

CITY OF BURLINGTON POLICE DEPARTMENT MANUAL

VOLUME NUMBER: 10	CHAPTER NUMBER: 6
VOLUME TITLE: ADMINISTRATION	REFERENCE: City of Burlington Directives
ISSUED BY: CHIEF JOHN FINE	# OF PAGES: 9
SUBJECT: EARLY WARNING SYSTEM	
EFFECTIVE DATE: May 5, 2014	GENERAL ORDER# 2014-14
REVISED: April 13, 2023	GENERAL ORDER # 2023-3
APPLICABILITY: ALL SWORN EMPLOYEES	STANDARD #: 2.2.3
The Written Directives developed by the City of Burlington Police Department are for internal use only, and do not enlarge an officer's civil or criminal liability in any way. They should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of Written Directives can only be the basis of a complaint by this Department, and then only in an administrative disciplinary setting.	

PURPOSE: The purpose of this policy is to provide guidelines for establishing an Early Warning System to identify employees who may require proactive intervention efforts.

POLICY: It is the policy of the City of Burlington Police Department to provide early warning to employees who meet established criteria in accordance with New Jersey Attorney General's Law Enforcement Directive No. 2018-3. The City of Burlington Police Department has a responsibility to its employees and the community to identify and assist employees who show symptoms of job stress or personal problems. The intent of this policy is to identify and remediate potential problematic conduct prior to it manifesting in additional risks to the public, the department, and to the member. Nothing in the EWS is intended to alter or supersede the current risk management process. Rather, this EWS will supplement the current systems and act as an additional risk management tool. It is the policy of the Department to provide for the protection and confidentiality of the EWS records maintained by the Department that are personnel records.

PROCEDURE:

I. Early Warning System

- A. The EWS is a non-disciplinary system that is designed to improve the performance of the department and its employees through coaching, training and types of professional development as described in this directive.
- B. The department shall utilize the LEA Data Technologies software program to track the Early Warning System and satisfy the reporting requirements listed in this directive.

II. Early Warning Program Criteria

CITY OF BURLINGTON POLICE DEPARTMENT MANUAL

- A. In accordance with the New Jersey Attorney General's Law Enforcement Directive No. 2018-3, the EWS shall identify and track the following performance indicators:
1. Internal affairs complaints against the member, whether initiated by another officer or by a member of the public.
 2. Civil actions filed against the member.
 3. Criminal investigations of or criminal complaints against the member.
 4. Any use of force by a member that is formally determined or adjudicated to have been excessive, unjustified, or unreasonable.
 5. Domestic violence investigations in which the member is an alleged subject.
 6. An arrest of the member, including on a driving under the influence charge.
 7. Sexual harassment claims against the member.
 8. Vehicular collisions involving the member that are formally determined to have been the fault of the member.
 9. A positive drug test by the member.
 10. Cases or arrests by the member that are rejected or dismissed by a court.
 11. Cases in which evidence obtained by a member is suppressed by a court.
 12. Insubordination by the member.
 13. Neglect of duty by the member.
 14. Unexcused absences by the member; and
 15. Any other indicators, as determined by the Chief of Police.

III. Initiation of the Early Warning Process

- A. The EWS will trigger when a member is found to have three separate instances containing performance indicators within any twelve-month period.
- B. The EWS trigger operates on a 12 month "looking backward clock" method to calculate the reporting period (i.e., when the incident date of any EW performance indicator is entered, the Internal Affairs Supervisor will "look back" 12 months to determine if two other triggering events occurred).
- C. If one incident contains multiple performance indicators, that incident shall NOT count for more than one indicator, but shall count as only one performance indicator. In this case, the date that the first performance indicator was triggered shall be used, and not the date of subsequent triggers.
- D. Citizen or supervisory complaints that are determined to be "proper conduct" or "unfounded" shall be not counted as indicators.
- E. Proactive enforcement deficiencies are cumulated on a monthly basis. One or more deficiency in a given month shall be classified as one entry event. Each deficiency will be detailed in the notes section of the entry as an extenuating circumstance or unexcused. The presence of any unexcused deficiencies for a month will qualify as one indicator.

