


<b>MILLVILLE POLICE DEPARTMENT</b>			
<b>General Order</b>			
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<b>SUBJECT: DRUG TESTING</b>			
<b>EFFECTIVE DATE:</b> April 19, 2023	<b>Consolidated Policy Management System</b>	<b>REVISION DATE</b>	<b>PAGE #</b>
<b>BY THE ORDER OF:</b> Ross Hoffman, Chief of Police		4/19/2023	all
<b>SUPERSEDES ORDER #:1-98 Alcohol and Controlled Dangerous Substances; G.O. 2:25 of 4/6/2018</b>			

**PURPOSE**

The goal of the policy is deterring illegal drug use by law enforcement officers. The policy provides a mechanism to identify and remove any law enforcement officer engaged in the illegal use of drugs. Because illegal drug use is inconsistent with the duties, obligations and responsibilities of sworn law enforcement officers, the policy mandates that officers who test positive shall be terminated from employment.

**POLICY**

It is the policy of the Millville Police Department to have a uniform method and procedure for implementing and administering a drug testing program consistent with the [New Jersey Attorney General Drug Testing Policy](#), [New Jersey Attorney General Directive 2018-2](#), and any subsequent revisions or additions concerning the collection, submission, and recording of specimens from applicants, trainees and sworn law enforcement officers that is fundamentally fair and consistent with due process requirements.

## **PROCEDURE**

### **1.0 SECTION 1 – ADMINISTRATION**

- 1.1** The Internal Affairs Unit shall be responsible for administering all aspects of the Drug Testing Process unless otherwise specifically noted in this policy.

### **2.0 SECTION 2 – APPLICABILITY**

- 2.1 Personnel:** This policy applies to the following:

- 2.1.1** 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;
- 2.1.2** Law enforcement officer trainees subject to the Police Training Act while they attend a mandatory basic training course; and
- 2.1.2** 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.

### **3.0 SECTION 3 – EMPLOYMENT STATUS BASED TESTING**

- 3.1 Applicant Testing:** Testing is required for all police applicants as a component of the pre-employment background investigation.

- 3.1.1** Applicants for a position as a law enforcement officer shall be required to submit a urine specimen after a conditional offer of employment, but prior to appointment.
- 3.1.2** Applicants for employment may be tested as many times as the Chief of Police deems necessary; for example, if a significant amount of time has elapsed since the previous test and appointment.
- 3.1.3** During the pre-employment process, the department will comply with the provisions of the Americans with Disabilities Act (ADA) by refraining from making any medical inquiries. Therefore, the medication information form (Attachment D) should not be used at the applicant stage, unless a positive test result requires an explanation by the prospective employee.

- 3.2 Trainees:** Trainees will be required to submit one or more urine specimens for testing while they attend a mandatory basic training course.

- 3.2.1** All drug testing conducted during a mandatory basic training will be done by academy staff and comply with rules and regulations established by the Police Training Commission.

**3.2.2** 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 Cumberland County prosecutor, the chief of police, or the police academy director.

**3.3 Sworn law enforcement officers:**

**3.3.1** Urine specimens shall be ordered from a sworn law enforcement officer when there exists reasonable suspicion to believe that the officer is illegally using drugs. Urine specimens shall not be ordered from an officer without the approval of the county prosecutor or the chief of police.

**3.3.2** Urine specimens may be ordered from sworn law enforcement officers who 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.

**4.0 SECTION 4 – TYPES OF TESTING**

**4.1 Reasonable Suspicion Testing:** Drug testing must be conducted when there is reasonable suspicion to believe an officer is engaged in the illegal use of controlled substances including unregulated marijuana, or cannabis during work hours. Reasonable suspicion “requires objective facts which, with inferences, would lead a reasonable person to conclude that drug-related activity is taking or has taken place and that particular person is involved.”

**4.1.1** Individual law enforcement officers will be ordered to submit to a drug test when there is a reasonable suspicion to believe that the officer is illegally using drugs.

