

Agency Perspectives on Drug Testing in Community Corrections

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ICH is a nonprofit consulting organization that provides participatory evaluation, applied research, assessment, planning, training, and technical assistance. ICH helps healthcare institutions, government agencies, and community-based organizations improve their services and maximize program impact.

Executive summary

Drug testing in community corrections is a surveillance tool with significant impact for both people under supervision and for those who staff supervision agencies. Drug testing is often expensive, invasive, inconvenient, and time-consuming, and can result in sanctions that include violations and technical revocations. Despite these challenges, corrections leaders and professionals also consider drug testing to be a core component of the community correction field's mission to increase community safety. But like many of the standard practices in the field, the effectiveness of drug testing on drug use and criminal recidivism remains understudied, and much of what is known about drug testing in supervision is based on anecdotal evidence and limited research.

This report begins to fill gaps in drug testing literature by presenting findings from a mixed-methods study of drug testing policy and practice across the United States. We collected survey responses from leaders at 123 community corrections agencies, and conducted in-depth interviews with 15 agency leaders and 8 frontline supervision officers. Our findings shed light on the current landscape of drug testing policy and practice across the country, and document the ways that community corrections professionals think of the benefits and drawbacks to current drug testing practice. We use these data to assess the field's appetite for change, and to explore next steps toward building evidence on the utility of drug testing.

Key findings in the report include the following:

- **There is considerable inter- and intra-agency variation in terms of which people under supervision undergo drug testing, how often they're tested, and the consequences of a positive drug test.** In practice, a lack of firm policies at some agencies pushes decisions about testing down the chain of command to individual community correction officers, who may feel pressure to over-test because they see it as a tool to prevent re-offending despite the lack of evidence to support this belief. And while officer discretion creates space for decision-making that meets the complexities of supervisory circumstances in a way that is rooted in professional expertise, it also creates conditions where individual biases may unfairly influence extremely consequential decisions about how and how often to test for drugs, and what to do when there is a positive drug test.
- **Drug testing is expensive, especially for the agencies that contract testing out to external vendors.** On average, supervision agencies spend about a tenth of their budgets on drug testing. Although most agencies surveyed cover the cost of drug testing, **for people supervised by those agencies that do not cover the full cost of testing, the fees are greater than what most people under supervision can afford.**
- **Nearly all of the agencies surveyed (95.1%) use observed urinalysis (UA) for drug testing.** Although supervision officers and supervisees alike "get used to it," agency staff and leaders described the practice of observing UAs as "**invasive,**" "**disrespectful,**" and "**dehumanizing.**" These effects are likely amplified for people under supervision who have experienced sexual violence.
- In addition to the costs, inconvenience, and dehumanization involved in drug testing, agency leaders see the practice's potential to create a "confrontational relationship" between supervision

officers and the people they work with, which **may paradoxically harm people's chances of eventually recovering from substance use disorder (SUD).**

- **Despite these negative impacts, most supervision professionals see drug testing as so integral to their mission to enhance public safety by preventing people under supervision from using drugs that they are unwilling to consider ending the practice, though they will consider modifications that are supported by evidence.** There is, for example, support among agency leaders for reducing the frequency of drug testing, eliminating testing fees, and avoiding duplicative testing, and more limited support for ending testing for cannabis or testing only for drugs of concern. **Agencies have already begun to implement some of these changes.**
- **Agency leaders are hungry for research to support evidence-based decision making around drug testing.** Anecdotally, the potential benefits of drug testing appear to be concentrated among people under supervision with SUDs. However, there is no consistent theory of change that explains how drug testing is expected to produce positive supervision outcomes, especially among people whose criminal histories are not related to substance misuse. There is also little discussion in the literature of how potential benefits weigh against the harms and costs raised by community corrections leaders.

We conclude the report by proposing a set of suggestions for future evaluation of drug testing: first, evaluators should establish the theory of change underlying drug testing, before testing whether those expectations are met. Evaluators should consider the extent to which drug testing interacts with other systemic factors in the criminal legal system that might compound the negative consequences of drug testing, and use a cost-benefit approach to examine whether those costs are justified by whatever benefits drug testing provides. Finally, evaluators should prioritize meaningful inclusion of people with lived experience of community supervision in the design, implementation, and interpretation of evaluation findings.

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Introduction

Background on drug testing

The practice of testing people under supervision for drug use dates back decades.ⁱ During the era of extreme sentences for drug-related convictions, prison and jail overcrowding led policymakers to seek alternatives to incarceration. Literature from this period reflects the concerns of the time: that significant increases in crime were caused by increases in illicit drug use, and that therefore reductions in crime could be achieved by drug use surveillance and mandatory abstinence, even for people who did not have a diagnosed substance use disorder (SUD). Programs like drug treatment courts and intensive supervision probation grew across jurisdictions; each featured heavy reliance on drug testing to monitor people who might otherwise be in jail or prison. With simultaneous advances in drug testing technology came an increased ability to require repeated drug tests across supervision settings, and not only for people with SUD or convictions related to substance misuse. The resulting expansion of drug testing throughout the criminal legal system remained relatively unchanged until recently, when many jurisdictions began to alter practices in response to a confluence of factors, including a gradual softening of policies aligned with the United States' "War on Drugs"ⁱⁱ, increased awareness of the disproportionate burden of the carceral system on Black and Brown people, and public health mandates to drastically curtail physical contact issued in response to the outbreak of the COVID-19 pandemic.

Drug testing comes with significant challenges for both people on probation and parole and for agency staff.ⁱⁱⁱ Tests can be random or scheduled, and might be very frequent depending on supervision intensity, involvement in problem-solving court, or the nature of the criminal charges that led to community supervision. The random nature and inflexible locations of testing result in logistical challenges for those who may struggle with affordable transportation and/or are trying to maintain employment. For people who have experienced sexual assault or gender-based violence, supervised drug testing can be re-traumatizing. For agencies, costs for tests can be high, leading some to pass costs on to people under supervision in the form of fees. Administering drug tests can also be challenging for officers and administrative support staff, especially if urine samples are collected in an office setting rather than a lab.

But despite these challenges for people on supervision and supervising agencies, drug testing remains widespread. Anecdotal reports suggest that drug testing is used indiscriminately to surveil even people who do not misuse substances or have a diagnosed substance use disorder. The assumption underpinning drug testing is that the surveillance will deter people under supervision from using substances, in turn reducing recidivism and improving supervision success, although there is little evidence that this mechanism works as intended in probation and parole. The limited literature on drug testing's impact on drug use and recidivism is mixed and suggests that while drug testing can be associated with positive outcomes for some people on supervision, the setting in which drug testing is administered and the skill level of the supervising officer are both important. For instance, as part of a comprehensive drug court program, drug testing combined with a therapeutic approach appears to be an effective tool for reducing drug use among people who misuse substances.^{iv} In a study conducted in the Federal probation system, positive drug tests for "hard" drugs (defined as non-cannabis illicit substances) are associated with recidivism for new crime, unless the person on supervision is supervised by an officer proficient in STARR, Federal Probation's Risk-Needs-Responsivity (RNR) approach to supervision.^v On the other hand, evaluations of deterrence-oriented probation drug-testing programs that do not feature rehabilitative components, such as HOPE^{vi} and Decide Your Time^{vii}, have failed to show reductions in recidivism while increasing technical revocation for people on supervision. These results suggest that the way drug testing is implemented has implications for its impact on supervision success.

Drug testing and recovery

While drug testing was expanding throughout the field of community corrections, the most widespread approaches to SUD treatment were abstinence-based. In the intervening years, best practices in addiction treatment have evolved, today focusing on recovery support, harm reduction, and medication for substance use disorders^{viii}. As research has demonstrated, drug testing can be part of a therapeutic approach to recovery that is associated with positive supervision outcomes, but without therapeutic supports it appears to be associated instead with increased recidivism or revocation. In other words: while the limited literature indicates that drug testing for purely surveillance purposes may be ineffective, as part of a treatment-oriented approach like drug court or risk-need-responsivity supervision, drug testing may have a positive impact on supervision outcomes.

The case for drug testing reform

The uncertain effectiveness of drug testing, combined with broader concerns about the cumulative burden of monitoring and surveillance in community corrections, are leading some policymakers and corrections officials to reconsider drug testing as a core probation and parole practice (James & Hayre, 2024). Reductions in testing during the COVID-19 pandemic and as part of a broader criminal justice reform movement have presented an opportunity for some agencies to assess how important drug testing is to the core mission of community corrections, and whether the burden of drug testing outweighs any benefits testing may provide.

The literature suggests that the way drug testing is incorporated into supervision practice matters for understanding its effectiveness. Given the significant variation in supervision practices across agencies and jurisdictions, documenting how drug testing is applied, who receives drug testing, and the ways positive drug tests are used in the practice of supervision are all important steps in determining whether drug testing is effective for achieving the goals of community supervision. This study aims to document the landscape of drug testing in supervision to inform policymakers about opportunities for drug testing reform, and to describe the barriers and facilitators for changes to drug testing policies that researchers may face when seeking to understand drug testing's effectiveness.

About this report

ICH used a sequential explanatory mixed-methods design to explore the current and shifting landscape of drug testing in supervision and how agencies are thinking about drug testing practices in the future. This report incorporates data from a national survey of supervision agency leaders, and from in-depth interviews with a sample of agency leaders and frontline staff, and is organized by four key questions:

1. **What is the landscape of drug testing policy and practice across agencies?** Who is subject to testing, and how often? What are testing protocols across agencies? What does drug testing cost? How does drug testing impact agency staff and people under supervision? How do agencies respond to positive tests?
2. **What is the role of drug testing in supervision?** How do probation and parole leaders think about the benefits and unintended consequences of drug testing? To what extent are agencies interested in change?
3. **What appetite exists for adaptation of drug testing practice?** How has drug testing in the US already changed over the last five years? What propels change, and what are the barriers to continued innovation? Who decides what changes are made?
4. **What are the next steps to building a base of evidence to guide equitable decision-making around drug testing?** What data are available and how willing are agencies to support evaluation? How can evaluation research measure drug testing effectiveness and center equity for people under supervision?

Designing a national survey of community correction leaders

Survey questions were developed by ICH with collaboration from APPA. The final electronic survey was programmed in Qualtrics and distributed through individualized email links. The distribution list was derived from a membership list provided by APPA, which was cleaned to identify a single representative from each supervision agency in order to avoid duplication of agency responses in the sample. Each agency received an individualized survey link, and responses were anonymous and collected no metadata. The survey was first piloted with 11 participants and then distributed to the entire subscriber list after edits were made for clarity and comprehension.

The survey contained 40 questions designed to cover several domains of interest: participant background, drug testing policies and practices, consequences of a positive test, costs, changes to drug testing policies or practices, local context, drug test data tracking, cannabis legalization and decriminalization, interest in drug testing change and/or evaluation.

