

Chapter 7: Alcohol and Drug Testing

Overview

The sections of the Policies and Procedures Manual (P&PM) governing alcohol and drug testing detail the procedures by which the Healing to Wellness Court team will subject its participants to drug testing, what drugs are being tested, and how randomness will be achieved. This section serves to put participants on notice of what specifically will be required of them during the drug testing process, what behavior will not be acceptable, and how and when a positive test will be determined. This section also serves to put the team on notice of what drug testing entails. Understanding the drug testing process is critical to determining whether incentives or sanctions are warranted, and ultimately the overall progress of the participant.

Relevant Key Components

Key Component #5: Intensive Supervision

Tribal Healing to Wellness Court participants are monitored through intensive supervision that includes frequent and random testing for alcohol and drug use, while participants and their families benefit from effective team-based case management.

Findings from NIJ Tribal Wellness Court Study Key Component #5⁶¹



Problems Identified:

- (1) Difficulty in maintaining intensive supervision and monitoring because of shortage of probation officers and the relatively expensive cost of the drug testing supplies.

Lessons Learned:

- Monitor participants by using team member probation officers during the hours when illegal acts are most likely to occur. Probation officers need to be out in the community monitoring their clients and conducting alcohol and drug tests frequently and at unexpected times.

⁶¹ Gottlieb, "Lessons Learned in Implementing the First Four Tribal Wellness Courts," 29.

Strengths & Weaknesses Reported in the First Four Tribal Wellness Courts Key Component #5⁶²	
Strengths	Weakness
<ul style="list-style-type: none"> • Monitoring as structure and accountability in participants' lives • Two or three full-time Wellness Court probation officers • Intensive monitoring during Phase I • Combined roles of counselor and probation officer 	<ul style="list-style-type: none"> • Infrequent and non-random alcohol and drug testing • Full-time Wellness Court probation officer assigned non-community Wellness Court duties • Wellness Court probation officer usual work hours 8–4:30 (need to monitor participants in evening and on weekends when participants are most likely to abuse) • Non-intensive supervision by probation officers • Law enforcement officers not assisting with monitoring and supervision • Drug testing procedure and drug test results not documented

Purpose

The purpose of the sections of the P&PM governing alcohol and drug testing is to clearly describe the alcohol and drug testing policy, process, and what is expected of the Healing to Wellness Court participant. The National Drug Court Institute recommends that Drug Court programs: (1) design an effective drug detection program, place the policies and procedures of that program into written form (a Drug Court manual); and (2) develop a client contract that clearly enumerates the responsibilities and expectations associated with the court's drug detection program.⁶³

⁶² Taken from "Process and Outcome Evaluations of the Fort Peck Tribes Community Wellness Court" (December 30, 2005), "Process and Outcome Evaluations of the Blackfeet Alternative Court" (December 30, 2005), "Process and Outcome Evaluations of the Hualapai Wellness Court" (June 2010), "Process and Outcome Evaluations of the Poarch Band of Creek Indians Drug Court" (December 30, 2005).

⁶³ THE DRUG COURT JUDICIAL BENCHMARK (February, 2011), p. 137, National Drug Court Institute.

Frequent, random, and observed alcohol and drug testing are essential to document the participant's compliance with Wellness Court requirements, including abstinence or continued abstinence from drug and/or alcohol use. Testing may be done as part of an intake process to confirm a newly admitted participant's substance use history, as part of routine treatment and/or Wellness Court monitoring, and to identify an intoxicated participant or to confirm abstinence. Testing monitors progress and encourages behavior change. Alcohol and drug testing results are objective measures of treatment effectiveness, as well as a source of important information for periodic review of treatment progress. Testing also helps to shape the ongoing interaction between the Court and each participant. Timely and accurate test results promote frankness and honesty among all parties. They also give the participant immediate information about his or her own progress, keeping the participant actively involved in the recovery process, rather than as a passive recipient of services.

This chapter covers client contracts, specimen options, sample collection issues, selection of drugs to be tested, testing methods, interpreting results, drug detection times, tampering, client excuses, and more.

