



Cochise County Judicial System

Policy Title: Drug and Alcohol Use Testing

Policy Number: 2006

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Cochise County Policy 2226, Drug and Alcohol Use, applies to CCJS employees as follows, except where noted for procedures pertaining to CCJS employees:

Statement of Policy:

Cochise County is strongly committed to programs and policies that promote safety in the workplace, employee health and well-being, public safety and confidence. Employee use/abuse of controlled substances and alcohol adversely affect job performance, employee morale, jeopardizes employee and public safety, and undermines public confidence and trust.

The goal of this policy is to establish and maintain a safe workplace and a healthy and efficient workforce free from the effects of drug and alcohol use/abuse. Consistent with the spirit and intent of this commitment, Cochise County has a zero-tolerance policy on the use, possession, or distribution of controlled substances and/or alcohol on the job by employees.

The post-accident and reasonable suspicion testing provisions of this Policy shall apply to all County employees.

Employees who occupy safety sensitive positions, including Commercial License Drivers (CDL), shall also be subject to pre-employment and random testing under this Policy.

The Cochise County Sheriff's Office (CCSO), due to its unique public safety role, may in its discretion establish a more restrictive internal policy as it applies to the 0.02 BAC standard contained herein.

Employees of Juvenile and Adult Probation must comply with the requirements of the Arizona Code of Judicial Administration.

Discipline of CCJS employees is within the sole discretion of the Arizona Superior Court in Cochise County.

Definitions:

1. **Accident** means an unintentional act that resulted in bodily injury and/or property damage and involving a vehicle and/or equipment.
2. **Actual Knowledge** based on direct observation of the employee's use of controlled substances or alcohol.

3. **Adulterated Specimen** means a urine specimen containing an unexpected substance or an extraordinary concentration of a substance.
4. **Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
5. **Alcohol Concentration** means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.
6. **Alcohol Screening Test** means a scientific analysis of either breath or blood to determine whether an employee may have a prohibited concentration of alcohol.
7. **Alcohol Use** means the consumption of any beverage, mixture, preparation, including any medication containing alcohol.
8. **Confirmed Drug Test** means a confirmation test result received by an MRO from a laboratory.
9. **Confirmatory Controlled Substance Test** means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.
10. **Controlled Substance** means a drug, substance or immediate precursor identified, defined or listed in Arizona Revised Statutes, Title 36, Chapter 27, Article 2; including, but not limited to THC, cannabis, heroin, cocaine, morphine, phencyclidine (PCP), amphetamines, barbiturates and hallucinogens.
11. **Designated Testing Facility** means the nearest testing facility to the location of the incident.
12. **Disciplinary Action** means action taken to penalize the employee's actions prohibited by this policy up to and including dismissal.
13. **DOT** means an agency of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing in accordance with 49 CFR Part 40 and 49 CFR Part 382.
14. **Employee or Designated Employee** means any individual employed by Cochise County who is declared by this policy to be subject to alcohol and controlled substances testing. "Employee" shall include a prospective employee, full time, part-time, temporary, occasional, leased and seasonal employment.
15. **Employer** means the governmental entity of Cochise County employing one or more employees that are subject to the ACT.
16. **Incident** means any equipment or vehicle damage (other than windshield damage due to common road or environmental hazard) any injury to the employee or any other person or property.
17. **Inconclusive Test Results** means results obtained from controlled substance or alcohol tests that are unable to provide any evidentiary value as to the drug being tested.
18. **Medical Review Officer (MRO)** means a licensed physician responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret, evaluate and verify

an individual's confirmed positive test result together with their medical history and any other relevant biomedical information.

19. Performing a Safety-Sensitive Function means an employee is performing a safety-sensitive function during any period in which they are on duty performing, ready to perform, or immediately available to perform job assignments.

