

A STUDY OF DRUG TESTING PRACTICES IN PROBATION



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Abstract: The use of drug testing is pervasive in community supervision requiring probationers to regularly submit to urine drug testing. Positive drug tests may result in sanctions, technical violations, probation revocations, and even prison sentences. However, experts in addiction medicine recommend testing be used to support recovery rather than to exact punishment. This article reviews the literature on drug testing offering information on efficacy, best practices, and limitations. Recommendations for drug testing include improved communication between probation officers and treatment providers and clients, as well as utilizing specialized probation.

A Study of Drug Testing Practices in Probation

By Jessica Reichert, Lauren Weisner, and H. Douglas Otto

Abstract: Individuals on probation often are subject to drug testing regardless of conviction offenses. Negative test results can lead to probation sanctions, technical violations, and revocations, which, for some, may result in a period of incarceration. Probation departments operate with lack of guidance on drug testing, as well as a lack of research on drug testing's impact on reducing recidivism or improving behavioral health. In a survey of a statewide random sample of Illinois probation departments, the current research examined the landscape of probation policies and procedures and drug testing administration. The survey revealed many probation departments did not randomly test probation clients, often responded to positive drug tests with punitive measures, and infrequently offered positive feedback, or contingency management, for negative test results.

Introduction

Individuals on probation are often subject to urine drug testing, even if not convicted of a drug-related offense.¹ Court-ordered urine drug tests typically screen for amphetamines, barbiturates, benzodiazepines, cocaine, marijuana, PCP, and opioids. The goal of drug testing is to use an objective measure to identify the presence and deter use of illicit drugs. Along with drug treatment, drug tests can be administered by, and have value for, treatment clinical staff, as well as probation and parole officers in monitoring their clients.

Positive drug tests can result in sanctions, technical violations, and revocations of probation, even for individuals who pose no threat to public safety and present no indicators of being at risk for recidivism.² In some jurisdictions, increased use of supervision revocation for technical violations greatly contribute to the size of the incarcerated population.³ In addition, such punitive responses to drug tests run counter to American Society of Addiction Medicine (ASAM) guidelines, which state, "Drug testing should be used as a tool for supporting recovery rather than exacting punishment." (p. 5).⁴

Probation departments operate with lack of guidance on drug testing, as well as a lack of research to support that drug testing reduces recidivism and improves behavioral health.⁵ The American Probation and Parole Association last offered drug testing guidelines in 1992.⁶ Recent research on the effects of drug testing is qualitative, focusing on attitudes, perceptions, and experiences rather than outcomes.⁷ The current study examined the landscape of probation policies and procedures, as well as the extent and administration of drug testing of a statewide random sample of probation departments, as a first step to an understanding of current practices and differences in practices among departments.

Current Study

Methodology

Researchers developed and administered an online survey to a sample of Illinois probation department directors or their designees. A stratified random sampling strategy was employed to randomly select from a sample of 50 county probation departments across the state with different regions and probation caseload sizes. County location (e.g., North, Central, South) was based on the Illinois Criminal Justice Information Authority (ICJIA)'s adaptation of federal court district designations and caseloads from the Administrative Office of the Illinois Courts. The study was approved by ICJIA's Institutional Review Board.

Materials. The authors developed survey questions and created the online survey tool using Qualtrics software. The online survey contained 60 questions divided into seven domains: demographics (5 questions), policies and procedures (12 questions), extent of testing (3 questions), administration of tests (16 questions), type of tests (3 questions), results and responses (19 questions), and two open-ended questions on the value of tests and if they would change anything about drug testing policies or procedures. For some questions, multiple choice 3-, 4-, and 5-point Likert scales were used, ranging from 1 (*too much*) to 3 (*not enough*), 1 (*more*) to 3 (*less*), 1 (*always*) to 4 (*never*), 1 (*not at all*) to 4 (*a very great deal*), 1 (*much less*) to 4 (*much more*), and 1 (*extremely positive*) to 5 (*extremely negative*). Survey data were analyzed using Statistical Package for the Social Sciences (SPSS).

