


FLEMINGTON BOROUGH POLICE DEPARTMENT Standard Operating Procedure & Core Policy				
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SUBJECT: EARLY WARNING SIGNS POLICY				
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BY THE ORDER OF: Jerry Rotella, Chief of Police	LEGAL ADVISOR: 			
CROSS REFERENCE: Hunterdon County Prosecutors Office Attorney General		PREPARED BY: Michael Mariaschin, DSG.		

PURPOSE: The purpose of this written directive is to establish a personnel Early Warning System.

POLICY: It is the policy of this agency to identify early warning signs exhibited as patterns and trends of officer conduct which indicates potentially escalating risk of harm to the public, the agency, and/or the officer.

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 shall include, but are not limited to, the following documented indicators:

1. Internal complaints, whether initiated by another employee, by a member of the public or by an anonymous source 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. 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 are 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 officer;
 13. Neglect of duty by the officer;
 14. Unexcused absences or sick time abuse;
 15. Any other indicators, as determined by the agency's Chief.
- C. Three separate instances of performance indicators (as listed in Section B, above) within any twelve-month period will trigger the EW System review 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 Flemington Police Departments Chief may, in his or her discretion, determine that a lower number of performance indicators within a twelve-month period (i.e., one or two performance indicators) will trigger the Early Warning System 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 his/her own observations. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct.
- B. The Internal Affairs Unit shall be alerted if an employee has the emergence of a pattern, practices, or trend of inappropriate behavior or misconduct. In addition, the internal affairs personnel shall review an individual employee's history any time a new complaint is received.
 - 1. Using this information and their experience, internal affairs personnel may be able to identify employees who may need remedial/corrective intervention.
- C. If the emergence of a pattern, practices or trend of inappropriate behavior or misconduct, internal affairs personnel shall consult with the employee's supervisor and/or commander.
- D. The internal affairs investigator and the employee's supervisor and/or commander shall review the information provided by internal affairs along with any other relevant information from agency records for the purpose of initiating a course of intervention designed to correct/interrupt the emerging pattern, practice or trend.
- E. At least every six (6) months, internal affairs personnel shall audit the agency's tracking system and records to assess the accuracy and efficacy of the tracking system.
- F. All agencies which operate under the oversight of the Flemington Police Department shall, upon initiation of the Early Warning System review process, make a confidential written notification to the Flemington Police Department's Internal Affairs Unit, the identity of the subject officer, the nature of the triggering performance indicators, and the planned remedial program. The notification shall be made by the agency's chief executive or designee.
- G. All agencies which operate under the oversight of the Flemington Police Department shall, upon completion of the Early Warning System review process, 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. The notification shall be made by the agency's chief executive or designee.

III. 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. It is

essential for the supervisor to speak with the employee, document these incidents and report his/her findings to their commander and if warranted, the Internal Affairs Unit. 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 in writing of such efforts. The incident and those remedial/corrective actions taken will be placed by members of Internal Affairs.

IV. UNIT COMMANDERS

- A. In addition to the Internal Affairs Unit, agency Commanders may request Internal Affairs to review the history of those employees under their command and furnish them with a summary to help them identify needs for intervention. Using this information and their experience, commanders may be able to identify employees who may need remedial/corrective intervention even before such is indicated.

V. REMEDIAL/CORRECTIVE INTERVENTION

- A. When it has been determined that an officer has displayed the requisite number of performance indicators necessary to trigger the Early Warning System review process (as set forth in Section II., above) assigned supervisory personnel shall initiate remedial action to address the officer's behavior.
- B. When an Early Warning System review process is initiated, personnel assigned to oversee the Early Warning System should:
 - 1. Formally notify the subject officer in writing;
 - 2. Conference with the subject officer and appropriate supervisory personnel;
 - 3. Identify problems or potential problems;
 - 4. Determine short and long-term goals of improvement;
 - 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. Develop and administer a remedial program, including the appropriate remedial/corrective actions listed below;
- 8. Continue to monitor the subject officer for at least three (3) months, or until the supervisor concludes that the officer's behavior has been remediated (whichever is longer);

9. Document and report findings to the appropriate supervisory personnel and, if warranted, the Internal Affairs Unit.
- C. Any statement made by the subject officer in connection with the Early Warning System review process may not be used against the subject officer in any disciplinary or other proceeding.
 - D. 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. Professional counseling, when warranted, if available;
 7. Peer counseling.
 - E. Internal disciplinary action, remedial/corrective intervention, and fitness-for-duty examinations are not mutually exclusive and should be jointly pursued if and when appropriate.
 - F. When remedial/corrective intervention has been undertaken, the Chief of Police or his/her 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.
 - G. All reports shall be forwarded to the Chief of Police or his/her designee 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.
 - H. This SOP and the Early Warning System, in general, are focused on corrective actions aimed at remediating officer behavior and providing assistance to the officer. This SOP and the Early Warning System do not address disciplinary actions that might be warranted against an officer. Such disciplinary actions, to include the decision to suspend, terminate, or, if applicable, charge an officer with criminal conduct, remain within the purview of the agency's internal affairs guidelines and applicable law, separate from and independent of the Early Warning System.

VI. 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 other 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.
- B. Upon request, this agency shall share the officer's Early Warning System review process files with the subsequent employing agency.

VII. ANNUAL REPORTING

- A. By January 15th of each year, each law enforcement agency under the supervision of the Flemington Police Department shall submit a written report to the HCPO Internal Affairs unit indicating their compliance with AG Directive 2018-03.
- B. By January 31st of each year, the Flemington Police Department Internal Affairs Unit shall submit a report to the Attorney General, through the Division of Criminal Justice's Prosecutors' Supervision and Training Bureau. This summary shall include a statement indicating those agencies under the County Prosecutor's supervision that are in compliance with this Directive and those that are not.

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. All reports have the same confidential status as Internal Affairs Unit documents and are subject to the same disclosure and retention regulations and guidelines.