

**Extracted From Agreement between Clackamas County, Oregon and
Clackamas County Peace Officers Association, Jun 14, 2012 through
June 30, 2014
(refer to Contract for official version)**

DRUG AND ALCOHOL TESTING POLICY

**Clackamas County Sheriff's Office
Peace Officers Association Employees**

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5.31 DRUG AND ALCOHOL TESTING POLICY

Clackamas County Sheriff's Office

5.31.1 POLICY STATEMENT

The Clackamas County Sheriff's Office (CCSO) is strongly committed to providing a safe and drug-free workplace.

The CCSO recognizes each individual's value and contribution to the services we provide to the public. Therefore, this Policy includes assistance to employees who wish to overcome an alcohol or drug dependency problem (see "Employee Assistance Program and Self-Referral").

The Drug and Alcohol Testing Policy is intended to be consistent with and enhance the Clackamas County Employment Policy and Practice #5 - Drug Free Workplace Act and Policy Proclamation.

5.31.2 EDUCATION AND TRAINING

The CCSO will distribute information to employees regarding the Drug and Alcohol Testing Policy; the dangers of drug and alcohol abuse in the workplace; drug and/or alcohol counseling, rehabilitation, and employee assistance resources. Employees will be required to sign a form acknowledging receipt of this information.

At the time of hire, new employees will receive specific information regarding the Drug and Alcohol Testing Policy and be informed of their responsibilities with respect to compliance with this policy.

Persons who may be required to make "reasonable suspicion" recommendations or determinations will receive training on recognition of the physical, behavioral, speech and performance indicators of probable alcohol and controlled substances use. The duration of the training will be at least sixty minutes each for 1) alcohol and 2) controlled substances use recognition, with additional follow up training to be provided, to maintain and increase proficiency.

5.31.3 EMPLOYEE ASSISTANCE PROGRAM AND SELF-REFERRAL

Any employee may voluntarily request assistance in dealing with a personal drug and/or alcohol problem through the Employee Assistance Program (EAP) or other acceptable treatment program. Utilization of the EAP is confidential and an employee's utilization of the EAP will not be made known to the Sheriff's Office or the County unless the employee voluntarily chooses to share that information. However, voluntary self-referral for alcohol and/or illegal drug use is not in itself a "safe haven." The guidelines listed below will apply to self referrals.

A. Any employee not currently under personnel investigation who voluntarily requests assistance in dealing with a personal alcohol and/or drug problem, may do so without jeopardizing his or her employment, if the alcohol and/or drug of abuse was originally prescribed to, or legally obtained by the employee, but was later abused by the employee.

B. Participation in the EAP or other acceptable treatment program will not, in itself, jeopardize an employee's job, and successful treatment will be viewed positively. However, participation in the EAP or treatment program will not prevent the CCSO from imposing discipline for conduct that occurs in conjunction with alcohol and/or drug use in violation of Sheriff's Office policy, and will not relieve an employee from the responsibility to perform assigned duties safely and at a satisfactory performance level.

5.31.4 DRUG EVALUATION; LEAVE OF ABSENCE

An employee may be required to undergo an evaluation by a Substance Abuse Professional (SAP) approved by the Sheriff's Office if he or she is involved in an alcohol and/or drug related incident. This evaluation will determine the extent of any alcohol and/or drug problem and the appropriate treatment. The employee will then be required to participate in, and successfully complete, an alcohol and/or drug education and treatment program as recommended by the SAP. Any cost of such an evaluation not covered by the employee's medical insurance shall be paid by the Sheriff's Office. The cost of the substance abuse treatment will be the responsibility of the employee if not covered by the employee's insurance. Substance abuse evaluation and treatment will be in addition to any disciplinary action taken.

Absences due to alcohol and/or drug abuse evaluation or treatment may be covered by an employee's sick leave or vacation leave. If no such paid leave is available, an unpaid leave of absence may be used according to the County's regular policy for unpaid leave of absence.

Return to duty, after an employee has been on leave required by this policy for evaluation or treatment of an alcohol and/or drug problem, will be allowed only in compliance with the recommendations of the SAP.

