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This Command College Independent Study Project is a **FUTURES** study on a particular emerging issue in law enforcement. Its purpose is **NOT** to predict the future, but rather to project a number of possible scenarios for strategic planning consideration.

Studying the future differs from studying the past because the future has not yet happened. In this project, useful alternatives have been formulated systematically so that the planner can respond to a range of possible future environments.

Managing the future means influencing the future -- creating it, constraining it, adapting to it. **A futures study points the way.**

114078

WHAT IS THE FUTURE OF  
MANDATORY DRUG TESTING  
OF PUBLIC EMPLOYEES?

P.O.S.T. COMMAND COLLEGE  
INDEPENDENT STUDY  
CLASS FOUR

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## EXECUTIVE SUMMARY

The issue of drug abuse and mandatory drug testing in the work place will confront public administrators in the near future. Law enforcement will be a primary profession examined with regard to a need for testing.

The military has estimated that as many as 24% of their personnel are drug abusers. Private corporations estimate that one in four of their employees abuse drugs in the work place. Organization such as the Southern California Rapid Transit District are under constant attack by the government and the public due to accidents involving drug abusing bus drivers. Law enforcement has been exposed slightly to this pressure and the future is not bright.

This project explores the current events with regard to the extent of the drug abuse problem and the need for consideration of drug testing programs. Examples are given of problems already being experienced by law enforcement managers.

A study group has brainstormed trends that should be monitored into the future. They selected five of the trends for further study. To be considered are: the changing values of employees; court rulings; contract mandated drug testing requirements; reliability of drug screening tests; and the available work force.

The group also brainstormed possible future events that would have an effect on the trends and issues. An analysis of the possible cross impact of trends and events was forecast. From this data three scenarios describing possible futures were created to illustrate where we might be in 1992.

Policy considerations for design and implementation of a drug testing program are discussed. Stakeholders, persons who have an interest in drug testing, are identified and their demands are established. Alternative courses of action are suggested and critiqued. A blend of the best courses of action are established for consideration.

A negotiation strategy has been formed. Negotiable and non-negotiable issues are identified for management, employees, and bargaining units.

A plan for managing the transition from a non testing mode to a mandatory testing mode is suggested. The plan involves eight elements required to implement the concept. The chief executive of individual agencies must determine the desired future for his agency. This project is only a base from which to plan.

## WHAT IS THE FUTURE OF MANDATORY DRUG TESTING OF PUBLIC EMPLOYEES?

### INTRODUCTION

This project deals with the possible future of random mandatory drug screening tests of public employees to determine their use and abuse of drugs. Drug use and abuse is becoming more common every day. As managers we must find a way to deal with this problem in an efficient and effective manner without harming the morale, discipline, and good names of the employees. While the rights of the employees must be protected other interests must also be maintained.

Years ago only the lowly criminal element used drugs. Society as a whole felt that drug abusers should be put in jail for long periods of time to "cure" the drug abuse problem.

In the 1960's the nation experienced the beginning of the drug experimentation craze. Millions of Americans experimented with everything from marijuana to heroin. This trend has only slowed slightly, from time to time, during the past twenty-five years. Early users of drugs were the "hippies", a class of young people who have now grown up to be known the "baby boomers".

Today drug use and abuse crosses all ages, sex, and social cross sections of society. The types of drugs abused range from marijuana to hard narcotics like cocaine and heroin. In addition millions of Americans abuse prescription drugs which were originally prescribed for real medical problems. Designer drugs are also in vogue to meet the demand for new and exciting drugs and in part to frustrate the criminal justice system.

In the past few years the practice of drug testing has evolved in several areas. The most widely publicized was in the world of sports, both amateur and professional. Olympic athletes have been required to submit to test to determine the use of all types of drugs both controlled and legal. Tests only so refined that over the counter cold medications were detected. Many athletes have lost titles and records as the result of positive tests.

Testing of professional athletes was not done to ensure that their performance was not enhanced. Instead, the concern is that long term use of drugs distracts from performance. In addition, corruption could result from known abuse and the compromise it causes. Many "super stars" have been removed from sports after exposure as drug abusers. In addition, stars like Len Bias have died as the result of drug overdoses. This not only has an impact on the sport but also has a negative



affect on the youth of America who look up to the sports stars as heroes.

In 1981 the United States Armed Forces began random drug testing of their personnel. In the early stages of the testing several thousand military employees were found to be under the influence of drugs. Most were discharged as a result of positive tests. Later challenges to the test procedures and test results illustrated the problem with unplanned drug testing and poor quality control over the samples tested. However, the overall result of the military testing experience was a reduction of drug use by personnel estimated to be in excess of 40%.

In the past several years testing programs for public employees has been suggested and designed. Fewer were ever able to begin due to court challenges and conditions of M.O.U.'s. The legal and moral issues will be discussed later in this paper.

Several factors have led to the increase in work related testing. First, workers who are drug abusers tend to be less productive than non-impaired workers. This causes an increase in operating costs which results in either lower profits or an increase in cost to the consumer. Sick time use and abuse is a second factor which is a symptom of drug abuse. A third

consideration is injuries in the work place. They are often the result of employees being under the influence of drugs or suffering the effects of withdrawal and causing accidents. This results in higher insurance costs, loss of production, and damage to products.

In both the public and private sector businesses incidents of thefts by employees are a major concern. One major company, K-Mart, estimates that 80% of their loss due to theft is the result of employees. Drug abusing employees often steal to support their habits. Employers become easy targets.

The extent of the problem is illustrated by a Drug Enforcement Administration report which states that substance abuse which includes alcohol, legal and illegal drugs costs United States businesses as much as 250 billion dollars per year.<sup>1</sup> The estimated loss for California is 18 billion dollars annually. Twelve billion dollars, or two thirds (2/3) is related to alcohol abuse. Six billion dollars is related to drug abuse. The cost equals \$ 720 for every man, woman and child in California.<sup>2</sup> Businesses in general estimate that between 10 and 25 per cent of their workers use drugs in the work place.<sup>3</sup>

In law enforcement the abuse of drugs is a serious concern.

Officers are in a position where they might take drugs and or money from suspects contacted in the field for personal use in supporting their habits. Property Room personnel have the ability to take drugs from evidence for the purpose of sale or for personal use. Police in south Florida are frequently the target of attempted bribes. Often drug dealers offer the officers more money than they could ever be paid by the government agency to "just look the other way" when a load of dope is being flown into the state.

#### OBJECTIVES

##### OBJECTIVE 1:

The first objective of this project is to assemble data regarding the drug abuse problem in the work place. Several factors are to be considered. First is the extent of the problem of drug abuse at work. Secondly, an attempt to determine which professions are affected and what their involvement is in testing, either voluntary or mandatory. The third data area is that of legal restrictions to drug testing. The fourth area deals with operational testing programs either public or private. Last, any other area that is applicable such as demographic indicators, statistics, etc.

##### OBJECTIVE 2:

The second objective is to determine trends in drug abuse

in the public sector and law enforcement in general, from 1982 to 1987, and then to forecast what the trends might be between 1987 and 1992. Trends should include types of drugs abused and the extent of their abuse. Also of interest are trends relating to absenteeism, safety, and loss of productivity. Factors such as discipline problems, theft, crime, and terminations within public organizations were also explored.

OBJECTIVE 3:

The third objective was to forecast events which might occur in the future, and to determine their impact on the trends developed in objective 2. The primary questions considered in this objective were with regard to changes in technology, changes in the law, and changes in the public's concern for drug free employees.

OBJECTIVE 4:

The fourth objective is to create three scenarios which would reflect the future, taking into consideration the trends and events forecast in objectives 2 and 3. The scenarios will describe three possible futures ranging from the most likely future to two less likely futures which are indicated by the data.

OBJECTIVE 5:

The fifth objective is to create policies and procedures which could be used by managers to create a drug testing program. In addition, suggestions will be offered with regard to identifying stakeholders, persons who have a stake in the outcome of a testing program, and determining their impact on a testing program. Suggestions will also reflect methods of negotiating a testing program and managing the transition into the program.

PROCEDURERESEARCH:

The research conducted for this study was in two parts. The first part involved a scan of the available literature regarding drug testing and the drug abuse problem. At the start of this project not much information was available with regard to drug testing. However, during the past few months the amount written would fill volumes.

The second part of the research involved travel to two areas of the country which have either attempted testing or have plans to test in the near future. Agencies visited were the Boston Police Department and the Washington headquarters of the Federal Bureau of Investigation.

The literature scan illustrated that drug abuse in the work place is on the increase. Almost daily events occur which can be tied to drug use. No occupation or profession

has escaped involvement. We are all aware of the scandals involving air traffic controllers, train crews, bus drivers, and military personnel.

