

# ***EVESHAM POLICE DEPARTMENT MANUAL***

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<b>SUBJECT: DRUG SCREENING FOR LAW ENFORCEMENT</b>	
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<b>APPLICABILITY: ALL SWORN EMPLOYEES</b>	<b>ANNUAL REVIEW:</b>
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<b>The Written Directives developed by the Evesham Township Police Department are for internal use only, and do not enlarge an officer's civil or criminal liability in any way. They should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of Written Directives can only be the basis of a complaint by this Department, and then only in an administrative disciplinary setting.</b>	

**PURPOSE:** To safeguard the department and members of the public from applicants, law enforcement trainees and sworn law enforcement personnel who may engage in the illegal use of drugs and to provide a zero tolerance stance of illegal drug use by applicants, law enforcement trainees and sworn law enforcement personnel, and provide a mechanism to identify and remove those from employment who are engaged in such activities.

**POLICY:** The illegal use of drugs is incompatible with service in law enforcement. Law enforcement officers are expected to obey all laws and ordinances, including those concerning illegal use of drugs. The department is committed to ensuring that applicants, trainees, and sworn law enforcement personnel are physically and mentally capable of performing their duties and fulfilling their responsibilities. The department will also ensure that the employment rights of individual law enforcement officers are safeguarded consistent with legal principles through uniform collection, submission and analysis of drug test specimens. The department will ensure the accuracy and reliability of the drug testing process and administer the drug testing program in a way that is fundamentally fair to individual law enforcement officers and is consistent with due process and the laws of the State of New Jersey.

## **PROCEDURE:**

### **I. Applicability**

- A. The provision contained in this written directive apply to the following:
1. Applicants for a position as a law enforcement officer who, if appointed, will be responsible for the enforcement of the criminal laws of this State and will be authorized to carry a firearm under N.J.S.A. 2C:39-6.
  2. Law enforcement officer trainees subject to the Police Training Act while they attend a mandatory basic training course.
  3. Sworn law enforcement officers who are responsible for the enforcement of the criminal laws of this State, come under the jurisdiction of the Police Training Act and are authorized to carry a firearm under N.J.S.A. 2C:39-6.
  4. The Law Enforcement Drug Testing Policy does not apply to civilian employees of a law enforcement agency. Agencies that wish to drug test civilian employees should consult with legal counsel to establish drug testing policies and procedures consistent with human resource policy and/or collective bargaining rights.

## II. Employment Status

- A. Drug testing is categorized by the employment status of the individual being tested and the method by which the individual was selected for testing. These methods include applicant testing, trainee testing, and officer testing. Testing is required of all police applicants and trainees. Pursuant to AG Directive 2018-2, law enforcement agencies are required to implement a random drug testing program for all sworn officers in their departments. Further law enforcement agencies have an independent obligation to undertake drug testing of individual officers and trainees where there is reasonable suspicion to believe that the officer is illegally using drugs or under the influence of a controlled dangerous substance or cannabis during work hours.
- B. Applicant Testing
1. The New Jersey Attorney General Law Enforcement Drug Testing Policy recognizes that drug testing is an important component of a pre-employment background investigation. Thus, prospective employees should be drug tested as a condition of employment. The Attorney General policy requires law enforcement agencies engaged in the hiring process to drug test prospective employees at any point during the pre-employment process.
  2. In addition, applicants for employment may be tested as many times as the law enforcement agency deems necessary to ensure that the applicants are not engaged in the illegal use of drugs. For example, applicants who have been drug tested as part of the application process may be tested again if a significant amount of time has elapsed since the previous step in the employment process.
  3. During the pre-employment process, the department will ensure that it complies with the provisions of the Americans with Disabilities Act (ADA) by refraining from making any medical inquiries. Therefore, the **Drug Testing Medication Information** form should not be used at the applicant stage, unless a positive test result requires an explanation by the prospective employee. The **Drug Testing Medication Information** form shall be used if a conditional offer of employment has been made to the applicant.
- C. Trainee Testing
1. Individuals hired as law enforcement officers who are required to attend and successfully complete a mandatory basic training course approved by the Police Training Commission are subject to drug testing during their attendance at a police academy. Trainees will be required to submit one or more urine specimens for testing while they attend a mandatory basic training course. The drug testing of law enforcement trainees will be conducted by the police academy staff under rules and regulations adopted by the Police Training Commission.
  2. Individual trainees shall also be required to submit a urine specimen for testing when there exists reasonable suspicion to believe that the trainee is illegally using drugs or is under the influence of a controlled dangerous substance or cannabis during work/training hours. A trainee shall be ordered to submit to a drug test based on reasonable suspicion only with the approval of the county prosecutor, the Chief of Police, or the academy director.
- D. Officer Testing
1. Sworn law enforcement officers shall be ordered to submit a urine specimen for testing when they have been randomly selected to submit to a drug test. Random selection shall be defined as a method of selection in which each and every sworn member of the law enforcement agency, regardless of rank or assignment, has an equal chance to be selected for drug testing each and every time a selection is conducted.

