

FORT LEE POLICE DEPARTMENT POLICY & PROCEDURES



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SUBJECT: EARLY WARNING SYSTEM (EWS)

BY THE ORDER OF:

REVISIONS:

1/17/2019-All sections revised

Keith M. Bendul
Chief of Police

REFERENCE: Attorney General's
Directive 2018-3

ACCREDITATION STANDARDS:
2.2.3

EFFECTIVE DATE:
1/17/2019

SUPERSEDES:
Early Warning System V2Ch16

PURPOSE: The purpose of this written directive is to establish and outline procedures to implement an Early Warning System (EWS) for sworn and non-sworn personnel that enables management to monitor the conduct of such personnel and to identify any patterns, practices or trends of problematic behavior that poses a risk to the public, to this agency or to the employee.

POLICY: It is the policy of this department to implement and utilize an EWS for detecting, tracking and reviewing at risk incidents related to employee conduct and provide timely intervention consistent with Attorney General Guidelines. This written directive is in accordance with the New Jersey Attorney General's Law Enforcement Directive No. 2018-3.

PROCEDURE:

I. EARLY WARNING SYSTEM (EWS)

- A. The EWS is an important management tool designed to detect patterns and trends in employee conduct before the conduct escalates into more serious problems. As such, employees must understand that the EWS is not identical to the disciplinary process. The primary intent of the EWS is to identify and remediate problematic conduct that poses a risk to the public, to the agency, and to the employee. The EWS serves to not only increase public safety and public confidence in law enforcement, but also to assist employees through early intervention.
- B. Although the EWS may monitor many different categories of employee conduct that indicate a potentially escalating risk of harm to the public, the agency and/or the employee, the following performance indicators shall be included in the department's EWS:
1. Internal affairs complaints against an officer, whether initiated by another employee or by a member of the public;
 2. Civil actions filed against the officer;
 3. Criminal investigations 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 an employee is an alleged subject;
 6. An arrest of an employee, including on a driving under the influence charge;
 7. Sexual harassment claims against an employee;
 8. Vehicular collisions involving an officer that is 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 that is suppressed by a court;
 12. Insubordination by the officer;
 13. Neglect of duty by the officer;
 14. Unexcused absences (absence without leave) by an employee; and
 15. Any other indicators, as determined by the Chief of Police.

- a. To the extent possible, supplemental performance indicators should be objectively measurable and reasonably related to potentially escalating harmful behavior by the employee.

II. NOTIFICATION OF PERFORMANCE INDICATORS

- A. Any civil actions/tort claims filed against an employee of the department shall be documented, and copies of the pertinent documents shall be forwarded to the Internal Affairs Commander for entry into the EWS.
- B. It is the responsibility of the Records Bureau Supervisor to report to the Internal Affairs Commander all cases or arrests by an officer of this department that are rejected or dismissed in court, or cases in which evidence obtained by an officer was suppressed in court.
- C. It is the responsibility of the Traffic Bureau Supervisor to report to the Internal Affairs Commander any collision by an officer when the officer is deemed at fault.
- D. All other performance indicators included in the department's EWS shall be reported to the Internal Affairs Commander via applicable departmental policies and procedures.

III. ADMINISTRATION OF EARLY WARNING SYSTEM

- A. The Internal Affairs Commander shall manage the department's EWS via a computer generated tracking system.
 1. All reviews prompted by the EWS shall be completed by the Internal Affairs Commander and documented in the computer generated tracking system, regardless of the action taken.
 2. At least every six (6) months, and no later than January 15th and July 15th of each year, the Internal Affairs Commander shall conduct an audit of the computer generated tracking system and records to assess the accuracy and efficiency the tracking system.

IV. INITIATION OF THE EARLY WARNING SYSTEM

- A. The Internal Affairs Commander, or his/her designee, shall enter each performance indicator into the EWS computer tracking system.
- B. Three (3) separate instances of performance indicators (as listed in section I.B. above) within any twelve (12) month period will trigger the EWS 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.
- C. When an EWS review process is initiated, the Internal Affairs Commander or designee, should:
 1. Formally notify the subject employee in writing;

- a. If EWS notification to the employee could jeopardize an ongoing criminal investigation, notification to the employee or initiation of the EWS review process may be delayed upon BCPO approval.
 - b. Notification of the EWS review process would normally commence when the employee is notified of the underlying criminal investigation.
2. Conference with the subject employee and appropriate supervisory personnel;
 - a. Any statement made by the subject employee in connection with the EWS review process may not be used against the subject employee in any disciplinary or other proceeding.
 3. Develop and administer a remedial program including the appropriate remedial/corrective actions listed in section V.A. below;
 4. Continue to monitor the subject employee for a least three (3) months, or until the supervisor concludes that the employee's behavior has been remediated (whichever is longer).

V. REMEDIAL/CORRECTIVE ACTION

- A. Assigned supervisory personnel shall initiate remedial/corrective intervention to address behavior. Remedial/corrective action may include but is not limited to the following:
 1. Training or re-training;
 2. Counseling/policy and procedure review;
 3. Intensive supervision;
 4. Fitness-for-duty examination;
 5. Employee Assistance Program (EAP) referral; and
 6. Any other appropriate remedial or corrective action.
- B. This policy, and the EWS generally are focused on corrective actions to remediate employee behavior and to provide assistance to the employee. This policy and the EWS does not address disciplinary actions that might be warranted against an employee. Such disciplinary actions remain within the purview of the agency's internal affairs function and may be imposed in accordance within existing internal affairs guidelines and applicable law, separate from and independent of the EWS.

VI. REPORTING/COMPLETION OF THE EWS REVIEW/MONITORING PROCESS

- A. Upon completion of the EWS review/monitoring process, the employee's supervisor will complete an EWS Supervisory Report that will list remedial/corrective actions taken and the outcome.

1. If the subject employee was supervised by two different supervisors during the monitoring period, each supervisor will complete the EWS Supervisory Report for the period of time the employee was under his/her command.
- B. The completed report will be forwarded to the supervisor's Division Commander, who will review it and forward it to the Internal Affairs Commander for review.
- C. The Internal Affairs Commander will confirm that the employee has not had any other performance triggers during his/her monitoring period and will approve and file the report.
 1. If the employee has had any new performance triggers during his/her monitoring period, the EWS review/monitoring period will be modified and extended in accordance with this policy.
- D. Once the Supervisory Report is approved, the Internal Affairs Commander will notify the Chief of Police of the outcome.
- E. The Internal Affairs Commander will then notify the employee in writing of the completion of the EWS review/monitoring process.

VII. NOTIFICATION TO COUNTY PROSECUTOR (SWORN PERSONNEL ONLY)

- A. Upon initiation of the EWS 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 EWS 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 EWS review, including any remedial measures taken on behalf of the subject officer.

VIII. NOTIFICATION TO SUBSEQUENT LAW ENFORCEMENT EMPLOYER (SWORN PERSONNEL ONLY)

- A. If any officer who is or has been subject to an EWS review process applies to or accepts employment at a different law enforcement agency than the one where he or she underwent the EWS 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 EWS review process history and outcomes. Upon request, the prior or current employing agency shall share the officer's EWS review process files with the subsequent employing agency.

IX. PUBLIC ACCESSIBILITY AND CONFIDENTIALITY

- A. The EWS policy shall be made available to the public upon request and shall be posted on the agency website.
- B. All written reports, or electronically stored data, created or submitted, pursuant to this policy that identify specific employees are confidential and not subject to public disclosure.