Law enforcement is not exempt for the problem. Drug use has been proven from the applicant level to the academy student and on the the field officers. In New York State two officers were killed in a traffic collision while on duty. Tests of the officer's blood by medical examiners proved that the officer driving the patrol car had a blood alcohol level of 0.16 at the time of the accident. His partner officer had a cocaine level of 0.41 micrograms per milliter in his system. The medical examiner stated that this level would produce "euphoria, a hyper-state" in the average person.<sup>4</sup>

The Chicago Police Department found that one of every three applicants for police officer in 1985 tested positive for drugs. The testing involved some 379 candidates who had already completed written, oral and background investigations prior to the tests.<sup>5</sup>

The Boston Police Department has terminated ten cadet officers from their academy in the past eighteen months after the officers tested positive for the use of cocaine. Each cadet is advised that he will be tested at some point during the academy and each signs a preemployment contract indicating his/her willingness to submit to tests.<sup>6</sup> Boston now faces a major court battle in their attempt to apply the testing condition to their entire police department. Boston feels that as many as thirty per cent of their officers have drug

abuse problems at this time.<sup>7</sup>

Legal battles are rageing all over the country. Many police unions have moved to stop their departments from implementing drug testing programs. Suits have been filed in state and federal courts by not only police unions, but unions representing all manner of public and private employees. The current challenges claim right to privacy violations, illegal searches and seizures, violations of due process, poor test procedures, faulty tests, and other. The case law is changing on a day to day basis. The attached Bibliography of Consitutional cases list the most current cases as of this writing.

The only testing programs that remain in effect in the public sector are either military, or effect only entry level and probationary level employees. Although drug testing has had some effect on entry level applicants positive tests still occurr. The Federal Bureau of Investigation estimated that at least 5% of their applicants test positive for the sue of drugs even though they are warned that a surprise test will be required during the application process.<sup>8</sup>

No studies by public sector employers has illustrated any demographic data which would tend to target some specific group as drug abusers. The Boston Police Department has a severe drug problem. The average age of their officers is 42 years. They have found drug abuse at all age levels, involving all sexes and all races.<sup>9</sup>

TREND ANALYSIS:

An attempt was made to determine some of the trends which might effect mandatory drug testing in the future. To determine these trends I employed the Nominal Group Technique or NGT. NGT involves the use of several individuals who represent various elements of the community. The group that I employed represented police management, police supervision, line level law enforcement, a clerical member of the department, a college student and a high school student. Each member of the group was given data to make them aware of the drug abuse problem and data on drug testing. (See attachment A.)

After the group had an opportunity to review the information provided a meeting was held wherein trends regarding drug abuse were brainstormed. The NGT group was able to establish 37 candidate trends which they felt should be monitored in the future. (See attachment B.) The 37 trends were discussed and a definition was established for each trend. The group then selected the five top trends via a secret ballot. The voting established the following as the top five trends in the opinion of the group.

1. Changing values of employees.
2. Court rulings.
3. Contract mandated drug testing requirements.
4. Reliability of drug screening tests.
5. Available work force.



The group then established the following definitions for each of the five candidate trends:

1. CHANGING VALUES OF EMPLOYEES: This trend was defined as the values of the employees becoming more liberal with regard to the use of drugs. This changing value allowed the employee to either use drugs or to accept the use of drugs in the work place.
2. COURT RULINGS: This trend was defined as the attitude of the courts becoming more censervative and allowing the testing of employees by their employers in certain fields of employment including law enforcement.
3. CONTRACT MANDATED DRUG TESTING REQUIREMENTS: This was defined as the increasing trend for labor organizations to create contracts which allowed drug testing in exchange for other considerations during negotiations with employers.
4. RELIABILITY OF DRUG SCREENING TESTS: This trend is defined as the increasing reliability of drug screening tests, possibly to a reliability of 100% accurate and the importance of their reliablity to drug testing programs.
5. AVAILABLE WORK FORCE: This trend was defined as the change in the number and type of candidates that will be available for employment in the public sector in the future.

The group was then asked to do trend evaluations. This

involved the plotting of trends on a chart which covered a period of ten years. the period was from 1982 to 1992. The value of each trend was given a value of 100% in 1987. The group was asked to plot where the trend was five years ago and where they feel it might be in five years given the current environment. The results are reflected in the following five charts. The label "could be" indicates the top average of the range and illustrates where the trend might be in five years. The "will be" line indicates the best guess as to the value of the trend in five years.

Chart one illustrates that the group felt that employees' values have changed from the past with regard to drug use. One range indicates that change might continue very gradually and will increase only 75% in the next five years. The "could be range indicates a possible change of 150% in the next five years.

Chart two illustrates that the group members felt that rapid has occurred in the direction the court has taken with regard to drug testing in the past two years. The group felt that change would take place in the future to approximately three times the favorable decisions as we have today.

Chart three illustrates that rapid change has taken place in employment contracts which require drug testing. The chart shows that four times as much change could take place in four years and three times as much change will take place in five years.

Chart four indicates that the reliability of drug tests will increase by 200% in five years. A 400 % improvement could occur in

CHART 1

## CHANGING VALUES OF EMPLOYEES

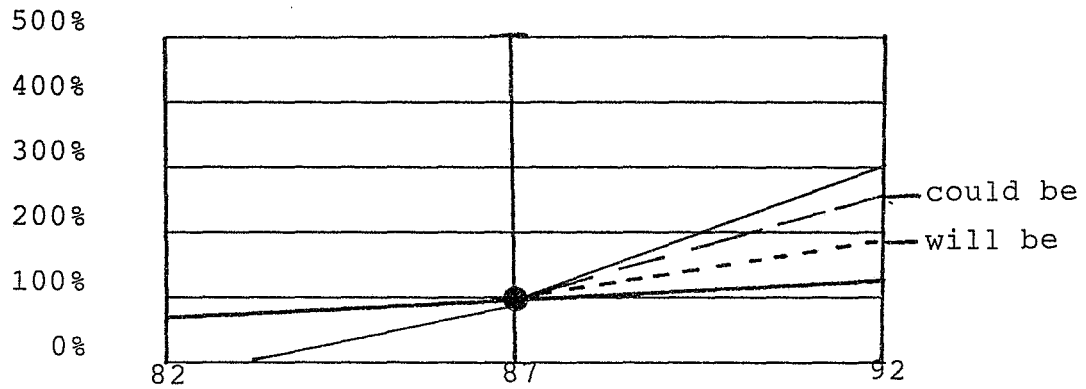
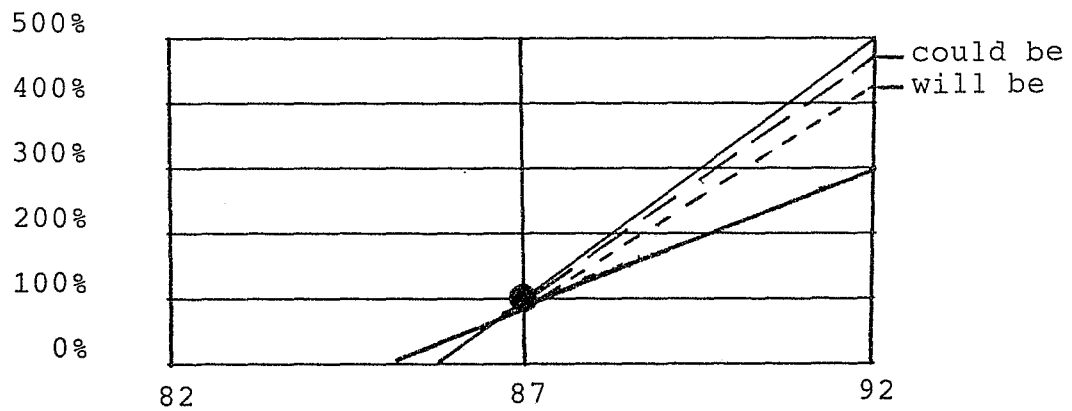
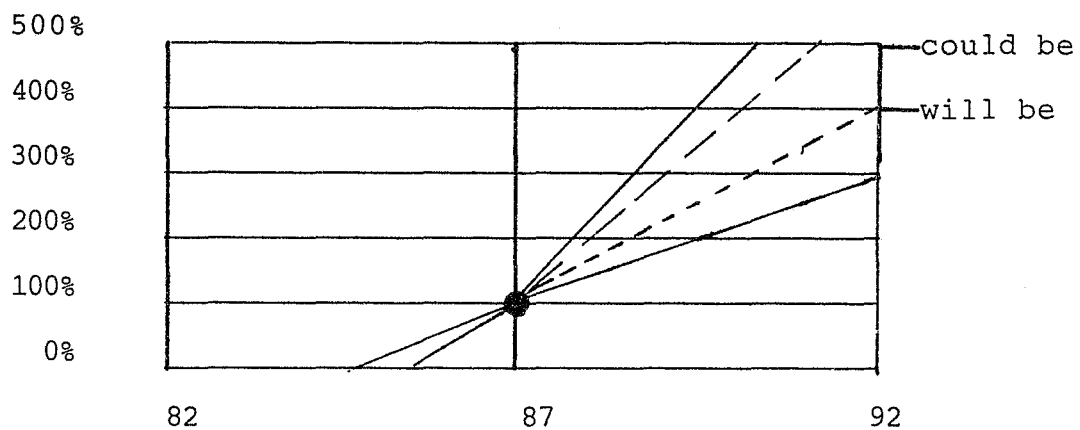


