



Essex County Corrections

Codification
PS.ADM.017

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Policy Title:
Drug Testing

Enabling Authority:
N.J.A.C. 10A:31-1 et. seq.

Effective Date:
February 1, 2007

Revised:
August 2023

Authority:
ATTORNEY GENERAL
LAW ENFORCEMENT DIRECTIVE NO. 2018-2 &
AG Law Enforcement Drug Testing Policy Rev. 2-2023

Promulgating Office:
Training/Planning Development Division


**Professional Association
Standard Cited:** American Correctional
Association 4th Edition Standards for Adult
Local Detention Facilities: 4-ALDF – 7C - 01

Applicability:
All Personnel

Review Schedule:
August 2024

Any Order, Policy, Directive or Memoranda in conflict with this Order is hereby superseded.

Reviewed & Issued By: Deputy Director

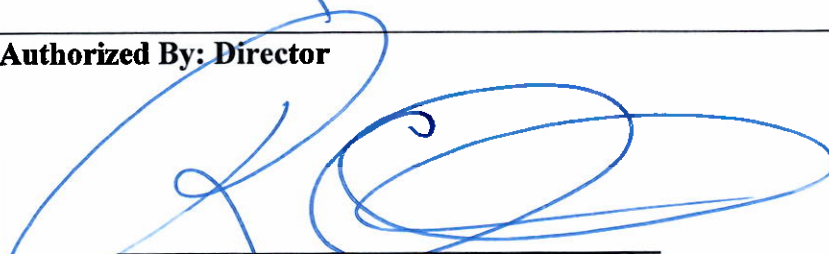


Signature



Date

Authorized By: Director



Signature



Date

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PURPOSE

This policy establishes procedural guidelines to be followed by department personnel in the methods and procedures for mandatory Drug Testing. The goal of this policy is deterring illegal drug use by law enforcement officers.

I. POLICY

The Essex County Correctional Facility (ECCF) supports a drug free work place for all work employees and such prohibits the use of illegal drugs. Employees are prohibited of possession of any illegal drug, except in the performance of official duties.

The policy sets forth uniform methods and procedures for implementing and administering law enforcement drug testing. The policy further outlines the duties and responsibilities of the State's law enforcement agencies and chief executive officers with respect to the drug testing process.

This policy shall apply to Essex County Correctional Facility Law Enforcement Officers who are responsible for enforcing the criminal laws in New Jersey, come under the jurisdiction of the Police Training Act, and are authorized to carry a firearm under N.J.S.A. 2C:39-6. Applicants for a position as a law enforcement officer and law enforcement trainees shall continue to be subject to drug testing, as set forth in the AG Testing Policy.

II. APPLICABILITY

A. Drug Treatment

Any employee requesting drug treatment can request such aid in accordance with the Essex County Employee Assistance program.

B. Personnel

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, and shall refer to the larger County Policy.

C. Employment Status

Drug testing may be 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

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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 when there is reasonable suspicion to believe that the officer or trainee is illegally using drugs.

1. Applicant Testing

The *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 policy requires law enforcement agencies engaged in the hiring process to drug test prospective employees at any point during the pre-employment process. 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.

During the pre-employment process, the agency must ensure that it complies with the provisions of the Americans with Disabilities Act (ADA) by refraining from making any medical inquiries. Therefore, the medication information form should not be used at the applicant stage, unless a positive test result requires an explanation by the prospective employee.

2. Trainee Testing

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 (1) 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.

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. 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.

3. Officer Testing

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.

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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. An officer shall be ordered to submit to a drug test based on reasonable suspicion only with the approval of the county prosecutor or the chief executive officer of the officer's agency.

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.

D. Types of Testing

1. Random Testing
 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. 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 (10%) percent of the sworn officers within an agency be randomly tested each time. Each agency must perform the random test at least once in 2018 and at least twice in every subsequent calendar year.

Agencies must establish a random drug testing program by rule, regulation or procedure. A municipal police department should have the appropriate authority adopt a rule or regulation as defined by N.J.S.A. 40A:14-118 mandating random drug testing. County, State or campus police agencies should have the appropriate administrative, executive or law enforcement official adopt a policy or procedure mandating random drug testing. Random drug testing cannot be implemented until the rule, regulation or procedure has been in effect for a minimum of sixty (60) days.

