



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-051800 PPD Substance Abuse Testing for Offenders	Issued: 12/22/97 Effective: 12/22/97	Reviewed: 5/31/20 Revised: 6/7/17
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

- A. NMSA 1978, Sections 9-3-5, 31-21-7, 33-1-6, as amended.
- B. Policy *CD-050100*

REFERENCE:

ACA Standard 4-APPFS-2D-04, *Performance Based Standards for Adult Probation and Parole Field Services*, 4th Edition.

PURPOSE: [4-APPFS-2D-04]

The purpose of this Policy and Administrative Procedure is to establish a drug testing program for offenders by the Probation and Parole Division of the Corrections Department and to use drug testing as a management tool for staff and as a deterrent to offender drug use. The policy will provide guidance for collection, processing and disposal of samples, interpretation of results and the response to violations. Specifically, drug testing may be used to: identify offenders with drug abuse problems, confirm suspicion of drug use and provide an avenue for response and treatment referral.

APPLICABILITY:

All District Offices and all employees who work with offenders who are involved in substance abuse and any individuals or programs contracting to provide services to offender who are involved in substance abuse that are operated by the Probation Parole Division of the Corrections Department.

FORMS:

Illegal Substance Use Admission form (*CD-051801.1*)
Illegal Substance Use Admission form (*CD-051801.A*)

ATTACHMENTS:

None

DEFINITIONS:

- A. Cause: When supervisory staff observes behavior or receives reliable information that provides reasonable suspicion that the offender is under the influence or has been involved in substance abuse.

- B. Reasonable Suspicion: The justified belief that exists when Probation and Parole Officers or other contracted staff are able to articulate specific facts that, taken together with rational inferences, support a reasonable warranted belief that a condition of release has been violated.
- C. Chain of Custody: The process which provides and documents the proper handling and storage of a specimen from the time it is collected until the time of its proper disposal or laboratory submission.
- D. Criminal Management Information System (CMIS): The electronic database utilized by the appropriate personnel to record, store and review offender data including case plans and progress reports.
- E. Random Sample: The process to select a set sample of offenders for urinalysis testing at each District Office that gives each offender in the District Office an equal chance of being selected at each sampling.
- F. Saturation Testing: The testing of a group of similarly situated offenders, such as those offenders on a work crew or living in the same housing unit.
- G. Targeted Testing: Testing at admission, upon placement on probation, for cause, for specialized programming and as a condition of release or upon release from an institution.
- H. Suspect Testing: The testing of a particular offender due to a reasonable belief that the offender may have used or be under the influence of a controlled substance.
- I. Specialized Program: Intensive Supervision, Community Corrections Programs, Sex Offender Unit, and Drug Court program.
- J. Urinalysis: Testing using a urine sample to determine the presence of a controlled substance in an offender's system
- K. Breathalyzer: Testing using a breath sample to determine the presence of alcohol in an offender's system.

POLICY:

- A. It is the policy of the Probation Parole Division that offenders in its facilities are to be free from illegal and inappropriately used controlled substances., the Division shall implement a drug testing program that will incorporate random, follow-up, saturation, targeted and suspect testing for the use of illegal and inappropriate controlled substances. This policy will control an offender's unauthorized use and abuse of substances of all types within the community.
- B. All offenders in the New Mexico Corrections Department shall be subject to testing through a standardized drug testing program to ensure a safe and therapeutic environment for offenders. This program shall be conducted by staff with the suspected positive specimens provided by

offenders sent to a selected laboratory for analysis. Additionally, this testing program shall incorporate procedures for when offenders fail to provide an adequate specimen or refuse to participate in the urinalysis program. Offenders who receive positive urinalysis results indicating the use of a controlled substance(s), who provide inadequate specimens or who refuse to participate in the testing shall be subject to technical violations as noted.

- C. This policy provides progressive intervention, which includes timely referral to treatment programs and sanctions. All violations involving substance abuse will be addressed and may include a recommendation for revocation of either probation or parole in appropriate circumstances.
- D. A testing protocol will be established by each specialized program that details frequency and methodology of testing offenders within each specified program.
- E. All staff involved in administering the urinalysis program shall receive training in the proper collection techniques and these Administrative Procedures. Staff shall be trained in and shall ensure that correct chain-of-custody procedures are followed.



