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| State of Vermont, Agency of Human Services Department of Corrections | Title: Inmate/Offender Drug Testing | Page 1 of 8 |
| Chapter: Security and Supervision | # 409.04 | Supersedes: #409.04 Offender Drug Testing dated 1/20/2001 |
| Attachments, Forms & Companion Documents: <ol style="list-style-type: none"> 1. Inmate/Offender Drug Testing Report 2. Contraband/Criminal Physical Tag and Chain of Custody | | |
| Local Procedure(s) Required: Yes - see Quality Assurance Section. Applicability: All staff (including volunteers and contractors) Security Level: "B": Anyone may have access to this document. | | |
| Approved: <div style="display: flex; justify-content: space-between;"> <div data-bbox="161 631 629 737">  <hr/> Andrew A. Pallito, Commissioner </div> <div data-bbox="723 665 905 737"> <u>June 10, 2009</u> Date Signed </div> <div data-bbox="1229 665 1422 737"> <u>June 24, 2009</u> Date Effective </div> </div> | | |

PURPOSE

The purpose of this administrative directive is to provide Department of Corrections' staff with guidelines for drug testing of inmates and offenders in the custody of, and under the supervision of the Vermont Department of Corrections.

POLICY

It is the policy of the Vermont Department of Corrections to conduct drug testing of inmates and offenders to ensure the integrity and security of the correctional environment, compliance with treatment programs, and safety of inmates/offenders, staff, and the public.

AUTHORITY

28 V.S.A. §§ 1(a)(b)(c); 101(1)(2)(3)(5)(6)(7); 102(b)(2); 201; 202(1)(2); 252(a)(b)(16)(c); 351(1)(2); 352(a)(b)(c)(d); 353(1)(2); 401; 402(1); 403(1)(3); 601(2); 723(a)(b); 724; and 808(6)(7).
Department of Corrections Policy on Searches.

REFERENCE

Department of Corrections Administrative Directives, #254.03 *Substance Abuse Treatment Services Confidentiality and Ethics*, #254.04 *Case Documentation-Electronic*, #371.16 *Graduated Sanctions*, and #410.01 *Facility Rules and Inmate Discipline*. American Correctional Association Standards for Adult Correctional Institutions, 4th Edition, January 2003, Standard 4-4437. Performance-Based Standards for Adult Local Detention Facilities, 4th Edition, Standard 4-ALDF 5A-04.

DEFINITIONS

Dry Cell/Room: A cell/room equipped with lighting and proper ventilation which prevents the disposal of human waste material or contraband.

Inmate: Any person convicted of a crime or offense under the laws of this state, the United States government, or the laws of another state, who is in custody at a Vermont Department of Corrections facility.

Offender: Any person convicted of a crime or offense under the laws of this state, the United States government, or the laws of another state, who is under the supervision of the Vermont Department of Corrections and supervised in the community.

Random Selection: A sample taken from the total population so that each individual has an equal chance of being selected.

Reasonable Suspicion: Information, consisting of articulable objective facts and inferences drawn from objective data, which would cause a reasonable and experienced correctional staff person to conclude that an individual is either in possession of drugs/alcohol, or has used a prohibited substance.

Treatment: A range of services provided by a Vermont-certified and/or Licensed Alcohol and Drug Counselor, which meet standard criteria as provided by the American Society of Addiction Medicine (ASAM).

PROCEDURAL GUIDELINES

The testing of inmates and offenders for drugs by the Vermont Department of Corrections will be conducted as follows.

1. Eligibility for Drug Testing

a. Random Testing - Correctional Facilities

- i. Each Superintendent will identify staff within the facility to conduct, track, and report on all drug testing of inmates. A weekly report of all tests and test results will be forwarded to the Director of Security, Operations, and Audits, along with the weekly drug interdiction reports.
- ii. Once each week, a five percent (5%) sample of the inmate population of each in-state correctional facility will be randomly tested. A lottery system will be used to select those inmates who are to be tested. Lotteries will be computer-generated at the Department's Central Office. The testing procedure is further described in this directive.
- iii. The Security and Operations Supervisor will maintain a file for each random testing episode.

b. Reasonable Suspicion: All Sites

Requests for drug testing based on "reasonable suspicion" may be initiated by any Correctional Officer, Community Correctional Officer, Caseworker, or Probation Officer (PO) and must be approved by a Correctional Facility Shift Supervisor, Casework Supervisor, Corrections Living Unit Supervisor, Security and Operations Supervisor, or manager.

- i. An approved request for testing must follow the process described in this directive. The name of the approving authority will be written on the *Inmate/Offender Drug Testing Report (Attachment 1)*.

