

	POLICY & PROCEDURE	SERIES # 555	PAGE 1 OF 8
	SUBJECT		EFFECTIVE DATE
	SUBSTANCE ABUSE		12/30/2021
			OVERSIGHT Prof. Standards
DISTRIBUTION ALL MANUALS	AMENDS/SUPERSEDES/CANCELS P&P # 555 dated 01/23/17.		

I. PURPOSE:

The purpose of this policy is to provide a safe, efficient and productive work environment for all Police Division employees. This policy is designed to encourage and promote an alcohol and drug-free workplace by providing employee assistance, supervisory training, employee education, and a testing procedure for the identification of the illegal use of drugs and alcohol.

II. POLICY:

It is the policy of the Hampton Police Division that all employees are prohibited from possessing or using alcohol and illegal drugs in the workplace. Employees shall be tested according to the guidelines established by City Policy Manual, Personnel Administrative Instruction (PAI) 2.1, and as further outlined below.

III. DEFINITIONS:

- A. Adulterated Sample (Specimen): 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 a concentration so high that it is not consistent with human urine.
- B. Alcohol: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including, but not limited to, methyl and isopropyl alcohol.
- C. Under the Influence of Alcohol: having an alcohol concentration of .02 or greater. However, because of the nature of our work, the Division's standard is .01 or greater.
- D. Illegal Drug and Controlled Substance: interchangeable and means any of the following:
 - 1. The possession of any drug or controlled substance which is prohibited by law. These illegal drugs include, but are not limited to, marijuana, cocaine, heroin, opiates, phencyclidine (PCP), amphetamines and imitations thereof.

APPROVED:
CHIEF OF POLICE



2. Any drug or controlled substance which is used in a manner different from that authorized by law.
 3. Any drug or controlled substance which is legally obtainable but which has not been legally obtained.
- E. Driver: any person who operates a motor vehicle, including, but not limited to, full-time, part-time, WAE, voluntary, intermittent and occasional drivers.
- F. Medical Review Officer (MRO): a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program. The MRO shall possess knowledge of substance abuse disorders and have appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history and any other relevant biomedical information.
- G. Performing a Safety-Sensitive Function: drivers or other designated personnel are actually performing, ready to perform or immediately available to perform any safety-sensitive function.
- H. Safety Sensitive Position: a position in which drug impairment constitutes an immediate and direct threat to public health or safety. Those positions identified as Safety Sensitive in the Police Division are:
1. Police Sworn
 2. Police Cadets
 3. Patrol Service Officers
 4. Communications Personnel
 5. Information Clerks
 6. Forensic Technicians
 7. Animal Control Officers
- I. Reasonable Suspicion: an articulable belief based on specific facts, and reasonable inferences drawn from those facts, that an employee is under the influence of drugs or alcohol.
- J. Substance Abuse Professional: a licensed Physician (Medical Doctor or Doctor of Osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

IV. PROCEDURE:

A. TYPES OF TESTING:

1. Pre-Employment: All persons offered employment in a safety-sensitive position with the Police Division as defined in Section III paragraph H of this Policy shall be required to undergo testing for controlled substances, excluding marijuana. Those who test positive and do not have a valid prescription for the controlled substance and those who refuse to be tested shall be denied employment.
2. Reasonable Suspicion: All employees of the Hampton Police Division shall submit to drug and alcohol testing at the direction of the Chief of Police or his designee when there is reasonable suspicion that the employee is using, is under the influence of, or has present in his/her body, drugs or alcohol.
3. Random Testing: All safety-sensitive employees will be subject to random testing per PAI 2.1. ([City of Hampton](#))
 - a. Circumstances that constitute a basis for determining “reasonable suspicion” may include, but are not limited to:
 - (1) Unexplained inability to perform normal job functions
 - (2) Slurred speech
 - (3) The smell of alcohol or drugs on the breath or body
 - (4) Glassy/watery or bloodshot eyes
 - (5) Any unusual lack of physical coordination or loss of equilibrium
 - (6) A pattern of abnormal or erratic behavior
 - (7) Information that an employee is using alcohol or illegal drugs when provided by a reliable person with personal knowledge of facts that support the allegation
 - (8) Unexplained change in mood or temper
 - (9) A work-related accident that results in serious bodily injury or loss of human life
 - (10) Direct observation of drug or alcohol use
 - (11) Illegal possession of drugs or drug paraphernalia
 - (12) Unusual drowsiness or sluggishness

