



BERLIN TOWNSHIP POLICE

POLICY AND PROCEDURE

TITLE:	Early Warning System	NEW	REVISED
		X	

ORDER #:	2018-01	INITIAL ISSUE DATE:	05/22/2018	REVISED ISSUE DATE:	05/22/2020
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POLICY REVIEW SCHEDULE:	3 MONTHS	6 MONTHS	1 YEARS	2 YEARS	OTHER
				X	

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	X	X	

OBLIGATION TO REVIEW POLICY AND SEEK ASSISTANCE AS NEEDED

It is the policy of the Berlin Township Police Department that all officers and applicable employees will thoroughly review and fully familiarize themselves with the attached policy and will adhere to the procedures as described in this policy. Any employee shall request assistance from their supervisor if they should be in need of further explanation or training regarding this policy.

CONTINGENCIES AND UNFORESEEN CIRCUMSTANCES

Officers are occasionally confronted with situation where no written guideline exists and supervisor advice is not readily available. As it would be impossible to address all possible situations with written guidelines, considerable discretion is given to the officer handling the situation.

Faced with the need to make decisions or take an action where no guidelines exist, officers should rely on their experience and training, and the following resources:

1. Attorney General guidelines, memorandums, and directives
2. Departmental General Order, Special Orders, and Training Bulletins
3. New Jersey Title 39 and 2C
4. Current Search and Seizure directives

The written directives developed by the Police Department are for internal use only, and do not enlarge an officer's civil or criminal liability in any way. They should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of written directives can only be the basis of a complaint by this department, and then only in an administrative disciplinary setting.

1. PURPOSE

To conform within the guidelines of the Attorney General's Office **DIRECTIVE 2018-3 "STATEWIDE MANDATORY EARLY WARNING SYSTEMS"**

2. DISCUSSION

An Early Warning System ("EW System") is an important tool designed to detect patterns and trends in police conduct before that conduct escalates. An effective EW System can assist a law enforcement agency in identifying and remediating problematic officer conduct that poses a potential risk to the public, to the agency, and to the officer. EW Systems, therefore, serve to not only increase public safety and public confidence in law enforcement, but also to assist officers through early intervention. Indeed, many law enforcement agencies throughout the State have recognized the utility of such systems and some County Prosecutors already require agencies within their jurisdictions to use them. For all of these reasons, **Directive 2018-3** now **MANDATES** that all law enforcement agencies in New Jersey adopt and implement EW Systems consistent with the requirements of Directive 2018-3.

3. APPLICABILITY:

This policy shall apply to all Berlin Township Police officers who are responsible for enforcing the criminal laws in New Jersey, come under the jurisdiction of the Police Training Act, and are authorized to carry a firearm under N.J.S.A. 2C:39-6.

4. SELECTION OF PERFORMANCE INDICATORS:

An EW System may monitor many different categories of officer conduct which indicate potentially escalating risk of harm to public, the agency, and/or the officer. The following performance indicators shall be included in all EW Systems, but also can be supplemented based upon the unique characteristics of the department and the community it serves. The Chief of Police shall determine any such supplemental performance indicators. To the extent possible, supplemental performance indicators should be objectively measurable and reasonably related to potentially escalating harmful behavior by the officer. These performance indicators include:

1. Internal affairs complaints against the officer, whether initiated by another officer or by a member of the public;
2. Civil actions against the officer;
3. Criminal investigations of or criminal complaints against the officer; unless the EW System could jeopardize an ongoing investigation, the

County Prosecutor may in his or her discretion permit delayed notification to the officer or delayed initiation of the EW System review process.

4. Any use of force by the officer that is formally determined or adjudicated (ex: Internal Affairs or grand jury) to have been excessive, unjustified, or unreasonable;
5. Domestic Violence investigations in which the officer is an alleged subject;
6. An arrest of the officer, including on a driving under the influence charge;
7. Sexual harassment claims against the officer;
8. Vehicular collisions involving the officer that are formally determined to have been the fault of the officer;
9. A positive drug test by the officer;
10. Cases or arrests by the officer that are rejected or dismissed by a court;
11. Cases in which evidence obtained by an officer is suppressed by a court;
12. Insubordination by the officer;
13. Neglect of duty by the officer;
14. Unexcused absences by the officer; and
15. Any other indicators, as determined by the Chief of Police.

