



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 42.16

TITLE: PRELIMINARY FORENSIC DRUG TESTING

EFFECTIVE: 01/14/2018

REVISED: Replaces Policy 615

PURPOSE

This Chapter establishes guidelines for preliminary drug testing of suspected Controlled Dangerous Substances.

POLICY STATEMENT

When an officer encounters a compound believed to be a controlled dangerous substance, it is collected for evidentiary purposes. A preliminary drug test kit shall be used to confirm the presence of the suspected substance if a test kit for that suspected substance is available **UNLESS** the officer is only charging under **Sec. 54-505 – Simple Possession of Marijuana and/or Synthetic Cannabinoids** in which case officers shall not field test suspected contraband when charging under the municipal ordinance.

DEFINITIONS

Preliminary Drug Test Kits—Department approved kits or pouches containing reagent(s) which will change color to indicate the presence of a certain class of controlled dangerous substance when mixed with a representative sample of a suspected controlled dangerous substance.

False Positive Preliminary Drug Test —When a preliminary drug test indicates the presence of a controlled dangerous substance, but a subsequent forensic analysis by a lab finds the compound is NOT a controlled dangerous substance.

False Negative Preliminary Drug Test—When a preliminary drug test indicates the compound is not positive for the presence of a controlled dangerous substance, but a subsequent forensic analysis by a lab finds the compound DOES contain a controlled dangerous substance.

Inaccurate Preliminary Drug Test—When a preliminary drug test indicates the presence of a controlled dangerous substance, but a subsequent forensic analysis by a lab finds the compound to be a different controlled dangerous substance than originally suspected.

DRUG TESTING KIT HANDLING AND PROCEDURES

1. Any preliminary drug testing kit that has been used shall be sealed and safely discarded

in a manner consistent with the instructions provided by the manufacturer for that kit to prevent exposure of the contents to the officer(s) and the public. The used kit will not be placed into evidence.

2. Officers conducting preliminary drug tests shall use the kits as instructed by the manufacturer. Many of the reagents contained in the kits are toxic or corrosive. The kits shall be handled and disposed of carefully to prevent the spillage or loss of the contents. Protective equipment such as gloves or eye protection is recommended. In the event the contents of a kit are spilled on someone, medical attention should be sought, and a supervisor notified immediately. If an officer is injured, a First Report of Injury will be completed.
3. Only one sample of any given substance will be tested with any given kit. If an additional test(s) is required, a new kit will be used for each subsequent test.
4. Test kits shall be stored and maintained as per the manufacturer's instructions. Damaged, contaminated or compromised kits shall not be used and shall be discarded in accordance with this Chapter and the manufacturer's instructions.
5. The department approved test kits are **NIK Brand** (Armour Forensics) and **Scott Company Drug Testing**. The types of tests currently available are:
 - (a) Marquis Reagent (Opiates, Heroin and Amphetamine compounds, including Ecstasy)
 - (b) Duquenois-Levine Reagent (Marijuana, Hashish, hash oil, THC)
 - (c) Scott Reagent (Cocaine Salts and Cocaine Base)
 - (d) MDMA (Ecstasy only)
6. Any other suspected controlled dangerous substances for which a listed preliminary drug test kit is not available should be submitted to Central Evidence and Property for forensic testing by the NOPD – Scientific Criminal Investigations Section (SCIS or Crime Lab) – Drug Chemistry Unit.

TESTING

7. Representative samples of suspected drugs shall be obtained with the tool or spatula provided in the kit. Only a very small sample of suspect substance is required for testing. The test should not consume the entire sample. If the amount is too small to test without consuming the entire amount, the substance should be seized as evidence and processed through Scientific Criminal Investigation Section (SCIS) for forensic testing. Officers are encouraged to call the SCIS Drug Chemistry Unit or an SCIS training officer with any questions regarding the use of a particular preliminary drug test kit before testing a substance.
8. Officers performing a preliminary drug test shall follow the written instructions provided by the manufacturer of the test kit, regardless of the brand used. The Preliminary Drug Test Form (Form #148) provided in this Chapter will be filled out by the officer performing a test. Forms are provided for both **NIK** and **Scott** brand test kits.
9. The Commander of SCIS is responsible for the storage and distribution of preliminary drug test kits. Supplies of the kits will be monitored and restocked by the Department's Scientific Criminal Investigation Section. Members shall take care to avoid prolonged exposure of the kits to high heat (in trunks of vehicles) or intense sunlight (left out in the interior of the unit).
10. The officer arresting a suspect and utilizing a preliminary drug test kit to test a possible

CDS shall summon a supervisor to the scene to witness the test and provide required signatures on the forms. Once the results of the test are obtained, the officer shall confer with his/her supervisor and decide if the arrest is to be confirmed or the suspect released. (See also: **Chapter 1.9 – Arrests**).

