



North Caldwell Police Department

DIRECTIVE NUMBER: 2018-#03		EFFECTIVE DATE: 5/1/2018		CHIEF OF POLICE: Mark A. Deuer	
SUBJECT: Random Drug Testing			Supersedes: Rules & Regs. 3:3:2 - G		
REFERENCE: Guidelines issued by the Attorney General of the State of New Jersey, Policy; Rules & Regulation; Personnel Orders, General Orders; Special Orders.			SPECIAL INSTRUCTIONS: All Employees Must Verify through Signature receipt of this Directive.		
APPLICABILITY: All Officers			NUMBER OF PAGES:		
REVISIONS					
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01 - Purpose:

The purpose of this policy is to establish a policy and procedure consistent with the established guidelines established by both the Attorney General of the State of New Jersey and the Essex County Prosecutor drug testing. This policy shall apply to applicants, recruits and sworn personnel.

02 - Drug testing policy

A. The North Caldwell Police Department recognizes that substance abuse has had a profound effect upon society. In acknowledging this, the Police Department, in accordance with the directives issued by the Office of the Attorney General of the State of New Jersey, has implemented the following rules and regulations by which members of this agency shall be required to submit to drug testing procedures.

B. Applicability. This policy applies to the following:

- (1) Applicants. Applicants for a position as a law enforcement officer who, if appointed, will be responsible for the enforcement of the

criminal laws of the state and will be authorized to carry a firearm under N.J.S.A. 2C:39-6.

(2) Law enforcement officer trainees. Law enforcement officer trainees who are subject to the Police Training Act, hereinafter called the "Act," while they attend a mandatory basic training course.

(3) Sworn law enforcement officers. Sworn law enforcement officers who are responsible for the enforcement of the criminal laws of New Jersey, come under the jurisdiction of the Act and are authorized to carry a firearm under N.J.S.A. 2C:39-6.

C. Who shall be tested

(1) Applicants. Applicants for a position as a law enforcement officer shall be required to submit a urine specimen at any time prior to appointment as a law enforcement officer.

(2) Law enforcement officer trainees. Law enforcement officer trainees will be required to submit one or more urine samples for testing while attending a mandatory basic training course. All drug testing conducted during mandatory basic training will comply with the rules and regulations established by the Police Training Commission. Individual trainees may 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) Sworn law enforcement officers. Sworn law enforcement officers shall be subject to drug testing under any of the following conditions:

(a) Urine specimens shall be ordered from a sworn law enforcement officer when there exists reasonable suspicion to believe that the officer is illegally using drugs. Urine specimens shall not be ordered from an officer without the approval of the County Prosecutor or the Chief of Police.

(b) Urine specimens may be ordered from sworn law enforcement officers who have been randomly selected to submit 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.

(c) Urine specimens may be collected from sworn 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. Notification of drug testing procedures.

(1) Applicants. Applicants for positions as law enforcement officers shall be required to submit urine samples for drug testing. Prior to the submission of any samples for a drug test, the applicant shall be required to complete a form which advises the applicant that (s)he is required to submit a urine specimen as a condition of being considered for employment. This form shall also advise the applicant that a negative test result is a condition of employment and that a positive test result will result in:

(a) The applicant being dropped from consideration for employment.

(b) The applicant's name shall be reported to the Central Drug Registry maintained by the New Jersey Division of State Police.

(c) The applicant shall be precluded from consideration for future law enforcement employment for a period of two years.

(d) The applicant shall be advised that if (s)he is currently employed by another agency as a sworn law enforcement officer, and (s)he tests positive for illegal drug use, the applicant's employing agency shall be notified of the test

results, and (s)he shall be permanently barred from future law enforcement employment in New Jersey.

(2) Law enforcement officer trainees.

(a) Law enforcement officer trainees who are newly appointed as law enforcement officers shall be informed that drug testing is mandatory during basic training. Newly appointed officers shall also be informed that a negative test result is a condition of employment, and that a positive result would necessitate the following:

[1] The officer's termination from employment.

[2] The officer's name shall be reported to the Central Drug Registry maintained by the New Jersey Division of State Police.

[3] The officer being permanently barred from future law enforcement officer employment in New Jersey.

(b) In addition, newly appointed officers shall be further informed that the refusal to submit to a drug test shall result in dismissal from employment and a permanent bar from future law enforcement employment in New Jersey.

