

		<b>TOWNSHIP OF SOUTH ORANGE POLICE DEPT.</b>	
		<b>Policy &amp; Procedures</b>	
		<b>Internal Affairs Operating Procedures</b>	
		<b>Authority: Chief Kyle M. Kroll</b>	
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## I. PURPOSE

This agency is committed to providing law enforcement services that are fair, effective, and impartially applied. Toward that end, officers are held to the highest standards of official conduct and are expected to respect the rights of all citizens. Officers' adherence to these standards, motivated by a moral and professional obligation to perform their job to the best of their ability, is the ultimate objective of this agency.

The effectiveness of a law enforcement agency is dependent upon public approval and acceptance of law enforcement authority. The department must be responsive to the community by providing formal procedures for the processing of complaints from the public regarding individual officer performance.

The purpose of this policy is to improve the quality of law enforcement services. Citizen confidence in the integrity of the law enforcement agency increases through the establishment of meaningful and effective complaint procedures. This confidence engenders community support for the law enforcement agency. Improving the relationship between the officers and the citizens they serve facilitates cooperation vital to the department's ability to achieve its goals. An effective disciplinary framework also permits law enforcement officials to monitor officer's compliance with department policies and procedures. Adherence to established policies, procedures and directives assists officers in meeting department objectives while a monitoring system permits managers to identify problem areas requiring increased training or direction. Finally, this policy will ensure fairness and due process protection to citizens and officers alike.

The internal affairs process shall also be used to identify and correct unclear or inappropriate agency procedures. In addition, it will highlight organizational conditions that may contribute to any misconduct, such as poor recruitment and selection procedures or inadequate training and supervision of officers.

## **II. POLICY**

It is the policy of this agency to accept and investigate all complaints of alleged officer misconduct or wrongdoing from any citizen or agency employee. Following a thorough and impartial examination of the available factual information, the officer shall be either exonerated or held responsible for the alleged misconduct. Discipline shall be administered according to the degree of misconduct.

It is the policy of this department that officers and employees, regardless of rank shall be subject to disciplinary action for violating their oath and trust. Committing an offense punishable under the laws of the United States, the state of New Jersey, or municipal ordinances constitutes a violation of that oath and trust. Officers are also subject to disciplinary action for failure, either willfully or through negligence or incompetence, to perform the duties of their rank or assignment. In addition, officers may be disciplined for violation of any rule and regulation of the department or failure to obey any lawful instruction, order, command or directive issued by a superior officer or supervisor. Disciplinary action in all matters will be determined based upon the merits of each case.

It is the policy of this department that officers conducting the investigation of any allegation of misconduct must strive to conduct a thorough and objective investigation without violating the rights of the subject officer or any other law enforcement officer, and show proper respect to all members of the public. Accordingly, all supervisors and any other officer who may be called upon to do an internal investigation must be thoroughly familiar with the department's internal affairs policy.

It is the policy of this agency that prevention is the primary means of reducing and controlling misconduct. To that end, it is the policy of this agency to discover and correct organizational conditions which permit the misconduct to occur. Special emphasis is placed on recruitment, selection and training of officers and supervisors, community outreach, and the analysis of misconduct complaints and their outcome.

It is the policy of this agency that each officer shall be provided ready access to an official, agency-written manual which contains specific directions for conducting all aspects of law enforcement work. Categories of misconduct shall be clearly described and defined, and the disciplinary process shall be thoroughly explained in the manual.

## **III. PROCEDURES**

### **A. Internal Affairs Unit**

- 1.** The Internal Affairs Unit is herein defined. The unit shall consist of those members of the department as shall be assigned to the Internal Affairs Unit by the law enforcement executive. Personnel assigned to the Internal Affairs Unit shall serve at the pleasure of and be directly responsible to the law enforcement executive or the designated internal affairs supervisor.

- a. The goal of internal affairs is to insure that the integrity of the department is maintained through a system of internal discipline where fairness and justice are assured by objective, impartial investigation and review.