CHART 2

## COURT RULINGS



## CHART 3

CONTRACT MANDATED DRUG  
TESTING REQUIREMENTS

## CHART 4

## RELIABILITY OF DRUG SCREENING TESTS

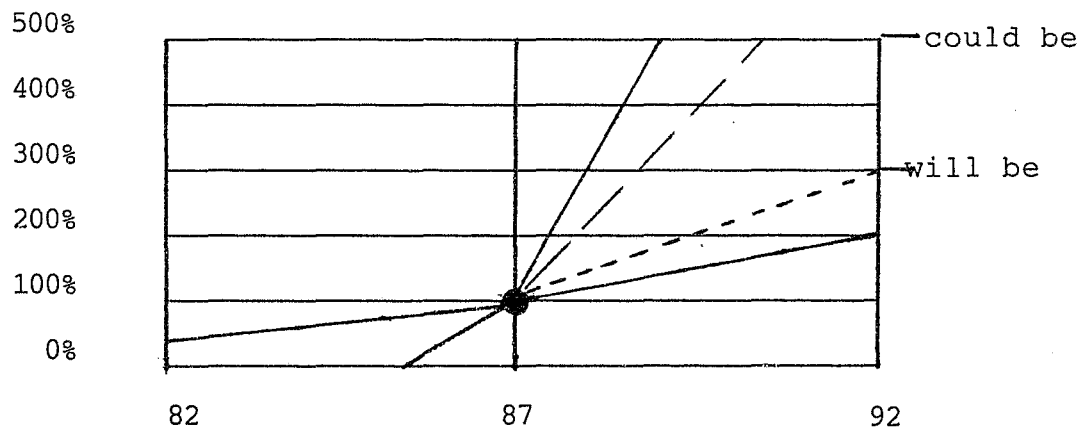
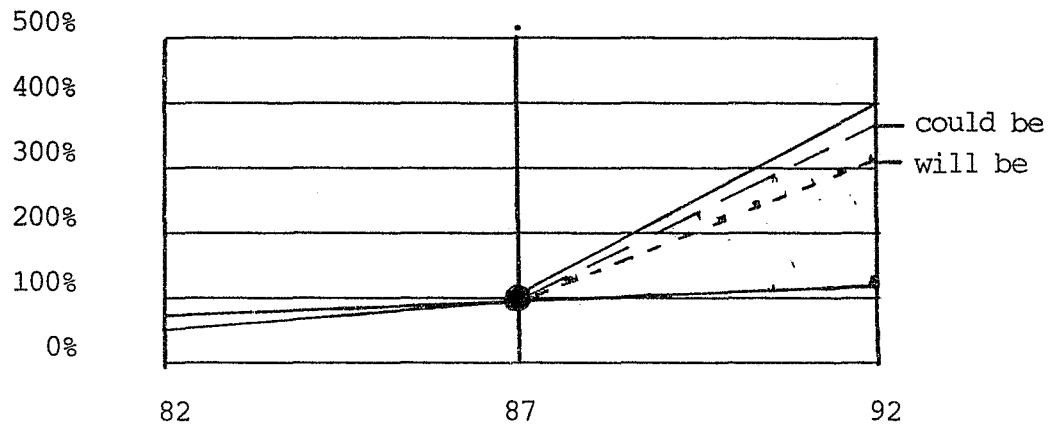


CHART 5

## AVAILABLE WORKFORCE



less than four years.

Chart 5 illustrates slightly more than double the change in the available work force will occur in five years. The "could be" estimate shows a 250% change in the same five year period.

EVENT AND CROSS IMPACT ANALYSIS:

A second meeting was held to brainstorm possible future events. The group was asked to list events they felt might take place in the next five years that would effect the future of drug testing. They were asked to consider the trends they had selected in relationship to the events. The group established a list of some eleven possible future events. (See attachment C.) The group discussed the eleven possible events and then, by secret ballot, selected the five most important future

events. The group was then asked to determine the percentage of probability that the event would actually take place by 1992. A description of the events and their probability of occurrence are as follows:

EVENT	1992 PROBABILITY
1. Employee bargaining units agreed to mandatory random drug testing as a condition of employment.	75%
2. A police officer violates the Code of Silence and turns in fellow officers to the administration of a police department, thus exposing wide spread abuse.	60%
3. Federal legislation requires that all public entities which receive federal funding, to require mandatory random testing of all employees to determine drug abuse.	82%
4. Employee assistance programs are made available to drug abusing employees without fear of loss of job or exposure to discipline.	95%
5. The California Supreme Court hears a drug testing case and rules that the good of the many outweighs the rights of the few, and approves mandatory random drug testing for police employees.	86%

The cross impact of critical events was then determined by the group to be as follows:

1. If employee bargaining units agreed to test.....

PROBABILITY OF

Code of Silence	60% increases to 75%
Federal Legislation	82% no change
Employee Assistance	95% increases to 100%
Supreme Court	86% no change

2. If the Code of Silence is broken.....

PROBABILITY OF

Bargaining	75% increases to 90%
Federal Legislation	82% no change
Employee Assistance	95% decreases to 80%
Supreme Court	86% increases to 95%

3. If Federal legislation requires public entities receiving funding.....

PROBABILITY OF

Bargaining	75% increases to 86%
Code of Silence	60% no change
Employee Assistance	95% increases to 100%
Supreme Court	86% no change

4. If employee assistance programs are made available.....

PROBABILITY OF

Bargaining	75% increases to 92%
Code of Silence	60% increases to 74%
Federal legislation	82% no change
Supreme Court	86% no change

5. If the California Supreme Court approves mandatory drug testing.....

PROBABILITY OF

Bargaining	75% increases to 100%
Code of Silence	60% no change
Federal legislation	82% increases to 885
Employee Assistance	95% increases to 100%

SCENARIOS

The following scenarios are based on the concepts discussed in the analysis of trends and taken into account the probable future events. The scenarios will reflect three likely futures.



SCENARIO #1

The year is 1992. During the last five years California Public employees and government agencies have experienced a great deal of change. Back in the mid eighties the problem of drug abuse in the work place became a prominent issue with the people of the country. There was a great deal of media coverage and many people demanded immediate implementation of drug testing programs. A few such programs were mandated and attempted by agencies both large and small all over the country. They met with mixed results from findings of no drug abuse by members of agencies, to wide spread drug problems. Some agencies voluntarily complied with requests to take drug tests. However, the vast majority of public organizations were challenged with the alleged civil rights violation they would perpetrate if they forced their employees to take drug tests.

Government agencies, in an effort to aid their employees and reduce the consumption of controlled substances in the work place made strong efforts to improve the employee assistance program. Concessions were made wherein if employees would come forward and attempt to have their problems resolved through proper medical treatment and counseling, no disciplinary action would be taken.

by 1990 large numbers of public employees had enrolled in employee assistance programs in an attempt to cure their drug problems. Many of the employees successfully completed treatment programs and were returned to full duty, however, a few were unable to shake their addiction. This increased willingness of employees to bring their problems of drug abuse to light, illustrated to the public manager the size of the drug abuse problem.

Between 1986 and 1990 several cases were heard in the courts dealing with the issue of mandatory drug testing. During 1989 and 1990 the California Supreme Court made landmark decisions in a number of cases wherein they decided that the good of the public required the testing of many classifications of public employees. Those included police, fire, air traffic controllers, and other persons in job classifications where the public safety demanded they be drug free.

By 1991 almost every public employee bargaining group in California had agreement in their Memorandums of Understanding to participate in mandatory drug screening tests.

Federal legislation had been passed in 1988 which required all cities and counties receiving federal aid to implement drug testing programs for their employees. The federal

legislation was challenged in the United States Supreme Court and was tied up until 1990. At that time the Supreme Court ruled that the federal government could make such requirements in exchange for federal funding to the local government. To some large cities the ruling was devastating. The programs of some cities were not extensive enough to meet the guidelines and federal funds were withheld.

The area that showed almost no change during the last five years was the "Code of Silence." No matter what attempts management made to convince employees that it was in their best interest not to protect fellow employees who abused drugs no changes could be made.

Management however should be given credit for the smooth and orderly transition from no testing to mandatory testing for drugs. Management made every attempt to include employees and their bargaining units in committees which planned this transition. Open communication, education, and a cooperative bargaining attitude ensured the success of drug screening programs.

#### SCENARIO #2

It is 7:00 AM, on May 1, 1992. Sergeant John Anderson has just arrived at work to begin his day as the drug test officer for the department. This position was created in 1990 as a result of federal legislation requiring drug testing programs in departments that wanted to receive federal funding. This was preceded by the 1989 California Supreme Court decis-

ion which ruled that drug testing of public employees in the safety service fields was legal.

This will be a typical Monday for Sergeant Anderson. His first action will be to check the computer for today's list of employees which have been randomly selected for drug testing. The computer is programmed to select officers by number to participate in at least two tests per year. All members of the department are included in the data base and participate in the random selection process.

Once Sergeant Anderson has received the names of today's candidates he will make personal contact with each of the officers. When contact is made Sergeant Anderson will remain with the officer until the testing procedure is completed. Anderson will drive the officer to a local clinic which is under contract to the department to do testing.

At the clinic the officer will be required to change into a hospital dressing gown. He will then report to a "sterile" testing area. The testing area ensures that the officer has privacy, yet at the same time ensures security in the collection and preservation of the officer's urine. Changing from street clothes to the hospital gown ensures that the sample will not be tainted.

Other precautions have been taken in the testing area, including the removal of sinks or other facilities for diluting the samples. The water in the toilet has been colored with blue dye to ensure that it will not be use to dilute the

sample.

