

2.4 STANDARDS OF CONDUCT

2-4-00.00 STANDARDS OF CONDUCT

The conduct of sworn Criminal Investigators, as well as non-sworn employees of the Division, in dealing with the general public is expected and required to be commensurate with the high level of public trust placed upon the law enforcement profession. Any public action, inaction, attitude or opinion of law enforcement personnel which can be interpreted as unprofessional or unworthy of the public trust in law enforcement officials, tends to undermine and detract from the public respect of law enforcement officers, individually and collectively, is grounds for disciplinary action.

2-4-01.00 **Duty to Know and Comply**

- (1) All Division Employees have a duty to know and comply with the Insurance Fraud Division's Standards of Conduct. It is the policy of the Division to adhere to all of the provisions of the Utah Department of Human Resources Policy and Procedures regarding conduct as described in R477-9 Employee Conduct (DHRM P&P).
- (2) All Sworn members have a duty to know and comply with the Law Enforcement Code of Ethics, as adopted by the Utah Peace Officer Standards and Training (P.O.S.T.) and contained in subsection (a) of this policy. Violation may be the basis of disciplinary action and/or decertification of a member's peace officer status.

(a) **Law Enforcement Code of Ethics:** As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept

ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities. I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession... law enforcement.

- (3) Sworn members assigned to multi-agency task forces will follow Insurance Fraud Division policy. Any review of member conduct, including the imposition of disciplinary action, will be the responsibility of the Insurance Fraud Division.

2-4-02.00 General Conduct

- (1) Division employees shall dedicate themselves to the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and confidence of other law enforcement agencies, employees, and the public.
- (2) Each Division employee shall demonstrate the dignity and worth of service rendered by government and maintain a constructive, creative and practical attitude toward State government affairs and service as a trusted public service.

- (3) Division employees shall be courteous and respectful of citizens and shall not use profane, violent, coarse or insolent language or gestures, nor express any prejudice concerning age, religion, race, color, creed, sex, sexual orientation, national origin or disability.

2-4-03.00 Confidentiality

Whatever a Division member sees, hears, or learns of, that is of confidential nature, will be kept secret unless the performance of duty or legal provision requires otherwise.

2-4-04.00 Integrity

Division Employees will not engage in acts of corruption or bribery, nor will a member condone such acts by other members.

2-4-05.00 Personal/Professional Capabilities

Insurance Fraud Investigators will be responsible for their own standard of professional performance and will take every reasonable opportunity to enhance and improve their level of knowledge and competence.

Through study and experience, an investigator can acquire the high level of knowledge and competence that is essential for the efficient and effective performance of duty. The acquisition of knowledge is a never-ending process of personal and professional development that should be pursued constantly.

2-4-06.00 Attention to Duty

- (1) Insurance Fraud Investigators are Law Enforcement Officers by virtue of their employment and certification, and will act in an official capacity when the circumstances warrant, consistent with their certification, Division policy, and training.
- (2) On-duty investigators will carry their badge, identification card, and firearm, unless excused by nature of their assignment or location.
- (3) Division members will perform all duties required of them by competent authority and carry out those duties in an efficient manner.

- (4) Division members will remain alert, observant, and occupied with Division business while on duty and will not conduct themselves in a manner that results in assigned work being neglected.
- (5) Division members are required to perform their duties in a professional, cooperative, and supportive manner.
- (6) By virtue of Investigators status as Law Enforcement Officers; Division Investigators are expected to be available to perform the basic duties of a Peace Officer at any time. If an Investigator leaves their home off duty and intends to carry a firearm, they are required by this policy to have in their possession Division credentials identifying them as a Peace Officer.

2-4-07-00 Public Statements, Appearances, and Endorsements

- (1) Division members will not make any public statement that could reasonably be interpreted as having an adverse effect upon Division morale, discipline, operation of the Division, or perception of the public. This section applies to statements of personal interest, not to matters of public concern protected by the First Amendment.
- (2) Division members will not, unless authorized, make any statements, speeches, or appearances that could reasonably be considered to represent the views of the Division.
- (3) Division members will not authorize or permit their name, photograph, or official title that identifies them as a member of the Insurance Fraud Division to be used in connection with testimonials, advertisements, or any product or commercial enterprise without the written permission of the Insurance Commissioner.