Excerpts from NDCI's *The Judicial Benchbook*⁶⁴
Drug Testing Rationale
(citations omitted)

II. [§ 6.2] DRUG TESTING RATIONALE

Key Component 5 of the Ten Key Components...states: "Abstinence is monitored by frequent alcohol and other drug testing." The benefits of drug testing in a therapeutic court environment are numerous. Drug testing:

- Provides a deterrent to future drug usage—a therapeutic tool as participants develop and refine their coping and refusal skills aimed at rejecting new drug use opportunities;
- Identifies clients who are remaining abstinent and guides incentives or rewards;
- Identifies drug court participants who have relapsed, allowing for (1) rapid intervention, and (2) effective utilization of finite court resources by targeting those participants who most need assistance;
- Provides incentive, support, and accountability;
- Serves as an adjunct to treatment.

Achieving success in overcoming substance abuse often focuses on guiding clients up and out of despair while assisting them in avoiding a disastrous relapse. Successful abstinence monitoring via drug testing can provide drug courts with the requisite data to aid in attaining these recovery goals.

⁶⁴ Id. at 115.

Excerpts from NDCP's *The Judicial Benchbook*⁶⁵
Specificity in the Client Contract (citations omitted)



III. [§ 6.3] SPECIFICITY IN THE CLIENT CONTRACT

Defining client expectations in a drug court setting begins before the first sample is ever collected. The client contract should serve as an instructional instrument— both detailing the court's benchmarks and the participant's obligations associated with the drug-testing process. The following examples are designed to provide greater specificity to the language of the drug court client contract as it relates to abstinence monitoring. Sample contract language includes the following:

I understand I will be tested for the presence of alcohol and other drugs in my system on a random basis according to procedures established by the drug court team and/or my treatment provider.

I understand that I will be given a location and time to report for my test.

I understand that it is my responsibility to report to the assigned location at the time given for the test.

I understand that if I am late for a test, or miss a test, it may be considered as a positive test for alcohol or other drugs and that I may be sanctioned.

I understand that if I fail to produce a urine specimen or if the sample provided is not of sufficient quantity, it may be considered as a positive test and that I may be sanctioned.

I have been informed that the ingestion of excessive amounts of fluids can result in a diluted urine sample, and I understand that my urine sample will be tested to ensure the sample is not diluted.

I understand that if I produce a diluted urine sample it may be considered as a positive test for alcohol or other drugs and that I may be sanctioned.

I understand that substituting or altering my specimen or trying in any way to modify my body fluids or other specimens for the purposes of changing the drug-testing results will be considered as a positive test for drugs/alcohol and will result in sanctioning and may be grounds for immediate termination from drug court.

Clearly establishing the court's ground rules in advance and communicating those expectations to participants (and staff) promotes compliance, reduces confusion, and mitigates concerns over potential sanction inequalities.

⁶⁵ *Id.* at. 115-16.

**Excerpts from NDCI's *The Judicial Benchbook*⁶⁶
Ten Principles of a Good Testing Program**

A. [§6.15] Ten Principles of a Good Testing Program

The ten most important principles of a successful drug-testing program can be summarized as follows:

1. Design an effective drug detection program, place the policies and procedures of that program into written form (drug court manual), and communicate the details of the drug detection program to the court staff and clients alike.
2. Develop a client contract that clearly enumerates the responsibilities and expectations associated with the court's drug detection program.
3. Select a drug-testing specimen and testing methodology that provides results that are scientifically valid, forensically defensible, and therapeutically beneficial.
4. Ensure that the sample-collection process supports effective abstinence monitoring practices, including random, unannounced selection of clients for sample collection and the use of witnessed/direct observation sample-collection procedures.
5. Confirm all positive screening results using alternative testing methods unless participant acknowledges use.
6. Determine the creatinine concentrations of all urine samples and sanction for creatinine levels that indicate tampering.
7. Eliminate the use of urine levels for the interpretation of client drug-use behavior.
8. Establish drug-testing result interpretation guidelines that have a sound scientific foundation and that meet a strong evidentiary standard.
9. In response to drug-testing results, develop therapeutic intervention strategies that promote behavioral change and support recovery.
10. Understand that drug detection represents only a single supervision strategy in an overall abstinence-monitoring program.

If universally adopted, these ten principles will sustain drug courts as models of effective and appropriate jurisprudence far into the future.

⁶⁶ *Id.* at 137-38.

