

 <p style="text-align: center;">KENTUCKY CORRECTIONS Policies and Procedures</p>	Policy Number	Total Pages
	27-13-01	11
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KRS 196.070, 218A.010 et. seq., 241.010, 439.315, 439.330, 439.348, 439.470, 439.480(3), 439.510, 439.990, 533.030, 533.250, 533.262 CPP 27-06-02, 27-12-11, 27-15-01, 27-15-03 P&P ACA 4-APPFS-2D-04	DRUG AND ALCOHOL TESTING, ASSESSMENT, AND REFERRAL OF OFFENDERS	

I. DEFINITIONS

“Breathalyzer” means an electronic device, which measures chemicals, especially blood alcohol concentration by analysis of a person’s expired breath.

“Preliminary breath test” means a machine operated by an officer that measures the blood alcohol content of a person’s expired breath.

“Drug” means a controlled substance as defined by KRS 218A.010(8) or alcohol as defined in KRS 241.010.

“Use of alcoholic beverage” means the consumption of, or possession of, any alcoholic beverage.

II. POLICY and PROCEDURE

- A. Officers shall conduct drug testing of offenders in order to determine: (1) offender compliance with the conditions of Probation and Parole; and (2) whether an offender is in need of substance use disorder treatment. Drug testing and sanctions shall be used to attempt to reduce offender drug misuse of illicit substances. (2D-04)
- B. The Social Service Clinician (SSC) may order an offender to be drug tested to assist with substance disorder assessment or referral to treatment or recovery services.
- C. The taking of a urine sample or saliva swab test shall be conducted in a uniform manner according to established procedures to ensure that drug testing is conducted objectively.
- D. Offenders may be tested for the use of alcohol.

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- E. Selection Criteria: An offender on supervision shall be tested for the presence of illicit or unauthorized drug use if one (1) of the following criteria is met:
1. The releasing authority requires the offender to submit to drug testing. Collection of a urine sample or saliva swab test shall not be contingent upon the payment of fees by the offender.
 2. The offense of conviction involved drug use or distribution.
 3. The offender has a documented or admitted history of drug misuse.
 4. Evidence indicates possible current misuse of drugs by the offender. Evidence of use may be:
 - a. Prior positive urinalysis, or saliva swab test.
 - b. Information received from the offender, friend, family, neighbor, or police, or
 - c. Other circumstances known to the officer.
 5. The offender is currently involved in a substance use disorder-treatment program.
 6. The offender is selected for random drug testing from the monthly caseload list or as determined by the Director's Office or designee. A minimum of 2% of the total district caseload shall be tested on a monthly basis.
- F. Frequency of Testing
1. Initial drug tests shall be completed within sixty (60) days from intake of new case.
 2. Random drug testing shall be completed in a manner which avoids creating a pattern or routine that may be detected by the offender. After testing is accomplished, the frequency of future tests shall be established. The following guidelines shall be considered in determining testing frequencies:
 - a. Negative Test Results: If an offender has been initially tested and the results do not show the presence of drugs in the body, further testing may not be required unless: (a) the officer suspects continued drug use by the offender, (b) the offender is randomly selected, or (c) unless otherwise ordered by the releasing authority.

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b. Positive Test Results: If an offender has been tested and a positive test result is received, the offender shall be tested again within sixty (60) days and frequent testing shall continue until the offender demonstrates a pattern of drug free compliance.

3. The frequency of testing may vary for offenders in different circumstances. Specific conditions imposed by the releasing authority shall be met.

G. Types of Testing

1. Preliminary breath test - An officer using the hand-held breath tester shall be trained. If the equipment is available, the breath tester shall be used any time an officer suspects alcohol use by an offender.

2. Off-site testing shall be completed by a certified laboratory. Initial urine tests or saliva tests of offenders shall use a complete screen to identify the drug-of-choice. An officer may use this method to screen for all substances or to monitor screening levels.