IV. Internal Affairs Bureau Responsibilities:

- A. The Internal Affairs supervisor will coordinate the EWS. The reports will be generated on a monthly and annual basis. The Internal Affairs supervisor will have the responsibility to ensure that each affected supervisor receives a copy of each EW System file.
- B. Monthly reports will be generated detailing any alerts that were generated, along with any open early warning program cases and action taken.
- C. The Internal Affairs Supervisor shall notify the Chief of Police on every employee who meet the criteria for EWS trigger. The Chief of Police will then review data and recommend intervention if necessary.
- D. The Internal Affairs supervisor will maintain a file on every employee who trigger the EWS. This file will be the repository for documented incidents that meet the criteria for EWS performance indicators.
 - 1. The file shall include performance related issues (Early Warning Reports, Special Reports, Memorandums, etc.), Performance Improvement Plans (PIPS), etc.) and any other indicators / reports determined by the Chief of Police.
 - 2. The EWS Files will be retained by the Internal Affairs supervisor pursuant to the New Jersey Administrative Code and applicable records retention schedule.
 - 3. The files will be secured in a separate and secure filing cabinet in the Internal Affairs office.
 - 4. EWS files are considered confidential. Access to a file is on a need-to-know basis granted only upon approval by the Chief of Police or his designee.
- E. All Internal Affairs investigations will be kept in a separate and secure filing cabinet as outlined in Internal Affairs Policy.

V. Attorney General Remedial /Corrective Action Process:

- A. When an Early Warning System review process is initiated, personnel assigned to oversee the Early Warning System should:
 - 1. Formally notify the subject officer, in writing.
 - 2. Conference with the subject officer and appropriate supervisory personnel.
 - 3. Develop and administer a remedial program including the appropriate remedial/corrective actions. (Training or retraining, Counseling, Intensive Supervision, Fitness for Duty Examination, Employee Assistance Program (EAP), or any other appropriate remedial or corrective action.)
 - 4. Continue monitoring the subject officer for at least three months or until the supervisor concludes that the officer's behavior has been remediated (whichever is longer).
 - 5. Document and report findings to the appropriate supervisory personnel.

CITY OF BURLINGTON POLICE DEPARTMENT MANUAL

- B. Any statement made by the subject officer in connection with the early warning process may not be used against the subject in any disciplinary or other proceeding.
- C. When an early warning is initiated, the Internal Affairs Supervisor shall oversee the process and delegate its implementation to the appropriate supervisor.
 - 1. All counseling, meetings, and monitoring shall be documented on Special Reports, forwarded to the Chief of Police for review, and stored in the employees' confidential EWS file.

VI. Supervisory Responsibility:

- A. Supervisors are crucial to a successful EWS. They work with the individual employees on a day-to-day basis and may be the first to observe and document possible problems with job performance or job or personal-related stress.
 - 1. Such problems may be exhibited through excessive use of sick time, tardiness, use of unnecessary force, poor safety techniques, over aggressiveness, improper demeanor towards citizens, or equipment abuse. Although no particular set of criteria can determine job stress and/or performance problems, it is important that certain criteria be routinely reviewed as indicators of behavior patterns.
 - 2. Supervisors are required to report and refer incidents and events that meet the above criteria, along with any other problematic behavior observed, to the Internal Affairs supervisor for documentation in the EWS.
 - 3. When supervisory personnel conduct any type of early warning meetings with officers, they are required to document their actions on a Special Report. The special report shall include a list of the incidents that led to an early warning meeting.
- B. Step One – Internal Affairs Supervisor Review of Employee's EWS file:
 - 1. Facts and documentation on each incident should be reviewed, including:
 - a. Police Incident Reports.
 - b. Criminal Complaints.
 - c. Witness Statements.
 - d. Discussions with other officers involved in the incident.
 - e. Determine what, if anything, could have been done differently to prevent the complaint.
 - f. Decide if there are any similarities between incidents.
 - g. Find out if other possible indicators of stress are present such as an unusual amount of sick leave, tardiness, marital problems, etc.
 - h. Determine if a trend or pattern of behavior is indicated.
 - i. The process of analysis should include recognition that there are circumstances when use of force is necessary and proper and that false accusations are sometimes made against officers.
 - 2. The analysis of the facts should include consideration of the totality of the circumstances surrounding each incident and/or complaint, drawing on knowledge of human behavior, Department policies and rules and

CITY OF BURLINGTON POLICE DEPARTMENT MANUAL

regulations, and wisdom gained from years of law enforcement experience. Unit assignment/function and geographic area of responsibility should be taken into consideration.

