

37.0 Employee Alcohol and Drug Testing Policy

PURPOSE: To describe the Alcohol and Drug Testing Policy of the Washington County Sheriff's Office.

The Washington County Sheriff's Office recognizes the importance and responsibility in providing a safe and healthy work environment for all employees, the successful completion of the Sheriff's Office law enforcement, judicial and detention mission, and the need to maintain employee productivity. The Sheriff's Office is dedicated to providing a drug-free workplace and to assisting employees who seek help for problems with either drug or alcohol abuse.

However, alcohol and/or drug abuse does not excuse an employee's neglect of duty. Sheriff's Office employees whose work performance is impaired as a result of the use or abuse of alcohol or drugs may be disciplined in accordance with regulations and/or laws in place. Likewise, the use of drugs or alcohol outside the workplace or outside work hours which impact work performance are considered just as serious as activities that occur during working hours. Alcohol and drug abuse is considered a serious problem regardless of when or where the abuse takes place and regardless of whether it has an immediate impact on work. Although this program primarily outlines the conditions when the Sheriff's Office may test employees for drug or alcohol use, the Sheriff's Office encourages employees with problems not to wait for a test to be conducted, but to seek assistance as soon as possible.

POLICY: It is the policy of the Washington County Sheriff's Office that employees, whether reporting for a tour of duty or who are in a scheduled "on-call" status will not appear for duty nor be on-duty while intoxicated or under the influence of alcohol or drugs with a blood or breath alcohol content beyond that of endogenous alcohol normally found in the body of .003, nor with the odor of alcoholic beverages on their breath or about their person. Further, employees will not sell, possess, distribute, or use illegal drugs at any time, nor will they sell, possess, distribute, or use alcoholic beverages while on duty (except during the authorized execution of their official duties).

Although the possession of less than 10 grams of marijuana was decriminalized, employees will not sell, possess, distribute, or use any amount of marijuana at any time.

Applicants for safety-sensitive positions will be tested for illegal drug use as a part of their pre-employment screening. Employees in safety-sensitive positions will be tested for drug use on a random basis as outlined in this Order. Employees may also be drug and/or alcohol tested when reasonable suspicion exists that they have violated this or any other general order concerning drug or alcohol use.

The Office will provide support and guidance to any employee who seeks assistance with a drug and/or alcohol problem.

DEFINITION

- A. Controlled substances shall be defined as those substances whose dissemination is controlled by regulation or statute, including, but not limited to, marijuana (THC metabolite), cocaine, amphetamines, opiates (including heroin) and phencyclidine (PCP).
- B. Drug shall be defined as any substance which impairs an employee's ability to perform his/her job or poses a threat to the safety of others. This definition includes over-the-counter drugs and/or drugs which require a prescription or other written approval from a licensed practitioner/physician or dentist for their use.
- C. Drug Paraphernalia is any material or equipment used or designed for the use in testing, packaging, storing or introducing into the human body a controlled, dangerous or illegal drug/substance.
- D. Illegal Drug is any drug which is not legally obtainable (i.e. marijuana, cocaine, PCP, etc.) or drugs which are legally obtainable but have been obtained in an illegal manner or are not being used for prescribed purposes or in a dose above that prescribed.
- E. Illegal Substances and Materials are narcotics, drugs, and/or other substances and materials for which the sale, purchase, transfer, use or possession of which are prohibited by Federal, State or local laws.
- F. "Under the Influence" or "Impaired" shall be defined as behavior which may limit an employee's ability to safely and efficiently perform his/her job duties, or poses a threat to the safety of the employee or others.
- G. Proper Medical Authorization shall be defined as prescription or other written approval from a licensed practitioner/physician or dentist for the use of a drug in the course of medical treatment to include the name of the substance, the period of authorization, and whether the prescribed medication may impair job performance. This requirement also applies to refills of prescribed drugs.
- H. Sheriff's Office Alcohol & Drug Program Administrator is a position designated by the Sheriff as the liaison between the Sheriff's Office, the County Human Resources Department and the Testing Laboratory.
- I. Supervisor is any supervisor of the Washington County Sheriff's Office.

