



# MILWAUKEE POLICE DEPARTMENT

## STANDARD OPERATING PROCEDURE

### 770 – DRUG TESTING

**GENERAL ORDER:** 2024-35  
**ISSUED:** June 17, 2024

**EFFECTIVE:** June 17, 2024

**REVIEWED/APPROVED BY:**  
Assistant Chief Craig Sarnow  
**DATE:** April 8, 2024

**ACTION:** Rescinds General Order 2017-07 (March 10, 2017)

**WILEAG STANDARD(S):** 2.4.5, 2.4.6, 10.1.1

## I. DRUG TESTING PROGRAM FOR MEMBERS REPRESENTED BY THE MILWAUKEE POLICE ASSOCIATION

### MILWAUKEE POLICE DEPARTMENT DRUG TESTING POLICY STATEMENT

The Milwaukee Police Department is charged with enforcing all laws and ordinances and with maintaining a safe and peaceful community. The pervasive risk of harm caused by drug trafficking and illegal drug use by members of the Police Department creates a clear and present danger to the safety of the public and fellow law enforcement officers. The illegal use of drugs cannot and will not be tolerated within the Milwaukee Police Department. The law enforcement profession has several uniquely compelling interests that justify the use of employee drug testing. The public has the right to expect that those who are sworn to protect them are at all times both physically and mentally prepared to assume these duties. There is sufficient evidence to conclude that the use of controlled substances and other forms of drug abuse can seriously impair an employee's physical and mental health, and thus, job performance. Where law enforcement officers participate in illegal drug use and drug activity, the integrity of the law enforcement profession and public confidence in that integrity is destroyed. This confidence is further eroded by the potential for corruption created by drug use. Therefore, in order to ensure the integrity of the Milwaukee Police Department and to preserve public trust and confidence in a fit and drug free law enforcement profession, the Department shall implement an expanded drug testing program to detect illegal drug use by sworn employees. Officers of all ranks will be randomly tested in such numbers as to ensure that a credible deterrent exists to illegal drug use.

### MILWAUKEE POLICE DEPARTMENT DRUG TESTING PROGRAM (Provisions applicable to MPA-represented department members)

#### I. DRUG TESTING PROGRAM DESCRIPTION

- A. The term "Department" as used herein shall mean the Milwaukee Police Department. The term "member" shall mean a Department employee in the WERC - certified Department bargaining unit represented by the MPA.
- B. Members shall be subject to drug testing under the following circumstances:
  - 1. Where facts or circumstances are sufficient to constitute reasonable suspicion that a Department member is illegally using drugs.

**Note: Reasonable Suspicion exists when evidence or information which appears reliable is known to the police supervisor and is of such weight and persuasiveness as to make the supervisor, based upon/his/her personal judgment and experience, reasonably suspect that member of the department is illegally using drugs. A reasonable suspicion that a member is illegally using drugs must be supported by specific articulable facts from which rational inference may be drawn. Reasonable suspicion cannot be based upon mere "hunch" or solely upon poor work performance. If suspicion of drug use is based upon observation of the suspected member's physical appearance, at least two (2) supervisors must make observations.**

2. Whenever a member is directly involved in an incident that results in death, or great bodily harm as defined by State Statute.
3. Whenever a member is on probation, the member shall be tested prior to completion of the member's probation period. Completion of the member's probation period shall be contingent upon passing the drug test.
4. Whenever a member is eligible for promotion (including reclassifications), the member shall be tested prior to promotion. Promotion shall be contingent upon passing the drug test.
5. Whenever a member is returning from a leave of absence that exceeds 90 consecutive calendar days in duration. Reinstatement to the Department from the leave of absence shall be contingent upon passing the drug test.
6. Random Drug Testing
  - a. Periodically a list of Department members selected for drug testing shall be generated by an independent secure random selection process. The frequency of random testing, and sampling rate, shall be as prescribed from time to time by the Chief of Police. The independent agency providing the random selection process shall be prescribed by the Chief. Such independent agency shall be provided with a list of all Department members covered by random drug testing encoded so that only the Chief of Police and the Commanding Officer of the Internal Affairs Division know the identity of the Department members.
  - b. The Chief may increase the frequency of random testing, and sampling rate over and above the frequency of random testing and sampling rate he prescribes from time to time under paragraph 6.a., hereof, for members assigned to the following Department Units: Vice Control Division, Tactical Enforcement Unit, Property Control Section (only those persons directly involved in the custody and handling of illegal drugs), Internal Affairs Division and, the Intelligence Division. If subsequent Departmental reorganization results in modifications to any of these units, the function performed by a unit as it is presently constituted, shall continue to be covered hereunder no matter how such unit is constituted following a future reorganization.

