

MONMOUTH COUNTY PROSECUTOR'S OFFICE			
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SUBJECT: DRUG USE AND TESTING			
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UNDER THE AUTHORITY OF: Prosecutor Christopher J. Gramiccioni 		09/17/14	5, 6, 9, 11
		07/09/18	1, 3, 4, 5, 6, 11, 14, 15, 16
BY THE ORDER OF:		02/01/21	All
SUPERSEDES ORDER #:			

PURPOSE: The purpose of this directive is to establish a uniform policy and procedure for the use of drug testing.

POLICY: It is the policy of the Monmouth County Prosecutor's Office to insure that the agency has a drug-free work place. Therefore, all applicants for employment with the Monmouth County Prosecutor's Office will be subject to drug testing as part of their pre-employment process. Additionally, employees will be tested if chosen by random selection or when there is reasonable suspicion of illegal drug use. All drug testing will be done in accordance with this policy, the Monmouth County Substance Abuse Policy and Drug Free Workplace, the Attorney General's Law Enforcement Drug Testing Policy, revised December 2020, and Attorney General Law Enforcement Directive No. 2018-2, dated March 20, 2018 (attached as Addendum A). For a copy of the Policy a go to:

<http://www.nj.gov/oag/dcj/njpdresources/testing.htm>

https://www.nj.gov/oag/dcj/njpdresources/pdfs/Drug-Test-Policy_2020-12.pdf

PROCEDURES:

I. Policy Justification for Testing as to Controlled Dangerous Substances

- A. The problem of controlled dangerous substances in our society has been well documented over the years. In response to the extent of the problem, New Jersey has revised its criminal code with specific drug statutes and has backed up those statutes with a statewide narcotic action plan applicable to all law enforcement agencies setting the enforcement of our narcotics laws as a law enforcement priority. The abuse of controlled dangerous substances involves not only the crime of possession of the substance but also directly leads to the commission of other crimes. A review of pre-sentence reports and defendant's explanations of their violations of the law contained in those reports shows clearly the impact and extent of the problem of the abuse of controlled dangerous substances. The use and abuse of controlled dangerous substances leads to more serious violations of our criminal statutes.
- B. The Monmouth County Prosecutor's Office is a law enforcement office. The Office has explicit responsibility for enforcing all of New Jersey's criminal statutes within our jurisdiction. To function effectively, the Office requires public respect and confidence. Such respect and confidence cannot be maintained unless the integrity and competence of all personnel are beyond question. The public has a right to expect, and the Prosecutor has a right to require that this Office be drug free. As a law enforcement office, it is proper to hold all employees to a higher standard of accountability than may be applicable in a non-law enforcement position. It would be naïve to believe that the problems that befall all of our society do not also concern us within the confines of the Monmouth County Prosecutor's Office.
- C. In dealing with controlled dangerous substances, our experience has aptly demonstrated the pervasiveness of the drug problem. Consequently, the Monmouth County Prosecutor's Office has established a policy of drug testing. Its aim is to help insure that this Office is a drug-free work place. The existence of testing procedures constitutes a defense against employee use and abuse of controlled dangerous substances.
- D. In adopting the policy outlined here, the Office is mindful that the employees do have constitutional rights and guarantees which are applicable, specifically, the Fourth Amendment to the United States Constitution. This is a right of privacy, which the United States Supreme Court and the New Jersey State Supreme Court have recognized. The right of privacy is basically a right to be left alone. The specific individual interest placed at risk by drug testing is the right of all personnel to privacy, dignity, and freedom from unwarranted governmental intrusion. These rights are of concern and will be observed by this policy.
- E. The most important operative word, however, is "unwarranted." Unwarranted intrusions into privacy rights of employees of this Office will not be tolerated. However, a balance must be struck between the rights of a law enforcement office to be drug free with the employee's right of privacy. This is the basis for the policy concerning controlled dangerous substances.

