

West Milford Township Police Department 1480 Union Valley Rd. West Milford, NJ 07480	
Directive # D2018-1	Distribution: All Personnel
Subject: Police Department Drug Testing Policy	
Authority: Chief Timothy Storbeck	Issue Date: November 11, 2018
Comments: General Order 12/12/99 Police Dept Drug Test Policy is hereby rescinded	

1. Applicability
 - A. This policy applies to:
 1. Applicants for a position as a law enforcement officer who, if appointed, will be responsible for the law enforcement of the criminal laws of this State and will be authorized to carry firearms 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; and
 3. Sworn law enforcement officers are responsible for 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.
 - B. The Attorney General's Law Enforcement Drug Testing Policy does require law enforcement agencies to drug test applicants, as well as requiring law enforcement agencies to implement a random drug testing program for sworn officers. Law enforcement agencies had an independent obligation to undertake the drug testing of individual officer when there is reasonable suspicion to believe that the officer is illegally using drugs.
 - C. The West Milford Police Department had already adopted the policy of "Random Drug Testing", prior to Attorney General Law Enforcement Directive No. 2018-2.

- II. Types of Drug Testing
 - A. Applicants for a position as law enforcement officer
 1. Applicants will be required to submit a urine specimen at any time prior to appointment.

B. Law Enforcement Trainees

1. Trainees will be required to submit one or more urine specimens for testing while they attend a mandatory basic training course. All drug testing conducted during mandatory basic training will comply with rules and regulations established by the Police Training Commission.
2. Individual trainees will also be required to submit a urine specimen for testing where there exists reasonable suspicion to believe that the trainee is illegally using drugs. 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 executive officer of the trainee's agency, or the academy director.

C. Sworn Law Enforcement Officers

1. Urine specimens shall be ordered from a sworn law enforcement officer when there exists reasonable suspicion to believe that the officer is illegally using drugs. Urine specimens shall not be ordered from an officer without the approval of the Police Chief or his designated representative.
2. Urine specimens will be ordered from sworn law enforcement officers who have been randomly selected to submit to a drug test. Random 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.
3. Urine specimens may be collected from law enforcement officers during regularly scheduled and announced medical examination or a fitness for duty examination.

III. Notification of Drug Testing Procedures

A. Applicants

1. The Police Department will notify those applicants that the pre-employment process will include drug testing. The notification will also indicate that a negative result condition of employment and that a positive result will:

- a. result in the applicant being dropped from consideration for employment;
- b. cause the applicant's name to be reported to the central drug registry maintained by the Division of State Police;
- c. prelude the applicant from being considered for future law enforcement employment for a period of two years. 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 test 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.

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:
 - a. the officer's termination from employment;
 - b. inclusion of the officer's name in the central drug registry maintained by the Division of State Police; and
 - c. the officer 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.
3. Each police academy will include in its rules and regulations a provision -implementing drug testing during basic training.

C. Sworn Law Enforcement Officers: Reasonable Suspicion Testing

1. Individual law enforcement officers will be ordered to submit to a drug test when there is reasonable suspicion to believe that the officer is illegally using drugs.
2. Before an officer may be ordered to submit to a drug test based on reasonable suspicion, the agency shall prepare a written report, which documents the basis for reasonable suspicion. The report shall be reviewed by the County Prosecutor or the Police Chief before reasonable suspicion test may be ordered. Under emergent circumstances, approval may be given for a reasonable suspicion test on the basis of a verbal report.
3. A negative result is a condition of employment as a sworn officer and that a positive result will result in:
 - a. the officer's termination from employment;
 - b. inclusion of the officer's name in the central drug registry maintained by the Division of State Police; and
 - c. the officer being permanently barred from future law enforcement employment in New Jersey.
4. Officers who refuse to submit to a drug test based on a reasonable suspicion after being lawfully ordered to do so are subject to the same penalties as those officers who test positive for illegal use of drugs.

D. Sworn Law Enforcement Officers: Random Drug Testing

1. The Police Department chooses to implement a random drug testing program for all sworn law enforcement officers and Class II Special Police Officers. Random drug testing will be implemented after rules and regulations establishing such a procedure have been in effect for a minimum of 60 days. (60 days from the date this policy was issued).
2. The Police Department Policy states:
 - a. uniform/sworn members of the agency are eligible for random drug testing, regardless of rank or assignment.
 - b. 10% of the uniform/sworn personnel are to be selected each time a random selection takes place, with not less than 20% annually.

