

## VII. DRUG AND ALCOHOL TESTING

Drug and alcohol testing provides an accurate, timely, and comprehensive assessment of unauthorized<sup>3</sup> substance use throughout participants' enrollment in the Drug Court.

- A. Frequent Testing
- B. Random Testing
- C. Duration of Testing
- D. Breadth of Testing
- E. Witnessed Collection
- F. Valid Specimens
- G. Accurate and Reliable Testing Procedures
- H. Rapid Results
- I. Participant Contract

### A. Frequent Testing

Drug and alcohol testing is performed frequently enough to ensure substance use is detected quickly and reliably. Urine testing is performed at least twice per week until participants are in the last phase of the program and preparing for graduation. Tests that measure substance use over extended periods of time, such as ankle monitors, are applied for at least ninety consecutive days followed by urine or other intermittent testing methods. Tests that have short detection windows, such as breathalyzers or oral fluid tests, are administered when recent substance use is suspected or when substance use is more likely to occur, such as during weekends or holidays.

### B. Random Testing

The schedule of drug and alcohol testing is random and unpredictable. The probability of being tested on weekends and holidays is the same as on other days. Participants are required to deliver a test specimen as soon as practicable after being notified that a test has been scheduled. Urine specimens are delivered no more than eight hours after being notified that a urine test has been scheduled. For tests with short detection windows, such as oral fluid tests, specimens are delivered no more than four hours after being notified that a test was scheduled.

### C. Duration of Testing

Drug and alcohol testing continues uninterrupted to determine whether relapse occurs as other treatment and supervision services are adjusted.

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<sup>3</sup> Unauthorized substances include alcohol, illicit drugs, and addictive or intoxicating prescription medications that are taken without prior approval from the Drug Court and not during a medical emergency.

#### **D. Breadth of Testing**

Test specimens are examined for all unauthorized substances that are suspected to be used by Drug Court participants. Randomly selected specimens are tested periodically for a broader range of substances to detect new substances that might be emerging in the Drug Court population.

#### **E. Witnessed Collection**

Collection of test specimens is witnessed directly by a staff person who has been trained to prevent tampering and substitution of fraudulent specimens. Barring exigent circumstances, participants are not permitted to undergo independent drug or alcohol testing in lieu of being tested by trained personnel assigned to or authorized by the Drug Court.

#### **F. Valid Specimens**

Test specimens are examined routinely for evidence of dilution and adulteration.

#### **G. Accurate and Reliable Testing Procedures**

The Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS) or liquid chromatography/mass spectrometry (LC/MS). Barring staff expertise in toxicology, pharmacology, or a related discipline, drug or metabolite concentrations falling below industry- or manufacturer-recommended cutoff levels are not interpreted as evidence of new substance use or changes in participants' substance use patterns.

#### **H. Rapid Results**

Test results, including the results of confirmation testing, are available to the Drug Court within forty-eight hours of sample collection.

#### **I. Participant Contract**

Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities related to drug and alcohol testing. This information is described in a participant contract or handbook and reviewed periodically with participants to ensure they remain cognizant of their obligations.

### ***COMMENTARY***

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Certainty is one of the most influential factors for success in a behavior modification program (Harrell & Roman, 2001; Marlowe & Kirby, 1999). Outcomes improve significantly when detection of substance use is likely (Kilmer et al., 2012; Marques et al., 2014; Schuler et al., 2014), and participants receive incentives for abstinence and sanctions or treatment adjustments for positive test results (Hawken & Kleiman, 2009; Marlowe et al., 2005). Therefore, the success of any Drug Court will depend, in part, on the reliable monitoring of substance use. If a Drug Court does not

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have accurate and timely information about whether participants are maintaining abstinence from alcohol and other drugs, the team has no way to apply incentives or sanctions correctly or to adjust treatment and supervision services accordingly. Drug and alcohol testing also serves other important therapeutic aims, such as helping to confirm clinicians' diagnostic impressions, providing objective feedback to participants about their progress or lack thereof in treatment, and assisting clinicians to challenge and resolve participant denial about the severity of their problems (American Society of Addiction Medicine (ASAM), 2010, 2013; DuPont & Selavka, 2008; DuPont et al., 2014; Srebnik et al., 2014).

