

# New Jersey State Human Services Police

## STANDARD OPERATING PROCEDURES



SUBJECT: EARLY WARNING SYSTEM

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BY THE ORDER OF: Director of Police

**PURPOSE:** The purpose of this policy is to establish guidelines for the New Jersey State Human Services Police Member Early Warning System (MEWS).

**POLICY:** It is the policy of New Jersey State Human Services Police to implement and utilize an Early Warning System (EWS) for maintaining, retrieving, and analyzing information regarding the performance of employees. The system will identify, reward, and promote professionalism, civil rights, integrity, best practices, as well as identify, intervene, and remediate potentially problematic behavior allowing for timely intervention consistent with the risk management procedures promulgated by the New Jersey State Attorney General in its Internal Affairs Policies and Procedures. This written directive is in accordance with the New Jersey Attorney General’s Law Enforcement Directive No. 2018-3.

This policy shall be applicable to all sworn members of the New Jersey State Human Services Police (NJSHSP), regardless of rank or assignment, who are responsible for enforcing the criminal laws of New Jersey, come under the jurisdiction of the Police Training Act, and authorized to carry a firearm under N.J.S.A. 2C:39-6.

## PROCEDURES:

### 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. Although no specific and universal criteria can determine job stress and/or performance problems, it is important that certain types of performance indicators be reviewed.
- C. Many different measures of employee performance (actions or behaviors) shall 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 employee, 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 the charge of driving under the influence;
  - 8. Sexual harassment claims against an employee;
  - 9. Vehicular collisions involving an employee wherein it has been determined to have been the fault of the employee;
  - 10. Vehicle pursuits involving an employee;
  - 11. Suspicion of substance abuse by the employee;
  - 12. A positive drug test by an employee;
  - 13. Cases or arrests by the employee that are rejected or dismissed by a court;
  - 14. Cases in which evidence obtained by an employee is suppressed by a court;

15. Insubordination by the employee;
  16. Attitude or demeanor problems by an employee;
  17. Neglect of duty by the employee;
  18. Unexcused absences or sick time abuse by an employee;
  19. Repeated tardiness;
  20. Extreme or sudden decline in behavior performance, appearance, or hygiene;
  21. Off-duty contact with any law enforcement agency as a result of an employee's personal conduct;
  22. Personal problems (domestic, health, family issues, etc.) affecting job performance; and
  23. Any other indicators as determined by the Director, Chief or their designee.
- D. Generally, the Chief of Police reserves the right to determine additional performance indicators and add such to the list above, consistent with evolving standards of sound public policy. To the extent possible, all additional performance indicators should be objectively measurable and reasonably related to potentially escalating harmful behavior by the employee.
- E. 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.
- F. 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.
- G. A combination of five (5) of any performance indicators in a twelve (12) month period may also result in the triggering of the Early Warning System.
- H. The thresholds listed above shall not hinder the Chief of Police or his/her designee or the Office of Internal Affairs (OIA) from triggering the Early Warning System for a lower number of performance indicators based upon such factors as previous participation in the Early Warning System or the existence of prior disciplinary issues.

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

- A. The Early Warning System is primarily the responsibility of the Office of Internal Affairs (OIA), 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. The Office of Internal Affairs will conduct evaluations of members based on the performance indicators in Section I. These evaluations shall be conducted at least two (2) times per calendar year but may be done more frequently as incidents dictate.

- C. Once an Office of Internal Affairs (OIA) evaluation has determined that the thresholds have been met to initiate an Early Warning System review process, the OIA Supervisor shall create a case in the OIA's Record Management System and notice the Chief of Police.
- D. The OIA Supervisor shall review the member's OIA file and consult with the Department of Human Services' Office of Employee Relations to determine if there has been any prior history or related behavioral performance problems, court litigation, arrests, EEO investigations and/or disciplinary actions in order to determine the appropriate course of action.
- E. The OIA Supervisor and the Chief of Police shall meet and conduct a careful evaluation of any related documentation. This will be done to determine if the employee's performance is problematic and requires intervention. If necessary, a meeting with the employee's immediate supervisor and/or Regional Commander may be considered. The OIA Supervisor and Chief of Police shall determine the appropriate course of action to be taken. Such action includes:
  - 1. Making a determination that activation of the Early Warning System is not necessary based on the indicators and/or a plan to remediate the employee's behavior has already been placed into action;
  - 2. Determining that the matter should be handled by the Office of Internal Affairs in accordance with the agency's policy on Internal Affairs, or;
  - 3. Activating the Early Warning System.
  - 4. A summary of the review shall be provided by the Chief of Police, via email, to the Director of Police.
- F. At least every six (6) months, the Office of Internal Affairs shall audit the agency's tracking system and records to assess the accuracy and efficacy of the tracking system.