Out of the 470 participants recruited, 123 survey responses were recorded by the end of the data collection period (from July 10, 2023 to January 19, 2024). We estimated descriptive statistics for all the questions. We present median and interquartile range or mean and standard deviation (depending on number of responses and distribution of the data) for continuous variables and frequencies and percent for discrete ones. All analyses were done in R 2023.09.1. A table with descriptive characteristics of the survey sample is included in Table 1 below.

Table 1. Survey respondent agency characteristics

Overall (N=123)	
Approximately how many adults are under supervision at your agency right now?	
1,000 or fewer	51 (41.8%)
1,001 - 5,000	42 (34.4%)
5,001 - 10,000	10 (8.2%)
10,001 - 25,000	5 (4.1%)
25,001 - 50,000	6 (4.9%)
More than 50,000	8 (6.6%)
Approximately how many people staff your agency?	
50 or fewer	71 (57.7%)
51 - 250	27 (22.0%)
251 - 500	9 (7.3%)
501 - 1000	4 (3.3%)
1001 - 2000	6 (4.9%)
More than 2,000	6 (4.9%)
What level of government do you work at?	
Local	83 (67.5%)
State	36 (29.3%)
Federal	4 (3.3%)
Who does your organization supervise?^a	
Adults on felony probation	88 (71.5%)
Adults on misdemeanor probation or gross misdemeanor	92 (74.8%)
Adults on parole or some other type of post-custody conditional release	41 (33.3%)
Adults on pretrial supervision	70 (56.9%)
Other	1 (0.8%)
Where is your agency located?	
East North Central Division	52 (42.6%)
East South Central Division	4 (3.3%)
Middle Atlantic Division	6 (4.9%)
Mountain Division	8 (6.6%)
New England Division	4 (3.3%)
Pacific Division	9 (7.4%)
South Atlantic Division	9 (7.4%)
West North Central Division	16 (13.1%)
West South Central Division	14 (11.5%)

a: The question allowed participants to select all that apply. Therefore, the percentages for this question will not add up to 100%.

The majority of respondents represented agencies of relatively modest caseload size, with 76.2% supervising 5,000 or fewer adults. The sample includes some agencies with midsize and large caseloads as well, with 17.2% supervising between 5,000 – 50,000 adults and 6.6% supervising more than 50,000 adults. Staffing patterns correspond to client caseload size, with the majority of respondents at agencies with small staff sizes.

Most respondents (67.5%) represented agencies working at the local level, followed by 29.3% at the state level, and 3.3% of respondents at federal supervision agencies. The sample included agencies that oversee adults on felony (71.5%) and misdemeanor (74.8%) probation, parole or post-custody conditional release (33.3%), and pre-trial supervision (56.9%). The sample included agencies from all geographic divisions of the United States. There appears to be some overrepresentation from the East North Central Division, although it should be noted that most of the agencies in that region represent small caseloads, with 58.8% (n=30) supervising 1,000 people or fewer, and 39.2% (n=20) supervising between 1,000 – 5,000. Conversely, the largest agencies in the sample are spread among five of the remaining geographical regions, with one in the East South Central Division, one in the New England Division, two in the South Atlantic Division, one in the West North Central Division, and two in the West South Central Division.

Insights and context through key informant interviews

Between February 21 and March 25 2023, the evaluation team spoke with 22 individual supervision agency staff, including 15 agency leaders and 8 frontline staff. We invited to participate all agency leaders who had opted into providing contact information for additional data collection. The study team then used snowball sampling to recruit frontline staff from those agencies whose leadership staff had participated in interviews.

Interviews were conducted via Zoom using a semi-structured interview guide developed to answer the study questions, with input from APPA on language and content. Participants were offered a \$50 gift card incentive, which many declined due to agency policy. The interviews were recorded with participant permission. When participants declined to be recorded, the study team took detailed notes. Recordings were professionally transcribed before the study team deductively coded, summarized, and thematically analyzed all transcripts and interview notes using the Framework Method^{ix} in order to identify patterns that contextualize the survey findings.

In our discussion of findings, we attempt to convey a sense of the strength of the themes, but these estimates of prevalence in the interview sample should not be used to impute prevalence in the population as a whole, as the interview sample was not designed to be representative of all supervision agencies. The qualitative portion of our study provides depth and context, not generalizability.

A note on language

The study team acknowledges the importance of using respectful language to describe people involved in the criminal-legal system.^x The authors intend to refer to people impacted by drug testing in community supervision in a way that is accurate and person-centered. However, exclusive use of person-centered language is not always practical. While we acknowledge the potential harm of language that reduces people to a single facet of their history or criminal-legal status, in order to present findings with concision and clarity, we occasionally refer to both “people under supervision” as well as “supervisees”.

Findings

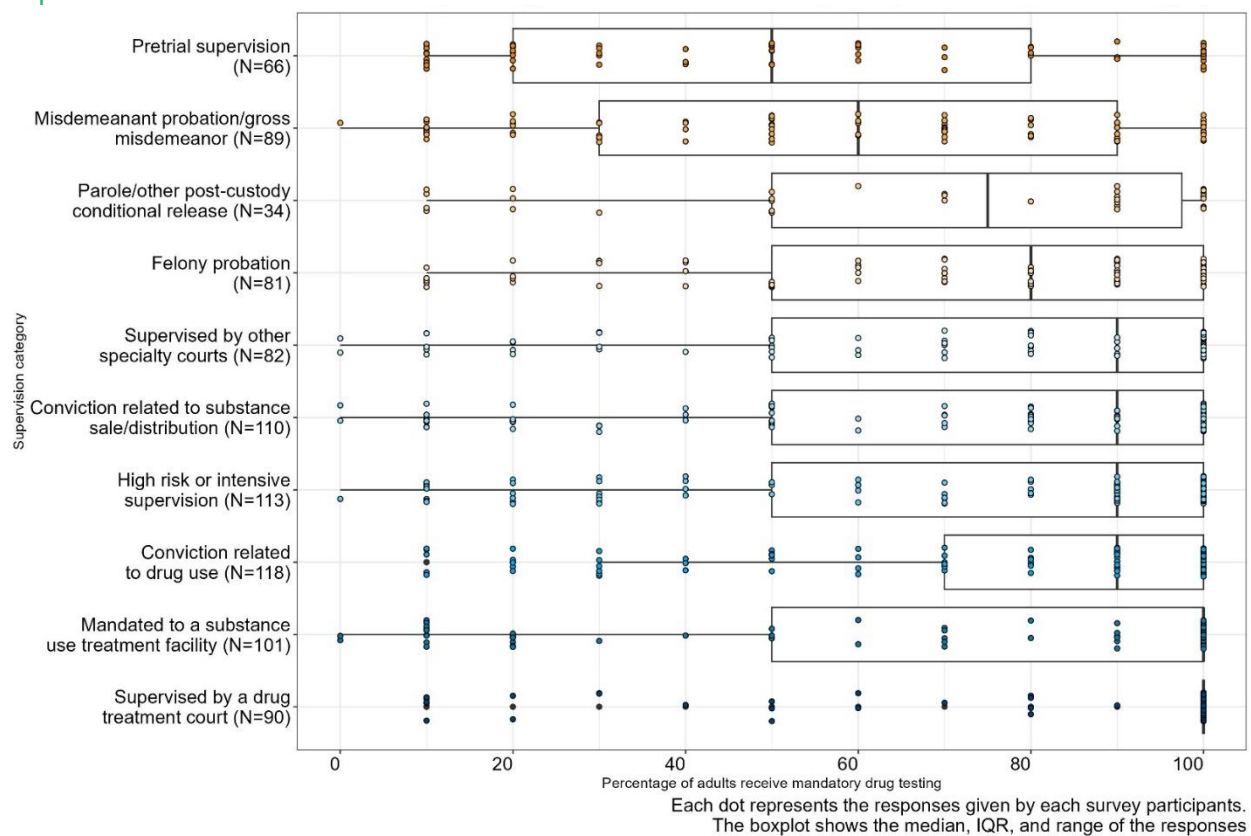
Drug testing landscape

How is drug testing currently being implemented in community supervision?

Who is subject to drug testing?

The survey found considerable variation between agencies in terms of the share of people under supervision who undergo drug testing. Respondents estimated the percentage of their agency's supervisees who receive mandatory drug testing according to different characteristics using a sliding scale with 10% intervals. The full results are shown below in **Figure 1**. The widest inter-agency variation was for people under pretrial supervision or misdemeanor probation: the median estimated share of those populations undergoing drug testing was 50% and 60%, respectively, with a relatively normal distribution. Based on these responses, we estimate that a little over half of the people under misdemeanor supervision at surveyed agencies are mandated to drug testing, while a little less than half are not.

Figure 1. Distribution of the estimated percentage of adults who receive drug testing by supervision characteristic



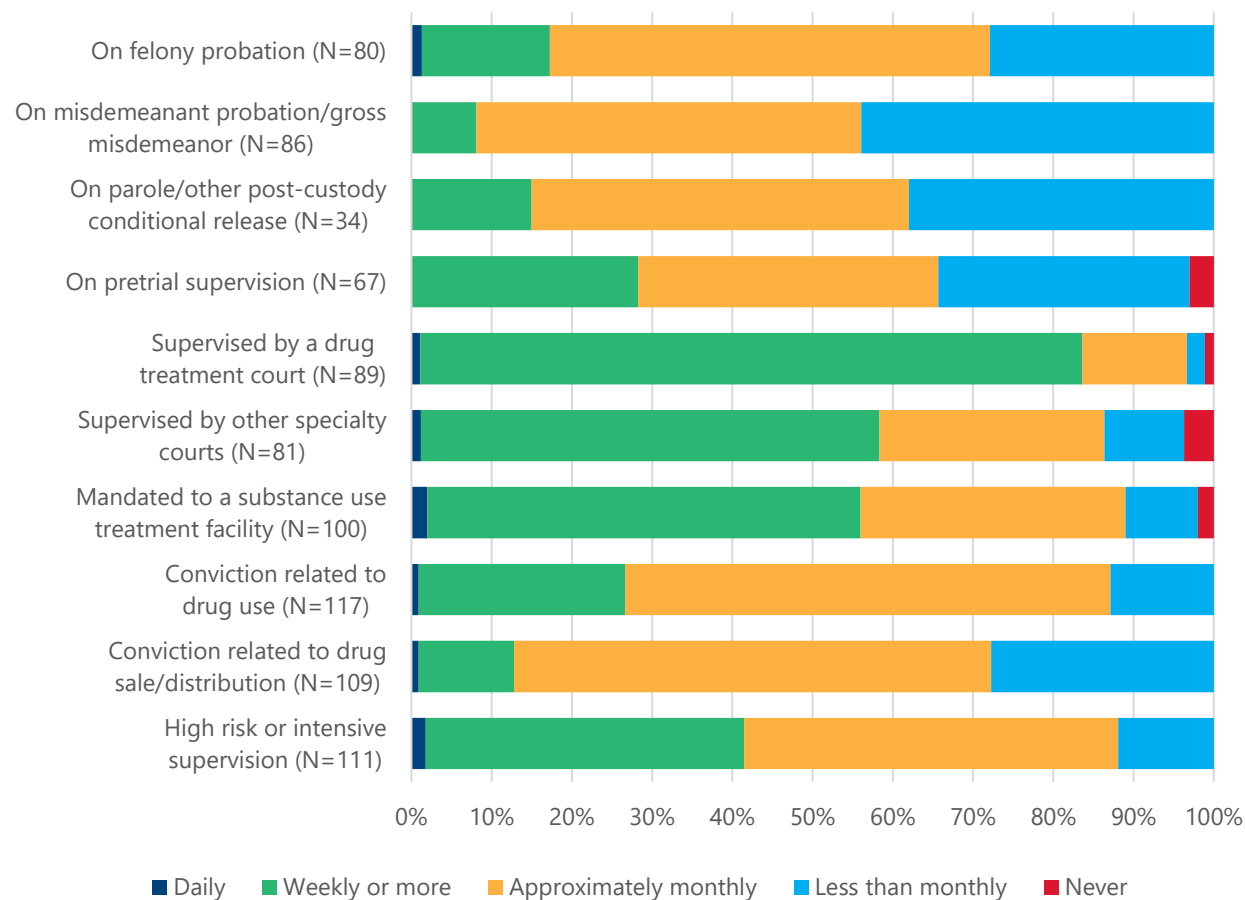
The median rate of drug testing shifted upwards for certain higher-risk populations. The subpopulations undergoing drug testing at the highest median rates (100%) were adults mandated to substance misuse treatment facilities and/or those supervised by a drug treatment court, followed by

