



Program Statement

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SUBJECT: Ion Spectrometry Device
Program

"CORRECTED COPY 3/30/07 TO CHANGE
POLICY NUMBER FROM P5520.01 TO
P5522.01"

1. **PURPOSE AND SCOPE.** To provide instructions for implementing the Bureau's (Bureau) Ion Spectrometry Device Program at Bureau institutions.

The possession and use of illegal substances by prison inmates seriously jeopardizes the Bureau's mission. The ion spectrometry device program is a minimally intrusive method for screening people, their belongings, mail, and packages for the presence of illegal substances.

- ◆ Using the well established scientific principles of gas chromatography and mass spectrometry, the device detects trace amounts of illegal substances which may be present on the person or thing tested.
- ◆ The device is not used to detect an individual's use of illegal substances.
- ◆ The device manufacturer provides instructional and technical information on operation and maintenance.

Bureau procedures for searching inmates and non-inmates are well established. Refer to the Program Statements on *Searching, Detaining, or Arresting Persons Other than Inmates* for procedures on testing employees. Further, refer to the Program Statement on *Searches of Housing Units, Inmates, and Inmate Work Areas*. This Program Statement supplements those policies insofar as the ion spectrometry device program is another method for searching persons and things lawfully for the presence of illegal substances.

Operating the device requires strict compliance with the manufacturer's specifications and this Program Statement to ensure the test results' accuracy, reliability, and overall integrity.

2. **PROGRAM OBJECTIVES.** The expected results of this program are:

a. The amount of illegal substances entering federal prisons will be reduced.

b. Decisions to deny visitors or property entry to federal prisons will be based on accurate device test results.

c. Visitors denied entry to Bureau facilities will be able to appeal the decision(s) in their cases.

3. **DIRECTIVES REFERENCED**

- P1330.13 Administrative Remedy Program (12/22/95)
- P5270.07 Inmate Discipline and Special Housing Units (12/29/87)
- P5500.11 Correctional Services Manual, (10/10/03)
- P5500.12 Correctional Services Procedures Manual (10/10/03)
- P5510.09 Searching, Detaining, or Arresting Persons Other than Inmates (3/6/98)
- P5521.05 Searches of Housing Units, Inmates, and Inmate Work Areas (6/30/97)

4. **STANDARDS REFERENCED**

a. American Correctional Association 3RD Edition Standards for Adult Correctional Institutions: 3-4179 and 3-4445

b. American Correctional Association 3RD Edition Standards for Adult Local Detention Facilities: 3-ALDF-3A-01 and 3-ALDF-5D-15

5. **DEFINITIONS**

a. **Confirmed Positive Test Result** exists after the following three things have occurred:

- (1) an initial positive test for an illegal substance(s);
- (2) followed by a "clear" test;

(3) followed by a positive confirmation test for the same illegal substance(s).

b. **Reasonable Suspicion** exists if the facts and circumstances known to the staff member warrant rational inferences by a person with correctional experience that a person is engaged in, attempting, or about to engage in, criminal or other prohibited behavior.

- ◆ "Hunches," "gut feelings," and "mere suspicion," alone, do not meet the reasonable suspicion standard. However, such "feelings" legitimately support continued observation, investigation, and/or questioning, which may provide the necessary evidence to meet the reasonable suspicion standard.

6. **PROGRAM MANAGEMENT.** The following staff are responsible for managing the ion spectrometry device program:

a. **National Program Coordinator.** The National Program Coordinator is a Central Office position assigned by the Assistant Director, Correctional Programs Division. This person is responsible for drafting and implementing national policy, as well as assisting the regional and institution coordinators with program training and implementation.

b. **Regional Program Coordinator.** The Regional Program Coordinators are regional positions assigned by each Regional Director. These persons are responsible for assisting institution program coordinators with program training and implementation.

c. **Institution Program Coordinator.** The Institution Program Coordinator is at the supervisory level. The Institution Program Coordinators are institution positions assigned by each Warden at institutions using the ion spectrometry device program. These persons are responsible for the following:

(1) **Assigning Operator Privilege Levels.** Institution Program Coordinators assign operator privilege levels as required and defined by the manufacturer's specifications. These levels may include the following:

(a) **Administrator.** The Institution Coordinator and at least one alternate are assigned "Administrator" level privileges. Administrators can perform all functions of both the operator and supervisor levels.

