



**Course Title:** 6.12 MLEAP The Duty to Intervene

**Time:** 2 hours

**Course Description:** Nationwide, all police officers are subject to the Duty to Intervene (DTI). This duty requires law enforcement to intervene under certain circumstances when excessive force is used and to report that intervention and excessive use of force both verbally and in writing.

This course explains the DTI and provides, with examples, of how this duty has been viewed by the courts at both the Federal and State level. Using these cases, the training also discusses how officers may implement the DTI in their day-to-day work and gives examples of when intervention with other officers might be necessary. The reporting requirements that accompany this duty are also explained in detail.

This course meets Level 2 MLEAP training requirements.

**Learning Objectives:**

- Explain the “code of silence” and why officers sometimes don’t intervene when another officer uses excessive force.
- Explain what a “duty” is and why a duty is important to law enforcement officers.
- Recall where the Duty to Intervene (DTI) is located in the Maine Criminal Justice Academy policy standards.
- Explain the DTI.
- Classify the two different standards of the DTI and explain how they differ.
- Recall the elements of the intervention standard.
- Recall the elements of the reporting standard.
- Explain how the DTI is described in the U.S. First Circuit case law.
- Recall how Maine courts have recognized a Duty to Intervene in the Maine Supreme Court case of *Jenness v. Nickerson*, 638 A.2d 1152 (Maine, 1994).



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- Properly classify the four possible steps of intervention according to the handout “Building an Agency Culture that Embraces a Duty to Intervene” by Brian O’Donnell.
- Recall the possible sanctions an officer may incur for failing to intervene when the duty presents itself.

## Course Outline Sections:

- Duty to Intervene
  - One Model Policy: Two Standards
    - Duty to Act
    - Duty to Report
  - The DTI: The Elements of the Duty to Act
  - The DTI: The Elements of the Duty to Report
- The DTI in Case Law
  - Gaudreault v. Salem, Mass ., 923 F.2d 203 (1st Cir. 1990)
  - Maselli v. Durden, 2021 U.S. Dist. Lexis 263724 (Dist. N.H. March 28, 2022)
  - Martinez v. Colon, 54 F.3d 980 (1<sup>st</sup> Cir. 1995)
  - Jury Instructions
  - A Maine Case: Jenness v. Nickerson, 637 A.2d 1152 (Me. 1994).
  - A Bad Example Outside the First Circuit: T.D.H. Helm v. Rainbow City, 989 F.3d 1265 (11th Cir. 2021)
  - An Officer Who Did It Right: Horne v. City of Buffalo, 72 Misc.3d 385, 148 N.Y.S.3d 635 (N.Y. Sup. Ct. 2021)
- Conclusion
  - How to Intervene
    - Why don’t officers intervene?
    - Identifying “Storm Warnings”
  - Failing to Intervene
  - Conclusion/Summary
- QUIZ: The Duty to Intervene