

DRUG TESTING

Attorney General's Law Enforcement Drug Testing Policy

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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*.

B. This policy does not require law enforcement agencies to drug test applicants, nor does it require law enforcement agencies to implement a random drug testing program for sworn officers. However, law enforcement agencies have an independent obligation to undertake the drug testing of individual officers when there is reasonable suspicion to believe that the officer is illegally using drugs.

II. Types of drug testing

A. Applicants for a position as a law enforcement officer

1. Applicants may be required to submit a urine specimen at any time prior to appointment.

B. Law enforcement trainees

1. Trainees will be required to submit one or more urine specimens for testing while they attend a mandatory basic training course. All drug testing conducted during mandatory basic training will comply with rules and regulations established by the Police Training Commission.
2. Individual trainees may also be required to submit a urine specimen for testing when there exists reasonable suspicion to believe that the trainee

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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.

C. Sworn law enforcement officers

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 executive officer of the officer's agency.
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.
3. Urine specimens may 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.

III. Notification of drug testing procedures

A. Applicants

1. Agencies that choose to test applicants for law enforcement positions must notify those applicants 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

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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) 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. Each municipal law enforcement agency shall include in its rules and regulations as defined in *N.J.S.A. 40A:14-118*, and every county and state law enforcement agency shall include in appropriate standard operating procedures, a provision that 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.
 2. Before an officer may be ordered to submit to a drug test based on reasonable suspicion, the agency shall prepare a written report which documents the basis for the reasonable suspicion. The report shall be reviewed by the county prosecutor or the chief executive officer of the law enforcement agency before a reasonable suspicion test may be ordered. Under emergent circumstances, approval may be given for a reasonable suspicion test on the basis of a verbal report.
 3. The agency's rules and regulations or appropriate standard operating procedures shall also provide that a negative result is a condition of employment as a sworn officer and that a positive result will result in: a) the officer's termination from employment; b) inclusion of the officer's name in the central drug registry maintained by the Division of State Police; and c) the officer being permanently barred from future law enforcement employment in New Jersey.
 4. The agency's rules and regulations or appropriate standard operating procedures shall further provide that 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

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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. Law enforcement agencies may choose to implement a random drug testing program for their sworn law enforcement officers. Law enforcement agencies which establish a random drug testing program must do so by rule and regulation as defined in *N.J.S.A. 40A:14-118* for municipal law enforcement agencies or by appropriate standard operating procedures for county and state law enforcement agencies. Random drug testing cannot be implemented until rules and regulations establishing such a procedure have been in effect for a minimum of 60 days.
 2. Each agency's rules and regulations or appropriate standard operating procedures will, at a minimum:
 - a. State that all sworn members of the agency are eligible for random drug testing, regardless of rank or assignment.
 - b. State the number of officers to be selected each time a random selection takes place. This can be expressed as either a number of sworn officers or a percentage of the sworn officers, which in every case shall be less than the total number of sworn officers employed by the agency.
 - c. Establish a method of random selection which ensures that every sworn officer in the agency has an equal chance to be selected for a testing each and every time a selection takes place.
 - d. Establish a system by which the selection process can be verified and documented.
 - e. Permit a representative of the collective bargaining unit(s) to witness the selection process.
 - f. Provide that any member of the agency who discloses the identity of an officer selected for random testing or the fact that a random selection is scheduled to take place prior to the collection of urine specimens shall be subject to discipline.
 - g. Establish a system to collect urine specimens from selected officers in a prompt, efficient and confidential manner.

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- h. The agency's rules and regulations or appropriate standard operating procedures shall further provide that 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. 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.

IV. Specimen acquisition procedures

A. Preliminary acquisition procedures

- 1. The law enforcement agency shall designate a member of its staff to 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. 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.
- 3. 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: 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. Applicants shall not complete a medical questionnaire (Attachment B) prior to the submission of a specimen unless they have already received a conditional offer of employment. However, applicants who have not

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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.

4. Prior to the submission of a urine specimen, a trainee enrolled in a basic training course shall execute a form (Attachment C) advising the trainee that a negative result is a condition of employment and that a positive result will: a) result in the trainee being dismissed from basic training; b) cause the trainee to be dismissed from employment as a law enforcement officer by his or her appointing authority; c) cause the trainee's name to be reported to the central drug registry maintained by the Division of State Police; and d) cause the trainee to be permanently barred from future law enforcement employment in New Jersey. 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 medical questionnaire (Attachment B) which clearly describes all medications, both prescription and over-the-counter (non-prescription), that were ingested in the past 14 days.
5. Prior to the submission of a urine specimen, sworn law enforcement officers shall complete a medical questionnaire (Attachment B) which clearly describes all medications, both prescription and over-the-counter (non-prescription), that were ingested in the past 14 days.

