


FORT SMITH POLICE DEPARTMENT

POLICIES AND PROCEDURES

SUBJECT	Drug and Alcohol Free Workplace/Testing		
NUMBER	1104.01	EFFECTIVE DATE	March 21, 2000
SCHEDULED REVIEW DATE	February 1, 2019	ISSUE DATE	March 21, 2000
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APPROVED BY		CALEA STANDARDS	COM 3.2.5

I. Purpose and Scope

- A. The policies of the Fort Smith Police Department (sometimes referred to herein as “the Department”) for maintaining a workplace and staff of employees who are drug and alcohol free are contained in this policy.
- B. This policy governs all employees and where applicable, applicants of the Fort Smith Police Department acting in both a sworn and non-sworn capacity. For the purposes of this policy, *employee* shall include members of the Fort Smith Police Department Reserve Unit. The City of Fort Smith also has employee policies relating to all employees generally. To the extent that there is any general policy or procedure of the City of Fort Smith relating to drug free workplace and drug/alcohol testing, which is not unavoidably inconsistent with this policy, the general City of Fort Smith policies also apply to employees of the Fort Smith Police Department.
- C. It is the policy of the Fort Smith Police Department that the critical mission of law enforcement justifies maintenance of a drug free workplace through the use of a reasonable drug-testing program. In order to ensure the high integrity of the Fort Smith Police Department, and to preserve public trust and confidence in a fit and drug-free law enforcement agency, the Fort Smith Police Department shall implement a drug testing program to detect prohibited drug use by its employees. As part of the policy set forth herein, employees and job applicants are notified of the existence of Ark. Code Ann. § 11-14-105 and of Rule 099.36 of the Arkansas Workers' Compensation Commission regarding the Voluntary Drug Free Workplace Program as existing and hereafter amended.
- D. The City will enforce and administer this Policy in compliance with the Voluntary Program for Drug-Free Workplaces (Ark. Code Ann. § 11-14-101 *et seq.*) and Rule 099.36 of the Arkansas Workers' Compensation Commission.

II. Definitions

- A. Medical Review Officer: A licensed physician, pharmacist, pharmacologist or similarly qualified individual employed with or contracted with the City of Fort Smith who: (1) has knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures; (2) verifies positive, confirmed test results; and (3) has the necessary medical training to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information.
- B. Safety-Sensitive Position: (1) any position involving a safety sensitive function pursuant to federal regulations governing drug and alcohol testing adopted by the United States Department of Transportation or any other rules, guidelines, or regulations adopted by any other federal or state agency; (2) any position designated in writing by an employer as a safety sensitive position in which a person performing the position while under the influence of marijuana may constitute a threat to health or safety, including without limitation a position: (A) that requires any of the following activities: carrying a firearm; performing life-threatening procedures; working with confidential information or documents pertaining to criminal investigations; or working with hazardous or flammable materials, controlled substances, food, or medicine; or

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(B) in which a lapse of attention could result in injury, illness, or death, including without limitation a position that includes the operating, repairing, maintaining, or monitoring of heavy equipment, machinery, aircraft, motorized watercraft, or motor vehicles as part of the job duties.

- C. Verified Positive Test Result: a positive initial drug test which has been verified by a confirmation test and a Medical Review Officer.
- D. Medical Marijuana Card means a Registry Identification Card as defined under the Arkansas Medical Marijuana Act or its equivalent issued under the laws of any other state.
- E. The term "legal drug" is defined as including any prescribed drug and over-the-counter drug which has been legally obtained and is being used solely for the purpose and in the manner for which it was prescribed or manufactured.
- F. The term "illegal drug" is defined as follows: A drug, the synthetic or generic equivalent of a drug which is illegal under federal, state or local laws, including but not limited to marijuana, heroin, hashish, cocaine, hallucinogens, depressants and stimulants not prescribed for current medical treatment by an accredited physician and any other drug-like substance, the use, possession or sale of which is unlawful. It also includes any legal drug which is not legally obtained or is being used in a manner or for a purpose other than as prescribed or labeled.
- G. The term "reasonable suspicion" is defined as a fact or facts that indicate a reason to conduct an investigation or assessment of an employee's fitness for duty, or to explore possible explanations for an employee's conduct, actions or appearance. The suspicion is based on observations of the individual employee. The determination as to whether reasonable suspicion exists shall be within the sole discretion of the City.