Sample Tribal Wellness Court Wording

Little Traverse Bay Band of Odawa

"Waabshki-Miigwan Court Manual" (January 2011)

Chemical-Free Home

All clients enrolled in the Waabshki-Miigwan program will reside in a chemical/alcohol-free residence. Everyone that lives in the client residence must agree to random home visits by a member of the LTBB Tribal Court Team to assure that this is complied with. All residents must sign the Chemical/Alcohol Agreement Form.

Non-compliance with this agreement can be grounds for denial or removal from the Waabshki-Miigwan program.

Drug and Alcohol Screening

Drug and Alcohol screenings are a major component of the Waabshki-Miigwan Program. The screenings are used to determine substance use and to monitor the participant's progress.

*Screenings are conducted on a frequent and random basis. The participant will be drug-screened throughout the entire program as mandated by each phase. It is the responsibility of the participant to seek clarification of guidelines that are not fully understood. Testing will be at a scheduled time as well as on a **random basis** and may occur **any day of the week**. Results of drug screens will be reported to the court and maintained in the participant's file.*

For the protection of the participant, use of any schedule 1 & 2 drug prescriptions must be brought to staff for review and approval along with verification by the prescribing doctor. Prior to receiving a prescription, it is the responsibility of the participant to inform the physician of the participant's involvement in the program. All medications will not be automatically approved. Failure to comply with proper procedure or a positive screen (excluding the baseline screen) will result in the following sanction(s):

- | | |
|----------------------------|------------------------------------------------------------|
| • First Positive Screen - | Minimum 3 days Incarceration |
| • Second Positive Screen - | Minimum 7 days Incarceration |
| • Third Positive Screen - | Minimum 30 days Incarceration |
| • Fourth Positive Screen - | Termination, referral to LTBB prosecutor for re-sentencing |

Cass County Leech Lake Band of Ojibwe

"Wellness Court Procedure Manual Ninth Judicial District" (July 2014)

Drug Testing Procedure

Alcohol and other drug testing is one of the ten key components for a problem-solving Court and is essential to program integrity. Test results can act as a deterrent to future alcohol and drug use; identify clients who are maintaining abstinence; identify clients who have relapsed; provide incentive, support, and accountability for clients; is adjunct to treatment; and frames sanction decisions. Effective testing is frequent (at least twice a week), random (unexpected, unannounced, and unanticipated), and observed. The Wellness Court uses different methods to test the clients for chemical use; some of the most common are:

- 1. Preliminary Breath Test (PBT)*
- 2. Saliva Tests*
- 3. Urine Tests*

All Wellness Court clients are informed about testing policies and procedures upon entry into the program and sign an agreement to comply with testing requirements. Therapeutic and/or punitive responses to continued use of alcohol and drugs are determined by the Wellness Court Judges on the basis of their discretion and recommendations from the Wellness Court Team. Random breathalyzers are conducted and can occur during any contact with the Wellness Court agent, including during field visits, during Court sessions, and as determined by any other Wellness Court Team member. Clients choosing to enter the Wellness Court program must agree to cease the use of all mood-altering substances that would test positive during a drug test including, but not limited to, narcotics, tranquilizers, sedatives, stimulants, opiates, opiate-based medications. If during the course of participation it becomes necessary for a participant to take prescription medication, prior approval must be sought by the Judges and Wellness Court Team with appropriate medical documentation provided. The use of the medication may be approved on a conditional, time-limited basis based on the established facts. Any use of doctor-monitored prescription drugs is determined on a case-by-case basis by the Judges and Wellness Court Team.

Dilute UA's

If a participant produces a urine sample that is observed to be diluted by the collecting agent or treatment provider, the participant will be advised to provide another sample in two hours. It is the participant's responsibility to arrange for another UA in two hours. Failure to do so will result in the initial test to be considered positive and will be sanctioned accordingly.

In the event of substance use

Whether by positive testing results or admission of use: the participant's treatment counselor shall be notified. If the participant has either completed treatment, or has not yet begun treatment, the chemical dependency assessor shall be notified.

If a participant has a positive PBT, he/she shall be taken into custody. If a participant's field test comes back positive for use, and the participant denies use, the sample shall be sent to the

lab for further testing. If a participant's failed test comes back positive, and the participant admits to use, a jail sanction will be imposed in accordance with the sanctions schedule. Any participant taken into custody should remain in the county jail until he/she can appear in Wellness Court.