Sampling strategy. Stratified random sampling was employed. Sampling strata of the probation departments was based on the county region (Northern, Central, Southern) and number of active probation clients in each location (low, medium, high caseload sizes). The number of caseloads in 2017 ranged from 25 to 28,100. Cutoffs for the six stratum sizes were based on location and range of client caseloads across all jurisdictions; however, with significantly higher caseloads, Cook County was excluded. The final sample of jurisdictions was selected in Microsoft Excel's random number generator. Sample sizes by categories included Northern low (n=7), medium (n=1), and high (n=1); Central low (n=17), medium (n=2), and high (n=3); and Southern low (n=16), medium (n=2), and high (n=1).

Up to three emails with the survey link were sent to probation department directors or "probation leaders" in the selected jurisdictions. The survey was available from June to August 2019. Follow-up phone calls were made to non-respondents. On July 18, 2019, 22 non-respondents were removed from the sample and returned to their strata. To replace them, 22 new jurisdictions were randomly selected from their corresponding stratum. The same respondent recruitment strategy was employed in the replacement sample.

Final sample. A total of 45 responses was received. Six responses were removed with less than 50% of the survey completed and one duplicate survey response was removed (less-complete survey response removed). The final sample consisted of 38 respondents, yielding an 84% response rate. A total of 12 respondents were from the Northern region (92%), 13 were from the Central region (88%), and 12 were from the Southern region (75%)

Study limitations. This study had some limitations. First, some respondents did not answer every question, leading to incomplete knowledge and varying sample sizes for each question. Second, probation department directors and designees were asked to complete the surveys, but it was unknown whether the most appropriate and knowledgeable person responded to the survey. Therefore, response accuracy cannot be ensured. Third, drug testing policies and procedures may change over time; this survey offered information at one point in time. Finally, researchers employed stratified random sampling to ensure probation department representation from across the state with varying caseloads; however, individual probation department policies and procedures may differ.

Key Findings

Policies and procedures. Almost all (95%) survey respondents indicated that drug testing was a part of the probation officer job description and most noted it was a mandatory duty (79%, n=30). All but two respondents noted their departments had written policies for drug testing. Drug testing policies were shared *to a great extent* with department staff, according to over 80% of respondents and about 75% indicated that policies were shared as part of training for new staff.

Probation leaders indicated that drug testing policies were not extensively covered in ongoing annual training, with less than 20% answering they were covered *to a great extent* (n=7) and about 50% answering *somewhat* (n=20). About 25% of respondents indicated that drug testing procedures were *not at all* covered or covered *very little* as a part of ongoing training (n=10). Most respondents (82%) noted judges *somewhat* or *to a great extent* needed training on drug testing. All respondents indicated that probation officers had some discretion in the decision to perform a drug test (n=38) and over half indicated that probation officers had great discretion (n=22).

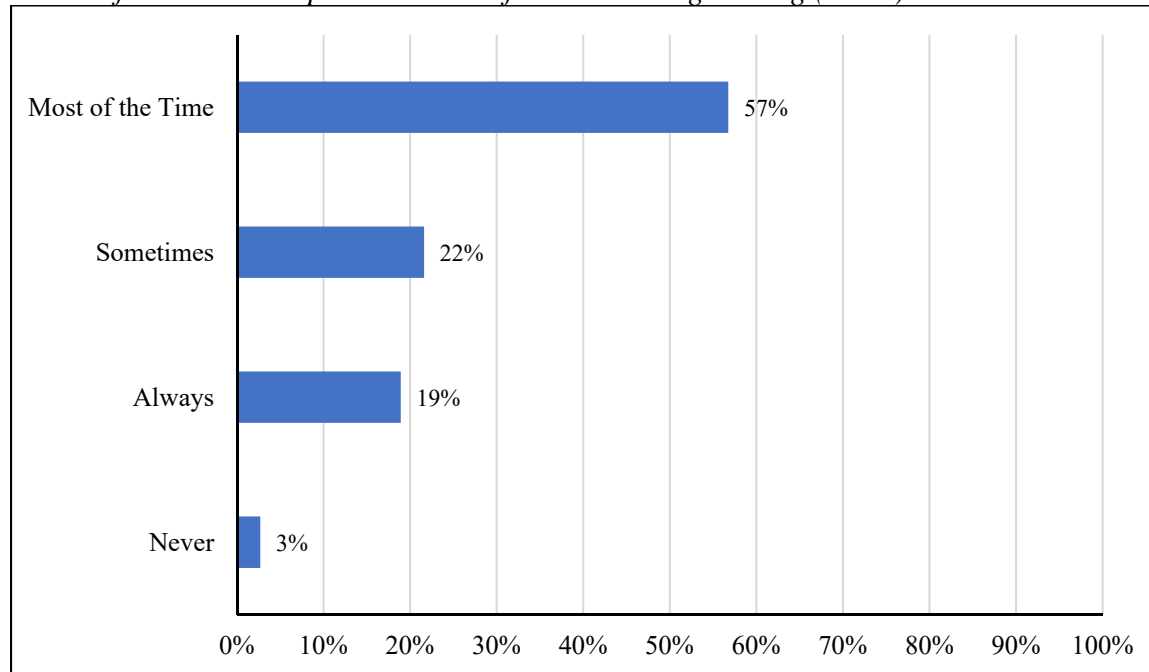
More than 60% of survey respondents stated their probation clients were required to sign a drug testing agreement form (n=25). Almost all respondents reported probation officers were required to keep a chain of custody form to track samples and directly observe the collection of specimens (92%, n=35). Most (87%) indicated probation officers determined drugs for which their clients would be tested; others indicated a judge made the determination (32%, n=12). Half of the respondents indicated that *only* probation officers had the discretion to determine what drugs their client was tested for (n=19). Five respondents used multi-paneled drug test cups which screened for the same drugs each time.

