

# TOWNSHIP OF WASHINGTON POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



SUBJECT: EARLY WARNING SYSTEM

EFFECTIVE DATE: 12/28/2022

NUMBER OF PAGES: 6

ACCREDITATION STANDARDS: 2.2.3

BY THE ORDER OF: Chief of Police

**PURPOSE:** The purpose of this written directive is to establish a personnel early warning system, which is consistent with Attorney Law Enforcement Directive 2018-3, regarding Early Warning Systems.

**POLICY:** It is the policy of the Township of Washington Police Department to implement and utilize InfoShare as an early warning system for tracking and reviewing incidents of risk and provide timely intervention. The system will identify, reward, and promote professionalism, civil rights, integrity, best practices, as well as identify, intervene, and remediate potentially problematic behavior allowing for timely intervention consistent with the risk management procedures promulgated by the New Jersey Attorney General's Law Enforcement Directive No. 2018-3.

This policy and Early Warning System generally, are focused on corrective actions to remediate officer behavior and to provide assistance to the employee. This policy and Early Warning System generally, do not address disciplinary actions that might be warranted against an employee. Such disciplinary actions – to include the decision to suspend, terminate or, if applicable, charge an employee with criminal conduct – remain with the purview of the agency's internal affairs function, and may be imposed in accordance with existing internal affairs guidelines and applicable law, separate from and independent of the Early Warning System.

## PROCEDURE:

### I. EARLY WARNING SYSTEM

- A. The Early Warning System is designed to detect patterns and trends before the conduct escalates into more serious problems. As such, employees must understand that the early warning system may be related to, but is distinct from the disciplinary process. Although it is possible that disciplinary action may be taken as the result of evidence that rules and regulations were violated, this is not the sole or even the primary intent of the system. The primary intent of an early warning system is to address potential problems through the use of appropriate management and supervisory strategies before formal discipline is warranted
1. There are three processes to the early warning system, and they are:
    - a. Identification Process - The process of identification of an employee who has triggered the requisite number of flags.
    - b. Review Process - The process of reviewing the data to determine if monitoring of employee is necessary. Not all reviews necessitate the initiation of the monitoring process.
    - c. Monitoring Process - The process of monitoring behavior based upon the review process warranting further monitoring of the employee.
- B. Many different measures of employee performance (actions or behavior) can be regularly examined for patterns or practices, which indicate potentially escalating the risk of harm to the public, the agency, and/or the officer. These performance measures include, but are not limited to, the following documented indicators.
1. Internal affairs complaints against the employee, whether initiated by another officer or by a member of the public;
  2. Civil actions filed against the officer
  3. Criminal investigations of or criminal complaints against the employee;\*
  4. Any use of force by the other officer that is formally determined or adjudicated (for example, by internal affairs or a grand jury) to have been excessive, unjustified or unreasonable;
  4. Domestic violence investigations in which the employee is an alleged subject;
  5. An arrest of the employee, including on a driving under the influence charge;
  6. Sexual harassment claims against the employee;
  7. Vehicular collision involving the officer that is formally determined to have been the fault of the officer;
  8. A positive drug test by the officer;

9. Cases or arrests by the officer that are rejected or dismissed by a court;
10. Cases in which evidence obtained by an officer is suppressed by a court;
11. Insubordination by the employee;
12. Neglect of duty by the employee;
13. Unexcused absences by the employee; and
14. Any other indicators, as determined by the Chief of Police or his/her designee.

***\*NOTE: If Early Warning System notification to the employee could jeopardize an ongoing criminal investigation, the County Prosecutor may in his or her discretion permit delayed notification to the officer or delayed initiation of the Early Warning System review process.***

- C. It is imperative that the supervisor, or appropriate command level officer, make notification to the Internal Affairs Officer and that the Internal Affairs Officer or his/her designee make timely entry in the Early Warning System upon learning that one of the above triggers has been met.
- D. Three separate instances of performance indicators (as listed in Section B, above) within any (12) twelve-month period will trigger the Early Warning System review process.
  1. If one incident triggers multiple performance indicators, that incident shall not be double- or triple-counted, but instead shall count as only one performance indicator.
  2. The Chief of Police or designee may in his or her discretion determine that a lower number of performance indicators within a twelve-month period (i.e., one or two performance indicators) will trigger the Early Warning System review process.
- E. Any statement made by the subject officer in connection with the Early Warning System review process may not be used against the subject officer in any disciplinary or any other proceeding.

## **II. ADMINISTRATION OF EARLY WARNING SYSTEM**

- A. The early warning review is primarily the responsibility of the Internal Affairs Officer or his/her designee; but any supervisor may initiate the early warning process upon their own observations. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct.
- B. The Internal Affairs Officer shall be alerted by the Early Warning System if an employee has the emergence of a pattern, practices or trends inappropriate behavior or misconduct. In addition, the Internal Affairs Officer or his/her designee shall query the InfoShare module and review an individual employee's history at any time a new complaint is received.

