

# ***EVESHAM POLICE DEPARTMENT MANUAL***

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<b>SUBJECT: DRUG SCREENING FOR LAW ENFORCEMENT</b>	
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<b>APPLICABILITY: ALL SWORN EMPLOYEES</b>	<b>ANNUAL REVIEW:</b>
<b>ACCREDITATION STANDARDS:</b>	
<b>The Written Directives developed by the Evesham Township Police Department are for internal use only, and do not enlarge an officer's civil or criminal liability in any way. They should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of Written Directives can only be the basis of a complaint by this Department, and then only in an administrative disciplinary setting.</b>	

**PURPOSE:** To safeguard the department and members of the public from applicants, law enforcement trainees and sworn law enforcement personnel who may engage in the illegal use of drugs and to provide a zero tolerance stance of illegal drug use by applicants, law enforcement trainees and sworn law enforcement personnel.

**POLICY:** The illegal use of drugs is incompatible with service in law enforcement. The department is committed to ensuring that applicants, trainees, and sworn law enforcement personnel are physically and mentally capable of performing their duties and fulfilling their responsibilities. They are expected to obey all laws and ordinances, including those concerning illegal use of drugs.

## **PROCEDURE:**

### **I. Policy Statements**

- A. The provision contained in this written directive apply to the following:
  - 1. Applicants seeking a law enforcement position with this department 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;
  - 2. Law enforcement officer trainees subject to the Police Training Act while they attend a mandatory basic training course; and
  - 3. Sworn members of this department 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.
  
- B. It is the policy of this department that officers are subject to urine testing for illegal drug use as follows:
  - 1. When reasonable suspicion exists to believe that the officer is illegally using drugs, or
  - 2. When officers have been randomly selected to submit to a drug screen.
  
- C. It is the policy of this department that a negative test result is a continued condition of employment as a sworn officer. Any officer who tests positive for illegal drug use as specified below, or who refuses to submit to a drug test upon a lawful order, shall be subject to discipline, which shall include termination from this department, pursuant to the procedures set forth below.

## **II. Types of Drug Testing**

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

1. The job announcement form utilized by the department to advertise openings for sworn law enforcement officers shall include a notice indicating successful candidates may be required to submit to a drug test by urinalysis.
  - The notice concerning drug testing shall inform applicants that a negative result is a condition of employment and that a positive result:
    - Will result in the applicant being dropped from consideration for employment;
    - Shall cause the applicant's name to be reported to the County Prosecutor, who will in turn report it to the central drug registry maintain by the Division of State Police; and
    - Shall, pursuant to the Attorney General's Guidelines, 1998, as revised, preclude the applicant from being considered for future law enforcement employment for a period of two years.
  - The notice shall also indicate that if the applicant is currently employed by another agency as a sworn law enforcement officer and the officer tests positive for illegal drug use, the officer's employing agency will be notified of the test result and the officer may be terminated from employment and may be permanently barred from future law enforcement employment in New Jersey.
  - Applicants for law enforcement positions will be required to sign an Applicant Consent Form that also outlines all of the information set forth above.

### **B. Law Enforcement Trainees**

1. Law enforcement trainees will be required to submit one (1) 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. Individual trainees shall also be required to submit a urine specimen for testing when there exists reasonable suspicion to believe that the trainee is illegally using drugs. A trainee shall be ordered to submit to a drug test based on reasonable suspicion only with the approval of the County Prosecutor, the Chief of Police, or the academy director.
3. Trainees shall also be informed that a negative test result is a condition of employment and that a positive result:
  - Will result in the trainee being dropped from consideration for employment;
  - Shall cause the trainee's name to be reported to the County Prosecutor, who in turn will report it to the central drug registry maintained by the Division of State Police; and
  - Shall, pursuant to the Attorney General's Guidelines, 1998, as revised, permanently bar the trainee from future law enforcement employment in New Jersey.

### **C. Sworn Law Enforcement Officer**

1. Reasonable suspicion testing
  - Urine specimens shall be ordered from an officer when there exists reasonable suspicion that the officer is illegally using drugs.
  - Upon a report from any source that an officer may be illegally using drugs, the Internal Affairs Bureau Commander and Chief of Police shall immediately be notified.
  - Upon direction by the Chief of Police, the Internal Affairs Bureau Commander will initiate an investigation to establish whether a basis exists for reasonable suspicion of illegal drug use.

