



Department of Corrections and Rehabilitation
NOTICE OF CHANGE
TO DEPARTMENT OPERATIONS MANUAL

SUBJECT: Chapter 5, Article 15
Controlled Substances

Transmittal Letter Number:

16-01

Revision Date:

January 5, 2016

The purpose of this document is to provide information regarding the amendments to Department Operations Manual (DOM) Chapter 5, Article 15, Controlled Substances.

Revisions to this article are necessary to incorporate the medical review process initiated by the California Correctional Health Care Services, for inmates who provide a positive urinalysis for Controlled Substances. The medical review process is to determine whether prescription medications were the cause of the positive test results. In addition, Chapter 5, Article 15 was revised to provide updates on identifying the reason for urinalysis testing and basis for field testing of controlled substances. These DOM updates now reference the Mandatory Random Urinalysis Testing (MRUP) that was adopted into Title 15 regulations in 2014.

These revisions and additions were prepared by the Division of Adult Institutions (DAI).

Please inform all persons concerned regarding the contents of this notice. If you have any questions, please contact Bryan Donahoo, DAI at (916) 323-2160.

Original Signed By

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DEPARTMENT OF CORRECTIONS AND REHABILITATION
Operations Manual

CHAPTER 5 — ADULT CUSTODY AND SECURITY OPERATIONS

ARTICLE 15 — CONTROLLED SUBSTANCES

Revised January 5, 2016

52010.1 Policy

The California Code of Regulations (CCR) includes a disciplinary process and evidence control system for controlled substance-related offenses by inmates. The CCR also prohibits employees and visitors from being under the influence of, or possessing alcohol or controlled substances while on Department owned/controlled property. Exception: staff and adult guests residing in employee housing are authorized to maintain and consume alcoholic beverages within those residences, in accordance with local institutional policies and procedures.

Each Warden and Regional Parole Administrator (RPA) shall ensure that procedures for preventing the introduction of controlled substances and alcohol into their jurisdiction are in place and enforced.

Each Warden and RPA shall ensure that any controlled substance that is confiscated in their jurisdiction is recorded, stored, tested, and disposed of in accordance with applicable laws.

52010.2 Purpose

This section establishes standard procedures for recording, storing, field testing, and the disposal of controlled substances. This section also establishes a procedure to ensure that all urine samples obtained from inmates for laboratory analysis are collected and processed in a uniform method which consistently maintains the approved chain of evidence.

52010.2.1 Goal Statement

The CDCR utilizes a variety of methods for testing inmates and parolees to detect the use of controlled substances and alcohol, and responds to positive tests with sanctions and/or interventions. The purpose of the testing, sanctions, and interventions are to reduce drug use, to hold individuals accountable for their actions, to provide opportunities for long-term recovery from addiction, and to increase institutional security and public safety. All CDCR inmates and parolees are subject to testing. All confirmed positive tests shall result in sanctions and/or intervention.

52010.3 Definitions

Controlled Substance

Controlled Substance means any substance, drug, narcotic, opiate, hallucinogen, depressant or stimulant as defined by Health and Safety Code (H&SC) section 11007. Also included are prescribed medications containing any of the substances identified in H&SC section 11007.

Controlled Medication

Controlled Medication means any drug which is prescribed by a physician and is given to a patient in controlled dosages.

Distribution/Distributing

Distribution/Distributing means the sale or unlawful disbursing, by an inmate or parolee, of any controlled substance, or the solicitation of, or conspiring with others in arranging for, the introduction of controlled substances into any CDCR institution, camp, contract health facility, or community correctional facility for the purpose of sales or distribution.

Laboratory

Laboratory means any toxicological or criminalistics laboratory which has been recognized by the state; other certifying agency, or which is accepted by any local, county, or state prosecuting authority to provide evidence as to the presence of controlled substances in human body fluids or confirm that a substance is or contains a controlled substance.

52010.4 Description of Offenses

Possession, Distribution of Controlled Substances or Controlled Medications

Inmates are prohibited from possessing, injecting, ingesting, or otherwise introducing into their body any controlled substance, controlled medication, or intoxicant while incarcerated or under the supervision of CDCR without specific authorization to do so from a licensed CDCR or contract physician or psychiatrist. Inmates are prohibited from distributing, exchanging, soliciting, or arranging for the introduction of controlled substances or controlled medications into any CDCR institution/facility. Visitors are prohibited from possessing or being under the influence of any intoxicant or controlled substance while on or within CDCR owned or controlled property.

