



City of Manitowoc Police Department

DRUG AND ALCOHOL TESTING POLICY AND PROCEDURE

November 18, 2013

City of Manitowoc Police Department Drug and Alcohol Policy and Procedure

I. **PURPOSE**

The purpose of this policy is to provide all Bargaining Unit sworn personnel with notice of the provisions of the department drug and alcohol testing program.

II. **PREAMBLE**

The law enforcement profession has several uniquely compelling interests that justify the use of employee drug and/or alcohol testing. The public has a right to expect that those who are sworn to protect them are, at all times, both physically and mentally prepared to assume these duties. There is sufficient evidence to conclude that the use of controlled substances and other forms of drug and alcohol abuse will seriously impair an employee's physical and mental health and, thus, job performances.

It is the policy of the City of Manitowoc Police Department that the critical mission of law enforcement justifies maintenance of an alcohol and drug-free work environment through the use of a reasonable employee drug and alcohol testing program.

The Wisconsin Professional Police Association/Law Enforcement Employees Relations Division (WPPA/LEER) and the City of Manitowoc Police Department (referred to as *the Employer*) recognize drug dependency as an illness and a serious health problem. The WPPA/LEER and *the Employer* also recognize that Employee Awareness Programs and Employee Assistance Programs (EAP's) are necessary ingredients to ensuring an alcohol and drug-free work environment.

It is further the policy of the WPPA/LEER and *the Employer* to offer referral to employees to appropriate services and rehabilitation programs for counseling and treatment when concerns arise concerning drug and alcohol abuse which may affect an employee's work performance. It is the responsibility of *the Employer* to provide an active Employee Assistance Program (EAP) to which *the Employer* can refer employees for assessment and for appropriate education, prevention, counseling, treatment, and rehabilitation services. All such referrals and any reports provided to *the Employer* by the referred employee or by the EAP staff shall be maintained in the strictest confidence by *the Employer*.

Upon the adoption of this policy, all employees represented by the WPPA/LEER will be advised by *the Employer* in writing of the *Employer's* Drug Abuse Policy and Program. The information to be provided shall include, at minimum, information of the availability of EAP's, the effects of drugs and alcohol on individuals and their families, and, finally,

the Employer's drug and alcohol testing program.

It is the responsibility of each employee to seek assistance from the EAP when necessary before the employee's drug problems lead to disciplinary action. An employee's decision to seek voluntary help from the EAP is not to be used as a basis for any disciplinary action against the employee and will not be noted in any personnel record or personnel actions. The confidentiality of individuals utilizing the EAP is to be protected within the limits of the law.

Therefore, in order to ensure the integrity of the department and the safety of its officers, to preserve public trust and confidence in a fit and alcohol and drug-free law enforcement profession, the City of Manitowoc Police Department shall implement a drug and alcohol testing program to detect prohibited drug and alcohol use by employees. In appropriate circumstances, rehabilitation and counseling will be applied.

The WPPA/LEER and *the Employer* also recognize that educational programs are an integral component of an effective drug prevention program. The education of employees with respect to the dangers of drug and alcohol abuse should serve to decrease the incidence of drug abuse. Drug and alcohol awareness education to be provided by *the Employer* shall include regular Drug and Alcohol Awareness In-services for all the employees of *this Employer* subject to this policy.

III. DEFINITIONS

- A. Employee(s). Those Bargaining Unit employees who have been formally vested with law enforcement powers and authority, other than probationary employees.
- B. Supervisor. Any employee identified as a supervisor by Wis. Stats. ' 111.70 (1)(o).
- C. Drug Test. The compulsory production and submission of urine by an employee, in accordance with this policy, for chemical analysis to detect prohibited drug usage. Employees shall not be required to produce a blood specimen to test for controlled substances.
- D. Alcohol Test. An approved Preliminary Breath Testing (PBT) device. If an employee tests positive for the presence of alcohol, then a confirmation test will be conducted. Blood alcohol testing is authorized only under circumstances described below.
- E. Reasonable Suspicion. A belief that an employee is using or has used drugs and/or alcohol in violation of this policy, drawn from specific, objective and articulable facts and reasonable inferences drawn from those facts in light of the

observer=s experience, and based upon, *inter alia*, the following:

