

# BERKELEY TOWNSHIP POLICE DEPARTMENT

## DIRECTIVE



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**SUBJECT: EARLY INTERVENTION SYSTEM**

EFFECTIVE DATE:	ACCREDITATION STANDARDS:	REVISION DATE	PAGE #
09/11/2018	2.2.3		
BY THE ORDER OF:			
Chief Kevin H. Santucci			
SUPERSEDES ORDER #:			

**PURPOSE:** Because an agency's most important asset is its personnel, it is the purpose of this general order to establish consistent practices for documenting and managing employee performance and early intervention through the establishment of an Early Intervention System.

**POLICY:** This policy is intended to standardize documentation for both positive and negative performance indicators and to identify employees who have developed a pattern of behavior which indicates that intervention efforts may be necessary. Furthermore, it is the policy of this agency to implement and utilize an early warning system to track and review the indicators of increased risk and to provide timely, non-punitive intervention consistent with best practices.

## PROCEDURES

### I. General

- A. The Early Intervention System (EIS) is designed to identify critical performance indicators, patterns or trends, and to evaluate the data in a manner that is constructive to the employee and the agency. This system will assist department supervisors in highlighting behaviors that may be otherwise overlooked. The purpose of the EIS is to facilitate the early identification of potential problems, and to follow-up, in a timely manner, with the appropriate intervention.
- B. The Early Intervention System is designed to detect patterns and trends in employee conduct before such conduct escalates into more serious problems. The primary intent is to address potential problems through the use of appropriate management intervention strategies before negative discipline becomes necessary.
- C. To be successful, it is critical that all levels of supervision, especially first line supervisors, recognize potentially troublesome employees and behaviors, identify training needs, document performance related issues 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.
- D. Many different measures of employee performance can be regularly examined for patterns or practices that may indicate potential problems. The following indicators are mandatory as stated in NJ Attorney General Directive 2018-3. Ocean Prosecutors Directive LED-2018-021 clarifies entries for the bolded criteria.
  - 1. Internal affairs complaints against the officer, whether initiated by another officer or by a member of the public;
  - 2. Civil actions filed against the officer;
  - 3. Criminal investigations of or criminal complaints against the officer;
  - 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 officer is an alleged subject;
  - 6. An arrest of the officer, including on a driving under the influence charge;
  - 7. Sexual harassment claims against the officer;
  - 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 absence by the officer; and**
  15. Any other indicators, as determined by the agency's chief executive.
- E. The implementation of the Early Intervention System is primarily the responsibility of the Office of Professional Standards; but any supervisor may initiate the early intervention process based on information received and/or based upon his/her own knowledge and/or observations.
- F. 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 the bureau commander. The success of this program relies heavily on the first line supervisor's participation and involvement.
- G. Supervisors should be mindful of the impact of negative information and documentation on subordinates. Although there may be occurrences where this is necessary, supervisors must remember to document positive information whenever possible.
- H. The Chief of Police shall cause an annual evaluation of the early warning system to assess its effectiveness. The Office of Professional Standards shall prepare a written report by February 1<sup>st</sup> of the prevailing year noting the previous year's participants and outcomes. This report will be forwarded to the Chief of Police for review and those modifications to this process deemed necessary should be implemented at the earliest opportunity following the completion of this report.

## **II. Guardian Tracking® Software**

- A. This department will utilize Guardian Tracking® software in order to document, manage, and track day-to-day employee performance as well as provide for the triggering of alerts with respect to the agency's Early Intervention System.
1. Guardian Tracking® is an employee performance documentation software program. The software is designed to benefit the entire organization by enhancing the supervisor's ability to document behavior, both positive and negative, and manage employee performance. Information maintained by the software will assist with various organizational processes, such as: performance appraisals, early intervention, recognition of training needs, recognition of exemplary performance, recommendation for awards, and discipline.
  2. Guardian Tracking® is a useful tool for augmenting the current performance evaluation system. Guardian Tracking® allows supervisors to document routine performance, in one centralized location, during the course of an evaluation period. As incidents are entered, Guardian Tracking® will monitor the frequency of specific incidents to determine if early intervention is warranted.
  3. Guardian Tracking® is also an employee behavioral monitoring and early warning system. In no way, does it excuse a supervisor or any other employee from following the procedures mandated in this department's Internal Affairs Directive.