Under the Influence of Controlled Substance or Intoxicants

Inmates are prohibited from being under the influence of alcohol, controlled substances, or other intoxicant not defined as a controlled substance, in any CDCR institution/facility.

Refusing to Provide a Urine Specimen

Inmates may not refuse to provide an adequate urine sample for the purpose of testing for the presence of controlled substance(s) when lawfully ordered to do so. If an inmate is unable to provide a urine sample, the inmate shall be offered eight ounces of water to assist in providing a urine sample. The inmate shall also be allowed up to three hours, under staff observation, to provide a urine sample. Inmates who refuse or are unable to provide a urine sample shall be subject to disciplinary action in accordance with CCR 3323(h)(5). If an inmate is unable to provide 20 cc of urine, within this time period, this shall be presumed a refusal. An inmate may rebut this presumption during the disciplinary process.

52010.5 Testing of Controlled Substances

The Department shall prescribe the products, equipment, and methods for testing suspected controlled substances or for the use of alcohol. "Field" or on-site testing shall be conducted by trained personnel only.

52010.6 Basis for Field Test

Field tests may be performed on any suspected substance found on institution property or in the possession or under the control of any inmate, or in the possession or under the control of persons other than inmates who come on institution property. Field tests of urine samples may be performed as a screening process prior to laboratory testing.

A sobriety test shall be conducted when there is reasonable suspicion the inmate may be under the influence of a controlled substance or alcohol.

52010.7 Field Testing Methods and Systems

All narcotic field test kits/systems shall be approved by the California Department of Corrections and Rehabilitation.

Approved departmental testing methods are as follows:

- Field or On-Site Testing - The testing of confiscated suspected controlled substances.
- Drug or Urine Testing - The securing of a urine sample from inmates for the purpose of testing for the presence of controlled substances or for the use of alcohol that the inmate has ingested, inhaled or injected into their body.
- Sobriety Testing - The testing of physical indicators such as slurred speech, dilated pupils, or impaired mobility which would indicate that the inmate is under the influence of a controlled substance or alcohol.

52010.8 Substances to be Recorded

Records shall be maintained which document seizures of all controlled substances listed in H&SC 11054, 11055, 11056, 11057, or 11058, and substances confirmed to be controlled medication.

52010.9 Recording of Confiscated Controlled Substances

The seizure of any controlled substance or medication shall be documented in an evidence log book to be maintained by each institution/facility. The documentation shall include the CDCR number and name of each inmate from whom controlled substances are confiscated; the name, title, address, and identification number of any other person(s) from whom controlled substances are confiscated; the type of substance(s) that were confiscated; the amount (by volume or weight) of each substance that was confiscated; the place where the substance(s) is to be stored; the disposition of each substance, and whether or not the substance is being held as evidence for prosecution purposes.

52010.10 Controlled Medication

Inmates shall not possess controlled medication in quantities exceeding the dosage specifically authorized by the institution's/facility's health care staff, nor may an inmate possess controlled medication prescribed to another inmate.

Identification of Controlled Medication

The identification of intact controlled medication may be confirmed by a licensed pharmacist and that confirmation may be used as evidence in a disciplinary hearing.

52010.11 Drug and Alcohol Paraphernalia

Inmates shall not use or possess any device, contrivance, instrument, or paraphernalia intended to be used for unlawfully injecting or consuming into the human body a controlled substance as identified in H&SC section 11014 or for the fermentation or distillation of alcohol.

52010.12 Causes for Urinalysis Testing

The securing of a urine sample from an inmate, for the purpose of testing for the presence of controlled substances or for the use of alcohol may be done for the following reasons:

- Random Selection – When mandatory random testing is known to the inmate to be a condition for the inmate's participation in a specific program, assignment, or activity.
- Suspect – When there is reasonable suspicion to believe the inmate has possessed, distributed, used, or is under the influence of a controlled substance or alcohol.