1. Observance phenomena, such as direct observation of drug use and/or the physical symptoms or manifestations of an employee appearing to be under the influence of a drug or alcohol;
 2. Abnormal conduct or erratic behavior while at work, excessive absenteeism, excessive tardiness, or significant deterioration in work performance;
 3. A report of drug use provided by reliable and credible sources, which has been independently corroborated;
 4. Evidence that an individual has tampered with a drug test during his/her employ with the current employer;
 5. Evidence that an employee is involved in the illegal use, possession, sale, solicitation, or transfer of drugs while working or while on *the Employer's* premises or while operating *the Employer's* vehicle(s), machinery, or equipment.
- E. Probationary Employee. For the purposes of this policy only, a probationary employee shall be considered to be any employee who is conditionally employed with the department as a law enforcement officer.
- F. Aliquot. A portion of a urine specimen used for testing.
- G. Being Subject to the Effects of Illegal Drugs or Alcohol. Having the presence of alcohol, an illegal drug, or drug metabolite in an individual's system, as determined by appropriate testing of a bodily specimen, that is equal to or greater than the levels specified for the confirmation test. This result shall be referred to as a "positive test."
- H. Collection Site. A place designated by *the Employer* where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs, and breath, or blood for the presence of alcohol.
- I. Confirmatory Test. A second analytical procedure to identify the presence of alcohol or a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to insure reliability and accuracy. (At the time of the adoption of this policy, gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and

phencyclidine.)

- J. Initial Test (also known as Screening Test). Immunoassay screen to eliminate "negative" specimens from further consideration.
- K. Neutral Selection Basis. A mechanism for selecting employees for a drug test that (1) results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected and (2) does not give an employer discretion to waive the selection of any employee selected under the mechanism, except as otherwise provided herein.
- L. Chain of Custody. Procedures to account for the integrity of each specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an employer chain of custody form be used from time of collection to receipt by the laboratory and that appropriate laboratory chain of custody form(s) account for the sample or sample aliquots within the laboratory. Chain of custody forms shall, at a minimum, require an entry documenting date and purpose each time a specimen or aliquot is handled or transferred and identifying every individual in the chain of custody.
- M. Medical Review Officer (MRO). A licensed physician responsible for receiving laboratory results generated by an agency's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his or her medical history and any other relevant biomedical information.

IV. PROCEDURES

A. Prohibited Activity

The following rules shall apply to all employees, while on and off duty:

1. No employee shall illegally possess any controlled substance.
2. No employee shall intentionally ingest any controlled substance unless as prescribed by a licensed medical practitioner or except as in IV.A.3. below.
 - a. If an employee is required to use prescription medicine that he or she has been informed expressly has the potential to impair job performance, he or she shall notify his or her immediate supervisor. The employee shall advise his or her supervisor of the

- known side effects of such medication as well as the prescribed period of use.
- b. Supervisors shall document this information through the use of an internal memorandum and maintain this memorandum in a secured file, separate from all personnel records pursuant to Wis. Stats. ' 103.13.
 - c. At the employee's option, the employee and/or his/her physician may provide the above information to the designated MRO who will inform *the Employer* of only those potential effects which the MRO deems are relevant to the employee's job duties. Any information which is not relevant to employment or related litigation shall be kept in confidence by the MRO from *the Employer*.
3. Any employee who unintentionally ingests, or is made to ingest, a controlled substance shall report the incident to his/her supervisor immediately so that appropriate medical steps may be taken to ensure the employee's health and safety. Unintentional or forced ingestion of a controlled substance shall not, in and of itself, form the basis for discipline of the employee.
 4. Any employee having a reasonable basis to believe that another employee is illegally using, or is in possession of any controlled substance, shall immediately report the facts and circumstances to his or her supervisor or to a law enforcement officer in the jurisdiction where the illegal conduct has occurred. Failure to do so shall not, by itself, form the basis for discipline of the employee not reporting.
 5. No employee shall intentionally ingest any prescribed medication in amounts beyond the recommended dosage. *The Employer* recognizes that some prescription medications may cause impairment in judgment, coordination, and physical ability. Reasonable accommodations will be made for employees who must temporarily use prescribed medications having such adverse effects.
 6. Employees, in carrying out their duties, must not consume nor be under the influence of alcohol (defined as .02% or greater) and/or controlled substances throughout scheduled work hours except as otherwise provided herein.
 7. Discipline of employees for violation of this policy shall be in accordance with the collective bargaining agreement, department policy, rules, regulations, and state law.

