


Fort Collins Police Services

Policy Manual

 FORT COLLINS POLICE	POLICY	1012
	TITLE	Alcohol and Drug Use

1012.1 PURPOSE AND SCOPE

The intent of this policy is to deter the misuse or abuse of substances that create a threat to the safety and health of any employee or member of the public. The Agency discourages alcohol and drug abuse and strives to achieve a workforce free from the influence of drugs and alcohol.

While this policy describes specific guidelines and procedures which are included here as a ready reference for employees regarding drug and alcohol use, all employees are to be familiar with and are bound by City Personnel Policy 8.11 – Controlled Substances and Alcohol. Where the two policies are inconsistent, this policy shall control.

1012.2 GENERAL GUIDELINES

- (a) Alcohol and drug use in the workplace or while on-duty can endanger the health and safety of employees and the public. Except as set forth in this policy, such use shall not be tolerated.
- (b) The consumption of alcohol by on-duty personnel is prohibited except as authorized in the performance of an official special assignment. Personnel who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance and shall only consume alcohol with the prior authorization of a division assistant chief.
- (c) Any substance that when ingested by a person causes impairment, however slight, is an intoxicant including, but not limited to, alcohol, illicit drugs, and controlled substances.
- (d) Impairment to any degree, however slight, by intoxicants or the odor of alcoholic beverages on the body or breath while on duty or in uniform is prohibited except as provided in this policy.
- (e) The affected employee shall notify their shift supervisor as soon as the employee is aware that he or she will not be able to report to work. If the employee is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner.

1012.2.1 USE OR POSSESSION OF DRUGS OR ALCOHOL ON-DUTY

To promote a safe and efficient work environment, the Agency prohibits using, consuming, possessing, having in the body, or distributing alcohol and controlled substances (except prescribed medications) by Agency employees and while working for the City at any location, or while operating City vehicles at any time (City Personnel Policy 8.11.A).

1012.2.2 USE OF MEDICATIONS

The City recognizes that employees will sometimes need to take over-the-counter drugs and medications as prescribed by their physicians. It is not a violation of this policy for employees to

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possess and use medication. However, if the use of such medication appears to affect the employee's ability to perform his or her job safely or effectively, then the City may, in its discretion, require the employee to take appropriate action, which may include but is not limited to doing one or more of the following (City Personnel Policy 8.11.1):

- (a) Obtain further information from his or her physician. For example, information about how long the medication must be taken and verification that the employee can perform his or her job without jeopardizing the health or safety of him or herself and others while taking the medication;
- (b) Be examined by a physician or other health care provider designated by the City in order to determine the employee's ability to perform job functions;
- (c) Take a leave of absence while taking the medication, and the employee may use available sick leave or injury leave (whichever applies), vacation time, and compensatory time off in accordance with City leave policies;
- (d) Accept an assignment to modified duty in accordance with Policy 1054 – Modified Duty.
- (e) Because the possession and use of marijuana, whether for medical use or otherwise, constitutes a federal offense and because the use of marijuana is not compatible with the performing of any job with the City, the City will not accommodate the medical use of marijuana for any reason. For purposes of this policy, the use of medical marijuana as recognized by state law is not considered a prescribed or otherwise permitted medication.

1012.2.3 OFF-DUTY

Off-duty employees of the Agency shall refrain from consuming alcoholic beverages to the extent that it results in behavior which discredits them as an employee of the Agency or brings discredit to the Agency or renders the employee unfit for his/her regular tour of duty.

When notified of an immediate call to duty or placement on standby status as described in Policy 391 – Personnel Recall, an employee who has consumed an amount of an alcoholic beverage or taken any drug that would tend to adversely affect the employee's senses, or judgement or consumed an alcoholic beverage within five hours shall notify his/her supervisor. The call to duty or placement on standby status may be delayed if the supervisor determines that such is necessary to ensure that the employee is not impaired and does not have a significant amount of alcohol in the body at the time of reporting for duty.

