



DENNIS CALO
Acting Bergen County Prosecutor

Office of the County Prosecutor

ROBERT ANZILOTTI
Chief of Detectives

County of Bergen

Two Bergen County Plaza
Hackensack, New Jersey 07601
(201) 646-2300

TO: ALL BERGEN COUNTY CHIEFS OF POLICE, POLICE DIRECTORS, OFFICERS-IN-CHARGE, AND SHERIFF

FROM: ACTING PROSECUTOR DENNIS CALO

DATE: APRIL 16, 2018

SUBJECT: BERGEN COUNTY PROSECUTOR'S OFFICE LAW ENFORCEMENT DIRECTIVE NO. 2018-1 REGARDING MANDATORY RANDOM DRUG TESTING

On March 20, 2018, the Attorney General of New Jersey issued Directive No. 2018-2, requiring all law enforcement agencies statewide to conduct mandatory random drug testing of all sworn law enforcement officers ("Directive"). The Directive modifies the Attorney General's earlier guidelines relating to random drug testing in several different ways.

First, the Directive requires that all police agencies implement or revise a drug testing policy to require random drug testing of their sworn police officers. At a minimum, that testing must: (1) involve at least 10% of the sworn officers in that department, and (2) be conducted at least twice a year (Note: the Directive states that testing need only be done once in the 2018 calendar year). To be clear, this means that every department will, assuming some duplication, randomly test somewhere between 10 and 20% of the entire force each year.

Additionally, the Directive requires notification of the random testing to the County Prosecutor's Office in certain situations. Notification to the County Prosecutor comes in two forms. First, the Directive requires that a law enforcement agency conducting a test notify the County Prosecutor's Office if any of the following occur in relation to a drug test:

- A. A random drug test occurs and results in a positive drug test result; or
- B. The administration of a reasonable suspicion drug test of an officer yields a positive result; or
- C. A random or reasonable suspicion test is requested and the subject refuses that request.



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For the purposes of this Directive, a finding of any of the above will be referenced as a “positive” result.

In order to implement the Attorney General’s Directive requirement of notification of “positive” results, all agencies within Bergen County, must use the “Notification of Drug Testing” form attached with this County Directive to memorialize the positive testing result (See Attachment A). The law enforcement executive in charge of the department must complete the “Notification of Drug Testing” form for every officer that meets one of the above “positive” conditions. The Notification of Drug Testing form must be delivered to the Bergen County Prosecutor’s Office within ten (10) calendar days (including weekends and holidays) from the date of testing. Forms can be hand-delivered and/or mailed (stamped “Confidential”) to:

Bergen County Prosecutor’s Office
c/o Confidential Investigations Unit
Two Bergen County Plaza
Hackensack, NJ 07601

Law enforcement agencies are not required to submit Notification of Drug Testing forms to the County Prosecutor for situations where an officer is tested, but did not meet one of the conditions above (a “negative” result). However, law enforcement agencies are required to keep track of all positive and negative drug tests within their own departments to comply with the Attorney General’s required annual reporting requirements.

In addition to submitting the Notification of Drug Testing form for positive results of individual officers on an ongoing basis, Directive 2018-2 also requires every law enforcement agency to annually report the results of their tests to the County Prosecutor. To effectuate this requirement, this County Directive requires all law enforcement agencies that operate solely in Bergen County to submit the form entitled “Annual Results of Drug Testing” to the County Prosecutor (See Attachment B). The Annual Results of Drug Testing form must list:

- A. The dates of testing (two or more) for that calendar year
- B. The total number of sworn officers in that law enforcement agency
- C. The total number of sworn officers tested
- D. The total number of sworn officers that tested positive
- E. The total number of sworn officers who refused a test.