2-4-08.00 Personal Conduct

- (1) Division members will comply with all Federal, State, and Local laws and ordinances. Members who are arrested, cited, or are aware they are under investigation for any criminal offense in any jurisdiction will report this fact, in writing, to the Director as soon as possible.

- (2) Division Employees will be respectful, courteous, and civil with the public and each other and shall not use coarse, loud, indecent, profane, or harsh language unnecessarily.
- (3) Division Employees will not use language or engage in acts that demean, harass, or intimidate another person, or act to incite any person to violence.
- (4) Division Employees will not knowingly join or participate in any organization that advocates, incites, or supports criminal acts or conspiracies.

2-4-09.00 Domestic Violence

Investigators who learn they have been named in a complaint of domestic abuse, or as a respondent to a civil or criminal Protective Order, or who have been implicated in a domestic call for police assistance will:

- (1) Immediately notify the Director of the incident and any restraining or protective order, including names of protected persons and remedies listed therein.
- (2) Provide a copy of any order to the Director without necessary delay.
- (3) If so ordered by the court in a Protective Order, surrender all firearms to the Director or his designee.

2-4-10.00 Prohibited Conduct

The following acts or omissions shall be prohibited by employees of the Division. An employee may be disciplined or dismissed from the Division for any act herein enumerated.

- (a) Employees shall not willfully violate any Federal, State or local law or ordinance.
- (b) Employees shall not engage in games of chance in violation of any law except in performance of duty.
- (c) Employees shall conduct their duties in a competent and efficient manner and are expected to exercise good judgment in the performance of their assignments.

- (d) Employees shall be respectful, courteous and civil with the public and each other and shall not use coarse, loud, indecent, profane or unnecessary harsh language in any public place or in other ways conduct themselves in a disorderly manner.
- (e) Employees shall not misuse the police radio.
- (f) Employees shall avoid answering questions in an abrupt or abrasive manner and shall give the greatest possible attention and courtesy.
- (g) Employees shall not misappropriate lost, found, or stolen evidence or Departmental property to his or her own use.
- (h) Employees shall handle Division and State property with care in an effort to prevent damage due to carelessness or neglect.

2-4-11.00 Dereliction of Duty

No employee shall be derelict in their duty. The following acts shall constitute dereliction of duty:

- (1) Failure to obey orders, willful or repeated violation of any rule, regulation, or policy of the Division or State.
- (2) Failure to make a proper report of offenses investigated, observed, or reported.
- (3) Failure of an investigator to give his or her name to any citizen upon request or failure to display Division credentials/badge (if off duty or conducting undercover work, or the officer's personal security is at risk, this regulation may be suspended).
- (4) For any employee to be absent with unauthorized leave.
- (5) For cowardice or failure to support fellow officers or failure to perform Criminal Investigator duties.
- (6) For sleeping while on duty.
- (7) For failure to complete required training requirements.
- (8) For neglect of duty.

- (9) For displaying reluctance to properly perform assigned duties, or acting in a manner tending to bring discredit upon himself, herself or the Division.
- (10) Failing to assume responsibility or exercise diligence and interest in pursuit of duties, or displaying a lack of energy of such character as to amount to incompetence.
- (11) Failure to cooperate fully in any internal administrative investigation conducted by the Division or other authorized agency or failing to provide complete and accurate information in regard to any issue under investigation.
- (12) Failure of a supervisor or Director to immediately take action when a violation comes to his/her attention.

2-4-12.00 Gratuities

It shall be the policy of this Division to follow guidelines set forth through Executive Order of the Governor establishing Ethics Policy for Executive Branch Agencies and Employees.

- (1) Prohibition Against the Receipt of Gifts
 - a. Subject to the exceptions set forth below, an employee covered by this order is prohibited from accepting a gift or other compensation, either directly or indirectly, that might be intended to influence or reward the individual in the performance of official business. This prohibition shall apply notwithstanding Utah Code Ann. Section 67-16-5, which provides that gifts up to \$50 may be allowed in certain circumstances. Additionally, this order does not abrogate any restriction imposed by the Utah Procurement Code contained in Title 63G, Chapter 6, Utah Code Annotated.
 - b. For purposes of this order, the term "gift" does not include:
 - (i) Campaign contributions received in accordance with Title 20A, Chapter 11, Utah Code Annotated;
 - (ii) food, refreshments, or meals of limited value;
 - (iii) an item presented on behalf of a foreign government that becomes the property of the State.
 - (iv) opportunities, discounts, rewards and prizes open to the general public or all employees of the State of Utah;
 - (v) plaques or mementos recognizing service;

