

From: Lauren M Pomales <lpomales@baltimorecountymd.gov>
Sent: Wednesday, December 11, 2024 8:31 AM
Subject: RELEASE: Revised Drug/Substance Policy

RELEASE: Revised Drug/Substance Policy and Informer 2024-13, Drug/Substance Policy.

EFFECTIVE: Immediately.

Please see the attached revised drug/substance policy, which will appear in a future General Order. Informer 2024-13 (also attached) is being released to assist members in understanding the Department's drug/substance policy. As part of this project, the Form 200, Order for Drug/Substance Testing, has been modified. A copy of the revised form, dated 12/2024 is available on the PDNet.

Commanders: Please complete a Form 159, Order/Directive Verification Form, for each member in your command and attach one printed copy of the attached policy document and one printed copy of the attached Informer. Members will sign the Form 159 stating that they received a copy of the attached policy document and Informer, which are located in their Department e-mail account. A copy of the policy document and Informer will also be posted on the Department's Intranet site.

Please contact the Safety Officer with any questions at x5576.

This message has been reviewed and approved by Captain Joseph W. Donohue (#3844).

7-2.2 DRUG/SUBSTANCE POLICY

GENERAL

- The Department will:
 1. Protect the public and its members by striving to ensure that members are free from drug/substance abuse, improper use, and dependence.
 2. Inform members that drug/substance testing may, under specified conditions and circumstances, be required for continuous employment.
 3. Ensure the rights of members in testing.
 4. Provide assessment, counseling, and referral services to members for drug/substance abuse, improper use, and dependence problems, when appropriate.

NOTE: This does not preclude the member from being subject to discipline, up to and including termination in accordance with the State Uniform Disciplinary Matrix, based on the circumstances of the offense (e.g., type of drug/substance, whether the drug/substance had the potential to affect the member's job performance, whether the drug/substance use was in violation of requirements of a member's job certification, etc.).
- This policy pertains to sworn and non-sworn members of the Department.

NOTE: Discipline will be handled in accordance with the member's job classification.

EXPECTATION OF PRIVACY

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

DEFINITIONS

- Donor - any Department member who submits to a drug/substance test.
- Drug or Substance Abuse/Improper Use:
 1. Controlled Dangerous Substances (CDS) - illegal use of any substance (narcotic and non-narcotic) subject to enforcement under the Maryland Uniform Controlled Dangerous Substances Act and those non-controlled substances inclusive, as enforceable under §5 of the Annotated Code of Maryland, Criminal Law Article.
 2. Non-Prescription Drugs - use other than as prescribed by the manufacturer and/or physician that may impair the member's job performance.
 3. Prescription Drugs - use:
 - a. Other than as prescribed to the member by a physician.

NOTES:

 1. Use other than as prescribed may include, but is not limited to, use:
 - a. To treat an injury or illness other than the one for which it was prescribed.
 - b. Beyond the prescribed usage period, or beyond one year after the issuance of the prescription if no usage period is specified.
 - c. Of a higher dosage of a medication than was prescribed or more frequently than prescribed.
 2. Members may be subject to discipline regardless of whether the use impaired or had the potential to impair the member's job performance.

Administrative Manual, Article 7, Personnel Issues

4. Of a prescribed drug that is illegal under federal law. Cannabis - use of any amount in any form.

NOTES:

1. Members may be subject to discipline for use of a drug/substance contrary to this policy regardless of whether the use was intentional.
 2. Violations will be categorized as drug/substance abuse or improper use based on the circumstances of the offense (e.g., type of drug/substance, whether the drug/substance had the potential to affect the member's job performance, whether the drug/substance use was in violation of requirements of a member's job certification, etc.).
- Drug/Substance Dependence - a condition that exists when use of a legal or illegal drug/substance causes impairment of social or occupational functions; or when tolerance is developed for the drug/substance; or when withdrawal symptoms appear upon termination of the use of the drug/substance.
 - Drug/Substance Test - a test administered under established departmental procedures to detect drugs/substances.
 - Random Testing - a system of selecting members for unannounced drug/substance testing, using a random sampling based on a neutral criterion. After selection, the member goes back into the random pool and could be selected again. Eligible donors include all sworn members and non-sworn members employed in special/sensitive positions.
 - Reasonable Suspicion - when one or more facts and/or observations lead any supervisor/commander to believe that any member may be involved in the use, possession, or sale of controlled dangerous drugs/substances, or abuse/improper use of prescribed or non-prescribed drugs/substances.
 - Special/Sensitive Positions - non-sworn positions that require members to engage in drug investigation activity; or to handle, transport, or store drug related evidence; or provide access to drug investigation information.
NOTE: Non-sworn members believing their position to be unjustifiably designated as special/sensitive may submit a written appeal to the Bureau Chief of the Professional Standards Bureau (PSB), who will forward the appeal with recommendations, through the Chief of Police, to the County Administrative Officer. Commanders who believe that a member's position should be designated as special/sensitive should submit a request through the chain-of-command outlining the reasons for inclusion to the Bureau Chief of the PSB.