- J. County Official shall be defined as the Board of County Commissioners, County Administrator, and Department or Division Heads.
- K. Incident is any action such as an incident, accident or unusual situation that has or could result in personal injury or property damage.
- L. Premises is any land, property, equipment, building, structure or vehicle owned by, leased to or on loan to Washington County.
- M. Presence of a Substance is the presence of alcohol or illegal drug/substance in an individual's body. Detection of the substance may be identified through a breath test, urinalysis or blood draw at the levels listed below:
- *Alcohol - test resulting in an alcohol content beyond that of endogenous alcohol normally found in the body of .003.
- *Illegal drug/substance- any metabolite of an illegal drug found in either urinalysis or blood draw testing is considered prima-facie evidence of drug abuse.
- N. Random Testing a system of drug testing imposed without individualized suspicion that a particular individual is using illegal drugs, and may either be:
1. Uniform unannounced testing of safety sensitive employees occupying a specified area, element or position; or,
 2. A statistically random sampling of employees based on a neutral criterion.
- O. Reasonable Suspicion consists of unusual behavior or conditions specifically documented by management or supervisory personnel including observations concerning appearance, behavior, speech, judgment or body odors of an employee.
- Anonymous tips, rumors, or an employee's general record are not sufficient grounds for requesting that an employee undergo drug/alcohol screening. However, reasonable suspicion may be derived from information provided from identifiable witnesses, when used in conjunction with the observations of management/supervisory personnel.
- All supervisory personnel will be trained to address illegal drug use and alcohol abuse by employees, to recognize facts that give rise to reasonable suspicion, and to document facts and circumstances to support a finding of reasonable suspicion.

- P. Safety-Sensitive Personnel is any employee who has a substantially significant degree of responsibility for the safety of others where impaired performance could result in injury, death and/or property damage. Included in this category are Sheriff Deputies and Detention Deputies, Sheriff's Office supervisors up to the Sheriff and any other Sheriff's Office employees who have direct contact with inmates or impact upon public safety or the safety of co-workers.
- Q. Unauthorized Substances and Materials include, but are not limited to, intoxicating beverages, medically authorized drugs where use is not in accordance with medically prescribed doses, and equipment and paraphernalia related to prohibited drug or substance abuse.
- R. Unfit Condition is an individual's inability to perform in a safe and/or customary manner.
- S. Unusual Behavior is a significant, unusual behavior change of an employee that deviates from their normal custom and habits that may signify any emotional problems or symptoms of instability which could affect trustworthiness and reliability as it relates to performing the job.
- T. Post Accident Drug and Alcohol Testing is testing performed for **any** employee regardless of safety sensitive status, within two hours after an accident or injury that falls within the following criteria:
1. A motor vehicle accident that results in a human fatality; or bodily injury with immediate medical treatment away from the scene.

37.1 ILLEGAL DRUG AND ALCOHOL TESTING PROGRAM: The program includes the following types of illegal drug and alcohol testing:

- A. Pre-employment testing to maintain the high professional standards of the Sheriff's Office work force, it is imperative that individuals who use illegal drugs or abuse alcohol be screened out during the initial employment process before they are employed by the Office. This process has a positive effect on reducing instances of illegal drug use and alcohol abuse by employees, and will provide for a safer work environment. Drug testing will be required of all applicants for employment. Every vacancy announcement for positions within the Sheriff's Office will state that all applicants tentatively selected for the position will be required to submit to urinalysis to screen for illegal drug use prior to appointment. In addition, each applicant will be notified that appointment to the position will be contingent upon a negative drug test result.

