

Franklin Township Police Department

SUBJECT: Drug Testing Policy	GO 2001-04
TO: All Police Personnel	
DATE ISSUED: November 16, 2001	
EFFECTIVE DATE: September 6, 2019	
REVISION DATE: September 6, 2019	
REFERENCES: New Jersey Attorney General Drug Testing Policy & Franklin PD Rules and Regulations	

PURPOSE

The purpose of this general order is to provide all Franklin Township Police Department officers with notice of the provisions of the Attorney General's Law Enforcement Drug Testing Policy as amended April 2018 (the A.G. Policy) and the Attorney General Law Enforcement Directive 2018-2 Statewide Mandatory Random Drug Testing (the Directive). The critical mission of law enforcement justifies maintenance of an illegal drug free work environment through the use of a reasonable employee drug-testing program.

The law enforcement profession has several uniquely compelling interests that justify the use of officer drug-testing. The public has a right to expect that those who are tasked with the responsibility to protect them and provide critical mission support for all Franklin Township Police Department officers are at all times both physically and mentally prepared to assume these duties. There is sufficient evidence to conclude that the use of illegal controlled substances and other forms of illegal drug abuse will seriously impair an officer's physical and mental health, and thus, their job performance.

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

Types of Drug Testing

A. Applicants for a position as a law enforcement officer.

1. Applicants may be required to submit a urine specimen at any time prior to appointment.

B. Law Enforcement Trainees.

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1. Trainees will be required to submit one or more urine specimens for testing while they attend a mandatory basic training course. All drug testing conducted during mandatory basic training will comply with rules and regulations established by the Police Training Commission.

2. Individual trainees may also be required to submit a urine specimen for testing when there exists reasonable suspicion to believe that the trainee is illegally using drugs. A trainee shall be ordered to submit to a drug test based on reasonable suspicion only with the approval of the County Prosecutor and the Academy Director.

Sworn Law Enforcement Officers

1. Urine specimens shall be ordered from sworn law enforcement officers when there exists reasonable suspicion to believe that the officer is illegally using drugs. Urine specimens shall not be ordered from an officer without the approval of the County Prosecutor and the Chief of Police.

2. Urine specimens may be collected from law enforcement officers who have been randomly selected to submit to a drug test. Random selection shall be defined as a method of selection in which each and every sworn member of the law enforcement agency, regardless of rank or assignment, has an equal chance to be selected for drug testing each and every time a selection is conducted.

3. Urine specimens may be collected from law enforcement officers during a regularly scheduled and announced medical examination or a fitness for duty examination. However, the collection and analysis of these specimens are not governed by this policy.

Notification of Drug Testing Procedures

A. Applicants

1. Agencies that choose to test applicants for law enforcement positions must notify those applicants that the pre-employment process will include drug testing. The notification will also indicate that a negative result is a condition of employment and that a positive result will: (a) result in the applicant being dropped from consideration for employment; (b) cause the applicant's name to be reported to the Central Drug Registry maintained by the Division of State Police; and (c) preclude the applicant from being considered for future law enforcement for a period of two years from the date of the drug test. In addition, the notification will indicate that if the applicant is currently employed by another agency as a sworn law enforcement officer and the officer tests positive for illegal drug use, the officer's employing agency will be notified of the test results and the officer will be terminated from employment and permanently barred from future law enforcement employment in New Jersey.

B. Trainees

1. All newly appointed law enforcement officers shall be informed that drug testing is mandatory during basic training. Newly appointed officers shall also be informed that a negative result is a condition of employment and that a positive result will result in: (a) the

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officer's termination from employment; and (b) inclusion of the officer's name in the Central Drug Registry maintained by the Division of State Police; and (c) the officer being permanently barred from future law enforcement employment in New Jersey.

2. Newly appointed officers shall be further informed that the refusal to submit to a drug test shall result in their dismissal from employment and a permanent ban from future law enforcement employment in New Jersey.

C. Sworn Law Enforcement Officers: Reasonable Suspicion Testing

1. All sworn law enforcement officers will be ordered to submit to a drug test when there is a reasonable suspicion to believe that the officer is illegally using drugs. All aspects of reasonable suspicion testing for sworn law enforcement officers shall be included in the Department's Rules and Regulations as defined in N.J.S.A. 40A:14-118, along with appropriate standard operating procedures.