1. Using this information and their experience, the Internal Affairs Officer or his/her designee may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the Early Warning System.
- D. If the Early Warning System indicates the emergence of a pattern, practice, or trend of inappropriate behavior or misconduct, the Internal Affairs Officer or his/her designee shall, when appropriate, consult with the employee's supervisor and/or division commander.
- E. The Internal Affairs Officer or his/her designee and, when appropriate, the employee's supervisor and/or division or squad commander shall review the information provided by Internal Affairs along with any other relevant information from department records for the purpose of initiating a course of intervention designed to correct/interrupt the emerging pattern, practice, or trend.
1. If the Early Warning System has returned an incorrect identification or a "false positive," that conclusion must be documented.
  2. If the Early Warning System reveals that an employee has violated department rules and regulations or written directives, the supervisor in consultation with the Internal Affairs Officer or his/her designee should proceed with an internal investigation and possible disciplinary action.
  3. If the Early Warning System reveals that the employee has engaged in conduct, which indicates a lack of understanding or inability to comply with accepted procedures, the Internal Affairs Officer shall consult with the supervisor to determine the appropriate course of remedial/corrective intervention.
- F. When it has been determined that an officer has displayed the requisite number of performance indicators necessary to trigger the Early Warning System review process, as set above, assigned supervisory personnel shall initiate remedial action to address the employee's behavior.
- G. When an Early Warning System review process is initiated, personnel assigned to oversee the Early Warning System should:
1. Formally notify the subject employee, in writing;
  2. Conference with the subject employee and appropriate supervisory personnel;
  3. Identify problems or potential problems;
  4. Determine short and long-term goals for improvement;
  5. Come to a consensus commitment on a plan for long-term improved performance;
  6. Advise of the monitoring process and the repercussions of future sustained transgressions;

7. Develop and administer a remedial program including the appropriate remedial/corrective actions listed below;
  8. Continue to monitor the subject employee for at least three (3) months or until the supervisor concludes that the employee's behavior has been remediated (whichever is longer);
  9. Document and report findings to the appropriate supervisor.
- H. At least every six (6) months, personnel assigned to manage the Early Warning System shall audit the agency's tracking system and records to assess the accuracy and efficacy of the tracking system.

### **III. SUPERVISORS**

- A. An employee's first line supervisor is usually the first member of the department to encounter and document specific incidents that affect an employee. It is essential for the supervisor to speak with the employee, document these incidents, and report findings to the Internal Affairs Officer. The success of this program relies heavily on the first line supervisor's participation and involvement.
- B. It is imperative that the supervisor make notification, in writing, to the Internal Affairs Officer upon learning that one of the above triggers identified in section I. B. above has been met.
- C. If a supervisor has initiated remedial/corrective intervention, the Internal Affairs Officer shall be formally notified of such efforts. The incident entry and narrative placed in the Early Warning System may serve as adequate documentation.

### **IV. COMMAND PERSONNEL**

- A. Agency command personnel shall periodically review an individual employee's history. Using this information and their experience, the commander may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the Early Warning System.

### **V. REMEDIAL/CORRECTIVE INTERVENTION**

- A. Supervisory or command personnel may initiate remedial/corrective intervention to correct behavior. Remedial/corrective intervention may include, but is not limited to:
  1. Training or re-training;
  2. Counseling;
  3. Intensive supervision;
  4. Fitness-for-duty examination;
  5. Employee Assistance Program (EAP) referral; and
  6. Any other appropriate remedial or corrective action.

- B. Internal disciplinary action, remedial/corrective intervention, and fitness for duty examinations ensure that such actions are not mutually exclusive and should be jointly pursued if and when appropriate.
- C. When remedial/corrective intervention has been undertaken, the Chief of Police, or designee, shall ensure that such actions are documented in writing. No entry should be made in the employee's personal file, unless the action results in a sustained investigation. If the remedial/corrective intervention is a training program, attendance and successful completion of that program should be noted in the employee's training record
- D. All reports shall be forwarded to the Chief of Police for review. These reports have the same confidential status as internal affairs documents and are subject to the same disclosure and retention regulations and guidelines.

**VI. NOTIFICATION TO COUNTY PROSECUTOR**

- A. Upon initiation of the early warning system review process, the Chief of Police or his/her designee shall make a confidential written notification to the Bergen County Prosecutor or his/her designee of the identity of the subject officer, the nature of the triggering performance indicators, and the planned remedial program.
- B. Upon completion of the early warning system review process, the Chief of Police or his/her designee shall make a confidential written notification to the Bergen County Prosecutor or his/her designee of the outcome of the early warning system review, including any remedial measures taken on behalf of the subject officer.

**VII. NOTIFICATION TO SUBSEQUENT LAW ENFORCEMENT EMPLOYER**

- A. If any officer who is or has been subject to an early warning system review process applies to or accepts employment at a different law enforcement agency than the one where he or she underwent the early warning system review process, it is the responsibility of the Internal Affairs Officer to notify the subsequent employing law enforcement agency of the officer's early warning system review process history and outcomes.
- B. Upon request, the Township of Washington Police Department shall share the officer's early warning system review process files with the subsequent employing agency.

**VIII. PUBLIC ACCESSIBILITY AND CONFIDENTIALITY**

- A. The early warning system policy shall be made available to the public upon request and shall be posted on this Township of Washington Police Department's website.
- B. All reports have the same confidential status as Internal Affairs documents and are subject to the same disclosure and retention regulations and guidelines.