



INTERNAL MANAGEMENT POLICY & PROCEDURE

Applicability: ADULT Operations Only JUVENILE Operations Only DEPARTMENT-WIDE

IMPP #: 12-124D

PAGE #: 1 of 9

SECURITY AND CONTROL: Resident Drug Abuse and Intoxicants Testing

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Approved By:  , Secretary

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POLICY

Consistent with the mission statement of the Department, which is to promote public safety, incarcerated residents are to be closely monitored and/or tested by trained personnel for the use of illicit drugs and/or intoxicants. Drug testing of residents, combined with appropriate sanctions and treatment is an effective means of suppressing drug use, drug trafficking, and drug related infractions. Any resident is to, upon request of an authorized staff member, submit to drug abuse or intoxicant testing to determine if the resident is using contraband drugs or intoxicants. All tests are to be approved by the Secretary of Corrections/designee and conducted by either trained KDOC personnel, or by certified laboratories. Refusal to submit to testing is to be subject to disciplinary action. Drug screening tests are not to be conducted for purposes of harassment. When test results indicate a resident's use of illicit substances, the results are to be documented and with limited exceptions, a disciplinary report written. Additionally, counseling/treatment intervention may be implemented, if appropriate.

Offenders on post-incarceration supervision status are to be tested in accordance with the provisions of IMPP 14-112A.

Residents testing positive for the use of illicit drugs using urine sample screening, are to be assessed a fee of five dollars (\$5.00) for each drug testing positive. Additionally, if a laboratory fee is incurred as the result of a positive confirmation test, the resident is to be assessed a fee for these as well. The staff person(s) responsible for drug testing at the facility is to be responsible for notifying the resident and facility accounting office of the exact amount of any laboratory fee incurred so that this money may be withdrawn from the resident's account. If alternative drug testing methods are used and the resident tests positive for the use of illicit drugs, the resident is to be assessed a fee of \$90.50 for the hair test and/or \$19.50 for the on-site oral fluids test **and** \$30 for each drug of the oral fluids test that is confirmed positive by laboratory testing. All fees collected are to be payable to the Kansas Department of Corrections.

DEFINITIONS

Alternative Drug Testing Methods: Methods other than urine testing used to test for the use of illicit drugs. KDOC approved alternative drug testing methods are oral fluids and hair testing.

Alternative Drug Testing List: A comprehensive listing of residents with a substantiated medical or psychological condition that prevents collection of a urine sample necessary for established drug test protocol. This list is to include only the name (s) and number of the resident(s) not the specific medical or psychological condition. The health care provider is to update the list as needed.

Certification: The completion of the course of instruction necessary to prepare an individual to use the testing equipment.

Contaminated: A urine sample that has been subjected to the introduction of a material, substance, or chemical that is not part of the testing materials or naturally occurring in human urine.

Contraband: Any item, which has not been approved for introduction into a correctional facility by law, regulation,

or policy.

Drug Testing: Using specialized equipment and chemical techniques to identify the presence of a drug or drug metabolite through testing a biological specimen from a resident.

Expiration Date: The date after which a reagent cannot be used to produce a valid test.

G.C.M.S. Testing: G.C.M.S. testing identifies the existence of certain controlled substances via its reliance upon the combined sciences of Gas Chromatography and Mass Spectrometry. Gas Chromatography is an analytical separation method in which chemical components are separated by a combination of three mechanisms: partition, adsorption and volatility (differences in boiling points). The chemical components are then identified through the use of a mass spectroscope. This analysis is conducted only by a professional laboratory certified in the use of these combined sciences.

Negative Control: A test specimen for certain drug detection systems.

Resident: For the purpose of this policy, a person who has been sentenced to the custody of the Secretary of Corrections who is currently assigned to a KDOC facility, contract facility, or housed in another state pursuant to the Interstate Corrections Compact. This also includes persons from other jurisdictions who are housed in KDOC facilities pursuant to the Interstate Corrections Compact.

Random Selection: Selection, which lacks a definite plan or pattern, composed of residents or activities of a given set, each of who has an equal probability of being selected.

