

**ASBURY PARK  
POLICE DEPARTMENT  
STANDARD OPERATING PROCEDURE**



**EARLY WARNING SYSTEM**

**BY THE ORDER OF:  
DEPUTY CHIEF DAVID KELSO**

**# OF PAGES: 9**

**EFFECTIVE DATE: April 11, 2018**

**ACCREDITATION STANDARDS: 2.2.3**

**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 Guardian Tracking® Software as an early warning system for tracking and reviewing incidents of risk and provide timely intervention consistent with Attorney General Guidelines. This written directive is in accordance with the Monmouth County Prosecutor's Directive, June 2016, and 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 may 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 employee, 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. Unexpected absences or sick time abuse; and
  18. Any other indicators, as determined by the agency's chief executive.
- 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/her own observations. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct.
- B. The employee's supervisor shall be alerted by the Guardian Tracking® Software if an employee has the emergence of a pattern, practices or trend of inappropriate behavior or misconduct. In addition, the employee's supervisor shall query the Guardian Tracking® Software and review an individual employee's history any time a new complaint is received.
- C. The employee's supervisor shall be alerted by the Guardian Tracking® Software if an employee has the emergence of a pattern, practices or trend of inappropriate behavior or misconduct. In addition, the employee's supervisor shall query the Guardian Tracking® Software and review an individual employee's history any time a new complaint is received.
  1. Using this information, the supervisor may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the Guardian Tracking® Software.
- D. If the Guardian Tracking® Software indicates the emergence of a pattern, practices or trend of inappropriate behavior or misconduct, the supervisor shall consult with the employee's commander.
- E. The employee's supervisor and commander shall review the information 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 Guardian Tracking® Software has returned an incorrect identification or "false positive," that conclusion should be documented.
  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.
- F. 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 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.
- B. If a supervisor has initiated remedial/corrective intervention, Internal Affairs shall be formally notified of such efforts through the Guardian Tracking® Software. The incident narrative placed in the Guardian Tracking® Software may serve as adequate documentation.
- C. Guardian Tracking® Software
1. Guardian Tracking® Software allows supervisors the ability to document routine performance in one centralized location during the course of an evaluation period. As incidents are entered, Guardian Tracking® Software will monitor the frequency of specific incidents to determine if early intervention is warranted.
  2. Supervisors will not document routine performance in any other format. All performance documentation will be entered into the Guardian Tracking® Software.
  3. Supervisors will have access to make entries and view all employees under their chain of command.
  4. Supervisors, who identify deficiencies with other personnel outside of their chain of command, will submit the nature of the performance deficiency directly to the employee involved. Supervisors within the chain of command will, by default, have access to this newly created documentation.
    - a. This process does not relieve the documenting supervisors of the obligation to take immediate action to correct serious infractions that may result in liability, injury, and/or disrepute.
  5. Supervisors, who identify and wish to document positive performance conduct on other personnel, outside of their chain of command, will submit the nature of the performance directly to the employee involved. Supervisors within the chain of command will, by default, have access to this newly created documentation.

#### **IV. COMMANDERS**

- A. 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 Guardian Tracking® Software.
- B. When under early warning system monitoring, the employee's commander and 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.
- C. 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).
- D. Employee Meetings
  - 1. All employee meetings shall be thoroughly documented in the Guardian Tracking® Software, which will automatically be forwarded to the Chief of Police or his designee. The affected employee and supervisors shall meet on a regular basis, minimally monthly, to discuss progress towards the agreed upon goals and objectives.
  - 2. All regular monthly progress/status reports shall be submitted via the Guardian Tracking® Software.
  - 3. An additional six (6) months of documented monitoring is required following removal from the early warning system. Monthly monitoring reports from the direct supervisor are required.
- E. 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;
  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 or designee 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.

## **VI. MONMOUTH COUNTY PROSECUTOR'S OFFICE NOTIFICATIONS**

- A. Domestic Violence Protocol
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, 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 Monmouth County Prosecutor's Office Professional Responsibility and Bias Crime Unit by emailing [mcpopru@mcponj.org](mailto:mcpopru@mcponj.org).
  2. All police officers of the Asbury Park Police Department are required to identify themselves as law enforcement officers to responding officers when their off-duty 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 police officer shall also be required to self-report the incident to Internal Affairs. Said identification will ensure that the responding police department may notify the involved officer's agency of said police call. 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 procedures.
  3. This notification should include the following information:
    - a. Agency name;
    - b. Officer's name;
    - c. Victim's name, if other than officer;

- 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, e.g., (local law enforcement officer, internal affairs officer); and
  - m. Copies of all police reports and relevant paperwork, e.g., (complaint, TRO, VNF, etc.).
4. All emergent matters shall be reported directly to the Monmouth County Prosecutor's Office Professional Responsibility and Bias Crime Unit by calling 732-577-8700.
  5. The Asbury Park Police Department shall provide to the Monmouth County Prosecutor's Office Professional Responsibility and Bias Crimes Unit 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 temporary or final restraining order has been issued to include, but not limited to:
    - a. All incidents that occurred within their jurisdiction in the past three (3) 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.
  6. It is the continuing responsibility of the Professional Responsibility and Bias Crimes Unit to open a file, review the incident, and investigate the matter further, if necessary.

**B. Fitness-for-Duty Protocol**

1. The Chief of Police or his/her designee shall make notification to the Monmouth County Prosecutor's Office Professional Responsibility and Bias Crimes Unit by emailing [mcpopru@mcponj.org](mailto:mcpopru@mcponj.org) to include, but not limited to the following:
  - a. Any time an officer is sent for a fitness for duty evaluation regardless of the reason for the evaluation;

- b. Any time an officer is disarmed, regardless of the reason for the disarming;
  - c. Any time the early warning system results in the law enforcement officer being counseled, disciplined, sent for a fitness for duty evaluation, or disarmed; or
  - d. Any time the early warning system indicates the officer has received three (3) citizen complaints within a six (6) month period, regardless of the reason.
2. All emergent matters shall be reported directly to the Monmouth County Prosecutor's Office Professional Responsibility and Bias Crime Unit by calling 732-577-8700.
3. When a law enforcement officer has been disarmed, regardless of the reason and prior to the Asbury Park Police Department rearming the officer, the Monmouth County Prosecutor's Office must be provided with a copy of the corresponding fitness-for-duty report and a written plan regarding the rearming of the officer. This written plan should include whether or not the rearming will be conditional or unconditional. If it is a conditional rearming, the agency must notify the Monmouth County Prosecutor's Office of all the terms of the conditional rearming, and the duration of the conditional rearming.
4. In addition, whenever the Asbury Park Police Department sends any officer for a fitness-for-duty evaluation, the Chief of Police or his/her designee is also 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 Monmouth County Prosecutor's Office upon request.
5. It is the continuing responsibility of the Professional Responsibility and Bias Crimes Unit to open a file, review the incident, and investigate the matter further, if necessary.

## **VII. ANNUAL REVIEW**

- A. The Asbury Park 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.

**VIII. 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.

**IX. 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.

**X. 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.