

**A note for the 16<sup>th</sup> Bills Committee meeting on  
Dangerous Drugs, ICAC and Police Force (Amendment) Bill 1999  
to be held on 2 June 2000**

**Collection of Urine Samples by Members  
of Customs and Excise Service**

**Purpose**

This paper inform Members of the existing practices and procedures of the Customs and Excise Department (C&ED) in taking urine sample for the investigation of dangerous drugs offences.

**Details**

***Existing practice and procedures in taking urine sample***

2. Internal concealment is one of the common methods used by the drug couriers to evade customs detection. Urine samples are at present collected from suspects on a voluntary basis for analysis with a view to detecting drugs concealed inside body cavities by means of the EMIT<sup>1</sup> Drug Detection System (EMIT System). Positive result implies the presence of drug inside a person's body and provide a more reasonable grounds for referral of the suspects to a Government hospital for radiological and internal examination by a medical practitioner or nurse in accordance with the provision of section 52(1A) of the Dangerous Drugs Ordinance, Cap 134.

3. C&ED has been provided with the EMIT System since 1990. The system is based on the concept that drugs, even well wrapped, will begin to

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<sup>1</sup> "EMIT" stands for "Enzyme Multiplied Immunoassay Technique"

leak or permeate through the wrapping membrane into the body system within a couple of hours after swallowing or inserting by drug courier. The drug is absorbed into the courier's circulatory system and later becomes detectable in the urine. Besides, traces of drug left on the outside of the wrapping will pass into the courier's circulating system and later into the urine.

4. The EMIT System can detect drugs in urine in a rapid, simple, effective and safe way.

5. At present, C&E Officers have no statutory power to obtain urine sample from suspect. Nonetheless, as advised by the Government Counsel, officers may conduct urine test with the consent of the suspects. The procedures as specified in the extract of Work Manual (Annex A) will be adopted in carrying out urine test on a suspect.

### ***Internal Departmental Guidelines***

6. The procedures in taking urine sample are regulated by C&ED internal Work Manual, which was drawn up in accordance with the legal advice in 1990 that the request for a urine sample does not amount to a trespass on human rights. Moreover, the person being requested for conducting a urine test has to complete the form 'Urine Test for Narcotics' certifying his consent on providing an urine sample; otherwise, the test will not be conducted.

### ***Power to take other samples which will be useful for DNA analysis***

7. The objective to provide C&E officers the statutory power to take urine sample is to facilitate their detection of internal concealment of drugs.

The test of urine, instead of other body samples for DNA analysis, is a simple, safe and rapid method for the purpose.

8. At the last Bills Committee meeting, some Members expressed that C&E officer may need the power to take other samples, in addition to urine sample, for the investigation of dangerous drugs offences. We agree that the power to take non-intimate sample is necessary to allow members of the C&ED to collect contact evidence when investigating dangerous drugs offence, e.g. nails and hands wash from suspects arrested in drug manufacturing premises. Such power is currently provided under section 54 of the Dangerous Drugs Ordinance (Cap.134). Section 54 provides that a police or customs officer not below the rank of inspector may require a suspect to have his finger nails pared and his hand wash in water for the purpose of analysis of the substance from such finger nails or hands. Given the existing power under the Dangerous Drugs Ordinance and the fact that our Bill will not remove such power from the C&E officers, we consider that to provide C&E officer with the power to take urine sample under the Bill is sufficient.

### **Advice Sought**

9. Members are invited to note the content of this paper

**Security Bureau**

**1 June 2000**

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**“EMIT” Drug Detection System**

If a passenger is suspected of having internal concealment, the following procedures will be adopted:

- (a) Request the passenger to complete the form “Urine Test for Narcotics” certifying his consent on providing a urine sample. The form will later be sent to the duty Assistant Superintendent for filing;
- (b) Instruct a Customs Officer to escort the passenger to a toilet and collect a urine sample with a clean container;
- (c) Hand over the sample to the officer operating the “Emit” test equipment;
- (d) Guard the passenger pending the result of the test;
- (e) Hand over the suspect to the investigation officer for conveyance to a hospital for further examination if the test result is positive; and
- (f) Release the passenger if the test is negative.