1. Does your State or Agency have any laws or policies in place (existing or pending) mandating a Duty to Intervene or Peer Intervention training?

YES___X___ NO_____

2. If yes, can you please attach the law, administrative rule, or policy or attach a link? HF 2647 is attached

3. Has your Agency/Academy conducted a task analysis for curriculum involving a duty to intervene?

YES ___X_____ NO _____

4. If yes, can you please attached the analysis results.

Pursuant to legislation (HF 2647) the Academy provides a 4-hour block of instruction including: Implicit Bias, Legal-Use of Force, De-escalation, and Duty to Intervene. As part of the "De-escalation Techniques" and "Use-of-Force" training ILEA discusses a "Duty-to-Intervene".

5. Are you or another staff member willing to participate in a comprehensive task analysis associated with a duty to intervene curriculum?

YES ___X____ NO_____

10. If yes, please provide the contact information for the survey.

Name: Assistant Director Jerry Ingrisano

Email: jerry.ingrisano@iowa.gov

Phone: 515-331-5768

11. Does your State, Academy, or Agency have curriculum that includes peer intervention/duty to intervene?

YES__X___ NO_____

12. If yes, is this training mandatory or optional?

MANDATORY__X___ OPTIONAL_____

13. If yes, how many hours is your training program specific to this topic area?

___ HOURS The Duty to Intervene training is part of the Legal-Use of Force and De-escalation techniques training and is discussed during those presentations.

14. If yes, is this training in Basic or In-service or both?

BASIC _____ INSERVICE _____ BOTH _____X_____

15. If yes, can you please attach your curriculum for review? (IADLEST will also put lessons collected in our NLEARN library for others.)

In-Service annually (4) hours
Incorporated throughout the Basic curriculum:
Verbal Defense and Influence (8) hours
Defensive Tactics (20) hours
FATS (Firearms Training Simulator) (6) hours
Note: Defensive Tactics total training time is (46) hours
FATS total training time is (11) hours

16. Do you have any comments or suggestions?

_____

_____

17. Your Name: Jerry Ingrisano Agency: Iowa Law Enforcement Academy

Phone number: 515-331-5768

Attachment

For

Question

#2

Sec. 8. NEW SECTION. **80B.11G Annual training — de-escalation techniques and prevention of bias.**

1. A law enforcement agency shall provide annual training to every law enforcement officer on issues relating to de-escalation techniques and the prevention of bias. Every law enforcement officer in the state must participate in annual training in accordance with this section.

2. The academy shall develop and disseminate training guidelines for all law enforcement officers consistent with best practice guidelines.

3. Every law enforcement officer shall adhere to the training guidelines developed by the academy pursuant to this section. The training guidelines shall include all of the following:

a. An emphasis on law enforcement officer understanding and respect for diverse communities and the importance of effective, noncombative methods of carrying out law enforcement activities in a diverse community.

b. Instruction on diverse communities in order to foster mutual respect and cooperation between law enforcement and members of all diverse communities.

c. An examination of the patterns, practices, and protocols that cause biased law enforcement actions, and the tools to prevent such actions.

d. An examination and identification of key indices and perspectives that make up differences among residents in a local community.

e. Instruction on implicit bias and consideration of the negative impact of bias, whether intentional or implicit, on effective law enforcement, including examination of how historical perceptions of profiling have harmed community relations.

f. Instruction on the perspectives of diverse local constituency groups from experts on particular cultural and law enforcement-community relations issues in a local area.

g. A presentation of the history and the role of the civil rights movement and the impact on law enforcement.

h. Instruction on de-escalation techniques, including verbal and physical tactics to minimize the need for the use of force

and nonlethal methods of applying force.

4. In developing the training guidelines, the academy shall consult with the Iowa civil rights commission, groups and individuals having an interest and expertise in the field of cultural awareness and diversity, and advocacy organizations with an interest and expertise in the field of biased law enforcement actions. The academy shall also consult with local law enforcement agencies to consider challenges and barriers to providing training under the guidelines and methods to ease the burden on such agencies.

Sec. 9. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this division of this Act.

