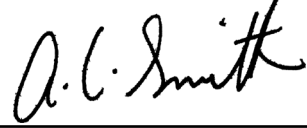




Department of
Rehabilitation & Correction

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| SUBJECT: | PAGE <u>1</u> OF <u>8</u> |
| Drug Testing of Incarcerated Individuals | NUMBER: 70-RCV-03 |
| RULE/CODE REFERENCE: ORC 5120.01 | SUPERSEDES: 70-RCV-03 dated 12/02/2019 |
| RELATED ACA STANDARDS: 5-ACI-5E-11 (4437) | EFFECTIVE DATE: June 1, 2021 |
| | APPROVED:  |

I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

II. PURPOSE

The purpose of this policy is to deter incarcerated individual drug use and trafficking by providing uniform guidelines for incarcerated individual drug testing, as well as sanctions for those found guilty of Rule 39-Unauthorized Possession, Manufacture or Consumption of Drugs or any Intoxicating Substance, Rule 41-Unauthorized Possession of Drug Paraphernalia, or Rule 43-Refusal to Submit Urine Sample or Otherwise Cooperate with Drug Testing.

III. APPLICABILITY

This policy applies to all institutional staff employed by or under contract with the Ohio Department of Rehabilitation and Correction (ODRC). This also includes all individuals incarcerated in ODRC institutions and private institutions with ODRC incarcerated individuals.

IV. DEFINITIONS

The definitions for the below listed terms can be found at the top of the ODRC policies page on the ODRC Intranet at the following:

[Definitions Link](#)

- **Drug Testing Coordinator**
- **Security Staff**

V. POLICY

It is the policy of the ODRC to enhance public safety, provide for incarcerated individual accountability, institutional control and order by establishing zero tolerance of drug use within institutions by incarcerated individuals. Drug testing shall not be used as a tool for harassment or to discriminate against an individual based on age, race, color, religion, gender, national origin, ancestry, sexual orientation, political views, or disability.

VI. PROCEDURES

- A. The analysis of all incarcerated individual urine specimens shall be conducted utilizing an instant testing device approved by the Director/designee. All private prison contractors may elect to use a private laboratory with the approval of the private contract administrator, providing the laboratory is certified by either the Clinical Laboratory Improvement Amendments – Health Care Financing Administration (CLIA 1988-HCFA) or the College of American Pathologists (CAP).
- B. Individuals arriving from the community that test positive for marijuana use within the first forty-five (45) days of incarceration shall not be subjected to sanctions.
- C. Incarcerated individuals shall be tested as follows:
1. Random
 - a. Each month, 5% of each institution’s population shall be randomly selected for drug testing. Incarcerated individuals shall be selected by computer assignment. Incarcerated individuals assigned to reception status shall not be included in those institutions’ random sample.
 - b. Saturation level testing is to be completed once a year, excluding reception individuals. A statistically valid sampling of each institution’s population shall be selected for testing as determined by the Bureau of Research and Evaluation. This process provides a basis for comparison of drug levels annually at each institution. Saturation testing is considered the random testing for the month in which it takes place.
 2. For Cause

Incarcerated individuals shall be tested when there is a reasonable suspicion of drug use. Only those staff designated on the “For Cause Drug Screening Request” form (DRC4439) have the authority to approve a “For Cause” drug test. At a minimum, the shift commander on every shift must have this authority. A “For Cause” drug screening request form (DRC4439) shall be utilized when requesting a “For Cause” test.
 3. Program

This category shall include all other tests where sub-population is to be tested to include, but not limited to, the following:

 - a. Recovery Services Treatment Programs once every two (2) months in addition to any other testing category,
 - b. Once every two (2) months, 5% of the incarcerated individuals who leave the secured perimeter of the institution as part of their job responsibility shall be randomly selected for testing in addition to any other testing category,
 - c. Before all hearings listed on the parole board call sheet and after hearings wherein an offender is approved for release,

- d. Incarcerated individuals under medication treatment for Hepatitis C as requested by the physician,
- e. As indicated by the managing officer/designee.