Participants cannot be relied upon to self-disclose substance use accurately (Hunt et al., 2015). Studies consistently find that between 25% and 75% of participants in substance use disorder treatment deny recent substance use when biological testing reveals a positive result (Auerbach, 2007; Harris et al., 2008; Hindin et al., 1994; Magura & Kang, 1997; Morral et al., 2000; Peters et al., 2015; Tassiopoulos et al., 2004). The accuracy of self-reporting is particularly low among individuals involved in the criminal justice system, presumably because they are likely to receive sanctions for substance use (Harrison, 1997; Peters et al., 2015). Although some clinicians may assume that the accuracy of self-report increases during the course of treatment, contrary evidence suggests participants may be *less* likely to acknowledge substance use after they have been enrolled in treatment for a period of time or have completed treatment (Wish et al., 1997). The longer participants are in treatment, the more staff come to expect and insist upon abstinence. For this reason, participants find it increasingly difficult to admit to substance use after they have been enrolled in treatment for several months (Davis et al., 2014; Nirenberg et al., 2013).

Best practices for conducting drug and alcohol testing vary considerably depending on whether a test is administered intermittently as opposed to continually, the length of the test's detection window, and the range of substances the test is capable of detecting. Some tests, such as urine or oral fluid tests, must be administered repeatedly, whereas others, such as sweat patches or ankle monitors, can measure substance use over extended periods of time. Most drug metabolites are detectable in urine for approximately two to four days, but are detectable in oral fluid for an average of twenty-four hours and in breath or blood for less than twelve hours (Auerbach, 2007; Cary, 2011; DuPont et al., 2014). Some tests, such as breathalyzers, can only assess for alcohol use, whereas urine tests can assess for a wide range of substances. These factors influence how the tests must be used to obtain useful results.

Urine testing is, by far, the most common methodology used in Drug Courts and probation programs. This is because urine is typically available in copious amounts, is relatively simple to collect, does not require elaborate sample preparation procedures, is inexpensive to analyze, and can be examined for many substances (Cary, 2011). Most studies, to date, have examined best practices for conducting urine testing with offenders; however, recent studies have begun to examine other testing methods in Drug Courts, including sweat patches and ankle monitors.

### A. Frequent Testing

The more frequently Drug Courts and probation programs perform urine drug testing, the better their outcomes in terms of higher graduation rates and lower drug use and criminal recidivism (Banks & Gottfredson, 2003; Gottfredson et al., 2007; Griffith et al., 2000; Harrell et al., 1998; Hawken & Kleiman, 2009; Kinlock et al., 2013; National Institute on Drug Abuse, 2006). In focus groups, Drug Court participants consistently identified frequent drug and alcohol testing as being among the most influential factors for success in the program (Gallagher et al., 2015; Goldkamp et al., 2002; Saum et al., 2002; Turner et al., 1999; Wolfer, 2006).

The most effective Drug Courts perform urine drug testing at least twice per week for the first several months of the program (Carey et al., 2008). In a multisite study of approximately seventy Drug Courts, programs performing urine testing at least twice per week in the first phase produced 38% greater reductions in crime and were 61% more cost-effective than programs performing urine testing less frequently (Carey et al., 2012). Because the metabolites of most psychoactive drugs are detectable in urine for approximately two to four days, testing less frequently leaves an unacceptable time gap during which participants can use substances and evade detection, thus leading to significantly poorer outcomes (Stitzer & Kellogg, 2008).