Reasonable Suspicion: A conclusion drawn from specific objective facts that would permit a reasonable and experienced staff member to suspect that a resident is under the influence of drugs, alcohol or a combination of drugs and alcohol.

Training: Instruction in the actual operation of the test equipment.

Treatment: Contracted substance abuse services provided to residents including, but not limited to, therapeutic community, intermediate inpatient, reintegration, relapse prevention, outpatient counseling, and after care.

PROCEDURES

I. Applicability

- A. While all residents are subject to drug abuse and/or intoxicant testing, the drug screening program is to target the following:
 - 1. Residents suspected of contraband drug usage and/or being under the influence of alcohol or drugs.
 - 2. High-risk group including:
 - a. Residents with a history of drug or alcohol abuse.
 - b. Groups of residents by living/work/program assignment where a pattern of drug and/or alcohol abuse is discovered.
 - c. Residents whose custody/program increases the potential for contact with contraband drugs and/or alcohol (includes furloughs, work release, and community work assignments).
 - 4. Residents participating in substance abuse treatment programs are to be subject to testing upon the request of the treatment provider.
- B. **JUVENILE:** In addition to those requirements of Section I.A., residents are to also be tested upon

intake, as follows:

1. Upon intake into a juvenile facility, residents are to be notified of:
 - a. The drug testing procedures (Attachment A) utilized by the facility; and
 - b. The consequences for refusing to participate in drug testing.
2. All newly admitted residents are to be tested within eight (8) hours of arrival to the admitting facility.

II. Testing Authorization

- A. The shift supervisor, acting as the warden's/superintendent's designee, may authorize a drug abuse and/or intoxicants test for any resident or group of residents.

III. Drug/Intoxicant Testing Materials

- A. All drug/intoxicant testing materials are to be handled in a manner that preserves their integrity and reliability including, but not limited to:
 1. Storage in accordance with the manufacturer's instructions;
 2. Storage in a locked, secure area that ensures unauthorized individuals do not handle tests, supplies, or testing records; and,
 3. Disposal of any drug/intoxicant testing materials that have met or exceeded their expiration date.

IV. Urine Sample Collection

- A. Sample collection is to be conducted by trained personnel in accordance with the following:
 1. The collection area is to be clean, sanitary, and out of the public view.
 2. Only new, leak-proof containers designed for the purpose of urine collection are to be used.
 3. The officers or staff members conducting the search and observing the urination are to be the same gender as the test subject.
 4. Before being tested, residents are to be thoroughly searched including a visual examination of the groin area for foreign objects or materials.
 5. The resident is to wash hands prior to giving the urine sample.
 6. Information regarding the test is to be logged in a drug-screening log, which provides the following information:
 - a. Resident's name;
 - b. Resident's number;
 - c. Date the sample is taken;
 - d. Time the sample is taken;
 - e. Specific drugs to be tested for; and,

- f. Name of staff witnesses.
7. The resident's name, number, date and time the sample was produced are to be recorded on an identification label/tape and placed on the container
 - a. The officer or staff member collecting the sample is to verify the identity of the subject resident by checking the resident's I.D. badge against the drug screening log and label/tape placed on the sample container, and is to require the resident to initial the label/tape.
 8. Residents are to be under continuous observation until the sample is collected.
 - a. Residents are to be required to provide a urine sample of sufficient quantity to meet the testing requirements as specified by either the test manufacturer or any laboratory, which regularly performs the analysis of urine samples submitted by the facility, and to initial the tape sealing the urine sample container.
 - b. Residents are to be required to produce a sample within 150 minutes.
 9. To the extent possible and in accordance with general orders, the actual urination is to be observed for possible attempts by the resident to dilute or contaminate the sample.
 10. A chain of evidence form is to accompany the urine sample at all times.
 11. As each sample is received, the resident's name, number, date, and time the sample was produced are to be recorded on a tape and the tape placed on the sample container.
 12. All samples not tested immediately are to be sealed with evidence tape.
 13. If a sample is contaminated or otherwise rendered untestable, the following action is to be taken:
 - a. If the sample was contaminated or is otherwise untestable, due to actions of the resident, the resident's conduct has raised the presumption of substance use. The resident is to be charged with a violation of the applicable K.A.R. for use of stimulants.
 - b. If the sample was contaminated, or is otherwise untestable, due to actions of staff, the testing procedures outlined in this policy are to be repeated in their entirety until a testable sample is produced.
 14. Samples not immediately tested are to be placed in a designated refrigerator. This refrigerator is to be lockable and access is to be by authorization of the Warden/Superintendent or designee only.
 15. In the event a resident claims to be unable to provide a urine sample, the following action is to be taken:
 - a. The resident is to be taken to a designated area and kept under continuous observation until the requested sample is provided;
 - b. As soon as practical, the resident is to be provided 16 oz. of plain water.
 - (1) Residents are to be advised that they may submit a request to the medical/mental health provider requesting to be screened to determine if a physiological or psychological disorder prevents the resident from providing a urine sample under the conditions outlined in this policy.
 - (2) If medical or mental health staff substantiate that a physiological or