- B. Random testing of those employees in safety sensitive positions that have been designated as such. Among the factors the Agency has considered in designating a position as safety-sensitive and thus subject to random drug and alcohol testing is the extent to which the Sheriff's Office considers the position:
- (1) is inconsistent with illegal drug use or alcohol abuse;
 - (2) Involves law enforcement activities;
 - (3) Requires the employee to foster public trust by preserving the employee's reputation for integrity, honesty, and responsibility;
 - (4) Has security responsibilities;
 - (5) Has drug or alcohol interdiction responsibilities;
 - (6) Requires the employee to engage in activities affecting public health or safety;
 - (7) Requires the employee to operate a County or Sheriff's Office owned vehicle or other machinery or equipment that affects public health or safety; or,
 - (8) Authorizes the employee to carry a firearm.
 - (9) Has direct contact with inmates incarcerated in the Detention Center.

In implementing the program of random testing, the Sheriff's Office will:

- (1) Ensure that the means of selection for random testing conducted by the testing laboratory is appropriate and not subject to alteration or influence; and,
- (2) Evaluate periodically whether the numbers of employees tested and the frequency with which those tests were administered satisfy the Sheriff's Office's duty to achieve a drug and alcohol free work force.

The procedure for administering random drug testing will be as follows:

- (1) Employee testing will be conducted by any certified facility, designated by the County Administrator or Board of County Commissioners of Washington County, Maryland, that holds a permit under the Health-General Article of the Annotated Code of Maryland for laboratory testing.
- (2) Refusal by an employee to take such a test when requested to do so will be considered insubordination. Insubordination will result in an employee's termination for civilian employees and administrative charges being placed

against any law enforcement or correctional deputy under LEBOR. Upon a Hearing Board's finding of guilt, the deputy shall be terminated.

- (3) The County's designated certified facility will, on a monthly basis, select employees subject to the random program in accordance with a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with an employee's Social Security Numbers, payroll identification numbers, or other comparable identifying numbers of information.

Under the selection process used, each employee in the random pool(s) will have an equal chance of being tested each time selections are made. Each calendar year, the number of random alcohol tests and random drug tests conducted by the County must equal at least 25% and 25% of all safety sensitive personnel respectively.

Each employee selected will be notified without forewarning and must report to the County's designated certified facility for testing within two hours of notification.

In the event an employee reports for duty at a time when the testing laboratory is not open, the employee will be notified when to report during the time the testing laboratory is open. Testing will be done during the employee's regular on-duty hours unless the employee works during hours when the testing laboratory is not open.

The employee shall be notified in writing that they are under no suspicion of taking illegal drugs or using alcohol, and that their name was selected randomly.

Employees who do not have Sheriff's Office transportation will be provided transportation to the testing laboratory.

C. Reasonable Suspicion Testing

An employee is subject to drug and/or alcohol testing when the employee reports to work, operates or uses Agency equipment, or takes police action **and** there is reasonable suspicion that the employee is under the influence or impaired by alcohol or drugs. Reasonable suspicion may be based upon, among other things:

- (1) Observable phenomena, such as direct observation of illegal drug or alcohol use or possession, and/or the physical symptoms of being under the influence of a drug or alcohol;
- (2) A pattern of abnormal conduct or erratic behavior;

- (3) Arrest or conviction for a drug or alcohol related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;
- (4) Information provided by reliable and credible sources and independently corroborated; or,
- (5) Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.

If an employee is suspected of using illegal drugs or consuming alcohol, the employee's immediate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion. In the case of suspected alcohol consumption, the supervisor shall have a Preliminary Breath Test conducted on the individual to further their investigation. The supervisor will fill out an Impaired Behavior Report Form and a complaint against personnel form.

The supervisor will immediately contact his Division Commander and the Sheriff, and they will review the facts presently available and, if appropriate, authorize the test. The test should be conducted within a reasonable time period after observation.

