

# MORRIS PLAINS POLICE DEPARTMENT POLICY AND PROCEDURES



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**SUBJECT: Early Warning System**

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| <b>January 2, 2014</b>                              | 2.2.3                    | 4/17/2018     | 3, 4, 6 & 7 |
|   |                          | 7/2/2020      | 1           |
| <b>BY THE ORDER OF:</b><br>Chief Michael M. Koroski |                          |               |             |
| <b>SUPERSEDES ORDER #:</b><br>N/A                   |                          |               |             |

**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 Attorney General Guidelines.

## 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. Motor vehicle stop data;
  2. Search and seizure data;
  3. Internal complaints, regardless of outcome;
  4. Civil actions filed, regardless of outcome;
  5. Incidents of force usage, including firearms discharges and use of non-deadly force;
  6. Claims of duty-related injury;
  7. Arrests for resisting arrest;
  8. Arrests for assault on a law enforcement officer;
  9. Criminal investigations or complaints made against the employee;
  10. Vehicular pursuits;
  11. Vehicular collisions;
  12. Cases rejected or dismissed by the prosecutor;  
(NOTE: This should not normally include cases in which the County Prosecutor or Municipal Prosecutor has determined to dismiss a charge as a matter of prosecutorial discretion.)
  13. Evidence suppressed by the court,
  14. Domestic Violence investigations in which the officer is an alleged subject,

15. An arrest of the officer, including on a driving under the influence charge,
  16. A positive drug test by the officer,
  17. Insubordination by the officer,
  18. Neglect of duty by the officer.
  19. Unexcused absences by the officer, and
  20. Any other indicators, as determined by the agency's chief executive.
- C. Generally, three (3) instances of questionable conduct or flag indicators within the same six (6) month period would initiate the early warning system process. If one incident triggers multiple performance indicators, that incident shall not be double or triple counted, but instead shall count only as 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 their own observations. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct.
- B. Internal affairs 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, this shall be completed every six months. In addition to the regular data audits by internal affairs, the internal affairs supervisor shall audit an individual employee's history any time a new complaint is received.
1. 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 data audit.
- C. If the audit indicates the emergence of a pattern, practices or trend of inappropriate behavior or misconduct, the internal affairs investigator shall consult with the employee's supervisor and/or division commander. When an EW System review process is initiated, the subject officer should be formally notified in writing.
- D. The internal affairs supervisor and the employee's supervisor and/or division commander shall review the information provided by internal affairs 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 should proceed with an internal 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 to determine the appropriate course of remedial/corrective intervention.
4. Any statement made by the subject officer in connection with the EW System review process may not be used against the subject in any disciplinary or other proceeding.
5. Continue to monitor the subject officer for at least three months, or until the supervisor concludes that the officer's behavior has been remediate (whichever is longer).

### **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 division commander and if warranted, the internal affairs 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 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: use of force reports, vehicle pursuit reports, and attendance records.

#### **IV. DIVISION COMMANDERS**

- A. In addition to the regular data audits conducted by internal affairs, the division commanders shall periodically audit an individual employee's history. Using this information and their experience, the commander may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the early warning system data audit.
- B. When under early warning system monitoring, the employee's division commander and 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.
- C. Generally, personnel should expect to remain under intensive monitoring and supervision for six (6) months when an early warning flag is triggered.
- D. 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 on a regular basis, minimally monthly, 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 monitoring is required following removal from the early warning system. Monthly monitoring reports from the direct supervisor are required.

#### **V. 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. Employee Assistance Program, when warranted, if available;
  7. Peer counseling.
  8. Any other appropriate remedial or corrective action.
- 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.

#### VI. NOTIFICATION TO SUBSEQUENT LAW ENFORCEMENT EMPLOYER

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

#### VII. NOTIFICATION TO THE COUNTY PROSECUTOR

- A. Upon initiation of the EW System review process, the agency's chief executive or a designee shall make a confidential written notification to the County Prosecutor or his/her designee of the identity of the subject officer, the nature of the triggering performance indicators, and the planned remedial program. Upon completion of the EW 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 EW System review, including any remedial training measures taken on behalf of the subject officer.

VIII. ANNUAL REPORT TO THE ATTORNEY GENERAL

- A. By January 31<sup>st</sup> of each year, each County Prosecutor shall submit a report to the Attorney General, through the Division of Criminal Justice's Prosecutor's Supervision and Training Bureau. This summary shall include a statement indicating that those agencies under the County Prosecutor's supervision that are in compliance with this Directive and those that are not.

IX. PUBLIC ACCESSIBILITY AND CONFIDENTIALITY

- A. All EW System policies adopted by law enforcement agencies shall be made available to the public upon request and shall be posted on this agency's website. Annual reports from the County Prosecutors to the Attorney General also shall be made available to the public upon request and shall be posted on the agency's website.
- B. All written reports created or submitted pursuant to the Attorney General Directive 2018-3, Statewide Mandatory Early Warning Systems, that identify specific officers are confidential and not subject to public disclosure.