- c. Members selected to be tested shall be notified by their Commanding Officer, who shall give them a written order to report for testing. A copy of such written order shall not be entered into a member's personnel file, but shall be retained by the Department in a file kept at the Internal Affairs Division.
  - d. All members on paid leave who are selected for drug testing pursuant to paragraphs 6.a. or 6.b., hereof, shall not be required to participate in such test, except those members having the following status as of the notice of selection:
    - (1) Members on sick or injury leave who have received permission to leave the residence to further recuperation;
    - (2) Members on compensatory time off authorized after the selection notice; or
    - (3) Members on "suspended with pay" or "dismissed with pay pending appeal" status.
  - e. Members on regular off days shall not be subject to random drug testing.
  - f. Any member selected for testing who claims inability to participate due to medical reason shall be examined by a physician designated by the Chief. The physician shall determine if such member may be excused from the test. If such member is excused from a scheduled test, he/she shall be rescheduled for testing as soon as possible, irrespective of any random sampling selection.
7. Members having sensitive assignments, referenced in paragraph 6.b., hereof, shall be subject to drug testing upon entering and leaving these assignments, as well as on an annual basis while serving in such assignments.
- C. Refusal to submit to a drug test shall result in immediate suspension and discipline up to and including dismissal from the Department. Attempts to alter or substitute a test sample provided by the member being tested shall be deemed a refusal to submit to a drug test. When the member appears unable to give a specimen at the time of the test, testing personnel shall document the circumstances on the drug-test report form. The member shall be permitted no more than three (3) hours to give a sample, during which time he/she shall remain in the testing area, under observation. Reasonable amounts of water may be given to the employee to encourage urination. Failure to submit a sample shall be considered a refusal to submit a drug test.

#### D. TESTING PROCEDURE

- 1. The current testing procedure shall be continued. This procedure is currently administered by Aurora Consolidated Laboratories. Nothing herein shall prohibit the Chief of Police from changing the provider of this procedure, so long as the new provider is DHHS-certified and performs the procedure pursuant to DHSS standards.

2. Substances to be tested for include:

Amphetamines  
Opiates  
Cannabinoids  
Phencyclidine (PCP)  
Cocaine

Nothing herein shall prohibit the Chief of Police from amending this list of substances, so long as the added substance is one for which DHHS has adopted a quantitative standard for a positive test finding for the substance; the Department will notify the MPA of amendments to this list of substances.

**Note: Members should be aware there are many products containing Cannabidiol (CBD), Delta 8 Tetrahydrocannabinol (THC) and Hemp derived Delta 9 THC. These products are legal under Wisconsin State Law as long as the total amount of Delta 9 THC is less than 0.3%. However, members who choose to consume these items must be aware that these products may contain levels of Delta 9 THC that are illegal under Wisconsin law. Members must also be aware that consuming any of these products may result in a positive drug test for cannabinoids.**

3. Split Samples

At the collection site, the technician shall either collect the specimen in two containers or shall collect the specimen in one container and shall then split the specimen into two containers. One sample (the primary sample) shall be tested by the City-designated testing laboratory. The other sample (the split sample) shall be stored by the testing laboratory should a verified confirmed positive result from the test of the first sample.

If a verified, confirmed positive result is obtained from the test of the primary sample, the member shall be informed that he/she has 72 hours to notify the Medical Review Officer (MRO) that he/she wishes to challenge the test result by means of independent testing of the split sample. The member must so notify the MRO in writing within 72 hours of the member's being notified that his/her test was verified confirmed positive for the presence of a drug. Upon such a challenge, the split sample retained by the testing laboratory for use by the member shall be forwarded by the testing laboratory to a DHHS-certified laboratory selected by the member from a list of four such laboratories designated by the City.

All costs associated with the testing of the split sample shall be borne by the member, provided however, if the test of the split sample does not indicate a positive drug test result, then the Department shall reimburse such member for the costs of testing the split sample. Testing of split samples shall be conducted pursuant to the retesting provision described in the Federal Guidelines.

4. All test results shall be reviewed and interpreted by a Medical Review Officer (MRO) who shall be a licensed physician with knowledge of substance abuse disorders, designated by the Chief. The MRO shall examine alternative medical explanations for any confirmed positive test result. This action may include conducting a medical interview with the individual, review of the individual's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. The MRO shall forward the results of his/her review to Chief of Police and/or Commanding Officer of the Internal Affairs Division.

## II. ACCESS TO TEST RESULTS

Confirmed positive drug test results verified by the MRO shall be made available only to the following:

Chief of Police  
Commanding Officer of the Internal Affairs Division

## III. ADMINISTRATION/DISCIPLINARY ACTION

- A. A member, who has been ordered to take and has taken, a drug test based on either reasonable suspicion, or the requirements of paragraph I.B.2., hereof, shall not be subject to disciplinary action until the test results are received by the Department. During that period, however, the member may be required to surrender his/her weapon, badge, I.D. card, cap shield, and callbox key, and may be suspended with pay. This action shall be accomplished most discreetly and, whenever possible, without advising other personnel of the reasons.
- B. All discipline involving a member who has a confirmed positive test for illegal drug use, verified by the MRO, shall be administered by the Chief; such discipline may include dismissal from the Department. A challenge to a confirmed positive test result by a member shall not affect or delay the effective date of discipline imposed against the member pursuant to this section. The Department's position is that any member proven to have illegally used drugs should be dismissed for such use, subject only to the discretion of the Chief and review of the Fire and Police Commission.

## IV. EXCLUSION OF TEST RESULTS FROM CRIMINAL PROCEEDINGS

Drug test results obtained through the Milwaukee Police Department Drug Testing Program may not be used as evidence against an officer in a criminal nor in a municipal ordinance violation proceeding.

