	SALISBURY POLICE DEPARTMENT
	Written Directive: Drug and Alcohol Testing
	Publication Date: March 19, 2018
	Approved: Barbara Duncan, Chief of Police
Related CALEA Standards: 22.2.2	**Drug and Alcohol Testing** Section #111

Drug and Alcohol Testing

1. Policy:

Employee safety is of paramount concern to the Salisbury Police Department. The use, possession, or sale of illegal drugs and alcohol in the workplace poses a serious risk to the wellness of all Salisbury Police Department personnel. Being under the influence of drugs or alcohol on the job causes serious safety and health risks not only to the user and those who work with the user but also the public. The public has a right to expect that those who are employees of the Salisbury Police Department are at all times both physically and mentally prepared to perform their duties. Therefore, it is the policy of the Salisbury Police Department to have a drug and alcohol-free environment, and for employees at work to be drug-free and not under the influence of alcohol.

2. Definitions:

A. Abuse: When the use of alcohol impairs job performance or endangers the safety of others in the workplace; the use of any illegal drug (including off-duty use); the use of any over-the-counter drug when the user knows or should know that it may impair job performance or endanger the safety of others in the workplace; or the use of any prescription drug in a manner of under circumstances that the users know or should know is inconsistent with its medically prescribed, intended use, or has been prescribed for someone else.

B. Alcohol: means ethyl alcohol or ethanol.

C. Alcohol test: means a test for alcohol by a breath alcohol test conducted by a law enforcement or correctional agency on breath testing equipment certified by the State Toxicologist.

D. Conviction: A judgment of conviction, whether entered upon a finding of guilty or acceptance of a plea of guilty or nolo contendere, and the imposition of sentence; or the staying of a judgment of conviction and the placing of a defendant on probation after a finding of guilty or the acceptance of a plea of guilty or nolo contendere.

E. Drugs: Any substance other than alcohol, caffeine, or tobacco, including controlled dangerous substances, taken into the body, which may impair one's mental faculties, changes one's mood and/or physical performance.

F. Drug Test: The compulsory production and submission of urine, blood or hair by an employee for chemical analysis in order to detect prohibited drug usage.

G. Employee: An individual who is employed by the Salisbury Police Department. However, this does not include independent contractors unless the contract with the city explicitly provides that this policy shall apply. Notwithstanding the above, if a supervisor observes behavior indicating drug use by an independent contractor it shall be brought to the attention of the chief of police for appropriate action.

H. Reasonable suspicion: The 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 or alcohol.

I. Safety position: All positions within the Salisbury Police Department are classified as safety positions.

J. Substance: Alcohol or drugs.

K. Supervisor: An employee assigned to a position having day-to-day responsibility for supervising subordinates, or who is responsible for directing a work element.

3. Application of Policy:

A. No employee shall illegally possess, use, manufacture, purchase, sell, transfer, distribute or dispense any controlled dangerous substance, or possess, use, manufacture, purchase, sell, transfer, distribute or dispense alcohol, in the workplace, in city vehicles, on city property, except when necessary in the performance of a police task.

B. All employees must report to work in a fit condition to perform his/her duties and remain fit during the performance of his/her duties. Reporting to work under the influence of drugs or alcohol, or being under the influence of drugs or alcohol as measured by the test procedures is a violation of this policy. While at work and being under the influence of drugs or alcohol as measured by the test procedures of this policy shall be a violation of this policy. A violation of this policy shall subject the employee to disciplinary action up to and including termination.

C. If an employee is undergoing prescribed medical treatment with any drug, which may alter their behavior or physical or mental ability and which may affect the performance of the employee's job, then:
   a) The employee shall notify his/her immediate supervisor.
   b) The employee shall advise his/her supervisor of the known side effects of such medication as well as the prescribed period of use.
   c) The employees shall keep all prescribed medicine in its original container which identifies the drug, date of prescription, and prescribing doctor, or supply documentation of description.
   d) The supervisor shall document this information in the employee's confidential medical file through the use of a confidential internal memorandum.
   e) The employee may be temporarily reassigned to other duties, where appropriate, for example a light duty assignment.

D. No employee shall ingest any prescribed or over-the-counter medication in amounts beyond the recommended dosage during the employee's working time for the city. The misuse of any prescription, over-the-counter drug or other generally available substance where such misuse impairs job performance is prohibited and will result in discipline up to and including termination.

E. All employees must report in writing any charge, arrest and conviction relating to drug or alcohol possession, use, or sale (including, but not limited to, violations of traffic law involving driving while intoxicated or driving under the influence of alcohol or drugs) to their supervisor immediately. A conviction, or failure to report a charge, arrest or conviction, even as to off-the-job offenses, will constitute a violation of this policy. Upon notification of a charge or arrest, the department shall have the authority to make its own administrative investigation, to determine whether the employee has violated the drug and alcohol policy, and to take disciplinary action, if appropriate.

F. The Salisbury Police Department will educate and inform its employees about:
   a) The dangers of drug and alcohol abuse in the workplace and the community at large;
   b) The Salisbury Police Department's policy of maintaining a drug-free work place;
   c) Any drug and alcohol abuse counseling, rehabilitation, and employee assistance programs that are available; and
   d) The penalties that may be imposed upon employees for drug and alcohol abuse violations.

G. Any employee found to be in violation of any of the provisions of this policy shall be subject to disciplinary action, up to and including termination, or a requirement that the employee satisfactorily participate in an alcohol or drug abuse assistance or rehabilitation program.

