


TOWN OF CLINTON POLICE DEPARTMENT
RULES AND REGULATIONS/POLICIES AND PROCEDURES

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SUBJECT: EARLY WARNING SYSTEM			012422 051220
EFFECTIVE DATE 9/10/10	CHIEF OF POLICE J. Cory Kubinak 		
CROSS REFERENCE #: HCPO PD-2022-05 AG Directive 2018-3 AG Directive 2019-1	POLICE DEPARTMENT TOWN OF CLINTON		

POLICY:

The Town of Clinton police department recognizes the need to provide assistance to employees exhibiting below standard, unusual, or less-than-professional job performance attributable to trauma or personal stresses. Due to the need to avoid harm to themselves, fellow employees, or the general public, and because of the scope of responsibility of law enforcement employees, psychological fitness must be maintained at all times. Therefore, the Town of Clinton police department shall have an employee Early Warning System program in place to assist employees with meeting their personal and career goals.

PURPOSE:

The purpose of this policy is to identify early warning signs from those employees whose job performance alters or deteriorates noticeably, the department can focus on corrective actions to remediate officer behavior and to provide assistance to the officer.

I. Definitions

- A. Early Warning Sign – Officers exhibiting indicators of substandard performance, poor behaviors, stress, depression or others performance indicators.
- B. “Resiliency” is defined as the ability to overcome adversity, and the New Jersey Resiliency Program for Law Enforcement (NJRP-LE) is designed to do just that. This Directive recognizes that protecting an officer’s mental health is just as important as guarding their physical safety, and strives to create a supportive culture for law enforcement officers, their families and friends, as well as the broader New Jersey community.
- C. Counselor—a licensed psychologist, psychiatrist, peer counselor, police chaplain, or physician who gives advice and recommends a course of conduct.
- D. Employee—everyone employed by the Town of Clinton Police Department, including sworn and civilian personnel. Volunteers, though not “employees,” are also members of the department when performing a function in the course of their official responsibilities.

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- E. Employee Assistance Program—a confidential, non-disciplinary program provided by the Town whereby a counselor can assist employees with the resolution of suspected personal or work-related issues such as, but not limited to drug, alcohol, anger management, family, and finance problems.

PROCEDURE:

II. Early Warning System Program

A. Performance Indicators

The Following was updated as per HCPO Directive PD-2022-05;

- a. Internal affairs complaints against the officer, whether initiated by another officer, a member of the public, or anonymously;
- b. Civil actions filed against the officer;
- c. Criminal investigations of or criminal complaints against the officer;
- d. 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;
- e. Domestic violence investigations in which the officer is an alleged subject;
- f. An arrest of the officer, including on a driving under the influence charge;
- g. Sexual harassment claims against the officer;
- h. Vehicular collisions involving the officer that are formally determined to have been the fault of the officer;
- i. A positive drug test by the officer;
- j. Cases or arrests by the officer that are rejected or dismissed by a court;
- k. Cases in which evidence obtained by an officer is suppressed by a court;
- l. Insubordination by the officer;
- m. Neglect of duty by the officer;
- n. Unexcused absences by the officer; and
- o. Any other indicators, as determined by the agency's chief executive.

(1) If EW System notification to the officer 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 EW System review process.

B. Initiation of Early Warning Process

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The Town of Clinton Police Department policy shall provide that three separate instances of performance indicators (as listed in Section C, above) within any twelve-month period will trigger the EW System review process. 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. The Chief of Police may in his or her discretion determine that a lower number of performance indicators within a twelve-month period (i.e., one or two performance indicators) will trigger the EW System review process.

C. Administration and Tracking

The Chief of Police shall assign personnel to conduct the EW System function. Typically, the EW System should be administered by the agency's internal affairs unit. Supervisory officers in the subject officer's chain of command also should be directly involved in any EW System review process. Every department shall adopt a tracking system to enable the department to identify officers who display the requisite number of performance indicators necessary to trigger the EW System review process. Many departments in New Jersey have adopted automated systems that are capable of flagging emerging behavioral patterns. At least every six months, personnel assigned to manage the EW System shall audit the agency's tracking system and records to assess the accuracy and efficacy of the tracking system.

