


SOMERSET COUNTY PROSECUTOR'S OFFICE		
GENERAL ORDER		
EARLY WARNING SYSTEM		
EFFECTIVE DATE: Immediately	NUMBER OF PAGES: 7	
ACCREDITATION STANDARDS: 2.2.3	BY THE ORDER OF: Prosecutor	

PURPOSE: The purpose of this General Order is to establish a personnel early warning system.

POLICY: It is the policy of Somerset County Prosecutor's Office (SCPO) to implement and to utilize an early warning system for tracking and reviewing incidents of risk and provide timely intervention consistent with the New Jersey Attorney General's Law Enforcement Directive No. 2018-3 and County of Somerset Policies and Procedures Manual.

PROCEDURES:

I. EARLY WARNING SYSTEM

- A. The Early Warning System is designed to detect patterns and trends before the conduct escalates into more serious problems. As such, law enforcement officers, Assistant Prosecutors and Administrative Staff 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 an early warning system is to address potential problems through the use of appropriate management and supervisory strategies before formal discipline is warranted.
- B. For law enforcement officers 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 may include, but are not limited to, the following documented indicators:
 - 1. Internal affairs complaints against an officer, whether initiated by another employee or by a member of the public;
 - 2. Civil actions filed, regardless of outcome;
 - 3. Criminal investigations or criminal complaints against an employee;
 - 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 officer is an alleged subject;
 - 6. An arrest of the officer, including on a driving under the influence charge;
 - 7. Sexual harassment claims against an officer;

8. Vehicular collisions involving an officer that is formally determined to have been the fault of the officer;
9. A positive drug test by the officer;
10. Cases rejected for criminal prosecution by an Assistant Prosecutor or dismissed by the court;
11. Cases in which evidence obtained by the officer as suppressed by a court;
12. Insubordination or serious breach of discipline;
13. Neglect of duty;
14. Unexcused absences by the employee;
15. Claims of duty-related injury;
16. Arrests for resisting arrest;
17. Arrests for assault on a law enforcement officer;
18. Vehicular pursuits;
19. Vehicular collisions;
20. Intoxication on duty;
21. Gambling on duty;
22. Use or attempt to use one's authority or official status to influence the actions of others;
23. Disorderly or immoral conduct;
24. Unexplained misrepresentation on County forms;
25. Disorderly or immoral conduct;
26. Violations of the County Ethics policy; and
27. Rule infractions.

C. For **Assistant Prosecutors and Administrative Staff** many different measures of employee performance (actions or behaviors) can be regularly examined for patterns or practices that may indicate potential problems even if allegations involving various performance measures are not substantiated. These performance measures may include, but are not limited to, the following documented indicators:

1. Insubordination or serious breach of discipline;
2. Neglect of duty;

3. Intoxication on duty;
 4. Gambling on duty;
 5. Sexual harassment;
 6. Use or attempt to use one's authority or official status to influence the actions of others;
 7. Unexplained or unexcused absences;
 8. Unexplained misrepresentation on County forms;
 9. Disorderly or immoral conduct;
 10. Workplace complaints;
 11. Violations of the County Ethics policy; and
 12. Rule infractions.
- D. Generally, three (3) instances of questionable conduct, unsubstantiated allegations, flag indicators, or any combination thereof, within the same twelve (12) month period will initiate the early warning system process. However, nothing herein will preclude a supervisor from instituting non-disciplinary corrective action regarding any deficiency in performance or instituting disciplinary corrective action, if necessary, as a result of a single substantiated instance of a performance measure deficiency.

II. ADMINISTRATION OF EARLY WARNING SYSTEM

- A. For the Law Enforcement Officers the early warning system is primarily the responsibility of the Internal Affairs Unit; but any supervisor may initiate the early warning process based upon their own observations. Emphasis should be placed on anticipating employee problems before problems result in improper performance or conduct.
- B. For Assistant Prosecutors the early warning system is primarily the responsibility of the First Assistant Prosecutor; but any supervisor may initiate the early warning process based upon their own observations. Emphasis should be placed on anticipating employee problems before problems result in improper performance or conduct.
- C. For the Administrative staff the early warning system is primarily the responsibility of the Administrator; but any supervisor may initiate the early warning process based upon their own observations. Emphasis should be placed on anticipating employee problems before problems result in improper performance or conduct.
- D. It is anticipated that in most instances it will be the employee's immediate supervisor who will first become aware of and address the deficiency in performance.

