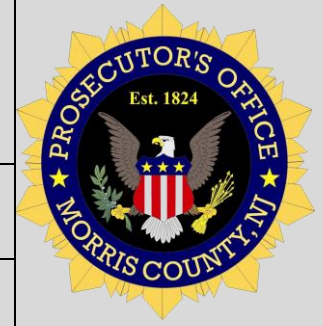


# MORRIS COUNTY PROSECUTOR'S OFFICE POLICY & PROCEDURE



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**CHAPTER: 16**

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**SUBJECT: EARLY WARNING SYSTEM**

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2.2.3

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**BY THE ORDER OF:**

Prosecutor Fredric M. Knapp

**SUPERSEDES ORDER #:**

**PURPOSE:** The Morris County Prosecutor's Office utilizes an Early Warning System (EWS) through the Infoshare Internal Affairs Module, which enables management to monitor employee conduct. The EWS is ultimately designed to identify any patterns, practices or trends of inappropriate behavior or conduct by any member of this Office. The goal of the EWS is to allow for supervisory intervention or remediation before it develops into a disciplinary issue. The EWS is only as successful as the information entered. Consequently, it is imperative that supervisors correct and always document adverse employee performance. The purpose of this policy is to define the EWS and the method to manage the process.

**POLICY:** It is the policy of the Morris County Prosecutor's Office to actively engage in the Early Warning System, with the goal of intervening in adverse employee behavior before it escalates. However, disciplinary action could be a direct result of an EWS activation. Moreover, nothing in this policy and procedure shall preclude the Prosecutor or his/her designee, or a supervisor from bypassing the EWS and formally disciplining any personnel, when warranted.

## PROCEDURE:

### I. EARLY WARNING SYSTEM (EWS)

- A. The Early Warning System is designed to detect patterns and trends before the conduct escalates into more serious problems. As such, employees must understand that the EWS 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 EWS is to address potential problems through the use of appropriate management and supervisory strategies before formal discipline is warranted.
- B. Many different measures of employee performance (actions or behaviors) or performance indicators 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. Search and seizure data;
  2. All Internal Affairs complaints, regardless of outcome;
  3. Civil actions filed, regardless of outcome;
  4. Incidents of force usage, including firearms discharges and use of non-deadly force;
  5. Claims of duty-related injury;
  6. All arrests of an employee, including a Driving While Under the Influence charge;
  7. Criminal investigations or complaints made against the employee;
  8. All Domestic Violence investigations, in which an employee is an alleged subject;
  9. Vehicular pursuits;
  10. Vehicular collisions;
  11. Cases or arrests initiated by a detective that are rejected or dismissed by the court;
  12. Cases or arrests in which evidence obtained by a detective is suppressed by the court;
  13. Attendance abuses;
  14. Minor or serious rule infractions, to include Insubordination or Neglect of Duty;
  15. Performance deficiencies;

16. All sexual harassment and general harassment claims against an employee;
17. A positive drug test by an employee;
18. Any other indicators, as determined by the Prosecutor, Chief of Investigations or their designee.

## **II. ADMINISTRATION OF EARLY WARNING SYSTEM**

- A. The Professional Standards Unit (PSU) of the Specialized Crimes Division shall manage the EWS through the Infoshare system.
  1. All investigations prompted by the EWS shall be completed by PSU personnel and documented in the Infoshare Internal Affairs Module, regardless of the action taken.
  2. All EWS disposition documentation shall be forwarded to the Specialized Crimes Division Commander after each supervisor in the PSU chain of command reviews and approves such documentation.
  3. The Specialized Crimes Division Commander shall promptly report EWS dispositions to the Chief of Investigations.
  4. The Chief of Investigations shall promptly report EWS dispositions to the Prosecutor.
  5. Once approved by the Prosecutor, the division commander and supervisors in the affected employee's chain of command shall be advised of the disposition.
  6. At least every six months, the PSU supervisor assigned to manage the EWS shall conduct an audit of the tracking system to assess the accuracy and efficiency of the EWS. The audit shall be documented on a memorandum and forwarded to the Prosecutor or his/her designee via the chain of command.