After the officer completes the test the sample is given to Anderson. Both Anderson and the officer initial the sample to maintain the "chain of evidence." At this point the officer is free to return to his regular duties.

Sergeant Anderson will then transport the sample to the laboratory. The sample is logged in like evidence in any type of case. The laboratory will test for four drugs. Drugs might include heroin, cocaine, marijuana, or other drugs. Prescription drugs may also be included in the test. The drugs tested for change from time to time by department policy and trends of abuse.

A report will be returned to Sergeant Anderson within 72 hours. The presence of any controlled substance tested for will be reflected in the report. If a positive test occurs it is Sergeant Anderson's responsibility to begin disciplinary action.

One of the first steps in the process is to determine if the employee who tested positive has entered the Employee Assistance Program for help with his drug abuse problem. A MOU with the officer's bargaining unit has established that officers who voluntarily enter treatment will not be disciplined for non-criminal conduct. If the officer has entered the program the only action that Anderson can take is to relieve the officer from duty until the drug problem is resolved.

Officers who abuse drugs and do not enter the Employee Assistance Program prior to discovery face standard disciplinary action. Fortunately, Sergeant Anderson deals with only two or three positive cases per month. The number has been on the decline and the future outlook is for even fewer cases.

### SCENARIO #3

Between 1987 and 1992 the issue of drug testing of police officers has been a constant battle. Arguments for both side have raged. The chief's of some departments have claimed that they have no problem in their department and refuse to even consider drug testing. Other chiefs demand the implementation of drug testing saying that the public lacks confidence in their officers because of the refusal to submit to drug tests.

The courts have battled back and forth for years. The California Supreme Court has ruled that "the rights of the many and the concern for public safety outweighs the rights of the few" and have allowed drug testing to take place.

That decision was appealed to the United States Supreme Court. After two years the case was heard and the U. S. Supreme Court determined that testing could take place. However, strict guidelines were required. The ruling was so complex that many cities did not even attempt to comply.

Many attempts have been made to improve education and treatment programs for employees. However, very little increase in use was noted. There was no incentive for employees

to attempt to correct their addictive habits. No action was being taken against them unless they were caught violating the law or using drugs while at work.

Several law suits have been filed by officers against cities for violation of civil rights and invasion of privacy by mandating drug tests. Most of the suits were filed by probationary employees who were subjected to the tests as a condition of their employment and had be found to be under the influence.

The moral values of the employees had declined. The use of drugs was either accepted or overlooked under the terms of the "Code of Silence." Officers selling drugs to support their habits, some while on duty, were detected frequently. Many allegation of officers stealing drugs and money from criminal suspects were also made.

Several tragic incidents occurred throughout the state. One incident involved the death of an officer who overdosed on cocaine while on duty in a marked police car. In another city two officers committed suicide in two days as the result of cocaine addiction.

At this point no one is sure where we are going with the drug testing issue. Everyone is looking to someone else to make change.

#### POLICY CONSIDERATIONS

The issue of mandatory drug testing is a complex one. The chief executive of each agency must determine if drug

testing is right for his department. The following police considerations are offered:

1. Drug testing should involve all levels of the agency in order to be fair.
2. The concept of employing drug testing should be discussed with all employees to ensure that they understand both the positive and negative aspects of the program.
3. Management should encourage employees and employee bargaining units to participate in policy formation and implementation committees.
4. Drug screening programs should be coupled with drug education programs to be effective.
5. The public should be made aware of the department's concerns and attempts to ensure a drug free agency.
6. Representatives of policy formation committees should be allowed to visit working programs to give them a better understanding of the concepts.
7. Public support for drug testing programs should be solicited.
8. Careful consideration should be given to contracts which will be let to laboratories and other vendors to ensure the rights of the employees are protected.
9. Technical consultants should be employed to establish proper influence testing levels, site design, and other technical considerations.



STAKEHOLDERS AND THEIR DEMANDS:

Using a survey group an attempt was made to identify stakeholders, or persons with an interest in the drug testing issue. After the stakeholders were identified the group established assumptions for each stakeholder using brainstorming. The following paragraphs illustrate who the stakeholders are and the assumptions generated by the group regarding each one.

- A. Employees: Employees in this study include not only police officers, but all manner of public worker. For the purpose of generating assumptions the group was limited to line level personnel. If testing were to be employed this stakeholder group might be expanded to include all levels of personnel including management because they too would be subjected to testing.

It was assumed that employees would feel that they had lost control over their lives if testing were mandated. The employees might feel that management would be "checking up on them" during their on and off time. It was also assumed that employees might also be concerned with loss of employment for activities they engaged in both on and off duty with regard to the consumption of drugs. In addition, the stress generated by the fear of discovery might effect the performance of the employee. Some concern

was expressed regarding the stress that might be created by the fear of faulty tests and test results being identified with the wrong employee.

B. Supervisors: Supervisors were identified by the as mid level managers. It was assumed that supervisors would be forced to engage in an increased amount of negative contacts with employees. The group felt that this might effect the over-all performance of the working unit due to the feeling that the supervisor was an "enemy". Supervisors might also be concerned with the loss of available employees due to suspensions or drug treatment programs. This might detract from the effectiveness of the work unit. The increased workload would have to be handled by the employees left and could create additional morale, discipline, and safety problems. It was also assumed that administrative (paper) work required of supervisors might increase. This could detract from the supervisor's ability to respond to calls for his service in the field.

C. Administrators: Administrators were defined by group as top level management personnel. It was assumed that administrators would be placed in a position where they would have more control over the actions and lives of employees both on and off duty. This could create an increased work load

and would surely increase separation between management and other levels. Another assumption is that management would have to consider additional operating costs in their budgets. Costs might include funds for testing employees during the year, costs for counseling services, and laboratories.. Another assumption is that administrators would be involved more personnel hearings both inside and outside and outside the department. More disciplinary actions might take place thus resulting in suspensions and terminations. Management would have to plan for covering for the shortage of personnel. Administrators would have to remain constantly aware of the morale of the department. The issue of mandatory testing, the refusal to take tests, the failure of employees taking tests, the possibility of inaccurate tests, and other issues would constantly try the effectiveness of the unit.

- D. Labor Unions: Labor Unions for the purpose of this study are defined as any employee organization which bargains for wages and benefits. Labor Unions it is assumed would be engaged in more detailed negotiations regarding drug testing. They would also be engaged in defending more members in disciplinary actions and appeals that resulted. This would increase the costs for the unions and could create

a need for additional staffing. In the event that violations of civil rights were alleged unions might incur additional costs for legal battles in the courts. If the unions were to lose their court and/or negotiating battles and were forced to allow their members to submit to mandated test unions could suffer a loss of power.

- E. Taxpayers: Taxpayers would expect better service due to the drug free working environment of city employees. They might feel that public employees might respond more quickly to calls for service and handle tasks in a more efficient manner. Taxpayers would expect a decrease in errors and accidents involving workers under the influence of drugs. Such errors could range from traffic accidents and falls to better design and planning of public projects. Taxpayers might also expect their tax bills to decrease if additional services were not provided.
- F. Attorneys: It is assumed that civil attorneys might have an increase in cases with regard to civil rights, job rights, discipline, and industrial (stress) injuries. Such cases could become quite complex and could create specialty areas in civil law. Attorneys might expect to become involved in more detailed contract negotiations while representing unions.

It was also assumed that attorneys might realize an increase in work related stress injury cases. Some employees might claim that stress was caused by their fear of testing or the fear of faulty tests. Others might allege that their drug habits were caused by their attempts to combat job related stress. Some off duty injuries might be related to drug intoxication induced to allow the employee to overcome job stresses and resulted in falls, auto accidents, and other incidents.

It was assumed that criminal attorneys might use information regarding the use of drugs by police officers to impeach the officers while testifying as witnesses in criminal trials. Criminal attorneys might allege that the officers took drugs from the evidence seized in the case or that the officers planted drugs on the defendant. This could aid some criminals in creating "reasonable doubt" in the minds of a jury and thus escaping the criminal justice system.

G. FAMILIES: Families of public employees might feel that their private lives were being interfered with by the government that employed their relative. Some might feel that their recreational use of some types of drugs might be halted by unwelcomed spying and testing of family members. It is also assumed

that some families might welcome and benefit from the discovery and treatment of drug abusing members. Others might benefit from the early detection of diseases that were tested for at the same time the drug testing took place. Such a discovery would allow for the early treatment of the disease and the speedy recovery of the employee.

The group pointed out that one negative factor might be the discovery of social diseases which might destroy family relationships. Stress within the family might also increase if they were worried about the discovery of drug use by the supporting family member. Stress would also increase if discipline were to effect the family.

- H. TRAINERS: Trainers were defined as vendors, colleges, and academies offering training of entry level public employees. It was assumed that an increase in mandatory drug testing might create a turnover of employees. This would be due to the discovery of drug use and terminations resulting from the discoveries. Some employees might find that they were unable to deal with the stress of mandatory testing and the fear of discovery. This would create additional openings.

This turnover would create a need for more classes and perhaps more training facilities. In addition,

new classes would be needed to train supervisors in drug testing methodology. Other classes could train the supervisors in the recognition of drug abuse symptoms, counseling, and employee assistance. Other classes could instruct in disciplinary procedures and current case law.