people who were supervised by specialty courts other than drug courts, who had conviction(s) related to substance distribution, who had conviction(s) related to substance use, or who were on high risk or intensive supervision (median: 90%). People on parole (75%) and felony probation (80%) were also tested at higher rates compared to those on pretrial supervision or misdemeanor probation. However, even as most of the agencies mandated drug testing for high proportions of these higher-risk populations, it should be noted that for each category of supervised adults, several agencies in the sample reported that as few as 10% of people in those categories were subject to mandatory drug testing.

How frequently do people under supervision undergo drug testing?

Although most agencies mandate drug testing no more than monthly for the majority of people under supervision, certain subpopulations of supervisees undergo more frequent testing. This appears to be driven by rules and requirements for people mandated to substance misuse treatment and/or for those supervised by drug court and other specialty courts. Four out of five (83.1%) agencies tested people supervised by a drug court weekly or more, while more than half required at least weekly testing for people mandated to a substance misuse treatment facility (56%) as well as for those supervised by a specialty court other than drug court (58.2%). A full description of estimated drug testing frequency is included below in **Figure 2**.

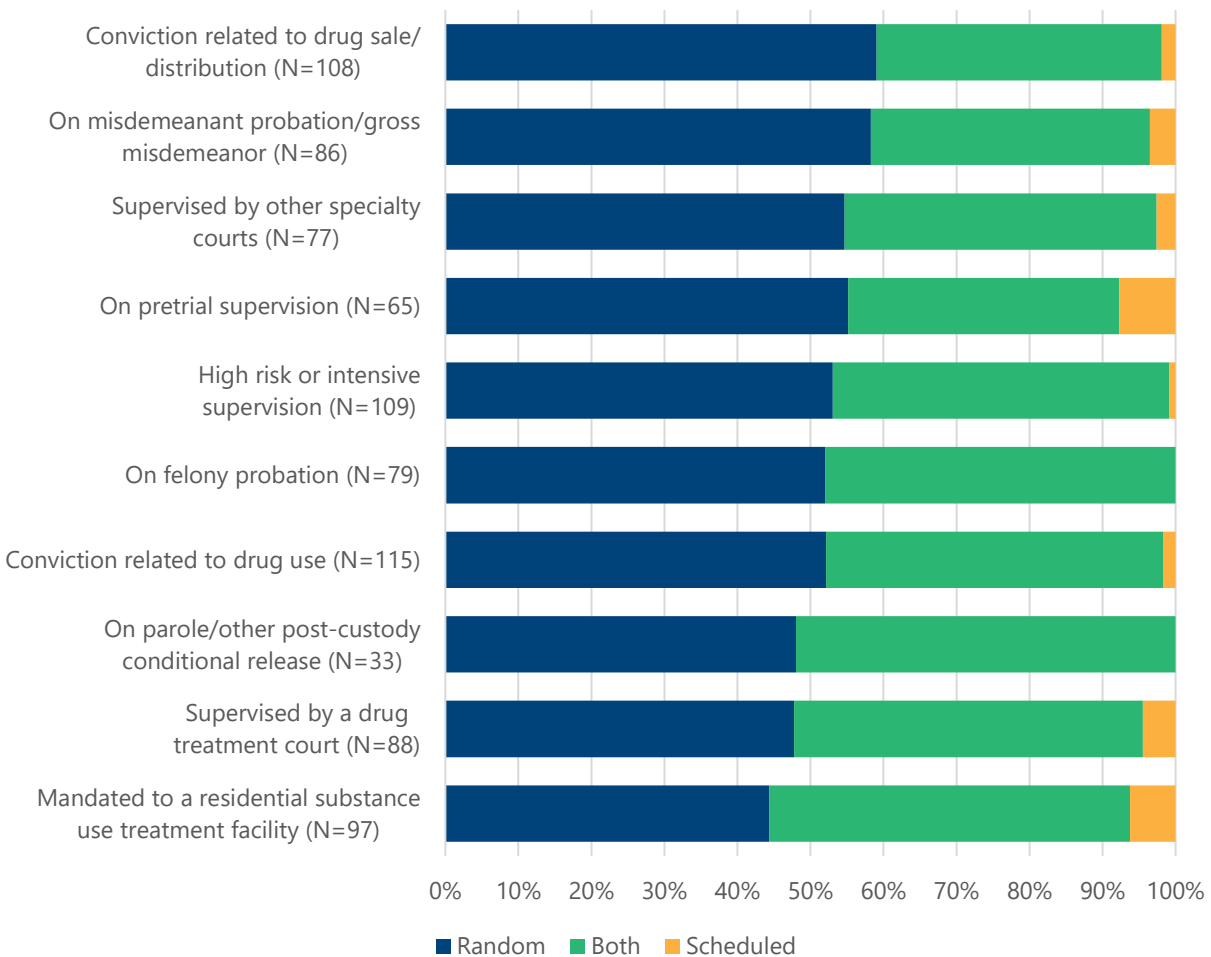
Figure 2. Estimated frequency of drug testing by supervision characteristic



What are the protocols for drug testing administration?

The use of random drug testing was widespread among the agencies surveyed; very few agencies rely exclusively on scheduled testing. Agencies were more or less evenly split between those using a mix of random and scheduled testing, and those using exclusively random testing. Very few agencies used only scheduled testing for people under any supervision category. There was relatively little variation in these trends across all categories of people under supervision, as depicted in **Figure 3** below.

Figure 3. Estimated share of random, scheduled, or both random and scheduled drug testing by supervision characteristic



An overwhelming majority of agencies (95.1%) rely on urinalysis (UA) for drug testing, and many supplement UAs with additional technologies. Nearly two-thirds (62.6%) made use of breathalyzer tests, and a little over half (56.9%) used saliva tests. 40.7% of agencies used Secure Continuous Remote Alcohol Monitor (SCRAM) technology and 20.3% use sweat patches. Very few agencies reported using hair follicle tests (9.8%), blood tests (1.6%), or pupilometers (1.6%). A full description of drug testing technologies used by surveyed agencies is included in **Appendix A**.

Protocols for drug testing with specialized populations

Policies and protocols for drug testing people who **are transgender, non-binary, intersex, and/or gender non-conforming (TGNC)** are rarely articulated, and there is little consensus among agencies regarding what constitutes “best practice.” Only about one third of agencies (31.4%) had developed specific policies and protocols for drug testing TGNC people, and there was considerable variation between them in terms of what those policies actually looked like:

- Eight surveyed agencies use alternate testing technologies like oral swabs, sweat patches, or ocular testing.
- Eight other agencies allow the person under supervision to choose the gender of the staff who observes urinalysis testing.
- Six agencies assign urinalysis observation to staff with the same gender identity as the person under supervision.
- Three agencies assign urinalysis observation to staff with “the same genitalia”.
- Two agencies assign urinalysis observation to staff with the same sex assigned at birth.
- Two agencies allow TGNC clients to take an unobserved urinalysis.

Fewer agencies delineated policies and practices for conducting drug tests with **survivors of sexual violence**, or for **people with disabilities**. Only 14.2% had specific policies or practices in place for people with disabilities or other additional support needs, and even fewer (6.7%) had policies in place to support testing for survivors of sexual violence. When they were in place, accommodations for trauma survivors included the use of oral swabs instead of urinalysis, or using a temperature reading so that urinalysis could be unobserved. Accommodations for people with disabilities are largely determined on a “case by case” basis, though some agencies specified that they offer alternate testing procedures or facility assignments, or provided accessible restrooms for observed urinalysis.

See **Appendix B** for the full survey results related to protocols for testing specialized populations.

How does drug testing impact people under supervision?

There was general agreement among supervision agency staff and leadership that “nobody wants to be drug tested.” People under supervision resented the cost, the time it takes to complete a test, and the frequency at which they had to report for testing. These issues were amplified for people who live in rural communities: one staff talked about some of the agencies supervisees are “hitchhiking 60 miles to come in to do anything.” Others described how people under supervision ended up late to work or missing shifts in order to comply with an order for random testing.

Staff believed that most people under supervision see it as a “purely punitive” practice that is “invasive,” “disrespectful,” and creates a “confrontational relationship” between supervision officers and the people they supervise. One key informant described the “dehumanizing” nature of urinalysis in particularly graphic detail:

Like if you've had sexual trauma in your past, **being watched when you go to the bathroom is a very uncomfortable and re-traumatizing event, over and over and over, you know?** As a woman, when you're on your monthly and you have to go test, they make you do things like pull out your tampon and show them everything . . . and then you're like messy and you have to give them the cup before you're allowed to wash your hands.

However, staff pointed out that **for the subset of people under supervision who are in recovery or actively working towards sobriety, drug testing creates a level of accountability that can actually be helpful**, and that some people even take pride in being able to log a negative drug test.

What does drug testing cost?

On average, supervision agencies spend approximately one out of every ten dollars in their annual budget on drug testing (see **Appendix C** for details on the costs of drug testing at surveyed agencies). Half of the agencies (50%) used an external vendor for drug testing. Although there was wide variation in terms of spending on drug testing contracts, these contracts do appear quite lucrative for vendors, with a mean of \$237,000 (std. dev. \$384,000) and a maximum of \$1.5 million annually in the survey sample.

About a quarter of the agencies surveyed (23.3%) required people under supervisions to pay for their own drug tests. The median price per test was \$16 (IQR: \$10, \$25). Among the agencies included in the key informant interviews, there was an even split between agencies that completely cover the cost of drug testing and those that pass along some portion of the cost of testing on to supervisees, and noted that those fees seldom cover the full cost of the test: one described them as a "co-pay". Frontline staff noted that different people supervised by the same agency could be subject to different requirements when it came to paying for drug testing: sometimes this was due to supervision type (for example, one agency charged everyone except people supervised by drug court for their drug testing), or a result of officer discretion to use agency funds to cover testing costs for their caseload.

