

# POLICY AND PROCEDURES

NUMBER: 128

SUBJECT: Employee Drug/Alcohol Testing

ACA STANDARDS: 4-ALDF-7C-01

DIRECTOR: Herbert Bernsen

EFFECTIVE DATE: 6/21/93 REVISION DATE: 3/27/95, 9/97,  
12/03, 7/13, 10/16



## I. POLICY

The St. Louis County Department of Justice Services shall maintain a facility that is free of illegal drugs and substance abuse, in order to provide a safe and productive work environment for all employees, and to ensure the safety and security of all persons under the jurisdiction of the Department of Justice Services.

## II. RESPONSIBILITIES

All St. Louis County Department of Justice Services' staff are responsible for the following procedures.

## III. DEFINITIONS

**Legal Drugs:** Includes prescribed medications, in the quantity and frequency prescribed, and over-the-counter medication, in the prescribed quantity and frequency recommended on the package.

**Illegal Drugs:** All drugs that are not legally obtainable or are legally obtainable but have not been obtained legally. This includes prescribed medications that are not legally obtained, prescribed medications that are not being used by the person named on the label, are not being used in the prescribed quantity and frequency, or are not being used for the prescribed purposes.

*[Intermittent Employee: A retired employee who meets the minimum qualifications and is rehired to work as needed.]*

**Employee Assistance Program:** A pre-paid program that the County includes in the employee benefit package, that provides professional counseling services for

personal problems that may be affecting the employee on the job. The EAP is available for all County employees and their immediate families.

**Medical Review Officer:** A licensed physician responsible for laboratory results generated from the St. Louis County Drug and Alcohol free Workplace Program. The physician has knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive screening results in conjunction with an individual's medical history and any other biomedical information.

**Reinstatement:** The non-competitive reappointment within two (2) years from the date of separation of a formerly permanent, on-call, or term qualified employee to a position in the same job class or a lower class in the same series, and under the same Appointing Authority as previously appointed. The on-call or term employee must have successfully completed six (6) months employment.

**Split Specimen:** The donor's sample will be placed in two (2) separate bottles and each bottle will be sealed individually.

#### **IV. EMPLOYEE REGULATIONS**

- A. Employees shall not report for duty or exercise supervision/control over inmates or operate a county vehicle, while under the influence of an intoxicant, narcotic, hallucinogenic drug, central nervous system stimulant or any illegal or non-prescribed medications. It will also be a violation of policy for an employee on duty to have the odor of an intoxicant on his/her breath or clothing.
- B. Random drug testing will be conducted on employees who possess a CDL license, who have regular contact with inmates and/or have frequent uncontrolled access to secure areas. Employees may be required to submit to a drug or alcohol test based on an objective "reasonable suspicion" that they are inhibited by drugs or alcohol while performing their duties.
- C. Employees on medication are responsible for knowing the side effects of these medications. (i.e., drowsiness, no driving, etc.) If the medication could impair one's ability to carry out his/her duties, the immediate supervisor must be informed by the employee. The supervisors should discuss these situations with administrative personnel and if the situation dictates, assign the employee to a special post.

#### **V. DRUG TESTING PROCEDURES**

- A. Employee Assistance Program and Referral

**1. Supervisory Referral**

- a.** If necessary a supervisory referral may be made to the Employee Assistance Program (EAP) for counseling, whereupon the employee may be referred to a chemical dependency treatment program. Appropriate disciplinary action may also be instituted. If it is determined by an EAP Substance abuse professional that the employee refuses or fails to engage in the recommended treatment program, the employee will be subject to termination or other appropriate disciplinary action.