- (vi) trinkets or mementos of nominal value;
- (vii) gifts from family members, extended family members, or other employees of the State of Utah;
- (ix) small efforts of common courtesy or other services of nominal monetary value;
- (x) funeral flowers or memorials;
- (xi) bequests, inheritances and other transfers at death;
- (xii) attendance or participation at events sponsored by other governmental entities;
- (xiii) attendance or participation at widely attended events that are related to governmental duties; and
- (xiv) travel to and from widely attended events related to governmental duties where acceptance of such travel would result in financial savings to the State of Utah.

- c. If an employee receives a gift, either directly or indirectly, that cannot be accepted, the employee may return the gift, pay its market value, or donate the gift to the State of Utah. If the gift is perishable or not practical to return, the gift may, with approval of the Department head, be shared with co-workers or given to charity.

2. Penalties

- a. An employee covered by this order who violates this order is subject to appropriate discipline as provided in Utah Administrative Rule R477-11 and as determined by the Executive Branch department or agency head or the Governor's Chief of Staff.

2-4-13.00 **Courtesy**

Effective law enforcement depends on a high degree of cooperation between the Division, the insurance industry, the public we serve, and other public agencies. The practice of courtesy in all public contacts encourages understanding and appreciation; discourtesy breeds contempt and resistance. The majority of the public are law abiding citizens who rightfully expect fair and courteous treatment by Division employees. Division employees shall not, while on-duty, engage in religious debates or discussions to the detriment of good discipline, nor speak despairingly of the nationality, race or beliefs of any person.

2-4-14.00 Workforce/Workplace Harassment

Division employees are required to adhere to the provisions of the Utah Department of Human Resources Policy and Procedures Section R477-15 Workforce Harassment Policy and Procedure. It is the State of Utah's policy to provide all employees a working environment that is free from unlawful discrimination and harassment based on race, religion, national origin, color, sex, age, disability, or protected activity under state and federal law.

2-4-15.00 Interaction with Prisoners/Arrestees

- (1) Members will protect the constitutional rights of any prisoner held in custody.
- (2) No employee of the Division shall use any verbal abuse or unnecessary violence against any person.
- (3) No employee of the Division shall direct any malicious persecution against any person.
- (4) No employee of the Division shall willfully mistreat or give inhumane treatment to any prisoner held in custody or use more force than is absolutely necessary to control him or her.
- (5) No employee shall purchase or accept as a gift, any article whatsoever from any person under arrest or in jail.
- (6) Members shall protect prisoner/arrestee property from loss, damage, or destruction.

2-4-16.00 Profiling

- (1) Purpose

The purpose of this policy is to unequivocally state that racial and ethnic profiling in law enforcement are unacceptable, and provide guidelines for officers to prevent such occurrences. This policy also provides guidelines for proper discipline should an allegation of racial profiling be substantiated, and to protect law enforcement officers when they act within the dictates of the law and policy from unwarranted accusations.

(2) Definition

“Profiling” can be defined as any law enforcement initiated action that relies upon the age, gender, race or ethnicity of an individual, rather than the behavior of that individual. Profiling does not include circumstances where the law enforcement officer has information that includes a racial, ethnic, age or gender-based descriptor concerning a suspect for a specific crime, where that information is reliable and may lead to the discovery of that individual.

(3) Conduct of Law Enforcement Officers During All Encounters

All law enforcement officers of this agency shall exercise their law enforcement powers in a manner that does not unlawfully discriminate against individuals based on race or ethnicity.

No law enforcement officer of this agency shall endorse or act upon stereotypes, attitudes, or beliefs that a person’s race or ethnicity increases the probability that the person will act unlawfully.

Law enforcement officers of this agency may consider race and ethnicity in deciding to take law enforcement action only when the employee possesses specific information that is reliable and is likely to lead to the discovery of that individual.