### **III. ACTIVATION OF THE EARLY WARNING SYSTEM**

- A. Activation of the Early Warning System generally focuses on corrective actions aimed at remediating the employee's behavior and providing assistance to the employee.
- B. Once a determination has been made to activate the Early Warning System, the Office of Internal Affairs (OIA) Supervisor and Chief of Police shall determine the appropriate supervisory level for notification and implementation of the remedial action plan to address the employee's behavior.
- C. The Office of Internal Affairs (OIA) Supervisor shall assign the appropriate supervisory personnel to develop a remedial action plan to be administered to the employee, including the appropriate remedial/corrective actions listed in Section VI below.
- D. The supervisory personnel assigned to oversee the Early Warning System remedial action plan shall:
  - 1. Identify problems or potential problems;

2. Determine short and long-term goals for improvement;
  3. Formally notify the employee, in writing, of the EWS activation and the associated remedial action plan;
  4. Conference with the employee and appropriate supervisory personnel;
  5. Come to a consensus commitment on a plan for long-term improved performance;
  6. Advise of the monitoring process and the repercussions of future sustained transgressions.
  7. Administer the developed remedial action plan pursuant to Section III, C. above;
  8. Continue to monitor the employee for at least three (3) months or until the supervisor concludes the employee's behavior has been remediated, whichever is longer; and
    - a. The affected employee and supervisor shall meet on a regular basis, minimally monthly, to discuss progress towards the agreed upon goals and objectives.
  9. Document and report findings to the Supervisor of the Office of Internal Affairs (OIA).
    - a. All supervisor/employee meetings shall be thoroughly documented, which will be forwarded to the Supervisor of the Office of Internal Affairs (OIA).
    - b. All regular monthly progress/status reports shall be submitted to the Supervisor of the Office of Internal Affairs (OIA) and the respective employee's Division/Regional Commander through the chain of command.
  10. 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. The Supervisor of the Office of Internal Affairs (OIA) shall review all documentation for completeness including:
1. Employee notifications;
  2. Original plan of remediation;
  3. Action plan and monitoring results; and
  4. Final report.
- F. Upon satisfactory review, the Supervisor of the Office of Internal Affairs (OIA) shall:

1. Report the findings to the Chief of Police;
  2. Secure all documentation in the Office of Internal Affairs (OIA).
- G. 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.
- H. This policy and an Early Warning System activation generally do not address disciplinary actions that may be warranted against an employee. However, disciplinary actions, if warranted (i.e., decision to suspend, terminate, or, if applicable charge a member with a criminal offense), remains within the purview of the Office of Internal Affairs (OIA) and may be imposed separate from and independent of the Early Warning System.

#### **IV. SUPERVISORS**

- A. An employee's first-line supervisor is usually the first member of the agency to encounter and document specific incidents that affect an employee's performance. It is essential for the supervisor to speak with the employee, document these incidents and report findings to appropriate Section, Unit, Bureau and/or Regional Commander and, if warranted, to the Office of Internal Affairs (OIA). The success of this program relies heavily on the first-line supervisor's participation and involvement.
- B. It is the responsibility of supervisors to monitor the performance and behavior of members under their supervision on a daily basis. Therefore, nothing above shall preclude a member's immediate supervisor, another supervisor, a Region/Unit Commander, and/or a peer member, from requesting an Early Warning System review of a member's conduct. Any member may contact the Office of Internal Affairs (OIA) to request an Early Warning System review.
- C. If a supervisor has initiated remedial/corrective intervention, the Office of Internal Affairs (OIA) and subject employee's respective Section, Unit, Bureau and/or Regional Commander shall be formally notified of such efforts. This information shall be documented and appropriate copies forwarded to the Office of Internal Affairs (OIA) for filing. No entry should be made in the employee's formal personnel file, unless the action results in disciplinary/corrective action.
- D. If the remedial/corrective intervention was training, documentation shall be filed in accordance with the agency's written directive governing training (remedial training).
- E. Supervisors shall forward all documentation as required by agency written directives established to assist in a comprehensive audit. This data shall minimally include: use of force reports, vehicle pursuit reports, and attendance records.
- F. Second-line supervisors shall utilize and apply the process as indicated within this policy and will ensure that all first-line supervisory members and employees under their command understand the purpose and practical applications of the process. Second-line supervisors shall utilize, when necessary, the same procedures indicated in this policy for first-line supervisors to address similar concerns involving those supervisory personnel.