Agency staff who participated in the interviews had mixed feelings about the costs of drug testing: while one agency leader said that the budgetary implications of drug testing were relatively unimportant because the cost to the agency was so low, staff at another agency said that the amount the agency paid to an external drug testing vendor was "ridiculous." Anecdotally, it seems that drug testing may be more expensive for agencies that use an external vendor for testing. There was general agreement among staff that the costs to people under supervision who have to pay for their own testing are too high, especially when considering the difficulty of getting back on one's feet after incarceration.

How does drug testing impact supervision officers?

At four out of the five agencies surveyed (80.5%), the person who administered drug tests was the officer assigned to the supervisee. About half of the agencies (56.9%) reported that another supervision officer may administer drug tests as well. A relatively small share of agencies used a lab technician (21.2%), contracted vendor (10.6%), or in-house administrative staff (20.3%) to conduct drug testing. On average, agency leaders estimated that supervision officers spend 16% of their time on drug testing. Full survey results on supervision officer time spent on testing are in **Appendices D and E**.

Although some staff view drug testing as a useful tool, others have more mixed feelings about their role administering drug tests. Many agency leaders believed that supervision officers view drug

testing as a means of fulfilling their mission by preventing overdose deaths, creating on-ramps to substance misuse treatment, and positively impacting community safety. But many others believed that the practice negatively impacts staff morale: drug testing interrupts the day, is time-consuming, and creates uncomfortable dynamics by compelling staff to observe people in an intensely private and vulnerable moment. And while many supervision officers see the rehabilitative potential of drug testing people with a history of substance use disorder, agency leaders speculated that staff would be more interested in drug testing if there were more treatment resources available for people who tested positive. There was also staff frustration around the impact of forcing already low-resourced people to find transportation to and pay for their own drug tests on their re-entry and rehabilitation.

At many agencies, supervision officers exercise considerable discretion over the decision to drug test or not and how to respond to positive tests. One agency leader believed this level of discretion was empowering for staff. But that the lack of firm policy incentivizes over-testing for fear of liability should their supervisees re-offend. As one agency leader put it:

I think that some of the POs are really insecure about it because, you know, everyone has that fear that if a case blows up, you know, something happens, somebody under supervision does something horrible, murders somebody or kills someone in a drunk driving accident, **there's always the fear that, what if I had tested him, what if I had tested more?** So there's kind of that feeling of unease. **And because the policy is really kind of on the POs to schedule it, I think there's some fear sometimes about the what-if. What if something bad happens? Will management and the judges protect me because we have a good policy?** Or what if I don't follow policy? What if I—if it slipped through the cracks? I think there's some anxiety.

What happens to people who test positive for drugs?

Agencies have wide latitude in responding to positive drug tests. Most appeared to try to use a therapeutic approach: for nearly all of the agencies surveyed (95.9%), an initial positive test resulted in a discussion with the person under supervision, and about three quarters of agencies (76.4%) made referrals or adjustments to treatment following an initial positive test.

Table 2. Agency response to positive tests

	Discussion with person under supervision	Referral or adjustment to treatment	Supervision officer-imposed sanction	Petition to revoke
Initial positive test	118 (95.9%)	94 (76.4%)	60 (48.8%)	23 (18.7%)
Sporadic positive test	106 (86.2%)	108 (87.8%)	86 (69.9%)	34 (27.6%)
Repeated positive test	68 (55.3%)	96 (78%)	94 (76.4%)	96 (78%)

These questions allowed participants to select all that apply. Therefore, the percentages will not add up to 100%.

However, half of the agencies surveyed (48.8%) reported that they were willing to impose sanctions after an initial positive test, and nearly one in five (18.7%) indicated that revocations were on the table for a single positive drug test. The use of both sanctions and revocations increased with more frequent positive drug tests: repeated positive drug tests could be met with sanctions (76.4%) and/or revocations (78%) at more than three quarters of agencies.

While some agencies use a formal decision matrix to determine responses to positive drug tests, which often involves progressively punitive sanctions, most agencies leave those decisions largely in the hands of supervision officers, with the goal of pushing people who use drugs towards substance misuse treatment. Though revocation is possible, agency staff described seeing it as an option of last resort, and one that is often the result of other, compounding violations of supervision. As one staff explained:

I've never seen somebody go through the revocation process—like be revoked on probation—just for UAs. **In general, if they're having UA issues, they're also, you know, not attending treatment or they're on IPS and they're off their curfew all the time. Like, they're gathering other, you know, violations as well. And at an extreme level then that would be addressed with a petition for revocation.**

The role of drug testing in supervision

What do probation and parole leaders and frontline staff think about drug testing and its utility? Do agencies want to change their policies and practices?

How does drug testing help supervision agencies fulfill their mission?

Many agency leaders described a **positive drug test as the starting point for a conversation about what stressors and life events are leading to substance use, with the goal of trying to drive people towards treatment.** This shift towards treatment and rehabilitation appears to have occurred only within the last decade or so.

Other agencies with a less rehabilitative approach believed people under supervision benefit from the additional level of accountability that drug testing provides to help them maintain sobriety and refrain from re-offending. Agency staff maintain that drug testing contributes not only to community safety and prevention of reoffending, but to the safety of the individual under supervision given the risk of overdose posed by the current drug supply.

Several key informants stipulated that **these benefits accrue mainly to people with substance use disorders and/or for those who have self-selected into drug court because they want to be in recovery.** For that subset of the population, staff believe that regular testing helps people gain confidence in their sobriety. It also creates a paper trail of recovery efforts that can help people overcome the obstacle of their criminal records to obtain custody of children, qualify for housing, or even support a claim for early termination of probation. The perceived benefits of drug testing for people with no history of substance misuse were, however, substantially more limited.

What are the unintended consequences of drug testing?

In interviews, supervision agency leaders and frontline staff spoke to the unintended consequences of drug testing based on their experience and observations:

- Testing is **costly and inconvenient** for people who are already struggling. As one staff member explained: “People on probation tend to be of the poorer side of society, you know? And so, I think a lot of it is isn’t fair, you know? It’s like extra consequences of being in the justice system.”
- As previously described, testing can be **triggering for people with a trauma history.**
- Drug testing sows **mistrust between supervision officers and the person being supervised.** This can be amplified by intra-staff differences in testing frequency: some supervisees may feel singled out when they’re assigned to an officer who uses more frequent testing than others. Several also mentioned seeing situations where judicial decisions or confrontations have occurred based on a **false positive**, further damaging the supervisory relationship and trust in the system.
- When people under supervision “**go AWOL**” after a positive test because they are afraid of the consequences, instead of creating an on-ramp to treatment the drug test and the supervisee’s subsequent absconding can paradoxically lead to worse outcomes in terms of sanctions.

- Due to contraband drug use in jails and prisons, **revocations for substance do not necessarily help people attain sobriety.**
- Pushing abstinence on people who are not ready for it may **harm their chances for eventual recovery.** As one agency leader put it: "We're pushing abstinence. We are pushing people into a place where we're saying, 'You can't, like, you can't have anything. You have to be sober.' And when that's not the person's goal, we create harm. We create higher chances of overdose death, we create, like, people who have tons of shame, you know? I think that might be the worst thing for me."

Drug use in supervision: criminal or public health issue?

A key tension in articulating the benefits and unintended consequences of drug testing arose from the different roles that supervision staff conceptualize for themselves when it comes to addressing substance use among people under supervision.

Some saw their agency as an arm of law enforcement: for these, the primary goal of conducting drug tests was to **ensure that people under supervision are not breaking the law.**

Others described a relatively recent shift towards treating substance use as a public health issue. For those agencies, the goal was to **prevent overdose deaths and promote substance use recovery,** as exemplified by the following quote:

We're working to figure out, you know, instead of responding like we had for the past 100 years: "here's your piece of paper with your violation on it, go to treatment," we now are kind of in a place where we use that as the catalyst for okay, what's the next step. Obviously whatever we're doing right now, that plan isn't working. Or, you know, something happened to trigger that relapse. Right? So analyzing the why of the situation . . . A lot of us have been in the field for 20, 25 years. And to think differently about substance use is not something that's going to happen overnight. So even when training officers they're like, "How do you mean? It's against the law. How is it not a violation?" We know it's against the law. We also know that it's in a lot of situations should be expected . . . we try to train our officers to understand the difference between proximal and distal goals. Is being sober for this person right now realistic? Or is it more realistic to think that we ought to get them plugged into resources, maybe get them connected to, you know, a sober community or sober living or a different treatment resource?

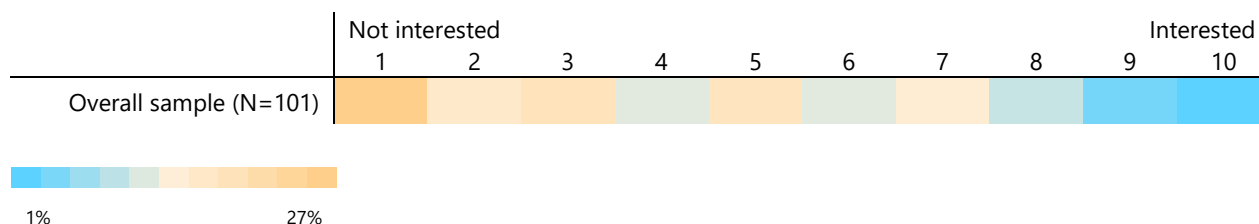
Both approaches held **public safety** as a key overarching goal, and one that required examining the links between an individual's past substance use and criminal activity in order to prevent future harm to the community:

Don't get me wrong. I love viewing it as a medical issue instead of a criminal issue, I really do, and here's our challenge with that: if someone commits a new crime and they hurt someone and they go back and they look at their community supervision record, and they see where we knew or observed that there was substance use throughout the supervision and that we did not respond, it's a challenge for our organization. We are viewed as responsible and liable if we do not respond to the public safety measure.

How interested are agencies in change?

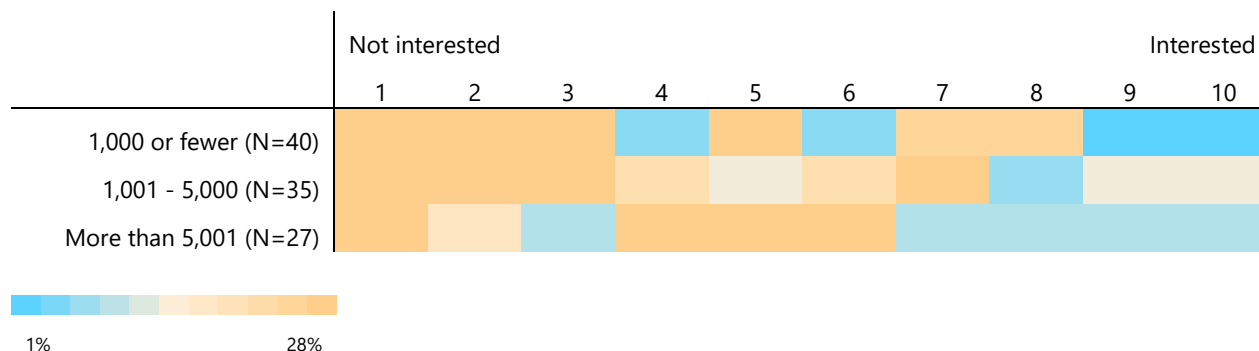
Despite the substantial unintended consequences of drug testing, most of the agencies surveyed were satisfied by current drug testing policies and practices. Agencies were asked to rate their interest in changing their drug testing policies on a scale from 1 to 10. As shown in the heat map in **Figure 4** below, surveyed agencies were mostly uninterested in changing their agencies policies around drug testing.

