



# Office of Police Ombudsman Commission

Agenda  
May 18, 2021  
5:30PM – 7:30PM  
Council Chambers  
Lower Level, City Hall

**TIMES GIVEN ARE AN ESTIMATE AND ARE SUBJECT TO CHANGE**

## Commission Briefing Session:

5:30 – 5:35pm	1) Welcome to Public	Commissioner Smith
	2) Agenda Approval	Commissioner Smith
	3) Approve March 23 <sup>rd</sup> & April 13th Minutes	Commissioner Smith

## Items:

5:36 – 6:15pm	1) Public Forum	Citizens Signed Up to Speak
	2) OPO Monthly Report <ul style="list-style-type: none"><li>Critical Incident – April 17, 2021</li></ul>	Bart Logue

## Commission Business:

6:16 – 7:30pm	1) Guild Grievance Update	Commissioner Smith
	2) Deputy Police Ombudsman Position Update	Commissioner Smith
	3) Reporting Process Overview	Luvimae Omana
	4) OPO Recommendation R21-01	Bart Logue
	5) Chief Meidl Vimeo Review <ul style="list-style-type: none"><li><a href="https://vimeo.com/543440128">https://vimeo.com/543440128</a></li></ul>	Commissioner Smith
	6) Commissioner Speak Out	Commissioners

## Adjournment:

The next Ombudsman Commission meeting will be held on June 15 2021.

Join by WebEx:

**Meeting link:** <https://spokanecity.webex.com/spokanecity/j.php?MTID=m8e9e983d968622c3b27d570257ca90e7>

**Meeting number:** 187 724 4002

**Password:** h9pD6vr3ppC

Join by phone:

+1-408-418-9388

Access code: 187 724 4002

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# Office of Police Ombudsman Commission Minutes

March 23, 2021

Meeting Minutes: 1:55

Meeting called to order at 5:30pm

## Attendance

- OPOC Commissioners present: Ladd Smith, Jenny Rose, James Wilburn and Lili Navarrete
- Legal Counsel: David Bingaman
- OPO staff members present: Bart Logue, Luvimae Omana and Christina Coty

## Briefing Session

- Agenda approved
- February 16<sup>th</sup> minutes approved

## Items Session

- Public Forum – No one signed up to speak
- Monthly Report Format Change
  - New look to make it easier to read with the most important information regarding the monthly work of the OPO included
- Ombudsman Monthly Report
  - 136 Contacts, 1 complaint and 7 referrals
  - 3 cases certified, 1 returned and 1 mediation recommended
  - Discussed the Police TA and what changes impact oversight
- OPO Annual Report Overview – Bart Logue / Luvimae Omana

## Commissioners' Business

- OPOC Annual Report Overview – Commissioner Rose
- OPO/OPOC Annual Report Approval
  - OPO Report – Approved Unanimously
  - OPOC Report – Approved Unanimously
- Deputy Police Ombudsman Position Update – Commissioner Smith
  - There is some movement happening in HR pertaining to the position
- Op-Ed Written by Chief Meidl
- Commissioner Speak Out – Why We Became Commissioners
  - Commissioner Smith – I thought about why we are doing what we are doing. How can I help get oversight that is recognizable and works for our citizens?
  - Commissioner Rose – She wanted to do something for the community and applied. Was asked to speak in Olympia on Senate Bill 5436. If it passes, the Police Guild will not be able to choose the Ombudsman and the Ombudsman can write closing reports. If we want to be 100% transparent, the Police Guild should not have any input on the Ombudsman. The Bill is moving forward to the next stage.
  - Commissioner Wilburn – He recognized that some police officers act a certain way but they have alternatives.
  - Commissioner Jasmin – He had concerns about when you don't trust the people you are supposed to call for help, you don't trust.

- Commissioner Navarrete – She wanted Latin community to have representation. They don't report crimes or DV situations because of language barriers and possible threats of deportation.

