



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO Box 080
TRENTON, NJ 08625-0080

PHILIP D. MURPHY
Governor

GURBIR S. GREWAL
Attorney General

SHELLA Y. OLIVER
Lt. Governor

ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2018-3

TO: All Law Enforcement Chief Executives
FROM: Gurbir S. Grewal, Attorney General
DATE: March 20, 2018
SUBJECT: **Statewide Mandatory Early Warning Systems**

I. Background

An Early Warning System (“EW System”) is an important management tool designed to detect patterns and trends in police conduct before that conduct escalates. An effective EW System can assist a law enforcement agency in identifying and remediating problematic officer conduct that poses a potential risk to the public, to the agency, and to the officer. EW Systems, therefore, serve to not only increase public safety and public confidence in law enforcement, but also to assist officers through early intervention. Indeed, many law enforcement agencies throughout the State have recognized the utility of such systems and some County Prosecutors already require agencies within their jurisdictions to use them. For all of these reasons, this Directive now mandates that all law enforcement agencies in New Jersey adopt and implement EW Systems consistent with the requirements set forth below.

Accordingly, pursuant to the authority granted to me under the Criminal Justice Act of 1970, N.J.S.A. 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, I, Gurbir S. Grewal, hereby DIRECT all law enforcement and prosecuting agencies operating under the authority of the laws of the State of New Jersey to implement and comply with the following policies, procedures, standards, and practices.



14. Unexcused absences by the officer; and
15. Any other indicators, as determined by the agency's chief executive.

D. Initiation of Early Warning Process

At a minimum, an agency's EW System policy shall provide that three separate instances of performance indicators (as listed in Section C, above) within any twelve-month period will trigger the EW System review process. 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. The agency's chief executive may in his or her discretion determine that a lower number of performance indicators within a twelve-month period (i.e., one or two performance indicators) will trigger the EW System review process.

E. Administration and Tracking

The agency's chief executive shall assign personnel to conduct the EW System function. Typically, the EW System should be administered by the agency's internal affairs unit. Supervisory officers in the subject officer's chain of command also should be directly involved in any EW System review process.

Every department shall adopt a tracking system to enable the department to identify officers who display the requisite number of performance indicators necessary to trigger the EW System review process. Many departments in New Jersey have adopted automated systems that are capable of flagging emerging behavioral patterns. At least every six months, personnel assigned to manage the EW System shall audit the agency's tracking system and records to assess the accuracy and efficacy of the tracking system.

F. Remedial/Corrective Action

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

When an EW System review process is initiated, personnel assigned to oversee the EW System should (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 listed below; (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.

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

1. Training or re-training;

COPY

County Prosecutors to the Attorney General (as required by Section II.I, above) also 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.

IV. Effective Date

This Directive shall take effect immediately upon issuance. All EW System policies shall be adopted and/or revised in accordance with this Directive within 60 days.




Gurbir S. Grewal
Attorney General

ATTEST:

Elie Honig
Director, Division of Criminal Justice
Issued on: March 20, 2018

SCANNED
COPY

DEPARTMENT RULES AND REGULATIONS/POLICIES AND PROCEDURES

HOLLAND TOWNSHIP POLICE DEPARTMENT	EFFECTIVE DATE: 09/26/2018	REVISION DATE:	PAGE #:	SECTION:	APPROVED	VOLUME I
VOLUME TITLE: ADMINISTRATION	# PAGES: 6	05/22/2020	All	All	05/22/2020	
ACCREDITATION STANDARD(S):	REFERENCE: V01C24					CHAPTER 24
SUBJECT: Employee Early Warning System						DISTRIBUTION 1 2
ISSUING AUTHORITY  Chief Sean P. Gutsick						
ATTORNEY GENERAL, PROSECUTOR'S OFFICE REFERENCE						EVALUATION DATE:

SCANNED
COPY

POLICY:

Holland Township Police Department recognizes the need to provide assistance to employees exhibiting below-standard, unusual, or less-than-professional job performance attributable to trauma or personal stressors. Due to the need to avoid harm to themselves, fellow employees, or the general public, and because of the scope of responsibility of law enforcement employees, psychological fitness must be maintained at all times. Therefore, the agency shall have an employee Early Warning System program in place to assist employees with meeting their personal and career goals.