## 2. Duties and responsibilities

- a. The Internal Affairs Unit is responsible for the investigation and review of all allegations of misconduct by members of this department.
  - (1) Misconduct is defined as:
    - (a) Commission of a crime or an offense; or
    - (b) Violation of departmental rules and regulations; or
    - (c) Violation of New Jersey Civil Service statutes; or
    - (d) Conduct which adversely reflects upon the officer or the department
- b. In addition to investigations concerning allegations of misconduct, internal affairs shall be responsible for the coordination of investigations involving the discharge of firearms by department personnel and motor vehicle accidents involving department vehicles.
- c. Internal affairs shall be responsible for any other investigation as directed by the law enforcement executive.
- d. Internal affairs officers may conduct an internal affairs investigation on their own initiative upon notice to, or at the direction of the law enforcement executive or internal affairs supervisor.
- e. Internal affairs may refer investigations to the employee's supervisor for action as outlined under III E. of this policy. However, the Internal Affairs Unit shall always reserve the right to conduct an investigation into any allegation of misconduct regardless of its seriousness or lack thereof. This right shall be at the discretion of the Internal Affairs supervisor and or law enforcement executive and shall be guided by fairness, impartiality, timeliness, expertise in conducting investigations and due process to all parties involved.
- f. Internal affairs members or officers temporarily assigned to that function shall have the authority to interview any member of the department and to review any record or report of the department relative to their assignment. Requests from internal affairs personnel in furtherance of their duties and responsibilities shall be given full cooperation and compliance as though the requests came directly from the law enforcement executive. Members assigned to the Internal Affairs Unit come under the direct authority of the law enforcement executive, reporting directly to the law enforcement executive through the internal affair's chain of command. Complaints against the law enforcement executive shall be documented and referred to the county prosecutor for investigation.

- g. The Internal Affairs Unit shall maintain a comprehensive central file on all complaints received by this department whether investigated by internal affairs or assigned to the officer's supervisors for investigation and disposition.
- h. The Internal affairs Unit shall prepare quarterly reports that summarize the nature and disposition of all misconduct complaints received by the agency for submission to the law enforcement executive officer.
- i. Copies of the internal affairs report shall be distributed to all command personnel with the rank of captain or above, the appropriate authority, and the county prosecutor's office.
- j. An annual report summarizing the types of complaints should be made available to members of the public. The report shall contain a brief synopsis of all complaints where a fine or suspension of ten days or more was assessed to a member of the agency. The names of complainants and subject officers shall not be published in this report.
- k. Honesty is an essential job function for every police officer. Police officers who are not committed to the truth, who cannot convey facts and observations in an accurate and impartial manner and whose credibility can be impeached in a court of law, cannot advance the interests of the State in criminal matters. Therefore the following matters when determined to have occurred shall be reported to the law enforcement executive and the law enforcement executive or internal affairs supervisor as directed by the law enforcement executive shall report same to the county prosecutor. The following matters are:
  - 1. A finding that a police officer has filed a false report or submitted a false certification in any criminal, administrative, employment, financial or insurance matter.
  - 2. A pending court complaint or conviction for any criminal, disorderly persons, petty disorderly persons, municipal ordinance or driving while intoxicated or under the influence.
  - 3. A finding that undermines or contradicts a police officer's educational achievements or qualifications as an expert witness.
  - 4. A finding by a judicial authority or administrative tribunal that is known to the officer's employing agency which concludes that a police officer intentionally did not tell the truth in a matter.

5. A sustained finding that a police officer intentionally mishandled or destroyed evidence.
6. A sustained finding that a police officer is biased against a particular gender or group.

#### B. Accepting Reports Alleging Officer Misconduct

1. All department personnel are directed to accept reports of officer misconduct from all persons who wish to file a complaint regardless of the hour or day of the week. Citizens are to be encouraged to submit their complaints in person as soon after the incident as possible. If the complainant cannot file the report in person, a department representative shall visit the individual at his or her home, place of business or at another location in order to complete the report if feasible.
2. Complainants shall be referred to the Internal Affairs Unit if an officer is immediately available.
3. If an internal affairs officer is not immediately available all supervisory personnel are directed to accept the report of officer misconduct.
4. If an internal affairs officer and a supervisor are not available any law enforcement officer shall accept the complaint.
5. The officer receiving the complaint will:
  - a. Provide the person making the complaint with the internal affairs brochure/Complaint Information sheet which explains the department's internal affairs procedures.
  - b. Advise the complainant that he or she will be kept informed of the status of the complaint and its ultimate disposition.
  - c. Complete the Internal Affairs Report Form according to the instructions provided.
  - d. Have the complainant sign the completed form. If the complainant will not sign the form the officer receiving the complaint will so note that fact however, the failure of a citizen to sign a complaint will in no way preclude the investigation of the allegations. Nonetheless, citizens may be advised of the consequences of filing a false report.
6. All department personnel are directed to accept reports of officer misconduct from anonymous sources. If the anonymous complaint is talking to an officer the officer

should encourage him or her to submit the complaint in person. In any case, the complaint will be accepted.

