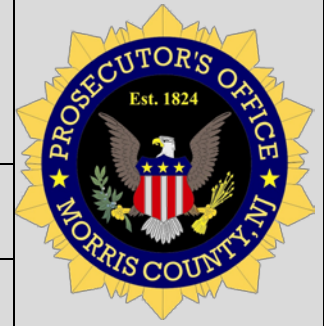


MORRIS COUNTY PROSECUTOR'S OFFICE POLICY & PROCEDURE



**ADMINISTRATIVE
POLICY**

**ADMINISTRATIVE POLICY
NUMBER AP-05**

OF PAGES: 15

SUBJECT: DRUG SCREENING AND TESTING

EFFECTIVE DATE:

November 17, 2014

**ACCREDITATION
STANDARDS:**

REVISION DATE

June 6, 2018

PAGE #

BY THE ORDER OF:

Prosecutor Fredric M. Knapp

SUPERSEDES ORDER #:

PURPOSE:

The Morris County Prosecutor's Office demands that its members are held to the highest standard of conduct and perform their duties in a drug free environment. To preserve the integrity of the Office, and to ensure that the citizens of Morris County are provided with untainted and quality law enforcement services, the Morris County Prosecutor's Office has developed this Drug Screening and Testing Policy & Procedure applicable to all of its members.

POLICY:

It is the policy of the Morris County Prosecutor's Office to utilize this policy and procedure as it pertains to drug screening and drug testing of its members, both sworn and non-sworn. The New Jersey Attorney General's Law Enforcement Drug Testing Policy and Law Enforcement Directive 2018-2 was referenced to develop this policy, and in the event of current or future conflicting information, the New Jersey Attorney General's Law Enforcement Drug Testing Policy and Law Enforcement Directive 2018-2 shall supersede this policy & procedure.

I. Definitions for the Purposes of this Policy

- A. Applicant
All persons who apply for a position, paid or unpaid, with the Morris County Prosecutor's Office.
- B. Member
All persons working for the Morris County Prosecutor's Office, whether paid or unpaid.
- C. Drug Test
A method of examining a urine specimen for the presence of select drugs identified in section XII.A.1 of this policy.
- D. Non-Sworn Members
Includes Morris County Prosecutor's Office members without law enforcement authority, including agents, grant employees, support staff, interns and volunteers.
- E. Detective
Includes sworn Morris County Prosecutor's Office investigators, regardless of rank or assignment, authorized to carry a firearm. (Non-Prosecutors)
- F. Prosecutors
Includes Morris County Prosecutor's Office members with prosecutorial authority, regardless of position.
- G. Trainee
Includes Morris County Prosecutor's Office detectives attending or scheduled to attend a mandatory Division of Criminal Justice's Basic Course for Investigators or any Police Training Commission approved basic training course. Drug testing conducted during basic training at the training facility will comply with Rules and Regulations established by the New Jersey Police Training Commission and training academy.
- H. Random Drug Testing
A method of selection in which every detective, regardless of rank or assignment, has an equal chance to be selected for drug testing each time the selection process is administered. The random drug testing section of this policy shall not be applicable until (60) days after the issuance of this policy & procedure.
- I. Reasonable Suspicion Drug Testing
Based on conduct, behavior, or credible intelligence the reasonable suspicion that any member of this Office is illegally using drugs. Reasonable suspicion is not an un-particularized suspicion or a hunch. It must be based on specific and articulable facts, taken together with rational inferences that the member is illegally using drugs.

- J. Prohibited Drugs
Prima-facie illegal substances identified in section XII.A.1 of this policy are prohibited. Legally prescribed substances are not prohibited, however in accordance with section XVI.A of this policy, when a member of the MCPO is prescribed a medication that may affect his/her performance, he/she is required to immediately advise the Prosecutor or his/her designee via chain of command. A copy of the prescription must be submitted to the Professional Standards Unit within (5) working days of the drug test. Refer to section XVI.A of this policy for further information regarding prescription or over the counter medications that affect work performance.

- K. Negative Drug Test Result
No prohibited substances identified in the member's system.

