

DRUG TESTING PROCEDURES MANUAL

Introduction

LEGAL AUTHORITY. In each of the districts, pretrial services, as mandated under section 3154 of title 18, shall make the arrangements for the collection and testing of urine specimens.

Objective. To the extent feasible, drug testing shall be completed prior to the initial appearance of the defendant before a judicial officer, or immediately after their first court appearance. Pretrial Services officers will also make recommendations for appropriate sanctions and/or treatment once defendants are identified as needing them.

Confidentiality. In general, information gathered for purposes related to drug testing, including the results of such testing, is governed under the confidentiality regulations issued by the Director of the Administrative Office (see chapter 3, Volume XII, Guide to Judiciary Policies and Procedures). Except as provided in those regulations, and by law, this information shall be used only for the purpose of a bail determination and shall otherwise be confidential. 18 U.S.C. 3153 (c).

INTAKE PROCEDURES

Intake Log (PS 20). A new Drug Testing Intake Log must be started each day. Each defendant must be assigned a unique log number for that day. The intake officer is responsible for entering the defendant's correct name and the time of intake, and for signing in for each defendant. The defendant's log number from the PS 20 will be transcribed to Section A of the PS 21.

Advice of Rights. Prior to requesting that a defendant submit a urine sample, pretrial services personnel should generally outline the content of the Drug Testing Advice of Rights form (PS I-D), allow the defendant to read it, and ask him to sign it.

It should be explained that the results of the test will be made part of a report to the judicial officer, and that the prosecuting attorney and the defense attorney will review a copy of the report in court. Failure to submit a specimen will also be reported to the court.

The defendant should be advised that test results will be used to determine conditions of release. Results will not be used on the issue of guilt, and cannot result in new charges.

The defendant should be told that positive results may cause the court to impose a condition of release requiring participation in a drug treatment program, or on-going drug testing, as a condition of release.

It should also be explained that, in the event he is found guilty or enters a plea of guilty, the results of the test, along with other pretrial services information, will be available to a probation officer preparing a pre-sentence report.

Drug Testing Master Form (PS 21). After advising the defendant of his or her rights, the intake officer should fill out Section A of the Drug Testing Master Form. It is important to ask each defendant about any type of medication taken and to note the response. Also note any relevant observations concerning the defendant. If the defendant is unable or refuses to submit a specimen, note this in the appropriate space.

Collection Area. Ideally, a private lavatory should be used for collecting samples, with no access by staff or the general public. When private facilities are unavailable, however, every effort must be made to reduce the possibility of interference with proper procedures. At a minimum, access to the laboratory must be limited to the defendant and the collector during the collection.

A blue or green coloring agent, such as a toilet bowl cleaner, or food coloring, should be added to the water in the commode, or the bowl itself. When urinals are used, coloring agents are not necessary. However, the urinal should not be flushed until the collection is complete and the specimen cup is sealed.

Collection of Specimen. The collector must observe and process only one collection at a time. Prior to obtaining a specimen from any defendant, pretrial services personnel must confirm the defendant's identity. Defendants should be asked to remove outer garments, such as coats and jackets. When possible, defendants should roll up their sleeves, and wash their hands with cold water before submitting a specimen. The defendant's hands must be thoroughly dry before proceeding.

The collector should wear disposable, waterproof gloves for protection against spillage. The empty specimen cup should be handed to the defendant, without the lid, and should never leave the sight of the collector during collection. It is critical that each collection be observed carefully to guard against the possibility of tampering, dilution, or adulteration.

Observation of the collection process is required, except where the defendant and the collector are not of the same sex. Such collections must be marked "Unobserved," and should be submitted to an adulteration panel.

A full bottle must be collected. Immediately after collection, the defendant should be asked to seal the specimen cup with a lid, and apply a label reflecting his or her name and assigned log number. This will serve as evidence that the defendant acknowledged the urine as his or her own.

The cup must be capped and labeled, prior to collecting a sample from another individual. All specimens must be tested immediately, or must be stored in a secure refrigerator until ready for testing.

Inability to Submit. In the event that a defendant is unable to submit a specimen, a notation of "Stall" should be made on the PS 21. When feasible, a second attempt should be made prior to the initial appearance.

Refusal to Submit. In the event that a defendant declines to submit to testing, he or she should be advised that this decision will be included in the report to the court. The defendant should be advised in a neutral manner, taking care to avoid any implication that the court will penalize the defendant for declining to submit. The refusal should be noted on the Drug Testing Advice of Rights form, and the PS 21 with the notation "Refused."

