

## PERSONNEL MANAGEMENT

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### ALCOHOL AND DRUG POLICY

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**Purpose:** The Police Department has a vital interest in providing for the safety and well being of all members and the public as well as maintaining efficiency and productivity in all of its operations. In fulfillment of its responsibilities, the Department is committed to the maintenance of a drug and alcohol free work place. This directive establishes departmental policy regarding drug and alcohol use by members and prescribes the circumstances and procedures for the testing of members for drug and alcohol use.

**Policy Statement:** In the interest of member safety and productivity, the safety of the public, and the general effectiveness and efficiency of police Department operations, the Department must insure a drug and alcohol-free workplace.

**Summary of Changes:** Adds definition section. Adds training frequency (sec.2.4). Adds work disclosure clause (sec. 4.5.1). Add exclusion clause (sec. 3.3). Safety and Security-Sensitive position. Modifies disclosure criteria to include medications that may interfere or impair ability to perform essential functions (sec. 3.1). Adds reporting requirements (sec. 4). Adds disciplinary clause (sec. 8.1.8 and 8.1.9). New format.

**Definitions:**

**Safety and Security-Sensitive Positions:** A position in which a momentary lapse of attention may result in grave and immediate danger to the public, or one where the position requires the enforcement of laws pertaining to the use of illegal substances. These positions include but are not limited to: police officer, police dispatcher, and any police department member having access to information concerning ongoing criminal investigations or criminal cases which information could, if revealed, compromise, hinder, or prejudice the investigation or prosecution of the case.

**Procedure:**

**1 General Provision**

- 1.1 All members must be free from the effects of illegal drugs and alcohol during scheduled working hours as a condition of employment. Drinking alcoholic beverages or using drugs while on duty, on Department property, in Department vehicles, in Department uniform, during breaks or at lunch, or working or reporting for work when impaired by or under the influence of alcohol, or when drugs and/or drug metabolites are present in the member's system, is strictly prohibited and grounds for disciplinary action including immediate discharge. In addition, members are subject to disciplinary action including immediate discharge for the unlawful manufacture, distribution, dispensation, possession, concealment or sale of alcohol or drugs while on duty, on Department property, in Department vehicles, in uniform, during breaks, or at lunch.
- 1.2 The Department reserves the right to require members to submit to chemical testing to determine usage of drugs and/or alcohol as provided below. Members must submit to all required tests. Any member who refuses to submit to any required test without a valid medical explanation will be subject to immediate discharge. Refusal to execute any required consent forms, refusal to cooperate regarding the collection of samples, or submission or attempted submission of an adulterated or substituted urine sample will be deemed refusal to submit to a required test.
- 1.3 Although termination of employment is the general policy for drug and alcohol violations, the Department also reserves the right, in the extraordinary case that the member's employment is not terminated, to require return to duty and follow-up testing deemed necessary as a result of a condition of reinstatement or continued employment in conjunction with or following completion of an approved drug and/or alcohol treatment, counseling or rehabilitation program. Members may also be required to execute a "last chance agreement," addressing any specific terms of reinstatement or continued employment.
- 1.4 The Department will contract with a professional testing company to provide testing services.

**2 Drug-Free Awareness Program/Education and Training**

- 2.1 The Department will provide drug-free awareness education and training to assist members to understand and avoid the perils of drug and alcohol abuse. The Department will use this program in an ongoing educational effort to prevent and eliminate drug and alcohol abuse that may affect the workplace.
- 2.2 The Department will inform members about:
  - 2.2.1 The Department's policy of maintaining a drug and alcohol free workplace;
  - 2.2.2 The penalties that may be imposed upon members for drug and alcohol abuse violations;

- 2.2.3 The availability of the Department's Employee Assistance Program (EAP).
- 2.3 Supervisors who may be asked to determine whether reasonable suspicion exists to require a member to undergo drug and/or alcohol testing will receive at least 60 minutes of training on alcohol/drug use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and drug use.
- 2.4 Training will be conducted once every three years.

