

	WEST ORANGE POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM	1:11
	DRUG SCREENING GUIDELINES	
	Effective Date: 5-3-18	Supersedes: 1:11 (10-01-01)

1:11-1 PURPOSE

The purpose of this directive is to establish a policy and procedure consistent with the guidelines established by the Attorney General of the State of New Jersey and the Essex County Prosecutor regarding drug testing. Although this directive normally applies to applicants, recruits and in-service sworn personnel, sufficient inferences can be drawn to apply the provisions of this directive to non-sworn police personnel in the area of reasonable suspicion drug testing or fitness for duty drug testing.

1:11-2 POLICY

It is the policy of this 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 illegal 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 mandatory drug testing program to deter prohibited drug use by all sworn and unsworn personnel.

1:11-3 DISCUSSION

Just as law enforcement has been the vanguard in the war on drugs, so must the police community now take a leadership role on the issue of the drug testing of its own members. The goal of law enforcement drug testing must be to send a message that any drug use by its members, at any time, is unacceptable, and this agency is prepared to enforce that philosophy by using drug testing technology to the fullest extent. The identification and eradication of drug use within this agency is compelling and necessary for the protection of the public.

1:11-4

DEFINITIONS

Applicant is any person who applies for the position of police officer in the West Orange Police Department.

Recruit/Trainee is any appointee who is undergoing mandatory basic training in a police academy.

Officer is a sworn police officer, regardless of rank or assignment, who is responsible for the enforcement of the criminal laws of this state.

Supervisor is an officer formally assigned to a position having day-to-day responsibility for supervising subordinates, or who are responsible for commanding a work unit.

Employee includes any civilian employee assigned to or under the supervision of the police department.

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.

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.

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.

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.

1:11-5

GENERAL

1. **Applicants**
 - a. 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.
 - b. A negative result is a condition of employment.
 - c. 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.

- d. 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 shall be notified of the test results without undue delay.
- e. Any West Orange Police Officer 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:
 - Immediately suspended from all duties;
 - Terminated from employment as a police officer upon final disciplinary action.
 - Reported to the central drug registry maintained by the State Police.
 - Permanently barred from future law enforcement employment in the State of New Jersey.

2. Recruit/Trainee

- a. 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.
- b. All newly appointed officers shall be informed that drug testing is mandatory during their basic training.
- c. A negative result(s) is a condition of continued employment.
- d. A positive test result will result in the following:
 - The recruit shall be immediately dismissed from the police academy and immediately suspended from this department.
 - The recruit shall be terminated from employment as a police officer upon final disciplinary action.
 - The recruit's name shall be reported to the central drug registry maintained by the State Police.
 - The recruit shall be permanently barred from future law enforcement employment in the State of New Jersey.
- e. Refusal to submit to a drug test shall result in the same penalties set forth in section 1:11-5.2d above.
- f. 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 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.

3. Police Officers/Random Selection

- a. Urine specimens shall be ordered from in-service police officers who have been randomly selected to submit to a drug test.
- b. The frequency and dates of the selection shall be at the sole discretion of the Chief of Police. At a minimum, random drug testing shall be conducted at least twice in every calendar year. No less than 10 percent of the total number of sworn officers within the agency shall be randomly tested each time.
- c. A negative test result is a condition of continued employment.
- d. A positive test result will result in the following:
 - The officer shall be immediately suspended from all duties;
 - The officer shall be terminated from employment as a police officer upon final disciplinary action.
 - The officer's name shall be reported to the central drug registry maintained by the State Police.
 - The officer shall be permanently barred from future law enforcement employment in the State of New Jersey.
- e. Officer(s) who refuse to submit to random drug testing are subject to the same penalties set forth in section 1:11-5.3d.
- f. 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. If selected officers are on extended military leave or any other extended leave over three months (such as pregnancy, family medical leave, or assigned to basic police academy as a recruit), then another officer shall be randomly selected to ensure the proper percentage of officers are tested during each round.
- g. 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.

4. Police Officers/Reasonable Suspicion

- a. In addition to random testing, urine specimens shall be ordered from any police officer when there exists reasonable suspicion to believe that the officer is illegally using drugs. Urine specimens, for this purpose, shall not be ordered from the officer without the approval of the Essex County Prosecutor or the Chief of Police.
- b. A negative test result is a condition of continued employment.
- c. A positive test result will result in the following:
 - The officer shall be immediately suspended from all duties;

- The officer shall be terminated from employment as a police officer upon final disciplinary action.
 - The officer's name shall be reported to the central drug registry maintained by the State Police.
 - The officer shall be permanently barred from future law enforcement employment in the State of New Jersey.
- d. If an officer refuses to submit to a drug test based on reasonable suspicion after being lawfully ordered to do so, the officer is subject to the same penalties as for those who test positive for the illegal use of drugs, see section 1:11-5.4c.
- e. Regardless of the reason for testing, any officer who tests positive for unlawful 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.
- f. Any officer who has reason to believe that a member of this agency is utilizing illegal drugs must report that suspicion or face disciplinary action.
- g. Any officer having reasonable suspicion of illegal drug use by another officer must report it by way of a confidential report to the Chief of Police or the Internal Affairs Commander. The report shall detail the facts that form the basis of reasonable suspicion of illegal drug use.