5.31.5 PRESCRIPTION MEDICATIONS

Prescription medications can present a danger to employees and their co-workers due to their effects on alertness and job performance. Employees should ask their physicians for specific instructions as to how much medication they should take and when they should take it to ensure safe use relative to work. Non-compliance with the recommended dosage of medications which results in an incident or accident will be considered a violation of this Policy.

Employees must report the use of medically prescribed drugs or other substances which could reasonably be expected to impair job performance. It is the employee's responsibility to determine from their physician whether the prescribed drug could reasonably be expected to impair his or her job performance, including the ability to operate a motor vehicle. An employee who is taking such medications should write, date, and sign a brief note stating that he/she has discussed use of the medication with his/her doctor in relation to job duties; the type of medication; beginning and ending dates of treatment. The employee should give the note in a sealed envelope to his/her direct supervisor for confidential delivery to the Designated Employer Representative

(DER). The DER working in conjunction with Sheriff's Office management will then determine whether to require written medical authorization to work from a prescribing health care practitioner or if any other actions are necessary.

Management will restrict access to medical information to the DER, the Sheriff, Undersheriff or person appointed to fulfill the duties of the Sheriff or Undersheriff and will protect the confidentiality and security of the information.

All medicines brought onto County property/premises must be in their original containers with the pharmacy label showing the patient's name and dosage instructions. Use of another person's prescription is a violation of federal law and of this policy.

Failure to notify management of the use of medication that could affect the performance on the job can lead to disciplinary action, up to and including discharge.

“Medical Marijuana”

Marijuana is a Class I controlled substance; its possession and use is illegal under federal law. Although the State of Oregon permits the possession and use of marijuana to treat medical conditions when supported in writing by a licensed medical doctor and certain conditions have been met, this is not an acceptable explanation for a positive drug test under this Policy. The Sheriff's Office is a law enforcement agency and will observe the terms of federal law, which preempt state law in this regard. The Medical Review Officer will automatically verify positive tests as being positive without regard to the existence of a medical marijuana card.

In addition, possession of marijuana on county property is grounds for discipline up to and including dismissal.

5.31.6 PROHIBITIONS

A. Drugs: The Sheriff's Office strictly prohibits the unauthorized possession, use, delivery, distribution, or manufacture by an employee of a controlled substance that is not medically authorized.

B. Alcohol: The Sheriff's Office strictly prohibits the unauthorized possession or use of alcoholic beverages on or off county premises during normal working hours or while on duty, which includes lunch breaks.

C. Refusal To Be Tested When Required: Refusal by an employee to submit a urine specimen and/or breath alcohol sample when required by this Policy will have the same consequences as a positive drug and/or alcohol test result (see “Discipline” section). It will warrant immediate removal of the employee from duty.

5.31.7 CALLBACK DUTY

It is recognized that employees may be recalled to duty during normal off duty hours. Callback of employees who have consumed prescription medication and/or alcohol that affects an employee's ability to perform his/her duties is discouraged. However, when

operational need dictates the necessity to recall these employees, caution and good judgment must be exercised. The employee is required to notify his or her supervisor of the prescription drug and/or alcohol consumption and to receive the supervisor's approval before responding to the callback.

5.31.8 TYPES OF DRUG AND ALCOHOL TESTING REQUIRED

The following are occasions for drug and alcohol testing under this policy:

Reasonable Suspicion Testing

An employee may be required to submit to a drug and/or alcohol test upon reasonable suspicion that the employee has violated the prohibitions of this policy concerning alcohol and/or controlled substances. The determination that reasonable suspicion exists to require the employee to undergo an alcohol and/or controlled substances test must be based on specific, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.

The "reasonable suspicion" behavior should be witnessed by at least two persons if at all feasible, but only one observation is required. A drug and/or alcohol test can be required only by a Lieutenant who has first consulted with a Captain or higher ranking officer, a Lieutenant who has been designated to act temporarily as a Captain, or a Captain or higher ranking officer. The officer ordering the drug and/or alcohol test may rely on the observation and recommendation of Sergeants, bargaining unit or non-bargaining unit personnel. Those who make a decision to test an employee will be trained in identifying appearance or conduct that indicates the possible use of controlled substances or misuse of alcohol.

