

MANASQUAN POLICE DEPARTMENT	
SUBJECT: DRUG TESTING PROCEDURES	GENERAL ORDER: 18-125
DATE ISSUED: February 19, 2018	PERSONNEL ORDER:
DATE REVISED: February 19, 2018	
ISSUED BY: Chief Michael Bauer	SUPERSEDES: 89-69
APPROVED BY: Chief Michael Bauer	
ATTACHMENTS:	

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

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

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

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

Therefore, in order to ensure the integrity of the department and to preserve public trust and confidence in a fit and drug free police

profession, this department has instituted a drug testing program to deter prohibited drug use by all sworn personnel.

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

This G.O. is considered an annex to the rules and regulations of the police department.

PROCEDURES

I. DEFINITIONS

- A. Applicant is any person who applies for the position of police officer in the Manasquan Police Department. This includes any persons applying to be a patrol officer or a special law enforcement officer II.
- B. Drug test is the compulsory production and submission of urine by an employee in accordance with these established procedures for laboratory analysis to detect prohibited drug use.
- C. Employee includes any civilian employee assigned to or under the supervision of the police department.
- D. Officer is a sworn police officer, regardless of rank or assignment, who is responsible for the enforcement of the criminal laws of this state. Officer also includes special law enforcement II officers (SLEO II).
- E. Positive result is the result given to a specimen that is tested and confirmed to be positive for a controlled substance following laboratory analysis and a review by a medical review officer at the laboratory after comparison with the medication information report and it is determined that any substance listed on the report does not explain the test result.
- F. Random selection is defined as the method by which every police officer regardless of rank or assignment has an equal chance of being selected for drug testing each and every time a drug test is conducted.

- G. Reasonable suspicion is that quantity of proof or evidence that is more than a hunch, but less than probable cause. Reasonable suspicion must be based on specific, articulable, objective facts and any rationally derived inferences from those facts about the conduct of an individual that would lead a reasonable person to suspect that the individual is or has been using drugs while either on or off duty.
- H. Recruit/trainee is any applicant who is undergoing mandatory basic training in a police academy.
- I. Supervisor is a sworn officer formally assigned to a position having day-to-day responsibility for supervising subordinates or who is responsible for commanding a work unit.

II. TESTING – GENERAL

- A. Applicants
 - 1. Applicants for the position of police officer and special law enforcement officer II (SLEO) 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. Applicants also include existing regular law enforcement officers with valid PTC certificates seeking employment with this department as police officers.
 - 2. A negative result is a condition of employment.
 - 3. A positive result or a refusal to submit a specimen for testing will result in the applicant being dropped from consideration for employment, cause the applicant's name to be reported to the central drug registry maintained by the State Police, and preclude the applicant from being considered for future law enforcement employment for a period of two years.
 - 4. If the applicant is currently employed by another agency as a sworn law enforcement officer and the officer tests positive for unlawful drug use, the officer's employing agency shall be notified of the test results without undue delay.
 - 5. Any Manasquan Police Department 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:

- a. Immediately suspended from all duties;
 - b. Terminated from employment as a police officer upon final disciplinary action.
 - c. Reported to the central drug registry maintained by the State Police.
 - d. Permanently barred from future law enforcement employment in the State of New Jersey.
6. Except for applicants who are already existing law enforcement officers, urine samples can be processed by the New Jersey State Toxicology Laboratory or another accredited laboratory selected by the Chief of Police and/or Township Administrator. Applicants who are existing law enforcement officers elsewhere must have their urine samples tested by the New Jersey State Toxicology Laboratory only.

B. Recruit/Trainee

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

a police officer upon final disciplinary action.

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

C. Officers/Random Selection

- 1. Urine specimens shall be ordered from officers who have been randomly selected to submit to a drug test.
- 2. Approximately ten percent of the sworn workforce (including SLEO personnel) shall be randomly selected each time. The frequency and dates of the selection shall be at the sole discretion of the Chief of Police, which shall be at a minimum of two tests per calendar year as per the Monmouth County Prosecutor's Office directive. The PBA president or his designee will be given the opportunity to be present during the selection process.
- 3. A negative test result is a condition of continued employment.
- 4. A positive test result will result in the following:
 - a. The officer shall be immediately suspended from all duties;
 - b. The officer shall be terminated from employment as a police officer upon final disciplinary action.

