# FRANKLIN LAKES
# POLICE DEPARTMENT
## STANDARD OPERATING PROCEDURES

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| **SUBJECT: DRUG TESTING** | |
| **EFFECTIVE DATE: October 2, 2017** | **NUMBER OF PAGES: 18** |
| **BY THE ORDER OF:**<br>**Chief of Police** | **ACCREDITATION: 1.3.3** |

**PURPOSE:** The procedures contained herein shall be in accordance with the New Jersey Attorney General's Law Enforcement Drug Testing Policy, revised February 2023, and New Jersey Attorney General's Law Enforcement Directive No. 2018-2. This policy shall serve as notification to all employees regarding the agency's drug testing policy.

The purpose of this policy is to deter illegal drug use, including unregulated marijuana, by law enforcement officers. The policy provides a mechanism to identify and remove those law enforcement officers 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 shall be the policy of the Franklin Lakes Police Department to conduct reasonable suspicion drug testing of applicable employees contained in Section I of this policy. This written directive is considered an annex to the Rules and Regulations of the Franklin Lakes Police Department.

**PROCEDURES:**

## I. APPLICABILITY

A. This policy applies to:

1. Applicants for a position as a law enforcement officer who, if appointed, will be responsible for the enforcement of the criminal laws of this State and will be authorized to carry a firearm under N.J.S.A. 2C:39-6;

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

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

## II. TYPES OF DRUG TESTING

A. Applicants for Law Enforcement Officer Position

1. This written directive recognizes that drug testing is an important component of a pre-employment background investigation. Thus, prospective employees shall be drug tested as a condition of employment. The policy requires law enforcement agencies engaged in the hiring process to drug test prospective employees at any point during the pre-employment process.

2. In addition, applicants for employment may be tested as many times as the law enforcement agency deems necessary to ensure that the applicants are not engaged in the illegal use of drugs. For example, applicants who have been drug tested as part of the application process may be tested again if a significant amount of time has elapsed since the previous step in the employment process.

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

B. Law Enforcement Trainees

1. Individuals hired as law enforcement officers who are required to attend and successfully complete a mandatory basic training course approved by the Police Training Commission are subject to drug testing during their attendance at a police academy. Trainees will be required to submit one or more urine specimens for testing while they attend a mandatory basic training course. The drug testing of law enforcement trainees will be conducted by the police academy staff under rules and regulations adopted by the Police Training Commission.

2. Individual trainees shall also be required to submit a urine specimen for testing when there exists reasonable suspicion to believe that the trainee is illegally using drugs or is under the influence of a controlled dangerous substance or cannabis during work/training hours. A trainee shall be ordered to submit to a drug test based on reasonable suspicion only with the approval of the county prosecutor, the chief executive officer of the trainee's agency, or the academy director.

C. Sworn Law Enforcement Officers

1. Sworn law enforcement officers shall be ordered to submit a urine specimen for testing when they have been randomly selected to submit to a drug test. Random selection shall be defined as a method of selection in which each and every sworn member of the law enforcement agency, regardless of rank or assignment, has an equal chance to be selected for drug testing each and every time a selection is conducted.

2. Sworn law enforcement officers shall also be required to submit a urine specimen for testing when there exists reasonable suspicion to believe that the officer is illegally using drugs or is under the influence of a controlled dangerous substance or cannabis during work/training hours. An officer shall be ordered to submit to a drug test based on reasonable suspicion only with the approval of the county prosecutor or the chief executive officer of the officer's agency.

3. Urine specimens may also be collected from law enforcement officers during a regularly scheduled and announced medical examination or a fitness for duty examination. However, the collection and analysis of these specimens are not governed by this policy.

D. Reasonable Suspicion

1. Reasonable suspicion "requires objective facts which, with inferences, would lead a reasonable person to conclude that drug-related activity is taking or has taken place and that a particular individual is involved in that drug activity."