(b) **Supervisor.** Staff supervising daily operation of the ion spectrometry device program are assigned "Supervisor" level privileges. Supervisors can perform all functions of the operator level.

(c) **Operator.** Staff performing daily operation of the ion spectrometry device, who have been properly trained, are assigned "Operator" level privileges. Operators can perform basic functions such as analyzing samples and printing test results.

(2) **Operator Training.** Institution Program Coordinators ensure staff operating the device are trained according to the device manufacturer's specifications as well as this Program Statement, prior to assuming a post assigned operator level privileges.

(3) **Mobility and Storage.** Institution Program Coordinators ensure the device is mobile, to allow testing in various locations, and stored in an area inaccessible by inmates and non-staff when not used.

(4) **Purchasing, Storage and Accountability of Supplies.** Prior to purchasing an ion spectrometry device, institutions should check with the Office of Security Technology to ensure the device will meet the needs of the agency. Institution Program Coordinators maintain an adequate level of device supplies in a secure area, according to the manufacturer specifications.

(5) **Scheduled Maintenance.** Institution Program Coordinators perform and document necessary device maintenance and repairs according to manufacturer specifications. The **Maintenance Record Summary** form (BP-S728) for recording all maintenance and repairs performed on the device.

(6) **Oversight of Testing Procedures.** Institution Program Coordinators ensure daily operation of the ion spectrometry device program is performed in accordance with manufacturer specifications and Bureau Policy. This includes calibration of the machine.

(7) **Use of Equipment by Non-Bureau Staff.** Institution Program Coordinators ensure the device is used by non-Bureau staff, e.g., loaned to other law enforcement agencies, only pursuant to the terms of a Memorandum of Understanding with such agencies.

(8) **Compliance with State Requirements.** Institution Program Coordinators will ensure the device is registered in accordance with state guidelines, if necessary.

7. **STANDARD EQUIPMENT SETTINGS.** This section prescribes standard settings and practices for implementing the program in Bureau institutions. The Regional Program Coordinator's approval is required prior to changing these settings.

a. **Positive Alarm Threshold Levels.** To minimize positive test results based on a visitor's casual contact with an illegal substance(s), the device will be set at the manufacturer's recommended positive alarm threshold levels.

b. **Audible Alarm Turned Off.** Any audible alarms should be turned off to minimize possible embarrassment and disruption when registering a positive test result. Depending upon the make/model of the machine, this function may have to be performed by the Institution Program Coordinator. Instead, a positive test result will only appear to the operator on the screen and computer printout.

c. **Printing Positive Test Results.** The device should be set to print all positive test results automatically for preservation.

- ◆ The device will not be set to print negative test results.

8. **SELECTION METHODS FOR TESTING VISITORS**

a. **Visitor Testing.** All visitors, including contractors and volunteers, except as noted below, are subject to testing through the ion spectrometry device program.

- ◆ Ordinarily, Department of Justice employees, state and local law enforcement personnel, Members of Congress, and members of the Judicial Branch are not screened by the device. However, the Warden reserves the right to test these individuals prior to entering the institution.
- ◆ The institution will inform all future contractors and volunteers that they are subject to screening by this device during their orientation. The warden will ensure volunteers and contractors are notified they may be subjected to ion spectrometry testing.

b. **Random Selection Testing.** While all visitors are subject to testing, institution resources and time management will ordinarily make testing every visitor impractical.

- ◆ Consequently, random visitor testing is recommended.

Random selection of visitors for testing must be conducted in an impartial and nondiscriminatory method. While the daily method of random selection is within each institution's discretion, the following guidelines are recommended to ensure consistency and integrity.

(1) A different random selection method must be determined each day prior to testing visitors. Once determined, it must be recorded on the Daily Pre/Post Operation Log (BP-S729) and the Daily Testing Log (BP-S730) in the spaces provided. The Institution Program Coordinator, or designee, will be responsible for determining what random selection method will be used.

