



DRUG SCREENING

I. POLICY:

The Office of Statewide Pretrial Services (OSPS) shall screen defendants, as ordered by the court, for drug or substance use.

II. AUTHORITY:

Pretrial Services Act 725 ILCS 185/7, 8, 19, 23, 27

Code of Criminal Procedure 725 ILCS 5/110-5, 10

Illinois Controlled Substances Act 720 ILCS 570/316, 414

Unified Code of Corrections 730 ILCS 5/5-8A-7

SUPPORTING MATERIALS:

National Association of Pretrial Services Agencies Standards on Pretrial Release (2020) 3.2(b), 3.5 (a)(b), 4.6 (a)(b)(c)(e)

American Bar Association (2007) Standards 10-1.10, 5.2(a)

RELATED POLICIES:

OSPS Supervision Policy

III. PROCEDURE

A. Type of Drug Screens

1. Instant Drug Screens

- a. A Pretrial Services Officer (PSO) has the following instant drug screening options: saliva or urine.
- b. Unless specifically ordered otherwise, by the court, a PSO shall use the instant saliva drug screening kit.
- c. When the court orders an instant urine drug screening:
 - i. If the PSO and the defendant are the same gender, the PSO shall observe the urine collection.
 - ii. If the PSO and the defendant are not the same gender, the PSO must alert the court that the urine collection will be unobserved unless the court orders another individual (i.e., sheriff deputy, or probation officer) to observe the urine collection. If the court directs another individual to observe the collection, OSPS may provide the court's designee with the urine collection cup and proper supplies, including personal protective equipment (PPE).



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2. Confirmation Testing: OSPS will not provide confirmation testing of saliva or urine samples collected at the time of the instant drug screen.
3. Laboratory Testing: A PSO may conduct a separate laboratory testing of saliva; only if ordered by the court after a defendant has tested positive during an instant drug screen and the defendant refuses to admit to use of the detected substance.

B. Frequency

1. When drug screening frequency is specified in a court order, the PSO shall conduct drug testing in accordance with that court order.
2. When a court orders drug screening at the discretion of OSPS, the PSO shall follow the testing frequency set forth in this policy.
 - a. A drug screen may be administered with supervisor approval if a PSO suspects the defendant is or has recently been under the influence.
 - b. A PSO shall conduct an initial drug screen on all defendants within 60 days of being placed on pretrial supervision.
 - c. The PSO shall randomly drug screen a defendant when the initial screen is positive, or if the defendant has a history of recent drug or substance abuse, not less than once every 90 days.
 - i. After two consecutive negative drug screens, a defendant will not need to submit to random screening unless a PSO suspects the defendant is or has recently been under the influence.
 - d. If the defendant has no history of drug or substance abuse, the initial drug screen is negative, or as stated above when the defendant has two consecutive negative drug screens, the PSO does not need to randomly drug screen a defendant unless the PSO suspects the defendant is or has recently been under the influence.

C. Drug Screening Process

1. At each drug screening appointment, the PSO shall confirm the defendant's identity.
2. A small bar code will be affixed to each drug test. The PSO is responsible for scanning that bar code within the Smartsheet app on their phone and updating the drug testing inventory. After scanning the bar code, the PSO will select the Smartsheet line that matches the scanned bar code. The PSO will enter the status, defendant's name, date test is being used, and results. The PSO shall include notes if the test was invalid, broken, or unable to be used for any reason. A picture of invalid or broken tests shall be uploaded to the Smartsheet. A PSO should take caution not to tear the bar code sticker when opening the drug screening kits in the event they need to scan the bar code after the drug screening kit is opened.
3. The PSO shall direct the defendant to initial the instant drug screen before collecting a sample to ensure proper identification of the results.
4. Before beginning the specimen collection:
 - a. The PSO shall review the testing protocol for the type of test being administered.



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- b. The PSO shall ask the defendant to identify all illegal, prescription and over-the-counter drugs taken by the defendant.
 - c. The PSO shall don appropriate personal protective equipment.
 5. The PSO shall administer the drug screen according to the appropriate protocol.
 - a. A defendant's self-admission to the use of screened substances does not negate the defendant's obligation to complete the drug screen.
 - b. If a PSO suspects a sample is adulterated, the defendant may be required to complete an additional screen on the same day or as determined by the PSO.
 - c. The PSO shall notify defendants of instant drug screen result.
- D. Refusal and Missed Screens
 1. If a defendant refuses to produce a sample for drug screening, the PSO must:
 - a. notify the defendant of the consequences of a refusal;
 - b. document the refusal in case management software; and
 - c. notify supervisor and promptly file a progress report with the court stating the defendant refused to submit to drug testing.
 2. A defendant will be provided with reasonable time to complete a drug screen in accordance with their schedule and the schedule of the PSO. A defendant who is unable to produce a sample within 2 hours of the request may be considered refusing to screen.
 - a. If a defendant is unable to provide a sample, the PSO shall staff the situation with a supervisor to determine the next steps.
 3. If a Defendant misses a drug screen, the PSO shall contact the defendant and reschedule the drug screen within 24 hours, whenever possible. All missed drug screens shall be documented in a case note. If the defendant is not responsive or fails to comply, a supervisor shall be notified, and a progress report shall be promptly submitted to the court.
- E. Prescription Medications: Before each drug screening, a PSO shall ask a defendant if they are taking any new, existing, or updated medications (i.e., opioids, benzodiazepine, medical marijuana cards, etc.).
 1. All disclosed prescription and over the counter drugs shall be recorded in the case management system.
 2. The PSO shall ask the defendant to produce each prescription or documentation. A PSO shall document the prescribing physician, dates, and if refills are allowed.
 3. If a defendant did not produce the prescription, the PSO shall request the defendant bring the prescription or documentation (i.e., copy of electronic health record with prescription list) of the prescription to the next drug screen, office visit or court date.



