

BERLIN TOWSHIP POLICE DEPARTMENT GENERAL ORDER



SUBJECT: EARLY WARNING SYSTEM

EFFECTIVE DATE: March 7, 2024

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ACCREDITATION STANDARDS: 2.2.3

BY THE ORDER OF:
Chief of Police Louis Bordi

PURPOSE: The purpose of this general order is to establish an Early Warning System to conform with guidelines of the Attorney General’s Office Directive 2018-3, “Statewide Mandatory Early Warning Systems.”

POLICY: This general order establishes an Early Warning System which is an important tool designed to detect patterns and trends in police conduct before that conduct escalates. An effective Early Warning 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. The primary intent of an early warning system is to address potential poor performance through the use of appropriate management and supervisory strategies before discipline is warranted. Early Warning Systems, therefore, serve to not only increase public safety and public confidence in law enforcement, but also to assist officers through early intervention. 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 these reasons, **Directive 2018-3** now **MANDATES** that all law enforcement agencies in New Jersey adopt and implement Early Warning Systems consistent with the requirements of Directive 2018-3.

PROCEDURES:

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 is not discipline. 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 primary intent of the system. The primary intent of an early warning system is to address potential poor performance through the use of appropriate management and supervisory strategies before 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.
 2. At least every six (6) months, the Internal Affairs Unit Supervisor shall audit the agency's tracking system and records to assess the accuracy and efficacy of the tracking system.
- B. Supervisors
1. 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 their commander and if warranted, the Internal Affairs Unit Supervisor. The success of this program relies heavily on the first line supervisor's participation and involvement.
 2. If a supervisor has initiated remedial/corrective intervention, Internal Affairs shall be formally notified.
- C. "Early Warning System" Identification Process
1. Many different measures of employee performance (actions or behaviors) can be regularly examined for patterns or practices that may indicate potential problems. These performance measures shall include, but are not limited to, the following documented indicators:
 - a. Internal complaints, whether initiated by another employee or by a member of the public and regardless of outcome;

- b. Civil actions filed against an officer, regardless of outcome;
- c. Criminal investigations or complaints made against an employee;
 - 1) Unless the Early Warning 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 Early Warning System review process.
- d. Any use of force by the officer that is formally determined or adjudicated (for example, by internal affairs or a grand jury) to have been excessive, unjustified, or unreasonable;
- e. Domestic violence investigations in which the employee is an alleged subject;
- f. An arrest of an employee, including on a driving under the influence charge;
- g. Sexual harassment claims against an employee;
- h. Vehicular collisions involving an officer that is formally determined to have been the fault of the officer;
- i. A positive drug test by an officer;
- j. Cases or arrests by the officer that are rejected or dismissed by a court;
- k. Cases in which evidence obtained by an officer is suppressed by a court;
- l. Insubordination by the employee;
- m. Neglect of duty by the employee;
- n. Unexcused absences by the employee;
- o. Claims of duty-related injury; (two (2) instances in 180 days)
- p. Vehicular pursuits
- q. Arrest for resisting arrest; (three (3) instances in 180 days)
- r. Arrests for assault on a law enforcement officer; (three (3) instances in 180 days)
- s. Sick Time/ Absentee (three (3) instances in 90 Days)
- t. Motor vehicle stop data; (quarterly review for patterns)
- u. Search and Seizure data; (quarterly review for patterns)

2. Generally, three (3) instances of questionable conduct or performance indicators (as listed in section B, above) within a 6-month period would initiate the early warning system identification process in all categories unless specified above.
3. Additionally, ANY six (6) instances of questionable conduct or flag indicators within the same six (6) month period would initiate the early warning review process.
4. 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.

