

Pre-Employment Drug and Alcohol Testing Policy Discussion

Staff Report to Executive Committee

July 30, 2008

Background:

In November of 2002, the Minneapolis City Council approved the current Pre-Employment Drug and Alcohol Testing (PEDAT) policy; prior to that the City only had a policy for reasonable suspicion testing. The current PEDAT policy covers positions that meet one or more of the following criteria: 1) A Driver's License is a minimum qualification; 2) Access to drugs and alcohol; 3) Operation of heavy and/or motorized equipment; 4) Direct interaction with children or vulnerable adults; and 5) Responds to life-threatening emergencies. After the policy was passed a number of concerns were raised by the City's Medical Review Officer. To address these concerns the policy and procedures were reviewed and recommended changes were drafted.

Included in the recommended changes were removing the specific substances being tested for and the threshold levels that would result in a positive test result; additionally, we recommended expanding the criteria that would determine if a position would be covered so it would be more consistent with the background check policy. The new criteria included: 1) Handles cash, cash equivalents, checks, securities or has access to bank or investment accounts and 2) Requires entering private homes or secure areas of business. It also amended the criteria for responding to life-threatening emergencies to include "*Dispatches or* responds to life-threatening emergencies."

The City of Minneapolis uses the substance and threshold standards established by Minnesota State Statute 152.02 as our standard for positive test results. Since 2002, some of the substances and/or thresholds have changed. To reflect fluctuations in these standards, we have recommended that these be removed from the policy so that the Council does not have to modify the policy each time there is a change in the standards, making administration of the policy more efficient and effective. Please note that in earlier discussions it was reported that we use thresholds that are established by the Department of Transportation. In actuality we test for substances and use thresholds that are established by Minnesota State Law.

Process:

In compliance with the procedures of the Policy Review Group:

- HR reviewed the proposed policy with Department Heads in January. Overall, the Department Heads recommended that all new hires be subject to testing; stating that all employees are important to the City of Minneapolis – not just those in safety-sensitive positions. As a result HR changed the proposed policy.
- In February, HR presented the policy to the Citywide Labor Management Committee; there was no dissension from this group. Since this policy change did not affect current employees, it did not have to be negotiated with our collective bargaining units.
- The proposed policy was then presented to the Executive Committee on May 7 and was approved by a 4 to 1 vote.
- On May 12, the policy was presented to the Ways and Means Committee. After much discussion, Chair Ostrow moved to postpone with the following staff directions to provide information outlining risk management: a) quantifying liability exposure; insurability issues; asset preservation; as well as a history of these issues; b) a survey of policies in other cities and counties; and c) a legal analysis that would address negligent hiring, noting sensitive and non-sensitive positions.
- In June the proposed policy was reviewed again with the department heads and the majority continued to support testing all new hires, but understood if this was not adopted by the Council, they would like the policy to be expanded to include the new and modified criteria as described above.

On June 16, staff presented back to W&M on the above issues. There were a variety of opinions about how to proceed and the following action was passed by the Committee. In addition, council members requested additional

information about the types of substances we test for and the number of disciplinary actions taken across the city relating to the current policy.

Action Taken: Approved the current policy of five (5) criteria; with the following technical changes:

- a) Update the policy so that the substances and thresholds be removed from the policy and into the procedures so that they can be administered by the Human Resources Department in accordance with DOT standards.
- b) Amend the criteria for responding to life-threatening emergencies to include "Dispatches or responds to life-threatening emergencies.

On June 19, the action was pulled from the Committee of the Whole agenda by Council President Johnson and policy was returned it to Executive Committee for discussion.

Information Summary:

The following information is in response to Council Member requests and is being provided in effort to help you determine what policy would best serve the needs of the City of Minneapolis.

Local Results

- Of the 8 public sector agencies in the metro area who responded, all did some type of pre-employment drug and alcohol testing.
- The City of Bloomington tests most if not all job applicants and Washington County tests job applicants for a large number of positions but not all.
- Two other agencies, Hennepin County and Dakota County, test for Safety Sensitive positions
- Ramsey and Carver Counties test for positions requiring a Commercial Driver's License (CDL).
- The City of St. Paul tests job applicants for positions requiring a CDL and for Public Safety positions and positions in the Water Department.

National Results:

- The survey results of 31 respondents showed that all did some type of pre-employment drug and alcohol testing.
- Eighteen (58%) of the respondents conduct pre-employment *drug and alcohol* testing for all positions
- Four (13%) agencies are doing only *drug* testing for all positions.
- The remaining nine (29%) respondents did testing for either Safety Sensitive, Public Safety and/or positions requiring a CDL or a combination thereof.

Medical Costs:

Claim costs for City of Minneapolis healthcare plan members who were diagnosed with substance abuse and/or chemical dependency are *four* times higher than costs for a typical member and totaled over \$4 million for all services rendered, including direct substance abuse/chemical dependency services. The City's claims costs for direct substance abuse/chemical dependency services last year was \$720,000. The Human Resources Department estimates is will cost approximately \$15,000 plus staff time to conduct testing for all new hires; these costs will be lower if we do not test all new hires.

Worker's Compensation Costs:

The City of Minneapolis Workers' Compensation Unit paid out \$5.6 million in 2007. While we don't have specific information about how many of these claims were related to substance abuse, according to the National Council on Compensation Insurance nearly half of all workers' compensation claims are related to substance abuse.