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-051800 PPD Substance Abuse Testing for Offenders	Issued: 12/22/97 Effective: 12/22/97	Reviewed: 5/31/20 Revised: 6/7/17
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

Policy *CD-051800*

PROCEDURES:

A. Drug Testing for Field Services Offenders:

1. Targeted Test:

a. Intake screening:

- 1) Parolees: All parolees shall be tested for a complete drug screen upon release from a facility during their first visit. This should normally happen within 24 hours of release. The only exception is if a parolee is released the day before a holiday or weekend or after 4 pm in the afternoon and cannot complete travel time to the District office before closing then in these cases, the screening shall be completed the next working day following these exceptions. A positive quick test drug test will be sent to the Division laboratory for testing. A positive drug test shall be reported to the Adult Parole Board on a preliminary violation report with a recommendation that addresses program adjustments and graduated sanctions for their approval. The Adult Parole board may then exercise any options under its authority.
- 2) Probationers: Probationers shall be tested for a complete drug screen during their initial visit. A positive drug test shall be reported to the court on a preliminary violation report (where applicable) with a recommendation that addresses program adjustments and graduated sanctions either for their approval or compliance with the Courts graduated STEPS program.
- 3) If the offender reports substance abuse, it shall be documented on the **Illegal Substance Use Admission form (CD-051801.1)**. A positive drug test shall be reported to the releasing authority on a preliminary violation report with a recommendation that addresses program adjustments and graduated sanctions for their approval. The sentencing authority may then exercise any options under its authority.

b. Cause:

- 1) All offenders who meet the definition for reasonable suspicion shall be drug tested for the appropriate drug(s). A positive drug test shall be reported to the

sentencing authority on a preliminary violation report with a recommendation that addresses program adjustments and graduated sanctions for their approval. The sentencing authority may then exercise any options under its authority.

2. Testing for Specialized Programs:

- a. All individuals participating in the Division's programs will be subject to testing. The purpose of testing offenders in specialized programs is to maintain the integrity of the program and to ensure that all offenders in treatment remain alcohol and drug free.
- b. A positive test result will be handled in the same manner as specified for a targeted test.

3. Sanctions and Interventions:

- a. All positive drug tests must be reported to the appropriate sentencing authority immediately or within 24 working hours.
- b. Escalating sanctions and interventions shall include, but are not limited to, the following options:
 - 1) Verbal/written reprimand
 - 2) Additional community service
 - 3) Increased Testing:
 - a) A re-test will be conducted within one week (5 working days) of the confirmation of a positive result of an illicit drug.
 - b) Marijuana positive test results shall be monitored for a decline in use and subsequent tests may not be reported as an additional positive if decline is determined to be within acceptable levels by the testing laboratory.
 - c) Offenders with valid and current medical marijuana card shall not be monitored for a decline in levels or have the positive test reported to the Parole Board or the Court as a violation.
 - d) Offenders who test positive for unauthorized use of a controlled substance or alcohol who are not in custody shall be re-tested on at least a monthly basis for a period of three (3) months following the receipt of the positive test results. This testing shall be in addition to the random testing being conducted monthly.

- e) After the first positive urine test, offenders submitting subsequent positive drug tests should be closely staffed with supervisor. In many cases, referrals to residential treatment programs may be appropriate.
- 4) Referral to ancillary treatment programs.
- 5) Increased supervision level.
- 6) Referral to specialized programs such as Intensive Supervision, Community Corrections or Drug Court.
- 7) Alcohol monitoring as available.
- 8) Imposition of Court jail sanctions or standardized jail sanctions approved by the Parole Board or Court authority.

B. Testing Procedures: [4-APPFS-2D-04]

1. Specimen Collection:

- a. Each Probation and Parole officer will be required to make appropriate arrangements for specimen collection to meet drug-testing requirements as dictated by this policy for each offender assigned. Prior to the collection of any specimen the offender will be asked if they have used any alcohol, illegal substances, any drugs not prescribed specifically for them or any substances prohibited by their supervision conditions. If the offender responds in the affirmative, it shall be documented on the **Illegal Substance Use Admission** form (*CD-051801.1*). The collection of a specimen will still be required, and should be one that tests for the substance(s) the offender admits to using.
- b. Contracted staff will be required to make arrangements for specimen collection as dictated by their contract.
- c. The Criminal Management Information System (CMIS) will serve as the testing record/log of drug tests taken by Probation and Parole Officers, in addition to testing records maintained by the contracted drug testing laboratory. Officers will enter all drug tests into CMIS immediately during the office visit. Test results from the laboratory will be entered into CMIS within 3 working days.
- d. Individual documentation of positive test results and confirmations will be maintained in the offender's case file, whether it is laboratory results or copies of on-site testing results. Results of all drug testing shall be entered into the substance test section of CMIS, as well as in case notes.