PURPOSE:

The purpose of this policy is to identify early warning signs from those employees whose job performance alters or deteriorates noticeably, thereby requiring agency intervention.

I. Definitions

- A. Chief Executive Officer—that person who is responsible to serve as the head of the law enforcement agency. The Chief Executive Officer in the Holland Township Police Department is the Chief of Police.
- B. Counselor—a licensed psychologist, psychiatrist, peer counselor, police chaplain, or physician who gives advice and recommends a course of conduct.
- C. Employee—everyone employed by Holland Township Police Department, including sworn and civilian personnel.

- B. The psychological services will begin the process by administering diagnostic tests to confirm that the employee requires psychological treatment.
- C. Treatment will be administered upon the advice of the counselor and with the approval of the County Prosecutor, or his or her designee, and the Chief Executive Officer.
- D. Periodically the County Prosecutor, or his or her designee, and the Chief Executive Officer, the counselor, and the employee's supervisor may review the counselor's recommendations as to the employee's placement and status.
- E. If an employee is terminated as a result of his or her inability to regain acceptable job performance, the employee's psychological treatment record will be placed in his or her personnel file.
- F. If an employee regains acceptable job performance, the record of referral will remain only in the files of the County Prosecutor, or his or her designee, and the Chief Executive Officer and in the files of the psychological services counselor.

IV. Notification to Subsequent Law Enforcement Employer

- A. If any law enforcement officer who is or has been subject to an Early Warning System review process applies to or accepts employment at a law enforcement agency different than the one where he or she underwent the Early Warning System 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 process history and outcomes. Upon request, the prior or current employing agency shall share the officer's Early Warning System process files with the subsequent employing agency.

V. Job Security and Confidentiality

- A. In matters involving "doctor-patient" communications, the applicable law dictates confidentiality parameters.
- B. Due to the nature of the Employee Assistance Program, a Program counselor may disclose a general opinion and/or recommendation relating to an employee's continued performance.
- C. Job security and promotional opportunities shall not be jeopardized by an employee's participation with a counselor. However, failure to correct deficiencies in job performance may eliminate promotional consideration or jeopardize continued employment.
- D. Any statement an employee makes in connection with the Early Warning System process may not be used against him or her in any disciplinary or other proceeding.

SCANNED
COPY

- H. Early Warning System meetings will be conducted to discuss with the employee their identification for participation in the system, why they have been identified for participation, and that the meetings are to be facilitative and non-disciplinary in nature.
- I. Early Warning System meetings will result in options or course(s) of actions being determined and established by the County Prosecutor, or his or her designee, and the Chief Executive Officer with input from the identified employee and the responsible Superior Officer or the employee's supervisor. Options or course(s) of action may include, but are not limited to:
1. No additional action.
 2. Informal counseling and monitoring by the Superior Officer or the employee's supervisor.
 3. Formal counseling or corrective actions as appropriate.
 4. Performance Improvement Plan with reviews and reports.
 5. Referral or visit to the department's or county's health/mental health care professional.
 6. Voluntary or mandatory referral to the county's Employee Assistance Program.
 7. Mandatory remedial or additional training designed to improve the employee's skills.
 8. Fitness-for-duty examination.
 9. Any other appropriate remedial or corrective action.
- J. The employee will be monitored for at least 3 months, or until his or her supervisor concludes that the employee's behavior has been remediated, whichever is longer.
- K. Upon completion of the Early Warning System process, the Supervisor or Superior Officer will forward a confidential written report to both the County Prosecutor, or his or her designee, and the Chief Executive Officer of the process' outcome, including any remedial measures taken on the employee's behalf.

