

# EASTON POLICE DEPARTMENT

DRUG TESTING POLICY	
CHAPTER: 17	ADMINISTRATIVE MANUAL
AMENDS/SUPERSEDES: G.O. #99-001	REVISED: October 19, 2016
APPROVED: _____ <i>Chief of Police</i>	EFFECTIVE DATE: January 29, 2001

## 17-1.0 GENERAL

### A. POLICY

The Department shall protect the public and its members by providing a drug free work place. No member may abuse any drug substance. Possession of illegal or controlled drug/substances is permitted only in the lawful performance of duty. Members may be required to submit to drug/substance testing in certain specific situations, in accordance with established guidelines and with regard to individual rights. Assessment, counseling, and referral services for drug/substance abuse, abuse/dependency problems will be made available to all members.

Drug abuse is viewed as a medical condition and members should seek medical assistance if they perceive a problem. Similarly, supervisors should know the working habits of their subordinates, in order to observe changes in behavior that might indicate substance abuse. Supervisors bear the responsibility to their subordinates to instruct, guide and counsel them as well as, to the Department, to ensure high standards of performance. Whenever possible, the Department will assist members. The Department, however, must maintain a professional image before the community and shall relieve from law enforcement duties, temporarily or permanently, those afflicted by substance abuse.

A drug free work place is critical to the law enforcement profession, this department's goals and objectives, and to the confidence of the public we serve. Towards these ends, it shall be the policy of this Department, to conduct, in accordance with established guidelines and safeguards, random drug testing of all members.

### B. DEFINITIONS

1. Member: Any full-time member of this Department.
2. Drug/Substance Abuse:
  - a. Controlled Dangerous Substance (CDS):  
Illegal use of any substance (narcotic or non-narcotic) subject to enforcement under the Maryland Uniform Controlled Dangerous Substance Act and those non-controlled substances inclusive, as enforceable under law.

- b. Non-Prescription drugs/alcohol:  
Use other than prescribed by manufacturer and/or physician and which may impair the member's performance.
  - c. Prescription Drugs:  
Use other than prescribed to the member by a physician, which may impair the member's performance.
3. Drug/Substance Dependence: A condition that exists when:
    - a. Use of a drug/substance has caused impairment of social or occupational functions.
    - b. Tolerance is developed for the drug/substance.
    - c. Withdrawal symptoms appear upon termination of the use of the drug/substance.
  4. Drug/Substance Test: A test administered to detect drugs, according to established departmental procedures.
  5. Random Drug Testing: A system of selecting members for drug testing, unannounced, using a random sampling of employees based on a neutral criterion, such as departmental identification numbers. After selection, the number goes back in the pool and could be selected again. Eligible members include all full-time employees of the Easton Police Department.
  6. Reasonable Suspicion: When one or more facts and/or observations lead a supervisor to believe that a member may be involved in the use, possession, or sale of controlled dangerous drugs/substances or abuse of prescribed or non-prescribed drugs/substances, including alcohol.
  7. Special/Sensitive Positions: Positions which require the member to:
    - a. Engage primarily in drug investigation activity.
    - b. Handle, transport, or store drugs and related evidence.  
**NOTE:** If a support member believes their position has been unjustifiably designated as a special/sensitive position, the member may file an appeal to the Chief of Police. The appeal must be submitted by the member, in writing, setting forth all relevant information. If a Commander believes that a member should be so designated, written documentation shall be sent to the Deputy Chief, outlining the request and reasons for inclusion.

### **C. EXPECTATION OF PRIVACY**

1. There is no expectation of privacy with regard to the abuse of any drug/substance.
2. All property belonging to the Department or the Town Government including, but not limited to, vehicles, desks, containers, cabinets, files, storage areas, and lockers is subject to inspection at any time, without notice. These areas are to be free from any illegally possessed drug/substance at all times.
3. Inspections will be carried out in the presence of the involved member, when practical, or pursuant to process of law.

## D. ABBREVIATIONS

1. HEC Health Enhancement Center.
2. MRO Medical Review Officer.
3. DOT Department of Transportation.

## 17-2.0 DRUG/SUBSTANCE TESTING

### A. VOLUNTARY TESTING AND ADMISSION

1. Departmental members may volunteer for drug/substance testing. Any member testing positive shall be placed on suspension and referred for counseling.
2. The decision to discipline a member who is voluntarily attending a treatment program will be made by the Chief of Police, based upon the facts and circumstances of each case.
3. This provision only applies to members who voluntarily come forward, prior to notification of testing and is not available to any member who requests assistance after being:
  - a. Requested to provide a urine specimen.
  - b. Discovered to have used an illegal drug/substance by observation, circumstance, and/or investigation.
4. Members who are required to take any controlled substance or any drugs prescribed or over-the-counter, which may impair job performance, must disclose this information immediately to their supervisor on a Form 48. The Form 48 shall be forwarded to the Deputy Chief and must contain the following information:
  - a. Type of medication.
  - b. Length of use.
  - c. Possible side effects.
  - d. Member's ability to perform their normal duties while on the medication.