- e. Staff will follow the collection protocols the vendor of the testing materials.
- f. When urinalysis is the method of testing the following protocols will be observed in all cases:
 - 1) Staff of the same sex as the offender being tested shall directly supervise the process of observing and obtaining the urine specimen.
 - 2) Only one offender is to be present during the collection time. Multiple collections should not occur.
 - 3) Any staff member observing and/or obtaining the urine specimen shall observe all Universal Precautions procedures. All staff shall wear latex exam gloves at all times.
 - 4) No waiting period or extra time need be allowed for an offender who directly and specifically refuses to provide a urine specimen. Refusal to submit a urine specimen is considered the same as receiving a positive test result and shall subject the offender to a probation and/or parole violation.
 - 5) An offender is expected to provide a urine specimen within two (2) hours of the request. To assist the offender in providing the specimen, staff shall offer the offender no more than eight (8) ounces of water at the beginning of the two-hour time period, if requested.
 - 6) To reduce the possibility of diluted or adulterated specimens, offenders cannot leave the building during this two-hour period, or until a specimen is furnished.
 - 7) In obtaining the urine specimen, if at all possible, the offender should submit enough urine to fill the entire specimen bottle but no less than the amount required to perform the initial testing. If an offender refuses to provide a urine specimen within the allotted time, staff shall document that the offender refused to provide a specimen and complete STEPS or sanctions as directed.
 - 8) Ensure the offender thoroughly washes her/his hands **without** soap and dries them.
 - 9) The offender will remove any jacket or coat, lift his/her shirt to expose her/his midriff and roll up long sleeves.
 - 10) For male offenders, staff must be able to directly observe urine leaving the body and entering the specimen bottle.

- 11) The Female offender will be asked to hold the cup with one hand and place the other hand against the wall or in clear view away from the collection cup.
- 12) When the offender has finished providing the urine specimen, have him/her place the lid on the cup and tighten or snap securely. If the offender is unable to produce a urine specimen within the allotted time, an oral fluid specimen may be collected at the collector's discretion.
- 13) Set the specimen cup on a flat surface. The test will start once the offender has finished providing the specimen.
- 14) The specimen will not leave the sight of the offender until it is discarded or sealed in the proper laboratory bag with a chain of custody form to be sent to the lab.
- 15) Read the temperature strip within 4 minutes of the offender providing the specimen to verify that the temperature of the specimen is within acceptable range (i.e. 90-100 Fahrenheit). If no temperature is visible, the test must be repeated with a new sample.
- 16) Allow the test to run until the control lines appear. Once the control lines appear, the results may be interpreted. If no control lines appear after 10 minutes, the test is considered invalid and should be repeated with a new sample.
- 17) Results are based on the presence or absence of a line next to each specific drug. Line intensity may vary between drugs. Any line, regardless of intensity, will be interpreted as a negative test.
- 18) A positive test is no line, totally devoid of color, next to a specific drug. Re-testing at the offender's request is not permitted on a positive test result.
- 19) If the specimen is being sent to the laboratory, the Officer will complete the contract lab form and the offender will place the completed label and evidence tape across the lid and down the sides of the container. The offender would then place the sealed and initialed specimen container in the testing envelope. The officer completes the Chain of Custody form and places the COC form in the testing envelope with the specimen. The offender then seals the envelope.
- 20) If lab confirmation is not being requested, have the offender dispose of the urine in the urinal or toilet. Follow established protocols for discarding the empty test cup.
- 21) Strip searches and body cavity searches are not completed by Division staff. Law enforcement can be called and they can conduct a strip search or body

cavity search once a search warrant is obtained.

- 22) If offender attempts to falsify the test by providing urine other than their own, law enforcement can be called to press new charges of "Tampering with Evidence." Maintain chain of custody of the device(s) for law enforcement.

g. ORAL FLUID COLLECTION AND TESTING PROCEDURES:

1. Open the oral test in full view of the offender. Never remove the testing device from the offenders view while testing.
2. Make sure the offender does not put anything into his/her mouth for at least 10 minutes prior to collecting the saliva sample.
3. Remove the device and collection swab from the packaging and provide the collection swab to the offender and have the offender place the sponge between the cheek and gum and swab for at least one minute on each side of the mouth without chewing or sucking on the sponge.
4. The collection sponge should be fully expanded within 2 minutes; at that time have the offender place the collection swab into the device and secure.
5. Within 3 minutes control lines and test lines will appear. If all lines have formed at 3 minutes, the results may be interpreted as negative. If one or more of the drug lines has not formed, wait a full 8 minutes to interpret the results.
6. Band intensity is not important when interpreting test results. An incomplete or faint band is considered a band and is interpreted as a negative result.