2. The reasonable suspicion standard is "less demanding" than the probable cause standard in two ways. First, the amount of evidence needed to satisfy the reasonable suspicion standard is less than that needed to satisfy the probable cause standard. Second, the type of information used to satisfy the reasonable suspicion standard may be "less reliable than that required to show probable cause." The following factors should be evaluated to determine the quality and relevance of the information acquired by the law enforcement agency:

a. The nature and source of the information;

b. Whether the information constitutes direct evidence or is hearsay in nature;

c. The reliability of the informant or source;

d. Whether corroborating information exists and the degree to which it corroborates the accusation; and

e. Whether and to what extent the information may be stale.

3. Reasonable Suspicion Testing for Cannabis Use - Consuming or being under the influence of cannabis while at work or during work/training hours is strictly prohibited. Officers/Trainee shall be tested for cannabis in the following situations:

a. Upon reasonable suspicion of the officer's/trainee's use of a cannabis item while engaged in the performance of the officer's/trainee'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/trainee'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/trainee's state of impairment and a urinalysis.

## III. NOTIFICATION OF DRUG TESTING PROCEDURES

A. Applicants

1. Applicants 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 will: a) result in the applicant being dropped from consideration for employment; b) cause the applicant's name to be reported to the central drug registry maintained by the Division of State Police; and c) preclude the applicant from being considered for future law enforcement employment for a period of two years from the date of the drug test. In addition, the notification will indicate that if the applicant is currently employed by another agency as a sworn law enforcement officer and the officer tests positive for illegal drug use, the officer's employing agency will be notified of the test results and the officer will be terminated from employment and permanently barred from future law enforcement employment in New Jersey.

B. Trainees

1. All newly appointed law enforcement officers shall be informed that drug testing is mandatory during basic training. Newly appointed officers shall also be informed that a negative result is a condition of employment and that a positive result will result in: a) upon final disciplinary action, the officer's termination from employment; and b) inclusion of the officer's name in the central drug registry maintained by the Division of State Police; and c) the officer being permanently barred from future law enforcement employment in New Jersey.

2. Newly appointed officers shall be further informed that the refusal to submit to a drug test shall result in their dismissal from employment and a permanent ban from future law enforcement employment in New Jersey.

3. Each police academy will include in its rules and regulations a provision implementing drug testing during basic training.

C. Sworn law enforcement officers: Reasonable Suspicion Testing

1. In accordance with this written directive, 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 or is under the influence of a controlled dangerous substance or cannabis during work/training hours.

2. Before an officer may be ordered to submit to a drug test based on reasonable suspicion, the Franklin Lakes Police Department shall prepare a confidential written report, which documents the basis for the reasonable suspicion. The report shall be reviewed by the Bergen County Prosecutor or the Chief of Police of the police department before a reasonable suspicion test may be ordered. Under emergent circumstances, approval may be given for a reasonable suspicion test on the basis of a verbal report.

3. In accordance with this written directive, a negative result is a condition of employment as a sworn officer and that a positive result will result in: a) upon final disciplinary action, the officer's termination from employment; b) inclusion of the officer's name in the central drug registry maintained by the Division of State Police; and c) the officer being permanently barred from future law enforcement employment in New Jersey.

4. In accordance with this written directive, officers who refuse to submit to a drug test based on reasonable suspicion after being lawfully ordered to do so are subject to the same penalties as those officers who test positive for the illegal use of drugs. A sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

D. Sworn law enforcement officers: Random Drug Testing

1. All sworn officers of the Franklin Lakes Police Department are eligible for random drug testing, regardless of rank and assignment.

2. At least 10 percent of the total number of sworn officers within the Franklin Lakes Police Department shall be randomly tested each time.

3. At a minimum, random drug testing shall be conducted at least twice every calendar year.

4. A method of random selection has been established, which ensures that every probationary or sworn officer in the Franklin Lakes Police Department has an equal chance to be selected for a testing each and every time a selection takes place, regardless of rank, and regardless of the fact that

one or more officers were randomly selected for testing at a prior selection process during the same calendar year.

5. The selection process will be verified and documented in writing by the Chief of Police or internal affairs officer, and the report will be maintained in confidential files.