- I. LABORATORIES: Laboratories was defined as vendor who would provide drug screening services for public agencies. It was assumed that laboratories would experience dramatic increases in the need for their services. In addition they would have to improve their procedures to ensure quality control and rapid turn around the the test results. A need for more comprehensive tests would also be required if any type of testing for diseases were to accompany the drug screening test. It was assumed that laboratories would experience a steady increase in revenues due to the expanded testing programs. Laboratories might also experience an increase in liability as a result of any control or testing errors. Errors might cause the public employees embarrassment, subjection to disciplinary action, loss of job, attorney fees, and court costs. If laboratories were to experience a few adverse court judgements as the result of poor procedures and errors their operating costs might increase and cause the ruin of

their business.

ALTERNATIVE COURSES OF ACTION:

A triad group was assembled to discuss alternative courses of action. The group was provided the information developed on current trends, case law, and programs either planned or operational. The group then listed some suggested alternatives for implementing a program. The following are their suggestions.

1. Establish voluntary programs in the public agency.
2. Continue to apply mandatory drug testing conditions to all newly hired public employees or implement such a program if it does not exist.
3. Lobby for new state laws requiring public employees to submit to mandatory drug screening tests on a random basis.
4. Monitor the success of other entities in establishing drug testing programs.
5. Establish an ad hoc committee representing management, labor, and labor bargaining units to research the issue of drug testing and make recommendations as to how the program might be employed in the entity.
6. Hire a consultant to advise the entity on the drug testing issue make recommendations.
7. Attempt to bargain with labor groups for the implementation of a testing program.



The group was then asked to discuss the alternatives that they had selected and to select the best three for further study. The group selected lobbying for a new state law, establishing an ad hoc committee, and hiring a consultant. The group then discussed the three selected alternatives and established a list of positive and negative arguments for each issue. Their evaluations are as follows.

Alternative 3: "Lobby for new state laws requiring government employees to submit to mandatory drug testing."

Positive factors:

1. Laws would make mandated testing beyond the control of management.
2. Drug testing requirements would be established by a neutral party.
3. Requirements would be mandated by law and could not be avoided.
4. Avoids conflict between management and labor.

Negative factors:

1. No control over the establishment of local guidelines.
2. Takes a great deal of time to pass in a effective form and be implemented.
3. May experience challenges in the courts.
4. may be too diluted to be effective.

Alternative 5: "Establish an ad hoc committee representing management, labor, and labor bargaining units to research

the issue and....."

Positive factors:

1. Low cost.
2. Would build a relationship between management, labor and bargaining units.
3. Could involve various levels of public employees.
4. Establishes open communication.
5. Improves the flow of information to all employees.
6. May raise morale.
7. Could involve lower priority and/or short term elements of the program.

Negative factors:

1. Time consuming.
2. No control by management.
3. Possible loss of employee work time with no rapid results.
4. Possible lack of open communication.
5. Could create a hostile relationship between labor and management.

Alternative 6: "Hire a consultant to advise the entity on the drug testing issue and make recommendations."

Positive factors:

1. Consultant is an independent party.
2. Consultant should be more objective.
3. More familiar with regulations and programs that have been established by other entities.

4. Working from a neutral position the consultant can meet with all parties and should be able to consider all points of view fairly.

Negative factors:

1. High cost.
2. Time consuming.
3. Recommendations may be too broad.
4. Not familiar with the entity.
5. Hired by management, therefore may not be trusted by other parties.
6. Doesn't solve the problem, only prolongs the process.

RECOMMENDED COURSE OF ACTION

The study group felt that this issue was too complex and difficult to employ only one method of resolution. Alternative five, "Establishing an ad hoc committee..." was selected as a primary course of action. However, the group recommended that portions or blends of other alternative methods be considered and employed in implementing the program.

The following steps are recommended to ensure that a workable testing program is initiated with the least possible resistance and the most cooperations:

Step 1: Management will select a chairperson to oversee the formation of a cooperative group to study drug testing issues. The group will include representative from each department. Representatives will include management, labor,

bargaining unit members.

Step 2: The cooperative group should meet regularly to discuss the issues and to determine what areas need to be researched. Sub committies should be created to explore items such as other cities programs, civil rights issues, technology, new laws, and other topics.

Step 3: An attempt should be made to establish a voluntary drug testing program involving as many employees as possible. Top management could be used as the first test group to illustrate the commitment of the government to the testing program.

Step 4: Employee Assistance Programs should be formed and/or expanded to offer progressive counseling and rehabilitation programs to all employees.

Step 5: The entity should become involved in lobbying for a new state law or laws which would encourage or require mandatory drug screening testing for all public employees.

Step 6: The cooperative group should complete research and begin plans for a model drug testing program. The program could be either voluntary or mandatory. The program may or may not be included in contracts with the entity.

Step 7: The model program should be implemented. A review of the program should be ongoing. Any defects in the program should be corrected through a joint effort and agreement of the cooperative group. Any needed changes should be made as soon as possible to ensure that the program will

remain fair and effective.

Step 8: Information regarding progress made by the cooperative group should be shared with all entity employees. Every effort should be made to keep the planning, research, and development of the testing program open for review by all concerned. The cooperative group should ensure that no undo influence is exerted by any of the stakeholders in this issue.

#### NEGOTIATION STRATEGY

To be effective in the implementation of a drug testing program management must consider which issues are important and with issues might be compromised. The following are examples of negotiable and non-negotiable issues.

##### Negotiable issues:

1. The size of the study group. The number of representatives that would be included in the main study group and sub committies study groups must be dependent on the number of units that would involved in the issue.
2. The time necessary to create a plan. Although some completion dates will be established, the time table will be negotiable and somewhat flexible.
3. Wither the testing will be voluntary or mandated. This requirement could be negotiated if the stake-

holders would agree that all employees must complete testing. A voluntary program could be started in the beginning to get testing started and could be mandated at a later date.

4. The types of drugs for which employees will be tested. The types of drugs could include all types of drugs, legal and illegal, as well as alcohol. Drugs tested for could be limited to cocaine, heroin, PCP, and one or two popular drugs.
5. Health testing of employees. The concept of using the same sample used for drug testing to be used to screen for diseases such as cancer, AIDS, and others could be negotiated. Such testing might aid the employees in health maintenance.
6. The frequency of testing. Both voluntary and mandatory testing should require some limitation on the frequency of testing of employees. Such an agreement could involve the requirement for "probable cause to believe" that an employee was under the influence prior to testing beyond the maximum number of tests allowed under the the program guidelines.

Non-negotiable issues:

1. The need for drug testing. The need for drug testing of employees has been well proven. The

refusal of stakeholders to see the need for testing or suggestions to abandon the planning for the implementation of the concept cannot be negotiated.

2. Stakeholder involvement. All stakeholders would have to become involved in the committee meetings even if they did not want drug testing to take place. It could be stressed that this will help them to protect their rights.
3. New employee testing. This issue is not negotiable because new employees are not covered by any agreements with any bargaining units. Any lengthy delay in the implementation of drug testing might result in the majority of employees being under a mandatory employment condition for drug testing.
4. Tests for all classifications. All classifications of employees would be subject to drug testing. Management and supervision would not be exempted.
5. Confidential results of tests. The results of all drug tests and/or tests for diseases would remain confidential. This implies that only the employee and the required management personnel would have access to the results. Information on treatment and discipline would not be made public.
6. Employee Assistance Programs. Employee assistance programs would be established to aid the employees

found to be suffering for the use of drugs. This would not prevent the discipline and/or termination of some classifications of employees for drug use or addiction. Examples would be safety service employees such as police and fire.

7. Tests controlled by management. All drug testing would be controlled by management in association with outside vendors to ensure that drug testing procedures were not tainted.

STAKEHOLDER NEGOTIATIONS:

Three stakeholders have been selected for a negotiation analysis. The three are employees, management, and labor unions. The following evaluations illustrate what the individual stakeholders might be willing to negotiate and what they would not be willing to negotiate.

1. Employees: Employees could be expected to agree to or negotiate the following issues:

1. That drug use is a serious problem.
2. That tests should be available.
3. Submission to tests should be voluntary.
4. Management may be best suited to control testing.
5. Tests should be for the use of "hard" narcotics only.
6. Probable cause to believe that the employee is under the influence should be required



prior to mandating a test.

7. Health tests should be offered at no cost to the employees.
8. Jobs create stress which might cause drug use.

Employees could be expected to not negotiate the following issues:

1. Allowing unlimited testing of employees.
2. Management employees being exempted from testing.
3. Mandatory discipline for drug use.
4. Alcohol and marijuana testing.
5. Public disclosure of test results.
6. Family notification of disease, addiction, or discipline.
7. Any majority vote of employees requiring all employees to give up their right to refuse tests.

2. Management: Management could be expected to agree to or negotiate the following issues:

1. Drug use is a problem.
2. Mandatory testing should be required.
3. Health testing should be offered to all employees.
4. Employee Assistance Programs should be implemented or expanded.
5. Employees and unions should be involved in the

formation of drug testing programs.

6. Management is best suited to control all testing.
7. Tests should be given for all types of intoxication.
8. Probable cause may be used to require drug testing.

