



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: 6/29/23 Revised: 6/29/23
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:

Chain of Custody and Substance Use Admission Form (*CD-051801.1*)

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. Offender Management System: 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 or saliva 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 Programs, Community Corrections Programs, Sex Offender Supervision, and Drug Court Program.
- J. Urinalysis: Testing using a urine sample to determine the presence of a controlled substance or alcohol in an offender's system
- K. Breathalyzer: Testing using a breath sample to determine the presence of alcohol in an offender's system.
- L. Saliva Testing: Testing using a saliva sample to determine the presence of a controlled substance or alcohol in an offender's system.

POLICY:

- A. It is the policy of the Probation Parole Division that offenders under its supervision are to be free from illegal and inappropriately used controlled substances and alcohol. The Division shall implement a drug and alcohol testing program that will incorporate random, follow-up, saturation, targeted and suspect testing for the use of illegal and inappropriate controlled substances and alcohol. 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 results indicating the use of a controlled substance(s) and/or alcohol, 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 substance abuse testing 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.



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PROCEDURES:

A. Substance Abuse Testing:

1. Targeted Test:

a. Intake screening:

- 1) Parolees: All parolees shall be tested for substance abuse 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 substance test, will be sent to the laboratory when appropriate. A positive substance 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 substance abuse during their initial visit. A positive substance test shall be reported to the court on a preliminary violation report with a recommendation that addresses program adjustments and graduated sanctions.
- 3) If the offender reports substance abuse, it shall be documented on the **Chain of Custody and Substance Use Admission Form (CD-051801.1)**. A positive substance 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 substance tested for the appropriate drug(s) or alcohol. A positive substance 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:

- a. All individuals on supervision will be subject to testing.
- b. Regardless of supervision level, all offenders shall be tested for prohibited substances and alcohol a minimum of every three (3) months.
- c. Offenders participating in Drug Court or Veteran's Court shall be tested through the program. If the program is not conducting regular substance and alcohol testing, these offenders shall be tested for prohibited substances and alcohol by PPD a minimum of every three (3) months.
- d. A positive test result will be handled in the same manner as specified for a targeted test.

3. Sanctions and Interventions:

- a. All positive substance tests must be reported to the appropriate sentencing authority (Court, Parole Board, Interstate Compact) within five (5) business days.
- 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 thirty (30) days of a positive result of drugs or alcohol.
 - 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 New Mexico Medical Marijuana Card shall not be monitored for a decline in levels or have the positive test reported to the Parole Board, the Court, or Interstate Compact as a violation.
 - d) Offenders who test positive for unauthorized use of a prohibited 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.

- e) After the first positive substance test, offenders submitting subsequent positive substance tests should be staffed with supervisor.
- 4) Referral to ancillary treatment programs.
- 5) Referral to residential treatment programs.
- 6) Increased supervision level.
- 7) Referral to specialized programs such as Intensive Supervision, Community Corrections, or Drug Court.
- 8) Random substance testing (call-in system)
- 9) Electronic Monitoring
- 10) Alcohol monitoring as available.
- 11) 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 substance 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, prohibited 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 **Chain of Custody and Substance Use Admission Form (CD-051801.1)**. The collection of a specimen may still be required.
- b. Contracted staff will be required to make arrangements for specimen collection as dictated by their contract.
- c. The Offender Management System will serve as the testing record/log of substance tests taken by Probation and Parole Officers, in addition to testing records maintained by the contracted drug testing laboratory. Officers will enter all substance tests into the offender management system immediately during the office visit. Test results from the laboratory and on-site testing will be entered into the offender management system within 24 hours of receipt of the results.
- 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 substance testing shall be entered into the substance test section of the offender management system.

- e. Staff will follow the vendor's collection instructions for 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) Unobserved urinalysis testing may be conducted when staff of the same sex is not available.
 - 3) Only one offender is to be present during the collection time. Multiple collections should not occur.
 - 4) Any staff member observing and/or obtaining the urine specimen shall observe all Universal Precautions procedures. All staff shall wear exam gloves at all times.
 - 5) 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.
 - 6) An offender is expected to provide a urine specimen within one (1) hour 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 one hour time period, if requested.
 - 7) To reduce the possibility of diluted or adulterated specimens, offenders cannot leave the building during this one hour period, or until a specimen is furnished.
 - 8) 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 sanctions as directed.
 - 9) Ensure the offender thoroughly washes their hands **without** soap and dries them.
 - 10) The offender will remove any jacket, coat or oversized clothing and may be asked to lift their shirt to expose the midriff and roll up long sleeves if clothing interferes with the collection process.
 - 11) For all offenders, staff must be able to directly observe urine leaving the body and entering the specimen bottle.
 - 12) 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.
 - 13) When the offender has finished providing the urine specimen, have them 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, a saliva fluid specimen may be collected

at the collector's discretion.