Frequency of testing. Probation departments drug-tested between 45% and 100% of their clients. Two-thirds of respondents indicated that between 80% and 100% of probationers were drug tested each year (n=20). About 64% of respondents indicated that drug tests were used just the right amount in their departments (n=26). Five respondents reported more frequent drug testing would be useful and six respondents reported less frequent testing is needed.

Administration of tests. All but one respondent reported their departments randomly drug-tested; however, 21% of respondents indicated their departments *always* randomly tested (*Figure 1*). Just over half of respondents reported the decision to randomly test was left to the probation officers (51% n=19). All respondents said drug tests could be administered by their departments during normal business hours, and 60% administered tests any time during the week and on weekends (n=23).

Figure 1

Extent of Probation Department Use of Random Drug Testing (n=37)



Source: ICJIA-administered survey results

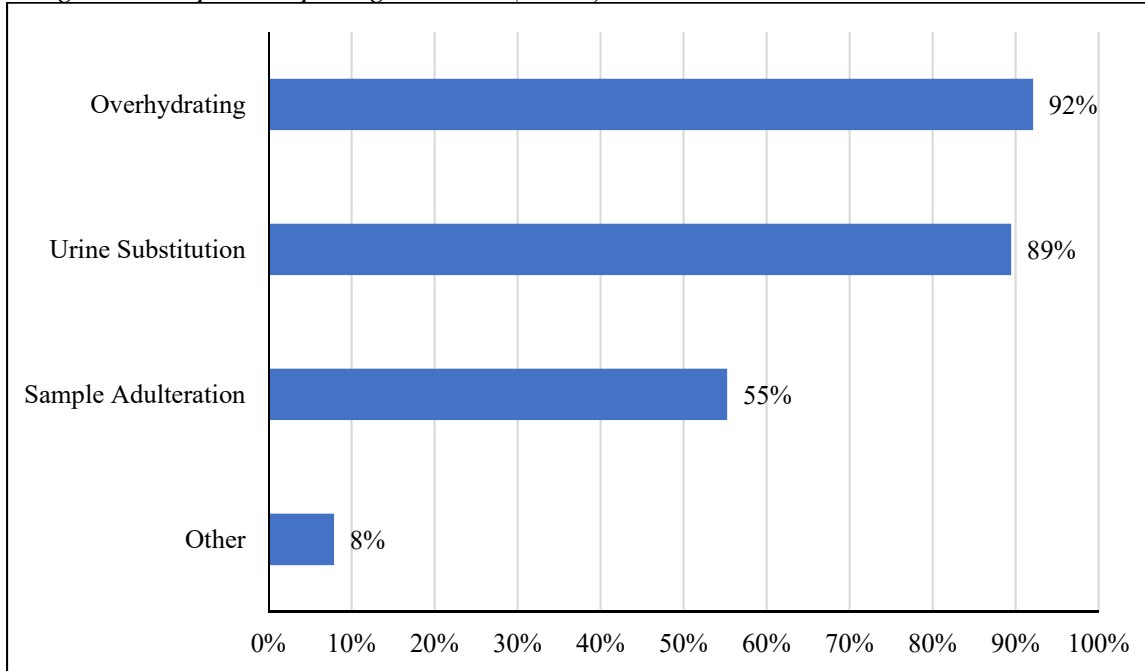
About 60% of probation leaders reported clients were expected to take time off from work to provide a sample for their required drug tests (n=22). Half of respondents said their clients have some trouble getting time off from work to take a drug test (n=18). A chi-square test was performed to examine regional differences and showed significantly more respondents from Central Illinois region did *not* expect clients to take off work to complete a drug test compared to respondents from Northern and Southern regions [$X^2 (2, N=36) = 6.84, p < .05$].