MEMBERS

- Will not abuse/improperly use any drug or substance or possess any illegal drug or substance, except in the lawful performance of their duty.
- Found to be in violation of the law or this policy may be subject to discipline.
- Taking prescription medication under a physician's care will inform their immediate supervisor if the possibility exists that the medication will impair their performance while on duty. It will be the member's responsibility to obtain information regarding possible side effects of the medication.
- Are prohibited from using any amount of cannabis in any form.
- Must take all reasonable precautions to avoid any second-hand ingestion of cannabis.
NOTE: This includes members serving as medical cannabis caregivers.
- Are prohibited from registering with the Maryland Medical Cannabis Commission as a medical cannabis patient.
- Are permitted to register with the Maryland Medical Cannabis Commission as a licensed caregiver for an immediate family member that is a medical cannabis patient.

NOTES:

Administrative Manual, Article 7, Personnel Issues

1. Written notification of caregiver status must immediately be made to the Chief of Police and shall include:
 - a. A copy of the member's valid caregiver identification card; and
 - b. The relationship of the patient to the member.
 2. Once notification has been submitted, the member will be permitted to:
 - a. Purchase medical cannabis from a licensed Maryland dispensary on behalf of the designated family member;
 - b. Transport legally obtained medical cannabis to the family member; and
 - c. Dispense legally obtained medical cannabis to the family member.
- Are prohibited from personally possessing any amount of cannabis.
EXCEPTION: Members authorized to serve in the role of a caregiver for a family member who is a licensed medical cannabis patient may personally possess the medical cannabis required to fulfill their caretaker duties.
 - Are prohibited from possessing any amount of cannabis, including medical cannabis, while working or on Department property.
EXCEPTION: When the possession is related to the lawful performance of the member's law enforcement duties.
 - Are prohibited from transporting cannabis in all Department vehicles, including take home, take to, and Assigned Vehicle Community Presence Program vehicles:
 1. While the member is on duty, except as required for the performance of a member's law enforcement duties.
 2. While the member is off duty.
- NOTES:**
1. This prohibits non-Department member passengers from carrying any amount of cannabis in a Department vehicle, regardless of the member's duty status (i.e., on duty or off duty.)
 2. This prohibits medical cannabis from being transported in a Department vehicle by members serving as a licensed caregiver for a family member who is a medical cannabis patient, regardless of duty status.
- Are cautioned against placing themselves in a position while off-duty that may negatively reflect on the Department subjecting them to disciplinary action.

7-2.2.1 DRUG/SUBSTANCE TESTING

REQUIRED TESTING SITUATIONS

- Random Drug/Substance Testing - Eligible donors as selected.
- Reasonable Suspicion - When facts and/or observations lead any supervisor/commander to believe that a member may be in violation of this policy.
- New Employees - As required by the County Personnel Manual.
- Recruits - Per the Recruit Training Team SOP.
- Transfers - During the selection process for specialized units that have direct contact with drugs/substances.
- Reinstatements - As required by the County Personnel Manual.
- Leave of Absence - Upon return, as determined by the Employment Section Commander.
- Annual Drug/Substance Testing - Unannounced drug/substance tests will be ordered at least one time each calendar year at the direction of the Safety Officer for members of the following:
 1. Forensic Services Section (FSS)
 2. Evidence Management Unit (EMU).
 3. Vice/Narcotics Section (VNS).

Administrative Manual, Article 7, Personnel Issues

4. Investigative Services Teams (IST).
5. Criminal Intelligence Unit.
6. Tactical Unit.
7. K-9 Unit.
8. Aviation Team.
9. Auxiliary Team.
10. DUI Enforcement Team.
11. Hazardous Devices Team.

TESTING STANDARD

- The type of test used for reasonable suspicion will be determined by the commander of the investigating entity as outlined in Section 2.2.3 of this Article in accordance with applicable laws.
- Other testing will include urinalysis, administered by the County's Designated Health Care Provider (DHCP).
- Testing will be conducted at sensitivity levels in accordance with Department of Transportation (DOT) regulations.
- Includes testing for cannabis.

REFUSAL

- A member will be suspended pending the disposition of disciplinary/administrative action, for refusing to submit to an ordered drug/substance test.
NOTE: The Department may commence additional action that may lead to discipline as a result of a sworn member's refusal to submit to the tests.
- Transfer candidates will be removed from eligibility lists.
- Reinstatement candidates will not be processed and will be eliminated from future consideration.
- Prospective employees will have conditional offers of employment withdrawn.