- F. We have a vital governmental interest in being drug free. We have a duty to prosecute offenders of the law. We cannot do that effectively if we ourselves are among the offenders. Furthermore, the confidential nature of the duties and responsibilities of this Office require strict adherence to the law. To tolerate in any way the use or abuse of controlled dangerous substances could jeopardize the physical safety and wellbeing of other employees whose job it is to investigate criminal activity. The policy is intended to and will be consistent with the law enforcement drug screening guidelines developed by the New Jersey Attorney General's Office in October 1986 and revised most recently in December 2020.

II. Policy for Testing as to Controlled Dangerous Substance for Applicants and New Employees

- A. All applicants for employment with the Monmouth County Prosecutor's Office will be notified that drug screening through urinalysis is a mandatory part of the pre-employment process. It is the policy of the Monmouth County Prosecutor's Office that a negative result is a condition of employment. If an applicant commences work before the test is undertaken or the results received, his or her employment will be understood to be provisional; that is, subject to termination upon a positive test result. The testing of any new applicant or employee must be accomplished within ninety (90) days of the person's employment.
- B. Any applicant for a position in this Office will be requested to sign a waiver consenting to the sampling and testing of urine during the employment screening process (Attachment A). This waiver will include notification that a positive confirmation of the presence of illegal drugs in the applicant's urine will result in the rejection for employment; inclusion of the applicant's positive drug results in a central registry maintained by the Division of State Police to be accessed only through court order or as part of a confidential background investigation for future law enforcement employment; and a bar from obtaining sworn law enforcement employment for a period of two (2) years from the date of a positive confirmation test. 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 results.
- C. This waiver will also include a statement that failing to provide the sample will result in rejection for employment/termination.

III. Policy for testing as to Controlled Dangerous Substances for All Employees - Reasonable Suspicion Testing.

- A. Notification that drug screening through urinalysis will be conducted when reasonable suspicion exists to believe that an employee is illegally using drugs shall be included in the Rules and Regulation of the Monmouth County Prosecutor's Office. In addition, it will provided in the Rules and Regulations of the Monmouth County Prosecutor's Office that any employee who has probable cause to believe that a fellow employee is illegally using drugs must immediately report that fact to his/her immediate supervisor or his/her designee.
- B. Any employee who is confirmed positive for illegal drug use will be dismissed from the Monmouth County Prosecutor's Office and included in a central registry maintained by the Division of State Police. Notification will also be given to all employees that any employee who refuses to provide a urine sample upon a lawful request made upon individualized reasonable suspicion will be dismissed. Individualized reasonable suspicion means probable cause to believe that an

employee is under the influence of or involved in the use of a controlled dangerous substance outside of proper medical supervision. The term probable cause is used consistent with its meaning as defined in the cases developed in the criminal law. Probable cause is a well-grounded suspicion, based upon facts and circumstances, that a crime has been or is about to be committed.

- C. Probable cause must concern information, which can be corroborated and/or substantiated. Consequently, the following process is established to ensure against an individual being required to submit to a test on the basis of an unsubstantiated rumor, bias, or personal animosity. Before an employee can be directed to submit to a urinalysis, a documented report must be prepared setting forth the specifics giving rise to probable cause that the individual is involved in the use of or is under the influence of a controlled dangerous substance. For emergent circumstances, approval may be given on the basis of a verbal report.
- D. The report will initially be presented to the First Assistant Prosecutor if the person accused is a member of the Legal Division; the Deputy Chief of Detectives if the person accused is a member of the Investigation Division; or the Chief of Staff if the person accused is a member of the Support Staff. The First Assistant Prosecutor, Deputy Chief of Detectives, or the Chief of Staff will have the responsibility of reviewing the report and certifying that they agree with the finding of probable cause. The report will then be forwarded to the Prosecutor for his/her review and decision as to whether or not a urine test will be ordered.
- E. Should the First Assistant Prosecutor, the Deputy Chief of Detectives, or the Chief of Staff believe that the allegation is not proper or does not rise to the level of probable cause, they will report that finding to the Prosecutor. The Prosecutor or his/her designee will then review that and make his/her decision as to whether or not there should be testing of the employee.
- F. Information of a confidential nature can be the basis for the recommendation and the Prosecutor's decision. However, if it develops that probable cause cannot be maintained unless a confidential source is willing to be identified, that source cannot be compelled to come forward unless the source consents to such disclosure. If the source refuses to consent to disclosure, there would be an inadequate basis if the information is not otherwise corroborated for there to be an order for a particular employee to submit to a drug test.
- G. If the employee is directed by the Prosecutor or his/her designee to submit to urinalysis, arrangements will be immediately made for the taking of the sample. If an employee refuses to take the test, the employee will be subject to dismissal.

