

## **SUBSTANCE ABUSE PROGRAM AND TESTING BARGAINING UNIT 6 CORRECTIONAL PEACE OFFICER RANDOM TESTING**

The California Department of Corrections and Rehabilitation (CDCR) is committed to helping to ensure that the State workplace is free from the negative effects of drug and alcohol abuse. Effective April 15, 1998, all newly hired Bargaining Unit 6 (BU 6) Peace Officers and reinstated Peace Officers with a break in service of more than twelve months, will be subject to random drug and alcohol testing. Newly hired means when an employee is first appointed into a BU 6 classification.

Random substance testing is coordinated by the Substance Abuse Program and Testing Section (SAPTS) in the Office of Employee Wellness.

### **DEFINITIONS**

Chain of Custody - The process used to account for the integrity of each urine specimen and breath sample by tracking its handling and storage from point of specimen collection to final disposition. Documentation of this process must include the date and purpose each time a urine specimen and breath sample is handled or transferred, and identification of each individual in the chain-of-custody.

Collection Site - A clinical setting such as a laboratory collection site, medical office, hospital or clinic which meets specimen collection standards established by the Substance Abuse and Mental Health Services Administration (SAMHSA). The Department has entered into an Interagency Agreement with the Department of Personnel Administration (DPA) for urine collection and breath alcohol testing services at various statewide collection sites, including collections "outside normal working hours" and with onsite (mobile) collection capability.

Confirmatory Test – A second analytical procedure used to identify the presence of a specific drug which is independent of the initial drug test and which uses a different technique and chemical principle (gas chromatography/mass spectrometry) in order to ensure reliability and accuracy. (Used in conjunction with "Screening Test (Initial Immunoassay)" under Definitions.)

Donor Notification of Scheduled Drug and Alcohol Test – A document generated by the computer program that advises an employee that he/she has been randomly selected for substance testing. The document also informs employees of the option to submit the Medical Review Officer (MRO) Confidential Medication Disclosure Sheet and advises him/her of their right to representation during any discussions with the MRO.

Eligibility Period - Employees eligible for the BU6 Peace Officer Random Testing Program remain subject to this testing ***until they leave the bargaining unit.***

## **DEFINITIONS (Continued)**

Excused Test - When an employee who is selected for a substance test is not available, the test will be excused upon written notification to the SAPTS.

Local Substance Abuse Testing Coordinator (LSATC) - Individual designated by the Assistant Secretary, Director, Warden, Superintendent, Prison Industry Authority General Manager, Health Care Manager or local administrator who has the overall responsibility of managing the testing program at the local facility and consults with the SAPTS regarding the testing program and procedures.

Medical Review Officer (MRO) - A licensed non-CDCR contract physician responsible for receiving laboratory results generated by an employer's drug testing program. The MRO has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

MRO Confidential Medication Disclosure Sheet and Envelope – These are available to employees from the LSATC when they are randomly selected for substance tests. At the employee's option, the disclosure sheet may be completed to provide information about factors other than illegal drug use that could cause a positive test result such as taking legally prescribed medication. The envelope is pre-addressed to the MRO and will only be opened by the MRO in the event the sample test is positive. The employee must write the specimen identification number in the space provided on the envelope.

Negative Test Result – Test result that does not indicate the presence of alcohol and/or a prohibited drug in the employee's system or is below the concentration cut-off level.

Positive Test Result – Test result that shows evidence of the presence of alcohol and/or a prohibited drug in the employee's system at or above the concentration cut-off level.

Refusal to Submit - Failure to provide adequate urine for substance testing without a valid medical explanation after he or she has received notice of the requirement for urine testing or engages in conduct that clearly obstructs the testing process. Also, failure to comply with alcohol testing by means of an evidential breath testing device after he or she has received notice of the requirement for alcohol testing or engages in conduct that clearly obstructs the testing process. All such behavior may constitute insubordination and may lead to disciplinary action.

Retest (Bottle B) – All confirmed positive original urine samples are retained by the testing laboratory in secure frozen storage for one year following the test or until the sample is no longer needed for appeal proceedings or litigation, whichever is longer. At the employee's request and expense, the sample may be retested by the testing laboratory or another laboratory of the employee's choice. (See also "Split Sample Testing" under Definitions.)

Screening Test (Initial Immunoassay) – The first test done on a urine sample. The immunoassay looks for the presence of prohibited substances at or above the cut-off concentration level and, if found, a specific confirmatory test is done.

**DEFINITIONS (Continued)**

Split Sample (Bottle B) – The donor shall provide a urine specimen into a collection container. The collection site personnel, in the presence of the donor, pours the specimen into two bottles. Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen referred to as Bottle A. At least 15 ml shall be poured into the other bottle, to be used as the split sample and is referred to as Bottle B.

