



DEPARTMENT OF CORRECTIONS
PROBATION AND PAROLE DIVISION
OPERATIONAL PROCEDURE

Procedure:	PPD 3.1.2000 OFFENDER DRUG TESTING PROGRAM
Effective Date:	06/23/2015 Page 1 of 6
Revisions Date(s):	08/12/2020; 04/28/2021
Reference(s):	DOC 3.1.20; 45-9-102, MCA; 53-1-203, MCA
Signature / Title:	/s/ Katie Donath, Acting Probation and Parole Division Administrator

I. PURPOSE:

The Probation and Parole Division staff will follow established policies and procedures for offender drug testing to promote a drug-free standard and offender accountability.

II. DEFINITIONS:

Cause – Any indication that an offender may be using an unauthorized substance or any substance in an unauthorized manner. Such indication may be direct (observed by a staff person), hearsay (relayed through other individuals), circumstantial (perceived via reasonable inference), or self-admission.

Confirmatory Testing – Refers to a laboratory testing process performed by the Montana Forensic Science Division, State Crime Lab or a Department-approved private lab to confirm the presence of a drug or molecule within a testing sample.

Drug Testing Liaison – A designated staff member selected by a division administrator to oversee and track the division’s drug testing program for the Department.

Drug – Any substance described in §50-32-101, MCA, or any substance taken through any means of administration, which alters the mood, the level of perception, or brain functioning. Such substances range from prescription medications to illegal substances, as well as alcohol, synthetic intoxicants and solvents.

Drug Testing – The chemical analysis of a body fluid, typically urine, using specialized equipment and techniques to identify the presence of a drug or drug metabolite in a sample collected from an individual.

PPD-Probation and Parole Division – The Division oversees the Probation & Parole regional offices and interstate transfers.

Presumptive Positive Sample – A screening showing the presence of a controlled or prohibited substance meeting or exceeding levels determined by the test-kit vendor.

III. PROCEDURES:

A. GENERAL REQUIREMENTS:

1. The PPD will promote a drug-free standard and offender accountability with a standardized drug screening and intervention program, which includes a random testing requirement, for the following purposes:

- a. to identify offenders who are using drugs and identify types of drugs used;
 - b. to identify offender treatment needs and provide treatment strategies designed to meet those identified needs;
 - c. to provide appropriate interventions for every offender who tests positive for drugs;
 - d. to properly identify supervision level of offenders who pose a risk to public safety due to their drug abuse; and
 - e. to reduce drug use/abuse among offenders, which is intended to reduce disciplinary actions among offenders and reduce returns to secure facilities.
2. Staff will be trained on the process of specimen collections and will implement this procedure without discrimination on the basis of race, religion, gender, national origin, creed, or political belief. Law enforcement and other trained professionals may also conduct the test at the request of the Department.
 3. The PPD Administrator will designate staff to act as the Drug Testing Liaison.

B. OMIS SUBSTANCE TEST RECORD:

1. An OMIS Substance Test record must be completed and saved:
 - a. with each drug test,
 - b. when an offender refuses to submit a specimen, and
 - c. upon an offender's admittance to substance use prior to testing and a urinalysis test is not completed.
2. If ordered by the court, offenders will be required to provide a urine specimen within the first 45 days of initial meeting. Thereafter, offenders will be tested:
 - a. by random testing as determined by OMIS;
 - b. as necessary for cause;
 - c. as a condition of release to prerelease, parole, or an intensive supervision program; or
 - d. upon return to a correctional facility from the community.
3. *DOC 3.1.20 (Attachment) Drug/Alcohol Screening Information Form (OMIS) or PPD 3.1.2000(B) Substance Use Admission Form* is completed and printed for the offender to initial and sign under the following circumstances and the form used is uploaded to offender's OMIS record:
 - a. if the offender admits to substance use prior to testing; or
 - b. if the offender admits to the use upon a positive test result after given an opportunity to admit.

C. URINALYSIS DRUG TESTING:

1. Random Testing as Determined by OMIS:
 - a. Offenders will be made aware that they are subject to random testing at any time during their supervision or placement.
 - b. Supervising Probation & Parole (P&P) Officers will run a *Random Substance Tests Due for Probation* centric report on a monthly basis and complete random urinalysis testing on the offenders listed on the report.
 - c. Officers receiving notice from OMIS of offenders chosen for testing will complete urinalysis test and OMIS Substance Test record within 30 days.