Probation leaders were asked, how do probation officers respond to having to administer drug tests? Just under half of all respondents (49%) noted that probation officers were *somewhat positive* to *extremely positive* about administering drug tests.

Three-quarters of respondents indicated 10% to 40% of their probation officers' time was spent administering drug tests. Over half of respondents (54%) indicated drug testing was a *very little* burden or *not at all* a burden on probation officer time.

The survey asked about the extent to which clients tamper with drug tests. About 40% of respondents said probation clients *somewhat* tamper with drug tests (n=15), though over half (55%) responded there is *very little* tampering by probation clients (n=20). Overhydrating and urine substitution were the most common forms of tampering, according to respondents (*Figure 2*).

Figure 2
Drug Test Sample Tampering Methods (n=38)



Source: ICJIA-administered survey results

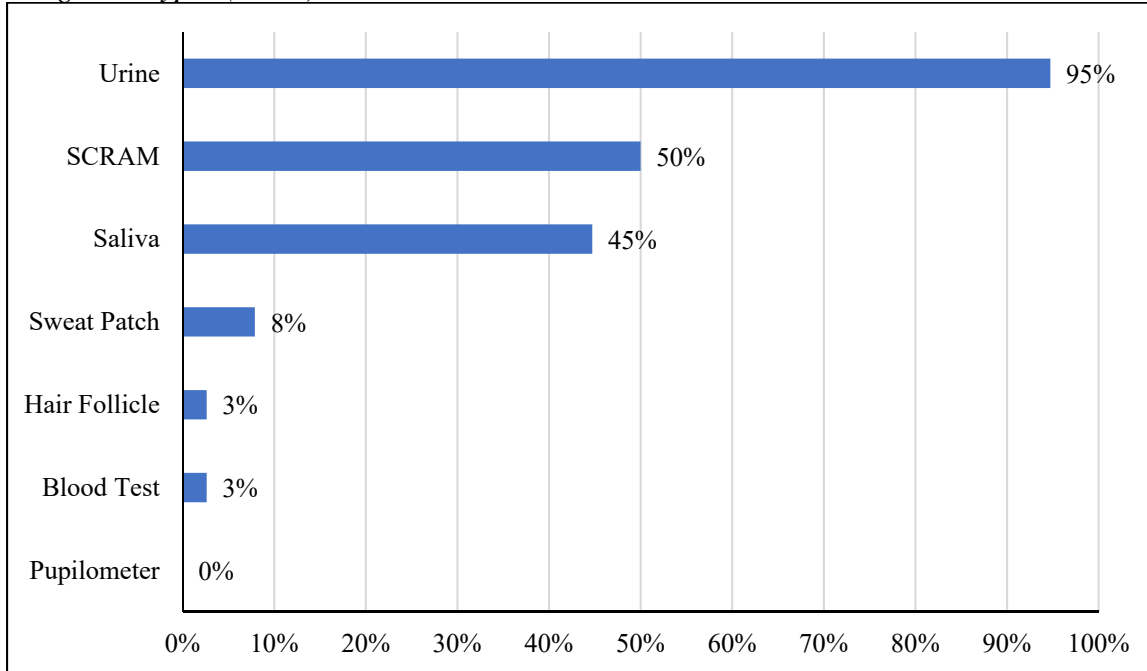
Most respondents indicated probation officers were aware of clients' medication prescriptions *to a great extent* (84%, n=32). All respondents said that probation clients were required to provide proof of prescribed medications.

The respondents were varied in their responses as to how many chances clients are given to show up to provide a sample for drug testing. About one-quarter of respondents indicated that clients were given one chance to provide a sample (n=10), and over half indicated four chances or less (n=21). Other respondents noted that the number of chances to provide a sample varied depending on the situation.