(4) Training

This agency will develop and deliver on-going training to all law enforcement officers to provide guidance regarding the consideration of race and ethnicity in the agency’s law enforcement activities. This training will include: departmental policy, federal, state, and case law governing the limitations (lawful and unlawful), in the use of race as a determiner for police activity.

(5) Complaints

Any person may file a complaint with the division if they feel they have been stopped, detained, or searched based on racial, ethnic, or gender-based profiling, and no person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.

Any law enforcement officer of this agency contacted by a person who wishes to file such a complaint shall follow division policy and procedures on receiving citizen complaints. Failure to properly

report the complaint will result in disciplinary action as outlined in 2-7-00.00 (Discipline).

(6) Internal Audits

Internal audits will be completed and include:

- (a) The types of complaints received
- (b) How many times an employee receives complaints
- (c) Whether or not an employee has a pattern of complaints
- (d) Patterns of concern to the agency and/or community

(7) Discipline for Engaging in Racial Profiling or other Bias Behaviors

It is the policy of the Insurance Fraud Division that we are held to the highest standards of law enforcement integrity. All division employees are prohibited from engaging in biased or prejudicial behaviors with regard to any of the following:

- (a) An individual's color, ethnicity, race or national origin
- (b) Sexual orientation or gender identity
- (c) Gender
- (d) Age
- (e) Religion, spiritual affiliation or lack thereof
- (f) Pregnancy

If a complaint has been investigated and substantiated the division will take appropriate measures commensurate to the severity of the action substantiated. Substantiated allegations of biased behavior will be reported to POST in accordance with UCA 53-6-211.

2-5-00.00 ALCOHOL AND DRUG POLICY

All Division employees shall adhere and be subject to drug and alcohol testing in accordance with DHRM drug and alcohol testing policies set forth in R477-14 Substance Abuse and Drug Free Workplace. In addition to the provisions of such policies;

- (1) No Division employee shall consume alcohol while on duty or when representing themselves in an official capacity for the Division (other than as authorized when performing undercover duties). On-duty includes any meal period, whether compensated or not.
- (2) Investigators shall not consume alcohol for at least six (6) hours before the beginning of their shift. Members shall not perform any

duty assignment with a blood alcohol level exceeding a .02 threshold.

- (3) Division employees shall not consume, or keep intoxicating liquor/alcohol in Division offices, within Division vehicles, desks, or upon any property allotted for the use of the Division (other than legally seized evidence being transported pursuant to an active case).
- (4) Division employees shall not report to work or be on duty while under the influence of any drug that will adversely affect the proper performance of the employee's job duties.
- (5) All Division employees will notify the Director or Human Resources, either prior to reporting for duty or immediately upon reporting for duty, regarding their use of any medication that could reasonably be expected to impair or restrict their ability to perform their duties.
 - (a) Notification will be made in writing and will be treated as medical information covered by HIPAA rules.
 - (b) Such disclosure, absent other clarifying medical documentation by the member, will presumptively be treated as a request for restricted duty.

2-5-01.00 Random Drug and Alcohol Testing

(1) Policy

The Safety Sensitive mission of the Insurance Fraud Division justifies maintenance of a drug-free work environment through a reasonable employee drug-testing program. To ensure the integrity and preserve public trust and confidence in a fit and drug-free law enforcement profession, this Department has implemented a drug-testing program consistent with the State of Utah Drug Free Workplace Policy for Safety Sensitive positions. **DHRM R477-14**

(2) Definition

- (a) **DRUG TEST:** The compulsory production and submission of a breath, urine, or blood sample by an employee in accordance with departmental procedures for chemical analysis to detect prohibited drug usage.

- (b) **CONTROLLED SUBSTANCE:** A substance in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812).

(3) Prohibited Activities

- (a) No employee shall illegally possess any controlled substance.
- (b) No employee shall ingest any controlled or other dangerous substance except as prescribed by a licensed medical practitioner.
- (c) No employee shall ingest any prescribed medication in amounts beyond the recommended dosage.
- (d) No employee may consume a prescription medication or controlled substance which would impair his or her investigative duties.
- (e) Any employee who unintentionally ingests or is made to ingest a controlled substance shall immediately report the incident to his supervisor so that appropriate medical steps may be taken to ensure the employee's health and safety.
- (f) 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 supervisor.
- (g) Discipline of employees for violation of this policy shall be in accordance with the Division Policies and Procedures and in accordance with the Division Human Resource Management.