Figure 4. Interest in changing drug testing policies and practices.



We stratified responses to explore the extent to which the agency characteristics captured in the survey were associated with level of interest in change, and found fairly consistent lack of enthusiasm for change across level of government and supervision type (see **Appendix F** for details). There were, however, some differences based on agency size: while many larger agencies were moderately interested in change, the strength of interest was more bifurcated among the smaller and midsize agencies, as shown below in **Figure 5**.

Figure 5. Interest in changing drug testing policies and practices by number of adults under supervision at the agency.



In an open-ended survey question, many respondents explained that they were **uninterested in change because their current policies were working well**, while a smaller but still substantial subset indicated that their **agencies had already made recent and beneficial changes to agency drug testing policy**.

Among those agencies that were open to change, there was interest in making drug testing easier for staff, more fair and focused on rehabilitation, and more cost-effective. In particular, participants articulated interest in 1) changing cannabis testing practices, 2) reducing the frequency and randomness of testing, 3) focusing testing only on people with a history of substance use disorder, and 4) articulating policies for TGNC people under supervision and those with a trauma history. Agencies were also

interested in 5) improving drug-testing administration, with several hoping to move away from urinalysis. Some wanted to 6) contract their testing out to an external vendor, while others 7) were dissatisfied with the drug-testing vendor they were currently using. There was also a noteworthy appetite for **evidence about the effectiveness of drug testing for meeting supervision goals**, and many mentioned wanting “best practices” to guide decision making around drug testing.

In interviews, we asked agency leaders to reflect on a select set of the drug testing reforms recommended in the Arnold Ventures Fact Sheet on Drug Testing in Supervision.^{xi} Reactions varied considerably across agencies and according to the type of proposed reform:

- Most were strongly opposed to the idea of **ending testing completely**, because it would eliminate an effective tool for ensuring public safety. Some thought it would work for some populations but not others. Others indicated that they would be willing to eliminate testing if it were supported by evidence, but all agencies indicated at least some amount of discomfort with this idea.
- A few were open to the idea of **testing only for drugs of concern**, especially eliminating drugs seen as less dangerous like cannabis. However, there was concern among most respondents over the possibility that drug testing would miss the emergence of dangerous substance use if the drug panel range were too narrow, given the way that drug use trends fluctuate based on price and availability.

Impact of cannabis legalization

The evolving legal status of cannabis across the country has led to a **patchwork of approaches** to managing its use among people under supervision:

- 27.9% of agencies surveyed had stopped testing for cannabis completely.
- Some agencies described allowing cannabis use only among clients who have a medical marijuana prescription.
- In jurisdictions where cannabis remains criminalized, there have been no changes to the treatment of THC in drug testing.
- In some jurisdictions that *have* legalized cannabis, agencies still do not permit people under supervision to use THC, treating it as they do alcohol.

While some supervision agency staff and leaders think of cannabis as a minimally harmful coping tool for people under supervision, others see it as morally objectionable, and a facilitator to psychosis and violence.

- Many interview participants were open to the idea of **ending testing for cannabis**, though there was some opposition, either because some people “act crazy and commit crimes” on THC, or because the use of cannabis is antithetical to the 12-step and other abstinence-based programs that influence problem-solving/drug court.

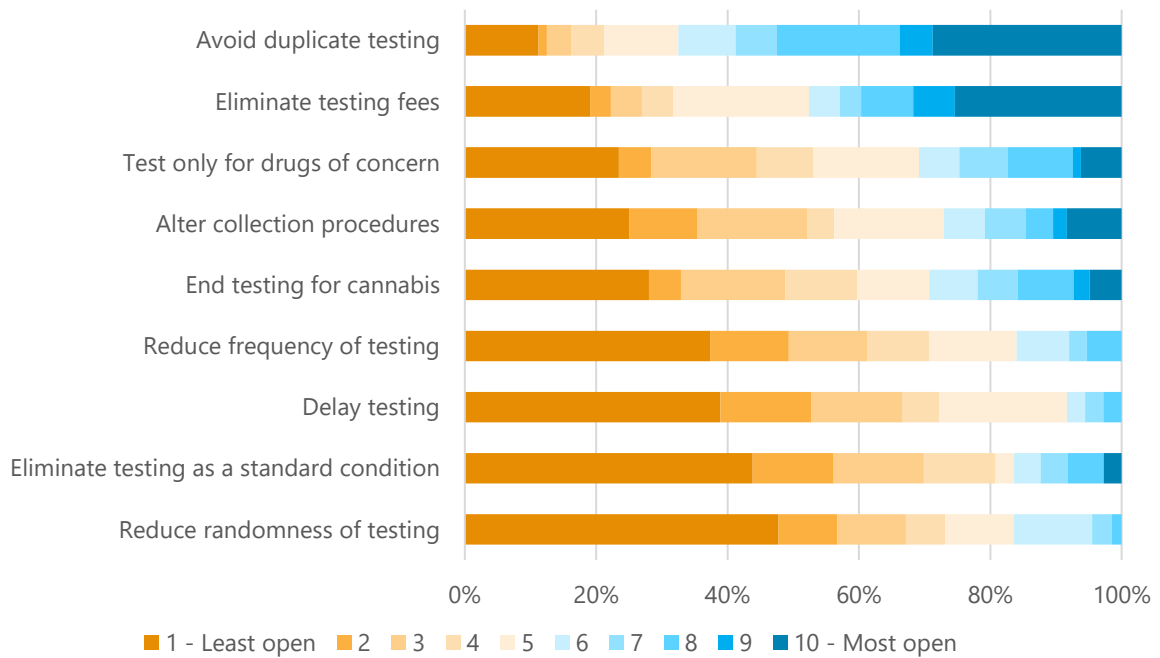
- Almost all were in favor of **less frequent testing**, with some indicating that they were already doing this.
- Reactions to the idea of **eliminating random testing** were most strongly divided: some were open to it, and especially if it was supported by evidence. Several supported it because they believed that people with chronic substance use disorders would be as likely to test positive in a scheduled test as in a random one. But others were opposed, in large part because they believe that random testing is the only way for agencies to “catch somebody” who is using drugs.

How interested are agency stakeholders in change?

We asked agency leaders to weigh in on how open they thought the judges and/or parole boards they worked with would be to a set of drug testing reforms recommended in the Arnold Ventures Fact Sheet on Drug Testing in Supervision. The full results are visualized in **Figure 6** below.

Agency leaders anticipated the most support for avoiding duplicate testing and eliminating testing fees, with about two in three (67.7%) estimating that their judicial and parole board partners would be more open than not to avoiding duplicate testing, and slightly less than half (47.6%) believing they would support eliminating testing fees. Only about a quarter of agencies anticipated support for testing only for drugs of concern, altering collection procedures, or ending testing for cannabis. **Supervision agency leaders anticipated the most substantial partner opposition to the ideas of reducing the randomness of testing, eliminating testing as a standard condition, and delaying testing until after the supervision officer had established a relationship with the person they supervise.**

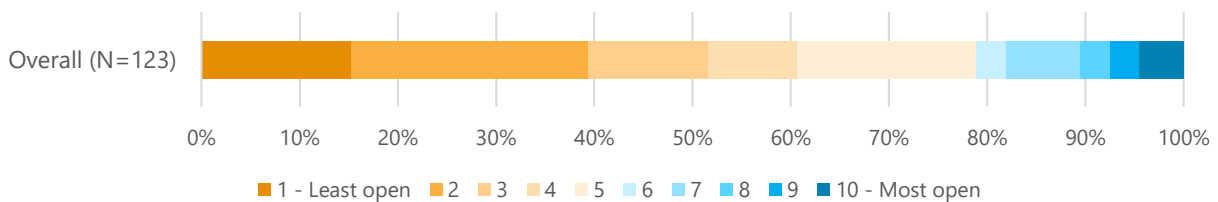
Figure 6. Perceived openness of judges and/or parole board to changing selected drug testing policies.



Agency leaders believed at least some of the judges they work with would be open to changes to drug testing policy and procedure. Only one in five (18.1%) believed that none of the judges they worked with would be open to change, with most believing that either some (34.3%) or a few (23.8%) would be interested. In interviews, many expressed the idea that judges will follow the recommendations of supervision professionals with lived experience and expertise in the field.

There was fairly limited confidence in the willingness of elected officials to see changes to drug testing policies and practices. On a scale of 1 to 10, with 1 being the least open and 10 being the most open, only 21.1% selected a ranking higher than 5, as seen in **Figure 7**.

Figure 7. Perceived openness of local elected officials in changing drug testing policies and practices.



Adaptations and decision points

How has drug testing in the US changed already over the last five years? What propels change, and what are the barriers to continued innovation? Who decides what changes are made?

What changes have been made?

Most respondent agencies have implemented some change to their drug testing policies and practices over the last several years. 64.2% (N=79) reported having made at least one change to drug testing policy over the past three years. The most commonly reported policy changes were reducing frequency of drug testing (N=38) and avoiding duplicate testing (N=35) followed by altering collection procedures (N=20), eliminating testing as a standard condition (N=18), and ending testing for cannabis (N=17).

A full description of the various changes that participating agencies had already implemented—as well as the share of agencies that made those changes in response to the COVID-19 pandemic and the share that had made changes temporarily or permanently—can be seen below in **Table 3**.

Impact of the COVID-19 pandemic

Anecdotally, we heard from supervision professionals a belief that the health risks posed by the COVID-19 pandemic had resulted in major changes to drug testing practices. Based on survey responses, the reality appears to be more complicated.

First, it is a misperception that drug testing policy and practice remained stagnant until the pandemic. Although it is true that some agencies have had their policies in place for decades, others had been making changes to those policies and practices before the pandemic, and have continued to do so in its aftermath. Among the majority of agencies that reported making at least one change, **most changes were permanent**, and were **not perceived as having been made as a reaction to the COVID-19 pandemic**.

Among the most commonly permanent changes were ending testing for cannabis, eliminating testing as a standard condition, testing only for drug of concern, and avoiding duplicate testing. These were identified as permanent changes among 94.1%, 88.9%, 85%, and 82.9% of agencies respectively. Very few indicated that those changes had been a result of the COVID-19 pandemic (just 6%, 11%, 15% and 6.6%, respectively).

