



State of North Carolina
Department of Public Safety
Prisons

Chapter: F
Section: .2600
Title: **Offender
Drug/Alcohol Testing**
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POLICY AND PROCEDURE

.2601 PURPOSE

The purpose of this policy is to specify the conditions and procedures for conducting drug screening of offenders. Prisons have a responsibility to protect the public, to provide a safe environment for staff and offenders, and to enforce the rules and regulations governing offender conduct. The goal of Prisons is to preserve order and maintain security. Drug use presents a threat to the safety of staff and offenders. Drug screening of offenders combined with appropriate graduated sanctions is an effective means of suppressing drug use, drug trafficking, and drug-related infractions, including institutional violence, and to the extent feasible, ensuring that offenders released from prison are drug free. Drug screening also provides a mechanism to identify those offenders with substance abuse problems and target them for effective treatment programs. The current drugs routinely tested for include cannabinoid, cocaine, and opiates with additional screening for amphetamines, barbiturates, LSD, PCP, buprenorphine, synthetic cannabinoid, and benzodiazepines upon request.

.2602 RESPONSIBILITY

- (a) The Assistant Director of the Security Accountability Section for Prisons is responsible for establishing and monitoring the drug-screening program for offenders in Prisons.
- (b) The Facility Head is responsible for the implementation of the drug screening program at each respective facility.
- (c) Facility medical staff and Division medical staff are responsible for reviewing medication orders for offenders who have tested positive for drugs. Prisons medical staff should not be involved in urine sample collection, breath alcohol testing or specimen control.
- (d) Staff involved in the drug screening program at the facility is responsible for carrying out their duties according to the standard operating procedures for the drug screening program.
- (e) All Prison staff are responsible for reporting to the facility head or designee any evidence and observations that suggest illegal drug use or other drug related activity.

.2603 URINALYSIS

- (a) Reasons for screening **offenders**: The following are examples of when an **offender** may be subject to urinalysis drug screening. This list is illustrative and not inclusive of all appropriate justifications for testing.
- (1) Upon initial admission to **Prisons** or upon admission to specified facilities involved in the drug screening program;
 - (2) As part of the cause/suspicion and random drug-screening program, **Prisons** requires a 5% minimum total offender population for Close custody; a 7% minimum total offender for Medium custody and a 10% minimum of the total offender population for Minimum custody be randomly drug tested each month. Specific numbers are established by the **Assistant Director of Security Accountability Section** in consultation with the **Chief of Security and Field Drug Testing Coordinator**;
 - (3) When an **offender** is found to be in possession of drugs or drug paraphernalia or when drugs or drug paraphernalia are found in an area that is controlled, occupied, or inhabited by the **offender**;
 - (4) When staff have documented reason to believe that the **offender** has used or is using drugs. This may be based on the behavior of the offender or on reliable information from informants. The reliability of the informant should be documented;
 - (5) When suspicious behavior that suggests drug use or drug related activity by the **offender** or his visitors is observed during visitation;
 - (6) When an **offender** returns late from any community-based program or returns under suspicious conditions that suggest drug use or drug related activity;
 - (7) As part of a drug abuse prevention program;
 - (8) When an **offender** has tested positive on a previous urinalysis drug screening;
 - (9) When an **offender** is being considered for placement in community-based programs such as work release, study release, family visits, and the community volunteer program.
 - (10) In accordance with provisions enacted by the 1996 session of the General Assembly requiring the establishment of a Pre-Release Drug Testing Program, the **offender** is within 60 to 90 days of a known or anticipated release date.
- (b) Authority to designate **offenders** for screening:
- (1) **Offenders** selected for random screening will be chosen by a random selection

process, whereby the identity of the offender is not known by selection personnel when the offender is chosen for screening. Facilities are to utilize OPUS generated random selection lists.