Any "reasonable suspicion" incident will be documented as soon after the incident as possible and the CCPOA will be provided with a copy of that documentation. The employee involved will be immediately removed from the workplace and escorted by a supervisor to a urine specimen collection or alcohol testing site. The employee will NOT be allowed to proceed to the site unaccompanied. A negative dilute result is unsatisfactory on a reasonable suspicion test for drugs. The employee will be given one additional opportunity to provide a valid specimen. The result of the second test will prevail.

Employees will have access to union representation if requested at every step of the "reasonable suspicion" testing procedures, except during specimen collection. The County will inform the union representative of the reasonable suspicion that supports the testing requirement. A union representative shall be notified immediately upon the request of the employee and the representative shall be afforded two (2) hours to respond. This representation shall not delay established collection and testing procedures. A list of qualified union representatives will be provided to the County.

Return to Duty and Follow-up Testing

The CCSO shall require return to duty and follow-up testing if recommended by the SAP when an employee has engaged in prohibited alcohol-related behavior or the misuse of prescription drugs. A negative alcohol or drug test is required prior to return to duty and at least six (6) unannounced follow-up tests are required during the twelve (12) months following return to duty. Any recommendations by the Substance Abuse Professional (SAP) shall be followed, but follow-up testing may continue for no longer than sixty months following return to duty.

Please refer to "Return to Duty Procedures" and "Disciplinary Action and Procedures" for additional information.

5.31.9 COSTS OF TESTING

The County/CCSO will be responsible for payment of all reasonable suspicion tests. The County/CCSO will be responsible for payment of any requested split tests, return to duty tests, and follow-up tests with a negative test result, or canceled test.

The employee will be responsible for payment of any requested split tests, return to duty tests, and follow-up tests with a positive result. The County/CCSO will initially pay for the test and then collect reimbursement from the employee.

5.31.10 DRUG AND ALCOHOL TESTING PROCEDURES

Testing procedures for all employees are governed by the same standards as apply to commercial driver license holders under federal law with the exception of forms required by the United States Department of Transportation (DOT) for CDL drivers. These standards include, but are not limited to, those governing sample acquisition, the chain of custody, laboratory selection, testing methods and procedures, and verification of test results.

Drug Testing:

A. Urine specimen collection for drug testing will be performed by qualified individuals in conformance with current standards of practice and with respect for the privacy and dignity of the person giving the specimen. Drug test specimens will be collected to provide at least 30 mL of urine in a "primary specimen" shipping bottle and at least 15 mL of urine in a "split specimen" shipping bottle.

B. If an employee is unable to provide an adequate volume of urine on the first attempt ("shy bladder"), he/she will have an opportunity to drink up to 40 ounces of fluids for up to three hours. At the end of this period, if no sample of adequate volume has been provided, the employee will be referred to a physician acceptable to the Medical Review Officer (MRO) to determine whether the incident constituted a refusal to test as outlined in 49 CFR 40.193.

C. Only laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services will perform drug testing.

D. When an initial screening test for drugs is positive, a second, confirmatory test will automatically be performed. Confirmed positive drug tests will be reported by the testing laboratory to the MRO for verification (see "Drug Test Results Review").

Breath Alcohol Testing:

- A. Breath alcohol testing will be performed only by qualified Breath Alcohol Technicians. Testing will be conducted using evidential breath alcohol testing devices listed on the Conforming Products List of the National Highway Traffic Safety Administration.
- B. A positive test will be confirmed as follows:
 - 1. The individual being tested is instructed not to smoke, use mouthwash, drink, or eat for a period of 15 minutes.
 - 2. Within 30 minutes of completion of the initial screening test, a confirmatory breath test is conducted as described in 49 CFR Part 40. The result is recorded in the "Confirmation Test Results" section of the Alcohol Test Form.
- C. If the result of the confirmed breath alcohol test is positive, the Breath Alcohol Technician must immediately notify the Designated Employer Representative or his/her designated representative, who will arrange for transportation of the individual from the alcohol testing site. The Breath Alcohol Technician will then forward a copy of the Alcohol Test Form to the Designated Employer Representative.
- D. Under this policy, an employee with a confirmed positive breath alcohol test shall be considered to be in violation of this policy. A positive test for alcohol shall be: having alcohol present in an employee's systems at a level of 0.01 g/210L or greater while on duty.

