

EVESHAM POLICE DEPARTMENT MANUAL

VOLUME NUMBER: 1	CHAPTER NUMBER: 43
VOLUME TITLE: ADMINISTRATION	REFERENCE: V1C43
ISSUED BY: CHIEF WALT MILLER	# OF PAGES: 8
SUBJECT: EARLY WARNING PROGRAM	
EFFECTIVE DATE: FEBRUARY 1, 2011	GENERAL ORDER # 10-489
LAST REVISED: JANUARY 5, 2023	
APPLICABILITY: ALL EMPLOYEES	ANNUAL REVIEW:
ACCREDITATION STANDARD: 35.1.9	
The Written Directives developed by the Evesham Township 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: 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 Evesham Township 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 Evesham Township 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. Such symptoms may be exhibited in on-the-job performance behaviors that results in complaints from citizens or may be indicated in the frequency incidents. The Evesham Township Police Department has existing programs available to assist employees, including- Cop-2-Cop Assistance Program, a wellness committee and other counseling, which are available to employees on a voluntary and policy-mandated basis. In order to enhance these services, the Department has implemented the Early Warning Program (EWP).

It is the policy of the Department to provide for the protection and confidentiality of the Early Warning Program records maintained by the Department that are Personnel Records.

DISCUSSION:

An Early Warning Program (EWP) is an essential component in a well-managed law enforcement agency. The early identification of potential problems and a menu of remedial actions can increase accountability and offer employees a better opportunity to meet the agency's values and mission statement. Any time the Early Warning Program is activated pursuant to this general order, the totality of the circumstances surrounding each incident and/or complaint shall be considered separately, drawing on general knowledge of human behavior, agency policies and procedures, and wisdom gained from years of law enforcement experience. The process should include recognition that there are circumstances when use of force is necessary and proper, and that there are occasions when false accusations may be made against employees by citizens. The intent of this system is to provide non-disciplinary Warning, whenever possible, to assist our employees in their professional development in order to provide the highest level of service and satisfaction to the public. Early Warning Program will not be used for disciplinary purposes. The activation of the EWP does not necessarily indicate a problem with the involved employee, nor is it intended to be punitive, but may merely suggest a pattern exists that bears investigation or monitoring.

PROCEDURE:

I. Early Warning Program

- A. The EWP Program 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 Guardian Tracking software program to track the Early Warning Program and satisfy the reporting requirements listed in this directive.

II. Early Warning Program Criteria

- A. In accordance with the New Jersey Attorney General's Law Enforcement Directive No. 2018-3, the EWP shall identify and track the following indicators:
 1. Any internal affairs complaint, whether initiated by another officer or by a member of the public.
 2. Civil action filed against the officer.
 3. Criminal investigations 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 be excessive, unjustified or unreasonable.
 5. Domestic violence investigations in which the officer is an alleged subject.
 6. Any arrest of the officer, including on driving under the influence charge.
 7. Sexual harassment claims against the officer.
 8. Vehicle collisions involving the officer that are formally determined to be the fault of the driver.
 9. A positive drug test by the officer.
 10. Cases or arrests by the officer that were rejected or dismissed by a court.
 - The Support Services Bureau Commander or his designee, filling the role as the court liaison, will complete a **Criminal Disposition Report** for each Municipal Court Session. The report will list Criminal and Driving While under the Influence (DWI) cases that are downgraded or dismissed during the respective court session.
 - The Support Services Bureau Commander or his designee will list any case that is dismissed by the court due to the prosecutor's determination that the officer's investigation was flawed. Examples would include, but not limited to, the officer lacked probable cause, had evidence suppressed by the court, or made an error that caused an inability to prove the case beyond a reasonable doubt.
 - Cases that are procedurally and routinely downgraded by the court DO NOT require reporting on the **Criminal Disposition Report**.
 - A **Criminal Disposition Report** shall be completed by the Support Services Bureau Commander each Municipal Court session.
 - The **Criminal Disposition Report** will be forwarded to the Administrative Division Commander following each court session for review. The Administrative Division Commander will enter the cases listed into the Guardian Tracking system.
 - When any member receives a case dismissal notice from a municipal, superior or federal court they shall forward the dismissal notice to the Administrative Division Commander who will make an entry into the EWP tracking system.
 11. Cases in which evidence obtained by an officer is suppressed by court.

