

UPPER MERION TOWNSHIP POLICE DEPARTMENT
POLICY AND PROCEDURE

No. 1350

Supersedes: 96-1-22.3.1

Effective: September 2, 2015

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Date: March 7, 1996

DRUG AND ALCOHOL TESTING PROGRAM

I. **PURPOSE:**

- A. The Department has a legal responsibility and management obligation to ensure a safe work environment, as well as a paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their duties.
- B. Both the Department and its employees are exposed to risk and liability if the Department fails to ensure that its employees are able to perform their duties without endangering themselves or the public as a consequence of drug or alcohol abuse.
- C. There is sufficient evidence to conclude that the use of illegal drugs, drug dependence and drug abuse, alcohol and other substance abuse, seriously impair an employee's performance, as well as his/her general physical and mental health. The illegal possession and use of drugs and narcotics is a crime and clearly unacceptable by Department employees. There are unique corruption hazards associated with unlawful drug possession and use by police officers,

- II. **POLICY:** It is the policy of the Upper Merion Township Police Department to test employees for illegal drug use or drug abuse and/or alcohol or other substances abuse under provisions established in this policy. Freedom from illegal drug use and abuse is essential to maintain the integrity of the profession of law enforcement.

III. PROCEDURE:

1. For all the foregoing reasons, it is hereby made a condition of employment that all Department employees be free from drug dependence, illegal drug use or drug abuse, alcohol or other substance abuse, and that employees be required to submit to drug testing under the following circumstances:
 - a. All employees for reasonable suspicion.
 - b. Sworn officers, special officers, dispatchers, evidence technician and quartermaster on a random selection basis.
 - c. All employees when operating a Township vehicle and involved in a crash where there is a fatality or injury requiring medical care.
 - d. Sworn officers when promoted.
2. Submission to drug testing shall include compliance with all preliminary testing requirements set forth in this policy, possibly including, but not limited to, an initial medical interview and execution of certain forms.
3. Department employees shall not ingest, inhale, inject, or otherwise take any narcotics or controlled substances unless same have been prescribed for the employee for medical purposes by a person licensed to practice medicine or prescribe medication. Such narcotics or controlled substances shall only be used under conditions as prescribed.
4. Any employee who is aware that he/she is dependent upon narcotics, whether prescribed or otherwise, or upon controlled substances or types of drugs, or alcohol, and who voluntarily admits same prior to causing any serious consequences as a result of same and/or being ordered to submit to a drug test, shall not be disciplined. Rather, he/she shall be permitted to participate in a Township approved in-patient rehabilitative treatment while placed on sick leave. This option, however, shall be afforded to an employee in accordance with the Township's medical insurance program and only once during his/her tenure with the Township for rehabilitative treatment for narcotics/controlled substances dependency, and only twice during his/her tenure with the Township for rehabilitative treatment for alcohol dependency. The employee shall also enter into the Township's last chance agreement.
5. Any employee who fails to or refuses to submit to a drug test under the circumstances, terms and conditions set forth in this policy shall be subject to the same disciplinary action as if having failed a drug test. Any employee who does submit to drug testing pursuant to the circumstances, terms and conditions of the policy, and whose confirmatory drug test indicates a positive result, shall be subject to disciplinary action, up to and including dismissal.

IV. **DEFINITIONS:**

- A. **DRUG:** Unless otherwise provided, terms “drug” and “controlled substance” are interchangeable and refer to marijuana (THC), cocaine, opiates, phencyclidine (PCP), designer drugs, and amphetamines (including methamphetamines). Alcohol is included for the purposes of this policy. Drug means:
1. Substances recognized in the official United States Pharmacopeia or official National Formulary, or any supplement to either of them.
 2. Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals.
 3. Substances (other than food) intended to affect the structure or any function of the human body or other animal body.
 4. Substances intended for use as a component of any article specified in sections IV-A-(1, 2 & 3), but not including devices or their components, parts or accessories.
 5. Alcohol.
- B. **DESIGNER DRUG:** Means a substance other than a controlled substance that has a chemical structure substantially similar to that of a controlled substance in Schedules I or II of Act 64 of the PA Crimes Code which produces an effect substantially similar to that of a controlled substance in Schedules I or II. Examples of chemical classes in which designer drugs are found include, but are not limited to, the following: Phenethylamines, N-substituted piperidines, morphinans, ecgonines, quinazolinones, substituted indoles and arylcycloalkylamines.
- C. **DRUG TEST:** A urine, blood, breath or other legally acceptable test, consisting of both a drug screen test and confirmatory test (to be used in the event drug screen test results are positive), administered under approved, pre-established conditions and procedures for the purposes of detecting alcohol or illegal drug use by employees. In all cases of a positive result from a drug “screen” test, a confirmatory test will be conducted at the same or another qualified testing facility.
- D. **REASONABLE SUSPICION:** A suspicion based on specific objective facts and reasonable inferences drawn from those facts in light of experience that:
1. An employee is then under the influence of drugs or alcohol; or,
 2. The employee has used a controlled substance or alcohol and it is reasonable to believe that said controlled substance or alcohol would be presently detectable in the employee’s drug test.