- c. The method of random selection will be by computer or by using social security numbers randomly matched with a number from 1 to 50 or the number of police officers. Every sworn officer in the agency has an equal chance to be selected for a testing each and every time a selection takes place.
- d. The Police Chief will establish a system by which the selection process can be verified and documented.
- e. A representative of the collective bargaining unit(s) will be permitted to witness the selection process.
- f. Any member of the agency 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.
- g. The Chief of Police will establish a system to collect urine specimens from selected officers in a prompt, efficient, and confidential manner.
- h. Officers who refuse to submit to a drug test when randomly selected are subject to the same penalties as those officers who test positive for illegal use of drugs.

3. Frequency and Number of Officers to be Tested

At a minimum, random drug testing shall be conducted at least once in the remainder of 2018 and at least twice in every subsequent calendar year.

IV. Specimen Acquisition Procedures

A. Preliminary Acquisition Procedures

- 1. The Chief of Police shall designate a member to serve as monitor of the specimen acquisition process. The monitor shall always be of the same sex as the individual being tested.
- 2. The monitor of the specimen acquisition process shall be responsible for:
 - a. Ensuring that all documentation is fully and accurately completed by the individual submitting the specimen.
 - b. Collecting specimens in a manner that provides for individual privacy while ensuring the integrity of the specimen.

- c. Complying with chain of custody procedures established for the collection of urine specimens and their subsequent submission to the New Jersey State Toxicology laboratory within the Division of Criminal Justice for analysis.

3. 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. (Attachment A) The form shall also advise the applicant that a negative result is a condition of employment and that a positive result will:
 - a. result in an applicant being dropped from consideration for employment
 - b. cause the applicant's name to be reported to the central drug registry maintained by the Division of State Police; and
 - c. preclude the applicant from being considered for future law enforcement employment for a period of two years.

Applicants shall not complete a medical questionnaire (Attachment B) prior to submission of a specimen, unless they have already received a conditional offer of employment. However, applicants who have not received a conditional offer of employment can be required to complete a medical questionnaire if, following the submission of their specimen to the State Toxicology Laboratory for analysis, the law enforcement agency receives a report indicating that the specimen tested positive for controlled substance.

4. Prior to submission of a urine specimen, a trainee enrolled in a basic course shall execute a form (Attachment C) advising the trainee that a negative result is a condition of employment and a positive result will:
 - a. result in the trainee being dismissed from basic training;
 - b. cause the trainee to be dismissed from employment as a law enforcement officer by his or her appointing authority;

- c. cause the trainee's name to be reported to the central drug registry maintained by the Division of State Police; and
- d. cause the trainee to be permanently barred from future law enforcement employment in New Jersey.

The form shall also advise trainees that the refusal to participate in process carry the same penalties as testing positive. Trainees shall also complete a medical questionnaire (Attachment B) which clearly describes all medications, both prescription and over-the counter (non-prescription), that were ingested in the past 30 days.

5. Prior to the submission of a urine specimen, sworn law enforcement officers shall complete a medical questionnaire (Attachment B) which clearly describes all medications, both prescription and over the counter (non-prescription), that were ingested in the past 30 days.

B. Specimen Collection

1. Throughout the test process, the identity of the individual applicants, trainees, and sworn law enforcement officers shall remain confidential. Individual specimens shall be identified throughout the process by the use of social security numbers. At no time shall an individual's name appear on any form or specimen container sent to the State Toxicology Laboratory.
2. Specimens will be collected utilizing equipment and supplies approved by the State Toxicology Laboratory. Under no circumstances may a specimen be collected and submitted for analysis in a specimen container that has not been approved by the State Toxicology Laboratory.
3. Urine specimen will be acquired and processed in accordance with procedures established by the State Toxicology Laboratory.
 - a. After the monitor has inspected the appropriate forms for accuracy, the applicant, trainee, or sworn officer shall void into specimen collection container.

