

WALL TOWNSHIP POLICE DEPARTMENT

Standard Operating Procedure



SUBJECT: EARLY WARNING SYSTEM

EFFECTIVE DATE:	ACCREDITATION STANDARDS:	REVISION DATE	PAGE #
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BY THE ORDER OF: Chief Kenneth Brown Jr.		July 28, 2021	1-3,5-10
SUPERSEDES ORDER #:			

PURPOSE The purpose of this Standard Operating Procedure is to establish a policy and procedures for administering a personnel early warning system.

POLICY It is the policy of the Wall Township Police Department to implement and utilize an early warning system for tracking and reviewing the incidents of risk and provide timely intervention consistent with the Monmouth County Prosecutor's Directive, June 2021, and the New Jersey Attorney General's Law Enforcement Directive No. 2018-3.

PROCEDURES

I. General

- A. An early warning system is designed to detect patterns and trends before the conduct escalates into more serious problems. The primary intent is to address potential problems through the use of appropriate management intervention strategies before negative discipline becomes necessary.
- B. All levels of supervision, especially first line supervisors, are expected to recognize potentially at-risk employees, identify training needs and provide professional support in a consistent and fair manner. Emphasis should be placed on anticipating problems among employees before they result in improper performance or conduct.
- C. Many different measures of employee performance can be regularly examined for patterns or practices that may indicate potential problems. These performance measures may include, but are not limited to, the following documented indicators as per the Attorney General Guidelines:
 - 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;
 - a. If Early Intervention System notification to the employee could jeopardize an ongoing criminal investigation, the County Prosecutor may in his or her discretion permit delayed notification to the employee or delayed initiation into the Early Intervention System review process.
 - 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 (regardless of whether or not a complaint or TRO/FRO was issued);
 - 6. An arrest of an employee, including on a driving under the influence charge;
 - 7. Sexual harassment claims against an employee;
 - 8. On-duty vehicular collisions involving an officer that is formally determined to have been the fault of the officer;
 - 9. A positive drug test by an 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 employee;
 - 13. Neglect of duty by the employee;

- 14. Unexcused absences or sick time abuse; and
 - 15. Any other indicators, as determined by the agency's chief executive.
- D. Generally, three (3) instances of questionable conduct or performance indicators (as listed in section C, above) within a 12-month period would initiate the early warning system process.
 - a. The review period shall be calculated beginning on the date of the third performance indicator in twelve months.
 - E. 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.
 - F. The early warning system is primarily the responsibility of the Chief of Police; but, any supervisor can initiate the early warning process based upon his/her own observations.
 - G. At least every six (6) months, the Chief of Police shall audit the agency's tracking system and records to assess the accuracy and efficacy of the tracking system and to determine if an employee has the emergence of a pattern, practice or trend of inappropriate behavior or misconduct. The Chief of Police or designee shall prepare a written report noting the previous participants and outcomes. Modifications to this process should be implemented at the earliest opportunity.

II. Guardian Tracking Software

- A. This department will utilize Guardian Tracking® software in order to manage, track, and trigger alerts with respect to this Personnel Early Warning System.
 - 1. Guardian Tracking® is an employee behavioral monitoring and early warning system. In no way, does it excuse a supervisor or any other employee from following the procedures mandated in this department's Internal Affairs SOP.
- B. Supervisors of all ranks and assignments shall have access to the Guardian Tracking system via an assigned login and personal password. Employees who have not been issued a login are not authorized to access the system.
- C. It is the responsibility of all supervisors to enter all incidents listed below for each of their subordinates. Supervisors who fail to document incidents as required by this SOP will be subject to disciplinary action.
- D. The following shall serve as a guide to the incident categories contained within Guardian Tracking® in addition to the documented indicators as per the Attorney General Guidelines listed above in section I C

Application of Leadership Skills – To be used when an employee demonstrates or exhibits commendable actions that indicate his/her knowledge of job responsibilities.

Civil Action Filed - To be used when a person files a civil action against a member of the agency.

Commendation - Official awards or citations that commend an employee's action.

Court - Failure to Appear – To be used when an employee fails to appear before the court after proper notification has been given.

Crime Scene Protection – To be used when an employee does an outstanding job in protecting a crime scene.

Demeanor/Attitude - To be used when an employee exhibits, or is alleged to have exhibited, behavior that constitutes poor demeanor or attitude.