6. A representative of the collective bargaining unit(s) is permitted to witness the selection process.

7. Should a randomly selected officer be unavailable on the date selected, the following shall apply:

   a. Officers will be notified while on duty by the Chief of Police or his designee and required to submit a urine specimen at that time, during a confidential specimen acquisition process.

   b. An officer shall be tested on the earliest time available after he or she returns to work.

8. Any member of the Franklin Lakes Police Department 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 Department officially announcing same or prior to the collection of urine specimens is subject to discipline.

9. A system to collect urine specimens from selected officers in a prompt, efficient and confidential manner has been established in accordance with the Attorney General's Law Enforcement Drug Testing Policy and collection procedures established by the New Jersey State Toxicology Laboratory.

10. Officers who refuse to submit to a drug test when randomly selected, or who knowingly tamper with or alter a urine sample by use of adulterants or dilution, are subject to the same penalties as those officers who test positive for the illegal use of drugs. A sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen shall be deemed to have refused to submit to the drug test.

11. The knowing tampering with or alteration of a urine sample by adulteration or dilution will be treated in the same manner as if the officer tested positive for the illegal use of drugs. Alteration or adulteration will be presumed if, among other reasons, the temperature gauge of the collection container registers an improper temperature, or the State Toxicology Laboratory or other independent laboratory facility discloses the presence of an adulterant or dilution by some means.

## IV. SPECIMEN ACQUISITION PROCEDURES

A. Preliminary acquisition procedures

1. The Chief of Police or his designee shall serve as monitor of the specimen acquisition process. The monitor shall always be of the same sex as the individual 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.

2. Prior to the submission of a specimen, an applicant for a law enforcement position shall execute a form consenting to the collection and analysis of their urine for illegal drugs. (Attachment A) The form shall also advise the applicant that a negative result is a condition of employment and that a positive result will result in the consequences outlined in Section III A of this policy. Applicants are not required to complete a Drug Testing Medication Information form at this time.

3. Prior to the submission of a urine specimen, a trainee enrolled in a basic training course shall execute a form (Attachment B) advising the trainee that a negative result is a condition of employment and that a positive result will result in the consequences outlined in Section III B of this policy. The form shall also advise trainees that the refusal to participate in the test process carries the same penalties as testing positive. Trainees shall also complete a Drug Testing Medication Information form (Attachment D), which clearly describes all medications, both prescription, and over-the-counter (nonprescription), dietary supplements, and nutritional supplements that were ingested in the past 14 days. The Drug Testing Medication Information form (Attachment D) shall be placed in an envelope, which is sealed by the donor. The donor shall date and initial the seal, and write their unique identifier (Donor ID) on the envelope.

4. Prior to the submission of a urine specimen, an officer shall execute a form (Attachment C) advising the officer that a negative result is a condition of employment and that a positive result will result in the consequences outlined in Section III C of this policy. The form shall also advise the officer that the refusal to participate in the test process carries the same penalties as testing positive. Sworn officers shall complete the Drug Testing Medication Information form (Attachment D) listing all prescription medication, non-prescription (over-the-counter) medication, dietary supplements and nutritional supplements that were ingested by the officer during the past 14 days. The Drug Testing Medication Information form (Attachment D) shall be placed in an envelope, which is sealed by the donor. The donor shall date and initial the seal, and write their unique identifier (Donor ID) on the envelope.

B. Monitor Responsibilities

1. The monitor of the specimen acquisition process shall be responsible for:

   a. Ensuring that all documentation is fully and accurately completed by the individual submitting the specimen (the donor).

   b. Collecting specimens in a manner that provides for individual privacy while ensuring the integrity of the specimen. Individual specimens and forms shall be identified throughout the process by the use of donor identification (Donor ID). At no time shall a name appear on any form or specimen container sent to the Laboratory.

   c. Complying with chain of custody procedures established by the

Laboratory for the collection and submission for analysis of urine specimens.

d. Specimens shall be collected utilizing split collection kits supplied by the Laboratory. Under no circumstances shall a specimen be collected and submitted for analysis in a specimen container that has not been approved by the NJ State Medical Examiner Toxicology Laboratory. It is the responsibility of each agency to contact the Laboratory to obtain the Split Specimen Kits and Forensic Urine Drug Testing Custody and Submission Forms (CSF).

e. Collecting and submitting urine specimens in accordance with procedures established by the Laboratory.