**2. Self-Referral**

- a.** The County and the Department of Justice Services are concerned about the health and welfare of its employees. If an employee uses illegal drugs, or abuses prescription drugs or alcohol, the County and the Department of Justice Services encourages that employee to voluntarily and confidentially contact the St Louis County EAP. In turn, the county and the Department of Justice Services will work with employees who decide to address and eliminate their problem with drugs and/or alcohol. No reprisal will taken against any employees based solely upon their election to correct a drug or alcohol problem through the self-referral method.
- b.** An employee who voluntarily reports his/her own alcohol use prior to being notified of an alcohol test appointment may also be referred to the EAP for counseling and/or chemical dependency treatment. No disciplinary action shall be taken against the said employee solely as a result of such reporting or referral, provided the employee has not brought into, retained or consumed alcoholic beverages on County premises, or drank or been under the influence of alcoholic beverage while on duty. Nothing in the paragraph shall be construed to limit the imposition of discipline against an employee for conduct that would otherwise subject the employee to discipline under this policy or other applicable policies, rules or procedures, such as a decline in performance that may be related to the employee's reported alcohol use.
- c.** A self-referral to a treatment program may not be used as protection from a supervisory referral for a drug and alcohol screening based on reasonable suspicion that an

employee is impaired or incapable of performing job duties, or from any other disciplinary action taken based upon the employee's actions. Employees remain responsible for their own rehabilitation, and will remain responsible and subject to corrective disciplinary action up to and including termination for any unacceptable work performance and behaviors.

B. Drug Testing Conditions

1. The Department shall conduct employee drug testing under the following conditions:
  - [a. **Pre-Employment:** All individuals, *including returning intermittent employees*, seeking employment with the St. Louis County Department of Justice Services, who will have regular contact with inmates and/or frequent access to confinement areas, shall complete drug testing. If a positive drug screening occurs, or the applicant otherwise fails to successfully complete the pre-employment drug screening, the applicant will be advised and the conditional offer of employment will be withdrawn. Applicants who have been removed from consideration for County employment due to failure to successfully complete the drug screening may reapply for employment after a period of one (1) year from the date of removal from the selection process.]
  - b. **Reinstatement:** All employees, who will have regular contact with inmates and/or frequent access to confinement areas, and are seeking reinstatement due to an extended absence from duty, or who are returning from drug treatment therapy, shall complete drug testing.
  - [c. **Random Testing:** All employees, *including intermittent employees*, who have regular contact with inmates and/or frequent access to the confinement areas, shall be tested randomly. An employee may be tested two or three months in a row or may not be tested for several years, ensuring that no one is able to estimate when or how often he/she will be tested.]
  - d. **Suspected Drug Use:** Any employee may be subject to unannounced drug testing, if there is an objective and reasonable suspicion of drug use. This testing will be immediate and mandatory.

- e. **Promotion:** An employee will undergo drug testing prior to appointment to a higher job classification, as a result of a promotion, which involves regular contact with the inmates.
- f. **Accidents:** Any employee involved in an accident, while operating a county vehicle, will be tested for alcohol/drug use.

C. Confidentiality

- 1. All actions taken will respect the confidentiality of the applicants or employees.
- 2. Information relative to investigations, possible employee violations, and/or medical tests, will be communicated to the appropriate personnel only on a strict need to know basis.
- 3. Discussions with employees, by investigator or medical personnel, shall be conducted as privately as circumstances allow.

D. Protocol for Drug Testing

- 1. Drug testing will meet or exceed the regulations promulgated by the National Institute of Drug Abuse (NIDA) and all urine specimens will be initially tested using the Enzyme Immunoassay Technique (EMIT). All positive results will then be confirmed, using Gas Chromatography/Mass Spectrometry (GC/MS).
- 2. All drug testing for the Department of Justice Services will be completed using the "split specimen" system.
- 3. Each specimen will be assayed for the presence of the following compounds:
  - a. Amphetamines
    - (1) Amphetamines
    - (2) Methamphetamines
  - b. Barbiturates
    - (1) Amobarbital
    - (2) Butobarbital

- (3) Pentobarbital
    - (4) Phenobarbital
    - (5) Secobarbital
  - c. Benzodiazepines
  - d. Cocaine Metabolites
  - e. Marijuana Metabolites
  - f. Methadone
  - g. Methaqualone
  - h. Opiates
    - (1) Codeine
    - (2) Morphine
  - i. PCP
  - j. Propoxyphene
4. The Department representative will use a computer program that will be responsible for the selection of employees to be tested on a random basis. The number of tests conducted each year will be equal to 50% of the number of eligible employees.
  5. The Department representative will notify the staff member who was selected to report for testing and will also notify the staff member's supervisor of the testing.
  6. Every attempt will be made to order the test during the employee's normal working hours or immediately before or after. However, circumstances may make it necessary for an employee to report for the test during non-working hours.
  7. Upon notification, the employee must complete the testing within two (2) hours.
  8. When reporting for the test, the employee must present a picture ID at the testing site, (driver's license and/or department ID).

