

TINTON FALLS POLICE DEPARTMENT STANDARD OPERATING PROCEDURE



Mandatory Drug Testing

BY THE ORDER OF:
John A. Scrivanic, Chief of Police

OF PAGES:
14

EFFECTIVE DATE: 2-1-18

ACCREDITATION STANDARDS:

PURPOSE: The purpose of this policy is to establish a uniform policy and respective procedures for the implementation of mandatory drug testing for all Tinton Falls Police sworn personnel.

POLICY: Law enforcement agencies have a legal responsibility and management obligation to ensure a drug free and safe work environment; as well as paramount interest in protecting the public by ensuring that its' employees have the physical stamina and emotional stability to perform their assigned duties. A requirement for employment must be an employee who is free from drug dependence, illegal drug use or drug abuse. Also, liability could be found against the agency and the employee if we fail to address and ensure that employees can perform these duties without endangering themselves, other officers or the public. Finally, there is sufficient evidence to conclude that use of illegal drugs, drug dependence, and drug abuse seriously impairs an employee's performance and general physical and mental health, places fellow employees at risk, and causes the public to lose confidence in the police to properly perform their duties.

PROCEDURES:

I. DEFINITIONS

- A. **APPLICANT:** A person who applies for a position as a law enforcement officer who, if appointed, will be responsible for the enforcement of the criminal laws of this State and will be authorized to carry a firearm under N.J.S.A. 2C: 39-6.
- B. **CENTRAL DRUG REGISTRY:** This is the statewide data base that is maintained by the NJSP in which the names and corresponding information of all law enforcement applicants, trainees and/or sworn officers who test positive for any of the substances delineated in this Directive, or the corresponding County Policy and AG Directive, are to be reported and recorded.
- C. **RANDOM SELECTION:** Random selection shall be defined as a method of selection in which each and every sworn member of the agency (EXCLUDING TRAINEES IN A POLICE ACADEMY AND SWORN OFFICERS ON EXTENDED SICK/INJURY LEAVE), regardless of rank or assignment, has an equal chance to be selected for drug testing each and every time a selection is conducted. (NOTE: For the purpose of this Policy, "extended sick/injury leave" is defined as an illness/injury in which the officer's return is not anticipated for at least one month from the date of the selection process.)

- D. SWORN OFFICER: Persons who are responsible for the enforcement of the criminal laws of this State, come under the jurisdiction of the *Police Training Act* and are authorized to carry a firearm under N.J.S.A. 2C:39-6.
- E. TRAINEE: A person who is employed by the agency and is subject to the *Police Training Act* while they attend a mandatory basic training course.

II. APPLICABILITY

A. APPLICANTS:

All applicants for the position of law enforcement officer shall be tested once a conditional offer of employment is made.

B. TRAINEES:

1. *Random*: Trainees are 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 the rules and regulations established by the *Police Training Commission*.
2. *Reasonable Suspicion*: Individual trainees may 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 County Prosecutor, the Chief of Police, or the Academy Director.

C. SWORN LAW ENFORCEMENT OFFICERS:

1. Urine specimens shall be ordered from a sworn law enforcement officer when there is 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 or Chief of Police.
2. Urine specimens may be ordered from sworn law enforcement officers who have been randomly selected to submit to a drug test, during a regularly scheduled and announced medical examination or a fitness for duty examination. However, the collection and analysis of these specimens obtained via medical or fitness for duty exams are not governed by this policy.

III. NOTIFICATION OF CDS TESTING PROCEDURES

- A. APPLICANTS: As part of the application process, this agency will notify applicants in writing that drug testing is part of the screening process and that a negative test result is a condition of employment. Additionally, the applicant will be advised in writing as to the ramifications of a positive test result or a refusal to submit a sample, which are:

1. Applicant being dropped from consideration for employment;
2. Cause the applicant's name to be reported to the *Central Drug Registry*;

3. Preclude the applicant from being considered for future law enforcement employment for a period of two (2) years.

Additionally, the notification shall indicate that if the applicant is already a sworn law enforcement officer with another agency and the officer tests positive for illegal drug use, the officer's employing agency will be notified of the test results.

- B. TRAINEE: All trainees shall be given written notice that drug testing will take place while he/she attends the basic police academy and that a negative test result is a condition of employment. This notice also informs the trainee of the ramifications of a positive test result or a refusal to submit a sample, which are:

1. Trainee being terminated from employment.
2. The inclusion of the trainee's name in the *Central Drug Registry*.
3. The Trainee being permanently barred from future law enforcement employment in N.J.