Recent studies have examined the impact of other testing methods in Drug Courts. The Secure Continuous Remote Alcohol Monitor (SCRAM) is an ankle device that can detect alcohol in sweat and transmits a wireless signal to a remote monitoring station. Preliminary evidence suggests the use of a SCRAM may deter alcohol consumption and alcohol-impaired driving among recidivist driving-while-impaired (DWI) offenders

if it is worn for at least ninety consecutive days (Flango & Cheesman, 2009; Tison et al., 2015). Another study found that adding sweat patches to urine testing did not improve outcomes in a Drug Court (Kleinpeter et al., 2010). However, that study did not examine the influence of sweat patches alone or as compared against urine testing. The study merely found that the addition of sweat patches did not improve outcomes beyond what was already being achieved from frequent urine drug testing.

Ethyl glucuronide (EtG) and ethyl sulfate (EtS) are metabolites of alcohol that can be detected in urine for longer periods of time than ethanol. The use of EtG or EtS can extend the time window for detecting alcohol consumption from several hours to several days (Cary, 2011). A recent randomized, controlled trial reported that participants completed the first two phases of a Drug Court significantly sooner when they were subjected to weekly EtG and EtS testing (Gibbs & Wakefield, 2014). The EtG and EtS testing enabled the Drug Court to respond more rapidly and reliably to instances of alcohol use, thus producing more efficient results. Importantly, EtG and EtS testing was determined in the same study to be superior to standard ethanol testing for detecting alcohol use occurring over weekends. Because some Drug Courts may not perform drug or alcohol testing on weekends, weekday tests capable of detecting weekend substance use are crucial.

As was noted previously, some drug or alcohol tests have short detection windows of twelve to twenty-four hours. This makes them generally unsuitable for use as the primary testing method in Drug Courts. Such tests can be used effectively, however, for spot-testing when recent use is suspected or during high-risk times, such as weekends or holidays. Evidence also suggests these tests can deter substance use effectively if they are administered on a daily basis. A statewide study in South Dakota found that daily breathalyzer testing significantly reduced failures to appear and rearrest rates among DWI offenders released on bail (Kilmer et al., 2012). In that study, daily breathalyzer testing appears to have been sufficient to deter alcohol consumption in the majority of cases without the need for additional services.

## B. Random Testing

Drug and alcohol testing is most effective when performed on a random basis (ASAM, 2013; ASAM, 2010; Auerbach, 2007; Carver, 2004; Cary, 2011; Harrell & Kleiman, 2002; McIntire et al., 2007). If participants know in advance when they will be tested, they can adjust the timing of their usage or take other countermeasures, such as excessive fluid consumption, to defraud the tests (McIntire & Lessenger, 2007). Random drug testing elicits significantly higher percentages of positive tests than prescheduled testing, suggesting that many participants can evade detection if they have advance notice about when testing will occur (Harrison, 1997).

Random testing means the odds of being tested are the same on any given day of the week, including weekends and holidays. For example, if a participant is scheduled to be drug tested two times per week, then the odds of being tested should be two in seven (28%) on every day of the week. For this reason, Drug Courts should not schedule their testing regimens in seven-day or weekly blocks, which is a common practice. Assume, for example, that a participant is randomly selected for drug testing on Monday and Wednesday of a given week. If testing is scheduled in weekly blocks, then the odds of that same participant being selected again for testing on Thursday will be zero. In behavioral terms, this is referred to as a *respite* from detection, which can lead to increased drug or alcohol use owing to the absence of negative consequences (Marlowe & Wong, 2008).

The odds of being tested for drugs and alcohol should be the same on weekends and holidays as on any other day of the week (Marlowe, 2012). Weekends and holidays are high-risk times for drug and alcohol use (Kirby et al., 1995; Marlatt & Gordon, 1985). Providing a respite from detection during high-risk times reduces the randomness of testing and undermines the central aims of a drug-testing program (ASAM, 2013).