- (2) Other offenders selected for screening will be identified by the facility head or designee.
- (c) Sample Collection
- (1) Before collecting a urine sample, the processing officer will positively identify the offender by name and prison number.
 - (2) A clear, non-reusable plastic container designed for the collection of urine samples will be provided to the offender by the processing officer just prior to the collection of the urine sample. The offender will be given a specimen cup and a direct order to submit a urine sample (a minimum of 30 mls) of urine.
 - (3) The observing officer, who will be of the same sex as the offender tested, will escort the offender to an area that provides privacy from visual observation by others. The observing officer will give the offender a direct order to provide a urine sample. The collection of the urine sample will be observed only by the offender and the observing officer, unless there is a legitimate security need for the presence of additional staff.
 - (4) If an offender is unwilling to provide a urine sample within 2 hours of an order to do so, the collecting officer should initiate disciplinary action against the offender for A-13, Refuse to submit to a drug test or breathalyzer test. To eliminate the possibility of diluted or adulterated samples, staff shall keep the offender under direct visual supervision during this two-hour period or until a urine sample is furnished. To assist the offender in giving a sample, staff shall offer the offender 16 ounces of water at the beginning of the two-hour period.
 - (5) An offender is presumed to be unwilling if the offender fails to provide a urine sample within the two-hour period. If an offender claims to be unable to produce a sample because of Paruresis or Shy Bladder Syndrome, he/she will be referred to mental health as listed in section .2603 (d) and the offender may rebut the presumption during the disciplinary process.
 - (6) When the offender being observed by staff has submitted his/her urine sample he/she will secure the lid to the specimen cup. The offender will notify the custody staff member that he/she has provided a urine sample. The custody staff member will ensure that the lid is properly secured to the specimen cup to prevent any spillage. Once the specimen has been collected and tested according to policy the offender will be allowed to return to regular population.

- (7) In the event a supervisor is not immediately available or some other operational concern necessitates a delay in testing, tamper resistant evidence tape will be placed on the sample container, the processing officer will label the container, and the offender will be instructed to initial the label and evidence tape verifying "this is my sample." If the offender refuses to initial the label, evidence tape or sign the request form (DCC26), the processing officer will document the refusal on the request form along with the processing officer's signature and the signature of a witness. For refusal to initial the evidence tape the following procedures should be taken; the collecting officer writes refused to initial on the tape and he/she signs the evidence tape. On the DCC-26 the collecting officer and a witness documents the offender refusal to initial the evidence tape. Disciplinary action should not be taken against the offender for refusing to initial or sign.
- (d) **Sample Testing**
- Correctional staff will conduct an initial test of the sample by utilizing the agency approved five (5) panel single use test device and in a manner consistent with agency-mandated training. Only staff who have been trained in the correct use of the device will be tasked with conducting urinalysis drug testing. Once the test itself is complete and the results have been read and recorded, the offender may be returned to his/her housing area and sample disposed of properly.
- (e) **Shy Bladder Syndrome**
- (1) If after failing to produce a urine sample an offender claims to have a psychogenic and non-volitional inability to produce a urine sample while being watched (aka 'shy bladder' or paruresis), the offender can request a referral to mental health by means of a completed DC-540 form.
- (2) The offender will be seen by psychology per policy on DC-540 referrals and will be evaluated by means of available chart review, interview, and psychometric testing (the latter to discern evidence of malingering of symptoms).
- (3) Should the diagnosis of paruresis or shy bladder be supported because of the Mental Health evaluation, documentation of the diagnosis shall be made in OPUS for notification of alternative method for urine collection as outline below in section .2603(d)(5).
- (4) **Shy Bladder Syndrome Testing: For Random/Cause Drug Testing, offenders** who have been diagnosed with the medical condition Paruresis or Shy Bladder Syndrome will be flagged in OPUS so those responsible for testing will be aware of specific conditions and steps that must be followed when testing these offenders.
- (A) The following steps will be taken to assist these offenders that have been diagnosed with the condition of Paruresis or Shy Bladder Syndrome.

