

WEST PALM BEACH POLICE DEPARTMENT

II-5 RANDOM DRUG TESTING

EFFECTIVE DATE: 02/01/2008

CALEA Standards: N/A

CFA Standards: N/A

I. POLICY: The West Palm Beach Police Department has adopted the current Police Benevolent Association Collective Bargaining Agreement; Article 17, Alcohol and Substance Abuse (Appendix A). Department members will adhere to this agreement prohibiting the use of illegal drugs or abuse of alcohol either on or off duty. The Department intends to reduce or deter this harm by adopting and maintaining a drug free workplace policy and program as established under the guidelines of the Drug Free Workplace Act. The procedures to implement this policy seek to balance member privacy with the Department's legal responsibility and right to establish and maintain a safe and drug-free work environment. While the Department's intention is to deter and prevent substance abuse and the use of illegal drugs, the Department will, where possible and appropriate, provide members the means to obtain information about treatment for alcohol and drug dependency.

II. REFERENCES:

- SOP # II-6 Employee Assistance Program.
- F.S.S. 112.0455. Drug-Free Workplace.
- F.S.S. 893.03 Drug Abuse Prevention and Control.

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Job Title Task Files: All Supervisory Personnel, Drug Testing Coordinator

APPENDIX A

ARTICLE 17. ALCOHOL AND SUBSTANCE ABUSE**AUTHORITY**

The City's Drug-Free Workplace Policy is governed by Section 112.0455 and 440.102 of the Florida Statutes, Chapter 59A-24 of the Florida Administrative Code, the U.S. Department of Transportation regulations, City Charter Section 3.01 (12), City Code Sections 82 and 17 and the Drug Free Workplace Act of 1988.

POLICY STATEMENT

The City of West Palm Beach maintains a drug-free workplace. A condition of employment for each employee is to refrain from reporting to work or working with the presence of illegal or illicit drugs or alcohol in his or her body. If an employee refuses to comply with an order to submit to a test for drugs or alcohol, and leaves the testing facility prior to such test being completed, such act shall constitute a positive test and shall result in termination of employment and forfeiture of eligibility for medical and indemnity benefit. Pursuant to Florida Statutes, the unlawful manufacture, distribution, dispensing, possession or use of controlled substances in the workplace is strictly prohibited.

Any City employee who is convicted of a violation of a criminal drug statute must notify the City in writing no later than five calendar (5) days after such conviction. (This obligation to report applies irrespective of whether adjudication is withheld).

Recognizing that there may be employees who have drug or alcohol problems, the City remains willing to assist in the resolution of these problems and encourages affected employees to seek help through the Employee Assistance Program (EAP) which is available free to employees and eligible family members. The City will not terminate employment, discipline or discriminate against an employee solely because an employee voluntarily seeks treatment for a substance abuse or related problem unless otherwise stated in this Article.

Note: Stepping forward and asking for assistance means: that prior to being selected for a random drug test, or prior to being ordered to submit to a reasonable suspicion drug test, fitness for duty evaluation, or being involved in a vehicle or industrial accident, and the employee comes forward and requests assistance the City will offer that employee EAP assistance.

PURPOSE

The City of West Palm Beach has a compelling obligation to eliminate alcohol and illegal and/or illicit drug use in its workplace because of its responsibility for the safe, effective delivery of public services. Drug or alcohol abuse in the workplace may result in or contribute to on-the-job accidents, motor vehicle accidents and/or personal injury to city employees and the public. The illegal use of drugs by City employees, on or off the job and the state of being under the influence of alcohol while at work are inconsistent with the law-abiding behavior expected of all citizens and the special trust placed in City employees as public servants.

SCOPE OF APPLICABILITY

The provisions of this Article shall apply to all employees covered by this collective bargaining agreement.

The City is subject to the U.S. Department of Transportation' drug and alcohol testing requirements with respect to certain employees.

DEFINITIONS

Adulterated Specimen is a specimen that contains a substance that is not expected to be present in human urine or contains a substance expected to be present, but is at a concentration so high that it is not consistent with human urine.

Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols in methyl and isopropyl alcohol, no matter how it is packaged or in what form the alcohol is stored, utilized or found.

Drug means both alcohol and illicit drugs.

Drug Test means any chemical, biological, or physical instrumental analysis administered by a certified laboratory for the purpose of determining the presence or absence of a drug or its metabolites.