h. BREATHLYZER (ALCOHOL) COLLECTION AND TESTING PROCEDURES:
(ALCO-SENSOR III)

1. No alcohol for 15 minutes before testing and no smoking within 3 minutes of testing.
2. Check the temperature display on the breathalyzer; it should be between 20 to 36 degrees Celsius.
3. Press the SET button.
4. Press and hold the READ button.
5. Confirm display goes down to 0.000 in approximately 10 to 15 seconds, if it does not then repeat C & D.
6. Attach plastic mouthpiece to the top of the instrument, the offender will blow into the long end.
7. Press the SET button.
8. Have offender blow 1- to 15 seconds. This needs to be a deep lung breath. Be sure to point the instrument away from you.

9. Press the READ button for the last 4 to 5 seconds while the offender is blowing.
10. Keep the Read button pressed until a “peak” reading is obtained, no more than 45 seconds.
11. Remove and discard the mouthpiece.
12. Store instrument with the SET button depressed.

2. Type and Methods of Tests:

- a. State Contracted laboratory facilities
- b. In-house urinalysis testing kits
- c. In-house alcohol breathalyzer tests
- d. In-house oral fluid (saliva) testing kits

3. Refusal or Inability to Produce a Specimen or Failure to Report:

- a. Offenders that indicate inability or refuse to produce will be offered an alternative test method, if available and approved by the PO. If the offender continues to indicate the inability to provide a specimen, refuse to produce or fail to report, this is a violation pursuant to the orders of the probation agreement or parole certificate.
- b. Offenders who claim to be unable to produce a urine or saliva specimen will be given no more than one (1) glass of water and must remain in the building for no longer than two (2) hours. The offender will not be given additional water and this area must be free of additional water or other liquids so not to dilute the specimen.
- c. Certain psychotropic medicines interfere with an individual’s ability to urinate and/or produce saliva. If an offender has provided documentation that he or she is taking a medicine that the staff believes may be a psychotropic, the procedure outlined above shall be followed. At the end of the two (2) hours, the offender shall be instructed to produce whatever urine he or she can, even if it is less than the required one to two ounces. The offender will also be given a final opportunity to produce a saliva specimen if available. If the offender is still unable to produce and urine or saliva, the staff shall document the incident. Staff pursuing action for the offender’s failure to produce a specimen shall verify that the offender was on psychotropic medicine as a potential mitigating circumstance with respect to the violation.
- d. If the offender cannot provide proof of the medication that might interfere with their ability to provide a urine or saliva sample, continued failure to provide a specimen as instructed by the officer after the remedies provided in a. through c. will be considered a refusal to provide a sample and may subject the offender to possible revocation at the discretion of the supervising officer.

- e. A direct refusal to complete any drug test will be considered a positive result and a preliminary or full violation will be submitted.
4. Urine Storage and Transfer
 - a. If a urine specimen is collected after the contractor has made its daily pickup, the urine specimen shall be stored in a secure area until the next pickup is made.
 5. Number of Drugs Screened
 - a. Initial drug screen should test for the largest number of drugs provided in the current contract. Subsequent urinalysis may test for a smaller number of illicit substances depending on the offender's drug history.
 - b. Tests shall be performed according to laboratory protocol established by the vendor of the test equipment. Tests shall be performed by certified operators only or by qualified external laboratory personnel under contract.
 6. Confirmation of Positive Tests Results
 - a. If an offender admits to drug use prior to submitting to a substance test, an admission form (CD-051801.1) will be completed by the Probation Parole Officer and signed by the offender. However, a substance test will be administered to verify the information provided and all specimens for parolees must be sent to the contract laboratory for screening.
 - b. The Division shall pay for the cost of the screening and of the confirmation, except when specified by specialized program protocols that requires the offender be charged with the cost of the test.
 7. Prescription Medicine or Other Causes for Positive Results
 - a. The use of prescription medicine that would cause a positive result must be verified and made a part of the offender's official file. Offenders are responsible for informing staff if they are taking any medicine. The offender must provide proof of their prescription or the medicine taken within 24 hours of reporting it to the Probation Parole Officer.
 - b. Laboratory personnel will be contacted to provide information on any medicine prescribed for offenders who test positive.
 8. Discarding Urine Samples:

- a. Urine samples taken in-house with a negative result should be disposed of via a toilet immediately after testing has been completed. Plastic specimen containers will be disposed of in the biohazard receptacles except for those containers whose specimens were visibly bloody. Those specimen containers shall be rinsed with 2 ml. of bleach, and then may be disposed of in a biohazard receptacle.
- b. Specimens shall be maintained and destroyed by the laboratory in accordance with National Institute on Drug Abuse (NIDA) standards; however, specimens which tested positive will be retained for the duration of the grievance process and/or a minimum of one (1) year.