### **3 Prohibited Substances/Legal Drugs/Unauthorized Items**

- 3.1 Prohibited Substances: Alcoholic beverages and drugs are considered to be prohibited substances in the workplace. For purposes of this policy, the term "drugs" includes controlled substances (as identified in Schedules 1 through V of Section 202 of the Controlled Substances Act, 21 U.S.C. § 812, and the regulations promulgated there under, and/or defined in the Uniform Controlled Substances Act, Ark. Code Ann. § 5-64-201-216), including synthetic narcotics, designer drugs, and prescription drugs; however, prescription drugs approved by and used in accordance with the directions of the member's physician that do not otherwise interfere with the ability of the member to perform the essential functions of his/her job, or prescription drugs that do not otherwise compromise the safety of the officer, the Department, or those with whom the member comes in contact while on duty, may be used after appropriate notifications have been made to the member's supervisor. The Department requires disclosure of medications that may impair or otherwise interfere with a member's ability to perform essential functions. Use of prescription drugs must be under a current prescription.
- 3.2 Unauthorized Items: Members may not have any unauthorized items in their possession or in any area used by them or under their control. Unauthorized items include, but are not limited to, alcoholic beverage containers and drug paraphernalia, unless the possession of such items are necessary in the performance of a member's duties in accordance with Department policies.
- 3.3 The use of medications that are legally available over-the-counter is excluded from the requirements of this policy, unless such use results in a state of intoxication or impairment that is clearly a hazard to safety.

### **4 Prescription Drug Reporting Requirements**

- 4.1 All members must complete a *Prescribed Medication Declaration Form* (attachment A) upon receiving a prescription for any medication in the following categories:
  - 4.1.1 Narcotics;
  - 4.1.2 Stimulants;
  - 4.1.3 Hallucinogens;
  - 4.1.4 Any prescriptions that could cause drowsiness, altered mental capabilities, or reduced motor functions; or
  - 4.1.5 Any prescription that is accompanied by a label or warning regarding the use of operation of heavy equipment or automobiles.
- 4.2 The form must be completed immediately upon returning to work after receiving the prescription and forwarded to the member's Division Commander.
- 4.3 Upon receiving a completed form, the Division Commander will notify the reporting member's immediate supervisors, sign the form indicating that the information has been received, and then forward the form to the Professional Standards Unit.
- 4.4 The Professional Standards Unit will maintain a filing system separate from member's permanent record for all completed *Prescribed Medication Declaration Forms*. The forms will be kept for a period of two years.
- 4.5 Members that have a prescription for a medication in one of the aforementioned categories that is taken on an "as needed" basis, or members that have a refillable prescription for a medication in one of the aforementioned categories will only need to complete one *Prescription Medication Declaration Form* per year, as long as the prescription, dosage, or frequency does not change.
  - 4.5.1 It will be the responsibility of the member to inform the prescribing physician and/or pharmacist of the job description and duties so that the prescribing physician and/or pharmacist may make a professional decision regarding the limitations and restrictions of prescribed medication use.

### **5 Use of Alcohol and Drugs/Prohibited Conduct**

- 5.1 All members covered under this policy are subject to the following prohibitions regarding the use of alcohol and drugs (controlled substances):
  - 5.1.1 Members will not report for duty or remain on duty when the member has a blood alcohol concentration of 0.02 or greater.
  - 5.1.2 Members will not consume alcohol while on duty, except as may be necessary in the performance of an officer's duties and pre-approved by competent authority.
  - 5.1.3 Members required to undergo post-accident testing will not use alcohol for 8 hours following the accident, or until they undergo a post-accident alcohol test.

- 5.1.4 Members will submit to all authorized drug or alcohol tests.
- 5.1.5 Members will not report for duty or remain on duty while under the influence of any controlled substance or prescription medication, except when the use thereof is pursuant to the instructions of a licensed physician who has advised the member that the drug will not affect the member's ability to safely perform the member's job duties.
- 5.2 In addition, subject to disciplinary rules set forth below, members who are found to have an alcohol concentration of 0.02 or greater in any authorized alcohol test will be removed from duty, and may not return to duty until the start of the member's next regularly scheduled shift, but not less than 24 hours following administration of the test.
- 5.3 The foregoing rules will apply to all members and will apply while on duty, during periods when they are on breaks or at lunch, or while the member is not performing safety or security sensitive functions.