Employee Assistance Program is an established program for employee assessment, counseling and possible referral to an alcohol and/ or drug rehabilitation program.

Illicit Drugs includes drugs that are listed on Schedules I through V of Florida Statutes, Chapter 893 which are not legal; drugs which are legal, but not legally obtained; or drugs used in a manner or for a purpose which is not legal or prescribed.

Job Applicant is an individual who has applied for a position with the City, has been selected and offered the position contingent upon completion of a background check, post-offer physical and drugtest.

Medical Review Officer (MRO) is a licensed physician responsible for receiving and reviewing laboratory drug test results. The MRO assesses and determines whether an alternate medical or other acceptable explanation can account for a confirmed positive test result.

Prescription means and includes an order for drugs or medical supplies written, signed, or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed practitioner licensed by the laws of the state to prescribe such drugs or medical supplies, issued in good faith and in the course of professional practice, intended to be filled, compounded, or dispensed by another person licensed by the laws of the state to do so and meeting the requirements of s. 893.04, Florida Statutes. A prescription is not considered valid unless sometime prior to receipt of the prescription the employee was physically examined by someone he or she believes to be a physician, dentist, or professional assignee or designee with comparable license.

Safety Sensitive Position is a position including supervisory or management personnel, in which drug impairment would constitute an immediate and direct threat to public health or safety.

Confirmed Positive is a second laboratory analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique (GCMS) and chemical principle to ensure accuracy.

Split Sampling - One urine specimen is collected. This collection of urine is then split into a primary specimen and a split specimen. If an employee's test results are positive, the employee has an opportunity to have the second sample sent to a different Department of Health and Human Services' (DHHS) certified laboratory for the testing of the identifies drug(s).

STANDARDS AND PROCEDURES

A. TYPES OF DRUG TESTING:

1. Post-Offer Job Applicant Testing - prior to employment all applicants with the City will be tested. Refusal to submit to drug and alcohol testing or a positive confirmed test, will result in the immediate rejection of the applicant for employment at that time.
2. Routine Fitness for Duty Testing - an employee may be asked to submit to a drug test as part of a routinely-schedule fitness for duty medical examination that is either part of the City's established policy or that is scheduled routinely for all members of an employment classification or group, such as firefighters and police officers.
3. Reasonable Suspicion Testing - drug testing is based on a belief that an employee is using, or has used drugs or alcohol in violation of this Article. Reasonable suspicion is derived from specific, objective and

particular facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inference, which must be confirmed by two different employees, may be based upon one or more of the following:

- a. Observable phenomena while at work such as direct observation of drug use or the physical symptoms or manifestation of being under the influence of a drug;
- b. Abnormal conduct, violent or threatening behavior or erratic behavior while at work or a significant deterioration in work performance including excessive absences or tardiness;
- c. A report of drug or alcohol use on duty, provided by reliable and credible source;
- d. Evidence that an individual has tampered with a drug test during his or her employment with the City;
- e. Evidence that the employee has used, possessed, sold, solicited, or transferred drugs or alcohol while working, while on the City's premises, or while operating a City motor vehicle, machine, or equipment.

4. Post-Vehicular, Injury, and Industrial Accident Testing

a. The following accident types and conditions will result in post accident drug testing based on reasonable suspicion where a Shift Commander or higher ranking authority determines that the employee through his or her actions or inactions is at fault or causes a fatality. Medical treatment will not be withheld or delayed for an employee in order to obtain post-accident drug testing:

1. An employee who receives medical treatment for an on-the-job injury;
2. An employee involved in a motor vehicle accident, which causes loss of human life where he or she is at fault or charged;
3. An employee who is at-fault in a motor vehicle accident where such accident causes reasonable suspicion of illegal drug use or alcohol abuse. Determination of fault will be based on the information available at the time of the accident. A Shift Commander or higher ranking employee is authorized to make the determination after consultation with one of the following: Risk Manager; Environmental, Health and Safety Officer; Human Resources Director; City Attorney; Assistant City Administrator; or City Administrator.
4. An employee involved in any at-fault industrial accident;
5. An employee involved in a major incident, such as a shooting, or an injury to an arrestee(s) or citizen(s).
6. An employee must be issued the Reasonable Suspicion Documentation Form prior to submitting to the test. The Shift Commander shall present in writing to the employee the observations that have established the reasonable suspicion.

