


<b>DEAL POLICE DEPARTMENT</b>				
<i>Standard Operation Procedure</i> <b>065</b>	# OF PAGES: 13			
<b>SUBJECT: DRUG SCREENING GUIDELINES</b>				
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<b>BY THE ORDER OF:</b> Chief of Police Ronen Neuman		February 8, 2018	4, 8-9	
		September 5, 2018	4, 9-10	
<b>SUPERSEDES ORDER #:</b>		January 12, 2020	8	

**PURPOSE** The purpose of this standard operating procedure is to establish policy and procedures consistent with the guidelines established by the Attorney General of the State of New Jersey and the Monmouth County Prosecutor regarding drug testing.

**POLICY** It is the policy of the Deal Police Department that the critical mission of law enforcement justifies the maintenance of a drug free work environment through the establishment and use of a reasonable drug-testing program.

The police profession has several uniquely compelling interests that justify the use of drug testing. The public has a right to expect that those who protect them are at all times both physically and mentally prepared to perform these duties. There is sufficient evidence to conclude that the use of controlled substances, and other forms of drug abuse, will seriously impair an employee’s physical and mental health, and thus, their job performance.

Where police officers or police employees participate in improper drug use and drug activity, the integrity of the police profession and public confidence in it are destroyed. This confidence is further eroded by the potential for corruption created by drug use.

Therefore, in order to ensure the integrity of the department and to preserve public trust and confidence in a fit and drug free police profession, this department has instituted a drug testing program to deter prohibited drug use by all sworn and non-sworn personnel.

Although this directive normally applies to applicants, recruits and in-service sworn personnel, sufficient inferences can be drawn to apply certain provisions of this directive to non-sworn police personnel in the area of reasonable suspicion drug testing or fitness for duty drug testing.

## PROCEDURES

### I. DEFINITIONS

- A. *Applicant* – is any person who applies for the position of police officer in the Deal Police Department.
- B. *Drug Test* – is the compulsory production and submission of urine by an employee in accordance with these established procedures for laboratory analysis to detect prohibited drug use.
- C. *Employee* – includes any civilian employee assigned to or under the supervision of the police department.
- D. *Officer* – is a sworn police officer, regardless of rank or assignment, who is responsible for the enforcement of the criminal laws of this state. Officer also includes special law enforcement officers (SLEO).
- E. *Positive Result* – is the result given to a specimen that is tested and confirmed to be positive for a controlled substance following laboratory analysis and a review by a medical review officer at the laboratory after comparison with the medication information report and it is determined that any substance listed on the report does not explain the test result.
- F. *Random Selection* – is defined as the method by which every police officer regardless of rank or assignment has an equal chance of being selected for drug testing each and every time a drug test is conducted.
- G. *Reasonable Suspicion* – is that quantity of proof or evidence that is more than a hunch, but less than probable cause. Reasonable suspicion must be based on specific, articulable, objective facts and any rationally derived inferences from those facts about the conduct of an individual that would lead a reasonable person to suspect that the individual is or has been using drugs while either on or off-duty.
- H. *Recruit/Trainee* – is any applicant who is undergoing mandatory basic training in a police academy.
- I. *Special Law Enforcement Officer Class II (SLEO II)* – officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent regularly appointed full-time police officer in accordance with department directives and guidelines established by the New Jersey Attorney General.
- J. *Supervisor* – is a sworn officer formally assigned to a position having day-to-day responsibility for supervising subordinates or who is responsible for commanding a work unit.

### II. TESTING – GENERAL

- A. Applicants
  - 1. Applicants for the position of police officer shall be required to submit a urine specimen at any time prior to appointment. A statement of this requirement shall be included in the application for employment.

