

Australian Capital Territory

Corrections Management (Drug Testing) Policy 2011 (No.2)

Notifiable instrument NI2011-719

made under the

***Corrections Management Act 2007*, section 14(1) (Corrections policies and operating procedures)**

1 Name of instrument

This instrument is the *Corrections Management (Drug Testing) Policy 2011 (No. 2)*.

2 Commencement

This instrument commences on the day after it is notified.

3 Policy

I make the

DRUG TESTING POLICY

attached to this instrument, to facilitate the effective and efficient management of correctional services.

4. Revocation

This instrument revokes notifiable instrument NI2011-253.

Bernadette Mitcherson
Executive Director
ACT Corrective Services
25 November 2011



Alexander Maconochie Centre (AMC)



DRUG TESTING POLICY

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Purpose

To outline the drug testing policy.

Authority

Legislation

Corrections Management Act 2007, section 14, Part 9.6, Part 10 and section 221.

Legislation Act 2001.

Policy

Principles

The possession or use of drugs is prohibited. This includes illicit drugs and medication which was not prescribed to the individual concerned.

Section 152 of the *Corrections Management Act 2007* (the Act) states that the following are disciplinary breaches:

...

- (d) *taking (in any way) alcohol or a drug into the detainee's body;*
- (e) *providing a positive test sample for alcohol or a drug when directed, under this [the Corrections Management Act 2007] or the Crimes (Sentence Administration) Act 2005, to provide a test sample;*
- (f) *making, possessing, concealing, knowingly consuming or dealing with a prohibited thing, without the chief executive's approval; and...*
- (o) *possessing or dealing in things without the chief executive's approval.*

One objective of drug testing is to detect breaches of section 152.

Another objective is to measure the use of drugs by detainees, both prior to entry to the AMC and after entry. The purpose of such measurement is to:

- provide a baseline level of drug usage by individual detainees before entry to inform drug usage management; and

- statistically measure ongoing drug usage by the detainee population after entry to inform the success of demand and supply reduction strategies.

Section 134 of the Act provides that a detainee may be directed to provide a test sample.

Section 221 of the Act provides that random testing may be conducted for statistical purposes.

Reference to 'methadone' in this policy includes all derivatives of methadone.

Types of Drug Testing

Drug testing may be undertaken in the following ways:

- targeted testing;
- random testing; and
- admission testing.

Targeted Testing will be used where intelligence suggests that a detainee may be in breach of s152. Detainees subject to targeted testing will be formally identified by an Intelligence Officer and/or a senior Custodial Officer (C03 or above). Positive results from such testing, excluding a positive methadone result for individuals on a methadone program, will result in disciplinary action.

Random Testing will be undertaken at the discretion of the Superintendent consistent with s221 of the Act. Random testing of an individual detainee or a number of detainees may occur. Positive results from such testing cannot result in disciplinary action. As the tests are only used for statistical purposes, no records are kept that identify the donor of the test sample.

Admission Testing will be undertaken on all new detainee admissions to the AMC. Admission testing will be conducted within 72 hours of a detainee's induction to the AMC. This may also include testing for Buprenorphine and Methadone. The results of such testing will be used to inform:

- the understanding of drug usage prior to prison entry;
- the development of rehabilitation programs and entry to such programs; and
- whether the results of later testing of individual detainees has resulted in a decline in the presence of drugs.

If an admissions test is positive, there is no requirement for further lab testing of that sample.

Positive results from such testing will not result in disciplinary action. However, detainees can be disciplined for failing to follow a reasonable direction to supply a urine sample, on any occasion as outlined.

While all new admissions should be tested, it is understood that a test may not have been possible where a detainee is released from the AMC within 72 hours of induction.

Methods of Drug Testing

Urinalysis will be the primary means of drug testing within the AMC.

Other methods, such as oral screening, may be used to provide an indicator of the presence of drugs. Indicative testing will not be used for disciplinary purposes but discipline action may result from subsequent further testing as a result of a positive indicator.

Positive Samples

Under s133 of the Act, a detainee is taken to have provided a positive sample if:

- the detainee fails or refuses to provide a test sample in accordance with the direction;
- the detainee provides an invalid test sample; or
- the detainee provides a sample showing that he/she has taken a non-prescribed drug while in ACT Corrective Services custody.

Reasonable excuse for failure to supply

The only grounds on which a detainee can fail to supply a sample without it being deemed positive is where there is a medical condition or prescribed medication that may affect test results. This reason must be supported by medical advice from Justice Health Services.

Invalid samples

Under s133 of the Act, a detainee is taken to have provided an invalid test sample if:

- the detainee tampers or attempts to tamper with the test sample; and/ or
- the detainee changes or attempts to change the results of the test sample.

Positive result received

Detainees whose urinalysis test results are positive will be subject to disciplinary action pursuant to the *Prisoner Discipline Policy and Procedure*.

The only exceptions to this are:

- where the detainee is prescribed the drug by a medical professional;
- where the detainee tests positive to cannabis and has been in custody for less than 42 days; or
- where the detainee tests positive to a non-prescribed drug other than cannabis and has been in custody for less than 72 hours.

Taking a Test Sample

All test samples will be conducted in the presence of at least two Corrections Officers. One Corrections Officer will be designated as the Collecting Officer and the other will be the Witnessing Officer (and where required, a third monitoring officer). The purpose of assigning at least two officers to this process is to ensure that procedures are undertaken correctly and that the safety of both detainees and officers is maintained. All testing must be appropriately recorded.

If the drug testing involves oral screening, only one of the officers must be of the same gender as the detainee.

If the drug testing involves the collection of urine, both officers must be the same gender as the detainee being tested.

Forms/Templates

Urine Sample Form

Chain of Custody Form

Pathology Request Form

Related policies and procedures

Discipline Policy

Discipline Procedure

Drug Testing Procedure