



Duty to Intervene

4 Hour Webinar

Outline

Blue to Gold Law Enforcement Training
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During this training, we expect students to:

Module One: Course Introduction – 30 minutes

1. Instructor introduction.
2. Explain that the course objective is train officers and agencies when they are legally required to get involved. The result will be decreased liability and improved officer wellness.
3. Explain the three reasons why we need this course:
 - a. Professionals are prone to liability
 - b. We work in a highly charged environment
 - c. Failure to intervene will jeopardize your job and freedom
4. Describe how officers are constantly taught to “go home at night” and this may breed a culture of unconstitutional actions. It’s not only important to go home at night, but cops need to go home to their own bed, not a prison.
5. Describe the three requirements for a culture of intervention:
 - a. Command backing
 - b. Establishing expectations
 - c. Your buy-in
6. Finally, explain that this training is a tool, just like your firearm or handcuffs.

Module Two: 1983 Civil Suits - 20 minutes

1. Explain how a 1983 lawsuit is the most common lawsuit officers will face.
2. Describe how 1983 lawsuits are used, and what violations are covered.
3. Explain the two requirements for a 1983 lawsuit:
 - a. Deprivation of a federal right
 - b. Person acted under state law

4. Explain that 1983 lawsuits don't need "real" damages, and successful plaintiffs will receive attorney's fees.

Module Three: Sec. 242 indictments - 20 minutes

1. Explain the difference between a 1983 and 242 action, and focus on the intent requirement
2. Describe the consequences of a 242 indictment, including the death penalty.
3. Share the Rodney King case and how the officers were ultimately convicted under Sec. 242.

Module Four: Agency Intervention - 30 minutes

1. Review the legal requirements for agency intervention. In particular, explain that agencies are not strictly liable for their officers' unconstitutional actions. Instead, the agency must have independent liability as described below.
2. Explain the three major sources of agency liability:
 - a. The agency implements an unconstitutional policy. Here, the agency will be strictly liable.
 - b. There exists a custom and practice inside the agency that has the force of policy. Here, the custom must be the moving force behind the violation.
 - c. Finally, the agency can be deliberately indifferent to the training needs of its officers. This means the agency is or should be aware of a training need, and the failure to train causes harm.

Module Five: Supervisor Liability - 20 minutes

1. Review the legal requirements for supervisor liability. In particular, explain that supervisors are not strictly liable for their officers' unconstitutional actions. Instead, the supervisor must have independent liability as described below.
2. Explain the three major sources of supervisor liability:
 - a. The supervisor is directly involved in the incident.

- b. The supervisor failure to discipline the rogue officer.
- c. The supervisor was grossly negligent in supervising the officer.

Module Six: Peer Intervention - 20 minutes

1. Describe the hierarchy of risk associated with jobs and why the public has higher expectations for high-risk professionals, like police officers.
2. Review other professionals that already have intervention protocols in place, like pilots and doctors.
3. Review the benefits of peer intervention, including:
 - a. Officer wellness
 - b. Officer safety and tactics
 - c. Preventing misconduct and complaints
 - d. Reinforce best practices
 - e. Utilize everyone to improve the lives of their co-workers
4. Go over what peer intervention is not:
 - a. An internal affairs program
 - b. Discipline program
 - c. Mediation program
 - d. A "tell on your partner" program

Module Seven: The Law - 30 minutes

1. Explain that all officers have a constitutional duty to intervene when they observe a constitutional violation.
2. Describe the five requirements for intervention:
 - a. An officer violates the constitution
 - b. The other officer knew it was happening or about to happen

- c. There was a realistic opportunity to intervene
- d. The other officer failed to take reasonable steps
- e. This failure caused harm

Module Eight: Barriers to Intervention - 30 minutes

1. Explain that the biggest barrier to intervention is agency culture, not policy.
2. Explain that failure to intervene is not an option. It must become part of agency culture otherwise officers risk loss of freedom and livelihood.
3. There are seven recognized barriers to intervention:
 - a. Retaliation from other officers
 - b. Isolation after intervention
 - c. Being wrong, uncertainty about what's going on
 - d. Lack of skill to intervene
 - e. The other officer is higher rank, or supervisor
 - f. A feeling that someone on scene is better able to handle the issue
 - g. A feeling that if no one else is intervening, then there must not be something wrong

Module Nine: How to Intervene - 30 minutes

1. Explain that effective peer intervention requires the following:
 - a. Agency policies that require intervention.
 - b. Officer buy-in and peer intervention is in their best interest and the best interest of the officer whom they are intervening.
 - c. The first proactive step officer must take for low-level misconduct is to ask questions of the other officer. This intervention often resolves the issue.

- d. If asking questions does not resolve the issue, tell the other officer to slow the incident down. This will often restore good tactics and decision making.
- e. Next, officers that observe imminent misconduct should employ an agreed upon “code word” that signals the other officer that his or her partner does not agree with what is happening and to change course.
- f. Finally, if the previous intervention techniques do not work, or serious misconduct is or about to occur, then the peer must step-up and step-in. There are no choices.

Module Ten: Final Takeaways - 10 minutes

1. Explain to students the three big takeaways for the course:
 - a. Failure to intervene is not an option.
 - b. Sustained misconduct means the something in your agency is broken.
 - c. Embrace intervention culture. It’s the ultimate “I got your back.”

Total: 240 Minutes