- B. All employees, both sworn and non-sworn, will have access and viewing rights to Guardian Tracking® via an individualized logon and password. Despite the fact that all department employees have access to the system, access will be granted on a hierarchical order.
- C. All documentation entered and stored in Guardian Tracking® is confidential. Employees will only be able to view information on themselves or those employees currently under their command. Once an employee is transferred to another supervisor, the old supervisor will no longer be able to see his/her information. Employees shall not share or otherwise disclose information unless authorized by Chief of Police of his designee.

### **III. Supervisor's Responsibilities**

- A. Supervisors shall have access to the Guardian Tracking® system via an assigned login and personal password.
- B. Although supervisors will only have viewing rights to employees under their direct command, they maintain entry rights on ALL employees below their rank within the agency.
- C. Supervisors shall log in to Guardian Tracking® daily so as to check for any new notifications or any updated entries pertaining to themselves, or anyone under their command.
- D. It is the supervisor's responsibility to enter information pertinent to all incidents identified in Guardian Tracking® for each of their subordinates. Furthermore, when documenting an incident or occurrence in Guardian Tracking®, supervisors must include as much detail as possible and do so contemporaneous to the occurrence.
- E. Supervisors must understand that accurate, fair and consistent documentation will provide meaningful feedback in promoting the employee's better judgment, increased insight into behavior, heightened awareness of organizational goals, and performance comparisons over time, all of which combine to increase employee motivation. This documentation should reflect both positive and negative behavior.
- F. Supervisors will not document routine performance in any other format. All performance documentation will be entered into the Guardian Tracking® system.
- G. Supervisors will upload all relevant documents to include, completed use of force reports, Investigation reports, service sheets, recommended disposition forms, disposition forms and Performance Notices. These documents shall be signed prior to upload. Further all documents shall be scanned, properly named, (ex. use of force, officer's name) and saved as a .PDF file. Use of Force Reports along with all involved officer's Investigation or Supplemental reports should be uploaded at the same time.
- H. Any incident that requires an Administrative Review will be completed by the Shift or Bureau Commander (lieutenant or above) unless directed or authorized by their supervisor.
- I. In cases where the incident/occurrence to be entered in Guardian Tracking® involves behavior that will be forwarded to and investigated by Internal Affairs, the inputting supervisor will mark this document confidential.

- J. Supervisors must document and submit relevant reports by the end of their weekly tour. Any extension of this timeline must be approved by his/her immediate supervisor and must be annotated in the notes/comments section. Supervisors who fail to document incidents as required by this directive may be subject to disciplinary action.
- K. Supervisors must understand that the Early Intervention System does not relieve them of their responsibility to regularly monitor performance data and address any potential problems.
- L. The following shall serve as a guide to the incident categories contained within Guardian Tracking®. This list is a guide and is no way all inclusive of the categories contained within the Guardian Tracking® system:
  1. Cases Dismissed for Lack of Probable Cause – This is to be used when an officer's lack of candor or misleading testimony results in a courts suppression or rejection of a case.
  2. Citizen Compliment – To be used any time a private citizen compliments a member of the agency for an act performed in the performance of his/her duties. This category is used for non-written compliments/commendations.
  3. Civil Action Filed - To be used when a person files a civil action against a member of the agency;
  4. Demeanor/Attitude - To be used when an employee exhibits, or is alleged to have exhibited, behavior that constitutes poor demeanor or attitude;
  5. Duty Related Injury - To be used whenever an employee is injured while on duty regardless of circumstances;
  6. Evidence Suppressed - This is to be used when an officers lack of candor results in a courts suppression of evidence, the Court Liaison Officer or his designee shall supply a memo to the employee's immediate supervisor whenever evidence is suppressed during a court proceeding.
  7. Insubordination - To be used when an employee is insubordinate as defined in the Rules and Regulations;
  8. Letter of Commendation - To be used whenever a member of the agency receives a letter of commendation from a person, business or other public or private entity as a means of acknowledging that members excellent service or performance.
  9. Performance Notice - Negative - To be used when an employee's performance is sub-standard or not in compliance with the standards set forth by this agency. Behavioral anchors listed in the department's evaluation can be used as a guide for what constitutes negative performance;
  10. Performance Notice - Positive - To be used when an employee's behavior exceeds the expectations and standards set forth by this department. Behavioral anchors listed in the department's evaluation can be used as a guide for what constitutes positive performance.

