**SAMPLE POLICE DEPARTMENT**

**Duty to Intervene and Report**

NOTE: This document is for internal use only. It does not establish a legal duty or standard of care for civil liability, or enlarge an employee’s civil or criminal liability in any way. A violation of this policy may only form the basis for internal discipline by this agency and then only in a non-judicial administrative setting.

1. **PURPOSE**

To establish the legal and moral obligation, as well as an affirmative duty for department personnel to intervene to prevent or stop misconduct that is being conducted by other personnel or members of other law enforcement agencies.

1. **POLICY**
2. The SAMPLE Police Department is committed to conducting its mission with honor and integrity and fostering a culture of transparency and accountability. As such, the use of excessive or unreasonable force or illegal, unethical, or inappropriate behavior will not be tolerated. Those who engage in such misconduct, and those who fail to report such misconduct, will be subject to all applicable administrative and criminal penalties.
3. Department personnel have an affirmative duty to intervene and report to appropriate supervisory authority if they observe or become aware of any department personnel, or a member of another law enforcement agency, engaged in an unreasonable or excessive use of force, or involved in conduct that is unethical, or clearly violates the law or department policy.
4. This agency is committed to protecting officers who act on their duty to intervene to prevent or minimize misconduct.
5. **DEFINITIONS**
6. Intervene: To come between, whether verbally or physically, to prevent or change a result or course of events.
7. Officer: any employee or other member of the department whether sworn, non-sworn or volunteer, regardless of position or assignment.
8. **PROCEDURE**
9. General
10. Officers must take a proactive, preventive approach toward misconduct. When an officer observes behavior that suggests another officer is or is about to conduct illegal, unethical, or inappropriate behavior the officer should intervene verbally and / or physically, depending on the circumstances, to prevent or stop the conduct.
11. Officers must intervene when they observe another officer or members of other law enforcement agencies using force that is unreasonable or excessive under the circumstances.
12. Officers must intervene on behalf of a citizen whose constitutional rights are being violated in their presence by another officer(s).
13. Officers must intervene when they observe or hear conduct by another officer(s) that is unethical or clearly violates the law or department policy.
14. Any instances of unlawful or excessive force, required intervention, or knowledge of misconduct, shall be reported to a supervisor who was not involved in the incident without unreasonable delay, but no later than the end of shift.
	1. Failure to intervene and / or report such incidents is, itself, misconduct that may result in disciplinary action with potential consequences including termination, civil liability, and/ or criminal prosecution.
15. If any person is injured and requires medical attention, officers shall request medical assistance and provide safe access to the injured person for emergency medical services as soon as safe and practical and should render aid when safe to do so in accordance with their training.
16. Retaliation against any department personnel for preventing, intervening, or reporting unlawful or unethical behavior or behavior that violates the law of department policy is prohibited. Any member of this agency who engages in retaliation against an individual who has prevented, intervened, or reported such conduct will be subject to discipline up to and including termination.
17. Use of Force Incidents
18. The use of unjustified or excessive force is unlawful and will not be tolerated. All officers have an affirmative and legal duty to intervene if they witness a use of force that is clearly unreasonable.
	1. An officer’s duty to intervene extends to the known use of unjustified or excessive force by personnel from another law enforcement agency or detention facility.
19. An officer shall not knowingly allow another law enforcement officer or detention officer to use force that the officer knows is unjustified or excessive under the circumstances. An officer shall, when safe and feasible, intervene to prevent the known use of unjustified or excessive force, except when doing so would place the observing / responding officer in an articulable, reasonable fear of death or serious bodily injury.
20. When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.
21. Officer(s) witnessing the use of unreasonable force or actions which may lead to the use of unreasonable force by law enforcement personnel shall intervene by taking all necessary actions, including, but not limited to:

a. Using verbal persuasion and/or commands. *(Agency may wish to implement a TAG OUT phrase)*

b. Moving between and providing separation between the officer(s) and the subject.

c. Physically restraining the officer(s).

4. Non-sworn employees observing the use of unreasonable force by others should attempt to intervene verbally but should not attempt physical intervention. Additional assistance may be requested if needed.

1. An officer shall not encourage, conceal, or fail to report the unjustified or excessive use of force. An officer who has knowledge of an unjustified or excessive use of force shall notify a supervisor who was not involved in the incident without unreasonable delay. Alternatively, the officer may notify the Chief of Police or the appointing authority.
	1. The reporting requirement applies to all officers and requires self-reporting of the unjustified or excessive use of force.
	2. All reports concerning the use of force shall comply with reporting and review requirements of the department’s USE OF FORCE policy. An officer shall not knowingly and intentionally omit from a report significant facts about the circumstances under which force was used, details regarding the type or amount of force used, or the identity of a person who used force.
		1. At the officer’s request, the officer shall be permitted to view all audio and video recordings of the use of force incident before the officer prepares a use of force report or gives a statement regarding the incident.
2. Supervisor Responsibilities
3. A Supervisor who observes the use of excessive or unreasonable force or illegal, unethical, or inappropriate behavior shall issue a direct order to the officer(s) involved to cease such actions immediately.
4. Upon receipt of a report or otherwise learning of an incident involving the use of excessive or unreasonable force or illegal, unethical, or inappropriate behavior, or an officer intervening with another officer, the supervisor shall:
	1. If possible, separate all officers involved in the incident.
	2. Instruct involved officers to complete appropriate documentation of the event including detail of the circumstances that led to the incident and / or intervention and what, if anything, occurred once the intervention occurred.

c. Conduct a preliminary investigation to gather any pertinent information into circumstances surrounding the incident and / or intervention (e.g., witnesses, BWC footage, videos, area canvass, etc.).

d. The investigating supervisor will make an initial determination whether the actions of the incident and / or intervention constitute misconduct, unethical behavior, or potential criminal conduct, compete a report, and forward the report through the chain of command.

e. The Chief of Police will review the reports for compliance with department policy and applicable laws and document any action to be taken, including policy revisions, remedial training, disciplinary action, administrative action, or, if appropriate, referral for criminal prosecution.

1. If the Chief of Police otherwise determines that further investigation is appropriate, the Chief of Police may order one or more of the following actions:
	* 1. The Chief of Police may order an internal investigation.\
		2. The Chief of Police may request an outside investigation of the incident by the Alabama Law Enforcement Agency State Bureau of Investigation, the Alabama Attorney General’s office, the Federal Bureau of Investigation, or another outside agency.
		3. The Chief of Police may place an officer on administrative duty or administrative leave pending the outcome of an investigation or until the Chief of Police is satisfied that the officer should return to regular duty.
2. If appropriate, consider making a recommendation that the member who intervened receive recognition for his/her actions.

APPROVED: CHIEF OF POLICE DATE

I HAVE READ AND UNDERSTAND THIS ORDER

SIGNATURE OF OFFICER DATE

***DISCLAIMER***

***NOTE****: These documents are being provided to you from the AMIC/MWCF Loss Control Division and are not intended to be legal advice. They do not identify all the issues surrounding a particular topic. Laws and “Best Practices” change and policies must be continually reviewed and updated as needed. Public agencies are encouraged to review their procedures with an expert or an attorney who is knowledgeable about the topic. Reliance on this information is at the sole risk of the user.*