- (i) The offender will be escorted by Custody Staff to a secure dry cell which will be searched prior to the offender being placed in the cell for contraband. The offender will be instructed to wash his/her hands prior to being placed in the cell.
 - (ii) The offender will be strip searched by a member of the same sex to ensure that there's no contraband on or about his/her person that could be used to dilute or adulterate the urine sample.
 - (iii) To assist the offender in giving a sample, staff shall offer the offender sixteen (16) ounces of water at the beginning of the two-hour period. The offender will be given a specimen cup and a direct order to submit a urine sample (a minimum of 30 mls) of urine. Once the offender is secured in the dry cell custody staff will not have direct observation of the offender but must ensure that the offender has no contact with any other offender (s) during this time.
 - (iv) The offender will be given an additional sixteen (16) ounces of water and an additional two (2) hours to produce a urine sample. Again, custody staff will not have direct observation of the offender but must ensure that the offender has no contact with any other offender (s) during this time.
- (f) Results of Screening
- (1) All samples with a positive result will automatically be re-tested by the Observing Officer and Supervisory Staff. Using a second single panel drug stick from another lot the observing officer will notify facility supervisory staff that a secondary dip test for "Confirmation" is required. This second staff member must be of supervisory level; Sergeant, Lieutenant, Captain, Assistant Unit Manager, or Unit Manager can be utilized as long as it is not another Officer of the same rank. If only one substance is being re-tested and the second test is negative, the results of the overall drug urinalysis will be considered inconclusive and the offender will be sent back to his/her housing area. If the offender had initially tested positive for *more* than one substance, correctional staff will then conduct a re-test for the second substance. If the re-test of the second substance is negative, staff will conduct a re-test for a third substance, etc. Staff will document positive or negative results for any test conducted. After a positive result for certain drugs (see chart below) is reported to the facility head, facility medical staff will review the offender's medical records to determine what prescribed or over the counter medications the offender is currently taking and consult with the Prisons Medical Director to discuss the possibility of a positive result due to medication cross reactivity. If there is no basis for a positive result due to cross reactivity, disciplinary action will be initiated against the offender

for A-12, Manufacturing, possessing, introducing, selling or using any unauthorized controlled substance, unauthorized intoxicant or alcoholic beverage, or possessing associated equipment. A guilty finding will result in a presumptive active sentence to include the forfeiture of earned time.

Confirmation is required for ALL positives (see chart below).

<u>Drug</u>	<u>Confirmation</u>	<u>Medical Review</u>
Marijuana	Yes	No
Cocaine	Yes	No
Opiates	Yes	Yes
Benzodiazepines	Yes	Yes
LSD	Yes	No
Methamphetamines	Yes	No
Buprenorphine	Yes	No

- (2) An offender with a negative test result is still subject to disciplinary action if there is behavioral or other evidence to warrant such disciplinary action.
- (3) If disciplinary action is taken against an offender because of the test results, the offender will be given the opportunity during the disciplinary process to challenge the validity of the test results.
- (4) If offenders who test positive are being released on parole, the facility head or their designee will notify the appropriate parole case analyst assigned to that case that the offender has tested positive for drug use. Paroles may be rescinded at the discretion of the Parole Commission.
- (5) An offender that tests negative during initial pre-release screening may be retested at the discretion of the facility head for any of the reasons outlined in Section .2603. If an offender tests positive during initial pre-release drug screening at least one additional test must be completed prior to release. The second test should follow testing guidelines outlined in .2604.
- (6) Upon the first positive drug test for any offender, an individual counseling session with the assigned case manager will occur. This counseling may involve referral to part time or voluntary treatment program(s) such as AA or NA, and possible classification review. Upon a second positive drug test result in a twelve-month period, the offender's case manager will initiate a referral for mandatory participation in any available part time or full-time drug treatment program(s). Because of a second positive drug test result in a twelve-month period, a classification review will be conducted to determine whether changes in housing and/or work program assignments are necessary. All referrals for treatment will be coordinated in conjunction with normal disciplinary actions associated with positive drug or alcohol

results. Treatment programs may impact classification actions, but will not influence disciplinary actions established for these offenses.