The agency must choose a method of random selection which ensures that every sworn officer in the agency has an equal chance of being selected each and every time a selection takes place. In other words, an officer who has been selected on one (1) or more previous occasions for a random drug test is not excused from future tests. The mechanism for selecting officers can be as simple and inexpensive as placing names in a hat, or as complex and expensive as a custom computer program.

The random selection process should be verified and documented. The agency should permit representatives of the affected collective bargaining units to witness the selection process. Everyone present at the time of the selection, however, must understand that anyone who discloses the identity of an officer selected for random

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testing, or the fact that a random selection is scheduled to take place prior to the collection of urine specimens, will be subject to discipline.

2. Reasonable Suspicion

Agencies must undertake drug testing when there is reasonable suspicion to believe a law enforcement officer is engaged in the illegal use of controlled substances. 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.

The reasonable suspicion standard is "less demanding" than the probable cause standard in two (2) 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:

- a. The nature and source of the information;
- b. Whether the information constitutes direct evidence or is hearsay in nature;
- c. The reliability of the informant or source;
- d. Whether corroborating information exists and the degree to which it corroborates the accusation; and
- e. Whether and to what extent the information may be stale.

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 their county prosecutor's office for advice.

3. Reasonable Suspicion Testing for Cannabis Use

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:

- a. Upon reasonable suspicion of the officers use of a cannabis item while engaged in the performance of the officers duties, or
- b. Upon a finding of observable signs of intoxication related to the use of a cannabis item while engaged in the performance of the officers duties.

In the above situations, drug tests shall include a physical evaluation by a Workplace Recognition Expert (WIRE) to determine the officers state of impairment and a urinalysis.

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IV. NOTIFICATION OF DRUG TESTING PROCEDURES

- A. Applicants:
 - 1. Applicants for corrections officer positions will be notified 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:
 - 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; and
 - c. preclude the applicant from being considered for future law enforcement employment for a period of two (2) 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 correction 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. result in the trainee being dismissed from basic training;
 - b. the trainee's termination from employment;
 - c. inclusion of the trainee's name in the central drug registry maintained by the Division of State Police; and
 - d. 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.
 - 3. The training academy will include in its rules and regulations a provision implementing drug testing during basic training.

- C. Sworn Corrections Officers
 - 1. As defined in N.J.S.A. 40A:14-118, the Essex County Department of Corrections Rules and Regulations Manual and policy PS.ADM.010 AGENCY ORIENTATION & TRAINING, a provision that individual law enforcement officers will be ordered to submit to a drug test when there is a

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reasonable suspicion to believe that the officer is illegally using drugs as well as they are subject to mandatory random drug testing pursuant to *AG Directive 2018-2*.

2. Before an employee 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 the reasonable suspicion. The report shall be reviewed by the Director of Corrections or Warden before a 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. The Essex County Department of Corrections Rules and Regulations Manual and policy PS.ADM.010 AGENCY ORIENTATION & TRAINING shall also provide that 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. The Essex County Department of Corrections Rules and Regulations Manual and policy PS.ADM.010 AGENCY ORIENTATION & TRAINING shall further provide that officers who refuse 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.
- D. Sworn Corrections Officers Random Drug Testing:
1. All sworn members of the agency are eligible for random drug testing, regardless of rank or assignment.
 2. ECCF shall delineate the frequency and number of officers regardless of rank to be selected for random drug testing. At a minimum, random drug testing shall be conducted at least once in the remainder of 2018 and conducted monthly every subsequent calendar year. At least twenty (20) percent of the total number of sworn officers within ECCF shall be randomly tested each year.
 3. The method of random selection which ensures that every sworn officer in the agency has an equal chance to be selected for a testing each and every time a selection takes place shall be by means of the current list of corrections officers as verified by the Director of Corrections in conjunction with the Director of Human Resources. Said list shall be maintained and periodically updated by Director of Corrections.
 4. The selection process shall be verified and documented by a representative of IAB.
 5. A representative of the collective bargaining unit shall be permitted to witness the selection process.