DIVISION V

EFFECTIVE DATE AND APPLICABILITY

Sec. 10. EFFECTIVE UPON ENACTMENT. Unless otherwise provided, this Act, if approved by the governor on or after July 1, 2020, takes effect upon enactment.

Sec. 11. RETROACTIVE APPLICABILITY. Unless otherwise provided, this Act, if approved by the governor on or after July 1, 2020, applies retroactively to July 1, 2020.

PAT GRASSLEY
Speaker of the House

CHARLES SCHNEIDER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2647, Eighty-eighth General Assembly.

MEGHAN NELSON
Chief Clerk of the House

Approved June 12, 2020

KIM REYNOLDS
Governor

Attachment

For

Question

#15

8th Circuit Example

FACTS: Two officers pulled Henderson out of the car because he had an outstanding warrant, put Henderson on the ground to handcuff him as he resisted, Henderson was struck once on the leg while being handcuffed, after Henderson was handcuffed and laying on the ground he was pepper-sprayed.

To determine whether an official is entitled to *qualified immunity*, the court asks two questions:

(1) whether, after viewing the facts *in the light most favorable to the party asserting the injury*, there was a deprivation of a constitutional or statutory right, and, if so,

(2) whether the right was *clearly established* at the time of the deprivation such that a *reasonable official* would understand his conduct was unlawful in the situation he enforced

Henderson v. Munn, 439 F.3d 497 (8th Cir. 2006)

8th Circuit Example

"We conclude Henderson presented sufficient proof in support of his claim, if believed, to allow a reasonable jury to find the degree of force used against him was not *objectively reasonable*."

"Under the Fourth Amendment jurisprudence, [officer] had the right to use some degree of physical coercion against Henderson to effect an arrest."

"However, even assuming arguendo Henderson resisted arrest, at the time [officer] sprayed Henderson's face with pepper spray, Henderson was *under control* lying face down on the ground with both arms handcuffed behind his back. In this compromising position, Henderson *posed little or no threat* to the safety of the officers or others."

8th Circuit Example

"Under these circumstances, the use of pepper spray may have been a *gratuitous and completely unnecessary act of violence* and thus violated Henderson's Fourth Amendment rights."

"We agree with the district court that *genuine issues of material fact exist* as to whether a *reasonable officer* in [officer's] position *would have known* his actions violated Henderson's right to be free from excessive force."

SUPERVISOR LIABILITY/ *respondeat superior*

Generally, supervisors are not *vicariously* liable just because someone under their supervision does something wrong.

However, liability could attach if the supervisor is aware subordinate was committing constitutional violation and supervisor *encouraged* or *condoned* behavior or committed *gross negligence amounting to deliberate indifference*.

Duty to Intercede/Intervene

A law enforcement officer has an affirmative duty to intercede on the behalf of a citizen whose constitutional rights are being violated in his presence by other officers.

Duty to Intercede/Intervene

"We believe it is clear that one who is given the badge of authority of a police officer may not ignore the duty imposed by his office and fail to stop other officers who summarily punish a third person in his presence or otherwise within his knowledge.

That responsibility obviously obtains when the nonfeasor is a supervisory officer to whose direction misfeasor officers are committed.

So, too, the same responsibility must exist as to nonsupervisory officers who are present at the scene of such summary punishment, for to hold otherwise would be to insulate nonsupervisory officers from liability for reasonably foreseeable consequences of the neglect of their duty to enforce the laws and preserve the peace."

Byrd v. Brishke, 466 F.2d 6, 10–11 (7th Cir.1972)

~~BASIC ACADEMY PEACE OFFICER TRAINING~~

De-escalation (34 hours)

Verbal Defense and Influence, ILEA Instructor (8 hours)

Defensive Tactics, ILEA Instructor (20 hours)*

Firearms Trainings Simulator (FATS), ILEA Instructor (6 hours)*

Note: While the total training time for Defensive Tactics is 46 hours, approximately 20 hours of that incorporates de-escalation techniques, as do 6 of the 11 hours of Firearms Training Simulation (FATS).