



DRUG TESTING AND USE OF CDS

WRITTEN DIRECTIVE: 3.10
EFFECTIVE DATE: 01-01-1987
REVISION DATE: 03-20-2009

Contents:

- I. Purpose
- II. Policy
- III. Mission
- IV. Definitions
- V. Procedures
- VI. Notification, Transportation and Refusal
- VII. Drug Testing Methodology

I. Purpose

The purpose of this Written Directive is to provide all employees with information on the provisions of the University of Maryland Baltimore Police Force (UMBPF) drug testing program.

II. Policy

It shall be the policy of the UMBPF to use the drug testing program as a means to preserve the public trust and confidence in a drug-free law enforcement profession.

III. Mission

A. Drug Free Work Environment

The critical mission of law enforcement justifies maintenance of a drug free work environment through the use of a reasonable employee drug testing program.

B. Compelling Interests

The law enforcement profession has several uniquely compelling interests that justify the use of employee drug-testing.

First, the public has a right to expect that those who are sworn to protect them are at all times both physically and mentally prepared to assume these duties. Secondly, there is sufficient evidence to conclude that the use of controlled substances and other forms of drug abuse will seriously impair an

employee's physical and mental health, and thus, their job performance.

C. Integrity

1. Where law enforcement officers participate in illegal drug use and drug activity, the integrity of the law enforcement profession and public confidence in it are destroyed. This confidence is further eroded by the potential for corruption created by drug use.

2. Therefore, in order to ensure the integrity of the UMBPF and to preserve public trust and confidence in a drug-free law enforcement profession, this organization shall implement a drug-testing program to detect prohibited drug use by employees.

IV. Definitions

A. Abuse

1. Any intentional misuse of any over-the-counter drug, in cases where such misuse impairs job performance.

2. Use of any prescription drug in a manner inconsistent with its medically prescribed and intended use, or under circumstances where use is not permitted or contrary to law.

3. Use of alcohol where such use impairs job performance.

4. Intentional and inappropriate use of any substance, legal or illegal, which impairs job performance.

B. Alcohol

Alcohol refers to ethyl alcohol or ethanol.

C. Employee

An employee is any individual who is employed by the University of Maryland Baltimore Police Force.

D. Substance

Substance refers to alcohol or drugs.

E. Drug Testing

Testing refers to the compulsory production and submission of urine by an employee in accordance with procedures for chemical analysis in order to detect prohibited drug usage.

F. Drugs

Drugs refer to any substance, including controlled dangerous substances, taken into the body which may impair one's mental faculties, changes one's mood and/or physical performance.

G. Probationary Employee

For the purposes of this policy only, a probationary employee shall be considered to be any person who is conditionally employed with the UMBPF.

H. Reasonable Suspicion

1. Reasonable suspicion is that quantity of proof or evidence that is more than a hunch, but less than probable cause. Reasonable suspicion must be based on specific objective facts and any rationally derived inferences from those facts about the conduct of an individual that would lead the reasonable person to suspect that the individual is or has been using drugs on-or off duty or alcohol when on duty.
2. Additionally, the following are examples that constitute reasonable suspicion:
 - a. Injury caused by carelessness on the job requiring treatment at a medical facility.
 - b. Causation of a near accident of serious magnitude even though no one is seriously injured.
 - c. Involvement in a careless and avoidable accident of serious magnitude where equipment was damaged even though no injuries were reported.

I. Supervisor

Supervisor refers to an employee assigned to a position having responsibility for supervising subordinates, or who is responsible for directing a work element.

V. Procedures

A. Prohibited Activity

1. The following rules shall apply to all applicants and employees, while on and off duty:

- a. No employee shall illegally possess, manufacture, distribute or dispense any controlled substance.
 - b. No employee shall ingest any controlled or other dangerous substance, unless as prescribed by a licensed medical practitioner.
 - c. Employees shall notify their immediate supervisor when required to use prescription medicine which they have been informed has the potential to impair job performance. The employee shall advise the supervisor of the known side effects of such medication, and the prescribed period of use. Supervisors shall document this information through the use of an internal memorandum (Administrative Form 95) and forward this report through the chain of command. The employee may be temporarily reassigned to other duties, where appropriate. If reassignment is not practical, the employee may be relieved from duty.
2. No employee shall ingest any prescribed or over the counter medication in amounts beyond the recommended dosage.
 3. Any employee who unintentionally ingests, or is made to ingest a controlled substance shall immediately report the incident to their supervisor so that appropriate medical steps may be taken to ensure the employees health and safety.
 4. Any employee having a reasonable basis to believe that another employee is illegally using or in possession of any controlled substance shall immediately report the facts and circumstances to their supervisor.