- When a member receives a notice to appear for a suppression hearing, they will complete a **Special Report** and attach a copy of the notice to the report. The **Special Report** shall be forwarded to their Bureau Commander, who will forward the **Special Report** to the Administrative Division Commander. The Administrative Division Commander shall monitor the suppression hearing and if the evidence is suppressed, make an entry into the EWP tracking system.
12. Insubordination by the officer.
 13. Neglect of duty by the officer.
 14. Unexcused absences by the officer.
 15. Any other indicator determined by the agency chief executive.

III. Initiation of Early Warning Process

- A. The initiation of the Early Warning Process shall be in accordance with the Attorney Generals Guide Lines:
 1. Any three (3) performance indicators, or combination of any three (3) indicators within a 12-month period, will trigger the review process.
 2. The Administrative Division Commander will generate a Monthly Early Warning Report which will contain the names of employees who meet the criteria.
 3. Officers who alert shall enter the early warning process according to Attorney General Directive NO. 2018-3.

Note: If an employee is involved in a single incident, generating multiple selection criteria, only one criterion will be counted towards Early Warning. (Example: An employee is involved in an incident which generates an at-fault collision and an internal affairs investigation. The incident maybe documented under two separate indicators, but shall count as one, not both.)

IV. Administrative Division

- A. The Administrative Division Commander, through the Internal Affairs function, will coordinate the Early Warning Program.
- 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 Administrative Division Commander will have the responsibility to ensure that each affected bureau receives a copy of each EWP candidates' EWP file.
- D. The Administrative Division Commander shall notify the Chief of Police monthly of all employees who meet the numerated criteria. The Chief of Police will then review data and recommend intervention if necessary.
- E. The Administrative Division Commander shall maintain an EWP file on every employee selected for Early Warning. This file will be the repository for documented incidents that meet the criteria for EWP considerations.
 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 EWP Files will be retained by the Administrative Division Commander pursuant to the New Jersey Administrative Code and applicable records retention schedule.
 3. The files will be maintained and secured in a separate and secure filing cabinet in the Administrative Division Commander's office.
 4. EWP files are considered confidential. Access to an EWP file is on a need-to-know basis granted only upon approval by the Chief of Police or his designee.

EVESHAM POLICE DEPARTMENT MANUAL

Note: All Internal Affairs investigations will be kept in a separate and secure filing cabinet as outlined in V1C13, governing Internal Affairs.

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 and, if warranted, the internal affairs unit.
- 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 Administrative Division Commander shall oversee the process and delegate its implementation to the appropriate bureau commander.
 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 EWP file.

VI. Supervisory Responsibility

- A. Supervisors are crucial to a successful Early Warning Program. 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 to include the following, but not limited to, 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 their bureau commander and the Administrative Division Commander for documentation in the EWP.
 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-** Administrative Division Commander's Review of Employee EWP File:
 1. Facts and documentation on each incident should be reviewed, including:
 - Police Incident Reports.
 - Body Worn Camera/Motor Vehicle Recording video.
 - Criminal Complaints.
 - Witness Statements.
 - Discussions with other officers involved in the incident.
 - Determine what, if anything, could have been done differently to prevent the complaint.
 - Decide if there are any similarities between incidents.

- Find out if other possible indicators of stress are present such as an unusual amount of sick leave, tardiness, marital problems, etc.
 - Determine if a trend or pattern of behavior is indicated.
 - 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, body worn camera/motor vehicle recording video, department policies and rules and 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 an EWP 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 EWP review.
- C. **Step Two-** Bureau Commander's Intervention and Counseling:
1. Bureau commanders are the "early" in the early warning process. It is necessary that there be two-way communication between the employee and the bureau commander in order to address potentially problematic behavior early and/or recognize outstanding performance.
 2. When informed of an employee meeting EWP criteria, the bureau commander shall review the documentation provided by the Administrative Division Commander. If the review of the documentation and related reports reveals the need for an intervention, the bureau commander shall then schedule a counseling meeting with the employee and the employee's immediate supervisor as soon as possible. Bureau commanders should be prepared to make recommendations to the employee and include referral information when appropriate. The bureau commander should schedule the counseling meeting with the employee and review the documentation provided with the employee and discuss any problem areas and/or performance issues. The Administrative Division Commander will be available for consultation with the bureau commander as needed.
 3. If a review of the documentation and related reports by the bureau commander yields no issues or concerns requiring an intervention, a counseling meeting with the employee is not necessary. The bureau commander will detail the findings in a Special Report.
 4. At the conclusion of the counseling meeting, the bureau commander shall prepare a Special Report outlining a summary of the outcome.
 - Note: When dealing with employees who were selected for EWP as a result of open, formal internal investigations, bureau commanders must balance the issues of Garrity and Warning when discussing EWP issues with the employee. Bureau commanders 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.
 - The bureau commander 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 warning issues.
- D. **Step Three-** Chief of Police Meeting:
1. Following the bureau commander's meeting with the employee, the bureau commander will forward his Special Report to the Chief of Police to discuss the outcome of the counseling, the findings concerning each incident, and any recommendations for additional Warning. The Chief of Police will then make recommendations to close the EWP or implement a Performance Improvement Plan (PIP).