- (7) If at any time an offender refuses to submit a urine sample, disciplinary action will be initiated for offense A-13, Refusing to submit to a drug test or breathalyzer test.

.2604 TESTING TIME FRAMES

(a) New Admissions

Research has shown that only those persons who use marijuana at least daily for extended periods of time will retain marijuana in their system longer than 7 days, therefore an extended amount of time is allowed for new admissions to ensure any marijuana use prior to commitment to the NCDPS - Prisons has sufficient time to clear out of the offender's system.

(1) Marijuana

New admissions may not be subjected to disciplinary action for a positive test result for marijuana until the 30th day after admission to Prisons, inclusive of the admission date, e.g., offender admitted on May 1 may not be subjected to disciplinary action for a positive marijuana test resulting from a sample collected prior to May 30.

(2) Other Drugs

New admissions may not be subjected to disciplinary action for a positive test result for other drugs, i.e., opiates, cocaine, etc, until the 4th day after admission to NCDPS – Prisons. For example: an offender admitted on May 1 may not be subjected to disciplinary action for a positive cocaine test resulting from a sample collected prior to May 4.

(b) Retest After Positive

(1) Marijuana

When an offender tests positive for marijuana, that offender may not be subjected to additional disciplinary action for a second positive test result for marijuana for a minimum of 7 days from the date the previous positive sample was collected, e.g., offender provides sample on Monday and sample positive for marijuana - may not be subjected to disciplinary action for another positive test result for marijuana collected prior to the following Monday.

(2) Other Drugs

When an offender tests positive for other drugs, i.e., opiates or cocaine, that offender

may not be subjected to additional disciplinary action for a second positive test result for that specific drug for a minimum of 4 days from the date the previous positive sample was collected, e.g., offender provides sample on Monday and tested positive for cocaine, opiates, etc., may not be subjected to disciplinary action for another positive test for that same specific drug collected before Friday of the same week.

- (c) These time frames are not intended to prevent offenders from being tested multiple times on the same day or consecutive days. This policy is intended to prevent an offender from being charged with disciplinary offenses more than one time within these time frames for the same drug. An offender that is positive on Monday for marijuana, but negative for cocaine and/or opiates, may be tested on Tuesday. If he/she is positive on Tuesday for cocaine and/or opiates, additional disciplinary action should be taken. However, if he/she is positive on Tuesday for marijuana only, no additional disciplinary action should be taken.
- (d) Regardless of time frames, offenders may be subject to disciplinary action for manufacturing, possessing, introducing, selling or using any unauthorized controlled substance, unauthorized intoxicant or alcoholic beverage, or possessing associated equipment in those cases where offenders are found to be in possession of unauthorized controlled substances or associated equipment. Staff must document these observations to support disciplinary action.

.2605 STAFF TRAINING

All staff involved in the collection, documenting and handling of urine samples will be required to complete the training program utilizing lesson plan DPS-095, Offender Urinalysis Drug Screening. Trainees should be allowed to assist with urine sample collection and breath alcohol testing while being supervised by a staff member experienced in these areas until the trainee demonstrates proficiency in each area.

.2606 SUBSTANCE ABUSE TREATMENT PROGRAMS

A system of substance abuse treatment programs is in place for treatment and education purposes. These programs are delivered to selected offenders while incarcerated in the Prisons. Drug Treatment Programs may include part time Substance Abuse Programs as well as full time Substance Abuse Programs.

- (a) Drug education in the form of literature and individual counseling is available at all facilities. Offenders may be required by their case manager to attend or may volunteer to attend.
- (b) Group counseling is available at selected facilities with offenders attending on a voluntary basis.
- (c) Narcotics Anonymous/Alcoholics Anonymous is available at most facilities with participation being voluntary. Offenders are to be encouraged to attend by case managers for classification or other considerations. Case managers may refer offenders to NA or AA programs based on a history of substance abuse, or positive test(s) while incarcerated.