5. No employee will ingest alcohol during the employee's working time without prior approval from their supervisor.

6. No employee may report to work under the influence of alcohol, drugs or a controlled dangerous substance. Reporting to work under such conditions is a violation of this policy and subjects the employee to disciplinary action.

B. Applicant Drug Testing

1. All sworn applicants shall be required to take a drug test as a condition of employment during a pre-employment medical examination.

2. Applicants shall be disqualified from further consideration for employment under the following circumstances:

- a. Refusal to submit to a required drug-test
- b. A confirmed positive drug-test indicating drug use prohibited by this policy.

C. Probationary Employee Testing

1. All probationary employees shall be required as a condition of employment to participate in any unannounced drug tests scheduled for the probationary period. The frequency and timing of such tests shall be determined by the Director of Public Safety or designee.

2. In addition, where the probationary employee has a past history of drug use, they shall be required to submit to random-testing until the probationary period is successfully completed. The frequency and timing of such testing shall be determined by the Director of Public Safety or designee.

D. Employee Drug Testing

1. Employees will be required to take drug tests as a condition of continued employment in order to ascertain prohibited drug use, as provided below:

- a. A supervisor, after consulting with the Patrol Lieutenant, may order an employee to take a drug test upon documentable

reasonable suspicion that the employee is or has been using drugs or alcohol.

b. A summary of the facts supporting the order shall be made available to the employee prior to the actual test.

c. A drug test will be administered as part of any regular physical examination required by the Agency.

d. All employees shall be uniformly tested during an unannounced or mass/mandatory test. The Director of Public Safety or designee shall determine the frequency and timing of such tests.

2. A drug test shall be considered a part of the application process to the specialized units within the Agency.

E. Drug Testing Procedures

The testing procedures and safeguards in this policy are provided to ensure the integrity of Agency's drug-testing program and shall be adhered to by all personnel involved in the drug testing process.

F. The Selection Process

1. All UMBPF personnel shall be subject to random drug testing.

2. The Immediate Care Medical Center will use a computer program designed to randomly select three (3) employees each month from a roster supplied by the UMBPF for drug testing purposes.

3. Each month the computer will randomly assign a number to each employee before the random selection process begins. The numbers that are randomly selected will be matched with the employee numbers. An employee will be tested when their number is matched with the randomly selected number.

4. Every employee will have an equal chance of being selected regardless of how many times in the past the employee has or has not been selected.

5. Before the selection process begins, an employee representative will be invited to witness the selection process.

G. Lab Certifications

1. The laboratory selected to conduct the analysis shall be certified by the State of Maryland and by the National Institute of Drug Abuse. Moreover, the lab shall be experienced and capable of quality control, documentation, chain-of-custody, technical expertise and demonstrated proficiency in urinalysis.
2. The Lab that the UMBPF currently uses is called "Quest Diagnostics, Inc., 1901 Sulphur Spring Road, Baltimore, Maryland 21227" and its normal business hours are from 8:00 a.m. to 9:00 p.m., Monday-Friday and 8:00 a.m.-12 Noon on Saturdays.

H. Supervisor Responsibilities

If a supervisor is required to test an employee during non-business hours, the supervisor will call Quest Diagnostics, Inc. (410-247-9100) and advise the answering service that they need a drug test performed at their Sulphur Spring Road site (1901 Sulphur Spring Road-adjacent to the intersection of Washington Boulevard and the Beltway). The supervisor will have an officer transport the employee that will be tested to the test site.

I. Requiring Proper Identification

Personnel authorized to administer drug tests shall require positive identification from each employee to be tested before they enter the testing area.