2. For Cause Testing: For cause testing may be administered at any time for reasons including, but not limited to the following circumstances:
 - a. any time there is reason to suspect an offender has recently used drugs/alcohol;
 - b. testing is a requirement of a treatment or training program;
 - c. an incarcerated offender has had community contact; or
 - d. offender misses a commitment/meeting.

3. Rapid-Result Screening Tests:
 - a. Urine will be the primary specimen tested using the rapid-result screening test.
 - 1) Offenders will be given an opportunity to admit substance use prior to providing a urine specimen.
 - 2) The offender will be given reasonable time to comply with a request for a urine specimen. If necessary, the offender will be given water and remain under staff supervision until the specimen is provided, or the option of obtaining a saliva-based specimen using an oral swab will be offered.
 - 3) Failure to provide a specimen will be considered a refusal. Officer will complete OMIS Substance Test record selecting "sample not taken" and add a comment.
 - 4) Offenders refusing to provide a specimen demonstrate an admission of guilt. A hearing or other intervention(s) will be necessary as a result of a refusal. Officer will complete OMIS Substance Test record selecting "sample not taken" and add a comment.
 - 5) A hearing will be required if an offender is found tampering with the sample collection (i.e. flushing, adulteration, substitution). Officer may send sample for confirmatory testing if tampering is suspected.
 - 6) Offender will also be given an opportunity to admit substance use upon a positive sample test result.
 - b. Staff will provide saliva-based testing for transgender offenders.
 - c. If the offender admits to the use of illegal substances prior to testing, no urinalysis is required; however, Officer may complete for cause testing to ensure other drug use not admitted to is present.
 - 1) Steps outlined below for conducting test are followed if urinalysis is taken.
 - 2) If urinalysis is not completed, Officer will complete OMIS Substance Test record using the steps outlined above in Section B, selecting "sample not taken" and add a comment. Subsequent disciplinary action will follow.
 - 3) Confirmatory testing will not be done to track drug usage or drug quantity levels.
 - d. Staff conducting testing must:
 - 1) complete OMIS Substance Test record each time an offender is tested;
 - 2) use one of the test-kits provided by the Department-contracted vendor for all rapid-result screening tests. Re-testing using additional strips/cups will **NOT** be done except in cases of faulty testing, such as the control line doesn't appear or there was not enough saliva for oral testing;
 - 3) wear protective gloves when obtaining sample. Additional personal protective equipment is optional;
 - 4) comply with the specimen collection procedures recommended through training and by Department-contracted vendor;
 - 5) be thoroughly trained in collection procedures;

- 6) be the same gender as offender; however, if it is not possible to have staff of the same gender as the offender witness the sample collection, one of the following may be done to establish the chain of evidence procedures:
 - a) allow the offender to collect his/her specimen unobserved;
 - b) request local law enforcement to assist; or
 - c) use saliva-based testing equipment.
 - 7) label the collection cup with offender's DOC ID number, date, employee's initials, and note test type – random or for cause – prior to requesting sample;
 - 8) collect sample in a private setting;
 - 9) carefully, closely, and directly observe the offender's urine flow from body to collection cup;
 - 10) keep specimen under observation at all times from collection to secure storage following preservation of evidence procedures;
 - 11) enter all testing information into OMIS record, including medications being taken by the offender;
 - 12) complete OMIS Substance Test Record; and
 - 13) if offender admits to substance use, upload *DOC 3.1.20 (Attachment) Drug/Alcohol Screening Information Form* (OMIS) or *PPD 3.1.2000(B) Substance Use Admission Form* to the offender's OMIS record upon offender signing the form.
- e. Offenders providing the urine sample will:
- 1) remove all excess clothing such as coats, sweaters, roll up sleeves, etc.;
 - 2) wash hands with soap and water, and dry hands before giving the sample; and
 - 3) place the cover on the urine specimen container before returning the container to the staff.

D. PORTABLE BREATH TESTING:

1. Breath testing for offenders suspected of alcohol use shall be conducted using a Portable Breath Test Device (PBT) by P&P Officers or local law enforcement and in accordance with the instructions of the testing device manufacturer. The device shall be maintained in a secure location.
2. Each test will be recorded in the offender's OMIS Substance Test Record and will include the date and time of test, a brief statement describing the reason for the test, and the results.
3. The P&P Officer will appropriately confront the offender when test results are positive. The offender will be asked to provide a statement of admission on *DOC 3.1.20 (Attachment) DOC Drug/Alcohol Screening Information* or *PPD 3.1.2000(B) Substance Use Admission Form* and then given an appropriate intervention, which could include a referral to treatment. The form used will be uploaded in OMIS upon offender signing the form.