IV. Policy for testing as to Controlled Dangerous Substances for Detectives & Assistant Prosecutors - Random Drug Testing.

- A. The Monmouth County Prosecutor's Office conducts random drug testing to include the following:
 - 1. 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.
 - 2. Detective trainees will be required to submit one or more urine specimens for testing while they attend a mandatory basic training course.

3. All drug testing conducted during a mandatory basic training will comply with the Rules and Regulations established by the Police Training Commission.
 4. Assistant Prosecutors.
- B. The following conditions shall apply to random drug testing of Detectives and Assistant Prosecutors.
1. All Detectives and Assistant Prosecutors are eligible for random drug testing, regardless of rank.
 2. Random selection shall be defined as a method of selection in which each and every Detective and Assistant Prosecutor employed by the Monmouth County Prosecutors Office, regardless of rank or assignment, has an equal chance of being selected for drug testing each and every time a selection is conducted.
 3. At each selection process, at least ten percent (10%) of the total number of Detectives and at least ten percent (10%) of the total number of Assistant Prosecutors employed by the Monmouth County Prosecutor's Office, at the time of a random selection occurs, will be selected for testing. Testing shall occur at least twice every calendar year.
 4. An equal amount of Detectives and Assistant Prosecutors will be selected as alternates. The list of alternates will be used in the event a Detective or an Assistant Prosecutor is on preapproved leave on the day in which the random drug testing takes place.
 5. The random selection process will be a lottery system. Each Detective and Assistant Prosecutor will be assigned a numerical number and marked on a ball, which is selected from a container.
 6. The individuals who shall be present to verify the selection at the time of the random selection process shall include the Deputy First Assistant Prosecutor, the Deputy Chief of Detectives and a representative of the respective collective bargaining units.
 7. Any member of the Monmouth County Prosecutor's Office who discloses the identity of a Detective and/or Assistant Prosecutor 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 administrative discipline.
 8. Any Detective or Assistant Prosecutor who refuses to submit to a drug test when randomly selected will be subject to the same penalties as those individuals who test positive for illegal drug use.

V. Notification of Drug Testing Procedure

- A. When it has been determined that reasonable suspicion exists, the Deputy Chief of Detectives shall contact the subject employee and order him/her to accompany the designated individual from the Investigation Division who will serve as the official monitor to the lavatory to provide the urine sample.

- B. Detectives and Assistant Prosecutors selected for random drug testing shall be contacted by the Deputy Chief of Detectives or First Assistant Prosecutor at their work assignment and shall immediately accompany the designated individual from the Investigation Division who will serve as the official monitor to the lavatory to provide the urine sample. If a Detective or Assistant Prosecutor is not on duty, or is on leave of any kind, an alternate will be selected.
- C. Detectives and Assistant Prosecutors selected for Random Drug Testing will be requested to sign a Drug Testing Notice and Acknowledgment (Attachment B).
- D. The order to provide a urine sample for drug testing is a direct order from the Prosecutor. No employee shall have the right to refuse the order, the right to have a union representative or attorney present at the time the urine sample is collected, nor the right to delay the order for any reason.