The Annual Results of Drug Testing form must be submitted to the Bergen County Prosecutor’s Office by December 1st of each calendar year. In order to meet that deadline, we suggest that the second random testing be scheduled prior to October 1st of each year. The completed form should be hand-delivered and/or mailed (stamped “Confidential”) to:

Bergen County Prosecutor’s Office
c/o Confidential Investigations Unit
Two Bergen County Plaza
Hackensack, NJ 07601

This office is keenly aware that a number of departments in the County have questions about implementing Directive 2018-2. Law enforcement agencies are reminded that if a local department does not have a drug testing policy, Directive 2018-2 states that the agency should follow the Attorney General's drug testing policy. That policy is now being updated and should be available shortly. We will forward it to you upon our receipt. Additionally, the drug testing policy of the Bergen County Prosecutor's Office (as modified by the requirements of Directive 2018-2) is also available upon request.

This office hereby offers two dates for the training of municipal officers on drug testing policy and protocols, which will be held in Two Bergen County Plaza, 1st Floor Conference Center, Hackensack:

2:00 p.m. on Thursday, June 7, 2018

or

2:00 p.m. on Thursday, June 14, 2018.

Please contact Sergeant William Valentine at 201-226-5772 or wvalentine@bcpo.net with respect to whether any of your officers will attend and the date(s).

Finally, this Office is well aware of the additional costs that will be incurred by Directive 2018-2's requirements. The State did not provide for additional funding to implement the mandate created by Directive 2018-2. As a result, any and all additional costs of complying with this Directive are the responsibility of the local law enforcement agency.



DENNIS CALO
ACTING BERGEN COUNTY PROSECUTOR

DC:pms

Attachments:

Attachment A - Notification of Drug Testing

Attachment B - Annual Results of Drug Testing

c: Sergeant William Valentine

ATTACHMENT A

BERGEN COUNTY PROSECUTOR'S OFFICE NOTIFICATION OF DRUG TESTING

TESTED OFFICER	Name:	
	Rank:	Social Security No.:
	Municipality:	
OFFICER REQUESTING THE TEST	Name/Rank:	
	Date of Request:	

NOTIFICATION OF POSITIVE RESULT (CHECK ONE)

<input type="checkbox"/>	POSITIVE RANDOM TEST	On the above referenced date, the tested officer, who was randomly selected, yielded a positive drug test result.
<input type="checkbox"/>	REFUSAL OF RANDOM TEST	On the above referenced date, the officer refused to provide a testing sample for a random drug test.
<input type="checkbox"/>	POSITIVE REASONABLE SUSPICION TEST	On the above referenced date, based on the administration of a reasonable suspicion drug test, the tested officer yielded a positive drug test result.
<input type="checkbox"/>	REFUSAL OF REASONABLE SUSPICION TEST	On the above referenced date, the officer refused to provide a testing sample for a reasonable suspicion drug test.

PARTY MAKING NOTIFICATION TO COUNTY

Party making notification:	Date of Notification:
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ATTACHMENT B

**BERGEN COUNTY PROSECUTOR'S OFFICE
ANNUAL RESULTS OF DRUG TESTING**

Department: _____

Year: _____

TOTAL NUMBER OF SWORN OFFICERS IN THE ENTIRE DEPARTMENT	_____
DATES OF RANDOM TESTING (must list 2 or more dates in calendar year)	FIRST TEST: _____ SECOND TEST: _____
TOTAL NUMBER OF SWORN OFFICERS RANDOMLY TESTED FOR EACH DATE AND TOTAL	FIRST TEST: _____ SECOND TEST: _____ TOTAL TESTED: _____
TOTAL NUMBER OF SWORN OFFICERS WHO TESTED POSITIVE IN A DRUG TEST IN THE CALENDAR YEAR	FIRST TEST: _____ SECOND TEST: _____ REASONABLE SUSPICION TEST: _____ TOTAL POSITIVE TESTS: _____
TOTAL NUMBER OF SWORN OFFICERS WHO REFUSED A DRUG TEST	REFUSED RANDOM TEST: _____ REFUSED REASONABLE SUSPICION TEST: _____ TOTAL REFUSED TESTS: _____

PARTY MAKING NOTIFICATION TO COUNTY

Party making notification: _____

Date of Notification: _____



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