2. Sworn law enforcement officers shall also be required to submit a urine specimen for testing when there exists reasonable suspicion to believe that the officer is illegally using drugs or is under the influence of a controlled dangerous substance or cannabis during work hours. An officer shall be ordered to submit to a drug test based on reasonable suspicion only with the approval of the Burlington County Prosecutor or the Chief of Police.
3. Urine specimens may also be collected from law enforcement officers during a regularly scheduled and announced medical examination or a fitness for duty examination. However, the collection and analysis of these specimens are not governed by this policy.

### **III. Types of Testing**

#### **A. Random**

1. Random drug testing of all state, county, and local sworn law enforcement officers is required by AG Directive 2018-2. Random selection is defined as a method of selecting employees for drug testing in which every member of the agency, regardless of rank or assignment, has an equal chance of being selected each and every time a selection is made. An officer who has been selected on one or more previous occasions for a random drug test is not excused from future tests. The number of officers to be selected each time a random test is conducted shall be less than the total number of sworn officers employed by the agency. AG Directive 2018-2 requires a minimum of ten percent of the sworn officers within an agency be randomly tested each time. Each agency must perform the random test at least twice in every calendar year.
2. Evesham Police Procedure
  - Random selection shall be defined as a method of selection in which each and every sworn officer of the department, regardless of rank or assignment, has an equal chance to be selected for drug testing each time a selection is conducted.
    - Sworn law enforcement officer shall be defined as full time, SLEO Class II, and SLEO Class III Officers.
    - SLEO Class I Officers are ineligible to be selected for the random drug screening as they are not authorized to carry a firearm under N.J.S.A. 2C:39-6.
  - The Chief of Police shall determine the percentage of sworn officers selected each time a random selection takes place.
  - The random selection of sworn officers who will be subject to testing pursuant to this written directive shall take place on dates during the calendar year as determined by the Chief of Police.
  - The method of random selection shall be as follows:
    - The total number of random tests to be administered in a calendar year shall be equivalent to not less than 20% of the total number of sworn law enforcement officers in the department. The Chief of Police shall have the discretion to modify the total number beyond 20% of the officers to be randomly selected for testing, as well as the total number of testing dates in any given year. At each selection process, a minimum number of 10% of the total number of officers in the department will be selected for testing. Testing shall occur a minimum of two (2) times per year.

- On each date chosen for a random selection of sworn law enforcement officers, the Chief of Police or his designee shall generate a list from the "Random Name Generator" program in the Law Enforcement Records System (LERS) in use by this department. In order to generate a random list, enter a number equivalent to **One More** than the number of officers that will be tested. In other words, if you need to test eight officers to fulfill the 10% requirement, enter 9 and the name generator will print a list of nine randomly selected active sworn officers. Thereafter, the first sworn law enforcement officers appearing on the list, in a number equal to that necessary to accomplish testing of 10% of the sworn law enforcement officers in department (or a greater percentage as determined by the Chief of Police), will be designated as valid selections for testing.
- All master lists generated for random drug testing shall be maintained consistent with the level of confidentiality and retention period for Internal Affairs files pursuant to the Attorney General's Guidelines.  
(See written directive *V1C13 – Internal Affairs and Discipline*)
- The random selection process shall be verified and documented. The Chief of Police or his designee, the Administrative Division Commander or designee, and one representative from the collective bargaining unit shall serve as the official selection committee. In the event that the bargaining unit does not wish to be represented on the selection committee, the Chief of Police may appoint any department member to that position. At no time will the selection committee consist of less than three (3) members.
- Everyone present at the time of selection must understand that anyone who discloses the identity of an officer selected for random drug testing, or the fact that a random selection is scheduled to take place prior to the collection of urine specimens shall be subject to discipline.

## B. Reasonable Suspicion

1. Agencies must undertake drug testing when there is reasonable suspicion to believe a law enforcement officer is engaged in the illegal use of a controlled dangerous substance, or is under the influence of a controlled dangerous substance, including unregulated marijuana, or cannabis during work hours. Reasonable suspicion "requires objective facts which, with inferences, would lead a reasonable person to conclude that drug-related activity is taking or has taken place and that a particular individual is involved in that drug activity.
2. The reasonable suspicion standard is "less demanding" than the probable cause standard in two ways. First, the amount of evidence needed to satisfy the reasonable suspicion standard is less than that needed to satisfy the probable cause standard. Second, the type of information used to satisfy the reasonable suspicion standard may be "less reliable than that required to show probable cause." The following factors should be evaluated to determine the quality and relevance of the information acquired by the law enforcement agency:
  - The nature and source of the information;
  - Whether the information constitutes direct evidence or is hearsay in nature;
  - The reliability of the informant or source;
  - Whether corroborating information exists and the degree to which it corroborates the accusation; and
  - Whether and to what extent the information may be stale.