(3) Sworn law enforcement officers. Sworn law enforcement officers shall be required to submit a urine specimen for drug testing under either of the following circumstances:

(a) Reasonable suspicion testing.

[1] A sworn law enforcement officer may be ordered to submit to a drug test when reasonable suspicion exists to believe that the officer is illegally using drugs. Prior to an officer submitting to a drug test under such circumstances, a written report shall be prepared which documents the basis for the reasonable suspicion. This report shall be reviewed and approved by the County

Prosecutor or the Chief of Police before a reasonable suspicion test may be ordered. Under emergent circumstances, approval may be obtained based upon a verbal report of the facts which form the basis for reasonable suspicion.

[2] Every sworn law enforcement officer is hereby advised that negative test result is a condition of employment. A positive test result shall result in the following actions:

[a] The officer shall be immediately terminated from employment.

[b] The officer's name shall be reported to the Central Drug Registry maintained by the New Jersey Division of State Police.

[c] The officer shall be permanently barred from future law enforcement officer employment in New Jersey.

[3] In addition, an officer who refuses to submit to a drug test based upon reasonable suspicion after being lawfully ordered to do so is subject to the same penalties as any officer who tests positive for the illegal use of drugs.

(b) Random drug testing. As referenced earlier in this policy, this agency shall implement a program which shall provide for the random testing of its sworn personnel for drugs. Any officer who submits a sample for random drug testing which results in a positive result, or any officer who refuses to submit to a random drug test as ordered by a superior officer shall be subject to the following actions:

[1] The officer shall be immediately terminated from employment.

[2] The officer's name shall be reported to the Central Drug Registry maintained by the New Jersey Division of State Police.

[3] The officer shall be permanently barred from future law enforcement employment in New Jersey.

E. Random drug testing policy and procedures.

(1) The frequency of random drug testing shall be determined by the Chief of Police remains within his/her discretion. Random drug testing shall not be implemented until these rules and regulations establishing these procedures have been in effect for a minimum of 60 days.

(2) All sworn members of this agency, regardless of rank or assignment, shall be eligible for random drug testing.

(3) The number of officers to be tested each time a random selection takes place shall be at least 10% of the total number of sworn officers at the time of selection.

(4) All sworn officers shall be placed in a pool from which a random selection shall be made. Selections shall be made by use of a computer based on a random number system which shall ensure that every officer has an equal statistical chance of being selected. Officers who are selected for a random drug test are not removed from the computer database for future selections. Therefore it is possible for an officer to be selected several times in any given year. In addition, the computer shall generate an alternate selection list which shall be utilized in the event that an officer who has been selected for random sampling is excused from giving a sample. See Subsection E(10) below, describing those circumstances which would exempt an officer from submitting a sample, and which would then require that the corresponding officer on the alternate selection list be selected to give a sample.

(5) The internal affairs unit shall be responsible for the maintenance of records pertaining to the selection process and the subsequent testing of personnel, including all pertinent reports and forms which may be required.

(6) A representative of each of the collective bargaining units which represent sworn officers shall be permitted to witness the selection process. Each representative shall be notified of the time and place for each selection process. The union representatives shall not be informed of the identity of any officer who has been randomly selected to submit a urine specimen. Further, the selection process shall not be delayed due to the unavailability or tardiness of any union representative.

(7) Any member of this Department who discloses the identity of an officer selected for random testing, or discloses the fact that a random test is scheduled to take place prior to the collection of urine specimens, shall be subject to discipline.

(8) The internal affairs unit shall be responsible for the selection, notification, collection, monitoring, chain of custody, storage and transport of urine specimens to the State Toxicology Laboratory and any subsequent recordkeeping which is necessary to ensure that the testing process is conducted in a prompt, efficient and confidential manner.

(9) Officers who have been selected for a drug test based upon random sampling shall be notified by the internal affairs unit and shall immediately report to the collection facility at the date and time specified. An officer who refuses to comply with an order directing that a urine specimen be given shall be subject to the same penalties as those officers who test positive for the illegal use of drugs.

(10) Circumstances may arise in which an officer who has been selected to submit a sample as part of random procedure may not be available. The following conditions will require that an officer who has been selected to submit a sample be excused from giving a sample

for that particular selection only. The next officer shall then be selected from the alternate selection list and shall be required to comply with this directive. Conditions allowing the selection of an alternate are:

(a) An officer who is currently on authorized sick leave for a period of time at least 24 hours prior to the selection process, and who remains on sick leave at the time of selection.

