

EVESHAM POLICE DEPARTMENT MANUAL

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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. 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 of use-of-force 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.

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DEFINITIONS:

- A. EWP/SYSTEM DEFINED: Early Warning Program
- B. INDICATOR DEFINED: Factors tracked in EWP are given a numerical value to allow for compilation of scoring. This total point score will be the basis for comparison of employee within their peer group. Numerical values begin accumulating from the date of the first indicator entry; time is calculated on a rolling basis.
- C. ASSOCIATED FACTORS DEFINED: Once an employee has surpassed indicator thresholds, all items listed under associated factors will be reviewed in order to provide a comprehensive review of the employee in question.
- D. THRESHOLD DEFINED: Aggregate values(s) of indicators that would trigger EWP review.
- E. WARNING DEFINED: A proactive management tool intended to improve the efficiency of individual employees and the department as a whole.
- F. COUNSELING DEFINED: For the purposes of this order, personnel counseling is defined as a process in which a command or supervisory officer meets with an employee in a non-punitive setting to discuss the employee's performance. Counseling sessions employ techniques designed to reinforce good performance, improve poor performance, and when appropriate, correct behaviors that precipitate or contribute to EWP Indicator Entries. The counseling defined in this order is intended to be a positive tool to assist employees in reaching a higher level of effectiveness.
- G. TRAINING DEFINED: Training is a non-punitive tool used to make employees more efficient by providing instruction. Training can be in-house or outside training, specific to the needs of the employee and the department.
- H. PERFORMANCE IMPROVEMENT PLAN DEFINED: A written performance improvement plan, agreed upon by the employee, the reviewing supervisor and the employee's bureau commander, designed to reduce or eliminate identified behaviors that contribute to EWP Indicator entries. A 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 employee and bureau commander, shall be placed in the employee's PIP File. Once the time period of the plan has expired, the bureau commander shall write a special report to the Chief of Police describing the outcome of the plan and recommending further action, if warranted. Completed performance improvement plans shall be retained in the employee's PIP folder.
- I. POST WARNING MONITORING: Follow-up to determine the behavioral patterns. Also, to reassess additional intervention needs to further assist an employee's success.
- J. DISCIPLINE DEFINED: Punishment intended to correct inappropriate behavior. For purposes of the EWP, cases will be forwarded for discipline only when intervention has been ineffective or when the employee refuses to cooperate in the intervention process.
- K. TIER 1 TRACKING: Performance indicators identified by Attorney General Directive N0. 2018-3 that result in a mandatory 3-month review process.
- L. TIER 2 TRACKING: Performance indicators identified by the Chief of Police. The Chief of Police shall make the determination if an Early Warning is necessary.

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- M. FITNESS FOR DUTY EXAM: A medical examination of a current employee to determine whether the employee is physically or psychologically able to perform the job.
- N. INTENSIVE SUPERVISION: Supervision tailored to the identified needs of an individual employee as a result of a disciplinary issue or as a result of an early warning system trigger. This supervision is aimed at directing supervisory attention towards areas that the individual employees is in need of improving. The supervisor will conduct regular meetings with the employee to direct them towards improvement through training. The supervisor will strive to observe the employee during the performance of their duties in the field, as well as by reviewing available Body Worn Camera (BWC) and Mobile-Vision Camera video. The duration of this level of supervision will be prescribed by the Chief of Police.
- O. EMPLOYEE ASSISTANCE PROGRAM (EAP): An employee assistance program is an employee benefit program that assists employees with personal problems and/or work-related problems that may impact their job performance, health, mental and emotional well-being.

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 Administrative Investigation Management software program developed by On-Target Performance Systems Inc. to track the Early Warning Program and satisfy the reporting requirements listed in this directive.

II. Early Warning Program Tier 1 and Tier II Tracking

- A. **Tier 1 Tracking**: According to the Attorney General Guide Lines, the EWP shall identify and track the following indicators:
 1. Any internal affairs complaint.
 2. Civil action filed against the officer.
 3. Criminal investigations or criminal complaints against the officer.
 4. Use of force complaints formally determined to be excessive, unjustified or unreasonable.
 5. Domestic violence allegations against the officer.
 6. Any arrest of the officer including driving under the influence.
 7. Sexual harassment claims against the officer.
 8. At fault motor vehicle collisions.
 9. Positive drug tests by the officer.
 10. Cases or arrests by the officer that were rejected or dismissed by 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 Internal Affairs Bureau Commander following each court session for review. The Internal Affairs Bureau Commander will enter the cases listed into the EWP 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 Internal Affairs Bureau 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 Internal Affairs Bureau Commander. The Internal Affairs Bureau 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. Officers who are AWOL.
 15. Any other indicator determined by the agency chief executive. (See Tier 2)
- B. **Tier 2 Tracking:** The Evesham Township Police Department shall also track the following indicators:
1. Supervisory Referrals
 2. Search Frisk Reports
 3. Use of Force Incidents
 4. Non-Compliance with Attendance Policy
 5. Motor Vehicle Pursuits
 6. Firearm Discharges (Other Than Animal Destruction)
 7. Proactive Enforcement Deficiencies
 8. Work Related Injuries
 9. Citizen Complaints (Example: Informal Resolutions)
 10. Non At-Fault Motor Vehicle Collisions

III. Criteria

- A. **Tier 1 Tracking** 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 Internal Affairs Bureau Commander will generate a Monthly Early Warning Report which will contain the names of employees who meet the Tier 1 criteria.
 3. Officers who alert on the Tier 1 Track shall enter the early warning process according to Attorney General Directive NO. 2018-3. (See Section V For Review Process)
- B. **Tier 2 Tracking** shall be conducted in accordance with the below formula which will trigger the Early Warning Process. The Chief of Police shall make the determination if an Early Warning is necessary.