5.31.11 DRUG TEST RESULTS REVIEW

Drug test results on an employee which are reported as positive, adulterated, or substituted by the testing laboratory will be reviewed and verified by the MRO. A confirmed positive test does not automatically identify an employee as having used drugs in violation of this Policy. The MRO brings detailed knowledge of possible alternate medical explanations to his/her review of the test results. This review is performed by the MRO prior to the transmission of results to the DER.

A POSITIVE drug test result is defined as the detection of any one or more of the substances and/or metabolites of the substance listed in the table shown below.

Urine 8 Drug Panel

Substance or Class	Screen Cut-off	Confirmation Cut-off
Amphetamines	500 ng/mL	250 ng/mL

Benzodiazepines	200 ng/mL	200 ng/mL
Cocaine	150 ng/mL	100 ng/mL
Marijuana (THC)	50 ng/mL	15 ng/mL
Methadone	300 ng/mL	200 ng/mL
Opiates <i>Codeine/Morphine</i> <i>Hydrocodone,</i> <i>Hydromorphone,</i> <i>Oxymorphone</i> <i>Fentanyl</i>	300 ng/mL	2000 ng/mL 150 ng/mL **LOQ 2 ng.mL
6 Acetylmorphine (Heroin)	10 ng/mL	10 ng/mL
PCP	25 ng/mL	25 ng/mL

** Limit of Quantitation

Medical Review Officer Reporting Options and Employer Actions

- “Negative” – self explanatory
- “Negative Dilute” – Upon receipt of a “negative dilute,” the employee shall be required to immediately provide another specimen. The collection shall be conducted with the minimum possible advance notice and the employee shall be escorted to the collection facility by the DER, Supervisor, or other designated person. In the event the second test result is “negative dilute,” no further action will be taken and the second test shall become the test of record. If the employee is directed to take a second test and the employee declines to do so, this is a “Refusal to Test”.
- “Canceled – Split specimen test could not be performed.” This will occur when the primary specimen was positive, and the donor requests an independent test, and the split specimen is not available for testing. The employer must ensure an immediate collection of another specimen, under direct observation, with no advance notice to the donor.
- “Canceled – Test Not Performed, Fatal Flaw (with flaw stated) or Uncorrected Flaw.” No further action required unless a “Negative” test result is required for reasonable suspicion, return to duty or follow up. A canceled drug test is neither positive nor negative and no consequences must be attached to it.
- “Cancelled Invalid Result.” An “invalid result” means the laboratory was unable to obtain a valid result when attempting to test the specimen. If the MRO has accepted the donor’s explanation as to why the laboratory was unable to obtain a valid result, then the MRO will advise the employer “direct observation not required.” The employer is not required to take any further action unless a “negative result is required (i.e., reasonable suspicion, return to duty or follow up). If the MRO has not accepted the donor’s explanation, then the MRO will advise the employer “a second collection must take place immediately under direct observation”.
- “Positive or Positive Dilute” – The employer must comply with the requirements for a positive test as outlined in this policy.
 - Immediately remove employee from duty; and

- Referral to a SAP – If the employee is terminated, he/she is to be furnished with a list of SAP resources (names, addresses, and telephone numbers).
- Return to Duty provisions must be followed.
- “Adulterated-Refusal to Test” – Follow same procedures as required on a positive test result.
- “Substituted-Refusal to Test” – Follow same procedures as required on a positive test result.

MRO Verification Without Notifying the Employee

The MRO is permitted to verify a test as positive, or as a refusal to test because of a laboratory report of a positive, adulterated, or substituted specimen without interviewing the employee under the following circumstances:

- The employee expressly declines the opportunity to discuss the test with the MRO;
- The MRO has successfully made and documented a contact with the employee, and instructed the employee to directly contact him/her, and more than 72 hours have passed since the time the MRO contacted the employee.