- L. Positive Drug Test Result
Prohibited substances identified in the member's system.

- M. Central Drug Registry
A data base maintained by the New Jersey State Police identifying detective applicants, detective trainees and current detectives who have failed a sanctioned drug test, refused to submit to a drug test, or who have resigned or retired prior to submitting to a drug test.

II. Introduction

- A. All members of the Morris County Prosecutor's Office shall be subject to pre-employment drug screening.

- B. All members of the Morris County Prosecutor's Office shall be subject to drug testing based upon reasonable suspicion.

- C. All detectives, regardless of rank, of the Morris County Prosecutor's Office shall be subject to random drug testing.

- D. All detective trainees employed by the Morris County Prosecutor's Office prior to or while attending a mandatory Division of Criminal Justice Basic Course for Investigators Academy shall be subject to reasonable suspicion and random drug testing by this Office.

- E. Internal drug testing procedures shall be managed by the Professional Standards Unit (PSU) of the Specialized Crimes Division. The PSU shall securely retain all drug testing documents and reports.

- F. An Internal Affairs case number shall be generated and an Internal Affairs investigation initiated for all drug testing cases based on reasonable suspicion or a positive test result for prohibited substances.

III. Pre-Employment Drug Screening

- A. All applicants for any position, paid or unpaid, within the Morris County Prosecutor's Office shall be drug tested prior to appointment after providing written consent. The applicant will be disqualified from any position within the Office for testing positive for prohibited drugs or refusing to submit to a test.

IV. Detective Applicants

- A. Detective applicants shall be informed that the pre-employment process will include drug testing specified on the DRUG TESTING APPLICANT NOTICE AND ACKNOWLEDGMENT form. (Attachment)
- B. The form minimally indicates that a negative result is a condition of employment, and that a positive result will be just cause for all of the following:
 - 1. The applicant being disqualified from hiring process.
 - 2. Inclusion of the applicant's name in the Central Drug Registry.
 - 3. The applicant being barred from future law enforcement employment in the State of New Jersey for a period of (2) years.
 - 4. If employed by another law enforcement agency, notification to that agency reporting the positive result.
- C. Applicants shall be informed that refusal to submit to a drug test during the pre-employment process shall be treated as if they tested positive for drugs with the same consequences cited in IV.B.1-4 of this policy.

V. Detective Trainees

- A. All newly appointed investigator trainees attending or scheduled to attend a New Jersey Division of Criminal Justice Basic Course for Investigators or any Police Training Commission approved basic training course, shall be informed that drug testing on a random and reasonable suspicion basis is mandatory during basic training. Each academy will regulate testing at their facility. Trainees shall minimally be informed that a negative result is required to remain employed at the Morris County Prosecutor's Office and a positive result or refusal to submit to a drug test will be just cause for all of the following:
 - 1. The immediate dismissal from the training academy and the immediate suspension from the Morris County Prosecutor's Office.
 - 2. Termination from employment upon final disciplinary action by the Morris County Prosecutor.
 - 3. Inclusion in the Central Drug Registry.

4. The trainee being permanently barred from future law enforcement employment in the State of New Jersey.

VI. Reasonable Suspicion Drug Testing

- A. All members, sworn and civilian, are required to submit to a drug test when there is a reasonable suspicion to believe that the member is illegally using drugs.
 1. Before a member may be ordered to submit to a drug test based on reasonable suspicion, a written report shall be prepared by the applicable personnel, which shall document the basis for the reasonable suspicion. The report shall be reviewed by the Prosecutor or his/her designee before the drug test may be ordered. Under emergent circumstances, approval may be given for a reasonable suspicion test based on a verbal report, followed by a written report.
 - a. Reasonable suspicion shall be determined by the following factors:
 - (1) The nature and source of the information.
 - (2) Whether the information constitutes direct evidence or is hearsay in nature.
 - (3) The reliability of the information or source.
 - (4) Whether corroborating information exists and the degree to which it corroborates the accusation, and whether and to what extent the information may be stale.
- B. A negative result is required to remain employed at the Morris County Prosecutor's Office. A positive result or refusal to submit to a drug test will be just cause for all of the following:
 1. Immediate suspension from the Morris County Prosecutor's Office.
 2. Termination from employment upon final disciplinary action by the Morris County Prosecutor.
 3. Inclusion of the member's name in the Central Drug Registry. (Detectives)
 4. The member being permanently barred from future law enforcement employment in the State of New Jersey. (Detectives)
- C. Detectives who refuse to submit to a drug test and who resign or retire in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported to the Central Drug Registry, and shall be permanently barred from future law enforcement employment in the State of New Jersey.