- b. After a specimen has been produced, the individual shall seal the specimen container and deliver it to the monitor.
 - c. Once the monitor is satisfied that the required documentation is accurate and he or she has inspected the specimen container to determine that a specimen has been produced, the monitor shall take possession of the specimen and ensure that it is delivered to the State Toxicology Laboratory for analysis.
- 4. Individuals will void without direct observation of the monitor unless there is reason to believe that the individual will adulterate the specimen or otherwise compromise the integrity of the test process. Under these circumstances, the production of a specimen may be directly observed by the monitor. Law enforcement agencies must document the facts underlying their belief that an individual may adulterate a specimen or compromise the integrity of the test process.
- 5. Individuals that initially are unable to produce a urine specimen may remain under supervision of the test monitor until the monitor is satisfied that the individual cannot produce a specimen. While the individual is under the supervision, the monitor may allow the individual to drink fluids in an attempt to induce the production of a specimen. If the individual remains unable to provide a specimen after a reasonable period of time, the monitor may have the individual examined by a doctor to determine whether the inability to produce a specimen was a result of a medical or physical infirmity or constituted a refusal to cooperate with the drug testing process.
- 6. Trainees and sworn law enforcement officers shall have the option to provide the monitor with a second urine specimen at the same time the first specimen is collected.
 - a. The second specimen shall be collected in the same fashion as the first specimen. The monitor shall take possession of the second specimen and place it in a secured refrigerated storage area.
 - b. The law enforcement agency shall maintain possession of the second specimen for a period of 60 days or until the agency receives notification from the State Toxicology Laboratory that the first specimen

tested negative for the presence of controlled substances.

c. The second specimen shall be released by the law enforcement agency under the following circumstances; and

1. The law enforcement agency is notified by the State Toxicology Laboratory that the first specimen tested positive for a controlled substance; and
2. The law enforcement agency is informed by the individual whose specimen tested positive the individual wishes to have the specimen independently tested; and
3. The officer must designate a laboratory that is licensed as a clinical laboratory by the New Jersey Department of Health under the New Jersey Clinical Laboratory Improvement Act to conduct the independent test; and
4. A representative of the licensed clinical laboratory designated by the individual takes possession of the second specimen in accordance with the accepted chain of custody procedures within 60 days of the date the specimen was produced.

V. Submission of Specimens for Analysis

A. The New Jersey State Toxicology Laboratory within the Division of Criminal Justice will constitute the sole facility for the analysis of law enforcement drug testing. Law enforcement agencies are not permitted to use any other facility or laboratory for purposes of analyzing urine specimens.

B. Urine specimens should be submitted to the State Toxicology Laboratory within one working day of its collection, the law enforcement agency shall store the specimen in a controlled access refrigerated storage area until submission to the State Toxicology Laboratory.

1. Submission of specimens to the State Toxicology Laboratory may be accomplished by personnel from the law enforcement agency or commercial courier.

2. Should a law enforcement agency choose to have a specimen delivered to the State Toxicology Laboratory by commercial courier, the following procedural safeguards must be taken:
 - a. All submissions must be by "next day delivery".
 - b. In addition to the sealed container, all submissions must be packaged in a manner that includes two additional seals to provide for the integrity of the test specimens.
 - c. The State Toxicology Laboratory must reject specimens that it has a reason to believe have been subject to tampering.

VI. Analysis of Specimens

- A. The State Toxicology Laboratory will utilize the following test procedures to analyze urine specimens for law enforcement agencies.
 1. All specimens will be subject to an initial test utilizing fluorescence polarization immunoassay analysis.
 2. Those specimens that test positive for a controlled substance following the fluorescence polarization immunoassay shall be subject to gas chromatography/mass spectrophotometry analysis to confirm the presence of the controlled substance.
 3. In the event a specimen is confirmed to be positive for a controlled substance following the gas chromatography/mass spectrophotometry, a medical review officer at the laboratory shall compare the test results with the medical questionnaire submitted with the specimen to determine whether any substance listed on the questionnaire would explain the test result. The medical review officer may direct the agency that collected the specimen to obtain further information from the individual being tested concerning the medications listed on the questionnaire. In the event the questionnaire does not explain the test result, the medical review officer shall issue a report indicating that the specimen tested positive.
 4. The State Toxicology Laboratory shall analyze each specimen for the following substances and their metabolites:
 - a. amphetamine / methamphetamine
 - b. barbiturates
 - c. benzodiazepine
 - d. cannabinoids
 - e. cocaine
 - f. methadone

- g. phencyclidine
- h. opiates

- 5. The analysis of each specimen shall be done in accordance with procedures adopted by the State Toxicology Laboratory. These procedures shall include but not be limited to security of the test specimens, chain of custody, metabolite cut off levels, and the issuance of test reports.