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6. Any member of the agency who discloses the identity of an officer selected for random 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.
7. The system to collect urine specimens from selected officers shall be prompt, efficient and confidential.
8. 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 the illegal use of drugs. They are suspended on the spot, pending a termination hearing. A sworn corrections 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.

V. SPECIMEN ACQUISITION PROCEDURES

A. Preliminary acquisition procedures:

1. The Director of Corrections shall designate a staff member to serve as monitor of the specimen acquisition process. The monitor shall always be of the same sex as the individual being tested (the donor). In the event there is no member of the same sex available when collecting the specimens, the Director of Corrections may request that a member of the same sex from another department serve as a monitor of the process.
2. 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 result in the consequences outlined in **Section IV A** of this policy. Applicants are not required to complete a Drug Testing Medication Information form at this time.
3. Prior to the submission of a urine specimen, a trainee enrolled in a basic training course shall execute a form (Attachment B) 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 B** of this policy. 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 (Attachment D) listing all prescription medication, non-prescription (over-the-counter) medication, dietary supplements and nutritional supplements that were ingested by the officer during the past fourteen (14) days. 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.
4. Prior to the submission of a urine specimen, an officer shall execute a form (Attachment C) 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 C** 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

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Medication Information form (Attachment D) listing all prescription medication, non-prescription (over-the-counter) medication, dietary supplements and nutritional supplements that were ingested by the officer during the past fourteen (14) days. 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.

B. Monitor's Responsibilities

1. 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 (the donor).
 - b. 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 social security numbers. At no time shall a name appear on any form or specimen container sent to the State Toxicology Laboratory.
 - c. Complying with chain of custody procedures established by the New Jersey State Toxicology Laboratory for the collection and submission for analysis of urine specimens.
 - d. Specimens shall be collected utilizing equipment and supplies approved by the State Toxicology Laboratory. Under no circumstances shall a specimen be collected and submitted for analysis in a specimen container that has not been approved by the State Toxicology Laboratory. It is the responsibility of each agency to contact the Laboratory to obtain the appropriate supplies and equipment including the Drug Testing Custody and Submission Form..
 - e. Collecting and submitting urine specimens in accordance with procedures established by the State Toxicology laboratory.
2. In order to ensure the accuracy and integrity of the collection process a monitor may:
 - a. 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.
 - b. Add tinting agents to toilet water and secure the area where the specimens are to be collected prior to specimen collection.
3. 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.

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C. Urine Specimen Collection Procedure:

1. Unless otherwise noted, all steps must be completed by the donor in the presence of the monitor.
2. The monitor allows the donor to select two (2) sealed specimen container kits.
3. The donor unseals both kits and removes the kit contents on a clean surface.
4. Using an ordinary pencil, the donor writes his/her SSN and the letter "A" below the SSN on one (1) of the I.D. labels, and places the label inside one of the specimen containers printed side out, thereby designating this bottle, and subsequently produced specimen, as "bottle A" and "first specimen", respectively.
5. Next, using an ordinary pencil, the donor writes his/her SSN and the letter "B" below the SSN on the second I.D. label, and places the label inside the second specimen container printed side out, thereby designating this bottle, and subsequently produced specimen, as "bottle B" and "second specimen", respectively.
6. The monitor checks that the donor SSN on both labels matches the SSN provided on the submission form.
7. The monitor instructs the donor to void a specimen between 45 mL and 60 mL into each specimen container, to not flush the toilet, and return with both specimens immediately after the specimen is produced.
 - a. The monitor must follow the "shy bladder" procedure for donors that initially are unable to produce an adequate amount of urine (See **Section D**. "Shy Bladder" Procedure below)
8. The monitor checks each specimen for adequate volume and temperature indicator strip on the specimen container within four (4) minutes. A color change between 90° and 100°F indicates an acceptable specimen temperature. The monitor indicates if the temperature is acceptable in the "Yes/No" column for each specimen and writes the collection date and his/her initials in the spaces provided on the submission form. 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.
9. If the monitor is satisfied that all test requirements are met and the required documentation is accurate, he/she shall request the donor to seal each one (1) of the specimen containers.
10. The monitor will take possession of the specimens and documentation. The monitor will ensure that all specimens, including second specimens, are delivered to the NJSTL in a timely manner (See **Section VI** Submission of Specimens for Analysis below).