- **Mandatory Random Drug Testing (MRDT)** – As part of an authorized disposition of a disciplinary hearing pursuant to CCR 3315(f)(4).
- **Mandatory Random Urinalysis Program** – The inmate is selected by the department’s mandatory standardized random drug testing selection process, in where, a small percentage of inmates are randomly selected at predetermined regular intervals (e.g., daily, weekly) from a data file produced from the department’s Strategic Offender Management System.

52010.13 Random Selection Method

Random testing shall be conducted a minimum of four days per week. Random selection shall be made by a computer program which assures the random nature of the selection. Inmates shall be tested each time they are selected, regardless of the recency of the inmates' last test. Inmates shall not be subject to additional disciplinary action for a positive test if that positive test is cumulative evidence of a previously charged disciplinary action.

52010.14 Random Selection Frequencies

To determine the inmates to be tested on each day of testing, the CDCR numbers of the population subject to testing are entered into the computer program, and the program is adjusted to produce a selection equal to the percentage of the population to be tested on that day, according to the reason for the random selection, as follows:

Evidence Based Substance Abuse Treatment Program Population

Inmates in institutional programs providing substance abuse treatment are subject to random testing at a frequency of not less than ten percent of the institution's substance abuse program population per week.

Mandatory Random Drug Testing Population

Inmates subject to MRDT as described in DOM 52010.12 are subject to random testing according to the following frequencies:

First Offense - A frequency of 25 percent of the institution's MRDT population per week. Any inmate not randomly selected during the first three weeks of each month shall be tested during the fourth week.

Second Offense - A frequency of 50 percent of the institution's MRDT population per week. Any inmate not randomly selected during any week shall be tested the following week.

Third and Subsequent Offenses - A frequency of 100 percent of the institution's MRDT population per week. All inmates shall be tested no later than the last testing day of each week.

52010.15 Mandatory Random Drug Testing

Inmates found guilty of a rule violation related to the use, possession, sale, distribution, or introduction of controlled substances, drugs, or drug paraphernalia; or refusal to submit to a test for controlled substances or drugs shall be placed on the institution’s MRDT list. The institution Drug Testing Coordinator (DTC) shall establish and maintain the MRDT list and schedule.

Inmates placed on MRDT shall be subject to MRDT in accordance with CCR 3315(f)(4)(D).

The hearing official shall document the testing requirements on a CDC Form 1879, Notice of Mandatory Random Drug Testing Requirements. The original document shall be scanned into the inmate’s Electronic Records Management Systems file and a copy maintained by the DTC.

If the inmate transfers prior to completion of the MRDT period, the receiving institution shall impose the remaining MRDT period upon classification review.

52010.16 Drug Testing Coordinator

Each institution shall designate a DTC at the rank of sergeant or above.

The DTC is responsible for:

- Monitoring the procedural operation of this section.
- Ensuring inmates found guilty in a disciplinary hearing of a drug related offense are placed on the institutional MRDT list.
- Ensuring inmates placed on the MRDT list are tested in accordance with CCR 3315(f)(4)(D).
- Approving and reviewing the accuracy of the MRDT list prior to testing.
- Reviewing all drug testing logs for accuracy and completeness.
- Ensuring all staff involved in the drug testing process are properly trained.
- Ensuring that the institution maintains a sufficient stock of sample bottles, lids, and labels.

52010.17 Staff Requirements/Urine Sample Collection

Only staff properly trained and certified in the collection and processing of urinalysis samples shall be involved with the urine testing process.

Staff observing the collection of the urine sample shall be of the same gender as the inmate being tested.

52010.18 Urine Sample Collection Procedures

The securing of a urine sample from an inmate for the purpose of testing for the presence of controlled substances or for the use of alcohol shall be conducted in accordance with CCR 3290(c).

When collecting the urine sample, staff shall ensure that reasonable security is maintained, consideration is given to the privacy of the inmate, and the test is conducted in a sanitary manner.

All urine collection shall be conducted in an area designated by the Institution Head.