20. Refusal to Submit (to a controlled substance or alcohol test) means that refusal to submit will subject the employee to disciplinary action, up to and including dismissal. Examples of an employee refusing to submit to a controlled substance or alcohol test include but are not limited to: a. Fails to provide adequate urine or breath sample for testing without a valid medical explanation, b. Tampering with or adulterating a specimen, c. Interference with the collection procedure, d. Fails to timely appear for any scheduled controlled substance or alcohol test, e. Failing to remain at the collection site until the collection process is complete, f. Leaving the scene of an accident without a valid reason before the tests have been conducted, g. Failure to sign associated documents.

21. Safety-Sensitive Function means all time from the time an employee begins to work or is required to be in readiness to work until the time they are relieved from work and all responsibilities for performing work. Safety-sensitive functions include the functions or a combination thereof:

- a. All time inspecting any motorized equipment, servicing, or conditioning any equipment.
- b. All time spent at the driving controls.
- c. All time spent, other than driving time, in or on equipment.
- d. All time loading or unloading equipment, supervising, or assisting in the loading or unloading, attending equipment being loaded or unloaded, remaining in readiness to operate equipment.
- e. All time spent performing the driver requirement associated with an accident.
- f. All time spent repairing, obtaining assistance, or remaining in attendance upon disabled equipment.
- g. All time at a carrier or shipper plant, terminal, facility or other property, waiting to be dispatched to work, unless the employee has been relieved from duty by the County.
- h. Officers who are regularly assigned to detention, dispatch or law enforcement who have an incumbent duty to protect the citizenry of the County.

Authority for DOT Testing

The authority for the Department of Transportation (DOT) testing is found in Federal Highway Administration (FHWA) regulations 49 CFR Part 40, and 49 CFR Part 382. The FHWA requires employers to test employees for use of alcohol and controlled substances. The Human Resources Department is authorized to update the list of employees subject to Federal controlled substance and alcohol testing laws and to incorporate any future updates to the Federal law which affects the DOT without obtaining pre-approval from the Board of Supervisors.

Title 49 CFR Part 382.109, preempts any State or local law, rule, regulation, or order. State criminal law sanctions may also apply.

General Rules Regarding Controlled Substances and Alcohol

- A. The use, manufacture, possession or distribution of any controlled substance(s) or the manufacture, possession or consumption of alcohol by any employee either on Cochise

County property, in a County vehicle, or in a privately-owned vehicle while on County business, will be grounds for disciplinary action, up to and including dismissal. Possession of a controlled substance in conjunction with a valid prescription is permissible. A positive test result for controlled substances or a blood alcohol test (BAC) result of 0.02 or greater will be grounds for disciplinary action, up to and including dismissal.

- B. Employees taking over-the-counter or prescribed medications are responsible for being aware of any effect the medications may have on the performance of their duties. Employees must promptly report to their supervisors their use of these medications if it is likely to impair their ability to perform assigned tasks. Failure to notify their supervisor of such use shall be a violation of this policy. The County does not seek, nor is the employee required to provide, any confidential medical information and/or condition protected by the Health Insurance Portability and Accountability Act (HIPPA). Employees tested under this policy found to have a concentration of over-the-counter or prescribed medications which exceeds the prescribed level or recommended dosage shall be subject to disciplinary action, up to and including dismissal.
- C. An employee authorized or required to drive County vehicles (and/or state vehicles for CCJS employees) or equipment or who is using their privately-owned vehicle (POV) to conduct County business has a duty to self-report any controlled substances or alcohol arrests and/or convictions to their supervisor which occurred either on or off duty. Failure to self-report may subject the employee to disciplinary action, up to and including dismissal.
- D. An employee shall not consume alcohol: 1) when on duty, 2) four (4) hours prior to on duty time and 3) up to eight (8) hours following an incident or until the employee undergoes a post-incident test, whichever comes first.

Confidentiality of Test Results

To the extent permitted by state and federal law, all records created or obtained regarding the results of controlled substance or alcohol tests shall remain confidential and shall be kept in dedicated secure files separate from the employee's personnel file and shall be released only upon the employee's written request or applicable law. This information shall be maintained pursuant to applicable retentions schedules. The employee may make a written request for a copy of their test results to Human Resources. The employee shall be notified if the results are released pursuant to court order, legal or termination proceedings.