- E. The Internal Affairs Unit, the First Assistant Prosecutor or the Administrator shall conduct a review of their respective division's records to determine if an employee has the emergence of a pattern, practice or trend of inappropriate behavior or misconduct upon receiving an alert from the InfoShare System or at the request of any supervisor. The review shall be documented by opening a case in InfoShare and preparing a detailed report as to the reviewer's findings. In addition to the reviews conducted by the Internal Affairs Unit, the Supervisor of the Internal Affairs Unit, the First Assistant Prosecutor or the Administrator shall audit their respective division's individual employee's history any time a new complaint is received.
 - 1. Using this information and their experience, the Internal Affairs Unit, the First Assistant Prosecutor or the Administrator may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the early warning system.
- F. If a review indicates the emergence of a pattern, practice or trend of inappropriate behavior or misconduct, the Internal Affairs Unit Supervisor, the First Assistant Prosecutor or the Administrator shall consult with the Prosecutor or his/her designee. The Internal Affairs Unit Supervisor, the First Assistant Prosecutor or the Administrator will then meet with the employee's supervisor and/or Division Commander.
- G. The Internal Affairs Unit Supervisor, the First Assistant Prosecutor, the Administrator and their employee's supervisor and/or Division Commander shall review the information provided along with any other relevant information from SCPO records for the purpose of deciding whether initiating a course of intervention designed to correct/interrupt the emerging pattern, practice or trend is warranted.
 - 1. If the review indicates that the early warning system has returned an incorrect identification or "false positive," that conclusion should be documented in an investigative report generated through the InfoShare System.
 - 2. If the review reveals that an employee has violated SCPO Rules and Regulations or any General Order, policies and/or procedures, the Internal Affairs Unit should proceed with an internal investigation and possible disciplinary action by the Prosecutor.
 - 3. If the review reveals that the employee has engaged in conduct, which indicates a lack of understanding or inability to comply with accepted procedures, the supervisor shall consult with the Internal Affairs Unit to determine the appropriate course of remedial/corrective intervention.
- H. Any civil actions other than uncontested matrimonial matters, filed against an employee of the SCPO shall be documented and copies of the pertinent documents forwarded to the Internal Affairs Unit for entry into the computerized early warning system and inclusion into the employee's Internal Affairs Unit file.
- I. All reports concerning work related vehicle collisions shall be forwarded to the Internal Affairs Unit for entry into the computerized early warning system and inclusion into the employee's Internal Affairs Unit file.

- J. At least every six (6) months, the Internal Affairs Unit Commander shall audit the agency's tracking system and records to assess the accuracy and efficacy of the system.

III. SUPERVISORS

- A. An employee's front line supervisor is usually the first member of the SCPO 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 one of the following based on the employee's position within the SCPO: Criminal Investigations Division to the appropriate division commander; Assistant Prosecutor to the First Assistant Prosecutor or Administrative to the Administrator. The success of this program relies heavily on the front line supervisor's participation and involvement.
- B. If a specific division supervisor has initiated remedial/corrective intervention, either the Internal Affairs Unit, the First Assistant Prosecutor or the Administrator shall be formally notified of such efforts.
 - 1. No entry should be made in the employee's personnel file, unless the action results in disciplinary/corrective action.
- C. If the remedial/corrective intervention was provided in the form of training, documentation shall be filed in accordance with the SCPO General Order Governing Training (remedial training).
- D. Supervisors shall forward all documentation as required by SCPO General Orders to assist in a comprehensive review. This data shall minimally include: use of force reports, vehicle pursuit reports, and attendance records.

IV. DIVISION COMMANDERS/ASSISTANT PROSECUTORS

- A. In addition to the reviews conducted by the Internal Affairs Unit, the First Assistant Prosecutor or the Administrator any Division Commander or any Assistant Prosecutor who holds the title of Team Leader, Chief Assistant Prosecutor, or First Assistant Prosecutor may review the work history of the employees he/she supervises during the employee performance evaluation process. Using this information and their experience, the Division Commander or aforementioned Assistant Prosecutor may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the early warning system. Any issues noted by the Division Commander or aforementioned Assistant Prosecutor shall be handled according to the Early Warning System General Order.
- B. When under early warning system monitoring, the employee's Division Commander or Assistant Prosecutor and immediate supervisor shall meet with the employee to discuss the situation in depth to:
 - 1. Identify problems or potential problems;
 - 2. Determine short and long-term goals for improvement;

3. Come to a consensus and a commitment on a plan for long-term improved performance;
 4. Advise of the monitoring process and the repercussions of future sustained transgressions.
- C. Generally, personnel should expect to remain under intensive monitoring and supervision for six (6) months when an early warning flag is triggered.
- D. Supervisor/Employee Meeting
1. All supervisor/employee meetings shall be thoroughly documented (via a detailed report in InfoShare), which will be forwarded to the Prosecutor or his/her designee. The affected employee and supervisor shall meet on a regular basis, at least monthly, to discuss progress towards the agreed upon goals and objectives.
 2. All regular monthly progress/status reports shall be submitted to the Prosecutor or his/her designee.
 3. An additional six (6) months of documented monitoring is required following removal from the Early Warning System. Monthly monitoring reports from the direct supervisor are required.
 4. All monthly progress/status reports and monthly monitoring reports shall be retained by the employee's Division Commander, Administrator or Prosecutor or his/her designee depending upon the employee's present position within the SCPO.
- E. 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.

V. REMEDIAL/CORRECTIVE INTERVENTION

- A. Supervisory or command 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, when warranted, if available.
- B. Internal disciplinary action, remedial/corrective intervention, and fitness for duty examinations are not mutually exclusive and should be jointly pursued if, and

when, appropriate.

- C. When remedial/corrective intervention has been undertaken, the Prosecutor or his/her designee shall ensure that such actions are documented in writing in the InfoShare System. No entry should be made in the employee's personnel file, unless the action results in a sustained finding. The corrective intervention regarding the sustained finding shall be filed in the employee's personnel file. If the remedial/corrective intervention is a training program, attendance and successful completion of that training program should be noted in the employee's training record.
- D. All reports shall be forwarded to the Prosecutor or his/her designee for review, as well as to the Internal Affairs Unit, the First Assistant Prosecutor or the Administrator for record keeping purposes. These reports have the same confidential status as Internal Affairs documents and are subject to the same disclosure and retention regulations and guidelines as detailed or referenced in the SCPO General Order.