

**GENERAL ORDER**

April 2016

Immediately

**II-34**

Distribution: All Employees

Subject: **SUBSTANCE TESTING PROCEDURES FOR EMPLOYEES**

Index as: Alcohol Testing Breath Testing Operator (BTO) BTO Drug Testing Employee Substance Testing	Federal Omnibus Transportation Employee Testing Act (OTETA) OTETA Random Alcohol Testing Random Drug Testing Testing, Employee Substance
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Accreditation Standards: 26.3.6

Cross Reference: G.O. IV-1, Rules of Conduct  
Collective Bargaining Agreements - Drug Free Workplace  
City Rules and Regulations, 5-19 Drug Free Workplace

Replaces: G.O. II-34, Substance Testing Procedures for Employees, (April 28, 2016)

This Order:

A. Establishes procedures to be followed by Police Department supervisors when they have reasonable suspicion an employee has used, or is using, illegal drugs or controlled substances, either on or off duty, or has recently used or is under the influence of alcohol while on duty, as proscribed by <J:\Research\GeneralOrders\IV Rules of Conduct\IV-01 Rules of Conduct.pdf>.

B. Establishes guidelines for the administration of random drug tests and permits pre-assignment testing to selected specialized units.

C. Further describes alcohol and substance abuse testing for employees required to maintain a Commercial Driver's License.

D. This Order consists of the following sections:

- I. Policy
- II. Definitions
- III. Reasonable Suspicion
- IV. Testing Procedures
- V. Random Drug Testing
- VI. Random Alcohol Testing
- VII. Commercial Driver's License Testing

**I. POLICY**

A. The City of St. Petersburg and the St. Petersburg Police Department are committed to providing a drug-free workplace. Additionally, as a police agency, it is important to set an example and to demonstrate to the public our commitment to this concept. It is the policy of the St. Petersburg Police Department that employees determined to be involved with the use of any illegal substance, or improper use of any controlled substance, shall be recommended for discipline, up to and including termination.

B. Employees determined to be involved in alcohol-related incidents shall be dealt with on a case-by-case basis with appropriate sanctions applied, which may include medical referral.

C. Employees are expected to comply with substance testing procedures.

1. Employees who refuse to submit to the testing procedures shall be ordered to do so.

2. Continued refusal will be considered insubordination which could result in disciplinary action, up to and including termination.

D. If, during analysis, a drug test reveals the presence of illegal drugs, a confirmation test (gas chromatography/mass spectrometry [GCMS]) will be performed. This test is accepted by laboratories and the courts as the most accurate and sophisticated confirmation method available.

E. Substance testing of applicants may be required as part of the announced selection process for assignment to a specialized unit.

1. When required, the random testing procedure shall be carried out by a supervisor of the specialized unit, rather than a representative of the Office of Professional Standards.

2. Results of the test will be provided to the specialized Unit Commander upon their receipt by the Office of Professional Standards.

## II. DEFINITIONS

A. Insubordination – Willful or intentional disregard of the lawful and reasonable instructions of the employer.

B. Reasonable Suspicion – For the purposes of this Order, means reliable information or observable signs which would indicate to a reasonable person that an individual has used, is using, or is under the influence of alcohol or a controlled substance. Observable signs include, but are not limited to, bloodshot eyes, dilated pupils, slurred speech, lack of coordination, significant change in body composition over a prolonged period, radical mood shifts, or a pronounced change in work habits or performance.

## III. REASONABLE SUSPICION

A. Whenever a supervisor has reasonable suspicion an employee has been using controlled substance(s) or alcohol in a manner prohibited by the General Orders of the Police Department and/or the City *Rules and Regulations of the Personnel Management System* and/or of the General Orders of the Police Department, a second supervisor, preferably the Watch Commander, will be asked to evaluate the employee in question. If a second supervisor agrees reasonable suspicion exists, the Major/Division Manager of the employee shall be notified.

