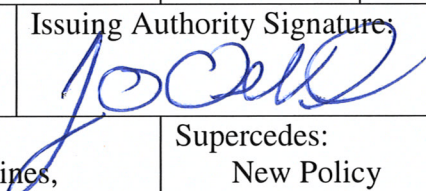


# MAPLEWOOD POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

Subject: <b>EARLY INTERVENTION SYSTEM</b>		Number: <b>2.19</b>	No.of Pages: 12	Effective Date: 05/21/18
Issuing Authority: Chief Jim DeVaul		Issuing Authority Signature: 		Signed Date: 04/27/20
Source Documents: NJ Attorney General Guidelines, Internal Affairs Policy, Procedures DOJ- Early Intervention Systems for Law Enforcement Agencies & N.J. Attorney General Directive 2018-3		Supersedes: New Policy		Accreditation Standards: 2.2.3 (NJLEAC)
Reviewed/Revised Dates:	Revised 05/21/18	Revised 04/27/20	Revised	

## EARLY INTERVENTION SYSTEM

- I. **PURPOSE:** Recent court decisions, particularly those involving federal civil rights lawsuits which allege a deliberate indifference on the part of a police agency toward complaints, have made it clear that law enforcement agencies have a duty to monitor the behavior of their employees to prevent individual officers from engaging in conduct or behavior that violates the constitutional liberties enjoyed by every member of the community. Therefore, the purpose of this Standard Operating Procedure is to establish a mechanism to track the behavior and performance of individual employees and use this information to prevent patterns, practices or trends of inappropriate behavior or conduct from developing. This mechanism will be referred to in this policy as an “Early Intervention System.”
  
- II. **POLICY:** It will be the policy of the department to implement and utilize an Early Intervention System designed to identify any pattern, practice, trend or conduct engaged in by any member, sworn or non-sworn personnel, of this agency which warrants intervention or remediation through appropriate management intervention strategies before the conduct develops into a more serious problem and / or potentially escalating risk of harm to the public, agency, and / or the officer.

### III. GENERAL

A. The purpose of the Early Intervention System is to detect patterns, practices and trends of inappropriate behavior or misconduct before the conduct escalates into more serious infractions. As such, employees must understand that the Early Intervention 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 Intervention System is to address potential problems through the use of appropriate management and supervisory strategies before formal discipline is warranted.

B. All levels of supervision, especially first line supervisors, are expected to recognize potentially at-risk employees, identify training needs and provide professional support in a consistent and fair manner. Emphasis should be placed on anticipating problems among employees before they result in improper performance or conduct.

C. The “Early Intervention System” is ultimately the responsibility of the Internal Affairs Unit which shall report directly to the Chief of Police. However, it will also be the responsibility of middle management supervisors, including Sergeants and Lieutenants, to initiate the Early Intervention process based upon their observations of an emerging pattern, practice or trend and reporting their observations in accordance with this policy. The Internal Affairs Officer or other person designated by the Chief of Police will be responsible for overseeing the tracking process and review of all reports pertaining to Early Intervention. This Officer will also be responsible for maintaining an index of all Officers that were referred for Early Intervention.

### IV. DEFINITIONS

- A. Early Intervention System- is a data-based management tool designed to identify officers whose performance exhibits problems which suggest that an officer is having difficulty dealing with citizens, and then to provide interventions, usually counseling, training or enhanced supervision, to correct those performance problems at the earliest possible stages.

- B. Performance Thresholds- The point at which a sufficient number of incidents have occurred to warrant an initial inquiry into the behaviors of an officer.
- C. Comprehensive Performance Review- a formal and comprehensive objective review of all known, recorded and retrievable data concerning an officer of the department.
- D. Performance Indicators- categories of known, recorded and retrievable data concerning an officer of the department.
- E. Early Intervention Referral- determination by the Chief of Police that officer is in need of Early Intervention to correct deficiencies.
- F. Performance Improvement Plan- a written plan to be implemented for the purpose of improving the performance of an officer identified for Early Intervention. Such plan, at a minimum, shall include: (1) identification of the problem(s) or potential problem(s); (2) short term and long-term goals and objectives for improvement; (3) description of the monitoring process; (4) repercussions for future or sustained conduct; (5) and acknowledgment of the plan by all parties involved. The plan may include a comment of disagreement from the Supervisors.