(2) Recommended random selection methods include, but are not limited to, the following examples, using numbers between one and ten:

- (a) "Every third visitor";
- (b) "Test four, skip two"; or
- (c) "Test two, skip four, test three, skip four."

c. **Reasonable Suspicion Testing.** Visitors may be tested out of random order when reasonable suspicion exists, suggesting the visitor's possible involvement with illegal substances. Reasonable suspicion testing is permitted in the following situations:

(1) **Observed Suspicious Behavior.** Staff may observe behavior of a visitor which suggests possible involvement with illegal substances and meets the reasonable suspicion standard. For example, the visitor may attempt to place him/herself in a processing order which would result in no random testing, or the visitor may display excessive nervousness during questioning or otherwise.

- ◆ Staff must be able to define and articulate specific behavior which meets the reasonable suspicion standard. However, if unsure such behavior meets this standard, employees will contact their supervisor.
- ◆ Additionally, intelligence information which meets the reasonable suspicion standard may justify testing out of random order, even if unsupported by objectively observed behavior, e.g., information obtained from a reliable confidential informant shortly before a visit occurs. In these

circumstances, the supervisor or the Institution Program Coordinator will make the decision to test out of random order. Ordinarily, this will be communicated in writing.

(2) **Inmate Suspect List.** Intelligence information may meet the reasonable suspicion standard and suggest a particular inmate's possible involvement with illegal substances, e.g., monitored telephone calls, confidential informants, mail monitoring, financial transactions, urine surveillance, etc.

- ◆ SIS staff should provide the Institution Program Coordinator a list of inmates whose visitors should be tested out of random order due to the presence of reasonable suspicion that the inmate is involved with illegal substances. The testing of specific visitors of listed inmates is at the discretion of the Institution Program Coordinator.
- ◆ The Institution Program Coordinator must provide this list of inmates whose visitors must be tested out of random order to staff operating the device.

(3) **Persons Accompanying a Visitor Who Tests Positive.** If an inmate visitor produces a confirmed positive test result for an illegal substance(s), and is accompanied by other person(s) requesting to enter the institution, **all** persons accompanying that visitor should be tested prior to their entering the institution.

(4) **Visitors Previously Testing Positive.** Visitors who previously produced confirmed positive test results for an illegal substance(s) must be tested upon returning to visit for a period of one year from the date of the last confirmed positive test result. After the one year period, the visitor should return to random testing. Procedures will be developed locally to determine how the names of such visitor's will be maintained to provide confidentiality and accessibility.

9. **PRE-TESTING PROCEDURES.** Devices operators must perform the following standard pre-testing procedures prior to daily testing of persons or things.

a. **Documentation.** Use the Daily Pre/Post Operation Log (BP-S729) to document completed pre-testing procedures.

b. **Maintenance Review.** Review the Maintenance Record Summary form (BP-S728) to ensure scheduled maintenance was performed.

c. **Supplies.** Contact the Institution Program Coordinator/Supervisor if additional supplies are needed.

d. **Random Selection Method.** If preparing to test visitors, establish a random selection method.

e. **Clean Test Area and Equipment.** Clean the device and immediate work area with pre-saturated wipes to minimize the potential for contamination of test results.

f. **Pre-Test Validation.** Perform the manufacturer's pre-test validation steps to ensure the device is operating correctly. Successfully performing and documenting these steps is required to support the test results' validity. Print and save all validation test results. A complete copy of the manufacturer's handbook will be kept with the machine and/or otherwise readily available for use.

- ◆ If the device fails to complete any of the validation steps successfully, it should be assessed for necessary troubleshooting, maintenance, or repair.
- ◆ Upon correcting the situation, all pre-test procedures must be repeated successfully prior to performing actual tests.
- ◆ Device operators must wear clean white cotton gloves while performing validation procedures. White cotton gloves must be used instead of latex or other type gloves. For cost effectiveness, institutions should wash these gloves in the institution laundry and re-use them. The program coordinator will ensure a sufficient quantity of clean gloves are on hand at all times.
- ◆ **Work Area Test.** Conduct a sample test of the immediate surrounding work area, including the gloves that are worn. This step ensures the absence of contaminants in the work area. Record the results on the Daily Pre/Post Operation Log (BP-S729). If a positive test result is obtained, the area must be re-cleaned and tested until a negative result is obtained.