psychological disorder prevents the resident from providing a urine specimen, the resident's name is to be placed on the Alternative Drug Testing List.

- (a) Alternate test methods are to be used in accordance with section VI of this policy.
 - c. If a sample is not produced, the resident's conduct has raised the presumption of substance use. The resident is to be charged with a violation of the applicable K.A.R. for Use of Stimulants.
16. If the resident refuses to participate in substance abuse testing, the resident is to be charged with a violation of the applicable K.A.R. for disobeying orders and use of stimulants.

V. Drug Testing Procedures

- A. Drug abuse testing is to be conducted by either personnel trained in the use of the approved detection system, or by personnel employed by a certified laboratory.
 - 1. Certification and documentation of training in the use of the approved drug detection system currently in use is to be maintained in the operator's training record.
 - 2. Certification is to be accomplished through training from the manufacturer and/or distributor of the drug detection system product.
- B. Drug testing is to consist of a protocol approved by the Secretary of Corrections or designee that may test for the presence of the following substances with the established cutoffs:
 - 1. Alcohol (Ethanol) .02 gm/dL
 - 2. Amphetamines 250 ng/mL
 - 3. Barbiturates 200 ng/mL
 - 4. Benzodiazepine 50 ng/mL
 - 5. Buprenorphine/Norbuprenorphine 0.5 ng/mL
 - 6. Cocaine 100 ng/mL
 - 7. Dextromethorphan 50 ng/mL:
 - a. EtG 100 ng/mL
 - b. EtS 25 ng/mL
 - c. Fentanyl 5 ng/mL
 - d. GHB 10 mcg/mL
 - 8. Gabapentin/Pregabalin 250 ng/mL
 - 9. Methadone 100 ng/mL
 - 10. Mitragynine 1 ng/mL
 - 11. Opiates/Opioids:

- a. Total Morphine 100 ng/mL
 - b. 6-MAM (for Heroin) 5 ng/mL
 - c. Hydrocodone 100 ng/mL
 - d. Hydromorphone 100 ng/mL
 - e. Oxycodone 50 ng/mL
 - f. Oxymorphone 50ng/mL
 - g. Noroxycodone 50 ng/mL
 - h. Codeine 100 ng/mL
12. PCP 5 ng/mL
13. Propoxyphene 200 ng/mL
14. Sedative/Hypnotic Agents:
- a. Carisoprodol 100 ng/mL
 - b. Meprobamate 100 ng/mL
 - c. Zolpidem 1 ng/mL
 - d. Carboxyzolpidem 10 ng/mL
15. Synthetic Cannabinoids Qualitative
16. Tricyclic Antidepressants 25 ng/mL
17. THC-COOH 5 ng/mL
- C. The Secretary or designee may authorize testing for additional illicit drugs not listed in Section V. B. if the substance(s) has created a risk to facility security.
- D. If a resident tests positive through the use of the approved KDOC drug detection system, a disciplinary report is to be issued for violation of K.A.R. 44-12-312(a) (adult) or K.A.R. 123-12-312 (a) (juvenile).
1. Following service of a disciplinary report, the resident is to be advised of the availability of GCMS confirmation testing.
 2. The resident may request GCMS testing by completing a Drug Test Waiver and Agreement (Attachment B)
 3. The resident's request for GCMS confirmation is to be conveyed to the Disciplinary Hearing Officer.
 - a. A continuance is to be granted pending GCMS confirmation.
 4. If the GCMS test result is positive for drug usage, the resident is to pay the cost of the testing and shipping, if applicable.
 5. If the GCMS test result is negative, the facility is to pay the cost of the testing and shipping.