- 14) Set the specimen cup on a flat surface. The test will start once the offender has finished providing the specimen.
- 15) 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. 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 or contracted staff will complete the chain of custody form and the offender will place the completed label and evidence tape across the lid and down the sides of the container. The offender will then place the sealed and initialed specimen container in the testing envelope. The officer or contracted staff member completes the Chain of Custody (COC) form and places the COC form in the testing envelope with the specimen. The offender then seals the bag.
 - a. 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.
- 20) If lab confirmation is not being requested, the offender will dispose of the urine in the urinal or toilet. Follow established protocols for discarding the empty test cup.
 - a. Urine samples taken in-house and not sent to the laboratory should be disposed of via a toilet immediately after testing has been completed. Plastic specimen containers will be disposed of in the biohazard receptacles.
- 21) Strip searches and body cavity searches shall not be 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. Saliva Collection and Testing Procedures:

1. The officer shall open the saliva test in full view of the offender.
2. The offender shall not put anything into his/her mouth for at least 10 minutes prior to collecting the saliva sample.
3. The officer shall remove the device and collection swab from the packaging and provide the collection swab to the offender. The offender will 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 the offender will 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. 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.
7. Saliva samples taken in-house should be disposed of in plastic specimen containers/bags and will be disposed of in the biohazard receptacles.

h. Breathalyzer Collection and Testing Procedures

1. The offender shall have no alcohol for 15 minutes before testing and shall not smoke within 3 minutes of testing.
2. The officer will attach plastic mouthpiece to the instrument and instruct the offender take a deep lung breath and blow into the mouthpiece.
3. The officer will read the results indicated on the results screen of the breathalyzer.
4. A minimum of two breath tests will be conducted. The officer will record the readings for each test.

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 saliva testing kits

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

- a. Offenders that indicate inability to produce a sample for testing will be offered an alternative test method, if available and approved by the PPO. 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 eight (8) ounces of water and must remain in the building for no longer than one hour. The offender will not be given additional water.

- c. Certain medications or medical conditions interfere with an individual's ability to urinate and/or produce saliva. If an offender has provided documentation that he or she is taking medication or has a medical condition that interferes with their ability to provide a sample, the procedure outlined above shall be followed. At the end of the one hour, the offender shall be instructed to produce whatever urine he or she can. The offender will also be given a final opportunity to produce a saliva specimen if available. If the offender is still unable to produce a urine or saliva sample, the staff shall document the incident. Staff pursuing action for the offender's failure to produce a specimen shall document that the offender was on medication or has a medical condition as a potential mitigating circumstance with respect to the violation.
 - d. If the offender cannot provide proof of the medication or medical condition 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 will be considered a refusal to provide a sample and may subject the offender to possible revocation at the discretion of the supervising officer and their supervisor.
 - e. A direct refusal to complete any substance 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 Substances Screened
- a. The initial substance screen should test for the largest number of substances available in the current contract. Subsequent substance testing may test for a smaller number of illicit substances depending on the offender's substance history.
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 may be administered to verify the information provided and may be sent to the contract laboratory for screening and/or confirmation.
 - 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 Medication or Other Causes for Positive Results
- a. The use of prescription medication or a medical condition 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 medication. The offender must provide proof of their prescription or the medication taken within 24 hours of reporting it to the Probation Parole Officer.

C. Staff Training:

- 1. All in-house testing will be conducted by staff 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
Chain of Custody and Substance Use Admission Form**

Date: Name: Offender Number:
 Admission Only: ☐ On-Site Testing: ☐ Urinalysis ☐ Saliva Test ☐ Breathalyzer ☐ Time Tested: ☐ am ☐ pm
 Tested by: Results Read by: ☐ Sent to lab for further testing

Substance	NEGATIVE	POSITIVE	ADMIT USE	Method	Amount	Date Used
Cocaine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
THC/ Marijuana	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
Methamphetamine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
Opiates Type:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
Alcohol Type:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
Barbiturates Type:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
Ecstasy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
LSD	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
Benzodiazepines Type	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
Psilocybin/ Peyote	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
PCP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
Synthetics Type:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		
Other Type:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unknown		

I fully understand the specimen I will provide will be analyzed for any or all drug compounds and alcohol. I understand that results provided on this form can and will be used in a Court of law or with the Parole Board. I understand that use of these substances is a violation of my Probation/Parole Conditions as stipulated by the Parole Board or Court. I have not been coerced to admit use of any of these substances and if admitting, I understand that it may result in a revocation of Probation/Parole or sanctions imposed by the Parole Board or sentencing Judge.

Offender Signature: _____ **Date:** ____ / ____ / ____

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

Witness: _____ **Date:** ____ / ____ / ____