The only changes that appear to have been a frequent byproduct of the COVID-19 pandemic were a reduction in the frequency of testing, and alterations to the procedures for testing.

These pandemic-motivated changes also appeared less likely to have been made permanent than changes motivated by other reasons. Among the 38 agencies that had reduced the frequency of testing, 16 (42%) reporting doing so because of the COVID-19 pandemic. Only half of those (n=8) indicated that they had subsequently made that change permanent. Similarly, among the 20 agencies that had altered their testing procedures, about half (n=11) had made those changes as a result of the pandemic, of which only 4 agencies planned to make those changes permanent.

Table 3. For agencies that implemented change: cross-tabulation of permanence of change and attribution of change to the COVID-19 pandemic.

Change	Permanence	Attribution to COVID-19			Total
		Yes	No	Not sure	
Eliminate testing as a standard condition	Permanent	1 (100%)	15 (88%)	0 (0%)	16 (89%)
	Temporary	0 (0%)	2 (12%)	0 (0%)	2 (11%)
	Not sure	0 (0%)	0 (0%)	0 (0%)	0 (0%)
	Total	1 (100%)	17 (100%)	0 (0%)	18 (100%)
End testing for cannabis	Permanent	1 (50%)	15 (100%)	0 (0%)	16 (94%)
	Temporary	1 (50%)	0 (0%)	0 (0%)	1 (6%)
	Not sure	0 (0%)	0 (0%)	0 (0%)	0 (0%)
	Total	2 (100%)	15 (100%)	0 (0%)	17 (100%)
Test only for drugs of concern	Permanent	1 (100%)	10 (83%)	0 (0%)	11 (85%)
	Temporary	0 (0%)	2 (17%)	0 (0%)	2 (15%)
	Not sure	0 (0%)	0 (0%)	0 (0%)	0 (0%)
	Total	1 (100%)	12 (100%)	0 (0%)	13 (100%)
Reduce frequency of testing	Permanent	8 (50%)	18 (90%)	0 (0%)	26 (68%)
	Temporary	7 (44%)	1 (5.0%)	0 (0%)	8 (21%)
	Not sure	1 (6.3%)	1 (5.0%)	2 (100%)	4 (11%)
	Total	16 (100%)	20 (100%)	2 (100%)	38 (100%)
Reduce randomness of testing	Permanent	1 (50%)	6 (86%)	0 (0%)	7 (78%)
	Temporary	1 (50%)	0 (0%)	0 (0%)	1 (11%)
	Not sure	0 (0%)	1 (14%)	0 (0%)	1 (11%)
	Total	2 (100%)	7 (100%)	0 (0%)	9 (100%)
Avoid duplicate testing	Permanent	0 (0%)	29 (91%)	0 (0%)	29 (82.9%)
	Temporary	1 (50%)	2 (6.3%)	0 (0%)	3 (8.6%)
	Not sure	1 (50%)	1 (3.1%)	1 (100%)	3 (8.6%)
	Total	2 (100%)	32 (100%)	1 (100%)	35 (100%)
Eliminate testing fees	Permanent	1 (50%)	8 (73%)	0 (0%)	9 (69.2%)
	Temporary	1 (50%)	2 (18%)	0 (0%)	3 (23.1%)
	Not sure	0 (0%)	1 (9.1%)	0 (0%)	1 (7.7%)
	Total	2 (100%)	11 (100%)	0 (0%)	13 (100%)
Delay testing	Permanent	0 (0%)	1 (50%)	0 (0%)	1 (33.3%)
	Temporary	1 (100%)	0 (0%)	0 (0%)	1 (33.3%)
	Not sure	0 (0%)	1 (50%)	0 (0%)	1 (33.3%)
	Total	1 (100%)	2 (100%)	0 (0%)	3 (100%)
Alter collection procedures	Permanent	4 (36%)	7 (88%)	0 (0%)	11 (55%)
	Temporary	5 (45%)	1 (13%)	0 (0%)	6 (30%)
	Not sure	2 (18%)	0 (0%)	1 (100%)	3 (15%)
	Total	11 (100%)	8 (100%)	1 (100%)	20 (100%)

What are the barriers and facilitators to change?

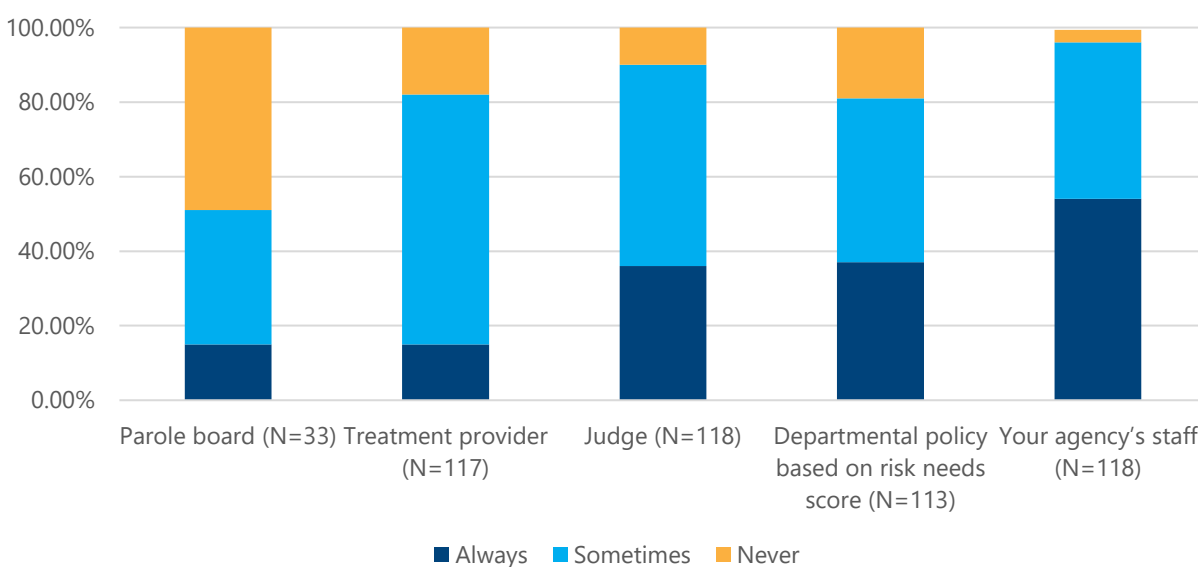
Agency leaders believed that the greatest facilitator to changing drug testing practice would be if there were compelling research indicating that the practice was harming people on supervision or failing to protect public safety. Conversely, the greatest barrier to change is the lack of evidence on the subject.

Other barriers to change include what one agency leader described as “old-school thinking”: it’s difficult to change the “norm,” or the ways that things have “always” been done, especially without evidence to support those changes. Some believed that current drug testing practices were already rooted in research on best practice. A few of the respondents said that the courts and judges they work with would need to take the lead on requesting any changes to current practice, though this was by no means the biggest barrier for most of the interview participants.

Who decides how drug testing is done?

Survey data complicate the widely held belief that judges and parole boards control decision-making about drug testing. In reality, agencies surveyed indicate that the stakeholders most frequently involved in decisions about drug testing are the agency’s staff, with 54% of agencies indicating that staff are “always” involved in drug testing decisions, and 42% involving agency staff in those decisions at least some of the time. Judges and department policy were “always” involved in decision making at only about a third of surveyed agencies (36% and 37%, respectively). Parole boards appear to be even less involved in deciding if someone should receive drug testing, with nearly half (49%) of the agencies who supervise people on parole reporting that parole boards “never” makes a decision about whether people under supervision receive drug testing. There is also evidence that **a substantial minority of agencies are not making decisions about drug testing based in any formal policy**: almost one in five agencies (19%) said that department policy related to risk score “never” impacts decisions about drug testing.

Figure 8. How often do the following parties make the decision about whether or not clients receive drug testing?



Drug testing in drug courts

A May 2000 issue resource on drug testing prepared by the Office of Justice Programs Drug Court Clearinghouse and Technical Assistance Project called drug testing “a cornerstone of drug court program operations.” And indeed, the picture of drug testing in drug court that emerged through survey and interview data was of **nearly universal drug testing weekly or more as a key activity to ensure sobriety**. Although most agencies described supervision officers being empowered to make individualized decisions about drug testing policy and practice for each of the people they supervised, we found considerably less room for discretion when it comes to people supervised by problem-solving courts for substance use recovery (i.e. “treatment court” or “drug court”).

Being in the treatment court has been kind of a culture shock—a bit of a culture shock for me to come over here because they are **really strict**.

There is no discretion really with the drug testing of individuals that are involved with drug court. Whatever the protocols that they have, kind of, came up with as far as the frequency of testing, agents have pretty much no control over that.

There is also anecdotal evidence that people supervised by drug courts come to appreciate and even rely on frequent testing as a tool that helps them maintain sobriety, as the following quote illustrates:

Like **regularly in drug court, we have people that will ask to have more tests** . . . so we have a four-phase system in our drug court here in [county]. And we’ve had a couple different clients who have like dealt with more difficult things in that last phase. And some have asked like to increase testing, ‘cause it’s one time a week at that last phase. And so when they feel triggered, they have like verbally told us that **it helps to know that they have a test coming. Mentally just, it helps** to know that maybe drug testing might be increased. So, they’ve asked for that before. So I do think there are individuals who appreciate the external accountability.

Although the specific context and decision-making structure at each supervision agency differ considerably, we asked agency leaders in the key informant interviews to share more information about who, at their agency, was responsible for making decisions about drug testing policies and practices. Several of the agency leaders said that they themselves are able to make those decisions independently, though one stipulated that they only have “almost complete autonomy until there’s a problem.” Several other agency leaders said that those decisions were made by an internal group of decision-makers. A few used “bottom up” decision making about practice, taking input from staff at all levels in order to set policy, as the following quote demonstrates:

So we are governed by the state itself so we do have certain laws that we do have to follow and we do have to meet. However, department policies and procedures are put into place by the supervisors, director, myself, but it does come with input from our staff. **We often have meetings where supervisors are not present and just line staff comes up with suggestions or things that they want to try in order to change policies and practices.**

