

Duty to Intervene in Cases of Improper or Excessive Use of Force



A duty-to-intervene policy creates an affirmative obligation for police officers to stop fellow officers from engaging in certain conduct prohibited by law or department policy.⁸² Campaign Zero's 8 Can't Wait initiative recommends that police departments require officers to intervene and report unnecessary or excessive force used by other officers.⁸³ The murder of George Floyd by Minneapolis Police Department Officer Derek Chauvin brought this issue to the forefront of public discourse in 2020. It reinforced the dire need for police departments to require that officers hold each other accountable and intervene in cases of excessive force and other misconduct.

In Resolution 95, the Austin City Council said it was the official policy of the City that APD policies "...requiring officers to intervene to stop improper or excessive uses of force by their fellow officers should be appropriately enforced."⁸⁴

APD's current policy in this area lacks the specificity necessary to make it enforceable in many cases when it should apply.

[Click here](#) for OPO's Phase I analysis of this policy topic.

Analysis of community feedback on the duty to intervene in cases of improper or excessive use of force

Quantitative Data

- 47% of respondents said current policy on the duty to intervene in cases of improper or excessive use of force does not make them feel safe
- 66% of respondents said that they believed that policy should list the different ways an officer can intervene
- 80% of respondents said that any officers who witness improper or excessive use of force by any other officer and do not interfere should be required to report the full circumstances of the incident

Qualitative Data

The majority of respondents who mentioned this policy were supportive of OPO's proposed changes, with support expressed for more clarity and specificity as to how the reporting should be done. Respondents favored giving officers a way to hold those in their ranks accountable, with realistic considerations for protecting officers who do the reporting.

Feedback on this policy showed overwhelming support for officers having a duty to intervene for professional and ethical integrity reasons. Some respondents expressed concern for officers who intervene and recommended that protections be put in place to prevent their careers from being negatively impacted due to intervening or reporting excessive force.

Duty to Intervene in Cases of Improper or Excessive Use of Force



Below are selected comments from community feedback:

“

“We frequently hear the argument that police brutality is caused by a few bad apples. If good officers don’t protect us from the bad ones, who will?”

“I agree intervention should be defined. And, I believe there should be a whistleblower protection so that people calling out these issues do not become targets themselves of a culture of not reporting this. So, I think reporting requirements should be defined, intervention should be defined, and I think it should be outside the chain of command to protect those that do come forward.”

“Should follow the chain of command or ranking officer should be the final word. Any issues that come up should be reported.”

”

Recommendations from community feedback

Adopt OPO’s amended recommendations.

OPO’s preliminary review of APD’s duty-to-intervene policy highlighted five concerns:

- Under current policy, terms used are vague or undefined
- The policy does not specify the means for intervening
- The policy’s scope is too narrow
- Department hierarchical issues are not addressed
- Reporting requirements are not defined

In its Phase I report, OPO made a series of recommendations to improve APD’s policies. The table below compares APD’s current policies and OPO’s proposed recommendations with Austin City Council Resolution 95, 8 Can’t Wait, and best practices from leading police organizations.

Duty to Intervene in Cases of Improper or Excessive Use of Force



Table 7. Comparing OPO’s Proposed Recommendations and APD’s Current Policy on the Duty to Intervene

OPO's Proposed Recommendations	APD's Current Policy
<p>Aligns with information from:</p> <ul style="list-style-type: none">  YES Police Executive Research Forum⁸⁵  YES International Association of Chiefs of Police⁸⁶  YES 8 Can't Wait⁸⁷  YES Austin City Council Resolution 95⁸⁸ 	<p>Aligns with information from:</p> <ul style="list-style-type: none">  NO Police Executive Research Forum⁸⁹  NO International Association of Chiefs of Police⁹⁰  NO 8 Can't Wait⁹¹  NO Austin City Council Resolution 95*⁹²
<p><i>*APD's current policy does not align with Resolution 95 because it lacks the specificity necessary to be enforceable in many cases when it should apply.⁹³</i></p>	

Since OPO made preliminary recommendations in January 2021, there have not been any updated best practices contradicting this information.

