

Borough of Red Bank

POLICE DEPARTMENT

DEPARTMENTAL POLICIES AND PROCEDURES

LOCATION E-6	REFERENCE Attorney General's Directive		SPECIAL INSTRUCTIONS	
SUBJECT Early Warning Systems		NUMBER E-6	DISTRIBUTION All personnel	
EFFECTIVE 3-20-2018	REVISED	REVISED	REVISED	PAGES 9

PURPOSE: The purpose of this general order 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 (EWS) is designed to detect patterns and trends before the conduct escalates. An effective EWS 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. 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 complaints, whether initiated by another employee or by a member of the public and regardless of outcome;

2. Civil actions filed against an officer, regardless of outcome;
 3. Criminal investigations or complaints made against an employee;
 4. Any use of force by an officer that is formally determined or adjudicated to have been excessive, unjustified or unreasonable;
 5. Domestic violence investigations in which the employee is an alleged subject;
 6. All domestic violence incidents (regardless of whether or not a complaint or TRO/FRO was issued).
 7. An arrest of an officer, including on a driving under the influence charge;
 8. Sexual harassment claims against an employee;
 9. Vehicular collisions involving an officer that are formally determined to have been the fault of the officer;
 10. A positive drug test by an officer;
 11. Cases or arrests by the officer that are rejected or dismissed by a court;
 12. Cases in which evidence obtained by an officer is suppressed by a court;
 13. Insubordination by the officer;
 14. Neglect of duty by the officer;
 15. Vehicular pursuits;
 16. Off-Duty Contact with Law Enforcement Agencies as a result of personal conduct.
 17. Unexcused absences or sick time abuse; and
 18. Any other indicators, as determined by the agency's chief executive.
- C. Generally, three (3) separate instances of performance indicators (as listed in section B, above) within a six (6) 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.
- E. The agency's chief executive may in his or her discretion determine that a lower number of performance indicators within a twelve (12) month period will trigger the EWS review process.

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 their own observations. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct.
- B. Internal affairs 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 by internal affairs, the internal affairs supervisor shall audit an individual employee's history any time a new complaint is received.
 - 1. Using this information and their experience, internal affairs investigators may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the early warning system data audit.
- C. If the audit indicates the emergence of a pattern, practices or trend of inappropriate behavior or misconduct, the internal affairs investigator shall consult with the employee's supervisor and/or division commander.
- D. The internal affairs supervisor and the employees supervisor and/or division 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 audit indicates that the early warning system 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 general orders, 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, internal affair's personnel 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 their division commander and if warranted, the internal affairs supervisor. 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 unit for filing.
 - 1. No entry should be made in the employee's personnel file, unless the action results in disciplinary/corrective action.
- C. If the remedial/corrective intervention was training, documentation shall be filed in accordance with the department's general order governing training (remedial training).
- D. Supervisors shall forward all documentation as required by department general orders established to assist in a comprehensive audit. This data shall minimally include: use of force reports, vehicle pursuit reports, and attendance records

V. REMEDIAL/CORRECTIVE INTERVENTION

- A. When an EWS review process is initiated, the personnel assigned to oversee the EWS should:
 - 1. Formally notify the subject officer in writing
 - 2. Conference with the subject officer and appropriate supervisory personnel
 - 3. Develop and administer a remedial program including the appropriate remedial corrective actions listed below
 - 4. Continue to monitor the subject officer for at least three (3) months or until the supervisor concludes the officer's behavior has been remediated (whichever is longer)
 - 5. Document and report findings to the Chief of Police
- B. 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, when warranted, if available;
 - 6. Any other appropriate remedial or corrective action
- C. Internal disciplinary action, remedial/corrective intervention, and fitness for duty examinations are not mutually exclusive and should be jointly pursued if and when appropriate.

- D. 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.
- E. 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.
- F. Any statement made by the subject officer in connection with the EWS review process may not be used against the subject officer in any disciplinary or other proceeding.

VII. GUARDIAN TRACKING

- A. The Red Bank Police Department shall utilize the Guardian Tracking System as a means of documenting officer's activities and actions in the performance of their duties. The Guardian Tracking System shall serve as a database for positive recognition, as well as the foundation for the early warning system.
- B. The Guardian Tracking System shall be utilized by all divisions within the agency and will have strict reporting requirements delegated to supervisors of all ranks.
 - 1. Supervisors: Shall be responsible for documenting actions of their subordinates in the Guardian Tracking System. These entries shall include, but are not limited to:
 - a. Positive remarks and recognition for officers.
 - b. M.V.R. / B.W.R. reviews as required by the Mobile Video / Body Worn Recorders Policy.
 - c. All minor complaints made by the public which are addressed outside of the Internal Affairs Unit shall be uploaded into the Guardian Tracking System. In these circumstances, the supervisor making the entry must include the resolution that was noted and if the officer acted appropriately.
 - d. Any imposed discipline issued to officers under their command. The entry will be made under the appropriate category listing and the narrative only needs to state "See attached" (Which will refer to the uploaded relevant disciplinary document).
 - e. Recognition for officer's who submit extraordinary monthly reports shall be entered into the Monthly Activity Recognition category.
 - f. Performance deficiencies that are identified / addressed at the squad level and not as an internal affairs matter shall be entered under the "Performance Deficiency" option. If these issues are not resolved, these entries shall serve as the progressive scale for further evaluation.