VII. Drug Test Results

- A. The State Toxicology Laboratory shall notify the submitting law enforcement agency of any positive test results from the specimens submitted for analysis. All reports of positive test results shall be in writing and sent to the agency within 15 working days of submission. The State Toxicology Laboratory will, upon request, provide the submitting agency with written documentation that one or more specimens submitted for analysis tested negative.
- B. The State Toxicology Laboratory shall not report a specimen as having tested positive for a controlled substance until the specimen has undergone a confirmatory test and the medical review officer has reviewed the results of that test with the medical questionnaire pertinent to that specimen.
- C. The submitting agency shall notify the applicant, trainee, or sworn officer, of the results of a positive test result as soon as practical after receipt of the report from the State Toxicology Laboratory. Upon request, the individual may receive a copy of the laboratory report.
- D. Under no circumstances may an agency or an individual resubmit a specimen for testing or ask that a particular specimen within the possession of the State Toxicology Laboratory be retested.

VIII. Consequences of a Positive Test

- A. When an applicant tests positive for illegal drug use:
 - 1. The applicant shall be immediately removed from consideration for employment by the agency;
 - 2. 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; and

3. 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
 4. Where the applicant is currently employed by another agency as a sworn law enforcement officer, the officer's current employer 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. When a trainee tests positive for illegal drug use, subject to rules adopted by the Police Training Commission:
1. The trainee shall be immediately dismissed from basic training and suspended from employment by his or her appointing authority:
 2. The trainee shall be terminated from employment as a law enforcement officer, upon final disciplinary action by the appointing authority;
 3. The trainee shall be reported to the Central Drug Registry maintained by the Division of State Police; and
 4. The trainee shall be permanently barred from future law enforcement employment in New Jersey.
- C. When a Sworn Law Enforcement Officer Tests Positive for Illegal Drug Use:
1. The officer shall be immediately suspended from all duties;
 2. The officer shall be terminated from employment as a law enforcement officer, upon final disciplinary action;
 3. The officer shall be reported to the Central Drug Registry maintained by the Division of State Police by his or her employer; and
 4. The officer shall be permanently barred from future law enforcement employment in New Jersey.

IX. 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 immediately be removed from consideration for law enforcement employment and barred from consideration for future law enforcement employment for a period of two years. 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.
- 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 and permanently barred from future law enforcement employment in New Jersey. In addition, the appointing authority shall forward the trainee's name to the Central Drug Registry and note that the individual refused to submit to a drug test.
- C. Sworn law enforcement officers who refuse to submit to a drug test ordered in response to reasonable suspicion or random selection shall be immediately suspended from employment. Upon finding that the officer did in fact refuse to submit a sample, 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 note that the individual refused to submit to a drug test.

IX. Record Keeping

- A. The Police Chief shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers.
- B. The drug testing records shall include but not be limited to:
 - 1. For all drug testing:
 - a. the identity of those ordered to submit urine samples;
 - b. the reason for that order;
 - c. the date the urine was collected;
 - d. the monitor of the collection process;
 - e. the chain of custody of the urine sample from the time it was collected until the time it was received by the State Toxicology Laboratory;
 - f. the results of the drug testing;
 - g. copies of notification to the subject; and

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- D. Information contained 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 law enforcement agency as a part of the background investigation process for prospective or newly appointed personnel.
 2. In response to a court order.

XI. Notification to County Prosecutor

In the event of (1) a positive drug test by an officer, (2) a refusal by an officer to take the drug test, or (3) administration of a reasonable suspicion drug test to an officer, this law enforcement agency's chief executive or a designee shall provide a confidential written notice to the County Prosecutor or designee within 10 days. Upon completion of any disciplinary action, each agency shall report the discipline to the County Prosecutor or designee.

By December 31st of each year, this enforcement agency shall provide written notice to County Prosecutor or designee of the dates of testing conducted during the prior year, the total number of sworn officers employed by this agency, the total number of sworn officers tested, and the total number of sworn officers who tested positive.

All notifications shall be made to the Public Integrity Unit within the Passaic County Prosecutor's Office.

XII. Public Accessibility and Confidentiality

All random drug testing policies adopted by this law enforcement agency shall be made available to the public upon request and shall be posted on the agency's website.

All written reports created or submitted pursuant to this Directive that identify specific officers are confidential and not subject to public disclosure.

XIII. Sanctions for Non-Compliance

If the County Prosecutor or designee has reason to believe that a law enforcement agency or officer is not complying with or adequately enforcing the provisions of the Random Drug Testing Directive or this county policy, the County Prosecutor may take actions as she in her sole discretion deems appropriate to ensure compliance with the Random Drug Testing Directive and this policy. Nothing in the Random Drug Testing Directive or this county policy shall limit the authority of the County Prosecutor to conduct any criminal and/or administrative investigation related to a positive drug test under

random drug testing or related to compliance with and enforcement of the Random Drug Testing Directive and this policy.