Among other things, reasonable suspicion shall include such facts and inferences as may be based upon: (1) Observable phenomena while at work, such as direct observation of drug or alcohol use or of the physical symptoms or manifestations of being under the influence of a drug or alcohol; (2) Abnormal conduct or erratic behavior while at work, or a significant deterioration in work performance; (3) A report of drug or alcohol use, provided by a reliable and credible source; (4) Evidence that an individual has tampered with a drug or alcohol test during employment with the City; (5) Information that an employee has caused, contributed to or been involved in an accident/incident while at work; or (6) Evidence that an employee has used, possessed, sold, solicited or transferred drugs or used alcohol while working or while on the City's premises or while operating the City's vehicle, machinery or equipment.

Factors to be considered include but are not limited to the following:

Physical signs: Bloodshot eyes/dilated pupils; slurred speech; unsteady walk/uncoordinated movements; shakes or tremors; unexplained sweating or shivering; fidgeting/inability to sit still; sleeping at work or difficulty staying awake; unusual body or breath odor; deterioration in appearance/grooming.

Behavioral signs: Attendance problems—tardiness, pattern of absences or excessive absenteeism; decline in performance/productivity; acting withdrawn from others, secretive; money problems or borrowing or stealing money.

Psychological signs: Inability to focus or concentrate; unexplained changes in personality or attitude; sudden mood changes, irritability, angry outbursts or inappropriate laughing; unexplained fear or paranoia.

- H. The term "on the job accident" is defined as an unplanned event that occurs in the course of work-related activities or occurs during the hours of work that results in bodily injury to any person.
- I. The term "on the job incident" is defined as an unplanned event that occurs in the course of work-related activities or occurs during hours of work that does not result in bodily injury, but may result in property damage or is deemed worthy of recording by City personnel, in their sole discretion.
- J. The term "possession" when used in the policy relating to drugs, includes trace of drugs found in the body as evidenced by a "Positive" drug test.
- K. The term "possession" when used in the policy relating to alcohol of sworn personnel, includes but not limited to, traces of alcohol found in the body at a rate greater than .000 percent.

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- L. The term “possession” when used in this policy relating to alcohol of non-sworn personnel, includes but not limited to, traces of alcohol found in the body at a rate greater than .040 percent.

III. Policy

- A. The Fort Smith Police Department, because of its law enforcement responsibilities and the safety-sensitive nature of its work (as defined by Ark. Code Ann. § 11-14-102), has a compelling obligation to eliminate illegal drug use from its workplace and by its employees.
- B. It is the policy of the Fort Smith Police Department to maintain a work environment free from the unlawful manufacture, distribution, dispensation, possession, use or effect of a controlled substance as defined by the Federal Controlled Substances Act or a drug as defined by the Voluntary Program for Drug-Free Workplaces (Ark. Code Ann. § 11-14-101 *et seq.*) and Rule 099.36 of the Arkansas Workers’ Compensation Commission and free from the use, possession and effect of alcoholic beverages. The Fort Smith Police Department recognizes that drugs and alcohol impair employee judgment resulting in increased safety risks, hazards to the public, employee injuries, faulty decision making, and reduced productivity. The Fort Smith Police Department expects all employees to be in a state of mind and physical condition fit to complete their assigned duties safely and competently during work hours. The public has a right to expect that all Fort Smith Police Department personnel, both uniform and non-uniform, are mentally and physically prepared to assume these duties.
- C. All information, interviews, reports, statements, memoranda, and drug test results received by the Department pursuant to this policy are confidential communications and the requirements of Ark. Code Ann. § 11-14-109 and § 11-14-105 shall apply.
- D. Employees are required to disclose and furnish a copy to their supervisor and Human Resources Department any prescription for the use of any medication which has the potential to impact the employee’s ability to perform the duties of their position.
- E. Employees under the influence of medical marijuana are prohibited from undertaking any task that would constitute negligence or professional malpractice, and are prohibited from operating any type of powered vehicle or powered equipment – handheld or otherwise. The Arkansas Medical Marijuana Amendment (AMMA) is subject to Act 593 of 2017 and does not require an employer to accommodate an employee working under the influence of marijuana. The phrase “under the influence” has that meaning as set out in the AMMA, § 2(26).
- F. Employees in safety and/or security sensitive positions are required to disclose and furnish a copy of their Medical Marijuana Card to their supervisor and Human Resources Department so that a copy of same can be made for the employee’s file. The employee need not disclose the reason why he/she was issued a Medical Marijuana Card or anything about his/her medical condition, unless required for other reasons. If a new Medical Marijuana Card is issued, the employee must provide his/her supervisor and Human Resources a copy of it as well. An employee’s failure to disclose that he/she has been issued a Medical Marijuana Card is a basis for employee discipline up to and including termination.
- G. Employees with a Medical Marijuana Card cannot work in a DOT, safety or security-sensitive position.
- H. It is a violation of this policy for any employee who occupies a safety or security sensitive position to engage in the current use of marijuana.
- I. Current use of marijuana is presumed upon a Verified Positive Test Result. Current use of marijuana by an employee occupying a safety or security-sensitive position is absolutely prohibited and is the basis for employee discipline up to and including termination.
- J. Employees shall not possess, smoke or otherwise ingest medical marijuana while on City premises or while on duty. The use may impair the employee’s ability to safely perform any job-related function, resulting in a direct threat to the employee or others. An employee who is about to become or who is a current user of medical marijuana and whose job is classified as a safety or security-sensitive position for purposes of this policy must disclose his or her upcoming or current use immediately to the Human Resources Department.