The immediate supervisor will file an internal affair complaint form and a written report detailing the circumstances that formed the basis to warrant the testing. This report should include the appropriate dates and times of reported drug and / or alcohol related incidents, reliable/credible sources of information, rationale leading to the test, and the action taken. This report must be completed prior to the end of the supervisor's working day. The supervisor shall provide the employee with the Consent to Test Form. The supervisor shall read the form to the employee and the supervisor shall also inform the employee of the outcome for their failure to follow the directions of the supervisor and to take the test. (If an employee refuses to take the test when requested to do so they will be considered insubordinate. Insubordination will result in an employee's termination for civilian employees and administrative charges being placed against any law enforcement or correctional deputy and upon a Hearing Board's finding of guilt the deputy shall be terminated.)

Employees who are subject to reasonable suspicion testing may be placed on administrative leave with pay until the results of any reasonable suspicion test are received.

D. Testing Process

For a Random Test: The employee and the Sheriff's Office Alcohol and Drug Program Administrator shall respond to the testing site within two hours after notification of a random test. The employee's failure to appear for the test will be considered a refusal to take the test and will be considered insubordination. The employee may or may not be transported by the Sheriff's Office Alcohol and Drug Program Administrator. The employee shall complete and sign a "Consent to Test Form". The Sheriff's Office Alcohol and Drug Program Administrator shall verify the form. The employee shall cooperate fully with the health staff during the test. The employee's failure to cooperate fully shall be considered a refusal to take the test and will be considered insubordination. At the conclusion of the random test the employee shall return to their normal work status.

For a Reasonable Suspicion Test: The supervisor shall inform the test site that they are transporting an employee for a test and approximately the time they shall be arriving. The supervisor shall take the employee to the testing site within a reasonable time. The supervisor shall complete the Impaired Behavior Report Form and shall have the employee complete and sign a "Consent to Test Form". The supervisor shall provide a copy of the Impaired Behavior Report and the Consent to Test Form to the test site. The employee shall cooperate fully with the health staff during the test. The employee's failure to cooperate fully shall be considered a refusal to take the test and will be considered insubordination. At the conclusion of the reasonable suspicion test, the employee shall be taken home by the supervisor. The Sheriff's Office shall decide if the employee shall return to work on their next duty or shall be placed on administrative leave with pay until the results of the test are received.

E. Testing Results

Test results should be expected within 24 hours of the test. Laboratory personnel will contact the Sheriff's Office Drug & Alcohol Program Administrator by telephone when the test results are known. A written confirmation shall be obtained from the laboratory. The employee may obtain test results from the Sheriff, or may obtain a written confirmation from the Laboratory's Medical Records Department within seven days of request.

After receiving notice that the employee has tested positive for the use or abuse of any controlled dangerous substance or alcohol:

- (1) The Medical Review Officer of the certified facility shall contact the employee directly and inform him/her of the positive result. The Medical Review Officer shall then notify the Sheriff's Office Drug & Alcohol Program Administrator, and the County's Risk Management Administrator.

- (2) Upon notification of a positive test result, the Sheriff's Office shall, after confirmation of the test result, provide the employee with:
- a. A copy of the laboratory test indicating the test results;
 - b. A copy of the Sheriff's Office's written policy on the use or abuse of controlled dangerous substances or alcohol by employees;
 - c. For a civilian employee shall provide written notice of the intent of termination their employment, for a law enforcement or correctional officer shall provide notice of charges under the Law Enforcement Officer's Bill of Rights.
 - d. A statement or a copy of the provisions of Section 17-214.1 of the Health-General Article, Annotated Code of Maryland, permitting the employee to request independent testing of the same sample for verification of the test result; all of which shall be delivered to the employee either in person or by certified mail and within thirty (30) days from the date the test was performed.

A person who is required to submit to job-related testing, may request independent testing of the same sample for verification of the test results by a laboratory that holds a permit under the Health-General article of the Annotated Code of Maryland for laboratory testing or, if located outside the State of Maryland, is certified or otherwise approved under the provisions of the Health-General Article of the Annotated Code of Maryland. Any employee requesting independent testing of the same sample for verification of the test results shall pay the cost of the independent test.