Exceptional Performance – actions that are above and beyond what is expected but may not be worthy of an official commendation.

Grooming/Dress - To be used when an employee's manner of grooming or dress is not in compliance with department policy.

Initiative - To be used when an employee either shows initiative in the performance of a job function or when needed to document the absence of initiative on the part of an employee.

Injury – On Duty - To be used whenever an employee is injured while on duty regardless of circumstances.

Injury of Arrestee - To be used when an arrestee is injured or receives medical treatment as a result of the process of being arrested. An entry in this category does not presuppose that the officer acted improperly or contrary to policy or procedure.

Internal Affairs Investigation – To be used whenever an Internal Affairs Investigation has been opened and the employee is the target.

Interviewing Skills - To be used when an employee has the ability to elicit required information from suspects, victims, witnesses and associates.

Letter of Praise – Written correspondence received by the agency regarding positive actions demonstrated by an employee.

Motor Vehicle Accident - On-Duty - To be used when an employee is involved in a Motor Vehicle Accident while on duty. An entry in this category does not presuppose that the employee was at fault.

Notes - Notes are to be used to track any communications that do not need to be monitored.

Operation/Care of Equipment - To be used when an employee fails to properly care for or damages department equipment.

Outstanding Community Involvement – To be used when an employee shows outstanding community involvement.

Performance Deficiency: To be used when an employee's performance is sub-standard or not in keeping with the standards set forth by this agency. Behavioral anchors listed in the department evaluation can be used as a guide for what constitutes negative performance.

Perf. Note - Positive - To be used when an employee's behavior exceeds the expectations and standards set forth by this department. Behavioral anchors listed in the department evaluation can be used as a guide for what constitutes positive performance.

Policy Violation - To be used when an employee violates departmental policy and none of the other categories available is appropriate.

Positive Impact with Youths – To be used when an employee has a positive impact with local youths.

Radio Procedure - To be used whenever an employee uses radio procedure that is contrary to department policy or FCC regulations.

Resisting Arrest Charge - To be used whenever an officer charges an arrestee with resisting arrest.

Tardiness - To be used whenever an employee reports for work after the time set forth by his/her schedule in accordance with department policy.

Use of Force Incident – To be used when the employee is involved in an incident that requires a Use of Force report to be completed.

Vehicle Operation – To be used when an employee operates a department vehicle on duty in an improper or unsafe manner.

Vehicle Pursuit Incident - To be used whenever an employee participates in a pursuit as either a primary or secondary unit as defined by department directive.

Teamwork – To be used when employee(s) exhibits exceptional teamwork behavior.

Leadership Demonstrated – To be used when an employee exhibits exceptional leadership.

III. Remedial Action

- A. If the early warning system reveals a potential problem through the presence of a flag in the Guardian Tracking[®] software, or as identified by a supervisor, the Chief of Police or designee will gather all relevant information from the system. A separate incident will be generated in the Guardian Tracking[®] software using the appropriate Early Warning Intervention Incident category (II.E.4).
- B. The Chief of Police will cause a review of the data provided, along with more detailed information available 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 Guardian Tracking[®] Software has returned an incorrect identification or "false positive," that conclusion should be documented.
 - a. A "false positive" is a scenario where the Early Intervention System is technically triggered; however, remedial or corrective action is not warranted. For example, the Early Intervention System is triggered by three internal affairs complaints against the employee in a twelve-month period, regardless of whether or not those complaints

have merit and are sustained. An employee who is the subject of three such complaints who is exonerated, or where the complaints are deemed unfounded or not sustained, need not be subject to remedial or corrective action unless the agency deems such appropriate.

2. If the Guardian Tracking® Software reveals that an employee has violated department rules and regulations or written directives, the supervisor after consultation with Internal Affairs should proceed with an internal investigation and possible disciplinary action.
 3. If the Guardian Tracking® Software 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 employee's commander to determine the appropriate course of remedial/corrective intervention.
- C. All action taken will be documented in the Guardian Tracking® software under the previously created Early Warning Intervention Incident category.
- D. Remedial intervention may include, but is not limited to:
1. Training;
 2. Retraining;
 3. Counseling;
 4. Intensive supervision;
 5. Fitness for duty examination;
 6. Employee Assistance Program;
 7. Any other appropriate or corrective action.
- E. Internal disciplinary action, remedial action, and fitness for duty examinations are not mutually exclusive and should be jointly pursued if and when appropriate.
- F. When remedial action has been undertaken, the Chief of Police shall ensure that such actions are documented in writing. In any instance where remedial/corrective intervention is taken pursuant to the Early Intervention System, no entry should be made in the employee's formal personnel file, unless the action results in a sustained internal affairs investigation. If the remedial action is a training program, attendance and successful completion of that program should be noted in the employee's training record.
- G. The Chief of Police shall cause a review of any individual employee's history anytime a new complaint is made. Using this information, the Chief of Police or designee may be able to identify employees who may need counseling, training or other remedial action even before such is indicated by the early warning system's ongoing data review.