3. On-site urine testing using a portable screening card and reagent may be used by the officer for initial screening purposes.

4. On-site saliva testing using a portable screening saliva kit may be used by the officer for initial screening purposes.

5. If an offender does not sign the admission document agreeing with the results of the urine or saliva test and if the officer is seeking revocation, the test shall be sent to the current Department approved contracted drug testing company for confirmation.

6. Alcohol Field Tests - Tests shall determine breath or blood alcohol level by means of a preliminary breath test or breathalyzer.

7. Drug test by saliva swab – Tests conducted by use of saliva test kit shall determine positive or negative results of controlled substances within an offender's saliva.

H. Preparation for Specimen Collection

1. The officer requesting the drug test shall be responsible for preparing for the specimen collection or shall designate another officer to complete the collection.

2. The offender shall be identified by a driver's license, photo identification, or personal identification by an officer.

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3. The officer shall complete the appropriate sections of the chain of custody document issued by the current lab.
4. The identification label shall be completed including the offender's I.D. number and initials, the date, and collecting officer's signature.
5. The officer shall complete the chain of custody information at the time of each drug test. A copy shall be placed in the offender's file.

I. Urine Collection

1. An officer shall escort the offender to the area where the urine sample will be taken. Items needed for collection include: chain of custody, latex gloves, specimen container, evidence tape, and tamper proof specimen container bag. Unobserved collection shall be allowed as specified below.
2. The officer shall instruct the offender to wash his hands thoroughly before providing the urine sample. The officer shall wear gloves during the collection and testing of urine.
3. The officer shall make all reasonable efforts to ensure that the offender being tested does not alter, switch, dilute, or tamper with the urine sample.
4. Unobserved collection shall only be used if the same sex requirement cannot be met. In the event of an unobserved collection, the officer may use evidence tape to seal the faucet, insert dye in the commode, and use a collection bottle with a temperature strip.
 - a. Prior to unobserved collection, the officer or designee shall remove all items which may alter the unobserved drug test from the drug testing restroom.
 - b. The offender shall be instructed by the officer prior to the urine collection, where to place the urine specimen container within the drug testing restroom and not to flush the commode after the urine sample is collected.
 - c. Once the drug testing room is secure from all items which may alter the unobserved drug test, the officer shall escort the offender into the restroom and close the door, leaving the offender to proceed with urine collection. The officer shall remain outside the door to prevent the offender from leaving and be within hearing range of the offender verbally notifying the officer that the urine sample is complete.

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d. The officer shall knock on the door prior to entry and ask the offender to confirm that the urine sample is complete, ask the offender to redress and verbally notify the officer when the officer may reenter the drug testing rest room.

5. In the presence of the officer the offender shall:

a. Provide a minimum of 50 ml of urine for an acceptable specimen,

b. Close the urine specimen container and seal the container with evidence tape unless on-site testing is to be used. Check the temperature strip on the urine specimen container. The temperature should be within ninety to one hundred 90-100 degrees Fahrenheit,

c. Continue to follow the procedure outlined by the lab directions.

d. Complete the of chain of custody, and

e.. Place the container in a plastic bag following procedures outlined by the lab and seal the bag.

6. Any offender ordered to produce a urine specimen, who fails to provide a specimen after a two (2) hour period, shall be subject to the same penalties as a positive result. An offender may be given at least one (1) eight (8) ounce glass of water per hour to induce urination.

7. The officer shall place the bag in a monitored, secured area until authorized laboratory personnel arrives for pick up, or until the specimen may be shipped by mail or courier, to the lab.

8. The laboratory results, along with the chain of custody document, shall be returned to the officer. Results that indicate the presence of a drug shall be brought to the attention of the releasing authority as soon as possible.

J. On-Site Testing - Urine

1. After collection of the urine specimen, the officer shall escort the offender to a private location to conduct the test. The offender shall observe the entire testing procedure.