If a positive test result is reported by the original testing laboratory and a request has been made by the employee for a verification test, a second test, performed by a laboratory separate from the original testing facility, will be ordered. During this time, the employee will remain on leave. If both laboratory facilities confirm the presence of alcohol, a controlled substance or other drug, the tentative employment offer will be withdrawn from a potential employee and/or the termination proceeding will commence for a current employee.

For reasonable suspicion testing, if a negative test result is reported and the physician releases the employee to return to work, the Sheriff's Office shall evaluate the physician's statement to determine whether the employee should be returned to his/her work assignment. The physician's statement should include the reason(s), if known, for the employee's behavior, including medical condition and/or medication(s); and the effective date of return to work or period of impairment. If the Sheriff's Office representative releases the employee to return to his/her assignment, the employee will be compensated to cover the period of absence.

If a negative test result is reported, but the physician determines the employee's behavior is still impaired and therefore will not release the employee for work, the employee shall continue to be relieved of duty but the employee shall use his/her accrued sick leave to cover the period of absence. A physician's statement releasing the employee for work, acceptable to the Sheriff's Office, shall be required. The Sheriff's Office representative shall evaluate the physician's statement to determine whether the employee should be returned to his/her work assignment. The physician's statement should include the reason(s), if known, for the employee's behavior, including medical condition and/or medication(s), and the effective date of return to work/period of impairment.

- F. The above policy does not apply to: Alcohol or controlled dangerous substance testing of a person under arrest or held by a law enforcement or correction agency; Alcohol testing procedures conducted by a law enforcement or correctional agency on breath testing equipment certified by the state toxicologist; or Controlled Dangerous Substance testing by a laboratory facility of a law enforcement or correctional agency that maintains laboratory testing standards comparable to the standards in this section.
- G. Confidential Information -- In the course of obtaining information for or as a result of conducting job-related alcohol or controlled dangerous substance testing for an employer under the provisions of this policy, a laboratory, a physician, including a physician retained by Washington County, or any other person may reveal to Washington County only that information pertinent to the testing at hand and not the presence of any:

Non-prescription drug, excluding alcohol, that is not prohibited under the laws of the State of Maryland; or

A medically prescribed drug, unless the person being tested is unable to establish that the drug was medically prescribed under the laws of Maryland and the amount found was consistent with the prescribed dosage.

**GENERAL ALCOHOL AND/OR DRUG SCREEN AND/OR
PERFORMANCE IMPAIRMENT EXAM CONSENT**

EMPLOYEE NAME: _____

DATE: _____

NAME OF SHERIFF'S OFFICE REPRESENTATIVE REQUESTING EXAM:

NAME OF SHERIFF'S OFFICE REPRESENTATIVE ACCOMPANYING EMPLOYEE:

MEDICAL CONSENT: I consent to a medical examination and the collection of blood and urine samples by the staff of the Health@Work or designated laboratory as requested by Washington County Government or the Sheriff's Office to determine the presence of alcohol and/or drugs, if any.

AUTHORIZATION TO RELEASE INFORMATION: I authorize the hospital to release any and all medical information obtained during this exam and testing procedure to the proper Washington County Sheriff's Office officials.

I understand that my alteration of this consent form; refusal to consent to or cooperate fully with a medical examination and the collection of blood and urine samples; or my refusal to authorize release of information to the Sheriff's Office constitutes insubordination and is grounds for termination.

I also understand that a positive result on these tests is grounds for termination.

Employee's Signature

Date

Sheriff's Office Representative's Signature

Date

Sheriff's Office Representative's Printed Name

IMPAIRED BEHAVIOR REPORT FORM

When requesting a Performance Impairment Exam, the Sheriff's Office Representative must complete this form and attach it to the "Consent Form". Please describe the behavior or reported behavior that causes you to suspect _____ is impaired.

Speech

**Dexterity;
Standing/
Walking**

Judgment/ Decision-making

Appearance (eyes, clothing, etc.)

Odor

Sheriff's Office Representative Signature

Witness' Signature (if possible)

(Use reverse side if additional space is required to record behaviors in areas outlined above.)