D. "Shy Bladder" Procedure

1. When a donor initially produces an inadequate amount of urine, the monitor must take the following steps:

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- a. 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.
 - b. While the donor is under supervision, allow the donor to drink as much fluid distributed reasonably over a period of up to three (3) hours in an attempt to induce the production of a specimen.
 - c. Under no circumstances, should multiple voids be combined to produce an adequate sample volume.
2. 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. If it is considered a medical issue the test will be cancelled. The test will then be continually rescheduled until a proper specimen is collected.

E. Second Specimen

1. A donor whose specimen tested positive may only challenge the positive test result by having the second specimen independently tested. The first specimen will not be retested.
2. The second specimen will be maintained at the State Toxicology Laboratory for sixty (60) days following the receipt of a positive drug test result from the laboratory by the submitting agency.
3. The second specimen will be released by the NJSTL under the following circumstances:
 - a. The agency is notified by the State Toxicology Laboratory that the first specimen tested positive for a controlled substance;
 - b. The agency notifies the donor that the first specimen tested positive for a controlled substance; and
 - c. The agency is informed by the donor whose specimen tested positive that he/she wishes to challenge the positive test result.
4. The positive urine donor must designate, from a list maintained by the NJSTL, a laboratory that is certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) and accredited by the College of American Pathologists (CAP) to conduct workplace urine drug testing, and pay all costs associated with the reception and testing of the sample.
 - a. The State Toxicology Laboratory maintains an up-to-date list of SAMSHA and CAP certified laboratories and will furnish that list upon request.
5. 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 laboratory by pre-paid tracking mail also following accepted chain of custody procedures.
6. Following testing of the second specimen, the independent laboratory will report the result of the second specimen drug test to the donor, to the submitting agency, and to the medical review officer.

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VI. SUBMISSION OF SPECIMENS FOR ANALYSIS

- A. The State 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 State Toxicology Laboratory as soon as possible after their collection. In the event a specimen cannot be submitted to the laboratory within one (1) 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 (Attachment E).
- C. Submission of specimens to the State Toxicology Laboratory may be accomplished by personnel from the law enforcement agency or commercial courier using “next day delivery.” Specimens submitted by commercial courier must be packaged to ensure their integrity.
- D. All specimens must be accompanied by the Law Enforcement Drug Testing Custody and Submission Form which can be obtained from the lab and the sealed envelope containing the Medication Information Form. The State Toxicology 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 submitted for each specimen, the State Toxicology Laboratory shall inspect each specimen for damage and evidence of tampering.
 - 1. The Laboratory may reject any specimen it has reason to believe has been tampered with or is damaged; and
 - 2. Notify the submitting agency in writing with the reason for rejection clearly stated.

VII. ANALYSIS OF SPECIMENS

- A. The analysis of the first specimen shall be done in accordance with currently accepted procedures adopted by the State Toxicology 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 test 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 specimens for the following controlled substances:
 - 1. Amphetamines;
 - 2. Barbiturates;
 - 3. Benzodiazepines;
 - 4. Cocaine;
 - 5. Methadone;

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- 6. Opiates;
 - 7. Oxycodone /Oxynorphone, and
 - 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 above in the reasonable suspicion section II D3
- C. The State Toxicology Laboratory utilizes a two (2) stage procedure to analyze specimens.
- 1. In the first stage, all specimens will undergo an initial screening. The initial screening determines whether one (1) or more of the eight (8) 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 State Toxicology 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 State Toxicology Laboratory, must have the candidate complete the Drug Testing Medication Information form (Attachment D). Once the form has been completed, the agency is responsible for transmitting the form 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 State Toxicology Laboratory may be tested for additional substances at the request of the law enforcement agency submitting the specimen. The State Toxicology Laboratory has the ability through its own facilities, as well as facilities employed as references laboratories, to arrange drug testing for steroid abuse, as well as other currently abused chemicals.

