

COMPREHENSIVE SUBSTANCE ABUSE PROGRAM

Directive: **6.43**

I. PURPOSE

To establish a departmental policy for the drug/alcohol screening program for police personnel, outline the departmental policy, and define responsibilities.

Officers are hereby advised that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and appropriate disciplinary action will be taken for such violations as they occur. In addition, strict adherence to appropriate Departmental policies regarding alcohol and controlled substances is expected.

Officers are required to notify the on-duty Watch Commander, of any arrest for any violation of a criminal drug statute involving the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in any jurisdiction, immediately after the arrest. Failure to make such notification will also result in appropriate disciplinary action being taken.

All officers are required to abide by the terms of this statement as a condition of employment while working under any federal grants/contracts and at all times during the course of their employment with the City of Wilmington.

II. DEFINITIONS

- A. POLICE PERSONNEL:** all sworn employees of the Wilmington Department of Police.
- B. ILLEGAL SUBSTANCES:** Those substances as listed in the Uniformed Controlled Substance Act, Title 16, DEL.C., Schedules I through V, and any future substance added by statute, for which a person

could be convicted of a criminal offense.

- C. **CONFIRMED POSITIVE SAMPLE:** Any sample that after a secondary confirmation test shows any traceable level of illegal substances.
- D. **ALCOHOL VIOLATION:** Any detectable level of alcohol found after a blood alcohol content determination test while a member is considered to be in an on duty capacity. On duty capacity is considered any normal working hours, any extra job assignment, and all court appearances.
- E. **REASONABLE SUSPICION:** An articulable belief based on specific facts and reasonable inferences drawn from those facts that a member is under the influence of, or impaired to any degree, by drugs and/or alcohol or has been involved in the use of, possession of, or sale of illegal substances.
- F. **E.A.P.:** Employee Assistance Program; the program operated by the City, at no cost to it's employees or their families, for those who seek professional treatment for a substance abuse problem.
- G. **ON DEMAND GROUP LEVEL "A":** The following members of the Wilmington Department of Police:
 - 1. **The Substance Abuse Coordinator**
 - 2. All members assigned to the Drug, Organized Crime & Vice Division.
- H. **ON DEMAND GROUP LEVEL "B":** The following members of the Wilmington Department of Police:
 - 1. All employees who have been evaluated as having a substance abuse problem involving the use of legal substances will be placed in this group for a period of one year.
 - 2. See Section VIII, subsections B, C and D.

III. PROGRAM

The Wilmington Department of Police shall institute a

drug and alcohol screening program designed to detect the use of illegal substances, detrimental or improper uses of prescription or over the counter drugs, and abuses of alcohol.

IV. POLICY

- A. It is the policy of the Wilmington Department of Police to prohibit the illegal or unauthorized use of any illegal substance at all times, or to be impaired by alcohol while on duty. The prohibited substances includes all illegal substances, prescription drugs not properly prescribed or used, over the counter drugs taken in an improper manner and alcoholic beverages.
- B. Urinalysis and Breath tests shall be administered to all sworn employees of the Wilmington Police Department on a random sampling basis and as requested due to "reasonable suspicion".
- C. Certain members of the Department, as determined by the Chief of Police, or due to a substance abuse problem, or through a violation of this Directive, may be placed into an "On Demand Group" (see definitions "J" and "K"). These members will be required to submit to testing on a more frequent basis at the discretion of the Chief of Police.
- D. All police personnel shall submit to drug/alcohol screening tests. Refusal to submit to testing, or any attempt at deception, will be cause for dismissal.

V. RESPONSIBILITIES

- A. **Substance Abuse Coordinator shall:**
 - 1. Be the **Commanding Officer of the Office of Professional Standards.**
 - 2. Coordinate, the drug/alcohol screening program **through the assistance of the testing facility approved by the City of Wilmington, and** ensure that it is administered in a fair and equitable manner.

3. Maintain a secure file of all reports and correspondence relating to the drug/alcohol screening program.
4. Promptly report to the Chief of Police all test results which are confirmed positive samples or alcohol violations.
5. **Institute** an investigation of confirmed positive samples, alcohol violations, and referrals of illegal substance abuse problems.
6. Maintain the integrity of the system and insure that the program is administered in a proper and confidential manner.
7. Maintain communications with the Commanding Officers of the **Human Resources Division**, and the Inspector of Investigative Operations on matters relating to the Substance Abuse Program as necessary, cognizant of the need for confidentiality.
8. **Investigate** confirmed positive samples and alcohol violations.
 - a. Investigations shall be completed expeditiously.
 - b. Results of the investigation shall be reported to the Inspector of Investigative Operations.
9. **Investigate** all instances of failure to submit to testing.
10. **Investigate** all investigative reports relative to testing under "reasonable suspicion" cases.
11. **Prepare** all cases of confirmed positive samples, alcohol violations, refusals to submit to testing, substantiated "reasonable suspicion" cases and positive on demand tests for presentation to the Complaint

Hearing Board.