## V. CONFIDENTIALITY

- A. Except as provided in paragraph V.B., below, there shall be no dissemination of an individual member's drug test results (including documentation or information contained therein) to the public.

B. The provisions of paragraph V.A., hereof, shall not apply to an individual member's drug test results in the following circumstances:

- (1) Disciplinary hearings, or appeals therefrom, occasioned by such individual member's drug test results.
- (2) Non-disciplinary administrative hearings, or appeals therefrom, when such individual member's drug test results would be relevant to such hearings/appeals.

## **II. DRUG TESTING PROGRAM FOR SWORN SUPERVISOR MEMBERS AND CIVILIAN MEMBERS**

### **770.00 PURPOSE**

The Milwaukee Police Department has a compelling obligation to eliminate illegal and/or illicit drug use to ensure the integrity of the Department, enhance public trust and instill confidence in maintaining a drug free law enforcement agency. In order to achieve this goal, the Department shall maintain a comprehensive drug-testing program to detect drug use by Department members and to ensure all Department applicants are drug free. The purpose of this standard operating procedure is to set uniform guidelines for handling instances where a member may be suspected of substance abuse; to develop a fair and equitable method for administering a random drug testing program, and to discourage the use of illicit drugs.

### **770.05 POLICY**

The Milwaukee Police Department strives to maintain a drug-free working environment. Members of all ranks will be randomly tested in such numbers as to ensure a credible deterrent exists to illegal drug use. If a member refuses to submit to a drug test, or if the member leaves the testing facility without providing a sample, the act will constitute a positive test result and the member shall be immediately suspended and disciplined up to and including discharge from the Department. The Department recognizes there is sufficient evidence to conclude that the use of controlled substances and other forms of drug abuse can seriously impair a member's physical and mental health, and thus, job performance.

Recognizing that there may be members who have substance abuse problems, the Department strongly encourages affected members to seek help through the City's Employee Assistance Program (EAP) and/or the Milwaukee Police Officers Support Team (POST), both of which are available free to Department members and eligible family members. EAP and/or POST participation is completely voluntary and all information is held in the strictest of confidence, unless information comes to light where the member or another person's safety is in jeopardy or in cases of child abuse.

The Internal Affairs Division shall be responsible for the administration of the drug-testing program.

**770.10 SCOPE OF APPLICABILITY**

The drug testing procedures are effective pursuant to the collective bargaining agreements of both the MPSO and the MPA.

**770.15 DEFINITIONS**

For the purposes of this standard operating procedure, the following definitions will apply:

**ADULTERATED SPECIMEN** is a specimen that contains a substance that is not expected to be present in human urine or contains a substance expected to be present, but is at a concentration so high that it is not consistent with human urine.

**CREATININE** is a protein produced by muscle and cleared from the body by the kidneys. It is a normal constituent in urine. Normal human urine creatinine concentrations are greater than 20 mg/dl. Abnormal levels of urine creatinine may result from excessive fluid intake, glomerulonephritis, pyelonephritis, reduced renal blood flow, renal failure, myasthenia gravis, or a high meat diet.

**CIVILIAN MEMBER** is a member who is not designated by city charter as a member of the police force and who does not have arrest powers.

**CONFIRMED POSITIVE** is a second laboratory analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique (GCMS) and chemical principle to ensure accuracy.

**CUT-OFF LEVEL** is the least amount of a drug or resulting metabolites remaining in the body or hair after use of a drug. Cut-off levels are measured in nanograms per milliliter (ng/ml) for urine and in nanograms per milligram (ng/mg) for hair.

**DILUTE SAMPLE** is a urine specimen that has a creatinine level of less than 20 mg/dl and a specific gravity of 1.003 or less. These two tests are routinely performed on every urine sample that is tested at the lab. If the specimen meets the above two criteria, it is reported as a "dilute". A member may produce urine that meets the program criteria for dilution under some conditions including: working in hot weather conditions; drinking large amounts of fluid; taking a diuretic, or from moderate or excessive drinking of fluids immediately before providing the specimen. A specimen may be reported as "dilute" in conjunction with a positive or negative drug test or reported just as "dilute".

**DIRECT OBSERVATION COLLECTION** is when there is articulable evidence to believe a member may be attempting, or have sufficient reason, to evade the testing process. The direct observation collection method can be mandated when the Department or collection technician has articulable evidence to suggest a urine sample may have been adulterated, substituted, or was a out-of-range temperature specimen. When a direct observation collection is required, the member will be taken to a private bathroom stall with only the member and a same sex observer present, the observer will request the member to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist, just above the navel; and lower clothing and underpants to mid-thigh; and to show the

observer – by turning around – that the member does not have a prosthetic device. After the observer has determined that the member does not have such a device, the observer will allow the member to return clothing to its proper position and then conduct the direct observation collection.

DRUG means illicit drugs.

DRUG TEST means any chemical, biological, or physical instrumental analysis administered by a certified laboratory for the purpose of determining the presence or absence of a drug or its metabolites.

EMPLOYEE ASSISTANCE PROGRAM (EAP) is an established confidential program for member assessment, counseling, and referrals for medical / behavioral problems.