## **6 When Drug and Alcohol Testing Will Be Required of All Members**

- 6.1 Members (and applicants) covered by this policy will be required to submit to chemical testing in the following circumstances:
  - 6.1.1 When the City has reasonable suspicion that a member has violated any of the above prohibitions regarding use of alcohol or drugs;(For the purposes of this rule, reasonable suspicion will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, demeanor, speech, actions, or body odors of the member. The required observations must be made by a supervisor or Department official or member that has been trained in detecting the signs and symptoms of misuse of alcohol and drug use;
  - 6.1.2 Return to duty testing is required after a member has engaged in any of the above prohibitions concerning use of alcohol or drugs, unless the violation results in termination. Return to duty or follow-up drug and/or alcohol test may be required under an agreement allowing a member to return to duty following disciplinary action for a positive drug and/or alcohol test, or as the result of a condition of continued employment or reinstatement in conjunction with or following completion of an approved drug and/or alcohol treatment, counseling or rehabilitation program;
  - 6.1.3 To return to duty, a member who has a positive drug or alcohol test i.e. a verified positive drug test or an alcohol test indicating an alcohol concentration of 0.02 or greater, must have a verified negative drug test and/or an alcohol test indicating an alcohol concentration of less than 0.02, and be evaluated and released by a substance abuse professional (SAP). In addition, the member will be subject to follow-up random testing for a period not to exceed 24 months from the date of the member's return to duty, in accordance with an SAP's recommendations. (The Department also reserves the right to require return to duty and follow-up testing of a member who has an alcohol test indicating an alcohol concentration of 0.02 or greater based on an SAP's recommendations).
  - 6.1.4 As part of a pre-employment physical examination after a conditional job offer has been made, a fitness for duty physical examination, or any other lawful required periodic physical examination. Non-safety and non-security sensitive positions may be required to undergo a pre-employment drug or alcohol test and a pre-employment physical examination after a conditional job offer has been extended to the member;
  - 6.1.5 When the Department management has a reasonable suspicion based on observations or credible information submitted to the Department, that the member is currently using, impaired by or under the influence of drugs or alcohol;
  - 6.1.6 When a member suffers an on-the-job injury or following a serious or potentially serious accident or incident in which safety precautions were violated, equipment or property was damaged, a member or other person was injured, or careless acts were performed by the member. Such testing will be required of non-safety sensitive members only when such factors, when taken alone or in combination with other factors, give rise to reasonable suspicion that the member may be under the influence of drugs or alcohol.
  - 6.1.7 When any prohibited drug or alcoholic beverage is found in a member's possession;
  - 6.1.8 When the laboratory values in any authorized drug test indicate the need for additional testing, as determined by the Medical Review Officer (MRO), or where any authorized drug test must be cancelled due to a collection, chain of custody or other procedural problem.;
  - 6.1.9 In conjunction with the Department's monthly random drug test administered by the Professional Standards Unit as per section 12.2 of this policy;
  - 6.1.10 Upon transfer to and from the Narcotics Unit, K-9 Unit, or Evidence Control, and on an annual basis during assignment to these units.
- 6.2 The Professional Standards Unit will store records of Department random and unit transfer drug testing in the Professional Standards Unit Central Index.

## **7 When Drug/Alcohol Testing Will Be Required of Members Holding Safety and Security-Sensitive Positions**

- 7.1 Members in (and applicants for) safety and security-sensitive positions will be required to submit to chemical tests in the foregoing and in the following circumstances:
- 7.1.1 When a safety-sensitive member, while on duty, is involved in a motor-vehicle accident on a public roadway, or private property in which significant property damage is sustained and the member is at-fault, or a motor-vehicle accident involving an on-duty, safety-sensitive member in which personal injury is sustained;
  - 7.1.2 Random testing for drugs and alcohol;
  - 7.1.3 When a safety-sensitive member returns to work under conditions requiring him/her to submit to regular testing, such as those described in section 6.1.7, and
  - 7.1.4 After a safety-sensitive member is involved in a critical incident.

