

# Performance History Audits

## 1028.1 PURPOSE AND SCOPE

### State

This policy provides guidance for the use of performance history audits. Use of the term "performance history audits" in this policy includes the statewide Early Warning System required by Attorney General Directive 2018-3. Performance history audits can help identify commendable performance as well as provide early recognition of training needs and other potential issues. This policy addresses the responsibilities, performance indicators, and components of the audit, and handling of collected data (AG Directive 2018-3 (March 20, 2018)).

## 1028.2 POLICY

### Best Practice

The William Paterson University Police Department collects data to assist supervisors with evaluating the performance of their employees. While it is understood that the statistical compilation of data may be helpful to supervisors, the Department recognizes that it cannot account for, and must carefully balance such data with, the many variables in law enforcement, such as:

- Ability to detect crime.
- Work ethic.
- Assignment and shift.
- Physical abilities (ability to perform the job-related physical tasks).
- Randomness of events.

## 1028.3 RESPONSIBILITIES

### Best Practice

Under the authority of the Administrative Services Captain, the Trained IA Investigator is responsible for collecting performance indicators and other relevant data. The data will be compiled to generate quarterly performance history audit reports that will be provided to the appropriate Captain. The Trained IA Investigator will utilize confidential methods to compile and track information regarding performance indicators for each officer during each quarter in order to prepare the report. Though generated quarterly, each report should contain data from a one-year time period.

The Administrative Services Captain should forward a copy of each performance history audit report to the Attorney General for review and retention as attorney work product and confidential personnel information.

### 1028.3.1 SYSTEM AUDIT

#### State

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At least every six months, the Trained IA Investigator shall conduct an audit of the Department's data tracking system and records to assess the accuracy and efficacy of the tracking system (AG Directive 2018-3).

### **1028.4 COMPONENTS OF PERFORMANCE HISTORY AUDITS**

#### **Best Practice**

Performance history audits should include the following components:

- Performance indicators
- Data analysis
- Employee review
- Follow-up monitoring

#### **1028.4.1 PERFORMANCE INDICATORS**

##### **Best Practice**

Performance indicators represent the categories of employee performance activity that the Director of University Police has determined may be relevant data for the generation and analysis of performance history audits. These indicators may include but are not limited to the frequency and/or number of (AG Directive 2018-3):

- (a) Use-of-force incidents.
- (b) Involvement and conduct during vehicle pursuits.
- (c) Internal affairs complaints and personnel complaints including the findings, whether initiated by another officer or by a member of the public.
- (d) Commendations, compliments, and awards from the Department and the public.
- (e) Claims and civil suits related to the officer's actions or alleged actions, including sexual harassment claims against the officer.
- (f) Canine bite incidents.
- (g) Personnel investigations.
- (h) Cases or arrests by the officer that are rejected by the County Prosecutor or the court, and the reasons.
- (i) Cases in which evidence obtained by an officer is suppressed by a court.
- (j) Intentional or unintentional firearm discharges (regardless of injury).
- (k) Vehicle collisions.
- (l) Missed court appearances.
- (m) Documented counseling.
- (n) Criminal investigations or criminal complaints against the officer.
- (o) Domestic violence investigation in which the officer is the subject.
- (p) Arrests of the officer, including on a driving under the influence charge.

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- (q) Positive drug tests.
- (r) Insubordination or neglect by an officer.
- (s) Neglect by an officer.

### 1028.4.2 DATA ANALYSIS

#### State

The Administrative Services Captain will review each performance history audit report and determine whether the Early Warning System review process should be initiated.

Three separate instances of negative performance indicators within any 12-month period shall automatically trigger the Early Warning System review process for the involved officer. When assessing the number of negative performance indicators triggered, one incident triggering multiple negative performance indicators shall only be counted as one performance indicator (AG Directive 2018-3).

At the discretion of the Administrative Services Captain, a lower number of negative performance indicators within a 12-month period may also trigger the Early Warning System review process.

If the data analysis indicates the need to initiate the Early Warning System review process, a copy of the performance history audit report should be provided to the officer's immediate supervisor for further consideration.

### 1028.5 CONFIDENTIALITY OF DATA

#### Best Practice

Information, data, and copies of material compiled to develop performance history audit reports shall be considered confidential as part of the employee's personnel file and will not be subject to discovery or release except as provided by law. Access to performance history audit reports will be governed under the same process as access to an officer's personnel file, as outlined in the Personnel Records Policy.

Access to the underlying data will be governed by the process for access to the original records (such as police reports).

#### 1028.5.1 REQUIRED NOTICES

##### State

The Administrative Services Captain shall ensure that (AG Directive 2018-3):

- (a) Notice of the initiation of an Early Warning review process and of the outcome of the Early Warning System review process is provided to the county prosecutor.
  - 1. Notice shall be confidential and include the information required in AG Directive 2018-3.
- (b) Notice that an officer has been subject to an Early Warning System review process is provided to law enforcement agencies at which an officer has applied or been hired.

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### **1028.6 RETENTION**

#### **Best Practice**

Performance history audit reports and associated records shall be retained in accordance with the established records retention schedule.

### **1028.7 EMPLOYEE REVIEW**

#### **Best Practice**

Upon receipt of a performance history audit report that does not result in initiation of the Early Warning System review process, the officer's immediate supervisor will meet with the officer and carefully review the report to assess any potential trends or other issues that may warrant informal counseling, additional training, or a recommendation for other action, including discipline. The officer shall date and sign the report and should be provided with a copy of the report upon request.

When the Early Warning System review process is initiated, the Administrative Services Captain or the authorized designee should formally notify the officer in writing that the Early Warning System review process has been initiated.

#### **1028.7.1 CORRECTIVE ACTIONS**

##### **Best Practice**

The supervisor, in collaboration with personnel assigned to oversee the Early Warning System, should develop and administer a remedial program including appropriate corrective action. If a supervisor determines that an officer's performance warrants action beyond informal counseling, the supervisor shall advise the Captain of such recommendation. If the Captain concurs with the recommendation of the supervisor, he/she shall take steps to initiate the appropriate action. Corrective actions may include but are not limited to the following:

- (a) Training or retraining
- (b) Counseling
- (c) Intensive supervision
- (d) Fitness-for-duty examination
- (e) Employee Assistance Program referral

If discipline or other adverse action is initiated against an officer as a result of a performance history audit, the officer shall be entitled to all rights and processes set forth in the Personnel Complaints Policy.

#### **1028.7.2 FOLLOW-UP MONITORING**

##### **State**

The supervisor and personnel assigned to administer the Early Warning System should continue to monitor the officer for at least three months or until the supervisor concludes that the officer's behavior has been remediated, whichever is longer (AG Directive 2018-3). Depending upon the results of each performance history audit, a determination should be made by the Administrative Services Captain, after discussion with the officer's immediate supervisor, about the need for any

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additional follow-up beyond three months. Performance indicators and data analysis will generally provide the basis upon which such decisions should be made.

### 1028.7.3 FINDINGS

**State**

The findings of the Early Warning System review process and follow-up monitoring should be documented and reported to the Administrative Services Captain and, if appropriate, the Trained IA Investigator (AG Directive 2018-3).

### 1028.8 POSTING OF POLICY

**State**

This policy, along with any additional policies relating to the Early Warning System, shall be made available to the public upon request and posted on the department website (AG Directive 2018-3).