DRUG TESTING PROCEDURES

Equipment Operation. Operators of testing equipment must be certified by the manufacturer. At no time may a non-certified person operate testing equipment except under the direct supervision of a certified operator for training purposes.

All protocols and procedures recommended by the manufacturer for the storage preparation, calibration, operation, and maintenance of testing equipment, and use of reagents, will be observed at all times.

Positive Test Results. All specimens testing positive for any drug must be subjected to a second test for that drug using the same technology. A fresh aliquot must be used whenever positives are retested. If a second test result is negative, the results of testing will be reported to the court as negative. If the second test is positive, the results of testing will be reported to the court as presumptive positive. In the case of a positive test, the sample must be stored in a secure freezer for up to 30 days, unless the defendant signs a written statement admitting the positive test result. If ordered by the court, the sample should be sent to the contract laboratory for confirmation, using GC/MS.

Hand-held Testing Devices. Only hand-held testing devices approved by the Administrative Office of U.S. Courts will be utilized in this project. Districts utilizing hand-held drug testing devices must have written guidelines and procedures for the use of these kits. The following are minimum guidelines:

1. District staff are required to receive training on the use of the device prior to implementation.
2. The court is to be notified that hand-held devices are used in the initial screening of urine samples. Such tests are not to be used in violation hearings.
3. If an offender admits to a presumptive positive, document such admission in the chronological record and obtain a signed statement of admission from the defendant. Confirmation by the national laboratory is not necessary unless the results will be used in a violation proceeding. Confirmation from the national laboratory is required for all presumptive positive results contested by the defendant.
4. Cut-off levels of the hand-held devices must be the same as those used by the national laboratory. Do not request the national laboratory to test results from hand-held devices at any other cut-off levels. The current and legally defensible cut-offs are:

Marijuana metabolites	50 ng/ml
Cocaine metabolites	300 ng/ml
Opiate metabolites	300 ng/ml
Phencyclidine	25 ng/ml
Amphetamines	1,000 ng/ml

- Districts are required to maintain quality control by sending 1 of every 40 negative hand-held tests to the laboratory for testing.

If the total amount of your purchase of these kits for the fiscal year will be less than \$2,500 you may use a purchase order. If the total cost will exceed \$2,500 then you must obtain price quotes from at least three vendors and maintain a written justification for the purchase in your records.

The testing area must be locked and secured by the certified operator at all times when the lab is not in use. Only certified personnel, and persons being trained by certified personnel, may be permitted in the testing area.

Supplies and equipment must be stored in a secure area, accessible only to authorized pretrial services personnel. At no time may defendants or the general public enter a secure area. Access by cleaning or building maintenance personnel should be limited to working hours when pretrial services personnel are present.

Chain of Custody. Chain of custody documentation is critical to the integrity of the testing program. Possession of the specimen must be accounted for at all times. Changes in possession must be recorded. All personnel assigned to drug testing must be thoroughly familiar with all forms and must complete them at the required times. All such personnel must have a copy of this manual for reference at all times.

Recording Test Results (PS 21 Section B). The individual receiving the specimen from the collector must sign the first line in Section B, and note the date and time. Likewise, the tester must sign the second line and note the date and time.

The tester must check the appropriate box reflecting the results of each test. A positive result should not be entered until a rerun has been completed. The person completing the rerun must sign line 3 and note the date and time.

REPORTING RESULTS TO COURT

Reporting Test Results. Test results, as well as details regarding the date and time of the urine drop and test, should be incorporated in the "health" section of the pretrial services report as additional information for consideration by the court. Other information concerning drug usage by the defendant should also be included here. The source(s) of information must be clearly cited.

Recommendations. A positive test result, in itself, should never result in a

recommendation of pretrial detention. Positive test results should be treated by the pretrial services officer as information to be considered when attempting to tailor appropriate conditions of release, and should not trigger "automatic" recommendations. The officer should consider the overall circumstances of the case (see 18 U.S.C. 3142(g)) before making a recommendation.

In the case of a positive test result, consideration may be given to ongoing drug monitoring by pretrial services, or drug treatment by a contract program in the community, or by an appropriate combination of both.

Recording Court Information (PS 21, Section C). This section must be completed after the defendant has appeared before a judicial officer, and a determination has been made with respect to release or detention.

DATA COLLECTION AND REPORTING PROCEDURES

Reporting to the Administrative Office

PSA 2. Data elements for entry on the PSA 2 are identical to any pretrial services case with one exception. All cases involving drug testing must be distinguished by placing a J in the first digit of the defendant number. For example, Mary Jones' docket number is 97 10002 - O()1. The number which should be entered is:

97 - 10002 - JOI

This distinction will permit the matching of PSA 2 demographic and court information with the test results and other information reported as part of the project.