11. Any substance believed to be a Controlled Dangerous Substance and observed in possession of a victim, witness, or at a crime scene, shall be preliminary drug tested by the investigating officer if the required kit is available.

SUPERVISOR'S RESPONSIBILITIES

12. Usage of preliminary drug test kits shall:
 - (a) Be witnessed by a supervisor, and
 - (b) The supervisor will affix his/her signature to the checklist for each test conducted.

PRELIMINARY DRUG TEST KIT RESULTS

13. A negative test result does not preclude the collection of the substance tested as evidence and subsequent request for a forensic analysis. A false negative test result, while remote, can occur. Substances strongly suspected by the investigating officer of being a controlled dangerous narcotic but test negatively should still be collected and submitted for forensic analysis. The decision to arrest in the face of a negative preliminary drug test result for a controlled dangerous substance will remain with the investigating officer(s) and supervisor(s). Consideration of all facts surrounding the incident, including additional criminal violation(s), should be weighed into the decision. Subsequent issuance of an arrest warrant after a positive forensic analysis remains possible and should always be considered in the determination to arrest at the time of a negative preliminary drug test result.
14. The colorimetric change(s) in the preliminary drug tests, achieved as the result of positive indications of a controlled dangerous substance, are generally immediate and distinct. Colorimetric changes which are indistinct or slow to achieve are either negative or inconclusive. The officer should consider if the compound may contain a different controlled dangerous substance and use a preliminary drug test kit for that particular substance. If more than one test is performed, each test will require a Preliminary Drug Test Form (Form #148), and all forms will be made part of the completed incident report (EPR).

EVIDENCE PROCESSING AND CASE REPORTING

15. After the sample substance tests positive by using the preliminary drug test kit, the main quantity (core evidence) from which the testing sample was drawn shall be submitted to Central Evidence and Property for storage and subsequent analysis by the Scientific Criminal Investigation Section – Drug Chemistry Unit.
16. The arresting officer(s) has 72 hours to submit the approved arrest report to the Orleans Parish District Attorney's Office for screening. (See also: **Chapter 42.15 – Arrest Case Management and District Attorney Screening**).
17. Upon completion of a test, the **Preliminary Drug Test Form** (Form #148) shall be completed and the original form attached as a numbered page of the incident report (EPR) by the reporting officer. **The incident report is incomplete without the inclusion of this form.**

18. A copy of the Preliminary Drug Test Form (Form #148) shall be attached to the evidence package submitted to Central Evidence & Property for SCIS examination and quality control.
19. The incident report shall indicate:
 - (a) The type of preliminary drug test kit used;
 - (b) The name of the officer(s) conducting the test; and
 - (c) The name of any officer/supervisor witnessing the test.
20. Other information related to the specific test shall be included on the Preliminary Drug Test Form (Form #148) attached to the incident report and is not required to be written in the Narrative of the incident report.
21. The use of the preliminary drug test kit and the result will be included in the Gist of any arrest made for possession and/or distribution of a controlled dangerous substance. The Preliminary Drug Test Form (Form #148) need not accompany the Gist.
22. While using boilerplate language in reports is prohibited, an example of the suggested manner of documentation follows, using cocaine as the suspected controlled dangerous substance:
 - (a) A representative sample of the suspected substance was mixed with an approved preliminary test kit by Officer Jones in accordance with the manufacturer's instructions. The representative sample displayed an immediate and unambiguous colorimetric response suggesting the presence of cocaine.
 - (b) The following information shall be documented in the Narrative section of the incident report:
 - The use of a preliminary drug test kit, noting the type of kit used;
 - Who conducted and/or witnessed the test;
 - The statement that the test was conducted in compliance with the manufacturer's instructions;
 - The statement that the appropriate color changes to indicate a positive result occurred; and
 - A statement if the changes were immediate and unambiguous.