D. Specimen Testing

1. All specimens sent to a private lab services vendor and alternative sites used by private prisons for confirmation testing shall be screened using approved National Institute of Drug Abuse (NIDA) testing methodologies to screen urine samples.
2. Positive drug test results may be challenged by the incarcerated individual who tested positive as detailed in section VI.K of this policy.
3. All positive drug screens subject to challenge by the incarcerated individual shall be confirmed by alternative method, via gas chromatography/mass spectrometry (GC/MS) or liquid chromatography/mass spectrometry (LC/MS). GC/MS and/or LC/MS will confirm the presence and identify the drug that caused a positive screen.

E. Each managing officer shall appoint a drug testing coordinator to be responsible for the coordination, monitoring, and service provisions of the drug testing program. All drug test requests shall be processed through the drug testing coordinator. Collection of specimens shall be a security staff function.

F. A complete drug testing kit(s) shall always be made accessible to shift personnel. The kit(s) shall include those items listed in section VI.H of this policy.

G. Each institution shall develop local policies and procedures describing how this policy shall be implemented at their institution. The institution policy shall include specific drug testing procedures, retesting parameters and procedures, and sanctions for incarcerated individuals who are found guilty of Rule 39-Unauthorized Possession, Manufacture or Consumption of Drugs or any Intoxicating Substance, Rule 41-Unauthorized Possession of Drug Paraphernalia, or Rule 43-Refusal to Submit Urine Sample or Otherwise Cooperate with Drug Testing.

H. Supplies needed for specimen collection shall include:

1. ODRC approved instant testing device
2. Indelible ink pen
3. Latex gloves
4. Eight ounce (8oz) drinking cups

I. Collection Procedures

1. The drug testing coordinator is responsible for preparing all necessary documentation and coordination of chain of custody procedures for specimen collection. The drug testing coordinator shall prepare all necessary supplies needed for urine collection.
2. Security staff shall perform urine collection functions as described in this section. All testing of incarcerated individuals shall be done under direct staff observation by staff of the same gender as the incarcerated individual and in a manner that shall ensure the

integrity of the testing procedure. Incarcerated individuals shall be offered reasonable privacy and sanitary conditions during the drug testing process.

- a. Universal precautions shall be used by all staff during the entire urine collection process.
- b. The collection area shall be searched and cleared of any items or substances that could be used to adulterate the specimen.
- c. Before the collection of the specimen, the incarcerated individual's identity shall be verified via ID card.
- d. The individual shall be instructed to remove any garment obstructing the collecting staff member's field of vision of the genital area and to ensure no items are concealed that could tamper with the specimen.
- e. The individual shall be instructed to rinse and dry their hands before testing.
- f. The collecting staff shall examine the incarcerated individual's arms and hands before observing the collection.
- g. The collecting staff shall directly observe the urine stream.
- h. A minimum of 30 ML of urine shall be deposited in the ODRC approved instant testing device
- i. Pursuant to ODRC Policy 10-SAF-13, Infectious Waste Management, if there is an appearance of blood visible in the urine specimen, the specimen shall be considered a potentially infectious material and shall be disposed of into a sanitary sewer if the disposal is allowed in the wastewater treatment system.
- j. Collecting staff shall check the temperature strip to verify that the specimen is within normal range (between 90° - 100° Fahrenheit)
- k. After five minutes, collecting staff shall peel off the testing device privacy label and read the results. Specimen must be checked within ten minutes to be valid.

J. Reporting Results:

1. All positive drug test results shall be recorded on a Conduct Report (DRC4018).
2. The incarcerated individual shall be provided a copy of an Admission or Denial of Positive Drug Test Result (DRC2072) and shall select the appropriate response. The completed Admission or Denial of Positive Drug Test Result (DRC2072) shall be provided to the institution drug testing coordinator for use in completing the monthly incarcerated individual drug test report.
3. The hearing officer shall impose discipline and/or sanctions as detailed in section VI.N of this policy except for those involving restrictive housing time which must be referred to the institution Rules Infraction Board (RIB). Restrictive housing time may be imposed based on the severity of the violation or if the individual is a repeat offender.