Menominee Indian Tribe of Wisconsin

"Menāpaniw "There is a Good Road" Menominee Tribal Wellness Courts – Policies and Procedures Manual" (October 2013)

MENĀPANIW DRUG SCREEN PROCESS

Participants in the Menominee Tribal Menāpaniw Court Program are required to submit to A DRUG SCREEN in each Phase of the Program. Once the participant signs the confidential contract and enters a plea of "no contest" or "guilty," they are subject to Alcohol/Drug Screens.

1. **Calling In**
 - A. Participant must call in EACH DAY of the week to the Menāpaniw Court Coordinator, Accessible by calling **(715) 799 – 7095** Monday through Friday, between the hours of 8:00 a.m. – 10:00 a.m. to check if they are on the list for DRUG SCREENING that day. **ONLY** In case of absence of Menāpaniw Coordinator, a participant then calls Maehnowesekiyah – same time frame applies. Message explaining Coordinator absence will be recorded for participant.
2. **Reporting**
 - A. Participant must report to Maehnowesekiyah Treatment Center between the hours of 8:00 – 11:30 a.m. and 1:00 – 4:00 p.m. only if they are on the list for Drug Screen that day.
3. The Menominee Menāpaniw Wellness Court will use Policy "Participant Drug Screen Protocol," which is the policy of Maehnowesekiyah Treatment Center (**Next page**).
4. Participant will appear at Maehnowesekiyah Wellness Center for a Baseline Drug Screen after signing Menāpaniw Court contract. Participant will have until 2:00 p.m. that day of Menāpaniw to appear at Maehnowesekiyah. During the Baseline Drug Screen Process, the participant will schedule an Assessment and pay the Assessment fee. Participant has two weeks to secure, pay, and schedule an appointment for the assessment.⁶⁷
5. While random Drug Screen monitors drug use, participants will further utilize an alcohol-monitoring device for the period of time participating in the Menāpaniw Court Program.

⁶⁷ Fees could be waived depending on grant resources, and amounts may change in future; all allowances for changes will be made by administration and those changes will be presented to all active participants.

Eastern Band of Cherokee

"Cherokee Tribal Drug Court - Policies and Procedures Manual" (June 2009)

DRUG SCREENS

Drug tests are a major component of the Cherokee Tribal Drug Court program to determine drug abuse patterns and to monitor participant progress. Drug tests will be conducted on a frequent and random basis or as directed by the Cherokee Tribal Drug Court Team.

The tests are used to discern drug use and for treatment purposes. The tests need not follow the official rules of chain of custody. The results of the tests are not admissible in court except for Cherokee Tribal Drug Court purposes.

A drug test referral form is used to assist the Cherokee Indian Hospital in providing the appropriate service. The referral form is given to all prospective participants for the initial screening. Drug tests can be administered by the Cherokee Police Department or certified/authorized court team member for random testing, and when a participant advances, or is demoted.

Eastern Band of Cherokee

"Cherokee Tribal Drug Court - Participant Handbook" (March 2009)

Random Drug Screens

Random drug screens play a significant role in your recovery. They should be used as a tool to assist you in staying clean and sober. It is your responsibility to make sure that you understand and comply with the guidelines explained to you during your program orientation. If you go to the doctor you must take the drug court medical verification form with you for the physician's signature and return it to the Tribal Drug Court Staff. If you are prescribed any medications while in the program, you must bring the prescription to the Tribal Drug Court office along with the medical verification form for approval prior to filling the prescription. You must also report any over-the-counter medication to the Tribal Drug Court staff prior to taking them. Failure to comply with the proper procedure may result in sanctions.

Relevant Sample Forms

POARCH BAND OF CREEK INDIANS

Drug Court/Probation Drug Testing Procedures

These procedures apply to individuals and/or Drug Court participants who are subject to the regulatory authority of the Poarch Band of Creek Indians Probation.

All prior amendments and interpretations of Drug testing procedures are hereby repealed and replaced with these procedures.

When Tests are Given

It is the policy of the Poarch Band of Creek Indians Drug Court/Probation Program to conduct frequent and random Drug/alcohol tests of all participants. A test will be performed on each participant when he or she is ordered by the court or on the day in which the participants is scheduled to enter the Drug Court/Probation Program. The Participant will not begin earning credit in the program until a urinalysis free of illegal substances is obtained.

