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CRAIG POLICE DEPARTMENT
Office of Chief of Police
General Order

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| Date Issued: | December 1, 2004 | Revision Date: | April 1, 2009 |
| Subject: | Drug Free Workplace | Reference: | CACP STD |
| To: | All Personnel | | CALEA STD |

NOTE:

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

I. POLICY

The Craig Police Department is committed to providing and maintaining a drug free workplace for the safety and health of its employees and preserving the public's confidence in the work we do. While on the job or performing official duties, employees are expected to be in a mental and physical condition which enables safe and efficient job performance. Reporting to work while impaired by alcohol or a controlled substance is strictly prohibited. No employee shall perform safety sensitive functions within eight hours after using alcohol.

The department does not tolerate employees' use of illegal drugs nor the abuse of legally and commercially available ones. The courts have ruled that the threat to public safety by law enforcement officers who use drugs or abuse alcohol is a legitimate reason for mandating drug/alcohol testing.

Drug addiction is a medical condition: employees shall seek medical assistance if they perceive a problem. Similarly, supervisors should know the working habits of their subordinates in order to observe behavior that might indicate substance abuse. Supervisors are responsible to instruct, guide, and counsel their subordinates, and to the department to ensure high standards of performance. Whenever possible, the department will assist employees to get help. The primary method for ensuring a drug-free workplace, however, shall be the proper performance of duties under proper supervision. The department must maintain a professional image before the community and shall relieve employees afflicted by substance abuse from their law enforcement duties, either temporarily or permanently. Law enforcement officers who are drug abusers threaten the community. Illegal drug use breaks the law: employees who experiment with or routinely use illegal drugs have no place in law enforcement.

II. PURPOSE

The purpose of this general order is to offer guidelines to ensure an employee's drug-free status as a condition of employment, to ensure drug/alcohol tests are ordered for employees based on reasonable suspicion, and to provide procedures for random drug/alcohol testing and the handling of cases of suspected drug abuse within the department.

III. DEFINITIONS

Impaired means under the influence of a substance such that the employee's senses (i.e. sight, hearing, reflex, or judgment) are affected.

Reasonable Grounds for belief linked to articulable, objective observable facts or circumstances to believe that a controlled substance, alcohol use, or abuse of a prescription medication is adversely affecting an employee's job performance or that the employee has violated policy. Reasonable cause must be based on objective criteria, including specific physical, behavioral or performance indicators. Testing will only be administered after a second supervisor reviews the grounds and concurs that reasonable cause exists.

Reasonable Suspicion--Specific, objective facts and the rational inferences that can be drawn from them in light of experience, that suggest an individual, on or off-duty, is or has been using chemical substances whose possession, dispensing, or use are controlled by Federal or State statutes. Reasonable suspicion is less than probable cause, but more than a hunch.

Drug abuse - Illegal use of controlled substances (as defined by state and federal laws, encompassing the use of narcotic and non-narcotic drugs, prescription drugs used abusively), and over-the-counter substances if they impair job performance.

Drug test - A urinalysis test to detect drugs, administered under approved medical conditions and procedures.

Employee - Any person employed by the department.

Chain of Custody - Means the procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).

IV. PROCEDURES

A. General guidelines

1. Department employees shall not take any controlled substances unless prescribed by a person licensed to prescribe them.
 - a. Employees who take any drugs (prescriptions or over-the-counter), which may impair job performance, must disclose this information to their immediate supervisor.
 - b. Any illegal use of drugs by an employee, whether on or off duty, is prohibited.
 - c. Employees shall report evidence of suspected drug abuse by another employee to a supervisor.

B. Legal issues

1. Fourth Amendment (Searches and Seizures)

The threat to public safety posed by law-enforcement employees who are drug or alcohol abusers is a legitimate factor in determining the reasonableness of a urinalysis. A urinalysis is not prohibited by the Fourth Amendment to the Constitution. Because the factors listed below do not completely outweigh an employees' Fourth Amendment rights reasonable suspicion is required.

- a. Public safety.
 - b. Public trust and integrity.
 - c. Potential for corruption.
 - d. Presentation of credible testimony.
 - e. Co-worker morale and safety.
 - f. Loss of productivity.
 - g. Civil liability (negligent hiring and retention).
2. All property belonging to the department may be inspected under certain circumstances. Personnel have a reasonable expectation of privacy in their desks, lockers, and offices.
 - a. If the department develops a reasonable suspicion that a search of an employee's workplace (or locker) will reveal evidence of work-related misconduct, the department may conduct a search related in scope to the reasonable suspicion.