2. In order to ensure the accuracy and integrity of the collection process a monitor may:

a. Direct an individual officer who has been selected for drug testing to remove outer clothing (jackets, sweaters etc.), empty their pockets, and wash their hands under running water, before they produce a specimen.

b. Add tinting agents to toilet water and secure the area where the specimens are to be collected prior to specimen collection.

3. If the monitor has reason to believe that an individual officer will attempt to adulterate or contaminate a specimen, substitute another substance or liquid for their specimen, or compromise the integrity of the test process, the monitor may conduct a direct observation of the individual officer. If a monitor concludes that direct observation is necessary, he or she must document the facts supporting the belief that the officer will attempt to compromise the integrity of the test process before there can be direct observation.

C. Specimen Collection

1. Unless otherwise noted, all steps must be completed by the donor in the presence of the monitor.

2. The monitor completes the agency information, donor identification, and test information sections of the Custody and Submission Form (CSF).

3. The monitor allows the donor to select one NJ Medical Examiner State Toxicology Laboratory issued sealed split specimen collection kit.

4. The donor unseals the split specimen collection kit, removes the specimen bag and specimen containers from the specimen collection container, and places all items on a clean surface.

a. The specimen containers shall be kept closed/unsealed at this time.

b. The specimen collection container and specimen containers should be kept within view of both the donor and the monitor.

5. The monitor instructs the donor to void a specimen of at least 45 mL into the specimen collection container, to not flush the toilet, and return with the specimen container immediately after the specimen is produced.

6. The monitor checks the specimen for adequate volume and the temperature indicator strip on the specimen container within 4 minutes.

    a. A color change between 90° and 100°F indicates an acceptable specimen temperature. The monitor indicates if the temperature is acceptable by marking either the “Yes” or “No” box in the specimen collection section of the CSF. 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.

    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)

7. The monitor instructs the donor to split the collected specimen into the specimen containers.

    a. The donor opens both specimen containers and pours at least 30 mL of urine from the collection container in the primary specimen container and at least 15 mL of urine from the collection container in the secondary specimen container.

    b. The donor secures both specimen containers by placing and securing the lids/caps on the specimen containers.

8. The monitor instructs the donor to seal the specimen containers with tamper evidence seals from the CSF.

    a. The donor carefully removes the Bottle A Specimen Container Security Seal from the CSF and places it over the lid/cap and down the sides of the primary specimen container with the greater volume of urine (30 mL).

    b. The donor carefully removes the Bottle B (SPLIT) Specimen Container Security Seal from the CSF and places it over the lid/cap and down the sides of the secondary specimen container with the lesser volume of urine (15 mL).

    c. After the seals are placed on the specimen containers, the donor writes the collection date and his or her initials in the space provided on the security seals to certify that the specimen containers contain the specimen that he or she provided.

9. The monitor prints his/her name, signs and dates the monitor/agency acknowledgement section of the CSF.

10. The monitor instructs the donor to place both specimens in the front pouch of the specimen bag that contains the absorbent pad.

11. The monitor separates the white laboratory copy of the CSF, folds it, and places it in the rear pouch of the specimen bag along with the sealed medication information sheet, if provided.

12. The monitor seals the specimen bag by removing the release liner from the flap and folding the blue adhesive flap to cover the cross hatch slit opening.

13. Any remaining urine and the specimen collection container may be discarded.

14. The monitor will take possession of the sealed specimen bag and ensure that it is delivered to the NJ State Medical Examiner Toxicology Laboratory in a timely manner (See Section V. Submission of Specimens for Analysis below).

D. "Shy Bladder" Procedure

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

   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.

E. Split Specimen

1. A donor whose specimen tested positive may only challenge the positive test result by having the split specimen independently tested by an accredited laboratory. The first specimen will not be retested.