Limiting the time delay between notification of an impending drug or alcohol test and collection of the test specimen is essential (ASAM, 2013). If participants can delay provision of a specimen for even a day or two, they can rely on natural elimination processes to reduce drug and metabolite concentrations below cutoff levels. For participants who live in close proximity to the testing facility and do not have confirmed scheduling conflicts, Drug Courts can reasonably expect samples to be delivered within a few hours of notification that a test has been scheduled (Cary, 2011). Barring exigent circumstances, participants should be required to deliver a urine specimen no more than eight hours after being notified that a urine test has been

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scheduled (Auerbach, 2007). This practice should give most participants ample time to meet their daily obligations and travel to the sample collection site, while also reducing the likelihood that metabolite concentrations will fall below cutoff levels. For tests with short detection windows of less than twenty-four hours, such as oral fluid tests, participants should be required to deliver a specimen no more than four hours after being notified that a test has been scheduled.

### C. Duration of Testing

A basic tenet of behavior modification provides that the effects of any intervention should be assessed continually until all components of the intervention are completed (Rusch & Kazdin, 1981). This is the only way to know whether a participant is likely to relapse or regress after the program ends.

Drug Courts commonly decrease the intensity of treatment and supervision as participants make progress in the program. For example, the frequency of court hearings or case management sessions is commonly reduced as participants advance through successive phases. With a reduction of services comes the ever-present risk of relapse or other behavioral setback; therefore, drug and alcohol testing should continue uninterrupted to reveal any relapse as other components of the participants' treatment regimens are adjusted (Cary, 2011; Marlowe, 2011, 2012). Although research has not addressed the issue, logic dictates maintaining the frequency of drug and alcohol testing until participants are engaged in what will ultimately be their continuing-care or aftercare plan. This practice provides the greatest assurance that participants are likely to remain abstinent after program graduation.

### D. Breadth of Testing

Drug Courts must test for the full range of substances that are likely to be used by participants in the program. Participants can easily evade detection of their substance use on many standard test panels—such as the National Institute on Drug Abuse five-panel test (NIDA-5) or a standard eight-panel test—simply by switching to other drugs that have similar psychoactive effects but are not detected by the test (ASAM, 2013). For example, heroin users can avoid detection by many standard test panels if they switch to pharmaceutical opioids, such as oxycodone or buprenorphine (Wish et al., 2012). Similarly, marijuana users can avoid detection by using synthetic cannabinoids, such as K2 or Spice, which were developed for the specific purpose of avoiding detection (Cary, 2014; Castaneto et al., 2014). Studies confirm that some marijuana users do switch to synthetic cannabinoids to evade detection by drug tests and then return to marijuana use after the testing regimen has been discontinued (Perrone et al., 2013). Because new substances are constantly being sought out by offenders to cheat drug tests, Drug Courts should select test specimens randomly and frequently and examine them for a wide range of potential drugs that might be emerging in their population (ASAM, 2013).

### E. Witnessed Collection

Drug Court participants and probationers acknowledge engaging in widespread efforts to defraud drug and alcohol tests. These efforts include, but are not limited to, consuming excessive water to dilute the sample (dilution), adulterating the sample with chemicals intended to mask a positive result (adulteration), and substituting another person's urine or a look-alike sample that is not urine, such as apple juice (substitution) (Cary, 2011; McIntire & Lessenger, 2007). Collectively, these efforts are referred to as tampering. In focus groups, Drug Court participants reported being aware of several individuals in their program who tampered with drug tests on more than one occasion without being detected by staff (Goldkamp et al., 2002).

The most effective way to avoid tampering is to ensure that sample collection is witnessed directly by a trained and experienced staff person (ASAM, 2013; Cary, 2011). If substitution or adulteration is suspected, a new sample should be collected immediately under closely monitored conditions (McIntire et al., 2007). Staff members should be trained in how to implement countermeasures to avoid tampered test specimens. Examples of such countermeasures include searching participants' clothing for chemical adulterants or fraudulent samples, requiring participants to leave outerwear outside of the test-collection room, and putting colored dye in the sink and toilet to prevent water from being used to dilute test specimens (McIntire & Lessenger, 2007).