B. Probationary Employee Drug Testing

All probationary employees shall be required, as a condition of employment, to participate in unannounced drug and/or alcohol tests prior to the completion of the probationary period. The frequency and timing of such testing shall be determined by *the Employer*, but such determination shall not be arbitrary, capricious or unreasonable. Refusal to submit to such testing or confirmed positive drug and/or alcohol test may invoke dismissal from the department. Probationary employees shall also be subject to further drug and/or alcohol testing as set forth below.

C. Employee Drug Testing

Employees will be required to take drug tests as a condition for continued employment in order to ascertain prohibited drug use as provided below:

1. **FOR RANDOM DRUG TESTING:** Employees shall be subject to drug tests based upon a neutral selection basis. The *Association* and *the Employer* shall develop and agree upon a reasonable mechanism for selecting employees for drug tests that results in an equal probability that any employee from a group of individuals subject to the selection mechanism will be selected and that does not give *the Employer or the Association* discretion to waive the selection of any employee selected under the mechanism. The *Association* shall have the right to be present when employees are selected for random testing. Random testing will occur quarterly, and the sampling rate, on an annual basis, will test approximately 20% percent of the total number of employees covered. Once an employee is notified they have been selected, it is required they report to the testing facility within 30 minutes.
2. When a supervisor has reasonable suspicion to believe that an employee is using, consuming, or under the influence of a non-prescribed, controlled substance, and/or non-prescribed narcotic drug while on duty, the supervisor will document in writing the specific objective facts constituting reasonable suspicion of drug use. The employee will be offered an opportunity to give an explanation of his or her condition. An *Association* representative shall be present during such explanation unless the employee waives such representation after having been informed by *the Employer* of his/her right to representation. After the employee has had a chance to explain his or her condition, which led supervisors to conclude that drug/alcohol testing might be appropriate, and if the supervisor still believes the employee to be under the influence of a

controlled substance, then, by a written order, the supervisor employee may order drug testing in accordance with the procedures set forth below.

All supervisory employees shall be provided with training in detecting possible symptoms of drug and alcohol abuse prior to the implementation of this policy.

3. **POST OFFICER INVOLVED CRITICAL INCIDENT [OICI] TESTING.** Any employee directly involved in an OICI, including but not limited to the following cases, shall be required to participate in a drug and alcohol (.02% or greater) test immediately following the event, or soon thereafter, as the situation allows:
 - a. The intentional discharge of a firearm at a human being or a vehicle or building in which human beings are located;
 - b. Motor vehicle accident involving an employee acting in an official capacity in which a death or personal injury occurs and which requires a report as defined by Wis. Stat. ' 346.70;
 - c. Physical altercation resulting in death or great bodily harm as defined by Wisconsin Statutes.

Failure to submit to a drug and/or alcohol test under the foregoing conditions shall constitute a refusal to submit to a required drug or alcohol test. Under the circumstances set forth above, an employee directly involved shall be defined as the individual or individuals, who discharged a firearm, drove the motor vehicle or participated in the physical altercation.

4. Any employee who, in the carrying out of his or her official duties, unintentionally or intentionally ingests, either directly or indirectly, any controlled substance or alcohol is required to document, as soon as possible thereafter, such contact. Documentation shall occur in writing explaining all circumstances, and the employee's supervisor shall be notified as soon as possible. Appropriate medical steps should be taken to safeguard the employee's health and safety. Drug tests will be administered and no disciplinary action will be taken if the tests are positive and the employee was in physical danger if he or she did not ingest alcohol or the drug or narcotic substance or such ingestion was accidental.