**4.1.2** Before an officer may be ordered to submit to a drug test based on reasonable suspicion, a written report will be prepared that documents the basis for the reasonable suspicion.

**4.1.3** 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.

**4.1.4** 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 officer's use of a cannabis item while engaged in the performance of the officer's 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 officer's duties.
- C. In the above situations, the drug test shall include a physical evaluation by a Workplace Recognition Expert (WIRE) to determine the officer's state of impairment and a urinalysis. Until such time as the WIRE program is developed and WIREs are implemented agencies, Internal Affairs shall refer to the interim guidance for reasonable suspicion testing for cannabis issued by the Cannabis Regulatory Commission. Available at: <https://www.nj.gov/cannabis/about/news-events/approved/20220907.shtml>.

**4.1.5** The report shall be reviewed by the Chief of Police who may seek advice from the County Prosecutor prior to ordering a reasonable suspicion test. Under emergent circumstances, approval may be given for a reasonable suspicion test on the basis of a verbal report.

**4.2** **Random Drug Testing:** Random selection is defined as a method of selecting employees for drug testing in which every member of the agency has an equal chance of being selected each and every time a selection is made.

**4.2.1** This agency will conduct random drug testing on sworn law enforcement officers. All sworn members of this agency are eligible for random drug testing regardless of their rank or assignment. No advance warning is required nor shall it be given to agency members prior to conducting the tests.

**4.2.2** Random drug testing shall be conducted twice in every calendar year. At least ten percent of the total number of sworn officers in the department shall be randomly tested each time.

**4.2.3** To ensure that every sworn officer in the agency has an equal chance to be selected each and every time that a random selection takes place, the method of random selection will consist of placing the social security numbers of all sworn officers into a non-transparent container and then drawing ten percent of the total number from the container.

**4.2.4** Officers will be tested from the randomly generated list. Officers will be chosen in the order they appear. If a selected officer is exempt for reason(s) outlined in this policy, the selection process will continue until the pre-selected number are chosen. Exemptions include but are not limited to:

- A. Extended Military leave
- B. Maternity leave

C. Extended Family leave

D. Injured/Leave of absence

**4.2.5** The selection process shall be conducted, documented, and verified by the Internal Affairs Unit. A member from each of the collective bargaining units shall be permitted to witness the selection process if they so choose.

**4.2.6** Any member of this 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.

**4.2.7** Urine specimens will be collected from selected officers, with a monitor present, in a prompt, efficient and confidential manner.

## **5.0 SECTION 5 - NOTIFICATION OF TESTING PROCEDURES & CONSEQUENCES**

**5.1 Applicants:** Applicants to be tested for law enforcement positions must 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 or refusal will:

**5.1.1** Result in the applicant being dropped from consideration for employment;

**5.1.2** Cause the applicant's name to be reported to the central drug registry maintained by the Division of State Police;

**5.1.3** Preclude the applicant from being considered for future law enforcement employment for a period of two years from the date of the drug test;

**5.1.4** 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.

**5.2 Trainees:** Submission to reasonable suspicion testing and/or a negative result is a condition of employment as a sworn officer trainee.

**5.2.1** All newly appointed law enforcement officers shall be informed that drug testing is mandatory during basic training.

**5.2.2** Newly appointed officers shall also be informed that a negative result is a condition of employment.

**5.2.3** Newly appointed officers shall be informed that a positive result, including consuming or being under the influence of cannabis or marijuana while at work/training or during work/training hours, or refusal will result in:

- A. The trainee being dismissed from basic training and immediate suspension from all duties.
- B. The trainee's termination from employment upon final disciplinary action
- C. Inclusion of the trainee's name in the Central Drug Registry maintained by the Division of State Police
- D. The trainee being permanently barred from future law enforcement employment in New Jersey

**5.2.4** 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.

**5.3 Sworn law enforcement officers:** Submission to Reasonable Suspicion Testing and Random Drug Testing and negative results in those tests are conditions of employment as a sworn officer.