4. This policy recognizes the prosecutions ability to issue plea bargains in traffic and criminal cases. Therefore, officers are not required to self-report dismissals of charges that are in conjunction with a plea bargain in which the defendant accepted a guilty plea on a lesser charge in lieu of proceeding to a trial.
5. This policy recognizes that the court system may not make officers aware of dismissal of charges or suppression of evidence. Therefore, officers shall not be held accountable for failing to notify their immediate supervisor of the dismissal of charges or suppression of evidence when it occurs without their knowledge.
6. This policy also recognizes the fact that, on occasion, certain pre-selected defendants may be eligible to have their charges (both motor vehicle/criminal) administratively dismissed due to their cooperation and/or input within a complex/advanced criminal investigation. If an administrative dismissal was issued due to the defendant's cooperation in a distinct investigation, this policy shall NOT apply.

B. Supervisor Responsibilities:

1. Upon being notified by a subordinate of a dismissal of charges or suppression of evidence, the supervisor shall make an entry for the officer into the Guardian Tracking System under the category "Suppression of Evidence."
2. This entry shall document any facts related to the dismissal of charges or suppression of evidence relayed from the officer.
3. The supervisor may request additional information from the officer pertaining to the dismissal of charges or suppression of evidence at a later date. If additional information is obtained which the supervisor believes is pertinent to the dismissal of charges or suppression of evidence, the supervisor shall document this under the initial entry of "Dismissal of Charges" in the Guardian Tracking System.

C. Red Bank Municipal Court:

1. This policy shall be forwarded to the Red Bank Municipal Court for their review.
2. It is requested that the Red Bank Municipal Court Prosecutor notify the Red Bank Police Department Chief of Police of the dismissal of charges or suppression of evidence which occurs without the knowledge of the officer who issued the charges. The Chief of Police or his/her designee may make the entry of "Court Adjudication" in the Guardian Tracking System, or forward the information to the officer's immediate supervisor for review and entry into the Guardian Tracking System.

IX. ANNUAL REVIEW

- A. The Red Bank Police Department shall review its early warning system on an annual basis during the month of January. The Chief of Police or his/her designee

shall provide a letter to the Monmouth County Prosecutor's Office documenting proof of such review. The review shall include, but not be limited, to the following:

1. Number of audits conducted;
2. Number of employees flagged;
3. Number of instances where remedial/corrective action was taken;
4. Number of internal affairs cases opened as result of early warning system;
5. Changes in number of internal affairs complaints with reference to flagged indicators and whether they have increased/decreased;
6. Number of notifications made to the Monmouth County Prosecutor's Office.

X. 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.

XI. NOTIFICATION TO COUNTY PROSECUTOR'S OFFICE

- 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.
- B. Domestic Violence Protocol and Off-Duty Conduct with Law Enforcement Agencies as a result of personal conduct
1. For all incidents where it is alleged that a law enforcement officer committed an act of domestic violence or was the victim of domestic violence, and in instances where there is off-duty contact with law enforcement agencies as a result of personal conduct, regardless of whether or not complaints and/or a temporary or final restraining order has been issued, the Chief of Police or his/her designee shall promptly notify the MCPO Professional Responsibility and Bias Crime Unit by emailing mcpopru@mcponj.org. All emergent matters shall be reported directly to the MCPOPRU at 732-577-8700
 2. All law enforcement agencies shall ensure that their police officers identify

themselves as law enforcement officers to responding officers when their conduct results in a police call, regardless of whether or not complaints and/or a temporary or final restraining order has been issued. The involved off-duty officer shall also be required to self-report the incident to his/her agency. Notification is not required when the police involvement consists of minor traffic infractions where no injury was sustained by any party. A police officer's failure to make such notification may result in departmental discipline in accordance with departmental policy and procedure.

3. When required, notification should include the following information:
 - a. Agency name
 - b. Officer's name
 - c. Victim's name
 - d. Reported date/time
 - e. Date of incident, if other than reported date/time
 - f. Incident location, including municipality
 - g. Assigned Case number
 - h. Nature of incident
 - i. Injuries sustained by victim
 - j. Witness names
 - k. Criminal complaint and/or TRO/FRO issued
 - l. Assigned personnel
 - m. Copies of all police reports and relevant paperwork

4. All Monmouth County law enforcement agencies are required to provide to the MCPOPRU a listing of any and all calls where it is alleged that a law enforcement officer committed an act of domestic violence or was the victim of domestic violence regardless of whether or not complaints and/or a TRO/FRO has been issued to include, but not limited to:
 - a. All incidents that occurred within their jurisdiction in the past three years.
 - b. All out of county and/or state notifications of domestic violence calls involving law enforcement officers
 - c. Verification that if an officer from another county, state or out of state agency was involved that notification has been made to the involved officer's employing agency

XII. 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.
- B. All written reports or submitted pursuant to this Directive that identify specific officers are confidential and not subject to public disclosure.