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1. PURPOSE

The purpose of this policy is to establish the responsibilities and procedures for administering the drug urinalysis screening program for police personnel of the Hawai'i County Police Department.

2. PERSONS AFFECTED

All sworn police personnel.

3. POLICY

It shall be the policy of the Hawai'i County Police Department that drug abuse by any employee will not be tolerated. The commitment to a drug free workforce is ensured through a comprehensive drug testing policy consisting of a drug urinalysis screening program designed to detect and deter the use of dangerous, harmful and detrimental substances, hallucinogens, and marijuana.

4. DEFINITIONS

- 4.1. Confirmation Test – A secondary test required when the initial urine sample tests positive.
- 4.2. Confirmed Positive – Any specimen that has been confirmed positive by secondary testing.
- 4.3. Drug – Includes all dangerous, harmful, and detrimental substances, marijuana, hallucinogens and prescription drugs not properly prescribed for medical use.
- 4.4. Drug Abuse – The intentional misuse of controlled or illegal substances or the use of such substances to an extent deemed deleterious or detrimental to the user, to others or to society.
- 4.5. Drug Urinalysis Testing – A sequence of tests for certain metabolites in the urine samples submitted by employees.
- 4.6. Employee – Any sworn employee of the Hawai'i Police Department and any Police Reserve Officer.

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- 4.6.1. Regular Employee – Any sworn employee who is not on initial probationary status.
- 4.6.2. Probationary Employee – Any sworn employee who is on initial probationary status.
- 4.7. Initial Screening – A preliminary test to detect the presence of prescribed drugs. An indicated positive sample at this level will be labeled confirmation pending.
- 4.8. Memorandum of Agreement – A written understanding between this department and collective bargaining agents for Unit 12 regarding policies, practices, and procedures pertaining to the drug urinalysis screening program.
- 4.9. Random Test Group – Employees that are subject to regular or frequent drug testing.
- 4.10. Required Test Group – Employees that are subject to regular or frequent drug testing.
- 5. RESPONSIBILITIES
 - 5.1. The Assistant Police Chief of the Administrative Bureau shall:
 - 5.1.1. Retain under his/her control all records, reports, and official confidential correspondence relating to the program.
 - 5.1.2. Coordinate drug urinalysis testing for Staff Officers with the Deputy Police Chief.
 - 5.2. The Major of the Administrative Services Division shall:
 - 5.2.1. Coordinate, control, and maintain the operation of the Drug Testing Program.
 - 5.2.2. Promptly report all confirmed positive test results to the Police Chief.
 - 5.2.3. Notify the Captain of the Office of Professional Standards to investigate any confirmed positive test results.

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- 5.2.4. Notify the appropriate Division Commander about any confirmed positive test.
- 5.2.5. Ensure that all Divisions are in compliance with the Drug Testing Program.
- 5.3. The Captain of the Administrative Services Section shall:
 - 5.3.1. Ensure the monitoring and security of all drug testing sites.
 - 5.3.2. Maintain all supplies and materials necessary to conduct the tests.
- 5.4. The Captain of the Office of Professional Standards shall:
 - 5.4.1. Investigate all confirmed positive test results and report the results of the investigation to the Administrative Review Board.
 - 5.4.2. Report all instances of refusals to submit a specimen or failure to appear for the urinalysis test to the Major of the Administrative Services Division.
 - 5.4.3. Review all misconduct reports on employees who have refused to submit a specimen or who failed to appear for the urinalysis test and forward these reports to the Administrative Review Board.
- 5.5. The Administrative Review Board shall:
 - 5.5.1. Review the investigative findings of the Office of Professional Standards.
 - 5.5.2. Make recommendations for appropriate action to the Police Chief.
- 5.6. Division Commanders shall:
 - 5.6.1. Ensure that all affected employees in their command are in compliance with the Drug Testing Program.
 - 5.6.2. Promptly report all instances of non-compliance to the Major of the Administrative Services Division and the Captain of the Office of Professional Standards.