2. Before an officer may be ordered to submit to a drug test based on reasonable suspicion, the Department shall prepare a written report which documents the basis for the reasonable suspicion. The report shall be reviewed by the Chief of Police and County Prosecutor before a reasonable suspicion test may be ordered. Under emergent circumstances, approval may be given for a reasonable suspicion test on the basis of a verbal report.

3. A negative result is a condition of employment as a sworn officer and a positive result will result in: (a) the officer's termination from employment; (b) inclusion of the officer's name in the Central Drug Registry maintained by the Division of State Police; and (c) the officer being permanently barred from future law enforcement employment in New Jersey.

4. Officers who refuse to submit to a drug test based on reasonable suspicion after being lawfully ordered to do so are subject to the same penalties as those officers who test positive for the illegal drugs. A sworn law enforcement who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test

ADDITIONAL POLICY REQUIREMENTS

In addition to adhering to the above policy, all Franklin Township Police Department officers shall adhere to the following enhanced procedures.

1. **Random Selection Process** – The date and time of a random test shall not be made known to the officers in the agency until immediately prior to the test. There shall be no advanced notification that would allow an officer to be absent from or create the ability to defraud the administration of the test. See the A.G. Policy, Section II.C.1.

Number of Personnel to be tested: Ten percent (10%) of the Department's strength of sworn officers shall be tested on an annual basis. The 10% shall be based on the Department's staffing of sworn officers on the first day of January each year. For example, if 100 sworn officers are employed on January 1, 2002, then ten sworn officers shall be tested throughout the year.

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Confidentiality of Those to be Tested: Any member of the Department who discloses the identity of an officer selected for random testing or the fact that a random selection is scheduled to take place prior to the collection of urine specimens shall be subject to discipline.

2. **Individual Selected for Random Drug Testing Not Available** - In the event that an individual is randomly selected for drug testing and they are not available, (i.e., vacation, sick or other short term-absence), they will provide a specimen to be tested to the monitor on their next working day. If the individual who has been randomly selected is on extended leave, (i.e., sick or medical leave, suspension, terminal leave, etc.), an alternate individual will be randomly selected to replace said officer. See the A.G. Policy, Section II.C.1.

Refusal to Participate in Random Drug Testing: Officers who refuse to submit to a random drug test when randomly selected are subject to the same penalties as those officers who test positive for illegal drug use. A sworn law enforcement who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

3. **Monitoring the Process** – The process (random selection of names) shall be monitored and witnessed by up to two (2) representatives from the agency's bargaining units, the chief executive officer of the agency or his/her designee in their absence and a superior officer from that agency. The chief executive officer may also include another member of that agency of his/her choosing. After the random selections have been made, and prior to the names of the officers selected revealed, all observers to the process will leave the room with the exception of two (2) individuals, those being the chief executive officer and one (1) person of his/her choosing. These individuals are required to notify the officers selected for testing and to adhere to the provisions of the A.G. Policy, the Directive and this Policy concerning confidentiality of the officers selected to be tested. Failure to do so will subject the person breaking that confidentiality to discipline. See the A.G. Policy, Section II.C.1.

4. Specimen Collection

1. Throughout the test process, the identity of the individual applicants, trainees and sworn law enforcement officers shall remain confidential. Individual specimens shall be identified throughout the process by the use of social security numbers. At no time shall an individual's name appear on any form or specimen container sent to the State Toxicology Laboratory. The urine specimen shall be collected from the selected officers in a prompt, efficient and confidential manner.

2. Specimens will be collected utilizing equipment and supplies approved by the State Toxicology Laboratory. Under no circumstances may a specimen be collected and submitted for analysis in a specimen container that has not been approved by the State Toxicology Laboratory.

