

NEPTUNE TOWNSHIP POLICE DEPARTMENT STANDARD OPERATING PROCEDURE



SUBJECT: EARLY INTERVENTION SYSTEM

EFFECTIVE DATE:
July 12, 2021

ACCREDITATION STANDARDS:
2.2.2

BY THE ORDER OF:
Chief James M. Hunt, Jr.

SUPERSEDES ORDER #: EARLY WARNING SYSTEM SOP (6/13/19)

PURPOSE: The purpose of this written directive is to establish a personnel Early Intervention System.

POLICY: It is the policy of this department to implement and utilize Guardian Tracking® Software as an Early Intervention System for tracking and reviewing incidents of risk and provide timely intervention consistent with and the Monmouth County Prosecutor's Directive, June 2021, and the New Jersey Attorney General's Law Enforcement Directive No. 2018-3.

PROCEDURE:

I. EARLY INTERVENTION SYSTEM

- A. The Early Intervention System is designed to detect patterns and trends before the conduct escalates into more serious problems. 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. 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 shall include, but are not limited to, the following documented indicators:
1. Internal complaints, whether initiated by another employee or by a member of the public and regardless of outcome;
 2. Civil actions filed against an officer, regardless of outcome;
 3. Criminal investigations or complaints made against an employee;
 - a. If Early Intervention System notification to the employee could jeopardize an ongoing criminal investigation, the County Prosecutor may in his or her discretion permit delayed notification to the employee or delayed initiation into the Early Intervention System review process.
 4. Any use of force by an officer that is formally determined or adjudicated to have been excessive, unjustified or unreasonable;
 5. Domestic violence investigations in which the employee is an alleged subject (regardless of whether or not a complaint or TRO/FRO was issued);
 6. An arrest of an employee, including on a driving under the influence charge;
 7. Sexual harassment claims against an employee;
 8. Vehicular collisions involving an officer that are formally determined to have been the fault of the officer;
 9. A positive drug test by an 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 employee;
 13. Neglect of duty by the employee;

14. Vehicular pursuits;
 15. Unexcused absences or sick time abuse; and
 16. Any other indicators, as determined by the agency's chief executive.
- C. Generally, three (3) instances of questionable conduct or performance indicators (as listed in section B, above) within a 12-month period would initiate the Early Intervention System process.
- a. The review period shall be calculated beginning on the date of the third performance indicator in twelve months.
- D. 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.

II. MANDATORY EMPLOYEE SELF-REPORTING NOTIFICATION

- A. Any employee who incurs any of the following documented indicators, shall be required to self-report the occurrence through a PowerDMS message to internal affairs group as soon as practicable or within 24 hours. The message shall include a detailed outline of the incident with the date, time, location and outcome. The following documented indicators requiring mandatory self-reporting notifications are:
1. Civil actions filed against an officer, regardless of outcome;
 2. Criminal investigations or complaints made against an employee;
 3. Any use of force by an officer that is formally determined or adjudicated to have been excessive, unjustified or unreasonable;
 4. Domestic violence investigations in which the employee is an alleged subject;
 5. All domestic violence incidents (regardless of whether or not a complaint or TRO/FRO was issued);
 6. An arrest of an employee, including on a driving under the influence charge;
 7. Sexual harassment claims against an employee;
 8. Cases or arrests by the officer that are rejected or dismissed by a court;
 9. Cases in which evidence obtained by an officer is suppressed by a court;
 10. Off-Duty Contact with Law Enforcement Agencies as a result of personal conduct.