- ii. A file will be maintained on all requests for “reasonable suspicion” testing, with test results.
- c. Treatment Testing: All Sites
Every substance abuse treatment program supervised by the Department will have on-going testing of inmates/offenders in the program. The purpose is to give positive reinforcement for objective evidence of non-use.
- i. Results of treatment tests are used only for treatment purposes and not for disciplinary or graduated sanctions. Positive treatment test results will be managed by the Treatment Team through an individualized stabilization and relapse prevention action plan. Multiple positive treatment tests may warrant unsatisfactory discharge from the treatment program.
 - ii. An inmate/offender must have negative or “clean” tests for a period of time, to be determined by the program, prior to satisfactorily completing the substance abuse treatment program.
 - iii. Inmates in treatment programs will not be exempt from random testing in the facility or for reasonable suspicion testing regardless of the last time they were tested. Inmates are subject to disciplinary/graduated sanctions if they produce a positive test result based on a random or reasonable suspicion test.
 - iv. A positive treatment test will not be used as reasonable suspicion.

2. Testing Procedures

- a. Staff will bring the inmate/offender to a location designated by the Superintendent/District Manager where a urine sample will be discreetly collected. Staff will search the room where the specimen is to be collected prior to placing the inmate/offender inside. Prior to collecting the specimen, the following will occur:
 - i. For offenders under community supervision, staff will empty pockets and remove clothing that might interfere with the observation of the test.
 - ii. Staff will strip search sentenced incarcerated inmates according to their custody status;
 - iii. Staff will strip search detentioners who are charged with a felony.
 - iv. Staff will pat search detentioners who are charged with a misdemeanor unless there is a reasonable belief that the individual may be in possession of contraband.
- b. Staff will give the inmate/offender a urinalysis container provided by the urine testing entity and labeled with the inmate/offender’s name, for collection of the specimen. Staff will constantly observe the inmate/offender while they are providing a urine sample in such a manner as to ensure the integrity of the urine sample. This will include observation that a true urine sample is collected and that the inmate/offender does not try to defeat the urinalysis.
- c. The inmate/offender will be required to provide an amount of urine sufficient for testing, in order to avoid disciplinary sanctions and/or program sanctions. An insufficient amount will be considered refusal to provide a specimen.

- d. The inmate/offender will give staff the specimen. In the presence of the inmate/offender, staff will remove an amount sufficient for performing a preliminary screening test.
 - i. If a negative result is returned from the preliminary test, this will conclude the process.
 - ii. If the preliminary test is positive and the inmate admits to the use of a prohibited substance by signing the acknowledgement on the *Inmate/Offender Drug Testing Report (Attachment 1)*, corrective action may be taken based on legal status. For inmates and furloughees, corrective action will be in accordance with Department of Corrections Administrative Directives #410.01 *Facility Rules and Inmate Discipline* (facilities) or #371.16 *Graduated Sanctions* (field). If the offender is on Probation, Parole or Supervised Community Sentence, the positive drug test may be grounds for a violation.
 - iii. If the preliminary test is positive and the inmate verbally admits to the use of a prohibited substance but refuses to sign acknowledging the admission, correctional staff will write "refused" in the acknowledgment section of the *Inmate/Offender Drug Testing Report*. Two (2) staff members must sign the form, acknowledging the verbal admission. A confirmation test does not need to be done. Staff may then proceed with corrective action.
 - iv. If the preliminary test is positive and the inmate fails to admit to use of a prohibited substance, a confirmation test **must** be conducted by a State-contracted testing laboratory. The specimen will be immediately sealed in front of the inmate/offender. For inmates, correctional staff may employ administrative segregation procedures for the safety of the inmate and security of the institution until the lab results are returned. If the result is a confirmation of a positive test from the laboratory, staff may initiate corrective action with the inmate/offender. If the results from the laboratory results in a negative use of a prohibited substance, the *Inmate/Offender Drug Testing Report* will indicate that the test was negative, and this will conclude the process.
- e. Inmates/offenders who cannot urinate will be placed in a dry cell/room or other approved location and will be given at least eight (8) ounces of water to drink. They may stay there up to two (2) hours. Failure to provide a urine specimen in the allotted period of time will constitute a refusal, and staff will proceed with corrective action.
- f. If an inmate/offender is not able to provide a urine sample because of a substantiated medical or mental health condition, the case will be forwarded to a Correctional Facility Shift Supervisor, Casework Supervisor, Corrections Living Unit Supervisor, Security and Operations Supervisor, or manager for review. Cases will be reviewed on an individual basis and when necessary, an alternative drug test may be used.
- g. Staff will document the results of the drug test in the Department database. The centrally-shared database will include gender, age, legal status, and cumulative number of tests conducted on each individual, and the results of each test.

3. Storage and Transfer: All Sites

- a. When practical, but no later than the next business day, staff must place a sealed specimen in the appropriate mailing container and in the mail, or deliver it to the testing laboratory. A *Contraband/Criminal Physical Tag and Chain of Custody* form (*Attachment 2*) will contain

the name of each person handling the sample, the date/time, and the reason for transfer of custody.