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- K. Applicants (internal or external) for safety and/or security-sensitive positions who have been issued a Medical Marijuana Card must disclose their status as such if they receive a conditional offer of employment. No applicant engaged in the current use of marijuana shall be employed in a safety or security-sensitive position. Current use of marijuana is presumed upon a Verified Positive Test Result.

IV. Safety Sensitive Position. The following positions within the Fort Smith Police Department shall be considered and are hereby declared safety sensitive positions:

1. Sworn officer;
2. Telecommunicator (dispatcher);
3. Administrative staff ;
4. Evidence Custodian;
5. Building Engineer
6. Quarter Master
7. Meter Enforcement
8. Clerical staff
9. Warrants Specialist
10. IT employees
11. Animal Services Officer
12. Fleet Coordinator
13. Downtown Ambassador
14. Positions requiring Arkansas Crime Information Center (ACIC) certification.
15. Any positions which the City in its sole discretion hereafter deems to be safety-sensitive or which are created in the future that are deemed to be safety-sensitive.
16. Any job title used in these policies may be re-designated or re-named from time to time. It is intended these policies apply to re-designated positions or their equivalents.

V. Security Sensitive Position. A security-sensitive position includes any

1. Sworn officer, Police Telecommunicator (Dispatcher), Animal Services Officer & other police department employees, including clerical workers having access to information concerning ongoing criminal investigations and criminal cases, which information could, if revealed, compromise, hinder or prejudice the investigation or prosecution of the case.
2. Any employee engaged in work related criminal prosecution at the Fort Smith District Court, including Court Clerks, Bailiffs, Legal Assistants and Prosecuting Attorneys.
3. Positions requiring Arkansas Crime Information Center (ACIC) certification.
4. Information Technology Employees
5. Any positions which the City hereafter deems to be security sensitive or which are created in the future that are deemed to be security sensitive.
6. Any job title used in these policies may be re-designated or re-named from time to time. It is intended these policies apply to re-designated positions or to their equivalents.

VI. Drug and Alcohol Free Workplace

- A. The unlawful manufacture, distribution, dispensation, possession or use of a legal or illegal drug by an employee of the Fort Smith Police Department is absolutely prohibited and constitutes grounds for immediate termination of employment. The possession or use of an alcoholic beverage by an employee of the Fort Smith Police Department while on duty or during lunch and/or break, or at any time the employee is at the Fort Smith Police Department or property owned by the City of Fort Smith, or at any time while operating a vehicle or equipment owned by the Fort Smith Police Department or City of Fort Smith is absolutely prohibited and constitutes grounds for immediate termination of employment, except under the circumstances permitted by the Fort Smith Police Department Rules and Regulations relating to prior consent by an authorized employee.
- B. Any employee arrested, issued a non-arrest citation, charged, or convicted (a finding of guilt, including a plea of *nolo contendere* or no contest) of violating criminal statutes pertaining to legal or illegal drugs and/or alcohol occurring at any time, whether on or off duty, must immediately report, no later than 24 hours after the arrest, citation, or charge, the citation or arrest to the employee's supervisor or be subject to disciplinary action up to and including termination. Further, in the event of a conviction, the employee shall report the conviction, no later than 24 hours after the conviction, to the employee's supervisor or be subject to disciplinary action up to and including termination. Such

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citation, arrest or conviction itself may also constitute grounds for disciplinary action up to and including termination. The Police Chief or his designee shall notify the Director of Human Resources of the arrest, citation charge, or conviction.

