

**KEARNY POLICE DEPARTMENT**  
**Standard Operating Procedures**

**Procedure # 185**

<b>RANDOM DRUG TESTING</b>			
<b>Date of Issue</b> <b>9-01-2003</b>	<b>Effective Date</b> <b>9-01-2003</b>	<b>Revision Date</b> <b>3-21-2018</b>	<b>Number of Pages</b> <b>Page 1 of 8</b>

**PURPOSE:**

**To create a protocol for random drug testing of sworn police officers**

This protocol pertains to the RANDOM DRUG TESTING of sworn officers of the Kearny Police Department. It does not pertain to job applicant drug testing, mandatory drug testing for recruits while attending mandatory training or for drug tests ordered upon a sworn officer as a result of a reasonable suspicion to believe that an officer is illegally using drugs as specified in the Attorney General's Drug Screening Guidelines.

This protocol establishes the procedure to be used when administering random drug testing amongst members of this department. All sworn officers of the KEARNY POLICE DEPT are required to submit to random drug testing as outlined in the Rules and Regulations Manual (3:1.11) regardless of their rank or assignment. A "sworn officer" is defined as follows:

SWORN OFFICER - Any member of the KEARNY POLICE DEPT who is responsible for the enforcement of the criminal laws of this State, comes under the jurisdiction of the Police Training Act and is authorized to carry a firearm and who holds any of the following titles with this Department; Patrolman, Detective, Sergeant, Lieutenant, Captain, Deputy Chief, and Chief.

Urine specimens will be ordered from sworn officers who have been randomly selected to submit to a drug test. Random selection shall be defined as a method of selection in which each and every sworn officer of the Kearny Police Dept. regardless of rank or assignment, has an equal chance to be selected for drug testing each and every time the selection is conducted.

The frequency of random drug tests shall be determined by the Chief. As per Attorney General Law Enforcement Directive 2018-2 at a minimum, random drug testing shall be conducted at least **twice** a year. The number of sworn officers selected each time a random drug test is conducted shall be determined by the Chief prior to initiating the selection process. As per Attorney General Law Enforcement Directive 2018-2 at least **10%** of the total number of sworn Officers within an agency shall be randomly tested each time. No advanced warning is required nor shall it be given prior to conducting random drug tests.

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The collection of specimens shall be conducted by the Internal Affairs Unit, in accordance with the Attorney General's Law Enforcement Drug Testing Policy Guidelines.

The selection process utilized to determine which sworn officers will submit to the drug testing shall be conducted through the use of a computer program. The program will then randomly select the desired number of personnel to be tested by their social security number. Simultaneously, the computer will randomly select an identical number of alternates. If a selected officer is exempt for reasons outlined in this protocol, and an alternate is required, the first alternate officer listed in the alternate selection process shall be selected. If additional alternate selections are required, they will be chosen in the order that they appear on the alternate selection list. The chosen selection process shall ensure that every sworn officer in the KEARNY POLICE DEPT has an equal chance to be selected for testing each and every time a selection takes place. The selection process shall be verified and documented by the Internal Affairs Unit. Members from the two (2) collective bargaining units within the Department shall be permitted to witness the selection process if they choose. The two (2) collective bargaining units of the KEARNY POLICE DEPT that will be permitted to witness the selection process are as follows:

1. Kearny P.B.A. Local #21
2. Kearny P.B.A. Local #21 Superior Officers Association

If the collective bargaining unit chooses to participate in witnessing the random selection process, the union presidents of each of the collective bargaining units shall then provide the Chief with the name of the representative from their union who shall be notified of the selection process. The union presidents shall also provide two (2) additional names of a second and third union representative in the case the first named officer is not available. Union representatives who have been chosen to participate in the selection process must make every attempt to cooperate with the Internal Affairs Unit.