5. Nothing in this policy shall be construed as granting permission for employees serving in any drug enforcement activities to ingest any illegal drug, marijuana, narcotic substance, or controlled substance under any circumstance except that the employee was in physical danger if he or she did not ingest the drug or narcotic, or the employee unintentionally ingested the drug or narcotic.
6. Employees who seek voluntary assistance for substance abuse shall not be disciplined for seeking such assistance or for any underlying substance abuse problems, except to the extent any such problems may have affected the employee's work performance. Requests from employees for such assistance shall remain confidential and shall not be revealed to other employees without the employee's consent. Any discipline arising from admitted substance abuse problems shall be imposed consistent with the provisions of this policy.
7. For special duty assignments that allow the consumption of alcohol, the above alcohol amounts of .02% shall not apply

D. Drug Testing Procedures

1. Specimen Collection Procedures

- a. Designation of Collection site. *The Employer* shall have one collection site during regular business hours and one collection site after hours which have all the necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a certified drug testing laboratory.
- b. Collection Site Personnel. Collection site persons, supervisors and authorized personnel shall be such collection site employees so designated by the collecting site to assist in the collection and testing of specimens as necessary under the drug testing methodology.
- c. Security. Procedures shall provide for the designated collection site to be secure. If a collection site facility is dedicated solely to urine collection, it shall be secure at all times. If a facility cannot be dedicated solely to drug testing, the portion of the facility used for testing shall be secured during drug testing.
- d. Chain of custody. Chain of custody standardized forms shall be

properly executed by authorized collection site personnel upon receipt of specimens. Handling and transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures. Every effort shall be made to minimize the number of persons handling specimens.

- e. Access to Authorized Personnel only. No unauthorized personnel shall be permitted in any part of the designated collection site when urine specimens are collected or stored.
- f. Privacy. Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided. In the event observation of urine collection is required, the minimum privacy safeguards shall be observed:
 - (1) The observer shall be the same gender as the test subject;
 - (2) To the extent possible, such observer preference from the testing facility staff shall be suggested by the test subject: Ultimately, if no agreement is reached between the testing facility staff and the testing subject, the testing facility staff has the right to continue the testing with an observer of their choice.
 - (3) Such observation shall be as discreet as possible.
- g. Integrity and Identity of Specimen. *The Employer* and collection site shall take the following precautions to ensure that a urine specimen not be adulterated or diluted during the collection procedure and that information on the urine collection container can confidentially identify the individual from whom the specimen was collected:
 - (1) *The Employer* and collection site shall take precautions to ensure that a specimen not be adulterated or diluted during the collection procedure and that information on the specimen can identify the individual from whom the specimen was collected. The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified.
 - (a) To deter the dilution of specimens at the collection

site, toilet bluing agents shall be placed in toilet tanks wherever possible, so that the reservoir of water in the toilet bowl always remains blue.

- (b) The collection site person shall ask the test subject to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the individual's urine specimen. The collection site person shall ensure that all personal belongings such as a purse or briefcase remain with the outer garments. The test subject's valuable personal possessions will be locked up in a lock box during testing.
 - (c) The test subject shall be instructed to wash and dry his or her hands prior to urination.
 - (d) After washing hands, the test subject shall remain in the presence - but not visual range - of the collections site person and shall not have access to any water fountain, faucet, and soap dispenser, cleaning agent or any other materials which could be used to adulterate the urine specimen.
 - (e) The test subject may provide his/her specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy.
 - (f) The collection site person shall note any unusual behavior or appearance of the individual being tested.
- (2) Upon receiving the specimen from the test subject, the collection site person shall determine that it contains at least 60 milliliters of urine. If there is less than 60 milliliters of urine in the container, additional urine shall be collected in a separate container to reach a total of 60 milliliters. The test subject may be given a reasonable amount of liquid to drink for this purpose (e.g., a glass of water). If the test subject fails for any reason to provide 60 milliliters of urine, the provisions of paragraph (D), (1), k. shall apply.

- (3) After the urine specimen has been provided and submitted to the collection site person, the test subject shall be allowed to wash his or her hands.
- (4) Immediately after the urine specimen has been collected, the collection site person shall also inspect the specimen to determine its color and look for any signs of contaminants. Any unusual findings shall be noted.
- (5) All specimens suspected of being adulterated shall be forwarded to the laboratory for testing.
- (6) Wherever there is reason to believe that a particular test subject may have altered or substituted the urine specimen to be provided, a second urine specimen shall be obtained as soon as possible under the conditions for privacy described above.
- (7) Both the test subject and the collection site person shall keep the specimen in view at all times prior to its being sealed and labeled. If the specimen is transferred to a second container, the collection site person shall request the test subject to observe the transfer of the urine specimen and the placement of the tamper proof seal over the bottle cap and down the sides of the bottle.
- (8) The collection site person and the test subject shall be present at the same time during procedures outlined in Paragraphs (g) (8) through (g) (11) of this section.
- (9) The collection site person and the test subject shall place securely on the urine specimen container an identification label which contains the date, the test subject's urine specimen number, and any other identifying information provided or required by the agency.
- (10) The test subject shall initial the identification label on the urine specimen container for the purpose of certifying that it is the urine specimen collected from him or her.
- (11) The collection site person shall complete the chain of custody form.