B. Specimen collection

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.
2. 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.
3. Urine specimens will be acquired and processed in accordance with procedures established by the State Toxicology Laboratory.
 - a. After the monitor has inspected the appropriate forms for accuracy, the applicant, trainee or sworn officer shall void into the specimen collection container.

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- b. After a specimen has been produced, the individual shall seal the specimen container and deliver it to the monitor.
 - c. Once the monitor is satisfied that the required documentation is accurate and he or she 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.
 4. 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. Law enforcement agencies must document the facts underlying their belief that an individual may adulterate a specimen or compromise the integrity of the test process.
 5. 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 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 provide 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.
 6. 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.
 - a. 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.
 - b. The law enforcement agency shall maintain possession of the second specimen 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.
 - c. The second specimen shall be released by the law enforcement agency under the following circumstances:

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- (1) The law enforcement agency is notified by the State Toxicology Laboratory that the first specimen tested positive for a controlled substance; and
- (2) The law enforcement agency is informed by the individual whose specimen tested positive that the individual wishes to have the specimen independently tested; and
- (3) The 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; and
- (4) A representative of the licensed clinical laboratory designated by the individual takes possession of the second specimen in accordance with accepted chain of custody procedures within 60 days of the date the specimen was produced.

V. Submission of specimens for analysis

- A. 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.
- B. Urine specimens should be submitted to the State Toxicology Laboratory as soon as possible after their collection. In the event a specimen cannot be submitted to the laboratory within one working day of its collection, the law enforcement agency shall store the specimen in a controlled access refrigerated storage area until submission to the State Toxicology Laboratory.
 1. Submission of specimens to the State Toxicology Laboratory may be accomplished by personnel from the law enforcement agency or commercial courier.
 2. Should a law enforcement agency 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 submissions must be packaged in a manner that includes two additional seals to provide for the integrity of the test specimens.

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- c. The State Toxicology Laboratory must reject specimens that it has reason to believe have been subject to tampering.

VI. Analysis of specimens

- A. 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 the 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 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; and
 - h. opiates.

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

VII. Drug test results

- A. The State Toxicology Laboratory shall notify the submitting law enforcement agency of test results from the specimens submitted for analysis. All reports shall be in writing and sent to the agency within 15 working days of the submission.
- B. 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 the medical questionnaire pertinent to that specimen.
- C. The submitting agency shall notify the applicant, trainee or sworn officer of the results 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.
- D. Under no circumstances may an 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.

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 agency;
 2. The applicant shall be reported to the Central Drug Registry maintained by the Division of State Police by the law enforcement agency to which the individual applied; and
 3. The applicant shall be precluded from consideration for future law enforcement employment by any law enforcement agency in New Jersey for a period of two 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

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Division of State Police.

- B. When a trainee tests positive for illegal drug use, subject to rules adopted by the Police Training Commission:
 - 1. The trainee shall be immediately dismissed from basic training and suspended from employment by his or her appointing authority;
 - 2. 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; and
 - 4. The trainee shall be permanently barred from future law enforcement employment in New Jersey.

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

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.

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- 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.

- X. 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. Each law enforcement agency's Internal Affairs Unit shall maintain all records relating to the drug testing of applicants, trainees and law enforcement officers.
 - B. Each agency'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 State Toxicology Laboratory;
 - f. the results of the drug testing;
 - g. copies of notifications to the subject; and
 - h. for any positive result or refusal, appropriate documentation of disciplinary action.
 - 2. For random drug testing, the records will also include the following information:

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- 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. Every law enforcement agency shall notify the Central Drug Registry maintained by the Division of State Police of the identity of applicants, trainees and sworn law enforcement officers who test positive for the illegal use of drugs or refuses an order to submit a urine sample on the form prescribed in Attachment D.
- B. 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, or circumstances of the refusal to submit a urine sample;

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

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ATTACHMENT A

DRUG TESTING
APPLICANT NOTICE AND ACKNOWLEDGMENT

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

I understand that as part of this process, I will undergo drug testing through urinalysis.

I understand that a negative drug test result is a condition of employment.

I understand that if I refuse to undergo the testing, I will be rejected for employment.

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

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

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

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

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

Signature of Applicant Date

Signature of Witness Date

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ATTACHMENT B

DRUG TESTING
MEDICATION INFORMATION

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

all that apply:

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

	Name of Medication	Prescribing Physician	Date Last Taken
1			
2			
3			

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

	Non-Prescription Medication	Date Last Taken
1		
2		
3		

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

Social Security Number & Initials

Date

Signature of Witness

Date

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ATTACHMENT C

DRUG TESTING
TRAINEE NOTICE AND ACKNOWLEDGMENT

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

I understand that a negative result is a condition of my continued attendance at the academy.

I understand that I can refuse to undergo the testing. I understand that if I refuse, I will be dismissed from the academy and from my law enforcement position.

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

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

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

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

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

Signature of Applicant Date

Signature of Witness Date