2. The split specimen will be maintained at the Laboratory for a minimum of one (1) year following the receipt of a positive drug test result from the Laboratory by the submitting agency.

3. The split specimen will be released by the Laboratory under the following circumstances:

   a. The agency is notified by the Laboratory that the first specimen tested positive for a controlled substance;

   b. The agency notifies the donor that the first specimen tested positive

for a controlled substance; and

c. The agency is informed by the donor whose specimen tested positive that he/she wishes to challenge the positive test result.

4. 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 second test laboratory by commercial courier also following accepted chain of custody procedures.

5. Following testing of the split specimen, the independent laboratory will report the result of the split specimen drug test to the donor, to the submitting agency, and to the NJ State Medical Examiner Toxicology Laboratory medical review officer.

## V. SUBMISSION OF SPECIMENS TO THE LABORATORY

A. The NJ State Medical Examiner Toxicology Laboratory is the only facility approved for the analysis of law enforcement drug tests conducted under the Law Enforcement Drug Testing Policy. Law enforcement agencies are not permitted to use any other facility or laboratory for the purpose of analyzing urine specimens for illegal drug use by law enforcement officers.

B. Urine specimens should be submitted to the 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 agency shall store the specimen in a controlled access refrigerated storage area until submission to the Laboratory.

C. Specimens may be submitted to the Laboratory by commercial courier using “next day delivery” or in person. (appointments only)

D. The Laboratory will inspect all documentation to ensure that it has been properly completed. Failure to include the appropriate documentation with each submission will cause the Laboratory to delay conducting an analysis of the specimen or specimens until the missing documentation is submitted.

E. In addition to ensuring that the appropriate documentation has been completed and submitted for each specimen, the Laboratory shall inspect each specimen for damage and evidence of tampering.

1. The Laboratory may reject any specimen it has reason to believe has been tampered with or is damaged; and

2. Notify the submitting agency in writing with the reason for rejection clearly stated.

## VI. ANALYSIS OF SPECIMENS

A. The analysis of the first specimen shall be done in accordance with currently accepted procedures adopted by the Laboratory. These procedures shall include but not be limited to security of the test specimens, chain of custody, initial

screening and confirmation testing, parent drug and metabolite cut-off levels and the issuance of final reports. In addition to the controlled substances listed below, every Law Enforcement Executive may request that specimens be analyzed for the presence of steroids. The steroid test shall be for an additional cost to the Department.

B. The Laboratory's drug testing procedures will screen specimens for the following controlled substances:

1. Amphetamines;

2. Barbiturates;

3. Benzodiazepine;

4. Cocaine;

5. Methadone;

6. Opiates;

7. Oxycodone/Oxymorphone;

8. Phencyclidine;

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

C. The Laboratory utilizes a two-stage procedure to analyze specimens.

1. In the first stage, all specimens will undergo an initial screening. The initial screening determines whether one or more of the nine substances listed and/or their metabolites are present at or above a designated cutoff. All presumptive positive specimens will undergo a second and more specific type of testing.

2. The second type of testing will employ mass spectrometry detection for the definitive identification and quantitation of drugs and/or metabolites presumptively identified by the initial screen.

D. When a specimen tests positive at both the initial stage and the second stage, a medical review officer assigned to the Laboratory will review the test results together with the medication information form submitted for the specimen. The medical review officer will seek to determine whether any of the substances listed on the form would explain the positive test result. The medical review officer may direct the agency that collected the sample to obtain further information from the individual being tested concerning the medications listed on the medical information form. The medical review officer will then issue a report indicating whether or not the sample tested positive due to a listed medication on the medication information form.

E. Applicants for law enforcement employment are not required to submit a Drug Testing Medication Information form with their specimen. Therefore, if an applicant tests positive, the law enforcement agency, following notification from the Laboratory, must have the candidate complete the Drug Testing Medication Information form (Attachment D) listing all prescription medication, non-prescription (over-the-counter) medication, dietary supplements, and nutritional supplements that were ingested by the donor during the 14 days prior to the specimen collection. 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, and write their Donor ID on the envelope. The agency is responsible for submitting the envelope to the Laboratory. A review of the form will be conducted by the medical review officer as outlined above.

