

**POST FIELD TRAINING OFFICER COURSE
BLOCK 12
LEGAL AND LIABILITY ISSUES FOR FTOs
General Course Outline**

TOPIC OUTLINE	INSTRUCTIONAL CLUES
<p>INTRODUCTION</p> <p>FTOs play a critical role in training as it relates to legal and liability issues</p> <ul style="list-style-type: none"> Must be able to recognize situations of heightened liability Must know how to best minimize individual and departmental exposure to liability <p>A. IDENTIFY AND EXPLAIN VARIOUS LIABILITY CONCEPTS RELATED TO FIELD TRAINING, TO INCLUDE:</p> <ol style="list-style-type: none"> 1. Failure to train <ol style="list-style-type: none"> a. Skills not explained <ol style="list-style-type: none"> 1) Do not assume trainee can perform skills b. Ensure academy training was adequate 2. Failure to supervise <ol style="list-style-type: none"> a. Supervisor responsible for performance of subordinates b. FTO considered a supervisor of trainee 3. Negligent training <ol style="list-style-type: none"> a. Teaching skills, concepts, behaviors which are improper, illegal or unauthorized 4. Negligent retention <ol style="list-style-type: none"> a. Keeping employees when it is known they cannot perform the minimal duties of the position 5. Negligent supervision <ol style="list-style-type: none"> a. FTO may be considered supervisor for some activities b. FTO must keep their supervisor apprised of program issues <ol style="list-style-type: none"> 1) Incompetent trainees 2) Unqualified FTOs 	

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<ul style="list-style-type: none"> 6. Negligent entrustment <ul style="list-style-type: none"> a. Entrusting trainee with tools of the trade without proper training (i.e., car; firearm; baton, etc.) b. Train to statutory (mandated) and department standards 7. Direct/Vicarious liability <ul style="list-style-type: none"> a. Civil rights violations <ul style="list-style-type: none"> 1) If FTO is present and participates, allows or fails to prevent, may be liable 2) “Code of Silence” policy and practice – department may be liable <p>B. IDENTIFY CONCEPTS OF RISK MANAGEMENT AND METHODS FOR REDUCING CIVIL LIABILITY, TO INCLUDE:</p> <ul style="list-style-type: none"> 1. Close supervision and expedited reporting 2. Appropriate, timely intervention 3. Recognizing the functions and roles of the FTO <ul style="list-style-type: none"> a. Avoiding mixed messages b. Documentation of appropriate training c. Documentation of trainee performance d. Documentation of supervision e. Documentation of remediation f. Documentation of knowledge of civil and criminal laws 4. Knowledge of and adherence to agency policies and directives <p>C. DISCUSS CURRENT TRENDS IN PERSONAL AND AGENCY CIVIL LIABILITY</p> <ul style="list-style-type: none"> 1. Review of recent settlements, judgments, and decisions 	

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<p>D. SUMMARIZE VARIOUS FORMS OF HARASSMENT AND DISCRIMINATION IN THE WORKPLACE, INCLUDING:</p> <ol style="list-style-type: none"> 1. Sexual harassment 2. Hostile work environment 3. “Quid Pro Quo” 4. Verbal/Visual/Physical 5. Discriminatory issues defined in the ADA 6. Disparate treatment (protected classes) <p>E. EXPLAIN HOW TO MINIMIZE INDIVIDUAL AND DEPARTMENTAL EXPOSURE TO LIABILITY FROM TRAINEE CLAIMS OF HARASSMENT, DISCRIMINATION, AND/OR UNETHICAL BEHAVIOR</p> <ol style="list-style-type: none"> 1. Informing <ol style="list-style-type: none"> a. Tell the offending party of the possible consequences of his/her action(s) 2. Reporting <ol style="list-style-type: none"> a. Report inappropriate behavior to a supervisor 3. Involvement <ol style="list-style-type: none"> a. Do not become a party to the behavior 4. Professionalism <ol style="list-style-type: none"> a. Maintain a professional relationship at all times b. Do not allow trainee to be subjected or become involved in questionable situations <p>F. DISCUSS METHODS/SAFEGUARDS FOR KEEPING INAPPROPRIATE CONDUCT OUT OF THE FIELD TRAINING PROGRAM, INCLUDING:</p> <ol style="list-style-type: none"> 1. Hazing 2. Fraternalization <ol style="list-style-type: none"> a. Consequences associated 	

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<ul style="list-style-type: none"> 1) Potential for harassment complaints 2) Allegations of favoritism 3) Impaired objectivity in evaluations 4) Termination issues <p>3. Favoritism</p> <p>4. Sexual harassment</p> <p>G. IDENTIFY AND EXPLAIN THE LABOR ISSUES RELATED TO FIELD TRAINING, WHICH MAY INCLUDE:</p> <ul style="list-style-type: none"> 1. Peace Officer Bill of Rights (AB 301) 2. Property interest (Skelly) 3. Liberty interest (Lubey) 4. EEOC (Equal Employment Opportunity Commission) - Federal 5. DFEH (Department of Fair Employment and Housing) – State 6. FLSA (Fair Labor Standards Act) – Federal <ul style="list-style-type: none"> a. Overtime issues relating to homework, equipment maintenance, etc. 7. MOU (Memorandum of Understanding) - Agency specific issues <p>H. CASE STUDY EXERCISE</p> <p>The student groups determined on Day One will discuss and address their trainee’s written case study provided for this block of instruction</p>	