NOTE: If a test is verified positive under the latter circumstances, the donor may give the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented him/her from contacting the MRO. On the basis of this information, the MRO may re-open the verification, allowing the donor to present information concerning a legitimate explanation for the positive test. If the MRO concludes that there is a legitimate explanation, the MRO shall verify the test as negative.

Upon verifying a test result as positive, the MRO will inform the donor of the option for having the “split” portion of his/her specimen tested. The donor must notify the MRO of a desire to exercise this option within 72 hours of being notified of the positive result.

The MRO will not delay reporting of a verified positive test result pending “split” specimen testing. If a donor requests testing of the “split” specimen but none is available, the MRO will cancel the entire test.

Communication of Results

The MRO or his/her designated representative will report test results **ONLY** to the County’s DER who shall notify either the Sheriff, Undersheriff or person appointed to fulfill the duties of Sheriff or Undersheriff . Confidentiality will be strictly maintained. If the result is positive, the MRO or his/her authorized representative will report the identity of the controlled substance.

Employees may obtain copies of their test results by requesting them in writing from the MRO within 60 days of being notified of the results.

5.31.12 FAILURE TO COOPERATE

Failure to cooperate with any aspect of this Policy, including but not limited to falsifying or attempting to falsify test results or specimens or refusing to cooperate in testing will subject the employee to discipline, up to and including discharge.

5.31.13 DISCIPLINARY ACTION

A. Any employee found to be in violation of this Drug and Alcohol Testing Policy will be removed from duty and is subject to discipline, up to and including discharge.

B. Employees who have voluntarily requested assistance concerning drug and/or alcohol problems and/or voluntarily entered into drug or alcohol evaluation and treatment programs shall have their actions taken into consideration as set forth in section 5.30.3.

C. Positive Alcohol or Drug Test. Any employee who has had a verified positive breath alcohol or drug test shall be subject to progressive disciplinary procedures, including dismissal.

D. Prescription Drug Abuse. An employee who has tested positive for the presence of drugs which were originally legally prescribed, but may have been abused by the employee shall be referred to an employee assistance program or SAP for drug counseling or treatment. As an alternative to dismissal, the employee shall be subjected to a last chance agreement as a condition of continued employment, which shall include a requirement that the employee submit to unannounced drug testing if recommended by a SAP, for a period of time recommended by the SAP. If the employee violates the terms of treatment or rehabilitation, or again tests positive during such period, he or she may be immediately discharged.

CONFIRMED ALCOHOL OR PRESCRIPTION DRUG RESULT

Any employee who has had a confirmed positive alcohol test result while on duty or has abused prescription drugs shall be in violation of this policy, which may result in any of the following actions, up to and including dismissal:

- Verbal and written reprimands
- Placement on administrative leave
- Suspension or termination of employment
- Initiation of a criminal investigation

If the level of discipline allows an employee to return to duty, they must agree to the following conditions:

- Meet all recommendations/requirements of the Substance Abuse Professional (SAP).

- In the event the SAP does not specify any follow up testing, shall undergo up to six (6) periodic, alcohol tests at the discretion of the Designated Employer Representative within one (1) year of returning to duty.
- Any confirmed positive alcohol or verified positive prescription drug abuse result while the employee is undergoing required return to duty or follow-up treatment and/or testing shall result in termination.

POSITIVE DRUG TEST

Any employee who has had a verified positive drug test or has abused prescription drugs shall be in violation of this policy, which may result in any of the following actions:

- Verbal and written reprimands
- Placement on administrative leave
- Suspension or termination of employment
- Initiation of a criminal investigation
- Prosecution

If the level of discipline allows an employee to return to duty, they must agree to the following conditions:

- Meet all recommendations/requirements of the Substance Abuse Professional (SAP).
- In the event the SAP does not specify any follow up testing, shall undergo up to six (6) periodic, drug tests at the discretion of the Designated Employer Representative within one (1) year of returning to duty.
- Any confirmed positive alcohol or verified positive drug result while the employee is undergoing required return to duty or follow-up treatment and/or testing may result in termination.

