

THURMONT POLICE DEPARTMENT

GENERAL ORDER	<i>Date Issued:</i> February 20, 2019	<i>Effective Date:</i> February 20, 2019	<i>Order No:</i> Chapter 3.1
<i>Authority: Chief of Police</i> <i>Gregory L. Eyer</i>		<i>Manual Page No:</i>	
<i>Subject:</i> Alcohol and Drug Testing Procedures		<i>Replaces Page No:</i>	
<i>CALEA Standard:</i> 26.1.1	<i>Distribution:</i> ALL	<i>Amends:</i>	<i>Number of Pages:</i> 12
<i>Related Documents:</i> Chapter		<i>Rescinds:</i> Previous Order dated: 2/15/2007	

This Directive is for internal use only, and other than as contraindicated here this Directive does not create or enlarge this Department's, governmental entity's, any of this Department's officers, and/or any other entities' civil, criminal, and/or other accountability in any way. This Directive is not to be construed as the creation of a standard of safety or care in any sense, with respect to any complaint, demand for settlement, or any other form of grievance, litigation, and/or other action. Deviations from this Directive, if substantiated, can only form the basis for intra-Departmental administrative action(s) (including discipline and/or termination).

I. PURPOSE:

To describe the Employee Alcohol and Drug Testing Policy and Program of the Town of Thurmont and the Thurmont Police Department.

II. POLICY:

It is the policy of the Thurmont Police Department that employees will not appear for duty nor be on-duty while intoxicated by, or under the influence of, alcohol or drugs, nor with the odor of alcoholic beverages on their breath or about their person. Further, it is the policy that employees will not sell, possess (except during the authorized execution of their official duties), distribute, or use illegal drugs at any time, nor will they sell, possess, distribute, or use alcoholic beverages while on-duty unless specifically permitted to do so by general orders.

III. DEFINITIONS:

Town Premises: all land, property, building, structures and installations, vehicles and equipment owned or leased to the Town of Thurmont.

Employee: all employees of the Thurmont Police Department, both sworn and civilian. For purposes of this order, "employee" also includes volunteer members.

Illegal Drug: any controlled substance, including but not limited to opiates, heroin, hallucinogens, marijuana, mescaline, peyote, PCP, prescription drugs,

amphetamines and barbiturates which are not obtained and used under a prescription lawfully issued to the employee possessing the same and any other substances including those listed in the Federal Controlled Substances Act or its regulations or unlawful under any other law.

Random Testing: a system of drug testing imposed without individualized suspicion that a particular individual is using illegal drugs, and may either be:

- a. *uniform* – unannounced testing of safety-sensitive employees occupying a specified area, element or position; or,
- b. a statistically random sampling of employees based on a neutral condition.

Drug/Alcohol Test: a urinalysis examination or **sample of breath** administered under approved conditions and procedures to detect drugs or alcohol.

Reasonable Suspicion: is a belief based on objective and articulable facts sufficient to lead a prudent person to believe that the person is under the influence or impaired by drugs or alcohol. Reasonable suspicion may be based upon, but not limited to:

- a. direct observation of drug or alcohol use or possession;
- b. a pattern of abnormal conduct or erratic behavior which can be specified;
- c. evidence that the employee has tampered with a previously administered drug and alcohol test.

IV. PROCEDURE:

The testing or processing of urine samples will be in accordance with the Town of Thurmont's Drug Testing Policy. However, all **sworn employees of the Police Department subjected to disciplinary action will proceed pursuant to the requirements of State Law, the Department's disciplinary guidelines and the Law Enforcement Officers Bill Of Rights (LEOBR).**

TOWN OF THURMONT DRUG-FREE WORKPLACE POLICY

The Town of Thurmont is committed to providing a drug-free workplace in accordance with the requirements of the U. S. Drug-Free Workplace Act of 1988. The Town recognizes the importance and responsibility of providing a safe and healthy work environment for all employees, the successful accomplishment of Town goals and objectives, and the need to maintain employee productivity. Toward that end, the Town recognizes that drug use

raises serious health, safety, and security issues, as well as lost productivity. The Town takes this issue very seriously and it is important for employees to understand that this policy applies to *all* employees of the Town, without exception, including all part-time and temporary staff.