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- The Internal Affairs Bureau Commander shall document the findings in a written report.
  - The written report shall be submitted to the Chief of Police for a determination if reasonable suspicion exists that an officer has engaged in illegal drug use.
  - If the Chief of Police determines that reasonable suspicion of illegal drug use exists, the officer shall be ordered to submit a urine sample for drug screening in accordance with the procedures listed below.
  - Under emergency circumstances, the Chief of Police may give approval for a reasonable suspicion test on the basis of a verbal report. In such a case, a written report shall be submitted not more than 72 hours after verbal approval.
2. Random Drug Screening
- Random selection shall be defined as a method of selection in which each and every sworn officer of the department, regardless of rank or assignment, has an equal chance to be selected for drug testing each time a selection is conducted.
  - The Chief of Police shall determine the percentage of sworn officers selected each time a random selection takes place.
  - The random selection of sworn officers who will be subject to testing pursuant to this written directive shall take place on dates during the calendar year as determined by the Chief of Police.
  - The method of random selection shall be as follows:
    - The total number of random tests to be administered in a calendar year shall be equivalent to not less than 20% of the total number of sworn law enforcement officers in the department. The Chief of Police shall have the discretion to modify the total number beyond 20% of the officers to be randomly selected for testing, as well as the total number of testing dates in any given year. At each selection process, a minimum number of 10% of the total number of officers in the department will be selected for testing. Testing shall occur a minimum of two (2) times per year.
    - On each date chosen for a random selection of sworn law enforcement officers, the Chief of Police or his designee shall generate a list from the "Random Name Generator" program in the Law Enforcement Records System (LERS) in use by this department. In order to generate a random list, enter a number equivalent to **One More** than the number of officers that will be tested. In other words, if you need to test eight officers to fulfill the 10% requirement, enter 9 and the name generator will print a list of nine randomly selected active sworn officers. Thereafter, the first sworn law enforcement officers appearing on the list, in a number equal to that necessary to accomplish testing of 10% of the sworn law enforcement officers in department (or a greater percentage as determined by the Chief of Police), will be designated as valid selections for testing.
    - All master lists generated for random drug testing shall be maintained consistent with the level of confidentiality and retention period for Internal Affairs files pursuant to the Attorney General's Guidelines. (See written directive V1C13 – Internal Affairs and Discipline)
  - The Chief of Police or his designee and one representative from each bargaining unit and the Office of Professional Standards Bureau Commander shall serve as the official selection committee. Each bargaining unit must provide the Chief of Police with written notice concerning the identity of the member appointed to serve on the selection committee. This notification must be accomplished on or before January 15<sup>th</sup> of each year. In the event that a bargaining unit does not wish to be represented on the selection committee, the Chief of Police may

appoint any department member to that position. At no time will the selection committee consist of less than three (3) members.

- Any member of the department who discloses the identity of a sworn officer selected for random drug testing or the fact that a random selection is scheduled to take place prior to the collection of urine specimens shall be subject to administrative discipline.

### **III. Notification of Drug Testing Procedures**

- A. When it has been determined that reasonable suspicion exists, the Internal Affairs Bureau Commander will go to the subject officer at the officer's work assignment and order that officer to accompany them to a designated lavatory to collect the specimen.
- B. Officers selected for random drug screening shall be contacted by the Internal Affairs Bureau Commander at their work assignment and shall immediately report to the designated lavatory to submit a urine sample. If the officer is not on duty or is on a leave of any kind, the officer will be ordered to give a proper urine sample(s) immediately upon returning to work, regardless of the length or reason for the leave.
- C. The order to provide a urine sample for drug screening is a direct order from the Chief of Police. No officer has the right to refuse the order, the right to have a union representative or attorney present at the time the sample is collected, nor the right to delay the order for any reason.