- C. If an employee is undergoing medical treatment, which includes the use of any drug or medication which, in consultation with their Healthcare provider, has the potential to affect the employee's ability to perform job-related functions, the employee shall inform his/her supervisor and Human Resources department of such and provide a copy of that prescription to the Human Resources Department. The City reserves the right in its sole discretion to remove such employee from the job if the employee is unable to perform the essential functions of the position (with or without a reasonable accommodation) or refer the employee to a physician to determine if the use of the medication creates a potential to harm the employee and/or others. If so determined, the employee will be required to remain off the job until the employee is able to perform the essential functions of the position with or without reasonable accommodations or the potential for harm is eliminated or reduced, at the determination of the City.
- D. No employee shall ingest any prescribed medication in amounts beyond the prescribed dosage. No employee shall ingest any non-prescribed medication in amounts beyond the recommended dosage.
- E. Any employee who unintentionally ingests or is made to ingest a controlled substance will immediately report the incident to the employee's supervisor so that appropriate medical steps may be taken to ensure that employee's health and safety.
- F. Any employee having a reasonable basis to believe that another employee is illegally using, or in possession of either any controlled substance anywhere and/or alcohol shall immediately report the facts and circumstances to their supervisor.
- G. Discipline of any sworn employee for violation of this policy shall be in accordance with the due process provided with the Fort Smith Police Department's Disciplinary Process Policy (1104.07) and with the City of Fort Smith Civil Service Commission's Rules and Regulations.
- H. Discipline of any non-sworn employee for violation of this policy shall be in accordance with the due process provided in the City of Fort Smith's Human Resources Personnel Policy Handbook for Non-Uniformed Employees.
- I. If an injured employee refuses to submit to a test for drugs or alcohol, the employee may be precluded from workers' compensation medical and indemnity benefits.
- J. Current abuse of drugs is not a protected disability under the Americans with Disabilities Act (ADA).

VII. Drug and Alcohol Testing

A. Applicant Drug Testing

- 1. All applicants for any position with the Fort Smith Police Department shall be required to take a drug test as a condition of employment.
- 2. Applicants shall be disqualified from further consideration for any & all employment opportunities with the Fort Smith Police Department under the following circumstances:
 - a. Applicant's refusal to submit to a required drug test;
 - b. Applicant's failure to appear at the collection site for a required drug test at the assigned time;
 - c. A Verified Positive Test Result of the applicant; or
 - d. Tampering with, attempting to tamper with, adulterating or otherwise interfering with test samples and process.

B. Employee Drug and Alcohol Testing

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1. All employees of the Fort Smith Police Department will be required to take drug and/or alcohol tests as a condition of continued employment in order to ascertain prohibited drug use, as provided below: **Employees are advised of the existence of the statute codified as Ark. Code Ann. § 11-14-105.**

- a. A supervisor may order an employee to take a drug and/or alcohol test upon documented reasonable suspicion that the employee is or has been using drugs and/or alcohol. The observing supervisor shall also contact a second supervisor about the incident so that he or she can observe the activity or behavior along with the first observing supervisor. If the second supervisor likewise observes the activity or behavior observed by the first supervisor, both supervisors shall document in writing their observations and upon approval by the Chief of Police or the Human Resources Director order the employee to submit to a drug and/or alcohol test. A summary of the facts supporting the order shall be made available to the employee prior to the actual test. Observations which constitute a factual basis for reasonable suspicion may include, but are not limited to, the odor of illegal drugs; erratic behavior; violent mood swings; excessive absenteeism, including tardiness; a medical emergency which might be attributed to controlled substance abuse; documented deterioration in job performance, or an accident which is caused by the apparent action or inaction of an employee. A supervisor shall drive the employee to the drug test collection site. The employee will be placed on administrative leave pending the test results.
- b. A drug test will be administered as part of any physical examination required by the Fort Smith Police Department.
- c. All employees of the Fort Smith Police Department shall be subject to unannounced, random drug testing at a frequency and timing determined by the Chief of Police or the Human Resources Director.
- d. If an employee is involved in a vehicle accident while driving a vehicle owned by the City or at any time in any vehicle in which the employee was performing employment services for the City in which any person is physically injured or where one or more vehicles must be towed from the scene, the driver of the vehicle will be screened for drugs and/or alcohol.
- e. If an employee causes or contributes to an on the job accident or on the job incident by failing to follow safety rules, instructions, and customary procedures, the employee will be screened for drugs and/or alcohol.
- f. All employees who are involved in an on the job accident resulting in serious bodily injury to any person will be tested for drugs and/or alcohol as soon as possible after the accident. Any employee who causes or contributes to the causing of an on the job incident resulting in serious property damage will be tested as soon as practical after the incident. The determination as to whether an injury or property damage is "serious" is in the sole discretion of the Department and City of Fort Smith. The intent of this section is to allow for testing to occur following any event in which the bodily injury or property damage is more than a minor injury or minimal property damage. If an injured employee refuses to submit to a test for drugs or alcohol, the employee may be precluded from receiving workers' compensation medical and indemnity benefits.
- g. Drugs and/or alcohol testing performed under this policy shall be conducted by the contract laboratory in such a manner so as to detect the presence of the following:

1.	Amphetamines	2.	Barbiturates
3.	Benzodiazepines	4.	Cannabinoids
5.	Methadone	6.	Methaqualone
7.	Opiates	8.	Phencyclidine
9.	Cocaine	10.	Propoxyphene
11	Alcohol		

- h. Employees who are screened for drugs and/or alcohol following an on the job accident or on the job incident will return to work following testing, unless there is reasonable suspicion the employee was

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under the influence at the time of the on the job incident or on the job accident. If results come back with a positive result for impairment, the employee will be removed from the job site immediately.

- i. Employees who are screened for drugs and alcohol due to reasonable suspicion measures will remain off of work until the Human Resources Department receives the results. Employees will be on administrative leave during this time. If the drug and/or alcohol testing results in a Verified Positive Test Result, the employee will not receive pay for the time on administrative leave.
2. Employees will be subject to disciplinary action, including termination of employment under the following circumstances and for consideration of any and all re-employment opportunities with the Fort Smith Police Department:
 - a. Employee's refusal to submit to a required drug test, which includes failure to appear for testing at the assigned time;
 - b. A Verified Positive Test Result of the employee; or,
 - c. Tampering with, attempting to tamper with, adulterating or otherwise interfering with test samples and process.

C. Testing Procedures for Employees and Applicants

1. Drug testing of employees and applicants of the Fort Smith Police Department shall be conducted by a private laboratory certified in the administration and interpretation of such tests. The drug testing laboratory shall be certified by the United States Department of Health and Human Services [formerly National Institute of Drug Abuse (NIDA)]. The drug testing laboratory shall have professionally trained collection personnel, shall adhere to quality assurance requirements for urinalysis, and follow strict confidentiality requirements.
2. The drug testing laboratory with whom the Fort Smith Police Department has contracted to perform the tests shall contact the Office of the Chief of Police (or his designee) on a random and unannounced basis. Laboratory personnel will then provide to the Chief of Police (or his designee) the names and social security numbers (or other identifying number as deemed appropriate) of those persons whose name has been randomly selected for drug testing.
3. The Chief of Police will periodically determine if the number of names selected and the frequency of testing satisfy the Department's desire to maintain a drug free work force and workplace.
4. An individual selected for random drug testing will be notified by the Chief of Police (or his designee) and directed to report to a designated medical facility for the purpose of submitting to a drug test. The employee will be reminded that he or she is under no suspicion of taking drugs and that his or her name was drawn randomly. Employees who have been selected for random drug testing will be told where to report for the testing, and the amount of time they have to travel to testing facility.
5. After hours testing procedures: If a drug test is needed outside of normal business hours then Precision Drug Screen should be contacted at 479-629-1233.
6. Employees who are on duty at the time of notification will be allowed to leave their assigned area for the purpose of submitting to the drug test. During the time required for the testing process, personnel will not be subject to calls or assignments, and will be considered "out of service".
7. Off duty employees who are contacted and directed to report for a drug test will receive compensation in accordance with established Departmental procedures.
8. Urinalysis is a method approved for testing for the presence of drugs. The urine sample will be taken at an office designated by the City under controlled conditions. The specimen will then be tested at a laboratory chosen by the City for a screening test. Any employee subject to random drug testing shall be permitted to

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provide urine specimens in private and in a restroom stall or similar enclosure so that the employee is not observed while providing the sample. However, collection site personnel of the same gender as the individual tested may observe the individual provide the urine specimen when such personnel have reason to believe the individual may alter or substitute the specimen to be provided. Collection site personnel may use the agency's own policies and procedures to determine when the personnel have reason to believe that a particular individual may alter or substitute the specimen to be provided.

