



THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION



DIRECTIVE

<input type="checkbox"/> NEW <input type="checkbox"/> INTERIM <input checked="" type="checkbox"/> REVISED			SUBJECT		
EFFECTIVE DATE 02/15/05		*TERMINATION DATE / /	RANDOM TESTING TO DETECT AND DETER DRUG ABUSE		
CLASSIFICATION # 7507R-A	SUPERSEDES 7507R	DATED 04/13/01			
RECOMMENDED FOR APPROVAL BY REVIEW BOARD MEMBER			AUTHORIZED BY THE COMMISSIONER		
ROBERT N. DAVOREN, CHIEF OF DEPARTMENT SIGNATURE			MARTIN F. HORN SIGNATURE		

I. PURPOSE

The purpose of this Directive is to establish procedures for the Department's drug testing program of members randomly selected on a neutral basis.

II. APPLICABILITY

This Directive is applicable to all members of the uniformed force up to and including the Chief of Department and the Commissioner. This Directive is not applicable to members of the civilian force.

III. POLICY

- A. The Department has a substantial interest in ensuring that its members are physically and mentally able to perform their duties. As peace officers working in correctional facilities any diminution of their abilities jeopardizes their safety, the safety of their co-workers, the safety of the inmates they supervise and the security of the facility where they work.
- B. Correction Officers are peace officers and hold positions of public trust. The use of illegal drugs by officers is a breach of that trust and completely inimical to their status as peace officers.
- C. Members of the uniformed force must scrupulously avoid the appearance of illegality or corruptibility. The Department demands that its members maintain the integrity of their positions by not engaging in the use of illegal drugs either on or off duty. In addition, they must not bring illegal drugs into a correctional facility or place themselves in a position where the inmate population can take advantage of their drug dependence. Such misconduct conflicts with their duties and responsibilities and discredits the Department in the eyes of the public.

	EFFECTIVE DATE 02/15/05	SUBJECT RANDOM TESTING TO DETECT AND DETER DRUG ABUSE		
	CLASSIFICATION # 7507R-A			
	DISTRIBUTION A	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE 2 OF 8 PAGES	

III. POLICY (cont.)

- D. The use of illegal drugs either on or off duty shall be cause for suspension without pay. Members on probation shall be terminated. Tenured members found guilty after an administrative hearing will be terminated.
- E. The use of hemp oil and the ingestion of any substance containing tetrahydrocannabinol, the compound natural or synthetic that is the primary intoxicant in marijuana or hashish, cannabis (marijuana) or their derivatives by members on or off duty is strictly prohibited and shall be cause for suspension without pay. Members on probation will be terminated. Tenured members found guilty after an administrative hearing will be terminated.

IV. OBJECTIVE



The objective of the random testing program is to detect and deter the use of illegal drugs by members of the Department either on or off duty and to detect and deter related illegal or prohibited activities either on or off duty.

V. PROCEDURES

A. SELECTION PROCESS

1. In order to assure that members are selected on a neutral basis and that every member has the same chance of being selected, the selection process shall be performed by a computer program based on a unique numerical identifier.
2. The unique numerical identifiers of all eligible members shall be arrayed sequentially and each shall be assigned a sequence number (an integer between 1 and N where N is the total number of eligible social security numbers) to correspond to the biweekly payroll. Unique numerical identifiers shall be added and deleted to correspond to changes in the biweekly payroll.
3. Each biweekly pay period, a random number generator will provide up to one hundred (100) but not less than fifty (50) random integers through the Department's computer system. The generated integers will then be matched to the corresponding sequentially ordered unique numerical identifiers.

V. PROCEDURES (cont.)

	EFFECTIVE DATE 02/15/05	SUBJECT RANDOM TESTING TO DETECT AND DETER DRUG ABUSE		
	CLASSIFICATION # 7507R-A			
	DISTRIBUTION A	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE 3 OF 8 PAGES	

4. The unique numerical identifiers shall be printed in the presence of a representative from the Legal Division without any reference to name, rank, facility or other identifying information. The printed list shall immediately be placed in an envelope and sealed.
5. The Legal Division representative shall match the list of randomly selected unique numerical identifiers with the names of the corresponding employees and their work locations.
6. The Legal Division representative shall telephone the names of the selected employees to the Integrity Control Officer (ICO) of their facility, who shall be of the rank of Deputy Warden, or in the absence of an assigned Deputy Warden, a supervisor identified by the Commanding Officer.
7. The Integrity Control Officer or designated supervisor shall phone the Toxicology Unit with the names of the selected members and their tours of duty and the expected time of their arrival at the Toxicology Unit. The member of service shall be scheduled to report to Toxicology by the ICO during their next scheduled tour of duty in coordination with the Toxicology unit schedule.
8. The Integrity Control Officer or designated supervisor shall personally notify the selected member, via official notice form (attachment A) and the MOS shall sign to acknowledge on the day of the scheduled examination, to report for testing at the Toxicology Unit at the time specified.
9. The member notified to report for testing shall report on the date and time specified which must be the same day as the member of service was notified. Any failure to report, to refuse to be tested, or to refuse to cooperate with the testing procedure shall be cause for suspension without pay. Members on probation shall be terminated. Tenured members found guilty after an administrative hearing will be terminated.
10. Upon arrival at the Toxicology Unit, members of service will report to the supervisor on duty. Upon completion of the submission of a specimen, the official notice will be time stamped noting arrival and departure and returned to the facility ICO. A copy of the completed official notice form (attachment A) shall be forwarded to the Legal Division representative upon its completion.