### **IV. Specimen Acquisition Process**

- A. The Internal Affairs Bureau Commander will be responsible for the overall supervision of collection of urine specimens.
  1. The Chief of Police shall designate an official monitor(s) to oversee the specimen acquisition process.
  2. The monitor shall always be of the same sex as the individual being tested.
  3. The monitor of the specimen acquisition process shall be responsible for:
    - Ensuring that the individual submitting the specimen fully and accurately completes documentation.
    - Collecting specimens in a manner that provides for individual privacy while ensuring the integrity of the specimen. The monitor shall accompany the officer into the designated lavatory and shall remain there until the specimen is provided and the bottle is handed to the monitor. In the absence of circumstances that indicate an attempt to adulterate or otherwise compromise the integrity of the specimen, the monitor shall not directly observe the officer filling the specimen bottle. If there is reason to believe that the subject officer will adulterate or otherwise compromise the integrity of the test process, the Chief of Police may direct the monitor to directly observe the officer filling the specimen bottle. The information that forms the basis of the belief shall be provided in a written report not more than 72 hours after the Chief of Police authorizes direct observation.
    - Complying with chain-of-custody procedures established for the collection or urine specimens and their subsequent submission to the New Jersey State Toxicology Laboratory within the Division of Criminal Justice for analysis.
    - Prior to the submission of a urine specimen, officers shall complete a questionnaire clearly describing all medications, both prescription and over-the-counter (non-prescription), ingested in the past 30 days. After completing the form, the officer shall write his or her social security number on an envelope. The monitor shall witness (by signature) that the questionnaire and envelope

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display the same social security number. The officers shall then place the questionnaire in the envelope, seal the envelope, and turn it over to the monitor.

- B. At the time the urine sample is provided, the subject officer will be advised that they have the option to submit two samples.
1. Both samples will be acquired according to the procedures outlined herein.
  2. One will be forwarded to the New Jersey New Jersey State Toxicology Laboratory within the Division of Criminal Justice for testing; the remaining sample will be placed in a secured and refrigerated storage area within the department according to department procedures regarding chain-of-custody and evidence storage.
  3. The department shall maintain possession of the second specimen for a period of 60 days or until notification from the New Jersey State Toxicology Laboratory within the Division of Criminal Justice that the first specimen tested negative for the presence of controlled dangerous substances.
  4. The second specimen shall be released under the following circumstances:
    - Notification by the New Jersey State Toxicology Laboratory within the Division of Criminal Justice that the first specimen tested positive for a controlled dangerous substance.
    - Notification by the individual whose specimen tested positive that the individual wishes to have the specimen independently tested; and
    - The employee designates 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 accepted chain-of-custody procedures within 60 days of the date the specimen was produced.
- C. Specimen Collection
1. Individual specimens shall be identified 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 Toxicology Laboratory within the Division of Criminal Justice.
  2. Specimens shall be collected utilizing equipment and supplies approved by the New Jersey State Toxicology Laboratory within the Division of Criminal Justice. Under no circumstances may a specimen be collected and submitted for analysis in a specimen container that has not been approved by the New Jersey State Toxicology Laboratory within the Division of Criminal Justice.
  3. The subject officer shall:
    - Open the sealed urine specimen bottle packet.
    - Put his or her social security number and date on the specimen bottle label **with pencil**.
    - Place the completed label inside the specimen bottle.
    - Produce a urine sample into the bottle.
    - Push the cap onto the bottle, effecting the seal.
    - Immediately hand the bottle to the monitor.
  4. Procedures for collecting urine samples shall allow individual privacy unless there exists a reason to believe that a particular individual may adulterate or otherwise compromise the integrity of the specimen. Under these circumstances, the monitor may directly observe the production of a specimen.
  5. If the subject is unable to provide the sample when requested:
    - He or she will remain in the presence of the monitor until they can provide a sample.
    - He or she will be allowed to drink fluids.
    - 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. The monitor shall take possession of the sample.
7. The monitor shall inspect the bottle to make sure it has been properly sealed.
8. The monitor shall return the sample to the custody of the Internal Affairs Bureau Commander.
9. The Internal Affairs Bureau Commander shall place all samples in a secured (controlled access) and refrigerated storage area until it is delivered to the New Jersey State Toxicology Laboratory within the Division of Criminal Justice.
10. Once the officer has relinquished the sample to the monitor and it has been accepted, the officer has fulfilled his or her obligation and shall not be ordered to resubmit a urine sample absent reasonable suspicion under **subsection II.C** on page 2, or another random selection process unless there is reason to believe the officer has altered or damaged the validity of the specimen. Under those circumstances, the officer may be immediately ordered to submit another specimen.