ILLICIT DRUGS includes drugs that are listed on Schedules I through V of Wisconsin Statutes, Chapter 961 which are not legal; drugs which are legal, but not legally obtained; or drugs used in a manner or for a purpose which is not legal or prescribed.

INVALID DRUG TEST is when results obtained indicate there was an unidentified component in the sample, or an unidentified interfering ingredient, if the sample included unacceptable physical features or had an endogenous ingredient at an utmost level which prevented the lab from conducting results.

MEDICAL REVIEW OFFICER (MRO) is a licensed physician designated by the Chief of Police who is responsible for receiving and reviewing laboratory drug test results. The MRO assesses and determines whether an alternate medical or other acceptable explanation can account for a confirmed positive test result.

MEMBER is either a civilian or police member of the Department.

NON-NEGATIVE RESULT is when a urine specimen was tested and found to be positive, adulterated, invalid, or substituted.

OUT OF RANGE TEMPERATURE is when the provided urine sample falls outside the acceptable temperature range of 90.5 – 99.8 degrees Fahrenheit, as defined by SAMSHA standards.

POLICE MEMBER is a member designated by city charter as a member of the police force and who has arrest powers.

POST is known as the Police Officers Support Team. The POST team is a confidential peer support group consisting of volunteer Department members. POST members are specifically trained in providing guidance, peer support, and outside referrals to members in need of assistance to cope with critical incidents, family problems, work-related problems, substance abuse, and other behavioral issues.

PRESCRIPTION means, and includes, an order for drugs or medical supplies written, signed, or transmitted by word of mouth, telephone, fax, computer, or other means of communication by a practitioner duly licensed by the laws of the state to prescribe such



drugs or medical supplies, issued in good faith and in the course of professional practice, intended to be filled, compounded, or dispensed by another person licensed by the laws of the state to do so, and meeting the requirements of Wisconsin state statutes. A prescription is not considered valid unless sometime prior to receipt of the prescription the member was physically examined by someone he or she believes to be a physician, dentist, or professional assignee or designee with comparable license.

REASONABLE SUSPICION exists when evidence or information which appears reliable is known to the police supervisor and is of such weight and persuasiveness as to make the supervisor, based upon his/her personal judgment and experience, reasonably suspect that member of the department is using drugs. A reasonable suspicion that a member is using drugs must be supported by specific articulable facts from which rational inference may be drawn.

REFUSAL is not providing a test sample. A refusal to test is also the failure to show up for the test within a reasonable time after being directed to do so, the failure to remain at the testing site until the testing process is complete, the failure to provide a sufficient amount of urine when directed and it has been determined through a required medical evaluation there was no adequate medical explanation for the failure, the failure to undergo a medical examination or evaluation as directed by the MRO as part of the verification process, the failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process), or if the MRO reports that you have a verified adulterated, invalid, or substituted specimen. A refusal shall result in immediate suspension and discipline up to and including discharge from the Department.

RIAH is the acronym for Radioimmunoassay for Hair drug screening.

SENSITIVE ASSIGNMENTS are those police members who are assigned to locations such as the Organized Crime Division, Intelligence Fusion Center, Tactical Enforcement Unit, Property Control Section (only those persons directly involved in the custody and handling of illegal drugs), and the Internal Affairs Division.

SAMHSA/DHHS is otherwise known as the Substance Abuse and Mental Health Services Administration/Department of Health and Human Services. A federal agency with specific drug testing standards and embraces the mission of reducing the use of illegal substances and the abuse of legal ones.

SPLIT SAMPLE - One urine specimen is collected. This collection of urine is then split into a primary specimen and a split specimen. If a member's test results are positive, the member has an opportunity to have the second sample sent to a different Substance Abuse and Mental Health Services Administration/Department of Health and Human Services (SAMHSA/DHHS) certified laboratory for the testing of the identified drug(s).

SUBSTITUTED SPECIMEN is a urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

**770.20 TYPES OF DRUG TESTING**

Drug testing shall be conducted under the following circumstances:

**1. POST-OFFER JOB APPLICANT TEST**

Drug testing is required by all applicants of the Department. Offers of employment are contingent upon passing a urine and/or hair drug test. Refusal to submit to drug testing or a positive confirmed test, will result in the immediate rejection of the applicant for employment.

**2. REASONABLE SUSPICION (*applies to both civilian and police members*)**

Where facts or circumstances are sufficient to constitute reasonable suspicion that a Department member is using or is under the influence of drugs.

Reasonable suspicion cannot be based upon mere "hunch" or solely upon poor work performance. If suspicion of drug use is based upon observation of the suspected member's physical appearance, at least two (2) supervisors must make observations.

Reasonable suspicion testing will use either the urine or hair test methodology, depending on the nature of the situation.

**3. CRITICAL INCIDENT (*applies to police members only*)**

Whenever a member is directly involved in an incident that results in death or great bodily harm of a human being, as defined by State Statute, or when a member causes injury to a human being by the discharge of a firearm.

Critical incident testing will use the urine test methodology.

**4. PROMOTION (*applies to police members only*)**

Whenever a police member is eligible for promotion (including reclassifications), the police member shall be tested prior to promotion. Promotion shall be contingent upon passing the drug test.