(b) An officer who is utilizing previously approved vacation, time owed, personal day or other compensatory time off such as bereavement leave, military or maternity leave, approved leave of absence and other compensatory time off as provided for in both the PBA and FOP contracts.

F. Specimen acquisition procedures.

(1) Preliminary acquisition procedures.

(a) A member of the internal affairs unit shall serve as the official monitor of the specimen acquisition process. As needed, staff may be supplemented for this purpose at the discretion of the Chief of Police.

(b) The monitor shall always be a member of the same sex as the individual being tested. If there is no member of the same sex available from internal affairs to collect a specimen, then the Department may request that a member of the same sex from another law enforcement agency serve as the monitor of the process.

(c) The monitor of the specimen acquisition process shall be responsible for:

[1] Ensuring that all documentation is fully and accurately completed by the individual who is submitting the specimen.

[2] Collecting specimens in a manner that provides for individual privacy while ensuring the integrity of the specimen.

[3] Complying with chain of custody procedures established for the collection of urine specimens and their subsequent submission to the New Jersey State Toxicology Laboratory for analysis.

(d) Prior to the submission of a urine specimen, an applicant for a law enforcement position shall execute a form consenting to the collection and analysis of his/her urine for illegal drugs. This form shall also advise the applicant that a negative test result is a condition of employment, and that a positive test result will result in the following actions:

[1] The applicant will be dropped from consideration for employment.

[2] The applicant's name shall be reported to the Central Drug Registry maintained by the New Jersey Division of State Police.

[3] The applicant shall be precluded from being considered for future law enforcement employment for a period of two years.

[4] Applicants shall not complete a medical questionnaire prior to the submission of a specimen unless they have already received a conditional offer of employment.

[5] Applicants who have not received a conditional offer of employment can be required to complete a medical questionnaire if, following the submission of their specimen to the State Toxicology Laboratory for analysis, the law enforcement agency receives a report indicating

that the specimen tested positive for a controlled substance.

(e) Prior to the submission of a urine specimen, a trainee enrolled in a basic training course shall complete a form that advises the trainee that a negative test result is a condition of employment, and that a positive test result will result in the following actions:

[1] The trainee shall be dismissed from basic training.

[2] The trainee shall be dismissed from employment as a law enforcement officer by the appointing authority.

[3] The trainee's name shall be reported to the Central Drug Registry maintained by the New Jersey Division of State Police.

[4] The trainee shall be permanently barred from future law enforcement employment in New Jersey.

(f) This form shall also advise the trainee that a refusal to participate in the testing process carries the same penalties as a specimen which yields a positive result. Trainees shall also complete a medical questionnaire which clearly describes all medications, both prescription and over-the-counter (nonprescription), that were ingested within the past 14 days.

(g) Prior to the submission of a urine specimen, sworn law enforcement officers shall complete a medical questionnaire which clearly describes all medications, both prescription and over-the-counter, that were ingested within the past 14 days.

(2) Specimen collection.

(a) Throughout the test process, the identity of individual applicants, trainees and sworn law enforcement officers shall remain confidential. Individual specimens shall be identified throughout the process by use of social security numbers. At no

time shall an individual's name appear on any form or specimen container sent to the State Toxicology Laboratory.

(b) Specimens will be collected utilizing equipment and supplies approved by the State Toxicology Laboratory. Under no circumstances may a specimen be collected and submitted for analysis in a specimen container that has not been approved by the State Toxicology Laboratory.

(c) Urine specimens will be acquired and processed in accordance with procedures established by the State Toxicology Laboratory as indicated below:

[1] After the monitor has inspected the appropriate forms for accuracy, and upon confirming same, shall then allow the applicant, trainee or sworn law enforcement officer to void into the specimen collection container.

[2] After a specimen has been produced, the individual shall seal the specimen container and deliver it to the monitor.

[3] Once the monitor is satisfied that the required documentation is accurate and (s)he has inspected the specimen container to determine that a specimen has been produced, the monitor shall take possession of the specimen and ensure that it is delivered to the State Toxicology Laboratory for analysis.