- a. In the case of an anonymous complaint, the officer accepting the complaint shall complete as much of the Internal Affairs Report Form as he can with the information provided. In cases where the identity of the officer is unknown, the internal affairs investigator should use all available means to determine proper identification.
- b. If a person comes to our agency to make a complaint about a member of another law enforcement agency he or she should be referred to that agency. If the complainant expresses fear or concerns about making the complaint directly, he or she should be referred to the county prosecutor.
- c. Supervisors are authorized to informally resolve minor complaints whenever possible at the time the report is made. If the complainant is not satisfied with such a resolution the complaint must be forwarded to internal affairs for further action as warranted.
- d. When the complainant or citizen is satisfied with the informal resolution, the process must still be recorded/documented on an internal affairs report form and forwarded to the Internal Affairs Unit for future reference and tracking.
- e. The internal affairs supervisor will periodically audit those report forms indicating that a citizen's complaint was informally resolved to ensure that the agency's supervisors are properly implementing their authority to resolve citizen complaints which may have been based on a misunderstanding of accepted law enforcement practices or the duties of the officer.

7. Complaints shall be handled as follows:

- a. All complaints will be forwarded to the Internal Affairs Unit for screening and entry into the record keeping system.
- b. Complaints of demeanor and minor rule infractions shall then be forwarded to the supervisor of the subject officer
- c. All other complaints shall be retained by the Internal Affairs Unit, including complaints of:

1. Criminal activity
2. Excessive force
3. Improper arrest
4. Improper entry
5. Improper search
6. Differential treatment
7. Serious rule infraction
8. Complaints of domestic violence
9. Repeat minor rule infractions

8. The subject officer shall be notified in writing of the complaint as soon as possible, unless the nature of the investigation requires secrecy.

#### C. Suspension Pending Disposition or Investigation

1. A supervisor, commander or law enforcement executive may immediately suspend an officer from duty if he or she determines that one of the following conditions exists:
  - a. The employee is unfit for duty; or
  - b. The employee is a hazard to any person if permitted to remain on the job; or
  - c. An immediate suspension is necessary to maintain safety, health, order or effective direction of public services; or
  - d. The employee has been formally charged with a first, second or third degree crime; or
  - e. The employee has been formally charged with a first, second, third or fourth degree crime or a disorderly person's offense while on-duty, or the act is related to his or her employment.
2. The supervisor imposing the immediate suspension must:
  - a. Advise the employee in writing of why an immediate suspension is sought and the charges and general evidence in support of the charges. In the event that the law enforcement executive is not the individual imposing the immediate suspension then the law enforcement executive must be notified of such without delay.
    1. If the employee refuses to accept the written notification of immediate suspension, it shall be given to the representative of the employee's collective bargaining unit.

- b. Provide the employee with sufficient opportunity to review the charges and the evidence and to respond either orally or in writing.
  - c. Advise his immediate supervisor in writing of the suspension and some of the basic facts and or circumstances requiring the suspension.
3. Within five working days of the suspension, the department must complete and file formal charges against the suspended employee or return the employee to work.

#### D. Investigation and Adjudication of Minor Complaints

1. Complaints of demeanor and minor rule infractions shall be forwarded to the subject officer's commanding officer. The commanding officer shall investigate the allegation of misconduct.
2. The investigating officer shall take all necessary steps to investigate the complaint. These steps may include interviewing the complainant, all witnesses and the subject officer as well as reviewing relevant reports, activity sheets, tapes, or dispatch forms. The investigating officer shall then prepare a report summarizing the matter indicating the appropriate disposition. Possible dispositions include the following:
  - a. Exonerated: The alleged incident did occur but the actions of the officer were justified, legal and proper.
  - b. Sustained: The investigation disclosed sufficient evidence to prove the allegation and the actions of the officer violated provisions of the rules and regulations or agency procedures, orders or directives.
  - c. Not Sustained: The investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation.
  - d. Unfounded: The alleged incident did not occur.
3. If the investigating officer determines the disposition of the complaint is unfounded, not sustained or exonerated the investigation report is to be forwarded to internal affairs for review and entry into the index file and filed appropriately.
4. Upon final disposition of the complaint a letter shall be sent to the complainant by internal affairs explaining the outcome of the investigation.
5. Initiation of disciplinary action for minor complaints



