

Duty to Intervene

POLICY ASSESSMENT JANUARY 2021

The culture in many police departments discourages some officers from speaking up when they see colleagues engaged in inappropriate or unlawful behavior, even when they have a legal obligation to do so. Measures that require officers to intervene in such situations often are known as “duty to intervene” (DtI) policies. Officers are also expected to report certain forms of misconduct on the part of their peers under mandatory reporting policies. Both policies are designed to break through what is commonly regarded as a “blue wall of silence” among officers and, by doing so, reduce misconduct as well as injuries and fatalities among members of the public and police officers.

SUMMARY ASSESSMENT

- + Agencies should adopt policies that require officers to intervene upon witnessing excessive force committed by peers and supervisors and that hold accountable those who engage in such misconduct.
- + Mandatory reporting of other forms of officer misconduct and proscribed behaviors, including those that might compromise officer wellness, is an important complement to duty to intervene policies.
- + Such policies should be codified and reinforced through training to address negative stereotypes, racial biases, and power dynamics that help justify inaction on the part of bystanding officers.
- + To be effective, intervention and reporting policies should be accompanied by organizational changes to transform the culture of policing and break down the blue wall of silence.
- + Studies in behavioral psychology find that bystanders are more likely to intervene when encouraged by a superior to do so and after witnessing peers intervene in similar cases, suggesting that publicly rewarding officers for intervening can prompt other officers to do so.

Current Practice and Research

The available empirical evidence on the effects of DtI policies is limited to studies finding that agencies that adopt these policies have lower numbers of police killings per capita compared to those that do not. These analyses cannot attribute causation and do not control for departmental and jurisdictional differences that might also lead to higher or lower levels of fatalities of members of the public on the part of law enforcement (Mckesson et al., 2016).



A 2020 survey of the 65 largest U.S. police departments found that 48 of them have a Dtl component within their use-of-force policies, typically requiring an officer to intervene if a colleague uses excessive force (Kindy et al., 2020). A more recent policy review found that as of January, 2021, 72 of the 100 largest police agencies have duty to intervene policies; of those, 21 were adopted since June 5, 2020 (Mckesson et al., 2020).

Officers are largely supportive of Dtl policies. A recent poll of 8,000 officers found that 84% believed officers should be required to intervene when they think another officer is using unnecessary force (Morin et al., 2017). But compliance with such policies is uneven at best. That reality was powerfully exemplified by the killing of George Floyd in Minneapolis, a city that had a Dtl provision in place at the time of Floyd's death (Furst, 2020).

There is a lack of research on Dtl policies in law enforcement agencies. That means the best guidance on which elements would make Dtl policies most impactful is found in research on intervention programs in non-policing settings and on mandatory reporting or whistleblowing policies in police agencies, as well as in psychological studies on the inhibitors and predictors of passive versus active bystanding. Across various topics and settings, the most robust evaluations of intervention programs that encourage active bystanding examine such programs in the context of sexual assault prevention. One evaluation of a college campuswide active bystander intervention found lower rates of unwanted sexual victimization, sexual harassment, stalking, and psychological dating violence victimization and perpetration (Coker et al., 2016). Another study using an experimental design found similar impacts in high school settings (Coker et al., 2017). These findings suggest that it is possible to change bystanding behaviors to reduce harms, but they do not address the unique dynamics associated with policing.

Studies find that police officer compliance with mandatory reporting policies, a close relative of Dtl policies, may be low because reporting the wrongdoing of peers involves violating the commonly understood code of silence (Rothwell and Baldwin 2007, Pershing 2003). Moreover, calling out misconduct on the part of superiors is challenging and frowned upon given the paramilitary structure and rigid hierarchy of police agencies (Kaptein, 2011). A survey of rank and file officers in several police agencies, however, found that officers are more likely to report on a colleague when they are familiar with rules prescribing the reporting of misconduct, they believe the misconduct to be of a serious nature, and/or they expect harsh discipline associated with noncompliance (Kutnjak, Haberfeld, and Peacock, 2016). Another study found that perceptions of internal procedural fairness and departmental equity are necessary preconditions for officers to feel comfortable reporting wrongdoing on the part of their peers (Wolfe and Piquero, 2011).