C. Staff Training:

1. All in-house testing will be conducted by operators that are fully trained in the principle, procedures and interpretation of test results as specified by the vendor. The threshold levels for all on-site urinalysis testing shall meet the recommendation of the NIDA and must be clearly stated by the vendor.
2. Training shall be conducted by the vendor supplying the testing materials or staff member who has received training and is certified to train others.
3. All training and/or certification shall be documented in the employee's training file.

**NEW MEXICO CORRECTIONS DEPARTMENT
ILLEGAL SUBSTANCE USE ADMISSION FORM**

I _____ admit to using the following illegal substance(s):

___ **COCAINE** Method used _____ Date Used: _____

___ **THC/MARIJUANA** Method used _____ Date Used: _____

___ **METHAMPHETAMINE** Method used _____ Date Used: _____

___ **OPIATES** Type and Method used _____ Date Used: _____

___ **ALCOHOL** Type and Quantity used _____ Date Used: _____

___ **BARBITUATES** Type and Method used _____ Date Used: _____

___ **ECSTASY** Method used _____ Date Used: _____

___ **LSD** Method used _____ Date Used: _____

___ **BENZODIAZEPINES** Type and Method used _____ Date Used: _____

___ **PSILOCYBIN/PEYOTE** Method used _____ Date Used: _____

___ **PCP** Method used _____ Date Used: _____

___ **SYNTHETICS (K2, SPICE, ETC.)** Type and Method used _____ Date Used: _____

___ **OTHER** Type and Method used _____ Date Used: _____

I understand that use of any of these substances is a violation of my Probation/Parole conditions as stipulated by the NM Adult Parole Board or NM District Courts. I have not been coerced in any way to sign this admission and I understand that by admitting to the use of these substances it may result in revocation of Probation/Parole or sanctions imposed by the Adult Parole Board or sentencing Judge.

Probationer/Parolee Signature _____ Date: ____/____/____

Probation/Parole Officer Signature _____ Date: ____/____/____

Witness's Signature _____ Date: ____/____/____

New Mexico Corrections Department Illegal Substance Use Admission Form

Client Name: _____ SSN: _____ / _____ / _____ DOB _____ / _____ / _____ Sex: _____

Age: _____ Collected By: _____ Date Collected _____ / _____ / _____

Date Tested: _____ / _____ / _____ Time Tested: _____ Tested By: _____

I fully understand that this urine specimen that I am about to submit will be analyzed for any or all drug compounds. The specimen(s) is (are) given under strict conditions stated by my probation/parole officer with the full understanding of the possible effect that any positive result might have on my chances for-or continuance of probation/parole. I also understand that any and all results and information provided on this form can and will be used in a court of law should any legal action be taken on my part or on the probation/parole officer's part. I do hereby affirm that the specimen being submitted with my signature affixed on the container, as is annotated below, is truly my voided/collected specimen and not that of any other person or thing, nor has it been tampered with by any physical or chemical means:

Results:	Please Circle:	SALIVA STICK	URINALYSIS
Cocaine (COCAINE) -----	POSITIVE	NEGATIVE	ADMITTED
Cannabis (THC) -----	POSITIVE	NEGATIVE	ADMITTED
Methamphetamines (METH) -----	POSITIVE	NEGATIVE	ADMITTED
Opiates (OPIATES) -----	POSITIVE	NEGATIVE	ADMITTED
Amphetamine (AMP) -----	POSITIVE	NEGATIVE	ADMITTED
PCP -----	POSITIVE	NEGATIVE	ADMITTED
OTHER-----	POSITIVE	NEGATIVE	ADMITTED

Client's Signature: _____ Date: _____ / _____ / _____

Probation/Parole Officer's Signature _____ Date: _____ / _____ / _____

Witness: _____ Date: _____ / _____ / _____

_____ Sent to lab for further testing Date: _____ / _____ / _____

_____ CMIS Entry Made

*****Please see attached copy of Urinalysis Test Stick*****