## **III. PROCEDURE**

- A. Three (3) instances of conduct that resulted in an employee being entered into the Infoshare Internal Affairs Module within the same twenty four (24) month period will activate the EWS process.
  1. The Division Commander of the Specialized Crimes Division will be automatically alerted via the Infoshare system.
    - a. The system will prompt a new Internal Affairs Investigation number and through the downward chain of command, the division commander shall assign the investigation to a PSU investigator.
- B. The PSU investigator shall conduct a review of the three entries that prompted the EWS alert to determine if the employee has the emergence of a pattern, practice or trend of inappropriate behavior or misconduct.
  1. The review shall be documented by opening a case in the InfoShare Internal Affairs Module and by preparing a detailed report as to the review's findings.

- C. A PSU investigator shall review an individual employee's history any time a new Internal Affairs complaint is received. Using this information and their experience, the PSU supervisor may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the EWS.
- D. If either review indicates the emergence of a pattern, practice or trend of inappropriate behavior or misconduct, the PSU Supervisor shall consult with the Specialized Crimes Division Commander and assigned Supervising Assistant Prosecutor to review the circumstances.
- E. The Specialized Crimes Division Commander, the employee's immediate supervisor and Division Commander shall review the information provided, along with any other relevant information from Office records for the purposes of deciding a course of action.
  - 1. If the review indicates that the EWS has returned an incorrect identification or "false positive," that conclusion shall be documented in an investigative report generated through the InfoShare Internal Affairs Module.
  - 2. If the review reveals that an employee has violated Office rules and regulations or violated any policies and/or procedures, the PSU shall proceed with an Internal Affairs investigation.
  - 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 PSU supervisor shall consult with the Specialized Crimes Division Commander to determine the appropriate course of remedial/corrective intervention.
- F. Any civil actions other than uncontested matrimonial matters, filed against an employee of the Morris County Prosecutor's Office shall be documented and copies of the pertinent documents forwarded to the PSU for entry into the Infoshare Internal Affairs Module, and for inclusion into the employee's PSU file.
- G. The Morris County Prosecutor's Office Risk Management Liaison/Officer shall forward all reports concerning at fault work vehicle collisions to the PSU for entry into the Infoshare Internal Affairs Module, and inclusion into the employee's PSU file.
- H. All cases or arrests initiated by this Office that are rejected or dismissed by a court or cases or arrests in which evidence obtained by a member of this Office is suppressed by a court will be reported to the supervisor of the Professional Standards Unit via the appropriate chain of command. It will be the responsibility of the Assistant Prosecutor handling any of the aforementioned cases to make the appropriate referral.

#### **IV. SUPERVISORS**

- A. The success of this program relies heavily on the front line supervisor's participation and involvement. An employee's immediate supervisor is usually the first member of the Office to encounter and document specific incidents that affect an employee. It is essential for the supervisor to counsel the employee, document these incidents and through the chain of command, report findings to one of the following based on the employee's position within the Office: Division Commander (Investigative Staff); Chief Assistant Prosecutor (Legal Staff) or Office Manager (Support Staff), and the Specialized Crimes Division Commander.
- B. The employee's immediate supervisor is responsible for developing a performance improvement action plan to resolve any adverse performance issues. The supervisor should solicit applicable information from the affected employee during the development stage. The plan shall have an incorporated time schedule.
- C. Through the chain of command, all action plans shall be approved by the command staff prior to its implementation. Once approved, the plan shall be executed by the employee's immediate supervisor. The affected Division Commander, or Chief Assistant Prosecutor, or the Office Manager shall ensure that the approved action plan is implemented by the employee's immediate supervisor and is completed within the set period.
- D. If an immediate supervisor has initiated remedial/corrective intervention without being prompted by the EWS, the PSU shall be formally notified by way of a Performance Deficiency. If a subsequent Internal Affairs investigation is conducted and a Performance Notice is issued, copies shall be forwarded to the PSU for filing and entry into the Infoshare Internal Affairs Module.
  - 1. No entry should be made in the employee's personnel file, unless the action results in discipline.
- E. If the remedial/corrective intervention was provided in the form of training, documentation shall also be filed in accordance with the Office's policy governing training (remedial training).