**5. LEAVE OF ABSENCE (*applies to civilian and police members*)**

Whenever a member is returning from a leave of absence that exceeds 90 consecutive calendar days in duration, the member shall be subject to drug testing. Reinstatement to the Department from the leave of absence shall be contingent upon passing a drug test.

Leave of absence testing will use the hair test methodology.

6. SENSITIVE ASSIGNMENTS (*applies to police members only*)

Members having sensitive assignments shall be subject to drug testing upon entering and leaving these assignments, as well as on an annual basis while serving in such assignments.

Sensitive assignment testing will use the hair test methodology.

7. RANDOM (*applies to police members only*)

- a. Periodically, a list of Department members selected for drug testing shall be generated by an independent secure random selection process. The frequency of random testing and sampling rate shall be as prescribed from time to time by the Chief of Police. The Chief of Police shall prescribe the independent agency providing the random selection process. Such independent agency shall be provided with a list of all police members covered by random drug testing encoded so that only the Chief of Police and the commanding officer of the Internal Affairs Division know the identity of the police members.
- b. The Chief of Police may increase the frequency of random testing and sampling rate over and above the frequency of random testing and sampling rate prescribed from time to time for members assigned to sensitive assignments. If subsequent Departmental reorganization results in modifications to sensitive assignment positions, the function performed by a unit as it is presently constituted, shall continue to be covered hereunder no matter how such unit is constituted following a future reorganization.
- c. Police members selected for testing shall be notified by their commanding officer, who shall give them a written order to report for testing. A copy of such written order shall not be entered into a police member's personnel file, but shall be retained by the Department in a file kept at the Internal Affairs Division.
- d. All police members on paid leave who are selected for random drug testing shall not be required to participate in such test, except those members having the following status as of the notice of selection:
  1. Police members on sick or injury leave who have received permission to leave their residence or place of confinement to further recuperation;
  2. Police members on compensatory time off authorized after the selection notice; or
  3. Police members on "suspended with pay" or "dismissed with pay pending appeal" status.
- e. Police members on regular off days shall not be subject to random drug testing.
- f. A physician designated by the Chief of police shall examine any police member

selected for testing who claims inability to participate due to medical reason(s). The physician shall determine if such member may be excused from the test. If such member is excused from a scheduled test, he/she shall be rescheduled for testing as soon as possible, irrespective of any random sampling selection.

- g. Random testing will use the hair test methodology.

## **770.25 METHOD OF DRUG TESTING**

Members will be advised to report for hair or urine drug testing by the issuance of Form PD-39 “*Drug Test Order*” with the reason for the order marked at the top of the form. Members will report to the designated testing location immediately after notification and will be required to present picture identification (police ID and/or WI ID) to confirm identity.

### **A. PROCEDURE FOR URINE TESTING**

1. The member will be instructed to initial and sign paperwork associated with the collection of the urine sample. Members will receive instruction from the collection technician on precise procedures which must be followed when providing the urine sample.
2. The member will be taken to a private restroom where a coloring agent will be or has already been introduced into the toilet basin/reservoir. Any other sources of water will be secured or monitored by the collection site to prevent the intentional dilution of the specimen.
3. Members are not to flush the toilet unless instructed to do so by the collection technician.
4. The urine sample (of at least 60 milliliters of urine) will be split (split sample) and held in the event a member challenges the test results or further testing is required.
5. When a member appears unable to give a specimen at the time of the test, testing personnel shall document the circumstances on the drug-test report form. The member shall be permitted no more than three (3) hours to give a sample, during which time he/she shall remain in the testing area, under observation. Reasonable amounts of water may be given to the member to encourage urination.
6. When the Department or collection technician has articulable evidence to suggest a urine sample may have been adulterated, substituted, or was an out-of-range temperature specimen, an additional urine sample will be collected using the direct observation collection method. When a direct observation collection is required, the member will be taken to a private bathroom stall with only the member and a same sex observer present, the observer will request the member to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist, just above the navel; and lower clothing and underpants to mid-thigh; and to show the observer – by turning around – that the member does not have a prosthetic device. After the observer has determined that the member does not have such a device, the

observer will allow the member to return clothing to its proper position and then conduct the direct observation collection.

## B. HAIR TESTING

### 1. Completing the Test Request Form (TRF)

The TRF is a pre-printed form that is coded specifically to the Department. The collection personnel shall fill out the form in the presence of the test subject. The TRF includes information such as the collector's identity, the test subject's Identification Number, and where the sample was collected (ex., crown of head, nape of the neck). The primary location for hair collection shall be the head.

### 2. Completing the Sample Acquisition Cards (SAC)

The SAC is a card that will hold the hair sample during transportation. A foil used for collection is included with each card. These steps may occur prior to or after the collection of the hair sample and shall be completed in the presence of the test subject.

- a. The collection technician shall sign and date the SAC's. The collection personnel shall write the test subject's Identification Number on each SAC. This number must match the number listed on the TRF.
- b. The collection technician shall place the bar code from the TRF on the SAC to ensure the documents are identified with one another.

