

	WEST ORANGE POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM	3:22
	EARLY WARNING SYSTEM	
	Effective Date: 5 -3 -18	Supersedes: 3:22 (01/09/06)

3:22-1 PURPOSE

The purpose of this directive is to establish this agency’s policy and procedures concerning a personnel early warning system.

3:22-2 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.

3:22-3 GENERAL

- a. An early warning system is designed to detect patterns and trends before the conduct escalates into more serious problems. The primary intent is to address potential problems through the use of appropriate management and supervisory intervention strategies before negative discipline become necessary
- b. All levels of supervision, especially first line supervisors, are expected to recognize potentially troublesome officers, identify training needs and provide professional support in a consistent and fair manner. Emphasis should be placed on anticipating problems among officers before they result in improper performance or conduct.
- c. The Early Warning System may monitor many different categories of officer conduct which indicate potentially escalating risk of harm to the public, the agency, and/or the officer. Three separate instances of performance indicators listed below, within a twelve month period, will normally trigger the Early Warning System. This shall not hinder the Chief’s ability or discretion to trigger the Early Warning System for a lower number of performance indicators based upon such factors as previous participation in the Early Warning System or prior disciplinary issues.

The Chief of Police reserves the right to determine additional supplemental performance indicators and add such to the below consistent with evolving standards of sound public policy. To the extent possible, all supplemental performance indicators should be objectively measurable and reasonably related to potentially escalating harmful behavior by the officer.

It should be noted that if one specific incident triggered multiple performance indicators, then that one incident shall not normally be double or triple counted.

- 1) Internal affairs complaints against an officer, whether initiated internally by another officer or by a member of the public;
- 2) Civil actions filed against an officer;

- 3) Criminal investigations of or criminal complaints against an officer;
 - 4) Any use of force by an officer regardless as to whether it has yet been formally determined or adjudicated (for example, by internal affairs or a grand jury) to have been excessive, unjustified, or unreasonable;
 - 5) Domestic violence investigations in which the officer is an alleged subject;
 - 6) Any arrest of an officer, including driving under the influence charges, regardless of jurisdiction;
 - 7) Any employment claims including but not limited to sexual harassment, hostile work environment or CEPA claims against an officer;
 - 8) Vehicular collisions involving an officer formally determined to have been the fault of the officer;
 - 9) A positive drug test by an officer;
 - 10) Cases or arrests by an 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 an officer;
 - 13) Neglect of duty by an officer;
 - 14) Unexcused absences, chronic absenteeism and/or tardiness by an officer
 - 15) Any other indicators, as determined by the Chief of Police
- d. The early warning system is primarily the responsibility of the internal affairs unit; but, any supervisor may initiate the early warning process based upon their own observations. The Commanding Officer of the Internal Affairs Unit, at the direction of the Chief of Police, shall adopt a tracking system which easily identifies employees who display the requisite number of performance indicators necessary to trigger the EWS review process. Further, the Internal Affairs Commander shall efficiently manage the Early Warning System by conducting a thorough audit of the tracking system and attendant records quarterly to assess the accuracy and efficacy of the tracking system.
- e. The Chief of Police shall cause an annual evaluation of the early warning system to assess its effectiveness. The Internal Affairs Commander shall prepare a written report by February 1st of the prevailing year noting the previous year's participants and outcomes. Modifications to this process should be implemented at the earliest opportunity.
- f. This Directive shall be made available to the public upon request and shall be posted on the agency's website. All written reports created or submitted pursuant to this Directive that identify specific officers are confidential and not subject to public disclosure.

3:22-4

PROCEDURES

- a. In the event that the early warning system reveals a potential problem, the appropriate division commander will be notified and provided with all relevant information from the system.
- b. The division commander will cause a review of the data provided, along with more detailed information available from department records, in consultation with the internal affairs unit. If this review indicates that the early warning system flag is unwarranted, the division commander will report such, in writing, to the internal affairs unit.