Pre-Collection Duties

The following functions shall be completed prior to the collection of the urine sample(s):

- Prior to the test, staff shall conduct a thorough search of the area used to obtain the urine sample before the inmate enters the area. All potential contaminants shall be removed prior to the collection of the urine sample.
- Establish positive identification of the inmate by picture identification card.
- Ensure the inmate providing the sample removes any unnecessary garments or personal property and leaves these items outside the collection area.
- The staff member collecting the urine sample shall inform the inmate of the reason(s) for requesting the urine sample. The inmate shall also be informed a refusal to provide a urine sample shall result in disciplinary action.
- An inmate claiming the urine test may be affected by a prescription medication shall be offered a CDCR 7385, Authorization for Release of Protected Health Information form, in order for staff to obtain a copy of his/her Medication Administration Record (MAR) for later review under section 52010.23. The inmate will still be required to provide a urine sample.

Collection of Urine Sample

Staff shall adhere to the following process during the collection of urine sample:

- The sample collection shall be conducted in a sanitary setting, using universal precautions.
- The staff member shall wear disposable gloves during the urine sample collection process.
- The inmate shall be provided disposable gloves during the urine collection process and have access to clean running water after the urine sample collection is complete.
- Utilize only sample bottles, lids, and labels provided by the current contract laboratory.
- Clearly observe the flow of urine into the bottle.
- Ensure the inmate(s) provide at least 20 cc's of urine (two-thirds of sample bottle) in order to adequately accomplish the required laboratory test.
- After filling the sample bottle, the inmate will be instructed to secure the bottle, rinse the outside of the bottle with cold tap water, and then hand the secured sample bottle to the collecting staff member.
- The staff member shall place the completed label on the sample bottle.
- Place a security seal on the bottle.
- The urine sample shall be processed in accordance with institutional procedures, which maintain the chain of custody of the urine sample.
- Staff shall adhere with the contract laboratory procedures when collecting, packaging, and storing urine samples.

If the inmate is unable to provide a urine sample, the inmate shall be offered eight ounces of water to assist in providing a urine sample. The inmate shall also be allowed up to three hours, under staff observation, to provide a urine sample.

Inmates who refuse or are unable to provide a urine sample shall be subject to disciplinary action in accordance with CCR 3323(h)(5). If an inmate is unable to provide 20 cc of urine, within this time period, this shall be presumed a refusal. An inmate may rebut this presumption during the disciplinary process.

- Reasonable accommodation shall be afforded to inmates with disabilities to facilitate their full participation in drug and/or alcohol testing as provided in these rules.
- Gloves used during the urine collection process shall be disposed of according to institutional procedures.

52010.19 Urine Sample Test Records

Records of all urinalysis results shall be maintained in the institution's urinalysis logbook. The MRDT list shall be considered confidential and released to staff on an "as needed" basis only. Test results shall be logged, maintained, and processed by designated staff.

52010.20 Refusal to Produce a Urine Sample

If the inmate is unable to provide a urine sample, the inmate shall be offered eight ounces of water to assist in providing a urine sample. The inmate shall also be allowed up to three hours, under staff observation, to provide a urine sample. Inmates who refuse or are unable to provide a urine sample shall be subject to disciplinary action in accordance with CCR 3323(h)(5). If an inmate is unable to provide 20 cc of urine, within this time period, this shall be presumed a refusal. An inmate may rebut this presumption during the disciplinary process.

52010.21 Types of Urinalysis Requests

Staff shall request a Basic Drug Panel analysis of the urine sample unless the inmate's behavior provides reasonable suspicion of other drug use. The Basic Drug Panel will detect the presence of the following substances:

Basic Drug Panel:

- Alcohol
- Barbiturates (short and long acting)
- Amphetamines.
- Cannabinoids
- Cocaine
- Codeine
- Methamphetamines
- Opiates Morphine (Heroin)
- Phencyclidine (PCP)

Additional urinalysis may be specifically requested to detect the use of the following substances:

- Synthetic Tetrahydrocannabinol (Spice)

The Basic Drug Panel analysis will be conducted on each sample submitted to the laboratory.

52010.22 Urine Sample Storage and Transfer

To ensure that the integrity of the sample is not compromised, the chain of custody must be maintained during processing and storage of the samples. Each institution/facility must maintain a secure box for the storage of test samples. Only designated staff shall have access to the urinalysis lock box keys.