- C. SWORN LAW ENFORCEMENT OFFICERS REASONABLE SUSPICION TESTING:

1. *Testing Required:* Individual law enforcement officers will be ordered to submit to a drug test when there is reasonable suspicion to believe that the officer is illegally using drugs.
2. *Required Documentation:* Before an officer may be ordered to submit to a drug test based on reasonable suspicion, a written report that documents the basis for the reasonable suspicion shall be prepared. The County Prosecutor or the Chief of Police shall review the report 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. *Negative Test Result Required for Employment:* A negative result is a condition of employment.
4. *Refusal to Submit or Positive Test Result:* If the officer refuses to submit to a drug test based on reasonable suspicion after being lawfully ordered to do so or produces a positive result from a drug test, the employee will be:
 - a. Terminated from employment;
 - b. *Included in the Central Drug Registry*;
 - c. Permanently barred from future law enforcement employment in N.J.

IV. RANDOM CDS TESTING FOR SWORN LAW ENFORCEMENT OFFICERS:

- A. ELIGIBILITY FOR DRUG TESTING: All sworn members of the agency are eligible for random drug testing, regardless of rank or assignment. The method of random selection shall ensure that every sworn officer in the agency has an equal chance to be selected for testing each and every time a selection takes place. Officers who are on extended sick/injury leave and trainees in the police academy will be excluded from the agency random selection. (NOTE: Such reason for such exclusions shall be documented. Trainees are subject to the academy's drug screening process.)

- B. **FREQUENCY/NUMBERS TO BE TESTED:** Random drug testing shall take place bi-annually. Five (5) sworn officers shall be selected each time a random selection takes place.
- C. **MONITORING THE SELECTION PROCESS:** The selection of sworn officers to be tested will be conducted by the Internal Affairs Commander. The selection process will be monitored by the Chief of Police and one (1) representative of the collective bargaining unit.
- D. **CONFIDENTIALITY OF THOSE TO BE TESTED:** Any member of the agency 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.
- E. **RANDOM SELECTION SYSTEM:** The random selection of sworn officers for testing will be made via computerized software that ensures compliance with the random provisions of this Directive.
- F. **REFUSAL TO PARTICIPATE IN RANDOM CDS TESTING:** Any sworn officer who refuses to submit to a drug test when randomly selected are subject to the same penalties as those officers who test positive for illegal drug use.

V. SPECIMEN ACQUISITION PROCEDURES:

- A. **DESIGNATION OF MONITOR/MONITOR'S RESPONSIBILITIES:**
 - 1. The Chief of Police shall designate an officer to serve as monitor of the specimen acquisition process. The monitor should be a current Internal Affairs Investigator, if possible. The monitor shall always be the same sex as the individual being tested. In the event there is no member of the same sex available from the agency, the agency may request that a member of the same sex from another agency serve as monitor of the process.
 - 2. *Monitor's Responsibilities:*
 - i. Ensuring that all documentation is fully and accurately completed by the individual submitting the specimen.
 - ii. Collecting specimens in a manner that provides for individual privacy while ensuring the integrity of the specimen.
 - iii. Complying with chain of custody procedures established for the collection of urine specimens and their submission to the N.J. State Toxicology Lab within the Division of Criminal Justice for analysis.
- B. **APPLICANT.**
 - 1. Prior to submission of a specimen, an applicant for a law enforcement position shall execute the appropriate form consenting to the collection and analysis of his/her urine for illegal drugs. This form shall clearly state that a negative result is a condition of employment and the ramifications of a positive result.
 - 2. Once there has been a conditional offer of employment, the applicant will be required to complete the medical questionnaire form prior to submission of a specimen; and, list all medications both prescription and over-the-counter that were ingested within the last thirty (30) days. The conditional

offer of employment is a prerequisite for completion of this form. However, applicants who have not received a conditional offer of employment can be required to complete a medical questionnaire if, following submission of their specimen to the State Toxicology Lab for analysis, this agency receives a report indicating that the specimen tested positive for a controlled substance.

C. **TRAINEE:**

1. Prior to submission of a specimen, the agency or academy staff shall have the trainee complete the applicable form which clearly states that a negative result is a condition of employment and the ramifications of a positive result.
2. The Trainee will be required to complete a medical questionnaire form which clearly describes all medications, both prescription and over-the-counter that were ingested within the past thirty (30) days.