Type: Occurrences: Timeframe

- Supervisory Referrals: 2 Times: 120 Days
- Search / Frisk Reports: 5 Times: 120 Days
- Use-of-Force: 3 Times: 120 Days
- Non-Compliance with Attendance Policy: 1 Times: 3 Months

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- Motor Vehicle Pursuits: 2 Times: 120 Days
- Citizen Complaints: 2 Times: 120 Days
- Non At Fault On-Duty Motor Vehicle Accidents: 2 Times: 1 Year
- Firearm Discharges: 1 Times: 1 Year
- Citizen Complaints: 4 Times: 1 Year
- Supervisory Referrals: 5 Times: 1 Year
- Proactive Enforcement Deficiency: 2 Times: 3 Months
- Work Related Injuries: 2 Times: 1 Year

FOUR MONTH REPORTING CRITERIA

1. The Internal Affairs Bureau Commander will generate a Monthly Early Warning Report. The report will contain the names of the employees who meet ONE or more of the following criteria during the preceding four month period.
 - Received two or more supervisory referrals.
 - Involved in five or more search / frisk reports.
 - Involved in three or more use of force incidents.
 - Had an incident of Non-Compliance with the Attendance Policy.
 - Involved in two or more motor vehicle pursuits.
 - Received two or more citizen complaints.
 - Received two or more proactive enforcement deficiencies.

ANNUAL REPORTING CRITERIA

1. The Monthly Early Warning Report will also contain the names of the employees who meet ONE or more of the following criteria during the preceding twelve-month period.
 - Received four or more citizen complaints.
 - Received five or more supervisory referrals.
 - Discharged firearm one or more times (Other than for animal destruction)
 - Involved in two or more non at fault on-duty traffic accidents.
 - Was injured on duty two or more times.
 - Any combination of five listed criteria in one year.

Note: For Tier 1 and Tier 2, 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 a use of force and an internal affairs investigation. The incident maybe documented under two separate indicators, but shall count as one, not both.)

IV. Internal Affairs Bureau

- A. The Internal Affairs Bureau Commander will coordinate the Early Warning Program. The reports will be generated on a monthly and annual basis. The Internal Affairs Bureau Commander will have the responsibility to ensure that each affected bureau receives a copy of each EWP candidates' EWP file.
- B. The Internal Affairs Bureau 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.
- C. The Internal Affairs Bureau 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.

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1. The file shall include performance related issues (Early Warning Reports, Special Reports, Memorandums, etc.), Performance Improvement Plans (PIPS), Doctors Notes, Off Duty Incidents (MVA'S, Police Contact, etc.) and any other indicators / reports determined by the Chief of Police.
2. The EWP Files will be maintained by the Internal Affairs office and purged in accordance with NJDARM requirements.
3. The files will be secured in a separate and secure filing cabinet in the Internal Affairs 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.

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 Tier 1 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. (Notice of Tier One Activation Form)
 2. Conference with the subject officer and appropriate supervisory personnel.
 3. Develop and administer a remedial program including the appropriate remedial/corrective actions. (Training, Counseling, Intensive Supervision, Fitness For Duty Examination, 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. When a Tier 1 early Warning is initiated, the Internal Affairs Bureau 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 Internal Affairs Bureau 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-** Internal Affairs Bureau Commander's Review of Employee EWP File:
 1. Facts and documentation on each use-of-force incident, firearm discharge, citizen complaint, pursuit, on-duty accident, search/frisk report, and supervisory referral or other triggering event, 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 Internal Affairs Bureau 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 Internal Affairs Bureau 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 is required, the bureau commander performing the intervention shall be prepared 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 Internal Affairs Bureau 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.

VII. 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 reports will be maintained by the Internal Affairs Bureau Commander as outlined in section III (E.) of this written directive.
- 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 Internal Affairs Bureau 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 Internal Affairs Bureau 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 Internal Affairs Bureau 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. Records concerning the Early Warning Program are generally considered public record and will be released in accordance with current New Jersey laws. Confidential or exempt information within an EWP file will maintain its protected status.

XII. Evaluation

- A. The Early Warning Program will be evaluated/audited semi-annually by the Internal Affairs Bureau Commander, or their designee, for effectiveness and appropriate changes in the policy and the program will be made. The report will be forwarded to the Administrative Division Commander.
- B. The Administrative Division Commander will review the semi-annual evaluation/audit conducted every six months by the Internal Affairs Bureau Commander. As part of this review the Administrative Division Commander will conduct a representative audit of the EWP system to ensure that entries are being properly made into the EWP system. The Administrative Division Commander will forward a report of the findings to the Chief of Police.

VIII. Notification To Burlington County Prosecutor

- A. When a warning is initiated for 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.
- C. The BCPO does not have to be notified of Tier 2 Warnings.

VIII. Notification to Subsequent Law Enforcement Employer

- A. If any officer who is or has been subject to a Tier 1 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.

IX. Supervisor Training

- A. All newly promoted sergeants will receive Early Warning Training.
- B. All members holding rank as a supervisor will receive annual Early Warning Training.