

ENGLEWOOD POLICE DEPARTMENT			
POLICY & PROCEDURES			
SUBJECT: Drug Testing Policy			
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BY ORDER OF: Chief Lawrence D. Suffern	EFFECTIVE DATE: August 2, 2018 (September 20, 2018 Revision)		
Accreditation Standards:	Supersedes Order # N/A		

I. POLICY This policy and the procedures set forth herein are solely to assist the staff of the Englewood Police Department (EPD) in the orderly and efficient execution of official duties. They are for internal purposes and should not be construed to create rights which do not otherwise exist by reason of law. Failure to comply with this policy or the procedures set forth herein may result in disciplinary action. However, failure to comply with this policy does not affect the integrity of an investigation or admissibility of evidence in an investigation.

The EPD, as a law enforcement agency, requires that its employees be held to the highest standards of conduct. To preserve the integrity of the EPD and to insure that the citizens of Englewood are provided with service and protection by employees whose competence and fitness for Department are beyond question, drug abuse by department employees shall not be tolerated. Further, illegal drug use by an Department of the EPD, or any other employee who is authorized to carry a firearm, represents a threat to the safety of the public and to other law enforcement personnel. Drug testing is one method to insure that no drug abuse is present within the ranks of the EPD.

The Department must also carefully select applicants whose character and credibility are beyond reproach. Therefore, drug abusers should be detected and disqualified from potential employment. Consistent with these goals, it is the policy of the EPD that any offers of employment, including volunteer employment, shall be conditioned on the candidate's submission of a urine sample for the purpose of drug screening.

II. APPLICABILITY

- A. This policy applies to:
 - 1. Applicants for any position as an employee, whether paid or voluntary;
 - 2. All EPD trainees while they attend a mandatory basic training course or policy academy; and

3. All current employees, regardless of rank, position or assignment, whether paid or voluntary.

III. NOTIFICATION OF DRUG SCREENING REQUIREMENT FOR PROSPECTIVE EMPLOYEES

- A. All advertisements and announcements of positions in the Department shall include notification that drug screening through urinalysis is mandatory during pre-employment and again during training. This notification shall also indicate that a negative result in a condition of employment both before and during the probationary appointment shall result in termination.
- B. An applicant for a position shall be requested to sign a waiver, consenting to a sampling and testing of urine during the employment screening process. Any refusal to undergo the testing or testing process will result in a rejection for employment.
- C. This waiver shall include notification that we have agreed to an applicant for a sworn law enforcement position, who produces a positive test result for illegal drug use shall result in:
 1. Rejected for employment.
 2. Included in the central drug registry maintained by the Division of State Police. Information from that registry can be made available by Court Order or as part of a confidential investigation relating to law enforcement employment.
 3. Barred from future law enforcement employment in New Jersey for two years. After this two year period, the positive test result may be considered in evaluating the candidate's fitness for future law enforcement employment.
 4. If the applicant is currently employed as a sworn law enforcement officer and the applicant produces a positive test result for illegal drug use, that individual will be notified of the positive test result. In addition, the applicant will be permanently barred from law enforcement employment.

IV. TESTING PERIODS

- A. Applicants: Applicants for a position as an employee, paid or volunteer, may be required to submit a urine specimen at any time prior to appointment.
- B. Police Officer Trainees: Officer 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 (PTC).
- C. Individual trainees shall also be required to submit a urine specimen for testing when there is a "*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 Bergen County Prosecutor, the Chief of Police, or their designees.

- D. Reasonable suspicion is specific, articulable facts which, when combined with reasonable inferences, form the basis for suspecting that the particular person is using a substance which impacts on the performance of their duty.
- E. All Employees: Urine specimens shall be ordered from any employee when there is reasonable suspicion to believe that the employee is illegally using drugs. Urine specimens shall not be ordered from an employee without the approval of the Bergen County Prosecutor, the Chief of Police, or their designees.
- F. Any Employee Authorized to Carry a Firearm under N.J.S.A. 2C:39-6: Urine specimens shall be ordered from these employees who have been randomly selected to submit to a drug test. Random selection is defined herein.