Upon completion of the test, the staff member conducting the test shall secure the sample in the urinalysis lock box.

A urinalysis logbook shall be maintained at each institution, which shall include the inmate's name, CDCR number, date of test and chain of custody of the sample.

Only designated staff shall remove the samples from the urinalysis lock box, and forward the samples to the laboratory for analysis. The date the sample was removed, the name of the staff member who removed the sample, and the date the sample was sent to the laboratory shall be entered into the institution's urinalysis logbook.

Staff must ensure the samples are processed in accordance with the laboratory contract.

52010.23 Processing and Documentation of Tests Results

The date that any positive test results are received by the institution/facility shall represent the date of discovery for disciplinary action. Upon receipt of the laboratory test results, the results shall be logged in the institution's urinalysis logbook.

The DTC shall notify and forward a copy of the laboratory results to the program office where the inmate is currently housed.

The officer who collected the urine sample shall document the results of the positive test on a CDC Form 115 charging the inmate with a violation of CCR 3016, Possession of a Controlled Substance, Drug Paraphernalia and Distribution.

Medical Review Process

Inmates who test positive during the Mandatory Random Urinalysis Program and contend the positive urinalysis test result may have been caused by their prescribed medication(s), may submit a CDCR 7385, Authorization for Release of Protected Health Information form to Pharmacy staff in order to obtain a copy of his/her MAR at any time. Pharmacy staff shall provide a copy of the MAR to the Drug Testing Coordinator. The Drug Testing Coordinator shall contact the contracted laboratory or consult the contracted laboratory's written guidance to verify whether prescription medications were the cause for the positive test result(s). If it is determined by the contracted laboratory that the positive urinalysis result(s) are consistent with the inmate's prescribed medication(s) no disciplinary action shall be taken and the result shall not be used for any purpose.

If it is determined by the contracted laboratory that the positive urinalysis result(s) are inconsistent with the inmate's prescribed medication(s), the inmate shall be subject to the appropriate disciplinary action.

52010.24 Destruction of Controlled Substances

The evidence custodian shall coordinate with a representative from the local police, sheriff's department, or State DOJ to participate in a scheduled destruction of controlled substances.

The ranking staff person of the facility investigative unit shall verify the controlled substances to be destroyed and sign the CDCR Form 1754, Controlled Substances for Destruction, prior to delivery to the destruction site.

All controlled substances scheduled for destruction shall be submitted in sealed containers. Each box or bag shall contain no more than 15 separate pieces of evidence to facilitate random checks by the local enforcement agency coordinator assigned to the destruction site.

One investigative unit supervisor and the evidence custodian shall transport the substances scheduled for destruction to the actual destruction site and witness the destruction.

The officers shall sign the evidence log indicating the date, place and method of destruction.

The evidence custodian shall retain a copy of the court order, as discussed in section 52010.25, and the CDCR Form 1754.

Providing additional security required when transporting large quantities of controlled substances for destruction is the responsibility of the ranking investigating staff person submitting the controlled substances for destruction.

52010.25 Obtaining a Court Order for Destruction

Upon completion of the CDCR Form 1754, the following documents shall be submitted to the court of jurisdiction to obtain a court order for destruction:

- A declaration that includes the following statements:
- "I am a peace officer at (facility or parole unit)."
- The cases are closed.
- It is necessary that the items be destroyed.
- The actual completed court order to be signed by the judge.

52010.26 Controlled Substance Destruction Schedule

Destruction of controlled substances shall be on a semiannual basis.

During the months of January and July, the designated staff member/evidence custodian shall prepare a CDCR Form 1754.

Initiation of the procedure should be made well in advance of anticipated destruction date due to the lengthy process necessary to secure the appropriate court order.

All controlled substances seized during the previous six-month period that are not being held as evidence for a criminal trial or a disciplinary hearing shall be listed on the CDCR Form 1754.

52010.27 Revision

The Director, DAI, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

52010.28 References

CCR (15) (3) §§ 3000, 3016, 3290, 3315, 3323 and 3410.

H&SC §§ 11007, 11014, 11054, 11055, 11056, 11057, 11058, 11473, 11473.5, 11474.