Offenders participating in NA/AA are subject to drug screening as part of the random/suspicion or cause screening program that the regular **offender** population is subject to.

- (d) Drug/Alcohol Recovery Program (DART) is a full time residential treatment program that varies in length as follows: 35-120 days for minimum custody and 35-90 days for medium custody. These residential treatment programs are designed to identify, complete assessments and treat individuals who score between three and thirteen on the Short Michigan Alcoholism Screening Test (SMAST) and Chemical Dependency Screening Test (CDST) obtained during the diagnostic/reception process. Individuals selected for participation must have a documented history of drug/alcohol related problems, court recommended for DART participation or be a self-referral. **Offenders** must be felons in close, medium, or minimum custody, as well as, misdemeanants who meet eligibility criteria. Each participant in the DART program will be drug tested at least once during the period of program participation.
- (e) DART After Care is required of all offenders that complete the DART program. The purpose of this eight to twelve weeks after care, part-time program is treatment, recovery and relapse prevention. **Offenders** participating in DART After Care are subject to random drug screening as being a part of the regular **offender** population.

.2607 BREATH ALCOHOL TESTING

- (a) Reasons for Testing **Offenders**: The following are examples of when an **offender** is subject to breath alcohol testing: This list is illustrative and not inclusive of all appropriate justifications for testing.
 - (1) When staff have a documented reason to believe that the **offender** has used or is using alcohol. This may be based on the behavior of the **offender** or on reliable information from informants. The reliability of the informants should be documented.
 - (2) When an **offender** is found to be in possession of alcohol.
 - (3) As part of an alcohol use prevention program.
 - (4) As part of the random breath alcohol testing.
 - (5) When an **offender** returns late from any community based program or returns under suspicious conditions that suggest alcohol use or alcohol related activity.
 - (6) When an **offender** has tested positive on a previous breath alcohol test.
- (b) Authority to Designate **Offenders** for Testing
 - (1) **Offenders** selected for random testing will be chosen by a random selection process,

whereby the identity of the offender is not known by selection personnel when the offender is chosen for testing.

- (2) Other offenders selected for testing will be identified by the facility Head or designee.
- (c) Sample Collection: Procedures for breath alcohol testing are outlined in the instructional manual for the equipment used to conduct the breath alcohol testing. Breath alcohol testing will be done by personnel appropriately trained in breath alcohol testing procedures and breath alcohol testing equipment.
- (d) Results of Testing
- (1) Based on a positive breath alcohol testing result of greater than .02, disciplinary action will be initiated against the offender for A-12, Manufacturing, possessing, introducing, selling or using any unauthorized controlled substance, unauthorized intoxicant or alcoholic beverage, or possessing associated equipment. Offenders may be subject to disciplinary action for manufacturing, possessing, introducing, selling or using any unauthorized controlled substance, unauthorized intoxicant or alcoholic beverage, or possessing associated equipment based on positive breath alcohol test results of .02 or less only in those cases where staff observe indications that alcohol use has occurred. Staff must document these observations in corroboration of a .02 or less positive test result to support disciplinary action. Observable indications may include, but are not limited to slurred speech, bloodshot eyes, staggering walk or presence of the odor of an alcoholic beverage. Confirmatory testing of breath alcohol testing will not be conducted unless the testing officer has doubts as to the validity of that particular offender's test.
- (2) If disciplinary action is taken against the offender because of the breath alcohol testing, the offender will be given the opportunity during the disciplinary process to challenge the validity of the test results.
- (3) If an offender refuses to submit to a breath alcohol test, disciplinary action will be initiated against the offender for offense A-13, Refuse to submit to a drug test or breathalyzer test.



Director of Prisons
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Date