B. If the Major/Division Manager of the employee concurs with the supervisors, the employee shall be required to submit to testing. The Major/Division Manager of the employee shall ensure the Office of Professional Standards is notified.

1. If substance abuse is suspected, employees shall be taken to the contracted medical testing facility, as directed by the Office of Professional Standards, for testing.

2. If alcohol use is suspected, they shall be taken to the breath-testing room.

C. The supervisor shall ensure the employee is not allowed to perform job-related tasks and shall remain with the employee until personnel from the Office of Professional Standards arrive.

D. Once testing for the employee has been arranged, the Assistant Chief of the employee shall be notified.

#### IV. TESTING PROCEDURES

##### A. Controlled Substances

1. The employee shall be taken by the initiating supervisor to the medical testing facility, who shall contact the facility prior to arrival.
2. The medical testing facility will provide the proper container and packaging to the supervisor.
3. The employee will provide a urine sample following the medical testing facility's protocol.
  - a. If the situation warrants, the supervisor will accompany the employee to a **restroom** and observe the urine sample being given.
  - b. Supervisors shall be of the same gender as the person being tested. If there are no supervisors of the same gender on duty, one will be called back to duty.
  - c. Observation is a legal requirement related to the validity of the test.
4. The facility representative, the supervisor and the employee will then complete the *Forensic Drug Testing Custody and Control Form*.
5. The supervisor and employee will observe the actions of the facility representative who will:
  - a. Ensure the lid is tightly closed and that evidence tape is placed around the lid of the container, having the employee place their initials on the evidence tape.
  - b. Complete appropriate sections of the *Custody and Control Form* and have the tested employee fill in the required information.
  - c. The supervisor will make two copies of the *Custody and Control Form*.
  - d. Place the urine sample and the top copy of the *Custody and Control Form* in the tamper-proof side of the bag, removing the protective tape and sealing the bag.
  - e. Ensure that one copy of the form is turned in to the City's Human Resources Department as soon as possible.
  - f. The original *Custody and Control Form* is maintained by the Department
6. Leave the sample with the facility's lab technician or nurse.
7. The supervisor shall then bring the employee to the Office of Professional Standards for further investigation.
8. The Human Resources Department shall provide the Chief of Police with the test results.
9. The Chief shall initiate appropriate action based upon the test results.

##### B. Alcohol Breath Testing:

1. The employee shall be taken to the breath testing room and a **Breath Testing Operator (BTO)** summoned to administer the test.
2. The **BTO** will follow the standard operating procedures for administering the breath test which includes a twenty (20) minute observation period. The observation period is to ensure no alcohol-based substances are placed into the mouth which could affect the breath test. This includes regurgitation.
3. If the employee is involved in a criminal traffic investigation, which results in a need to perform the breath testing procedure, the employee may opt not to submit to the breath test for criminal investigation purposes.
  - a. This situation is covered by the State of Florida Implied Consent Law, and refusal will result in the loss of driving privileges.
  - b. During the administrative portion of the investigation, the employee is required to submit to the breath test.
4. The **BTO** shall follow all standard breath-testing procedures using the Intoxilyzer Operational Checklist.
5. If there is a difference of .020 or greater between the two breath samples, a third sample will be taken.

6. Upon completion of the testing, the employee will be taken to the Office of Professional Standards.

## V. RANDOM DRUG TESTING

A. Employees subject to random testing shall include sworn personnel, exempt management personnel, and reserve police officers. Non-sworn employees are not required to participate unless required by their respective bargaining agreement with the City.

B. Each month the City's Internal Audit Department will randomly select ten (10) individuals from the eligible employee pool by computer. The ten names will be sent to the Office of Professional Standards Internal Affairs Division. No individual will be tested more than three (3) times in a calendar year.

C. The Office of Professional Standards personnel shall ensure the ten (10) individuals are tested within the same month their names are selected. All tests will be conducted on duty.