Management could be expected to not negotiate the following:

1. Management should control all testing.
2. Discipline should be required for repeat offenders.
3. Some classifications of employees should be disciplined on the first offense.
4. Confidentiality must be maintained.
5. All new employees must be subjected to mandatory testing requirements at the time they are hired.
6. Drug testing must apply to all levels of employees.
7. Probable cause should not be required for drug tests.
8. All hard narcotics should be the subject of mandatory tests.

3. Labor Unions: Labor Unions could be expected to agree to or negotiate the following:

1. Drug use is a problem.

2. Hard narcotics should be the subject of drug testing.
3. Management may be best suited to control testing.
4. Health test should be offered at no cost to the employee.
5. Submission to tests should be voluntary.
6. Jobs create stress which might cause drug use.
7. Probable cause to believe that the employee is under the influence of drugs should be required prior to any testing.
8. That tests should be available.
9. That the unions should negotiate any testing requirements.

Labor unions could be expected not to negotiate the following:

1. Unlimited testing of employees.
2. Any class of employees, such as management, being exempted from testing if it were required.
3. All mandatory discipline.
4. Unions not being allowed to participate in negotiations.
5. Public disclosure of test results.
6. Alcohol and marijuana testing.
7. Any loss of rights of employees represented by the union.

### STRATEGY

The basic strategy to be used in negotiating this plan is that of cooperation. It is recognized that each of the stakeholders has his or her own goals and objectives. Each of the stakeholder has issues which they will be unwilling to compromise on without a great deal of "give and take" negotiation.

Each of the stakeholders will start out with a highly competitive approach. Each stakeholder will attempt to not give in on any of the issues. It will be very important to find some issues upon which all stakeholders can agree. Such an issue might be nothing more than to agree that drug use is a problem. From this common ground the group can move toward a compromise position. Some of the issues can be discussed and compromises can be established. When the group as a whole reaches this point it should be somewhat easier to move into a cooperative mode.

Management should start in a collaborative or cooperative mode. They should realize that the only solution to the testing issue is for all parties to work together to create policies which will please the majority of stakeholders.

### TRANSITION MANAGEMENT

The first step in transition management is to identify the "critical mass", or those persons who will effect the change. The following are the critical mass in the issue

of drug testing.

1. Employees
2. Supervisors
  - a. Sergeants
  - b. Lieutenants
3. Administration
  - a. Captains
  - b. Chief of Police
4. Labor unions
5. Tax Payers
6. Attornies
7. Families
8. Trainers
9. Vendors

Next it is necessary to determine the level of commitment for each of the stakeholders and to design an approach to gain their commitment to the program. The following are examples:

1. Employees: Employees would not support the mandatory drug testing program. Employees would feel that their employer was watching over them all the time. They would feel that their off duty or personal lives were no longer their own. Employees would also be concerned with the possible loss of their employment for activities they engaged in on or off duty which involved the use drugs and/or possibly alcohol. If the mandatory drug

test concept is to be employed the employees must support the program. In order to obtain the needed support several steps must be followed.

First the employees must be made aware of the potential problems caused by drug abuse. Examples would include industrial injuries hurting not only the abusing employee, but fellow workers as well. Education must be provided on the short and long term effects of drug use.

Secondly, employees must be included as members of the committee which will aid in the design and implementation of the drug testing program. The concerns, views, and opinions of the employees must be valued and taken into consideration during the formation of the plan.

Last, the employees can be employed to "sell" fellow employees on the need for mandatory testing. Their credibility is much greater than management's.

2. Supervision: Supervisors will be in the middle of this issue. They will be inclined to not want to be involved. They will want management to make necessary changes and will not want to help the change occur. This is due to their personal concern as employees and as individuals who must work closely with employees on a daily basis.

Supervisors must be brought into the planning process.

They too will be in need of the education being provided other employees.

3. Administration: Administrators will have to make this change happen. They are well aware of the problems drug abuse is causing in the work place. Administrators must be careful in planning and implementing this concept if they want it to succeed. Administration must present a united front in the pursuit of implementing the drug testing program. There is no room for internal conflicts.

Concerns of all levels of employees must be taken into consideration and plans must be made to overcome pitfalls which will be encountered. Administrators must support the committee approach to the design and implementation of the program. This is the key to establishing management intent during the program.

4. Labor Unions: Labor unions will not support this concept. Unions will feel that they are losing their power and will no longer be able to protect the rights of the employees.

Labor unions will be included in the committee which will design the testing program. If they are provided proper education and learn that management's commitment in the best interest of the employee labor unions may be supportive of some type of testing program. Once some type of commitment is made by the unions to agree to testing ultimately the desired testing program may

be implemented.

5. Tax payers: Tax payers will support a drug testing program. They can easily be shown how testing can sustain or improve the productivity of public employees. It can also be shown how testing can help prevent costly errors, accidents, and injuries in the public work place. By educating the public and keeping them advised of the progress in implementing a drug testing program pressure may be brought to bear on those elements which disagree with drug testing.

6. Attorneys: Attorneys will view the concept of mandatory drug testing from two angles. First, they will view it as a generator of more business for their firms. Secondly, attorneys will view this concept as a civil rights issue. They may attempt to protect the rights of employees, often at the bidding of labor unions, and will slow the implementation of the concept for several years.

No action can be taken by public entity management to counter this activity. It must be left to the law makers and courts to silence this critical mass.

7. Families: Families will meet this issue with mixed emotions. Obviously their concerns will follow the concerns of their public employee loved ones. Education and allowing families to be aware of plans for testing may bring them to the point of accepting or even



supporting change.

8. Trainers: Trainers will support the concept. It will provide them with additional opportunities to train. Supervisors may be trained with regard to recognition of symptoms of drug use, testing procedures, discipline, employee assistance programs, peer counseling, and current case law. Technicians can be trained in testing procedures, as well as current law and regulations. In addition, there may be an increase in academy classes due to increased turnover.

Because trainers are not directly involved in the drug testing plan they do not need to be considered until just prior to implementation.

9. Vendors: Vendors will support this concept for the same reasons as trainers. They too are not directly involved in the planning or early implementation, therefore no further consideration is necessary.

#### MANAGING TRANSITION:

The following steps should be followed to ensure the success of the implementation of a drug testing program.

Step 1. Management will select a chairperson to oversee the formation of a cooperative group to study the drug testing issue. This is the group that includes representative of management, labor and labor unions.

Step 2. Mandatory drug screening tests will be required of all newly hired employees. These employees are not rep-

resented by any labor unions, have no property rights, and have no contracts. Implementation of this employment condition would eventually place the majority of public employees under the testing requirement.

Step 3. The cooperative management, employee, and labor union committee should meet on a scheduled basis to discuss the issues and determine what areas need to be researched. Subcommittees should be created to explore items such as other cities programs, civil rights issues, technology, new laws, and other topics.

Step 4. The entity should attempt to establish a voluntary drug testing program including as many employees as possible. Top management could be used as the first test group to illustrate their commitment to the program.

Step 5. The employee assistance program should be expanded to offer progressive counseling and rehabilitative programs to all employees and their families.

Step 6. The entity should become involved in lobbying for the creation of new state laws which would encourage or require mandatory drug testing for all public employees.

Step 7. The cooperative group should complete research and begin to plan a model drug testing program. The program could be either voluntary or mandated and may or may not be included in contracts between the entity and the bargaining groups.

Step 8. The model should be implemented. A review

of the program should be ongoing. Any defects in the program should be corrected by joint effort and agreement of labor, management, and possibly bargaining units. Any needed changes should be made as soon as possible to ensure that the program will remain fair and effective.

#### CONCLUSION

The first objective of this project involved an attempt to determine the extent of the drug abuse problem, what professions were involved in drug use, what were the legal barriers, and what programs are in effect. It was learned that the drug abuse problem appears to be growing larger every day. Countless articles and briefs detail the effects of drug abuse on public and private work places as well as the ruin of private lives of abusers and their loved ones. We have learned that no profession is exempt from the drug abuse problem. Doctors, nurses, lawyers, politicians, judges, air traffic controllers, pilots, police officers, and numerous others are involved.

The field of legal restrictions is currently in flux. The bibliography of current cases illustrates the complex nature of the law at this time. No clear decisions have been made although it appears that some direction will be arrived at in the next five years. Opinions of public officials is not unlike the state of the law. Some are opposed to testing, other support it. Most are waiting for the issue

to be resolved by others, thus avoiding making the tough decisions.

Some drug testing programs have been implemented in police agencies around the country. Voluntary programs have not been opposed. Mandatory programs are suspended in all government jurisdictions pending the resolution of court cases. Private programs are in effect in numerous private companies including approximately one third of the Fortune 500 companies.

The second objective was to determine trends in public agencies, primarily law enforcement, at this time and into the future. The five leading trends were selected from the list of 37 candidate trends developed by the nominal group. Those trends are: the changing values of employees; court rulings; contract mandated drug testing requirements; reliability of drug screening tests; and available work force. The trends did not include current problem which face law enforcement today.

Current trend issues are with regard to drugs abused, the extent of abuse, the effects on the work place such as injuries and absenteeism, crime, and discipline. Those issues were discussed in other areas of the paper. It was learned that the drugs used range from prescription drugs to hard narcotics. Injury and safety issues were illustrated by the deaths of the two New York state troopers killed in a traffic accident. Other effects were included in stakeholder analysis.