- a. The supervisor giving the oral reprimand or written reprimand shall complete the appropriate disciplinary document.
- b. The officer or employee shall be advised of the discipline and given a copy of the disciplinary document after review and approval of the law enforcement executive.
- c. The supervisor will forward copies of the disciplinary document after review by the law enforcement executive to the Internal Affairs Unit for filing.
- d. A copy of the disciplinary document will be placed in the officer's or employee's personnel file.
- e. For oral reprimands
  1. Six months after the date of the reprimand or notice the disciplinary report shall be removed from the personnel file and destroyed provided no other breach of discipline has occurred.
  2. The subject officer shall be notified in writing and or verbally that the oral reprimand has been purged.
- f. For written reprimands
  1. The written reprimand will remain permanently in the officer's or employee's personnel file.

#### E. Investigation and Adjudication of Serious Complaints

1. All serious complaints shall be investigated by the Internal Affairs Unit including complaints of:
  - a. Criminal activity
  - b. Excessive force
  - c. Improper arrest
  - d. Improper entry
  - e. Improper search
  - f. Differential treatment
  - g. Serious rule infractions
  - h. Complaints of domestic violence
  - i. Repeated minor rule infractions

2. Where preliminary investigative data indicates the possibility of a criminal act on the part of the subject officer, or the investigation involves the use of force by the officer which results in serious bodily injury or death, the county prosecutor shall be notified immediately. No further action shall be taken, including the filing of charges against the officer until directed by the county prosecutor.
3. The investigating officer shall take all necessary steps to investigate the complaint. These steps may include interviewing the complainant, all witnesses and subject officer, as well as reviewing relevant reports, activity sheets, tapes or dispatch forms.
4. Interviewing the subject officer
  - a. The internal affairs investigator shall schedule an interview with the officer.
  - b. One person of the officer's choosing may attend the interview.
    1. In investigations of criminal allegations, it is appropriate for a union representative to be present or a legal representative of the subject officer's choosing. Regardless, the officer shall be given the opportunity to consult with a union representative prior to the taking of an interview.
  - c. Before questioning begins, the subject officer shall be informed of:
    1. The nature of the complaint,
    2. The name of the person in charge of the interview if unknown, and the names of all persons who will be present during the interview.
  - d. If the matter under investigation involves an administrative allegation, the officer will be advised of his or her duties and obligations to answer using the Administrative Advisement Form.
  - e. If the matter under investigation involves a possible criminal violation, the internal affairs investigator shall consult with the county prosecutor regarding

advisability of issuing Miranda warnings to the subject officer.

- f. Interview sessions may be audio or video recorded but nonetheless must be recorded mechanically or by a department stenographer. Mechanical means may consist of a typed question and answer interview, a voice recorded question and answer interview, a voice and video question and answer interview or any combination of the above. There shall be no off the record questions. All recesses called during the questions shall be recorded and or documented.

A subject officer must inform the internal affairs investigator in advance of the interview if he or she wishes to have the interview voice recorded. A voice recording of any interview of a department employee cannot be created without the knowledge of the internal affairs investigator.

- g. If at any time during the questioning session the officer becomes a suspect in a criminal act, the officer shall be so informed and the questioning shall end and the prompt notification shall be made to the county prosecutor.

- 5. Upon completion of all possible avenues of inquiry, the internal affairs investigator shall complete the following reports:
  - a. Investigation report: This is the objective report of all of the investigative activity, including all of the information obtained during the course of the investigation.
  - b. Summary report: This report, in memorandum format, will summarize the matter and may be encompassed as part of the investigative report, and will provide recommended dispositions for each allegation. Possible dispositions, as defined in III D. 2 of this policy, include the following: Exonerated, Sustained, Not Sustained or Unfounded.

6. Forward the completed reports through the internal affairs supervisor to the law enforcement executive.
7. The law enforcement executive, following a review of the completed report, supporting documentation and information gathered during any supplemental investigation, shall direct whatever action is deemed appropriate.
8. Upon completion of its investigation with a finding of exonerated, not sustained, or unfounded, internal affairs shall notify the subject officer in writing of the disposition.
9. If the complaint is sustained and it is determined that formal charges should be preferred, the law enforcement executive shall direct internal affairs to prepare, sign and serve charges upon the subject officer or employee.
  - a. The division commander, supervisor or internal affairs, as directed shall prepare the formal notice of charges and hearing on the charging Form.
10. The notice of charges and hearing shall direct that the officer charged must enter a plea of guilty, in writing on or before the date set forth in the notice for entry of plea. Such date for entry of plea shall be set within a reasonable time, at least five days after the date of service of the charges.
11. If the officer charged enters a plea of guilty, the law enforcement executive officer shall permit the officer to present factors in mitigation prior to assessing a penalty.
12. Conclusions of fact and the penalty imposed will be noted in the officer's personnel file after he has been given an opportunity to read and sign it. Internal affairs will cause the penalty to be carried out and complete all required forms.