5.31.14 RETURN TO DUTY PROCEDURES

Employees who have violated this policy may only return to duty if the level of discipline allows it and the employer has determined them eligible. The following statements reflect the return to duty and follow-up testing requirements of this policy:

1. Employees who have had a confirmed positive alcohol test or have abused prescription drugs must be evaluated, undergo treatment, if required, and be determined fit for return to work by the Substance Abuse Professional.
2. Employees may be subject to periodic unannounced follow-up testing as determined by the Substance Abuse Professional who evaluated the employee. If the employee was found to need assistance in resolving his/her substance misuse problem, a minimum of six (6) such follow-up tests must be conducted during the twelve (12) months following the employee's return to duty.

5.31.15 RECORD KEEPING PROCEDURES

- A. The County's DER will maintain alcohol/drug testing records in a secure filing system, separate from the County Personnel files, with information available only on a "need to know" basis.

B. An employee is entitled, upon written request, to obtain copies of any records concerning his/her use of alcohol or controlled substances. Requests for such information may be directed to the DER, SAP, or to the County drug testing management service.

C. Information regarding an individual's alcohol/drug test results or rehabilitation is considered to be personal and confidential and may be released only upon written consent of the individual, except:

1. Such information may not be released to any state official with specific regulatory authority over the Sheriff's Office or law enforcement personnel unless legally required.
2. Such information may be disclosed in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee and arising from an alcohol test and/ or a drug test.
3. When the County is compelled by a judicial determination or order that the information is not protected from disclosure.
4. The information is needed by medical personnel for the diagnosis or treatment of a patient who is physically unable to authorize disclosure.

D. The County shall release information regarding an employee's records to a subsequent employer upon receipt of a specific written request from the employee authorizing release of the records to an identified person.

E. Record Retention

The following schedule of record keeping will be maintained by the DER and his/her authorized agents:

Negative and canceled drug test records; records of alcohol test results less than 0.01 g/210L.	1 year
Records of supervisor training	Indefinite or 2 years beyond job responsibilities
Records of verified positive alcohol/drug test results; refusals to be tested for drugs and/or alcohol; SAP evaluations and referrals; follow-up tests and schedules	5 years

5.31.16 INFORMATIONAL RESOURCES

Information on this Policy and associated procedures is available by contacting the DER as outlined on the Intranet at:

http://web1.clackamas.us/mydepartment/3004.jsp?q_dept=DES&q_pagename=drugtesting.htm

Questions may also be addressed directly to the County's drug testing management service.

5.31.17 COMMERCIAL DRIVERS LICENSE DUTIES

Employees performing jobs requiring a commercial drivers license will be required to comply with the Federal Motor Carrier Safety Administration (FMCSA) drug and alcohol testing regulations, (see separate policy for DOT drivers).

ATTACHMENT A

DEFINITION OF TERMS

For the purposes of this Policy, the following definitions apply.

Abuse/Misuse of Prescription Drugs: The use of a drug not in accordance with the prescribed dosage or method of use.

Adulterated Specimen: A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

Alcohol: Ethyl alcohol or ethanol.

Alcohol Screening Device (ASD): A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.

Breath Alcohol Technician (BAT): An individual who has been trained to proficiency in the operation of the evidential breath testing device he/she is using as required under 49 CFR Part 40.

Breath Alcohol Testing Site: A location which affords visual and aural privacy for the performance of breath alcohol testing. No unauthorized person shall be permitted access to the breath alcohol testing site when the evidential breath testing device is unsecured or at any time when testing is being conducted. In unusual circumstances, e.g. after an accident when a test must be conducted outdoors, the breath alcohol technician must provide visual and aural privacy to the greatest extent practicable.

CCSO: Clackamas County Sheriff's Office

CFR: United States Code of Federal Regulations

Chain of Custody: Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health and Human Services (DHHS), Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory be used from time of collection to receipt by the laboratory.

Collection Site: A designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

Collector: A person who instructs and assists applicants and employees through the urine specimen collection process.