V. **DRUG TESTING BASED ON REASONABLE SUSPICION:**

1. Any command officer who has a reasonable suspicion that an employee is using alcohol or controlled substances shall immediately report the facts and circumstances which form the basis for the suspicion to another command officer. When the command officers concur that reasonable suspicion of alcohol and/or controlled substance use by the employee exists, the employee will be advised of the basis for the reasonable suspicion and ordered to submit to a drug test.
2. Any supervisory Department employee not of command rank, who has a reasonable suspicion that another employee is using alcohol or controlled substances, shall immediately report the facts and circumstances which form the basis for the suspicion to either the highest ranking command officer in the suspected employee's unit then present or the on-call command officer. Then either the highest ranking command officer in the suspected employee's unit or the on-call command officer on duty at the time, concurs that reasonable suspicion of alcohol or controlled substance use by the employee exists, the highest ranking command officer in the suspected employee's unit or the highest ranking officer on duty at the time, will advise the employee of the basis for the reasonable suspicion and order the employee to submit to a drug test.
3. Any non-supervisory Department employee who has a reasonable suspicion that another employee is using alcohol or controlled substances shall immediately report the facts and circumstances which form the basis for the reasonable suspicion to his/her supervisor. Failure to do so will subject the employee to disciplinary action. The supervisor shall then follow the procedures stated above in Section V-2.
4. The person ordering an employee to submit to a drug test shall prepare a report setting forth the specific facts and reasons which form the basis for the reasonable suspicion that led to the order for testing. The report shall be forwarded to the Chief of Police, who shall submit it to the Township Manager. Both shall maintain it in strict confidentiality until it can be disposed of.

VI. **POST VEHICLE CRASH DRUG TESTING:**

1. Department members involved in a crash while operating a Township vehicle and there is a fatality or injury requiring medical care, will be drug tested as soon as possible after a crash, but in no case later than two (2) hours for alcohol testing or thirty-two (32) hours for controlled substance testing after the crash. If, as a consequence of a crash, a driver is seriously injured and cannot be tested at the time of the crash, he/she agrees to drug testing and the release of hospital records and other documents that will indicate whether there were any controlled substances in his/her system at the time of the crash.
2. The individual's supervisor will be called to the scene.

3. The employee will be conveyed to the designated center(s) for any required medical treatment and drug test.
4. A Lieutenant or supervisor at the scene of a crash involving a Department employee operating a Township vehicle, where there is not a fatality or injury requiring medical care, will initiate the process for a drug test in accordance with section V if there is reasonable suspicion to believe that the employee is under the influence of drugs or alcohol.

VII. DRUG TESTING OF NEWLY PROMOTED OFFICERS:

1. All newly promoted officer will be required to submit to a drug test. The office of the Chief of Police will notify the officers when and where to appear for the drug test.

VIII. DRUG TESTING – POST USE OF FORCE:

1. Officers shall be subjected to testing in each incident of the use of deadly force as outlined in the Upper Merion Township Police Department Policy #410, USE OF FORCE. This excludes sections V-A-5-(b & c).

IX. ADMINISTRATIVE/DISCIPLINARY ACTION:

1. No disciplinary action shall be taken against an employee who has been ordered to take and has taken a drug test based on reasonable suspicion, during the period between the time he/she is ordered to take the test and the time the authorizing supervisor is notified of the test results.
2. If the confirmatory test of the employee's specimen indicates a positive result, the Chief of Police shall place the employee on administrative suspension and shall initiate a formal investigation against the employee in the manner set forth in the Police Manual for other violations of Departmental rules and regulations. A positive confirmatory test result shall be conclusive as to the violation of this policy.
3. If the confirmatory test of an employee's specimen indicates a negative result, a third test shall be the determining result.

X. DOCUMENTATION CONFIDENTIALITY:

1. If the results of the confirmatory test are positive, all documentation generated in connection with the performance of the test, including the consent and release form, records made in connection with specimen collection and test results, shall be made available to the employee, the Chief of Police, the Township and Assistant Township Managers. There shall be no dissemination of said documents to the public, except in the case of an indictable offense, use of deadly force per section IX or vehicle crash per section VII.

2. If the results of the test are negative, all documentation generated in connection with the performance of the test, including the consent and release form, records made in connection with specimen collection and test results, shall be maintained in a file, in strictest confidence, available only to the employee or his/her representative, upon production of written authorization. There shall be no dissemination of said documents to the public, except in the case of an indictable offense, use of deadly force per section IX or vehicle crash per section VII.

3. Any and all actions required to be taken by this policy shall be effected with the utmost discretion, and with the involvement of as few personnel as possible. Further, individuals acting pursuant to this policy, or having of actions taken pursuant to this policy, shall not discuss said actions with others, either within or outside the Department, except as may be required by this policy, or as may be dictated by necessity, and then such actions shall be discussed only on a need-to-know basis. All documentation generated pursuant to this policy shall be maintained in utmost confidentiality.

APPROVED: _____
 Chief Thomas M. Nolan

DATE: _____

APPROVED: _____
 Captain James M. Early

DATE: _____

TO BE REVIEWED: ANNUALLY

DISTRIBUTION: All police officers
 All civilian employees
 Township Manager
 File