5. Fitness of Duty Examinations:

- a. Urine samples may be requested by a physician designated by the township during any regularly scheduled and announced medical examination or a fitness for duty examination. The subsequent collection and analysis of any specimen obtained through a medical examination or fitness for duty examination will be under the control of the township-designated physician.
- b. All personnel shall be required to submit to urine testing when told to by the township physician or township designated physician.
- c. Failure to submit to this physician ordered urine testing shall be considered a form of gross insubordination and subject to termination upon final disciplinary action.

6. Civilian Personnel-Reasonable Suspicion/Fitness for Duty Examinations:

- a. 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:
- Public Safety Telecommunications staff members;
 - Evidence Technicians/Clerks;
 - Police Aides/Detention Center Aides/Jailers;
 - School Crossing Guards;
 - Parking Enforcement Officers;

- Court Attendants/Bailiffs;
 - Clerks/Stenographers/Secretaries, etc.;
 - Auxiliary Police/Special Police.
- b. The Township of West Orange requires mandatory pre-employment drug testing of all civilian personnel, regardless of their position within the township. These provisions regarding reasonable suspicion testing and fitness for duty testing are a logical extension of management's obligation to ensure a work environment free of the dangers of unlawful drug use, thereby maintaining public safety and confidence.
 - c. Urine specimens shall be ordered from any civilian employee when there exists reasonable suspicion to believe that the employee is illegally using drugs. Urine specimens, for this purpose, shall not be ordered from the employee without the approval of the Chief of Police, Internal Affairs Commander, or designee.
 - d. Reasonable suspicion drug testing and fitness for duty drug testing will normally be performed by a physician or facility designated by the Business Administrator.
 - e. 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.
 - f. 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 Commander. The report shall detail the facts that form the basis of reasonable suspicion of illegal drug use.

1:11-6 PRELIMINARY PROCEDURES

1. Applicants

- a. Prior to the submission of a specimen, an applicant shall execute a form consenting to the collection and analysis of their urine for unlawful 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 (see 1:11-5.1 et. Seq.)
- b. 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.
- c. Applicants shall subject to the acquisition procedures set forth in section 1:11-7.

2. Recruit/Trainee

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.

3. Random Testing of Sworn Police Officers

- a. Each sworn member of the West Orange Police Department, regardless of rank or assignment, will be eligible to be randomly selected. The Internal Affairs Commander shall maintain a database containing officer's names, social security numbers and the random list of officers selected. A non-programmable random generator program has been installed ONLY within the computer of the Internal Affairs Commander's office and will generate a random officer selection upon command. This software application shall be secure and accessible by only the Chief of Police, Internal Affairs Commander, or designee.
- b. A representative of both the P.B.A. and the S.O.A. shall be notified of every random employee selection process and may witness the random selection process.

4. Civilian Employees

- a. Mandatory drug testing will 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 Office of the Business Administrator at a location selected by the Business Administrator.
- b. Reasonable suspicion drug testing and drug testing performed during a fitness for duty examination are also under the auspices of the Office of the Business Administrator at a location selected by the Business Administrator.
- c. Drug test results will normally be forwarded to the township physician or township designated physician for review. The physician will interpret the results and tender a recommendation to the Business Administrator concerning the employee's employment status.
- d. 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, as appropriate.
- e. The presence of a lawful substance is subject to review by the township designated physician and Business Administrator 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 A.D.A. guidelines.

1:11-7 ACQUISITION PROCEDURE

This section applies to sworn applicant testing, random selection testing and reasonable suspicion testing for sworn officers only.

- a. The Chief of Police may designate any staff member(s) to act as the monitor(s). The monitor(s) shall be the same gender as the subject selected. In the event of any conflict, a monitor may be requested from another law enforcement agency.
- b. 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.
- c. 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. *(It is important to note that this will be the only opportunity for the tested person to disclose the medication they have taken. Subjects who yield positive test results will not be given another chance to list any medication they have taken.)*
 - d. The monitor(s) 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 **Specimen Acquisition Report** form for each person tested. Specimens shall be collected utilizing equipment and supplies approved by the State Toxicology Laboratory.
 - e. Subjects shall provide a second specimen that must be collected at the same time as the first. This specimen shall also be forwarded to and maintained by the State Toxicology Laboratory.
 - f. Subjects will provide the required specimens 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 their 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.