5. Random Testing - for alcohol and or controlled/illicit drugs shall be performed in conjunction with this Article.

Random selections of employees will be made through Internal Affairs utilizing the software program approved by the City. An employee selected for random testing shall be tested on the day his/her name is selected if on duty. If off-duty, the employee shall be tested on his/her next regular day of work. The total number of random drug tests given per year will not exceed one hundred percent (100%) of the total number of employees. No more than 10% of those selected for drug testing will be tested for alcohol.

B. METHOD OF DRUG/ALCOHOL TESTING

1. When required by the City, an employee shall be taken to a City authorized medical testing facility by a supervisor where the employee shall remain until the necessary urine specimen for testing has been provided. Refusal to comply with an order to submit to a drug or alcohol test, or leaving the testing facility prior to such test being completed shall constitute a positive test and will result in termination of employment.
2. Initial alcohol testing shall be conducted using an evidential breath testing device (EBT). If the initial EBT test indicates an alcohol level of .04 or greater, a second EBT shall be conducted as a confirmation test. If the second EBT test indicates an alcohol level of .04 or greater, it shall be considered a positive alcohol test and will result in disciplinary action up to and including termination of employment.
3. A portion of the sample for alcohol and/or a split sample for drugs will be held in the event the employee challenges the test results or further testing is required. Confirmation testing will comply with Chapter 59A-24 of the Florida Administrative Code. Pending the results of the confirmation test, the employee will be placed on paid administrative leave.

C. DRUGS TESTED (The following is a partial list of Substances on Scheduled I through V Florida Statutes Chapter 893):

Employees may be tested for any or all of the following:

- Alcohol:** Beer, Wine, Booze, Liquor, Distilled Spirits, Malt Beverages, etc.
- Amphetamines:** Speed, Uppers, Eve, Biphedamine, Desoxyn, Dexedrine, etc.
- Barbiturates:** Downers, Phenobarbital, Butabarbital, Secobarbital, Tuinal, Amytal, etc.
- Benzodiazepines:** Librium, Valium, Ativan, Azene, Clonopin, Dalomone, Diozepan, Halcion, Paxipam, Restoril, Serax, Tranxene, Verstran, Xana, etc.
- Cannabinoids:** Marijuana, Hashish, Hash, Hash Oil, Pot Joint, Reefer, Spleaf, Roach, Grass, Weed, etc.
- Cocaine:** Coke, Blow, Snow, Flake, Crack, etc.
- Methaqualone:** Quaaludes, Ludes, etc.
- Opiates:** Heroin, Codeine, Morphone, Opium, Dover's powder, Paregoric, Parepectolin, etc.
- Phencyclidine:** PCP, Angel Dust, Hog, etc.
- Synthetic Narcotics:** Methadone, Dolophone, Metadose, Propoxyphene, Darvocet, Darvon N, Dolene, etc.
- Steroids:** Bolasterone, Boldenone, 4-Chlorotestosterone, Fluoxymesterone, Furazabol, Mesterolone, Methandienone, Methandriol, Methenolone, Methyltestosterone, Nandrolone, Norethandrolone, Norethindrone, Oxandrolone, Oxymesterone, Oxymetholone, Stanozolol, Probenecid, Clenbuterol, Epi-testosterone, etc.

The following cutoff concentration shall be applicable to determine whether specimens are negative or positive for the following drugs or classes of drugs utilizing the initial test procedure:

	Initial Test Level Confirmation	
	<u>ng/ml</u>	<u>ng/ml</u>
Total Cannabinoid Metabolites	40	15
Total Cocaine Metabolites	300	150
Opiates	300	150
Phencyclidine	25	25
Barbiturates	300	200
Benzodiazepine	300	200
Amphetamines	1000	500
Methaqualone	300	150
Methadone	300	150
Anabolic Agents	10	1
Tricyclic Antidepressants	300	200
Epi-testosterone	3.5	3.5

Alcohol shall be confirmed positive if both the initial and confirmation tests reveal a blood alcohol content of .04 or higher.

New Drugs

New drugs will be added to the list of controlled substance based on Florida Statutes and/or the Department of Transportation.

D. PRESCRIPTION DRUGS

Many prescription drugs can alter or affect drug tests. Due to the large number of obscure brand names and the constant marketing of new products, this list cannot be and is not intended to be all inclusive. Employees and applicants may consult with the MRO for technical information regarding prescription or non-prescription medications.