3. When a EWS Warning is commenced, the officer being reviewed will meet with their supervisor. The warning will be documented through the submission of a Special Report detailing the incidents that activated the trigger and EWS review.

C. Step Two - Supervisor's Intervention and Counseling:

1. Supervisors are the "early" in the Early Warning System. It is necessary that there be two-way communication between the employee and the supervisor in order to address potentially problematic behavior early and/or recognize outstanding performance.
2. When informed of an employee meeting performance indicator criteria, the supervisor shall review the documentation provided by the Internal Affairs supervisor. If the review of the documentation and related reports reveals the need for an intervention, the supervisor shall then schedule a counseling meeting with the employee as soon as possible. Supervisors should be prepared to make recommendations to the employee and include referral information when appropriate. The supervisor should schedule the counseling meeting with the employee and review the documentation provided with the employee and discuss any problem areas or performance issues. The Internal Affairs supervisor will be available for consultation with the supervisor as needed.
3. If a review of the documentation and related reports by the supervisor yields no issues or concerns requiring an intervention, a counseling meeting with the employee is not necessary. The supervisor will detail the findings in a Special Report.
4. At the conclusion of the counseling meeting, the Internal Affairs supervisor shall prepare a brief note outlining a summary of the outcome. This note will be used to prepare the Intervention Report.
 - a. Note: When dealing with employees who were selected for EWS as a result of open, formal internal investigations, supervisors must balance the issues of Garrity and intervention when discussing EWS issues with the employee. Supervisors are directed not to discuss the specifics of the open, Internal Affairs Investigations. Instead, the well-being of the employee should be discussed, including any general observations or indicators.
 - b. The supervisor should inform the officer that the details of the Internal Affairs case(s) will not be discussed and that the nature of the informal meeting is to offer any advice or information about intervention issues.

D. Step Three - Chief of Police Meeting:

1. Following the supervisor's meeting with the employee, the Internal Affairs supervisor the Special Report to the Chief of Police to discuss the outcome of the counseling, the findings concerning each incident, and any

CITY OF BURLINGTON POLICE DEPARTMENT MANUAL

recommendations for additional Warning. The Chief of Police will then make recommendations to close the EWS or implement a Performance Improvement Plan (PIP).

E. Step Four - Supervisor's Warning Report:

1. The supervisor will complete a Performance Improvement Plan (PIP), detailing his/her findings concerning the employee's EWS file, the employee's response, and his/her recommendations. Recommendations may include the following:
 - a. Assessment that no problem or pattern of behavior exists. (Complete "none" section outlining why no problem exists.)
 - b. Dispositions may include a need for remediation or training.
 - c. The employee may need refresher training in human relations' skills, defensive tactics, cultural diversity, driving skills, certain department policies and procedures etc.
 - d. Referral to the Cop-2-Cop or other assistance program offered by Human Resources. The employee may need personal or family counseling, financial and money management counseling, drug or alcohol counseling/treatment.
 - e. Attend stress awareness course. Consideration should be given to physical fitness testing, weight management counseling, and enrollment in a physical exercise program.
 - f. Restriction on secondary employment and/or restrictions on department authorized extra-duty employment.
 - g. Fitness for duty evaluation, if authorized by the Chief of Police.
2. If a performance improvement is required, the supervisor performing the intervention shall be prepared for review by the Chief of Police. This report shall be completed before the next tour of duty.
3. The written performance improvement plan, shall be agreed upon by the employee, the reviewing supervisor and the Chief of Police, designed to reduce or eliminate identified behaviors that contribute to EWS Indicator entries. The performance improvement plan must describe the behaviors to be addressed, actions designed to change those behaviors, measures to enable both the employee and supervisor to gauge progress and a time line for reaching the objective of changing, moderating or eliminating the behavior(s). The plan, once agreed to by member and supervisor, shall be placed in the member's EWS File.