The Drug Court will utilize a call in color code testing procedure. Each participant shall submit to urine/alcohol testing each day. Each participant will call a designated line every day after 9:00 a.m. to verify which color is to be tested and the time and location to submit to such testing. If a participant fails to submit a specimen within the allotted time, that participant's Drug/alcohol test result will be considered as positive. A participant who misses their test will be considered as having a positive Drug/alcohol test result and sanctions will be imposed.

Both Drug Court and Probation Participants may also be called upon at the discretion of the Probation Officer/Case Manager at any time to submit to Drug/alcohol testing.

Time

If a participant is unemployed and not attending school at the time of the color code testing procedure, the participant will be given three (3) hours to report to the Probation Officer/Case Manager to provide a urine sample. If a participant is working or in school at the time of the color coded testing procedure, the participant will be given six and a half (6.5) hours to report to the Probation Officer/Case Manager to provide a urine sample. If a participant is late or does not appear for the test, the test will be considered positive. If the participant has proven extenuating circumstances as determined by the Tribal Court Administrator, the participant may be given the opportunity to provide a urine sample. During random tests, the Probation Officer/Case Manager will give the participant an appropriate amount of time to get to the testing site. The Probation Officer will take into consideration the distance the participant is from the testing site.

Storage of Urinalysis Supplies

Urinalysis supplies shall be stored in a locked room accessible only by judicial staff.

Safety Precautions

All personnel handling urine/saliva specimens are required to wear surgical gloves.

Specimen Collector and Monitor

The Specimen Collector and Monitor may be a Tribal Probation Officer/Case Manager, Tribal Police Officer, or a designated Tribal Court Administration employee. The Specimen Collector may also be the Monitor.

The Specimen Collector shall instruct participants during the collection, receive and make an initial inspection of the urine specimen provided by the participant, and initiate and complete the Drug test. The Monitor shall physically watch the participant urinate into the collection container. The Monitor must be the same gender as the participant; there are no exceptions to this requirement.

To avoid a potential conflict of interest, neither the Specimen Collector nor the Monitor should be an immediate family member of the participant. *Immediate family member* means spouse (including common law relationship), parent, child, sibling, grandparent, and/or grandchild. These relationships are determined by consanguinity, affinity, adoption, foster care, or legal wardship. If at any time the Specimen Collector or Monitor feels that a conflict of interest may exist, they shall notify the Tribal Court Administrator.

The Specimen Collector will be asked to provide his/her name and contact information on relevant Drug testing forms.

Collection Site

A collection site is a place (permanent or temporary) selected by the Specimen Collector where participants present themselves for the purpose of providing a urine specimen for the Drug test. Usually, the collection site is the Tribal Court Administration Offices. The Probation Officer/Case Manager or designee may also make visits to the Participant's place of employment and/or home. A Participant may be asked to provide a specimen during such visits. The Probation Officer/Case Manager or designee must allow the participants access to the following:

1. *A restroom or stall with a toilet.*
2. *A source of water for washing hands. If water is not available at the collection site, the Specimen Collector may provide moist towelettes or hand sanitizer.*
3. *The Specimen Collector and/or Monitor shall not allow anyone other than himself/herself and the participant in a multi-stall restroom during the collection process.*

All collection sites must meet the following security requirements:

- 1. The Specimen Collector should prevent public access to the site during the collection;*
- 2. The Specimen Collector must prevent the participant or anyone else from gaining unauthorized access to the collection materials/supplies. They must also ensure that the participant does not have access to items that could be used to adulterate or dilute the specimen (e.g. soap, disinfectants, cleaning agents, undyed water);*
- 3. The Specimen Collector shall be responsible for secure handling and storage of specimens. All specimens that are being sent to a lab for confirmation are to be kept in a locked refrigerator or a refrigerator in a locked room until they are prepared and picked up for processing.*

Participant Identification

The participant must provide appropriate identification upon arrival at the collection site if requested. Acceptable forms of identification include:

- 1. State-issued driver's license or state identification card; or*
- 2. Any other picture identification issued by a federal, state, tribal, or local government agency*