12. **Prepare** as applicable, all cases to be presented for Pre-suspension Hearings and Appeal Board Hearings.
13. **Investigate** all incidents of deception and breeches of confidentiality within the program.
14. Maintain communications with the **Substance Abuse Coordinator of the testing facility approved by the City of Wilmington** on all matters relating to the Substance Abuse Program.

B. The Commanding Officer of the Human Resources Division shall:

1. Coordinate any requests or referrals from members to the City's Employee Assistance Program.
2. Maintain all records and discussions between employees and E.A.P. personnel regarding legal substances in a totally confidential manner. If illegal substances are involved, the Commanding Officer of the **Human Resources** Division will notify the Substance Abuse Coordinator as soon as practicable.
3. Monitor the progress and recovery of those employees who are undergoing treatment, or have been treated, for a substance abuse problem and submit a report as to their employment status to the Chief of Police.
4. Be responsible for conducting and/or scheduling training sessions to members of the Department on all aspects of the Substance Abuse Program.
5. Maintain communications with the Substance Abuse Coordinator on all matters relating to the Substance Abuse Program.

C. The Inspector of Investigative Operations shall:

1. Monitor the Substance Abuse Program as to its effectiveness in achieving its purpose and make recommendations as to needed changes.
2. Have the authority to determine if an investigation is to proceed based on "reasonable suspicion".
3. Present all relevant matters relating to the Substance Abuse Program to the Chief of Police.

D. The testing facility approved by the City of Wilmington, shall:

1. Be responsible for conducting the laboratory analysis **and collection** of all samples sent to be tested, including confirmation tests of all positive preliminary test samples.
2. Report all cases of confirmed positive samples to the Substance Abuse Coordinator in a timely fashion.
3. Be required to maintain all positive samples for a period of six months from the time of notification.
4. Provide testimony at all Complaint Hearing Boards involving disciplinary action due to a positive test sample.

VI. PROCEDURES FOR TESTING

A. Pre-Employment Testing

1. The Wilmington Department of Police reserves the right to conduct urinalysis, or other similar testing methods, for those persons seeking employment as a sworn officer or for a civilian position which is of a sensitive nature.
2. All aspects of the pre-employment testing program will be determined by the Commanding

Officer of the **Human Resources** Division, with assistance being provided by the Substance Abuse Coordinator, if requested.

B. Random Sample Testing System

1. On a bi-monthly basis, **the Payroll Unit in the City of Wilmington Personnel Department** will run a computer program that is mathematically random and not subject to arbitrary manipulation or discrimination, that will assign a number to each sworn officer.
2. The **Payroll Unit in the City of Wilmington Personnel Department** will then run a second computer program that will generate a list of 25 randomly selected numbers. These 25 numbers represents the persons selected for the random sampling pool.
3. All members in the random sampling group will be tested only during regular working hours. If a member can not be tested within the prescribed 30 day time period (IE: on vacation, off injured, etc.), his/her name will go back into the system.
4. Each member to be tested will be **notified by the Commanding Officer of Professional Standards when they are required to respond to the testing facility approved by the City of Wilmington for testing. Each member selected must respond immediately to the facility for testing. Once the member arrives, he/she will be** escorted to a private area where they will be required to complete a questionnaire detailing information about medications that may have been ingested prior to the test.
5. Upon the completion of the questionnaire, and at least a **15** minute waiting period has elapsed, the **testing facility approved by the City of Wilmington** Tester will administer a portable breath test to the member being tested. If any alcohol is

detected, the **Commanding Officer of the Office of Professional Standards** will be notified and the member will be required to submit to an **additional** breath test **at Headquarters**. Said test will be conducted in the same manner as prescribed for D.U.I. testing.

6. **A testing facility tester** will then escort the **officer** to be tested to a "dry bathroom" where a sample will be obtained.
7. The **testing facility tester** will assign a confidential sample number to the sample, which will then be delivered to a **certified laboratory** for purposes of testing as soon as possible.

C. Fitness for Duty Testing

1. The Department may also institute drug and/or alcohol screening for any incident in which there is "reasonable suspicion" that the employee is under the influence of, or impaired to any degree, by drugs and/or alcohol while on duty.
2. When there is reasonable suspicion to believe an officer has abused a substance that would cause a violation of this policy, a report will be generated and passed through the chain of command to the Inspector of Investigative Operations. The Inspector of Investigative Operations will be responsible for authorizing a test to be conducted based upon the information available. It is impossible to list all the circumstances which would constitute a reason for such a test, however the basis for determining such may include, but are not limited to:
 - a. Direct observation of drug and/or alcohol use.
 - b. Observable evidence such as needle marks.