Split Sample Testing - In the event of a confirmed positive test result, the MRO informs the employee in a verification interview of the option to test the split sample at another SAMHSA certified laboratory. The employee must make this request within 72 hours of notification by the MRO that the original sample tested positive. If the employee accepts this option, the test is performed at the employer’s expense. If the employee declines this option, the employee still has the option of a retest. (See “Retest (Bottle B)”.)

Substance Abuse and Mental Health Services Administration (SAMHSA) - The Federal Agency responsible for establishing and monitoring the Mandatory Guidelines for Federal Workplace Drug Testing Programs.

Verification Interview – Confidential telephone contact made by the MRO to the employee in the event of a positive test result to determine whether there is a legitimate medical explanation for that result.

**SUBSTANCE ABUSE PROGRAM AND TESTING SECTION (SAPTS) RESPONSIBILITY**

The SAPTS is responsible for establishing and maintaining the CDCR’s overall staff substance testing programs and policies. The SAPTS is managed by a Staff Services Manager I who reports to the Chief of the Office of Employee Wellness, Human Resources, in the Division of Administrative Services. The SAPTS:

- Maintains random pool databases and executes random selections.
- Provides training and education to departmental management and staff.
- Provides timely and appropriate consultation and technical assistance to departmental management and staff.

**EMPLOYEES COVERED BY THIS POLICY**

Effective April 15, 1998, all newly hired BU 6 employees and reinstated employees with a break in service of more than twelve months, as defined in BU 6 Memorandum of Understanding, Section 12.01, will be subject to random drug and alcohol testing.

## POLICY NOTIFICATION TO EMPLOYEE

Prior to inclusion in the testing pool, each covered employee is required to sign an Employee Signature Sheet (CDCR Form 1889) acknowledging receipt of the BU 6 policy information and procedures, and the Employee Assistance Program (EAP) booklet. An employee substance testing education video entitled "Random Drug Testing -- Understanding the Process" is available for viewing in the In-Service Training Office. Adult and Juvenile Parole Operations' personnel are directed to contact their LSATC to view the video. Other locations should contact the SAPTS to view the video.

Covered employees are also required to read and sign the "Bulletin, Important Employee Information" which warns employees about unauthorized drug use and about obtaining diet pills and other drugs in a foreign country. The signed document is placed in the employee's Official Personnel File.

## LSATC RESPONSIBILITIES

*The responsibilities are summarized below. For more detailed information, see separate step-by-step Bargaining Unit 6 Random Testing Procedures.*

- Upon receipt of the Donor Notification(s) of Scheduled Drug and Alcohol Test, the LSATC shall ensure that the collection process is completed.
- Contact the employee's supervisor regarding the availability of the employee to go to the collection site. At such time that the supervisor indicates the employee will be available to go to the collection site, the supervisor is to instruct the employee to report to the LSATC's office for Official Business. Note: Employee is not to be given any advance notice or indication of the random test.
- If an employee is not available, the test may be excused; however, the excused test must be documented and submitted in writing to the SAPTS. The Test Status Documentation form may be used.
- If an employee is available, contact the nearest contract collection site and arrange for a specimen collection on State time if possible or during a period of time contiguous to the end of the employee's shift. Inform collection site personnel that the appointment is for a **State random** test.
- Inform employee that he or she has been scheduled for a random test. Provide the employee the **Donor Notification of Scheduled Drug and Alcohol Test** form and have them sign and date it. The employee has the option to submit the **MRO Confidential Medication Disclosure Sheet** to be mailed only in the pre-addressed envelope directly to the MRO.

## **LSATC RESPONSIBILITIES (Continued)**

Prepare the forms required for processing the collection:

- ✓ Complete the **Drug/Alcohol Test Authorization (CDCR Form 2166)**. Ensure that the employee reads the statement at the bottom of the form and then signs and dates it.
  - Complete “Step 1” of the Quest Diagnostics Forensic Drug Testing Custody and Control Form (Account #10196069).
  - Quest Diagnostics Alcohol Testing Form (Account #10196069). There is no need for the LSATC to fill out anything on this form.

Direct the employee to the collection site immediately with these three forms.

- Confirm completion of scheduled testing with collection site. Record the date the test was completed on the Test Status Documentation form and fax or mail the form to the SAPTS.

Note: The SAPTS will coordinate the testing when the LSATC is selected for random testing.

## **EMPLOYEE RESPONSIBILITIES**

Upon notification by the LSATC that he/she has been randomly selected for substance testing, the employee is to follow the LSATC’s instructions by reporting directly to the collection site and completing the collection process. If the employee has not completed his/her work shift, the employee shall immediately return to work when the collection process is completed.