2. The officer shall remove the required tests from storage and proceed according to manufacturer's instructions.

3. The officer shall instruct the offender to open and close the specimen container to allow extraction of a portion of the specimen to conduct the test.

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4. If the test is positive, the offender shall complete the admission and sanctions document indicating agreement or disagreement with the results of the test. A copy of the document shall be placed in the offender's file.
5. If the offender disagrees with the results of the test, the urine specimen shall be forwarded to a lab in accordance with the procedures outlined in subsection H.
6. If the test is negative, the officer shall instruct the offender to empty the urine specimen into a toilet when the testing procedures are complete.
7. Empty bottles, bottle caps, gloves and other testing equipment ready for disposal shall be placed into a designated trash receptacle. Applicable federal and state regulations shall be followed.
8. The officer conducting the test shall thoroughly wash his hands after contact with the specimen.

K. Saliva Collection

1. An officer shall escort the offender to the area where the saliva sample will be taken. Items needed for collection shall include chain of custody, latex gloves, tamper proof saliva specimen container, and tamper proof specimen container bag.
2. The officer shall instruct the offender to empty mouth of any objects including gum, tobacco products, food, ten minutes prior to the saliva test collection.
3. The officer shall make all reasonable efforts to ensure that the offender being tested does not alter, switch, or tamper with the saliva test sample.
4. All saliva collections shall be observed by the officer and offender.
5. In the presence of an officer, the offender shall:
 - a. Provide a sample of saliva by means of swabbing the inside of the mouth, cheek, gums, and tongue. The offender shall provide enough saliva saturation on the swab to satisfy the requirement of the indicator in the saliva test kit,
 - b. The offender shall observe the officer place the saliva swab sample into the saliva test container, seal by locking the tamper proof container lid, and apply the evidence tape across the lid unless on site testing is used,

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- c. Complete the chain of custody, and
 - d. Place the complete swab test container in the evidence plastic bag following the procedures outlined by the lab and seal the bag.
6. Any offender ordered to take the salvia test, who fails to provide a specimen shall be subject to the same penalties as a positive result.
 7. The officer shall place the bag in a monitored, secure area until authorized laboratory personnel arrives for pick up or until the specimen is shipped by mail or courier to the lab.
 8. The laboratory results, along with the chain of custody document shall be returned to the officer. Results that indicate the presence of a drug shall be brought to the attention of the releasing authority as soon as possible.

L. On-Site Testing – Saliva

1. After collection of the saliva specimen, the officer shall escort the offender to a private location to conduct the test. The offender may observe the entire testing procedure.
2. The officer shall remove the required saliva test kit from storage and proceed according to the manufacturer's instructions.
3. The officer shall instruct the offender to complete the saliva swab test as outlined in subsection J.
4. If the test is positive, the offender shall complete the admission and sanctions document indicating agreement or disagreement with the test results. A copy of the document shall be placed in the offender's file.
5. If the offender disagrees with the results of the test, the saliva specimen shall be forwarded to a lab in accordance with the procedures outlined in subsection J.
6. If the test is negative, the officer shall discard the entire saliva collection container and specimen and any additional equipment used during the sample collection into the biohazard receptacle for destruction of bodily fluid. Applicable federal and state disposal regulations shall be followed.
7. The officer conducting the test shall thoroughly wash his hands after completion of the test and latex gloves removed.

M. Reporting Procedures

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1. Drug testing and results shall be documented in the offender management system.
2. For violations of supervision and procedures for reporting violations of supervision, refer to CPP 27-15-03 (Graduated Sanctions and Discretionary Detention) and CPP 27-15-01 (Investigating and Reporting Violations and Unusual Incidents).
3. Supervision reports to the releasing authority regarding positive drug tests shall include notification of the violation or the graduated sanction imposed.
4. Referral to the Social Service Clinician shall follow the timeframe outlined in CPP 27-06-02 (Access to Services).