### 3. Collecting the Hair Sample

1. The collection technician shall complete each of the following steps in the presence of the test subject.
  - a. The collection technician will cut three (3) samples as close to the skin as possible.
  - b. Each sample will be individually placed in separate laboratory supplied SAC and sealed by the collection technician in the presence of the test subject. These cards will be placed in separate plastic bags, sealed by the collection technician, and initialed and dated by the test subject.
  - c. Two (2) hair samples will be forwarded to the contracted laboratory for analysis.
  - d. The third hair sample will be held in the event the testing subject challenges the test results or further testing is required.
  - e. In the event that the test subject is unable to provide an adequate hair sample as required in this procedure, the collection of alternate specimen(s)

to complete the drug screening shall be performed. The specimens will be collected from prescribed locations in this order: head, arms, legs, underarms, chest, or pubic region. Failure to comply with an order to provide a specimen will be considered a refusal of the test and grounds for discharge.

- f. In cases where the test subject has a pre-existing medical condition, (ex., androgenetic alopecia or has undergone chemotherapy treatment), which prevents or inhibits growth of bodily hair, the commanding officer of IAD, with the approval of the Chief of Police, may authorize and order a substitution test of urine.
- g. The test subject shall complete the Donor Certification section of the TRF that includes the member's name and contact telephone number. In the comments section, the donor may provide additional information for the Medical Review Officer (MRO), (ex., use of prescription medicine or additional phone numbers where the MRO can contact the member if the need arises).
- h. The copy of the TRF that contains the Donor Certification section shall be separated from the TRF and placed in a sealed envelope addressed to the MRO. The test subject shall initial and date the sealed envelope. The sealed envelope shall be kept in a secured area until sent to the MRO, at the next regularly scheduled pick-up using an overnight carrier.
- i. The collection technician shall place the SAC and a copy of the TRF into the collection pouch and seal the pouch.
- j. The test subject shall initial and date the collection pouch in the space provided.

#### 4. Storing and Shipping the Sample

The sealed collection pouch shall be kept in a secured area until sent to the laboratory, at the next regularly scheduled pick-up using an overnight carrier.

- a. The sample(s) shall be tested at a city contracted licensed laboratory that is certified to perform hair testing.

### **770.30 DRUGS TESTED**

#### A. URINE

Members undergoing urine testing shall be tested for all of the following substances:

**Amphetamines** (Includes substances known as: Speed, Uppers, etc.)

**Cannabinoids** (Includes substances known as: Marijuana, Hashish, etc.)

**Note: Members should be aware there are many products containing Cannabidiol (CBD), Delta 8 Tetrahydrocannabinol (THC) and Hemp derived Delta 9 THC. These products are legal under Wisconsin State Law as long as the total amount of Delta 9 THC is less than 0.3%. However, members who choose to consume these items must be aware that these products may contain levels of Delta 9 THC that are illegal under Wisconsin law. Members must also be aware that consuming any of these products may result in a positive drug test for cannabinoids.**

**Cocaine** (Includes Crack)

**Opiates** (Includes substances known as: Heroin, Codeine, Morphine, etc.)

**Phencyclidine** (Includes substances known as: PCP, Angel Dust, etc.)

### 1. Drug Cut-Off Levels for Urine Testing

- a. The listing represents the urine screening and confirmatory test cut-off levels of the Department.
- b. The Department may change the test cut-off levels, and add or delete drugs screened, as changes in technology or other considerations warrant identification of these, or other substances at other concentrations. The Department will provide at least a 30-day notice of any change in test cut-off levels or any modifications to the tested substance list.

| <u>Drug Tested</u> | <u>Urine Initial Test Cut-Off Concentration</u> |
|--------------------|---|
| Cocaine            | 300 ng/ml                                       |
| Opiates            | 2000 ng/ml                                      |
| PCP                | 25 ng/ml  |
| Amphetamine        | 1000 ng/ml                                      |
| Marijuana          | 50 ng/ml  |

| <u>Drug Tested</u>     | <u>Urine Confirmatory Test Cut-off Concentration</u>                                |
|------------------------|---|
| Cocaine <sup>1</sup>   | 150 ng/ml   |
| Opiates                | Morphine 2000 ng/ml<br>Codeine 2000 ng/ml<br>6-Acetylmorphine <sup>2</sup> 10 ng/ml |
| PCP                    | 25 ng/ml  |
| Amphetamine            | Amphetamine 500 ng/ml<br>Methamphetamine <sup>3</sup> 500 ng/ml                     |
| Marijuana <sup>4</sup> | 15 ng/ml  |

1 Benzoylcegonine.

2 Test for 6-AM when the morphine concentration is greater than or equal to 2,000 ng/ml.

3 Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml.