## **V. Submission to the New Jersey State Toxicology Laboratory within the Division of Criminal Justice within the Division of Criminal Justice**

- A. Personnel from the department (or by commercial carrier) will submit all urine samples and sealed medication information questionnaires for drug screening to the New Jersey State Toxicology Laboratory within the Division of Criminal Justice.
- B. Personnel shall strive to deliver all urine samples within one working day of acquisition.
- C. In the event a specimen cannot be delivered to the laboratory within one working day of their collection, the specimens shall be stored in a controlled access refrigerator until such time as they can be delivered to the New Jersey State Toxicology Laboratory within the Division of Criminal Justice.
- D. The New Jersey State Toxicology Laboratory within the Division of Criminal Justice will reject any specimen that shows evidence of tampering or damage.
- E. The chain-of-custody from the collecting agency to the New Jersey State Toxicology within the Division of Criminal Justice will be fully documented.
- F. All submissions made by commercial carrier must be made by "next day delivery".
- G. In addition to the sealed container, all submissions made by commercial carrier must be packaged in a manner that includes two additional seals to provide for the integrity of the test specimens.

## **VI. Analysis of Specimens**

- A. The New Jersey State Toxicology Laboratory within the Division of Criminal Justice will utilize the following test procedures to analyze urine specimens for law enforcement agencies:
  1. All specimens will be subject to an initial test utilizing fluorescence polarization immunoassay analysis.
  2. Those specimens that test positive for a controlled substance following the fluorescence polarization immunoassay shall be subject to a gas chromatography/mass spectrophotometry analysis to confirm the presence of the controlled substance.

3. In the event a specimen is confirmed positive for a controlled substance following the gas chromatography/mass spectrophotometry analysis, a medical review officer at the laboratory shall compare the test results with the medical questionnaire submitted with the specimen to determine whether any substance listed on the questionnaire would explain the test result.
  - The medical review officer may direct the agency that collected the specimen to obtain further information from the individual being tested concerning the medications listed on the questionnaire.
  - In the event the questionnaire does not explain the test result, the medical review officer shall issue a report indicating that the specimen tested positive.
4. The specimen will be tested by the New Jersey State Toxicology Laboratory within the Division of Criminal Justice for the following substances and their metabolites:
  - Amphetamine/methamphetamine;
  - Barbiturates;
  - Benzodiazepine;
  - Cannabinoids;
  - Cocaine;
  - Methadone;
  - Phencyclidine; and
  - Opiates.
5. The specimen, at the request of the Chief of Police, may be analyzed for the presence of steroids.
6. The analysis of each specimen shall be done in accordance with procedures adopted by the New Jersey State Toxicology Laboratory within the Division of Criminal Justice. These procedures shall include, but are not limited to:
  - Security of test specimens;
  - Chain of custody;
  - Metabolite cut-off levels; and
  - Issuance of reports.

## **VII. Drug Test Results**

- A. The New Jersey State Toxicology Laboratory within the Division of Criminal Justice shall notify this department of any positive test results from the specimens submitted for analysis.
  1. All reports of positive test results shall be in writing and sent to this department within fifteen (15) working days of submission of the specimens.
  2. The New Jersey State Toxicology Laboratory within the Division of Criminal Justice will, upon request, provide this department with written documentation that one (1) or more specimens submitted for analysis tested negative.
- B. The New Jersey State Toxicology Laboratory within the Division of Criminal Justice will not report a specimen as having tested positive 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. This department will notify the officer of the results of a positive drug test result as soon as practical after receipt of the report from the New Jersey State Toxicology Laboratory within the Division of Criminal Justice. Upon request, the individual who produced the specimen that tested positive will be furnished with a copy of the laboratory report.
- D. Under no circumstances may an agency or an individual resubmit a specimen for testing or ask that a particular specimen within the possession of the New Jersey State Toxicology Laboratory within the Division of Criminal Justice be retested.