J. Private and Secure Facilities

The bathroom facility of the testing area shall be private and secure. Authorized testing personnel shall search the facility before an employee enters it to produce a urine sample and document that it is free of any foreign substances.

K. Providing the Specimen

1. Where the employee appears unable or unwilling to give a specimen at the time of the test, testing personnel shall document the

circumstances on the drug-test report form.

The employee shall be permitted no more than four hours to give a sample, during which time they shall remain in the testing area under observation. Reasonable amounts of water may be given to the employee to encourage urination. Failure to submit a sample shall be considered a refusal to submit to a drug test.

2. Employees shall provide split urine samples in case of legal disputes. The urine samples must be provided at the same time and marked and placed in identical specimen containers by authorized testing personnel with:

- a. One sample submitted for immediate drug-testing

- b. The other sample remaining at the Laboratory in frozen storage. (This sample shall be made available to the employee or to their attorney should the original sample result in a legal dispute or the chain of custody be broken)

3. Specimen samples shall be sealed, labeled and checked against the identity of the employee to ensure the results match the tested specimen. Samples shall be stored in a secured and refrigerated atmosphere until tested or delivered to the testing lab representative.

4. Whenever there is a reason to believe that the employee may have altered or substituted the specimen to be provided, a second specimen shall be obtained immediately, under the direct observation of the testing personnel.

VI. Notification, Transportation and Refusal Process

A. Assistant Director Responsibilities

The Assistant Director or designee will give the name(s) of the randomly selected employee to the on duty supervisor. The Assistant Director or designee will also notify the transporting officer.

B. On Duty Supervisor Responsibilities

1. The supervisor will obtain a Forensic Drug Testing Custody and Control Form from the Assistant Director or designee. The on-duty supervisor will complete Step 1 Section C (Donor's Name), Section D (Donor's Social Security Number) and Section E (Reason for Test) of the Forensic Drug Testing Custody and Control Form.

2. The transporting officer will deliver the Forensic Drug Testing Custody and Control Form to Quest Diagnostics, Inc. The Form will become part of the Chain of Custody and will remain with the lab specimen.

3. Quest Diagnostics, Inc. will disseminate the forms in the following manner.

a. #1, #2 and #3 (white copies) will be submitted with the specimen to the lab by Quest Diagnostics, Inc.

b. #4 (pink copy) will be sent to the Medical Reviewing Officer by Quest Diagnostics, Inc.

c. #5 (green copy) will be given to the donor by Quest Diagnostics, Inc.

d. #6 (yellow copy) will remain with Quest Diagnostics, Inc.

e. #7 (blue copy) will be given to the transporting officer by Quest Diagnostics Inc. The transporting officer will return the blue copy to the Assistant Director.

4. The on duty Supervisor will direct the employee to report to the transporting officer for the purpose of being transported to the drug testing lab. The employee will ensure that they take their photo identification card and/or driver's license with them to the lab.

C. Deferred Testing

1. An employee may be deferred from testing on the grounds that the employee is:

a. In an authorized leave status

b. In an administrative status such as in-service training, suspension (with or without pay), official travel status requiring

attendance away from the lab (e.g. training in or out of state).

2. The Assistant Director will maintain the Agency's official records regarding the drug testing process to include a testing notification log that will contain the following information:

a. Name, date and time that an employee is randomly selected

b. Name, date and time that an employee is notified

c. Status of each notification (i.e., tested deferred, etc.)

d. Any other remarks as necessary

D. Refusal to take a Drug Test

Refusal of any employee (sworn or non-sworn) to provide a urine sample when required under this policy will result in disciplinary action. The action to be taken in each case will be determined on its individual facts and circumstances by the Director of Public Safety or designee.

VII. Drug Testing Methodology

A. Two-Step Procedure

1. The testing or processing phase shall consist of a two-step procedure:

a. Initial screening test

b. Confirmation test

2. The urine sample is first tested using the initial drug screening procedure. An initial positive test result will not be considered conclusive; rather, it will be classified as "confirmation pending." Notification of test results to the supervisor or other Agency designee shall be held until the confirmation test results are obtained.