Only the Chief, or his designee, shall make direct contact with any of the collective bargaining representatives for notification purposes. In order to protect the integrity of the random drug testing program, the members of the collective bargaining units shall not notify or discuss, with any other designated member of their collective bargaining unit the notification by the Chief, or his designee, of an imminent selection process. In cases where the primary designated representative from the collective bargaining unit is notified by the Chief, or his designee, of an imminent

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selection process, but for some reason will not be available to witness same, the Chief will proceed to the next designated officer. The primary designated representative who was initially contacted and notified of the imminent selection process must then abide by the rule of confidentiality and is forbidden to discuss the notification with anyone including, but not limited to, the other designated representatives of their collective bargaining unit. The selection process shall not be delayed due to the unavailability of a representative from either collective bargaining unit. Once notification of the selection process is made to the collective bargaining units, it shall be incumbent upon the representative of each of the collective bargaining units to be available, if they so choose, to attend the selection process. The Chief, or his designee, shall make every reasonable effort to ensure that a representative from each of the collective bargaining units is permitted to witness the selection process, however, in cases where none of the designated representatives are available, the Chief reserves the right to conduct the random selection process without a union representative from a particular union being present.

The selection process of officers for random drug testing is extremely confidential in nature. Any member of the Kearny Police Dept. who discloses the fact that a random selection is scheduled to take place prior to the collection of urine specimens or the identity of an officer selected for random testing shall be subject to discipline up to and including termination.

The collection of urine specimens from selected officers shall be conducted in a prompt, efficient and confidential manner in accordance with the Attorney General's Law Enforcement Drug Testing Policy Guidelines. All selected officers shall fully comply with the directions given by the personnel assigned to the duties of collecting the urine specimens. A refusal to submit to a drug test by any officer who has been chosen to do so after being randomly selected would subject the officer to the same penalties as those officers who test positive for illegal drug use. Those penalties are outlined as follow:

1. Immediate suspension upon notification of a positive test result, and
2. Termination of employment, and
3. Inclusion of the officers name in the central drug registry maintained by the Division of State Police, and
4. The officer being permanently barred from future law enforcement employment in New Jersey.

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This acquisition process shall be performed by a member(s) of the Department's Internal Affairs Unit and /or a properly trained designee assigned by the Chief. If the selected officer is out of state, is absent with injuries or was hospitalized prior to the selection process and remains hospitalized on the day of the selection, a replacement will be selected. In the event that an officer is utilizing properly requested time off including, but not limited to vacation time, military or maternity leave, or bereavement, a replacement will be selected. If a selected officer is attending in-service training out of the state, he/she will be excluded, however, only in circumstances where the department previously arranged to provide lodging for the officer during the training. In that case, an alternate officer will be selected.

Sworn Officers, while attending a mandatory basic training course for newly appointed Police Officers, will be exempt from random drug testing by this department. They will, however, be subject to mandatory drug testing at the training facility they are attending pursuant to the Police Training Act. In all other in-service training situations, the officer will be required to report to the acquisition facility immediately following that day's training session.

Failure of any officer to report after being so ordered, in response to random selection, will be considered a refusal to submit to drug testing and will be subject to the same penalties as an officer who tested positive for illegal drug use. Said penalties are set forth above.

During the preliminary specimen acquisition, the Chief shall designate the Internal Affairs Unit and/or other designee(s) to serve as monitor. The monitor shall always be of the same sex as the officer being tested. The monitor of the specimen acquisition process shall be responsible for:

1. Ensuring that all documentation is fully and accurately completed by the officer submitting the specimen. The documentation shall include a drug testing medication information form which clearly describes **all medications**, both prescription and over the counter (non-prescription), that were ingested in the past 14 days.
2. Collecting specimens in a manner that provides for individual privacy while ensuring the integrity of the specimen.
3. Complying with a 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 for analysis.

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Throughout the specimen collection testing process, the identity of the selected sworn officer 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 Laboratory. Under no circumstances may a specimen be collected and submitted for analysis in a specimen container that has not been approved by the State Toxicology Laboratory.