K. Confirmation Testing Chain of Custody

1. Collecting staff shall notify the incarcerated individual of their right to request confirmation testing of the drug test results and the costs associated with performing the confirmation testing as established by the private lab services vendor. The individual will also be advised that he/she will be charged for the cost of the confirmation test if it is determined to be positive.

2. If the incarcerated individual requests confirmation testing, the individual's urine sample shall be sealed in the instant-testing device while in their presence utilizing container seal tape provided by the vendor. The seal tape shall clearly indicate the incarcerated individual's name, identification number, collection date and shall be initialed by the incarcerated individual. A Conduct Report (DRC4018) will not be issued until the results of the confirmation test have been received from the private lab services vendor.
3. A chain of custody form provided by the vendor shall be completed with the names and numbers of all incarcerated individual specimens in the lot and shall always accompany the collection containers. The number of individuals handling the specimens shall be kept to a minimum.
4. The drug testing coordinator shall arrange for transportation of the urine samples to the specified lab as soon as feasible, not to exceed seven (7) days, after the collection takes place.
5. Upon receipt of a positive confirmation test, the procedures listed in section VI.J above shall apply.

L. Inability or Refusal to Produce a Urine Specimen

Incarcerated individuals who immediately claim to be unable to produce a specimen shall be provided no more than eight (8) ounces of water per hour for no more than three (3) hours and remain with the drug testing coordinator until a specimen is produced. If at the end of three (3) hours the individual has failed to produce a specimen, a conduct report for Rule 43-Refusal to Submit Urine Sample or Otherwise Cooperate with Drug Testing shall be issued.

1. If found guilty, then sanctions shall apply as if the incarcerated individual tested positive.
2. Incarcerated individuals that otherwise refuse to provide a specimen or are observed attempting to adulterate the sample or tamper with the collection process shall be issued a Conduct Report (DRC4018) for Rule 43-Refusal to Submit Urine Sample or Otherwise Cooperate with Drug Testing. Sanctions are to be applied as stated in section VI.N of this policy.
3. When an incarcerated individual claims to have a medical condition which prevents him/her from providing a sample within the guidelines of this policy, the shift commander shall consult with medical staff and decide upon a reasonable course of action in collaboration with the drug testing coordinator. Should a bona fide medical reason exist which prevents compliance with this policy, collection personnel shall defer to the judgment of health care staff.

M. Reporting of Results

1. All positive drug test screen results shall be reported to the institution drug testing coordinator. Negative drug test screen samples shall be immediately destroyed.

2. Upon receipt of a positive drug test screen or confirmation, the drug testing coordinator shall consult with the institution's health care administrator and mental health administrator to determine any possible cross-reactivity with any prescribed medication(s) the incarcerated individual may be taking. The positive test results shall be recorded in the individual's electronic health record.
3. Positive drug test results shall also be reported to the institution's recovery services supervisor/designee via the Referral to Recovery Services (DRC5502).
 - a. A licensed/credentialed recovery services staff member shall meet with the incarcerated individual to discuss AA/NA support meeting schedules and the most appropriate Alcohol and Other Drugs (AOD) treatment options available after the completion of sanctions.
 - b. A licensed/credentialed recovery services staff member shall complete the ODRC Recovery Services Program Screening Application (DMHAS7181/DRC4254) and note that the interview was initiated due to a positive drug screen.
 - c. A progress note shall be written to document the encounter.
4. The institution drug testing coordinator shall maintain all positive test results in the individual's electronic unit file.
5. Institution security staff conducting the drug tests shall issue conduct reports to those incarcerated individuals who have a positive drug test screening result at the time of the screening and who do not request confirmation testing and have a signed Admission or Denial of Positive Drug Test Result (DRC2072).
6. Institution security staff conducting the drug tests shall notify the incarcerated individual of his/her right to request confirmation testing of the drug test results and the costs associated with performing the confirmation testing as established by the private lab services vendor. Based on institutional need, the individual may be held in restrictive housing pending notification of the confirmation test results. The cost of the confirmation test shall be held in abeyance pending notification from the private lab services vendor of a positive confirmation test.
7. For individuals who are tested before and after parole hearings, the results of positive tests shall be shared with the institutional parole board parole officer who shall then notify the Parole Board. A positive drug test may result in the denial of parole.
8. Each drug testing coordinator shall submit a monthly report, ODRC Incarcerated Individual Drug Testing Report (DRC2114), of all drug testing activities to the Office of Prisons designee no later than the 10th day of the following month.
9. All prisons are required to form a drug interdiction committee and establish an institutional drug interdiction plan. The committee shall be comprised of at least the following members, with more assigned at the discretion of the managing officer:
 - Visiting supervisor,
 - Mailroom supervisor