10. **VISITOR TESTING PROCEDURES.** Use the following procedures for testing all visitors under the program.

a. **Controlled Area.** Conduct testing in a controlled area which, following each test, prohibits contact between processed and unprocessed visitors. This minimizes the opportunity for visitors to transfer illegal substances after testing.

b. **Documentation.** Document all visitor testing on the Daily Testing Log (BP-S730).

c. **Explanations to Visitors.** Carefully explain the testing process to visitors, being certain to cover the following points:

(1) The device tests for the presence of illegal substances, **not** an individual's **use** of illegal substances.

(2) Explain the manner in which the test will be conducted, e.g., "the hand-held device will be passed over your hands, pants pockets, waist area, pants cuffs (or shoe area), and personal identification."

(3) Visitors are free to refuse the test and depart the institution grounds immediately.

- ◆ A visitor's refusal to be tested, by itself, is not a sufficient basis for detaining the individual or contacting federal/local law enforcement for further investigation. This information, however, should be relayed to the SIS Office for intelligence purposes.

d. **Testing Method.** Test visitors by passing the hand-held device over:

- ◆ their hands (palm and back),
- ◆ the tops of the front pants pockets,
- ◆ the visitor's waist area,
- ◆ the pants cuff (or shoe area), and
- ◆ personal identification (both sides).

The visitor must remain directly in front of the testing station during all testing procedures.

e. **Initial Test Results.** All initial test results, whether positive or negative, must be recorded on the Daily Testing Log (BP-S730).

(1) Visitors testing negative should be permitted entry unless prohibited for other reasons.

(2) Visitors testing positive must remain at the testing station for further processing under Section 11.

11. **CONFIRMATION TESTING PROCEDURES.** Use these procedures to confirm a visitor's initial positive test result:

a. **Explanations to Visitors.** Staff must carefully and professionally explain to the visitor that a repeat test must be performed to confirm the initial test's accuracy.

(1) The visitor must remain directly in front of the testing station during the confirmation testing, and may not use the restroom or otherwise attend to personal hygiene before confirmation testing. Any violation of this rule will result in a supervisor being notified to determine if the visitor will be allowed to visit on this date.

(2) The visitor is free to refuse confirmation testing and depart the institution grounds immediately.

- ◆ A visitor's refusal to be tested, by itself, is not a sufficient basis for detaining the individual or contacting federal/local law enforcement for further investigation. This information, however, should be relayed to the SIS office for intelligence purposes.

b. **"Clear" Test Procedures.** Perform the following "clear" test to eliminate the possibility that equipment contamination caused an initial positive test result.

(1) Remove original gloves and replace with new ones. Wipe the surface area of the testing device with a pre-saturated wipe.

(2) With a fresh testing device, test the actual gloves that will be worn by the operator. If this test is positive, repeat the "clearing" process until a negative test is obtained. If a negative test cannot be obtained, the Institution Program Coordinator should be contacted for possible troubleshooting, maintenance, or repair of the device. Once a negative test is obtained, proceed with the confirmation test.

- ◆ **If a negative "clear" test cannot be obtained and testing is halted for the day, visitors should not be denied entry solely on an unconfirmed initial positive test result.**

c. **Confirmation Test.** Conduct a confirmation test of the visitor similar to the initial test. Confirmed positive test results must be documented on the Positive Alarm Log (BP-S731). Visitors testing negative should be permitted entry unless prohibited for other reasons.

- ◆ A confirmation test which is negative for the substance(s), which initially tested positive, but positive for a new substance(s), must be treated as an initial positive test for the new substance(s). A confirmation test for the new substance(s) must be performed according to these procedures.

12. **CONFIRMED POSITIVE TEST RESULTS.** Staff must take precautions to prevent illegal substances from entering Bureau institutions.