6. The disciplinary hearing is to continue upon receipt of the GCMS confirmation.
- E. Samples which have tested positive under the KDOC approved drug detection system are to be frozen and retained at the facility until final resolution of any disciplinary action.
- F. **JUVENILE:** These procedures may be excluded if the juvenile resident knowingly and voluntarily completes an Admission of Guilt form (Attachment C).

VI. Alternative Drug Testing Methods

- A. The department is to utilize drug-testing methods other than urinalysis when urine collection (using procedures and timeframes set forth in this policy) is not possible due to a resident's substantiated physiological condition or psychological disorder or when an alternative drug testing method can more reliably detect illicit drug use. When alternative drug testing methods are used, staff must be trained in the use of the specific alternative drug testing methods employed before performing the test or collecting the sample.
 1. Residents that have been identified as having a substantiated physiological condition or psychological disorder that precludes them from providing a urine sample are to be offered a treatment program specific to the treatment of the identified physiological condition or psychological disorder.
 - a. If a resident refuses to participate in the treatment of the condition or disorder, he/she is to be tested using alternative drug testing methods and is to be responsible for all costs associated with the testing regardless whether the test is positive or negative.
 - b. If the resident is on the Alternative Drug Test List, the cost for such testing is to be bore by the facility with the exception that the resident is to bear the cost for any test results that are confirmed positive.
 2. The health care provide is to make the Alternative Drug Testing List available to each facility.
 3. Residents whose name appears on the *Alternative Drug Test List* are to be tested using **both** hair sample and oral fluids sample testing methods.
 - a. Should the resident lack sufficient hair for testing, fingernail clippings may be collected instead of hair.

VII. Calibration/Negative Controls/KDOC Drug Detection System

- A. Any negative controls and/or calibrations which may be required as a part of the drug detection system testing process are to be made at the beginning of each testing day in accordance with manufacturer's instructions to determine the proper working condition of the test material.
- B. If the facility uses a breath test, which has to be calibrated with a canister, the facility is to arrange to purchase a calibration agent from the State Department of Health and Environment or have the unit calibrated at least every eight weeks by a local law enforcement agency.

VIII. Intoxicant Testing Procedures

- A. When intoxicant testing is ordered, the following procedures are to be followed:
 1. The Department is to utilize either of the following tests:
 - a. An approved field test; or,

- b. A digital read out machine, which traps a sample of the person's breath through a plastic tube, inserted into the machine, and after an established time period, produces a read out in percentages.
 2. Testing may take place at any location.
 3. The information regarding the test is to be logged in a log, which lists the following information:
 - a. Resident's name;
 - b. Resident's number;
 - c. Date test was conducted;
 - d. Time test was conducted;
 - e. Result of test; and
 - f. Names of operator and witnesses.
 4. Testing is to be conducted by a certified or properly trained operator with documentation of training on file in the operator's training record.

IX. Disciplinary Action

- A. Pursuant to the appropriate K.A.R. for Use of Stimulants, positive test results for drug abuse and/or intoxicants is to result in disciplinary action against the resident. A refusal to submit to a drug abuse or intoxicants test is to be presumed to be a positive test result.
 1. Newly admitted and re-admitted residents, in the custody of the Department for 14 days or less at the time the random test was administered, are to be exempt from disciplinary action in response to a positive test result.
 - a. Residents in this category who produce a positive test result are to be administered a subsequent drug abuse or intoxicant test at least 14 days from their admission or re-admission date but no later than 25 days from that date.
 - b. Positive test results from the re-test are to result in disciplinary action in accordance with Section IX. A. above.
 2. Residents being screened for Medication Assisted Treatment (MAT) will be exempt from disciplinary action for a positive drug/alcohol test.
 - a. Supervisors for the MAT program will formally request the testing and waiver through the Warden/Superintendent or designee.