- c. If the review reveals that an officer has violated department directives, the commander in consultation with the internal affairs unit should proceed with an internal investigation. If the review reveals that the officer has engaged in conduct that indicates a lack of understanding or inability to comply with accepted procedures, the commander shall consult with the internal affairs unit to determine the appropriate course of remedial action.
- d. Remedial intervention may include, but is not limited to:
 - Training
 - Retraining
 - Counseling
 - Intensive supervision
 - Fitness for duty examination
 - Employee Assistance Program
 - Peer counseling, or other remedial corrective action deemed appropriate.

Internal disciplinary action, remedial action, and fitness for duty examinations are not mutually exclusive, and should be jointly pursued if appropriate.

- e. When remedial action has been undertaken, the internal affairs unit shall be formally notified in writing of such efforts. This information shall be recorded in the internal affairs index file system. No entry should be made in the employee's personnel file, unless the action results in a sustained investigation. If the remedial action is a training program, attendance and completion of that program should be noted in the officer's training record. Documentation is the key to a successful outcome.
- f. The internal affairs unit should review an individual employee's history anytime a new complaint is made. Using this information, internal affairs staff may be able to identify employees who may need counseling, training or other remedial action even before such is indicated by the early warning system's ongoing data review.
- g. Generally, personnel should expect to remain under intensive monitoring and supervision for a minimum of three (3) months. Officers experiencing recurrent entry into the EWS should expect to be the recipients of progressively longer monitoring periods.
- h. In the event the EWS notification to an officer could jeopardize any ongoing criminal investigation, the Attorney General, County Prosecutor or their appropriate designee may in their discretion permit delayed notification to the officer or delayed initiation of the EWS review process. In any such cases the Commanding Officer of the Internal Affairs Unit shall ensure a contemporaneous record of the decision is entered into the case file which shall include at a minimum the date, time, name, title and agency of the person so authorizing.
- i. Upon initiation of the EWS review process, the Chief of Police or designee shall make a confidential written notification to the County Prosecutor or designee indicating the identity of the subject officer, the nature of the triggering performance indicators, and the planned remedial program.
- j. Upon completion of the EWS review process, the Chief of Police or designee shall make a confidential written notification to the County Prosecutor or his/her

designee of the outcome of the EWS review, including any remedial measures taken on behalf of the subject officer.

- k. When under EWS monitoring, the employee's direct supervisor shall meet with the employee to discuss the situation in depth to:
- ▪ Identify problems or potential problems
 - ▪ Determine short and long-term goals for improvement
 - ▪ Come to a consensus commitment on a plan for long-term improved performance
 - ▪ Advise of the monitoring process and the repercussions of future sustained transgressions.
 - Consult with the IA Commander on how best to memorialize these observations and discussions.

The Division Commander or direct supervisor shall ensure that the following procedural steps are taken:

- (1) Formally notify the subject officer, in writing;
- (2) Conference with the subject officer and appropriate supervisory personnel;
- (3) Develop and administer a remedial program including the appropriate remedial/corrective actions;
- (4) Continue to monitor the subject officer for at least three months, or until the supervisor concludes that the officer's behavior has been remediated (whichever is longer);
- (5) Document and report findings to the appropriate supervisory personnel and, if warranted, the internal affairs unit. Any statement made by the subject officer in connection with the EW System review process may not be used against the subject officer in any disciplinary or other proceeding. Any type of incriminating statement, act or omission in the traditional criminal sense will be cause for instant termination of verbal and or written exchange and immediate notification to the Internal Affairs Commander to ensure the subject employee's rights are scrupulously honored.

- l. The meeting shall be thoroughly documented and forwarded to the division commander through the chain of command. The affected employee and supervisor shall meet on a regular basis, minimally monthly, to discuss progress towards the agreed upon goals and objectives.
- m. The division commander shall ensure that regular monthly progress/status reports are submitted by the immediate supervisor concerning the employee's progress.
- n. All reports shall be eventually forwarded to the internal affairs office through the regular chain of command for review. These reports have the same confidential status as internal affairs documents.

- o. If any current or former sworn member of this agency, applies to or accepts employment at any other Federal, State, County, Municipal or other lawfully recognized law enforcement agency, including but not limited to public and private university police agencies, the subsequent employing law enforcement agency, upon written request, shall be made aware of the subject officer's entire internal affairs record to include any and all EWS reviews. This provision may not be usurped by any type of settlement agreement.