- H. 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).
- I. When under early warning system monitoring, the employee's direct 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.
- J. All employee-supervisor meetings shall be thoroughly documented in the Guardian Tracking[®] software, which will automatically be forwarded to the Chief of Police. The affected employee and supervisor shall meet on a regular basis, minimally monthly, to discuss progress towards the agreed upon goals and objectives.
- K. All regular monthly progress/status reports shall be submitted via the Guardian Tracking[®] software.
- L. An additional six (6) months of documented monitoring is required following removal from early warning system. Monthly monitoring reports from the direct supervisor are required.
- N. All reports shall be forwarded to the Chief of Police through the Guardian Tracking[®] software 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.
- O. 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.

IV. Monmouth County Prosecutor's Office Notifications

- A. List of Mandatory Notifications
 - 1. The following require mandatory notification to the Monmouth County Prosecutor's Office under this Early Intervention System:
 - a. Officer has Triggered Early Intervention System Review Process
 - 1) An officer has triggered the Early Intervention System review process due to three separate instances of performance indicators within any twelve-month period (or, by triggering the Early Intervention System review process for his/her agency, if the Chief Executive determined that a lower number of performance indicators within a twelve-month period (i.e., one

or two performance indicators) will trigger the Early Intervention System review process. In such instance, the agency shall:

- a) Make a confidential written notification to the Professional Responsibility Unit and Bias Crimes Unit (PRU) of the MCPO including the identity of the officer, the nature of the triggering performance indicators, and the planned remedial program. Upon completion of the Early Intervention System review process, PRU shall be notified of the outcome of the process, including any remedial/corrective measures taken by the officer. If the Early Intervention System review process was triggered by a “false positive” as outlined above, such should be indicated to PRU.
- b. Domestic Violence Matters Involving a Law Enforcement Officer
- 1) Any incident in which an officer is alleged to have committed an act of domestic violence or was the victim of domestic violence must be reported to the MCPO. Domestic violence matters must be reported regardless of whether or not complaints and/or a temporary or final restraining order has been issued, and regardless of where the underlying incident occurred (in or out-of-county)
 - 2) Domestic violence matters involving law enforcement officers employed by state or out-of-county agencies must be reported to both the officer’s employing agency and the MCPO. Notification to the MCPO should include verification that the officer’s employing agency has been notified about the domestic violence incident as well as state whether the officer has been disarmed pursuant to Attorney General Law Enforcement Directive 2000-3, “Seizure of Weapons from Municipal and County Law Enforcement Officers.”
- c. Off-Duty Contact with Law Enforcement Agency
- 1) MCPO must be notified of any instance where an officer has off-duty contact with a law enforcement agency as a result of personal conduct. However, the following need not be reported to MCPO (a) contact as a result of minor motor vehicle/traffic violation that does not result in injury or MVC points; (b) contact in which an officer solely notifies a law enforcement agency about a welfare or public safety issue (ex., found a lost dog, reporting a downed wire, etc.). When in doubt about whether the matter should be reported to the MCPO, contact PRU for guidance.
 - 2) Police officers are required to identify themselves as law enforcement officers to responding officers when their off-duty conduct results in a police interaction, regardless of whether or not complaints, a restraining order, or any other action is taken. The involved off-duty police officer shall also be

required to self-report the incident to his/her agency. A police officer's failure to make notification to the responding agency and/or his employing agency may result in discipline. The required notification to the MCPO should be made by both the responding agency and the officer's agency.

- d. Officer has been Criminally Charged or Charged with a DWI
 - 1) The MCPO must be notified if an officer is criminally charged (by an agency other than the MCPO) or is charged with a Driving While Intoxicated offense.