B. Testing Positive

A specimen testing positive will undergo an additional confirmatory test. The confirmation procedure shall be technologically different and more sensitive than the initial screening test.

C. Tested Drugs

The drug screening tests selected shall be capable of identifying marijuana, cocaine, and every major drug that is abused including heroin, amphetamines and barbiturates. Personnel utilized for testing will be qualified to collect urine samples or adequately trained in collection procedures.

D. Drug Levels

Concentrations of a drug at or above specific levels shall be considered a positive test result when using the initial immunoassay drug screening test (see appendix 1).

E. Negative Test Results

Employees having negative drug test results shall receive a memorandum from the Assistant Director stating that no illegal drugs were found. At the request of the employee, a copy of the letter will be placed in the employee's personnel file.

F. Confidentiality

Any employee who breaches the confidentiality of testing information shall be subject to discipline.

G. Request for Re-Test

1. Any member who has tested positive will be notified in writing by the Assistant Director of their right to have an independent test at a certified laboratory of their choice and at their expense.
2. Employees requesting a re-test will notify Quest Diagnostics, Inc. that they want to conduct a retest. The lab will provide the employee with the necessary information and cost associated with the retest.
3. After the Quest Diagnostics, Inc. receives the appropriate fees and information from the employee, they will use Federal Express to send a sample of the specimen to the lab that the employee has selected.
4. Before the specimen is shipped, Quest Diagnostics, Inc. will ensure that the

selected lab is certified to conduct the appropriate test.

H. Chain of Evidence Storage

1. Each step of the collection and processing phases involving the urine specimen shall be documented to establish procedural integrity and to continue the chain of custody.
2. Where a positive result is confirmed, urine specimens shall be maintained in secured, refrigerated storage for one (1) year, unless the lab is notified of pending litigation.

I. Drug Test Results

1. All records pertaining to required drug tests shall remain confidential and shall not be provided to other employees or agencies without the written permission of the person whose records are sought and from the Director of Public Safety.
2. The custodian of records will maintain all drug testing records and retain them in compliance with state law.

J. Medical Review Procedures

1. Physicians at the Immediate Care Medical Center, 11722 Reisterstown Road, Baltimore, Maryland 21136 (410) 833-5000, will be the Medical Review Officers (MRO). The primary responsibility of the MRO is to distinguish licit from prohibited use of substances. The MRO will receive positive and negative drug testing results from the laboratory. "Confirming" positives and negative test results will be forwarded to UMBPF.
2. If the MRO receives notification of a positive test result, the MRO will notify the employee for purposes of giving the employee an opportunity to discuss the results. If the MRO verifies the positive test results after speaking with the employee, the MRO will notify the Director of Public Safety or the Assistant Director of the verified positive.

3. If the employee turns down the opportunity to discuss the positive reading (e.g. tells MRO they do not wish to discuss the matter), the MRO will proceed with verification and notify the Agency.
4. If the MRO is unable to locate an employee or the employee does not return the calls:
 - a. The MRO will make an "Active" attempt to contact the employee.
 - b. If the attempt does not succeed after reasonable efforts, the MRO will contact the Assistant Director. If the Assistant Director is unavailable, the Support Services Commander shall be notified.
 - c. The Assistant Director will be requested to contact the employee and advise the employee to call the MRO as soon as possible.
5. In order to prevent undue delays covered by an employee's refusal to contact the MRO, the MRO will verify a confirmed positive test result if the employee has failed to contact the MRO within five days of a documented message from the MRO or Assistant Director.
6. If the employee elects to have an independent test conducted at a laboratory, the results of that test will be forwarded to the MRO for verification purposes.
7. If the two Lab results are different (e.g., one positive and one is negative), the MRO will cancel the test results and contact the directors of the Labs and attempt to discover the reason for the discrepancy. The UMBPF can require the employee to retest.

“Disciplinary Procedures” of the Police Force Manual).

Antonio Williams
Director of Public Safety

K. Disciplinary Action

Any member testing positive (confirming positive) shall be subject to disciplinary action. Discipline of employees for violation of this policy shall be in accordance with the due process rights provided in the Agency's discipline and grievance procedures (see Written Directive 4.10 “Grievances and Appeals” and Written Directive 5.8