**Motion Passes or Fails: 4**

**Meeting Adjourned at: 7:25**

**Note: Minutes are summarized by staff. A video recording of the meeting is on file -  
Spokane Office of Police Ombudsman Commission**

**<https://my.spokanecity.org/bcc/commissions/ombudsman-commission/>**



# Office of Police Ombudsman Commission Minutes

April 16, 2021

Meeting Minutes: 0:57

Meeting called to order at 5:30pm

## Attendance

- OPOC Commissioners present: Ladd Smith, Jenny Rose, Luc Jasmin, Lili Navarrete and James Wilburn
- Legal Counsel: David Bingaman
- OPO staff members present: Bart Logue, Luvimae Omana and Christina Coty

## Briefing Session

- Agenda approved

## Guest Speaker

- Police Chief Meidl
  - Letter to the Editor – Primary concern was in regard to the police tactics bill that is going through Olympia. This would impact pursuits (regulating pursuits with a statewide standard), tear gas usage, the use of neck restraints and choke holds, the use of armored vehicles (such as the Bear Cat) and the use of K9's being closely regulated.
  - Chief Meidl believes that some of these changes in the initial proposal could potentially result in more officers and citizens being potentially injured. Chief Meidl believes that this bill will not make our community safer.
  - During the May 31<sup>st</sup> Protest/Civil Unrest, the department anticipated peaceful protests by community leaders and groups in the early afternoon. What was not expected was the preparedness of other individuals who were prestaging supplies of milk, water, protest signs that were being used by shields and various makeshift weapons. These individuals were not interested in protesting, but causing damage.
  - Approximately 300-400 people broke away from the main group of protestors at the Public Safety building and started marching downtown. They were throwing rocks, bricks and spray-painting police vehicles. SPD was outnumbered approximately 1-10 and they were unable to prevent the protestors from doing the damage that they were causing to the downtown area. The line in the sand was when they broke into the Nike store and started looting, this is when the dispersal orders were issued to which not very many complied. This was when the decision was made to deploy smoke (not tear gas at this time). It wasn't until people were acting as human shields for the people who were throwing things at officers was tear gas used. This went on well into the evening.

## Commissioner Responses

- Commissioner Smith
  - Requested further clarification regarding the use of tear gas as a means of crowd control
- Commissioner Navarrete
  - She had concerns that the Chief compared the tactics of LNR's to those being used by people who have gone through Judo training.

## Public Forum

- None

**Motion Passes or Fails:**

**Meeting Adjourned at: 6:27pm**

**Note: Minutes are summarized by staff. A video recording of the meeting is on file -  
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# Office of the Police Ombudsman

## Public Safety & Community Health Committee Report

Reporting Period: April 1-30, 2021

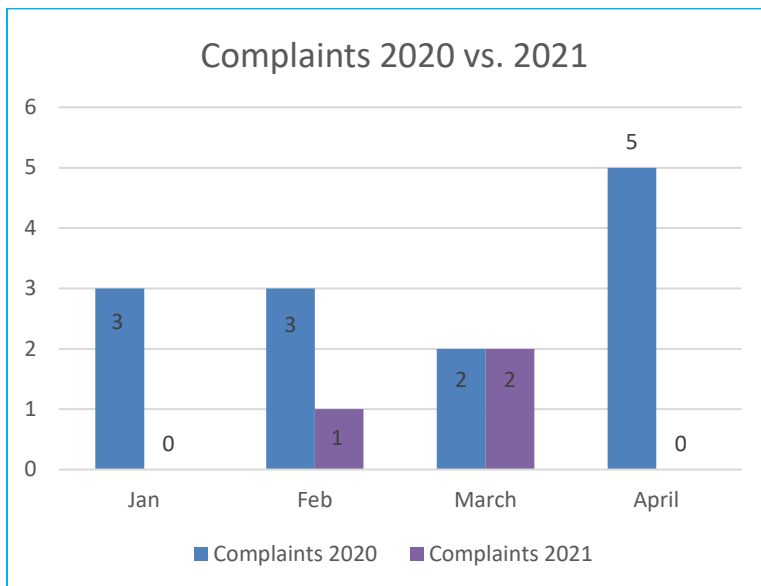
### Monthly Highlights

- Meetings with Chief Meidl
  - Discussions regarding the Guild Grievance regarding the May 31<sup>st</sup> protest review and a way to move forward
  - Establishing a monthly meeting to replace the quarterly meeting
  - Mediation Requested for C21-017
- Closing Reports
  - Data Collection and Review
  - Created timeline for report submission
- Deputy Ombudsman Training
  - Interviews
  - Case Review
- Human Resources
  - Ombudsman and Deputy Ombudsman Job Descriptions

### Referrals:

In April, the OPO received 2 referrals which were sent to the SPD IA Department.

