


<b>BAYONNE POLICE DEPARTMENT</b>		
<b>STANDARD OPERATING PROCEDURES</b>		
SUBJECT: <b>EARLY WARNING SYSTEM</b>		
EFFECTIVE DATE: 08/10/2022	NUMBER OF PAGES: 7	
ACCREDITATION STANDARDS: 2.2.3	BY THE ORDER OF: Chief of Police Robert Geisler	

**PURPOSE:** The purpose of this written directive is to establish a personnel early warning system.

**POLICY:** It is the policy of this department to implement and utilize an early warning system for tracking and reviewing incidents of risk and provide timely intervention consistent with the New Jersey Attorney General’s Law Enforcement Directive No. 2018-3.

## 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 is not identical to 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 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.
- B. 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:
1. Internal affairs complaints against an employee, whether initiated by another employee or by a member of the public;
  2. Civil actions filed against the officer;
  3. Criminal investigations of or criminal complaints against an employee;
  4. 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;
  5. Domestic violence investigations in which the employee is an alleged subject;
  6. An arrest of the employee, including on a driving under the influence charge;
  7. Sexual harassment claims against an employee;
  8. Vehicular collisions involving the officer that is formally determined to have been the fault of the officer;
  9. A positive drug test by the officer or telecommunications operator;
  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 employee;
  13. Neglect of duty by the employee;
  14. Unexcused absences by the employee.
  15. Any other indicators, as determined by the agency's Chief of Police.

- C. Generally, three (3) instances of questionable conduct or performance indicators (as listed in section B, above) within a 12-month period would initiate the early warning system process.
- D. 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.

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

- A. The early warning system is primarily the responsibility of the Internal Affairs Unit; but, any supervisor may initiate the early warning process based upon his or her own observations. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct.
- B. The Internal Affairs Unit shall conduct a manual or computerized audit of its records to determine if an employee has the emergence of a pattern, practices or trend of inappropriate behavior or misconduct. In addition to the regular data audits, the Internal Affairs Unit shall audit an individual employee's history any time a new complaint is received.
  - 1. Using this information and their experience, the Internal Affairs Unit may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the early warning system.
- C. If the audit indicates the emergence of a pattern, practices or trend of inappropriate behavior or misconduct, the Internal Affairs Unit shall consult with the employee's supervisor and the Chief of Police.
- D. The Internal Affairs Unit, the employee's supervisor, and Chief of Police shall review the information provided by the Internal Affairs Unit 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 audit has returned an incorrect identification or "false positive," that conclusion should be documented.
  - 2. If the audit reveals that an employee has violated department rules and regulations or written directives, the supervisor in consultation with the Internal Affairs Unit should proceed with an internal investigation and possible disciplinary action.
  - 3. If the audit reveals that the employee has engaged in conduct which indicates a lack of understanding or inability to comply with accepted procedures, the supervisor shall consult with the Internal Affairs Unit to determine the appropriate course of remedial/corrective intervention.
- E. At least every six (6) months, the Internal Affairs Unit shall audit the agency's tracking system and records to assess the accuracy and efficacy of the 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 Unit. The success of this program relies heavily on the first line supervisor's participation and involvement.
- B. If a supervisor has initiated remedial/corrective intervention, the Internal Affairs Unit shall be formally notified of such efforts. This information shall be documented and appropriate copies forwarded to the Internal Affairs for filing.
- C. If the remedial/corrective intervention was training, documentation shall be filed in accordance with the department's written directive governing training (remedial training).
- D. Supervisors shall forward all documentation as required by department written directives established to assist in a comprehensive audit. This data shall minimally include, but is not limited to: use of force reports, vehicle pursuit reports, and attendance records.

### **IV. COMMANDERS**

- A. When under early warning system monitoring, the employee's supervisor shall meet with the employee to discuss the situation in depth to:
  - 1. Identify problems or potential problems;
  - 2. Determine short and long-term goals for improvement;
  - 3. Come to a consensus commitment on a plan for long-term improved performance;
  - 4. Advise of the monitoring process and the repercussions of future sustained transgressions.
- B. 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).
- C. All employee meetings shall be thoroughly documented and forwarded to Internal Affairs for filing.
- D. 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.