VII. Random Drug Testing of Detectives

- A. All detectives are subject to random drug testing, regardless of position, rank or assignment. Random drug testing shall be scheduled semi-annually on dates determined by the Prosecutor or his/her designee.
 - 1. Ten percent (10%) of the Office's detectives shall be tested each time a random selection takes place. If a detective is scheduled off, sick or otherwise unavailable on the date chosen for the random drug test, the detective shall be tested immediately upon return to duty.
 - 2. If a detective is randomly selected for testing and he/she is on approved leave for a period of time in excess of fifteen (15) business days (i.e.; family medical leave), the next detective on the list may be selected.
- B. Random selection shall be by a computer program specifically utilized to ensure that every detective has an equal chance of being tested each time a selection process is administered.
- C. The computer program's selection process will be verified by the Chief of Investigations or his/her designee, and documented by PSU each time that the random selection process occurs.
 - 1. A representative of the respective collective bargaining units (P.B.A. Local 327, Superior Officers Association) shall be permitted to witness the selection process.
 - 2. Every Office detective who is present to administer the drug test and collective bargaining detective who is present during the testing process shall print, sign, and date each document generated by the computer.
- D. Any member who discloses the identity of a detective 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 disciplinary action.
- E. Urine specimen(s) shall be collected from selected personnel in a prompt, efficient and confidential manner.
- F. A negative result is required to remain employed at the Morris County Prosecutor's Office. A positive result of prima-facie illegal drugs or refusal to submit to a drug test will be just cause for all of the following:
 - 1. Immediate suspension from the Morris County Prosecutor's Office.
 - 2. Termination from employment upon final disciplinary action by the Morris County Prosecutor.
 - 3. Inclusion of the member's name in the Central Drug Registry.
 - 4. The detective being permanently barred from future law enforcement employment in the State of New Jersey.

- G. Detectives who refuse to submit to a random drug test and who resign or retire in lieu of disciplinary action or prior to the completion of final disciplinary action, shall be reported to the Central Drug Registry, and shall be permanently barred from future law enforcement employment in the State of New Jersey.

VIII. Other Drug Testing

- A. Urine specimens may be collected during a regularly scheduled and announced medical examination, or a fitness for duty examination. However, the collection and analysis of these specimens is not governed by this policy. Members who test positive for illegal drug use during a physical exam sanctioned by the Morris County Prosecutor's Office are subject to appropriate disciplinary action as determined by the Prosecutor or his/her designee.

IX. Specimen Acquisition Procedures

- A. General acquisition procedures:
 - 1. Detectives assigned to PSU shall be assigned as monitors for the specimen collection procedure utilizing a method approved by the Prosecutor or his/her designee that is consistent with the New Jersey Attorney General's Law Enforcement Drug Testing Manual.
 - 2. Monitors shall always be of the same sex as the individual being tested. If a monitor of the same sex is not immediately available, a Morris County Prosecutor's Office detective supervisor, regardless of assignment, of the same sex shall be designated as the monitor for the specific test.
- B. The monitors of the specimen acquisition shall be responsible for:
 - 1. Prior to the collection, ensuring that all relevant documents are properly and accurately completed by the individual submitting the specimens. Where applicable, these forms include the DRUG TESTING APPLICANT NOTICE AND ACKNOWLEDGEMENT form, the DRUG TESTING OFFICER AND ACKNOWLEDGMENT form, and the DRUG TESTING MEDICATION INFORMATION form (Attachments). Note: Refer to section IX. E of this policy concerning the DRUG TESTING MEDICATION INFORMATION form and privacy.
 - 2. Collecting the specimens in a manner that provides for individual privacy while ensuring the integrity of the specimens.
 - 3. Complying with the Morris County Prosecutor's Office chain of custody procedures cited in MCPO Policy & Procedure Volume 5, Chapter 6, titled Evidence & Property Control.