- **IR 21-24:** A community member believes that they came into contact with a known arsonist.
- **IR 21-25:** A community member believes that they are not getting assistance from SPD when needed.

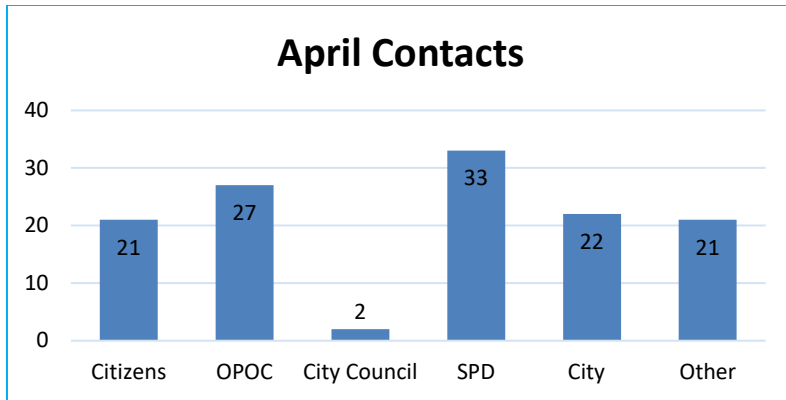


### YTD Complaint Comparison

The OPO saw a decrease in complaints in April 2021 (0) as compared to April 2020 (5).

Overall complaints are down YTD (3) compared to 2020 (13).

The OPO has received 25 referrals in 2021



### Contacts/Oversight

- 126 total contacts
- 2 community member interviews were conducted
- 2 IA Interviews Were attended

## Oversight Activities

### Highlights:

- The OPO attended 1 Deadly Force Review Board during the month of April
- The OPO was notified of a Critical Incident that took place on April 17<sup>th</sup> in the vicinity of 500 S Cannon – Officer involved shooting