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3. Urine specimens will be acquired and processed in accordance with procedures established by the State Toxicology Laboratory.
 - a. After the monitor has inspected the appropriate forms for accuracy, the applicant, trainee or sworn officer shall void into the specimen collection container.
 - b. After a specimen has been produced, the individual shall seal the specimen container and deliver it to the monitor.
 - c. Once the monitor is satisfied that the required documentation is accurate and he or she has inspected the specimen container to determine that a specimen has been produced, the monitor shall take possession of the specimen and ensure that it is delivered to the State Toxicology Laboratory for analysis.
4. Individuals will void without the 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 test process. Under these circumstances, the production of a specimen may be directly observed by the monitor. Law enforcement agencies must document the facts underlying their belief that an individual may adulterate a specimen or compromise the integrity of the test process.
5. Individuals that initially are unable to produce a urine specimen may remain under the supervision of the test monitor until the monitor is satisfied that the individual cannot produce a specimen. While the individual is under supervision, the monitor may allow the individual to drink fluids in an attempt to induce the production of a specimen. If the individual remains unable to provide a specimen after a reasonable period of time, the monitor
5. Trainees and sworn law enforcement officers shall have the option to provide the monitor with a second urine specimen at the time the first specimen is collected.
 - a. The second specimen shall be collected in the same fashion as the first specimen. The monitor shall take possession of the second specimen and place it in a secure refrigerated storage area.
 - b. The law enforcement agency shall maintain possession of the second specimen for a period of sixty (60) days or until the agency receives notification from the State Toxicology Laboratory that the first specimen tested negative for the presence of controlled substances.
 - c. The second specimen shall be released by the law enforcement agency under the following circumstances:
 - i. The law enforcement agency is notified by the State Toxicology Laboratory that the first specimen tested positive for a controlled substance; and
 - ii. The law enforcement agency is informed by the individual whose specimen tested positive that the individual wishes to have the specimen independently tested; and

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iii. The officer must designate a laboratory that is licensed as a clinical laboratory by the New Jersey Department of Health under the New Jersey Clinical Laboratory Improvement Act to conduct the independent test; and

iv. A representative of the licensed clinical laboratory designated by the individual takes possession of the second specimen in accordance with accepted chain of custody procedures within sixty (60) days of the date the specimen was produced.

6. Submission of Specimens for Analysis

A. The New Jersey State Toxicology Laboratory within the Division of Criminal Justice will constitute the sole facility for the analysis of law enforcement drug tests. No other facility or laboratory shall be used for purposes of analyzing urine specimens as outlined in this directive.

B. Urine specimens should be submitted to the State Toxicology Laboratory within one (1) working day of their collection. In the event that a specimen cannot be submitted to the laboratory within one working day of its collection, the law enforcement agency shall store the specimen in a controlled access refrigerated storage area until submission to the State Toxicology Laboratory.

C. Submissions to the State Toxicology Laboratory shall be accomplished by Departmental personnel designated by the Chief of Police.

7. Drug Test Results

A. The State Toxicology Laboratory shall notify the Department of any positive test results from the specimens submitted for analysis. All reports of positive test results shall be in writing and submitted to the Chief of Police. The State Toxicology Laboratory will, upon request, provide the Department with written documentation that one or more specimens submitted for analysis tested negative.

B. The State Toxicology Laboratory shall not report a specimen as having tested positive for a controlled substance until the specimen has undergone a confirmatory test and the medical review officer has reviewed the results of the test with the medical questionnaire pertinent to that specimen.

C. The Department shall notify the applicant, trainee or sworn officer of the results of a positive test result as soon as practical after receipt of the report from the State Toxicology Laboratory. Upon request, the individual may receive a copy of the laboratory report.

D. Under no circumstances may the Department or an individual resubmit a specimen for testing or ask that a particular specimen within the possession of the State Toxicology Laboratory be re-tested.

Consequences of a Positive Test Result

A. When an applicant tests positive for illegal drug use:

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1. The applicant shall be immediately removed from consideration for employment by the agency.

2. The applicant shall be reported to the Central Drug Registry by the agency from which the individual applied; and

3. The applicant shall be precluded from consideration for future law enforcement employment by any law enforcement agency in New Jersey for a period of two years.

4. Where the applicant is currently employed by another agency as a sworn law enforcement officer, the officer's current employer shall be notified of the positive test result. Under these circumstances, the officer's employer is required to dismiss the officer from employment and also report his or her name to the Central Drug Registry maintained by the Division of State Police.

B. When a trainee tests positive for illegal drug use, subject to rules adopted by the Police Training Commission:

1. The trainee shall be immediately dismissed from basic training and suspended from employment by his or her appointing authority;

2. The trainee shall be terminated from employment as a law enforcement officer, upon final disciplinary action by the appointing authority;

3. The trainee shall be reported to the Central Drug Registry maintained by the Division of State Police; and

4. The trainee shall be permanently barred from future law enforcement employment in New Jersey.

C. When a sworn law enforcement officer tests positive for illegal drug use;

1. The officer shall be immediately suspended from all duties;

2. The officer shall be terminated from employment as a law enforcement officer, upon final disciplinary action.

3. The officer shall be reported to the Central Drug Registry maintained by the Division of State Police by his or her employer; and

4. The officer shall be permanently barred from future law enforcement employment in New Jersey.

8. Consequences of a Refusal to Submit to a Drug Test

A. Applicants who refuse to submit to a drug test during the pre-employment process shall be immediately removed from consideration for law enforcement employment and barred from consideration for future law enforcement employment for a period of two years from the date

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of the refusal. In addition, the applicant's name shall be forwarded to the Central Drug Registry and note that the individual refused to submit to a drug test.