H. All employees shall be given a copy of this policy and shall acknowledge receipt of the same.

I. The Salisbury Police Department will, if any employee's position is funded in whole or in part by federal or state funds, notify the federal or state agency through which funding is obtained within ten (10) days after receiving notice from the employee or otherwise receiving actual notice of any criminal drug conviction for an offense occurring in the workplace.

4. <u>Drug and Alcohol Testing:</u>

A. All drug and alcohol testing will be performed in conformance with applicable law. All drug/alcohol testing shall be performed and analyzed by a laboratory that is certified by the State of Maryland and The Substance Abuse and Mental Health Services Administration (SAMHSA); provided that breath alcohol testing on a reasonable suspicion or post-incident basis which does not involve an employee utilizing a commercial driver's license in his employment may be conducted only by a law enforcement or correctional agency on breath testing equipment certified by the state toxicologist. All drug and alcohol tests will be administered by one or more qualified facilities as the chief of police may designate from time to time.

B. To be qualified, a laboratory shall employ:
   a) Testing procedures that ensure privacy to employees and applicants consistent with the prevention of tampering; including procedures providing that urine samples will be provided in a private restroom stall or similar enclosure so that the employee is not viewed while providing the sample;
   b) Methods of analysis that ensure reliable test results;
   c) Chain-of -custody procedures that insure proper identification, labeling and handling of test samples; and
   d) Retention and storage procedures that ensure reliable results on confirmatory tests of original samples.

C. No drug or alcohol test will be conducted without the employee's consent. However, refusal to consent will result in discipline up to and including termination. Positive drug tests on any specimen will be confirmed. Upon confirmation of a positive drug test result, the Salisbury Police Department (or at its direction, the laboratory) will provide to the employee in person or by certified mail within thirty (30) days from the date the test was performed:
   a) Notice that the applicant or employee will be given the option of having a sample of a specimen for which there has been a positive result re-tested, at the employee's expense, at another certified laboratory;
   b) A copy of the laboratory test indicating the results;
   c) A copy of the Salisbury Police Department's written drug and alcohol policy; and

d) Written notice of the Salisbury Police Department's intent to take disciplinary action, terminate employment or change the conditions of continued employment if applicable.

D. It is the intent of this section to comply with the Maryland Annotated Code (health general) and shall be construed accordingly.

E. All positive drug or alcohol tests will be subject to a medical review by a certified medical review officer. Medical review is required to assure an accurate positive result. All breath alcohol tests with results of .02 or greater will be subject to a second confirmatory breath alcohol test.

F. All records pertaining to drug and alcohol tests shall remain confidential, and may be disclosed only to persons who might need to know such information, including but not limited to, persons participating in the decision with respect to any disciplinary action to be taken with respect to such employee, persons responsible for or involved in the implementation of any disciplinary action, including any rehabilitation program, or persons having responsibility for observing or evaluating the performance of the employee.

5. <u>Types of testing:</u>

Salisbury Police Department applicants and employees will be tested for drugs on a pre-employment, random, reasonable suspicion, and post-incident basis. They will be tested for alcohol on a reasonable suspicion and post-incident basis. City of Salisbury employees who transfer into the Salisbury Police Department from another position within the city will be tested for drugs as required by the applicant selection process.

A. <u>Application for employment:</u> Applicants for employment will be tested for drugs. Confirmed positive results will result in the withdrawal of the employment offer for an applicant. Failure to report to test or refusal to take the test will result in immediate withdrawal of an employment offer.

B. <u>Probationary Testing:</u> Newly hired probationary employees may be subject to drug testing prior to the completion of their probationary period.

C. <u>Rehabilitation or monitoring</u>. Employees that are participating in drug and alcohol rehabilitation programs when such testing is part of that program; or employees who are being monitored for use after known abuse of drugs or alcohol.

D. <u>Reasonable Suspicion</u>: Testing for drugs and/or alcohol when job performance, behavior or other information or circumstances indicates that there is a reasonable suspicion that the employee may be under the influence of drugs or alcohol which

adversely affects job performance or which may negatively impact the safety, health, or general well-being of other employees or the public.

E. Random Testing: Employees subject to random testing will be subject to random selection a minimum of four times per fiscal year. Selection will be made by a random process. All employees selected will be contacted by their supervisor or administrative commander and told the time on that same day at which they are to report for random testing. Personnel on pre-approved leave will be required to submit to the testing on their next regular scheduled day at work.

F. Post Incident Testing: Testing for drugs and/or alcohol may be required under any of the following circumstances:
   a) Injury believed to be 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 what is believed to be a careless and avoidable accident of serious magnitude where equipment was damaged even though no injuries were reported.

6. Drugs tested for:

A. Department employees will be tested for the following drugs:
   a) Amphetamines
   b) Barbiturates
   c) Marijuana
   d) Opiates
   e) Cocaine
   f) Phencyclidine
   g) Benzodiazepines
   h) Steroids (without a prescription)

B. Upon confirmed positive test for drugs or alcohol, or other violation of this policy, the employee will be subject to disciplinary action up to and including termination, in accordance with departmental policy. All discipline procedures for sworn officers shall be in accordance with the Law Enforcement Officers' Bill of Rights.

C. Rehabilitation or additional drug or alcohol testing, if permitted by the department, will be at the employee's expense.

7. **Initial Drug Positive Results:**

   A. Alcohol Positive Results: Concentrations of alcohol of .02 or greater, confirmed by a second test, shall be considered a positive test result.

   B. Upon confirmation of a positive result, an employee (other than an applicant who has received a conditional offer of employment, which shall be withdrawn) will be subject to discipline up to an including termination.

   C. Failure to report for a test or refusal to take a test shall be treated as a confirmed positive result and shall subject the employee to discipline up to an including termination.