Alcohol:	All liquid medications containing ethyl alcohol (ethanol). Read the label for alcohol content.
Amphetamines:	Pbetrol, Biphetamine, Desoxyn, Dexedrine, Didrex, Lonamine, Fastin.
Cannabinoids:	Marinol (Dronabinol, THC).
Cocaine:	Cocaine, HCl topical solution (Roxanne)
Phencyclidine:	Not legal by prescription
Methaqualone:	Not legal by prescription
Opiates:	Paregoric, Parepectolin, Donnagel PG, Norphine, Tylenol with Codeine, Emperine with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Diluadid (Hydromorphone), M-S Contin and Roxano (morphine sulfate), Percodan, Vicodin, Tussiorganidine, etc.
Barbiturates:	Phenobarbitol, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorianl, Fioricet, Esgic, Butisol, Mebarel, Butabarbital, Butalbital, Phrenilin, Triad, etc.
Benzodiazepine:	Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tanzene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax, etc.
Methadone:	Dolophone, Metadose, etc.
Propoxyphene:	Darvocet, Darvon N, Dolene, etc.
Steroids:	Bolasterone, Boldenone, 4-Chlorotestosterone, Fluoxymesterone, Furazabol, Mesterolone, Methandienone, Methandriol, Methenolone, Methyltestosterone, Nandrolone, Norethandrolone, Norethindrone, Oxandrolone, Oxymesterone, Oxymetholone, Stanozolol, Probenecid, Clenbuterol, Epitestosterone, etc.

An employee or job applicant may confidentially report to the City's Medical Review Officer (MRO) the use of prescription medication(s) because the presence of these medications in the body may affect the outcome of the test.

E. USE OF PRESCRIPTION MEDICATIONS/DRUGS WHILE AT WORK, IN UNIFORM, OR OPERATING A CITY VEHICLE.

Employees should never use intoxicants or drugs that could cause impairment during work hours unless prescribed by a licensed physician and prior notification has been made to the employee's immediate supervisor. In the event that the immediate supervisor is not available the employee will report and notify the next highest ranking supervisor of their Department.

The Supervisor or Department Director upon being notified will call Risk Management. Risk Management will obtain all the necessary information regarding the notification from the reporting Department, and if necessary shall consult the MRO, for a determination to be made whether the individual is taking a prescribed medication that could cause impairment (alter their faculties).

Risk Management will then notify the reporting Department as to whether the employee will be required to leave the workplace. The employee will then be required to utilize his/her leave time in the following order: sick, vacation, earned personal leave (EPL), holiday and compensatory time (if applicable) until such time that they are cleared to return to full duty by Risk Management. If the employee runs out of leave time they will then be placed in an unpaid leave status.

Written authorization from a certified medical doctor must be submitted to both Risk Management and the Department Director upon the employees return to work. If Risk Management in conjunction with the Department Director believes that a second medical opinion is warranted then the employee will be required to submit to a Fitness-For-Duty evaluation through the City's MRO at no cost to the employee and at that point will be placed on paid Administrative Leave.

F. DRUG TESTING LABORATORIES

Testing of specimens for the presence of illicit drugs and alcohol is performed by a state approved testing laboratory which is licensed by the Florida Agency for Health Care Administration.

G. POSITIVE TEST RESULTS

1. Any confirmed positive drug test for an employee shall result in disciplinary action up to and including termination of employment except as provided for in Section J-6 under Employee Assistance and Rehabilitation Programs.
2. Any confirmed positive test for alcohol at or above .04 shall result in disciplinary action up to and including termination of employment.

H. CHALLENGES TO TEST RESULTS

An employee or job applicant who receives a positive confirmed test result may explain or contest the result to the MRO within five (5) working days after the receipt of written notification of the test result. Any employee or job applicant challenging a test result must notify the City and the drug testing laboratory of such challenge in writing referencing the chain of custody specimen identification number. If an employee is involved in an accident and denied medical and/or indemnity benefits, he or she may administratively challenge the action by filing a Claim for Benefits with a Judge of Compensation Claims. If the employee's or job applicant's explanation or challenge is unsatisfactory to the MRO, the MRO must report a positive test result back to the City. Within five (5) days after receipt of the positive confirmed test result from the MRO, the City will confirm to the employee or job applicant in writing of the positive test result, the consequences of such results, and the options available to the employee, including the right to file an administrative or legal challenge. The employee or job applicant is solely responsible for the costs associated with a challenge to test results.