V. PROCEDURES (cont.)

	EFFECTIVE DATE 02/15/05	SUBJECT RANDOM TESTING TO DETECT AND DETER DRUG ABUSE		
	CLASSIFICATION # 7507R-A			
	DISTRIBUTION A	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE 4 OF 8 PAGES	

11. The names of the members of service who have reported for testing will be forwarded to the Legal Division representative on a daily basis in order to conduct a reconciliation of the list. The reconciliation will be conducted daily and ensure that all staff appearing on the list do in fact report for testing.
12. Because the selection of members is made on a random basis, some members will never be tested during the course of a year. Other members may be selected more than once. Each member is expected to cooperate each time their name is selected.

B. TESTING PROCEDURES

1. Tests will be conducted at the Toxicology Unit where every effort will be taken to assure the integrity of the testing procedure and the privacy and dignity of the member being tested.
2. When the member reports for testing, a member of the Toxicology Unit staff shall carefully check the member's photo identification card to ensure that the correct person has reported for testing.
3. A uniformed supervisor or Toxicology Unit staff member of the same gender as the member being tested will ensure the integrity of the testing procedure. Every effort shall be made to prevent embarrassment to the person being tested by permitting the member to provide his/her specimen in the privacy of a stall with a door that can be closed or another partitioned area that allows for individual privacy. Every effort shall be made to preclude any other person from observing the test with the exception of a union representative or attorney requested by the member.
 - a. In order to deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in the toilet tank or in the bowl so the water in the bowl remains blue while the specimen is provided.
 - b. The member being tested shall remove any outer garments (e.g., coat, jacket) that might conceal items or substances that could be used to provide a false specimen or to adulterate a specimen. All personal belongings (e.g., purse, briefcase), shall remain with any outer garments outside the stall. The member may retain his/her wallet.
 - c. The staff member supervising the test shall remain in the room, but outside the stall, until the specimen is provided.

V. PROCEDURES (cont.)

	EFFECTIVE DATE 02/15/05	SUBJECT RANDOM TESTING TO DETECT AND DETER DRUG ABUSE		
	CLASSIFICATION # 7507R-A			
	DISTRIBUTION A	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE 5 OF 8 PAGES	

- d. The member being tested shall be instructed not to flush the toilet until the specimen has been handed over to the staff member supervising the test.
 - e. After providing the specimen, the member being tested shall be permitted to flush the toilet, wash his or her hands, and observe the chain of custody procedures.
 - f. If the member has difficulty in providing an adequate specimen to permit testing, the member shall be permitted to consume water to assist in providing the specimen.
 - g. If the staff member supervising the test has reasonable suspicion to believe that the member providing the specimen has attempted to substitute a specimen or adulterate his/her specimen, the staff member shall document the facts giving rise to that belief in writing and the member being tested shall be directed immediately to provide another specimen under the direct observation of the staff member and both specimens shall be forwarded to the laboratory.
 - h. If there are no reasonable grounds for believing that an adulterated specimen has been provided, but the laboratory reports that the specimen has been adulterated, that fact shall provide the basis for disciplinary charges and additional testing under the direct observation of a staff member.
4. Immediately after collecting the specimen, the staff member supervising the test shall measure the temperature of the specimens and conduct a visual inspection to determine the specimen's color and signs of contaminants. Specimens shall be tightly capped, properly sealed with evidence tape and labeled in the presence of the member tested who shall initial both the label and any accompanying form(s).

The storage, transportation and surrender of specimens to the laboratory for testing shall be under the strict supervision of the Toxicology Unit to maintain an unbroken chain of custody throughout the procedure.

V. PROCEDURES (cont.)

	EFFECTIVE DATE 02/15/05	SUBJECT RANDOM TESTING TO DETECT AND DETER DRUG ABUSE		
	CLASSIFICATION # 7507R-A			
	DISTRIBUTION A	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE 6 OF 8 PAGES	

5. The Toxicology Unit staff at the time of the testing shall require any member being tested to complete a form which shall include information relative to any and all medication (including "over-the-counter" types), alcohol and foods ingested within the previous 24 to 72 hour period. The information must be as specific and exhaustive as possible. This form shall be forwarded to the Legal Division representatives.
6. Upon the request of the member being tested, the Toxicology Unit will provide a copy of any form(s) relevant to the test.