- b. All supervisors are responsible for monitoring and observing their employees' behavior for signs or symptoms of drug and / or alcohol use. All supervisors shall promptly report any such observations to the Chief of Police or his designee in accordance with the following procedures:
 - (1) When reasonable suspicion is based on personal observation alone, prior to any administration of a drug or alcohol test, the behavior of the affected employee should be observed by two supervisors. These two supervisors should concur on the need for the test. In the event that two supervisors are not available, the observation of one supervisor shall suffice. However, the observation shall be documented and submitted to the Chief of Police verifying the unavailability of the second supervisor to concur with the need to administer the test.
 - (2) The supervisor shall immediately report to the Chief of Police or his designee the specific facts, symptoms or observation which form the basis for a belief that reasonable suspicion exists to warrant the testing of the employee. The supervisor shall obtain approval from the Chief of Police or his designee prior to ordering an employee to submit to testing.
 - (3) If the circumstances support the need for reasonable suspicion testing, the Chief of Police or his designee will notify the Department of Human Resources to coordinate the testing.
 - (4) The supervisor will arrange to have the employee transported to the City's designated collection site for the appropriate test.
 - (5) Supervisors shall document in a special report the specific facts, symptoms, or observations justifying a determination of reasonable suspicion.
- 3. Post Accident: Any employee involved in an accident while on or off duty operating a city vehicle, on a public road, private road, or on city property will be sent for a post accident drug test as soon as practicable, if the accident results in:
 - a. A loss of human life;

- b. Bodily injury to a person requiring immediate medical treatment away from the scene of the accident;
 - c. Damage to, or disability of, one or more vehicle requiring that the vehicle(s) be transported away from the scene of the accident by a tow truck or other vehicle;
 - d. As soon as practical following a qualifying accident, the City shall test for alcohol and controlled substances each surviving driver employed by the city.
4. Post Incident: Any employee involved in a police related shooting while on or off duty will be sent for a post incident drug test as soon as practicable, if the incident results in:
- a. A loss of human life
 - b. Bodily injury to a person requiring immediate medical treatment
5. Return to duty:
- a. Any employee who upon receiving a first offense positive alcohol test result of .02-.039 must complete a return-to-duty alcohol test. Based on the Division's standard, the alcohol concentration must be less than .01.
 - b. Any employee who is referred to a substance abuse professional as a result of an independent admission of alcohol or controlled substance problem must submit to return-to-duty testing and provide a test result of .00 for alcohol and/or negative for controlled substances, in accordance with the Division's standard.
6. Follow-up: Any employee who independently admits to alcohol or controlled substance abuse and has been referred to a substance abuse professional shall be subject to unannounced follow-up testing for a period of up to 24 months following the employee's return-to-work status.

B. COLLECTION AND TESTING PROCEDURES:

1. Controlled Substance Testing: The Hampton Police Division and City of Hampton require strict collection and testing procedures which includes, but is not limited to; marijuana, cocaine, opiates, amphetamines, and phencyclidines (PCP). Urine samples will be collected in a controlled environment at a pre-assigned collection site

and under strict chain of custody conditions.

Certified laboratories are used to assure accuracy. If an employee tests positive, the laboratory shall automatically conduct a second test to assure accuracy of the testing result. The result is then communicated to a Medical Review Officer (MRO). The employee will have the opportunity to discuss the positive result with the MRO and also provide the MRO with recent documented cases of any “passive exposure” during his/her tour of duty. The MRO will advise the employee that a split sample of the original urine can be tested at another laboratory upon the employee’s request within 72 hours. The requesting employee will be asked to reimburse the City for all costs associated with the follow-up testing of the split sample of the original urine specimen.