#### V. PROCEDURES:

- A. Frequency. Maplewood Police Lieutenants shall assess the performance of employees under their command for purposes of the Early Intervention System outlined in this directive on a quarterly basis (four times per year). Such assessment shall consist of identifying and selecting employees to be reviewed for possible early intervention and post intervention monitoring if applicable. This report shall be submitted no later than the 15<sup>th</sup> day of the month following the conclusion of the review period; July 15<sup>th</sup> and January 15<sup>th</sup> (existing sick-time reviews shall continue to be conducted quarterly and shall be included in this process).
- B. Identification and Selection of Employee for Comprehensive Performance Review. The Maplewood Police Department shall utilize measures or performance thresholds to assess if an employee should be identified for a “Comprehensive Performance Review”. The Comprehensive Performance Review shall determine whether or not the employee should be referred for formalized Early Intervention. Maplewood Police Lieutenants (working with their Sergeants as applicable) shall be responsible for conducting the preliminary threshold assessment of each employee under their command and provide a report of the findings quarterly basis. The results will be submitted in writing directly to the Internal Affairs Unit and finally the Chief of Police. The review period will consist of the prior 12 months from the date of the review.



To ensure earliest possible identification for Comprehensive Performance Reviews, Lieutenants will have a monthly tally sheet to record and track triggers for each employee under their command. The Lieutenant is responsible for obtaining the information necessary to complete the tally sheets and quarterly reports for their Officers. An asterisk will appear on the tally sheet next to the triggers that the Lieutenant must obtain from the Internal Affairs Officer.

1. Departmental Policy Thresholds- the Maplewood Police Department shall utilize the following preliminary threshold criteria to assist in identifying an employee in need of a Comprehensive Performance Review:
  - a. Two (2) or more Internal Affairs complaints complaint(s) during the review period regardless of the outcome and / or a complaint that generates a concern that an Early Intervention action should be taken.
  - b. One (1) or more civil actions during the review period.
  - c. Three (3) or more Use of Force incidents during the review period and / or any use of force by the officer that is formally determined or adjudicated (examples include by internal affairs, or a grand jury) to have been excessive, unjustified or unreasonable.
  - d. One (1) or more unauthorized pursuits during the review period.
  - e. Two (2) or more duty related injuries during the review period.
  - f. Two (2) or more duty related motor vehicle accident(s) within the period.
  - g. Court cases rejected or dismissed by a prosecutor or judge during the review period will be assessed with the Prosecutor and Court Administrator for cause.
  - h. Court cases where evidence was suppressed by a judge during the review period will be assessed with the Prosecutor and Court Administrator for cause.
  - i. Court cases with a finding of not guilty by a judge during the review period will be assessed with the Prosecutor and Court Administrator for cause.
  - j. Any other significant incident or event warranting further review by a supervising officer.

- k. Domestic violence investigations in which the officer is the alleged aggressor.
- l. Sexual harassment allegations against the officer.
- m. An arrest of an officer including a charge of driving under the influence.
- n. The officer has positive drug test.
- o. Insubordination by the officer.
- p. Neglect of duty by the officer.
- q. Criminal investigations of or criminal complaints against an officer (If notification to the officer could jeopardize an ongoing criminal investigation, the County Prosecutor may in his/her discretion grant a delay in the notification to the officer or in the initiation of the Early Intervention System review process.

In the event an incident triggers multiple performance indicators, the incident will not be double or triple counted, rather, the matter will only count as one performance indicator. The Chief of Police may exercise discretion and may determine that a lower number of performance indicators within a review period will trigger the Early Intervention System review process.

If it becomes known that an individual has triggered a Comprehensive Performance Review outside of the quarterly reviews, the process will be initiated at that time and not delayed until the next review period. The Comprehensive Performance Review will be completed as soon as possible and the process completed in the same manner as if the observation were made during the quarterly review.

#### C. Comprehensive Performance Review.

1. The Comprehensive Performance Review is designed to place an employee's performance in the context of his or her assignment and performance history. If an employee is identified and selected for a "Comprehensive Performance Review" then the reviewing Lieutenant with the assistance of the Internal Affairs Officer shall complete the Comprehensive Performance Review task utilizing, at a minimum, each category on the comprehensive list of Performance Indicators listed below. The Internal Affairs Officer shall make available to the reviewing Lieutenant the information necessary to complete the task.

2. The Comprehensive Performance Review Process shall include four primary components:
  - a. Data Retrieval
  - b. Data Analysis to Include:
    - i. Number of incidents for each Performance Indicator by individual officer;
    - ii. Level of activity for each Performance Indicator by individual officer;
    - iii. Identification of patterns of activity for each performance indicator by individual officer
  - c. Pattern, Practice or Trend Recognition; and
  - d. Supervisory Assessment of the Data.
3. Performance Indicators. Many different measures of employee performance can be regularly examined for patterns, practices or trends that may indicate potential problems. These performance measures may include, but are not limited to the following indicators, as per the Attorney General Guidelines and Department policy:
  - a. All Internal Affairs complaints, regardless of whether it was initiated by another officer or a member of the public.
  - b. Civil actions filed against the officer;
  - c. Criminal investigations of or complaints made against the officer (If the Early Warning System notification 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).
  - d. Any use of force by the officer that is formally determined or adjudicated (example – Internal Affairs or grand jury) to have been excessive, unjustified or unreasonable.
  - e. All Internal Affairs complaints, regardless of whether it was initiated by another officer or a member of the public.