11. Police Vehicle Crash - To be used when an administrative review formally determines that the collision is the fault of the officer.
  12. Policy Violation - To be used when an employee violates department policy and none of the other categories available is appropriate;
  13. Sick Leave - To be used whenever an employee utilizes sick days in excess of 15 days per year without medical documentation, utilizes more than 5 sick days in a row without medical documentation or utilizes sick time that they do not have.
  14. Tardiness - To be used whenever an employee reports for work after the time set forth by his/her schedule in accordance with department policy.
  15. Use of Force – To be used whenever an employee uses any level of force above physical contact in the performance of their duties, to include off-duty uses of force. For the purposes of tracking, the uses of force have been broken down into those incidents wherein the arrestee sustains an injury and into those in which the arrestee does not sustain an injury.
  16. Vehicular Pursuit - To be used whenever an employee participates in a pursuit as either a primary or secondary unit as defined by the department's directive;
- M. Furthermore, each of the rating criteria contained in both the "Sworn Personnel" as well as the "Supervisory Personnel" performance evaluations is listed in Guardian Tracking® and will be used to document and track employee performance. This information will serve as a guide in preparing semi-annual performance evaluations.
- N. As is the case with sworn personnel, the rating criteria related to "Public Safety Telecommunications Operator" as well as "Civilian Personnel" are also listed in Guardian Tracking® and will likewise be used to track performance of personnel fitting that criteria.

#### **IV. Command Level Responsibilities**

- A. If the early warning system reveals a potential problem through the presence of a flag in the Guardian Tracking® software, or as identified by a supervisor, that employee's Shift Commander (lieutenant or above) will gather all relevant information from the system.
- B. A command level officer (lieutenant or above) designated by the Chief of Police, will cause a review of the data provided, along with more detailed information available from department records. The review will typically include:
  1. All incidents which activated the intervention flag;
  2. At least six months of the employee's performance records; (Guardian Tracking)
  3. Any personal knowledge and observation about the employee in question;

4. And, if warranted, an interview of the employee.

**V. When an EW System review process is initiated due to the mandatory Attorney General Criteria listed in Section 1D of this order or internal Berkeley Township Criteria, personnel assigned to oversee the EW System shall notify the shift commander of the officer who will then take the following action.**

- A. Formally notify the subject officer, in writing; this will be done using a Berkeley Township Performance Notice which will require an Internal Affairs case number. This will be uploaded to Guardian Tracking and will be a confidential document and annotated as such.
- B. Conference with the subject officer and appropriate supervisory personnel;
- C. Develop and administer a remedial program including the appropriate remedial/corrective actions listed below;
- D. 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); this will be done by the officer's immediate supervisor who will submit a weekly Performance Notice stating whether the officer's job performance is satisfactory and if any remedial or corrective action has been taken. This confidential memo will be uploaded via Guardian Tracking to Internal Affairs.
- E. 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.
- F. If this review indicates that the early warning system flag is unwarranted, the Shift Commander will document this result in writing. This will be done by creating a separate incident in Guardian Tracking® using the *Early Warning Intervention* category and will indicate in the narrative portion why no further action is necessary.
  - a. If the review reveals that an employee has violated department directives, the Shift Commander will forward said information to the Office of Professional Standards where an internal investigation may be authorized/initiated, if warranted. In this case, a separate incident in Guardian Tracking® will be created using the *Early Warning Intervention* category and a notation will be placed in the narrative portion of the entry indicating "Referred to Internal Affairs."
  - b. If the review reveals that the employee has engaged in conduct that indicates a lack of understanding or inability to comply with accepted procedures, the Shift Commander shall determine the appropriate course of remedial action. These remedial actions are listed below. In these cases, as was the case with the aforementioned, a separate incident in Guardian Tracking® will be created using the *Early Warning Intervention* category wherein the action taken.
  - c. At least every 6 months personnel assigned to manage the EW System, a command level officer designated by the Chief of Police, shall audit the

agency's tracking system and records to assess the accuracy and efficacy of the tracking system.

## **VI Notifications**

### **A. Notification to Subsequent Law Enforcement Employer**

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 than 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.

### **B Notification to County Prosecutor**

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 measures taken on behalf of the subject officer. This form is on DMS and OCPO EWS Form.

### **C. Annual Report to Attorney General**

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

### **D. Public Accessibility and Confidentiality**

All EW System policies adopted by law enforcement agencies shall be made available to the public upon request and shall be posted on the 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. All written reports created or submitted pursuant to this Directive that identify specific officers are confidential and not subject to public disclosure