Controlled Substance and Alcohol Tests and Testing Protocol

- A. The substance screen includes, but is not limited to, the following: alcohol, marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).
- B. A urine test will be conducted to determine the presence of controlled substances. The sample shall be tested using an immunoassay combined with a gas chromatography/mass spectrometry (GC/MS).
- C. If an Evidentiary Breath Test (EBT) is available, the alcohol test will be administered by a Breath Alcohol Technician (BAT) or another qualified medical professional. Otherwise, a

blood test will be administered by a licensed phlebotomist to detect the presence of alcohol. These tests shall comply with scientifically accepted analytical methods and procedures. All controlled substance tests shall be completed at a laboratory approved or certified by the Arizona Department of Health Services.

- D. In the event of reasonable suspicion or post-accident testing, the employee's Supervisor shall call Human Resources. The Supervisor or Human Resources shall arrange transportation of the employee to the testing location and either back to the workplace or to the employee's residence, dependent upon test results and a determination by the Department Head or Supervisor in conjunction and participation with Human Resources.

In the CCJS, the Department Director or designee will staff reasonable suspicion testing of employees in non-safety sensitive positions with the Judicial Human Resources Director prior to coordinating testing.

For safety-sensitive positions in the CCJS, the Department Director or designee may direct an employee to submit to testing for reasons outlined in applicable sections of the Arizona Code of Judicial Administration pertaining to probation, juvenile detention and court security.

- E. The County shall use a Medical Review Officer (MRO) who shall receive the laboratory results of the tests performed. The MRO shall be a licensed physician with knowledge of substance abuse disorders and appropriate medical training to evaluate positive test results, medical history, and any other relevant biomedical information.

The MRO will be the sole custodian of the individual test results. The MRO, or servicing lab representative, will advise Human Resources of positive test results. The MRO shall review all relevant medical records and make all reasonable efforts to contact the employee to conduct a verification interview by which the employee may provide an explanation for a positive result. The MRO shall review all specimens which are found to be adulterated or substituted specimens and report this information to Human Resources.

In the CCJS, the Department Director or designee will receive the laboratory results of tests performed. The Department Director will advise the Judicial Human Resources Director of positive test results.

After receiving notification of a verified positive test or an adulterated or substituted specimen, an employee may request that the split urine sample be analyzed. This request must be made within seventy-two (72) hours of notification of the verified positive test. If such a request is made, the MRO shall direct the laboratory in writing to provide the split sample to another DHS certified laboratory. The split test shall be at the employee's expense and made payable to the laboratory. Upon written request within seven (7) days of Human Resources receipt of a verified positive test, the employee may obtain copies of any records pertaining to the drug/controlled substance tests.

In the CCJS, positive test results will be dealt with in accordance with protocols established in Arizona Code of Judicial Administration Chapter 6, Probation, Section 6-106, Personnel Practices and Chapter 3, Court Security, Section 5-303, Personnel Practices.

Administrative Leave Status Pending Test Results

An employee required to submit to a controlled substance or alcohol test for reasonable suspicion may be placed on Administrative Leave with Pay pending test results. If the controlled substance test result is positive or if the alcohol test is above a 0.02, the employee shall remain on Administrative Leave with Pay pending disciplinary action, up to and including dismissal.

Refusal to Test

An employee's refusal to fully submit to the testing process shall be considered a failure of the testing requirement and shall result in disciplinary action, up to and including dismissal.

Inconclusive Test Results

In the event of an inconclusive test result and where a split sample has been reserved, a second test shall be performed at no cost to the employee.

Positive Results

An employee shall be subject to disciplinary action, up to and including dismissal, if the results of an alcohol test are a 0.02 or above or if the controlled substance test(s) are confirmed positive. A positive alcohol test with a result of 0.02 or greater for a safety sensitive employee shall result in the immediate removal of the employee from the safety sensitive position. The employee shall not be allowed to return to duty until 24 hours after the positive test result and upon successfully passing a follow up breath alcohol test. The employee shall be subject to disciplinary action, up to and including dismissal.