- (12) The urine specimen and chain of custody form are now ready for shipment. If the urine specimen is not immediately prepared for shipment, it shall be appropriately safeguarded during temporary storage.
- (13) While any part of the above chain of custody procedures is being performed, it is essential that the urine specimen and custody documents be under the control of the involved collection site person. If the involved collection site person leaves his or her work station momentarily, the urine specimen and custody form shall be taken with him or her or shall be secured. After the collection site person returns to the work station, the custody process will continue.
- h. Identification. Personnel authorized to administer drug tests shall require positive identification from each participant to be tested before they enter the testing area. This shall consist of a Driver's License picture or other government issued photograph identification.
- i. Collection Control. To the maximum extent possible, collection site personnel shall keep the test subject's urine specimen container within sight both before and after the individual has urinated. After the urine specimen is collected, it shall be properly sealed and labeled. An approved chain of custody form shall be used for maintaining control and accountability of each urine specimen from the point of collection to final disposition of the urine specimen. The date and purpose shall be documented on an approved chain of custody form each time a urine specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of persons handling urine specimens.
- j. Transportation to Laboratory. Collection site personnel shall arrange to ship the collected urine specimen(s) to the drug testing laboratory. The urine specimen(s) shall be placed in containers designed to minimize the possibility of damage during shipment, for example, urine specimen boxes or padded mailers; and those containers shall be securely sealed to eliminate the possibility of undetected tampering. On the tape sealing the container, the collection site supervisor shall sign and enter the date the specimen(s) were sealed in the containers for shipment. The

collection site personnel shall ensure that the chain of custody documentation is attached to each container sealed for shipment to the drug testing laboratory.

k. Inability or Unwillingness to provide Urine Specimen. Where the test subject appears unable or unwilling to give a urine specimen at the time of the test, testing personnel shall document the circumstances on the drug test report form. The test subject shall be permitted a reasonable amount of time to give a sample, during which time he/she shall remain in the testing area. Reasonable amounts of water may be given to the test subject to encourage urination. Failure to submit a sample shall be considered a refusal to submit to a drug test.

1. Split Specimen. Test subjects shall have their urine specimen split and made available to the participant for retesting in case of a positive test result. The urine specimen must be provided at the same time identified, marked and placed in identical urine specimen containers by authorized testing personnel. One urine specimen shall be submitted for immediate drug testing at the approved testing laboratory. If the specimen tests positive, the other urine specimen shall remain at the facility in frozen storage for one year. This urine specimen shall be made available to the test subject or his or her representative attorney, should the original sample result in a legal dispute or if the chain of custody is broken.

2. Laboratory Analysis Procedure

a. Laboratory. *The Employer* shall use a laboratory that conforms with the Substance Abuse and Mental Health Services Administration (SAMHSA) Guidelines.

b. Security. Drug testing laboratories shall be secure at all times. They shall have in place sufficient security measures to control access to the premises and to ensure that no unauthorized personnel handle urine specimens or gain access to the laboratory processes or to areas where testing records are stored. Access to these stored areas shall be limited to authorized individuals whose authorization is documented.

c. Chain of Custody. Laboratories shall use chain of custody procedures to maintain control and accountability of urine specimens from receipt through completion of testing, reporting of

results, during storage and continuing until final disposition of urine specimens. The date and purpose shall be documented on an appropriate chain of custody form each time a urine specimen is handled or transferred, and every individual in the chain shall be identified. Accordingly, authorized technicians shall be responsible for each urine specimen or aliquot in their possession and shall sign and complete chain of custody forms for those specimens or aliquots as they are needed.