- ◆ This includes the possibility that a visitor may conceal an illegal substance(s) in a body cavity, or by oral consumption, which is expelled after gaining entrance to the institution.
- ◆ Furthermore, delivery of an illegal substance(s) can occur directly to an inmate or other person, or may be concealed on the institution grounds for later retrieval by an inmate or other person.

Consequently, to protect the safety, security, and orderly operation of Bureau institutions, a confirmed positive test result for an illegal substance(s) may satisfy the reasonable suspicion standard warranting further investigation, searches, controlled visitation, or denied visitation.

- ◆ Consistent with the Program Statement on **Searching, Detaining, or Arresting Persons Other than Inmates**, Wardens should assess every situation in which a visitor produces a confirmed positive test on its own merits in reaching a final decision.
- ◆ Pursuant to that Program Statement, Wardens possess broad discretion to require pat/visual searches as a prerequisite to visitation, controlled or non-contact visitation, or a complete denial of visitation.

a. **Pat or Visual Searches.** Refer to Program Statement on **Searching, Detaining, or Arresting Persons Other than Inmates.**

b. **Controlled Visitation.** Visitors producing a confirmed positive test result may be subject to restricted visiting in accordance with the Program Statement on **Searching, Detaining, or Arresting Persons Other than Inmates.** As indicated in that policy, the Warden must authorize controlled visitation.

c. **Denied Visitation.** Visitors producing a confirmed positive test result may be denied visiting in accord with the Program Statement on **Searching, Detaining, or Arresting Persons Other than Inmates.**

- ◆ Denial of visitation must be authorized by the Warden or designee.
- ◆ If denied visitation based on a confirmed positive test result, the visitor may seek a re-entry after 48 hours.
- ◆ Subsequent confirmed positive tests which result in denial of visitation will be handled as follows:

(1) **Second Occurrence.** The visitor's visiting privilege will be suspended for 30 days.

(2) **Third Occurrence.** The visitor's visiting privilege will be suspended for 90 days.

(3) **Fourth and Subsequent Occurrences.** The visitor's visiting privilege will be suspended for 180 days.

Another institution may use a visitor's previously confirmed positive test results from one institution as a foundation for increasing the consequences of the same inmate visitor incrementally, as indicated above.

d. **Explanations to Visitors.** Staff authorized to deny a visit must explain carefully and professionally to the visitor that he or she tested positive for the presence of an illegal substance, and the resulting consequences. When denying visitation, staff must also observe the following procedures.

- ◆ **If visiting is denied, the visitor will be given a completed Notice of Denied Visitation form (BP-S732).**

This form also instructs the visitor how to appeal a denial of visitation to the Warden (see Section 15).

(1) Visitors must be reminded the device tests only for the presence, and not the use, of illegal substances.

(2) Visitors must not be informed of the type of substance for which they tested positive.

- ◆ This is to prevent the visitor from fabricating a physician's verification which attempts to justify the presence of the particular substance.

(3) Staff must **not** explore or discuss with visitors the possible source(s) from which contact with an illegal substance(s) may have occurred.

- ◆ Staff may inform visitors, however, that the device is calibrated to register positive test results only at levels greater than would normally be encountered through casual contact.

e. **Documentation.** Complete and accurate documentation is vital to the program's integrity. The following documentation must be completed and retained following every visitor's positive confirmation test for an illegal substance(s).

(1) **Positive Alarm Log (BP-S731, Page 1).** This includes recording pertinent information as defined on the form and attaching the device's relevant computer printouts.

(2) **Positive Alarm History (BP-S731, Page 2).** Once completed, this includes the visitor's prior history of confirmed positive test results, if any, obtained from the Inmate Visiting Computer Program. Attach the visitor's Notice of Denied Visitation form (BP-S732) to this form.

(3) **Inmate Visiting Computer Program "COMMENTS."** Ensure appropriate entry noting the:

- date,
- time,
- positive alarm, and
- the consequence resulting from each positive test.

13. **INMATE TESTING.** Consistent with the Program Statement on **Searches of Housing Units, Inmates, and Inmate Work Areas**, the ion spectrometry device may be used to test for the presence of illegal substances on inmates, their personal belongings, housing units, and work areas.