- b. Workplace searches may occur:
 - To secure department property.
 - To retrieve a file or agency documents.
 - To seize evidence of work-related misconduct or poor performance.
 - To gather evidence of criminal misconduct. In all cases, the searches must be reasonable. Any searches undertaken for reasons (3) and (4) require a reasonable suspicion of misconduct.
 - c. Workplace searches, conducted under reasonable suspicion, will take place upon reasonable notice to the employee, who may be present at the time of the search.
3. Fourteenth Amendment (due process)

The City observes the due process rights of employees as guaranteed by the Fourteenth Amendment to the Constitution in the drug/alcohol testing program. The City uses adequate safeguards to include the following:

- a. Employee notification.
- b. Reliable tests.
- c. Chain of custody of specimen.
- d. Confidentiality of test results.
- e. The right to appeal the findings.
 - i. Any employee who questions the results of a required urine drug test under this or the City's policy may request that an additional test be conducted. The second test will be conducted utilizing existing procedures.

4. Federal Rehabilitation Act/ADA

Under this statute, drug addiction is considered a handicap, but employees are protected only if the current use of drugs/alcohol does not impair job performance. It does not include any person whose alcohol/drug abuse constitutes a threat to the property or safety of others. Drug abusers who are neither rehabilitated nor in treatment are not handicapped persons within the meaning of the law.

C. Required drug test.

- 1. Pre-employment testing.

Applicants will be tested routinely for drug and alcohol abuse as a part of their pre-employment physical exam after a conditional offer of employment has been given.

- a. The results of drug tests shall be kept confidential. Any employee who breaches confidentiality of testing information may be disciplined up to and including dismissal.
- b. Refusal to take the test or a positive test result shall disqualify an applicant from appointment to employment.
- c. If the applicant admits to prior involvement with drugs, the department shall ascertain the type and extent of drug abuse before making an employment decision, and shall act consistently with all applicable laws.

2. Reasonable suspicion testing.

- a. An employee will be required to submit to a drug and/or alcohol test when there is reasonable cause to believe that the employee is under the influence of illegal drugs or alcohol or the abuse of prescription medication. Reasonable cause must be based on objective criteria, including specific physical, behavioral or performance indicators. Third party observations and reports, alone, will not constitute reasonable cause. Testing will only be administered after a second supervisor reviews the grounds and concurs that reasonable cause exists.
- b. If another member of the department reports evidence of drug/alcohol abuse or makes an allegation of suspected drug abuse to a supervisor, that supervisor shall attempt to substantiate the allegations.
 - i. The supervisor shall obtain a written statement from the employee alleging drug or alcohol abuse including all circumstances surrounding the complaint. If the supervisor can substantiate the allegations, he/she shall also document his/her observations.
- c. Following the above, the supervisor, with the Division Commander or Chief's permission, shall order the employee to undergo a urinalysis. He/she shall transport the employee to the City's designated testing location, if available, or to The Memorial Hospital.
 - i. Reasonable cause testing shall be required and completed whenever possible within (2) hours of the observation, but in any case no later than (8) hours after the observation for breath alcohol testing and (32) hours for controlled substance testing.

3. Random testing

Employees subject to this policy will be randomly selected for unannounced alcohol and drug testing. Selections will be made using a computer based random number generator that is matched with the employees Social Security or other employee identification number. The City may, at its sole discretion, elect to make selections from its own pool of employees or participate in a consortium pool whereby the City may include its employees in a pool combined with employees of other Employers and selections are made from the entire pool. Selections may be made by the City, its designated Service Agent or the Consortium. Each employee selected for random alcohol and drug testing shall have an equal chance of being tested each time selections are made. Employees selected for testing will be tested during the selection period. Random alcohol tests will be performed just before, during or after the employee's performance of safety-sensitive duties. Employees must proceed immediately, accompanied by a supervisor, to the collection site upon notification of selection. Random tests will be performed at the annual percentage rates set by the Federal Motor Carrier Safety Administration each year. Testing shall be spread reasonably throughout the year.