## **8 Disciplinary Action**

- 8.1 Members may be subject to disciplinary action, including discharge, for any of the following infractions:
- 8.1.1 Refusal to submit to an authorized drug or alcohol test. Refusal to submit to testing means that the member fails to provide an adequate urine or breath sample for testing without a valid medical explanation after he/she has received notice of the requirement to be tested, or engages in conduct that clearly obstructs the testing process. Refusal to submit to testing includes, but is not limited to, failure to proceed immediately to the testing site upon notification, refusal to execute any required consent forms, refusal to cooperate regarding the collection of samples, and/or submission or attempted submission of an adulterated or substituted urine sample;
  - 8.1.2 Drinking alcoholic beverages or using drugs while on duty, on Department property, or in Department vehicles.
  - 8.1.3 Unlawful manufacture, distribution, dispensation, possession, concealment or sale of any prohibited substance, including an alcoholic beverage, while on duty, on Department property, in Department vehicles, during meal breaks. Possession includes presence in the body;
  - 8.1.4 Any criminal drug statute conviction and/or failure to notify the Department of such conviction within five (5) days;
  - 8.1.5 Refusal to cooperate in a search;
  - 8.1.6 Having an alcohol concentration of .04% or greater in any authorized alcohol test;
  - 8.1.7 Testing positive for drugs as defined in section 3.1 and/or their metabolites in any authorized drug test.
  - 8.1.8 Reporting to work under the influence of any medication that impairs or otherwise interferes with the member's ability to perform essential functions,
  - 8.1.9 Failing to report the use of a medication as outlined in Section 4 of this policy.
- 8.2 Although the foregoing infractions will ordinarily result in discharge, regardless of the member's position or work record, the Department reserves the right to consider extenuating circumstances and impose lesser discipline when such action is deemed appropriate.
- 8.2.1 To be re-employed, following completion of a suspension for a positive drug or alcohol test, the member must undergo and pass a return to duty drug and/or alcohol test, and be evaluated and released by a SAP approved by the Department.
  - 8.2.2 The Department will schedule the return to duty drug and/or alcohol test and the evaluation by an SAP to avoid any lost work time beyond the period of the suspension. The member will remain on disciplinary suspension, without pay, until the Department has received written notice that the member has passed the return to duty drug test (and/or notice from the collection site that the member had an alcohol concentration of less than 0.02 in the return to duty alcohol test) and written notice from an SAP that the member has been released to return to duty. The Member, however, may use accumulated paid leave time between the end of the original suspension and being released to return to work. If the member tests positive for any drug or has an alcohol concentration of 0.02 or greater in any subsequent test, he/she will be subject to discharge.

## **9 Rehabilitation and Additional Testing**

- 9.1 In cases where a member receives disciplinary action other than discharge for a drug and/or alcohol related infraction, the following procedures will also apply:
- 9.1.1 At the time discipline is imposed, the Department may require the member to participate in an approved treatment, counseling or rehabilitation program for drug and/or alcohol abuse, based on the recommendations of an SAP.
  - 9.1.2 If the member is required to enroll in such a program, his/her reinstatement or continued employment will be contingent upon successful completion of the program and remaining drug and alcohol free for its duration. The member must submit to any drug and/or alcohol testing administered as part of the program, and provides the Department with the results of such tests.

The member must also provide the Department with progress reports from his/her SAP, therapist, or the agency running the program, on at least a monthly basis, or more often if the Department deems necessary. The member must provide the Department with any necessary releases to obtain reports or test results directly from the provider; however, it is the member's responsibility to provide any reports or test results to the Department. Failure to provide such reports or the results of such tests may result in discipline up to and including termination.

- 9.1.3 A member who has been identified as needing assistance in resolving problems associated with use of drugs and/or misuse of alcohol may be administered unannounced follow-up drug and/or alcohol tests for a period of up to 24 months, or longer if the Department deems it necessary.

## **10 Employment Status Pending Receipt of Test Results**

In addition to appropriate disciplinary measures, including suspension, which may be taken in response to the incident or course of conduct which gave rise to the drug or alcohol test, the Department reserves the right to decide whether the incident or course of conduct prompting the test is of such a nature that the member should not be put back to work until the test results are received. If such a decision is made, the member will be suspended without pay. Where the test result is negative, the member will be reinstated with back pay, provided the member has not been given an appropriate disciplinary suspension for violation of another work rule which also covers the time missed waiting for the test results.