3. Every law enforcement agency subject to the jurisdiction of the Attorney General must include in its rules and regulations a provision governing reasonable suspicion drug testing. Before a law enforcement executive may order an individual officer to undergo reasonable suspicion testing, the agency shall prepare a written report documenting the basis for the test. Under emergent circumstances, approval may be given for a reasonable suspicion test on the basis of a verbal report. Law enforcement executives who wish to discuss whether the information they possess is sufficient to conduct reasonable suspicion testing should contact the Burlington County Prosecutor's office for advice.

4. Evesham Police Procedure

- Urine specimens shall be ordered from an officer when reasonable suspicion exists that the officer is engaged in the illegal use of a controlled dangerous substance during work hours.
- Upon a report from any source that an officer may be illegally using drugs, the Administrative Division Commander and Chief of Police shall immediately be notified.
- Upon direction by the Chief of Police, the Administrative Division Commander will initiate an investigation to establish whether a basis exists for reasonable suspicion of illegal drug use.
- The Administrative Division Commander shall document the findings in a written report.
- The written report shall be submitted to the Chief of Police for a determination if reasonable suspicion exists that an officer has engaged in illegal drug use.
- If the Chief of Police determines that reasonable suspicion of illegal drug use exists, the officer shall be ordered to submit a urine sample for drug screening in accordance with the procedures listed below.
- Under emergency circumstances, the Chief of Police may give approval for a reasonable suspicion test on the basis of a verbal report. In such a case, a written report shall be submitted not more than 72 hours after verbal approval.

C. Reasonable Suspicion Testing for Cannabis Use

1. Consuming or being under the influence of cannabis while at work or during work hours is strictly prohibited. Officers shall be tested for cannabis in the following situations:
  - Upon reasonable suspicion of the officer's use of a cannabis item while engaged in the performance of the officer's duties, or
  - Upon a finding of observable signs of intoxication related to the use of a cannabis item while engaged in the performance of the officer's duties.
2. In the above situations, the drug test shall include a physical evaluation by a Workplace Recognition Expert (WIRE) to determine the officer's state of impairment and a urinalysis.
3. Evesham Police Procedure
  - Until such time as the WIRE program is developed and WIREs are implemented in our agency, we shall utilize two trained Drug Recognition Experts (DRE) to perform the evaluation.
    - One of the DRE examiners must be a Sergeant or above.
    - The DRE shall utilize the **Observed Behavior Reasonable Suspicion Report**.

## **IV. Notification of Drug Testing Procedures**

### **A. Applicants:**

1. The department shall notify applicants for law enforcement positions that the pre-employment process will include drug testing. The notification will also indicate that a negative result is a condition of employment and that a positive result will:
  - Result in the applicant being dropped from consideration for employment;
  - Cause the applicant's name to be reported to the Central Drug Registry maintained by the Division of State Police; and
  - Preclude the applicant from being considered for future law enforcement employment for a period of two years from the date of the drug test.
  - In addition, the notification will indicate that if the applicant is currently employed by another agency as a sworn law enforcement officer and the officer tests positive for illegal drug use, the officer's employing agency will be notified of the test results and the officer will be terminated from employment and permanently barred from future law enforcement employment in New Jersey.
  - Applicants shall be further informed that their refusal to submit to a drug test shall result in their no longer being considered for law enforcement employment in New Jersey.

### **B. Trainees**

1. All newly appointed law enforcement officers shall be informed that drug testing is mandatory during basic training. Newly appointed officers shall also be informed that a negative result is a condition of employment and that a positive result will result in:
  - The trainee being dismissed from basic training;
  - The trainee's termination from employment;
  - Inclusion of the trainee's name in the Central Drug Registry maintained by the Division of State Police; and
  - The trainee being permanently barred from future law enforcement employment in New Jersey.
2. Newly appointed officers shall be further informed that the refusal to submit to a drug test shall result in their dismissal from employment and a permanent ban from future law enforcement employment in New Jersey and inclusion of the trainee's name in the central drug registry maintained by the Division of State Police. Each police academy shall include in its rules and regulations a provision implementing drug testing during basic training.