- D. **SWORN LAW ENFORCEMENT OFFICER:** Prior to submission of a urine specimen, sworn law enforcement officers shall complete a medical questionnaire describing all medications, both prescription and over-the-counter that were ingested within the past thirty (30) days.

VI. **SPECIMEN COLLECTION: APPLICANTS, TRAINEES, SWORN LAW ENFORCEMENT OFFICERS:**

- A. **CONFIDENTIALITY OF PROCESS:** 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 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 Lab.
- B. **CONTAINERS TO BE UTILIZED:** Specimens will be collected utilizing equipment and supplies approved by the State Toxicology Lab. 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 Lab.
- C. **SPECIMEN ACQUISITION:** Urine specimens will be acquired and processed in accordance with procedures established by the State Toxicology Lab.
 1. The monitor shall inspect the appropriate forms for accuracy/completeness.
 2. The monitor and the person voiding the sample shall inspect the package in which the specimen bottle is contained to ensure that it is intact.
 3. The applicant, trainee, or sworn officer shall empty his/her pockets and thoroughly wash his/her hands prior to voiding the sample.
 4. The package containing the specimen bottle shall be broken and the applicant, trainee, or sworn officer shall complete the specimen label in pencil. This label shall be placed inside the specimen bottle prior to the voiding of the sample.

5. The applicant, trainee, or sworn officer shall void into the specimen collection container (50ml).
6. After the specimen has been produced, the applicant, trainee, or sworn officer shall seal the specimen container and deliver it to the monitor.

The monitor shall confirm that the specimen is not adulterated. This includes inspection of the specimen bottle and verification of the temperature of the voided sample via the temperature strip on the specimen bottle. A temperature reading in the range of 90-100 degrees F must be reached from 30 seconds after sample is voided and will remain up to 5 minutes after sample is voided. If the temperature is not within this range in the given time frame, the sample is considered to be adulterated and is to be discarded and a new specimen will be obtained while the monitor witnesses the voiding of the specimen. The circumstances surrounding the discarding of the adulterated specimen and the witnessing of the voiding of the new sample must be documented.

7. Once the monitor is satisfied that the required documentation is accurate/complete and he/she has inspected the specimen container to determine that a specimen has been produced, the monitor shall take possession of the specimen, ensure proper chain of custody procedures are adhered to and ensure that it is delivered to the State Toxicology Lab for analysis within one (1) working day. For transportation purposes, the specimen should be placed in a cooler containing an ice pack and transported in this manner.

D. **MONITOR WITNESSING OF VOIDING OF SAMPLE:** Applicant, trainee, or sworn officer will void without the direct observation of the monitor unless there is a 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 facts underlying the belief that an individual may adulterate a specimen or compromise the integrity of the test process must be documented by the person making that decision.

E. **UNABLE TO PRODUCE A SPECIMEN:** Applicants, trainees, or sworn officers that initially are unable to produce a urine specimen may remain under supervision of the test monitor until the monitor is satisfied that the applicant, trainee, or sworn officer 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 may have the individual examined by a doctor to determine whether the inability to produce a specimen was a result of a medical or physical infirmity or constituted a refusal to cooperate with the drug testing process.

F. **SECOND SPECIMEN:** Trainees and sworn law enforcement officers shall provide the monitor with a second urine specimen at the same time the first specimen is collected.

1. 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 secured refrigerated storage area.
2. The 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 Lab that the first specimen tested negative for the presence of CDS.

3. The second specimen shall be released by the agency under the following circumstances:
 - i. The agency is notified by the State Toxicology Lab that the first specimen tested positive for CDS; and
 - ii. The agency is informed by the individual whose specimen tested positive that the individual wishes to have the specimen independently tested; and
 - iii. The trainee or officer must designate a lab that is licensed as a clinical lab by the N.J. Department of Health under the N.J. Clinical Laboratory Improvement Act to conduct the independent test; and a representative of a licensed clinical lab 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.

VII. SUBMISSION OF SPECIMENS FOR ANALYSIS:

- A. **LAB TO CONDUCT ANALYSIS:** The State Toxicology Lab within the Division of Criminal Justice will constitute the sole facility for the analysis of law enforcement drug tests.
- B. **TIME CONSTRAINTS FOR SUBMITTING SAMPLES:** Urine specimens should be submitted to the State Toxicology Lab within one (1) working day of their collection. In the event a specimen cannot be submitted to the lab within one (1) working day of its collection, the department shall store the specimen in a controlled access refrigerated storage area until submission to the State Toxicology Lab. Specimens must be submitted to the State Toxicology Lab by agency personnel only.