- C. Prior to the submission of a specimen, detective applicants shall complete the form consenting to the collection and analysis of their urine for illegal drugs, titled DRUG TESTING APPLICANT NOTICE AND ACKNOWLEDGEMENT. (Attachment)
 - 1. Under the Americans with Disabilities Act, medical inquiries, including questions concerning medications cannot be used during the pre-employment stage, unless a positive test result requires an explanation. Applicants shall not complete the attached DRUG TESTING MEDICATION INFORMATION form prior to the submission of a specimen.
- D. Drug testing of detective trainees shall also be conducted while the trainees attend the Division of Criminal Justice's Basic Course for Investigators or any Police Training Commission approved basic training course.
 - 1. The detective trainee shall complete a DRUG TESTING TRAINEE NOTICE AND ACKNOWLEDGEMNT form and any other applicable forms disseminated by the training academy. (Attachment)
 - 2. Forms shall be supplied by, and retained by the training academy.
- E. Detectives who are drug tested shall complete a DRUG TESTING MEDICATION INFORMATION form, which shall clearly describe all medications, both prescription and over-the-counter (non-prescription), dietary supplements and nutritional supplements, that were ingested by the member in the past fourteen (14) days. Completion of this form shall occur prior to the submission of a urine specimen for testing. To ensure confidentiality, prior to delivering the form to the monitor, the detective shall seal the form in an envelope and write their social security number on the outside over the seal of that same envelope.

X. Specimen Collection

- A. Throughout the testing process, the identity of individual shall remain confidential. Individual specimens shall be identified throughout the process by the use of social security numbers only. At no time shall an individual's name appear on any form or specimen container sent to the New Jersey State Toxicology Laboratory.
- B. Specimens will be collected utilizing equipment and supplies approved by the New Jersey 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 New Jersey State Toxicology Laboratory.
- C. Urine specimens shall be acquired in accordance with procedures established by the New Jersey State Toxicology Laboratory. Refer to the form titled INSTRUCTIONS FOR USING THE DOX CONTAINER. (Attachment)

1. After the monitor has inspected the applicable documents for accuracy, the applicant or member shall write their social security number on the provided plastic label using a number (2) pencil, place the label inside each container with writing facing out, then void into two specimen collection containers. Names shall not be used on the labels.
 2. After the specimens have been produced, the individual shall seal the specimen containers as instructed, and deliver both to the monitor.
 3. Once the monitor is satisfied that the required documentation is accurate and he/she has inspected the specimen containers to determine that the specimens have been produced properly, the monitor shall take possession of the specimens and ensure that both are delivered to the New Jersey State Toxicology Laboratory for analysis, with the required forms, including the DRUG TESTING MEDICATION INFORMATION form, and the LAW ENFORCEMENT DRUG TESTING CUSTODY AND SUBMISSION form supplied by the New Jersey State Toxicology Laboratory.
- D. Individuals will urinate without the direct observation of the monitor unless there is a reason to believe that the individual will adulterate the specimens or otherwise compromise the integrity of the testing process. Under these circumstances, and with the approval by the Prosecutor, the production of the specimens may be directly observed by the monitor after the facts have been reviewed and subsequently documented in writing supporting the belief that an individual may adulterate a specimen or compromise the integrity of the testing process.
1. All members of this Office shall be aware of N.J.S.A. 2C:36-10 concerning Defrauding of the administration of a drug test. Under this statute, to "defraud the administration of a drug test" means to submit a substance that purports to be from a person other than its actual source, or purports to have been excreted or collected at a time other than when it was actually excreted or collected, or to otherwise engage in conduct intended to produce a false or misleading outcome of a test for the presence of a chemical, drug or controlled dangerous substance, or a metabolite of a drug or controlled dangerous substance, in the human body.
 2. If the monitor has a reasonable basis to believe that an applicant or member of this Office has defrauded or attempted to defraud the administration of a drug test, he/she shall promptly report the matter to the Prosecutor and the Chief of Investigations via chain of command. The Chief of Investigations shall provide investigative direction at that time. The Prosecutor or his / her designee shall determine if the NJ Division of Criminal Justice needs to be notified.
- E. Individuals who initially are unable to produce urine specimens shall remain under the supervision of the monitor until the individual can produce two specimens. While the individual is under supervision, the monitor may allow the individual to drink fluids in an attempt to induce the production of

