



BERGEN COUNTY SHERIFF'S OFFICE

GENERAL ORDER

Section: 1.0 GENERAL ORDERS		Index: GO 08-1.58	Effective Date: 04/17/08
Subject: PERSONNEL EARLY WARNING SYSTEM			Pages: 9
REVISED ON	SECTION	References: Bergen County Sheriff's Office Mission Statement; GO 00-1.2 Employee Rules and Regulations; SOP-SOD-10-35.0-03 Organization and Administration; SOP-SOD-06-35.0-07 Performance Evaluation; NJ AG Guidelines; Attorney General Law Enforcement Directive No. 2018-3; Criminal Justice Act of 1970, NJSA 52:17B-97 to 117; NJSA 2C:39-6 NJSACOP: 2.2.3	
12/3/12	Issuing authority; V.C.2; V.C.3&4; V.I		
2/08/13	references		
4/16/15	Division Commander replaced with Chief/Warden		
6/7/18	Refs; Policy; I.B/C; III; IV.A/B; V.K/L; VI.A; VII.A.1-3; IX; X; XI		
Issuing Authority:		Sheriff Michael Saudino	

POLICY

It is the policy of the Bergen County Sheriff's Office to establish and maintain a Personnel Early Warning System (EWS). It is the policy of this agency 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.

PURPOSE

The purpose of this policy shall be to explain the EWS and its primary function, which is to assist the agency in identifying any pattern or practice by any member or employee which warrants intervention or remediation before it develops into a disciplinary problem.

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PROCEDURE

I. OVERVIEW & APPLICABILITY

- A. The Personnel Early Warning System (EWS) is not a method of discipline, nor is it designed to be punitive. The purpose of the EWS is to detect patterns and trends before the conduct escalates into more serious infractions. 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 intent of the system.
- B. Early Warning Systems serve not only to increase public safety and public confidence in law enforcement, but also to assist officers through early intervention. The State of New Jersey Attorney General Law Enforcement Directive No. 2018-3, effective March 20, 2018, mandated that all law enforcement agencies in New Jersey adopt and implement Early Warning Systems consistent with the requirements set forth below:
1. Pursuant to the Criminal Justice Act of 1970, NJSA 52:17B-97 to 117, which provides for the general supervision of criminal justice by the Attorney General, as chief law enforcement officer of the State, to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State.
 2. The Attorney General's Law Enforcement Directive No. 2018-3 shall apply to all state, county and municipal law enforcement agencies and sworn officers who are responsible for enforcing the criminal laws in New Jersey, come under the jurisdiction of the Police Training Act, and are authorized to carry a firearm under NJSA 2C:39-6.

- C. The Attorney General's Law Enforcement Directive No. 2018-3 and the Early Warning Systems generally, are focused on corrective actions to remediate officer behavior/conduct and to provide assistance to the officer. This policy does not address specific 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 function, and may be imposed in accordance with existing internal affairs guidelines and applicable law, separate from and independent of the Early Warning System.

II. INITIATION

- A. The Bergen County Sheriff's Office Personnel Early Warning System shall be administered by the Chief/Warden or his designee. Initiation of the EWS shall be based on a review of current patterns through statistical analysis or comparison with department averages. In the event that the early warning system reveals a potential problem, the appropriate supervisor shall be notified and provided with all relevant information from the system.
- B. In the event of a situation, the Chief/Warden or his designee shall query the Early Warning System and review the individual employee's history. Using this information the Division/Bureau Commander or his designee may be able to identify employees who may need counseling, training or other remediation even before such is indicated by the Early Warning System's ongoing data review.

III. REPORTING REQUIREMENTS

- A. The threshold for activation of the Early Warning System shall be determined by the Chief/Warden or his designee and may consist of, but not be limited to, the following:
 - 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. 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. Vehicle pursuits;
 15. Unexpected absences or sick time abuse; and/or
 16. Any other indicators, as determined by the Sheriff or his designee.
- B. Generally, three (3) instances of questionable conduct or performance indicators (as listed in section A, above) within a twelve (12) month period would initiate the Early Warning System process.
- C. 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.
- D. The Sheriff or his designee may in his discretion determine that a lower number of performance indicators within a twelve (12) month period (i.e., one or two performance indicators) will trigger the Early Warning System review process.