- E. **Step Four-** Bureau Commander's Warning Report:
1. The bureau commander may complete a Performance Improvement Plan (PIP) (detailing his/her findings concerning the employee's EWP file, the employee's response, and his/her recommendations. Recommendations may include the following:
 - Assessment that no problem or pattern of behavior exists. (Complete "none" section outlining why no problem exists.)
 - Dispositions may include a need for remediation or training.
 - ✓ The employee may need refresher training in human relations' skills, defensive tactics, cultural diversity, driving skills, certain department policies and procedures etc...
 - 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.
 - Attend stress awareness course. Consideration should be given to physical fitness testing, weight management counseling, and enrollment in a physical exercise program.
 - Restriction on secondary employment and/or restrictions on department authorized extra-duty employment.
 - Temporary assignment of the employee to an Administrative Schedule. This will allow the employee to navigate the stressors on a non-rotating shift work assignment.
 - Intensive supervision or referral to the Employee Assistance Program (EAP).
 - Fitness for duty evaluation, if authorized by the Chief of Police.
 2. If a performance improvement plan is required, the bureau commander performing the intervention shall prepare the document 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 bureau commander and the Chief of Police, designed to reduce or eliminate identified behaviors that contribute to EWP 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 bureau commander, shall be placed in the member's PIP File.
- F. **Step Five-** Follow-up:
1. Once the PIP is initiated, the Bureau Commanders shall forward all counseling sessions to the Administrative Division Commander who will file these meetings in the employee's EWP File.
 2. When the time period of the plan has expired, the bureau commander 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 bureau commander 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 Bureau Commander shall continue actively monitoring the employee ensuring identified issues were corrected and the member is on the path of continued success. If the Bureau Commander observes any uncorrected behaviors, they shall immediately notify the Chief of Police by special report.

VI. 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 these EWP indicator entries, whether or not the EWP indicator entries have been investigated or sustained.
 - 2. How does the EWP indicator history of the employee compare with other employees in similar assignments?
 - 3. Can EWP indicator entries be reduced by simply informing the member of Department policies and procedures?
 - 4. Can better interpersonal skills be developed?
 - 5. Can training correct the problem?
 - 6. Are the details of the EWP indicator entries and allegations so different as to suggest that there is no improper behavior pattern?
 - 7. Is there any other relevant information about the employee or circumstances that contributes to the number of EWP indicator entries?
 - 8. Is there a common thread of conduct in separate EWP indicator entries that may be contributing to the frequency of EWP indicator entries?
 - 9. In addition to the other options provided in this directive, supervisors may make referrals to the Employee Assistance Program or other warning programs available to Department employees.

VIII. Chain of Command Responsibilities

- A. The final report with the recommendations will be completed by the employee's bureau commander and forwarded to the Chief of Police for review who will determine the final recommendations. The original report will be maintained by the Administrative Division Commander.
- 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 EWP file.
- D. The Administrative Division Commander will review all Early Warning files to determine if a training need exists within a specific area of the agency or department-wide. Additionally, the Administrative Division Commander shall review all Early Warning recommendations to ensure that all recommendations for training are available, appropriate, and consistent.

IX. Implementation of Recommendations

- A. Participation by departmental employees in counseling and/or training may be voluntary or mandatory.
- B. The Administrative Division Commander 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 and the employee's bureau commander will monitor the performance of employees until the behavior has been remediated.

XI. Public Records

- A. All Early Warning Program 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.

XII. Semi-Annual Evaluation / Audit

- A. The Early Warning Program will be evaluated and audited semi-annually by the Administrative Division Commander, or their designee. 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.

VIII. Notification to Burlington County Prosecutor

- A. When an early warning is initiated in accordance with this directive ~~Tier 1~~, 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.

VIX. Notification to Subsequent Law Enforcement Employer

- A. If any officer who is, or has been subject to an activation in the Early Warning System Early Warning System 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 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.
- B. Upon request, the prior or current employing agency shall share the officer's Early Warning System review process files with the subsequent employing agency.

VX. Supervisor Training

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