F. Indications of Abuse

1. If there are indications of abuse, the PSO shall discuss with the defendant drug treatment options. If the defendant is interested in participating in a treatment program, the PSO shall assist in making appointments or referrals. A PSO may contact the OSPS Support Services Chief if unfamiliar with available drug treatment options.
2. If evidence of drug use is acquired as a result of a defendant seeking or obtaining emergency medical assistance for someone experiencing an overdose, it cannot be the sole basis of a pretrial violation as stated in the Illinois Controlled Substances Act, 720 ILCS 570/414.

G. Documenting the Drug Screen

1. With each instant drug screen, the PSO shall complete the OSPS Drug Test Form, either in the case management system or on a paper form.
2. The PSO must enter or record the type of test utilized, if the test was observed, all test results, and check the box if the defendant admits to use of the tested substances.
3. Both the PSO and defendant must sign the form. If the case management system is used to document the drug screening, an electronic signature can be captured through the touch screen on the PSO's laptop or cell phone.
4. Drug screening should be documented simultaneously to the specimen collection, but in no event later than 24 hours.

H. Progress Report

1. The results of the drug screen, including any admissions, will be reported in the Progress Report prepared for the defendant's next court date.
2. If the defendant tests positive for a legal substance, the progress report will specifically note that the substance is legal.
3. Prescription information must be included in the Progress Report.
4. PSOs shall include in the Progress Report the status of all court ordered drug treatment, including if referrals were made, if an assessment was completed, and the status of any treatment recommendations.
5. Treatment information that was the result of voluntary placement independent of a court order will not be included in a progress report unless requested by a defendant.

I. Other Drug Screen Providers

1. A defendant may seek their own drug screening at another provider (i.e., a hospital) that meets OSPS policy and court ordered requirements if they are unable to produce the required sample for OSPS. Screening costs will be the responsibility of the defendant. Results shall be provided to OSPS and the court.



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2. Defendants submitting to drug screening with a treatment provider that meets OSPS policy and court ordered requirements do not have to also screen with OSPS if the treatment agency provides drug screen results to OSPS, including any missed or positive screen results. A Release of Information shall be completed.
 3. PSOs shall contact treatment providers if results are not received as outlined above.
 4. If the treatment provider is unable to meet OSPS policy expectations, PSOs shall schedule defendants for screening through OSPS.
- J. Recommended Modification of Drug Screening Condition: Pursuant to the OSPS Supervision Policy, when a defendant has been compliant with a condition of pretrial release for 60 days and has tested negative for two or more consecutive screens, the PSO may recommend the condition be reduced or removed.
- K. Training: All PSOs shall complete training on drug screening procedures before administering any court ordered screening.
1. Training may be provided by designated OSPS personnel who have successfully completed an appropriate train the trainer course or by the drug screening kit vendor.
- L. Inventory and Storage
1. All drug screening kits must be stored in a locked room or cabinet when not in use.
 2. OSPS maintains an inventory of all drug screening kits distributed across the OSPS counties and located in regional storage hubs.
 3. Orders for drug screening kits will be sent to OSPS' Springfield headquarters where the drug tests will be inventoried, with a unique bar code applied to each drug test kit.
 4. The bar code can be scanned with the Smartsheet App on a cell phone and the inventory line for that drug test kit will be identified.
 5. When drug screening kits transfer location, the Drug Testing Inventory must be updated with the new location.
 6. Upon receipt of drug testing kits, a PSO shall update the OSPS Drug Testing Inventory Smartsheet to reflect the new location. The PSO should individually scan each bar code and update the location in the Smartsheet. Manually updating the OSPS Drug Testing Inventory is also possible directly from the Smartsheet platform.
 7. The PSO shall immediately report any missing drug screening kits to the Administrative Support Supervisor.
 8. The OSPS Drug Testing Inventory may be used to locate drug screening supplies in nearby counties in the event of an unplanned shortage.
 9. A PSO shall routinely compare the number of drug testing supplies available in the county to the OSPS Drug Testing Inventory. Any discrepancies must be immediately reported to the Administrative Support Supervisor.
 10. Drug screen equipment shall not be stored in any vehicle.



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11. PSOs shall notify their field supervisor or region chief when drug screening kits are running low.
- M. The Deputy Director of Operations shall be immediately contacted for consult if drug testing is ordered in a manner that OSPS cannot comply with. A defendant incident report shall also be completed.