- f. Domestic violence investigations in which the officer is an alleged subject.
  - g. An arrest of the officer, including on a driving under the influence charge.
  - h. Sexual harassment claims against the officer.
  - i. Vehicular collisions involving the officer that are formally determined to have been the fault of the officer.
  - j. A positive drug test by the officer.
  - k. Cases or arrests by the officer that are rejected or dismissed by the court.
  - l. Cases in which evidence obtained by an officer that are rejected or dismissed by a court.
  - m. Insubordination by the officer.
  - n. Neglect of duty by the officer.
  - o. Unexcused absences by the officer.
  - p. Any other indicators, as determined by the Chief of Police.
4. Reporting. The reviewing Lieutenant shall report the results of the Comprehensive Performance Review to the Administration Commander in charge of the Internal Affairs Unit and the Chief of Police or his/her designee upon completion of the review. This report shall be rendered in writing. The reviewing Lieutenant shall include in the report whether or not referral for Early Intervention is warranted by indicating the specific factors used for justification of the referral decision including the input of the Shift or Unit Sergeant(s) (as applicable).
  5. If the review indicates that the Early Intervention System has returned a “false positive,” that conclusion should be documented and the matter closed.
  6. If the review reveals that an employee has violated department rules and regulations or standard operating procedures, the reviewing Lieutenant in consultation with the Internal Affairs Unit shall proceed with an internal investigation and possible disciplinary action.

7. The Chief of Police or his/her designee shall review the information provided by the Early Intervention System along with any other relevant information from department records for the purpose of initiating a course of supervisory action designed to interrupt the emerging pattern, practice or trend. The Chief of Police shall make a final review of the report and if the review reveals that an employee has engaged in conduct which indicates a lack of understanding or inability to comply with accepted procedures, the Chief of Police, in his/her discretion, may refer the matter to the Internal Affairs Unit for remedial action in lieu of an Early Intervention strategy.

D. Referral for Early Intervention.

1. Upon receipt of the results of the Comprehensive Performance Review, the reviewing Lieutenant and Administrative Commander in Charge of Internal Affairs shall meet with the Chief of Police to determine whether or not a referral for intervention is warranted. The panel shall ensure that the elements leading to a decision to refer an employee for Early Intervention have been fairly applied and are consistent with this policy.
2. The Chief of Police, upon consideration of all relevant data presented, shall make the final determination as to whether or not an employee of the department is referred for Early Intervention as well as the nature and scope of the intervention, if any.
3. Early Intervention meetings shall be conducted by the employee's first and second line supervisors (i.e. Lieutenant and Sergeant) to inform the employee that in writing they have been identified by the Early Intervention System, why they have been identified for participation, that the meeting(s) are facilitative and non-disciplinary in nature and that the employee will be subjected to a Performance Improvement Plan that will be monitored by first and second line supervisors.

E. Intervention.

1. The Chief of Police shall convene an administrative meeting to consider the options and/or course(s) of actions to be taken in terms of implementing an Early Intervention strategy. The Early Intervention strategy shall be determined and established by the Chief of Police upon consideration of all available data including input and/or recommendations from the employee's first and second line supervisors (normally the reviewing Lieutenant and Field Sergeant), the Administrative and Operations Commanders and identified employee him/herself. The Chief of Police shall ensure that the selection and application of an Early Intervention strategy is consistent across the various divisions, bureaus, units and supervisory components of the



department. The Intervention options or course(s) of action (strategies) include, but are not limited to:

- a. Supervisory discussion with no additional action taken;
- b. Training;
- c. Re-training;
- d. Monitoring;
- e. Enhanced supervision;
- f. Formal corrective action: formal counseling or formal disciplinary action as appropriate;
- g. Reassignment or temporary relief from duty;
- h. Fitness for duty evaluation, either physically or Psychologically;
- i. Voluntary or mandatory referral to the department's Employee Assistance Program.

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

3. Upon referral of an employee for Early Intervention the reviewing Lieutenant shall prepare a written Performance Improvement Plan to be implemented for the purpose of improving the performance of the employee identified for Early Intervention. Such plan, at a minimum, shall include the following:

- a. Identification of the problem(s) or potential problem(s);
- b. Short term and long-term goals for improvement;
- c. Description of the monitoring process;
- d. Repercussions for future or sustained conduct; and
- e. Acknowledgment and comments section for all parties to the plan which shall include the Chief of Police, Administrative & Operations Commanders, Reviewing Lieutenant, Field Sergeant and employee referred for Early Intervention.