## **RANDOM SELECTION PROCESS**

The CDCR uses a computer software program to randomly select employees for testing. Approximately 35 percent of the BU 6 officers in the random testing pool are selected for substance testing annually as stated in the Memorandum of Understanding Section 9.14 B 5. Donor Notification of Scheduled Drug and Alcohol Test documents, randomly selected for each draw by the computer software program, are forwarded by the SAPTS to the LSATCs for distribution. The computer software program is “random with replacement.” When an employee’s name is drawn, his/her name is not removed from the database. As a result, an employee’s name may be drawn more than once a year.

## **SUBSTANCES TESTED**

The prohibited substances tested include the following: amphetamines and methamphetamines, cannabinoids (marijuana), cocaine, opiates, phencyclidine (PCP), benzodiazepines, methaqualone, barbiturates and alcohol.

## **TESTING SERVICES**

Testing services are provided under contract between the DPA and a vendor, known as a Third Party Administrator, who as an unbiased outside entity, handles every component of the collection, analysis and final determination of urine specimen and breath sample results. The Third Party Administrator for testing services is contracted through the competitive State bidding process.

## **THE SUBSTANCE TEST**

Alcohol testing is conducted using an evidential breath testing device which meets the standards specified in the Title 49 Code of Federal Regulations Part 40.

Methods of determining the presence of a drug are by collection and analysis of a urine sample. The donor shall provide a urine specimen into a collection container. The collection site personnel, in the presence of the donor, pours the specimen into two bottles. Thirty (30) milliliters (ml) shall be poured into one bottle, to be used as the primary sample (Bottle A). Bottle A is the property of the employer. At least 15 ml shall be poured into the other bottle (Bottle B), to be used as the split sample. Bottle B is the property of the donor and is stored at the laboratory. Both specimens are labeled with the same specimen ID (bar code) number. After a specimen is provided, the bottles do not leave the donor's sight until they are labeled and sealed in a tamper-proof bag for delivery to the laboratory.

### **Screening Test**

An initial screening test (immunoassay) is performed which screens for the presence of drug metabolites. The screening test is used to eliminate "negative" urine specimens from further consideration and to identify the presumptively positive specimens that require confirmation or further testing. (Concentration cutoff levels are attached as an addendum.)

### **Confirmatory Test**

All specimens identified as positive on the initial test are confirmed positive using gas chromatography/mass spectrometry (GC/MS) before a positive result can be reported. The GC/MS is considered to be the most definitive method for confirming test results that indicate the presence of a controlled substance in urine. The GC/MS is a two-step process: gas chromatography separates the sample into its constituent parts, while mass spectrometry provides the exact

## **THE SUBSTANCE TEST (Continued)**

molecular identification of the compounds. Additionally, it is the only method which provides a documented data record suitable for review and interpretation by an outside expert. This method of confirmation is required of federally certified laboratories that are utilized by the CDCR.

For a test result to be reported as positive, both the initial screening and the confirmatory test results must be positive.

## **SUBSTANCE TEST RESULT**

### **NEGATIVE**

Test result that does not indicate the presence of alcohol and/or a prohibited drug in the employee's system or is below the concentration cut-off level.

### **POSITIVE**

Test result that shows evidence of the presence of alcohol and/or a prohibited drug in the employee's system at or above the concentration cut-off level.

In addition, an employee is considered to have a positive test result if he/she: (1) refuses to submit to a urine test and/or fails to comply with breath sample testing; (2) impedes the testing process; and/or (3) tampers with their specimen.

## **NOTIFICATION OF SUBSTANCE TEST RESULT**

### **NEGATIVE TEST RESULT**

#### **MEDICAL REVIEW OFFICER RESPONSIBILITIES**

The laboratory forwards the test results to the MRO for final review and determination of the results. In addition, the MRO reviews the Forensic Drug Testing Custody and Control Form and the chain of custody. Once a test is confirmed by the MRO as negative, this result is relayed to the SAPTS.

#### **SAPTS' RESPONSIBILITY**

Will forward a copy of the test result to the LSATC.

#### **LSATC RESPONSIBILITY**

Provide employee with a confidential copy of the results received from the SAPTS. No further action is taken.

## **POSITIVE TEST RESULT**

### **MEDICAL REVIEW OFFICER RESPONSIBILITIES**

The laboratory forwards the test results to the MRO for final review and determination of the results. In addition, the MRO reviews the Forensic Drug Testing Custody and Control Form and chain of custody. If provided by the employee, the MRO will review the MRO Confidential Medication Disclosure Sheet.

The MRO will attempt to contact the employee by telephone for a confidential verification interview to inform the employee of a positive test. If this confidential telephone interview is to be conducted while the employee is at the work site, the employee may contact the LSATC who shall make arrangements for a private location. The employee is entitled to representation during any discussions with the MRO. However, it is the employee's responsibility to inform the MRO of this request. The MRO will then make arrangements to contact the employee when their representative is present.