VI. Preliminary Acquisition Procedure

- A. Prior to the submission of a urine sample, applicants and/or employees will complete a medical questionnaire which shall clearly describe all drugs, both prescription and nonprescription, ingested during the past fourteen (14) days (Attachment C).

VII. Specimen Acquisition Procedure

- A. The acquisition of the sample will be conducted under the auspices of the Monmouth County Prosecutor's Office Investigation Division. The Investigation Division will designate individuals to serve as official monitors. The people so designated must have experience in handling, securing, and safeguarding evidence. The monitor shall always be of the same sex as the individual being tested.
- B. The official monitor shall be responsible for ensuring that all forms, such as waivers, laboratory/request forms, and medical questionnaires have been thoroughly and accurately completed by the applicant and/or employee. Prior to the submission of the sample, both the official monitor and the applicant and/or employee will inspect the specimen bottle for indications of pre-void tampering.
- C. Urine specimens will be acquired and processed in accordance with procedures established by the New Jersey State Medical Examiner Toxicology Laboratory. The applicant and/or employee shall:
 - 1. Open the sealed split specimen collection kit;
 - 2. Void a specimen of at least 45 mL into the collection container;
 - 3. Allow monitor to check for adequate volume and temperature;
 - 4. Split the specimen into two specimen containers (at least 30 mL in primary container and 15 mL in secondary container);
 - 5. Secure caps on containers and seal with tamper evidence seals from the Custody and Submission Form;
 - 6. After the seals are placed, date and initial the security seal.

7. Refer to New Jersey Medical Examiner Toxicology Laboratory – Urine Specimen Collection Procedure for further direction.
<https://files.constantcontact.com/968adeca001/7bf08b46-2e82-4c7f-8cd0-1b15a5af928a.pdf>
- D. The applicant and/or employee will void without the 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. The Monmouth County Prosecutor's Office will document the facts underlying their belief that an individual may adulterate a specimen or compromise the integrity of the test process.
- E. The urine sample obtained will be processed in strict accordance with the accepted chain of evidence security procedures. Confidentiality of the person being tested will be maintained, as the name of the applicant and/or employee will not be on any sample that is submitted to the laboratory or maintained in any fashion. The Monmouth County Prosecutor's Office will maintain a copy of the laboratory chain of custody form.
- F. After ascertaining that all forms have been completed accurately by the applicant and/or employee, the official monitor will take possession of the sample and take steps to see that it is immediately delivered to the New Jersey State Medical Examiner Toxicology Laboratory. Specimens should be submitted as soon as possible after their collection. In the event the specimens cannot be submitted to the laboratory within one working day of collection, they shall be stored in a controlled access refrigerated storage area until submitted.
- G. Specimens may be submitted to the laboratory by commercial courier using "next day delivery" or in person (appointments only).
- H. "Shy Bladder" Procedure
 1. When a donor initially produces an inadequate amount of urine, the monitor must take the following steps:
 - 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 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.
 - 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.

VIII. Laboratory Method

- A. The New Jersey State Medical Examiner Toxicology Laboratory is the only facility approved for the analysis of law enforcement drug tests. An applicant or employee whose specimen tested positive may challenge the positive test by having the split specimen independently tested by an accredited laboratory.
- B. If the preliminary test results in a positive finding, then a mass spectrometry test will be used to confirm all positive results. No report of a positive result will be made unless that positive result is confirmed by the mass spectrometry test.
- C. In the event a specimen is confirmed positive for a controlled dangerous substance, 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 specimen tested positive.
- D. The specimen will be tested by the New Jersey State Medical Examiner Toxicology Laboratory for the following substances and their metabolites:
 - 1. Amphetamines;
 - 2. Barbiturates;
 - 3. Benzodiazepines;
 - 4. Marijuana/Cannabis;
 - 5. Cocaine;
 - 6. Methadone;
 - 7. Oycodone/Oxymorphone
 - 8. Phencyclidine; and
 - 9. Opiates.
- E. The Prosecutor may request that one or more specimens be tested for additional substances, such as steroids.
- F. The analysis of each urine specimen shall be done in accordance with the procedures adopted by the New Jersey State Medical Examiner 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.