The Town shall enforce the following policy:

- a. No employee is permitted to consume, possess, sell, transfer, or purchase illegal drugs, narcotics or controlled substances. Involvement in such activities constitutes grounds for disciplinary action, up to and including discharge. Any prohibited substances found will also be turned over to the appropriate law enforcement agencies and may result in criminal prosecution in addition to any disciplinary actions imposed by the Town.
- b. The Town will not tolerate any employee who reports for duty while impaired by, or is under the influence of, alcoholic beverages or drugs. Employees who work under the influence of an illegal substance or alcohol are considered to be a threat to the safety of themselves, their coworkers, and the public. All employees have a duty to report any evidence of alcohol or drug abuse to a supervisor immediately. Failure to report, especially in cases where the illegal substance poses an immediate threat to that individual, his/her coworkers or the public, may result in disciplinary action for the non-reporting employee.
- c. The unlawful manufacture, distribution, or dispersal of a controlled dangerous substance is prohibited and will result in disciplinary action in accordance with the Town's Employee Policies and Procedures.
- d. Employees must report to their supervisor any arrest or conviction under a criminal drug statute immediately after the arrest or conviction.
- e. Employees who operate town vehicles must report any DUI or DWI arrest or conviction immediately after the arrest or conviction.
- f. This policy applies to offenses committed within the workplace, as well as outside the workplace.
- g. This policy applies to offenses committed while the employee is in an official work status, as well as non-work status.
- h. Employees must, as a condition of employment, abide by the terms of this policy.

i. Acceptable uses of drugs include non-performance affecting “over-the-counter” medications and those substances that have been prescribed by a licensed physician. Any employee who is under prescribed medication but who may be in any way impaired by its side effects must report its use to his/her supervisor immediately.

DRUG TESTING POLICY:

Purpose and Goal

The Town of Thurmont is committed to protecting the safety, health and well being of all employees and other individuals in our workplace. We recognize that alcohol abuse and drug use pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

a. This policy recognizes that employee involvement with alcohol and other drugs can be very disruptive, adversely affect the quality of work and performance of employees, pose serious health risks to users and others, and have a negative impact on productivity and morale.

b. The Town has no intention of interfering with the private lives of its employees unless involvement with alcohol and other drugs off the job affects job performance, public safety, **or constitutes criminal activity.**

c. As a condition of employment, the Town requires that employees adhere to a strict policy regarding the use and possession of drugs and alcohol.

d. The Town encourages employees to voluntarily seek help with drug and alcohol problems.

Covered Workers

Any individual who conducts business for the Town, is applying for a position or is conducting business on the Town's property is covered by our drug-free workplace policy. Our policy includes, all employees, elected officials, applicants and volunteers.

Applicability:

Our drug-free workplace policy is intended to apply during all work hours and whenever anyone is representing or conducting business for the Town.

Prohibited Behavior

It is a violation of our drug-free workplace policy to use, possess, sell, trade, and/or offer for sale, illegal drugs at any time, whether on or off Town premises. Reporting to work while under the influence of or impaired by alcohol or drugs during work hours is strictly prohibited, and may result in immediate dismissal.

Notification of Conviction or Arrest

Any employee who is arrested or convicted of a criminal drug violation must notify the Town in writing immediately after an arrest or conviction. The Town will take appropriate action, in accordance with this policy, within 30 days of notification.

Any employee **who operates a town vehicle** who is arrested or convicted of a DUI or DWI must notify the Town in writing immediately after an arrest or conviction. The Town may prohibit such employees from operating Town vehicles for a period of time, or until such time that an alcohol treatment program is successfully completed by the employee.

Searches

Entering the Town's property constitutes consent to certain searches and inspections. If an individual is suspected of violating the drug-free workplace policy, he or she may be asked to submit to a search or inspection at any time. The following areas are subject to search by the Town: desks and workstations, Town offices and buildings, and Town-owned vehicles and equipment.

Drug Testing

To ensure the accuracy and fairness of our testing program, all testing will be performed at CorpOHS, 490-L Prospect Blvd., Frederick, Maryland 21701.

All drug-testing information will be maintained in confidential records, separate from personnel files.

Each employee, as a condition of employment, will be required to participate in pre-employment, post-accident, reasonable suspicion, and Random Drug testing.