General Specimen Collection Procedures

- *All participants are required to remove coats and jackets. All purses or other carried items must be left in the control of the Specimen Collector.*
- *All participants must roll-up any long-sleeved shirts, blouses, or sweaters to a point that the Specimen Collector deems necessary.*
- *A participant maybe searched if appropriate.*
- *The participant must not be asked to remove certain articles of clothing, such as shirt, pants dress, or undergarments.*
- *Shoes may be removed if there is a reason to suspect that the participant has something in them, which may be used to adulterate or substitute a specimen.*
- *The participant may be directed to empty his or her pockets and display the items to ensure that no items are present that could be used to adulterate the specimen. The items will be placed in a container until the collection of the specimen is complete. If the participant refuses to empty his or her pockets, this action is considered a refusal to test and will be dealt with accordingly.*
- *If an adult rating substance is found that appears to have been brought to the collection site with the intent to adulterate a specimen, the adulterating substance will be secured and it will be considered a positive test. For example, a bottle of liquid or urine would suggest intent to tamper with the specimen. Whatever unusual substances a participant brings into the collection site will be confiscated (i.e., plastic bags with fluid in them, artificial or mechanical objects for providing substituted urine, etc.) and should be fully described in an attached memorandum for the record. These substances will be provided to the Judge.*
- *The participant may not use soap until after the urine has been collected. The participant is required to rinse his/her hands (with water only) prior to the collection process. The participant will be provided a collection kit or collection container (if it is separate from the kit) from the available supply.*
- *The participant should take only the collection container into the room used for urination. The participant will be directed to go into the restroom used for urination and provide a specimen of at least 40 ml.*

- *Female participants will be required to utilize a nuns cap collection container.*
- *The Participant should be instructed not to flush the toilet until given permission.*
- *Urinals/toilets shall be flushed after a collection is completed and the participant has left the area.*
- *As an added precaution blue dye may be placed in the toilets prior to specimen collection.*
- *The participant shall place the top on the specimen bottle and dry the outside of the specimen bottle with a paper towel or tissue before handling the urine to the Specimen Collector.*
- *The temperature of the urine sample shall be checked by the Specimen Collector to confirm temperature.*

Monitored Collection Procedure

A monitored collection is one that is conducted under less than completely private conditions and requires that a Monitor physically watch the participant urinate into the collection container.

A monitored collection is conducted in the following manner:

1. *Secure a room for the monitored collection so that no one except the participant and the Specimen Collector or Monitor can enter until after the collection has been completed.*
2. *If there is no practicable work place outside of the restroom, Specimen Collector/Monitor may set up an area within the multi-stall restroom to be used as a work area and for finalizing the required paper work.*
3. *The following procedures must be following during the collection:*
 - a. *The Monitor enters the restroom or facility where urination occurs with the participant. If it is a multi-stall restroom, the Monitor must enter the stall with the participant. The Monitor must watch the participant urinate into the collection container. Specifically, the monitor must personally and directly watch the urine go from the participant's body into the collection container (use of mirrors or video cameras is not permitted).*
 - b. *After the participant has completed urinating into the collection container, the participant and Monitor leave the enclosed toilet stall/restroom and the participant's hands the collection container directly to the Specimen Collector responsible for collection of the specimen. The Monitor must contain visual contact of the collection container until the participant hands the container to the Specimen Collector responsible for the collection of the specimen.*
 - c. *If the Monitor is the same person responsible for the collection of the specimen, then that individual may receive the collection container from the participant.*
 - d. *If a participant declines to allow a monitored collection as required, the Specimen Collector shall discard any specimen the participant provides and notify the Judge as soon as possible. This type of conduct shall be treated as a refusal to test.*

Unmonitored Collection Procedures

This procedure is only used if a monitored collection cannot be administered, which occurs when there is not a Monitor available of the same gender.

The above-mentioned Monitored Collections Procedures shall be applied with the exception of the following steps, which may be taken before each collection to deter potential tampering, adulteration, or substitution of the specimens:

1. Water sources must be secured or otherwise made unavailable to participants (e.g., turn off water inlet, tape handles to prevent opening faucets).
2. Water in the toilet and tank (if applicable) has bluing (coloring) agent added to the water. Tape or otherwise secure any movable toilet tank top, or put bluing in the tank water.
3. Removal of soap, disinfectants, cleaning agents, or other possible adulterants which are present.
4. Inspection of the collection site to ensure that no foreign or unauthorized substances are present.
5. Inspection of the collection site to ensure that undetected access (e.g., through a door not in your view) is not possible.
6. Secure/inspect areas and items (e.g., ledges, trash receptacles, paper towel holders, under-sink areas) that appear suitable for concealing contaminants.
7. Post limited access signs at the collection site in order to secure against unauthorized access during the collection procedure and to ensure privacy of the participant.