Respondents were asked about modifications to established drug testing schedules for probation clients. One-quarter of respondents said that the frequency of drug testing was modified based on how compliant clients were with probation conditions (n=9) (e.g., more compliance resulted in fewer required drug tests).

Type of tests. Ninety-five percent of probation department leaders used urine tests (n=36) and 45% used saliva tests (n=17) (*Figure 3*). Half of survey respondents indicated using a Secure Continuous Remote Alcohol Monitor (SCRAM), a bracelet that continuously monitors for alcohol released through perspiration.⁸ Roughly 70% of respondents used quick-test cups, which instantly test for presence of drugs in urine samples,⁹ 31 percent sent out samples for testing or tested in-house (n=11).

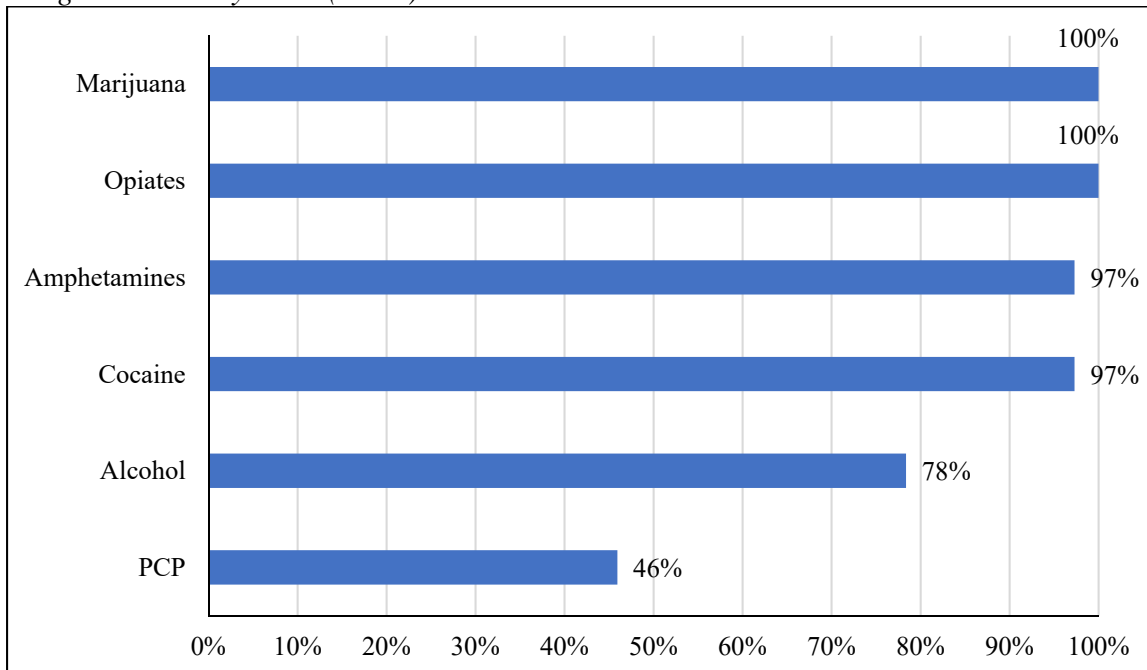
Figure 3
Drug Test Types (n=38)



Source: ICJIA-administered survey results

Seventy-eight percent of the departments tested clients for alcohol, while almost all (95%) tested for marijuana, cocaine, amphetamines and opiates. Less than half tested clients for PCP (n=17; *Figure 4*).

Figure 4
Drugs Detected by Tests (n=37)



Source: ICJIA-administered survey results

The average price of drug tests reported by respondents was about \$8, ($SD=\6.88). Researchers observed no statistical difference in average costs between respondents by region.

Drug test results and responses. Forty-seven percent of all respondents indicated their departments received drug test results the same or next day ($n=18$), and another 47% indicated that tests were returned in about one week ($n=18$). About 85% of respondents stated that half or fewer of the drug tests were positive ($n=22$).

Table 1 lists probation department responses to initial, continuous, and sporadic positive tests results. Almost all respondents indicated their departments addressed initial positive tests and sporadic positive tests through discussion with their clients. Almost all continuous positive drug tests were addressed through a petition to revoke probation.