SPECIMEN COLLECTION

- Will be performed by the Designated Health Care Provider (DHCP) in accordance with established departmental procedures.
- Will allow for privacy unless there is reason to believe that a donor may alter or substitute the specimen.

TESTING PROCEDURES

- Tests will be completed as timely as possible in accordance with established DHCP procedures.
- A specimen method will be used in accordance with DOT split guidelines.
- A specimen will be considered positive only after:
 1. A positive indication for a drug/substance; and
 2. Review by the Medical Review Officer (MRO) determines the specimen to be positive after an evaluation of the member's medical history and any other relevant medical information provided by the member.
- Any member testing positive will be placed on suspension pending a disciplinary investigation.

NOTIFICATION OF POSITIVE TEST RESULTS

- Will be made in writing:
 1. By the MRO to the Police Human Resources Section (PHRS) Commander.

Administrative Manual, Article 7, Personnel Issues

2. By the PHRS Commander to the:
 - a. Safety Officer.
 - b. IAD Commander (i.e., for sworn members).
 - c. Donor.

REQUEST FOR RETEST

- Donors who test positive will be notified in writing by the investigating entity of the employee's right to have an independent test performed at an approved laboratory of the employee's choice at their expense.
EXCEPTION: All re-testing of Reasonable Suspicion test results will be conducted as directed by the commander of the investigating entity.
- Donors must take a written request, which identifies a testing facility, to the investigating entity within 72 hours of receiving notice of the positive test result.
- The DHCP will determine whether the identified testing facility can administer the retest and notify the investigating entity to make arrangements for the retest.
- Retests will be conducted in accordance with established procedures.

RECORDS SECURITY RETENTION

- The PHRS Commander, or designee, will ensure the security and integrity of drug/substance testing information and the computer system.
- Records of all drug/substance tests will be confidentially maintained by the Safety Officer for a period of five years and then destroyed.

7-2.2.3 POSSIBLE VIOLATIONS/REASONABLE SUSPICION

DEPARTMENT MEMBERS

- Will report any possible violation of this policy immediately to an on-duty shift/unit commander.

INTERNAL AFFAIRS DIVISION

- Investigates all reports of possible violations of this policy by sworn members.
- Directs all drug/substance testing for sworn members performed for reasonable suspicion, in coordination with the Safety Officer.

POLICE HUMAN RESOURCES SECTION (PHRS)

- Investigates all reports of possible violations of this policy by non-sworn members.
- Directs all drug/substance testing for non-sworn members performed for reasonable suspicion, in coordination with the Safety Officer.

SHIFT/UNIT COMMANDERS

- If the accused appears to be under the influence of a drug/substance, will:
 1. Notify and consult with the commander of the investigating entity.
 2. Follow instructions given by the commander of the investigating entity regarding drug/substance testing procedures.
 3. Initiate a Form 200 and have the accused member sign the form as directed.
 4. Ensure the Department's complaint process is initiated, indicating the appearance and demeanor of the member under suspicion in the BlueTeam entry (i.e., for sworn members) or Form 12L, Intra-Department Correspondence (i.e., for non-sworn members).

Administrative Manual, Article 7, Personnel Issues

NOTE: Commanders may use the *Officer's Observation* portion of a Form 143, Alcohol/Drug Influence Report, as a guide for documentation of the member's appearance and demeanor.

5. Place the accused on suspension with pay and under order not to report back to work until further notice. Refer to Administrative Manual, Article 2 (Complaints and Misconduct), for further disciplinary procedures.

EXCEPTION: Non-sworn members will be removed from duty and the PHRS Commander will be contacted for leave status.

6. Escort the member home, if necessary, after completion of all ordered testing and examinations.
 7. Notify the accused member's commander as soon as possible.
- Who receive information of a suspected violation of this policy but the accused member does not appear to be under the influence of a drug/substance will:
 1. Notify the accused member's commander and the commander of the investigating entity by telephone.
 2. Ensure the Department's complaint process is initiated, identifying the source of information.

7-2.2.4 ACCIDENTAL INGESTION OR CONTACT

MEMBERS

- Complete a Form 12L, Intra-Department Correspondence, describing the incident in detail as soon as possible if they know or suspect they accidentally ingested or came into contact with drugs/substances while on duty or off duty.
- Are strongly cautioned against using over-the-counter products containing cannabidiol (CBD).

NOTE: These products may cause members to test positive for the presence of cannabis, due to inaccuracies in the measurement of the amount of tetrahydrocannabinol (THC) in these products, the lack of standardized regulations covering these products, and its build-up in the body over time.

SUPERVISORS

- Review the Form 12L and comment accordingly.
- Refer to Administrative Manual, Article 7 (Personnel Issues) for line-of-duty injury procedures, if the accidental ingestion or contact occurred on-duty or while acting in the capacity of a law enforcement officer.
- Ensure a copy of the Form 12L is forwarded to the Safety Officer.