V. REASONABLE SUSPICION TESTING

- A. Drug testing through urinalysis shall be conducted when there are facts that provide a reasonable objective basis to suspect that an employee is illegally using drugs.
- B. Any employee who has reasonable suspicion to believe that a fellow employee is illegally using drugs shall immediately report that fact, in writing, to the Chief of Police or Officer-in-Charge of the Department. This notification shall include detailed observations that led the reporting employee to this conclusion.
- C. The Chief of Police, in conjunction with the Professional Standards Unit, (PSU) shall review the information to determine if sufficient reasonable suspicion exists to order a drug test.
- D. If further investigation is needed, it shall be conducted by the PSU.
- E. The PSU, at the conclusion of the investigation, shall report to the Chief of Police its findings and conclusions as to the reasonable suspicion of the employee using illegal drugs.
- F. If the Bergen County Prosecutor, Chief of Police or their designee find that reasonable suspicion exists, the employee shall be ordered to submit a urine sample for drug testing in compliance with this policy.

VI. RANDOM DRUG TESTING

- A. All Police Officers or any other employees who are authorized to carry firearms under N.J.S.A. 2C:39-6 are eligible for random drug testing, regardless of rank or assignment.
- B. Random selection shall be defined as a method of selection in which each and every employee, regardless of rank, position or assignment, has an equal chance to be selected for drug testing, each and every time a selection is conducted.
- C. The random selection process shall be administered as follows:
 1. The PSU shall conduct the selection process.

2. Each time a random selection for drug testing occurs; the EPD shall select no less than 10% of those employees eligible for selection.
3. Each and every employee authorized to carry a firearm shall be included in the random selection process and shall be eligible for selection each and every time the random selection process is implemented regardless of whether the armed employee has been previously selected.
4. One representative of every organization representing the employee shall be permitted to witness the selection process.
5. Any employee of the EPD who discloses the identity of an individual selected for random testing or the fact that a random selection is scheduled to take place, prior to the collection of the urine specimens shall be subject to discipline, up to and including termination.

VII. SPECIMEN ACQUISITION PROCEDURES

A. Preliminary Acquisition Procedures

1. The PSU shall designate a member of its staff to serve as monitor of the specimen acquisition process. The monitor shall always be of the same sex as the individual being tested. In the event there is no member of the same sex available from the PSU, a Police Officer of the same sex from another unit shall be assigned to assist the PSU as monitor of the process.
2. The monitor of the specimen acquisition process shall be responsible for:
 - a. Ensuring that all documentation is fully and accurately completed by the individual submitting the specimen.
 - b. Collecting specimens in a manner that provides for individual privacy while ensuring the integrity of the specimen.
 - c. Complying with the chain of custody procedures established for the collection of urine specimens and their subsequent submission to the State Toxicology Laboratory for analysis.
3. Before the submission of a specimen by an applicant for any position with the Department, the applicant shall execute the "Drug Testing Applicant Notice and Acknowledgment" form consenting to the collection and analysis of their urine for illegal drugs.
4. Applicants shall not complete a "Drug Testing Medication" questionnaire before the submission of a specimen unless they have already received a conditional offer of employment. They can, however, be required to complete a medical questionnaire if, following the submission of their specimen to the State Toxicology Laboratory for analysis, the Department receives a report indicating that the specimen tested positive for a controlled substance.

5. EPD trainees shall execute the "Trainee Notice and Acknowledgment before the submission of a urine specimen, employees shall complete a "Drug Testing Medication" questionnaire, which includes over-the-counter (non-prescription) and prescription drugs which were ingested in the past 14 days.