9. Hair follicle testing is a method approved for testing for the presence of drugs. The hair sample will be taken at an office designated by the City under controlled conditions. The specimen will then be tested at a laboratory chosen by the City for a screening test.
10. Blood testing is a method approved for testing for the presence of drugs (1) following an accident which causes injury to any person requiring medical care or (2) if the employee is unable to provide a urine sample.
11. Medical personnel at the collection site shall request the employee or applicant provide photo identification prior to the administration of the test.
12. Specimens collected from an employee or applicant will be divided into two separate vials which are sealed with identification labels and maintained by the collecting facility or laboratory. The collection site personnel shall maintain appropriate chain of custody forms for the specimens. In the event that an employee or applicant seeks to challenge the results of a laboratory test, he or she may do so using the second vial.
13. In the event the testing laboratory detects the presence of adulterants in the specimen, the testing process shall cease and the results declared by the laboratory as "adulterated."
14. The detection of the presence of adulterants in a specimen will be treated as a refusal to submit to drug testing.
15. Breath, saliva and/or blood serum testing will be the methods utilized for testing for the presence of alcohol. A saliva or breath specimen will first be obtained from the employee or applicant, and a test will be performed. If the results are positive, the individual will be required to provide a blood serum specimen for a confirmation test. The results of the confirmation test are controlling.

VIII. Testing Results

- A. In the event of a positive initial drug test, there shall be conducted a confirmation test to verify the positive initial drug test. It is the goal of the City that within five (5) working days after written notice to the employee or applicant of the confirmation test verifying the initial test, the Medical Review Officer will conduct a medical interview with the employee or applicant to determine any relevant biomedical factors for the positive result. An employee or applicant who receives a positive test result may contest or explain the result to the medical review officer within five (5) working days after receiving written notification of the test result. However, any failure to conduct this interview within five (5) working days will not excuse the employee from further compliance with or disciplinary sanction under these policies, nor does it mean that such an interview cannot be conducted after the expiration of five (5) working days. At such interview, the employee or applicant may contest or explain the positive results to the Medical Review Officer and may report the use of prescription or nonprescription medications to the Medical Review Officer. Information provided by the employee or applicant to the Medical Review Officer shall be subject to the confidentiality provisions set forth above. The employee or applicant has a right to consult with the Medical Review Officer for technical information regarding prescription or nonprescription medication. The Medical Review Officer will review all medical records made available by the employee or applicant when a positive initial test and positive confirmation test could have resulted from legally prescribed medication. If an employee's or applicant's explanation or challenge is unsatisfactory to the Medical Review Officer and if it is the opinion of the Medical Review Officer that there is no justification for the positive result, such result will then be considered a Verified Positive Test Result.
- B. A tested employee or applicant may contest a Verified Positive Test Result pursuant to rules adopted by the Workers' Health and Safety Division of the Workers' Compensation Commission. It shall be the tested employee's or applicant's responsibility to notify the testing laboratory of any administrative or civil action brought pursuant to Ark. Code Ann. § 11-14-105. In the event an employee requests a re-test or second test, the employee will be tested under

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two of the approved testing methods. The employee will be responsible for the costs incurred for the re-test or second test. If the test results are negative, the employee will be reimbursed.

- C. The testing laboratory may disclose test results only to the Medical Review Officer or the staff of the Medical Review Officer. The results of a drug test may not be disclosed without the prior written consent of the employee or applicant unless the disclosure is:
1. To the Medical Review Officer;
 2. To the Office of the Chief of Police (or his designee) within the Fort Smith Police Department;
 3. To the Human Resources Director;
 4. Pursuant to the order of a court of competent jurisdiction or where required by the City of Fort Smith to defend against any challenge against any adverse personnel action; or,
 5. For administrative uses only (including civil service hearing and subsequent judicial review) and will not be used against the sworn member in any criminal proceeding.
- D. Employees and applicants who have been directed to submit to drug testing must sign a consent form, which includes consent that notice of the test results will be released to the Chief of Police (or his designee).
- E. Employees who have been directed to submit to drug testing must be advised that the failure to consent to testing shall result in disciplinary action, up to and including termination of employment.
- F. A positive test result occurs when the breath/saliva and the blood serum test indicate the presence of alcohol equal to or greater than .040 percent for non-sworn personnel and greater than .000 percent for sworn personnel. A positive confirmation test result is a violation of City policy.
- G. A negative test result occurs when either the breath/saliva test or the blood serum test indicates the presence of alcohol at less than .040 percent for non-sworn personnel and equal to .000 percent for sworn personnel.