2. Alcohol Testing Procedures: The alcohol testing will be completed with an approved Breath Alcohol device called an Evidential Breath Testing Device (EBT). This instrument determines the concentration of alcohol expressed as percent by weight. This test is conducted by a certified Breath Alcohol Technician (BAT). A chain of custody form will be used to document the breath alcohol collection. The employee will be required to sign this form and will be given a copy. (An employee with a breath alcohol test of .04 or greater, may request a confirmatory blood alcohol test)

C. HANDLING SUSPECTED VIOLATIONS:

1. Supervisors Responsibility: Supervisors shall discuss any case of suspected violation of this policy with the Chief of Police or his designee and the Director of Human Resources as soon as practical. All supervisors are responsible for identifying and documenting instances of unacceptable and/or inadequate work performance and abnormal behavior which may suggest that an employee may have an alcohol or controlled substance problem. Supervisors who fail to take appropriate action to detect and/or properly deal with a substance abuse by employees under their supervision will themselves be subject to disciplinary action, up to and including dismissal.
2. Employee Responsibility: Any employee who has, or suspects that they may have, a substance abuse problem is encouraged to seek assistance through the city’s Employee Assistance Program (EAP). However, an employee whose substance abuse problem or impairment poses risk or harm or damage to himself/herself, fellow employees, the public, or city or private property, is obligated to notify his/her supervisor immediately. Employees whose positions have been designated as safety-sensitive shall be relieved from duty until it

is medically certified that they are fit to return to duty, regardless of whether they have sought or are receiving assistance for substance abuse problems.

3. Personnel Actions: Violations of this policy related to alcohol and controlled substances are covered by the City disciplinary policies contained in Chapter II of the Personnel Policies Manual.
 - a. In accordance with the Division's standard, an employee with a first offense breath alcohol test of .01 to .02 will be counseled and documented on their supervisor's record of employee. A second or subsequent offense could result in formal disciplinary action.
 - b. An employee with a first offense alcohol test result of .02 - .039 and no other infractions of misconduct may, at the discretion of the Chief of Police or his designee, be handled as a medical matter if the employee has an overall satisfactory record of job performance and conduct. In cases which are handled as medical matters, the employee shall be referred to a substance abuse professional for counseling and shall be subject to return-to-duty testing and not allowed to return to work until he/she can provide a test result of .00, in accordance to the Division's standard.
 - c. An employee in a Safety Sensitive Position with a positive test result for controlled substances and/or an alcohol test result of .04 or greater will be dismissed.
 - d. Any employee independently admitting to an alcohol or controlled substance problem at a time other than when he/she has been directed to test and there have been no related misconduct or job performance problems, the employee shall be referred to a substance abuse professional.
 - e. Any employee refusing or fails to submit to an alcohol or controlled substance test required under this policy, the employee will be dismissed. In cases of reasonable suspicion, refusal to consent to a test shall be used as supporting evidence for disciplinary action.
 - f. Any refusal or failure to cooperate fully in alcohol or controlled substance testing, any behavior which makes testing more difficult, or any action to alter or attempt to alter the test will result in dismissal.

- g. If any employee receives an adulterated sample (specimen) test result, this will be considered a refusal to test, and the employee will be dismissed.
 - h. Employees referred to a substance abuse professional shall satisfactorily participate in the recommended treatment, cooperate and successfully complete the treatment. Non-compliance in any treatment will result in the employee being dismissed.
 - i. If an employee is referred to the substance abuse professional and the conduct and performance problems continue, appropriate personnel action will be taken.
 - j. Off-the-Job Misconduct: Any employee may be subjected to disciplinary action up to and including dismissal if the employee commits off-the-job misconduct associated with alcohol or controlled substance use which affects the employee's effectiveness, credibility or ability to fully carry out the responsibilities of the position held and is considered conduct unbecoming to a city employee which adversely reflects on the department and the City. Such cases will be handled on a case-by-case basis. The employee may be subject to periodic unannounced follow-up testing and may be referred to a substance abuse professional.
- D. SEARCHES: The City reserves the right to conduct investigatory searches, without employee consent, of all areas and property over which the City maintains joint control with an employee or full control. Such areas and property include, but are not limited to desks, closets, bookcases, lockers, file cabinets, city vehicles. Where feasible, investigatory searches should be approved in advance by the Chief of Police or his designee and the Department of Human Resources.
- E. EXPOSURE: During the course of duty, any officer exposed to secondhand narcotic smoke for a long duration, MUST complete a Special Report upon the completion of their assignment/tour of duty to be forwarded up the chain-of-command to the Training Unit.