III. ADMINISTRATION OF EARLY INTERVENTION SYSTEM

- A. The Early Intervention System is primarily the responsibility of the Internal Affairs Unit, but any supervisor may initiate the early intervention process based upon his/her own observations. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct.
1. Any supervisor with knowledge of any employee incurring any documented indicator, shall report such occurrence to the Internal Affairs Unit as soon as practicable or within 24 hours.
- B. The Internal Affairs Unit shall be alerted by the Guardian Tracking® Software if an employee has the emergence of a pattern, practices or trend of inappropriate behavior or misconduct. In addition, the Internal Affairs Unit Supervisor shall query the Guardian Tracking® Software and review an individual employee's history any time a new complaint is received.
- C. If the Guardian Tracking® Software indicates the emergence of a pattern, practices or trend of inappropriate behavior or misconduct, the Internal Affairs Unit Supervisor shall consult with the employee's supervisor and/or commander.
- D. The Internal Affairs Unit Supervisor and the employee's supervisor and/or commander shall review the information provided by the Internal Affairs Unit 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 Guardian Tracking® Software indicates that the Early Intervention System has returned an incorrect identification or "false positive," that conclusion should be documented.
 - a. A "false positive" is a scenario where the Early Intervention System is technically triggered; however, remedial or corrective action is not warranted. For example, the Early Intervention System is triggered by three internal affairs complaints against the employee in a twelve-month period, regardless of whether or not those complaints have merit and are sustained. An employee who is the subject of three such complaints who is exonerated, or where the complaints are deemed unfounded or not sustained, need not be subject to remedial or corrective action unless the agency deems such appropriate.
 2. If the Guardian Tracking® Software reveals that an employee has violated department rules and regulations or written directives, the supervisor in consultation with the Internal Affairs Unit Supervisor should proceed with an Internal Affairs investigation and possible disciplinary action.
 3. If the Guardian Tracking® Software 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 Supervisor to determine the appropriate course of remedial/corrective intervention.

- E. At least every six (6) months, internal affair's personnel shall audit the agency's tracking system and records to assess the accuracy and efficacy of the tracking system and to determine if an employee has the emergence of a pattern, practice or trend of inappropriate behavior or misconduct.

IV. 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 commander and if warranted, the Internal Affairs Unit 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 through the Guardian Tracking® Software. The incident narrative placed in the Guardian Tracking® Software may serve as adequate documentation.
- C. Guardian Tracking® Software
 - 1. Guardian Tracking® Software allows supervisors the ability to document routine performance in one centralized location during the course of an evaluation period. As incidents are entered, Guardian Tracking® Software will monitor the frequency of specific incidents to determine if early intervention is warranted.
 - 2. Supervisors will not document routine performance in any other format. All performance documentation will be entered into the Guardian Tracking® Software.
 - 3. Supervisors will have access to make entries and view all employees under their chain of command.
 - 4. Supervisory personnel, who identify deficiencies with other personnel outside of their chain of command, will submit the notice in the Guardian Tracking® Software to the employee's direct supervisor indicating the nature of the deficiency.
 - a. This process does not relieve supervisors of the obligation to take immediate action to correct serious infractions that may result in liability, injury, and/or disrepute.
 - 5. Supervisory personnel who identify and wish to document positive performance on other personnel, outside of their chain of command, will submit the nature of the performance directly to the employee involved. Supervisors within the chain of command will, by default, have access to this newly created documentation.
 - 6. Confidentiality of Data/Information
 - a. Guardian Tracking® Software data is confidential and shall not be disclosed to the public or any unauthorized department employee.

Guardian Tracking® Software data will not be disclosed to any person not authorized by law or regulation to have access to such information, except governmental representatives acting in connection with their official duties.

- b. Information deemed confidential and/or protected by federal or state statute, or regulation shall not be recorded in Guardian Tracking® Software.
 - 1) No confidential medical information (i.e., nature of employee illness or names of treating physicians) shall be entered into Guardian Tracking® Software.
 - 2) No internal affairs investigation reports shall be entered into Guardian Tracking® Software. However, the immediate supervisor shall enter early intervention behaviors and briefly summarize the conduct or performance warranting the entry.
- c. The duplication or reproduction of any Guardian Tracking® Software data/information for non-official department purposes not authorized by the Chief of Police is strictly prohibited.

V. COMMANDERS

- A. Commanders will periodically review entries in the Guardian Tracking® Software to ensure supervisors are using the software in accordance with this written directive. The commanders may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the Guardian Tracking® Software.
- B. When under Early Intervention System monitoring, the employee's commander and supervisor shall meet with the employee to discuss the situation in depth to accomplish the following and thoroughly document the substance of these meetings in the Guardian Tracking System.
 - 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 at least three (3) months when an early intervention flag is triggered or until the supervisor concludes that the employee's behavior has been remediated (whichever is longer).
- D. Supervisor/Employee Meeting
 - 1. All supervisor/employee meetings shall be thoroughly documented in the

Guardian Tracking® Software, which will automatically 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 via the Guardian Tracking® Software.
 3. An additional six (6) months of documented monitoring is required following removal from the Early Intervention System. Monthly monitoring reports from the direct supervisor are required.
- E. Any statement made by the officer in connection with the Early Intervention System review process may not be used against them in any disciplinary or other proceeding.