Employees will not consume alcohol while on-call, when notified of an immediate call to duty, or when an employee is placed on standby status.

1012.3 EMPLOYEE ASSISTANCE PROGRAM

A voluntary Employee Assistance Program is available to assist employees who wish to seek help for alcohol and drug problems. Employees who experience drug or alcohol problems are encouraged to seek referral for rehabilitation through the Employee Assistance Program or their insurance provider. There may also be available a variety of insurance coverages which provide treatment for drug and alcohol abuse. Employees may contact the Human Resources Department, their insurance provider, or the Employee Assistance Program for additional information.

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It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

Employees may use leave for confidential visits consistent with Policy 1014 – Sick Leave.

1012.4 SUPERVISOR RESPONSIBILITIES

If an employee informs a supervisor that he/she has consumed any alcohol, drug, or medication that could interfere with the safe and efficient performance of his/her duties, the employee may be required to obtain clearance from his/her physician before he/she continues to work.

If a supervisor reasonably believes, based on objective facts, that an employee's ability to perform his/her duties safely and efficiently may be impaired by the consumption of intoxicants, the supervisor shall ask the employee whether he/she has consumed any alcohol or other drugs and if so, the amount and type of alcohol or other drug consumed, the time of consumption, and the name of the person who prescribed the controlled substance.

1012.4.1 ASSESSMENT OF PROBABLE CAUSE FOR CRIMINAL INVESTIGATION

The involved supervisor is expected to consider the facts of the situation and assess whether or not probable cause exists to believe the employee has committed a violation of law. If that assessment is that probable cause exists, then the supervisor shall ensure that standard criminal processes are followed prior to proceeding with the administrative investigation with reasonable suspicion testing.

1012.5 REASONABLE SUSPICION

- (a) Employees covered by this policy will be required to submit to tests for controlled substances and/or alcohol when one or more trained supervisors or any City official has reasonable suspicion based on specific, contemporaneous, articulable observations that the actions, appearance, behavior, speech or body odors of the employee on duty shows symptoms or the use or presence in the employee's body of a controlled substance or alcohol.
- (b) When a supervisor reasonably suspects that an employee may have alcohol and/or a controlled substance in his or her system during working time, the supervisor should immediately and as confidentially as possible remove the employee from any potential dangerous situation (such as prohibit the employee from driving or operating machinery). The supervisor should then immediately consult with the next level of supervision in order to reach a conclusion as to whether or not sufficient identifiable facts exist which would lead a reasonable person to suspect that the employee had alcohol and/or a controlled substance in his or her system during working hours. If, from the facts known to the supervisors at the time, the conclusion is reached that the employee is suspected of having alcohol and/or a controlled substance in his or her system during working hours, the supervisor shall make arrangements for the immediate testing of the employee pursuant to procedures set forth below. If reasonably possible, the supervisor shall consult with HR prior to requiring an employee submit to an alcohol or controlled substance test and, in any event, shall notify HR as soon as reasonably possible after a test is imposed (City Personnel Policy 8.11.4).

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- (c) The smell of alcohol on the employee's body or breath by itself will constitute reasonable suspicion requiring an alcohol test, unless the supervisor determines after consultation with the next level of supervision that there are convincing facts to the contrary (such as a call to duty situation where the supervisor has determined that at the time of reporting for duty the employee is not impaired by alcohol, and the time between the ingestion of the alcohol and the report for duty is sufficient so that the amount of alcohol in the employee's body should be insignificant, assuming a dissipation rate of .015 per hour; or the employee has had alcohol spilled on his/her clothes.) Such tests shall be part of an administrative investigation conducted in accordance with the procedures outlined for administrative investigations in Policy 1020 – Administrative Investigations.
- (d) When an employee has been arrested pursuant to CRS § 42-4-1301 (Driving Under the Influence) and was at the time of arrest driving a City vehicle or was driving to or from work in their personal vehicle, the City may require screening tests subsequent to those statutorily required.
- (e) The result of the required reasonable suspicion test is considered inadmissible in any criminal proceeding against the employee. The employee may refuse the test, but that refusal may result in discipline up to and including termination of employment.