**5.3.1** Officers who refuse to submit to a drug test based on either Reasonable Suspicion or Random Selection 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.

**5.3.2** A sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen shall be deemed to have refused to submit to the drug test.

**5.3.3** A positive result to Reasonable Suspicion Testing and Random Drug Testing, including being found to have been consuming or being under the influence of cannabis or marijuana while at work or during work hours will result in:

- A. The officer's immediate suspension from all duties
- B. The officer's termination from employment upon final disciplinary action
- C. Inclusion of the officer's name in the Central Drug Registry maintained by the Division of State Police
- D. The officer being permanently barred from future law enforcement employment in New Jersey

## **6.0 SECTION 6 - SPECIMEN ACQUISITION PROCEDURES**

**6.1 Preliminary Acquisition Procedures:** The Internal Affairs Unit is designated as the regular monitor of the specimen acquisition process. In special situations such as unavailability or the regular Internal Affairs monitor is being tested, the Chief of Police will designate another monitor at his discretion. The monitor will always be the same sex as the officer being tested. In the event there is no member of the same sex available from the agency collecting the

specimens, the agency may request that a member of the same sex from another law enforcement agency serve as monitor of the process.

**6.1.1** 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.
- B. Collecting specimens in a manner that provides for individual privacy while ensuring the integrity of the specimen.
- C. Complying with chain of custody procedures established for the collection of urine specimens and their subsequent submission to the New Jersey State Toxicology Laboratory within the Division of Criminal Justice for analysis.

**6.1.2** 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 the penalties of a positive result.

- A. The Drug Testing Medication Information form (Attachment D) should not be used at the applicant stage, unless a positive test result requires an explanation by the prospective employee.

**6.1.3** 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 the penalties of a positive result.

- A. Trainees shall also complete a Drug Testing Medication Information form (Attachment D). 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.

**6.1.4** Prior to the submission of a urine specimen, a sworn law enforcement officer shall execute form (Attachment C) advising the officer that a negative result is a condition of employment and the penalties of a positive result.

- A. Officers shall also complete a Drug Testing Medication Information form (Attachment D). 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.

**6.2 Specimen collection:** 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.

**6.2.1** 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 the use of social security numbers. At no time shall an individual's name appear on any form or specimen container sent to the State Toxicology Laboratory.

- 6.2.2** Unless otherwise noted, all steps must be completed by the donor in the presence of the monitor.
- 6.2.3** The donor will select two sealed specimen container kits.
- 6.2.4** The donor unseals both kits and removes the kit contents on a clean surface.
- 6.2.5** Using an ordinary pencil, the donor writes his/her SSN and the letter “A” below the SSN on one 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.
- 6.2.6** 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.
- 6.2.7** The monitor checks that the donor SSN on both labels matches the SSN provided on the submission form.
- 6.2.8** 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.** 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. This agency will document the facts underlying the belief that an individual may adulterate a specimen or compromise the integrity of the test process.
  - B.** 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)
- 6.2.9** The monitor checks each specimen for adequate volume and temperature indicator strip on the specimen container within 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.
- 6.2.10** 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 of the specimen containers.



**6.2.11** 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: Submission of Specimens for Analysis below).

**6.3 “Shy Bladder” Procedure:**

**6.3.1** 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.

**6.3.2** 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.

**6.4 Second Specimen:**

**6.4.1** 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.

**6.4.2** The second specimen will be maintained at the State Toxicology Laboratory for 60 days following the receipt of a positive drug test result from the laboratory by the submitting agency.

**6.4.3** 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.

**6.4.4** 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.

6.4.5 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.

6.4.6 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.

## **7.0 SECTION 7 - SUBMISSION OF SPECIMENS FOR ANALYSIS**

7.1 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.

7.1.1 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, the specimen will be stored in a controlled access refrigerated storage area until submission to the State Toxicology Laboratory.

