

Law Enforcement Legal Liability

Chief Ken Wallentine

Fall Risk Conference

September 29, 2022



The power of qualified immunity

- Immunity from trial, not just damages
- Protects individuals, not government agencies

Core elements of QI

- Did the government actor violate a constitutional right?
- Was the right “clearly established” at the time of the alleged violation?

Traditional claims

- Use of Force
- Pursuit & other EVO
- Search & Seizure
- Unlawful Harassment
- Retaliation
- EDPs/Mentally Ill



Humphrey v. Town of Spencer
Valdez v. City of Philadelphia

De-Escalation

Law? Policy? Training? Best practice?

60. Defendant [REDACTED] had a duty to intervene and a reasonable opportunity to intervene when Defendant [REDACTED] began his vicious and unprovoked physical punching and choking attack on Plaintiff. Despite the clear mandate to do so and the opportunity available to her, she failed to take such steps to intervene to stop the unlawful attack against Plaintiff.

61. Defendants [REDACTED] had a duty to intervene and a reasonable opportunity to intervene when Defendant [REDACTED] began her vicious and unprovoked physical kicking and baton attacks on Plaintiff. Despite the clear mandate to do so and the opportunity available to him, he failed to take such steps to intervene to stop the unlawful attack against Plaintiff.

Duty to Intervene (SB 26)



The ABLE Project

- Teaches officers how to effectively intervene when a fellow officer may be about to make a costly mistake
- Builds on the highly successful Ethical Policing Is Courageous (EPIC) peer intervention program



ABLE

Active Bystandership
for Law Enforcement

3 Pillars of ABLE

**REDUCE
MISTAKES**

**PREVENT
MISCONDUCT**

**PROMOTE
HEALTH &
WELLNESS**

5 Pillars of Organizational Management



PEOPLE



POLICY



TRAINING



SUPERVISION



DISCIPLINE

Correct

Teach &
Communicate

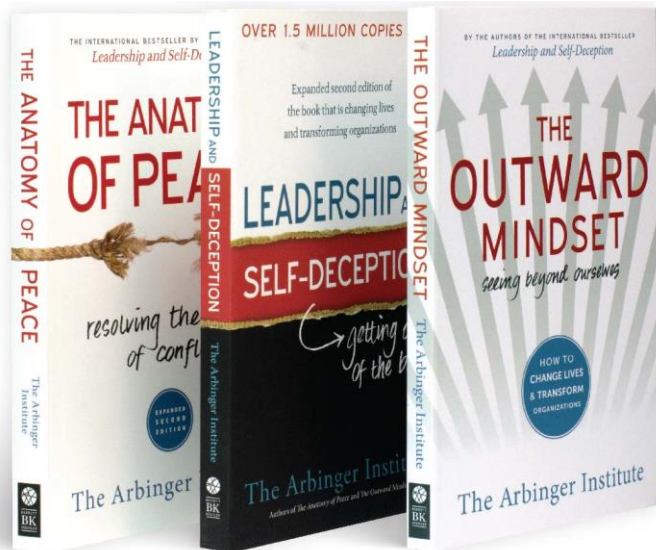
Listen & Learn

Build the Relationship

Build the Relationship with Others
Who Have Influence

Get out of the box:
improve my mindset

Developing & Implementing an Outward Mindset

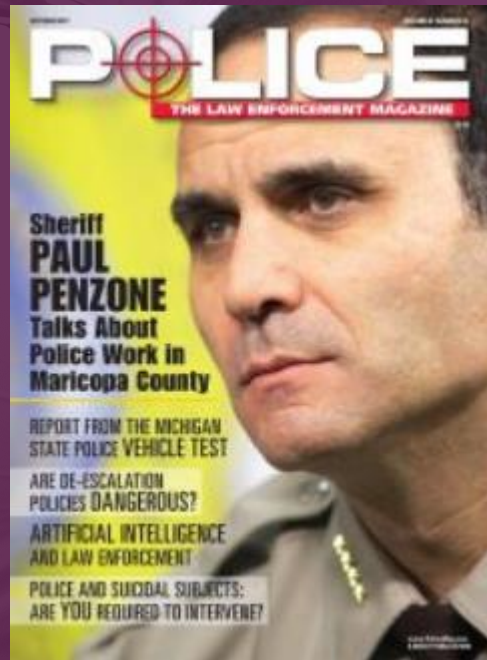


Arbinger
Institute

INWARD ▶ OUTWARD FOCUS



What would you do?



Adult man is locked in his house
He broke windows, said that he'd kill himself
History of brandishing knives, mental health calls
Police respond and negotiate for 75 minutes



First, do no harm

Is there a crime?

If not, what are we doing here?

What is the legal duty?

Does your agency teach “tactical repositioning?”

Questions?

Ken.Wallentine@westjordan.utah.gov

801-256-2001

www.linkedin.com/in/kenwallentine

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