OPO has analyzed the community’s feedback. OPO has also considered current best practices and research into the role of peer intervention in enhancing safety for community members and officers.⁹⁴ After examining this information, OPO recommends that APD adopt OPO’s preliminary recommendations with the following amendments:

Duty to Intervene in Cases of Improper or Excessive Use of Force



Table 8. OPO's Preliminary and Amended Recommendation to APD's Policy on the Duty to Intervene

OPO's Preliminary Recommendation GO 200.1.3	OPO's Amended Recommendation GO 200.1.3
<p>GO 200.1.3 DUTY TO INTERVENE</p> <p>(b) Intervening officers shall make every effort to safely intervene by verbal and physical means as the situation requires; if verbal intervention is not enough to stop the act(s), intervening officers shall make every effort to safely intervene through physical means. Examples of physical intervention methods include, but are not limited to, the following:</p> <ol style="list-style-type: none">1. Physically positioning oneself in between the officer(s) whose conduct is in question and the other involved individual(s);2. Using physical force to remove an officer from a particular area; or3. Using physical force to stop an officer's physical contact with an involved individual.	<p>GO 200.1.3 DUTY TO INTERVENE</p> <p>(b) Intervening officers shall make every effort to safely intervene by verbal and physical means as the situation requires; if verbal intervention is not enough to stop the act(s), intervening officers shall make every effort to safely intervene through physical means.</p> <p><u>Examples of verbal intervention methods include, but are not limited to, the following:</u></p> <ol style="list-style-type: none">1. <u>Redirecting the officer's attention to something else;</u>2. <u>Direct confrontation or direct orders, as applicable.</u> <p>Examples of physical intervention methods include, but are not limited to, the following:</p> <ol style="list-style-type: none">1. Physically positioning oneself in between the officer(s) whose conduct is in question and the other involved individual(s);2. Using physical force to remove an officer from a particular area; or3. Using physical force to stop an officer's physical contact with an involved individual.

Duty to Intervene in Cases of Improper or Excessive Use of Force



Table 8. OPO's Preliminary and Amended Recommendation to APD's Policy on the Duty to Intervene (continued)

OPO's Preliminary Recommendation GO 200.1.3	OPO's Amended Recommendation GO 200.1.3
<p>(f) Notwithstanding General Orders 110.4.3 and 110.4.4, this policy creates an affirmative duty to intervene regardless of rank or whether the intervening officer is of higher or lower rank than the officer(s) whose conduct is in question.</p> <p>(g) Regardless of their role during a call or original purpose for being in the vicinity, it is the duty of every on-scene witness officer to intervene unless and until the conduct in question has been stopped.</p>	<p>(f) Notwithstanding General Orders 110.4.3 and 110.4.4, this policy creates an affirmative duty to intervene regardless of rank or whether the intervening officer is of higher or lower rank than the officer(s) whose conduct is in question. <u>Employees will not, in any way, cause or conspire to cause retaliatory action against an employee who intervenes or attempts to intervene.</u></p> <p>(g) Regardless of their role during a call or original purpose for being in the vicinity, it is the duty of every on-scene witness officer to intervene unless and until the conduct in question has been stopped. <u>In those situations that trigger a duty to intervene, officers shall accept, without question, the intervention of another officer.</u></p>

NOTE: New OPO recommendations are shown in **bold, underlined** text. [Click here](#) for more information about OPO's preliminary recommendation.

Duty to Intervene in Cases of Improper or Excessive Use of Force



OPO's recommendations incorporate community feedback and/or the City of Austin's official position by:

- Implementing additional guidelines, which will support enforceability⁹⁵
- Explicitly prohibiting retaliation against intervening officers
- Describing the ways that an officer should intervene
- Providing clear reporting guidelines

OPO's recommendations incorporate guidance from law enforcement research and policy organizations by:

- Addressing hierarchical issues in police culture⁹⁶
- Causing the duty to be triggered when officers believe another officer is preparing to engage in misconduct and when they witness the officer engage in misconduct⁹⁷
- Creating a standalone policy that covers misconduct outside of the use-of-force⁹⁸
- Describing the ways that an officer should intervene⁹⁹
- Explicitly prohibiting retaliation against intervening officers¹⁰⁰
- Requiring officers to accept, without question, the intervention of another officer¹⁰¹