2. A negative result is a condition of employment.
3. A positive result or a refusal to submit a specimen for testing, will result in the applicant being dropped from consideration for employment, cause the applicant's name to be reported to the central drug registry maintained by the State Police, and preclude the applicant from being considered for future law enforcement employment for a period of two years.
4. If the applicant is currently employed by another agency as a sworn law enforcement officer and the officer tests positive for unlawful drug use, the officer's employing agency shall be notified of the test results without undue delay.
5. Any Deal Police Officer or SLEO II who is an applicant in another jurisdiction and yields a positive drug test result after undergoing drug testing by that jurisdiction in comportment with the guidelines established by the Attorney General of the State of New Jersey shall be:
  - a. Immediately suspended from all duties;
  - b. Terminated from employment as a police officer upon final disciplinary action;
  - c. Reported to the central drug registry maintained by the State Police; and
  - d. Permanently barred from future law enforcement employment in the State of New Jersey.
6. Except for applicants who are already existing law enforcement officers, urine samples can be processed by the New Jersey State Toxicology Laboratory or another accredited laboratory selected by the Chief of Police. Applicants who are existing law enforcement officers elsewhere must have their urine samples tested by the New Jersey State Toxicology Laboratory only.

B. Recruit/Trainee

1. Recruits/trainees shall be required to submit one or more urine specimens for testing at any time while they attend a mandatory basic training course. All drug testing conducted during mandatory basic training will comply with the rules and regulations established by the Police Training Commission.
2. All newly appointed officers shall be informed that drug testing is mandatory during their basic training.
3. A negative result(s) is a condition of continued employment.
4. A positive test result will result in the following:
  - a. The recruit shall be immediately dismissed from the police academy and immediately suspended from this department;
  - b. The recruit shall be terminated from employment as a police officer upon final disciplinary action;

- c. The recruit's name shall be reported to the central drug registry maintained by the State Police; and
  - d. The recruit shall be permanently barred from future law enforcement employment in the State of New Jersey.
5. Refusal to submit to a drug test shall result in the same penalties set forth in subsection II.A.5 above.
  6. Individual trainees may also be required to submit a urine specimen for testing when reasonable suspicion exists to believe that the trainee is illegally using drugs. A recruit/trainee shall be ordered to submit to a drug test based on reasonable suspicion only with the approval of the County Prosecutor, the Chief of Police, or the academy director.

C. Officers/Random Selection

1. Urine specimens shall be ordered from officers who have been randomly selected to submit to a drug test.
2. A minimum of ten (10) percent of the workforce personnel, regardless of rank or assignment (including active SLEO II personnel), shall be randomly selected each time.
3. The frequency and dates of the selection shall be at the sole discretion of the Chief of Police, which shall be at a minimum of two (2) tests per calendar year.
4. A negative test result is a condition of continued employment.
5. A positive test result will result in the following:
  - a. The officer shall be immediately suspended from all duties;
  - b. The officer shall be terminated from employment as a police officer upon final disciplinary action;
  - c. The officer's name shall be reported to the central drug registry maintained by the State Police; and
  - d. The officer shall be permanently barred from future law enforcement employment in the State of New Jersey.
6. Officer(s) who refuse to submit to random drug testing are subject to the same penalties set forth above in subsection II.C.4.
7. Officer(s) randomly selected who are on sick leave, vacation leave, leave of absence, special day off, or away on official business shall be immediately tested upon their return without exception.
8. Any employee of the police department who discloses the identity of an officer selected for random drug testing, the fact that a random drug test is scheduled, or that they had supplied a sample for random drug testing shall be subject to disciplinary action.