Urine specimens will be acquired and processed in accordance with the procedures established by the State Toxicology Laboratory as follows:

1. After the monitor has inspected the appropriate forms for accuracy, the selected officer shall first wash their hands to avoid possible contamination and subsequently void into the specimen collection container.
2. After a specimen has been produced, the officer shall seal the specimen container and deliver it to the monitor.
3. Once the monitor is satisfied that the required documentation is accurate and has inspected that the specimen has been produced, the monitor shall inspect the temperature indicator on the container and insure that it is registering appropriately.
4. The monitor shall take possession of the specimen and ensure that it is delivered to the State Toxicology Laboratory for analysis within one working day or the specimen must be secured in a controlled access refrigerated storage area until being delivered to said laboratory.

Individuals will void without the direct observation of the monitor unless there is reason to believe that the individual will adulterate the specimen or otherwise compromise the integrity of the test process. Under these circumstances, the production of a specimen may be directly observed by the monitor who must document the facts underlying the belief that an individual may adulterate a specimen or compromise the integrity of the test process.

Individuals that initially are unable to produce a urine specimen shall remain under the supervision of the test monitor until the monitor is satisfied that the officer cannot produce a specimen. While the officer is under supervision, the monitor may allow the officer to drink fluids in an attempt to induce the production of a specimen. If the officer remains unable to provide a specimen after a reasonable

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period of time, the monitor may have the officer 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.

Sworn officers shall have the option to provide the monitor with a second (split) sample at the same time the first specimen is collected. 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 and shall maintain possession of the second specimen for a period of 60 days or until notification from the State Toxicology Laboratory that the first specimen tested negative for the presence of Controlled Dangerous Substances.

The Internal Affairs Unit under the following circumstances shall release the second specimen:

1. The Internal Affairs Unit is notified by the State Toxicology Laboratory that the first specimen tested positive for a Controlled Dangerous Substance; and
2. The Internal Affairs Unit is informed by the Officer whose specimen tested positive that he/she wishes to have the specimen independently tested; and
3. The Officer must designate a laboratory that is licensed as a clinical laboratory by the New Jersey Clinical Laboratory Act to conduct the independent test; and
4. A representative of the licensed clinical laboratory designated by the officer takes possession of the second specimen within 60 days of the date the specimen was produced.

The State Toxicology Laboratory shall notify this Department of any positive test results from specimens submitted for analysis. All reports of a positive test result shall be in writing and sent to this Department within 15 working days of the submission. The State Toxicology Laboratory will, upon request, provide the Department with written documentation that one of more specimens submitted for analysis tested negative.

The State Toxicology Laboratory shall not report a specimen as having tested positive for a controlled dangerous substance until the specimen has undergone a

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confirmatory test and the medical review officer has reviewed the results of that test with the medical questionnaire pertaining to that specimen.

The Chief or his designee shall notify the officer of the results of a positive test result as soon as practical after receipt of the report from the State Toxicology Laboratory. Upon request, the officer may receive a copy of the laboratory report.

Under no circumstances will this Department nor may an officer resubmit and/ or ask that a particular specimen within the possession of the State Toxicology Laboratory be re-tested.

The Internal Affairs Unit shall maintain all records relating to the drug testing of all sworn officers which 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(s) of the collection process
5. The chain of custody of the urine sample from the time it was collected until the time it was received by the State Toxicology Laboratory
6. The results of the drug testing
7. Copies of notifications to the officer; and
8. for any positive result of refusal, appropriate documentation of disciplinary action.
9. A description of the process used to randomly select officers for drug testing
10. The date the selection was made
11. A copy of the document listing the identities of those selected for drug testing
12. A list of those who were actually tested; and
13. The date(s) those officers were tested.

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.

- Notification to County Prosecutor: In the event of (1) a positive drug test by an Officer, (2) a refusal by an Officer to take the drug test, administration of a reasonable suspicion drug test to an Officer, the law enforcement agency's Chief Executive or his designee shall provide a confidential written notice to the County Prosecutor or his/her designee within **10 days**. Upon completion of any disciplinary action, each agency shall report the discipline to the County Prosecutor or designee.

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- By December 31<sup>st</sup> of each year, every law enforcement agency shall provide written notice to their 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 Officers who tested positive.
- All random drug testing policies adopted by a law enforcement agencies shall be made available to the public upon request and shall be posted on the agency website.
- All written reports created or submitted pursuant to this directive that identify specific Officers are confidential and not subject to public disclosure.