IX. Employee Assistance Program

- A. The Fort Smith Police Department encourages any employee who has a drug problem to obtain assistance. Any employee who has not been required to submit to a drug test or who has tested negative, but in good faith informs a supervisor of his or her problem, shall not be subject to discipline, termination, or discrimination if the employee has not previously: (1) tested positive for drug use; (2) entered the Employee Assistance Program (EAP) for a drug related problem; or (3) entered a drug rehabilitation program. In those circumstances, such employee shall be mandatorily referred immediately to the EAP conducted by the City of Fort Smith. Any employee of the Fort Smith Police Department who seeks and receives treatment through the EAP under the above circumstances will be granted a one-time exclusion from disciplinary actions. Any subsequent admission, positive test, or other violation of this Policy will result in immediate disciplinary action up to and including termination from Fort Smith Police Department.
- B. Any employee of the Fort Smith Police Department who is mandated and receives treatment by the Employee Assistance Program's recommended physician must adhere to the following guidelines prior to being allowed to return to full time status:
1. The employee must complete a doctor supervised rehabilitation program and receive a written release detailing his or her completion of rehabilitation and his or her ability to return to work.
 2. After completing the rehabilitation program and receiving the written release from the rehabilitation program's physician, the employee must meet with a mental health professional, chosen by the City of Fort Smith, and receive a written recommendation to be allowed to return to full time duty status.
 3. An employee completing the rehabilitation program will be required to submit to periodic drug testing at the direction of the Chief of Police (or his designee) once the employee returns to active duty.

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- C. Any employee of this Department who is mandated to treatment through the Employee Assistance Program must use accrued sick leave during his or her participation in the rehabilitation program. If the employee exhausts his or her available sick leave and has not completed the rehabilitation program, he or she may use accrued vacation time or personal leave, or he or she may be granted authorized leave without pay at the discretion of the Chief of Police.
- D. The City of Fort Smith's EAP is provided through Mutual of Omaha. Mutual of Omaha can be reached at 800.316.2796 or mutualofomaha.com/eap. Please contact Bobbie Henry, Benefits Administrator for assistance at 479.784.2223 or bobbie.henry@fortsmithar.gov.

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Fort Smith Police Department Drug and Alcohol Testing Notification and Release Form

In accordance with the City of Fort Smith's substance abuse and drug free workplace policy or such other law or policy as may be adopted or enacted hereafter, I authorize the City of Fort Smith to have a chemical analysis drug and/or alcohol test performed on a specimen provided by me for, but not limited to, random testing, probable cause testing, reasonable suspicion testing, post-accident testing, post-incident testing and post-employment offer testing. The specimen may be one or more of my blood, urine, saliva, breath, and/or hair follicles.

I understand and agree that if at any time I refuse to submit to a drug or alcohol test under City policy, or if I otherwise fail to cooperate with the testing procedure, I will be subject to disciplinary action up to and including termination.

I authorize and give full permission to have the City of Fort Smith and/or its healthcare provider send the collected specimen or specimens to any laboratory designated by the City of Fort Smith for a screening test for the presence of any prohibited substance(s) under the policy or law. I further agree to and hereby authorize the release of said test results to the City of Fort Smith.

I hereby release and discharge the City of Fort Smith of any and all liabilities in connection with its obtaining the tests results authorized herein and for its use of same in making any employment decision concerning me. I further agree that a reproduced copy of this consent and release form shall have the same force and effect as the original.

I have carefully read the foregoing and fully understand its contents. I acknowledge that my signing of this consent and release form is a voluntary act on my part and that I have not been coerced by anyone to sign this document.

Employee/Applicant Printed Name: _____

Employee/Applicant Signature: _____

Date: _____

Parent/Guardian (for minors, print name): _____

Parent/Guardian (for minors, signature): _____

Date: _____

Witness Printed Name: _____

Witness Signature: _____

Date: _____

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Subject: Drug Free Workplace/Random Drug Testing	Number: 1104.01