D. Officers/Reasonable Suspicion

1. In addition to random testing, urine specimens shall be ordered from any officer when reasonable suspicion exists to believe that the officer is improperly using drugs. For this purpose, urine specimens shall not be ordered from the officer without the approval of the Monmouth County Prosecutor or the Chief of Police.
2. A negative test result is a condition of continued employment.
3. A positive test result will result in the following:
  - a. The officer shall be immediately suspended from all duties;
  - b. The officer shall be terminated from employment as an officer upon final disciplinary action;
  - c. The officer's name shall be reported to the central drug registry maintained by the State Police; and
  - d. The officer shall be permanently barred from future law enforcement employment in the State of New Jersey.
4. If an officer refuses to submit to a drug test based on reasonable suspicion after being lawfully ordered to do so, the officer shall be charged with gross insubordination and also is subject to the same penalties as for those who test positive for the illegal use of drugs, see above subsection II.D.3.
5. Regardless of the reason for testing, any officer who tests positive for improper drug use or refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported to the central drug registry maintained by the State Police and shall be permanently barred from future law enforcement employment in New Jersey.
6. Any employee who has reason to believe that a member of this agency is utilizing illegal drugs must report that suspicion or face disciplinary action.
7. Any employee having reasonable suspicion of illegal drug use by another employee must report it by way of a confidential report to the Chief of Police or the Internal Affairs Unit. The report shall detail the facts that form the basis of reasonable suspicion of illegal drug use.

E. Fitness for Duty Examinations (physical and/or psychological examinations)

1. Urine samples may be requested by a physician/psychologist designated by the Borough of Deal during any scheduled and announced medical examination or a fitness for duty examination (physical and/or psychological examination). The subsequent collection and analysis of any specimen obtained through a medical examination or fitness for duty examination (physical and/or psychological examinations) will be under the control of the Borough of Deal designated physician/psychologist.
2. All personnel shall be required to submit to urine testing when told to by the

Borough of Deal physician or Borough of Deal designated physician/psychologist.

3. Failure to submit to this physician/psychologist ordered urine testing shall be considered a form of gross insubordination and subject to termination upon final disciplinary action.

F. Civilian Personnel – Reasonable Suspicion/Fitness for Duty Examinations (physical and/or psychological examinations)

1. Civilian personnel are often called upon to perform a myriad of duties that had traditionally been performed by sworn police officers. These duties require civilians to act and otherwise make decisions that are a matter of public safety and include, but are not limited to the following positions:

- a. Communications personnel.

2. Urine specimens shall be ordered from any civilian employee when reasonable suspicion exists to believe that the employee is improperly using drugs. For this purpose, urine specimens shall not be ordered from the employee without the approval of the Chief of Police, Internal Affairs Unit, or their designees.

3. Reasonable suspicion drug testing and fitness for duty drug testing will normally be performed by a physician/psychologist or facility designated by the Chief of Police.

4. If an employee refuses to submit to a drug test based on reasonable suspicion after being lawfully ordered to do so, the employee is subject to termination upon final disciplinary action for gross insubordination.

G. Any employee who has reason to believe that a member of this agency is utilizing illegal drugs must report that suspicion or face disciplinary action. These suspicions must be reported by way of a confidential report to the Chief of Police or the Internal Affairs Unit. The report shall detail the facts that form the basis of reasonable suspicion of illegal drug use.

### III. PRELIMINARY PROCEDURES

A. Police Applicants

1. Prior to the submission of a specimen, an applicant shall execute a form consenting to the collection and analysis of their urine for drugs. This form shall include wording advising them that a negative result is a condition of employment and a statement of the consequences of a positive test or refusal to submit a specimen.
2. Applicants shall not complete the *Medication Information Report* prior to the submission of a specimen unless they have already received a conditional offer of employment.
3. Applicants shall subject to the acquisition procedures set forth in section IV.

B. Recruit/Trainee

1. All drug testing conducted during mandatory basic training shall comply with the rules and regulations established by the Police Training Commission and conducted under the auspices of the police academy director or designee.