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- 5.6.3. If any employee refuses to take or appear for a drug screening test, initiate an investigation for violation of:
- a. General Order 300, 5.2.3., Obedience to Laws, Written Orders, Policies, etc.; and
 - b. General Order 300, 5.2.12., Orders of Superior Officers.
- 5.6.4. Forward the completed report of violations of General Orders to the Captain of the Office of Professional Standards, for review.
- 5.6.5. Upon notification of a confirmed positive test result:
- a. Notify the affected employee of the confirmed positive test result and recover the employee's badge and issued firearm(s).
 - b. The affected employee shall be assigned to a position where a gun and badge are not essential pending the completion of the Internal Investigation.

6. PROCEDURES

6.1. Drug Screening Test Groups

- 6.1.1. Required Test Group – The following employees shall be required to submit to a drug screening test on a regular basis:
- a. All Staff Officers to include the Police Chief, Deputy Police Chief, all Assistant Chiefs, Majors, and Captains.
 - b. Officers assigned to the following:
 - Office of Professional Standards and Criminal Intelligence Units
 - Administrative Services Division to include the Training Section, Community Relations, and D.A.R.E.

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- HIPAL and the Traffic Enforcement Unit
- Vice Sections
- Probationary employees
- Employees with a first confirmed positive test result
- Employees who refuse to submit to a drug screening test administered to their Random Test Group assignment

c. Employees that fail to submit to or are in non-compliance with drug testing procedures may be assigned to this group.

6.1.2. Random Test Group – All employees shall be subject to Random Drug Tests.

6.1.3. Mandatory Test Group

a. In addition to Random Testing, all employees not subject to required testing shall be subject to mandatory testing to ensure that all employees are tested at least once every fiscal year. Employees shall be subject to mandatory testing once per prescribed time period.

b. The requirement to undergo a mandatory drug test by an employee is not precluded by a previous random drug test.

6.1.4. Mandatory Pre-employment Drug Testing Group – All person(s) that appear on the Certified List of Eligible Applicants for Police Officer I positions that have been given a Conditional Offer of Employment shall be subject to undergo mandatory pre-employment drug testing.

6.2. Procedures for Scheduling Drug Testing

6.2.1. The Assistant Chief of the Administrative Bureau shall coordinate drug urinalysis testing for Staff Officers with the Deputy Police

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Chief and notify the Major of the Administrative Services Division to schedule and coordinate such tests.

6.2.2. The Major of the Administrative Services Division or designee shall:

- a. Coordinate the testing of all employees within the test groups, with the exception of Staff Officers.
- b. Determine the testing dates – For the Random Test Group, the order of testing shall be by use of a computerized random selection process under direct control of the Major of the Administrative Services Division.
- c. Coordinate the drug urinalysis test with the Division Commander of the group to be tested within forty-eight (48) hours of the test date.
- d. Shall notify a SHOPO Representative of the group to be tested within forty-eight (48) hours of the test date.
- e. Notify the drug testing laboratory to report to the test site to conduct the specimen collection and drug urinalysis.
- f. Have screening staff report to the designated test site on the selected day and time.

6.2.3. The Captain of the Administrative Services Section or designee shall:

- a. Coordinate and schedule Mandatory Pre-employment drug testing for Police Officer I applicants.
- b. Notify applicants to report to the Hilo Police Station.
- c. Notify the drug testing laboratory to report to the test site to conduct the specimen collection and drug urinalysis.

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6.3. Test Site Procedures

6.3.1. For Staff Officers, the Assistant Chief of the Administrative Bureau on the selected day and time shall:

- a. Ensure that all on-duty Staff Officers report to the test site and comply with the test procedures.
- b. Initiate a Misconduct Report and investigation if any employee from the designated test group refuses to submit a specimen or fails to appear as ordered.

6.3.2. With the exception of Staff Officers, the Division Commander of the group being tested on the selected day and time shall:

- a. Ensure that all on-duty employees in the test group report to the test site and comply with the test procedures.
- b. Initiate a Misconduct Report and investigation if any employee from the designated test group refuses to submit a specimen or fails to appear as ordered.