IV. ANNUAL EVALUATION – EWS Administration & Tracking

- A. The Early Warning System shall be monitored and tracked by the Bergen County Sheriff's Office of Professional Standards.

- B. At least every six (6) months, the Office of Professional Standards shall audit the agency's tracking system and records to assess the accuracy and efficacy of the tracking system. In the event any changes are made, the review shall be made available to all supervisors.

V. ROLE OF FIRST AND SECOND LINE SUPERVISORS

- A. The first and second lines of supervision are crucial elements to a successful Early Warning System.
- B. All supervisory personnel shall familiarize themselves with the work habits of those members or employees under their control. The role of supervisors, especially first-line supervisors, is crucial in identifying circumstances in which early intervention is needed and subsequently identifying the most effective methods of intervention.
- C. Supervisors who observe notable changes in work habits, which in the opinion of the supervisor may have a detrimental effect on the member or employee's job performance, shall either:
 - 1. Address the circumstances as prescribed in other policies pertaining to training or behavior modification; or
 - 2. When appropriate, offer assistance to the member or employee in resolving or alleviating the issue(s). Supervisors should remain sensitive to any personal problems of members or employee's, but ultimately must understand that prolonged or frequent instances of such problems affecting the individual's job performance must be brought to the attention of the individual at the next level of the chain of command in accordance with **SOP-SOD-10-35.0-03 Organization and Administration**.
 - 3. Supervisors shall confer with their respective Unit Commander or Second Line Supervisor regarding any member or employee who's yearly Performance Evaluation indicates an overall rating of "Unsatisfactory" or who has failed to show improvement in a particular category in which an "Unsatisfactory" or "Needs Improvement" rating was received in the previous evaluation period as per **SOP-SOD-06-35.0-07 Performance Evaluation**.
 - 4. Supervisors shall note the frequent issuance of any "Written Notice of Performance" reports to a member or employee as an indication of a potential or actual concern that may need to be remedied in another fashion. This shall also be in accordance with **SOP-SOD-06-35.0-07 Performance Evaluation**.
- D. Second Line Supervisors (Unit Commanders and Civilians) shall:

1. Utilize and apply the process as indicated within this policy and shall ensure that all first line supervisory members and employees under their command understand the purpose and practical applications of the process.
 2. Familiarize themselves with the work habits of supervisory members and employees within their span of control.
 3. Utilize, when necessary, the same procedures indicated for supervisors to address similar concerns involving those supervisory personnel.
 4. Upon notification of supervisory concerns regarding a member or employee, discuss the concern(s) with the supervisor and together they shall attempt to assist the member or employee in resolving the problem.
 5. Notify the Chief/Warden if attempts to assist a member or employee with the resolution of a problem are unsuccessful or if the issue(s) involving the individual are of a serious nature.
 6. Confer with the Chief/Warden when any supervisor under their command has an annual Performance Appraisal which indicates an overall rating of "Unsatisfactory" or when the supervisor has failed to show improvement in a particular category where "Unsatisfactory" or "Needs Improvement" was received in the previous annual evaluation.
 7. Monitor the use of "Written Notice of Performance" reports by their respective supervisors for recurrent patterns involving individual members or employees.
- E. When a matter is brought to the attention of a supervisor by the Office of Professional Standards, the supervisor shall review the data, along with any more detailed information available from department records. If this review indicates that the Early Warning System has returned a 'false positive', the supervisor should report that, in writing, to the Office of Professional Standards.
- F. If the review reveals that an individual has violated department Rules and Regulations, General Orders or Standard Operating Procedures, the supervisor in consultation with the Office of Professional Standards should proceed with an internal investigation and possible disciplinary action.
- G. If the review reveals that an individual has engaged in conduct which indicates a lack of understanding or inability to comply with accepted procedures, the supervisor shall consult with the Office of Professional

Standards to determine the appropriate course of remedial action. Remedial intervention may include training, retraining, counseling and intensive supervision.