(d) Individuals 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. Internal affairs shall document the facts underlying the belief that an individual may adulterate a specimen or compromise the integrity of the test process.

(e) Individuals that initially are unable to produce a urine specimen may remain under the supervision of the test monitor until the monitor is satisfied that the individual cannot produce a specimen. While the individual is under the supervision, the monitor may allow the individual to drink fluids in an attempt to induce the production of a specimen. If the individual remains unable to produce a specimen after a reasonable period of time, the monitor may have the individual examined by a doctor to determine whether the inability to produce a specimen was the result of a medical or physical infirmity, or constituted a refusal to cooperate with the drug testing process.

(f) Trainees and sworn law enforcement officers shall have the option to provide the monitor with a second urine specimen at the same time the first specimen is collected, as indicated below:

[1] The second specimen shall be collected in the same fashion as the first specimen. The monitor shall take possession of the second specimen and place it in a secured refrigerated storage area within the property room.

[2] Internal affairs shall maintain the specimen in the property room for a period of 60 days or until the agency receives notification from the State Toxicology Laboratory that the first specimen tested negative for the presence of controlled substances.

[3] The second specimen shall be released from the custody of internal affairs under the following circumstances:

[a] When internal affairs is notified by the State Toxicology Laboratory that the first specimen tested positive for a controlled substance.

[b] The individual whose specimen tested positive informs internal affairs that (s)he wishes to have the specimen independently tested.

[c] The individual officer must designate a laboratory that is licensed as a clinical laboratory by the New Jersey Department of Health under the New Jersey Clinical Laboratory Improvement Act to conduct the independent test.

[d] A representative of the licensed clinical laboratory designated by the individual officer takes possession of the second specimen in accordance with accepted chain of custody procedures within 60 days of the date the specimen was produced.

[e] Under no circumstances shall the second specimen be released directly to the individual officer.

G. Submission of specimens for analysis.

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

(2) 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 working day of its collection, then it shall be stored in a controlled-access refrigerated storage area within the property room until submission to the State Toxicology Laboratory.

(3) The internal affair unit shall be responsible for the transportation of specimens to the State Toxicology Laboratory. However, should internal affairs choose to have specimens delivered to the State

Toxicology Laboratory by commercial courier, the following procedural safeguards must be taken:

- (a) All submissions must be by next day delivery.
- (b) In addition to the sealed container, all submission must be packaged in manner that includes two additional seals to provide for the integrity of the test specimens.
- (c) It is understood that the State Toxicology Laboratory must reject specimens that it has reason to believe have been subject to tampering.

H. Analysis of specimens. The State Toxicology Laboratory will utilize the following test procedures to analyze urine specimens for law enforcement agencies:

- (1) All specimens will be subject to an initial test utilizing fluorescence polarization immunoassay analysis.
- (2) Those specimens that test positive for a controlled substance following the fluorescence polarization immunoassay shall be subject to a gas chromatography/mass spectrophotometry analysis to confirm the presence of a controlled substance.
- (3) In the event a specimen is confirmed to be positive for a controlled substance following the gas chromatography/mass spectrophotometry, a medical review officer at the laboratory shall compare the test results with the medical questionnaire submitted with the specimen to determine whether any substance listed on the questionnaire would explain the test result. The medical review officer may direct the agency that collected the specimen to obtain further information from the individual being tested concerning the medications listed on the questionnaire. In the event the questionnaire does not explain the test result, the medical review officer shall issue a report indicating that the specimen tested positive.

(4) The State Toxicology Laboratory shall analyze each specimen for the following substances and their metabolites:

- (a) Amphetamine/methamphetamine.
- (b) Barbiturates.
- (c) Benzodiazepine.
- (d) Cannabinoids.
- (e) Cocaine.
- (f) Methadone.
- (g) Phencyclidine.
- (h) Opiates.

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

(6) The Chief of Police may request that one or more specimens be analyzed for the presence of steroids.

I. Drug test results.

(1) The State Toxicology Laboratory shall notify this agency of any positive test results from the specimens submitted for analysis. All reports of positive test results shall be in writing and sent to this agency within 15 working days of the submission. The State Toxicology Laboratory, upon request, will provide this agency with written documentation that one or more specimens submitted for analysis tested negative.