VIII. SUBSTANCES TEST IS TO IDENTIFY: The State Toxicology Lab shall analyze each specimen for the following substances and their metabolites:

1. Amphetamine/methamphetamine;
2. Barbiturates;
3. Benzodiazepine;
4. Cannabinoids;
5. Cocaine;
6. Methadone;
7. Phencyclidine;
8. Opiates

IX. STEROIDS:

- A. **Random Testing:** The agency retains the option to incorporate the testing for steroids into the random drug testing program.
- B. **Reasonable Suspicion Drug Testing:** The testing for the presence of steroids is mandatory whenever there is reasonable suspicion that the officer is utilizing such drugs.

X. CDS TEST RESULTS (NEGATIVE V. POSITIVE)

- A. **NEGATIVE RESULTS:** When the results are received from the lab and they are negative, the designated officer will generate a letter indicating that the results were indeed negative, attach a copy of the lab report to this letter, place it in an envelope and seal it. This envelope will then be delivered to the officer involved.
- B. **POSITIVE RESULTS:** The agency 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 Lab. Upon request, the individual may receive a copy of the lab report.
- C. **RESUBMISSION OF SAMPLE FOR RE-TESTING:** Under no circumstances may the agency or an individual resubmit a specimen for testing or ask that a particular specimen within the possession of the State Toxicology Lab be re-tested.

XI. CONSEQUENCES OF A POSITIVE TEST RESULT:

- A. **APPLICANT:** When an applicant tests positive for illegal drug use:
 - 1. The applicant shall be immediately removed from consideration for employment; and
 - 2. The applicant shall be reported to the Central Drug Registry; and
 - 3. The applicant shall be precluded from consideration for future law enforcement employment by any law enforcement agency in N.J. for a period of two (2) 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.
- B. **TRAINEE:** 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; and
 - 2. The trainee shall be terminated from employment as a law enforcement officer, upon final disciplinary action; and
 - 3. The trainee shall be reported to the Central Drug Registry; and the trainee shall be permanently barred from future law enforcement employment in N.J.
- C. **SWORN LAW ENFORCEMENT OFFICER:** When a sworn law enforcement officer tests positive for illegal drug use;
 - 1. The officer shall be immediately suspended from all duties; and
 - 2. The officer shall be terminated from employment as a law enforcement officer, upon final disciplinary action; and
 - 3. The officer shall be reported to the Central Drug Registry; and the officer shall be permanently barred from future law enforcement employment in N.J.

XII. CONSEQUENCES OF A REFUSAL TO SUBMIT TO A CDS TEST:

- A. **APPLICANTS:** 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 in N.J. for a period of two (2) years from the date of refusal. In addition, the agency shall forward the applicant's name to the *Central Drug Registry* and note that the individual refused to submit to a drug test.

- B. **TRAINEES:** 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 a finding 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 in N.J. In addition, the agency 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 OFFICER:** 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 N.J. In addition, the agency shall forward the officer's name to the *Central Drug Registry* and note that the individual refused to submit to a drug test.

XIII. OFFICER WHO RESIGNS/RETIRES AFTER TESTING POSITIVE OR REFUSING TEST: A sworn law enforcement officer 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 the agency to the *Central Drug Registry* and shall be permanently barred from future law enforcement employment in N.J.

XIV. RECORD KEEPING:

- A. **MAINTENANCE OF RECORDS:** The Internal Affairs unit shall maintain all records relating to drug testing of applicants, trainees, and law enforcement officers. Said records shall be maintained with the level of confidentiality and security for Internal Affairs files pursuant to the AG Guidelines on file security.
- B. **FILE CONTENTS:** The drug testing records shall include but not be limited to:
 - 1. the identity of those ordered to submit urine samples;
 - 2. the reason for that order;
 - 3. the date the urine was collected;
 - 4. the monitor of the collection processed;
 - 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 Lab;
 - 6. the results of the drug testing;
 - 7. copies of notification to the subject;
 - 8. for any positive result – if applicable, documentation from the officer's physician that the medication was lawfully prescribed and does not render the officer unfit for duty;
 - 9. for any positive result or refusal, appropriate documentation of disciplinary action.
- C. **RANDOM DRUG TESTING:** The file shall also include the following information:
 - 1. A description of the processed used to randomly select officers for drug testing;
 - 2. The date the selections were made; a copy of the document listing identities of those selected for drug testing;