6.3.3. The Captain of the Administrative Services Section or designee, on the selected day and time shall:

- a. For Mandatory Pre-Employment drug testing ensure that the test procedures are reviewed with all applicants. This review shall cover:
 - Security procedures that shall be enforced during the test period.
 - That the subject shall have four hours to render an acceptable sample.
 - The subject shall remain at the location to be determined by the site supervisor or informed to return to the site within the four-hour time frame.

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- If the temperature strip has been removed or tampered with or has an unacceptable reading, the subject has within the four-hour period from when first summoned to render a sample.
 - Procedures that shall be followed when a test subject is unable to void before or after entering the test site, provide the amount of specimen required, contamination of the specimen cups, etc.
 - Instruct subjects not to flush the designated toilet before, during, or after the test unless instructed to do so.
- b. Assure the test subjects that every attempt has been made to maximize their privacy while maintaining the integrity of the samples submitted.
 - c. Secure the test site restrooms for the group being tested.
 - d. Monitor the test site.
 - e. Control the master log and control numbers at the test site.
- 6.3.4. The Captain of the Office of Professional Standards or designee on the selected day and time shall:
- a. Review the test procedures with all employees. This review shall cover:
 - Security procedures that shall be enforced during the test period.
 - That the subject shall have four hours to render an acceptable sample.
 - The subject shall remain at the location to be determined by the site supervisor or informed to return to the site within the four-hour time frame.

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- If the temperature strip has been removed or tampered with or has an unacceptable reading, the subject has within the four-hour period from when first summoned to render a sample.
 - Procedures that shall be followed when a test subject is unable to void before or after entering the test site, provide the amount of specimen required, contamination of the specimen cups, etc.
 - Instruct subjects not to flush the designated toilet before, during, or after the test unless instructed to do so.
- b. Assure the test subjects that every attempt has been made to maximize their privacy while maintaining the integrity of the samples submitted.
- 6.3.5. All on-duty employees and applicants within the designated test group on the selected day and time shall:
- a. Report to the test site when ordered to do so and submit the urine specimens within the scheduled four-hour time period.
 - b. Be required to submit a urine specimen, which shall be split into two samples, Sample A and Sample B.
 - After the specimen is split, the specimen cups shall be sealed and secured in the presence of the test subject; the test subject shall initial the specimen cups.
 - Both samples shall be turned over to the laboratory personnel of the certified screening laboratory.
 - Laboratory personnel shall maintain appropriate chain of custody processing after the collection process is completed and the specimens are transported to the laboratory.

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- c. Any employee being tested that fails to submit a specimen within the four-hour period shall immediately notify their Division Commander or the Office of Professional Standards Officer at the site as to the reason(s) for non-compliance.

6.4. Procedures for Failure/Refusal to Submit to Drug Urinalysis Test or Non-Compliance With Drug Testing Procedures

6.4.1. Any failure or refusal by an employee to submit to drug testing or non-compliance with any of the testing procedures may subject the employee to disciplinary action, to include termination. The employee may be placed on suspension pending investigation in compliance with Hawai'i County Civil Service Rules #12A.3.

6.4.2. The following shall apply when a regular employee refuses/fails to submit to the drug urinalysis test or is in non-compliance with Drug Testing Procedures.

a. The Office of Professional Standards shall immediately notify the employee's Division Commander.

b. The Division Commander shall:

- Recover the employee's badge and issued firearms, if any, and assign the employee to administrative (non-enforcement) duties.
- Initiate a Misconduct Report and forward the completed report to the Administrative Review Board via the Office of Professional Standards and the Deputy Police Chief.
- Notify the Major of the Administrative Services Division about the action initiated.

c. The Major of the Administrative Services Division shall serve written notice to the employee, informing the employee that refusal to obey lawful regulations or orders may result in dismissal.