(4) Random Drug Testing Policy

- (a) Criminal Investigators with the Insurance Fraud Division are classified as "Safety Sensitive" by the Division of Human Resource Management (DHRM) and therefore subject to random drug screens.

- (b) All Insurance Fraud Investigators are subject to random testing each quarter when selected by a computer-generated program or as determined by DHRM policies and/or those of the Insurance Department. Each sworn investigator will be chosen at least once in a two-year period and may be selected more than once during the two-year period.

(5) Drug Testing Procedure

- (a) The Fraud Division Director or Deputy Director will notify each selected employee during working hours to report to the contracted testing laboratory during normal work hours.
- (b) Employees will go to the private laboratory where the drug test will be administered and specimens obtained.
- (c) The employee will fill out and sign a records release form and a chain of custody form, both available at the laboratory.
- (d) If the employee is unable to provide the required sample, the employee must stay in the lab area and drink water for up to two hours in an attempt to produce the sample. If still unable to produce the sample, the employee may need to seek medical attention from the employee's own physician.
- (e) If a second sample is required, the investigator will cooperate with the testing facility.

(6) Drug Testing Results

- (a) The contracted lab will forward all drug test results to the Fraud Division Director for review. Following the review, the Fraud Division Director will file the test results in a file separate from the employee's standard Division personnel file.
- (b) All records pertaining to Division-required drug tests are confidential and will not be provided to other employers or agencies without the written permission of the person whose records are sought.

(7) Disciplinary Measures

- (a) **EMPLOYEES REFUSING TO BE TESTED** may be subject to disciplinary action which may include dismissal.
- (b) The Fraud Division Director will contact employees with confirmed positive results to get an explanation on the drug test. If properly explained, the test will be classed as a negative test. If not, the Fraud Division Director will take appropriate action per Department and DHRM policies and procedures.
- (c) Discipline for violation of the Division and State drug policy via this general order will be in accordance with DHRM Drug Free Workplace Policy.

2-5-02.00 Reasonable Suspicion Testing

- (1) All Division Employees are subject to reasonable suspicion drug and alcohol testing.
- (2) Circumstances that may constitute reasonable suspicion may include, but are not limited to:
 - (a) A pattern of abnormal or erratic behavior (e.g., a significant change in quantity or quality of work, unusual mistakes or errors of judgment, unusual absenteeism).
 - (b) Work-related accident, in combination with other factors
 - (c) The direct observation of the member using drugs or Alcoholic beverages.
 - (d) The employee's possession of alcoholic beverages or drugs at a State work site.
 - (e) The noticeable presence of physical symptoms of drugs or alcohol use (e.g., glassy, blurry or bloodshot eyes, hand tremors, flushed or swollen face, the odor of an alcoholic beverage on the breath, slurred speech, or poor coordination or reflexes).
- (3) In the event that a supervisor has a reasonable, articulated suspicion that a member is impaired by the use of alcoholic beverages or drugs the following steps shall be taken:

- (a) The member shall be immediately removed from assigned duties and informed by the supervisor that impairment due to drug or alcohol use is suspected.
- (b) The member shall be given an opportunity to explain the behavior that led to the suspicion of being under the influence of drugs or alcohol.
- (c) The reporting supervisor shall immediately inform the Director or designee, of the action taken and request advice as to steps to be followed.
- (d) The Director or his designee may, at their discretion, request that Human Resources direct an employee submit to testing to determine whether drugs or alcohol are present in the employee's system. A qualified, independent laboratory selected by the State and certified by the Substance Abuse and Mental Health Services Administration (N.I.D.A) or College of American Pathology will perform sample collection and testing for the presence of controlled substances.

2-5-03.00 Tobacco Products

- (1) In accordance with the requirements of the Utah Clean Air Act 26-38 and Utah Indoor Clean Air Act R392-510, smoking is not permitted within Division facilities or vehicles. Division employees shall not smoke while conducting interviews or making personal contacts with citizens in the course of their duties in homes, offices, places of business or on the street. Division Investigators shall not smoke in Division owned or leased vehicles.
- (2) All other use of tobacco products (chew, snuff, etc) is prohibited on duty, on State owned or leased properties, or in any State owned or leased vehicles.