

LITTLE SILVER POLICE DEPARTMENT		
STANDARD OPERATING PROCEDURES		
SUBJECT: PERSONNEL PERFORMANCE MANAGEMENT SYSTEM (PPMS) & EARLY WARNING SYSTEM (EWS)		
EFFECTIVE DATE: 8/15/2023	NUMBER OF PAGES: 11	
ACCREDITATION STANDARDS:	BY THE ORDER OF: CHIEF OF POLICE	

PURPOSE: The purpose of this written directive is to establish an Early Warning System (EWS)

POLICY: It is the policy of this department to implement and utilize Guardian Tracking® Software as a personnel performance management and early warning system for maintaining, retrieving, and analyzing information regarding the performance of employees. The system will identify, reward, and promote professionalism, civil rights, integrity, best practices, as well as identify, intervene, and remediate potentially problematic behavior allowing for timely Warning consistent with the risk management procedures promulgated by the New Jersey State Attorney in its Internal Affairs Policies and Procedures. This written directive is in accordance with the New Jersey Attorney General’s Law Enforcement Directive No. 2018-3 and Monmouth County Prosecutor’s Directive, June 2021.

PROCEDURE:

I. GUARDIAN TRACKING® SOFTWARE

- A. Guardian Tracking® Software allows supervisors the ability to document routine performance in one centralized location during the course of an evaluation period. This includes both positive and negative performance. As incidents are entered, Guardian Tracking® Software will monitor the frequency of specific incidents to determine if early Warning is warranted.
- B. Supervisors will not document routine performance in any other format. All performance documentation will be entered into the Guardian Tracking® Software.
- C. Supervisors will have access to make entries and view all employees under their chain of command, with the exception to those areas identified in section three of this directive.
- D. Supervisors, who identify deficiencies with other personnel outside of their chain of command, will submit the nature of the performance deficiency directly to the employee involved. Supervisors within the chain of command will, by default, have access to this newly created documentation.
 - 1. This process does not relieve the documenting supervisors of the obligation to take immediate action to correct serious infractions that may result in liability, injury, and/or disrepute.
- E. Supervisors, who identify and wish to document positive performance conduct 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.
- F. Command personnel will periodically review entries in the Guardian Tracking® Software to ensure supervisors are using the software in accordance with this written directive.

II. PERSONNEL PERFORMANCE MANAGEMENT SYSTEM (PPMS)

- A. The employees' supervisor shall make appropriate contemporaneous entries in the Personnel Performance Management System (Guardian Tracking®) for all employees' performance under their command/supervision. These entries shall serve to enhance the documentation and quality of the performance evaluation reports completed by the supervisor on his/her subordinates.
- B. Entries in the Personnel Performance Management System (Guardian Tracking®) shall be consistent with the established behavior criteria in accordance with the department performance evaluation system.

III. EARLY WARNING SYSTEM (EWS)

- 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 discipline. 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 poor performance through the use of appropriate management and supervisory strategies before discipline is warranted.

1. There are three processes to the Early Warning System, and they are:
 - a. Identification Process - The process of identification of an employee who has triggered the requisite number of flags.
 - b. Review Process - The process of reviewing the data to determine if monitoring of employee is necessary. Not all reviews necessitate the initiation of the monitoring process.
 - c. Monitoring Process - The process of monitoring behavior based upon the review process warranting further monitoring of the employee.
2. At least every six (6) months, the Commander of the Office of Professional Standards shall audit the agency's tracking system (Guardian Tracking®) and records to assess the accuracy and efficacy of the tracking system.

B. Supervisors

1. 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 Commander of the Office of Professional Standards. The success of this program relies heavily on the first line supervisor's participation and involvement.
2. If a supervisor has initiated remedial/corrective Warning, Internal Affairs 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. Early Warning System Identification Process

1. 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:
 - a. Internal complaints, whether initiated by another employee or by a member of the public and regardless of outcome;
(NOTE - This information is ONLY accessible to the Chief Law Enforcement Officer and the department's Commander of the Office of Professional Standards)
 - b. Civil actions filed against an officer, regardless of outcome;
(NOTE - This information is ONLY accessible to the Chief Law Enforcement Officer and the department's Commander of the Office of Professional Standards)

- c. Criminal investigations or complaints made against an employee;

(NOTE - This information is ONLY accessible to the Chief Law Enforcement Officer and the department's Commander of the Office of Professional Standards)

- 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 employee is an alleged subject;
 - f. An arrest of an employee, including on a driving under the influence charge;
 - g. Sexual harassment claims against an employee;
 - h. Vehicular collisions involving an officer that is formally determined to have been the fault of the officer;
 - i. A positive drug test by an 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 employee;
 - m. Neglect of duty by the employee;
 - n. Unexcused absences or sick time abuse;
 - o. Any other indicators, as determined by the Chief of Police.
- 2. 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 Warning System identification process.
 - 3. 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.

D. Early Warning System Review Process

- 1. The administration of the Early Warning System shall be the responsibility of the Commander of the Office of Professional Standards. Emphasis should be placed on anticipating employee problems before it results in improper performance or conduct. However, all supervisory officers should also be directly involved the Early Warning System review process. Supervisory officers should report their own observations of any of the performance indicators detailed above.