III. Psychological Services Process

- A. The County Prosecutor, or his or her designee, and the Chief Executive Officer may implement a course of action (see Section II Iabove) for an employee referred by a supervisor or who is self-referred.

- Criminal investigations of / criminal complaints against the employee .
 - Use of force incident formally determined or adjudicated to have been unjustified, excessive, or unreasonable.
 - Domestic violence investigations where the employee is the alleged subject.
 - Arrest of employee, including for driving under the influence.
 - Sexual harassment claims against the employee.
 - Vehicular collisions formally determined to be the officer's fault.
 - Positive drug test.
 - Court dismissals of officer's cases or arrests.
 - Court suppression of evidence obtained by officer.
 - Insubordination.
 - Neglect of duty.
 - Unexcused absences/abuse of sick time.
 - Vehicle pursuit incident.
 - Unacceptable performance rating.
 - Any other indicators, as determined by the County Prosecutor or Chief Executive Officer.
2. Any additional performance indicators the County Prosecutor or Chief Executive Officer considers must be objectively reasonable and reasonably related to potentially escalating harmful behavior.
 3. Given their seriousness, every incident involving a criminal investigation of / a criminal complaint against the employee; arrest of the employee, including for driving under the influence; positive drug test; insubordination; and neglect of duty will trigger an Early Warning System review.
 4. A total combination of any 3 other performance indicators occurring within a 12-month period will trigger an Early Warning System review.
- E. Supervisors and Superior Officers will forward an initial confidential written report to both the County Prosecutor, or his or her designee, and the Chief Executive Officer within 15 days after identifying targeted indicators. The report shall contain the identity of the employee, the date of events, a brief description of the incident(s), and a planned remedial course of action.
- F. Supervisors and Superior Officers shall be notified of the activation of the Early Warning System and to gather additional information about the employee.
- G. A collective follow-up report will be submitted to the County Prosecutor, or his or her designee, and the Chief Executive Officer regarding whether additional intervention is needed. The employee will be formally notified in writing that the Early Warning System has been initiated. Upon approval of the County Prosecutor, or his or her designee, and the Chief Executive Officer, a meeting will be arranged with the employee and appropriate supervisors.

SCANNED

OR

- D. Employee Assistance Program—a confidential, non-disciplinary program provided by the county whereby a counselor can assist employees in resolving suspected personal or work-related issues such as, but not limited to, drug, alcohol, anger management, family, and finance problems.
- E. Supervisor—a member of the agency assigned to a position requiring the exercise of immediate supervision over the activities of employees.
- F. Superior Officer— a Corporal, Sergeant or higher rank.

PROCEDURE:

II. Early Warning System Program

- A. The agency has an Early Warning System program to provide systematic reviews of specific, significant events involving agency employees. The system shall have the following components:
1. A provision to initiate a review based on current patterns of collected material.
 2. Reporting requirements of conduct and behavior.
 3. Semi-annual evaluations of the Early Warning System to determine its effectiveness and to provide a method to implement necessary changes.
 4. Identification of the role of first- and second-level supervision.
 5. Remedial action and some type of employee assistance, such as a formal Employee Assistance Program or peer counseling.
- B. The Early Warning System is designed to identify critical performance indicators, patterns, or trends, and to evaluate the data in a manner that is constructive to both the employee and the agency. This program will assist supervisors and managers in highlighting behaviors that may otherwise be overlooked.
- C. Supervisors and Superior Officers shall serve as co-coordinators for the Early Warning System program. They shall be responsible for conducting periodic reviews of agency records as outlined in Section D below.
1. The following list of performance indicators shall be included in all county and local police agencies' Early Warning System policies:
 - Internal Affairs complaints against the employee.
 - Civil actions filed against the employee.

- E. All written reports created or submitted pursuant to this Policy that identify specific employees are confidential and not subject to public disclosure.

SCANNED
COPY