### Case Work

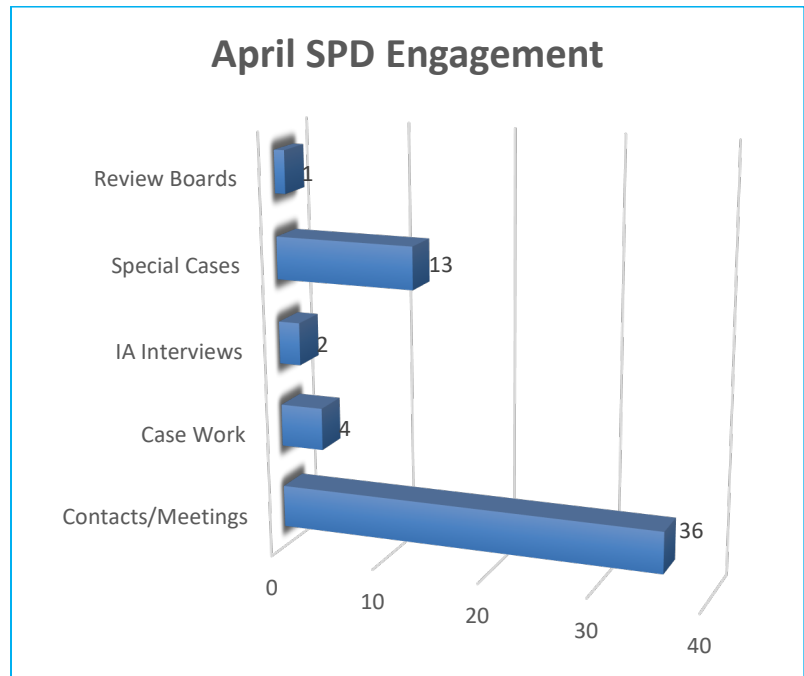
- 4 cases certified

### Special Cases

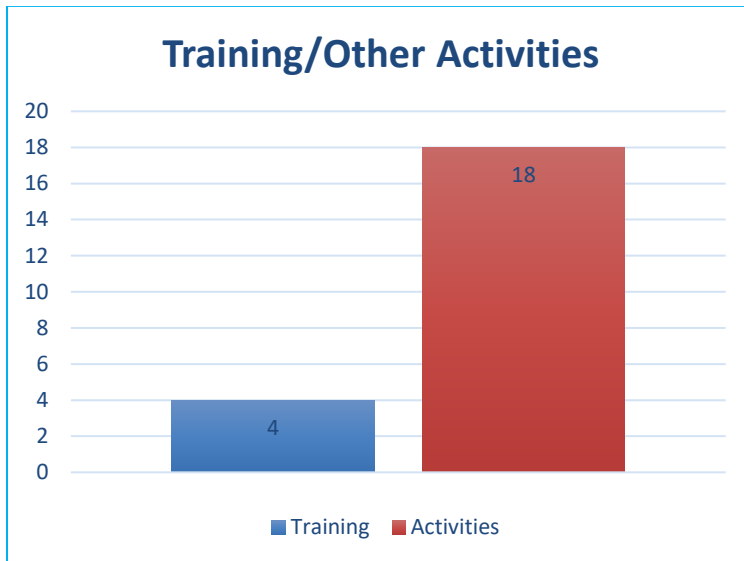
- Use of Force – 3
- K9 - 3
- Collision – 7
- Pursuit – 0

### Critical Incident (2 YTD)

- OIS: Ash & Queen
  - 1/5/2021
- OIS: 500 S Cannon
  - 4/17/2021



## Training/Other Activities



**Training**

**NACOLE Webinar:**

- Police Response to Protests

**IACP Webinar:**

- Law Officer Section, Virtual Spring Training

**Internal Training:**

- Case Review
- Officer Interviews

### Highlights:

- Mediation Requested for C21-017
- Oversight – OPOC monthly meeting, NACOLE Use of Force Working Group, NACOLE Strategic Planning Committee, NACOLE Peer to Peer Subcommittee, Task force 2.0 Policing and Alternatives to Policing subcommittee
- Other Community Meetings – Leadership Spokane Executive Board meeting, Leadership 2021 meeting, Jonah Project Meeting, Leadership Spokane Social Committee meeting

### Upcoming

- The OPO is working on multiple closing reports utilizing the new format specified in the CBA
- OPO review of the May 31<sup>st</sup> SPD protest response on hold pending City action on the Guild Grievance

Office of the Police Ombudsman Commission Meeting:  
Held virtually, the 3rd Tuesday of every month at 5:30pm  
Agendas and meeting recordings can be found at:

<https://my.spokanecity.org/bcc/commissions/ombudsman-commission/>



May 18, 2021

Chief Craig Meidl  
Spokane Police Department  
1100 W. Mallon Avenue  
Spokane, Washington 99260

**RE: R21-01: Duty to Intervene/Ethical Intervention Policy**

Dear Chief Meidl,

I recently made a recommendation to the National Association of Civilian Oversight of Law Enforcement (NACOLE) for model policy language regarding Duty to Intervene/Ethical Intervention. I used the Spokane Police Department (SPD) policy as a baseline for my recommendation and added existing policy language from other agencies around the country. I recommend SPD update its Duty to Intervene/Ethical Intervention policy with the proposed language provided below which also includes additional language as set forth in Senate Bill 5066.

**Purpose**

All officers are sworn to protect the constitutional rights of every community member. A member's duty to intervene is rooted in a department's commitment to the sanctity of human life and community members and officer safety and wellness. Officer interventions that prevent unreasonable force, misconduct and/or other problematic behavior will protect the community member from unnecessary and serious injuries and or death, and also lead to fewer community member complaints, fewer member grievances, higher morale, a healthier working environment, and protects other officers from civil or criminal liability.

**Discussion**

As mentioned, SPD's current policy was the building block for my proposal. The events of the last year have demonstrated the importance placed upon each officer to intervene when necessary in order to reduce harm to the community as well as collective and individual officer liability, criminal or otherwise. The proposed language below includes desirable aspects of existing police policies which are included in the References section. Further, the proposed language includes all the necessary elements in SB 5066 that passed in the Legislature and is awaiting Governor Inslee's signature.

One of the necessary changes to SPD Policy 301.10 per SB 5066 is the requirement of an officer's duty to intervene extending to any wrongdoing that the officer may become aware of which is included throughout the proposed policy language. Another requirement of SB 5066 provides a 'no retaliation' clause for officers who report or intervene in wrongdoing or excessive force. This is included in the recommended model policy as subsection D. The Washington State bill has a unique component which is a reporting requirement to the Washington State Criminal Justice Training Commission (CJTC) that was not included in the policy recommendation to NACOLE. This is included in the proposed policy language below as Subsection E. Further, the recommended policy language is provided to help you meet the requirement of Section 2, subsection 1 of SB 5066.