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- d. The Major of the Administrative Services Division shall arrange for the employee to be tested within five days of the first test and shall notify the employee to report for the scheduled test. Appropriate testing procedures listed under Section 6.2 of this document shall apply.
 - e. The Captain of the Office of Professional Standards shall notify the employee's Division Commander if the employee refuses/fails to submit to the second drug urinalysis test or is in non-compliance with Drug Testing Procedures.
 - f. The Division Commander shall initiate a Misconduct Report and forward the completed report to the Administrative Review Board via the Office of Professional Standards and the Deputy Police Chief.
 - g. The Major of the Administrative Services Division shall arrange for the employee to be tested within five days of the second test and shall notify the employee to report for the scheduled test. Appropriate testing procedures listed under Section 6.2. of this document shall apply.
 - h. The Captain of the Office of Professional Standards shall notify the employee's Division Commander if the employee refuses/fails to submit to the third drug urinalysis test or is in non-compliance with Drug Testing Procedures.
 - i. The Division Commander shall initiate a Misconduct Report and forward the completed report to the Administrative Review Board via the Office of Professional Standards and the Deputy Police Chief.
- 6.4.3. The following shall apply when a probationary employee refuses/fails to submit to the drug urinalysis test or is in non-compliance with Drug Testing Procedures.
- a. The Office of Professional Standards shall immediately notify the employee's Division Commander.

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- b. The Division Commander shall:
- Recover the employee's badge and issued firearms, if any, and assign the employee to administrative (non-enforcement) duties.
 - Initiate a Misconduct Report and forward the completed report to the Police Chief via the Office of Professional Standards.
 - Notify the Major of the Administrative Services Division about the action initiated.
- c. The Major of the Administrative Services Division shall serve written notice to the employee, informing the employee that refusal to obey lawful regulations or orders may result in dismissal.
- d. Upon conclusion of the investigation and review by the Police Chief, the employee's initial probation may be terminated.

6.4.4. Assignment to Required Test Group

- a. An employee who refuses to undergo drug testing shall be assigned to the Required Test Group for a period not to exceed twelve months from the date of the first refusal.
- b. An employee who fails to submit to drug testing or is in non-compliance with drug testing procedures may be assigned to the Required Test Group for a period not to exceed twelve months from the date of failure or non-compliance.

6.4.5. The following shall apply to an applicant on the Human Resources Certified List of Eligible Applicants for Police Officer I positions that have been given a Conditional Offer of Employment that fails/refuses to submit to the third drug urinalysis test or is in non-compliance with Drug Testing Procedures.

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- a. The applicant will be informed that the Conditional Offer of Employment provided by the Department is being withdrawn, and the Department will be requesting the removal of the applicant's name from the Certified List.
- b. A memorandum from the Police Chief specifying the reasons will be sent to the Department of Human Resources requesting the removal of the applicant's name from the Certified List.

6.5. Analysis of Test Results

- 6.5.1. The appropriate laboratory shall forward the results of any drug urinalysis testing to the Major of the Administrative Services Division.
- 6.5.2. All Sample A specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques on Sample B. Sample B specimens shall be confirmed with additional samples from the same testing group in a ratio of five (5) negative samples for each positive sample.
 - a. A non-confirmation of a positive test sample shall nullify the results of the original test.
 - b. When a drug screening test is confirmed positive by the second test, the licensed Medical Review Officer (MRO) of the State shall notify the subject employee of the results. The MRO shall have discussions with the employee to make final determinations of the drug test results.
 - c. If the employee reports to the MRO, that the positive test result is a prescribed drug, the MRO shall:
 - Ask the subject employee for the name of the physician that issued the prescription and necessary authorization for the release of medical information.

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- Contact the physician that issued the prescription to the subject employee to verify that the drug was in fact prescribed for the employee.
 - If the MRO determines that the metabolite level of the controlled drug is consistent with the attending physician's prescription, the test will be determined to be negative and no further action will be taken.
- d. If the positive test result is found to be unsubstantiated, the MRO shall terminate the inquiry and no further action shall be taken. The MRO shall notify the subject employee of this determination.
- e. If the positive test result is confirmed by the MRO, the MRO shall inform the Major of the Administrative Services Division of his findings.