F. Step Five - Follow-up:

1. Once the PIP is initiated, supervisors shall forward all counseling sessions to the Internal Affairs Supervisor who will file these meetings in the employee's EWS File.
2. When the time period of the plan has expired, the supervisor shall complete a Special Report to the Chief of Police describing the outcome of the plan, whether the Warning was effective and recommending further action, if warranted.

3. Early warning cases where the supervisor found that no problem or pattern of behavior could be discerned will not require follow-up.

G. Step Six - Closed Warnings / Active Monitoring:

1. Once the Chief of Police closes the Early Warning Process, the employee's supervisor shall continue actively monitoring the employee ensuring identified issues were corrected and the member is on the path of continued success. If the supervisor observes any uncorrected behaviors, they shall immediately notify the Chief of Police by special report.

VII. Chain of Command Responsibilities:

- A. The final report with the recommendations will be completed by the employee's immediate supervisor and forwarded to the Chief of Police for review who will make the final recommendations. The original reports will be maintained by the Internal Affairs supervisor.
- B. The employee should be fully informed of the recommendations made by his/her chain of command.
- C. A copy of the report will be retained in the employee's EWS file.
- D. The Internal Affairs supervisor will review all EWS files to determine if a training need exists within a specific area of the agency or Department wide. Additionally, the Internal Affairs supervisor shall review all recommendations to ensure that all recommendations for training are available, appropriate, and consistent.

VIII. Behavior Factors:

- A. When conducting a performance review or a counseling session, the following behavior factors should be among the items to be considered:
 1. Is there a behavior pattern that may be causing the performance indicator triggers?
 2. Whether or not the performance indicators have been investigated or sustained?
 3. How do the performance indicator history of the employee compare with other employees in similar assignments?
 4. Can performance indicator triggers be reduced by simply informing the member of Department policies and procedures?
 5. Can better interpersonal skills be developed?
 6. Can training correct the problem?
 7. Are the details of the performance indicators and allegations so different as to suggest that there is no improper behavior pattern?
 8. Is there any other relevant information about the employee or circumstances that contributes to the number of performance indicator triggers?

9. Is there a common thread of conduct that may be contributing to the frequency of performance indicator triggers?

IX. Implementation of Recommendations:

- A. Participation by departmental employees in counseling and/or training may be voluntary or mandatory.
- B. The Chief of Police will make a determination as to whether the referral will be mandatory or suggested.
- C. Mandatory attendance shall be considered on-duty time, and the employee's schedule will be adjusted accordingly.
- D. Training and counseling as a result of this program are not considered punitive or to be disciplinary action.

X. Monitoring:

- A. Supervisors will monitor the performance of employees until the behavior has been remediated.

VII. Public Records:

- A. All Early Warning System policies adopted by the agency 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 this directive that identify specific officers are not subject to public disclosure.

VIII. Evaluation:

- A. The Early Warning System will be evaluated annually by the Internal Affairs Bureau Commander for effectiveness and appropriate changes in the policy and the program will be made. The evaluation shall include a review of information related to employee performance and behavior, to ensure the effectiveness of the program and appropriate changes to the policy and program if required. The audit shall ensure that the accuracy and efficacy of the tracking system and records. The report will be forwarded to the Chief of Police.

IX. Notification to Burlington County Prosecutor:

- A. When an Intervention is initiated, the BCPO shall be notified in writing of the following:
 - 1. Officers name;
 - 2. Nature of the performance indicator;
 - 3. Planned remedial action. This may not apply if training was not necessary.

- B. BCPO shall be notified in writing of the outcome, including any remedial measures taken.

X. Notification to Subsequent Law Enforcement Employer:

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

XI. Supervisor Training

- A. All newly promoted sergeants will receive Early Warning System Training.