- e. Officer has been Sent for a Fitness for Duty Examination
 - 1) The MCPO must be notified anytime an officer has been sent for a fitness for duty evaluation, *regardless of the reason*.
 - 2) Whenever a local law enforcement agency sends any officer for a fitness for duty evaluation, the agency Chief Executive or his/her designee is required to submit to the physician, psychiatrist, or psychologist an itemized list of the documents it forwarded to him/her along with the documents it submitted. A copy of this itemized list must be maintained in the agency's internal affairs file and made available to the MCPO upon request.
 - 3) Fitness for duty reports, in their entirety, must be provided to the Monmouth County Prosecutor's Office for review and maintenance in our case file. As with all other files of a confidential and sensitive nature, fitness for duty reports are maintained in a locked, secure, confidential location, accessible only to the PRU staff.

- f. Officer has been Disarmed
 - 1) The MCPO must be notified anytime an officer has been disarmed, *regardless of the reason*.
 - 2) *Prior to a local law enforcement agency rearming the officer, the Monmouth County Prosecutor's Officer must be provided with (1) a copy of the corresponding fitness-for-duty report (in its entirety); and (2) a written plan regarding the rearming of the officer, to include whether such would be unconditional or conditional, and any conditions proposed. The officer shall not be rearmed by the local agency until the MCPO has the opportunity to review the fitness-for-duty report and written plan and articulate any objections, concerns, or recommendations to the local agency.*
 - 3) This procedure must be followed *anytime* an officer is disarmed *for any reason* and the agency is seeking his/her rearming. It is not limited to domestic violence incidents. Attorney General Law Enforcement Directive 2000-3,

“Seizure of Weapons from Municipal and County Law Enforcement Officers,” section III.F., explicitly provides that the County Prosecutor’s Office where a domestic violence incident occurs determines whether or not weapons seized due to a domestic violence incident will be returned to a law enforcement officer; however, an officer may be disarmed for many reasons. In each and every instance, it is imperative that the MCPO be advised of the disarming and consulted as outlined above prior to any rearming, to ensure the health, safety and welfare of the public.

B. Method of Notification

1. Notifications identified above shall be made to PRU via email at mcpopru@mcponj.org. Where notification is required, all available information shall be provided, including any police reports and other documentation. Emergent matters, such as the arrest of an officer or his/her involvement in a domestic violence incident, shall be reported directly to the Monmouth County Prosecutor’s Office Professional Responsibility and Bias Crime Unit by calling 732-577-8700 by asking for the on-call PRU supervisor.

C. Responsibilities of Professional Responsibility Unit

1. It is the continuing responsibility of the Professional Responsibility and Bias Crimes Unit to open a file when the aforementioned notifications are made, review the incident, and investigate the matter further, if necessary.

VI. ANNUAL REPORTING AND REVIEW

A. Local Agency Reporting to MCPO

1. By January 15 of each year, each agency Chief Executive or his/her designee shall provide a letter to the Monmouth County Prosecutor’s Office, Professional Responsibility and Bias Crime Unit Director, documenting that (1) they are in compliance with this policy and Attorney General Law Enforcement Directive 2018-3; and (2) documenting the following with respect to the *prior calendar year*.
 - a. Number of Early Intervention System audits conducted (must be at least one every six months, or two per year, but can be more);
 - 1) This requirement *only includes* the number of system-wide Early Intervention system audits and must be at least two per year.
 - b. Number of officers who have triggered the Early Intervention System review process by having three separate performance indicators within a twelve-month period (or less if the Chief Executive determined that a lower number of performance indicators within a twelve-month period (i.e., one or two performance indicators) will trigger the Early Intervention System review process);
 - c. Number of Early Intervention System notifications made to the Monmouth County Prosecutor’s Office;

- 1) The number of Early Intervention System notifications to the MCPO should equal the number of officers who triggered the Early Intervention System review process.
- d. Number of instances where remedial/corrective action was taken;
- e. Number of instances in which there was a false positive; and
 - 1) The number of instances where remedial/corrective action was taken and number of false positives should equal the total number of officers who have triggered the Early Intervention System review process.
- f. Number of instances which resulted in the Early Intervention System Review Process *and* also resulted in the commencement of an internal affairs investigation.

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. 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. Annual reports from the County Prosecutors to the Attorney General (as required by Section II.I, above) also shall be made available to the public upon request and shall be posted on the agency's website.
- C. All written reports created or submitted pursuant to this Directive that identify specific officers are confidential and not subject to public disclosure.