If substitution or other efforts at tampering are suspected for a urine specimen, it may be useful to obtain an oral fluid specimen immediately as a secondary measure of substance use. Generally speaking, observing the collection of oral fluid closely is easier than for the collection of urine, and oral fluid tests are less susceptible to dilution than urine tests (Heltsley et al., 2012; Sample et al., 2010). However, because oral fluid testing has a shorter detection window than urine testing, a negative oral fluid test would not necessarily rule out recent drug use or the possibility of a tampered urine test.

Because specialized training is required to minimize tampering of test specimens, under most circumstances participants should be precluded from undergoing drug and alcohol testing by independent sources. In exigent circumstances, such as when participants live a long distance from the test collection site, the Drug Court might designate independent professionals or laboratories to perform drug and alcohol testing. As a condition of approval, these professionals should be required to complete formal training on the proper collection, handling, and analyses of drug and alcohol test samples among Drug Court participants or comparable criminal justice populations. Drug Courts are also required to follow generally accepted chain-of-custody procedures when handling test specimens (ASAM, 2013; Cary, 2011; Meyer, 2011). Therefore, if independent professionals or laboratories perform drug and alcohol testing, they must be trained carefully to follow proper chain-of-custody procedures.

## **F. Valid Specimens**

Several low-cost analyses can be performed to detect adulterated or diluted test specimens (McIntire et al., 2007). The temperature of each urine specimen should be examined immediately upon collection to ensure it is consistent with an expected human body temperature. An unusual temperature might suggest the sample cooled down because it was collected at an earlier point in time, or was mixed with water that was too cold or too hot to be consistent with body temperature. Under normal conditions, urine specimens should be between 90° and 100° F within four minutes of collection, and a lower or higher temperature likely indicates a deliberate effort at deception (ASAM, 2013; Tsai et al., 1998).

Urine specimens should also be tested for creatinine and specific gravity. Creatinine is a metabolic product of muscle contraction that is excreted in urine at a relatively constant rate. A creatinine level below 20 mg/dL is rare and is a reliable indicator of an intentional effort at dilution or excessive fluid consumption barring unusual medical or metabolic conditions (ASAM, 2013; Cary, 2011; Jones & Karlsson, 2005; Katz et al., 2007). Specific gravity reflects the amount of solid substances that are dissolved in urine. The greater the specific gravity, the more concentrated the urine; and the lower the specific gravity, the closer its consistency to water. The normal range of specific gravity for urine is 1.003 to 1.030, and a specific gravity of 1.000 is essentially water. Some experts believe a specific gravity below 1.003 reflects a diluted sample (Katz et al., 2007). Although this analysis, by itself, may not be sufficient to prove excessive fluid consumption, dilution is likely to have occurred if the specific gravity is low and accompanies other evidence of tampering or invalidity, such as a low creatinine level or temperature. Several commercially available test strips, such as Adulcheck and Intect, have also been shown to reliably detect dilution or adulteration of urine test samples (Dasgupta et al., 2004; Mikkelsen & Ash, 1988).

## **G. Accurate and Reliable Testing Procedures**

To be admissible as evidence in a legal proceeding, drug and alcohol test results must be derived from scientifically valid and reliable methods (Meyer, 2011). Appellate courts have recognized the scientific validity of several commonly used methods for analyzing urine, including gas chromatography/mass spectrometry (GC/MS), liquid chromatography/tandem mass spectrometry (LC/MS/MS), the enzyme multiple immunoassay technique (EMIT), and some sweat, oral fluid, hair, and ankle-monitor tests (Meyer, 2011).

Tests such as GC/MS and LC/MS/MS are referred to as instrumented tests, laboratory-based tests, or confirmation tests. These tests have a higher degree of scientific precision than immunoassay tests, point of collection tests (POCT), or screening tests, such as on-site test cups or instant test strips. If a participant denies substance use in the face of a positive screening test, courts will typically require, and toxicology experts recommend, performing confirmation testing using GC/MS or a similar instrumented technique (ASAM, 2013; Cary, 2011). Confirmation with an instrumented test virtually eliminates the odds of a false-

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positive result, assuming the sample was collected and stored properly (Auerbach, 2007; Peat, 1988). Drug Courts commonly require participants to pay the cost of confirmation tests if the initial screening result is confirmed (Cary, 2011; Meyer, 2011). Confirmation testing should be performed on a portion of the original test specimen. If confirmation testing is performed on a different specimen that was collected at a later point in time, a conflicting result might not reflect a failure to confirm but rather differences in the detection windows for the tests or the metabolic processes of the participant.