#### F. Hearing

1. Upon written notice of a request for a hearing from the subject officer the law enforcement executive will set the date for the hearing within a reasonable time and arrange for the hearing of the charges.
2. Internal affairs shall be responsible for and or assist the assigned supervisor or prosecutor in the preparation of the department's prosecution of the charges. This includes proper

notification of all witnesses and preparing all documentary and physical evidence for presentation at the hearing. Physical evidence obtained during an investigation for a subject officer shall follow evidence rule 503(a) which states that no person has the privilege to refuse to submit to examination for the purpose of discovering or recording his corporal features and other identifying characteristics or his physical or mental condition. Evidence that may be obtained or procedures that may be used to obtain evidence under this rule include:

1. Breath sample
2. Blood sample
3. Buccal swab
4. Requiring suspect to speak
5. Voice recordings
6. Participation in a live or photographic line-up
7. Handwriting samples
8. Hair and saliva samples
9. Urine samples
10. Video taping
11. Field sobriety tests

Subject officers may be ordered by the internal affairs investigator or the appropriate supervisor to perform or participate in a physical test. Officers that refuse to perform or participate in a lawfully ordered physical test can be disciplined for their refusal to do so.

3. In the event of a hearing, internal affairs will be responsible for preparing a discovery package from the internal affairs file, and providing it to the subject officer or his or her representative.
4. The hearing shall be held before the appropriate authority or the appropriate authority's designee.
5. All disciplinary hearings shall be closed to the public unless the defendant officer requests an open hearing.
6. The hearing officer shall recommend a finding of guilty or not guilty, or recommend that the charges be modified. The decision of the hearing officer should be in writing and accompanied by findings of fact for each issue in the case.
7. The hearing officer shall recommend any of the following punishments which it deems appropriate under the circumstances.

- a. Counseling;
  - b. Oral reprimand or performance notice;
  - c. Written reprimand;
  - d. Monetary fine;
  - e. Suspension without pay;
  - f. Loss of promotional opportunity;
  - g. Demotion;
  - h. Discharge from employment
8. A copy of the hearing officer's recommended decision or order and accompanying findings and conclusions shall be delivered to the officer or employee who was the subject of the hearing and to the law enforcement executive if he was not the hearing officer.
  9. The law enforcement executive shall accept, reject or modify the hearing officer's recommendations including the findings, conclusions and proposed penalty. The executive's decision will constitute the final disciplinary action.
  10. Upon completion of the hearing, internal affairs will complete all required forms including the entry of the disposition into the index file.
  11. If the charges were sustained, internal affairs will cause the penalty to be carried out. The report shall be permanently placed in the officer's or employee's personnel file.

#### G. Confidentiality

1. The process of internal affairs investigations and all supporting materials are considered confidential information.
2. Upon completing a case, internal affairs will enter the disposition in the index file.
3. The contents of internal investigation case files will be retained in the Internal Affairs Unit. The files shall be clearly marked as confidential.
4. Only the law enforcement executive or his designee is empowered to release publicly the details of an internal investigation or disciplinary action.

## H. Risk Management

### 1. Background

An Early Warning System ("EW System") is an important management tool designed to detect patterns and trends in police conduct before that conduct escalates. An effective EW System can assist a law enforcement agency in identifying and remediating problematic officer conduct that poses a potential risk to the public, to the agency, and to the officer. EW Systems, therefore, serve to not only increase public safety and public confidence in law enforcement, but also to assist officers through early intervention. Indeed, many law enforcement agencies throughout the State have recognized the utility of such systems and some County Prosecutors already require agencies within their jurisdictions to use them. New Jersey Attorney General's Directive 2018-3 mandates that all law enforcement agencies in New Jersey adopt and implement EW Systems consistent with the requirements set forth below.

### 2. Implementation

#### A. Applicability

This policy shall apply to all sworn officers who are responsible for enforcing the criminal laws in New Jersey, come under the jurisdiction of the Police Training Act, and are authorized to carry a firearm under N.J.S.A. 2C:39-6.