## **VIII. Consequences of a Positive Test Result**

- A. Applicants
1. Any applicant who tests positive for illegal drug use shall:
    - Be immediately suspended from consideration for employment by the agency;
    - Be reported to the County Prosecutor, who in turn will report it to the central drug registry maintained by the Division of State Police; and
    - Pursuant to the Attorney General's Guidelines, 1998, as revised, be precluded from consideration for future law enforcement employment by any law enforcement agency in New Jersey for a period of two (2) years.
  2. If the applicant is currently employed by another agency as a sworn law enforcement officer, and the applicant tests positive for illegal drug use, the applicant's current employing agency shall be notified of the positive test result.
- B. Trainees
1. Any trainee who tests positive for illegal drug use shall:
    - Result in the trainee being immediately suspended from employment with this agency;
    - Result in the trainee being terminated from employment with his agency, upon final disciplinary action;
    - Cause the trainee's name to be forwarded to the County Prosecutor, who will in turn report it to the central drug registry maintain by the Division of State Police;
    - Pursuant to the Attorney General's Guideline, 1998, as revised, result in the trainee being permanently barred from future law enforcement employment in New Jersey.
- C. Sworn Law Enforcement Officers:
1. Any officer who tests positive for illegal drug use shall be immediately suspended with pay from all duties.
  2. Upon receiving a positive test result, the Chief of Police shall immediately move forward in the administrative procedures as set forth below.
    - During the Administrative Hearing, the police officer will have the opportunity to respond to the charges.
      - Upon conclusion of the Administrative Hearing, if the police officer is found to have violated the policies outlined in this written directive:
        - ✓ The police officer shall be terminated from employment as a member of this police department;
        - ✓ Test results shall be reported to the County Prosecutor, who in turn will report it to the Central Drug Registry maintained by the Division of State Police; and
        - ✓ In accordance with the Attorney General's Policies, the police officer shall be permanently barred from future law enforcement employment in New Jersey.

## **IX. Consequences of a Refusal to Submit to a Drug Test**

- A. The Chief of Police shall make a determination whether an applicant, trainee or officer refused to submit to a drug test.
- B. Any officer who refuses to submit to a drug test ordered in response to reasonable suspicion or random selection shall be immediately suspended with pay from all duties.

- C. A refusal shall be treated as a positive test result for the sole purpose of applying the provisions of section VIII, as set forth above.

**X. Resignations and Retirements**

- A. An officer who tests positive for illegal drug use or who 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 County Prosecutor who will in turn report it to the central drug registry maintain by the Division of State Police and shall be barred from future law enforcement employment in New Jersey.

**XI. Record Keeping**

- A. The Internal Affairs Bureau Commander shall maintain all records relating to the drug screening of applicants, trainees and sworn members of the department.
- B. For all drug screening, the records shall include at minimum:
  - 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 identity of the 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 New Jersey State Toxicology Laboratory within the Division of Criminal Justice;
  - 6. The results of the drug screening;
  - 7. For any positive result, documentation from the officer's physician that the medication was lawfully prescribed and does not render the officer unfit for duty;
  - 8. Copies of notification to the subject; and
  - 9. Documentation of the disciplinary process and conclusions to same resulting from any positive result or refusal to submit to testing.
- C. For random drug screening, the records will also include:
  - 1. A description of the process used to randomly select members for drug screening;
  - 2. The date the selection was made;
  - 3. A copy of the document listing the identities of those selected for drug screening;
  - 4. A list of those who were actually tested; and
  - 4. The date the urine was tested.
- D. The records of drug screening shall be maintained with the level of confidentiality and retention period required for internal affairs files pursuant to the New Jersey Internal Affairs Policy and Procedures. (See written directive V1C13 – Internal Affairs)

**XII. Central Drug Registry**

- A. The Chief of Police shall notify the County Prosecutor who shall, in accordance with the Attorney General's Guidelines, notify the Central Drug Registry maintain by the Division of State Police of the identity of any sworn law enforcement officers, applicants and trainees, who test positive for the illegal use of drugs or refuses an order to submit to a urine sample.

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- B. The Chief of Police's notification to the County Prosecutor, who shall then notify the Central Drug Registry in accordance with the Attorney General's Guidelines, shall include the following information as to each individual:
1. Name and address of this department;
  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. Date of dismissal from the department; and
  9. Whether the individual was an applicant, trainee or sworn member of the department.

### **XIII. Required Reporting to the Burlington County Prosecutor**

- A. The Chief of Police shall, on December 31<sup>st</sup> of each year, provide a written report to the Burlington County Prosecutor or his designee. The report shall contain the following information related to the agency's random employee drug testing, for the year:
1. The dates that the agency conducted our random employee drug testing
  2. The total number of sworn staff employed by the agency for the respective year
  3. The total number of sworn staff that was randomly selected for drug testing during the year
  4. The total number of sworn staff who tested positive during the random drug testing during the respective year