



**DEPARTMENT OF PUBLIC SAFETY
POLICIES & PROCEDURES**



Subject: Duty to Intervene		Policy Number: OPR: 70
Revision Number: 1	Effective Date: 09/26/2023	Original Issue Date: 08/12/2022

1) PURPOSE

- a) It is the purpose of this policy to establish guidelines for New Mexico State Police Commissioned Personnel on the Use of Force; Duty to Intervene.

2) POLICY

- a) It is the policy of the New Mexico State Police that commissioned employees have a duty to intervene to prevent excessive force.
The proper application of force "requires careful attention to the facts and circumstances of each particular case, including (1) the severity of the crime at issue, (2) whether the suspect poses an immediate threat to the safety of the officers or others, and (3) whether he is actively resisting arrest or attempting to evade arrest by flight." (The 3 Graham Factors) - Graham v. Connor.
An officer who fails to intervene to prevent another law enforcement official's use of excessive force may face both criminal and civil liability. - Casey v. City of Federal Heights

3) APPLICABILITY

- a) This policy applies to all State Police employees.

4) REFERENCES

- a) Graham v. Connor, 490 U.S. 386 (US Supreme Court, 1989)
- b) Casey v. City of Federal Heights 06-1426 (10th Circ. 2007)
- c) CALEA Standard 1.2.10 (LE1) – Duty to Intervene

5) DEFINITIONS

- a) **Public Safety/Criminal Justice Associates** - might include, but is not limited to, law enforcement officials who are 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.



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6) OPERATIONAL PROCEDURES

a) Duty to Intervene

- i) When feasible, law enforcement officials have a duty to intervene within their scope of authority and training in situations, such as an unreasonable use of force that requires immediate intervention.
- ii) This standard does not require non-sworn personnel to intervene in a use of force situation where they are not properly trained or required by an oath of office or law to take such actions.
- iii) Anyone, who witnesses inappropriate, unnecessary, unreasonable, excessive use of force, including but not limited to a violation of the use of force policy and procedures, federal, state, or local law, whether involving any NMSP law enforcement official or a Public Safety Associate, shall contact an NMSP supervisor to report it.
- iv) The supervisor shall handle the reporting of excessive use of force as a complaint of civil rights violation according to ADM:04 Internal Investigations.
- v) Employees shall not discipline or retaliate in any way against an officer for intervening as required by law, department policies, and procedures, or for reporting unconstitutional.

7) ATTACHMENTS

a) NONE

8) APPROVAL

APPROVED BY: _____

L. J. Laird

New Mexico State Police Chief

DATE: 09/26/23