



# EAST WINDSOR POLICE DEPARTMENT

<u>Directive</u>	<u>Dissemination</u>	<u>Subject</u>			
7.4	All Sworn Personnel	Early Warning System (EWS)			
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Attorney General Law Enforcement Directive 2018-3, Statewide Mandatory Early Warning System		Date	Page/Section	Approved By	Initials
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**I. Purpose:**

To establish an effective Early Warning System (EWS) that will assist in identifying and remediating problematic officer conduct that poses a potential risk to the public, to the agency, and to the officer. This system will serve to not only increase public safety and public confidence in law enforcement, but also assist the officer through early intervention.

**II. Early Warning System (EWS):**

The EWS is designed to detect patterns and trends of problematic officer behavior before the conduct escalates. As such, officers must understand that the EWS is not discipline. Although it is possible that disciplinary action will be taken as a result of the evidence that rules and regulations were violated, this is not the sole or even primary intent of the system. The primary intent of the EWS is to address potential poor performance through the use of appropriate management and supervisory strategies before discipline is warranted.

**III. Performance Indicators Included in the EWS:**

A. Establishment and understanding of the **“Performance Indicators”** will be the basis of the EWS. These performance indicators are the behaviors displayed by employees that best indicate potentially escalating risk of harm to the public, the agency and/or the officer.

- 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<sup>1</sup>;
- 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 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 the officer is suppressed by a court;
- 12) Insubordination by the officer;
- 13) Neglect of duty by the officer;
- 14) Unexcused absences by the officer.

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<sup>1</sup> If the EWS notification to the officer could jeopardize an ongoing criminal investigation, the County Prosecutor may in his or her discretion permit delayed notification to the officer or delayed initiation of the EWS review process.

#### **IV. Procedures:**

##### **A. Reporting of a Performance Indicator:**

All supervisory personnel, including primary and secondary Officers In Charge (when serving in that capacity) are required to report any occurrence of one of the performance indicators as stated above. All officers shall be required to self-report any occurrence of one of the performance indicators committed by themselves to their immediate supervisor.

##### **B. Documentation of a Performance Indicator:**

The EWS Report (Appendix A) will be completed and sent through the chain of command to the Internal Affairs (IA) Commander.

##### **C. Initiation of the EWS Review Process:**

Three (3) separate instances of performance indicators (as listed in section III. A. above) by an officer within a continuous twelve-month period shall trigger the EWS review process. 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. Once the review process has been triggered, remedial/corrective action as described below shall be developed.

##### **D. Administration and Tracking:**

The IA Commander, as designated by the Chief of Police, shall be the administrator of the EWS and will maintain all records in the secured IA filing system. It shall be the responsibility of the IA Commander to adopt a tracking system to enable the department to identify officers who display the requisite three (3) performance indicators necessary to trigger the EWS review process. At least every six months, the IA Commander shall audit the agency tracking system and records to assess the accuracy and efficacy of the tracking system.

##### **E. Remedial/Corrective Action:**

- 1) Once an officer has displayed the requisite three (3) performance indicators necessary to trigger the EWS review process (as set forth in Section III. A. above) the IA Commander shall notify the officer as well as the officer's Service Commander who will be responsible for remedial/corrective action. Supervisory officers in the subject officer's chain of command also should be directly involved in any EWS review process.
- 2) The Service Commander shall be responsible for and complete the following;
  - a. Formally notify the officer, in writing (Appendix B);
  - b. Conference with the subject officer and appropriate supervisory personnel;
  - c. Develop and administer a remedial program including the appropriate remedial/corrective actions listed below;
  - d. Continue to monitor subject officer for at least three months, or until the supervisor concludes that the officer's behavior has been remediated (whichever is longer);
  - e. Document and report findings to the IA Commander.
- 3) Any statement made by the subject officer in connection with the EWS review process may not be used against the subject officer in any disciplinary or other proceeding.

- 4) Remedial/corrective action may include but is not limited to the following.
  - a. Training or re-training;
  - b. Counseling;
  - c. Intensive supervision;
  - d. Fitness for duty examination;
  - e. Employee Assistance Program (EAP) referral; and
  - f. Any other appropriate remedial or corrective action<sup>2</sup>.

F. Notification to Subsequent Law Enforcement Employer:

If any officer who is or has been subject to an EWS review process applies to or accepts employment at a different law enforcement agency than the one where he or she underwent the EWS review process, it is the responsibility of the IA commander to notify the subsequent employing law enforcement agency of the officers EWS review process history and outcomes. Upon request, the prior or current employing agency shall share the officer's EWS review process files with the subsequent employing agency.

G. Notification to the Mercer County Prosecutors Office

Upon initiation of the EWS review process the IA Commander shall make confidential written notification to the Mercer County Prosecutor or his/her designee of the identity of the subject officer, the nature of the triggering performance indicators, and the planned remedial program. Upon completion of the EWS review process the Chief of Police shall make confidential written notification to the Mercer County Prosecutor or his/her designee of the outcome of the EWS review, including any remedial measures taken on behalf of the officer.

**V. Public Accessibility and Confidentiality:**

This EWS Policy 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 this policy and Attorney General Directive 2018-3 that identify specific officers are confidential and not subject to public disclosure.

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<sup>2</sup> This EWS is focused on corrective actions to remediate officer behavior and to provide assistance to the officer. The EWS does 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 officer with criminal conduct remain the purview of the IA function and may be imposed in accordance with existing IA Guidelines and applicable law, separate from and independent of the EWS.