



## Division of State Police Forensic Investigation Center

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### **NYSP Toxicology - Evidential Oral Fluid Testing - FAQs**

#### **What are the preferred specimens for drug impaired driving investigations?**

- Blood and oral fluid are the preferred specimens for drug testing in impaired driving investigations. They both target the psychoactive compounds and relate to recent drug use.
- Blood can provide the most toxicological information but can be challenging to obtain in a timely manner.
- Oral fluid has similar drug detection time frames to blood but is much easier to collect.
- Urine is included in NYS laws as an option for impaired driving investigations, but it provides the least useful information. It only indicates past usage, which can be days to weeks. For many drugs, only inactive metabolites (breakdown products) are detected.

#### **What specimens are recommended for the different types of impaired driving investigations?**

- For fatal and serious physical injury motor vehicle investigations, it is recommended to collect BOTH blood and oral fluid. Oral fluid can often be collected earlier in the process than blood, since blood requires medically trained personnel.
- For non-injury misdemeanor DWAI-drug investigations, oral fluid OR blood can be collected. Using oral fluid may be beneficial to save time and resources.
- If new or novel drugs are suspected, blood should be collected.
- There are no circumstances under which urine collection is recommended.

#### **What are the benefits of using oral fluid?**

- Ease of collection – it's a rapid, gender neutral, minimally invasive collection process; no medically trained personnel are needed.
- Drug presence indicates recent drug use.
- Toxicology evidence can be collected earlier in the process. (Drugs are broken down over time and disappear from the body, so time is critical.)

#### **What are the limitations of using oral fluid?**

- Oral fluid drug concentrations generally do not correlate to blood concentrations.
- Testing for novel psychoactive substances has limited (if any) availability.
- Roadside oral fluid screening and evidential oral fluid testing are independent processes requiring independent samples.
- Testing options are specific to the collection device. (NYSP Tox methods only allow for the Quantisal™ collection device.)

#### **What's the difference between onsite and evidential oral fluid testing?**

- Onsite oral fluid testing, sometimes referred to as roadside or field testing, is similar to the preliminary breath test (PBT). It is a *screening* tool. It can preliminarily identify common drugs or drug classes.
  - It requires a subsequent evidential sample (e.g. blood or oral fluid) be collected.
- Evidential oral fluid testing is done by a laboratory and meets the same level of forensic testing standards as blood or urine.
- The NYSP Toxicology program is for *evidential* oral fluid testing.

### Can evidential oral fluid testing be used in New York State?

- YES
- VTL 1194.2 Chemical Tests
  - (a) ...a chemical test of one or more of the following: breath, blood, urine, or saliva...
- 10 NYCRR 59.1 Definitions
  - (k) Saliva means oral fluid

### Is oral fluid testing for drugs new and novel?

- NO
- Oral fluid drug testing is generally accepted in the relevant scientific community.
- Commonly used in various sectors including workplace testing, pain management, probation, and impaired driving.
- Scientific literature demonstrates that oral fluid is an appropriate alternative to blood for drug testing.
- NYSP Tox testing uses the same techniques and instruments that are already in place for blood and urine drug testing.
- NYSP Tox testing methods are in conformance with ANSI/ASB standards for forensic toxicology.

<https://www.aafs.org/academy-standards-board>

### What does a toxicology report look like for oral fluid drug testing?

- NYSP Tox oral fluid testing results are reported as positive or not detected, quantitative values (i.e. amounts) are not provided.
- The final page of the laboratory report indicates the scope of testing conducted, oral fluid testing covers the same drugs already tested for in blood and urine.

### What does a positive oral fluid drug test result mean?

- A positive drug result in oral fluid is consistent with recent drug usage. The exact window of detection depends on the drug, how much someone took, how they took the drug, and their individual pharmacology.

### Do positive oral fluid drug results indicate impairment?

- NO
- A toxicology result on its own for any type of specimen (blood, urine, oral fluid) does not prove impairment.
- The results of toxicology testing must be used in conjunction with all the information pertinent to the investigation (e.g. officer observations, witness statements, driving behavior, DRE evaluation, etc).

### Can oral fluid be tested for alcohol at the NYSP Lab?

- NO
- Oral fluid testing at the NYSP Lab is ONLY for drugs.
- Blood or breath must be used for alcohol (ethanol) testing.

### Contact Information:

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### References:

[AAA Use of Oral Fluid to Detect Drugged Drivers: A Toolkit](#)

[Drug Toxicology for Prosecutors, 2023 Edition, National Traffic Law Center](#)

