



**Warren County Corrections Police  
Standard Operating Procedure**

<i>Title:</i> <b>EARLY WARNING SYSTEM</b>	<i>Reference:</i> <b>NJ Attorney General's Directive 2018-03</b>  <b>WC Prosecutor's Policy &amp; Procedure Volume 1 Chapter 11</b>	<i>Number:</i>  <p style="text-align: center;"><b>52</b></p>
<i>Original Effective Date:</i> <b>February 1, 2019</b>	<i>Revision Date:</i> <b>January 2024</b>	<i>Review Date:</i> <b>January 2025</b>
<i>Procedure Owner:</i> <b>Kenneth J. McCarthy, Warden</b> <i>Procedure Contact:</i> <b>Daniel Broesder, Deputy Warden</b>		

**PURPOSE:** To enhance integrity, provide an optimal level of service to the community and reduce exposure to civil liability, the Warren County Corrections Department herein establishes procedures for establishing an Early warning System for its agency personnel. Recent court decisions, particularly those involving federal civil rights lawsuits that allege a deliberate indifference on an agency's part towards citizens' complaints, have made it clear that law enforcement agencies have a duty to monitor their employees' behavior. Furthermore, these same court decisions expect law enforcement agencies to establish mechanisms that provide the internal affairs unit and the law enforcement executive with the ability to track the complaint records of individuals and identify those with a disproportionate number of complaints against them. The courts also expect law enforcement agencies to utilize the information developed by these mechanisms to prevent individuals from engaging in conduct or behavior that violates the constitutional liberties every member of the community enjoys. It is also expected that law enforcement agencies will utilize the information to prevent development of patterns, practices or trends of inappropriate behavior or conduct.

**POLICY:** It is the policy of the Warren County Corrections Department to implement and utilize an Early Warning System for tracking and reviewing incidents of risk and providing timely intervention consistent with the Attorney General's Directive 2018-03.

**I. EARLY WARNING SYSTEM**

A. An Early Warning System is designed to detect patterns and trends **BEFORE** the conduct escalates into problems that are more serious. Employees must understand that the Early

Warning 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 the Early Warning System is to address potential problems with appropriate management and supervisory strategies.

- B. Many different measures of employee's performance (actions or behaviors) can be regularly examined for patterns or practices that may indicate potential problems.
1. Internal affairs complaints against an Officer, whether initiated by an inmate, other law enforcement personnel 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 subject Officer is an alleged subject
  6. An arrest of the Officer, including Driving Under the Influence charge
  7. Sexual harassment claims against the Officer
  8. Vehicular collisions involving the Officer that are formally determined to be the fault of the Officer
  9. Claims of Bias incident(s) by the Officer
  10. A positive drug test by the Officer
  11. Other complaints made against the Officer by Inmates
  12. Cases or arrests by the Officer that are rejected or dismissed by the court
  13. Cases in which evidence obtained by the Officer is suppressed by the court
  14. Insubordination by the Officer
  15. Neglect of Duty by the Officer
  16. Unexcused absences by the Officer
  17. Tardiness
  18. Claims of duty-related injury
  19. Number of requests for Administrative Duty (Light Duty, Non-contact w/inmates)
  20. Any other indicators, as determined by the Warden
- C. Any member of the Department who is aware of a member, who has displayed any of the above actions or behaviors (**I. B.**), is required to make notification to the employee's immediate supervisor.
- D. The supervisor is responsible for making immediate written notification to the Warden for any of the incidents outlined above (**I. B.**)
- E. The Warden/Designee shall document appropriate information in the **Early Warning System Indicators** spreadsheet in the Internal Affairs Office.

- F. Three separate instances of performance indicators (as indicated in Section I. B. above) within any twelve-month period will trigger the EW System review process. When one incident triggers multiple performance indicators, it shall be counted as only one indicator. The Warden may in his/her discretion determine that a lower number of performance indicators within a twelve-month period will trigger the EW System review process.
- G. Supplemental performance indicators, which may be considered for the EW System and are reasonably related to potentially escalating harmful behavior, may be found in Appendix “A”.

## II. ADMINISTRATION OF EARLY WARNING SYSTEM

- A. The EWS should primarily be the responsibility of the Internal Affairs Office. The Warden has the responsibility of assigning personnel to manage this function. In addition, any supervisor may initiate the early warning process based upon his/her own observations. Emphasis should be placed on anticipating employee problems **BEFORE** it results in improper performance or conduct.
- B. Personnel assigned to manage the EWS shall conduct a manual or computerized audit every six months to determine if an employee has the emergence of a pattern, practice or trend of inappropriate behavior or misconduct. In addition to these regular data audits, the Internal Affairs Office shall audit an individual employee’s history any time a new complaint is received.
  - 1. Using this information and their experience, the Internal Affairs Office may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the EWS data audit.
- C. If the audit indicates the emergence of a pattern, practice or trend of inappropriate behavior or misconduct, personnel assigned to manage the EWS shall consult with the employee’s immediate supervisor.
- D. Personnel assigned to the EWS and the employee’s supervisor shall review the information provided by the EWS along with any other relevant information from agency records for initiating a course of intervention designed to correct/interrupt the emerging pattern, practice or trend.
  - 1. If the audit indicates the EWS has returned an incorrect identification or “false positive”, that conclusion should be documented.
  - 2. If the audit reveals an employee has violated agency rules and regulations or written directives, the supervisor in consultation with the Internal Affairs Office shall proceed with an internal investigation and possibly disciplinary action.
  - 3. If the audit reveals the employee has engaged in conduct, which indicates a lack of understanding or inability to comply with accepted procedures, the supervisor shall

