflected, and if not, their training hours have been adjusted and recorded accordingly.

PRINT NAME: _____

SIGNATURE: _____

DUTY TO INTERVENE: NO SUCH THING AS A PROFESSIONAL BYSTANDER

XVII. CLASS SURVEY

TOPIC: DUTY TO INTERVENE: NO SUCH THING AS A PROFESSIONAL BYSTANDER

INSTRUCTOR: _____

DATE: _____

COMMENTS

CLASS CONTENT	Excellent	Above Average	Good	Below Average	Poor
Class organization					
Class objectives were clearly stated					
Practical activities were relevant to objectives					
All materials/resources were provided					
Topic area was important to Law Enforcement					
CLASS INSTRUCTION					
Instructor was prepared					
Instructor was knowledgeable in the content area					
Manner of presentation of the material was clear					
Effective teaching strategies were used					
Instruction met class objectives					
STUDENT PARTICIPATION					
Level of effort you put into the course					
Your skill/knowledge of the topic at start of course					
Importance of the topic to your assignment					

DUTY TO INTERVENE: NO SUCH THING AS A PROFESSIONAL BYSTANDER

XVIII. CONTACT VIRTRA

If you have any questions/issues with any part of this manual, please see contact below:

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