D. Remedial/Corrective Action

Once an officer has displayed the requisite number of performance indicators necessary to trigger the EW System review process (as set forth in Section II.C, above) assigned supervisory personnel shall initiate remedial action to address the officer's behavior.

When an EW System review process is initiated, personnel assigned to oversee the EW 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 listed below; (4) 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); (5) 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.

Remedial/corrective action may include but is not limited to the following:

1. Training or re-training; Page 4
2. Counseling;
3. Intensive supervision;
4. Fitness-for-duty examination;
5. Employee Assistance Program (EAP) referral; and
6. Any other appropriate remedial or corrective action.²

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E. 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.

F. Notification to County Prosecutor

Upon initiation of the EW System review process, the Chief of Police 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 Chief of Police 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.

G. Annual Reports

By January 15th of each year, each law enforcement agency under the supervision of the Hunterdon County Prosecutor's Office shall submit a written report to the HCPO IA unit indicating their compliance with the Attorney General Law Enforcement Directive No. 2018-3.

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.

H. 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 (as required by Section II.I, above) 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.

2 This Directive, and EW Systems generally, are focused on corrective actions to remediate officer behavior and to provide assistance to the officer. This Directive, and EW Systems generally, do not address disciplinary actions that might be warranted against an officer. Such disciplinary actions — to

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include the decision to suspend, terminate or, if applicable, charge an officer with criminal conduct — remain within the purview of the agency's internal affairs function, and may be imposed in accordance with existing internal affairs guidelines and applicable law, separate from and independent of the EW System.

III. Resiliency and/or Psychological

- A. The Chief of police may implement a course of action for an employee who has been referred by a supervisor or who is self-referred.
 - 1. The department Resiliency Policy (AG Directive 2019-1) may also be utilized to ensure that Town of Clinton Police officers are equipped with the tools they need to cope with the unique stressors of their work.
- B. Treatment will be administered upon the advice of the counselor and with the approval of the Chief of police.
- C. Periodically, the Chief of police, the counselor, and the employee's supervisor may review the recommendations of the counselor as to the placement and status of the employee.
- D. If an employee is terminated as a result of his or her inability to regain acceptable job performance, the employee's psychological treatment record will be placed in the employee's personnel file.
- E. If an employee regains acceptable job performance, the record of referral will remain in the files of the Chief of Police/Officer-In-Charge and in the files of the psychological services only.

IV. Job Security and Confidentiality

- A. In matters involving “doctor-patient” (HIPAA) communications, the applicable law dictates confidentiality parameters.
- B. Due to the nature of the Employee Assistance Program, an EAP counselor may disclose a general opinion and/or recommendation relating to an employee’s continued performance.
- C. Job security and promotional opportunities shall not be jeopardized by an employee's participation with a counselor. However, failure to correct deficiencies in job performance may eliminate promotional consideration or jeopardize continued employment.

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V. LINKS AND ATTACHMENTS

For specific information see the Attorney Generals Guidelines and Directives located at:

1. <https://www.nj.gov/oag/dcj/directiv.htm>

AG Directive 2018-3 Early Warning Systems:

1. <https://www.nj.gov/oag/dcj/agguide/directives/ag-directive-2018-3.pdf>

AG Directive 2019-1 Resiliency

1. <https://www.nj.gov/oag/dcj/agguide/directives/ag-directive-2019-1.pdf>

Early Warning System Form

1. Attached

All police procedures heretofore employed by the Town of Clinton Police Department which conflict with this order are hereby rescinded. Supervisors shall be held accountable for the enforcement and application of this order. All members of the Town of Clinton Police Department are required to follow this order as applicable. Violations of this order subject members of this agency to disciplinary action.

Town of Clinton Police Department

Early Warning System 2020

Officer	Date of Incident	#Incident in 12 Months	Performance Indicator

Review of Early Warning System

Date	Officer Reviewing	Recommendation