B. Trainees who refuse to submit to a drug test during basic training shall be immediately removed from the academy and immediately suspended from employment. Upon hearing that the trainee did in fact refuse to submit a sample, the trainee shall be terminated from law enforcement employment and permanently barred from future law enforcement employment in New Jersey. In addition, the Department shall forward the trainee's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

C. Sworn law enforcement officers who refuse to submit to a drug test ordered in response to reasonable suspicion or random selection shall be immediately suspended from employment. Upon a finding that the officer did in fact refuse to submit a sample, the officer shall be terminated from law enforcement employment and permanently barred from future law enforcement employment in New Jersey. In addition, the Department shall forward the officer's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

D. A sworn law enforcement who tests positive for illegal drug use or refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to completion of final disciplinary action, shall be reported by his or her employer to the Central Drug Registry and shall be permanently barred from future law enforcement employment in New Jersey.

9. Record Keeping

A. The Department's Internal Affairs Unit shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers.

B. The Department's drug testing records shall include:

1. For all drug testing:

a. the identity of those ordered to submit urine samples;

b. the reason for that order;

c. the date the urine was collected;

d. the monitor of the collection process;

e. the chain of custody of the urine sample from the time it was collected until the time it was received by the State Toxicology Laboratory;

f. the results of the drug testing;

g. copies of notifications to the subject; and

h. for any positive result or refusal, appropriate documentation of disciplinary action.

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2. For Random Drug Testing, the records will also include the following information:

- a. a description of the process used to randomly select officers for drug testing;
- b. the date the selection was made;
- c. a copy of the document listing the identities of those selected for drug testing;
- d. a list of those who were actually tested; and
- e. the date(s) those officers were tested.

C. 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.

10. Central Drug Registry

A. The Department shall notify the Central Drug Registry maintained by the Division of State Police of the identity of applicants, trainees and sworn law enforcement officers who test positive for the illegal use of drugs or refuses an order to submit a urine sample.

B. Notifications to the Central Drug Registry shall include the following information as to each individual:

1. Name and address of the Department and contact person;
2. Name of the individual who tested positive;
3. Last known address of the individual;
4. Date of birth;
5. Social security number;
6. SBI number (if applicable);
7. Gender;
8. Race;
9. Eye color;
10. Substance the individual tested positive for, 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 the Department; and

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13. Whether the individual was an applicant, trainee or sworn law enforcement officer.

C. The certification section of the notification form must be completed by the Chief of Police and notarized with a raised seal.

D. Notifications to the Central Registry shall be sent to:

Division of State Police
State Bureau of Identification Central Drug Registry P.O. Box 7068 West Trenton, New Jersey 08628-0068

E. Information contained in the Central Drug Registry may be released by the Division of State Police only under the following circumstance:

1. In response to an inquiry from a criminal justice agency as part of a background investigation process for prospective or new personnel.

2. In response to a court order.

Miscellaneous

The Franklin Township Police Department shall have a zero tolerance policy with respect to the illegal use of drugs and/or other such substances.

11. **Employment Status** – Testing of sworn law enforcement officers is the responsibility of the employing agency and shall include any officers who are temporarily assigned to other agencies, task forces, teams or the like. Said temporarily assigned officers shall therefore be included with every other officer employed by the testing agency as a potential officer to be randomly tested. It is not the responsibility of the agency to which the officer is temporarily assigned to include that assigned officer in its pool of sworn officers subject to random testing. It is the responsibility of the agency to which the officer is temporarily assigned to make that officer available to his/her agency if the assigned officer is randomly chosen by his/her agency to be drug tested. It is also the responsibility of the agency to which the officer is temporarily assigned to report any behavior or other facts to the assigned officer's agency that could result in reasonable suspicion to believe that the assigned officer is engaged in the illegal use of controlled substances.

All members of the Department shall adhere to this order and all supervisors shall be held accountable for said adherence. All procedures previously employed that are in conflict with this order are hereby rescinded.

By Order of



John Fodor
Chief of Police

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