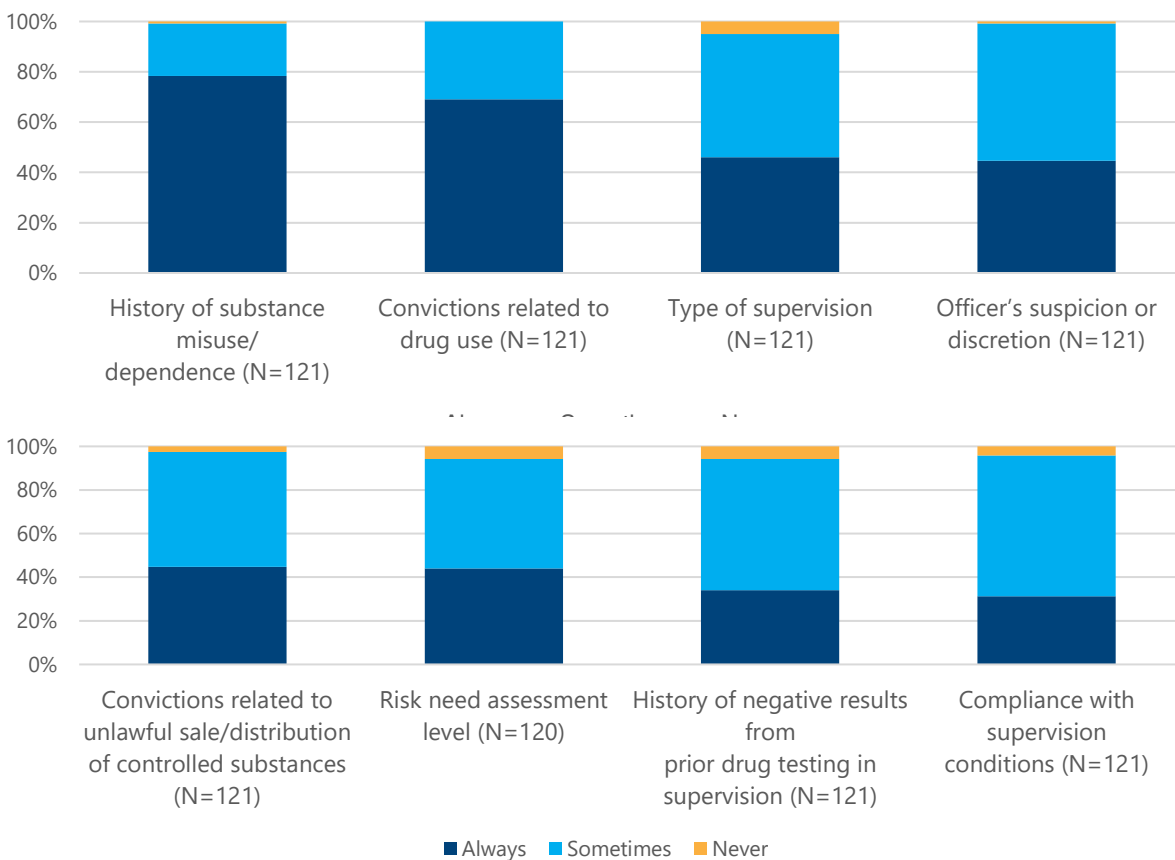
Only a few agencies mentioned that the courts or their presiding judges would need to be involved in decision making on drug testing at all, though one participant mentioned that the officers’ union reviews all policy changes.

What factors impact the use of testing?

Agency representatives weighed in on how often different factors impacted decision-making about whether and how often people under supervision undergo drug testing. **A history of substance misuse and/or convictions related to substance misuse appeared to be the key drivers of decisions related to the use of drug testing**, as seen in **Figure 9**. For 79% of respondents, the individual’s history of substance misuse or dependence was always a factor in decisions about drug testing, while for 21% of respondents it was sometimes, but not always a factor. For 69% of respondents, having a conviction related to drug use was always a factor in decisions about drug testing.

Officer discretion was an important factor in drug testing decision-making for most agencies: only 0.8% of respondents “never” take PO discretion or suspicion into account. A little less than half of the agencies surveyed identified the type of supervision (46%), officer suspicion or discretion (45%), conviction related to unlawful sale or distribution of substances (45%), or risk assessment level (44%) as factors that “always” influenced decision making around drug testing, while only about a third “always” weighed a history of negative drug test results (34%) or compliance with supervision conditions (31%) in drug testing decision-making.

Figure 9. How often do the following factors influence decision-making on drug testing?



What next?

Building an evidence base

What are the next steps to building a base of evidence to guide equitable decision-making around drug testing? What data are available, and how willing are agencies to support evaluation? How can evaluation research measure drug testing effectiveness and center equity for people under supervision?

What data are available?

A majority of the agencies surveyed (75%, 90 out of 123 agencies) reported that drug testing data is tracked at their agency. Almost all of the agencies (96.7%, 116 out of 123 agencies) reported that negative results are recorded as well as positive results, which allows analysts to understand the rate or positive drug tests, an important measure for future evaluation of drug testing practices.

Table 4. Drug test data tracking

	Overall (N=123)
Is drug testing data currently tracked at your agency?	
Yes	90 (75.0%)
No	21 (17.5%)
Not sure	9 (7.5%)

Agencies use drug-testing data in a variety of ways. Some agency representatives who participated in qualitative interviews described their drug testing data as being part of their integrated case management systems. Some had a direct link with the drug testing labs. Other data systems relied on officers to enter information they receive on drug tests. Agencies we spoke to do not typically link drug testing data to other supervision outcomes information like revocation or recidivism, although most believed their systems had the capability to make those links if needed. Agencies with more advanced MIS are able to link drug test results to other information about the people under their supervision, including other behavioral and social needs, harm reduction activities (for instance, Narcan use), and overdose information.

We can determine where drug use is occurring and how much, it shows the positives or negatives of every single drug that was screened for. **We also collect data on overdose information, fatal and nonfatal**, so we're maintaining that information.

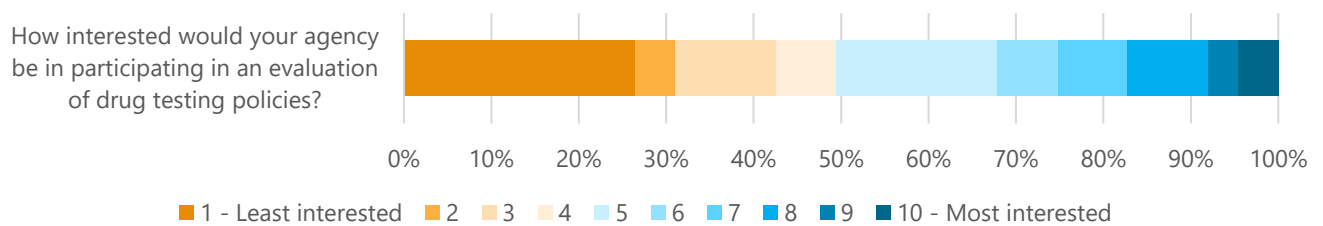
So we actually still use a chain of custody. They are still or they're—so when the officer prints it and takes the drug test, we get the chain back with the results. The results do go into our database. **And so we can run reports whether it be on a certain caseload, whether it be on a certain person, whether it be over a certain timeframe, we can run reports. And look at just what people are positive for or how many drug tests were done in a period of time.** So we can actually look at a lot of the data that we have.

Most agency representatives who participated in qualitative interviews noted that their agency owned their agency’s drug testing data and were confident they would be able to access custom reports or data pulls that include drug test results. In other agencies, the data belong to the courts or the judiciary, meaning evaluators would need to coordinate with these agencies to use data to support evaluation.

How willing are agencies to support evaluation?

Half of respondent agencies reported some interest in participating in evaluation of their drug testing policies. Few agencies surveyed expressed strong interest, and a quarter (26%) expressed strong disinterest.

Figure 10. Interest of each agency to participate in an evaluation of drug testing policies



In interviews, participants expressed enthusiasm for understanding the evidence on drug testing effectiveness to support their use of drug testing. The reluctance some participants expressed about participation in evaluation stemmed from concerns about staffing and workload associated with participating in an evaluation, experimental or otherwise. Participants also noted that their agencies have other stakeholders who would need to approve changes to standard drug testing practices in order to compare experimental outcomes, including judges, agency leadership, and state legislators.

Anything we can do, **anything I can do to make sure that I’m following evidence-based practices** because that’s the only way we—well, not the only way, but one of the primary ways we learn, adapt, evolve, and are doing our job the best we can and also serving our clients to the best of our ability.

I’d be very interested in what’s out there and what they’re doing right now on researching the effectiveness of it and how it helps us or parole or other probation agencies and departments. **If there’s research and there’s evidence out there saying that it’s not as effective as we think it is, then I’m interested in seeing what we can do to adapt to that** within not just our county but within [our state] if that’s the way things are going.

How can future evaluation measure what matters?

Recidivism and revocation are the most frequently used measures of outcomes in probation and parole. Untangling the multi-directional impact of drug testing on recidivism and revocation is challenging, however, since drug use and positive drug tests can be drivers of both sets of outcomes. Literature on community supervision suggests surveillance approaches fail at protecting public safety and at improving the lives of people under supervision.^{xii} Drug testing as a tool for supporting therapeutic interventions might be effective at improving factors that reduce criminal involvement—employment, health and

recovery, and social integration in the community^{xiii}—but most current evaluation research focuses solely on criminal legal system outcomes.

For agencies we surveyed, recidivism remains the primary measure of supervision success. But for some key informants, success for people under supervision is individual and closely tied to their ability to improve circumstances that are associated with desistance, as the following responses to the question, “what does success look like for you at your agency?” illustrate:

So for me it’s **just any sort of change in a client’s behavior whether it be continued employment, whether it be fewer positive drug tests, whether it be completing any sort of programs, early termination, and successful discharge.** It’s kind of hard to quantify or measure that because everybody’s progress is different.

That’s a good question. **When people stay sober, they graduate, they get jobs, they buy houses.** And we don’t hear from a lot of them, but after they graduate, they reach back out and say, “Hey, I’m still doing well. I still got my job. Blah blah blah blah blah.” That’s how we know.

Success looks like we help people become better off than how they were and that we facilitate behavior change and people go off and have amazing lives and never come back to us and our community is healthy, that’s success.

For a justice-involved individual to be fully integrated into their community with meaningful employment and stability, to not return to prison. And the—the cherry on the top is if they have their full voting rights restored and have completed their full pardon.

The results of our survey and qualitative interviews suggest that agencies use drug testing as a way to understand whether people on supervision are complying with their conditions of probation or parole. However, key informants’ responses suggest that they, as agency officials, see drug testing as part of a rehabilitative approach to supervision, and that abstinence from drug use is necessary for achieving other markers of success—employment, housing, and civic engagement. The results we present in this report highlight the widespread use of legal system consequences as a response to positive drug tests. Agencies devote significant resources to drug testing in the form of labor (for testing and data entry and maintenance) and testing contract costs. People under supervision experience the potential for lost wages, invasion of privacy, and risk of probation or parole revocation. It is clear that drug testing carries significant costs to agencies and people who are supervised. The potential benefits of drug testing, however, are concentrated in the substance-using population, many of whom are supervised by drug or specialty courts and not on general caseloads. Furthermore, there does not appear to be agreement among agencies about how the potential benefits of drug testing translate into improved community safety, especially for people under supervision who do not have a substance use disorder.

Future evaluations of drug testing’s effectiveness should first develop and elaborate the theory of change that explains how drug testing is expected to produce positive supervision outcomes, especially for people who do not have a history of problematic or illicit substance use. This theory of change would help

Towards an equitable evaluation of drug testing effectiveness

Determining whether drug testing is effective means first understanding the goals for supervision in general, and acknowledging that the individual goals of people under supervision may differ from state goals. We propose in this report that future research and evaluation of drug testing first establish the theory underlying the expectations for drug testing, and then test whether those expectations are met. But future evaluations should also consider whether drug testing interacts with other systemic factors in the criminal legal system that might compound negative consequences of drug testing for groups with marginalized or minoritized identities. Other factors like trauma, mental health diagnoses, and other disability also disproportionately affect people under supervision, and likely interact with other outcomes.