PEDAT Test Results (2000 to June 2008)

Pre-Employment Testing

- Samples Collected = 771
- Positive Samples = 15 (1.9%) (includes multiple positives)

- Substances detected = Amphetamine (1), Cocaine (3), Methamphetamine (1), Marijuana (11) and Non-Federal 7 Panel (1)
- Reasonable Suspicion Testing
- Samples Collected = 16
 - Positive Samples = 8 (50%) (includes multiple positives)
 - Substances detected = Blood Alcohol (1), Urine Alcohol (1), Amphetamine (1), Cocaine (5), Methamphetamine (1) and Marijuana (5)
- Random Drug Testing
- Samples Collected = 439
 - Positive Samples = 8 (1.8%) (includes multiple positives)
 - Substances detected = Amphetamine (2), Cocaine (2), D-Methamphetamine (1) Methamphetamine (1) and Marijuana (4)
- Post Accident Testing
- Samples Collected = 41
 - Positive Samples = 4 (9.8%)
 - Substances detected = Cocaine (1) & Marijuana

Disciplinary Actions (2003 to Present)

- Disciplinary Actions *Entered* in HRIS = 602
- Discipline relating to Drugs or Alcohol = 10%
- Police – Estimate that 18 sworn personnel arrested for DUI in the last five years.
- Fire – Estimate that eight employees are arrested for DUI each year.
- Regulatory Services – Employee terminated for DUI.

(Note: A copy of the “Seven Panel Drug Screen”, which identifies the drug category, ‘street’ name, Statute 152.02 controlled substance schedule, and thresholds, is at the end of this document.)

Conclusion:

If Committee Members decide that testing is not necessary for all new hires, the following two options are offered for Council consideration.

Option #1: Amend the current policy to include the following criteria:

- 1) Handles cash, cash equivalents, checks, securities or has access to bank or investment accounts.
- 2) Requires entering private homes or secure areas of business.
- 3) Amend the criteria for responding to life-threatening emergencies to include “*Dispatches or responds to life-threatening emergencies.*”

Amend the policy so that the substances and thresholds be removed from the policy and added to the procedures so that they can be administered by the Human Resources Department in accordance with state law.

Option #2: Amend the current policy of five (5) criteria; with the following technical changes:

- 1) Update the policy so that the substances and thresholds be removed from the policy and into the procedures so that they can be administered by the Human Resources Department in accordance with state law.
- 2) Amend the criteria for responding to life-threatening emergencies to include “*Dispatches or responds to life-threatening emergencies.*”

Once the City Council agrees on which option it will move forward for approval, the Human Resources Department will prepare the proper documentation for Council action.

**City of Minneapolis Pre-Employment Drug & Alcohol Testing
Seven Panel Drug Screen – Drug Category and Names of Substances within Each – July 1, 2008**

Drug Category	Street, Trade or Other Names	<u>152.02 Minnesota Statute Schedules of Controlled Substances</u>	Initial Test Results Cutoff/Expected Values¹²:
Cocaine Metabolites	Coke, Flake, Snow, Crack, Coca, Blanca, Perico, Nieve, Soda	Schedule II Controlled Substance	Negative or < 300ng/mL
Amphetamines (Class) (Includes: Methamphetamine)	Crank, Ice, Cristal, Krystal, Meth, Speed, Adderall, Dexedrine, Desoxyn, Biphermaline, Delcobase, Obetrol, Reds	Schedule II Controlled Substance	Negative or < 1000ng/mL
Barbiturates	Amytal, Butisol, Fiornal, Nembutal, Seconal, Tuinal, Phenobarbital, Black Beauties, Ambien, Sonata, Meprobamate, Chloral Hydrate, Methaqualone (Quaalude)	Schedules II, III and IV Controlled Substances	Negative or < 300ng/mL
Benzodiazepines	Valium, Xanax, Halcion, Ativan, Restoril, Rohypnol (Roofies, R-2), Klonopin, Dalmene, Diazepam, Librium, Serax, Tranxene, Versed, Halcion, Paxipma	Schedule IV Controlled Substance	Negative or < 300ng/mL
Marijuana Metabolite	Pot, Acapulco Gold, Grass, Reefer, Sinsemilla, Thai Stick, Blunts, Mota, Yerba, Grifa	Schedule I Controlled Substance	Negative or < 50ng/mL
Opiates (Narcotics)	Opium, Morphine, Codeine, Heroin (Horse, Smack), Hydromorphone (Dilaudid), Hydrocodone (Vicodin), Meperidine (Demerol), Methadone (Dolophine), Oxycodone (Percodan, Percocet, Tylox) Other Opiates: Numorphan, Fentanyl, Darvon, Lomotil, Talwin, Stadol, Buprenex	Schedules I and II Controlled Substances	Negative or < 2000ng/mL
Phencyclidine	PCP, Angel Dust, Hog, Loveboat, Ketamine (Special K), PCE, PCPy, TCP	Schedule II Controlled Substance	Negative or < 25ng/mL

¹ The Department of Health and Human Services establishes the minimum threshold levels for each of the five drugs tested for under USDOT testing programs. Minimum levels are established for both the initial screening test and for the confirmatory test.

² Should the amount of any substance found exceed the cut off on initial screening the specimen will be further tested for confirmation using Gas Chromatography-Mass Spectrometry (GC-MS) technology. Confirmation levels are analogous to a fingerprint of the substance and all confirmed testing is reviewed by a certifying scientist at the testing lab prior to release of a value to the Medical Review Officer (MRO). All certifying scientists hold a minimum of a Master's Degree in Toxicology - many are PhD prepared.

Sources of Above Information: 1) Medtox via Occupational Medicine Consultants; 2) U.S. Department of Justice Drug Enforcement Administration and 3) [Minnesota State Statutes](#)