C. LABORATORY PROCEDURES

Multiple procedures shall be conducted at recognized professional laboratories to assure the reliability of the results. The laboratory shall, at a minimum, test for marijuana, cocaine, opiates, amphetamines, **phencyclidine** and barbiturates. The procedures employed shall include a Thin Layer Chromatography (TLC), and the Enzyme Multiplied Immunoassay Technique (EMIT). All specimens identified as positive shall be confirmed. The confirmatory test shall be different in technique and chemical principle from that of the initial test procedures to ensure reliability and accuracy. The authorized confirmation method at this time is the Gas Chromatography/Mass spectrometry (GC/MS), which shall be conducted on a duplicate specimen.

D. PRESERVATION

1. Specimens determined to contain drugs will be preserved at the laboratory for a period of six (6) months. An employee who has tested positive may, upon request to the Toxicology Unit, have this specimen retested at a laboratory of his/her choice within the metropolitan area, which is certified by the State of New York for such testing.
2. The employee requesting the additional test may by arrangement with the Toxicology Unit accompany the Department employee(s) who deliver(s) the specimen to the named laboratory. All costs including laboratory fees, transportation, and salary of the messenger(s) shall be borne in total by the employee requesting the additional test.

V. PROCEDURES (cont.)

	EFFECTIVE DATE 02/15/05	SUBJECT RANDOM TESTING TO DETECT AND DETER DRUG ABUSE		
	CLASSIFICATION # 7507R-A			
	DISTRIBUTION A	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE 7 OF 8 PAGES	



E. MONITORING

Any member ordered to report to the Toxicology Unit for testing may consult privately with a union representative or attorney by phone or personally at the Toxicology Unit, prior to testing. If the member chooses, the union representative or attorney may observe the testing procedure at the Toxicology Unit. However, the union representative or attorney must respond promptly to the Toxicology Unit so as not to unreasonably delay the testing schedule and must not interfere with the testing process while monitoring the procedure.

F. ADMINISTRATIVE PROCEDURES

1. A member's failure to report to the Toxicology Unit when ordered to do so, or to cooperate fully in all aspects of the testing procedure shall be communicated immediately by telephone to the Integrity Control Officer, who shall notify by telephone the office of the **Chief of Administration**, the Investigation Division, and the Legal Division representative. The Integrity Control Officer shall initiate the usual disciplinary procedures against the member. The employee shall be subject to suspension without pay. Members on probation shall be terminated. Tenured members found guilty after an administrative hearing shall be terminated. A copy of any Memorandum of Complaint shall be forwarded to the Trials Division when disciplinary charges are commenced.
2. The Toxicology Unit will forward the names of all members of service who have reported for testing to the Legal Division representative on a daily basis. The Legal Division representative will contact those commands that have not complied with the aforementioned procedures. A written explanation for each "no show" must be submitted using form #7507B (attachment B). This Reconciliation will be completed on a weekly basis and forwarded to the Commissioner's Office for actions necessary to ensure compliance with this Directive.
3. The written results of the laboratory tests shall be sent directly to the Legal Division representative, Toxicology, and a copy shall be forwarded to the member tested.
4. If the laboratory results are negative, the original copy of the results shall be retained in a file set aside for this purpose at the Legal Division. However no record of the testing shall be maintained in the individual member's personnel file.

V. PROCEDURES (cont.)

	EFFECTIVE DATE 02/15/05	SUBJECT RANDOM TESTING TO DETECT AND DETER DRUG ABUSE		
	CLASSIFICATION # 7507R-A			
	DISTRIBUTION A	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PAGE 8 OF 8 PAGES	

5. If the laboratory results are positive, a copy of the results shall be retained in a file set aside for this purpose at the Legal Division. The original copy shall be forwarded to the Trials Division with copies to the office of the **Chief of Administration**. The office of the **Chief of Administration** shall forward copies to the Investigation Division, and the member's facility. Within seventy-two (72) hours of receipt, the Commanding Officer of the facility shall forward a Memorandum of Complaint against the member in accordance with the procedures set forth in Operations Order #09/87.

VI. REFERENCE

OPERATIONS ORDER #09/87, MEMORANDUM OF COMPLAINT, dated 03/09/87

VII. ATTACHMENT

- A. Form #7507A - OFFICIAL NOTICE FORM
- B. Form #7507B - RECONCILIATION FORM

VIII. SUPERSEDES

Directive 7507R, RANDOM TESTING TO DETECT AND DETER DRUG ABUSE, dated 04/13/01