

# UW Whitewater Police



## Duty to Intervene

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## I. Purpose

The purpose of this policy is to codify the expectations of the UW-Whitewater Police Department (UWWPD) that all members have a legal, moral and ethical obligation known as the Duty to Intervene. This duty is embodied in the UWWPD's Mission and Values, in the Law Enforcement Officer's Code of Ethics (GO 1.1.2), Non-Sworn Personnel Code of Ethics (GO 1.1.2), humanity's expectations, and the law. UWWPD members shall have a clear understanding of UWWPD's expectations of the duty to intervene while on and off duty.

## II. Definitions

**Deadly force [Wis. Stat. 175.44(2)(c)]**: A law enforcement officer may use deadly force only as a last resort when the law enforcement officer reasonably believes that all other options have been exhausted or would be ineffective. A law enforcement officer may use deadly force only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the law enforcement officer or another person. If both practicable and feasible, a law enforcement officer shall give a verbal warning before using deadly force.

**Duty to Intervene**: The expectation, responsibility, and ethical requirement to ensure the prevention of misconduct, mistreatment, abuse of authority, excessive use of force, and malfeasance.

**Intervene**: To come between, whether verbally or physically; to prevent or alter a result or course of events.

**Members**: Any individual employed by or entrusted with authority from the UW-Whitewater Police Department.

**Public Safety Members**: Include but not limited to: members of task forces with which the agency works, members from other agencies with shared or concurrent jurisdictions, agency volunteers, or representatives from support organizations within the broader criminal justice system.

**Sanctity of Human Life [Wis. Stat. 175.44 (2)(a)]**: In serving the community, law enforcement officers shall make every effort to preserve and protect human life and the safety of all persons.

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Law enforcement officers shall also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner.

**Use of Force [Wis. Stat. 175.44(2)(b)]:** When using force, a law enforcement officer is required to act in good faith to achieve a legitimate law enforcement objective. A law enforcement officer is authorized to use force that is objectively reasonable based on the totality of the circumstances, including:

1. The severity of the alleged crime at issue.
2. Whether the suspect poses an imminent threat to the safety of law enforcement officers or others.
3. Whether the suspect is actively resisting or attempting to evade arrest by flight.

## III. Policy

It is the policy of the UWWPD that its members will intervene, within their scope of authority and training, to prevent or stop other agency employees or public safety members from implying, conducting, or committing an unethical act, unreasonable use of force, or violation of departmental policy, state/provincial or federal law, or local ordinance. UWWPD is committed to protecting its members who act on their duty to intervene to prevent or minimize misconduct by another UWWPD member or outside agency. Individuals who fail to act upon their duty to intervene are provided no such protections, and may be subjected to disciplinary action.

## IV. Procedure

### A. Duty to Intervene

1. All members must recognize and act upon the duty to intervene to prevent or stop another agency employee or public safety members from conducting any act that is unethical or violates departmental policy, state/provincial or federal law, or local ordinance (e.g., excessive force, theft, fraud, inappropriate language, sexual misconduct, harassment, falsifying documents, inappropriate behavior, etc.). Intervention may be verbal and, if required, physical. **Failure to intervene will subject a member to disciplinary action and/or legal sanctions.**
  - a. Members of UWWPD will intervene within their scope of authority and training.
  - b. This policy does not require non-sworn personnel to intervene in use of force situations where they are not properly trained or required by oath of office or law to take such actions.
2. Some situations, such as unreasonable use of force or inappropriate due process procedures may necessitate immediate intervention. Other circumstances, such as conduct unbecoming of an employee may be best handled through reporting to the appropriate supervisory or administrative authority.
3. All UWWPD members benefit when misconduct is not perpetrated or when a mistake is not made. Preventing misconduct preserves the integrity of all UWWPD members, the public we serve, and the honor inherently required of our profession.

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Misconduct, malfeasance, and abuse result in the loss of trust, faith and support of our communities.

## **B. Off Duty Interventions:**

1. WI Act 75 requires officers to intervene on or off duty, however caution must be taken while intervening off duty. Officers should consider several safety factors when intervening off duty.
  - a. Is the officer in their own jurisdiction and would they be recognized as a police officer if they intervened?
  - b. Is the officer in uniform, plain clothes, or in civilian attire that would make it difficult for the officer to be recognized? This includes if the officer is carrying a badge or credentials.
  - c. Is the use of force part of an on-going situations that intervention would put the off-duty officer's life or others at risk, such as an active killer situation or tactical situation?
  - d. Would the officer intervention escalate the situation, such as walking into a hostile crowd situation?
  - e. Is the officer able to react because of others with them, such as juvenile family member that would be put in harm's way by acting?
2. If after taking in the above, and possibly other safety factors, the officer does decide to intervene they must make sure to identify themselves to the other officers on scene. They will then stay on scene to make a report of their actions to a supervisor for that agency, or if not present a representative from the affected agency. They will then immediately contact an on-duty or on-call supervisor for UW-Whitewater Police Department. That supervisor will contact a supervisor from the other agency within 24 hours to see if further information or reports are needed.
3. If after taking in the above, and possibly other safety factors, the officer decides not to take immediate action the officer will contact either the on-duty or on-call supervisor for UW-Whitewater Police Department as soon as practicable but unless exigent circumstances this should not exceed 24 hours. The supervisor that gets this report should then contact a supervisor with the agency in question within 24 hours after receiving this information.

## **C. Required Actions**

1. All Members
  - a. If aid is required by any individual, ensure that medical attention has been rendered.
  - b. Take a preventive approach, whenever possible, if observing behavior that suggests that another member or public safety member is about to conduct unethical or inappropriate behavior.
    - i. Examine the circumstances surrounding the incident to determine the appropriate form of intervention.
    - ii. Intervene verbally or physically, depending on the circumstances.