7.1.2 Submission of specimens to the State Toxicology Laboratory will be accomplished by the Internal Affairs Unit or Chief's designee.

7.1.3 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 (Attachment D).

## **8.0 SECTION 8 - ANALYSIS OF SPECIMENS**

8.1 Urine samples submitted to the State Toxicology Laboratory undergo initial and confirmatory tests as per their procedures.

8.1.1 The State Toxicology Laboratory's drug testing procedures will screen specimens for the following controlled substances:

A. Amphetamine/methamphetamine

B. Barbiturates

C. Benzodiazepine

D. Cocaine

E. Oxycodone/Oxymorphone

F. Methadone

G. Phencyclidine

H. Opiates

I. Marijuana/Cannabis (only to be included in the testing process when: the officer is assigned to a federal task force; the officer holds a federally regulated license which requires testing (e.g. pilot or commercial driver's license); the law enforcement agency is specifically required to test by the terms of a federal contract or federal grant; or as outlined in the reasonable suspicion sections.

**8.1.2** In addition, the Chief of Police may request that samples be tested for the presence of steroids or other substances or currently abused chemicals.

**8.1.3** Internal Affairs will supply further information from trainee or officer donors upon request of the Medical Review Officer concerning medications listed on the Drug Testing Medical Information form (Attachment D).

**8.1.4** 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.

## **9.0 SECTION 9 - DRUG TEST RESULTS**

**9.1** The State Toxicology Laboratory will provide written test results to the contact person listed on the specimen submission record. Positive test results will be sent to the contact person by certified mail.

**9.2** 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.

**9.2.1** It is the responsibility of the Internal Affairs Unit 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.

**9.3** This agency will notify the applicant, trainee or sworn officer of the result of a positive test result as soon as practical after receipt of the report from the State Toxicology Laboratory. Upon request, the individual may receive a copy of the laboratory report.

- 9.4 Under no circumstances may this agency or an individual resubmit a specimen for testing or ask that a particular specimen within the possession of the State Toxicology Laboratory be retested.

**10.0 SECTION 10 - RESIGNATION IN LIEU OF DISCIPLINARY ACTION**

- 10.1 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 to Central Drug Registry and shall be permanently barred from future law enforcement employment in New Jersey.

**11.0 SECTION 11 - RECORD KEEPING AND REPORTING**

- 11.1 The Internal Affairs Unit shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers.

**11.1.1** All drug testing records will 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 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;
- I. Appropriate documentation of disciplinary action for any positive result or refusal

**11.1.2** For random drug testing, the records will also include:

- A. A description of the process used to randomly select officers for drug testing;
- A. The date selection was made;
- B. A copy of the document listing the identities of those selected for drug testing;
- C. A list of those who were actually tested; and
- D. The date(s) those officers were tested.

- 11.1.3** 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.
- 11.1.4** In the event of a positive drug test by an officer, a refusal by an officer to take a drug test, or the administration of a reasonable suspicion drug test to an officer, the chief of police or designee shall provide confidential written notice to the Cumberland County prosecutor or their designee within 10 days.
- 11.1.5** Upon completion of any disciplinary action, the department shall report the discipline to the Cumberland County prosecutor or designee.
- 11.1.6** By December 31st of each year, the chief or designee shall provide written notice to the Cumberland County prosecutor, or their designee, of the testing dates conducted during that 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.
- 11.1.7** All random drug testing policies adopted by the department shall be made available to the public upon request and shall be posted on the department's website.

## **12.0 SECTION 12 - CENTRAL DRUG REGISTRY**

- 12.1** The Internal Affairs Unit 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 refuses an order to submit to drug testing on the form prescribed in Attachment F.
- 12.2** 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 to Central Drug Registry by the Internal Affairs Unit and shall be permanently barred from future law enforcement employment in New Jersey.
- 12.3** The certification section of the notification form must be completed by the chief of police or director of public safety, and notarized with a raised seal.