specimens. If the individual remains unable to provide specimens after a three (3) hour period, with the approval of the Prosecutor or his / her designee, the monitor may have the individual examined by a doctor from a medical facility contracted by Morris County to determine whether the inability to produce the specimens was the result of a medical or physical infirmity, or constituted a refusal to cooperate with the drug testing process.

XI. Submission of Specimens for Analysis

- A. Except for pre-employment screening performed at a medical facility during a required physical examination, urinalyses shall be conducted by the New Jersey State Toxicology Laboratory, which shall be the sole facility used for the analysis of drug tests administered by the PSU.
- B. Urine specimens shall typically be submitted to the New Jersey State Toxicology Laboratory within one (1) working day of collection. In the event specimens cannot be submitted to the laboratory within one working day of the collection, the specimen shall be stored in a refrigerator located in the Evidence Room until delivery of the specimens on the following working day.
 - 1. Delivery of specimens, the sealed DRUG TESTING MEDICATION INFORMATION form (Excluding Applicants), and the LAW ENFORCEMENT DRUG TESTING CUSTODY AND SUBMISSION form to the State Toxicology Laboratory shall be accomplished by a monitor or another detective assigned by a PSU supervisor. (Attachments)
- C. Second Specimen
 - 1. The second specimen can be used if the first specimen tests positive, the result is contested, and the individual coordinates an independent test.
 - 2. The New Jersey State Toxicology Laboratory shall maintain possession of the second specimen for a period of sixty (60) days from the date of receipt.
 - 3. The second specimen shall be released under the following circumstances:
 - a. This Office is notified that the first specimen tested positive for a controlled dangerous substance;
 - b. This Office notifies the individual that the first specimen tested positive for a controlled dangerous substance; and
 - c. This Office is informed by the individual whose specimen tested positive that he / she wishes to challenge the positive test result.

4. The individual must designate, from a list 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 specimen.
5. A representative of the second laboratory may, in person, take possession of the second specimen in accordance with accepted chain of custody procedures, or the specimen may be sent to the laboratory by pre-paid tracking mail also following accepted chain of custody procedures.
6. Following testing of the second specimen, the independent laboratory will report the result to the individual, this Office, and the medical review officer at the New Jersey State Toxicology Laboratory.
7. The New Jersey State Toxicology Laboratory maintains a list of SAMSHA and CAP certified laboratories, and will provide the same upon request.

XII. Analysis of Specimens

- A. The analysis of each specimen shall be completed in accordance with procedures adopted by the New Jersey State Toxicology Laboratory.
 1. The New Jersey State Toxicology Laboratory shall analyze each specimen for the following substances and their metabolites:
 - a. Amphetamine/methamphetamine
 - b. Barbiturates
 - c. Benzodiazepine
 - d. Marijuana
 - e. Cocaine
 - f. Methadone
 - g. Phencyclidine
 - h. Opiates
 - i. Oxycodone / Oxymorphone
 - j. Anabolic Steroids
(Upon Request)

XIII. Drug Test Results

- A. The State Toxicology Laboratory will typically notify the Morris County Prosecutor's Office of all drug test results in writing within (15) working days of the drug test. The Specialized Crimes Division Commander shall ensure that the Prosecutor and the Chief of Investigations are immediately advised of any positive test results for prima-facie illegal drugs.
- B. As soon as practical, the Morris County Prosecutor's Office shall notify the member of the test result after receipt of the report from the New Jersey State Toxicology Laboratory. Upon request, the individual may receive a copy of the laboratory report.
- C. Under no circumstances will the Morris County Prosecutor's Office or an individual resubmit a specimen for testing or ask that a particular specimen within the possession of the New Jersey State Toxicology Laboratory be re-tested.