PS 21. Copy of 4 of the Drug Testing Master Form must be forwarded to the Federal Corrections and Supervision Division, Program Services Branch, after completion. The codes for the circuit, district, and branch office must be entered in the upper right corner.

DRUG TESTING FORMS

1. PS 1-D Drug Resting Advice of Rights.

This may be used to supplement the PS 1, the routine advice of rights given to all defendants, to specifically address the issue of urine testing.

2. PS 20 Intake Log.

This form is used on a daily basis to record all new intake, and to insure that a unique log number is assigned to each sample tested. This log number is transferred to Section A of the PS 21 for tracking purposes.

3. PS 21 Master Form.

This is a “carbonless carbon” form which records activity from the point of intake through testing and court action. The carbon format allows the technician to keep a copy in the lab and the officer assigned to the case to keep a copy in the case file. When complete, the bottom carbon, labeled “Administrative Office Copy,” is mailed to the Programs Services Branch for data collection purposes. (When personal computers become available these data will be transferred electronically.)

4. PS 22 Urine Surveillance Log.

This form is intended to log-in each sample provided by a defendant with drug testing as a condition of release. It records not only the date of each test but also the date on which the defendant is to appear next. The defendant’s signature serves as proof of identification and also as proof that the defendant was advised when to appear again.

5. PS 23 Urine Surveillance Test Results.

This “carbonless carbon” form allows the technician to record the results of each test performed for persons for whom drug testing is a condition of release. The carbon is performed for persons for whom drug testing is a condition of release. The carbon is labeled “Administrative Office Copy” and is mailed to the Programs Services Branch for data collection purposes.

6. PS 24 Action Taken On Positive Test Results.

This “carbonless carbon” form is used in the event of a positive test result in order to record the action taken by the officer, whether a hearing was held, and the action taken by the court. The carbon is labeled “Administrative Office Copy” and is mailed to the Programs Services Branch for data collection purposes.

All positive test results must be reported to the court, the defense attorney, and the prosecuting attorney.

Instructions for Completing Forms
November 25, 1996

PS 20 Drug Testing Intake Log

A new intake log form should be started each day. If there are no new cases on a given day, this should be noted at the bottom of the form. Completed intake log forms should be kept in a binder in a secure location.

Each defendant appearing for intake must be assigned a unique log number for that date. This number, as well as the date and time, must appear in Section A of the PS 21 (Drug Testing Master Form).

In the event that more than 25 defendants are tested in a single day, do not start a new log form. Instead, attach a blank sheet of paper to the completed log form and start with number 26.

PS 21 Drug Testing Master Form

See instructions dated October 21, 1996.

The PS 21 is a "carbonless carbon" form. Upon completion of this form, copy 4 is to be detached and forwarded to the Federal Corrections and Supervision Division.

PS 22 Urine Surveillance Log

This form is intended for use in cases in which the defendant has been released with the condition that he or she submit to drug surveillance performed on-site by pretrial services personnel.

A urine surveillance log form should be started for each defendant released with surveillance as a condition of release.

It is expected that urine specimens will be tested on the same date as the urine collection, as soon as possible after the collection. "Test Date" and collection date should therefore be the same. When a collection date is different, this should be noted under "Medication/ Remarks."

The "Next Test Date" may be assigned at the time of the current test. The defendant's signature to the right of this date may later serve as proof that he or she was advised when to appear next.

The officer who observes and collects the specimen must initial the "Witnessed By" box. This officer must ask the defendant if he or she has taken any medication. The defendant's response should be noted under "Medication/Remarks."

Anything unusual should also be noted here. The entry "See Chrono" may be entered if the

entry is lengthy.

PS 23 Urine Surveillance Test Results

This form is intended to record the results of each test performed on specimens submitted as a condition of release. The following entries should be used:

Positive
Negative
Not tested

For each test with a "positive" result, an entry must be made on the PS 24.

The PS 23 is also available in "carbonless carbon" format. Upon completion, copy 2 is to be detached and forwarded to the Administrative Office.

PS 24 Action Taken on Positive Results

Each positive result noted on the PS 23 must also be recorded on the PS 24. Actions taken which are not reflected on the form should be described in an attached note.

**Instructions for Use of the PS 21 - Drug Testing Master Form
(November 25, 1996)**

Section A must be completed for each defendant appearing before a judicial officer for an initial appearance, regardless of whether the defendant was actually tested. The individual who collects the urine specimen must sign the "officer" box, and record the date and time of the urine drop. Section A may be detached and used as an internal record.