Drug Courts must follow generally accepted chain-of-custody procedures when handling test specimens (ASAM, 2013; Cary, 2011; Meyer, 2011). They need to establish a reliable paper trail identifying each professional who handled the specimen from collection through laboratory analysis to reporting of the results. Establishing a proper chain of custody requires sufficient labeling and security measures to provide confidence the specimen belongs to the individual identified on the record and the specimen was transported and stored according to generally accepted laboratory procedures and manufacturer recommendations.

Some Drug Courts interpret changes in quantitative levels of drug metabolites as evidence that new substance use has occurred or a participant's substance use pattern has changed. Unless a Drug Court has access to an expert trained in toxicology, pharmacology, or a related discipline, such practices should be avoided. Quantitative metabolite levels can vary considerably based on a number of factors, including the total fluid content in urine or blood (Cary, 2004; Schwilke et al., 2010). Moderate changes in participants' fluid intake or fluid retention could lead Drug Courts to miscalculate substance use patterns. Most drug and alcohol tests used in Drug Courts were designed to be *qualitative*, meaning they were designed to determine whether a drug or drug metabolite is present at levels above a prespecified concentration level. The cutoff concentration level is calculated empirically to maximize the true-positive rate, true-negative rate, or classification rate. When Drug Courts engage in quantitative analyses, they are effectively altering the cut-off score and making the results less accurate.

Some Drug Courts have difficulty interpreting positive cannabinoid (marijuana) test results. Because cannabinoids are lipid-soluble (i.e., bind to fat molecules), they may be excreted more slowly than other substances. This has caused confusion about when a positive cannabinoid result may be interpreted as evidence of new use as opposed to residual use from an earlier episode. A participant is highly unlikely to produce a cannabinoid-positive urine result above 50 ng/mL after more than ten days following cessation of chronic usage or for more than three to four days following a single-use event (Cary, 2005). Therefore, a Drug Court would be justified in considering the first two weeks of enrollment to be a grace period during which there would be no sanctions for positive cannabinoid test results. However, subsequent positive tests may be interpreted as evidence of new cannabis use and dealt with accordingly. Moreover, once a participant has produced two consecutive cannabinoid-negative urine specimens (called an *abstinence baseline*), a subsequent cannabinoid-positive test may be interpreted as new use (Cary, 2005). Some Drug Courts or laboratories may employ a lower cutoff level of 20 ng/mL for cannabis metabolites. Using this lower cutoff, thirty days is sufficient to establish a presumptive abstinence baseline even for chronic users (Cary, 2005); in the majority of cases, twenty-one days should be sufficient.

Some participants may attempt to attribute a positive cannabinoid test to passive inhalation or second-hand smoke. This excuse should not be credited. The likelihood of passive inhalation triggering a positive cannabinoid test is negligible (Cone et al., 2014; Law et al., 1984; Katz et al., 2007; Niedbala et al., 2005). Moreover, because Drug Court participants are usually prohibited from associating with people who are engaged in substance use, passive inhalation may be viewed as a violation of this central prohibition, thus meriting an additional sanction (Marlowe, 2011).

### H. Rapid Results

In addition to certainty, timing is one of the most influential factors for success in a behavior modification program (Harrell & Roman, 2001; Marlowe & Kirby, 1999). The sooner sanctions are delivered after an infraction and incentives delivered after an achievement, the better the results. Because sanctions and incentives are imposed routinely on the basis of drug and alcohol test results, the Drug Court team needs test results before participants appear for status hearings.