- c. The officer's name shall be reported to the central drug registry maintained by the State Police.
 - d. The officer shall be permanently barred from future law enforcement employment in the State of New Jersey.
- 5. Officer(s) who refuse to submit to random drug testing are subject to the same penalties set forth above in subsection II.C.4.
- 6. 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.
- 7. Any employee of the police department who discloses the identity of an officer selected for random drug testing or the fact that a random drug test is scheduled shall be subject to disciplinary action.

D. Officers/Reasonable Suspicion

- 1. In addition to random testing, urine specimens shall be ordered from any officer when reasonable suspicion exists to believe that the officer is improperly using drugs. For this purpose, urine specimens shall not be ordered from the officer without the approval of the Monmouth County Prosecutor or the Chief of Police.
- 2. A negative test result is a condition of continued employment.
- 3. A positive test result will result in the following:
 - a. The officer shall be immediately suspended from all duties;
 - b. The officer shall be terminated from employment as an officer upon final disciplinary action.
 - c. The officer's name shall be reported to the central drug registry maintained by the State Police.

- d. The officer shall be permanently barred from future law enforcement employment in the State of New Jersey.
 - 4. If an officer refuses to submit to a drug test based on reasonable suspicion after being lawfully ordered to do so, the officer shall be charged with gross insubordination and also is subject to the same penalties as for those who test positive for the illegal use of drugs, see above subsection II.D.3.
 - 5. Regardless of the reason for testing, any officer who tests positive for improper drug use or refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported to the central drug registry maintained by the State Police and shall be permanently barred from future law enforcement employment in New Jersey.
 - 6. Any employee who has reason to believe that a member of this agency is utilizing illegal drugs must report that suspicion or face disciplinary action.
 - 7. Any employee having reasonable suspicion of illegal drug use by another employee must report it by way of a confidential report to the Chief of Police or the internal affairs commander. The report shall detail the facts that form the basis of reasonable suspicion of illegal drug use.
- E. Fitness for Duty Examinations (physical and/or psychological examinations)
- 1. Urine samples may be requested by a physician/psychologist designated by the Borough of Manasquan during any scheduled and announced medical examination or a fitness for duty examination (physical and/or psychological examination). The subsequent collection and analysis of any specimen obtained through a medical examination or fitness for duty examination (physical and/or psychological examinations) will be under the control of the Borough of Manasquan-designated physician/psychologist.

2. All personnel shall be required to submit to urine testing when told to by the Borough of Manasquan physician or Borough of Manasquan-designated physician/psychologist.
 3. Failure to submit to this physician/psychologist ordered urine testing shall be considered a form of gross insubordination and subject to termination upon final disciplinary action.
- F. Civilian Personnel – Reasonable Suspicion/Fitness for Duty Examinations (physical and/or psychological examinations):
1. Civilian personnel are often called upon to perform a myriad of duties that had traditionally been performed by sworn police officers. These duties require civilians to act and otherwise make decisions that are a matter of public safety and include, but are not limited to the following positions:
 - a. Communications personnel;
 - b. Information systems manager/terminal agency coordinator(s);
 - c. School crossing guards;
 - d. Clerks/stenographers/secretaries, etc.;
 2. Urine specimens shall be ordered from any civilian employee when reasonable suspicion exists to believe that the employee is improperly using drugs. For this purpose, urine specimens shall not be ordered from the employee without the approval of the Chief of Police, internal affairs commander or their designees.
 3. Reasonable suspicion drug testing and fitness for duty drug testing will normally be performed by a physician/psychologist or facility designated by the Township Administrator.
 4. If an employee refuses to submit to a drug test based on reasonable suspicion after being lawfully ordered to do so, the employee is subject to termination upon final disciplinary action for gross insubordination.
- G. Any employee who has reason to believe that a member of this

agency is utilizing illegal drugs must report that suspicion or face disciplinary action. These suspicions must be reported by way of a confidential report to the Chief of Police or the internal affairs commander. The report shall detail the facts that form the basis of reasonable suspicion of illegal drug use.