Section B, which appears first on copy 2, must be completed for each urine specimen. Line number (1) must reflect the initials of the individual who took possession of the urine specimen from the collector and also the date and time that the urine was received. Line (2) must reflect the initials of the tester, as well as the date and time of the test. All positive test results must be retested, when possible, using a new aliquot. The individual who conducts the retest must initial line (3) and enter the date and time. When a specimen which tested positive must be sent to a lab for GC/MS confirmation, the individual who mails the specimen must complete line (4).

For defendants who are unable or unwilling to provide a specimen, do not write in the test result portion of section B until after the defendant goes before a judicial officer (the defendant could be ordered to submit before being released).

The results of the test must be recorded for each of the five drugs (Benzodiazepines have been deleted from the screen). Do not leave any line blank. Positive results should not be entered until a retest has been completed.

Section C, which appears first on copy 3, must be completed after the defendant has appeared in court and a determination has been made with respect to release or detention. Do not complete this section if the defendant is being detained pending a detention hearing, or if a continuance has been granted for any other reason. In such cases, wait until the court has made its decision.

Under "Test Results Reported," circle A for "prebail" if the test was completed and the results reported at the initial appearance. Circle B for "Ordered by the Court" if the defendant had been unable or unwilling to submit a specimen until a judicial officer had ordered the test at the initial appearance. Circle C for "Post Bail" if the test was completed, and the results reported to the court after the defendant had appeared and a release or detention determination had been made (excluding continuances). Circle D for "Not Tested" when the defendant is unable or unwilling to submit a specimen and the court has decided not to order the individual to submit.

Under "Action Taken By Court," circle A for "Treatment" if the defendant is released under the condition that he accept drug abuse treatment. Circle B for "Surveillance" if the defendant is released with the condition that he or she submit to ongoing drug testing performed by pretrial services. Circle C if the defendant is required to seek treatment and submit to urine surveillance by pretrial services. Circle D for "No Action-Released" if the defendant is released without any provision for drug treatment or urine surveillance. Circle E for "Detained" if the

defendant is detained under 18 U.S.C.
3142 (e), after a detention hearing.

Under "Did Defendant Admit to Drug Use?" circle "NO" if the defendant stated that he has not used illegal drugs within the past two years. Circle "YES-Before Testing" if the defendant admitted to using illegal drugs within the past two years, before submitting a specimen. Circle "YES-After Testing" if the defendant had not admitted the use of illegal drugs within the past two years, until testing had been completed.

REIMBURSABLE AGREEMENT

PS 1-D
(2/89)

**PRETRIAL SERVICES
DRUG TESTING ADVICE OF RIGHTS**

I, _____, understand that I am being requested to submit to drug testing and am being asked to provide a urine sample.

I also understand the following:

I may decline to submit a urine sample. In this case, the court will be informed that I declined.

I may speak to an attorney before providing a urine sample. If I am unable to afford the services of an attorney, I understand that I may request that the court appoint one on my behalf at no expense to me.

The results of this drug test, along with other information, will be used by the court to determine if I will be released or detained pending trial and under what conditions. Positive test results may cause the court to require that I participate in a drug treatment program, or submit to drug testing, if released on bail.

The results of this drug test, along with other information, will be included in a report to the court which will also be made available to my attorney and the prosecuting attorney.

The law provides that this information can only be used for purposes related to bail. Therefore, the results of this drug test may not be used to bring new charges and may not be used against me to prove guilt in any court proceeding.

In the event I am later found guilty, the results of my drug test will be made available to a U.S. Probation Officer for the purpose of preparing a pre-sentence report and may affect my sentence.

I have read the above information, or had it read to me, and I understand my rights.

_____	_____
Date	Defendant's Signature
_____AM	_____
Time PM	Pretrial Services Officer

Notes: _____

ATTACHMENTS:

Of the seven attachments, only two are included in this document, and the other five are described below:

1. PS 20 (2/89) United States Pretrial Services Drug Testing Intake Log.
This is a table of 25 rows, one row for each log number, and four columns for the log number, defendant's name, intake time, and intake officer. The date is required on the top of the form and there is space at the bottom for additional notes.
2. PS 21 (289) United States Pretrial Services Drug Testing Master Form.
This form is attached. The actual form is a "carbonless carbon."
3. PS 22 (2/89) United States Pretrial Services Drug Urine Surveillance Log.
The defendant's name and date of birth are required on the top of the form. This is a table of 27 rows, one for each defendant's signature, and five columns for the test date, next test date, defendant's signature, name of witness, and medication/remarks.
4. PS 23 (2/89) United States Pretrial Services Drug Urine Surveillance Test Results.
The defendant's name, date of birth, circuit, district, office, and docket number are required on the top of the form. This is a table with eight columns, including columns for the test date and the name or initials of the technician who conducted the test. The remaining six columns are for the six drugs that are screened for in the drug test.
5. PS 24 (2/89) United States Pretrial Services Action Taken on Positive Test Results.
The defendant's name, date of birth, district, office, and docket number are required on the top of the form. This is a table with 26 rows and four columns. The columns are for recording: positive test date, reported to court (y/n), hearing held (y/n), and action taken by court at hearing. There are three action codes that may be used: A-No Action, B-Conditions Changed, and C-Bail Revoked-Defendant Detained.
6. PS 25 (2/89) Demonstration Project Data Collection Form.
The first page of this form is attached. The second page records the test results in three columns: negative, positive, and missed. The total number of tests, and the defendant's social security number are required at the bottom of the form.

PS 21 UNITED STATES PRETRIAL SERVICES (2/89) DRUG TESTING MASTER FORM	Circuit	District	Office
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A. INTAKE

Defendant (Last, First, Middle)	Log Number		
Date of Birth	Date	Time	
Medication	Officer	Stall	
Notes	Refused		

COPY 1

	INITIALS	DATE	TIME		POSITIVE	NEGATIVE	NOT TESTED
1. Received	_____	_____	_____	Amphet	_____	_____	_____
2. Test	_____	_____	_____	Benzo	_____	_____	_____
3. Rerun				Cocaine	_____	_____	_____
Positive	_____	_____	_____	Cannab	_____	_____	_____
4. Lab	_____	_____	_____	Opiate	_____	_____	_____
Notes	_____	_____	_____	PCP	_____	_____	_____

COPY 2

Judicial Officer	Magistrate Number	Criminal Number
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TEST RESULTS REPORTS

- A. Prebail
- B. Ordered by Court
- C. Post Bail
- D. Note Tested
- E. Other (explain) _____
- _____
- _____

ACTION TAKEN BY COURT

- A. Treatment
- B. Surveillance
- C. Both A and B
- D. No Action-Released
- E. Detained
- F. Other (explain) _____
- _____
- _____

DID DEFENDANT ADMIT TO DRUG USE?

- 1. NO
- 2. YES - Before Testing
- 3. YES - After Testing

NOTES:

COPY 3

Demonstration Project Data Collection Form

Name	Date of Birth	Docket Number
Type	Social Security Number	Nationality
Offense	Offense Date	
Date placed on supervision	Total months of supervision	

1) Current status of case: _____

- a) active supervision
- b) pending court action
- c) transferred to drug aftercare
- d) inpatient treatment
- e) revoked

2) Most recent phase of urine surveillance: _____

- a) twice weekly
- b) once weekly
- c) twice monthly
- d) once a month
- e) once every 60 days

3) Did client admit drug usage during initial interview? _____

- a) yes
- b) no

4) Has client tested positive? _____

If yes, put exact number; if no, put "0" and stop.

5) What action was taken by P.O. after first positive? _____

- a) increased urinalysis
- b) notified court requested special condition
- c) notified court requested warrant/revocation
- d) 3-way conference with S.U.S.P.O./specialist

8) What action was taken by court after second positive? _____

- a) status hearing
- b) revocation hearing
- c) none

9) What action was taken by P.O. after third positive? _____

- a) notify court/request special condition
- b) notify court/request warrant/revocation
- c) 3-way conference with S.U.S.P.O. specialist.
- d) none

10) What action was taken by court after third positive? _____

- a) status hearing
- b) revocation hearing
- c) none

**11) How many positive specimens were recorded before court acted?
_____****12) How many missed appointments were recorded before court acted?
_____****13) Primary drug of choice:**

- a) amphetamines
- b) benzodiazepines

e) none

6) What action was taken by court after first positive? _____

- a) status hearing
- b) revocation hearing
- c) none

7) What action was taken by P.O. after second positive? _____

- a) notify court/request special condition
- b) notify court/request warrant/revocation
- c) 3-way conference with S.U.S.P.O./specialist
- d) none

c) cannabinoids

d) cocaine

e) opiates

f) phencyclidine

14) Secondary drug of choice: _____

a) amphetamines

b) benzodiazepines

c) cannabinoids

d) cocaine

e) opiates

f) phencyclidine