F. In addition to the testing outlined above, specimens submitted to the Laboratory may be tested for additional substances at the request of the law enforcement agency submitting the specimen. The Laboratory has the ability through its own facilities, as well as facilities employed as references laboratories, to arrange drug testing for steroid abuse, as well as other currently abused substances.

## VII. DRUG TEST RESULTS

A. The Laboratory will provide written test results for every specimen submitted for analysis. All efforts will be made to deliver these reports within 15 working days of the submission. Reports will be addressed to the contact person listed on the specimen submission record. Positive test results will be sent to the contact person by certified mail.

B. In some cases, the Laboratory will report that a specimen tested positive for a particular substance and that the information on the medication information form explains the test result. For example, the Laboratory may report that a specimen tested positive for barbiturates and a prescription for that barbiturate was listed on the form by the officer. At this point, it is the responsibility of the submitting agency to determine whether the officer had a valid prescription for that drug. Officers who do not have a valid prescription are subject to disciplinary action including termination by the agency.

C. Under no circumstances will the Laboratory provide law enforcement agencies with verbal reports of drug test results. In addition, no individual or agency may ask the Laboratory to conduct a second analysis of a specimen that has already been analyzed.

## VIII. 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 department.

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.

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 or is found to have been consuming or being under the influence of cannabis or marijuana while at work/training or during work/training hours, subject to rules adopted by the Police Training Commission:

1. The trainee shall be immediately dismissed from basic training and suspended from employment by his or her appointing authority.

2. Upon final disciplinary action, the trainee shall be terminated from employment as a law enforcement officer, upon final disciplinary action by the appointing authority.

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

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

C. When a sworn law enforcement officer tests positive for illegal drug use or is found to have been consuming or being under the influence of cannabis or marijuana while at work or during work/training hours:

1. The officer shall be immediately suspended from all duties.

2. The officer shall be administratively charged and, upon final disciplinary action, the officer shall be terminated from employment as a law enforcement officer.

3. The officer shall be reported by his or her employer to Central Drug Registry maintained by the Division of State Police.

4. The officer shall be permanently barred from future law enforcement employment in New Jersey.

## IX. CONSEQUENCES OF A REFUSAL TO SUBMIT TO A DRUG TEST

A. Applicants who refuse to submit to a drug test during the pre-employment process shall be immediately removed from consideration for law enforcement employment and barred from consideration for future law enforcement employment for period of two years from the date of the refusal. In addition, the appointing authority shall

forward the applicant's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

B. Trainees who refuse to submit to a drug test during basic training shall be immediately removed from the academy and immediately suspended from employment. Upon a finding that the trainee did in fact refuse to submit a sample, the trainee shall be terminated from law enforcement employment and permanently barred from future law enforcement employment in New Jersey. In addition, the appointing authority shall forward the trainee's name to the Central Drug Registry and note that the individual refused to submit to a drug test.

C. Sworn 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 officer's name to the Central Drug Registry and note that the individual refused to submit to a drug test. Please note that if there is no valid reason why an officer cannot produce a specimen, the officer's actions will be treated as a refusal. In addition, a sworn law enforcement officer who resigns or retires after receiving a lawful order to submit a urine specimen for drug testing and who does not provide the specimen shall be deemed to have refused to submit to the drug test.

## X. RESIGNATION/RETIREMENT IN LIEU OF DISCIPLINARY ACTION

A. A sworn law enforcement officer who tests positive for illegal drug use or refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported by his or her employer to Central Drug Registry and shall be permanently barred from future law enforcement employment in New Jersey.

## XI. RECORD KEEPING

A. The Franklin Lakes Police Department’s Internal Affairs Unit shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers.

B. The Franklin Lakes Police Department's 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 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. for any positive result or refusal, appropriate documentation of disciplinary action.