IX. Drug Test Results

- A. The New Jersey State Medical Examiner Toxicology Laboratory will make all efforts to notify the Monmouth County Prosecutor's Office in writing of the test

results from the specimens submitted for analysis within fifteen (15) working days of the submission.

- B. The New Jersey State Medical Examiner Toxicology Laboratory shall not report a specimen as having tested positive for a controlled dangerous 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 Prosecutor shall notify all applicants and employees who are screened and confirmed to be positive for the presence of illegal drugs as soon as practical after notification is received from the laboratory. A copy of the laboratory report will be provided to the individual by the Prosecutor upon his/her request.
- D. Under no circumstances may an agency or individual resubmit a specimen for testing or ask that a particular specimen within the possession of the New Jersey State Medical Examiner Toxicology Laboratory be retested.

X. 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;
 - 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 the Rules and Regulations adopted by the Police Training Commission:
 - 1. The trainee shall be immediately dismissed from basic training and suspended from employment by the Monmouth County Prosecutor's Officer;
 - 2. The trainee shall be terminated from employment as a law enforcement officer, upon final disciplinary action by the Monmouth County Prosecutor's Officer;
 - 3. The trainee shall be reported to the Central Drug Registry maintained by the Division of State Police;
 - 4. The trainee shall be permanently barred from future law enforcement employment in New Jersey.

- C. When a Detective or Assistant Prosecutor tests positive for illegal drug use:
 - 1. The Detective or Assistant Prosecutor shall be immediately suspended from all duties;
 - 2. The Detective or Assistant Prosecutor shall be terminated from employment as a law enforcement officer, upon final disciplinary action;
 - 3. The Detective or Assistant Prosecutor shall be reported to the Central Drug Registry maintained by the Division of State Police;
 - 4. The Detective or Assistant Prosecutor shall be permanently barred from future law enforcement employment in New Jersey.

- D. When all other employees test positive for illegal drug use:
 - 1. The employee shall be immediately suspended from all duties;
 - 2. The employee shall be terminated from employment, upon final disciplinary action;
 - 3. The employee shall be reported to the Central Drug Registry maintained by the Division of State Police.

XI. 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 and barred from consideration for law enforcement employment for a period of two (2) years from the date of refusal. In addition, the applicant's name shall be forwarded to the Central Drug Registry with a 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 in New Jersey. In addition, the trainee's name shall be forwarded to the Central Drug Registry with a note that the individual refused to submit to a drug test.

- C. Detectives or Assistant Prosecutors who refuse to submit to a drug test ordered in response to a reasonable suspicion or random selection shall be immediately suspended from employment. Upon a finding that the employee did in fact refuse to submit a sample, the employee shall be terminated from law enforcement employment and permanently barred from future law enforcement employment in New Jersey. In addition, the Detective's or Assistant Prosecutor's name shall be forwarded to the Central Drug Registry with a note that the individual refused to submit to a drug test.

- D. All other employees who refuse to submit to a drug test ordered in response to reasonable suspicion shall be immediately suspended from employment. Upon a finding that the employee did in fact refuse to submit a sample, the employee shall be terminated from employment. In addition, the employee's name shall be forwarded to the Central Drug Registry with a note that the individual refused to

submit to a drug test.

