

ATLANTIC COUNTY PROSECUTOR'S OFFICE

PROSECUTOR'S APPENDIX

AX-01258-18

New Jersey Attorney General

Law Enforcement Directive NO. 2018-02

Statewide Mandatory Random Drug Testing (Police)

BY ORDER OF: Damon G. Tyner, Atlantic County Prosecutor
DISTRIBUTION: All Municipal, County and State Law Enforcement Agencies
All Atlantic County Prosecutor's Office Employees
ISSUE DATE: March 21, 2018

Revision History:

03/21/18 [Created]

COVER PAGE ONLY

ORIGINAL DOCUMENTS CONTINUE AFTER THIS PAGE



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO Box 080
TRENTON, NJ 08625-0080

GURBIR S. GREWAL
Attorney General

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2018-2

TO: All Law Enforcement Chief Executives

FROM: Gurbir S. Grewal, Attorney General

DATE: March 20, 2018

SUBJECT: **Statewide Mandatory Random Drug Testing**

I. Background

The Attorney General is responsible for ensuring that law enforcement provides the highest level of service to the public, and that all officers have the physical and mental capacity to perform their duties safely and effectively. An officer's life, the lives of fellow officers, and the lives of the public depend on the officer's alertness and ability to make rational decisions unaffected by illegal drug use.

Testing of law enforcement officers in New Jersey for illegal drug use is governed by the *Attorney General's Law Enforcement Drug Testing Policy* (hereinafter "AG Testing Policy"). Established in 1986, the AG Testing Policy has been reviewed and updated regularly over the years since its issuance. The AG Testing Policy already requires the testing of applicants and trainees for law enforcement positions. It further requires all law enforcement officers be tested if reasonable suspicion exists that they are using drugs illegally.

For the past 20 years, the AG Testing Policy has encouraged, but not required, law enforcement agencies to adopt a random drug testing component to departmental drug testing policies. Because illicit drug use can be hidden, random drug testing provides an objective procedure to test for violations of a department's drug policy. At the same time, the AG Testing Policy recognizes the importance of working with unions and governing bodies to ensure that privacy and collective bargaining interests are protected when implementing a random drug testing process.

Some County Prosecutors already mandate random drug testing in each police department within their jurisdiction and a significant number of police departments in New Jersey presently conduct random drug testing of their officers. To ensure that all law enforcement agencies are employing random drug testing and doing so in a consistent manner,



this Directive establishes a uniform policy requiring that all law enforcement agencies statewide conduct mandatory random drug testing of all sworn officers.

Therefore, pursuant to the authority granted to me under the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, which provides for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the State to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State, I, Gurbir S. Grewal, hereby DIRECT all law enforcement and prosecuting agencies operating under the authority of the laws of the State of New Jersey to implement and comply with the following policies, procedures, standards, and practices.

II. Implementation

A. Applicability

This Directive shall apply to all state, county, and municipal law enforcement agencies and sworn officers who are responsible for enforcing the criminal laws in New Jersey, come under the jurisdiction of the Police Training Act, and are authorized to carry a firearm under N.J.S.A. 2C:39-6. Applicants for a position as a law enforcement officer and law enforcement trainees shall continue to be subject to drug testing, as set forth in the AG Testing Policy.

B. Establishment of Random Drug Testing Policy

All state, county, and municipal law enforcement agencies shall adopt and/or revise their existing drug testing policies, consistent with this Directive, either by rule, regulation, or standard operating procedure (“SOP”), as required by state law.

C. Frequency and Number of Officers to be Tested

Each agency in its policy shall delineate the frequency and number of officers to be selected for random drug testing. At a minimum, random drug testing shall be conducted at least once in the remainder of 2018 and at least twice in every subsequent calendar year. At least 10 percent of the total number of sworn officers within an agency shall be randomly tested each time.

D. Notification of Random Drug Testing Policy

Each agency shall notify all sworn officers of the implementation of a random drug testing policy. The notification shall indicate that, upon an initial positive result, the officer shall be suspended immediately from all duties. The notification also shall indicate that, upon final disciplinary action, the officer shall be terminated from employment as a law enforcement officer, the officer shall be reported to the *Central Drug Registry* maintained by the State Police, and the officer shall be permanently barred from future law enforcement employment in New Jersey.

E. Continuation of AG Testing Policy Procedures

Each agency shall ensure that its random drug testing policy is consistent with the procedures set forth in the AG Testing Policy including:

1. Specimen Acquisition Procedures (Section IV);
2. Submission of Specimens for Analysis (Section V);
3. Analysis of Specimens (Section VI);
4. Drug Test Results (Section VII);
5. Consequences of a Positive Test Result (Section VIII);
6. Consequences of a Refusal to Submit to a Drug Test (Section IX);
7. Resignation/Retirement in lieu of Disciplinary Action (Section X);
8. Record Keeping (Section XI); and
9. Central Drug Registry (Section XII).

F. 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, or (3) administration of a reasonable suspicion drug test to an officer, the law enforcement agency's chief executive or a designee shall provide a confidential written notice to their 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.

By December 31st 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 sworn officers who tested positive.

G. Annual Report to Attorney General

By January 31st of each year, each County Prosecutor shall submit a report to the Attorney General, through the Division of Criminal Justice's Prosecutors' Supervision and Training Bureau. This summary shall include a statement indicating those agencies under the County Prosecutor's supervision that are in compliance with this Directive and those that are not. The summary shall not reveal any subject officer's identity.

III. Public Accessibility and Confidentiality

All random drug testing policies adopted by law enforcement agencies shall be made available to the public upon request and shall be posted on the agency's website. Annual reports from the County Prosecutors to the Attorney General (as required by Section II.G, above) also shall be made available to the public upon request and shall be posted on the agency's website.

All written reports created or submitted pursuant to this Directive that identify specific officers are confidential and not subject to public disclosure.

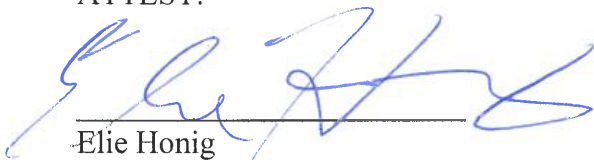
IV. Effective Date

This Directive shall take effect immediately upon issuance. All drug testing policies shall be adopted and/or revised in accordance with this Directive within 30 days. The AG Testing Policy will be updated to conform with this Directive within 30 days.



Gurbir S. Grewal
Attorney General

ATTEST:



Elie Honig
Director, Division of Criminal Justice

Issued on: March 20, 2018