3. A list of those who were actually tested; and
4. The date(s) those officers were tested.

XV. PROSECUTOR'S OFFICE NOTIFICATIONS:

- A. In the event of (1) a positive drug test by an officer, (2) a refusal by an officer to take the drug test, or (3) administration of a reasonable suspicion drug test to an officer, the law enforcement agency's chief executive or a designee shall provide a confidential written notice to the Professional Responsibility Unit of the Monmouth County Prosecutor's Office **within 48 hours**. Upon completion of any disciplinary action, each agency shall report the discipline to the Professional Responsibility Unit of the Monmouth County Prosecutor's Office by **December 31st** of each year, every law enforcement agency shall provide written notice to Professional Responsibility Unit of the Monmouth County Prosecutor's Office of the date of testing conducted during the prior year, the total number of sworn officers employed by the agency, the total number of sworn officers tested, and the total number of sworn officers who tested positive.

Attachment A

DRUG SCREENING THROUGH URINALYSIS
APPLICANT NOTICE AND ACKNOWLEDGEMENT

I, _____, understand that as part of the pre-employment process, the _____ will conduct a comprehensive background investigation in an effort to determine my suitability to fill the position for which I have applied.

I understand that as part of the pre-employment process, I will undergo drug testing through urinalysis.

I understand that a negative result is a condition of employment.

I understand that refusing to supply the required samples or producing a positively confirmed test result for the presence of illegal drugs will result in the rejection of my application for employment.

I understand that in case of a positive result, my name will be forwarded to a central drug registry maintained by the Division of State Police and will be made available only upon court order or as part of a background investigation for a law enforcement position.

I understand that a confirmed positive test result indicating the presence of drugs will bar me from securing law enforcement employment for a period of two (2) years. I understand that after this two (2) year period, a positive test result may be considered in evaluating my fitness for future law enforcement employment.

I understand that if I am currently employed by a law enforcement agency and I produce a positive test result for illegal drug use, my current employer will be notified of the positive test result.

I hereby acknowledge receipt of a copy of the Drug Use and Testing Policy and agree to undergo drug testing through urinalysis.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF WITNESS

DATE

DRUG SCREENING

MEDICATION INFORMATION

In order to ensure the accuracy of established urine screening and confirmation procedures, I am providing the following information:

- A. During the past thirty (30) days I have taken the following medication prescribed by a physician.

Name of Medication	Prescribing Physician	Date Last Taken
1.		
2.		
3.		

- B. During the past thirty (30) days I have taken the following non-prescription medications (cough medicine, cold tablets, aspirin, etc.)

Non-Prescription Medication	Date Last Taken
1.	
2.	
3.	

Signature of Witness

Social Security Number and Initials

Date

Date

**RANDOM DRUG SCREENING THROUGH
URINALYSIS ACKNOWLEDGEMENT**

I, _____, understand that I have been randomly selected to submit to a confidential drug test in accordance with the _____.

I understand that as part of this process, I will undergo drug testing through urinalysis.

I understand that if I refuse to undergo the testing, I will be immediately suspended from employment. Upon final disciplinary action, if it is found that I did in fact refuse to submit to a drug test, I will be terminated from employment with _____ and permanently barred from future law enforcement employment in New Jersey. In addition, the _____ shall forward my name to the central drug registry with a note that I refused to submit to a drug test. Failure to take the test for any reason, including resignation, shall be deemed a refusal.

I understand that a negative result is a condition of continual employment with the _____.

I understand that an official monitor from the _____ shall be responsible for ensuring the proper collection of the specimen(s) in a manner that provides for individual privacy.

I understand that I shall provide the monitor with a second urine specimen at the same time the first specimen is collected, which will be stored in a secured refrigerated storage area for a period of sixty (60) days or until the _____ receives notification from the New Jersey State Medical Examiner Toxicology Laboratory that the first specimen tested negative for the presence of controlled dangerous substances.

I understand that if I produce a positive test result for illegal drug use, the second specimen can be released in accordance _____. Further confirmation of a positive test result, will be just cause for termination from my law enforcement position and I will be permanently barred from law enforcement employment in New Jersey.

I have read and understand the information contained on this acknowledgement form and I agree to undergo drug testing through urinalysis.

SIGNATURE OF EMPLOYEE

DATE

SOCIAL SECURITY NUMBER

SIGNATURE OF WITNESS

DATE

Type or Print

(6/01)

TINTON FALLS POLICE DEPARTMENT – "Mandatory Drug Testing" – Page 14 of 14