VI. 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.
- 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 or designee shall ensure that such actions are documented in writing. In any instance where remedial/corrective intervention is taken pursuant to the Early Intervention System, no entry should be made in the employee's formal personnel file, unless the action results in a sustained internal affairs 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 or designee through the Guardian Tracking® Software 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.

VII. MONMOUTH COUNTY PROSECUTOR'S OFFICE NOTIFICATIONS

A. List of Mandatory Notifications

1. The following require mandatory notification to the Monmouth County Prosecutor's Office under this Early Intervention System:
 - a. Officer has Triggered Early Intervention System Review Process
 - 1) An officer has triggered the Early Intervention System review process due to three separate instances of performance indicators within any twelve-month period (or, by triggering the Early Intervention System review process for his/her agency, if the Chief Executive determined that a lower number of performance indicators within a twelve-month period (i.e., one or two performance indicators) will trigger the Early Intervention System review process. In such instance, the agency shall:
 - a) Make a confidential written notification to the Professional Responsibility Unit and Bias Crimes Unit (PRU) of the MCPO including the identity of the officer, the nature of the triggering performance indicators, and the planned remedial program. Upon completion of the Early Intervention System review process, PRU shall be notified of the outcome of the process, including any remedial/corrective measures taken by the officer. If the Early Intervention System review process was triggered by a "false positive" as outlined above, such should be indicated to PRU.
 - b. Domestic Violence Matters Involving a Law Enforcement Officer
 - 1) Any incident in which an officer is alleged to have committed an act of domestic violence or was the victim of domestic violence must be reported to the MCPO. Domestic violence matters must be reported regardless of whether or not complaints and/or a temporary or final restraining order has been issued, and regardless of where the underlying incident occurred (in or out-of-county).
 - 2) Domestic violence matters involving law enforcement officers employed by state or out-of-county agencies must be reported to both the officer's employing agency and the MCPO. Notification to the MCPO should include verification that the officer's employing agency has been notified about the domestic violence incident as well as state whether the officer has been disarmed pursuant to Attorney General Law Enforcement Directive 2000-3, "Seizure of Weapons from Municipal and County Law Enforcement Officers."

- c. Off-Duty Contact with Law Enforcement Agency
 - 1) MCPO must be notified of any instance where an officer has off-duty contact with a law enforcement agency as a result of personal conduct. However, the following need not be reported to MCPO (a) contact as a result of minor motor vehicle/traffic violation that does not result in injury or MVC points; (b) contact in which an officer solely notifies a law enforcement agency about a welfare or public safety issue (ex., found a lost dog, reporting a downed wire, etc.). When in doubt about whether the matter should be reported to the MCPO, contact PRU for guidance.
 - 2) Police officers are required to identify themselves as law enforcement officers to responding officers when their off-duty conduct results in a police interaction, regardless of whether or not complaints, a restraining order, or any other action is taken. The involved off-duty police officer shall also be required to self-report the incident to his/her agency. A police officer's failure to make notification to the responding agency and/or his employing agency may result in discipline. The required notification to the MCPO should be made by both the responding agency and the officer's agency.
- d. Officer has been Criminally Charged or Charged with a DWI
 - 1) The MCPO must be notified if an officer is criminally charged (by an agency other than the MCPO) or is charged with a Driving While Intoxicated offense.
- e. Officer has been Sent for a Fitness for Duty Examination
 - 1) The MCPO must be notified anytime an officer has been sent for a fitness for duty evaluation, *regardless of the reason*.
 - 2) Whenever a local law enforcement agency sends any officer for a fitness for duty evaluation, the agency Chief Executive or his/her designee is required to submit to the physician, psychiatrist, or psychologist an itemized list of the documents it forwarded to him/her along with the documents it submitted. A copy of this itemized list must be maintained in the agency's internal affairs file and made available to the MCPO upon request.
 - 3) Fitness for duty reports, in their entirety, must be provided to the Monmouth County Prosecutor's Office for review and maintenance in our case file. As with all other files of a confidential and sensitive nature, fitness for duty reports are maintained in a locked, secure, confidential location, accessible only to the PRU staff.