B. Specimen Collection

1. Throughout the test process, the identity of individual applicants, trainees and employees shall remain totally 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 New Jersey State Toxicology Laboratory. This shall be strictly monitored by the PSU.
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.
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 "Specimen Acquisition Report" for accuracy, the individual 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. The monitor shall inspect the temperature indicator on the specimen container and insure that it is registering properly.
 - d. Once the monitor is satisfied that the required documentation is accurate and that an inspection of the specimen container has been made 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.
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. The testing monitor must document the facts underlying the belief that an individual may adulterate a specimen or compromise the integrity of the test process.
5. Individuals who initially are unable to produce a urine specimen shall 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 produce a specimen after a reasonable period of time, the monitor may have the individual examined by a

doctor to determine whether the inability to produce a specimen was the result of a medical or physical infirmity or constituted a refusal to cooperate with the drug testing process.

6. Individuals shall provide the monitor with a second urine specimen at the same time the first specimen is collected.
 - a. The second specimen shall be collected in the same fashion as the first. **Sample B will be turned over to the State Toxicology lab and will be released as per NJ State Policy.** The monitor shall take possession of the second specimen and place it in a secured refrigerated storage area.
 - b. The EPD shall maintain possession of the second specimen for a period of 60 days or until the Department 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 Department under the following circumstances:
 - The Department is notified by the State Toxicology Laboratory that the first specimen tested positive for a controlled substance; and
 - The Department is informed by the individual whose specimen tested positive that the individual wishes to have the specimen independently tested; and
 - The individual has designated 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
 - A representative of the licensed clinical laboratory designated by the individual takes possession of the second specimen in accordance with the accepted chain of custody procedures within 60 days of the date the specimen was produced.

VIII. SUBMISSION OF SPECIMENS FOR ANALYSIS

- A. The New Jersey State Toxicology Laboratory within the New Jersey State Medical Examiner's Department will constitute the sole facility for urine analysis except for the aforementioned second specimen.
- B. Every effort will be made to submit urine specimens to the state Toxicology Laboratory within 24 hours of collection. In the event a specimen cannot be submitted to the laboratory within 24 hours of collection; the Department shall store the specimen in a controlled access refrigerated storage area until submission to the State Toxicology Laboratory.
- C. Sworn personnel from the Department will submit specimens to the State Toxicology Laboratory.

IX. ANALYSIS OF SPECIMENS

- A. The analysis of each specimen shall be done in accordance with the procedures adopted by the State Toxicology Laboratory. These procedures shall include, but not limited to, security of the specimens, chain of custody, metabolite cut-off levels and confirmation tests and the issuance of test reports.
- B. The State Toxicology Laboratory shall analyze each specimen for the following when submitted by the respective authority, but not limited to, substances and their metabolites:
 - 1. amphetamine/methamphetamine;
 - 2. barbiturates;
 - 3. benzodiazepine;
 - 4. cannabinoids;
 - 5. cocaine;
 - 6. methadone;
 - 7. phencyclidine;
 - 8. opiates;
 - 9. alcohol;
 - 10. anabolic steroids, Human Growth Hormones ("HGH") and/or Human Chorionic Gonadotropin ("HCG")
 - 11. other drug or substance deemed necessary by the County Prosecutor or Attorney General.
- C. In addition to the substances listed above, the EPD reserves the right to have specimens analyzed for any other controlled substances as the circumstances may dictate.

X. DRUG TEST RESULTS

- A. The State Toxicology Laboratory shall notify the PSU of any positive test results from the specimens submitted for analysis. All reports of positive test results shall be in writing. In addition, the State Toxicology Laboratory will provide the Department with written documentation of specimens that 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 that test with the medical questionnaire pertinent to that specimen.
- C. The PSU shall notify the individual of a positive test result as soon as possible 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 circumstance* will the EPD or an individual resubmit a specimen for testing or ask that a particular specimen within the State Toxicology Laboratory be re-tested.