The third objective was to forecast future events that could impact on the candidate trends and to evaluate their impact. The trend and event cross impact was analyzed and possible futures were discussed.

Three scenarios were created to fulfill the fourth objective. The scenarios described the possible futures. The first scenario took a look at the history of the drug testing issue looking back from 1992. The second scenario created a day in the life of a drug testing officer in 1992. The third scenario described a future where the issue of drug testing had not been resolved.

The fifth objective involved the development of police considerations for the implementation of mandatory drug testing programs. using the police considerations a group of stakeholders was developed. The demands that could be expected of each of the stakeholders were developed.

Several alternative courses of action were suggested. Each of the courses of action alone might lead to the desired future, however a combination of all methods would likely ensure progression to the desired ends. The three primary courses of action were discussed and positive and negative considerations were listed.

An eight step plan was suggested as a recommended course of action. The steps included the best elements of all methods suggested.

Using the recommended course of action and considering

( the stakeholders in the issue a negotiation strategy was created. The strategy included suggested negotiable and non-negotiable issues. Negotiable issues could be compromised but non-negotiable issues could not. Negotiation strategies were developed for each of three primary stakeholders in the drug testing issue. A listing of suspected negotiable and non-negotiable issues were developed for each stakeholder. The basic negotiation strategy was then suggested.

The managing of the transition from non testing to a mandated testing program was discussed. The critical mass, those who might be required to implement the concept was discussed in full. An eight step plan was devised to manage the transition.

The issue of drug testing is far from settled. Each agency director must establish a desired future and then work toward it. For some the decision might be not to test. For others the decision might be to implement a voluntary testing program. Others still might attempt to implement a mandatory program. The one sure thing is that no agency should refuse to deal with the issue of drug abuse in the work place.

## END NOTES

<sup>1</sup>"Drugs: The problem." Washington Report, Fall 1986, p. 1.

<sup>2</sup>"Drug testing, a major issue facing lawmakers in Sacramento." Sacramento Report, Fall 1986, p. 1.

<sup>3</sup>Ibid.

<sup>4</sup>"Drug test find trooper in fatal crash was intoxicated." New York Times, 4 December 1985, sec. B, p. 1.

<sup>5</sup>"Drug use found in police applicants." Tulsa World, 18 February 1986, sec. A, p. 12.

<sup>6</sup>Interview with James Hart, Boston Police Department, Boston, Mass. March, 1987.

<sup>7</sup>Ibid.

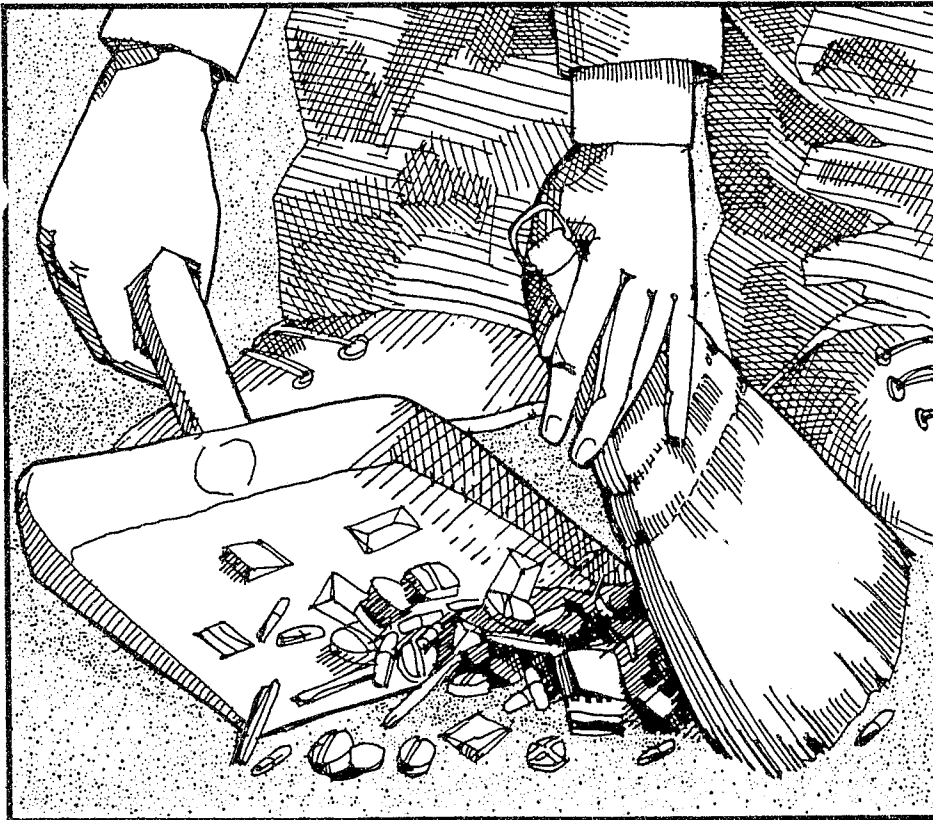
<sup>8</sup>Interview with Gerald Campana, Federal Bureau of Investigation, Washington, D.C., March, 1987.

<sup>9</sup>Ibid., Hart.

APENDIX



# Dealing with Drugs in the Workplace



by Richard I. Lyles

**D**rug dealing on the job is rapidly replacing the office football pool as the most widespread form of illicit economic activity in the workplace. The problem is every bit as serious in the public sector as in the private sector. Consider:

- The drug bust at the Phoenix, Arizona Fire Department, where ten firefighters were indicted for dealing cocaine from the fire station.
- Thirteen workers, including three security guards, at the Diablo Canyon

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Nuclear Power Station were arrested for the alleged sale and use of cocaine, marijuana and other drugs on and off the plant site.

Even California cities have had to face the problem of city employees caught dealing drugs on the job.

In spite of the fact that drug dealing is a felony, such activity is increasing steadily. This is forcing many city managers to re-think their roles and solve the problem that is just down the hall, rather than on the other side of town.

There are a number of reasons dealers choose to ply their trade on the job. First, it is convenient. The workplace provides sellers an opportunity to meet buyers on a daily basis without arousing suspicion. A buyer can place an order one day and get it filled the next — or even place the order before lunch and have it filled before the end of the workday. It's easier than stopping at the supermarket for a loaf of bread on the way home!

The second reason is the relatively minor risk of getting caught. The likelihood of encountering a narcotics or undercover police officer on the job is slim. Police typically look for lawbreakers on the street — not in the planning department. As a result, many cities inadvertently offer a safe haven for dealers.

The final reason focuses on consequences. Not much happens to the dealer when caught. Managers are reluctant to enter into the realm of law enforcement. And, many department heads are reluctant to let another department — even the police department — get onto their

(continued on next page)

## Dealing with Drugs (continued)

turf. Thus, the response usually is to try to get rid of the problem with little concern for serving justice. Accordingly, the employee caught selling drugs on city premises often gets off easier than if caught doing the same thing on the street.

The process is no mystery. The big surprise for most city managers is how open most employees are about the dealing. Whether the action is taking place in the parking lot, cafeteria, recreation center, sewage treatment plant or park, many people know it's happening and adopt a *laissez-faire* attitude. "It's none of my business," and "So what — it's a victimless crime," are two of the more prevalent rationalizations.

**A**s with most management problems, reasonable steps toward prevention are more beneficial than the available cures, should the problem become entrenched. Preventive action should originate from the city manager's office and be forcefully followed through by department heads. The steps can be grouped into three distinct areas of action:

### 1. Send Clear Signals.

First, all city policies pertaining to dealing, using, and possessing drugs must be clear and widely disseminated. Periodic reinforcement is important. The role of the police department should be defined, with specific guidelines about when the department should be notified and the levels of cooperation expected.

If your city has a Civil Service Commission, its members need training before they are asked to decide on issues in this area.

City training programs should include references to the city's stand and trainers should be encouraged to repeat the message often.

The issue should be addressed through in-house communications so employees can see the city is not hiding from the problem and will address it appropriately. Posters and bulletin board memorandums can help get the word out.

Many companies in the private sector are resorting to highly visible deterrents to communicate to employees that drugs won't be tolerated. These include bringing in search dogs, conducting periodic locker inspections, and having employees submit to urinalysis. Eventually, these methods may be necessary in the

public sector as well.

Several California cities already are using or have plans to use urinalysis in pre-employment screening. Some already use this technique on a voluntary basis in suspected drug use cases.

### 2. Maintain Integrity in Discipline.

This is a good guideline to follow under any circumstances, but is especially relevant to drug issues. Sloppy discipline practices invariably become magnified a hundredfold when drug problems arise. First, the laxity creates a climate that encourages drug-related activity. Second, when such activity occurs, the precedents that have been established add to the challenge of adequately solving the problem.

Make sure clear, quick action is taken in all disciplinary situations, but especially in those involving drugs. This means putting a halt to football pools, catalog sales, and the pursuit of other sideline businesses that often emerge in the workplace.

### 3. Deny Opportunity.

Geography provides most of the opportunities for drug dealing. The most common areas are field locations and isolated work areas where small groups

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## Dealing with Drugs (continued from page 8)

of people can congregate with little fear of people walking in on them. Restrooms usually are not favored, but should be considered as a possible site. Parking lots and dead areas — places through which people infrequently pass — are much more likely to be chosen.

