

PROVIDENCE POLICE DEPARTMENT

HEADQUARTERS

209 FOUNTAIN STREET PROVIDENCE, RI 02903

COLONEL URBANO PRIGNANO, JR.

CHIEF OF POLICE

September 30, 1997

GENERAL ORDER NO. 38

Series of 1997

To All Department Personnel:

The purpose of this General Order is to outline the Department's drug testing policy where such testing is a condition of continued employment. This policy reflects recent legislative changes to state labor relations law, specifically R.I. Gen. Laws 28-6.5-1 which was signed on July 3, 1997. This General Order supersedes all previous General Orders pertaining to this subject matter.

A. The Department may order a member to submit to a drug test under the following circumstances:

1. The Department has reasonable grounds to believe, based on specific aspects of the officer's job performance and on specific contemporaneous observations, capable of being articulated, concerning the officer's appearance, behavior or speech, that the officer's use of controlled substances is impairing his or her ability to perform his or her job.

AND

2. The officer provides the test sample in private, outside the presence of any person.

AND

3. Officers testing positive are not terminated on that basis, but are instead referred to a substance abuse professional, who shall be licensed in the State of Rhode Island, for assistance. Where an officer has received such a referral based upon a positive test, he or she will be required to undergo additional testing. If the additional testing reveals the continued use of controlled substances despite treatment, the department shall seek the officer's termination from employment as a member of this Department under the procedures of the law Enforcement Officers Bill of Rights. R.I. Gen. Laws 42-28.6-1 et seq.

AND

4. Positive tests of blood, urine, other body fluid or tissue must be confirmed by a federally certified laboratory by means of gas chromatography/mass spectrometry or technology recognized as being at least as scientifically accurate.

AND

5. The Department shall provide the officer, at the Department's expense, the opportunity to have the sample tested or evaluated by an independent testing facility. **THE DEPARTMENT MUST ADVISE THE OFFICER OF THIS RIGHT TO HAVE THE SAMPLE INDEPENDENTLY TESTED AT NO EXPENSE TO THE OFFICER.**

AND

6. The Department shall provide the officer with a reasonable opportunity to rebut or explain the results of a positive test.

AND

7. The Department has promulgated this drug abuse prevention policy in compliance with the requirements of R.I. Gen. Laws 28-5-1.

AND

8. The Department shall keep the results of any test confidential, except for disclosing the results of a positive test only to other employees with a job-related need to know or to defend against any legal action brought by an officer against the Department.

NOTE; ANY OFFICER WHO REFUSES TO COMPLY WITH AN ORDER TO SUBMIT TO A DRUG TEST SHALL IMMEDIATELY BE PLACED ON ADMINISTRATIVE DUTY FOR THE SAFETY OF OTHER MEMBERS OF THE DEPARTMENT AS WELL AS THE CITIZENS OF PROVIDENCE.

THE OFFICER WHO IS NON-COMPLIANT WITH SUCH AN ORDER SHALL BE SUBJECT TO DISCIPLINE FOR INSUBORDINATION.

B. Reasonable grounds to believe that an officer's use of a controlled substance is impairing his or her ability to perform the duties of a police officer may be defined as follows: The R.I. Legislature, in adopting a "reasonable grounds" standard, has heightened the standard that the Department must meet before requiring an officer to submit to a drug test. The Rhode Island Supreme Court has ruled that "reasonable grounds" is the equivalent of probable cause. The following guidelines come from cases where courts have found "reasonable suspicion" to justify drug testing. While reasonable suspicion is a lower standard than probable cause, the same types of conduct will be considered to establish reasonable grounds.

1. Slurred speech or impaired motor skills, such as inability to walk without staggering.
2. Allegations by fellow officers, irrespective of whether or not the officer making the allegation is willing to put it in writing.
3. Allegations by the officers family members or friends.
4. Sightings of the officer at known drug locations where he has no police purpose.
5. Chronic absenteeism or tardiness.
6. Allegations that officer seized drugs, yet the drugs were not turned in to evidence/property room.

Before ordering an officer to submit to a drug test a superior officer must determine that the "reasonable grounds/probable cause" standard has been met.

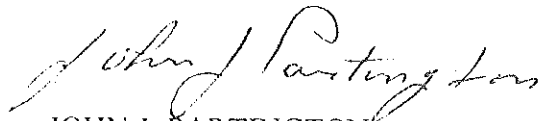
C. Defining a "substance abuse professional" for purposes of the required first instance referral under Section A 3 of this policy.

1. A licensed physician with knowledge and clinical experience in the diagnosis and treatment of drug related disorders.
2. A licensed or certified psychologist.
3. Social Worker
4. EAP professional with knowledge similar to that of a social worker.
5. Substance Abuse Counselor certified by the National Association of Alcohol and Drug Abuse Counselors.

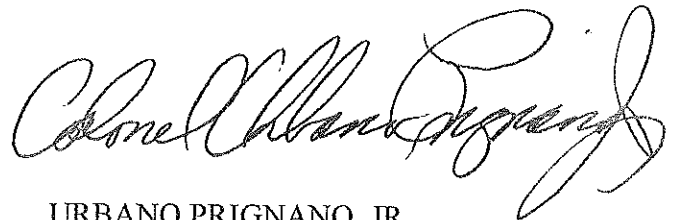
Note that the "substance abuse professional" must be licensed in the State of Rhode Island in order to comply with this policy.

D. Conclusion: The purpose of this policy is to prevent substance abuse within the ranks of the Providence Police Department and enhance the safety of our officers who rely upon each other for protection.

APPROVED:



JOHN J. PARTINGTON
Commissioner
Public Safety



URBANO PRIGNANO, JR.
Colonel
Chief of Police