4 Delta-9-tetrahydrocannabinol-9-carboxylic acid.

**Note: Nothing herein shall prohibit the Chief of Police from amending the list of substances tested in urine, so long as the added substance is one for which SAMHSA/DHHS has adopted a quantitative standard for a**

**positive urine test finding for the substance; the Department will notify the applicable labor associations of amendments to this list of substances.**

## B. HAIR

Members undergoing hair testing shall be tested for all of the following substances:

**Amphetamines** (Includes substances known as: Speed, Uppers, Methamphetamine, Ecstasy MDMA & MDEA, etc.)

**Cannabinoids** (Includes substances known as: Marijuana, Hashish, etc.)

**Cocaine** (Includes Crack)

**Opiates** (Includes substances known as: Heroin, Codeine, Morphine, Oxycodone, and Hydrocodone, etc.)

**Phencyclidine** (Includes substances known as: PCP, Angel Dust, etc.)

### 1. Drug Cut-Off Levels For Hair Testing

- a. The listing represents the hair screening and confirmatory test cut-off levels of the Department.

| <b>Cut-Off Levels</b> | <b>RIAH</b> | <b>GC/MS</b> | <b>Safety-Net</b> |
|-----------------------|-------------|--------------|-------------------|
| Cocaine               | 5ng/10mg    | 5ng/10mg     | 2ng/10mg          |
| Opiates               | 5ng/10mg    | 5ng/10mg     | 2ng/10mg          |
| PCP                   | 3ng/10mg    | 3ng/10mg     | 1ng/10mg          |
| Amphetamine           | 5ng/10mg    | 5ng/10mg     | 2ng/10mg          |
| Marijuana             | 1ng/1gm     | 1pg/10mg     | 2pg/10mg          |

- b. The Department may change the test cut-off levels, and add or delete drugs screened, as changes in technology or other considerations warrant identification of these, or other substances at other concentrations. The Department will provide at least a 30-day notice of any change in test cut-off levels or any modifications to the tested substance list.
- c. Since the controlled substances listed above were not meant to be all inclusive of the federally designated drugs subject to abuse, the Department reserves the right, in reasonable suspicion cases, to perform analysis for additional controlled substances (Schedules 1 through 5), provided forensic analytical techniques, (e.g., gas chromatography / mass spectrometry), have been established at the city contracted laboratory.
- d. Cut-off levels for drugs not listed above will be at the point of quantitation.



### **770.35 PRESCRIPTION DRUGS**

Many prescription drugs can alter or affect drug tests. It is the member's responsibility to inform the collection technician at the testing site if the member is currently taking or has taken any prescription medication in the past 120 days. Prescription medication should be documented by either the collection technician or by the member on the paperwork at the time of testing.

Below are the known prescription medications which may trigger a positive drug test result. Due to the large number of brand names and the constant marketing of new products, this list cannot be and is not intended to be all-inclusive.

Amphetamines: Pbetrol, Biphetamine, Desoxyn, Dexedrine, Didrex, Lonamine, Fastin.

Cannabinoids: Marinol (Dronabinol, THC).

Cocaine: Cocaine, HCl topical solution (Roxanne).

Phencyclidine: Not legal by prescription.

Opiates: Paregoric, Parepectolin, Donnagel PG, Norphine, Tylenol with Codeine, Emperine with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guiatuss AC, Novahistine DH, Novahistine Expectorant, Diluadid (Hydromorphone), M-S Contin and Roxano (morphine sulfate), Percodan, Vicodin, Tussiorganidine, etc.

### **770.40 TEST RESULTS**

All drug test results, which show a positive result, shall be reviewed by an authorized MRO prior to the transmission of the test results to the commanding officer of the Internal Affairs Division.

The duties of the MRO, with respect to positive test results, are to review and interpret confirmed, positive test results obtained through the Department's hair and/or urine testing program. In carrying out this responsibility, the MRO shall examine alternative medical explanations for any positive test result. This action may include conducting a medical interview and review of the member's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested member when a positive test could have resulted from legally prescribed medication. The MRO shall not, however, consider the results for hair or urine samples that are not obtained or processed in accordance with the procedures set forth herein.

**Note: For urine tests, the MRO will investigate cases where urine test results are returned as adulterated, invalid, or substituted. If the MRO's investigation cannot identify a legitimate or valid medically substantiated reason for one of the above test results, the test will be considered a refusal to test.**

1. Prior to making a final decision to verify a positive test result for a member, the MRO

shall give the member an opportunity to discuss the test result with them. For example, there may be a legitimate positive test result for the use of legally prescribed or dispensed medication such as codeine for coughs, narcotic analgesics for pain, tetrahydrocannabinol for cancer, cocaine as a vasoconstrictive anesthetic, etc. It is important to note that it is highly unlikely that a medically acceptable explanation will be found for the presence of cocaine or marijuana.

2. The MRO shall contact the member directly, on a confidential basis, to determine whether the employee wishes to discuss the test result. A staff person under the MRO's supervision may make the initial contact, and a medically licensed or certified staff person may gather information from the member. Except as provided in paragraph 4 of this section, the MRO shall talk directly with the member before verifying a test as positive.
3. If after making all reasonable efforts and documenting them, the MRO is unable to reach the member directly, the MRO shall contact the Internal Affairs Division, who shall make arrangements to contact the member and direct them to contact the MRO as soon as possible. If it becomes necessary to reach the member through IAD, they shall employ procedures that ensure, to the maximum extent practicable, that the requirement that the member contact with the MRO is held in confidence.
4. The MRO may verify a test result as positive without having communicated directly with the member in three circumstances.
  - a. If the member expressly declines the opportunity to discuss the test result, the test shall be reported as positive.
  - b. If IAD has successfully made and documented contact with the member, instructed the member to contact the MRO, more than three (3) calendar days have passed since the date the member was successfully contacted by IAD and the member has not contacted the MRO, the test shall be reported as positive.
  - c. If, after making all reasonable efforts and documenting them, IAD has not been able to contact the member and ten (10) calendar days have passed since IAD's first documented attempt to contact the member, the test shall be reported as positive.
5. The MRO shall report to IAD any samples that were not suitable for testing. When IAD receives a test result that indicates a specimen was an inadequate specimen and/or was not testable for any other reason, IAD shall contact the member and require him/her to provide another specimen.
6. The MRO shall report whether the verified test result is positive or negative to IAD. If the MRO, in his/her sole medical opinion, concludes there is a legitimate medical explanation for the positive test result, the MRO shall report the test result as negative to IAD.
7. Negative test specimen's will not be retained; instead they will be destroyed according