1012.5.1 REASONABLE SUSPICION TESTING PROCEDURE

- (a) Alcohol testing procedures will consist of an initial screening portable breath test (PBT) administered by Agency personnel.
 1. If the PBT is .01 grams of alcohol per 210 liters of breath or less, the test shall be considered negative.
 2. If the PBT provides a reading for alcohol in an amount above .01 grams, the employee will be transported to a City-approved collection site for a confirmatory test conducted pursuant to the Procedures for Transportation Workplace Alcohol Testing Programs (49 CFR Part 40).
 3. Controlled substance testing procedures will be as set forth in the Procedures For Transportation Workplace Drug Testing Programs (49 CFR Part 40), using the split sample method except that an initial screening test at the City-approved collection site may be utilized prior to splitting the sample, sealing, and shipping the samples for laboratory analysis. In the event that an initial screening at the collection site provides results below the initial test cutoff levels are provided in 49 CFR 40.87, the sample will be destroyed, and the result will be reported as negative. In the event that an initial test is at or above any of the initial test cutoff levels, the sample will be split, sealed, and shipped to a designated testing laboratory for confirmatory testing.

1012.5.2 SCREENING TEST REFUSAL

Any employee who refuses to take an alcohol or controlled substances test required by the City may be subject to disciplinary action. In addition, any employee who tests positive for alcohol or for a controlled substance (except for the employee's prescribed medication) in any amount may be subject to disciplinary action, up to and including termination of employment. Because of the accuracy limits inherent in current alcohol testing techniques, a positive test for an alcohol concentration of less than .02 will not, by itself, constitute grounds for discipline. The following behavior constitutes a refusal (City Personnel Policy 8.11.9):

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- (a) Failure to provide a urine specimen or breath sample;
- (b) An inability to provide a sufficient urine specimen or breath sample without a valid medical explanation;
- (c) Tampering with or attempting to adulterate the specimen or collection procedure;
- (d) Verbal declaration, obstructive behavior, refusal to sign the Alcohol Testing Form;
- (e) Physical absence resulting in the inability to conduct the test;
- (f) Substituting a specimen;
- (g) Not reporting the collection site in the time allotted;
- (h) Leaving the collection site prior to test completion;
- (i) Failure to permit an observed or monitored collection when required;
- (j) Failure to take a second test when required;
- (k) Failure to undergo a medical examination when required;
- (l) Failure to cooperate with any part of the testing process;
- (m) Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the City, after being directed to do so by the City;
- (n) Having a verified adulterated or substituted test result;
- (o) For an observed collection, failure to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process;
- (p) Possess or wear a prosthetic or other device that could be used to interfere with the collection process; or
- (q) Admit to the collector or MRO that the specimen has been adulterated or substituted.

1012.6 COMPLIANCE WITH FEDERAL DRUG FREE WORKPLACE ACT

As required by the Federal Drug Free Workplace Act (41 USC § 8103):

- (a) Employees are prohibited from purchasing, manufacturing, distributing, dispensing, possessing, or using controlled substances or alcohol on City premises or while on-duty except as specifically permitted by these policies.
- (b) Employees shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow employee poses a risk to the health and safety of the employee or others due to drug or alcohol use.
- (c) Employees are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- (d) No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving an employee, the Agency will take appropriate disciplinary action, up to and including termination, and/or requiring the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

1012.7 CONFIDENTIALITY

The Agency recognizes the confidentiality and privacy due employees. Disclosure of any information relating to chemical abuse treatment, except on a need to know basis, shall only be with the express written consent of the employee involved or pursuant to lawful process. The written results of any screening test will be provided to the employee. The written results of any

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screening tests and all documents generated relating to chemical abuse treatment are considered confidential medical records and shall be maintained securely and separately from the employee's personnel file.