Table 1

Probation Department Responses to Positive Drug Test Results

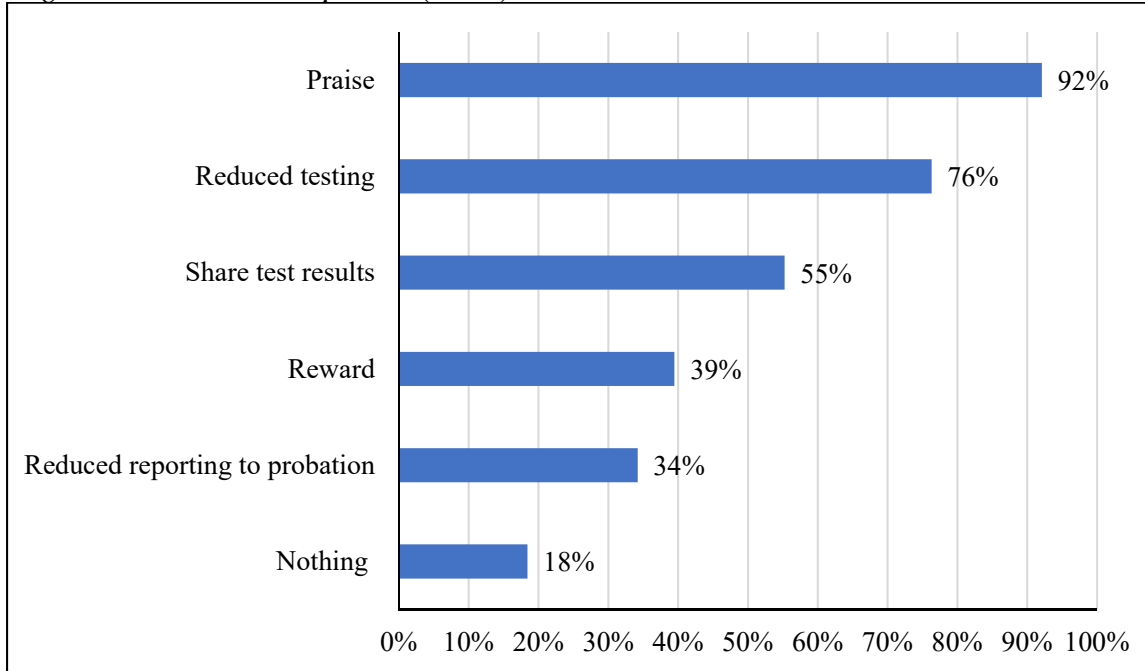
	Initial Positive Drug Tests (n=38)		Sporadic Positive Drug Tests (n=37)		Continuous Positive Drug Tests (n=38)	
	n	Percent	n	Percent	n	Percent
Discussion with client	37	97%	34	92%	29	76%
Discussion with treatment	31	82%	30	81%	31	82%
Treatment adjusted	21	55%	27	73%	31	82%
Sent to treatment	20	53%	25	68%	32	84%
Sanctions	18	47%	21	57%	21	55%
Petitions to revoke	8	21%	20	54%	37	97%
Drug education	13	34%	7	19%	7	18%

Source: ICJIA-administered survey results

Nearly three-quarters ($n=24$) of probation departments reported *sometimes* referring clients to [medication-assisted treatment](#) (MAT) following continuous positive opioid drug tests, and 27% *never* referred clients to MAT. Over half of surveyed probation departments *never* offered naloxone to clients who tested positive for opioids ($n=23$). All 11 respondents from the Southern region of Illinois indicated that positive result responses varied based on the drug type. A chi-square test was performed to examine differences in region; significantly more respondents from Northern and Central Illinois indicated that they did not vary their responses to positive drug tests based on drug type [$X^2(2, N=35) = 6.42, p < .05$].

Negative test results. Ninety-two percent of probation leaders stated that negative test results were addressed with praise ($n=35$) and about 40% gave a reward ($n=15$) (Figure 5). Rewards included vouchers or gift cards, reducing the number of court appearances, moving to less restrictive probation phases, among others.¹⁰ Reduced testing was the most common response to continuous negative test results, according to 76% of respondents ($n=29$).

Figure 5
Negative Test Result Responses (n=38)



Source: ICJIA-administered survey results

Most respondents stated drug testing was highly valuable, with some also noting its use as a guide to tailor treatment services. Some respondents considered drug testing an important tool for promoting compliance with the supervision conditions. One respondent stated, “It is a valuable tool for the probation officer to work with the client on changing their lifestyle and working with treatment to make that happen.”