2. For random drug testing, the records will also include the following information:

a. a description of the process used to randomly select officers for drug testing;

b. the date selection was made;

c. a copy of the document listing the identities of those selected for drug testing;

d. a list of those who were actually tested; and

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

C. 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.

## XII. CENTRAL DRUG REGISTRY

A. The Franklin Lakes 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; are found to have been consuming or being under the influence of cannabis while at work/training or during work/training hours; or refuse an order to submit a urine sample on the form prescribed in Attachment F.

B. A sworn law enforcement officer who tests positive for illegal drug use; is found to have been consuming or being under the influence of cannabis or marijuana while at work or during work/training hours; or refuses to submit to a drug test, and who resigns or retires in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported by his or her employer to Central Drug Registry and shall be permanently barred from future law enforcement employment in New Jersey.

C. Notifications to the Central Drug Registry shall include the following information as to each individual:

1. name and address of the submitting agency, and contact person;

2. name of the individual who tested positive;

3. last known address of the individual;

4. date of birth;

5. social security number;

6. SBI number (if known);

7. Gender

8. Race

9. Eye color

10. Substance the individual tested positive for, the circumstances of the officer being found to have been consuming or being under the influence of cannabis or marijuana while at work or during work/training hours, or circumstances of the refusal to submit a urine sample;

11. date of the drug test or refusal;

12. date of final dismissal or separation from the agency; and

13. whether the individual was an applicant, trainee or sworn law enforcement officer.

D. The certification section of the notification form must be completed by the chief or director, and notarized with a raised seal.

E. Notifications to the central registry shall be sent to:

Division of State Police
State Bureau of Identification
Central Drug Registry
P.O. Box 7068
West Trenton, New Jersey 08628-0068

F. Information contained in the central registry may be released by the Division of State Police only under the following circumstances:

1. In response to an inquiry from a criminal justice agency as part of the background investigation process for prospective or new personnel.

2. In response to a court order.

## XIII. NOTIFICATION TO COUNTY PROSECUTOR

A. In the event of (1) a random drug test occurs and results in a positive drug test result; or (2) the administration of a reasonable suspicion drug test of an officer

yields a positive result: or (3) a random or reasonable suspicion test is requested and the subject refuses that request, the Chief of Police or a designee must complete the "Notification of Drug Testing" form for every officer that meets one of the above "positive" conditions. The Notification of Drug Testing form must be delivered to the Bergen County Prosecutor's Office within ten (10) calendar days (including weekends and holidays) from the date of testing. Forms can be hand-delivered and/ or mailed (stamped " Confidential") to:

Bergen County Prosecutor' s Office
c/o Confidential Investigations Unit
Two Bergen County Plaza
Hackensack, NJ 07601

a. Law enforcement agencies are not required to submit Notification of Drug Testing forms to the Bergen County Prosecutor for situations where an officer is tested, but did not meet one of the conditions above (a "negative" result). However, law enforcement agencies are required to keep track of all positive and negative drug tests within their own departments to comply with the Attorney General's required annual reporting requirements.

B. The Franklin Lakes Police Department shall submit the “Annual Results of Drug Testing” form to the County Prosecutor indicating the dates of testing (two or more) for that calendar year, the total number of sworn officers in that law enforcement agency, the total number of sworn officers tested, the total number of sworn officers that tested positive, the total number of sworn officers who refused a test. The Annual Results of Drug Testing form must be submitted to the Bergen County Prosecutor's Office by December 1st of each calendar year. In order to meet that deadline, we suggest that the second random testing be scheduled prior to October 1st of each year. The completed form can be hand-delivered and/ or mailed (stamped " Confidential") to:

Bergen County Prosecutor' s Office
c/o Confidential Investigations Unit
Two Bergen County Plaza
Hackensack, NJ 07601

## XIV. PUBLIC ACCESSIBILITY AND CONFIDENTIALITY

A. The Franklin Lakes Police Department Drug Testing Policy shall be made available to the public upon request and shall be posted on the agency website. Annual reports from the County Prosecutors to the Attorney General, as required by Section XIII, also shall be made available to the public upon request and shall be posted on the agency website.

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