Circumstances Requiring Controlled Substance or Alcohol Testing

A. Reasonable Suspicion Testing - All Employees

Reasonable suspicion is more than a vague suspicion. Controlled substance or alcohol testing based on reasonable suspicion may be established by direct observation or credible reports. Observation and credible reports may include, but are not limited to, observed use of controlled substances or alcohol, erratic or abnormal behavior or statements, and physical appearance or symptoms e.g., difficulty in activities requiring coordination, walking, speaking, or the odor of intoxicants. All information, including conversations, shall be documented.

In the CCJS, reasonable suspicion testing for probation, court security and juvenile detention personnel will be conducted in accordance with Arizona Code of Judicial Administration Chapter 6, Probation, Section 6-106, Personnel Practices and Chapter 3, Court Security, Section 5-303, Personnel Practices.

B. Post-Accident Testing – All Employees

Where reasonable suspicion exists to support such testing, an employee shall submit to a controlled substance or alcohol test if the employee is involved in an incident, whether on or off County property, which involves County vehicles, equipment, or POV's being used for County business which results in injury to themselves, other person(s) or damage to property. Testing should be done immediately as set forth below. In the event of alcohol

or controlled substance testing, the driver shall not consume alcohol or ingest controlled substances until the testing process has been completed.

1. If the employee has not submitted to an alcohol test within two (2) hours, the Supervisor shall prepare a report stating the reason a test was not completed and shall forward the report to Human Resources.
2. If the employee has not submitted to an alcohol test within eight (8) hours, all efforts to obtain a sample shall cease. The Supervisor shall prepare a report stating the reason the test was not administered and shall forward the report to Human Resources.
3. If the employee has not submitted to a controlled substance test within thirty-two (32) hours, all efforts to obtain a sample shall cease. The Supervisor shall prepare a report stating the reason the test was not administered and shall forward the report to Human Resources.

C. Random Testing - Safety Sensitive Positions

Human Resources shall coordinate unannounced random testing of employees designated as occupying County safety sensitive positions. An employee's refusal to fully submit to the testing process shall be considered a failure of the testing requirement and shall result in disciplinary action, up to and including dismissal. An employee selected for random testing who is absent from duty on the date designated for the random test will not be informed of the selection. All safety sensitive employees shall remain in the random pool at all times, even if they have been previously selected for testing.

In the CCJS, the Administrative Office of the Court generates monthly random testing selections for safety-sensitive positions. Upon receiving notice of an employee being selected for random testing, the Department Director or designee will notify the employee. All applicable sections of the Arizona Code of Judicial Administration pertaining to random testing of safety-sensitive positions shall be followed.

The chief probation officer or director of juvenile court services may submit a request to the Administrative Office of the Courts for special authorization to include an additional group or class of employees in the statewide pool for random drug testing.

D. Pre-Employment and Re-Employment Testing- Safety Sensitive Positions

Following an offer of employment, a pre-employment test for controlled substances will be required of all potential employees to be employed in safety sensitive positions. Employment is conditioned upon the test results. An employee in a safety sensitive position will be tested upon re-employment if the employee has a break in service of more than 30 days.

In the CCJS, pre-employment drug testing for candidates in the probation department shall be conducted in accordance with Arizona Code of Judicial Administration, Chapter 6, Section 6-106, Personnel Practices. Candidates for court security positions are required to submit to pre-employment drug testing as outlined in Arizona Code of Judicial Administration, Chapter 3, Court Security, Section 5-303, Personnel Practices.

Candidates for juvenile detention will be administered pre-employment drug testing in accordance State of Arizona Juvenile Detention Standards.

E. Officer Shooting or Discharging a Firearm While On Duty

Any CCJS officer who discharges a weapon in the line of duty shall submit to a drug and alcohol test within 24 hours after discharging a weapon.