5. INITIATION OF EARLY WARNING PROCESS:

At a minimum Berlin Township Police EW System policy shall provide that three (3) separate instances of performance indicators (as listed in **Section 4, above**) within any twelve-month period will trigger the EW System review process. 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. The Chief of Police 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 EW System review process.

6. ADMINISTRATION AND TRACKING:

The Internal Affairs supervisor shall be assigned to conduct the EW System function. Supervisory officers in the subject officer's chain of command also should be directly involved in any EW System review process.

The Internal Affairs Supervisor shall adopt a tracking system to enable Berlin Township Police to identify officers who display the requisite number of performance indicators necessary to trigger the EW System review process. Furthermore, the Internal Affairs Supervisor shall audit the records in Berlin Township Police Department's tracking system to assess the accuracy and efficacy of the tracking system.

7. REMEDIAL/CORRECTIVE ACTION:

Once an officer has displayed the requisite number of performance indicators necessary to trigger the EW System review process (as set forth in **Section 4, above**) the Internal Affairs Supervisor shall initiate remedial action to address the officer's behavior.

When an EW System review process is initiated, the Captain of Police should:

1. Formally notify the subject officer in writing;
2. Conference with the subject officer and their Platoon Sergeant;
3. Develop and administer a remedial program including the appropriate remedial actions listed (**Section 7A, below**);
4. Continue to monitor the subject officer for at least three (3) months, or until the Platoon Sergeant concludes that the officer's behavior has been remediated (whichever is longer);
5. Document and report findings to the Chief of Police and, if warranted, conduct the appropriate Internal Affairs investigation.

ANY STATEMENT MADE BY THE SUBJECT OFFICER IN CONNECTION WITH THE EW SYSTEM REVIEW PROCESS MAY NOT BE USED AGAINST THE SUBJECT OFFICER IN ANY DISCIPLINARY OR OTHER PROCEEDING.

- A. Remedial/corrective action may include but is not limited to the following:
 - A. Training or re-training;
 - B. Counseling;
 - C. Intensive supervision;
 - D. Fitness-for-Duty examination;
 - E. Employee Assistance Program (EAP) referral; and
 - F. Any other appropriate remedial or corrective action.

Directive 2018-3 and EW Systems generally, are focused on corrective actions to remediate officer behavior and to provide assistance to the officer. Directive 2018-3 and EW Systems generally, do not address disciplinary actions that might be warranted against an officer. Such disciplinary actions – to include the decision to suspend, terminate or, if applicable, charge an officer with criminal conduct – remain with the purview of The Berlin Township Police Department's Internal Affairs function, and may be imposed in accordance with existing Internal Affairs guidelines and applicable law, separate from and independent of the EW System.

8. NOTIFICATION TO SUBSEQUENT LAW ENFORCEMENT EMPLOYER:

If any officer who is or has been subject to an EW System review process applies to or accepts employment at a different law enforcement agency that the one where he or she underwent the EW System review process, it is the responsibility of the Chief of Police or designee to notify the subsequent employing law enforcement agency of the officer's EW System review process history and outcomes. Upon request, Berlin Township Police shall share the officer's EW System review process files with the subsequent employing agency.

9. NOTIFICATION TO COUNTY PROSECUTOR:

Upon initiation of the EW System review process, the Chief of Police or a designee shall make a CONFIDENTIAL written notification to the 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. Upon completion of the EW System review process, the Chief of Police shall make a confidential written notification to the County Prosecutor or his/her designee of the outcome of the EW System review, including any remedial measures taken on behalf of the subject officer.

10. ANNUAL REPORT TO ATTORNEY GENERAL:

By January 31st of each year, each County Prosecutor shall submit a report to the Attorney General, through the Division of Criminal Justice's Prosecutors' Supervision and Training Bureau. This summary shall include a statement indicating those agencies under the County Prosecutor's supervision that are in compliance with Directive 2018-3 and those that are not.

11. PUBLIC ACCESSIBILITY AND CONFIDENTIALITY:

All EW System policies adopted by Berlin Township Police Department shall be made available to the public upon request. Annual reports from the County Prosecutors to the Attorney General (as required by **Section 10, above**) also shall be made available to the public upon request.

All written reports created or submitted pursuant to Directive 2018-3 that identify specific officers are **CONFIDENTIAL** and not subject to public disclosure.