I. CONFIDENTIALITY

1. All drug test results and pertinent documents (i.e. reports, statements, memoranda, drug test results, written or otherwise, received or produced as a result of this drug test) will be maintained in a confidential manner by the City.
2. Information concerning drug test results may not be released without a written consent form signed voluntarily by the person tested. Drug test results may be released without consent if compelled by a court of competent jurisdiction pursuant to an appeal or if it is deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. Moreover, the City, its agents, or the drug testing laboratory may have access to the drug test information or use such information when consulting with legal counsel in connection with actions brought under this Article or when the information is relevant to a defense in a civil or administrative matter.

J. EMPLOYEE ASSISTANCE AND REHABILITATION PROGRAMS

1. The City provides an Employee Assistance Program (EAP) and access to necessary and/or voluntary treatment and rehabilitation resulting from substance abuse as an alternative to discipline. This is where the employee comes forward prior to being notified of the test being administered and requests assistance. The treatment program requires that an employee complete a program prescribed by the City's EAP provider.
2. Pursuant to Florida Statutes, Chapter 440.102 (11), an employee who enters an employee assistance program for substance abuse will be assigned to a position other than a safety-sensitive position, or if such position in the City is not available, the employee will be permitted to use any accrued leave time

during their rehabilitation. If the employee does not have leave accrual or exhausts all accrued leave time while participating in an Employee Assistance Program they will then be placed on unpaid leave during the completion of the program.

3. An employee who successfully completes a voluntary rehabilitation or employee assistance program as described in J-1, upon returning to work, will be subjected to unannounced or mandatory testing for a period of three (3) years.
4. An employee, who on the basis of such unannounced or mandatory testing is found to be under the influence of alcohol or an illegal or illicit drug after successfully completing the voluntary treatment program, shall not be given a second opportunity to access the employee assistance program and will be immediately terminated from employment with the City.
5. Any employee who tests positive for illicit or illegal drugs or alcohol in violation of this Article shall be subject to disciplinary action up to and including termination from employment with the City.
6. If an employee who is selected for random drug testing discloses, before providing a testing sample, that he or she has used a prescription medication prescribed for them, or a medication prescribed for someone other than the employee, (both of which should have been, but were not, disclosed to his or her supervisor upon reporting to work) he or she shall have one opportunity to access the Employee Assistance Program. During the time that the employee is utilizing the EAP Program the City will permit the employee to utilize any accrued leave time during their rehabilitation. Upon completion of the EAP Program the employee will then be governed by J-3 and J-4 of this section. Drugs which are not legal under state law are not covered under this provision and the employee will be governed by Section G of this Article.

K. ENFORCEMENT OF DRUG-FREE WORKPLACE

1. Actions the City may take:
 - a. A job applicant with a positive or adulterated drug test will not be hired.
 - b. An employee with a positive drug or alcohol test will be subject to disciplinary action up to and including termination of employment with the City.
 - c. Employees disciplined pursuant to this Article will be given notice of the right to a disciplinary hearing (by the department director) with full charges and explanation of the circumstances in writing. All discipline policies, Civil Service Rules and Regulation and collective bargaining agreements will be observed, where applicable.
 - d. If an employee is injured in the scope of his or her employment and drug tests and/or other medical evidence indicates the presence of illegal drugs or alcohol in the employee's body at that time of the accident, and it can be concluded that the drug use contributed to the accident, the employee may be required to forfeit any medical or indemnity benefits available under Florida's Workers' Compensation statute and may also forfeit eligibility for unemployment benefits. These penalties are in addition to any other penalties that may apply under this policy or under applicable law.
2. Consequences of refusing to submit to a drug test: Any employee who refuses to submit to drug and alcohol testing when required under this Article or who alters adulterates or otherwise interferes with drug testing collection, samples, or analysis will be terminated from employment and may forfeit medical and/or indemnity benefits under Florida Workers' Compensation statute.

L. ADMINISTRATION AND OVERSIGHT OF POLICY

1. Drug testing under this Article is administered by the City of West Palm Beach Police Department in conjunction with the Risk Management Division.

2. Any employee who believes that he or she has reasonable suspicion that a City employee is using or has used drugs or alcohol in violation of this Article is obligated to report that information to his or her supervisor, or in the absence of their immediate supervisor, to a higher-ranking supervisor in the City organization. Failure of an employee to make such report could result in disciplinary action.