VIII. DRUG TEST RESULTS

- A. The State Toxicology Laboratory will provide written test results for every

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specimen submitted for analysis. All efforts will be made to deliver these reports within fifteen (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 State Toxicology 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 specimen tested positive for barbiturates 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 State Toxicology 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.

IX. CONSEQUENCES OF A POSITIVE TEST RESULT

- 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 (2) 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 subject to rules adopted by the Police Training Commission and suspended from employment by his or her appointing authority.
 - 2. Upon final disciplinary action by the appointing authority, the trainee shall be terminated from employment as a law enforcement officer.
 - 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;

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2. The officer shall be administratively charged and, upon final disciplinary action, terminated from employment as a law enforcement officer.
3. The officer shall be reported by his or her employer to Central Drug Registry maintained by the Division of State Police; and
4. The officer shall be permanently barred from future law enforcement employment in New Jersey.

X. 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 period of two (2) 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.
- 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 corrections 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 a 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. Please note that 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.

XI. RESIGNATION/RETIREMENT IN LIEU OF DISCIPLINARY ACTION

- A. A sworn law enforcement officer who tests positive for illegal drug use 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.

XII. RECORDKEEPING

- A. The Internal Affairs Bureau 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. All drug testing:

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- 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 notifications to the subject;
 - h. 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; and
 - i. for any positive result or refusal, appropriate documentation of disciplinary action.
2. For random drug testing, the records will also include the following information:
- a. a description of the process used to randomly select officers for drug testing;
 - b. the date selection was made;
 - c. a copy of the document listing the identities of those selected for drug testing;
 - d. a list of those who were actually tested; and
 - e. the date(s) those officers were tested.
3. Drug testing records shall be maintained with the level of confidentiality required for Internal Affairs files pursuant to the New Jersey Internal Affairs Policy and Procedures.

XIII. CENTRAL DRUG REGISTRY

- A. Every law enforcement agency 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 or refuse an order to submit to a drug test (Attachment F).
- B. A sworn law enforcement officer who tests positive for illegal drug use 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. Notifications to the Central Drug Registry shall include the following information as to each individual:
 - 1. Name and address of the submitting agency, and 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 known);
 - 7. Gender;

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- 8. Race;
 - 9. Eye color;
 - 10. Substance the individual tested positive for, or circumstances of the refusal to submit a urine sample;
 - 11. Date of the drug test or refusal;
 - 12. Date of final dismissal or separation from the agency; and
 - 13. Whether the individual was an applicant, trainee or sworn law enforcement officer.
- D. The certification section of the notification form must be completed by the chief or director, 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 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 criminal justice agency as part of the background investigation process for prospective or new personnel; and
 - 2. In response to a court order.

XIV. NOTIFICATION TO THE ESSEX COUNTY PROSECUTOR

In the event of the following;

- A. a positive drug test by an officer,
- B. a refusal by an officer to take the drug test, or
- C. administration of a reasonable suspicion drug test to an officer,

The Essex County Department of Correction’s, Office of the Director or a designee shall provide a confidential written notice to their Essex County Prosecutor or his/her designee within ten (10) days. Upon completion of any disciplinary action, ECCF shall report the discipline to the Essex County Prosecutor or designee.

By December 31st of each year, ECCF shall provide written notice to the Essex County Prosecutor or his/her designee;

- A. the dates of testing conducted during the prior year,
- B. the total number of sworn officers employed by the agency,
- C. the total number of sworn officers tested, and
- D. the total number of sworn officers who tested positive.

XV. ANNUAL REPORT TO ATTORNEY GENERAL

By January 31st of each year, each County Prosecutor shall submit a report to the Attorney General, through the Division of Criminal Justice's Prosecutors' Supervision and Training Bureau. This summary shall include a statement indicating those agencies under the Essex

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County Prosecutor's supervision that are in compliance with this Directive and those that are not. The summary shall not reveal any subject officer's identity.

