BEDMINSTER TOWNSHIP POLICE DEPARTMENT

S.O.P.	DATE ISSUED	EFFECTIVE DATE	Revised	
2-50	05/24/2018	Immediately	Date	Date
SUBJECT: Early Warning System				
REFERENCES: AG Law Enforcement Directive 2018-3 SCPO General Order V8Ch2 (04/13/18)				
ISSUED BY CHIEF: KARL ROCK				

PURPOSE: 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.

Procedure

I. Early Warning System (EWS)

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 any early warning system is to address potential problems through the use of appropriate management and supervisory strategies before formal discipline is warranted.

II. 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 the command staff. The success of this program relies heavily on the first line supervisors' participation and involvement.

III. Meaningful Review

A. Certain incidents will initiate a review by the Internal Affairs Unit. The IA Unit will conduct a review and document the same on the proscribed Meaningful Review Form, annexed in Appendix A, for any incidents involving:

1. Racially Influenced Policing;
2. Use of Force;
3. Employee Involved Crash;

4. Pursuit;

5. Firearms Discharge (for other than training or disposing of a sick or injured non-domesticated animal);

6. Any other incident that the Chief of Police, Supervisor or Internal Affairs Officer deems is necessary of a review.

IV. Performance Deficiency (Performance Counseling)

A. In addition to routine interaction and observation, the Internal Affairs Unit will maintain a training file within the Internal Affairs filing system for every sworn law enforcement officer. This file will include officer performance counseling forms, annexed in Appendix B. A performance counseling notice is an informal investigation by a supervisor of personnel performance or conduct.

B. Any supervisor who identifies or accepts minor complaints about any officer that in their discretion does not warrant an Internal Affairs investigation will reduce the matter to a performance counseling form.

1. The performance counseling form will document the issue and be forwarded to the Internal Affairs Supervisor for review. If the Internal Affairs Supervisor agrees the performance counseling is appropriate, he or she will forward it to the Chief of Police. Only the Chief of Police has the discretion to classify an incident as a performance deficiency.

2. If the Chief of Police determines a performance counseling form is appropriate, the form will be returned to the supervisor who authored the form for documentation of action taken by the supervisor to reduce the reoccurrence. The supervisor who authored the form will provide the officer with a copy.

3. The Internal Affairs Supervisor will be given the completed performance counseling form for filing.

4. The Internal Affairs Supervisor will track the performance counseling forms on a confidential tracking spreadsheet.

C. Initiation of the Early Warning System Process

1. Generally, the issuance of three (3) performance counseling notices within the same six (6) month period will initiate the early warning system process.

D. Administration of Early Warning System

1. 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 or her own observations. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct.

2. The Internal Affairs Supervisor is tasked with periodic reviews of the tracking spreadsheet to ascertain if an employee has the emergence of a pattern, practice or trend of inappropriate behavior or misconduct. The review will be conducted periodically for all officers and it shall be conducted when a new complaint is received.

a. Using this information and their experience, Internal Affairs Investigators may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the early warning system's initiation process.

3. If the Internal Affairs Supervisor determines that the review points toward the emergence of a possible pattern, practice, or trend of inappropriate behavior or misconduct, the Internal Affairs Supervisor shall consult with the employee's supervisor and/or Chief of Police.

4. The Internal Affairs Supervisor and the employee's supervisor and/or Chief of Police shall review the information provided by Internal Affairs along with any relevant information from department records for the purpose of initiating a course of intervention designed to correct/interrupt the emerging pattern, practice or trend.

   a. If the review indicates that the early warning system has returned a "false positive," that conclusion should be documented.

   b. If the review reveals that an officer has violated department rules and regulations, standard operating procedures or written directives, the Internal Affairs Supervisor in consultation with the Chief of Police will ascertain if a formal internal affairs investigation will be conducted.

   c. If the review reveals that the officer has engaged in conduct which indicates a lack of understanding or inability to comply with accepted procedures, the Internal Affairs Supervisor shall consult with the Chief of Police to determine the appropriate course of remedial/corrective intervention.

E. Remedial/Corrective Intervention

1. Supervisory or command personnel may initiate remedial/corrective intervention to correct behavior. Remedial/corrective intervention may include, but is not limited to:

   a. Training;

   b. Retraining;

   c. Counseling;

   d. Intensive supervision;

   e. Fitness for duty examination;

   f. Employee Assistance Program, when warranted, if available;

   g. Peer counseling.

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

3. When remedial/corrective intervention has been undertaken, the Chief of Police shall ensure that such actions are documented in writing. No entry should be made in an 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.

4. All reports shall be forwarded to the Chief of Police. These reports have the same confidential status as Internal Affairs documents and are subject to the same disclosure and retention regulations and guidelines.

F. Records (Not subject to public disclosure)

1. The performance counseling form(s) will be available for 365 days from issuance and will be available for review by a supervisor and documented on the annual officer evaluation. The documents will be held for the officer's career plus 5 years.