X. Reports

- A. All reports concerning drug abuse and/or intoxicants testing are to be made available as soon as possible after the test is performed.
- B. Each facility is to develop General Orders regarding drug and intoxicant testing with specific instructions to staff.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff, residents, and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees, residents, or offenders, or an independent duty owed by the Department of Corrections to employees, residents, offenders, or third parties. Similarly, those references to

the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

IMPP 14-112A
K.A.R. 44-12-304, 44-12-312, 123-12-304, 123-12-312

HISTORY

03-08-16 Original
11-23-21 Revision 1

ATTACHMENTS

Attachment	Title of Attachment	Page Total
A	Drug Test Procedures	1 page
B	Drug Test Waiver and Agreement	1 page
C	Admission of Guilt	1 page

DRUG TESTING PROCEDURES
(Juvenile Correctional Facility Use Only)

I, _____, _____, hereby affirm that
(Designated Facility Staff Member's Printed Name) (Title)

I have read the following drug testing procedures to _____,
(Resident's Printed Name)

(Resident's Number)

(Check each box after it has been read to the Resident, verifying that he/she has been given an opportunity to ask questions, and verbally acknowledges that he/she understands what has been read to him/her.)

You are to be required to submit to drug testing:

- At intake;
- Randomly;
- During treatment planning;
- Upon reasonable suspicion; and
- Annually, during your birth month.

You are to:

- cooperate during the drug testing and answer any and all questions honestly.
- be thoroughly searched by a designated facility staff member of the same gender before providing a urine specimen.
- be under continuous observation by a designated facility staff member of the same gender until the specimen is collected;
- be given two (2) and a half hours (150 minutes) to produce a urine sample. The testing period is to be terminated at the end of that time period.
 - If you are unable to produce a urine specimen within the designated time frame, you may be provided 16 ounces of water and are to be required to drink it while under a designated facility staff member's supervision.
 - If your drug test produces a positive result, a confirmation test may be required.

You are to be charged with a rule violation and served with a disciplinary report for:

- Failing to produce a urine sample within the two (2) and a half hours' time period;
- Refusing to submit to a drug testing;
- Tampering with a urine specimen; or
- Having a positive test result.

DESIGNATED FACILITY STAFF MEMBER'S ACKNOWLEDGMENT

With my signature below, I further state and acknowledge that: (Please Check)

- I have read the Drug Testing Procedure to the resident.
- I have given the juvenile resident an opportunity to ask questions about the drug testing procedures.
- The offender has verbally acknowledged to me and the witness that he understands the drug testing procedures.

Designated Facility Staff Member's Signature	Date	
Witness' Printed Name	Witness' Signature	Date

Drug Test Waiver and Agreement

Drug Test Waiver and Agreement

I, _____, Resident # _____, have provided a urine/oral fluids sample for drug testing. I have tested positive and Disciplinary Report No. _____ has been issued. I have been offered an opportunity for additional testing on the following terms and if confirmation testing is requested:

1. I waive any objections that might be raised to the admission of the additional test result in any proceeding including but not limited to: the chain of custody, foundation, subpoena and cross-examination of the technician or chemist, the testing protocol, instrument operation, or any other matter. I agree and stipulate to the admission of the additional test result.
2. I agree to pay \$_____ the costs of the additional testing including packaging, shipping, analysis, reporting, and any other related expenses, in the event the additional test is positive for drug use. In the event the test is negative, the costs of the additional testing are to be paid by the facility/KDOC.¹
3. I agree that if there are insufficient funds in my account at present, my account will nonetheless be debited and the cost will be collected as soon as funds are available.
4. I agree and understand that any measurable amount of unlawful drug is a violation of KDOC regulations.
5. I agree and request that my disciplinary case be continued until the additional test report is available and I waive any otherwise applicable time limits in this matter.

I request confirmation testing

I waive confirmation testing

Executed on this _____ day of _____, 20_____.

Resident Signature

Resident Number

Hearing Officer or Witness (Print Name)

Hearing Officer/Witness' Signature

Date

¹As per Section III.A.14.e.(3), I will remain responsible for the costs of the onsite test if I do not have a substantiated psychological or physiological disorder preventing me from producing a urine sample.

