

CLIFTON POLICE DEPARTMENT POLICY & PROCEDURES



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SUBJECT: EARLY WARNING SYSTEM

BY THE ORDER OF: **Mark Centurione**
Chief of Police

ACCREDITATION STANDARDS:
2.2.3

Effective Date:
January 22, 2019

SUPERSEDES ORDER #:

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 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 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 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 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 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 that is suppressed by a court;
 12. Cases in which the State moves to dismiss based on officer conduct or testimony;
 13. Insubordination by the employee;
 14. Neglect of duty by the employee;
 15. Unexcused absences by the employee;

16. Any other indicators, as determined by the Chief of Police.
 17. An adverse credibility finding of an officer by a judge or hearing officer.
- 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 Special Investigations Division, but any supervisor may initiate the early warning process based upon his or her own observations. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct.
- B. The Special Investigations Division shall be alerted if an employee has the emergence of a pattern, practices or trend of inappropriate behavior or misconduct. In addition, the Special Investigations Division Supervisor shall query the early warning software and review an individual employee's history any time a new complaint is received.
 1. Using this information and their experience, Special Investigations Division investigators may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the early warning software.
- C. If the early warning software indicates the emergence of a pattern, practices or trend of inappropriate behavior or misconduct, the Special Investigations Division should:
 1. Formally notify the subject employee in writing;
 2. Conference with the subject employee's Division Commander;
 3. Continue to monitor the subject employee for at least three months, or until the supervisor concludes that the employee's behavior has been remediated (whichever is longer); and
 4. Document and report findings.
- D. Special Investigations Division personnel shall review the 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 early warning software has returned an incorrect identification or "false positive," that conclusion should be documented.
 2. If the early warning software reveals that an employee has violated department rules and regulations or general orders, the Special Investigations Division should proceed with an internal investigation and possible disciplinary action.

3. If the early warning software reveals that the employee has engaged in conduct, which indicates a lack of understanding or inability to comply with accepted procedures, the subject employee's Division Commander shall consult with the Training Division to determine the appropriate course of remedial/corrective intervention.
 - a. The employee's Division Commander will ensure the subject employee successfully completed the established remedial program, and notify the Training Division of same.
 - b. Upon completion of the remedial protocol, the Training Division will notify the Special Investigations Division in writing.
- E. At least every six (6) months, the Special Investigations Division 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 division commander and if warranted, the Special Investigations Division Supervisor. The success of this program relies heavily on the first line supervisor's participation and involvement. All Clifton Police Department supervisors shall report any identified performance indicators (listed in Section B, above) relative to their subordinates, which they are made aware of, directly to the Special Investigations Division Commander.
- B. If a supervisor has initiated remedial/corrective intervention, the Special Investigations Division shall be formally notified of such efforts. This information shall be documented and appropriate copies forwarded to the Special Investigations Division for filing.
 1. No entry should be made in the employee's personnel file, unless the action results in disciplinary/corrective action.
- C. If the remedial/corrective intervention was training, documentation shall be filed in accordance with the department's written directive governing training (remedial training).
- D. Supervisors shall forward all documentation as required by department written directives established to assist in a comprehensive audit. This data shall minimally include: use of force reports, and vehicle pursuit reports.

IV. DIVISION COMMANDERS

- A. In addition to the regular data audits conducted by the Special Investigations Division, the division 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 early warning software.

- B. When under early warning system monitoring, the employee's division 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. 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. Professional counseling referral;
 - 7. Any other appropriate remedial or corrective actions deemed necessary.
- 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 shall ensure that such actions are documented in writing. No entry will be made in the employee's personnel file, unless the action results in discipline. 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.
- D. All reports shall be forwarded to the Chief of Police 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.

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 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.

VII. 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 PCPO's commanding officer of the Public Integrity Unit. The notice shall identify 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, or his/her designee shall make a confidential written notification to the PCPO's commanding officer of the Public Integrity Unit of the outcome of the Early Warning System review, including any remedial measures taken on behalf of the subject officer.

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. All written reports created or submitted as a result of the Early Warning System, which relate to specific officers are confidential and not subject to public disclosure.