## **11 Voluntary Drug/Alcohol Rehabilitation**

If a member, who is not otherwise subject to disciplinary action for use of drugs and/or alcohol, voluntarily admits that he/she has a drug and/or alcohol abuse problem, the Chief of Police (or his/her designee) will meet with the member to discuss the various treatment, counseling and rehabilitation options that are available. For purposes of this section, a member's admission to having a drug and/or alcohol abuse problem will not be defined as "voluntary" if it is made after the member learns that he/she has been selected for a random drug test. These options may include allowing the member to continue working while receiving outpatient treatment, counseling or rehabilitation in an approved drug and/or alcohol abuse program, or placing the member on a medical leave of absence while he/she is receiving treatment, counseling or rehabilitation in an approved inpatient or outpatient drug and/or alcohol abuse program. When a member voluntarily admits that he/she has a drug and/or alcohol abuse problem, the Department will have the right to require the member to be evaluated by an SAP and/or submit to drug and/or alcohol testing prior to deciding what action is appropriate. Unless extraordinary circumstances exist, no disciplinary action will be taken by the Department against a member who voluntarily admits that he/she has a drug and/or alcohol abuse problem in the situation described above; however, the Department will have the following rights in such a situation:

- 11.1 The member may be offered a "last chance agreement," whereby the member may have the opportunity to return to work under conditions requiring enrollment in and successful completion of an approved inpatient or outpatient drug and/or alcohol abuse program. The member may also be offered the opportunity to return to work under conditions requiring that the member remain drug and alcohol free as a condition of reinstatement or continued employment. The Department, however, would not be responsible for financial obligations associated with treatment excluding any payments otherwise available under the Department's Member Assistance Program.
- 11.2 If the member elects to return to work under such conditions, he/she must submit to any drug and/or alcohol tests administered as part of the program, and provide the Department with the results of such tests. The member must also provide the Department with progress reports from his/her therapist, or the agency running the program, on at least a monthly basis, or more often if the Department deems it necessary. (Failure to provide such reports or the results of such tests will result in discipline up to and including termination).
- 11.3 Under such an agreement, the member will be required to agree to be subject to unannounced follow-up drug and/or alcohol tests, at the Department's discretion, for a period of up to 24 months or longer if the Department deems it necessary.
- 11.4 A voluntary admission does not relieve the member of responsibility and disciplinary action for acts other than violations of this policy even though the acts may be related to the drug or alcohol abuse problem.

## **12 Authority/Responsibility**

- 12.1 Reasonable Suspicion: Any supervisor of the rank of Lieutenant or above may order a member to provide bodily substances for chemical analysis for reasonable suspicion as provided for in this directive. The ordering supervisor will prepare a file on the matter and forward it through the Chain of Command to the Chief of Police immediately. The file will contain detailed, written statement(s) of the evidence of reasonable suspicion along with the written order to the member and any other pertinent information or documents. The supervisor will complete an *Alcohol and Drug Testing Order Form* (Attachment B) and present a copy to the member. The supervisor will provide for the

transportation of the member to the testing facility. The member will be placed on paid administrative leave pending the results of the testing.

- 12.2 Random Test: A Professional Standards Unit supervisor will complete an *Alcohol and Drug Testing Order Form* (Attachment B) for members selected for random testing. The Professional Standards Unit supervisor will deliver the order to the selected member's Division Commander or his/her designee. The Division Commander or his/her designee will order the selected member to report immediately to the testing medical facility and provide an acceptable sample. The original form and the test results will be forwarded to the Professional Standards Unit to be filed. The Professional Standards Unit commander will notify the ordering supervisor and Chief of Police in writing of any positive results.
- 12.3 Critical Incident: A chemical analysis for drugs and alcohol will be ordered by the investigating/supervising supervisor of at least the rank of Lieutenant to any member involved in a critical incident. The order will be made on the *Alcohol and Drug Testing Form*.
- 12.4 Other reasons for testing (post-accident, unit transfer, etc.) will be the responsibility of the Unit Lieutenant or member's supervisor for non-sworn employees. The order will be made on the *Alcohol and Drug Testing Form*.
- 12.5 Test results will be reported to the Chief of Police or his designee.

### **13 Testing Facility**

- 13.1 Drug and alcohol testing will be conducted by analyzing the member's or applicant's urine specimen at a certified contract laboratory. Scientifically accepted screening and confirmation tests will be employed in the analysis.

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Mike Davis  
Chief of Police