The MRO will ask the employee if there is any alternative medical explanation for the positive test result. If the employee claims to have used a legally prescribed medication or the drug use was associated with a legitimate medical procedure, the MRO must require the employee to provide the appropriate documentation (e.g., medical record, doctor's report, copy of a valid prescription). The MRO must give the employee a deadline for submitting the medical information.

If the information submitted by the employee gives a legitimate medical explanation for the positive test result, then the MRO reports the result to the employer as a verified negative.

### **Split Sample Testing Option**

If the employee fails to provide a legitimate medical explanation for the positive test result, the MRO will inform the employee of his or her right to request an analysis of the split sample (Bottle B). The MRO informs the employee of the option to test the split sample at another SAMHSA certified laboratory for confirmation of the test result. The employee must make the request to test the split sample within 72 hours of notification by the MRO that the original sample tested positive. (MROs have the discretion to extend the 72-hour time frame when necessary.) If the employee accepts this option, the test is performed at the employer's expense. (Should the testing of the split sample (Bottle B) fail to reconfirm the result reported by the laboratory that tested the original sample (Bottle A), both tests would be cancelled.)

When the MRO has a confirmed positive test result, the MRO notifies SAPTS by telephone and immediately faxes the result.

If the employee declines the option to test the split sample as outlined above, the employee still has the option of a retest.

### **RETEST (Bottle B)**

At the employee's request and expense, the sample may be retested by the testing laboratory or at another laboratory of the employee's choice.

### **SAPTS' RESPONSIBILITY**

Upon notification by the MRO of a confirmed positive test result, the SAPTS notifies the appointing authority and immediately forwards the test result in a confidential manner.

### **APPOINTING AUTHORITY RESPONSIBILITY**

- Allow the employee time to obtain representation (if requested) prior to meeting to inform him/her in a private face-to-face conversation of the positive test result. Provide the employee with a copy of the positive test result.
- Take administrative action as determined appropriate by CDCR.

### **EMPLOYEE RIGHTS**

The time required for the employee to provide a urine specimen and a breath sample shall be considered State work time. This includes the time required to travel to the collection site, the time involved in waiting for and completing the collection process, and travel time back to the employee's work site. If the employee returns to his/her home after completing the collection process, that travel time, minus the employee's normal commute time from home to their work site, shall also be work time. If a State car is not available, reimbursement shall be made to the employee in accordance with the terms of the applicable policy.

Employees have the right to representation during any discussions with the MRO and during any discussions that may lead to possible administrative action. Employees may provide information to the MRO about factors other than illegal drug use, such as taking legally prescribed medication(s) that could cause a positive test result. (See MRO Medication Disclosure Sheet and Envelope under Definitions.)

Employees have the right to have a split sample test or a retest.

All confirmed positive urine samples shall be retained by the testing laboratory in secure frozen storage for one year following the test or until the sample is no longer needed for appeal proceedings or litigation, whichever is longer.

The employee shall receive a copy of all test results and related documentation of the testing process.

**PROHIBITED CONDUCT**

A. Refusal to Submit to a Substance Test

BU 6 employees shall not:

- Refuse to submit to any of the required substance tests.
- Engage in conduct that clearly obstructs the testing process. Such conduct includes but is not limited to refusing to go to the collection site and not attending the collection appointment.

B. Unauthorized Drug/Alcohol Use

Unauthorized drug use includes but is not limited to: (1) taking a legally prescribed drug past the expiration date; (2) taking a legally prescribed drug in quantities over the prescribed limit; (3) taking medication prescribed to another person; and/or (4) taking a prescribed drug for purpose for which it was not intended or approved by the United State Food and Drug Administration. In addition, drugs obtained in or prescriptions filled in a foreign country may contain amphetamines and methamphetamines, two illegal drugs that are tested for in the current drug testing protocols.

BU 6 employees shall not:

- Use, possess, or be under the influence of illegal or unauthorized drugs.
- Use or be under the influence of legal drugs if the use of the drug would pose a threat to the health and safety of others.
- Use or be under the influence of alcohol that would impair the ability of the officer to perform his or her duties safely and effectively.

Engaging in prohibited conduct may lead to administrative action which will be handled on a case-by-case basis depending on the individual circumstances of each case.

## RECORDS/CONFIDENTIALITY

Records and any other information pertaining to an employee's drug or alcohol test must be considered confidential and shall be released only to:

- The employee tested.
- Individuals(s) designated in writing by the employee tested.
- The Medical Review Officer.
- Individuals who need the records or information to:
  - Determine or assist in determining what action the Appointing Authority should take in response to the test result.
  - Respond to appeals or litigation arising from the substance test or related action.