

DEPARTMENT RULES AND REGULATIONS/POLICIES AND PROCEDURES

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ACCREDITATION STANDARD(S):	REFERENCE:					CHAPTER 15
SUBJECT: Early Warning System						
ISSUING AUTHORITY: Brett Bartman, O.I.C.						DIST. 11
ATTORNRY GENERAL, PROSECUTOR’S OFFICE REFERENCE AG Directive No. 2018-3						EVAL. DATE:

POLICY:

The Frenchtown Police Department, in accordance with Attorney General Directive No. 2018-3, recognizes the importance of an Early Warning System designed as a tool for management to detect patterns and trends in police conduct before that conduct escalates. Effective Early Warning Systems can assist law enforcement agencies in identifying and remediating problematic officer conduct that poses a potential risk to the public, to the agency, and to the officer. Therefore, Early Warning Systems serve to not only increase public safety and public confidence in law enforcement, but to also assist officers through early intervention.

PURPOSE:

The purpose of this Standard Operating Procedure is to identify early warning signs exhibited as patterns and trends of officer conduct which indicates potentially escalating risk of harm to the public, the agency, and/or the officer. This Standard Operating Procedure shall apply to all sworn officers in the department, responsible for enforcing the criminal laws in New Jersey, come under the jurisdiction of the Police Training Act, and are authorized to carry a firearm under N.J.S.A. 2C:39-6.

I. Definitions

- A. Chief Executive Officer – that person who is responsible to serve as head of the law enforcement agency. The Chief Executive Officer in the Frenchtown Police Department is the Chief of Police.
- B. Counselor – a licensed psychologist, psychiatrist, peer counselor, police chaplain, or physician who gives advice and recommends a course of conduct.
- C. Employee Assistance Program – a confidential, non-disciplinary program provided by the department whereby a counselor can assist employees in resolving suspected personal or work-related issues such as, but not limited to, drug, alcohol, anger management, family, and finance problems.
- D. Supervisor – a member of the department by virtue of rank or assignment assigned to a position requiring the exercise of immediate supervision over the activities of other members.
- E. Superior Officer – Chief of Police or other member(s) as determined by the organizational structure.

PROCEDURE:

II. Early Warning System Policy

- A. The Frenchtown Police Department has determined the following performance indicators to be objectively and reasonably measured as they related to potentially escalating harmful behavior by officers.
 - 1. Internal Affairs complaints against the officer, whether initiated by another officer or by a member of the public;
 - 2. Civil actions filed against the officer;
 - 3. Criminal investigations of / or criminal complaints against the officer ¹;
 - 4. Any use of force by the officer that are formally determined or adjudicated to have been excessive, unjustified, or unreasonable;
 - 5. Domestic violence investigations in which the officer is an alleged subject;
 - 6. An arrest of the officer, including on a driving under the influence charge;
 - 7. Sexual harassment claims against the officer;
 - 8. Vehicular collisions involving the officer that are formally determined to have been the fault of the officer;
 - 9. A positive drug test by the 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 officer;
 - 13. Neglect of duty by the officer;
 - 14. Unexcused absences by the officer;
 - 15. Unacceptable performance rating; and
 - 16. Vehicle pursuits;
 - 17. Any other indicators, as determined by the Chief of Police²;

¹ If Early Warning System notification to the employee could jeopardize an ongoing investigation, the Chief of Police and / or County Prosecutor, in his or her discretion, may permit delayed notification to the employee or delayed initiation of this Early Warning System.

² Any additional performance indicators the Chief of Police considers must be objectively reasonable and reasonably related to potentially escalating harmful behavior.

III. Initiation of Early Warning Process

The Early Warning System review process shall be initiated when three (3) separate instances of the performance indicators above, *Section II(A)* occur within any twelve-month (12) period. If an incident triggers multiple performance indicators, that incident shall not be double- or triple-counted, but instead shall count as only one performance indicator. Given the seriousness, every incident involving a criminal investigation of / or a criminal complaint against an officer; arrest of an officer, including driving under the influence; positive drug test; insubordination; and neglect of duty will trigger an Early Warning System review.

IV. Administration and Tracking

- A. The Early Warning System function and administration of reviews shall be assigned to the Frenchtown Police Department, Bureau of Professional Standards (*Internal Affairs Unit*). Supervisors of an officer(s) under review shall be directly involved in the Early Warning System review process in conjunction with Internal Affairs officer(s).
- B. The Bureau of Professional Standards (*Internal Affairs*) Unit, shall maintain manual logs/records for each officer subject this policy. Semi-annually this unit shall unit the departments tracking system and records to assess the accuracy and efficacy of the tracking system.

V. Remedial / Corrective Action

- A. Once an officer has displayed the requisite number of performance indicators necessary to initiate the Early Warning System review process, *as set forth in Section II(A)*, assigned supervisory and / or internal affairs personnel shall initiate remedial action to address the officer's behavior. When the 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 listed *Section V(B)*;
 - 4. Continue to monitor the subject officer for at least three (3) 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.

Note: Any statement made by the subject officer in connection with the Early Warning System review process may not be used against the subject officer in any disciplinary or other proceeding.

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

1. No additional action;
2. Training or re-training;
3. Counseling;
4. Intensive supervision;
5. Fitness-for-duty examination;
6. Employee Assistance Program (EAP) referral; and
7. Any other appropriate remedial or corrective action³.

VI. Psychological Services Process

- A. The Chief of Police, or his or her designee may implement a course of action (*see Section V(A)(3) above*) for an officer referred by a Supervisor or who is self-referred.
- B. The psychological services will begin the process by administering diagnostic tests to confirm that the employee requires psychological treatment.
- C. Treatment will be administered upon the advice of the counselor and with the approval of the Chief of Police.
- D. Periodically the Chief of Police, or his or her designee, the counselor, and the officer's Supervisor may review the counselor's recommendations as to the employee's placement and status.
- E. 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 his or her personnel file.
- F. If an employee regains acceptable job performance, the record of referral will remain only in the files of the Chief of Police and the files of the psychological services counselor.

VI. Notification to Subsequent Law Enforcement Employer

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 that the one where he or she underwent the Early Warning 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 Warning System review process history and outcomes. Upon request, the prior or current employing agency shall share the officer's Early Warning System review process files with the subsequent employing agency.

VII. Notification to County Prosecutor

Upon initiation of the Early Warning System review process, the Chief of Police or his designee shall make a confidential written notification to the County Prosecutor or his/her designee within fifteen (15) days, of the identity of the subject officer, the date of events, the nature of the triggering performance indicators, and the planned remedial program. Upon completion of the Early Warning 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 Early Warning System review, including any remedial measures taken on behalf of the subject officer.

³ This SOP, and Early Warning Systems generally, are focused on corrective actions to remediate behavior and to provide assistance to the officer. They generally do not address disciplinary actions that might be warranted against an officer. Such disciplinary actions to include the decision to suspend, terminate, or if applicable, charge an employee 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 Early Warning System.

VII. Public Accessibility and Confidentiality

Early Warning System policies 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 *Attorney General Directive No. 2018-3*, that identify specific officers are confidential and not subject to public disclosure

All police procedures heretofore employed by the Frenchtown 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 Frenchtown Police Department are required to follow this order as applicable. Violations of this order subject members of this agency to disciplinary action.