4. The plan shall be submitted for initial approval to the Administrative Commander in charge of Internal Affairs and then to the Chief of Police for final approval.

5. Upon final approval by the Chief of Police, the employee's Lieutenant (normally the reviewing lieutenant) and sergeant shall meet with the officer to discuss the purpose of the plan, the performance or conduct which needs to be improved upon, how the plan will be implemented and how the officer will be monitored and evaluated to ensure compliance. This meeting shall be documented in the comments section of the Performance Improvement Plan. Any statement made by the officer in connection with the Early Intervention System review process may not be used against the subject officer in any disciplinary or other proceeding.

#### F. Post Intervention

1. Monitoring. Personnel initially referred for Early Intervention shall remain under intensive monitoring and supervision for a minimum of a three (3) month period or until the supervisor concludes that the officer's behavior has been remediated (whichever is longer). Upon removal from the Early Intervention System an additional three (3) month follow-up period of documented monitoring will be required. The affected employee shall be required to meet with his/her immediate supervisors (Lieutenant and Sergeant) on a monthly basis during the initial and follow-up periods to discuss progress towards the agreed upon goals and objectives of the intervention. The affected employee's Lieutenant (with the assistance of the employee's Sergeant) shall submit written monthly progress/status reports to the Chief of Police during the initial review period and during the three (3) month follow-up period. The status reports shall indicate whether the goals and objectives of the Performance Improvement Plan are being met.

2. When remedial action has been undertaken, the internal affairs unit should be formally notified of such efforts. This information shall be recorded in the internal affairs index and filing system. No entry should be made in the employee's personnel file, unless the action results in a formal disciplinary action that has been sustained by normal disciplinary processes (i.e. guilty plea, outcome of hearing, etc... and then, only the information that would be entered into the file pertaining to Internal Affairs documentation). If the remedial action resulted in attendance at an appropriate training program, then the attendance and completion of that program should be noted in the employee's training record.

3. In addition to regular bi-annual reviews for purposes of the Early

Intervention System, the Internal Affairs Unit shall review an individual employee's history any time a new complaint is made. This review may help identify employees who may need counseling; training or other remediation even before such is indicated by the Early Intervention System's ongoing data review processes.

#### G. Notifications

1. County Prosecutor. When the Early Intervention System is initiated for an officer, the Chief of Police or his/her designee shall make a confidential notification in writing to the County Prosecutor or his/her designee of the identity of the subject officer involved, the nature of the triggering performance indicators, and the planned remedial program. Upon completion of the Early Intervention review process, the Chief of Police shall make a confidential notification in writing to the County Prosecutor or his/her designee of the outcome including any remedial measures taken. On the 1<sup>st</sup> of every month or first business day if the 1<sup>st</sup> occurs on a weekend, the Chief of Police or his/her designee will submit a monthly report to the County Prosecutor:
  - a. If an employee was identified for a review via a trigger.
    1. The Officers name
    2. The type of Incident / Allegation
    3. A brief summary of facts (nature of each incident leading to the trigger
    4. The Outcome/Plan - if nothing is recommended, a brief explanation of why (false positive, employee was not at fault in the accident, etc...).
  - b . If an employee was otherwise identified, the same information will be provided in the report.
2. Subsequent Law Enforcement Employer. If an officer has been subject to an Early Intervention System review process applies to or accepts employment at a different law enforcement agency than the one where the officer underwent the Early Intervention System review process, it is the responsibility of the prior or current employing law enforcement agency to notify the subsequent employing agency of Early Intervention System history and outcome. Upon request, the prior or current employing agency shall share the officer's Early Intervention System review process files with the subsequent employing agency.

H. Confidentiality. All records, oral, written or electronic, created as a result of this policy and knowledge of those records is considered confidential and may not be disclosed to any person(s) not privileged to have such information. Furthermore,

all records, oral, written or electronic, created as a result of this policy have the same confidential status as Internal Affairs records and are subject to the same disclosure and retention regulations and guidelines. As per the Attorney General's Directive 2018-3, "All written reports created or submitted pursuant to this Directive that identify specific officers are confidential and not subject to public disclosure".

I. Public Accessibility and Confidentiality. All Early Intervention policies adopted by law enforcement agencies shall be made available to the public upon request and shall be posted on the Department's website. All written reports created that identify specific officers are confidential and are not subject to public disclosure.

**-END-**

Attachment A: Attorney General Law Enforcement Directive No. 2018-3  
Statewide Mandatory Early Warning Systems