#### **V. DIVISION COMMANDER / CHIEF ASSISTANT PROSECUTOR / OFFICE MANAGER**

- A. In addition to the reviews conducted by the PSU, any supervisor may review their respective employee's history during the employee performance evaluation process. Using this information and their experience, the supervisor may be able to identify employees who may need remedial/corrective intervention even before such is indicated by the EWS. Any issues noted shall be handled according to this EWS policy.
- B. After the EWS is activated and upon the conclusion of the EWS review and/or Internal Affairs investigation and discipline if any, unless notification to the employee would jeopardize an investigation, the employee's Division Commander, or Chief Assistant Prosecutor, or Office Manager, and immediate supervisor shall promptly meet with the employee to thoroughly discuss the situation. The purpose of the meeting is to:
  - 1. Identify problems or potential problems;

2. Determine short and long-term goals for improvement;
  3. Come to a consensus 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 after the conclusion of the EWS review and / or Internal Affairs investigation, and discipline, if any.
- D. Supervisor/Employee Meeting
1. All supervisor/employee meetings shall be thoroughly documented, which shall 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 monitoring is required following removal from the EWS. At the conclusion of the (6) month period, the immediate supervisor shall submit a progress report on a memorandum to the Prosecutor through the chain of command. Based on the report, the Prosecutor or his/her designee shall decide whether to continue or end the monitoring. The report shall be forwarded to PSU for filing and entry into the Infoshare Internal Affairs Module.
  4. All progress/status reports shall be retained in the Infoshare Internal Affairs Module.

## **VI. REMEDIAL/CORRECTIVE/ DISCIPLINARY ACTION**

- A. Supervisory or command personnel may initiate remedial/corrective or disciplinary action to correct adverse behavior. Subject to approval by the Prosecutor, or his/her designee, remedial/corrective or disciplinary action 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 (Volume 2, Chapter 4 – Personnel Benefits)
  7. Peer counseling;

8. Performance Notice;
  9. Reprimand Notice;
  10. Disciplinary action.
- B. Internal remedial/corrective or disciplinary action, and fitness for duty examinations are not mutually exclusive and shall be jointly pursued if, and when, appropriate.
  - C. When remedial/corrective or disciplinary action has been undertaken, the Prosecutor or his/her designee shall ensure that such actions are documented in the Infoshare Internal Affairs Module. The employee's performance shall be monitored by a supervisor for at least (6) months. Upon successful completion of the monitoring process, the supervisor shall complete the appropriate report for the file and submit it to the Prosecutor and the Chief of Investigations.
  - D. No entry should be made in the employee's personnel file, unless the action results in a sustained finding.
  - E. If the remedial/corrective action is a training program, attendance and successful completion of that training program shall also be documented in the employee's training record.

## **VII. ANNUAL REPORT TO THE ATTORNEY GENERAL**

- A. By January 31st of each year, a report shall be submitted to the Attorney General, through the Division of Criminal Justice's Prosecutor's Supervision and Training Bureau, summarizing the preceding year's EWS notifications for each law enforcement agency in the county.

## **VIII. NOTIFICATION TO SUBSEQUENT LAW ENFORCEMENT EMPLOYER**

- A. In the event of separation from employment with the Morris County Prosecutor's Office coupled with an application or appointment to another law enforcement employer, this Office shall notify the employer of the detective's EWS review process history and outcomes, if the detective was the subject to such review.
  1. Upon request, the Morris County Prosecutor's Office shall share the EWS files with that subsequent employer.

## **IX. RECORDS REVIEW /RETENTION**

- A. All EWS documentation shall be forwarded to the Prosecutor or his/her designee for review prior to dissemination.
- B. Once approved by the Prosecutor or his/her designee, all EWS documents shall be forwarded to the PSU for filing. These EWS documents have the same confidential status as Internal Affairs/Professional Standards Unit documents.
- C. EWS documents shall be subject to the same retention period as Internal Affairs files, in accordance with the New Jersey Attorney General Guidelines on Internal Affairs.

**X. PUBLIC TRANSPARENCY**

- A. This Policy & Procedure shall be available to the public upon request and shall be posted on the Morris County Prosecutor's Office website.
- B. Annual EWS reports from this Office to the Attorney General shall be available to the public upon request and shall be posted on the Morris County Prosecutor's Office website.

**XI. CONFIDENTIALITY**

- A. The identity of Morris County Prosecutor's Office personnel subject to a EWS review, regardless of the result, are confidential and shall NOT be subject to public disclosure.