The substances that will be tested for are: Amphetamines, Barbiturates, Cannabis/Cannabinoids, Opiates, Cocaine/Cocaine Metabolite, Phencyclidine, and Benzodiazepines. Testing for the presence of these substances will be conducted by the analysis of urine.

Testing for the presence of alcohol will be conducted by analysis of breath.

A sworn officer who tests positive will be immediately removed from duty and suspended with pay, pending a Formal Suspension Hearing. Civilian employees will be suspended without pay. An employee may be suspended up to thirty (30) days, referred to EAP and/or a substance abuse professional for assessment and recommendations, and required to pass a Return-to-Duty drug/alcohol test, and subject to unannounced, follow-up testing for a period of five years.

An employee will be subject to the same consequences of a positive test if he/she refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, fails to report for a required test within the proscribed time periods described below, refuses to sign the required forms or refuses to cooperate in the testing process in such a way that prevents completion of the test.

Pre-Employment Testing

Every job announcement for positions with the Town shall state, "All applicants tentatively selected for this position will be required to submit to required tests to screen for illegal drug use and alcohol abuse prior to the commencement of employment." Each prospective employee shall be notified in the written offer of employment, that the position is contingent upon a negative drug and alcohol test.

The hiring supervisor shall direct the prospective employee to an appropriate testing laboratory. The prospective employee will be notified in writing the date, time, and location for the drug and alcohol test. The testing methodology shall be the same as the methodology for testing employees contained in this policy.

Post-Accident Testing

Employees involved in on-the-job accidents or who engage in on-duty activities which pose a danger to others or to the overall operations of the Town, shall be subject to testing. The employee's supervisor and/or department head shall initiate testing whenever such accident or unsafe practice involves an on-duty Town employee. Employees must report for such testing **immediately** upon receipt of notice to do so.

Random Testing

All employees, as a condition of employment, will be required to participate in random testing upon selection or request of management. If an employee is chosen for random testing but he or she is on leave, then that person shall be passed over for the random test and another employee shall be randomly chosen. Upon notification of the employee's random selection, the employee will have one (1) hour to report to CORPOHS for the drug screen.

Reasonable Suspicion Testing

An employee is subject to drug and alcohol testing when the employee is on duty and there is a reasonable suspicion that the employee is impaired by, or under the influence of, alcohol or illegal drugs. Reasonable suspicion is a belief based on objective and articulable facts sufficient to lead a prudent person to believe that the person is under the influence or impaired by drugs or alcohol. Reasonable suspicion may be based upon, but not limited to:

- Direct observation of drug or alcohol use or possession;
- A pattern of abnormal conduct or erratic behavior which can be specified
- Evidence that the employee has tampered with a previously administered drug and alcohol test

If an employee is suspected of being on duty while impaired by, or under the influence of, illegal drugs or alcohol, a supervisor shall promptly prepare a written report detailing the circumstances that formed the basis to warrant the testing. This report shall include, minimally, the appropriate dates and times of incidents or behavior, the names and circumstances of any reliable or credible sources of information, the reason for the test, and the action taken. The supervisor's report shall be immediately forwarded to the department head, who shall, if appropriate, authorize the test. Employees must report for such testing **immediately** upon receipt of notice to do so. **If an employee is ordered to report for testing based upon the suspicion that the employee is impaired by or under the influence of illegal drugs or alcohol, a supervisor shall ensure that the employee is transported to the testing facility and/or to the employee's home and shall under no circumstances allow that employee to operate a vehicle.**

Consequences

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious.

In the case of applicants, if he or she violates the drug-free workplace policy, the offer of employment can be withdrawn. The applicant may not reapply.

If an employee violates the policy, he or she will be subject to progressive disciplinary action and may be required to enter rehabilitation. An employee required to enter rehabilitation who fails to successfully complete it and/or violates the policy again will be terminated from employment. Nothing in this policy prohibits the employee from being disciplined or discharged for other violations and/or performance problems.

Immediate Dismissal

An employee who reports to work while under the influence of alcohol or drugs may be subject to immediate dismissal. An employee who uses, possesses, or distributes alcohol or illegal drugs while on duty or on Town property may be subject to immediate dismissal.