- d. Inspection. When a shipment of urine specimens is received, laboratory personnel shall inspect each package for evidence of possible tampering and compare information on urine specimen bottles within each package to the information on the accompanying chain of custody forms. Any direct evidence of tampering or discrepancies in the information on urine specimen bottles and the agency's chain of custody forms attached to the shipment shall be immediately reported to *the Employer* and shall be noted on the laboratory's chain of custody form which shall accompany the urine specimens while they are in the laboratory's possession.
- e. Retention. Urine specimen containers will normally be retained within the laboratory's accession area until all analyses have been completed. Aliquots and the laboratory's chain of custody forms shall be used by laboratory personnel for conducting initial and confirmatory tests.
- f. Two-Step Procedure. The testing or processing phase shall consist of a two-step procedure to include an initial screening test (immunoassay drug screening test) and a confirmatory test (gas chromatography/mass spectrometry GC/MS testing).
- g. Initial Test. The initial test of urine specimen(s) shall use an immunoassay which meets requirements of the Food and Drug Administration for commercial distribution which are in effect on the day the aliquot is obtained. The following initial cutoff levels shall be used when screening urine specimens to determine whether they are negative for these five drugs or classes of drugs.

Initial Test
Level (ng/ml)

Marijuana metabolites.....100

Cocaine metabolites	300
Opiate metabolites	2000
Amphetamines	1,000
Barbiturates300
Benzodiazepines200

The types of drugs tested and the levels considered to be a positive result may be modified pursuant to SAMHSA guidelines, and any such modifications shall be incorporated herein.

Initial Test Level (% by weight)

Alcohol .02

- h. Confirmatory Test. All urine specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff values listed in this paragraph for each drug. Concentrations of a drug at or above the following levels shall be considered a positive test result when performing a confirmatory GC/MS test on a urine specimen that tested positive in the initial test.

Confirmatory Test Level (ng/ml)

Marijuana metabolites.....	15*
Cocaine metabolites	150**
Opiates:	
Morphine.....	300***
Codeine	300***
Amphetamines:	
Amphetamine.....	500
Methamphetamine.....	500
Barbiturates200
Benzodiazepines	200

- * Delta-9-tetrahydrocannabinol-9-carboxylic acid
- ** Benzoyllecgonine
- *** 25 ng/ml if immunoassay specific for free morphine

The types of drugs tested and the levels considered to be a positive result may be modified pursuant to SAMHSA guidelines.

i. Reporting Results.

1. The laboratory shall report all positive test results to *the Employer's MRO*. Before any test result is reported (the results of initial tests, confirmatory tests, or quality control) it shall be reviewed and the test certified as an accurate report by the responsible individual. The report shall identify the drugs/metabolites tested for, whether positive or negative and the cutoff for each, the urine specimen number assigned by the agency, and the drug testing laboratory urine specimen identification number.
2. The laboratory shall report as negative all urine specimens which are negative on the initial test or negative on the confirmatory test. Negative test reports will be sent directly to *the Employer*. Only urine specimens confirmed positive shall be reported positive for a specific drug. Positive test results will be sent directly to the MRO.
3. The MRO shall report the test results to *the Employer*.

j. Subcontracting. Drug testing laboratories shall not subcontract any testing under this policy and shall perform all work with their own personnel and equipment. The laboratory must be capable of performing testing for the five classes of drugs (marijuana, cocaine, opiates, phencyclidine and amphetamines) using the initial immunoassay and confirmatory GC/MS methods specified in these guidelines.

k. Laboratory Facilities.

1. Facilities in Wisconsin that are currently federally certified by the SAMSHA and that are in compliance with the applicable provisions of the Wisconsin licensure requirements are as follows:

A List of Certified Facilities is attached as Appendix A, hereto.
2. The list of facilities set forth above shall be modified as necessary to include newly certified laboratories and exclude those which are no longer certified.

1. Employees having negative drug test results shall receive a memorandum stating that no illegal drugs were found. A copy of the memorandum will

be placed in the employee's personnel records only at the employee's written request.