D. "Early Warning System" Review Process

1. The administration of the *Early Warning System* shall be the responsibility of the Internal Affairs Unit. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct. However, all supervisory officers should also be directly involved in the *Early Warning System* review process. Supervisory officers should report their own observations of any of the performance indicators detailed above.
2. The Internal Affairs Unit shall review an employee's history any time a new complaint is received with the intention of "*flagging*" any emerging behavioral patterns.
3. When an early warning system review process is initiated, the Internal Affairs Unit Supervisor shall:
 - a. Formally notify the employee in writing;
 - b. Conference with the employee and their immediate supervisor;
 - c. Develop and administer a remedial program, if not a false positive;
3. Once an employee has displayed the requisite number of performance indicators necessary to trigger the *Early Warning System* identification process, the Internal Affairs Unit Supervisor shall assign an appropriate supervisory officer to initiate the review process.
 - a. The Internal Affairs Unit Supervisor shall be alerted if an employee has the emergence of a pattern, practices or trend of inappropriate behavior or misconduct.
 - b. If the emergence of a pattern, practices or trend of inappropriate behavior or misconduct, the Internal Affairs Unit Supervisor shall consult with the employee's supervisor and/or commander.
 - c. The Internal Affairs Unit Supervisor and the employee's supervisor and/or 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 "false positive," that conclusion should be documented.
 - 2) If the Early Warning System reveals that an employee may have engaged in misconduct in violation of the department rules and regulations or written directives, an internal affairs investigation will be initiated.
 - 3) If the Early Warning System reveals that the employee has engaged in conduct, which indicates a performance deficiency or lack of understanding or inability to comply with accepted procedures, the supervisor shall consult with the Internal Affairs Unit Supervisor to determine the appropriate course of remedial/corrective intervention.
4. Any statement made by the officer in connection with the early warning system review process may not be used against them in any disciplinary or other proceeding.

E. Command Personnel

1. The commanders shall periodically review an individual employee's history. Using this information and his/her 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.

F. "Early Warning System" Remedial/Corrective Action/Monitoring Process

1. When under early warning system monitoring, the Internal Affairs Unit Supervisor shall meet with the employee and supervisor to discuss the situation in depth to accomplish the following and thoroughly document the substance of these meetings.
 - a. Identify problems or potential problems;
 - b. Determine short and long-term goals for improvement;
 - c. Come to a consensus commitment on a plan for long-term improved performance;
 - d. Advise of the monitoring process and the repercussions of future sustained transgressions.
2. Generally, personnel should expect to remain under intensive monitoring and supervision for at least three (3) months when an early warning flag is triggered or until the supervisor concludes that the employee's behavior has been remediated (whichever is longer).

3. Employee Performance Review Meetings

- a. All employee Performance Review meetings shall be thoroughly documented, which will be forwarded to the Chief of Police and the Internal Affairs Unit. The affected employee and supervisors shall meet on a regular basis, minimally monthly, to discuss progress towards the agreed upon goals and objectives.

4. 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;
 - 2) Retraining;
 - 3) Counseling;
 - 4) Intensive supervision;
 - 5) Fitness for duty examination;
 - 6) Professional counseling or Employee Assistance Program referral, when warranted;
 - 7) Peer counseling.
- b. Internal disciplinary action, remedial/corrective intervention, and fitness for duty examinations are not mutually exclusive and should be jointly pursued if and when appropriate.

IV. CONFIDENTIALITY

- A. Early Warning System information shall not be disclosed to the public or any unauthorized department employee. It will not be disclosed to any person not authorized by law or regulation to have access to such information, except governmental representatives acting in connection with their official duties.
- B. The duplication or reproduction of any Early Warning System information for non-official department purposes not authorized by the Chief of Police is strictly prohibited.

V. 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 Berlin Township Police Department to notify the subsequent employing law enforcement agency of the officer's Early Warning System review process history and outcomes.

- B. Upon request, the Berlin Township Police Department shall share the officer's Early Warning System review process files with the subsequent employing agency.

VI. NOTIFICATION TO COUNTY PROSECUTOR

- A. Upon initiation of the Early Warning 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.
- B. Upon completion of the Early Warning 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 Early Warning System review, including any remedial measures taken on behalf of the subject officer.

VII. PUBLIC ACCESSIBILITY AND CONFIDENTIALITY

- A. This written directive shall be made available to the public upon request and shall be posted on the Berlin Township Police Department's webpage.
- B. All written reports created or submitted pursuant to this written directive, which identify specific officers, shall be confidential and not subject to public disclosure.