6.6. First Confirmed Positive Test Results

6.6.1. For any Regular Employee:

- a. The Major of the Administrative Services Division shall notify the Police Chief, the Captain of the Office of Professional Standards, and the affected employee's Division Commander of all confirmed positive test results. Information on any positive result shall be otherwise restricted and confidential.
- b. The Division Commander shall notify the employee of the test results and recover the employee's badge and issued firearm(s). The employee shall be assigned to a position where a gun and badge are not essential pending completion of an Internal Investigation.
- c. The Office of Professional Standards shall initiate an investigation based on the final determination of a confirmed positive test result by the MRO and forward the completed investigation to the Administrative Review Board via the Deputy Police Chief.

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d. Pursuant to applicable bargaining unit contracts, upon conclusion of the investigation, the disciplinary review process, and with the concurrence of the Police Chief, Regular Employees shall be subject to termination of employment for a first confirmed positive drug test result for the following illicit drugs and initial test levels (ng/ml):

- Cocaine Metabolites (300)
- Phencylidine (25)
- Opiate Metabolites (300*)
- Amphetamines (1,000)
- Methaqualone (300***)

**25 ng/ml if immunoassay specific for free morphine*

****Test level in accordance with State Department of Health
Administrative Rules*

e. Article 57, Sections G.2 and 3, of the SHOPO collective bargaining agreement relating to First Confirmed Positive Test Results, shall not apply.

f. For all other first confirmed positive test results, upon conclusion of the investigation, the disciplinary review process, and with the concurrence of the Police Chief, the Regular Employees with a first confirmed positive test result shall be subject to disciplinary action up to and including termination of employment, with any discipline being held in abeyance and not imposed if the employee:

- Complies with a written directive served by the Major of the Administrative Services Division to participate in and satisfactorily complete a department approved drug/substance abuse treatment program whose cost shall be at the expense and responsibility of the employee.

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- The employee shall take no longer than two calendar weeks to enter a departmentally approved drug/substance abuse treatment program or demonstrate an effort to start treatment.
- g. A regular employee with a first confirmed positive test result shall not be allowed limited or modified duty while undergoing treatment. The employee may apply for Leave Without Pay, Vacation, Sick Leave, or Compensatory Time Off to comply with the treatment program requirements.
- h. The affected regular employee shall remain on leave status until:
- Satisfactorily completing the departmentally approved drug/substance abuse treatment program; and
 - Obtaining an approved negative drug urinalysis test; and
 - Obtaining a clearance from the County Physician to return to full duty.
- i. A regular employee with a first confirmed positive test result, upon returning to full duty after complying with the aforementioned requirements, shall be placed in the Required Test Group for a period of one year.

6.6.2. For Any Probationary Employee

- a. The Major of the Administrative Services Division shall notify the Police Chief, the Captain of the Office of Professional Standards, and the affected employee's Division Commander of all confirmed positive test results. Information on any positive result shall be otherwise restricted and confidential.

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- b. The Division Commander shall notify the employee of the test results and recover the employee's badge and issued firearm(s).
 - c. The employee shall be assigned to a position where a gun and badge are not essential or placed on leave in compliance with the SHOPO Collective Bargaining Agreement pending completion of an Internal Investigation.
 - d. The Office of Professional Standards shall initiate an investigation based on the final determination of a confirmed positive test result by the MRO and forward the completed investigation to the Administrative Review Board via the Deputy Police Chief.
 - e. Upon conclusion of the investigation, the disciplinary review process, and with the concurrence of the Police Chief, probationary employees shall be subject to termination of employment.
- 6.6.3. For applicants on Human Resources Certified List of Eligible Applicants for Police Officer I positions:
- a. The Major of the Administrative Services Division shall notify the Captain of the Administrative Services Section of the confirmed positive test results. Information on any positive result shall be otherwise restricted and confidential.
 - b. The Captain of the Administrative Services Section shall notify the applicant that the Conditional Offer of Employment provided by the Department is being withdrawn, and the Department will be requesting the removal of the applicant's name from the Certified List.
 - c. A memorandum from the Police Chief specifying the reasons will be sent to the Department of Human Resources requesting the removal of the applicant's name from the Certified List.