XII. Record Keeping

- A. All records relating to the drug testing of applicants, trainees, and employees shall be maintained with the Monmouth County Prosecutor's Office internal affairs files.
- 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 New Jersey State Medical Examiner Toxicology Laboratory;
 - f. The results of the drug testing;
 - g. Copies of notifications to the individual;
 - h. In instances where a positive result is obtained as the result of a lawfully prescribed medication, documentation from the individual's physician supporting the prescription/medication and its use.
 - 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 individuals for drug testing;
 - b. The date selection was made;
 - c. A copy of the documentation listing the identities of those selected for drug testing;
 - d. A list of those who were actually tested; and
 - e. The date(s) those individuals were tested.
- C. All 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. The Monmouth County Prosecutor's Office shall notify the Central Drug Registry maintained by the Division of State Police of the identity of applicants, trainees, Detectives, Assistant Prosecutors, or any other employees who test positive for the illegal use of drugs or refuse an order to submit a urine sample.
- B. Notification to the Central Drug Registry Form (Attachment D) shall include the following information for each individual:
 - 1. Name and address of the Monmouth County Prosecutor's Office and contact person;
 - 2. Name of 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, or circumstances of the refusal to submit to a urine sample;
 - 11. Date of dismissal from the Monmouth County Prosecutor's Office; and
 - 12. Whether the individual was an applicant, trainee, Detective, Assistant Prosecutor or other employee.
- C. Notifications to the Central Drug 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
- D. Information contained in the Central Drug 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 part of the background investigation process for prospective or newly appointed personnel.
 - 2. In response to a court order.

Attachment A

DRUG TESTING

APPLICANT NOTICE AND ACKNOWLEDGEMENT

I, _____, understand that as part of the pre-employment process, the Monmouth County Prosecutor's Office will conduct a comprehensive background investigation to determine my suitability to fill 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 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 in case of a positive 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

DETECTIVE AND ASSISTANT PROSECUTOR

NOTICE AND ACKNOWLEDGEMENT

I, _____, understand that as part of my employment with the Monmouth County Prosecutor's Office, 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 Monmouth County Prosecutor's Office.

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 "Notice and Acknowledgement" form. I agree to undergo drug testing through urinalysis as a condition of my continued employment as required by law.

SIGNATURE OF EMPLOYEE DATE

SIGNATURE OF WITNESS DATE

ATTACHMENT C

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
<u>1</u>			
<u>2</u>			
<u>3</u>			

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

	Name of Medication	Date Last Taken
<u>1</u>		
<u>2</u>		
<u>3</u>		

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

Donor ID from Submission Form and Initials

Date

ADDENDUM A
ATTORNEY GENERAL LAW
ENFORCEMENT DIRECTIVE 2018-02

STATEWIDE MANDATORY RANDOM
DRUG TESTING



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO Box 080
TRENTON, NJ 08625-0080

GURBIR S. GREWAL
Attorney General

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2018-2

TO: All Law Enforcement Chief Executives
FROM: Gurbir S. Grewal, Attorney General
DATE: March 20, 2018
SUBJECT: **Statewide Mandatory Random Drug Testing**

I. Background

The Attorney General is responsible for ensuring that law enforcement provides the highest level of service to the public, and that all officers have the physical and mental capacity to perform their duties safely and effectively. An officer's life, the lives of fellow officers, and the lives of the public depend on the officer's alertness and ability to make rational decisions unaffected by illegal drug use.

Testing of law enforcement officers in New Jersey for illegal drug use is governed by the *Attorney General's Law Enforcement Drug Testing Policy* (hereinafter "AG Testing Policy"). Established in 1986, the AG Testing Policy has been reviewed and updated regularly over the years since its issuance. The AG Testing Policy already requires the testing of applicants and trainees for law enforcement positions. It further requires all law enforcement officers be tested if reasonable suspicion exists that they are using drugs illegally.

For the past 20 years, the AG Testing Policy has encouraged, but not required, law enforcement agencies to adopt a random drug testing component to departmental drug testing policies. Because illicit drug use can be hidden, random drug testing provides an objective procedure to test for violations of a department's drug policy. At the same time, the AG Testing Policy recognizes the importance of working with unions and governing bodies to ensure that privacy and collective bargaining interests are protected when implementing a random drug testing process.