A study of approximately seventy Drug Courts reported significantly greater reductions in criminal recidivism and significantly greater cost benefits when the teams received drug and alcohol test results within forty-eight hours of sample collection (Carey et al., 2012). Drug Courts that received test results within forty-eight hours were 73% more effective at reducing crime and 68% more cost-effective than Drug Courts receiving test results after longer delays. Ordinarily, negative test results should take no longer than one business day to produce, and positive results should require no more than two days if confirmation testing is requested (Cary, 2011; Robinson & Jones, 2000).

### I. Participant Contract

Outcomes are significantly better when Drug Courts specify their policies and procedures clearly in a participant manual or handbook (Carey et al., 2012). Criminal defendants are significantly more likely to react favorably to an adverse judgment if they were given advance notice about how such judgments would be made (Burke & Leben, 2007; Frazer, 2006; Tyler, 2007). Drug Courts can enhance participants' perceptions of fairness substantially and reduce avoidable delays from contested drug and alcohol tests by describing their testing procedures and requirements in a participant contract or handbook.

Below are examples of provisions that should be included in a participant contract to address many of the best practices discussed above. For participants with limited educational histories, the language may need to be simplified and the requirements explained orally. Repeat the information periodically to ensure participants understand their rights and obligations.

- Drug and alcohol testing will be performed frequently and on a random basis throughout your enrollment in the Drug Court.
- Drug and alcohol testing will be performed on weekends and holidays.
- Drug and alcohol testing will be performed by a laboratory or program approved by the Drug Court.
- Because cannabinoids (a byproduct of marijuana) may persist in the body for several days, marijuana users have a two-week grace period following enrollment during which no sanctions will be given for positive cannabinoid test results. However, after two weeks positive cannabinoid tests will be presumed to reflect new marijuana use. Participants bear the burden of establishing a convincing alternative explanation for such results. After you have had two consecutive cannabinoid-negative urine specimens, the Drug Court will presume that subsequent positive cannabinoid results reflect new use.
- You must arrive at the testing facility as soon as possible after being notified that a test has been scheduled. You will be sanctioned for an unexcused failure to arrive within eight hours of being notified that a urine test has been scheduled or within four hours for tests that have short detection windows, such as breath or oral fluid tests.
- A staff person will directly observe the collection of test specimens. The staff person will be the same gender as you unless you, your defense attorney or your therapist request otherwise.
- Failure to provide a test specimen or providing an insufficient volume of fluid for analysis is an infraction of the rules of the program and will be sanctioned accordingly. You will be given a sufficient time (up to one hour) to deliver a urine specimen and allowed to drink up to one cup of water in the presence of staff.
- You may not drink any fluid excessively before testing and must avoid environmental contaminants, over-the-counter medications, or foods that can reduce the accuracy of the tests. Potential contaminants that you need to avoid are [provide list of contaminants].
- You may be subjected to immediate spot testing if the Drug Court has reason to suspect recent use or during high-risk times such as weekends or holidays.
- You have the right to challenge the results of a screening test and to request proof that an adequate chain of custody was established for your specimen. The Drug Court will rely on the results of an instrumented or laboratory-based test in confirming whether substance use has occurred. You may be charged the cost of the confirmation test if a screening test is confirmed.



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- You will be sanctioned for providing diluted, adulterated, or substituted test specimens. Urine specimens below 90° F, above 100° F, or that have a creatinine level below 20 mg/dL will be presumed to be diluted or fraudulent. Participants bear the burden of establishing a convincing alternative explanation for such results. Under such circumstances, you may receive two sanctions, one for the substance use and one for the effort at deception.
- You will be sanctioned for using synthetic substances such as K2 or Spice that are designed to avoid detection by standard drug tests. Switching to a new substance (for example, switching from heroin to an unauthorized prescription opioid) will be presumed to be an effort to defraud the drug test. You may receive two sanctions in such circumstances, one for the substance use and one for the effort at deception.
- You will be sanctioned for associating with other people who are engaged in substance use or for exposing yourself to passive inhalation or secondhand smoke.

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