**V. BUREAU/REGIONAL COMMANDERS**

- A. In addition to the regular data audits conducted by the Office of Internal Affairs (OIA), the Bureau/Regional Commanders shall periodically audit an individual employee's history. Using this information and their experience, the commander may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the agency's Early Warning System.

**VI. REMEDIAL/CORRECTIVE INTERVENTION**

- A. Intervention should be taken, whenever possible, by the affected member or employee's first-line supervisor with the aim of resolving the issue(s) at that level.
- 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 Retraining, to include but not limited to:
    - a. Defensive Tactics;
    - b. Legal Updates;
    - c. Report Writing;
    - d. Cultural Diversity Training;
    - e. Tactical Communications;
    - f. Emergency Vehicle Operations/Pursuit Training;
    - g. Physical Fitness Training;
    - h. Additional Field Training with a Field Training Officer.
  - 2. Counseling, to include but not limited to:
    - a. Supervisor Coaching and/or Counseling;
    - b. Peer Counseling;
    - c. Employee Assistance Program (EAP);
    - d. Referral to Human Resources;
    - e. Stress Reduction Training;
    - f. Anger Management;
    - g. Critical Stress Management;
    - h. Professional Counseling by a Licensed Practitioner;
    - i. Fitness-for-Duty Examinations.

3. Intensive Supervision;
  4. Agency Policy or Practice Change, to include but not limited to:
    - a. Review of and/or Modification of Training;
    - b. Review of and/or Modification of Agency Policy;
    - c. Purchase and/or Replacement of Agency Equipment.
  5. Reassignment, to include but not limited to:
    - a. Temporary Reassignment;
    - b. Alternate Shift Reassignment;
    - c. Alternate Station/Region Reassignment;
    - d. Permanent Reassignment.
- 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 subject employee's respective Commander 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 allegation following an internal 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 or his/her designee for review with the Director of Police being provided a written summary for discussion. These reports have the same confidential status as Internal Affairs Unit documents and are subject to the same disclosure and retention regulations and guidelines.

## **VII. NOTIFICATION TO SUBSEQUENT LAW ENFORCEMENT EMPLOYER**

- A. Pursuant to Attorney General Law Enforcement Directive No. 2018-3, if any law enforcement 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 activation/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.
- B. Upon request, the prior or current employing agency shall share the law enforcement officer's Early Warning System activation/review process files with the subsequent employing agency.
- C. All notifications to the subsequent law enforcement employers pursuant to this section shall be handled by the Supervisor of the Office of Internal Affairs (OIA).

**VIII. NOTIFICATION TO COUNTY PROSECUTOR**

- A. Upon initiation of the Early Warning System review process, the Office of Internal Affairs (OIA) Supervisor or his/her designee shall make a confidential written notification to the County Prosecutor's Office, where the involved member is regularly stationed (unless otherwise directed), of the identity of the member, the nature of the triggering performance indicators, and the planned remedial program.
- B. Upon completion of the Early Warning System review process, the Office of Internal Affairs (OIA) or his/her designee shall make a confidential written notification to the County Prosecutor's Office of the outcome of the Early Warning System activation and subsequent review, including any remedial measures taken on behalf of the subject member.

**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 New Jersey Department of Human Services' website.
- B. All written reports created or submitted that identify a specific officer(s) are confidential and not subject to public disclosure.