- b. If the specimen cannot be immediately mailed or delivered to the testing laboratory, staff will store it in a secure, refrigerated location. The *Contraband/Criminal Physical Tag and Chain of Custody* form will be maintained in the contraband locker until a negative test result is received or the disciplinary appeal process has been exhausted.

4. Drug Testing Report: Correctional Facilities Only

- a. A summary of all drug testing efforts will be summarized and forwarded to the Security Operations and Audits Director as part of the weekly facility drug interdiction efforts. This summary will include:
 - i. Total number of random tests
 - ii. Total number of reasonable suspicion tests
 - iii. Total number of positive results and the substances they are positive for
 - iv. Total number of negative results
 - v. Actions taken as a result of each positive result
 - vi. Efforts used to identify the source of the substance.
- b. A monthly drug report will be produced by the Security Operations and Audits Director extracted from the centralized database, reporting on specific trends in the correctional facilities and the measures taken to reduce instances of drug use. These reports will be structured to show results by site.

TRAINING

Superintendents/District Managers will ensure staff are properly trained in the collection and handling of urine specimens. Training will be delivered in a classroom and field setting both centrally (HRD-coordinated), as well as locally.

QUALITY ASSURANCE

- a. Each Correctional Facility and Probation and Parole Office will maintain an active database of drug testing performed. Superintendents/District Managers will ensure that all drug test information is recorded in the centrally-shared database. The centrally-shared database will include gender, age, legal status, risk status, and cumulative number of tests conducted on each individual, and results of each test.
- b. Superintendents/District Managers are responsible for developing local processes to ensure that the procedures in this directive are consistently and fairly applied and that data is collected properly and in a timely manner, to include the entering and filing of information, in compliance with the directive.
- c. The Director of Security, Operations, and Audits will incorporate verification and validation of local procedures into each facility's Security and Compliance Audit.
- d. The Director of Security, Operations, and Audits will produce a monthly drug report from the facilities as outlined in *Section 4*.

e. The Hearings Administrator is responsible for quarterly reports on grievances regarding drug testing to the Commissioner and the DOC Quality Oversight Committee.

f. The Quality Management Unit will provide reports on local and statewide results of drug testing to the DOC Quality Oversight Committee and Commissioner.

h. As requested, the Quality Management Unit will provide technical assistance to local and Central Office managers in the development of quality assurance processes.

**VERMONT DEPARTMENT OF CORRECTIONS
INMATE/OFFENDER DRUG TESTING REPORT**

Date: _____ Time: _____ Test Type: Random Reasonable Suspicion
 Treatment

Facility or Field Site Conducting Test: _____ Approving Supervisor: _____

Person Requesting: _____ Agency: _____

Inmate/Offender Name: _____

Legal Status: _____

Current Medications: _____

Male Female DOB: _____ Age: _____

If based upon reasonable suspicion, cite justification: _____

Test Results

Positive:

Negative: List of positive results: _____

Refused:

Signature of 2nd staff member as witness of refusal

Comments:

(Continue on back if necessary.)

By my signature below, I attest that the above information is true to the best of my knowledge. Any positive test result cited above has been reviewed with me, and I admit that I used a controlled substance.

Signature of Inmate/Offender (only necessary for positive results)

Date

Signature of Staff Conducting Test

Date

**VERMONT DEPARTMENT OF CORRECTIONS
 CONTRABAND/CRIMINAL PHYSICAL TAG AND CHAIN OF CUSTODY**

Facility/Field Site: _____

Classification of contraband/criminal physical evidence: (Check one)

- | | |
|--------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| <input type="checkbox"/> Weapon | <input type="checkbox"/> Currency (money or other commodity of exchange) |
| <input type="checkbox"/> Drug/drug paraphernalia | <input type="checkbox"/> Clothing |
| <input type="checkbox"/> Alcohol (commercial or home-made) | <input type="checkbox"/> Miscellaneous property |
| <input type="checkbox"/> Appliance (e.g., television, radio, stereo, recorder, etc.) | <input type="checkbox"/> Drug Testing Specimen |
| <input type="checkbox"/> Other | |

Brief description of item or substance and any identifying mark(s):

Location found/confiscated: _____

By: Staff name _____ Date/Time _____

Owner: Name _____

 Signature of Confiscating Staff Date

 Supervisor's Signature Date

Chain of Custody – Contraband/Physical Evidence (signature required & legible printed last name)

| From – Staff Name | To – Staff Name | Date/Time | Reason / Disposition |
|-------------------|-----------------|-----------|----------------------|
| Print: _____ | Print: _____ | | |
| Sign: _____ | Sign: _____ | | |
| Print: _____ | Print: _____ | | |
| Sign: _____ | Sign: _____ | | |
| Print: _____ | Print: _____ | | |
| Sign: _____ | Sign: _____ | | |
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