



## **INMATE DRUG TESTING**

**(Critical Policy)**

### **POLICY.**

The Sheriff or his designee will have a drug-testing program to help eliminate the presence and use of contraband drugs in the jail and to monitor inmate compliance with drug-use conditions, rules and laws. *This is a critical policy because inmates under the influence of a contraband drug may cause serious harm to staff, other inmates, the public, themselves, or property.*

### **PURPOSE.**

The purpose of this policy is to establish methods and criteria for drug testing inmates that meet ORS 438.435 and Oregon Administrative Rule (OAR) 333-024-0360 testing requirements.

**OREGON JAIL STANDARDS: None**

### **REFERENCES:**

- ORS 438.435, Testing for Substance of Abuse
- OAR 333-024-0360, Special Category Laboratories

### **DEFINITIONS.**

**Analyte.** The substance being measure in an analytical procedure.

**Benefit.** Any inmate liberty or property interest protected by law except for those for which an inmate was given due process under major formal disciplinary procedures in *DCAJ Policy CD 6-3, Rules and Discipline*. (This excludes all disciplinary sanctions for which staff may sanction an inmate for a positive drug test.)

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**Chain of Custody.** The record of transfer for an item that shows successive possession by all those who handled or stored it. Chain of custody supports testimony given to authenticate and identify an item as evidence.

**Confirmatory test.** A height specific test to identify a contraband drug after a positive screening test. It uses a different analytical method than that of the screening test and is at or below the cutoff concentration used for the screening test.

**Contraband drugs.** Alcohol, illegal controlled substances, and controlled substances not prescribed or used for their intended purposes. An intoxicant.

**Control.** A material, with known expected testing results, that is analyzed to make sure the expected results are obtained.

**Corrections supervisor.** A corrections sergeant, corrections lieutenant, the corrections captain, or the Sheriff.

**Instant urinalysis.** A manual urinalysis that provides immediate results. Nicknamed “UA.”

**Intoxilyzer.** An automated test instrument that registers a person’s blood-alcohol content by having the person exhale air into the device.

**Proficiency testing.** Performance tests on samples whose expected results are not known to the person or laboratory doing the test, but a known to neutral party or an outside agency. The test results are revealed to the person or laboratory as an improvement aid or as a condition of licensure.

**Reagent.** A substance used to detect, exam, measure, or prepare another substance.

**Sample.** Bodily fluids obtained from a live person.

**Special category laboratory.** An entity that initially screens urine, blood, or other bodily fluids for contraband drugs. It does not do confirmation testing by any method.

**Urinalysis.** The chemical analysis of urine to determine the presence of drugs.

## **PROCEDURES.**

### ***SECTION A: DRUG TESTING PROGRAM***

**A-1. Program.** The Corrections Captain will assign a supervisor to oversee and administer the inmate drug-testing program. The assigned supervisor must do the following:

1. Make sure the staff follows the written policies, procedures and protocols for drug testing.
2. Make sure the tests meet United States (U.S.) Food and Drug Administration approved screening methods, or for Intoxilyzers, the U.S. Department of Transportation conforming products list and standards.
3. Make sure all staff that does testing has written protocols that must covers:
  - a. Sample collection
  - b. Sample identification
  - c. Chain of custody
  - d. Test limitations
  - e. Use of approved standards
  - f. Quality control
  - g. Conducting tests according to manufacturer's testing instructions
4. Maintaining a written record of at least the following:
  - a. Name and booking number of the inmate being tested
  - b. Date and time the sample was collected
  - c. Date and time the test was analyzed
  - d. Lot number of the test kit used
  - e. Test results, including results of controls
  - f. Signature or initial of the testing staff member
5. Make sure staff follow the quality control procedures listed below:
  - a. Calibrate tests instrument according to manufacture's specifications, with each new lot or shipment of reagents, and after major maintenance. (Do not use reagents after their expiration date.) (On duty supervisors will coordinate the calibration of the intoxilizer equipment with the Oregon State Police.)
  - b. Form manual methods; include a known positive and negative control with each batch of tests or with every 10 samples for each analyte of each kit. Run a known positive or negative control with each lot shipment, and at least once per month, if internal procedural controls are included with each test. (The manufacturer may do these actions and provide this information on request.)
  - c. For automated instruments, include a known positive and negative control at least once per day of use or following each tenth sample analyzed. (The on duty supervisors will coordinate control test of the intoxilyzers with OSP.)
  - d. Record all calibration and control data.
  - e. Make available the minimum detectable limit for each substance tested.
  - f. Clearly state and record limits for controls. State and record the corrective action taken when the analyses are outside these control limits.
  - g. Keep a record of each testing staff member's quality control performance.
  - h. Take part in a proficiency-testing program that is acceptable to the Oregon Health Division.
  - i. Give notice to inmates about the drug-testing program.
  - j. Compile a semi-annual report of the drug-test program for review by the Corrections Captain.

- A-2. Training.** Only deputies or approved contract staff may perform drug tests. They must fully complete a training course offered by the manufacturer or provider of the test or an approved correction trainer before they may start testing. The corrections trainer will use a training plan that meets Oregon Health Division criteria for special category laboratories under ORS 438.435 and OAR 333-024-0310.
- A-3. Record Documentation.** Staff must record drug tests they administer in the log that test-method protocols require. (For an instant urinalysis test, they will record them on DCAJ Form No. 631, Instant Urinalysis Log. For an intoxilyzer test, staff will record the test in the Breath Test Record Book.) Deputies must also note the tests in their duty notebooks.
- A-4. Medication.** Staff will include a list of medications that the inmate has taken within the last 30 days with the sample sent to an outside laboratory for testing. For instant urinalysis, corrections staff will consult with health care staff only if an inmate with a positive test claims to be taking medications.