D. Random testing shall be conducted in the following manner:

1. The Office of Professional Standards representative will contact the employee at headquarters and inform the employee their name was selected for random drug testing.

2. The Office of Professional Standards representative will accompany the employee to the appropriate medical testing facility to initiate the testing procedure.

3. The employee will follow the medical testing facility's protocol, or the employee may choose one of the following methods in lieu of the medical testing facility's protocol.

- a. The employee may either undress and put on a hospital gown and then go to the rest room alone to give the urine sample; or

- b. The employee may remain dressed and accompany an Office of Professional Standards representative of the same gender or a medical staff person of the same gender if available, to the restroom where they will observe the sample being given.

4. The employee will initial the specimen container label and sign the *Drug Testing Custody and Control Form*.

5. In lieu of testing at the medical testing facility, the Chief of Police may require the employee to be tested at another location due to exigent/unusual circumstances.

6. The Chief of Police, or designee, may authorize a blood test to be provided in lieu of a urine sample.

7. The drug test results will be received by the Office of Professional Standards. They shall initiate an investigation if the test results are positive.

- a. If the initial screen test was positive but the confirmation test was negative, the second result will prevail.

- b. If the confirmation test is positive, the employee will be given the option of a split-sample test, whereby an independent laboratory will conduct a drug test using the same sample originally collected from the employee.

- c. A positive confirmation test for illegal drugs may result in disciplinary action up to and including termination.

## VI. RANDOM ALCOHOL TESTING

A. Employees may be provided with an administrative order directing they abstain from alcohol and shall be subject to periodic, random alcohol testing at any time while off duty. This testing will be at the direction of the Chief of Police and administered by his designee.

B. Testing will be conducted utilizing the Intoxilyzer 8000 being operated by a permitted Breath Test Operator (BTO).

C. The breath testing may be conducted in a breath testing room at the St. Petersburg Police Department or via an authorized vehicle equipped with an Intoxilyzer 8000.

D. The breath test will be conducted following the below procedures:

1. Observe subject for twenty (20) minutes prior to administration of the breath test to ensure the subject does not ingest anything by mouth or regurgitate.
2. When beginning the breath test, follow and complete the Florida Department of Law Enforcement operational checklist (FDLE Form 37).
3. When selecting the violation code, the Breath Test Operator (BTO) will select "Administrative".
4. At the end of the breath test, complete the Breath Test Results Affidavit (FDLE Form 38).

E. The test results will be given to the Office of Professional Standards and the Assistant Chief of the employee's bureau. They shall initiate an investigation if the test results are positive.

VII. COMMERCIAL DRIVER'S LICENSE TESTING

A. The Federal Omnibus Transportation Employee Testing Act (OTETA) mandates random testing for substance and/or alcohol abuse whenever a person is the holder of a Commercial Driver's License (CDL) and uses it in the course of their employment.

1. Employees who possess and utilize a CDL in the regular course of their employment with the St. Petersburg Police Department are subject to be tested under the provisions of OTETA. Employees who may possess a CDL but do not perform CDL-type functions for the Department are not considered CDL operators by this agency, and they are exempt from OTETA testing by the Department.

2. OTETA drug-testing procedures will be carried out in the same manner as the random drug-testing procedures.

3. There is no limit to the number of times an employee holding a CDL can be selected for testing under OTETA. CDL tests do not count towards the maximum number of tests in the random drug-testing procedure.

4. Refusal to sign the necessary forms will be considered a refusal to be tested and will result in the loss of the CDL.

5. Failure to submit to the testing procedure will also be considered as insubordination.

B. Post-accident Testing for CDL Drivers

1. OTETA requires that employees, utilizing a CDL in the performance of their duty, be tested anytime they are involved in a vehicle accident in which they are issued a citation or in which a fatality occurred. The employee shall be taken as soon as practical to the medical testing facility for the cited test.

2. Officers who are not functioning as a CDL driver at the time of the accident shall not be tested under the provisions of OTETA.

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Anthony Holloway  
Chief of Police