### B. REQUIRED SITUATIONS

1. Random Drug Testing: Members randomly selected.
2. Reasonable Suspicion: When one or more facts and/or observations lead a supervisor to believe that a member may be in violation of this policy.
3. New Employees/Recruits: As part of the pre-employment physical examination required by the department, after a conditional offer of employment has been made.
4. Reinstatement: After a leave of absence, as part of the physical examination.
5. Integrity: Periodic testing of all persons assigned to a unit below may be required to submit to unannounced tests, at the discretion of the Chief of Police. Refusal without cause will result in transfer out of the unit:
  - a. Evidence Management.
  - b. Narcotics, Criminal Investigation Unit.
  - c. Special Weapons Unit.
  - d. K-9 Unit.

### C. TESTING STANDARDS

1. The Deputy Chief will determine the type of test used for reasonable suspicion.
2. All testing is to be conducted at minimum sensitivity levels, in accordance with the Maryland Police Training Commission guidelines:

- a. The immunoassay screen used shall test, at a minimum, for the presence of the following controlled dangerous substances or classes of controlled dangerous substances, or their metabolites, at the following minimum levels:

Substance .....	Nanogram per Milliliter
1) Amphetamines	1,000
2) Barbiturates	300
3) Cannabis or cannabinoids	50
4) Opiates	300
5) Cocaine or cocaine metabolite	300
6) Phencyclidine	25
7) Benzodiazepines	300

- b. A sample which meets or exceeds the minimum nanograms per milliliter, is considered as being screened positive for the presence of a controlled dangerous substance.

**D. REFUSAL**

1. A member will be suspended, pending disposition of disciplinary/administrative action, for refusing to submit to an ordered test.
2. Employment applicants will have their conditional offer of employment withdrawn.
3. Transfer candidates will be removed from eligibility lists.
4. Candidates for re-instatement will not be processed.

**E. SPECIMEN COLLECTION**

1. Shall be performed in accordance with established Department of Transportation (DOT) procedures, carried out by the Health Enhancement Center (HEC.)
2. Shall allow for privacy, unless there is a reason to believe that a member may alter or substitute the specimen.
3. Members and applicants will be required to produce their driver's license or some other acceptable type of photo identification at the testing facility before the specimen can be collected.

**F. TESTING PROCEDURES**

1. Tests shall be completed in as timely a manner as possible, in accordance with established procedures of HEC.
2. A split specimen method will be used, in accordance with established guidelines of the DOT.
3. A specimen will be considered to be positive only after all tests show a positive indication for a Drug/Substance and a review by the Medical Review Officer from HEC determines the specimen to be positive.

**G. NOTIFICATION**

1. The Deputy Chief shall notify all members of negative test results, in writing.
2. For members testing positive, immediate notification shall be made by HEC to the Deputy Chief.

3. Members who test positive will be immediately suspended, pending the outcome of an internal investigation.
4. The results of all drug tests are confidential. Members who breach confidentiality of testing information shall be subject to severe disciplinary action, up to and including, dismissal.

#### **H. REQUEST FOR RETEST**

1. Members who test positive will be notified, in writing, of their right to have an independent test conducted of the split specimen found positive at an approved laboratory of their choice, at the member's expense.
2. Members must take their request, in writing, to the Deputy Chief within 24 hours of receipt of the written notification and identify the chosen testing facility.
3. The HEC shall determine if the testing facility can administer the retest and notify Deputy Chief for necessary arrangements for testing.

### **17-3.0 RANDOM DRUG/SUBSTANCE TESTING**

#### **A. DEPUTY CHIEF**

1. Maintains the confidential list of members selected, only releasing the names through the notification process.
2. Maintains the Test Notification Log.
3. Notifies the selected member, after being contacted by the HEC.
4. Directs the member to report to the appropriate location, as instructed on the form provided by HEC, in accordance with time restrictions.

#### **B. ELIGIBLE MEMBERS**

1. Are included in the selection file created from current personnel.
2. Are identified through an automated random sampling of the selection file, using Department identification numbers.
3. Have an equal chance of being selected for testing.
4. Are selected randomly by the Health Enhancement Center.
5. Two members shall be randomly selected and tested each month.

