HO-HO-KUS POLICE DEPARTMENT
POLICY & PROCEDURES

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SUBJECT: EARLY WARNING SYSTEM

BY THE ORDER OF:	ACCREDITATION STANDARDS:
Chief Christopher Minchin	2.2.3
Effective Date:	**Date of Last Revision:**
May 22, 2018	November 12, 2019

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

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

2. Civil actions filed against the officer;

3. Criminal investigations or criminal complaints against an employee;

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 employee is an alleged subject;

6. An arrest of the employee, including on a driving under the influence charge;

7. Sexual harassment claims against an employee;

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;

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 by the employee;

15. Any other indicators, as determined by the agency's chief executive.

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 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 conduct a manual or computerized audit of its records to determine if an employee has the emergence of a pattern, practices or trend of inappropriate behavior or misconduct. In addition to the regular data audits by the Internal Affairs Unit, the Internal Affairs Unit Supervisor shall audit an individual employee's history any time a new complaint is received.

1. Using this information and his/her experience, the Internal Affairs Unit Supervisor may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the early warning system data audit.

C. If the audit indicates the emergence of a pattern, practices or trend of inappropriate behavior or misconduct, the Internal Affairs Unit Supervisor shall consult with the employee's supervisor and/or commander.

D. The Internal Affairs Unit Supervisor and the employee's supervisor and/or commander shall review the information provided by the Internal Affairs Unit along with any other 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 audit indicates that the early warning system has returned an incorrect identification or "false positive," that conclusion should be documented.

2. If the audit reveals that an employee has violated department rules and regulations or written directives, the supervisor in consultation with the Internal Affairs Unit Supervisor should proceed with an Internal Affairs investigation and possible disciplinary action.

3. If the audit reveals that the employee has engaged in conduct, which indicates a lack of understanding or inability to comply with accepted procedures, the supervisor shall consult with the Internal Affairs Unit Supervisor to determine the appropriate course of remedial/corrective intervention.

E. At least every six (6) months, internal affair's 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 commander and if warranted, the Internal Affairs Unit Supervisor. 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 of such efforts. This information shall be documented and appropriate copies forwarded to the Internal Affairs Unit Supervisor 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, but is not limited to: use of force reports, vehicle pursuit reports, and attendance records.

E. When under early warning system monitoring, the employee's supervisor and Internal Affairs 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.

F. 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).

G. Supervisor/Employee Meeting

1. All supervisor/employee meetings shall be thoroughly documented, which will be forwarded to the Chief of Police or his designee. The affected

employee and supervisor shall meet periodically as needed, to discuss progress towards the agreed upon goals and objectives.

2. All regular monthly progress/status reports shall be submitted to the Chief of Police or his/her designee through the chain of command.

3. An additional six (6) months of documented informal monitoring is required following removal from the early warning system. A final written report will be completed upon the end of this six (6) month period and forwarded to the Chief of Police.

H. 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.

IV. 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, when warranted;

7. Peer counseling.

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 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.

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.

V. 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.

VI. 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 County Prosecutor. The notice shall 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 Chief of Police 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.

B. On January 5th of the calendar year, the Chief of Police or a designee shall report, in writing, to the County Prosecutor the total number of Early Warning reviews that were undertaken for the previous year.

VII. 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. However, all written reports created or submitted that identify specific officers are confidential and are not subject to public disclosure.