9. After completing the testing, the employee must sign the testing form and return a copy of the signed form to the Department representative, upon his/her return to the assigned work site. The Department representative/designee will ensure a permanent copy of the testing form is placed in the employee's medical file.
10. Employees are expected to behave in a professional manner at all times during the testing process. Failure to do so will result in disciplinary action, which may include termination.
11. If an employee fails to report for a scheduled drug test within two (2) hours, tampers or attempts to tamper with a sample, fails to provide a sufficient sample at the testing site, or tests positive on the drug test, he/she shall be subject to termination from the Department.

E. Reasonable Suspicion Procedure

1. If a supervisor observes behaviors and/or symptoms, which cause him/her to direct an employee to submit to reasonable suspicion drug testing, he/she shall drive the employee to and from the testing site.
2. Drug screening due to reasonable suspicion may be based, among other things, upon the following:
  - a. Observable phenomena, such as direct observation of drug use and/or the physical symptoms of being under the influence (e.g., odor of drugs, bloodshot eyes, swaying, staggering, slurred speech, acting strangely, had an accident, i.e., a citation issued by a law enforcement officer or an individual sent for medical treatment, excessive time to complete assignments, reduced productivity, or quality of work, etc.)
  - b. A pattern of abnormal conduct or erratic behavior which deviates from the person's normal behavior;
  - c. Arrest or conviction for a drug related offense or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking;
  - d. Information provided by supervisory staff trained in recognizing symptoms of drug abuse;

- e. Evidence that an employee has tampered with a previous drug screening administered pursuant to Department or County policy; or
- f. An employee who is involved in an on-the-job accident (vehicle or other equipment) or who engages in unsafe on-the-job activities that pose a danger to others or the overall operation of the Department and/or County. Appropriate criteria for mandatory testing would include accidents involving death or immediate hospitalization, vehicular accidents where a traffic citation has been issued to the Department of Justice Services employee.

**NOTE:** It should be noted that mere speculation is not sufficient to meet this standard. The Director or designee shall make the final determination for whether or not there is sufficient, reasonable grounds for drug screening of current employees on the basis of reasonable suspicion.

- 3. The supervisor shall be responsible for completing a written report, documenting the reasons for the testing. This report must be completed within twenty-four (24) hours of the observed behavior, or prior to the results of the drug tests being released, whichever is earlier.

F. Medical Review Officer

- 1. The primary function of the Medical Review Officer shall be to review the laboratory drug testing results. He/she will assess them and determine whether an alternative medical explanation might account for the positive drug test result.
- 2. The Medical Review Officer shall also ensure the privacy and confidentiality of the employee's personal medical history during the course of reviewing the drug test result.
- 3. When the Medical Review Officer receives a report from the laboratory that the creatine level in a urine specimen is greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, the Medical Review Officer will report the specimen to the employer as diluted. In addition to reporting this result, the Medical Review Officer will direct the employer to require the employee to undergo an immediate recollection under direct supervision. That is, the employee will return to a testing site and be observed while providing the urine sample.



**NOTE:** If the testing site is unable to provide the same gender for observation, the Watch Commander will send a supervisor of the same gender to observe the testing.