4. Post accident testing
 - a. Post accident testing (both breath alcohol and urine drug testing) shall be required of employees after a vehicular accident in which:
 - i. A fatality has occurred;
 - ii. An injury has occurred and requires transport to a medical treatment facility;
 - iii. Disabling damage to one or more vehicles requires towing from the accident site;
 - iv. If reasonable cause exists to believe the employee is under the influence.
 - b. Post accident testing shall be required and completed whenever possible within two (2) hours of the accident occurrence, but in any case no later than eight (8) hours after the accident for breath alcohol testing and thirty-two (32) hours for controlled substance testing.
 - c. An employee involved in an accident shall refrain from alcohol consumption for eight (8) hours following the accident.
5. Post shooting incident testing

- a. Every officer who fires his/her weapon in the line of duty (except for training or when killing an injured or dangerous animal) shall submit to a breath alcohol test and a urine drug test.
- b. Post shooting incident testing shall be required and completed whenever possible within two (2) hours of the shooting occurrence, but in any case no later than eight (8) hours after the shooting for breath alcohol testing and thirty-two (32) hours for controlled substance testing.
- c. An employee involved in a shooting shall refrain from alcohol and drug consumption for eight (8) hours following the incident, unless such drugs are prescribed by a licensed physician.

THE DRUG TESTING PROCESS

Drug testing is conducted by analyzing a donor's urine specimen. Laboratory analysis of specimens may consist of testing for the following classes of drugs:

1. amphetamine/methamphetamine;
2. barbiturates;
3. benzodiazepine;
4. cannabinoids;
5. cocaine;
6. methadone;
7. phencyclidine; and
8. opiates;

In accordance with Federal Motor Carrier Safety Administration (FMCSA) regulations, the urine specimens will be collected using the split sample collection method. The donor will provide a urine sample at an employer designated collection site. The collection site personnel will then pour the sample into two sample bottles, labeled Aprimary@ and Asplit@, seal the specimen bottles, complete the chain of custody form (ACCF@), and prepare the specimen bottles for shipment to the testing laboratory for analysis. The specimen preparation shall be conducted in sight of the donor.

If the donor is unable to provide the appropriate quantity of urine, the collection site person will instruct the donor to drink up to 40 ounces of fluids distributed over a period of up to three hours or until the employee has provided a sufficient sample. If the donor is still unable to provide a complete sample, the test shall be discontinued and the City notified. The employee will be

instructed to obtain, within 5 working days, an evaluation from a licensed physician acceptable to the Medical Review Officer (MRO) to determine if the donor's inability to provide a specimen is genuine or constitutes a refusal to test.

Once the specimen is received by the testing laboratory, the laboratory will inspect the specimen bottles and the CCF for the presence of any fatal or correctable flaws. The laboratory will then conduct initial testing on the specimen to determine if the specimen contains a sufficient quantity of any drug to warrant further testing. The testing laboratory will also conduct validity testing on the specimen to determine whether certain adulterants or foreign interfering substances are present in the urine, if the urine was diluted, or if the specimen was substituted.

If the results of the initial drug test are negative, no further testing will be conducted. If the results of the initial drug test are positive, the laboratory will perform confirmation testing on the specimen for each of the substances identified in the initial test. The results of any confirmation tests will be the laboratory's final test result.

Drug test results are reported directly to the MRO by the testing laboratory. The MRO reviews the laboratory results, verifies the results, and then reports the results directly to the City. If the laboratory results are negative, the MRO performs an administrative review only. If the laboratory's test result is confirmed positive, adulterated or substituted the MRO performs an administrative review and interviews the donor in order to provide an opportunity to explain the test result. The MRO will contact the donor directly, on a confidential basis, to determine whether the donor wishes to discuss the test result. The MRO will determine whether a legitimate medical explanation exists to explain the laboratory result. If no legitimate medical explanation is offered for the laboratory's test result the MRO shall verify the test result as positive for drugs, or as a refusal to test because of adulteration or substitution and report the result to the City. The MRO shall notify each donor that the employee has 72 hours in which to request a test of the split specimen. If the donor requests an analysis of the split specimen within 72 hours of having been informed of a verified positive test, the MRO shall direct the laboratory, in writing, to transfer the split specimen to another DHHS-SAMHSA certified laboratory for analysis. If the donor has not contacted the MRO within 72 hours, the donor may present the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the donor from timely making contact. If the MRO concludes that there is a legitimate explanation for the donor's failure to contact him or her within in 72 hours, the MRO will direct the analysis of the split specimen.

If after making reasonable efforts and documenting those efforts, the MRO is unable to reach the donor directly, the MRO must contact the City, who shall direct the donor to contact the MRO.

The MRO may verify the test positive without having communicated directly with the donor about the test results under the following circumstances:

1. The donor expressly declines the opportunity to discuss the test results.

2. Neither the MRO nor the City is able to reach the donor within 10 days of the date on which the MRO received the test result from the laboratory.
3. The donor has not contacted the MRO within 72 hours of being instructed to do so by the City.

Disciplinary issues

The Craig Police Department policies related to disciplinary action shall be followed when imposing discipline for violations of the alcohol and controlled substance testing policy.

Approved By:



Walter K. Vanatta
Chief of Police