Conclusion and Recommendations for Policy and Practice

Study findings indicate probation departments’ practice of drug testing is a highly important component of probation with a general focus on treatment rather than punishment. Almost all respondents indicated that positive drug test results are met with treatment and/or a discussion with the client, though many respondents also indicated that they rely on sanctions. Generally, responses adhered to the guidelines and best practices recommended by the ASAM and NADCP. However, probation policies and practices can be bolstered with the following recommendations.

Increase Random Drug Testing

Although a majority of departments employ random drug tests, only 19% *always* used random testing and 25% *never* or *sometimes* used them. Random testing is recommended as the best method for detecting drug use.¹¹ Frequent random scheduling decreases the likelihood of undetected drug use. Clinical addiction experts recommend randomly selecting the length of *intervals* to control the time between tests.¹² If drug testing is appropriate, probation officers

should use drug testing to inform treatment guidance, which could greatly improve treatment efficacy by adhering to a random drug testing schedule.

Reduce Punitive Responses to Positive Drug Tests

Though drug testing is recommended as a method for guiding treatment based on the unique needs of each client,¹³ survey findings indicated an increased use of petitions to revoke probation following continuous positive drug test results compared to initial positive test results (21 to 97%, respectively). Although this trend coincides with an increase in the percentage of respondents stating that clients are referred to treatment following continuous positive test results, it indicates a reliance on more punitive measures in response to drug use. The American Society of Addiction and Medicine recommends using drug testing to measure treatment efficacy and to avoid punishment for positive results.¹⁴ Drug testing should be viewed as a therapeutic tool and promoted to clients as such. This practice helps to avoid fostering an “us vs. them” mentality that could threaten the cooperative aspect of drug testing. Prior research shows that patients who respond positively to drug testing view it as a treatment component and a way to guide the treatment process.¹⁵ By avoiding punitive responses to positive drug test results, probation officers can focus on treatment and motivating clients toward positive behavioral change.¹⁶

Offer Positive Incentives

Survey findings indicated less than half of probation departments reward clients for negative test results. Probation departments could enhance reduced drug use by more consistently offering rewards (e.g., vouchers, phasing up program progression, and reducing court appearance requirements) and praise for negative drug tests in line with the tenets of contingency management (CM). CM is a form of operant conditioning that emphasizes rewarding good behavior.¹⁷ Prior research has found significant evidence that CM interventions effectively reduce positive drug test results.¹⁸ Increased positive reinforcement for negative drug test results could motivate clients to take a more proactive role in their treatment, whereas punishment for drug use will likely make clients less enthusiastic for participation. Additionally, cutting back on punitive sanctions for positive drug tests may allow for positive reinforcements to have a greater impact, as the therapeutic treatment aspect of probation is emphasized.

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¹ TASC (2015) “Drug testing strategies” [PowerPoint]. Retrieved from <http://nationaltasc.org/wp-content/uploads/2015/10/drug-testing-strategies.pdf> Note: Drug testing in the criminal justice system may also be done during pretrial, as well as when in jail or prison. There are other methods of testing such as saliva and hair, but urine testing is the most prevalent.

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³ PEW Charitable Trusts. (2019). *To safely cut incarceration, states rethink responses to supervision violations: Evidence-based policies lead to higher rates of parole and probation success*. Philadelphia, PA: Author.

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⁵ Holloway K. R., Bennett, T. H., & Farrington, D. P. (2006). The effectiveness of drug treatment programmes in reducing criminal behaviour: A meta-analysis. *Psichothema*, 18, 620–629.

⁶ Del Carmen, R. V., & Sorensen, J. R. (1989). *Legal issues in drug testing probation and parole clients and employees*. Washington, DC: U. S. Department of Justice, National Institute of Corrections.

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⁸ SCRAM Systems. (n. d.). Using SCRAM CAM. Retrieved from <https://www.scramsystems.com/clients/scram-cam/>

⁹ TestCountry. (n. d.). How to read a drug test cup. Retrieved from <https://testcountry.com/blogs/drug-testing/how-to-read-a-drug-test-cup>

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¹¹ Jarvis, M., Williams, J., Hurford, M., Lindsay, D., Lincoln, P., Leila, G., Luongo, P., & Safarian, T. (2017). Appropriate use of drug testing in clinical addiction medicine. *Journal of Addiction Medicine, 11*(3), 163-173.

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