- c. A documented pattern of unusual, abnormal, erratic or unacceptable behavior.
 - d. An unusual pattern of sick leave usage.
 - e. Reporting for duty in an unfit manner.
 - f. Spontaneous unusual or unacceptable behavior.
 - g. Physical symptoms such as slurred speech, bloodshot eyes, poor coordination, etc.
 - h. An on duty injury or accident under suspicious circumstances.
 - i. Interviews from other members, citizens, family, etc. concerning possible substance abuse.
 - j. Information received from confidential or criminal informants.
3. When a test is authorized under these circumstances, the suspected member will be asked to provide a sample of his or her urine, breath, blood, etc. If the member refuses to provide a sample, he/she will be subject to disciplinary action as provided by this policy.

D. On Demand Testing

- 1. The testing method to be utilized will be identical to that used for the Random Sampling Tests.
- 2. All personnel assigned to the On Demand Group Level "A" will be tested at least twice a year, and at any other time as requested by the Chief of Police.
- 3. All personnel assigned to the On Demand Group Level "B" will be tested upon the order of the Chief of Police.

E. Employee Assistance Program

1. The City of Wilmington has an Employee Assistance Program that is available to all members of the Department and their immediate families. It is designed to provide assistance for those persons who feel that they may have a substance abuse problem.
2. Any member who utilizes the Employee Assistance Program, or any similar private treatment program, for a substance abuse problem, must contact the Commanding Officer of the **Human Resources** Division. If the substance abuse problem involves the use of an illegal substance(s), the Commanding Officer of the **Human Resources** Division will immediately notify the Substance Abuse Coordinator. The Substance Abuse Coordinator will then initiate an investigation and possible disciplinary action.
3. The Commanding Officer of the **Human Resources** Division will schedule the necessary interviews and/or treatment.
4. All information and discussions relative to this program involving the use of legal substances will be held in strict confidence.

VII. LABORATORY ANALYSIS

- A. All positive primary tests will be subject to a secondary confirmation test.
- B. Any positive secondary test will cause notice to be made to the Substance Abuse Coordinator, with the assigned number of the sample being identified.
- C. All positive confirmation samples will be retained by the **testing laboratory** for a period of **one year** after notice of test results, for availability of independent testing by the affected officer. Failure to retain said sample

will result in inadmissibility of said test results at the affected officer's Complaint Hearing Board.

- D. Staff from the **testing laboratory and the testing facility** will testify as to the test results at the affected member's Complaint Hearing Board.

VIII. PENALTIES

NOTE: A NEW CLASSIFICATION OF PUNISHMENT WILL EXIST FOR THE COMPREHENSIVE SUBSTANCE ABUSE PROGRAM. THE PUNISHMENT LEVEL OF "MANDATORY DISMISSAL" WILL EXIST FOR SPECIFIC VIOLATIONS OF THIS POLICY.

A. Class "A" Violations with Mandatory Dismissal:

1. Any violation of Title 16, DEL. C. for which a person could be convicted of a criminal offense.
2. Any positive test sample containing any substance as listed in Schedule I, Schedule II, or Schedule III of the Uniform Controlled Substance Act and/or any substance added to these schedules in the future, to include "Designer Drugs" and "Anabolic Steroids".
3. Any member who refuses to submit to the testing procedure.
4. Any member who attempts by any means to defraud or deceive the testing process.

B. Class "A" Violations with current penalty.

1. Any member who has a blood alcohol concentration of eight-one hundredths of 1% or greater.
2. Any member found to be in violation of this section will be placed into the On Demand Group Level "B" for a period of three years and receive an evaluation and possible treatment.

C. Class "B" Violations with current penalty.

1. Any incident which involves the misuse of a prescription drug(s) for which the officer holds a valid prescription from a medical doctor.
2. Any misuse of over the counter medications which may impair one's mental capacity.
3. Any member who has a blood alcohol concentration of less than eight-one hundredths of 1%; and, at least four-one hundredths of 1%.
4. Any member found to be in violation of this section will be placed into the On Demand Group Level "B" for a period of three years and receive an evaluation and possible treatment.

D. **Other classifications for blood alcohol concentration of less than four-one hundredths of 1%.**

1. Any member who has a blood alcohol concentration of less than four-one hundredths of 1%. As per agreement between the City of Wilmington and the Fraternal Order of Police Lodge No. 1, any blood alcohol concentration of 1 - 100ths of 1% or more shall result in the officer being relieved of duty and placed on Administrative leave without pay for the balance of the day's shift.
2. Any member who has a second blood alcohol concentration of less than four-one hundredths of 1% **within any one year period will be subject to a Class "F" violation.**
3. Any member found to be in this **classification will** be placed into the On Demand Group Level "B" for a period of up to two years and may receive an evaluation and

possible treatment.