V. Misconduct (as prescribed by the Attorney General)

A. 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 include the following documented indicators:

1. Internal affairs complaints against the officer, whether initiated by another officer or by a member of the public;

2. Civil actions filed against the officer;

3. Criminal investigations of or criminal complaints against the officer;

   a. If Early Warning System notification to the officer could jeopardize an ongoing criminal investigation, the County Prosecutor may in his or her discretion permit delayed notification to the officer or delayed initiation of the Early Warning System review process.

4. Any use of force by the officer that is 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. An arrest of the officer, including on a driving under the influence charge;

7. Sexual harassment claims against the officer;

8. Vehicular collisions involving the officer that are formally determined to have been the fault of the officer;

9. A positive drug test by the officer;

10. Cases or arrests by the officer that are rejected or dismissed by a court;

    a. It will be the officer's responsibility to inform the Internal Affairs Unit Supervisor in writing of any cases that meet these criteria.

11. Cases in which evidence obtained by an officer is suppressed by a court;

a. It will be the officer's responsibility to inform the Internal Affairs Unit Supervisor in writing of any cases that meet these criteria.

12. Insubordination by the officer;

13. Neglect of duty by the officer;

14. Unexcused absences by the officer; and

15. Any other indicators, as determined by the Chief of Police, which may be added in future revisions to this policy.

B. Initiation of Early Warning System Process

1. The Early Warning System review process will trigger when three (3) separate instances of performance indicators (as listed in Section V.A. above) occur within any twelve-month (12) period.

2. 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.

C. Administration and Tracking

1. The Internal Affairs Unit shall conduct the Early Warning System function. Supervisory officers in the subject officer's chain of command also should be directly involved in any Early Warning System review process.

2. The Internal Affairs Unit Supervisor shall utilize the same confidential tracking spreadsheet, as described in section IV.B4 above, to track the performance indicators in order to enable the department to identify officers who display the requisite number of performance indicators necessary to trigger the Early Warning System review process.

3. At least every six months, the Internal Affairs Unit Supervisor shall audit the agency's tracking system and records to assess the accuracy and efficacy of the tracking system.

D. Remedial/Corrective Action

1. Once an officer has displayed the requisite number of performance indicators necessary to trigger the Early Warning System review process (as set forth in Section V.A. above) assigned supervisory personnel shall initiate remedial action to address the officer's behavior.

2. When an Early Warning System review process is initiated, personnel assigned to oversee the Early Warning System should:

a. Formally notify the subject officer, in writing;

b. Conference with the subject officer and appropriate supervisory personnel;

c. Develop and administer a remedial program including the appropriate remedial/corrective actions listed below;

d. 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);

e. Document and report findings to the Chief of Police and IA Supervisor.

Note: 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.

3. Remedial/corrective action may include but is not limited to the following:

a. Training or re-training;

b. Counseling;

c. Intensive supervision;

d. Fitness-for-duty examination;

e. Employee Assistance Program (EAP) referral; and

f. Any other appropriate remedial or corrective action.

1) The Early Warning System is generally focused on corrective actions to remediate officer behavior and to provide assistance to the officer. The Early Warning System generally, does 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 function, and may be imposed in accordance with existing internal affairs guidelines and applicable law, separate from and independent of the Early Warning System.

E. Notification to Subsequent Law Enforcement Employer

1. If any officer who is or has been subject to an Early Warning System review process in the Bedminster Township Police Department applies to or accepts employment at a different law enforcement agency, the Bedminster Township Police Department must, in accordance with the New Jersey Attorney General's Directive 18-3, notify the subsequent employing law enforcement agency of the officer's Early Warning System review process history and outcomes. Upon request of the subsequent employing agency, the Bedminster Township Police Department will share the officer's Early Warning System review process files.

F. Notification to County Prosecutor

1. Upon initiation of the Early Warning System review process for a specific officer, the Chief of Police or a designee shall notify the Somerset County Prosecutor's Office Internal Affairs Commander via a confidential written notification. The confidential written notification shall include, at a minimum, the identity of the subject officer, the nature of the triggering performance indicators and the planned remedial program.

2. Upon completion of the Early Warning System review process for the subject officer, the Chief of Police or a designee shall notify the Somerset County Prosecutor's Office Internal Affairs Unit

Commander via a confidential written notification of the outcome of the review process. This written confidential notification shall, at a minimum, include any remedial measures taken on behalf of the subject officer and if the officer successfully completed the remedial measures.

G. Annual Report to the Attorney General

1. The Chief of Police or designee shall send written notification (letter) to the Somerset County Prosecutor's Office Internal Affairs Unit Commander by January 15th of each year indicating that this agency did or did not follow all of the provisions of Directive 2018-3.

   a. If this agency did not follow all the provisions of the Directive, this agency in a letter will provide the reasons why the provisions were not followed and a remedial plan to ensure that all provisions of the Directive will be followed during the new year.

   b. If this agency did follow all the provisions of the Directive, the letter will indicate if any officers were the subject of an Early Warning System review process, how many officers were the subject of the review process, and if the officers successfully completed the remedial measures assigned to the officers.

VI. Public Accessibility and Confidentiality

A. This policy shall be made available to the public upon request and shall be posted on the Department's website.

B. All written reports created or submitted pursuant to this Directive that identify specific officers are confidential and not subject to public disclosure.