Responsibility Regarding Actual Knowledge or Reasonable Suspicion of Controlled Substance or Alcohol Use

A Department Head, Supervisor or their designee, having either actual knowledge or reasonable suspicion, including information obtained from a credible source, that an employee has the presence of a controlled substance or alcohol in their system shall not permit the employee to continue their work assignments and has an affirmative duty to immediately report their knowledge or observations to the Deputy County Administrator. The Department Head or Supervisor shall document the specific facts giving rise to the actual knowledge or reasonable suspicion, including conversations.

The following guidance shall apply to the CCJS in regard to supervisor responsibility regarding actual knowledge or reasonable suspicion of controlled substance or alcohol use. All CCJS Department Heads who have actual knowledge or reasonable suspicion shall immediately contact the Judicial Human Resources Director. If unavailable, the Superior Court Administrator shall be contacted. The Director will oversee policy compliance and coordinate with the County Human Resources Department.

Any County or CCJS employee having either actual knowledge or reasonable suspicion, including information obtained from a credible source, that an employee has the presence of a controlled substance or alcohol in their system has an affirmative duty to immediately report their knowledge or observations to their immediate supervisor and/or Department Director. The Department Director or supervisor shall document the specific facts giving rise to the actual knowledge or reasonable suspicion, including conversations.

Procedures for Incidents Occurring On or Off County Property Where Alcohol or Controlled Substances Is Reasonably Suspected

Any incident involving County vehicles, equipment or privately-owned vehicles (POV) being used for County business, whether on or off County property, must be reported. Employees shall notify their Department Head or Supervisor as soon as possible of any and all incidents involving County vehicles, equipment, or POV's used for County business. Upon notification, and the Department Head or Supervisor shall:

1. Ensure that appropriate emergency response agencies (medical, fire, law enforcement etc.) have been contacted, as needed,
2. The employee and supervisor shall cooperate with law enforcement if applicable,
3. Ensure the incident area is safe and does not pose a threat to the safety of others,
4. Contact Human Resources to report the incident,
5. In coordination with Human Resources, explain to the employee if drug or alcohol testing is required and advise the employee of the consequences for failing to comply.
6. Arrange employee transportation to the designated testing facility,

7. Arrange for the employee to be provided transportation home after undergoing the required drug and alcohol testing.

Policy Communication Responsibilities

- A. **County Responsibility:** In order to ensure complete dissemination of this information, the County will make this Policy available by providing a copy to the employee upon hiring and upon request. This Policy will be placed in each permanent work location. This Policy will also be available to employees via a link on the County's intranet site and for applicants on the County's Human Resources website.
- B. **Employee Responsibility:** Each employee is responsible for reading and complying with the policy. Failure to read any part of the policy does not relieve the employee of the responsibility to abide by the provisions of the policy. Each employee shall be required to sign an Employee Acknowledgment Form (EAF). Refusal to sign the EAF shall result in disciplinary action, up to and including termination.

Education and Training Program

Cochise County shall establish a minimum of 120 minutes of training for all Supervisors responsible for overseeing employees on the physical, behavioral and performance indicators of controlled substances and/or alcohol abuse.

Safety Sensitive Positions Subject to Random and Pre-Employment Drug Testing (this list may be updated as job classifications change)

Sheriff	Dispatch Communications Program Coordinator
Chief Deputy Sheriff	Public Health Nurse Practitioner
Deputy Sheriff Commander	Detention Medical Services Manager
Deputy Sheriff Lieutenant	Detention Nurse
Deputy Sheriff Sergeant	Detention LPN
Deputy Sheriff	Correctional Health Technician
Detention Commander	Road Maintenance Foreman
Detention Lieutenant	Equipment Operation I, II, III
Detention Sergeant	Mechanic I, II, III, IV
Detention Corporal	Equipment/Vehicle Maintenance Technician
Detention Officers, including Transport Officers	Truck Driver
Dispatch Communications Specialist	Engineering Technician (Structures only)
Dispatch Communications Specialist, Senior	Any safety-sensitive positions in the CCJS covered under the Arizona Code of Judicial Administration