Confirmation Test: A second analytical drug testing procedure to identify the presence of 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 ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC-MS) is the usual confirmation method for drug testing at this time.

Controlled Substances: Substances listed on Schedules I through V in 21 U.S.C. 802 as they may be revised from time to time (21 CFR 1308). Controlled substances include illicit drugs and drugs which may be authorized for use by a physician or dentist for certain medical uses, but which are subject to misuse or abuse.

County: Clackamas County and/or Clackamas County Sheriff's Office

Designated Employer Representative (DER): An employee authorized by the employer to assist supervisors in taking immediate action(s) to remove employees from safety-sensitive duties and to make decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this policy.

Dilute Specimen: – A specimen with creatinine and specific gravity values that are lower than expected for human urine.

DOT: United States Department of Transportation

Drugs: Controlled Substances.

FHWA: Federal Highway Administration

FMCSA: Federal Motor Carrier Safety Administration

Initial or Screening Test: An immunoassay screen to eliminate “negative” urine specimens from further consideration.

Medical Review Officer (MRO): A licensed doctor of medicine or osteopathy with knowledge of drug abuse disorders and drug testing who is responsible for reviewing and verifying drug testing results prior to their communication to the DER.

Negative Drug Test: A test in which initial or confirmation testing under DOT procedures did not show evidence of a prohibited drug in an employee's or applicant's system above established levels; OR, a test which is verified as negative by the MRO (e.g. review showed positive test was due to prescription medication or other authorized use of controlled substance).

On Duty: Under this policy, an employee is “on duty” when he/she is at work and ready to perform employment functions.

Positive Drug Test: A urine drug test result which indicates the presence of controlled substances beyond the cut-off levels specified by this policy.

Confirmed Positive Drug Test: A positive drug test which has undergone an initial “screening” test AND a confirmation test which validates the first result. Drug tests are confirmed by the SAMHSA certified laboratory which performs the analyses.

Verified Positive Drug Test: A confirmed positive drug test (see above) after investigation by the MRO, who has determined that no legitimate explanation exists for the presence of the controlled substance that was detected.

Prohibited Drugs: Marijuana, Cocaine, Opiates, Phencyclidine (PCP), Amphetamines, Benzodiazepines, Methadone, 6 Acetylmorphine (Heroin). (see Urine 8 Drug Panel)

Reasonable Suspicion: Specific, articulable observations of an employee's condition or performance that indicate possible drug or alcohol use. Examples include, but are not limited to, deteriorating work performance, poor attendance, tardiness, appearance (including, for example, noticeable odor of an alcoholic beverage), behavior, or speech of the employee. Poor attendance or tardiness alone or in combination do not constitute reasonable suspicion. The observations may include indications of the chronic and withdrawal effects of controlled substances, as well as include reliable information from other employees that supports the violation of policy prohibitions.

Refusal to Submit: Refusal by an individual to provide a urine specimen after receiving notice of the requirement to be tested in accordance with this Policy.

Safety Sensitive Positions: All sworn law enforcement positions, all positions regularly stationed at the Jail, and medical examiners.

SAMHSA: Substance Abuse and Mental Health Services Administration, a division of the US Department of Health and Human Services (DHHS) which is responsible for certifying laboratories to perform federal workplace drug testing.

Screening or Initial Test: Immunoassay screen to eliminate “negative” urine specimens from further consideration.

Split Specimen Collection Procedure: A collection procedure in which a urine specimen is divided or “split” between two shipping bottles, both of which are transported to the testing laboratory.

Split Test: If the results of the initial screening and confirmation tests of the “primary” specimen are positive, the “split” specimen may be tested at another qualified laboratory.

Substance Abuse Professional (SAP): Under DOT regulations, individuals who may serve as substance abuse professionals include:

- licensed physicians (Medical Doctors or Doctors of Osteopathy) or
- licensed or certified psychologists, social workers, employee assistance professionals, or addiction counselors (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with

knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

Under this Policy, the DER must inform employees who are found to have violated the alcohol prohibitions or who have had verified positive drug tests of qualified SAPs in the local area.