### **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;
  2. Retraining;
  3. Counseling;
  4. Intensive supervision program;
  5. Fitness for duty examination;
  6. Employee Assistance Program, when warranted, if available;
  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.
- C. When remedial/corrective intervention has been undertaken, the Chief of Police shall ensure that such actions are documented in writing. No entry should be made in the employee's personnel 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. INTENSIVE SUPERVISION PROGRAM**

- A. In those cases where the Chief of Police deems it necessary to enroll an employee into the Intensive Supervision Program, it will be incumbent upon the employee to submit to and successfully complete a course of remedial action as deemed appropriate by the Department based upon the employee's complaint history.
- B. There are two levels of ISP in which an employee may be enrolled:
1. **INTENSIVE SUPERVISION PROGRAM LEVEL I**
    - a. When an employee is under ISP Level I, weekly conferences with the employee will be held by the employee's immediate supervisor as directed by the Unit Commander. The purpose of the conference is to critique the employee's behavior and job performance as noted by the employee's immediate supervisor.
      - 1) Corrective recommendations, if required, will be implemented. Conferences will be documented and all original copies shall be forwarded to the employee's Unit Commander for review and/or additional recommendations.

- 2) **NOTE:** At a minimum, the immediate supervisor assigned to the employee will monitor job performance by frequent random, unannounced spot checks of the employee's assignments.
- b. Monthly conferences with the employee will be held by the employee's Unit Commander. The Unit Commander will meet with the employee upon enrollment into the program. Based upon the nature of the misconduct, the Unit Commander will formulate a course of action designed to reasonably enable the employee to achieve the goals of the Department within Departmental Rules, Regulations and Policy. That course of action will be documented and explained to the employee. The purpose of the succeeding conferences is to review with the employee, the immediate supervisor's progress report and recommendations, if any. Conferences will be documented and all original copies of progress reports will be forwarded, along with the immediate supervisors report and any recommendations, to the appropriate Division Head (e.g. Deputy Chief of Police).
- c. The Division Head will forward all original copies of reports, along with any recommendations, to the Chief of Police for review and subsequent filing with the Internal Affairs Unit.
- d. Mandatory intensive supervision will be terminated only by order of the Chief of Police.
  - 1) **NOTE:** Progressive disciplinary action may result should the level I program fail to bring about the required change in the employee's conduct and/or job performance.

## 2. **INTENSIVE SUPERVISION PROGRAM LEVEL II**

- a. When an employee is under ISP Level II, the Unit Commander will, at a minimum, adhere to the following steps:
  - 1) Document the sub-standard performance and/or misconduct.
  - 2) Meet with the employee and the employee's immediate supervisor.
  - 3) Request the assistance of the Planning and Training Unit, if necessary, to ascertain training curriculums and enrollment procedures.
  - 4) Assign a supervisor to monitor the employee's job performance by random unannounced spot checks of the employee's assignments.
  - 5) Conduct a progress review with the employee on at least a bi-weekly basis in order to critique the employee's progress and document same.

- 6) The Unit Commander can terminate Level II Intensive Supervision upon notice to the appropriate Division Head, when sufficient improvements obtained.
- 7) All original documentation will be submitted through the chain of command to the Chief of Police for review and subsequent filing with Internal Affairs Unit.

## **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 prior or current employing law enforcement agency to notify the subsequent employing law enforcement agency of the officer's Early Warning System review process history and outcomes. Upon request, the prior or current employing agency shall share the officer's Early Warning System review process files with the subsequent employing agency.

## **VIII. 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. 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.

## **IX. PUBLIC ACCESSIBILITY AND CONFIDENTIALITY**

- A. The Early Warning System policy shall be made available to the public upon request and shall be posted on the agency website.