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## Early Warning System

### 1019.1 PURPOSE AND SCOPE

The purpose of this order is to establish policy and procedure 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, intervention, and/or training rather than the formal disciplinary process

### 1019.2 POLICY

It is the policy of the BART Police Department to maintain an Early Warning System to provide early intervention to possible problematic behaviors so that changes can be made prior to discipline being the only corrective option. The EWS is one method by which employees may be identified as possibly needing assistance with performance and/or stress related problems. The EWS is intended as an approach to highlight tendencies that may otherwise be overlooked.

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

### 1019.3 PROCEDURE

EWS is a non-disciplinary tool that does not relieve supervisors and managers of their responsibility to directly monitor the performance of their subordinates and take appropriate action in response to performance or behavioral issues.

Employee behavior or performance that is subject to EWS review includes, but is not limited to:

- (a) Administrative Internal Affairs investigations
- (b) Formal citizen complaints
- (c) Informal citizen complaints
- (d) Use of force incidents
- (e) Obstructing/resisting arrest incidents
- (f) Preventable Vehicle collisions
- (g) Negligent discharge (firearm/TASER)
- (h) Substandard conduct/performance concerns observed by a supervisor or manager
- (i) Attendance discussion or corrective action as defined in Policy 1014
- (j) Late activation or non-activation of body worn cameras when activation is required by Policy 451.5

# Bay Area Rapid Transit Police Department

## BART PD Policy Manual

### Early Warning System

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- (k) Negligent discharge of TASER (not to include training scenarios)

Personnel assigned to the Internal Affairs Unit shall maintain records of the above incidents. When a designated threshold level is met for a single category or for the sum of all categories, Internal Affairs will notify the involved employee that a threshold level has been met and will be reviewed for potential initiation of the EWS program. The review will be conducted within the employee's chain of command and/or the Internal Affairs Unit. Incidents of obstructing/resisting arrest on the part of suspects will also be analyzed during the review to determine if there is anything associated with the employee's performance and/or conduct that may be eliciting resistance from suspects.

Threshold levels are established as follows:

Category	Threshold Level
Administrative Investigation	2 in 12 months
Formal Citizen Complaint	3 in 12 months
Informal Citizen Complaint	3 in 12 months
Use of Force	12 in 12 months
Preventable Vehicle Collisions	2 in 24 months
Negligent Discharge of a Firearm	1 in 12 months
Attendance Discussion or Corrective Action	2 in 12 months
Late Activation or Non-activation of AXON Flex	2 in 6 months
Negligent Discharge of a TASER (not to include training scenarios)	1 in 12 months
Overall	15 in 12 months

Supervisors 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. They shall communicate such information to the Chief of Police via the Chain of Command. The EWS may be initiated based on cause, even when none of the listed threshold levels have been met.

The Office of the Chief of Police shall be responsible for aggregation and administrative management of information and records associated with the EWS program. The Administrative Analyst assigned to the Office of the Chief of Police shall be responsible for preparing quarterly reports summarizing information and activities associated with the EWS program. The reports will contain documentation as to whether or not EWS was implemented for the employee, and the associated reasoning.

Information and records associated with the EWS program are used for personnel purposes. Accordingly, they are confidential personnel files and not public records. Documents, data, and records shall be maintained by the Office of the Chief for a period of two (2) years.

Access to EWS records shall be restricted to the Office of the Chief. An individual employee shall be granted access to EWS records that pertain to that employee. The employee will give the Office of the Chief a reasonable amount of notice before having access to the file.

# Bay Area Rapid Transit Police Department

## BART PD Policy Manual

### *Early Warning System*

---

#### 1019.3.1 DOCUMENTATION RETENTION

All quarterly reviews and meetings shall be maintained in the strictest confidence and shall not be discussed with other employees without an authorized need to know. Purging of material in personnel files shall be governed by applicable law and the collective bargaining agreement.

#### 1019.4 ADMINISTRATIVE REVIEW BOARD

The Chief of Police shall convene a quarterly Review Board comprised of the Divisions Deputy Chiefs and the Internal Affairs Lieutenant, to review program records to determine if initiation of the EWS Program is recommended. Upon consideration of the Review Board's recommendation, the Chief of Police may direct an employee to participate in the EWS program. The Board may also convene as needed to review situations of relative urgency.

#### 1019.5 INITIATION OF THE EWS PROGRAM

Upon direction of the Chief of Police, an **informal** counseling meeting shall be held that may include:

- (a) The subject employee
- (b) The Chief of Police and/or **his** their designee.
- (c) The employee's Bureau Deputy Chief and/or **his/ her** their designee.
- (d) The employee's direct supervisor.

The subject employee may have one fellow employee accompany him/her to the counseling meeting. 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.

Unless impractical, the counseling meeting shall be held during the employee's regularly scheduled working hours.

The meeting shall not be deemed a punitive or disciplinary proceeding against the employee. In the meeting, 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. If applicable, the employee may be required to attend necessary training. The employee may also be given information regarding the BART District Employee Assistance Program.

If the subject employee requests training, the Chief of Police may grant the request if the training is relevant and appropriate.

The content of the meeting, and/or resulting training for the employee, may be documented for placement into the ~~employee's personnel file and/or Employee Development Record (EDR)~~ Early Warning System File. Training issues may also be documented in an employee evaluation.~~All quarterly reviews and meetings shall be maintained in the strictest confidence and shall not be discussed with other employees without an authorized need to know. Purging of material in personnel files shall be governed by applicable law and the collective bargaining agreement.~~

# Bay Area Rapid Transit Police Department

BART PD Policy Manual

## *Early Warning System*

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If EWS is initiated multiple times for the same employee, additional training, referral, and/or other responsive action may be directed as appropriate.