C. Random Testing of Officers

1. The Deal Police Department will conduct random drug testing upon all officers regardless of rank or assignment. The Internal Affairs Unit or his/her designee is responsible for the selection, notification, collection, monitoring, chain of custody, storage and transport of urine specimens to the State Toxicology Laboratory and any subsequent recordkeeping which is necessary to ensure that the testing process is conducted in a prompt, efficient and confidential manner.
2. Officers will be selected for drug testing through the use of *RandomWare* or a similar random selection program.
3. The tests may include testing for steroids.
4. A representative of the police union shall be notified of every random selection process and shall witness the random selection. The union representative(s) shall not be informed of the officers' names. Each representative shall indicate they had witnessed the random selection process on the *Random Selection for Drug Testing form*.
5. The Chief of Police or his/her designee shall witness the random selection. The Chief of Police or his/her designee shall indicate they had witnessed the random selection process the *Random Selection for Drug Testing form*.

D. Civilian Employees

1. Mandatory drug testing may be performed on all civilian police employees after being provided with a conditional offer of employment, but prior to hiring. All testing will be performed under the auspices of the Internal Affairs Unit at a location selected by the Chief of Police.
2. Reasonable suspicion drug testing and drug testing performed during a fitness for duty examination are also under the auspices of the Internal Affairs Unit at a location selected by the Chief of Police.
3. A negative result is a condition of employment.
4. If the drug test reveals the use of any unlawful substance, the employee will have the conditional offer of employment withdrawn or be subject to termination upon final disciplinary action, whatever is applicable.
5. The presence of a lawful substance is subject to review by the Chief of Police to determine if the substance is or has adversely affected the employee's job performance. Any employment action will be decided on a case-by-case basis in comportment with ADA guidelines.

**IV. ACQUISITION PROCEDURES**

- A. This section applies to sworn applicant testing, random officer testing, and reasonable suspicion testing for sworn officers only.
- B. A member of the Internal Affairs Unit shall act as the monitor of the specimen acquisition process. If the Internal Affairs Unit officer is not of the same sex as the individual being tested, a person of the same sex will be selected by the Internal Affairs Unit officer to act as the monitor.
- C. It is the duty of the monitor(s) to ensure that all required documentation is fully and accurately completed and submitted in accordance with this directive.
- D. The subject(s) selected shall fully complete a **Medication Information Report** form provided by the monitor. No subject shall make any false or misleading statements on the report. All prescription drugs listed on the form are subject to verification. **(This will be the only opportunity for the subject to disclose the medication they had taken. Subjects who yield positive test results will not be given another chance to list any medication they have taken).**
  - 1. A copy of the Medication Information Report form will be made and sealed in an envelope marked: "*Medication Information Report form copy*".
  - 2. The copy will be signed over the seal by both the officer being tested and the monitor.
  - 3. The sealed envelope will be maintained by the Internal Affairs Unit.
  - 4. The copy shall not be opened unless an officer tests positive.
  - 5. Upon notification of a negative test, the sealed envelope shall be returned to the tested officer.
- E. The monitor shall collect the specimen in a manner that provides for individual privacy while ensuring the integrity of the sample provided. The place that the collection takes place will be designated by the Chief of Police and may vary from test to test. The monitor shall complete the **Urinalysis Acknowledgement** form for each person tested. Specimens shall be collected utilizing equipment and supplies approved by the State Toxicology Laboratory.
- F. Subjects will provide the required specimen without direct observation of the monitor unless there is reason to believe that the individual will adulterate the specimen or otherwise compromise the integrity of the process. Under these circumstances, the monitor may directly observe the production of a specimen. The monitor must fully document the facts and circumstances underlying their belief that the subject may adulterate a specimen or compromise the integrity of the process.
- G. Subjects must provide the specimen upon being ordered to do so. Subjects that are initially unable to do so may be permitted to drink water in an attempt to induce the production of a specimen. Subjects shall not be permitted to consult with anyone prior to submitting the specimen. Any attempt to delay the submission of a specimen, based upon his/her desire to consult with anyone, will be treated as a refusal. If the subject remains unable to provide a specimen after a reasonable amount of time, the monitor may direct the individual to be examined by a physician to determine whether the inability to produce a



specimen is as a result of a medical or physical infirmity or a refusal to cooperate with the testing process.