E. SALIVA-BASED TESTING USING ORAL SWAB:

1. The supervising P&P Officer has the option of obtaining a saliva-based specimen for drug testing using an oral swab.
2. Staff conducting testing must:
 - a. use one of the test-kits provided by the Department-contracted vendor;

- b. wear protective gloves when obtaining sample;
- c. comply with the specimen collection procedures recommended through training and by Department-contracted vendor;
- d. be thoroughly trained in collection procedures;
- e. collect sample in a semi-private setting;
- f. keep specimen under observation at all times from collection to secure storage following preservation of evidence procedures;
- g. enter all testing information into OMIS record, including medications being taken by the offender;
- h. complete OMIS Substance Test Record;
- i. upon offender admitting to the use, save *DOC 3.1.20 (Attachment) Drug/Alcohol Screening Information Form (OMIS)* or *PPD 3.1.2000(B) Substance Use Admission Form* to the offender's OMIS record upon offender signing the form; and
- j. when submitting for confirmation testing, label the specimen with offender's DOC ID number, date, staff's initials, and note test type – random or for cause.

F. COLLECTIONS OUTSIDE OF P&P OFFICE:

1. Urine samples or oral swabs collected during a visit to an offender will be gathered using the appropriate evidence kit. Samples will be labeled with an evidence tag, packaged in a tamper-proof container, and refrigerated as soon as possible. The Officer requesting the sample and the Officer taking custody of the evidence will both initial the container.
2. *PPD 3.1.200(B) Substance Use Admission Form* will be used if an offender admits to substance use prior to collection or upon a positive result.
3. An OMIS Substance Test record must be completed upon admission of use and/or testing. *PPD 3.1.200(B) Substance Use Admission Form* with offender's signature is uploaded into OMIS if completed.

G. POSITIVE SAMPLE RESULTS:

1. A positive sample is sufficient reason for interventions or return to a correctional facility. P&P Officers will use particular discretion in how to handle positive test results given the nature of relapse in recovery from addiction, available options for interventions, and concerns for community safety.
2. Confirmatory testing will not be done when offender admits to drug use upon positive sample result.
3. If results from the initial screening test is presumptive positive and the offender does not admit use:
 - a. Supervising Officer will NOT re-test using additional strips or oral swabs, but, following preservation of evidence procedures, will forward the specimen for confirmatory testing only to determine precisely which drug or drugs are present in the specimen; confirmatory testing will not be done to track drug usage or drug quantity levels if not for cause;
 - b. Officer will discuss with offender that increased interventions will result if the lab confirms positive test result; and

- c. OMIS Substance record must be updated and completed once results are received from the lab.
4. Offenders may request, at their own expense, additional screening at the State Crime Lab or other approved screening site, such as a prerelease center. This additional screening will not delay disciplinary action that results in jail time or removal to a more secure environment.
5. All offenders testing positive and not returned to a correctional facility may be referred to chemical dependency for appropriate programming. The referral will be noted in the offender's file. Within 45 days of a positive result, the offender must be retested unannounced. Volunteering for treatment does not dismiss interventions or reports of violation.
6. Offenders who test positive and have previously completed drug treatment may be considered for referral to a relapse program. Offender's privileges may be curtailed while in the program, and the offender will be expected to pay for the cost of treatment.
7. The above actions do not preclude disciplinary action or, when applicable, transfer to a secure facility.

H. BLOOD DRAWS:

1. Officers will NOT request an offender to submit to an involuntary blood draw by law enforcement.

I. FINANCIAL RESPONSIBILITIES OF OFFENDERS:

1. Offenders may be charged the cost of the preliminary test kit when he/she refuses to admit drug use and a preliminary result is confirmed by the laboratory testing.
2. Offender will only be charged the unit price associated with the preliminary Department-approved test kit; offenders may be exempt if on indigent status or is current on all restitution and supervision fees.

IV. CLOSING:

Questions regarding this procedure should be directed to the POII, Deputy Chief, or Probation & Parole Bureau Chief.

V. FORMS:

PPD 3.1.2000 (B) Substance Use Admission Form
DOC 3.1.20 (Attachment) Drug/Alcohol Screening Information Form