XVI. PUBLIC ACCESSIBILITY AND CONFIDENTIALITY

All random drug testing policies adopted by ECCF shall be made available to the public upon request and shall be posted on the agency's website. Annual reports from the Essex County Prosecutors to the Attorney General (as required by **Section XV**) also 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 Policy that identify specific officers are confidential and not subject to public disclosure.

ATTACHMENT A

DRUG TESTING

APPLICANT NOTICE AND ACKNOWLEDGMENT

I, _____, understand that as part of the pre-employment process, the _____ will conduct a comprehensive background investigation to determine my suitability for the position for which I have applied.

I understand that as part of this process, I will undergo drug testing through urinalysis. I understand that a negative drug test result is a condition of employment. I understand that if I refuse to undergo the testing, I will be rejected from employment.

I understand that if I produce a positive test result for illegal drug use, I will be rejected for employment.

I understand that if I produce a positive test result for illegal drug use or refuse to take the test, that information will be forwarded to the Central Drug Registry maintained by the Division of State Police. Information from that registry can be made available by court order or as part of a confidential investigation relating to employment with a criminal justice agency.

I understand that if I produce a positive test result for illegal drug use and am not currently employed as a sworn law enforcement officer, I will be barred from future law enforcement employment in New Jersey for two years from the date of the test. After this two-year period, the positive test result may be considered in evaluating my fitness for future criminal justice employment.

I understand that if I am currently employed as a sworn law enforcement officer and I produce a positive test result for illegal drug use, my current law enforcement employer will be notified of the positive test result. In addition, I will be dismissed from my law enforcement position and I will be permanently barred from law enforcement employment.

I have read and understand the information contained on this "Applicant Notice and Acknowledgment" form. I agree to undergo drug testing through urinalysis as part of the pre-employment process.

Signature of Applicant Date

Signature of Witness Date

ATTACHMENT B

DRUG TESTING

TRAINEE NOTICE AND ACKNOWLEDGMENT

I, _____, understand that as part of the program of training at the _____, I will undergo unannounced drug testing by urinalysis during the training period.

I understand that a negative drug test result is a condition of my continued attendance at the above listed training program. I understand that if I refuse to undergo the testing, I will be dismissed from the training program and from my law enforcement position.

I understand that if I produce a positive test result for illegal drug use, I will be dismissed from the academy.

I understand that if I produce a positive test result for illegal drug use, the academy will notify my employer of the positive test result. In addition, I will be permanently dismissed from my law enforcement position.

I understand that if I produce a positive test result for illegal drug use or refuse to take the test, that information will be forwarded to the Central Drug Registry maintained by the Division of State Police. Information from that registry can be made available by court order or as part of a confidential investigation relating to employment with a criminal justice agency.

I understand that if I produce a positive test result for illegal drug use, I will be permanently barred from serving as a law enforcement officer in New Jersey.

I have read and understand the information contained on this "Trainee Notice and Acknowledgment" form. I agree to undergo drug testing through urinalysis as part of the academy training program.

Signature of Trainee Date

Signature of Witness Date

ATTACHMENT C

DRUG TESTING

OFFICER NOTICE AND ACKNOWLEDGMENT

I, _____, understand that as part of my employment with _____, I am required to undergo unannounced drug testing by urinalysis either through a random drug testing procedure or where there is reasonable suspicion to believe I am illegally using drugs.

I understand that a negative drug test result is a condition of my continued employment as a sworn officer at the above listed department.

I understand that if I produce a positive test result for illegal drug use, it will result in my termination from employment.

I understand that if I refuse to undergo testing, it will result in the same penalties as a positive test for the illegal use of drugs.

I understand that if I produce a positive test result for illegal drug use or refuse to take the test, the information will be forwarded to the Central Drug Registry maintained by the Division of State Police. Information from that registry can be made available by court order or as part of a confidential investigation relating to my employment with a criminal justice agency.

I understand that if I produce a positive test result for illegal drug use, I will be permanently barred from future employment as a law enforcement officer in New Jersey.