- Investigator,
 - Chief of Security,
 - STG coordinator, and
 - Unit Management Chief.
- a. The plan shall be submitted in writing to the managing officer and shall, at a minimum, contain the following elements:
- i. Current trends,
 - ii. Intelligence on suspected avenues of major conveyance,
 - iii. Recent operation actions/interdiction efforts and their outcomes,
 - iv. Specific operational goals which are simple, measurable, achievable, and relevant, and
 - v. Strategies which will be implemented to achieve those goals in the next six (6) months.
- b. The committee shall meet no less than semi-annually and update the plan, but the plan shall also be updated more frequently if there are either emerging trends in the drug testing results, there is feedback from the implementation of strategies which revealed new needs, or recent intelligence indicated a change in the plan was advisable. Each time the plan is updated, it shall be signed and approved by the managing officer and submitted to the appropriate regional director.

N. Sanctions and Other Administrative Actions

1. Upon conviction of Rule 39-Unauthorized Possession, Manufacture or Consumption of Drugs or any Intoxicating Substance, Rule 41-Unauthorized Possession of Drug Paraphernalia, or Rule 43-Refusal to Submit Urine Sample or Otherwise Cooperate with Drug Testing, the institution departments responsible for enforcement of sanctions (i.e., Commissary, Visiting, Mailroom, etc.) shall be notified via the incarcerated individual discipline screen located in DOTS Portal. Monitoring of compliance with sanctions shall be primarily a Unit Management function.
2. If convicted of any of the rule violations detailed in section VI.N.1 of this policy, the incarcerated individual shall be required to pay for the first positive drug test (amount to be determined by the cost of the test) and any subsequent tests done as part of the sanctions imposed by the hearing officer and/or RIB. At least one (1) subsequent test shall be performed within thirty (30) days on each incarcerated individual who has tested positive previously. If a confirmation test was requested by the incarcerated individual and determined to be positive, the cost of the confirmation test shall be paid by the incarcerated individual. The hearing officer or RIB may issue a restitution order for the costs of the tests should the incarcerated individual have insufficient funds in his/her account. If a confirmation test was requested by the incarcerated individual and determined to be negative, he/she shall not be charged for the first positive test nor charged for the confirmation test.
3. In addition to disciplinary sanctions or administrative actions identified by administrative rules, the managing officer shall develop a list of escalating sanctions available to the RIB and/or institution hearing officer for any violations of Rule 39-Unauthorized Possession, Manufacture or Consumption of Drugs or any Intoxicating Substance, Rule

41-Unauthorized Possession of Drug Paraphernalia, or Rule 43-Refusal to Submit Urine Sample or Otherwise Cooperate with Drug Testing.

O. Staff Training

1. Drug testing coordinators shall receive training in the process of urine specimen collection. The Office of Prisons shall arrange for the training of all drug testing coordinators.
2. Drug testing coordinators shall train security staff involved in the collection of urine specimens.
3. Each institution shall designate and train a back-up drug testing coordinator who shall function in the absence of the coordinator.

Referenced ODRC Policies:

10-SAF-13 Infectious Waste Management

Referenced Forms:

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| Admission or Denial of Positive Drug Test Result | DRC2072 |
| Incarcerated Individual Drug Testing Report | DRC2114 |
| Recovery Services Program Screening Application | DMHAS7181/DRC4254 |
| Conduct Report | DRC4018 |
| For Cause Drug Screening Test | DRC4439 |
| Referral to Recovery Services | DRC5502 |