Current Policy Language – version updated February 19, 2021:  
SPD Policy Manual 301.10 – Duty to Intercede/Ethical Intervention

Every officer is obligated to ensure compliance by themselves and other officers with Department regulations, policies and the law. Any officer present and observing another officer using force they know or have reason to know is clearly beyond what is objectively reasonable under the circumstances shall, when in a safe position to do so, intercede to prevent the use of unreasonable force. The officer shall promptly report these observations and the efforts made to intervene to a supervisor. If the observing officer is a supervisor, he or she will issue a direct order to stop the violation.

Proposed Policy Language:  
Duty to Intervene/Ethical Intervention

- A. Every officer is obligated to ensure compliance by themselves and other officers (members, employees) with Departmental regulations, policies, and the law.
- B. It is the duty of every officer present at any scene who observes another officer, without regard to rank or position, in which they know or should have known use any prohibited, inappropriate or unreasonable force (including applying force when it is no longer required), intercede to prevent the use of unreasonable force or any other serious misconduct. An officer who observes another employee use force that exceeds the degree of force permitted by law shall immediately notify a supervisor and then promptly report in writing these observations and the efforts made to intervene to a supervisor or Internal Affairs. If the present and observing officer is a supervisor, he or she will issue a direct order to stop the violation. The fact that a supervisor is present and not taking appropriate action to stop the force or misconduct does not relieve other officers from this obligation.
- C. Once aware, officers must immediately attempt to safely intervene by verbal and physical means to cause the prohibited, inappropriate, or unreasonable force to immediately cease, and failing to do so shall result in discipline to the same severity as if they themselves engaged in the prohibited, inappropriate or unreasonable use of force.
- D. Any officer who intervenes in the use of force that exceeds the degree of force permitted, if any, under state law or department policy, will not be disciplined or retaliated against for intervening.
- E. SPD shall send notice to the CJTC of any disciplinary decision resulting from an officer's failure to intervene or failure to report as required by this section.

Please let me know if you have any questions.

Sincerely,

Bart Logue  
Police Ombudsman  
Office of the Police Ombudsman, City of Spokane

**cc: Director Jacqui MacConnell**

## **References**

**Washington State** - Senate Bill 5066 (2021)

(<http://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Senate%20Passed%20Legislature/5066-S.PL.pdf?q=20210512134533>)

**Minneapolis, MN** – Use of Force Policy 5-300

([http://www2.minneapolismn.gov/police/policy/mpdpolicy\\_5-300\\_5-300#:~:text=Regardless%20of%20tenure%20or%20rank,shall%20be%20subject%20to%20discipline](http://www2.minneapolismn.gov/police/policy/mpdpolicy_5-300_5-300#:~:text=Regardless%20of%20tenure%20or%20rank,shall%20be%20subject%20to%20discipline))

1. Sworn employees have an obligation to protect the public and other employees.
2. Regardless of tenure or rank, any sworn employee who observes another employee use any prohibited force, or inappropriate or unreasonable force (including applying force when it is no longer required), must attempt to safely intervene by verbal and physical means, and if they do not do so shall be subject to discipline to the same severity as if they themselves engaged in the prohibited, inappropriate or unreasonable use of force.

**Miami, FL** – Use of Force and Administrative Procedures 1.1.3 (pre-George Floyd) ([https://www.miami-police.org/DeptOrders/MPD\\_Departmental\\_Orders.pdf](https://www.miami-police.org/DeptOrders/MPD_Departmental_Orders.pdf))

At the scene of a police incident, many officers of the department may be present, and some officers may not be directly involved in taking police actions. However, this does not relieve any officer present of the obligation to ensure that the requirements of the law and the Department regulations are complied with. Officers are required to maintain control or intervene if the use of force against a subject clearly becomes excessive. Failure to do so may result in both criminal and civil liability. EXCESSIVE FORCE WILL NOT BE TOLERATED.

**Atlanta, GA** – APD SOP UOF 4.5 (<https://www.atlantapd.org/home/showpublisheddocument?id=3671>)

Any police officer or public safety associate present and observing another police officer using force that is beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, safely intercede to prevent the use of such force. Officers shall immediately report these observations to an on-duty supervisor.

**Charlotte-Mecklenburg, NC** – Directives Guide 600-019

(<https://charlottenc.gov/CMPD/Documents/Resources/CMPDDirectives.pdf>)

Officers will take appropriate and immediate action in any situation in which they know or should have known their failure to act would result in an excessive response to resistance or egregious behavior which shocks the conscience.