consult with personnel assigned to manage the EWS to determine the appropriate course of remedial/corrective intervention.

### III. SUPERVISORS

- A. An employee's supervisor is usually the first member to encounter and document specific incidents that affect an employee's performance. It is essential for the supervisor to speak with the employee, document those incidents and report findings to the appropriate person and if warranted, the Internal Affairs Office. 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, personnel assigned to the EWS shall be formally notified of such efforts. This information shall be documented and appropriate copies forwarded to the Internal Affairs Office for filing. No entry should be made in the employee's formal personnel file unless the action results in disciplinary/corrective action.
- C. If the remedial/corrective intervention was training, the training shall be documented.
- D. Supervisors shall forward all documentation to the Internal Affairs Office to assist in a comprehensive audit. This data shall minimally include use of force reports and attendance reports.

### IV. REMEDIAL/CORRECTIVE INTERVENTION

- A. Supervisory or Command Staff 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 referral, when warranted, and if available
  - 7. Peer Counseling
- B. When the review process is initiated, personnel assigned to oversee the system should:
  - 1. Formally notify the subject Officer in writing (if the notification to the Officer could jeopardize an ongoing criminal investigation, the Warden may permit delayed notification to the Officer or delayed initiation of the EWS review Process).
  - 2. Conference with the subject Officer and appropriate supervisory personnel.
  - 3. Develop and administer a remedial program including the appropriate remedial/corrective action listed in (IV. A.).

4. Continue to monitor the subject Officer for at least 3 months or until the supervisor concludes that, the Officer's behavior has been remediated.
  5. Document and report findings to appropriate supervisory personnel (for inclusion in evaluations) and, if warranted, the Internal Affairs Office.
- C. Statements made by the subject Officer during the EWS process may not be used against the Officer in any disciplinary or other proceeding.
- D. Internal disciplinary action, remedial/corrective intervention and fitness for duty examinations are not mutually exclusive and should be jointly pursued if and when appropriate.
- E. When remedial/corrective intervention has been undertaken, the Warden shall ensure that such actions are documented in writing. 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.
- F. All reports shall be forwarded to the Warden for review. These reports have the same confidential status as internal affairs documents and are subject to the same disclosure at retention regulations and guidelines.

**V. Notification to Subsequent law Enforcement Employer**

- A. If an Officer who is or has been subject to an EWS review process applies to or accepts employment at a different law enforcement agency, it is the responsibility of the prior or current employing law enforcement agency to notify the new subsequent employing law enforcement agency of the Officer's EWS review process history and out comes
- B. Upon request, the prior or current employing agency shall share the Officer's EWS review process files with the subsequent employing agency.

**VI. Notification to County Prosecutor**

- A. Upon initiation of the EWS review process, the Warden or designee shall make a notification to the County prosecutor of the identity of the subject Officer, the nature of the triggering performance indicators and the planned remedial action.
- B. Upon completion of the EWS review process, the Warden shall make notification to the County prosecutor of the outcome of the EWS review, including any remedial measures taken on behalf of the subject Officer.

**VII. Public Accessibility and Confidentiality**

- A. All EWS policies adopted 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 General Order that identify specific Officers are confidential and not subject to public disclosure.

**VIII. Annual Report**

- A. By December 31<sup>st</sup> of each year, the Warden or his/her designee shall complete an annual report regarding incidents involving the EWS and will forward this report to the Warren County Prosecutor's Office, Chief of Detectives, on an annual basis.

**By Order Of:**

**Kenneth J. McCarthy, Warden**

## **APPENDIX A**

### Supplemental Performance Indicators

1. Repetitive inmate complaints
2. Demeanor complaints
3. Inmate injuries
4. Claims of Job injuries
5. Off-duty contact with other law enforcement agencies
6. Habitual tardiness
7. Cooping (Sleeping on-duty)
8. Excessive drowsiness
9. Lack of eye contact
10. Unusual behavior
11. Off-duty injuries
12. Change in hygiene
13. Isolation from/conflicts with co-workers
14. Adverse rumors among personnel
15. Productivity decline
16. Change in appearance (slovenly, excessive acne, “bulking up”)
17. Prior discipline
18. Inattentiveness to duties
19. Major unexpected life change (divorce, family death, etc.)