- H. When remedial action has been undertaken, the Division/Bureau Commander should be formally notified of such efforts. A report in the form of a memorandum will be submitted by the supervisor detailing the action undertaken. This information shall be recorded in the EWS index file system. No entry will be made in the employee's personnel file, unless the action results in disciplinary actions. If the remedial action was an appropriate training program, attendance and completion of that program should be noted in the officer's training record.
- I. The EWS index file system or database shall be maintained exclusively by the Office of Professional Standards.
- J. It is incumbent upon first and second line supervisor's to be aware of the actions and problems encountered by the officers under their command. The EWS is simply a system that allows a supervisor to detect and act on problems or situations that would affect the employee and the agency prior to becoming major disciplinary actions.
- K. 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).
- L. 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.

VI. REMEDIAL ACTION

- A. In the event that the Early Warning System report reflects remedial action is required the supervisor conducting evaluation shall submit a recommendation to the Chief/Warden in the form of a memorandum. The Chief/Warden shall decide if the remedial action(s) recommended by the supervisor are appropriate and fitting of the situation. Remedial actions could include training, re-training, peer counseling / counseling, intensive supervision or a change in work conditions, change of assignment, fitness for duty examinations, psychological evaluations, referral to an Employee Assistance Program, and/or any other remedial / corrective action as determined appropriate.

VII. EMPLOYEE ASSISTANCE

- A. Any employee who requests or requires assistance with respect to personal issues should be referred to the appropriate person or agency including but not limited to one or more of the following: Bergen County Department of Health Employee Assistance Program, peer counseling arranged through the Division Commander or the COP2COP program. If an employee requests assistance, the referral should be noted in the supervisor's memorandum to the Chief/Warden. This information shall remain strictly confidential.
1. The County of Bergen Employee Assistance Program (EAP) is available to provide assistance to employees upon request. The County of Bergen's EAP is located at One Bergen County Plaza – Fourth Floor, #1-800-663-0404 and provides confidential assessments, referrals and monitoring to employees regarding personal matters such as family and marital relations, legal and financial difficulties, substance abuse and other problems.
 2. Sworn employees may be referred to peer counseling organizations such as "Cop-2-Cop" which are available 24 hours a day, 7 days a week to provide assistance as needed. The Cop-2-Cop hotline (#1-866-COP-2COP) is staffed by retired officers who are licensed clinical social workers, known as "Cop Clinicians" and specially trained mental health professionals, along with volunteer retired officers who are trained as peer supporters. Cop-2_Cop offers immediate confidential access to peer and clinical support services, clinical assessments, referrals and critical incident stress management.
 3. Depending on the situation, an employee's union representative may be contacted to provide assistance as appropriate.

VIII. WRITTEN REPORTS

- A. Whenever the Early Warning System is activated, a written report shall be completed by the supervisor of the employee in question. The report shall be written in the form of a memorandum and submitted to the Chief/Warden. The memorandum should contain a summary of any conversations the supervisor had with the employee, any mitigating or aggravating factors given by the employee for the behavior/action in question and any recommendations for remedial action by the supervisor.
- B. A follow-up memorandum shall also be submitted after a pre-determined period of review subsequent to the initial supervisor/employee meeting. The time limit for this follow-up report shall be determined by the supervisor and the employee at the initial

conference. The follow-up memorandum should contain progress made toward remediation of the situation, any further problems encountered and conclusions regarding the actions/situation that triggered the Early Warning System initially.

IX. 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.

X. NOTIFICATION TO COUNTY PROSECUTOR

- A. Upon initiation of the Early Warning System review process, the Sheriff 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 Sheriff 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.

XI. 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. Annual reports from the County Prosecutors to the Attorney General (as required in Section X. of this policy) shall also be made available to the public upon request and shall be posted on the agency's website. All written reports / memorandums created or submitted pursuant to the Attorney General's Law Enforcement Directive No. 2018-3 are confidential and not subject to public disclosure.