

# BERKELEY POLICE DEPARTMENT

DATE ISSUED: March 17, 2008

GENERAL ORDER E-13

SUBJECT: EARLY WARNING SYSTEM

## PURPOSE

- 1 - The purpose of this Order is to establish policy and procedures for an informal performance review and intervention program, the "Early Warning System" (EWS). The program monitors employee performance that may be inconsistent with professional police conduct and cooperatively engages employees to resolve areas of concern. The goal of EWS is early identification of employee performance issues and correction of these issues through constructive counseling sessions rather than the formal disciplinary process.

## POLICY

- 2 - All employees shall participate in the EWS program and comply with the guidelines set forth in this Order.
- 3 - Participation in the EWS program shall not be deemed punitive, nor a formal disciplinary process.
  - (a) Notwithstanding the initiation of the EWS process, the Department retains its right and responsibilities with regard to investigation of policy violation and enforcement of employee discipline.

## PROCEDURES

- 4 - Employee behavior or performance that is subject to EWS review includes, but is not limited to:
  - (a) Poor attendance and/or abusive use of leave;
  - (b) Multiple formal sustained or not sustained complaints;
  - (c) Multiple informal complaint inquiries;
  - (d) Multiple use of force incidents;
  - (e) Multiple obstructing/resisting arrest incidents;
  - (f) Multiple vehicle collisions; and,
  - (g) Substandard conduct/performance concerns observed by a superior officer.
- 5 - Supervisors, commanders and managers shall monitor the activity of their subordinate employees to identify actual or perceived unprofessional behavior and/or substandard performance that is subject to EWS review, and if identified, communicate such information to the Chief of Police via the Chain of Command.

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- 6 - Personnel assigned to the Internal Affairs Bureau (IAB) shall monitor all formal and informal allegations of employee misconduct received by their office for behavior or performance that is subject to EWS review, and if identified, communicate such information to the Chief of Police.
- 7 - Personnel assigned to the Support Services Division Report Review Detail shall forward to the Chief of Police copies of all reports pertaining to:
  - (a) Obstruction/resisting arrests cases (i.e., Penal Code §§148, 69, etc.)
- 8 - Administrative reports regarding use of force shall be forwarded to the Chief of Police as directed in General Order U-2.

### Management of Program Records

- 9 - The Office of the Chief of Police shall be responsible for aggregation and administrative management of information, data and records associated with the EWS program.
  - (a) The administrative assistant assigned to the Office of the Chief of Police shall be responsible for preparing a quarterly report summarizing information and activities associated with the EWS program for use in administrative review.
- 10 - Information, data and records associated with the EWS program are used for personnel purposes. Accordingly, they are confidential personnel files and not public records.
- 11 - Documents, data and records shall be maintained by the Office of the Chief of Police for a period of two (2) years.
- 12 - Access to EWS records shall be restricted to the supervisor, commander and/or manager involved in the monitoring of a particular employee, subject to the approval of the Chief of Police.
  - (a) An individual employee may be granted access to EWS records that pertain to him/her.

### Administrative Review Board

- 13 - The Chief of Police will convene a quarterly Review Board comprised of all Division Commanders to review program records to determine if initiation of the EWS Program is recommended.
- 14 - Upon consideration of the Review Board's recommendation, the Chief of Police may direct an employee to participate in the EWS program.

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### Initiation of EWS Program

- 15 - Upon the direction of the Chief of Police, an informal counseling meeting will be held that may include:
  - (a) The subject employee;
  - (b) The employee's supervisor;
  - (c) An Internal Affairs Bureau sergeant;
  - (d) The employee's Lieutenant; and,
  - (e) The employee's Division Commander, who shall preside over the meeting.
- 16 - Unless impractical, the counseling meeting shall be held during the employee's regularly scheduled working hours.
  - (a) If the meeting cannot be scheduled during the employee's regularly scheduled working hours, personnel participating while off-duty shall be compensated with compensatory time (minimum time as may be authorized by the employee's MOU) or, with Division Commander approval, allowed to flex an equal amount of time within that same work week.
- 17 - The subject employee may have one fellow employee accompany him/her to the counseling meeting.
  - (a) The accompanying employee's presence is allowed to offer general support to the subject employee, not to be an active participant in the counseling meeting.
- 18 - As in general supervisor counseling meetings, the employee shall be informed of the behavioral and/or performance concern(s) at issue, and he/she shall be allowed an opportunity to offer a response.
- 19 - The subject employee may be given information regarding the City of Berkeley Employee Assistance Program.
- 20 - No formal document will be generated referencing this meeting, and the meeting shall not be deemed a punitive or disciplinary proceeding against the employee. There shall be no permanent record of the meeting.

References: General Orders P-26, P-28, R-3 and U-2