We suggest evaluators ask the following questions when designing rigorous evaluations of drug testing:

- Who do we expect to benefit from drug testing and why?
- Do we have the sample size and data available to estimate drug testing's impact across different racial and ethnic identity groups?
- Can we understand the distribution of impacts across people with varying substance use histories and recovery goals?
- Can our evaluation distinguish between state-centered outcomes like recidivism and human-centered outcomes like employment, housing, and community integration?
- Does this evaluation consider other circumstances like trauma and disability when examining outcomes?

Finally, evaluators should prioritize meaningful inclusion of people with lived experience in the design, implementation, and interpretation of evaluation findings. Given the significant variation in rehabilitative orientation and practices in community supervision, local experts with lived experience should be part of each agency-level evaluation.

clarify whether agencies primarily see drug testing as a tool to help maintain public safety, or a tool to prepare people on supervision for success in other aspects of community integration—such as employment, improved health, and successful community involvement—and the extent to which it aims to accomplish these goals through punitive or rehabilitative measures. Evaluation studies could then test these pathways, and identify whether drug testing is supporting these goals and producing outcomes that are beneficial to people under supervision. Evaluation should also take a cost/benefits approach to understanding whether the rehabilitative and criminal legal system benefits outweigh these costs.

Significant scholarly literature has examined alternative outcome measures that focus on improved life outcomes for people under supervision rather than state-centered outcomes like re-arrest, re-conviction, or returns to incarceration.^{xivxv} Aligning alternative outcome measures with evaluations of drug testing effectiveness will help researchers test whether drug testing contributes to sustained recovery from addiction and whether drug testing presents financial and logistical barriers to full integration.^{xvi} Our findings suggest that agencies have various beliefs about the ways drug testing can and should be used to maintain public safety and facilitate substance use recovery, but research has not yet made direct links between the use of widespread drug testing in general supervision populations and improved reintegration and desistance outcomes. Future research should preference these outcomes over criminal legal system outcomes, particularly since drug test results are often determinants of revocation and recidivism outcomes.

Appendices

Appendix A. Type of drug test used at the organization

	Overall (N=123)
Urine	117 (95.1%)
Breathalyzer	77 (62.6%)
Saliva	70 (56.9%)
Secure Continuous Remote Alcohol Monitor (SCRAM)	50 (40.7%)
Sweat patches	25 (20.3%)
Hair follicle	12 (9.8%)
Blood test	2 (1.6%)
Pupilometer	2 (1.6%)

The question allowed participants to select all that apply. Therefore, the percentages for this question will not add up to 100%.

Appendix B. Does agency have specific policies and practices around drug testing for the following population?

Does agency have specific policies and practices around drug testing for...	
Survivors of sexual violence	
No	102 (85.0%)
Yes	8 (6.7%)
Not sure	10 (8.3%)
People who are transgender, non-binary, intersex and/or gender non-conforming	
No	66 (54.5%)
Yes	38 (31.4%)
Not sure	17 (14.0%)
People with additional support needs	
No	82 (68.3%)
Yes	17 (14.2%)

Appendix C. What are the financial costs of drug testing?

Overall (N=123)	
Approximately what proportion of your agency's annual budget is used for drug testing?	
N	104
Mean (SD)	13.4 (10.2)
Median [Q1, Q3]	10.0 [10.0, 10.0]
Do people under supervision pay at the time of drug testing?	
Yes	28 (23.3%)
No	88 (73.3%)
Not sure	4 (3.3%)
If yes how much per test	
N	25
Mean (SD)	18.0 (8.99)
Median [Q1, Q3]	16.0 [10.0, 25.0]
Does your agency contract with one or more drug testing providers?	
No	58 (48.3%)
Yes	60 (50.0%)
Not sure	2 (1.7%)
What is the approximate annual budget for all drug testing contracts your agency holds?	
N	33
Mean (SD)	237000 (384000)
Median [Q1, Q3]	45000 [15000, 200000]

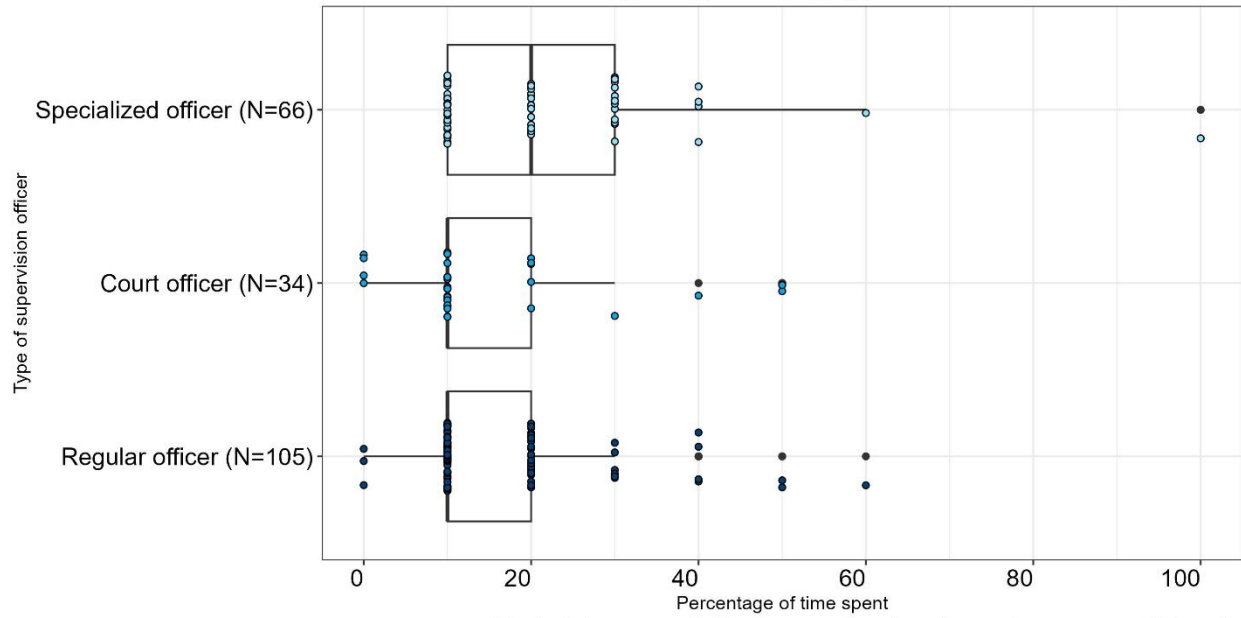
Appendix D. Who administers tests (select all that apply).

Overall (N=123)	
Supervision officer assigned to the client	99 (80.5%)
Other supervision officer	70 (56.9%)
Lab technician	26 (21.1%)
Supervision agency administrative staff	25 (20.3%)
Contracted agency/vendor/treatment provider	13 (10.6%)
Other	9 (7.3%)

The question allowed participants to select all that apply. Therefore, the percentages for this question will not add up to 100%.

Appendix E. Percent of time different types of officer spent on drug testing

Estimated percentage of time do officers at agency spend on drug testing every week by type of officer



Each dot represents the responses given by each survey participants.
The boxplot shows the median, IQR, and range of the responses

Appendix F. Interest in change drug testing policies and practice by agency characteristic

	Number of adults under supervision at the agency		
	1,000 or < (N=51)	1,001-5,000 (N=42)	> than 5,001 (N=29)
1 - Least interest	11 (27.5%)	9 (25.7%)	7 (25.9%)
2	5 (12.5%)	4 (11.4%)	2 (7.4%)
3	9 (22.5%)	5 (14.3%)	1 (3.7%)
4	1 (2.5%)	3 (8.6%)	3 (11.1%)
5	5 (12.5%)	2 (5.7%)	7 (25.9%)
6	1 (2.5%)	3 (8.6%)	3 (11.1%)
7	4 (10.0%)	4 (11.4%)	1 (3.7%)
8	4 (10.0%)	1 (2.9%)	1 (3.7%)
9	0 (0%)	2 (5.7%)	1 (3.7%)
10 - Most interest	0 (0%)	2 (5.7%)	1 (3.7%)

	Number of staff at the agency		
	50 or < (N=71)	51 – 250 (N=27)	> than 250 (N=25)
1 - Least interest	17 (29.3%)	4 (19.0%)	6 (26.1%)
2	7 (12.1%)	4 (19.0%)	0 (0%)
3	12 (20.7%)	2 (9.5%)	1 (4.3%)
4	1 (1.7%)	3 (14.3%)	3 (13.0%)
5	7 (12.1%)	2 (9.5%)	5 (21.7%)
6	4 (6.9%)	0 (0%)	3 (13.0%)
7	5 (8.6%)	3 (14.3%)	1 (4.3%)
8	4 (6.9%)	0 (0%)	2 (8.7%)
9	0 (0%)	2 (9.5%)	1 (4.3%)
10 - Most interest	1 (1.7%)	1 (4.8%)	1 (4.3%)

	Level of government of agency		
	Local (N=83)	State (N=36)	Federal (N=4)
1 - Least interest	16 (23.9%)	10 (31.3%)	1 (33.3%)
2	8 (11.9%)	2 (6.3%)	1 (33.3%)
3	13 (19.4%)	2 (6.3%)	0 (0%)
4	4 (6.0%)	3 (9.4%)	0 (0%)
5	8 (11.9%)	6 (18.8%)	0 (0%)
6	4 (6.0%)	3 (9.4%)	0 (0%)
7	7 (10.4%)	1 (3.1%)	1 (33.3%)
8	4 (6.0%)	2 (6.3%)	0 (0%)
9	1 (1.5%)	2 (6.3%)	0 (0%)
10 - Most interest	2 (3.0%)	1 (3.1%)	0 (0%)

	Category of supervision at agency			
	Felony probation (N=88)	Misdemeanor probation (N=92)	Parole or conditional release (N=41)	Pretrial supervision (N=70)
1 - Least interest	17 (23.0%)	17 (22.4%)	14 (40.0%)	12 (20.3%)
2	6 (8.1%)	7 (9.2%)	3 (8.6%)	4 (6.8%)
3	13 (17.6%)	13 (17.1%)	1 (2.9%)	10 (16.9%)
4	5 (6.8%)	6 (7.9%)	4 (11.4%)	5 (8.5%)
5	11 (14.9%)	13 (17.1%)	5 (14.3%)	10 (16.9%)
6	4 (5.4%)	5 (6.6%)	3 (8.6%)	3 (5.1%)
7	9 (12.2%)	5 (6.6%)	2 (5.7%)	7 (11.9%)
8	4 (5.4%)	6 (7.9%)	1 (2.9%)	4 (6.8%)
9	3 (4.1%)	3 (3.9%)	1 (2.9%)	3 (5.1%)
10 - Most interest	2 (2.7%)	1 (1.3%)	1 (2.9%)	1 (1.7%)

Endnotes

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