Specimen Volume

The Specimen Collector checks to confirm that the specimen contains a sufficient amount of urine (a minimum of 40 ml).

Insufficient amount of urine provided (Shy Bladder Procedures)

The term “shy bladder” refers to a situation when the participant does not provide a sufficient amount of urine (40 ml) for a required Drug test. If participant informs the person responsible for the collection of the specimen, upon arrive at the collection site, that he or she cannot provide a specimen, the person responsible for the specimen collection must still begin the collection procedure. The person responsible for the specimen collection should tell the participant that most individuals can provide 40 ml of urine, even when they think they cannot urinate, and direct the participant to make the attempt to provide the specimen. The participant is requested to go into the restroom and try to provide a specimen. If the participant provides an initial insufficient specimen, it will be discarded.

At this point the “shy bladder” collection process being as follows;

The participant is explained about the shy bladder collection and urged to drink up to six (6) ounces of fluids, distributed reasonable through a period of up to two hours. If the participant declines to drink, this action will not be considered refusal to test.

Participants are placed in front of a recorded video system or directly monitored by Drug Court staff. At no time should a participant remove themselves from camera view. The participant must remain seated until called upon by Drug Court personnel or other authorized personnel. A participant will be checked every thirty minutes. The participant must be informed that he or she is not permitted to leave the collection site and if they do so, that their action will be considered a refusal to test.

The Specimen Collector should be sensitive about how frequently they ask the participant to provide a specimen. For example, forcing the participant to provide a specimen every half hour may not provide sufficient specimen. The participant should be asked every hour but not forced to provide a specimen.

The Specimen Collector should maintain a record of time of each attempt, whether there was any specimen provided and the quantity of specimen provided. If the participant refuses to make the attempt to provide a urine specimen or leaves the collection site before the collection process is completed, the Specimen Collector must discontinue the collection, note the facts and immediately notify the Tribal Court Administrator. This type of action is considered a refusal to test and treated accordingly. If the participant has not provided a sufficient specimen within two hours of the first successful attempt, the collection is discontinued. The Specimen Collector shall note the fact that the collection was discontinued and immediately notify the Tribal Court Administrator.

Temperature

The participant should also be informed that the temperature of the specimen is a critical factor and therefore the participant should provide the specimen as soon as possible after urination. The temperature of the specimen must be checked as soon as the participant hands over the specimen, but no later than four minutes after the participant produces the specimen. The acceptable temperature range is 32°-38°C / 90°-100°F. Temperature is determined by reading the temperature strip originally affixed to or placed on the outside of the collection container after the participant submits the specimen to the Specimen Collector. If the specimen is not within the temperature range, it will be considered a positive test.

Adulteration or Substitution

The Specimen Collector must inspect the specimen for unusual color, presence of foreign objects or material, or other signs of tampering or adulteration. If it is apparent from this inspection that the participant has adulterated or substituted the specimen (e.g., the specimen is blue, exhibits excessive foaming when shaken, or has the smell of bleach) the specimen will be considered a positive test.

- *If the Specimen Collector suspects that adulteration of the urine specimen has taken place, tests will be run immediately. If the tests results confirm the urine specimen was adulterated, the sample will be retested for a second confirmation. If both tests do not confirm the adulteration, the test shall be deemed negative.*
- *If a Collector suspects a specimen has been adulterated, a test will be run for Creatinine only. If the test indicates that the Creatinine level is high and flushing has occurred, a positive result will be noted. Flushing is the attempt of a participant to flush out their system by drinking unusual amounts of fluid before testing. (Creatinine level is tested on all urine specimens using the Indigo Machine or another competent onsite Drug testing machine.)*
- *If the Creatinine and specific gravity reading is within the specified range, a Drug test will be performed using the Indigo Machine or another competent onsite Drug testing machine on the urine specimen provided.*

Other Information:

- *The Specimen Collector must make sure that the participant's identifying information is filled out completely, accurately, and legibly. The Specimen Collector must confirm that the name and other identifying information on the specimen matches that of the participant submitting the specimen.*
- *The Specimen Collector shall only collect a specimen from one participant at a time.*
- *The Specimen Collector shall strive to assure that the specimen is not compromised or contaminated. They shall also be cognizant of the creativity of participants who may attempt to circumvent the Drug testing procedures and take necessary steps to prevent such attempts.*
- *If the participant disagrees with the test results, the participant can request that the specimen be sent to an alternate lab for confirmation. All alternate lab confirmation testing shall be at the participant's own expense. All monies must be paid before the specimen is sent for confirmation. If the test shows the urinalysis was negative, the money collected will be returned to the participant as soon as possible.*
- *Creatinine level is tested on all urine specimens using the Indigo Machine or another competent onsite Drug testing machine.*

THE NAVAJO NATION JUDICIAL BRANCH
DANA DRUG COURT PROGRAM
Authorization for Drug/Alcohol Screening

I, _____, have been informed of my legal rights and willfully consent to participate in the DANA Drug Court Program and hereby authorize the DANA Drug Court Officer to conduct regular RBTV Breathalyzer test and random drug screens.

I understand that immediate results will be reported to the DANA Drug Court Program, screening and testing information will be disclosed only to assure compliance with the agreed terms under the DANA Drug Court Program.

I understand that any information disclosed will not be used as evidence to file additional criminal complaints.

I understand that this authorization will remain in effect and cannot be revoked by me until there has been a formal termination or graduation from the Navajo Nation DANA Drug Court Program.

Signature of DANA Drug Court Client

Date

DANA Drug Court Officer

Date

THE NAVAJO NATION JUDICIAL BRANCH
DANA DRUG COURT PROGRAM
 Drug Screen Acknowledgment

I, _____, take responsibility for using substance (alcohol/drugs), which resulted in a positive urine drug screen taken on Date: ____ / ____ / ____.
 This acknowledgement confirms the findings of the urinalysis to be true and accurate.

Consequences for my actions are as follows:

- _____ () Payment of \$ _____ for urinalysis testing
- _____ () Return to Phase _____ (Acceptance to the rule)
- _____ () Detention/House Arrest for 24 Hours
- _____ () Increased Drug Screening
- _____ () Termination from D.A.N.A. Drug Court Program for repeat Drug Screening violation. A minimum of two (2) failed urinalysis testing.
- _____ () Other: _____

Comments:

 Client's Signature

 D.A.N.A. Drug Court Officer

 Presiding Judge

 Date

THE NAVAJO NATION JUDICIAL BRANCH
DANA DRUG COURT PROGRAM
DrugCheck™ Collection Record

Defendant Name _____ Date _____

Test type: _____ DrugCheck 4 (THC, OPI, COC, MET)

Reason for test: _____ Random _____ Follow-Up _____ Reasonable cause
 _____ Other _____

Medications: _____

DrugCheck™ Drug Test

Directions: Open the pouch in front of the defendant and ask the defendant to use the bathroom to void into the specimen cup. Show the defendant how much urine specimen is needed and ask for as close to the minimum as possible. If the defendant voids more specimen than is needed, direct the defendant to pour out the extra. Ask the defendant to put the lid on the cup and return it to you. Read the temperature strip and record the temperature below. Make a note of the time you receive the cup from the defendant.

1. Temperature of sample within range? (90° to 100°F) Yes _____ No _____

Time cup given to defendant: _____ Time cup returned: _____ Time of reading: _____

The result can be read as soon as the cup is returned to the collector. Remove the paper tab covering the test strips. As soon as all lines (two per panel) are visible, you can call the test negative. The Control Lines must appear for the test to be valid. Any line, regardless density, in the test zone is a negative test. If a line has not appeared in the test zone within 10 minutes, the result is a screening positive or an inconclusive result.

Results: _____ Negative _____ Screening positive for _____

Certifications

I certify that I have conducted the test indicated on this form on the specimen provided by the above-named defendant. I am qualified to conduct this test, and the results are accurately recorded on this form.

Signature of Drug Court Officer: _____ Date: _____

I have provided my urine specimen to the Drug Court Officer; I have not adulterated it in any manner. I accept the accuracy of these results and request that no further testing be done this sample.

Signature of Defendant: _____ Date: _____