#### B. Establishment of EW System Policy

All state, county, and municipal law enforcement agencies shall adopt and/or revise their existing EW System policies, consistent with Directive 2018-3, either by rule, regulation, or standard operating procedure ("SOP"), as required by state law.

#### C. Selection of Performance Indicators

An EW System may monitor many different categories of officer conduct which indicate potentially escalating risk of harm to the public, the agency, and/or the officer. The following performance indicators shall be included in all EW Systems, but also can be supplemented based upon the unique characteristics of the department and the community it serves. The chief executive of the department shall determine any such supplemental performance indicators. To the extent possible, supplemental performance indicators should be objectively measurable and reasonably related to potentially escalating harmful behavior by 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; ~
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 an officer is suppressed by a court;
12. Insubordination by the officer;
13. Neglect of duty by the officer;
14. Unexcused absences by the officer; and
15. Any other indicators, as determined by the agency's chief executive.

If the review and or examination reveals that an officer has violated department rules and regulations, standard operating procedures, or violated Civil Service Title 4A statutes, the supervisor in consultation with the internal affairs unit should proceed with an internal investigation and possible disciplinary action.

If EW System 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 EW System review process

#### D. Initiation of Early Warning Process

At a minimum, an agency's EW System policy shall provide that three separate instances of performance indicators (as listed in Section C, above) within any twelve-month period will trigger the EW System 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. The agency's chief executive may in his or her discretion determine that a lower number of performance indicators within a twelve-month period (i.e., one or two performance indicators) will trigger the EW System review process.

#### E. Administration and Tracking

A member of the Internal Affairs Unit shall administer the EW System. Supervisory officers in the subject officer's chain of command also should be directly involved in any EW System review process. This department shall adopt a tracking system to enable the department to identify officers who display the



requisite number of performance indicators necessary to trigger the EW System review process. The Internal Affairs Unit may utilize a computer based product to assist with their processing, investigating, tracking, and/or examination of internal complaints and or issues relating to the department's members and or employees. At least every six months, personnel assigned to manage the EW System shall audit the agency's tracking system and records to assess the accuracy and efficacy of the tracking system.

#### F. Remedial/Corrective Action

Once an officer has displayed the requisite number of performance indicators necessary to trigger the EW System review process (as set forth in Section II.C, above) assigned supervisory personnel shall initiate remedial action to address the officer's behavior. When an EW System review process is initiated, personnel assigned to oversee the EW System should (1) formally notify the subject officer, in writing; (2) conference with the subject officer and appropriate supervisory personnel; (3) develop and administer a remedial program including the appropriate remedial/corrective actions listed below; (4) continue to monitor 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. Any statement made by the subject officer in connection with the EW System review process may not be used against the subject officer in any disciplinary or other proceeding.

Remedial/corrective action may include but is not limited to the following:

1. Training or re-training;
2. Counseling;
3. Intensive supervision;
4. Fitness-for-duty examination;
5. Employee Assistance Program (EAP) referral; and
6. Any other appropriate remedial or corrective action

#### G. Notification to Subsequent Law Enforcement Employer

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

#### H. Notification to County Prosecutor

Upon initiation of the EW System review process, the agency's chief executive or a designee shall make a confidential written notification to the 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 EW System review process, the agency's chief executive shall make a confidential written notification to the County Prosecutor or his/her designee of the outcome of the EW System review, including any remedial measures taken on behalf of the subject officer.

#### I. Annual Report to Attorney General

By January 31st of each year, each County Prosecutor shall submit a report to the Attorney General, through the Division of Criminal Justice's Prosecutors' Supervision and Training Bureau. This summary shall include a statement indicating those agencies under the County Prosecutor's supervision that are in compliance with this Directive and those that are not.

#### J. Public Accessibility and Confidentiality

All EW System policies adopted by law enforcement agencies shall be made available to the public upon request and shall be posted on the agency's website. Annual reports from the County Prosecutors to the Attorney General (as required by Section II.I, above) also shall be made available to the public upon request and shall be posted on the agency's website.

This Policy and EW Systems generally, are focused on corrective actions to remediate officer behavior and to provide assistance to the officer. This Policy, and EW Systems generally, do 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 within the purview of the agency's internal affairs function, and may be imposed in accordance with existing internal affairs guidelines and applicable law, separate from and independent of the EW System.