to the contracted laboratory's protocol.

8. IAD shall officially notify each member who receives a confirmed positive test result. Upon this official notification, the provisions of 770.50 shall apply.

#### **770.45 SAFETY-NET TESTING**

If a member receives a positive, confirmed hair or urine test result, the member may request a safety-net test be conducted. For urine tests, the split sample will be tested. For hair tests, the retained sample will be tested. Safety-net tests must be performed under the same or more stringent procedures as recommended by the test manufacturer.

1. To request the safety-net test, the member must submit a written request to the commanding officer of IAD within 72 hours of being notified of the positive test result. IAD shall arrange the appropriate safety-net testing as soon as administratively possible. The member must pay for all costs associated with the applicable safety-net testing and for the MRO review.
  - a. Upon the challenge of a urine test, the split sample retained by the testing laboratory for use by the member shall be forwarded by the testing laboratory to a SAMHSA/DHHS certified laboratory selected by the member from a list of such laboratories designated by the City. Testing of split samples shall be conducted pursuant to the retesting provision described in SAMHSA/DHHS guidelines.
  - b. Upon the challenge of a hair test, the hair sample retained by the collection agent for use by the member shall be forwarded by the testing laboratory to an FDA approved hair testing laboratory of the member's choice.
2. If the result of the safety-net test is negative, the member's police powers shall be reinstated as soon as administratively possible and they shall be reimbursed for all costs associated with the safety-net test, including the MRO review.

#### **770.50 DISCIPLINARY ACTION**

1. A civilian or police member who has taken a drug test based on either an ordered reasonable suspicion or critical incident drug test shall not be subject to disciplinary action until the Department receives the test results. During that period, however, a police member may be suspended with pay and civilian members may be suspended without pay. Suspensions shall be accomplished most discreetly and, whenever possible, without advising other members of the reasons.
2. The Chief shall administer all discipline involving a civilian or police member who has an MRO verified confirmed positive test for drug use or for members who were considered to have refused testing; such discipline may include discharge from the Department. A challenge to a confirmed positive test result by a member shall not affect or delay the effective date of discipline imposed against the member pursuant to this section.
3. The Department's position is that any member who tests positive for illicit or illegal

drugs in violation of this standard operating procedure should be discharged from the Department.

### **770.55 EXCLUSION OF TEST RESULTS FROM CRIMINAL PROCEEDINGS**

Drug test results obtained through the Milwaukee Police Department Drug Testing Program may not be used as evidence against a member in a criminal or in a municipal ordinance violation proceeding.


### **770.60 CONFIDENTIALITY**

- A. Except as provided in 770.60 (B) below, there shall be no dissemination of an individual member's drug test results (including documentation or information contained therein) to the public.
- B. The provisions of 770.60 (A) hereof, shall not apply to an individual member's drug test results in the following circumstances:
  1. Disciplinary hearings, or appeals therefrom, occasioned by such individual member's drug test results.
  2. Non-disciplinary administrative hearings, or appeals therefrom, when such individual member's drug test results would be relevant to such hearings/appeals.

### **770.65 USE OF PRESCRIPTION MEDICATIONS / DRUGS WHILE AT WORK**

1. Members shall always be fit for duty during work hours. Members using prescription medication, which may have an effect on a member's decision making, judgment, or physical ability shall provide medical documentation indicating the member is authorized to work while using the medication(s). The member shall report such use as soon as practicable to their on-duty shift commander or immediate supervisor.
2. The shift commander or immediate supervisor, upon being notified a member is using a prescription medication as outlined in 770.65(1), will notify the Medical Section as soon as practicable. The shift commander or immediate supervisor shall obtain all the necessary information from the member and provide it for Medical Section review.
3. The Medical Section will then notify the shift commander or immediate supervisor as to whether the member will be full duty, limited duty, or be required to leave the workplace altogether. A member required to leave the workplace will be responsible for completing the necessary sick or injury leave forms. The Medical Section will provide guidance in this area.

4. Written authorization from a certified medical physician must be submitted to the member's shift commander or immediate supervisor upon the member's return to work. If the Medical Section believes a second medical opinion is warranted, the member may be ordered to submit to a fitness for duty exam at Department expense.

A handwritten signature in black ink, appearing to read 'J.B.N.' with a long horizontal stroke extending to the right.

JEFFREY B. NORMAN  
CHIEF OF POLICE

JBN:mfk