The following implementing procedures apply:

a. **Pre/Post Testing Procedures.** Staff must follow the pre and post-testing procedures described in Sections 9. and 14 including using a Daily Pre/Post Operation Log form (BP-S729).

b. **Testing Procedures.** Staff must follow the manufacturer's specifications for performing tests of persons, places, and/or objects.

c. **Positive Test Results**

(1) Positive test results must be documented and maintained by the Institution Program Coordinator and include:

- (a) date and time test was performed;
- (b) person, place or thing producing the positive test result;
- (c) inmate name and register number (if any) associated with the positive test result; and
- (d) the device operator's name and signature.

(2) An initial positive test result for an illegal substance(s) may be used to justify further investigative activity, e.g., inmate interviews, placements in administrative detention, reasonable suspicion urinalysis testing and placement on a suspect test list, visual search of inmate and living quarters, focused correspondence or telephone reviews, etc.

- ◆ Evidence obtained as the result of **further** investigation may support inmate disciplinary proceedings.

An initial positive test result may also be used to support programming decisions reasonably related to the inmate's possible involvement with illegal substances, e.g., revocation of gate pass or community program involvement.

- ◆ Such administrative status changes should relate only to those programming aspects connected to the suspected means of introducing, distributing, or using illegal substances. Such program changes are not punitive in nature, but rather reasonably related to the legitimate penological interests of preventing inmate use of illicit substances.

d. **Inmate Discipline.** Staff must not initiate inmate discipline proceedings based solely on a positive ion spectrometry device test result for illegal substance(s). Under the Program Statement on Inmate Discipline and Special Housing Units, "possession" and/or "introduction" of illegal substance

charges are ordinarily understood to apply when usable amounts of illegal substance(s) are confiscated, e.g., amounts visible to the unaided observer.

Consequently, evidence in addition to the positive ion spectrometry device test result itself must exist to support inmate disciplinary proceedings, e.g., a usable amount of illicit substance, or a positive urinalysis test.

14. **POST-TESTING PROCEDURES.** The following standard post-testing procedures must be followed at each institution using an ion spectrometry device. The post-testing procedures must be followed regardless of the type testing performed that day, e.g., visitors, inmates, or packages.

a. **Post-Testing Validation Test.** After completing the day's testing, perform a validation test identical to the one performed at the beginning of the day's testing (see Section 9.f.). Record the results on the Daily Pre/Post Operation Log (BP-S729).

b. **Storage.** When not used for testing, the Institution Program Coordinator must ensure the device is stored in an area inaccessible by inmates and non-staff.

15. **APPEALS**

a. **Visitors.** Visitors denied entrance to an institution based on a confirmed positive test result for the presence of an illegal substance(s) may appeal in writing to the Warden.

- ◆ Written appeals should indicate the visitor's name, address, and purpose for visiting, including the inmate's name and register number, if applicable.
- ◆ Written appeals should also indicate the location, date, and time of testing positive. Visitors appealing the denial of a visitation may include a physician's verification indicating a prescribed substance(s), in an effort to justify confirmed positive test results.
- ◆ If dissatisfied with the Warden's response, visitors may further appeal to the appropriate Regional Director. Wardens' responses should inform the visitor of the identity and location of the appropriate Regional Director.

- ◆ If dissatisfied with the Regional Director's response, visitors may further appeal to the Assistant Director, Correctional Programs Division, Central Office. Regional Directors' responses should inform the visitor of the identity and location of the Assistant Director.

b. **Inmates.** Inmates may seek formal review of grievances through the Bureau's Administrative Remedy Program.

16. **TRAINING.** The Institution Program Coordinator shall ensure staff operating the device are trained to the manufacturer's specifications. No staff shall be expected to operate the device without proper training.

17. **RECORD KEEPING.** The SIS will retrieve and maintain all records referred to in this Program Statement. The IPC will ensure all required forms and notices were completed and forwarded to the appropriate staff member(s). All records will be retained for a minimum period of two years.

18. **INSTITUTION SUPPLEMENT.** Each institution using an ion spectrometry device will have an Institution Supplement indicating the Institution Program Coordinator by title.

/s/
Harley G. Lappin
Director