Research in the field of psychology has identified that the single greatest factor preventing bystanders from intervening is justification. Justification can take the form of viewing those being harmed as "bad actors," devaluing them, and characterizing them as dangerous. Another justification strategy is to rationalize that the harm being done is in service of protecting the dominant group or society at large (Staub, 2014). Implicit biases may have a role in supporting such justification. By contrast, active bystanding is more likely when encouraged and modeled by supervisors and peers (Staub, 2010).

Authors of a process evaluation of a law enforcement active bystander program hypothesize that faithful execution of such an intervention will not just prevent excessive use of force and save lives, but may also promote officer well-being, reduce legal risks on the part of the agency, and build community trust. (Aronie and Lopez, 2017).

The most prominent model designed to ensure that Dtl policies are followed is Active Bystandership for Law Enforcement (ABLE), a police peer intervention curriculum developed by Georgetown University Law Center. ABLE is based on a program called Ethical Policing is Courageous (EPIC), which was implemented by the New Orleans Police Department as part of compliance with its consent decree. Its 8-hour training curriculum covers the behavioral science behind active versus passive bystandership and provides strategies for both giving and



receiving an intervention. While not yet rigorously evaluated, the program’s principles and content are grounded in research evidence.

Critical Policy Elements

- + Dtl and mandatory reporting policies should apply to a wide array of police behavior and misconduct beyond excessive use of force, including early warning signs (e.g. drinking on the job), and be accompanied by clearly documented and universally understood descriptions of the types of prohibited officer conduct that require intervention.
- + The duty to intervene should often but not always include mandatory reporting. Departments should be clear about the instances in which reporting is mandatory and what the consequences are for failing to report.
- + Effective and faithful adherence to Dtl policies is facilitated by an organizational culture that comports with equitable and procedurally just internal departmental policies and processes.
- + Supervisors at all levels should support and model active bystanding.
- + Dtl policies should be a part of a comprehensive stand-alone training module as well as integrated into all facets of hiring and training, and should include modules to enhance awareness of biases and stereotypes that may inhibit intervention.

Expected Impacts

PREVENTING MISUSE OF FORCE

Mandating that officers intervene when they witness misconduct on the part of their peers could reduce police misuse of force and resulting injuries and fatalities to members of the public. This outcome, however, is not certain and likely depends on an agency culture that invites reporting of misconduct and on policies that reward intervention and sanction those who fail to intervene.

ENHANCING TRANSPARENCY AND ACCOUNTABILITY

Officer accountability may also be enhanced through clearly articulated consequences, not just for officers who engage in misconduct, but also for those who bear witness to it, are in a position to intervene, and who fail to do so. The most powerful consequence is the prosecution of officers who fail to take reasonable steps to protect a person who is subject to excessive police use of force.

STRENGTHENING COMMUNITY TRUST

Community trust is born of the belief that officers serve the public, treat people respectfully, follow the law and departmental policies, and are held accountable for their actions. Trust is eroded when officers misuse or apply excessive force, particularly when officers who bear witness to such violations stand silent. Faithful adherence to Dtl policies therefore holds promise for building community trust.

REDUCING RACIAL DISPARITIES

If Dtl policies are accompanied by measures that successfully combat the negative stereotypes and profiling that support justifications officers use to not intervene, racially disparate outcomes associated with police misconduct and use of force may be reduced.

ENSURING OFFICER SAFETY

When officers intervene upon seeing a peer use excessive force, fail to follow proper procedures (e.g., conducting a thorough pat down search), or exhibit signs of compromised personal wellness (e.g., alcohol or drug misuse), they could prevent harm, or even death, to fellow officers.



PROMOTING PUBLIC SAFETY

The impact of Dtl policies on public safety¹ rests on officer compliance. The greater the share of officers who routinely comply with the policy, the lower the likelihood of trauma, injury, and death to members of the public and the less likely it is that officers will suffer from injuries associated with unwarranted use of force.

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End Notes

1 The Task Force defines public safety as safety from both harm from community members and harm from police officer misuse of force.



About The Task Force

The independent **Task Force on Policing** was launched in November 2020 by the **Council on Criminal Justice**. Its mission is to identify the policies and practices most likely to reduce violent encounters between officers and the public and improve the fairness and effectiveness of American policing. The **11 Task Force members** represent a diverse range of perspectives and experience and include law enforcement leaders, civil rights advocates, researchers, a former mayor, and community members who have lost loved ones to police violence. The Council staffs the Task Force, and the **Crime Lab** at the University of Chicago's Harris School of Public Policy is serving as its research partner.

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