N. Action for Positive Drug Test Results

1. If an offender tests positive, the officer shall review the offender for the following:
 - a. History of prior substance misuse,
 - b. Use of intravenous drugs or opiates,
 - c. Pregnant or currently under the influence,
 - d. Previous positive drug tests or treatment,
 - e. Previous use of graduated sanction for substance misuse,
 - f. Current treatment enrollment, and
2. Based on the risk factors, the officer shall consult with the Social Service Clinician for treatment referral or schedule the offender for screening with the Social Service Clinician.
3. The officer may provide the offender with treatment resources including community resources and the Department of Corrections Course Catalogue that contains contracted and approved treatment providers.
4. If appropriate based on the offender's current and previous substance misuse, the Social Service Clinician shall provide the offender with a marijuana education packet. The offender shall return the completed packet by the offender's next scheduled report date. The officer shall submit the

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completed packet to the Social Service Clinician for review and further screening.

5. If the offender is already in treatment and tests positive, the officer shall consult the Social Service Clinician. If the offender is in non-compliance with the treatment protocol, the Social Service Clinician may refer to an alternative modality of treatment.
6. If referred to treatment by the Social Service Clinician, the offender shall comply with the treatment referral.
 - a. On a Social Service Clinician referral, the SSC shall complete the referral and outcome measures documentation in the offender management system. The SSC shall document assessment results, program progress, and any program status change, to include admission and discharge. The SSC shall notify the officer of the referral, offender progress, and any program status change. The officer shall continue case management entry and supervision monitoring.
 - b. The Social Service Clinician and the officer shall monitor treatment progress.
7. If the offender is discharged from the treatment program, the officer shall consult with the Social Service Clinician. If it is determined the offender has exhausted all treatment options in the community at this time, the officer shall submit violation paperwork to the releasing authority.
8. The officer shall not take an offender into custody based solely on the result of an on-site test until a confirmation test is conducted unless the offender signs an admission statement or approved by the releasing authority.

O. Revocation Proceedings

For the results of a positive urinalysis or saliva swab test to be used in a revocation hearing, the following minimum elements shall be met:

1. Presence of a person who can testify concerning the taking, labeling, and sealing of the sample or the documents listed in this section below at the hearing,
2. Production of the laboratory document,
3. Production of the completed chain of custody document, and

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4. Production of the admission statement, if applicable.

P. Disclosure of Drug Test Results

1. The disclosure of drug testing results shall be limited to:

- a. The offender,
- b. The court or releasing authority, and
- c. A treatment provider with the offender's prior written permission. The offender shall provide a written consent to release drug test results that is valid throughout the period of supervision.

2. The information that may be released shall include:

- a. The date of the test,
- b. The drugs tested,
- c. Whether the results were positive or negative, and
- d. The categories of drugs that were tested.

3. Any employee who releases drug test results without authorization violates KRS 439.510 and may be subject to prosecution and penalties as set forth in KRS 439.990.

Q. Training

An officer shall be trained in the procedure for taking of a urine sample and saliva test sample before he uses either procedure with an offender. Training shall be conducted by the vendor supplying the testing material or by an employee who has received training.

R. Referrals to Treatment

1. If a substance abuse assessment is ordered by the releasing authority, the officer shall notify the Social Service Clinician.
2. A Social Service Clinician referring an offender to treatment shall document the referral information in the offender's case file in the offender management system. A copy shall be sent to the treatment provider.

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3. If the offender exits the treatment program, the Social Service Clinician shall complete the appropriate documentation. The Social Service Clinician shall inform the officer of the discharge. If a violation of supervision has occurred, the officer shall submit violation paperwork to the releasing authority.

S. Offender Paid Drug Testing

Offender paid drug testing fees shall be submitted and disbursed pursuant to CPP 27-12-11 (Guidelines for Monitoring Financial Obligations).