E. Drug Test Results

1. Confidentiality.

- a. All information, interviews, reports, statements, memoranda, test results, written or otherwise received by *the Employer* through its drug testing program are confidential communications. A physician-patient relationship is created between the employee and the MRO, except that the employee shall furnish to *the Employer* at the time of testing a medical authorization in the form attached hereto authorizing the MRO to release to *the Employer* the results of the test which are either: 1) negative, or 2) that the employee has a metabolite level in excess of those specified in paragraph IV.D.2. hereof.
- b. Any information obtained by *the Employer* pursuant to this policy shall be the property of *the Employer*.
- c. The *Employer* shall not release to any person other than the employee information related to drug test results unless:
 - i. The employee has expressly, in writing, granted permission for *the Employer* to release such information; or
 - ii. It is necessary to introduce a positive confirmed test result into an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding, where the information must be disclosed to a federal or state agency or other unit of the state or United States Government as required under law, regulation, or order, or in accordance with compliance requirements of a state or federal government contract, or disclosed to a drug abuse rehabilitation program for the purpose of evaluation or treatment of an employee.
 - iii. There is risk to public health or safety that can be minimized or prevented by the release of such

information. Unless such a risk is immediate, a court order permitting the release shall be obtained prior to the release of the information.

2. Drug test results and records shall be retained in a secured file controlled by *the Employer* for a period of no more than seven years.
3. *The Employer* shall not retain records of false positive test results in any employee's employment records.

V. SECOND SAMPLE TESTING

If the employee desires to have his/her urine specimen retested because of a positive test result, he/she may do so at *the Employer's* expense at an approved testing laboratory of the employee's choice. Results of any retesting should be submitted to *the Employer* in writing as soon as possible.

VI. ACTIONS TAKEN

- A. If an employee tests positive for illegal drug usage after the confirmatory tests, such individual shall be subject to discipline pursuant to the Collective Bargaining Agreement, department policy, rules and regulations and state law.
- B. On any action, employee assistance program counseling and follow-up may be applied.
- C. At any time prior to a required drug and/or alcohol test that produces a positive result; an employee may inform his or her supervisor of prohibited drug and/or alcohol use and seek assistance under an employee assistance program or private rehabilitation and counseling. Any and all assistance rendered shall be closely monitored. This may include but is not limited to:
 1. Further assessment of the individual by qualified persons.
 2. Treatment of the individual by a recognized facility or person.
 3. Release of information to *the Employer* on the progress and treatment of the employee, upon consent of the individual.
 4. Process or after care treatment with possible random screening for a period of up to one year after initial treatment. Random screening under these conditions can occur up to twice within a calendar month. This is to ascertain compliance with said treatment and objectives of the

department relevant to this issue.

5. In those instances where the individual fails to utilize the assistance to overcome his/her problem(s) and/or fails to make reasonable progress in counseling or treatment within a reasonable period of time as determined by the EAP staff and/or treatment personnel and/or performs in a substandard manner, and/or is under the influence of chemicals in the work place, the individual shall be considered a safety hazard to the department, public and co-workers. This shall result in corrective disciplinary action up to and including termination pursuant to the Collective Bargaining Agreement and state law unless otherwise specified herein.

VII. TRAINING

The Employer shall take steps to ensure that supervisors receive appropriate training to administer this drug and alcohol testing policy.

VIII.VII. DISCIPLINE FOR VIOLATION OF POLICY

Discipline of employees for violation of this policy shall be in accordance with the Collective Bargaining Agreement, department policy, rules and regulations and state law. The refusal to take a required drug or alcohol test may constitute grounds for discipline up to and including termination.

IX. ASSOCIATION TO BE HELD HARMLESS

- A. This drug and alcohol testing program is initiated solely at the behest of *the Employer*. *The Employer* shall be solely liable for any obligations and costs arising out of any employees' claims based upon constitutional rights regarding the application of this program. *The Association* shall be held harmless by *the Employer* for the violation of any employee's constitutional or other legal rights.
- B. At any time, upon reasonable advance request, *the Association* will have the right to designate a representative to inspect and observe any aspect of the drug and alcohol testing program with the exception of individual test results. *The Association* may inspect individual test results if the release of this information is authorized by the employee(s) involved and the employee(s) provides *the Employer* with a release and hold harmless and indemnification agreement to allow the release.



City of Manitowoc Police Department Drug and Alcohol Testing Policy and Procedures

~Acknowledgement of Receipt

By signing this form, I am acknowledging I have received the City of Manitowoc Police Department Drug and Alcohol Policy. I also acknowledge it is my responsibility to read, and understand the Policy. If I have questions, I am to immediately inquire with my supervisor.

(Employee Printed Name)

(Employee Signature)

(Date)

(Supervisor Signature)