**Dallas, TX** – General Order 901.02 (<https://dallaspolice.net/resources/Shared%20Documents/General-Orders.pdf>)

Members of the Dallas Police Department (both sworn and non-sworn) have an obligation to protect the public and other employees. It shall be the duty of every employee present at any scene where physical force is being applied to either stop, or attempt to stop, another employee when force is being inappropriately applied or is no longer required.

**Denver, CO** – UOF Policy 105.01(4)(c)(3)

([https://www.denvergov.org/content/dam/denvergov/Portals/720/documents/OperationsManual/OMSBook/OM\\_Book.pdf](https://www.denvergov.org/content/dam/denvergov/Portals/720/documents/OperationsManual/OMSBook/OM_Book.pdf))

Officers will intervene, without regard for chain of command, whenever they witness another officer using inappropriate force and/or otherwise mistreating arrestees, suspects, or other persons. Any officer who intervenes in the use of force that exceeds the degree of force permitted, if any, under Colorado law or department policy, will not be disciplined or retaliated against for intervening or reporting inappropriate force or any other inappropriate conduct - including the failure to follow what the officer reasonably believes is an unconstitutional directive.

**DOJ** (<https://www.justice.gov/crt/law-enforcement-misconduct#intervene>)

“Failure to Intervene” – An officer who purposefully allows a fellow officer to violate a victim’s Constitutional rights may be prosecuted for failure to intervene to stop the Constitutional violation. To prosecute such an officer, the government must show that the defendant officer was aware of the Constitutional violation, had an opportunity to intervene, and chose not to do so. This charge is often appropriate for supervisory officers who observe uses of excessive force without stopping them, or who actively encourage uses of excessive force but do not directly participate in them.

**Los Angeles, CA** – Policy 210.46 ([https://www.lapdonline.org/lapd\\_manual/volume\\_1.htm](https://www.lapdonline.org/lapd_manual/volume_1.htm))

**210.46 EMPLOYEE'S DUTY TO REPORT MISCONDUCT.** The reporting of misconduct and prevention of the escalation of misconduct are areas that demand an employee to exercise courage, integrity, and decisiveness. Department Manual Section 3/813.05 requires that when an employee, at any level, becomes aware of possible misconduct by another member of this Department, the employee shall immediately report the incident to a supervisor or directly to Internal Affairs Group. Furthermore, an employee who observes serious misconduct shall take appropriate action to cause the misconduct to immediately cease. The fact that a supervisor is present and not taking appropriate action to stop the misconduct does not relieve other employees present from this obligation.

An employee's obligation to report and prevent misconduct begins the moment the employee becomes a member of the Los Angeles Police Department. Police officers, because of their status as peace officers, have an even greater responsibility to report and prevent misconduct. Experience, rank, or tenure are not factors in knowing the difference between right and wrong, and they do not provide an excuse for failing to take appropriate action. Although supervisors are responsible for investigating allegations of misconduct, all Department employees are responsible for preventing and reporting misconduct.

The citizens of Los Angeles expect and deserve employees who possess a high degree of integrity. Any employee who is perceived, justifiably or not, to be condoning or concealing misconduct impairs the trust of the public. Employees must respect and be aware of their responsibility to freely and truthfully report all acts of misconduct and to act, if necessary, to prevent the escalation of those acts. This is essential if the Department is to maintain the trust of the public.

**Philadelphia, PA** – Directive 10.2: (<https://www.phillypolice.com/assets/directives/D10.2-UseOfModerateLimitedForce.pdf>)

E. Though many officers may be at the scene of a police incident where force is being used, some officers may not be directly involved in taking police action. As officers, we have an obligation to protect the public and other officers. Therefore, it shall be the duty of every officer present at any scene where force is being applied to either stop or attempt to stop another officer when force is inappropriately used and/or no longer required. Your actions will both protect the officer from civil or criminal liability and the civilian from serious injury.

F. Officers who witness inappropriate or excessive force have a duty to intervene and to report such violations to a supervisor and Internal Affairs

#### **Additional References**

<https://www.lexipol.com/resources/blog/what-you-need-to-know-about-officer-duty-to-intervene/>

<http://useofforceproject.org/#project> also has secondary links to many use of force policies, although many are outdated.