### **C. Sworn Law Enforcement Officers**

1. Law enforcement officers shall be ordered to submit to a drug test when there is a reasonable suspicion to believe that the officer is illegally using drugs or is under the influence of a controlled dangerous substance or cannabis during work hours, as well as the provisions set forth for random drug testing pursuant to AG Directive 2018-2 and this written directive.
2. Negative drug test results are a condition of employment as a sworn officer and that a positive result for an illegal substance will result in the following:
  - The officer's termination from employment;
  - Inclusion of the officer's name in the Central Drug Registry maintained by the Division of State Police; and
  - The officer being permanently barred from future law enforcement employment in New Jersey.

3. An officer who refuses to submit to a drug test based on reasonable suspicion or random drug testing after being lawfully ordered to do so are subject to the same penalties as those officers who test positive for the illegal use of drugs. A sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.
4. When it has been determined that reasonable suspicion exists, the Administrative Division Commander will go to the subject officer at the officer's work assignment and order that officer to accompany them to a designated lavatory to collect the specimen.
5. Officers selected for random drug screening shall be contacted by the Administrative Division Commander at their work assignment and shall immediately report to the designated lavatory to submit a urine sample. If the officer is not on duty, the officer will be ordered to give a proper urine sample(s) immediately upon returning to work. If the officer is away for extended leave time (i.e. Military Leave Time, etc.) the alternate created by the Random Name Generator may be used.
6. The order to provide a urine sample for drug screening is a direct order from the Chief of Police. No officer has the right to refuse the order, the right to have a union representative or attorney present at the time the sample is collected, nor the right to delay the order for any reason.

## **V. Specimen Acquisition Process**

- A. The Administrative Division Commander will be responsible for the overall supervision of collection of urine specimens.
  1. The Chief of Police shall designate an official monitor(s) to oversee the specimen acquisition process.
  2. The monitor shall always be of the same sex as the individual being tested.
  3. In the event there is no member of the same gender available within our agency to serve as the monitor, a request can be made for a member of the same gender from another law enforcement agency.
- B. Prior to the submission of a specimen, an applicant for a law enforcement position shall execute a form consenting to the collection and analysis of their urine for illegal drugs (**Applicant Notice and Acknowledgment**). The form shall also advise the applicant that a negative result is a condition of employment and that a positive result will result in the consequences outlined in Section IV of this policy. Applicants are not required to complete a **Drug Testing Medication** form at this time, unless a positive test result requires an explanation by the prospective employee. The **Drug Testing Medication Information** form shall be used if a conditional offer of employment has been made to the applicant.
- C. Prior to the submission of a urine specimen, a trainee enrolled in a basic training course shall execute a form (**Trainee Notice and Acknowledgment**) advising the trainee that a negative result is a condition of employment and that a positive result will result in the consequences outlined in Section IV of this directive. The form shall also advise the trainee that the refusal to participate in the test process carries the same penalties as testing positive. Trainees shall complete a **Drug Testing Medication Information** form listing all prescription medication, non-prescription (over-the-counter) medication, dietary supplements, and nutritional supplements that were ingested by the officer during the past 14 days. The **Drug Testing Medication Information** form shall be placed in an envelope which is sealed by the trainee. The trainee shall date and initial the seal, and write their unique identifier (Donor ID) on the envelope.

- D. Prior to the submission of a urine specimen, an officer shall execute a form (**Officer Notice and Acknowledgment**) advising the officer that a negative result is a condition of employment and that a positive result will result in the consequences outlined in Section IV of this policy. The form shall also advise the officer that the refusal to participate in the test process carries the same penalties as testing positive. Sworn officers shall complete the **Drug Testing Medication Information** form listing all prescription medication, non-prescription (over-the-counter) medication, dietary supplements, and nutritional supplements that were ingested by the officer during the past 14 days. The **Drug Testing Medication Information** form shall be placed in an envelope which is sealed by the officer. The officer shall date and initial the seal, and write their unique identifier (Donor ID) on the envelope.

