

<b>Waldwick Police Department Policies and Procedures</b>		
<b>Subject:</b>  Early Warning System		Issue Date:  July 1, 2018
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I. PURPOSE

The Purpose of this policy is to conform to the Attorney General Law Enforcement Directive 2018-3; that establishes an Early Warning System for police employees. The Early Warning System is an important tool to assist this agency in identifying and remediating problematic officer conduct that is a potential risk to the public, to the police department, and the officers.

II. POLICY

It is the policy of this agency to implement and utilize the Early Warning System consistent with the Attorney General Guidelines and to ensure the review of incidents for risk and provide timely intervention. This policy is focused on corrective actions to remediate officer behavior and provide assistance to the officer.

III. PROCEDURE

A. Early Warning System

1. The Early Warning System is designed to detect patterns and trends before the conduct escalates into a serious problem. As such, employees must understand that the early warning system is not the same as the disciplinary process. Although it is possible that disciplinary action may be taken as a result of evidence that policy and procedures were violated, this is not the sole or even the primary intent of the system. The primary intent of an early warning system is to address potential problems through the use of management and supervisory strategies before formal discipline is warranted.

2. Many different measures of employee performance or behaviors can be regularly examined for patterns or practices that may indicate potential problems. These performance indicators shall be included in the Early Warning System, along with any other objectively measurable performance indicators the chief executive believes are needed to protect the agency and the officers.
  - a. Internal affairs complaints against the officer, whether initiated by another officer or a member of the public;
  - b. Civil actions filed against the officer;
  - c. Criminal investigations of or criminal complaints against the officer;
  - d. Any use of force by the officer that is formally determined or adjudicated, by internal affairs or grand jury, to have been excessive, unjustified, or unreasonable;
  - e. Domestic violence investigation in which the officer is an alleged subject;
  - f. An arrest of the officer, including driving under the influence charge;
  - g. Sexual harassment claims against the officer;
  - h. Vehicular collisions involving the officer that are formally determined to have been the fault of the officer;
  - i. A positive drug test by the officer;
  - j. Cases or arrest by the officer that are rejected or dismissed by the court;
  - k. Cases in which evidence obtained by an officer is suppressed by a court;
  - l. Insubordination by the officer;
  - m. Neglect of duty by the officer;
  - n. Unexcused absences by the officer;
  - o. Abuse of sick time by the officer;
  - p. Claims of on the job injury;
  - q. Vehicular pursuits;
  - r. Arrest for resisting arrest;
  - s. Arrests for assault on a law enforcement officer.

3. Initiation of the Early Warning System shall provide that three (3) separate instances of performance indicators (as listed above) within any twelve-month period will trigger the Early Warning 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.

B. Administration and Tracking of the 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 System process based upon their own observations. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct.
2. 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, practice, or trend of inappropriate behavior or misconduct. Internal Affairs shall audit an individual employee's history any time a new complaint is received.
  - a. Using this information along with their experience, the Internal Affairs Unit may be able to identify employees who may need remedial/corrective intervention, even before it is indicated by the Early Warning System.
3. If an audit indicates the emergence of a pattern, practice or trend, or inappropriate behavior or misconduct, the Internal Affairs Unit shall consult with the employee's supervisor and /or patrol lieutenant.
4. The Internal Affairs Unit and the employees supervisor and /or patrol lieutenant shall review the information provided by the Internal Affairs Unit along with any other relevant information from the department records for the purpose of initiating a course of intervention designed to correct this emerging pattern, practice or trend.
  - a. If the audit indicates that the Early Warning System has returned an incorrect identification or a false positive indicator, that conclusion shall be documented.

- b. If the audit reveals that an employee has violated the Department Policy and Procedures, the supervisor in consultation with the Internal Affairs Unit should proceed with an Internal Affairs investigation and possible disciplinary action.
  - c. 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 to determine the appropriate course of remedial/corrective action.
5. The Internal Affairs Unit shall audit the department's tracking system and records to assess the accuracy and efficiency of the tracking system every six months.

C. Supervisors

1. An employee's first line supervisor is usually the first member of the department to encounter 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 supervisor and if warranted, the Internal Affairs Unit. The success of this program relies heavily on the first line supervisor's participation and involvement.
2. If a supervisor has initiated remedial/corrective intervention, the Internal Affairs Unit shall be formally notified of these efforts. This information shall be documented and all appropriate reports (use of force, pursuit, and incident reports) forwarded to the Internal Affairs Unit for filing. No entry should be made in the employees personnel file, unless it results in disciplinary action.

D. Operations Lieutenant

1. In addition to the audits conducted by Internal Affairs, the patrol lieutenant shall periodically audit individual employees. Relying upon their experience and knowledge, they may be able to identify employees who may need remedial/corrective intervention even before being indicated by the Early Warning System audit.

2. When under Early Warning System monitoring, the employee's supervisor and operations lieutenant shall meet with the employee to discuss the situation in depth to:
  - a. Identify the problem or potential problems;
  - b. Determine short and long-term goals for improvement;
  - c. Come to a written consensus commitment on a long-term plan to improve performance;
  - d. Advise employee of the monitoring process and the repercussions of any future sustained transgressions.
  - e. The employee should expect to remain under monitoring for six months when the early warning system is initiated.
  
3. Meetings with the supervisor and employee shall be thoroughly documented, which will be forwarded to the chief or his designee. The employee and supervisor shall meet monthly at a minimum, with the operations lieutenant, to discuss progress towards the agreed goals and objectives.

E. Remedial/Corrective Action

1. Once an employee has triggered the requisite number of performance indicators for the Early Warning System process, the assigned supervisory personnel shall initiate remedial action to address the officer's behavior.
  
2. When the Early Warning System review process is initiated, personnel assigned to oversee the early warning system should:
  - a. Formally notify the subject employee, in writing;
  - b. Conference with the employees and supervisor;
  - c. Develop and administer a remedial program;
  - d. Continue to monitor the employee for at least six months or until the supervisor concludes that the employee's behavior has been remediated (whichever is longer);
  - e. Document and report findings to appropriate supervisory personnel and if needed to the Internal Affairs Unit; (Any statement made by the employee in connection with the early warning system review process MAY NOT be used against the subject employee in any disciplinary or other proceeding.)

3. Supervisory or command personnel may initiate remedial/corrective intervention to correct behavior. This 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, when warranted and available;
- f. Peer counseling;
- g. Any other appropriate remedial or correct action.

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

5. When remedial/corrective action has been taken, the chief or his designee, 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 sustainable investigation. If the remedial/corrective action is a training program, attendance and successful completion of that program should be noted in the employee's training record.

6. All reports shall be forwarded to the chief or his designee 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.

#### F. Reporting

1. If a current employee is transferring to a different agency or this department is accepting a transferring employee from another agency, it is the responsibility of the current or former employing law enforcement agency to notify the subsequent employing agency of the officer's early warning system review process history and outcomes.

2. Upon initial review of the early warning system review process, the agency's chief or his designee shall make a confidential written notification to the County Prosecutor or his designee; of the identity of the subject officer, the nature of the triggering performance indicators, and the planned remedial program.
3. Upon completion of the Early Warning System review process, the agency's chief executive 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.
4. This policy shall be made available to the public upon request. All written reports created or submitted pursuant to this Attorney General Law Enforcement Directive No. 2018-3 that identify specific officers are confidential and not subject to public disclosure.