XIV. Record Keeping

- A. The PSU shall maintain all records relating to the internal drug testing at the same level of confidentiality required for Internal Affairs files pursuant to the New Jersey Attorney General's Internal Affairs Policy and Procedures.
- B. Drug testing records shall include but are not be limited to:
 - 1. The identity of those ordered to submit urine samples.
 - 2. The reason for that order.
 - 3. The date the urine was collected.
 - 4. The monitor of the urine collection process.
 - 5. The chain of custody of the urine sample from the time it was collected until the time it was received by the New Jersey State Toxicology Laboratory.
 - 6. The results of the drug testing.
 - 7. Copies of notifications to the subject.
 - 8. For any medicinal positive result, a copy of the applicable prescription.
 - 9. For any positive results or refusal, appropriate documentation of the disciplinary action.
- C. For random drug testing, the records shall also include, but not limited to the following information:
 - 1. A description of the process used to randomly select employees for drug testing.

2. A copy of the complete roster of detectives.
3. A copy of the document listing the identities of those selected for drug testing.
4. The date the selection process was performed.
5. A list of those who were actually tested.
6. The date(s) those employees were tested.
7. The identity of any collective bargaining unit member(s) who witnessed the selection process.

XV. Central Drug Registry

- A. The Prosecutor, Chief of Investigations or his/her designee shall notify the Central Drug Registry of the identity of any Morris County Prosecutor's Office detective applicant, detective trainee, or detective who tests positive for the illegal use of drugs, or who refuse an order to submit a urine sample, or who refuse to submit to a drug test and who resign or retire in lieu of disciplinary action prior to the completion of final disciplinary action.
- B. Notification to the Central Drug Registry shall be documented on the attached NOTIFICATION TO THE CENTRAL DRUG REGISTRY form and shall include the following information:
 1. Name and address of the office along with the 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. S.B.I. Number (if applicable);
 7. Gender;
 8. Race;
 9. Eye color;
 10. Substance for which the individual tested positive, 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 detective.

- C. The certification section of the Central Drug Registry Notification Form must be completed by the Prosecutor or Chief of Investigations and notarized with a raised seal.

Notification shall be made to:

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

- D. Information contained in the Central Drug Registry may be released by the Division of State Police only under the following circumstances:
 - 1. In response to an inquiry from a law enforcement agency as part of the background investigation for prospective or newly appointed personnel; or
 - 2. In response to a court order.

XVI. Notifications

- A. Any member who is taking prescribed medication or over the counter medication that may affect job performance shall immediately report the same to the Prosecutor or his/her designee. Refer to the Morris County Prosecutor's Office Rules & Regulations, Policy & Procedure Volume 1, Chapter 2, Section 2.3.8, titled Prescription Medication, for additional information.
- B. Any member shall immediately report any evidence of suspected drug use by any member of the Morris County Prosecutor's Office to their immediate supervisor. The supervisor shall immediately report the same to the Prosecutor or his/her designee via the chain of command.
- C. By January 31st of each year, the Prosecutor or his/her designee shall submit all reports required by the Attorney General, through the Division of Criminal Justice's Prosecutors' Supervision and Training Bureau, including but not limited to the following:
 - 1. A report that includes a statement indicating those agencies under the authority of the Morris County Prosecutor, that are in compliance with the New Jersey Attorney General law Enforcement Directive 2018-2, and those who are not. The summary shall not reveal any subject officer's identity.

XVII. Public Transparency

- A. This Policy & Procedure shall be made available to the public upon request and posted on the Morris County Prosecutor's Office website.
- B. Annual Drug Testing reports from this Office to the Attorney General shall be made available to the public upon request and posted on the Morris County Prosecutor's Office website.

XVIII. Confidentiality

- A. The identities of Morris County Prosecutor's Office personnel subject to drug testing, regardless of the testing result, are confidential and are NOT subject to public disclosure.

Attachments