## **VI. Monitor's Responsibilities**

- A. The monitor of the specimen acquisition process shall be responsible for the following:
1. Ensuring that all documentation is fully and accurately completed by the individual submitting the specimen (the donor).
  2. Collecting specimens in a manner that provides for individual privacy while ensuring the integrity of the specimen. Individual specimens and forms shall be identified throughout the process by the use of donor identification numbers (Donor ID). At no time shall a name appear on any form or specimen container sent to the Laboratory.
  3. Complying with chain of custody procedures established by the Laboratory for the collection and submission for analysis of urine specimens.
  4. Specimens shall be collected utilizing split collection kits supplied by the Laboratory. Under no circumstances shall a specimen be collected and submitted for analysis in a specimen container that has not been approved by the NJ State Medical Examiner Toxicology Laboratory. It is the responsibility of each agency to contact the Laboratory to obtain the Split Specimen Kits and Forensic Urine Drug Testing Custody and Submission Forms (CSF).
  5. Collecting and submitting urine specimens in accordance with procedures established by the Laboratory.
- B. In order to ensure the accuracy and integrity of the collection process a monitor may:
1. Direct an individual officer who has been selected for drug testing to remove outer clothing (jackets, sweaters, etc.), empty their pockets, and wash their hands under running water, before they produce a specimen.
  2. Add tinting agents to toilet water and secure the area where the specimens are to be collected prior to specimen collection.
- C. If the monitor has reason to believe that an individual officer will attempt to adulterate or contaminate a specimen, substitute another substance or liquid for their specimen, or compromise the integrity of the test process, the monitor may conduct a direct observation of the individual officer. If a monitor concludes that direct observation is necessary, he or she must document the facts supporting the belief that the officer will attempt to compromise the integrity of the test process before there can be direct observation.

## **VII. Urine Specimen Collection Procedure**

- A. Unless otherwise noted, all steps must be completed by the donor in the presence of the monitor.
- B. The monitor completes the agency information, donor identification, and test information sections of the Custody and Submission Form (CSF).



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- C. The monitor allows the donor to select one NJ Medical Examiner State Toxicology Laboratory issued sealed split specimen collection kit.
- D. The donor unseals the split specimen collection kit, removes the specimen bag and specimen containers from the specimen collection container, and places all items on a clean surface.
  - 1. The specimen containers shall be kept closed/unsealed at this time.
  - 2. The specimen collection container and specimen containers should be kept within view of both the donor and the monitor.
- E. The monitor instructs the donor to void a specimen of ***at least*** 45 mL into the specimen collection container, to not flush the toilet, and return with the specimen container immediately after the specimen is produced.
- F. The monitor checks the specimen for adequate volume and the temperature indicator strip on the specimen container within 4 minutes.
  - 1. A color change between 90° and 100°F indicates an acceptable specimen temperature. The monitor indicates if the temperature is acceptable by marking either the "Yes" or "No" box in the specimen collection section of the CSF. If a temperature strip does not indicate the acceptable temperature, the monitor must consider the possibility that the officer attempted to tamper with the collection.
  - 2. The monitor must follow the "shy bladder" procedure for donors that initially are unable to produce an adequate amount of urine (See "Shy Bladder" Procedure).
- G. The monitor instructs the donor to split the collected specimen into the specimen containers.
  - 1. The donor opens both specimen containers and pours ***at least*** 30 mL of urine from the collection container in the primary specimen container and ***at least*** 15 mL of urine from the collection container in the secondary specimen container.
  - 2. The donor secures both specimen containers by placing and securing the lids/caps on the specimen containers.
- H. The monitor instructs the donor to seal the specimen containers with tamper-evidence seals from the CSF.
  - 1. The donor carefully removes the Bottle A Specimen Container Security Seal from the CSF and places it over the lid/cap and down the sides of the primary specimen container with the greater volume of urine (30 mL).
  - 2. The donor carefully removes the Bottle B (SPLIT) Specimen Container Security Seal from the CSF and places it over the lid/cap and down the sides of the secondary specimen container with the lesser volume of urine (15 mL).
  - 3. After the seals are placed on the specimen containers, the donor writes the collection date and his or her initials in the space provided on the security seals to certify that the specimen containers contain the specimen that he or she provided.
- I. The monitor prints his/her name, signs and dates the monitor/agency acknowledgement section of the CSF.
- J. The monitor instructs the donor to place both specimens in the front pouch of the specimen bag that contains the absorbent pad.
- K. The monitor separates the white laboratory copy of the CSF, folds it, and places it in the rear pouch of the specimen bag along with the sealed medication information sheet, if provided
- L. The monitor seals the specimen bag by removing the release liner from the flap and folding the blue adhesive flap to cover the cross hatch slit opening.

- M. Any remaining urine and the specimen collection container may be discarded.
- N. The monitor will take possession of the sealed specimen bag and ensure that it is delivered to the NJ State Medical Examiner Toxicology Laboratory in a timely manner.

**VIII. "Shy Bladder" Procedure**

- A. When a donor initially produces an inadequate amount of urine, the monitor must take the following steps:
  - 1. Advise the donor to remain on the premises and under the supervision of the test monitor until the monitor is satisfied that the donor cannot produce a specimen.
  - 2. While the donor is under supervision, allow the donor to drink up to 40 ounces of fluids distributed reasonably over a period of up to three hours in an attempt to induce the production of a specimen.
  - 3. Under no circumstances, should multiple voids be combined to produce an adequate sample volume.
- B. If the donor remains unable to provide a specimen after a reasonable period of time, the monitor may have the donor examined by a doctor to determine whether the inability to produce a specimen was the result of a medical or physical infirmity or constituted a refusal to cooperate with the drug testing process.