2. The Commander of the Office of Professional Standards shall review an officer's history any time a new complaint is received with the intention of "flagging" any emerging behavioral patterns.
3. Once an employee has displayed the requisite number of performance indicators necessary to trigger the Early Warning System identification process, the Commander of the Office of Professional Standards shall assign an appropriate supervisory officer to initiate the review process. When the Early Warning System review process is initiated, the Commander of the Office of Professional Standards should formally notify the subject employee.
 - a. The Commander of the Office of Professional Standards 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.
 - b. If the Guardian Tracking® Software indicates the emergence of a pattern, practices or trend of inappropriate behavior or misconduct, the Commander of the Office of Professional Standards shall consult with the employee's supervisor and/or commander.
 - c. The Commander of the Office of Professional Standards and the employee's supervisor and/or 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 Warning designed to correct/interrupt the emerging pattern, practice or trend.
 - 1) If the Guardian Tracking® Software has returned an incorrect identification or "false positive," that conclusion should be documented.
 - 2) If the Guardian Tracking® Software reveals that an employee may have engaged in misconduct in violation of the department rules and regulations or written directives, an internal investigation will be initiated.
 - 3) If the Guardian Tracking® Software reveals that the employee has engaged in conduct, which indicates a performance deficiency or lack of understanding or inability to comply with accepted procedures, the supervisor shall consult with the Commander of the Office of Professional Standards to determine the appropriate course of remedial/corrective Warning.
4. Any statement made by the officer in connection with the early warning system review process may not be used against them in any disciplinary or other proceeding.

E. Command Personnel

1. The commanders shall periodically review an individual employee's history. Using this information and his/her experience, the commander may be able

to identify employees who may need remedial/corrective Warning even before such is indicated by the Guardian Tracking® Software.

F. Early Warning System Remedial/Corrective Action/Monitoring Process

1. When under early warning system monitoring, the Commander of the Office of Professional Standards shall meet with the employee and supervisor to discuss the situation in depth to accomplish the following and thoroughly document the substance of these meetings in the Guardian Tracking® System.
 - a. Identify problems or potential problems;
 - b. Determine short and long-term goals for improvement;
 - c. Come to a consensus commitment on a plan for long-term improved performance;
 - d. Advise of the monitoring process and the repercussions of future sustained transgressions.
2. Generally, personnel should expect to remain under intensive monitoring and supervision for at least three (3) months when an early warning flag is triggered or until the supervisor concludes that the employee's behavior has been remediated (whichever is longer).
3. Employee Performance Review Meetings
 - a. All employee Performance Review meetings shall be thoroughly documented in the Guardian Tracking® Software, which will automatically be forwarded to the Chief of Police and the Commander of the Office of Professional Standards. The affected employee and supervisors shall meet on a regular basis, minimally monthly, to discuss progress towards the agreed upon goals and objectives.
 - b. All regular monthly progress/status reports shall be submitted via the Guardian Tracking® Software.
4. Remedial/Corrective Warning
 - a. Supervisory or command personnel may initiate remedial/corrective Warning to correct behavior. Remedial/corrective Warning may include, but is not limited to:
 - 1) Training;
 - 2) Retraining;
 - 3) Counseling;
 - 4) Intensive supervision;
 - 5) Fitness for duty examination;

- 6) Professional counseling or Employee Assistance Program referral, when warranted;
 - 7) Peer counseling.
- b. Internal disciplinary action, remedial/corrective Warning, and fitness for duty examinations are not mutually exclusive and should be jointly pursued if and when appropriate.

IV. CONFIDENTIALITY OF EARLY WARNING SYSTEM DATA & INFORMATION

- A. Early Warning System data is confidential and shall not be disclosed to the public or any unauthorized department employee. Early Warning System 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 the Early Warning System.
 1. No confidential medical information (i.e., nature of employee illness or names of treating physicians) shall be entered into the Early Warning System. Caution shall be used when documenting sick day usage, so as not to indicate any specific medical information within the Guardian Tracking® Software.
 2. If internal affairs reports are entered into the Early Warning System, the entry must be marked "**Confidential.**" The immediate supervisor shall enter early warning behaviors and briefly summarize the conduct or performance warranting the entry.
 3. Any other entry believed to be sensitive in nature must be marked "**Confidential.**"
- C. The duplication or reproduction of any Early Warning System data or information for non-official department purposes not authorized by the Chief of Police is strictly prohibited.

V. 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 Warning System:
 - a. Officer has Triggered Early Warning System Review Process
 - 1) An officer has triggered the Early Warning System review process due to three separate instances of performance indicators within any twelve-month period (or, by triggering the Early Warning 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 Warning 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 Warning 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 Warning 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.

VI. ANNUAL REPORTING AND REVIEW

A. Local Agency Reporting to MCPO

1. By January 15th 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 Warning 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 Warning system audits and must be at least two per year.
 - b. Number of officers who have triggered the Early Warning 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 Warning System review process);

- c. Number of Early Warning System notifications made to the Monmouth County Prosecutor's Office;
 - 1) The number of Early Warning System notifications to the MCPO should equal the number of officers who triggered the Early Warning 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 Warning System review process.
- f. Number of instances which resulted in the Early Warning System Review Process *and* also resulted in the commencement of an internal affairs investigation.

VII. NOTIFICATION TO SUBSEQUENT LAW ENFORCEMENT EMPLOYER

- A. If any officer who is or has been subject to an Early Warning System review process applies to or accepts employment at a different law enforcement agency than the one where he or she underwent the Early Warning System review process, it is the responsibility of the Little Silver Police Department to notify the subsequent employing law enforcement agency of the officer's Early Warning System review process history and outcomes.
- B. Upon request, the Little Silver Police Department shall share the officer's Early Warning System review process files with the subsequent employing agency.

VIII. PUBLIC ACCESSIBILITY AND CONFIDENTIALITY

- A. This policy shall be made available to the public upon request and shall be posted on the Little Silver Police Department's webpage.
- B. All written reports created or submitted pursuant to this policy, which identify specific officers shall be confidential and not subject to public disclosure.