III. PRELIMINARY PROCEDURES

A. Police Applicants

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

B. Recruit/Trainee

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

C. Random Testing of Officers

1. The Manasquan Police Department will conduct random drug testing upon all officers regardless of rank or assignment. The internal affairs commander or his/her designee is responsible for the selection, notification, collection, monitoring, chain of custody, storage and transport of urine specimens to the State Toxicology Laboratory and any subsequent recordkeeping which is necessary to ensure that the testing process is conducted in a prompt, efficient and confidential manner.
2. The tests may include testing for steroids.

3. A representative of the police union(s) shall be notified of every random selection process and may witness the random selection. The union representative(s) shall not be informed of the officers' names. Each representative shall indicate whether they had witnessed the random selection process or declined to do so on the *Random Drug Testing ID Number Selection* form.

D. Civilian Employees

1. Mandatory drug testing may be performed on 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 Township Administrator at a location selected by the Township Administrator.
2. Reasonable suspicion drug testing and drug testing performed during a fitness for duty examination (physical and/or psychological examinations) are also under the auspices of the Township Administrator at a location selected by the Township Administrator.
3. Drug test results will normally be forwarded to the Borough of Manasquan physician/psychologist or Borough of Manasquan-designated physician/psychologist for review. The physician/psychologist will interpret the results and tender a recommendation to the Township Administrator and/or Chief of Police concerning the employee's employment status.
4. If the drug test reveals the use of any unlawful substance, the employee will have the conditional offer of employment withdrawn or be subject to termination upon final disciplinary action, whatever is applicable.
5. The presence of a lawful substance is subject to review by the Borough of Manasquan designated physician and Chief of Police to determine if the substance is or has adversely affected the employee's job performance. Any employment action will be decided on a case-by-case basis in comportment with ADA guidelines.

IV. ACQUISITION PROCEDURES

- A. This section applies to random officer testing and reasonable suspicion testing for sworn officers only.
- B. 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, the Chief of Police or his/her designee will select a monitor.
- C. It is the duty of the monitor(s) to ensure that all required documentation is fully and accurately completed and submitted in accordance with this SOP.
- D. The subject(s) selected shall fully complete a *Medication Information Report* form provided by the monitor. No subject shall make any false or misleading statements on the report. All prescription drugs listed on the form are subject to verification. ***(This will be the only opportunity for the subject to disclose the medication he/she had taken. Subjects who yield positive test results will not be given another chance to list any medication they have taken.)***
- E. 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.
- F. Subjects shall have the option of providing a second specimen that must be collected at the same time as the first. If the subject chooses not to submit a second specimen, the subject shall sign a waiver of this option on the *Specimen Acquisition Report*.
- G. Subjects will provide the required specimen without direct observation of the monitor unless there is reason to believe that the individual will adulterate the specimen or otherwise compromise the integrity of the process. Under these circumstances, the monitor may directly observe the production of a specimen. The monitor must fully document the facts and circumstances underlying their belief that the subject may adulterate a specimen or compromise the integrity of the process.

- H. Subjects must provide the specimen upon being ordered to do so. Subjects that are initially unable to do so may be permitted to drink water in an attempt to induce the production of a specimen. Subjects shall not be permitted to consult with anyone prior to submitting the specimen. Any attempt to delay the submission of a specimen, based upon his/her desire to consult with anyone, will be treated as a refusal. If the subject remains unable to provide a specimen after a reasonable amount of time, the monitor may direct the individual to be examined by a physician to determine whether the inability to produce a specimen is as a result of a medical or physical infirmity or a refusal to cooperate with the testing process.
- I. 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*.
- J. The monitor will secure all samples in secured refrigerated storage. The access to this refrigerated storage shall be restricted to the Chief of Police or his/her designee and the internal affairs commander or other designee.
 - 1. If the Chief of Police has provided a urine sample, he/she shall have his/her access to the secured refrigerated storage revoked until the samples are tested and/or disposed.
 - 2. If the internal affairs commander has provided a urine sample, he/she shall have his/her access to the secured refrigerated storage revoked until the samples are tested and/or disposed.
 - 3. If any designees mentioned above have provided a urine sample, they shall have their access to the secured refrigerated storage revoked until the samples are tested and/or disposed.
- K. The second specimen, if submitted, shall be collected at the same time as the first.
- L. If the first test results in a negative reading, the second sample will be destroyed.
- M. If the first test results in a positive reading, the officer shall notify the department within 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 60 days, it will be destroyed.