**IX. Split Specimen**

- A. A donor whose specimen tested positive may only challenge the positive test result by having the split specimen independently tested by an accredited laboratory. The first specimen will not be retested.
- B. The split specimen will be maintained at the Laboratory for a minimum of one year following the receipt of a positive drug test result from the laboratory by the submitting agency.
- C. The split specimen will be released by the Laboratory under the following circumstances:
  - 1. The agency is notified by the Laboratory that the first specimen tested positive for a controlled substance;
  - 2. The agency notifies the donor that the first specimen tested positive for a controlled substance; and
  - 3. The agency is informed by the donor whose specimen tested positive that he/she wishes to challenge the positive test result.
- D. A representative of the second test laboratory may, in person, take possession of the second sample in accordance with accepted chain of custody procedures or the sample may be sent to the second test laboratory by commercial courier also following accepted chain of custody procedures.
- E. Following testing of the split specimen, the independent laboratory will report the result of the split specimen drug test to the donor, to the submitting agency, and to the NJ State Medical Examiner Toxicology Laboratory medical review officer.

## **X. Submission of Specimens to the Laboratory**

- A. The NJ State Medical Examiner Toxicology Laboratory is the only facility approved for the analysis of law enforcement drug tests conducted under the Law Enforcement Drug Testing Policy. Law enforcement agencies are not permitted to use any other facility or laboratory for the purpose of analyzing urine specimens for illegal drug use by law enforcement officers.
- B. Urine specimens should be submitted to the Laboratory as soon as possible after their collection. In the event specimens cannot be submitted to the Laboratory within one working day of collection, the law enforcement agency shall store the specimens in a controlled access refrigerated storage area until submission to the Laboratory.
- C. Specimens may be submitted to the Laboratory by commercial courier using "next day delivery" or in person (appointment only).
- D. The Laboratory will inspect all documentation to ensure that it has been properly completed. Failure to include the appropriate documentation with each submission will cause the laboratory to delay conducting an analysis of the specimen or specimens until the missing documentation is submitted.
- E. In addition to ensuring that the appropriate documentation has been completed and is submitted for each specimen, the Laboratory shall inspect each specimen for damage and evidence of tampering.
  - 1. The Laboratory may reject any specimen if it has reason to believe it has been tampered with or is damaged; and
  - 2. Notify the submitting agency, in writing, with the reason for rejection clearly stated.

## **XI. Analysis of Specimens**

- A. The analysis of the first specimen shall be done in accordance with currently accepted procedures adopted by the Laboratory. These procedures shall include but not be limited to security of the test specimens, chain of custody, initial screening and confirmation testing, parent drug and metabolite cut-off levels and the issuance of final reports. In addition to the controlled substances listed below, every Law Enforcement Executive may request that specimens be analyzed for the presence of steroids.
- B. The Laboratory's drug testing procedures will screen for the following controlled substances.
  - 1. Amphetamines
  - 2. Barbiturates
  - 3. Benzodiazepines
  - 4. Cocaine
  - 5. Methadone
  - 6. Opiates
  - 7. Oxycodone/Oxymorphone
  - 8. Phencyclidine
  - 9. Marijuana/Cannabis (only to be included in the testing process when: the officer is assigned to a federal task force; the officer holds a federally regulated license, which requires testing (e.g. pilot or commercial driver's license); the law enforcement agency is specifically required to test by the terms of a federal contract or federal grant; or as outlined in the reasonable suspicion sections herein).

- C. The laboratory utilizes a two-stage procedure to analyze specimens.
  - 1. In the first stage, all specimens will undergo an initial screening. The initial screening determines whether one or more of the nine substances listed and/or their metabolites are present at or above a designated cutoff. All presumptive positive specimens will undergo a second and more specific type of testing.
  - 2. The second type of testing will employ mass spectrometry detection for the definitive identification and quantitation of drugs and/or metabolites presumptively identified by the initial screen.
- D. When a specimen tests positive at both the initial stage and the second stage, a medical review officer assigned to the Laboratory will review the test results together with the medication information form submitted for the specimen. The medical review officer will seek to determine whether any of the substances listed on the form would explain the positive test result. The medical review officer may direct the agency that collected the sample to obtain further information from the individual being tested concerning the medications listed on the medical information form. The medical review officer will then issue a report indicating whether or not the sample tested positive due to a listed medication on the medication information form.
- E. Applicants for law enforcement employment are not required to submit a Drug Testing Medication Information form with their specimen. Therefore, if an applicant tests positive, the law enforcement agency, following notification from the Laboratory, must have the candidate complete the **Drug Testing Medication Information** form listing all prescription medication, non-prescription (over-the-counter) medication, dietary supplements, and nutritional supplements that were ingested by the donor during the 14 days prior to the specimen collection. The Drug Testing Medication Information form shall be placed in an envelope which is sealed by the donor. The donor shall date and initial the seal, and write their Donor ID on the envelope. The agency is responsible for submitting the envelope to the Laboratory. A review of the form will be conducted by the medical review officer as outlined above.
- F. In addition to the testing outlined above, specimens submitted to the Laboratory may be tested for additional substances at the request of the law enforcement agency submitting the specimen. The Laboratory has the ability through its own facilities, as well as facilities employed as reference laboratories, to arrange drug testing for steroid abuse, as well as other currently abused substances.