G. Alcohol Testing Procedures

1. The Department shall conduct employee alcohol testing:
  - a. If a supervisor observes behaviors and/or symptoms, which cause him/her to direct an employee to submit to reasonable suspicion alcohol testing, he/she shall escort the employee to and from the testing site (Intake Service Center). If the employee is employed outside of the Justice Center, the supervisor will transport the employee to the Intake Service Center.
2. Alcohol screening due to reasonable suspicion may be based, among other things, upon the following:
  - a. Observable phenomena, such as direct observation of alcohol use and/or the physical symptoms of being under the influence (e.g., odor of alcohol, bloodshot eyes, swaying, staggering, slurred speech, acting strangely, had an accident, i.e., a citation issued by a law enforcement officer or an individual sent for medical treatment, excessive time to complete assignments, reduced productivity, or quality of work, etc.
  - b. A pattern of abnormal conduct or erratic behavior which deviates from the person's normal behavior;
  - c. Arrest or conviction for an alcohol related offense;
  - d. Information provided by supervisory staff trained in recognizing symptoms of alcohol abuse;
  - e. Evidence that an employee has tampered with a previous alcohol screening administered pursuant to Department or County policy; or
  - f. An employee who is involved in an on-the-job accident (vehicle or equipment) or who engages in unsafe on-the-job activities that pose a danger to others or the overall operation of the Department and/or County. Appropriate criteria for mandatory testing would include accidents involving death or immediate hospitalization, vehicular

accidents where a traffic citation has been issued, damage to County or private property due to negligence, etc.

**NOTE:** It should be noted that mere speculation is not sufficient to meet this standard. The Director or designee shall make the final determination for whether or not there is sufficient, reasonable grounds for alcohol screening of current employees on the basis of reasonable suspicion.

3. If a supervisor suspects that an employee is under the influence of alcohol, he/she shall instruct the employee to take a breathalyzer test at the Intake Service Center (ISC). The supervisor will escort the employee to be tested as soon as possible. The test shall be completed by the Breathalyzer Supervisor or the ISC Supervisor.
4. When an officer has an accident on the road in a vehicle not requiring a CDL driver or if there are no injuries in a vehicle which require a CDL driver, the officer will be tested upon his/her return to the Justice Center. When an officer has an accident on the road in a vehicle which requires a CDL driver and there is a death, a severe injury which may result in death, or a citation is given to the Justice Services employee, the officer will be driven to the nearest appropriate testing facility to submit to alcohol and drug screening tests.
5. A supervisor from the Department of Justice Services will go to the scene of the accident, when an officer has an accident on the road in a vehicle which requires a CDL driver and there is a death, a severe injury which may result in death, or a citation is given to the Justice Services employee. The supervisor will ensure the driver does not attempt to drive the vehicle back to the Justice Center. He/she will assign another staff member to drive the original driver back to the Justice Center.

**NOTE:** The officer will be suspended from driving a County vehicle at least until the results are sent to the Department of Justice Services Administration.

6. The supervisor shall be responsible for completing a written report, documenting the reasons for the reasonable suspicion alcohol testing. This report must be completed within twenty-four (24) hours of the observed behavior.

H. Discipline

1. If an employee refuses to take the test, he/she shall be subject to disciplinary action, which may include termination.
2. The range of disciplinary action for a positive alcohol test shall be as follows:
  - a. If the result of the breath test is a blood alcohol concentration measuring at or above 0.02% by weight, a confirmation test shall be performed within twenty (20) minutes of the initial screening test. A positive test result will be reported to the Department of Justice Services only if the confirmation test measures a blood alcohol concentration at or above 0.02% by weight.
  - b. A confirmed blood alcohol concentration measuring above 0.02%, but less than 0.04% by weight, will result in imposition of a disciplinary suspension of five (5) days, and a supervisory referral to the Employee Assistance Program. (EAP)
  - c. A confirmed blood alcohol concentration measuring at or above 0.04%, but less than 0.08% by weight, will result in imposition of a disciplinary suspension of fifteen (15) days, and a mandatory referral to the EAP for counseling.
  - d. A confirmed blood alcohol concentration measuring at or above 0.08% by weight will result in:
    - (1) Termination of employment, if the employee has operated a vehicle on county business during the same day as the test.
    - (2) A disciplinary suspension of not less than thirty (30) days and not more than ninety (90) days, if the employee has not operated a vehicle on County business during the same day as the test, and a mandatory referral to the EAP for counseling.
  - e. If the result of a breath test, within six (6) months of any previous confirmed blood alcohol concentration measuring at or above 0.02% by weight, is a blood alcohol concentration of 0.04% by weight, the employee shall be terminated from employment.



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