(2) The State Toxicology Laboratory shall not report a specimen as having tested positive for a controlled substance until the specimen has undergone a confirmatory test, and the medical review officer has

reviewed the results of that test with a medical questionnaire pertinent to that specimen.

(3) The Police Department shall notify the applicant, trainee or sworn law enforcement officer of the results of a positive test as soon as practicable after receipt of the report from the State Toxicology Laboratory. Upon request, the individual may receive a copy of the laboratory report.

(4) Under no circumstances may an agency or any individual resubmit a specimen for testing or ask that a particular specimen within the possession of the State Toxicology Laboratory be retested.

J. Consequences of a positive test result.

(1) For an applicant.

(a) When an applicant tests positive for illegal drug use:

[1] The applicant shall be immediately removed from consideration for employment by this 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.

[3] The applicant shall be precluded from consideration for future law enforcement employment by any law enforcement agency in New Jersey for a period of two years.

(b) 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/her name to the Central Drug Registry maintained by the Division of State Police.

(2) For a trainee. When a trainee tests positive for illegal drug use, subject to rules adopted by the Police Training Commission:

(a) The trainee shall immediately be dismissed from basic training and suspended from employment by his/her appointment authority.

(b) The trainee shall be terminated from employment as a law enforcement officer, upon final disciplinary action by the appointing authority.

(c) The trainee shall be reported to the Central Drug Registry maintained by the Division of State Police.

(d) The trainee shall be permanently barred from future law enforcement employment in New Jersey.

(3) For a sworn law enforcement officer. When a sworn law enforcement officer tests positive for illegal drug use:

(a) The officer shall immediately be suspended from all duties.

(b) The officer shall be terminated from employment as a law enforcement officer, upon final disciplinary action.

(c) The officer shall be reported to the Central Drug Registry maintained by the Division of State Police by his/her employer.

(d) The officer shall be permanently barred from future law enforcement employment in New Jersey.

(4) Refusal to be tested.

(a) 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.

(b) 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.

K. Consequences of refusal to submit to drug test.

(1) Applicants. Applicants who refuse to submit to a drug test during the pre-employment process shall be immediately removed from consideration for law enforcement employment and barred from consideration for future law enforcement employment for a period of two years. 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.

(2) Trainees. 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 applicant's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

(3) Sworn law enforcement officers. Sworn law enforcement officers who refuse to submit to a drug test ordered in response to reasonable suspicion or random selection shall be immediately suspended from employment. Upon 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 applicant's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

(4) Testing positive. 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/her employer to the Central Drug Registry and shall be permanently barred from future law enforcement employment in New Jersey.

L. Recordkeeping.

(1) Maintaining of records. The North Caldwell Police Department Internal Affairs Unit shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers.

(2) For all drug testing. For all drug testing, the internal affairs unit drug testing records shall include, but not be limited to:

(a) The identity of those ordered to submit urine samples.

(b) The reason for that order.

(c) The date the urine specimen 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 or refusal, appropriate documentation of disciplinary action.

(3) For random drug testing. For random drug testing the records shall also include, but not be limited to, the following:

(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.

(e) The date(s) those officers were tested.

(4) Confidentiality of records. 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.

M. Central drug registry.

(1) The North Caldwell Police Department shall notify the Central Drug Registry maintained by the Division of State Police of the identity of applicants, trainees and sworn law enforcement officers who test positive for the illegal use of drugs or who refuse an order to submit a urine sample. Notifications to the Central Drug Registry shall include the following information as to each individual:

- (a) Name and address of submitting agency.
- (b) Name of the individual who tested positive.
- (c) Last known address of the individual.
- (d) Date of birth.
- (e) Social security number.
- (f) SBI number, if applicable.
- (g) Substance the individual tested positive for or circumstances of the refusal to submit a urine sample.
- (h) Date of final dismissal or separation from the agency.
- (i) Whether the individual was an applicant, trainee or sworn law enforcement officer.
- (j) Gender.
- (k) Race.
- (l) Eye color.
- (m) Date of the drug test or refusal.

(2) 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, NJ 08628-0068

(3) Information contained in the Central Drug Registry may be released by the Division of State Police only under the following circumstances:

(a) In response to an inquiry from a law enforcement agency as part of the background investigation process for prospective or newly appointed personnel.

(b) In response to a court order.

(4) The certification section of the notification form must be completed by the Chief and notarized with a raised seal.