## **XII. Drug Test Results**

- A. The Laboratory will provide written test results for every specimen submitted for analysis. All efforts will be made to deliver these reports within 15 working days of the submission. Reports will be addressed to the contact person listed on the specimen submission record. Positive test results will be sent to the contact person by certified mail.
- B. In some cases, the Laboratory will report that a specimen tested positive for a particular substance and that the information on the medication information form explains the test result. For example, the Laboratory may report that a substance tested positive for a barbiturate and a prescription for that barbiturate was listed on the form by the officer. At this point, it is the responsibility of the submitting agency to determine whether the officer had a valid prescription for that drug. Officers who do not have a valid prescription are subject to disciplinary action including termination by the agency.
- C. Under no circumstances will the Laboratory provide law enforcement agencies with verbal reports of drug test results. In addition, no individual or agency may ask the Laboratory to conduct a second analysis of a specimen that has already been analyzed.

**XIII. Consequences of a Positive Test Result**

**A. Applicants**

1. Any applicant who tests positive for illegal drug use shall:
  - Be immediately removed from consideration for employment by the agency.
  - The applicant shall be reported to the Central Drug Registry maintained by the Division of State Police by the law enforcement agency to which the individual applied.
  - The applicant shall be precluded from consideration for future law enforcement employment by any law enforcement agency in New Jersey for a period of two years.
2. If the applicant is currently employed by another agency as a sworn law enforcement officer, and the applicant tests positive for illegal drug use, the applicant's current employing agency shall be notified of the positive test result. Under these circumstances, the officer's current employer is required to dismiss the officer from employment and also report his or her name to the Central Drug Registry maintained by the Division of State Police.

**B. Trainees**

1. When a trainee tests positive for illegal drug use, or is found to have been consuming or being under the influence of cannabis or marijuana while at work/training or during work/training hours, subject to rules adopted by the Police Training Commission:
  - The trainee shall be immediately dismissed from basic training subject to rules adopted by the Police Training Commission and suspended from employment by his or her appointing authority.
  - Upon final disciplinary action by the appointing authority, the trainee shall be terminated from employment as a law enforcement officer.
  - The trainee shall be reported to the Central Drug Registry maintained by the Division of the State Police.
  - The trainee shall be permanently barred from future law enforcement employment in New Jersey.

**C. Sworn Law Enforcement Officers:**

1. When a sworn law enforcement officer tests positive for illegal drug use, or is found to have been consuming or being under the influence of cannabis or marijuana while at work or during work hours:
  - The officer shall be immediately suspended from all duties.
  - The officer shall be administratively charged and, upon final disciplinary action, terminated from employment as a law enforcement officer.
  - The officer shall be reported by his or her employer to Central Drug Registry maintained by the Division of State Police.
  - The officer shall be permanently barred from future law enforcement employment in New Jersey.

**XIV. Consequences of a Refusal to Submit to a Drug Test**

- A. Applicants who refuse to submit to a drug test during the pre-employment process shall be immediately removed from consideration for law enforcement employment and barred from consideration for future law enforcement employment for a period of two years from the date of the refusal. In addition, the appointing authority shall forward the applicant's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

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- B. Trainees who refuse to submit to a drug test during basic training shall be immediately removed from the academy and immediately suspended from employment. Upon a finding that the trainee did in fact refuse to submit a sample, the trainee shall be terminated from law enforcement employment in New Jersey. In addition, the appointing authority shall forward the trainee's name to the Central Drug Registry and not that the individual refused to submit to a drug test.
- C. Any officer who refuses to submit to a drug test ordered in response to reasonable suspicion or random selection shall be immediately suspended with pay from all duties. Upon finding that the officer did in fact refuse to submit a specimen, the officer shall be terminated from law enforcement employment and permanently barred from future law enforcement employment in New Jersey. In addition, the appointing authority shall forward the officer's name to the Central Drug Registry and not that the individual refused to submit to a drug test. Please note, if there is no valid reason why an officer cannot produce a specimen, the officer's actions will be treated as a refusal. In addition, a sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

### **XV. Resignations and Retirements**

- A. Sworn law enforcement officer who tests positive for illegal drug use or who refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported by this agency to the Central Drug Registry maintain by the Division of State Police and shall be barred from future law enforcement employment in New Jersey.