N. The second specimen shall be released under the following circumstances:

1. This department is notified by the State of New Jersey Toxicology Laboratory that the first specimen tested positive for controlled substance(s); and
2. This department is notified by the officer that tested positive that they wish to have their second specimen tested by an independent laboratory; and
3. 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
4. A representative of the designated clinical laboratory takes possession of the second specimen in accordance with acceptable chain of custody procedures.

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

P. ***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.***

Q. The State Toxicology Laboratory shall minimally analyze each specimen for the following substances and their metabolites:

1. Amphetamine/methamphetamine;
2. Barbiturates;
3. Benzodiazepine;
4. Cannaboids;
5. Cocaine;

6. Methadone;
 7. Phencyclidine;
 8. Opiates;
 9. Other drug or substance deemed necessary by the Chief of Police, County Prosecutor, or Attorney General.
- R. The Chief of Police may request that one or more specimens be analyzed for the presence of anabolic steroids and their metabolites.
- S. In the event of a positive test result, the applicant, trainee, or sworn officer shall be notified as soon as practicable. Upon written request, the individual may receive a copy of the laboratory report.
- T. 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.

V. ACCIDENTAL/INADVERTENT EXPOSURE

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

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

- A. Any test that reveals the presence of a drug or substance listed on the subject's *Medication Information Report* will be reported to the

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

VII. NOTIFICATIONS

- A. The Chief of Police shall notify the Monmouth County Prosecutor and the first assistant prosecutor if any police officer tests positive or refuses to be tested pursuant to this SOP.
- B. Applicants, trainees and sworn officers who test positive for the unlawful use of drugs, or who refuses an order to submit a urine sample when ordered to shall be reported to the Central Drug Registry maintained by the New Jersey State Police on a form approved for use by the Attorney General. Notifications to the Central Drug Registry shall include the following information as to each individual:
 - 1. Name and address of the submitting agency, and the contact person;
 - 2. Name of the individual who tested positive;
 - 3. His/her last known address;
 - 4. His/her date of birth;
 - 5. His/her social security number;
 - 6. His/her SBI number (if known);
 - 7. His/her gender;
 - 8. His/her race;
 - 9. His/her eye color;
 - 10. The substance for which he/she tested positive, or circumstances of the refusal to submit a urine sample;
 - 11. Date of the drug test or refusal;

12. Date of final dismissal or separation from this agency; and
 13. Whether the subject was an applicant, trainee or sworn officer.
- C. The certification section of the notification form must be completed by the Chief of Police and notarized with a raised seal.

VIII. RECORDKEEPING

- A. The internal affairs commander shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers, which shall be stored in the internal affairs files within the Chief's Office.
- B. These records shall include, but are not limited to:
1. The identity of those ordered to submit urine samples;
 2. The reason for the order;
 3. The date the sample was collected;
 4. The name of the monitor;
 5. The chain of custody of the sample from the time it was collected until the time it was received by the State Toxicology Laboratory;
 6. The results of the drug testing;
 7. Copies of notifications to the subject of the drug testing;
 8. For any positive result, documentation from the employee's physician that the medication was lawfully prescribed and does not render the employee unfit for duty;
 9. For any positive result or refusal, appropriate documentation of the disciplinary action.
- C. For random selection drug testing, the records will also include:
1. A description of the process used to randomly select officers for drug testing;
 2. The date the selection was made;

3. A copy of the document listing the identities of those selected for drug testing;
 4. A list of those who were actually tested; and
 5. The date(s) those officers were tested.
- D. Sworn applicant drug testing, random selection drug testing, and reasonable suspicion for sworn officer drug testing records shall be maintained with the level of confidentiality required for internal affairs files pursuant to the *New Jersey Internal Affairs Policy and Procedures* manual.
- E. Drug testing records for civilian employees will be kept and maintained by the Township Administrator.