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.

- h. All samples will be secured in a specially designated refrigerator/freezer unit located within the Internal Affairs Office. The access to this repository shall be restricted to the Chief of Police and Internal Affairs personnel.
- i. The second specimen shall be collected at the same time and manner as the first.

- j. If the test results in a negative reading, the second sample will be destroyed.
- k. If the test results in a positive reading, the officer shall notify the department within ten (10) days of their intent to have the second sample tested by an independent laboratory. If the sample is not claimed and presented to the independent laboratory within sixty (60) days, it will be destroyed.
- l. The second specimen shall be released under the following circumstances:
 - This department is notified by the State of New Jersey Toxicology Laboratory that the specimen tested positive for controlled substance(s); and
 - This department is notified by the officer that tested positive that they wish to have their second specimen tested by an independent laboratory; and
 - The officer designates a laboratory, licensed as an approved 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 designated clinical laboratory takes possession of the second specimen in accordance with acceptable chain of custody procedures.

All secondary testing of specimens shall be at the expense of the officer tested.

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.

- m. The State Toxicology Laboratory shall analyze each specimen for the following substances and their metabolites:
 - Amphetamine/methamphetamine;
 - Barbiturates;
 - Benzodiazepine;
 - Cannaboids;
 - Cocaine;
 - Methadone;
 - Phencyclidine;
 - Opiates.
 - Oxycodone/Oxymorphone
- n. In the event of a positive test result, the applicant, trainee, or sworn officer shall be notified as soon as practicable. Upon 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 State Toxicology Laboratory be retested.

1:11-8 ACCIDENTAL/INADVERTENT EXPOSURE

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 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 in accordance with Directive 3:11 without undue delay.

1:11-9 POSITIVE TEST RESULT PRECIPITATED BY LAWFUL AND REPORTED PRESCRIPTION MEDICATION

Any test that reveals the presence of a drug 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.

1:11-10 NOTIFICATIONS

- a. The Chief of Police shall notify the Essex County Prosecutor and the First Assistant Prosecutor if any police officer tests positive or refuses to be tested pursuant to this directive. 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 Chief of Police or an individual so designated by the Chief shall immediately provide a confidential written notice to the Essex County Prosecutor and the First Assistant Prosecutor. Upon completion of any disciplinary action, the Chief of Police or designee shall report the discipline to the County Prosecutor or designee without undue delay.
- b. By December 31st of each year, the Chief of Police shall provide written notice to the County Prosecutor or his/her designee of the dates 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 any sworn officers who have tested positive. This report shall be prepared by the Internal Affairs Commander and forwarded to the Chief of Police for his review prior to the due date each year.
- c. 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:
 - Name and address of the submitting agency, and the contact person;
 - Name of the individual who tested positive;
 - Their last known address;
 - Their date of birth;
 - Their social security number;
 - Their SBI number (if known);
 - Their gender;

- Their race;
 - Their eye color;
 - The substance they tested positive for, or circumstances of the refusal to submit a urine sample;
 - Date of the drug test or refusal;
 - Date of final dismissal or separation from this agency; and
 - 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.

1:11-11 RECORDKEEPING

- a. The Office of Internal Affairs shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers. All written reports created or submitted pursuant to this Directive that identify specific officers are confidential and not subject to public disclosure.
- b. These records shall include, but are not limited to:
- The identity of those ordered to submit urine samples;
 - The reason for the order;
 - The date the sample was collected;
 - The name of the monitor;
 - The chain of custody of the sample from the time it was collected until the time it was received by the State Toxicology Laboratory;
 - The results of the drug testing;
 - Copies of notifications to the subject of the drug testing; and
 - For any positive result or refusal, appropriate documentation of the disciplinary action.
- c. For random selection drug testing, the records will also include:
- A description of the process used to randomly select officers for drug testing;
 - The date the selection was made;
 - A copy of the document listing the identities of those selected for drug testing;
 - A list of those who were actually tested; and
 - The date(s) those officers were tested.
- d. It shall further be the policy of this department to maintain sworn applicant drug testing, random selection drug testing, and reasonable suspicion for sworn officer drug testing records 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 Business Administrator.

1:11-12 PUBLIC ACCESSIBILITY

This policy shall be made available to the public upon request and shall be posted on the agency's website.