- H. The chain of custody procedures established for the collection of urine specimens and their subsequent submission to the New Jersey State Toxicology Laboratory within the Division of Criminal Justice shall be adhered to as set forth in the *Attorney General's Law Enforcement Drug Testing Policy*.
- I. The Deal Police Department will make every effort to deliver collected samples to the New Jersey State Toxicology Laboratory within twenty-four (24) hours of collection.
  - 1. If samples cannot be delivered within twenty-four (24) hours, they shall be delivered as soon as possible.
  - 2. While awaiting delivery, the samples shall be stored in the evidence refrigerator in the evidence vault.
    - a. The access to this refrigerated storage shall be restricted to the Chief of Police or his/her designee and the Internal Affairs Unit or other designee.
      - i. If the Chief of Police has provided a urine sample, he/she shall have his/her access to the secured refrigerated storage revoked until the samples are tested and/or disposed.
      - ii. If the Internal Affairs Unit member has provided a urine sample, he/she shall have his/her access to the secured refrigerated storage revoked until the samples are tested and/or disposed.
      - iii. If any designees mentioned above have provided a urine sample, they shall have their access to the secured refrigerated storage revoked until the samples are tested and/or disposed.
  - 3. The Internal Affairs Unit shall be responsible for transporting the samples to the laboratory.
    - a. Under no circumstances shall a tested officer be assigned to transport samples.
- J. Subjects shall provide the monitor with a second urine specimen at the same time the first specimen is collected.
  - 1. A donor whose specimen tested positive may only challenge the positive test result by having the second specimen independently tested. The first specimen will not be retested.
  - 2. The second specimen will be maintained at the State Toxicology Laboratory for sixty (60) days following the receipt of a positive drug test result from the laboratory by the submitting agency.

3. The second specimen will be released by the laboratory under the following circumstances:
    - a. The agency is notified by the State Toxicology Laboratory that the first specimen tested positive for a controlled substance;
    - b. The agency notifies the donor that the first specimen tested positive for a controlled substance; and
    - c. The agency is informed by the donor whose specimen tested positive that he/she wishes to challenge the positive test result.
  4. The positive urine donor must designate, from a list maintained by the State Toxicology Laboratory, a laboratory that is certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) and accredited by the College of American Pathologists (CAP) to conduct workplace urine drug testing, and pay all costs associated with the reception and testing of the sample.
    - a. The State Toxicology Laboratory maintains an up-to-date list of SAMSHA and CAP certified laboratories and will furnish that list upon request.
  5. A representative of the second test laboratory may, in person, take possession of the second sample in accordance with accepted chain of custody procedures or the sample may be sent to the laboratory by pre-paid tracking mail also following accepted chain of custody procedures.
  6. Following testing of the second specimen, the independent laboratory will report the result of the second specimen drug test to the donor, to the submitting agency, and to the medical review officer.
- K. ***ANY OFFICER OR EMPLOYEE OF THE POLICE DEPARTMENT WHO KNOWINGLY TAMPERS WITH ANY SPECIMEN, OR OTHERWISE COMPROMISES THE TESTING PROCESS SHALL BE SUBJECT TO CRIMINAL AND/OR DISCIPLINARY ACTION.***
- L. The New Jersey State Toxicology Laboratory shall minimally analyze each specimen for the following substances and their metabolites:
1. Amphetamine/methamphetamine;
  2. Barbiturates;
  3. Benzodiazepine;
  4. Cannaboids;
  5. Cocaine;
  6. Methadone;
  7. Phencyclidine;
  8. Opiates;

- 9. Other drug or substance deemed necessary by the Chief of Police, County Prosecutor, or Attorney General.
- M. The Chief of Police may request that one or more specimens be analyzed for the presence of steroids and their metabolites.
- N. In the event of a positive test result, the applicant, trainee, or sworn officer shall be notified as soon as practicable. Upon written request, the individual may receive a copy of the laboratory report.
- O. Under no circumstances may this agency or an individual resubmit a specimen for testing or ask that a particular specimen within the possession of the New Jersey State Toxicology Laboratory be retested.