- f. Officer has been Disarmed
 - 1) The MCPO must be notified anytime an officer has been disarmed, *regardless of the reason*.
 - 2) *Prior to a local law enforcement agency rearming the officer*, the Monmouth County Prosecutor's Officer must be provided with (1) a copy of the corresponding fitness-for-duty report (in its entirety); and (2) a written plan regarding the rearming of the officer, to include whether such would be unconditional or conditional, and any conditions proposed. The officer *shall not be rearmed* by the local agency until the MCPO has the opportunity to review the fitness-for-duty report and written plan and articulate any objections, concerns, or recommendations to the local agency.
 - 3) This procedure must be followed *anytime* an officer is disarmed *for any reason* and the agency is seeking his/her rearming. It is not limited to domestic violence incidents. Attorney General Law Enforcement Directive 2000-3, "Seizure of Weapons from Municipal and County Law Enforcement Officers," section III.F., explicitly provides that the County Prosecutor's Office where a domestic violence incident occurs determines whether or not weapons seized due to a domestic violence incident will be returned to a law enforcement officer; however, an officer may be disarmed for many reasons. In each and every instance, it is imperative that the MCPO be advised of the disarming and consulted as outlined above prior to any rearming, to ensure the health, safety and welfare of the public.

B. Method of Notification

- 1. Notifications identified above shall be made to PRU via email at mcpopru@mcponj.org. Where notification is required, all available information shall be provided, including any police reports and other documentation. Emergent matters, such as the arrest of an officer or his/her involvement in a domestic violence incident, shall be reported directly to the Monmouth County Prosecutor's Office Professional Responsibility and Bias Crime Unit by calling 732-577-8700 by asking for the on-call PRU supervisor.

C. Responsibilities of Professional Responsibility Unit

- 1. It is the continuing responsibility of the Professional Responsibility and Bias Crimes Unit to open a file when the aforementioned notifications are made, review the incident, and investigate the matter further, if necessary.

VIII. ANNUAL REPORTING AND REVIEW

A. Local Agency Reporting to MCPO

1. By January 15 of each year, each agency Chief Executive or his/her designee shall provide a letter to the Monmouth County Prosecutor's Office, Professional Responsibility and Bias Crime Unit Director, documenting that (1) they are in compliance with this policy and Attorney General Law Enforcement Directive 2018-3; and (2) documenting the following with respect to the *prior calendar year*.
 - a. Number of Early Intervention System audits conducted (must be at least one every six months, or two per year, but can be more);
 - 1) This requirement *only includes* the number of system-wide Early Intervention system audits and must be at least two per year.
 - b. Number of officers who have triggered the Early Intervention System review process by having three separate performance indicators within a twelve-month period (or less if the Chief Executive determined that a lower number of performance indicators within a twelve-month period (i.e., one or two performance indicators) will trigger the Early Intervention System review process);
 - c. Number of Early Intervention System notifications made to the Monmouth County Prosecutor's Office;
 - 1) The number of Early Intervention System notifications to the MCPO should equal the number of officers who triggered the Early Intervention System review process.
 - d. Number of instances where remedial/corrective action was taken;
 - e. Number of instances in which there was a false positive; and
 - 1) The number of instances where remedial/corrective action was taken and number of false positives should equal the total number of officers who have triggered the Early Intervention System review process.
 - f. Number of instances which resulted in the Early Intervention System Review Process *and* also resulted in the commencement of an internal affairs investigation.

IX. NOTIFICATION TO SUBSEQUENT LAW ENFORCEMENT EMPLOYER

- A. If any officer who is or 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 he or she 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 law enforcement agency of the officer's Early Intervention System review process history and outcomes. Upon request, the prior or current employing agency shall share the officer's Early Intervention System review process files with the subsequent employing agency.

X. PUBLIC ACCESSIBILITY AND CONFIDENTIALITY

- A. The Early Intervention System policy shall be made available to the public upon request and shall be posted on the agency website.