XI. CONSEQUENCES OF A POSITIVE DRUG RESULT

- A. When an applicant tests positive for illegal drug use:
 - 1. The applicant shall be immediately removed from consideration for employment by the EPD.
 - 2. The applicant shall be reported to the Central Drug Registry maintained by the Division of State Police; 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. After this two year period, the positive test result may be considered in evaluating an applicant's fitness for future law enforcement employment.
 - 4. Where the applicant is currently employed by another agency as a sworn law enforcement officer, the applicant's current employer shall be notified of the positive test result; the applicant's name will be placed on a Central Drug Registry maintained by the Division of State Police, and the applicant will be permanently barred from law enforcement employment.
- B. When a trainee tests positive for illegal drug use:
 - 1. The trainee shall be immediately dismissed from basic training and suspended from employment by the Department;
 - 2. The Department shall terminate the trainee from employment;
 - 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 an employee tests positive for illegal drug use, that individual shall be:
 - 1. Immediately suspended from all duties;
 - 2. Terminated from employment with the Department;
 - 3. If the individual is a sworn law enforcement employee, that employee will be reported to the Central Drug Registry maintained by the Division of State Police and shall be permanently barred from future law enforcement employment in New Jersey.

XII. 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 employment and barred from consideration for future law enforcement employment for a period of two years. In addition, the Department shall forward the applicant's name to the Central Drug Registry

maintained by the Division of State Police and note that the individual refused to submit to a drug test.

- B. Trainees who refuse to submit to a drug test during training shall be immediately removed from the academy and immediately suspended from employment. Upon a finding that the trainee did, in fact, refuse to submit a sample, the trainee shall be terminated from employment with the EPD and be 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. Any employee who refuses to submit to a drug test ordered in response to reasonable suspicion (or in the case of Police Officers or other armed employees, random selection) shall be immediately suspended from all duties. Upon a finding that an employee did, in fact, refuse to submit a sample, that individual shall be terminated from employment with the EPD and be permanently barred from future law enforcement employment in New Jersey. In addition, the Department shall forward the individual's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

XIII. RECORD KEEPING

- A. The Confidential Investigations Unit of the EPD shall maintain all records relating to the drug testing of applicants, trainees and employees.
- B. The Department's drug testing records shall include but not be limited to: For all drug testing:
 1. The identity of those ordered to submit urine specimens;
 2. The reason for that order;
 3. The date the urine was collected;
 4. The identity of any monitor of the collection process;
 5. 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;
 6. The results of the drug testing;
 7. Copies of notifications to the subject; and
 8. For any positive result or refusal, appropriate documentation of disciplinary action.
- C. For random drug testing, the records will also include the following information:
 1. A description of the process used to randomly select eligible employees for drug testing;
 2. The date 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 employees were tested.
- D. 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.

XIV. CENTRAL DRUG REGISTRY

- A. The EPD shall notify the Central Drug Registry maintained by the Division of State Police of the identity of applicants, trainees and County Investigators who test positive for the illegal use of drugs or refuse an order to submit a urine sample.
- B. Notifications to the Central Drug Registry shall be in writing and shall include the following information as to each individual.
 1. Name and address of the submitting agency;
 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. Substance the individual tested positive for ,or circumstances of the refusal to submit a urine sample;
 8. Copy of the toxicological report;
 9. Date of dismissal from the agency; and
 10. Whether the individual was an applicant, trainee or sworn law enforcement officer.
 - Notifications to the Central Registry shall be sent to:
Records and Identification Section Division of State Police
P.O. Box 7068
West Trenton, New Jersey 08628

XV. CONSEQUENCES OF ALTERING/ATTEMPTING TO ALTER THE OUTCOME OF A TEST

- A. Anyone who attempts to alter or alters the outcome of any drug test and/or the administration of any drug test is subject to dismissal and may be criminally charged pursuant to N.J.S.A. 2C:36-10.
- B. Anyone who is found to possess any tool, product, device or substance adapted, designed, or commonly used to defraud the administration of any drug test, shall be subject to disciplinary action, up to and including termination from employment and may be charged criminally pursuant to N.J.S.A. 2C:36-10.