Assistance

The Town recognizes that early intervention and support improve the success of rehabilitation. The Town encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem. Employees should utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.

Treatment for alcoholism and/or other drug use disorders MAY be covered by the employee health insurance plan. However, the ultimate financial responsibility for any recommended treatment is with the employee.

In addition to any administrative action, if an employee shows a positive test, the employee must enroll in the Employee Assistance Program (EAP). The Town of Thurmont provides this service through their Insurance Company and referral information will be provided to the employee by an administrator. The employee will be required to contact EAP and follow through with their sessions and recommendations.

Town of Thurmont Employee Drug Testing Procedures:

Employees who show a positive, confirmed result on any test conducted under the reasonable suspicion, post-accident, return-to-work, or random testing procedures shall be subject to disciplinary actions and mandatory follow up as detailed below. For the purposes of this section, police officers will be covered by the Law Enforcement Officer's Bill of Rights (LEOBR) and the policy and procedures of the Thurmont Police Department.

First Offense Violations:

1. *Employee will be suspended for three (3) days without pay*
2. *Employee must enroll in the Employee Assistance Program (EAP) by following the procedures listed below:*
 - a. *The Town refers the employee to our insurance company*
 - b. *Once referral has been completed, the employee is responsible for contacting the insurance company to set up an intake meeting*

- c. Insurance determines the best form of treatment for the circumstance (counseling, inpatient or outpatient facilities, etc.)*
- d. Town receives compliance progress reports*
- e. Once employee has completed the prescribed program, the Town receives a final compliance letter*
- 3. The employee is encouraged to attend EAP sessions during after work hours. However, subject to supervisor's approval, employees may utilize their accrued leave, up to 2 hours per day, to attend EAP sessions.*
- 4. Employee may be required to complete an unannounced return-to-work substance test.*
- 5. Failure to comply with any of these actions will result in termination of employment.*
- 6. The Town reserves the right to forgo this procedure in its sole discretion and terminate immediately depending upon the nature and severity of the infraction.*

Second Offense Violations:

- 1. Termination of employment. Employee will be ineligible for re-hire.*

The above Town Procedures will apply to TPD Employees where appropriate.

Supervisor Responsibility

Employees selected for testing may not drive themselves to the testing facility. Only approved supervisors/department heads may transport the employee to the testing facility. Employee must be taken for testing within one hour of notification. The CorpOHS "Authorization for Medical Services" form must be completed and taken with the employee to the testing facility. CorpOHS-Frederick is the testing facility to be used. The address is: 490-L Prospect Blvd. Frederick, Md. 21701. If the employee who is randomly selected is on scheduled leave, another selection will be made. Employees may be selected more than once.

Confidentiality

All information received by the organization through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

Shared Responsibility

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

All employees are required to report to work sober and drug-free. This ensures a safe work place for all employees and the public which we serve.

In addition, employees are encouraged to:

- . Be concerned about working in a safe environment.
- . Support fellow workers in seeking help.
- . Report dangerous behavior to their supervisor.

It is the supervisor's responsibility to:

- . Inform employees of the drug-free workplace policy.
- . Observe employee performance.
- . Investigate reports of dangerous practices.
- . Document negative changes and problems in performance.
- . Counsel employees as to expected performance improvement.
- . Clearly state consequences of policy violations.

Communication

Communicating our drug-free workplace policy to both supervisors and employees is critical to our success. To ensure all employees are aware of their role in supporting our drug-free workplace program:

- . All employees will receive a written copy of the policy.
- . The policy will be reviewed in orientation sessions with all current and new employees.

ACKNOWLEDGEMENT OF RECEIPT

I HEREBY ACKNOWLEDGE THAT I HAVE RECEIVED A COPY OF THE TOWN OF THURMONT'S DRUG FREE WORKPLACE POLICY AND DRUG TESTING POLICY.

Employee Signature

Date

ATTACHMENTS:

DOCUMENT DATES:

Amended Date: February 15, 2019

Amended by: Lt. P.A. Droneburg

Review Date:

Review Date:

Rescinds:

Order Written by: Chief Gregory L. Eyer

Order Edited and Approved by: Chief Gregory L. Eyer

*CALEA Standards included in this Order
26.1.1*