I understand that if I resign or retire after receiving a lawful order to submit a urine specimen for drug testing and do not provide the specimen, I shall be deemed to have refused to submit to the drug test.

I have read and understand the information contained on this "Officer Notice and Acknowledgment" form. I agree to undergo drug testing through urinalysis as a condition of my continued employment as required by law.

Signature of Officer Date

Signature of Witness Date

ATTACHMENT D

DRUG TESTING MEDICATION INFORMATION

As part of the drug testing process, it is essential that you inform us of all medications you have taken in the last fourteen (14) days. Please *carefully* complete the information below.

Check all that apply:

___ A. During the past 14 days I have taken the following medication prescribed by a physician:

	Name of Medication	Prescribing Physician	Date Last Taken
1			
2			
3			

___ B. During the past 14 days, I have taken the following non-prescription medications (cough medicine, cold tablets, aspirin, diet medication, nutritional supplements, etc.)

	Name of Medication	Date Last Taken
1		
2		
3		

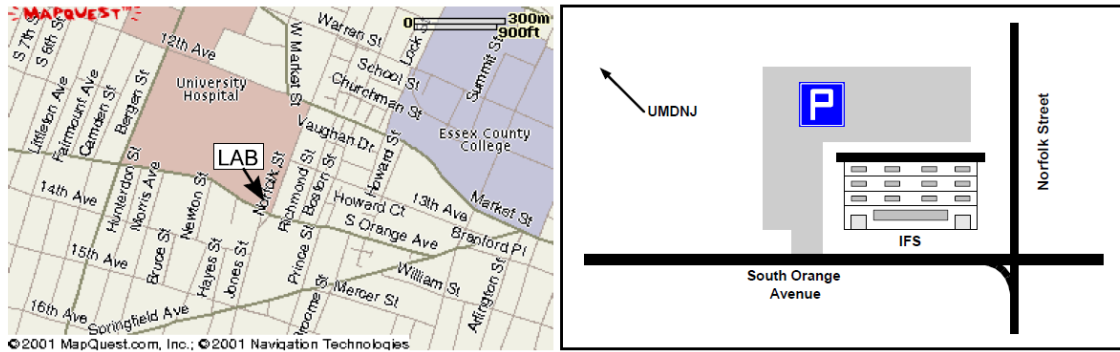
___ C. During the past 14 days, I have taken NO prescription or non-prescription medications.

Social Security Number and Initials

Date

ATTACHMENT E

Directions to



State Toxicology Laboratory
Edwin H. Albano Institute of Forensic Science (IFS)
325 Norfolk Street
Newark, New Jersey
973-648-3915

From Garden State Parkway North:

1. Take Exit 144, South Orange Avenue.
2. Make a right on South Orange Avenue.
3. Continue about 25 blocks to intersection at Bergen Street (UMDNJ campus is on left.)
4. Continue down South Orange Avenue past traffic light to driveway on left before two story brick building (IFS).

From Garden State Parkway South:

1. Take Exit 145, East Orange.
2. Take 1-280 East to first exit (Newark).
3. Make a right on First Street. This becomes Bergen Street.
4. Continue to fifth traffic light at South Orange Avenue.
5. Make a left.
6. Continue down South Orange Avenue past traffic light to driveway on left before two story brick building (IFS).

From New Jersey Turnpike North:

1. Take Exit 14, Newark.
2. After toll plaza, take 1-78 West (express or local).
3. Take Exit 56, Hillside Avenue.
4. Continue on Hillside Avenue to end at Avon Avenue.
5. Make left on Avon Avenue.
6. Continue one block to traffic light on Irvine Turner Blvd.
7. Make right on Irvine Turner Blvd. (which becomes Jones St.) and continue to traffic light at South Orange Avenue.
8. Turn left and enter first driveway on right behind two story brick building (IFS).

From New Jersey Turnpike South:

1. Take Exit 15W to 1-280 West to Exit 14B, Clifton Avenue.
2. At the traffic light, make a left.
3. Continue on Clifton Avenue to eighth traffic light at South Orange Avenue and Norfolk Street.
4. Turn right and enter first driveway on right behind two story brick building (IFS).