### ***SECTION B: URINALYSIS TESTING***

- B-1.** Staff will normally use an instant urinalysis to test an inmate's urine for drugs. As a minimum, these will test for THC (marijuana), opiates, cocaine, and amphetamines. The assigned supervisor will make sure the jail has an adequate supply of instant urinalysis test kits and will track their use. Staff may have an outside laboratory do a urinalysis. Specific procedures for any urinalysis are:
- a. Staff will keep the inmate under constant watch from the time they notify the inmate of the need to give a urine sample until the inmate gives it.
  - b. The inmate must thoroughly wash his or her hands with soap, rinse, and towel dry before giving the sample.
  - c. A testing staff member that is the same sex as the inmate must watch the inmate give the sample. This observer will have the inmate position his or her body clothing in a way that does not block the person's view while the inmate gives the sample. The observer will avoid causing undue embarrassment to the inmate during this process.
  - d. All inmate and staff labeling and handling of the sample must comply with protocols for the testing method. Staff must use universal precautions while handling the sample.
  - e. Staff will give an inmate up to 2 hours to comply with the order to give a urine sample. During this time, the inmate may have up to three 8-ounce glasses of fluids. If the inmate does not give a sample after 2 hours, staff will consider it a refusal to obey an order.

***SECTION C: ROUTINE DRUG TESTING***

**C-1. Routine Testing.** The Corrections Captain or his designee will set the guidelines for doing routine drug tests on inmates. Staff will do at least an instant urinalysis on inmates under the conditions listed below. They may use an intoxilyzer in addition to or in place of the instant urinalysis if the use of alcohol is in question. A corrections supervisor may authorize other types of drug tests or make exception of these conditions, except to comply with terms of release, probation or court orders (no exceptions).

- a. There is reasonable suspicion the inmate is under the influence of or is using a contraband drug. This includes when staff finds a suspected contraband drug or when an inmate has history of drug use.
- b. Before transfer to or when returned to the Work Center.
- c. Before placement on or returned from the Transitional Leave Program.
- d. Before approving and on return from a pass or leave. Staff may also test during a leave depending on its length.
- e. To comply with terms of release, probation, or court orders (no exceptions).

***SECTION D: RANDOM DRUG TESTING***

**D-1. Random Testing.** The assigned supervisor will set the selection criteria and test method for random drug testing of specific inmate populations or conditions. Random drug testing may be on an on-going, periodic or one-time basis for an inmate population or condition. Staff will do random drug testing on an on-going basis for inmates under these conditions:

- a. Before and on return from an outside work detail
- b. Before placement and while on inmate worker status.
- c. To screen for jail program eligibility.
- d. When reporting for work programs.
- e. To monitor compliance with terms or release, probation, court orders, or treatment programs.
- f. To monitor compliance with jail rules on contraband
- g. As part of a study of drug abuse in an inmate population group. (Staff may not match results to individual inmates.)

**D-2. Test Time.** For a test condition that will result in an inmate moving to another housing unit or dress-out to leave the jail if the test is negative, staff should do the test before the inmate checks out of his current unit.

***SECTION E: DISCIPLINE FOR DRUG USE***

**E-1. Disciplinary Action.** Deputies will take disciplinary action against inmates who test positive for contraband drug use; however, staff may not discipline inmates for drug use that occurred when they were not in the legal custody of the Sheriff or if the tests were done as part of a study. Staff will discipline an inmate who refuses to submit to a test when ordered to the same degree as one who tests positive for drug use.

- E-2.** Deputies will do the following for disciplinary action:
- a. Fill out a *DCAJ Jail Incident Report Form No. 102*, in JMS.
  - b. Fill out a *DCAJ Misconduct Report Form No. 701*(in JMS), to charge the inmate with possession of dangerous contraband or disobeying an order, as appropriate.
  - c. Attach photocopies of the tests results with the *Jail Incident Report, Misconduct Report, and Criminal Report* and send a copy to assigned supervisor.
  - d. If appropriate, criminally charge the inmate. (Refer to *Policy [CD-8-17, Criminal Acts](#)*)
  - e. Move the inmate to segregation housing pending a hearing.
- E-3.** The adjudicator must classify the incident as “major” for disciplinary action to occur.
- E-4.** The hearing officer and appellate authorities will consider an inmate’s refusal to obey an order for a drug test as serious as one who tests positive for drug use when sanctioning the inmate.
- E-5.** The hearing officer will recommend a restitution sanction for the cost of the drug test, Along with any other appropriate sanctions, for an inmate found guilty of possessing contraband because of a positive drug test.
- E-6.** Other agency notification. Corrections staff will notify the courts, other agencies, and probation or parole officer when an inmate that they have an interest in tests positive for a contraband drug. Corrections staff will work with the other agency in coordinating any confirmatory test that it may need to comply with ORS 438.435.

**FORMS USED:**

- Instant Urinalysis Log, Form No. 631
- Jail Incident Report, Form No. 102 - JMS
- Misconduct Report, Form No. 701 - JMS