**V. ACCIDENTAL/INADVERTENT EXPOSURE**

- A. Any officer or employee who believes that they may have been exposed to any substance that could render a positive test result must notify this department immediately after the exposure. If the exposure occurs on-duty the officer or employee must immediately notify their supervisor. A report detailing the facts and circumstances of the exposure shall be forwarded to the Chief of Police or the Internal Affairs Commander through the chain of command. If the exposure occurs off-duty, notification must be made as soon as practicable.
- B. The Chief of Police may order the Internal Affairs Unit to investigate the circumstances of the accidental/inadvertent exposure.

**VI. POSITIVE TEST RESULT PRECIPITATED BY LAWFUL AND REPORTED PRESCRIPTION MEDICATION**

- A. Any test that reveals the presence of a drug or substance listed on the subject's *Medication Information Report* will be reported to this department. This result will be reported with the explanation that the substance was listed on the Medication Information Report. The Chief of Police will have the option of causing a further investigation into the propriety of the listed substance and its use. The Chief of Police may require documentation from the employee's physician that the medication was lawfully prescribed and does not render the employee unfit for duty.

**VII. NOTIFICATIONS**

- A. The Chief of Police shall notify the Monmouth County Prosecutor and the First Assistant Prosecutor if any police officer tests positive or refuses to be tested pursuant to this directive.
- B. Applicants, trainees, and sworn officers who test positive for the unlawful use of drugs, or who refuses an order to submit a urine sample when ordered to shall be reported to the Central Drug Registry maintained by the New Jersey State Police on a form approved for use by the Attorney General. Notifications to the Central Drug Registry shall include the following information as to each individual:
  - 1. Name and address of the submitting agency, and the contact person;

2. Name of the individual who tested positive;
  3. His/her last known address;
  4. His/her date of birth;
  5. His/her social security number;
  6. His/her SBI number (if known);
  7. His/her gender;
  8. His/her race;
  9. His/her eye color;
  10. The substance for which he/she tested positive, or circumstances of the refusal to submit a urine sample;
  11. Date of the drug test or refusal;
  12. Date of final dismissal or separation from this agency; and
  13. Whether the subject was an applicant, trainee or sworn officer.
- C. The certification section of the notification form must be completed by the Chief of Police and notarized with a raised seal.
- D. Information contained in the Central Registry may be released by the Division of State Police only under the following circumstances:
1. In response to an inquiry from a criminal justice agency as part of the background investigation process for prospective or new personnel.
  2. In response to a court order.

## **VIII. RECORDKEEPING**

- A. The Internal Affairs Unit shall maintain all records relating to the drug testing of applicants, trainees, and law enforcement officers.
- B. These records shall include, but are not limited to:
1. The identity of those ordered to submit urine samples;
  2. The reason for the order;
  3. The date the sample was collected;
  4. The name of the monitor;
  5. The chain of custody of the sample from the time it was collected until the time it was received by the State Toxicology Laboratory;
  6. The results of the drug testing;

7. Copies of notifications to the subject of the drug testing;
  8. For any positive result, documentation from the employee's physician that the medication was lawfully prescribed and does not render the employee unfit for duty;
  9. For any positive result or refusal, appropriate documentation of the disciplinary action.
- C. For random selection drug testing, the records will also include:
1. A description of the process used to randomly select officers for drug testing;
  2. The date the selection was made;
  3. A copy of the document listing the identities of those selected for drug testing;
  4. A list of those who were actually tested; and
  5. The date(s) those officers were tested.
- D. Sworn applicant drug testing, random selection drug testing, and reasonable suspicion for sworn officer drug testing records shall be maintained with the level of confidentiality required for internal affairs files pursuant to the *New Jersey Internal Affairs Policy and Procedures* manual.
- E. Drug testing records for civilian employees will be kept and maintained by the Deal Police Department Internal Affairs Unit.