Some County Prosecutors already mandate random drug testing in each police department within their jurisdiction and a significant number of police departments in New Jersey presently conduct random drug testing of their officers. To ensure that all law enforcement agencies are employing random drug testing and doing so in a consistent manner,



this Directive establishes a uniform policy requiring that all law enforcement agencies statewide conduct mandatory random drug testing of all sworn officers.

Therefore, pursuant to the authority granted to me under the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, which provides for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the State to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State, I, Gurbir S. Grewal, hereby DIRECT all law enforcement and prosecuting agencies operating under the authority of the laws of the State of New Jersey to implement and comply with the following policies, procedures, standards, and practices.

II. Implementation

A. Applicability

This Directive shall apply to all state, county, and municipal law enforcement agencies and sworn 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.

B. Establishment of Random Drug Testing Policy

All state, county, and municipal law enforcement agencies shall adopt and/or revise their existing drug testing policies, consistent with this Directive, either by rule, regulation, or standard operating procedure (“SOP”), as required by state law.

C. Frequency and Number of Officers to be Tested

Each agency in its policy shall delineate the frequency and number of officers 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 at least twice in every subsequent calendar year. At least 10 percent of the total number of sworn officers within an agency shall be randomly tested each time.

D. Notification of Random Drug Testing Policy

Each agency shall notify all sworn officers of the implementation of a random drug testing policy. The notification shall indicate that, upon an initial positive result, the officer shall be suspended immediately from all duties. The notification also shall indicate that, upon final disciplinary action, the officer shall be terminated from employment as a law enforcement officer, the officer shall be reported to the *Central Drug Registry* maintained by the State Police, and the officer shall be permanently barred from future law enforcement employment in New Jersey.

E. Continuation of AG Testing Policy Procedures

Each agency shall ensure that its random drug testing policy is consistent with the procedures set forth in the AG Testing Policy including:

1. Specimen Acquisition Procedures (Section IV);
2. Submission of Specimens for Analysis (Section V);
3. Analysis of Specimens (Section VI);
4. Drug Test Results (Section VII);
5. Consequences of a Positive Test Result (Section VIII);
6. Consequences of a Refusal to Submit to a Drug Test (Section IX);
7. Resignation/Retirement in lieu of Disciplinary Action (Section X);
8. Record Keeping (Section XI); and
9. Central Drug Registry (Section XII).

F. 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, the law enforcement agency's chief executive or a designee shall provide a confidential written notice to their County Prosecutor or his/her 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, every law enforcement agency shall provide written notice to their County Prosecutor or his/her designee of the dates of testing conducted during the prior year, the total number of sworn officers employed by the agency, the total number of sworn officers tested, and the total number of sworn officers who tested positive.

G. 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 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.

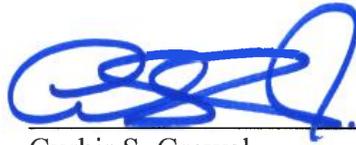
III. Public Accessibility and Confidentiality

All random drug testing policies adopted by law enforcement agencies shall be made available to the public upon request and shall be posted on the agency's website. Annual reports from the County Prosecutors to the Attorney General (as required by Section II.G, above) 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 Directive that identify specific officers are confidential and not subject to public disclosure.

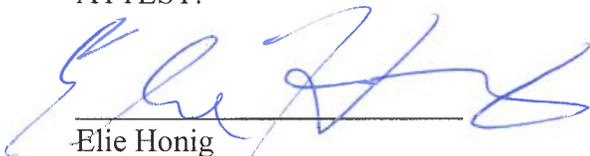
IV. Effective Date

This Directive shall take effect immediately upon issuance. All drug testing policies shall be adopted and/or revised in accordance with this Directive within 30 days. The AG Testing Policy will be updated to conform with this Directive within 30 days.



Gurbir S. Grewal
Attorney General

ATTEST:



Elie Honig
Director, Division of Criminal Justice

Issued on: March 20, 2018