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- iii. Example: While providing backup for a vehicle stop after a minor traffic violation, you notice the primary officer raising his/her voice and becoming increasingly agitated with the driver, despite the driver's cooperative demeanor. To prevent an escalation, you are expected to intervene, address the officer's conduct to them directly, take over the traffic stop, reassure the driver of the intentions of the stop, and finish the contact professionally. This is also known as a Contact Officer Override and is part of the Professional Communications training standards, trained in the basic recruit academy.
- c. Take an active approach to intervene to stop unethical behavior or misconduct, when such conduct is being committed by another member.
  - i. If verbal interventions are not sufficient to stop the act, come between the offending member and the other individual involved.
  - ii. Example: You observe an officer strike or push an individual without the legal authority to do so. You are expected to take over the matter and remove the officer from further interaction. If necessary, you are expected to physically protect the individual from the offending officer, just as you would any individual from another aggressor. If possible, a supervisor should immediately be called to the scene.
- d. Members will notify a supervisor after conducting any type of intervention. This is to be done as soon as the safety of all involved is secured.

2. Supervisors

- a. Once learning of an incident involving a member or public safety member intervening with another member, separate all members involved in the incident.
- b. The supervisor has the authority, if they deem the situation meriting it, to place the alleged offending member on immediate leave with pay pending formal authorization for administrative leave.
- c. Conduct a preliminary investigation to gather any pertinent information related to the reason for the intervention (e.g., witnesses, BWC footage, videos, area canvass, etc.).
- d. Determine whether the actions leading to the intervention constitute misconduct, unethical behavior, or potential criminal conduct and create a report for the Chief of Police or designee.
- e. If appropriate, consider recommending that the member who intervened receive recognition for his/her actions.
- f. If the report is about a member of another law enforcement agency, the supervisor will pass the information onto a supervisor of that agency within the following 24 hours.

3. Chief of Police or Designee

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- a. Ensure preliminary investigation and findings have been fully documented.
- b. Review all investigations and findings to see if any misconduct, unethical behavior, or potential criminal conduct occurred.
- c. Approve/disapprove the resulting findings of each investigation deriving from a member intervening to stop misconduct.
- d. Ensure the appropriate discipline and/or education occurs with the member.
- e. When appropriate, issue recognition of the positive actions of the member who intervened.

## **D. Duty to Report Intervention and Non-Complainant Use of Force**

1. Members will notify a supervisor after conducting any type of intervention or witnessing use of force that does not comply with the standards in the Wisconsin State Statutes definition of Use of Force (see definitions section above). This is to be done as soon as the safety of all involved is secured and as soon as practicable after the incident is contained.
2. If a supervisor is on duty they should be called to the scene by the officer or the public safety member. If a supervisor is not on duty, or if the supervisor is involved in the incident, this should be reported to either the on-call supervisor or the next highest level of supervisor before the end of shift unless extreme circumstances prevent this.
3. When an officer is part of a task force or other multi-agency unit they should report this to their supervisor for this group before their end of shift and a supervisor for UW-Whitewater PD within 24 hours.
4. Finally, if an officer is on duty at UW-Whitewater and intervenes with an officer from another agency; the officer may immediately notify the supervisor for the other agency if they are available but still must notify a supervisor for UW-Whitewater PD before the end of their shift.
5. Although a verbal report is sufficient to comply with this policy; an officer will be required to complete a written report on the incident either before the end of their shift; or with supervisor approval at the start of their next duty shift.
6. Whistleblower Protections:
  - a. Wis. State 175.44(5) provides whistleblower protections for law enforcement officers for reporting noncompliant use of force. The full statute is listed below.
  - b. WHISTLEBLOWER PROTECTIONS. No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any noncompliant use of force as required under sub. [\(3\)](#) or [\(4\)](#); intervened to prevent or stop a noncompliant use of force as required under sub. [\(4\)](#); initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or

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proceeding regarding a noncompliant use of force; or provided any information, or is believed to have provided any information, about noncompliant use of force as required under sub. [\(3\)](#) or [\(4\)](#). History: 2021 a. 75.

## **E. Duty to Report other Minor Violation of Policies, State Law and University Policies**

1. If members see another employee engage in other minor violations of policies, state law and university policies, they also have an expectation to bring this matter to the attention of a supervisor. This may include an employee that is constantly violating traffic laws such as running stop signs, an employee that is using items that the department provided to them for personal gain or access to areas that the general public would not be allowed for personal benefit or personal interactions that intentionally belittle people.
2. Although these actions do not require immediate action of a supervisor, if a supervisor is on duty they may be called to the scene by the officer. If a supervisor is not on duty, or if the supervisor is involved in the incident, this should be reported to a supervisor when they are on duty, the on-call supervisor or the next highest level of supervisor depending on the seriousness of the issue.
3. When an officer is part of a task force or other multi-agency unit they should report this to their supervisor for this group before their end of shift and a supervisor for UW-Whitewater Police Department within 24 hours.
4. Finally, if an officer is on duty at UW-Whitewater and observes an issue with an officer from another agency; the officer may immediately notify the supervisor for the other agency if they are available but can still notify a supervisor for UW-Whitewater Police Department depending on the seriousness of the incident.
5. Although a verbal report is sufficient to comply with this policy; an officer may be required to complete a written report on the incident either before the end of their shift; or with supervisor approval at the start of their next duty shift.
6. Supervisor and Chief of Police will follow the procedures set forth in Sections C(2) and C(3) of this policy along with UW-Whitewater and UW System Policies and Rules related to workplace conduct and employee matters.