#### **C. SELECTED MEMBER**

1. Acknowledges receipt of the notification with their signature on the HEC form.
2. Completes a form indicating use of all medication taken within the past thirty days.
3. Shall report directly to the testing location.

#### **D. TEST DEFERRAL**

1. May be granted if the member is:
  - a. On authorized leave status.
  - b. In an administrative status such as:
    - 1) In-Service Training.
    - 2) Suspension (without pay).
    - 3) Official travel status, requiring attendance away from the test site.
    - 4) Off duty.

2. Members will be notified of random selection when they report for the next scheduled early shift.

#### **17-4.0 POSSIBLE VIOLATIONS/REASONABLE SUSPICION**

##### **A. DEPARTMENT MEMBERS**

1. Specific behaviors or deviations from expected performance that may justify ordering a drug test may include, but is not limited to, the following:
  - a. Frequent absences, tardiness.
  - b. Serious errors in judgement.
  - c. Numerous accidents, both on and off duty.
  - d. Excessive force complaints.
  - e. Chronic missed deadlines.
  - f. Mood swings and unpredictable hostility.
  - g. Repeated instances of violations of conduct.
2. Shall report any possible violation of this policy immediately to an on-duty shift supervisor.
3. Allegations of suspected drug use/abuse against a member by another member shall be documented and may constitute reasonable suspicion.

##### **B. DEPUTY CHIEF**

1. Arranges meeting between the member and Medical Review Officer from HEC to discuss results of a specimen.
2. Ensures investigation of all reports of possible violations of this policy.
3. Directs all drug/substance testing performed for reasonable suspicion.

##### **C. SUPERVISORS**

1. Shall, if the accused appears to be under the influence of a drug/substance:
  - a. Notify and consult with the Deputy Chief.
  - b. Follow instructions given by the Deputy Chief regarding drug/substance-testing procedures.
  - c. Complete a Statement of Incident, Form 24, indicating the appearance and demeanor of the member under suspicion, and forward it through the chain of command to the Deputy Chief.
  - d. Request that the accused be placed on suspension, with pay, and under orders not to report back to work until further notice.
  - e. Ensure the member is escorted home, if necessary, after completion of all ordered testing and examinations.
  - f. Notify the accused member's commander as soon as possible.
  - g. Supervisors who receive information of a suspected violation of this policy, but find that, the accused member does not appear to be under the influence of a drug/substance shall:
    - 1) Complete a Form 24, detailing the available information and its source.
    - 2) Notify the accused member's commander as soon as possible and notify and consult with the Deputy Chief.
2. Shall, if the accused appears to be under the influence of alcohol:
  - a. Record the member's appearance and demeanor on a Form 24 and an Alcohol Influence Report.

- b. Require the member to submit to both a dexterity performance test and a Breathalyzer test.
- c. The Breathalyzer tests will be administered as soon as feasible after initiation of the allegation.
  - 1) The two hour time limit, as outlined in the Transportation Article, (T/A) only applies if the member is, or may be, criminally charged with violating the T/A, Section 21-902, Driving While Intoxicated, Under the Influence of Alcohol, or Under the Influence of a Drug, a Combination of Alcohol and a Drug, or a Controlled Dangerous Substance.
  - 2) When a member is charged, or may be charged, with violating the T/A, Section 21-902, the investigation officer shall be responsible for following the proper procedures.
  - 3) The Alcohol Influence Report form will include the:
    - a) Results of both, the dexterity test and the Breathalyzer test.
    - b) Lapse of time, expressed in minutes, between the initial report or observation of the member's condition and the intoxication test.

#### **D. ACCIDENTAL INGESTION**

- 1. Affected members shall complete an Incident Report, describing the incident in detail, as soon as possible:
  - a. If the ingestion or contact occurred while on-duty.
  - b. If the ingestion or contact occurred while performing necessary police functions while off-duty.
- 2. If the ingestion or contact occurred while off-duty, a Form 48 shall be completed, as soon as practical.
- 3. Supervisors shall review the Incident Report and Form 48 and forward them, through the chain of command, to the Deputy Chief.
- 4. The same procedures shall be followed if accidental contact occurs when performing necessary police functions while off-duty.

#### **E. DISCIPLINARY ACTION**

- 1. Members may exercise their right to due process, under the Department's disciplinary and grievance procedures.
- 2. In the case of a member's confirmed positive drug test results, the Department shall pursue an internal investigation.
- 3. Based on the internal investigation, disciplinary action may result.
- 4. The disciplinary actions available for drug violations are extended suspensions, with rehabilitation or termination.