### **XVI. Record Keeping**

- A. The Administrative Division Commander, through his or her role as supervisor of the Internal Affairs Unit, shall maintain all records relating to the drug screening of applicants, trainees and sworn members of the department.
- B. For all drug screening, the records shall include at minimum:
  - 1. The identity of those ordered to submit urine samples;
  - 2. The reason for that order;
  - 3. The date the urine was collected;
  - 4. The identity of the monitor of the collection process;
  - 5. The chain of custody of the urine sample from the time it was collected until the time it was received by the Laboratory;
  - 6. The results of the drug screening;
  - 7. For any positive result, documentation from the officer's physician that the medication was lawfully prescribed and does not render the officer unfit for duty;
  - 8. Copies of notification to the subject; and
  - 9. Documentation of the disciplinary process and conclusions to same resulting from any positive result or refusal to submit to testing.
- C. For random drug screening, the records will also include:
  - 1. A description of the process used to randomly select members for drug screening;
  - 2. The date the selection was made;
  - 3. A copy of the document listing the identities of those selected for drug screening;
  - 4. A list of those who were actually tested; and
  - 5. The date(s) those officers were tested.

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- D. The records of drug screening shall be maintained with the level of confidentiality and retention period required for internal affairs files pursuant to the New Jersey Internal Affairs Policy and Procedures. (See written directive *V1C13 – Internal Affairs*)
  
- E. Forms
  - 1. **Applicant Notice and Acknowledgment**
  - 2. **Trainee Notice and Acknowledgment**
  - 3. **Officer Notice and Acknowledgment**
  - 3. **Drug Testing Medication Information**
  - 4. **Evesham Township Police Department Internal Affairs Chain of Custody Form**
  - 5. **Notification to the Central Drug Registry**

### **XVII. Central Drug Registry**

- A. The department shall notify the Central Drug Registry maintained by the Division of State Police of the identity of applicants, trainees and sworn law enforcement officers who test positive for the illegal use of drugs; are found to have been consuming or being under the influence of cannabis while at work/training or during work/training hours; or refuse an order to submit to a drug test (**Notification to the Central Drug Registry**).
  
- B. A sworn law enforcement officer who tests positive for illegal drug use; is found to have been consuming or being under the influence of cannabis or marijuana while at work or during work hours; or refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported by his or her employer to Central Drug Registry and shall be permanently barred from future law enforcement employment in New Jersey
  
- C. The Agency's notification to the Central Drug Registry in accordance with the Attorney General's Guidelines, shall include the following information as to each individual:
  - 1. Name and address of this department and a contact person;
  - 2. Name of the individual who tested positive;
  - 3. Last known address of the individual;
  - 4. Date of birth;
  - 5. Social security number;
  - 6. SBI number (if applicable);
  - 7. Gender;
  - 8. Race;
  - 9. Eye Color;
  - 10. Substance the individual tested positive for, the circumstances of the officer being found to have been consuming or being under the influence of cannabis or marijuana while at work or during work hours, or circumstances of the refusal to submit a urine sample;
  - 11. Date of the drug test or refusal;
  - 12. Date of dismissal from the department; and
  - 13. Whether the individual was an applicant, trainee or sworn member of the department.
  
- D. The certification section of the notification form must be completed by the Chief of Police and notarized with a raised seal.
  
- E. Notifications to the central registry shall be sent to:
  - Division of State Police
  - State Bureau of Identification
  - Central Drug Registry
  - P.O. Box 7068
  - West Trenton, New Jersey 08628-0068

- F. Information obtained in the central registry may be released by the Division of State Police only under the following circumstances:
  - 1. In response to an inquiry from a criminal justice agency as part of the background investigation process for prospective or new personnel; and
  - 2. In response to a court order.

**XVIII. Required Reporting to the Burlington County Prosecutor**

- A. After each test, a written report shall be forwarded to the Burlington County Prosecutor or his designee. The report shall contain the following information related to the agency's random employee drug testing:
  - 1. Date of test;
  - 2. Total number of sworn officers employed by agency;
  - 3. Total number tested;
  - 4. Total number tested positive.
- B. Positive drug tests, a refusal to submit to drug testing, or the administration of a reasonable suspicion drug test, the agency shall provide written notification to the BCPO within 10 days. Upon completion of discipline action, the agency shall report the discipline to the BCPO.