Substituted Specimen: A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

ATTACHMENT B

The Clackamas County Risk Management Department will manage the drug and alcohol testing program for the Sheriff's Office with the following provisions:

DRUG AND ALCOHOL TESTING MANAGEMENT SERVICE

The County will maintain an agreement with a drug and alcohol testing management service to advise the County on processes, developments, and changes concerning this policy.

The firm chosen will be responsible for overseeing compliance of agents of the County with applicable federal regulations, including interacting with specimen collection and alcohol testing agents, designated drug testing laboratories and (MROs). It also submits blind specimens on behalf of the County, and maintains records as required by applicable federal regulations.

In the event of a need to change the provider of these services, the choice of provider will be made by the DER and communicated with the Peace Officers Association.

MEDICAL REVIEW OFFICERS

MRO services will be provided by the testing management service.

DRUG TESTING LABORATORIES

The County will use drug testing laboratories which are SAMHSA-certified, as required by federal drug testing regulations. The County drug testing management service may arrange for the services of a drug testing laboratory in order to best serve the interests of the County.

SUBSTANCE ABUSE PROFESSIONALS

Under this Policy, employees who refuse testing, have confirmed positive alcohol test results, and/or have verified positive drug test results must be referred by the DER to a SAP for evaluation. The County will maintain a list of such qualified individuals in its geographic area and make this list available to employees as needed.

ATTACHMENT C

LAST CHANCE AGREEMENT -- EXAMPLE

[This attachment is an example of a last chance agreement form that may be used. The form may vary to fit the facts and circumstances of a particular situation.]

This is an agreement between [*employee's name*] (the Employee); the Clackamas County Sheriffs Office and Clackamas County (the Sheriff), and the Clackamas County Peace Officer's Association (the Association).

1. This agreement serves as notice to the Employee as to what to expect for continued employment with the Sheriff. This agreement does not guarantee employment for any specific period
2. The Employee agrees to continue in a bona fide drug and/or alcohol outpatient rehabilitation program recommended and approved by a qualified substance abuse counselor (the Counselor). The Employee fully understands that s/he is to remain in such a program, including any required aftercare, until released in writing by the Counselor. For [*period of time*] from the date of this agreement, the Sheriff shall have the right to conduct random breath alcohol or urinalysis testing of [*employee's name*] on work time at the expense of the Sheriff. Should the employee refuse to cooperate with said breath alcohol or urinalysis, or test positive for alcohol/drugs or abuse prescription medication while on the job, s/he shall resign from his/her employment without challenging the termination under the Association contract.
3. The Employee agrees to grant permission to the Counselor to release verification to the County that the Employee is meeting and has completed the requirements of the program and any required aftercare. If the Employee discontinues or is released from the program without the consent of the Counselor, s/he will be terminated from his/her employment with the County. This termination will be considered a termination for performance reasons.
4. The Employee agrees that this last chance agreement constitutes a final warning and that any violation or non-compliance with its terms within [x] years, shall be considered just cause for discharge and shall result in loss of employment.
5. Except as stated in this agreement, the terms and conditions of the Employee's work shall be the same as all other employees in the Association bargaining unit.
6. The Association and the employee agree that this resolution is in lieu of termination [and in addition to *specified discipline*] of [*employee's name*] and that the agreement resolves all disputes related to proposed discipline. The Employee and the Association agree not to challenge this agreement as proper under just cause or any other provision of the collective bargaining agreement or any other legal challenges in any forum.
7. This is the complete agreement between the parties who sign in knowingly and of their own free will, after seeking advice of counsel.
8. The contents of this agreement related to the employee's involvement in alcohol/drug treatment and testing and placement on a "last chance agreement" shall be maintained in confidence and strictly on a "need to know" basis by the

parties. Such information may not be released to any state official with specific regulatory authority over the Sheriff's Office or law enforcement personnel, unless legally required.

This agreement is not a precedent between the Sheriff and the Association and shall not be used as evidence of waiver of rights by the Association or the Sheriff in any dispute between the parties.

[Employee's name]

Date

Clackamas County Peace Officers Association

Date

Clackamas County

Date