Thus the objective would be to eliminate dead areas and bring visibility and traffic to locations where it is currently lacking. Parking lot patrols have proven

effective. So has the practice of having supervisors and managers roam work spaces, locker rooms, and open areas. Have supervisors watch employees when they prepare to go into the field. If they are taking items other than those needed to do the job, ask what they are and check them for acceptability.

In spite of the best preventive efforts, the problem still may emerge in your city. Thus, you should know how to spot it as early as possible.

A number of symptoms could be indicators of a serious drug dealing prob-

lem. The most common include: (1) an increase in the number of accidents, (2) an increase in the amount of pilferage and petty theft, (3) declines in productivity, either at the work group level in certain pockets of the city, or on an individual basis scattered throughout larger areas, (4) declines in quality, (5) the appearance of strained work relationships and tension in certain work groups.

Even though some of these seem directed more toward detecting drug use than drug dealing, assume where there is widespread drug use, dealers are close at hand. The evidence collected so far indicates the dealers usually come first, then the user population grows. Dealers breed abusers — abusers don't breed dealers. The most important objective is to get rid of the dealers.

Anytime you suspect you may have a problem, investigate it thoroughly. Ask around. Talk to trusted employees. Some of them will know for sure, and most will be quite open about it. It's better to investigate thoroughly and let people witness your concern than to skim the surface and miss something that could be serious later on.

**R**emember drug dealing in any form is a felony and forceful action is imperative. Both the legal and the economic consequences of failing to act are prohibitive.

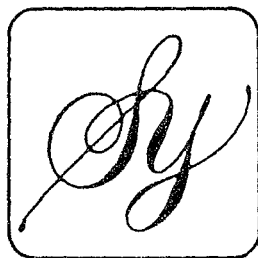
Don't panic. Common sense and a methodical approach are best. But the common sense that might apply in other disciplinary situations may not apply here.

For example, don't have one of your supervisors confront the dealer. Confrontation rarely works in these cases and could only complicate matters. It's unlikely a dealer will give up a six figure dealership because the supervisor requests that the illicit activity cease. There's simply too much at stake. And confrontation may serve to tip the dealer off that management is concerned, thus making it much more difficult to pursue the case when the proper authorities are notified later on. A confrontation also increases the risk of personal retaliation for the supervisor.

Simply firing the person won't necessarily get rid of the problem either. Many managers learn this the hard way when the fired employee files a grievance. It is common for employees to use a defense based on the concept of a person being innocent until proven guilty in a court of law. The accused claims the

(continued on page 30)

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**Dealing with Drugs**  
*(continued from page 24)*

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city is firing him for committing a felony, yet such charges have not been legally proved. Therefore, the reasoning goes, the employee has been fired for committing a crime of which he is innocent.

Bring in your police department and let them handle the problem to its rightful conclusion. Terminate the employees after convictions are obtained.

**M**any cities are reluctant to pursue this course for two reasons, both of which are invalid. First is the fear of adverse publicity. It is true that a city stands to receive more adverse publicity in a case like this than will its private sector counterpart. Thus, it is important for city management to detect the problem early and act decisively, before more serious consequences develop. Then any publicity might be framed in the context that city management is on top of a societal problem and is diligently managing to ensure that city assets are being protected from greater risk.

The second, less cited, reason for failing to rely on police has to do with employee morale. Managers often express concern that such action will damage the

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# The Enemy Within

*A nation wrestles with the dark and dangerous  
recesses of its soul*



*The deadliest enemies of nations are not their foreign foes; they always dwell within their own borders.*

—William James, 1911

**O**therworldly pictures on TV: policemen stand before a table displaying sacks of white powder, like babies laid out in their christening dresses. Dissolve. A teenage mother sits with the back of her head to the camera and discusses her heroin addiction with Bryant Gumbel. Dissolve. Ronald Reagan grasps the lectern and vows to lick this scourge. Dissolve. A gray figure skulks in an alley and holds an odd contraption to his mouth. The voice-over cites statistics on the use of something called "crack," speaks of billions spent this year alone on illegal drugs, of the alarming rise of this, the terrifying appearance of that. Dissolve. Green fields in Colombia. Dissolve. Bolivia. John Belushi. Len Bias. Dissolve. Dissolve.

Not the world of Ozzie and Harriet but the world alongside it: a small world within a world where the population looks either sinister or dead and the language is jazz or chemistry. *Set me straight, man? Got any splim? Red? Strawberry? I got the Rams, man. Don't give me no Rooster Brand.* Officials warn of fentanyl and phenylalkylamines. It is all arcane.

Do criminals create the shadow planet, or does the shadow planet create them? Whatever. The planet thrives, where even Ozzie and Harriet's little boy, grown middle-aged and off camera, is said to have floated high on cocaine en route to dying. It is as if the American mind itself were divided between clarity and dreams, freedom and addiction.

The shadow world sits like the darker brother, locked hiding in his room all day, seeing God dance in the soaps. What goes on in that mind, in that room? To begin to know that might be a way to demystify the—what?—plague, curse, disease, tragedy, normality of drugs. The center of the wanting mind reaches toward and creates every element of the drug world. Is one supposed to lecture that mind, eradicate it, hate it, arrest it, weep for its plight?

The drug addict holds a peculiar place in society, not unlike the AIDS victim; the impulse to shun collides with the impulse to embrace. If the addict happens to be your colleague or your daughter, the confusion doubles; there are no impoverished minorities to pity or blame. You become a mote in history. For thousands of years, people have smoked, snorted, injected their way between paradise and self-murder, while the outer world has watched, scolded, legislated, not legislated, with barely the slightest comprehension of the act.

And how can this be happening in America? Or is the question rhetorical in the land of pioneers: How free can you be, Mr. Icarus?

Designating drugs a crisis now, the nation tears out its hair in public, calls out the Air Force, the border patrols, the Republicans, the Democrats. "War!" cry the city mayors. What does America mean to accomplish by this call to arms? The prosecution of criminals? The rescue of lives? A self-purgation—all minds clean and alert again in a sweep?

Is it that drugs are an enemy in which all the other national enemies may be incorporated: sneak attacks by foreign powers, illegal immigration, poverty, violence, street crime, the lassitude of youth, unemployment, materialism, irresponsibility in the workplace? If that's the case, then drugs may be confused with any of these other enemies, and the most shortsighted policies could be enacted.

The war that is being called for is a civil war, to be fought in the schoolyard or kitchen, in which the casualties may range from a thug in Miami to the dearest of civil liberties; a wild war in the house. Yet the war is urgent and necessary. Suddenly the whole system feels poisoned by a world in which millions of one's countrymen eagerly dream themselves to death.

—By Roger Rosenblatt

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September 23, 1985

## Putting recruits to the test:

# Drug use by cops seen as growing problem

Top police executives say the use of illegal drugs by law enforcement officers is the biggest problem facing the law enforcement profession today, and they see a growing trend toward the frequent use of urinalysis to detect drug use among recruits and officers.

"We didn't have this problem in law enforcement years ago," said Neil Behan, the police chief of Baltimore County and president of the Police Executive Research Forum (PERF). "Our people, the young people were not using it to the degree that they are using it now," he said. "Society continues to change in regard to narcotic drugs and it's been on the increase these many years."

The people recruited 10 years ago, Behan said, were not likely to be drug users. However, he added, the young people that apply for police jobs now are very likely to have used them. "Ten years ago the number-one problem in law enforcement was corruption; now the number-one problem is the use of illegal drugs."

Chief Richard J. Koehler of the New York City Police Department sees the increased use of drug-detection tests on recruits as a mandate for police officials. "We have a responsibility under state law and the city's administrative code to maintain the fitness of the force. Illegal drug use requires someone to break the law and the use of drugs impairs somebody's ability to function."

According to Koehler, the

NYPD's chief of personnel, the department has been giving urinalysis tests to recruits for the past several years. Koehler said that three urinalysis tests are given to recruits, one as an applicant just prior to hiring, another while the recruit is still in the training academy and the last before the end of probation.

"We set a tone, particularly up front. We think of it as a socialization process. People are coming from society in general to be police officers with 30 to 35 percent of the population using narcotics, particularly marijuana. So we make it clear in the department that you don't use drugs. If you do, you'll get fired."

Koehler said that when the department tests a recruit's urine it is on the lookout for either illegal drug use or legal drugs illegally used.

The Chicago Police Department also gives urinalysis tests to recruits, as well as to selected in-service officers. According to Officer John Dineen, president of the Chicago Fraternal Order of Police Lodge 7, as an officer moves up in rank or applies for assignment in a special unit, he must submit to a urine test.

Over the past 20 months, 1,922 officers from different divisions have submitted to the drug tests. Of these, Police Superintendent Fred Rice announced that 81, or 4.2 percent, showed signs of illegal narcotics use.

These statistics include 58 security specialists — personal

bodyguards — who were given the tests in June. Out of 58 officers tested, one failed when THC, the psychoactive ingredient in marijuana, was detected in his urine.

Chicago Police Department policy orders the reassignment to less sensitive positions of any officer who fails a drug test. Charges are then filed with the Police Board to have the officer dismissed from the force.

Although the tests are voluntary in the case of officers seeking a transfer, Dineen said, if an officer refuses to have a urine test the onus is him. "We've had classes for hostage negotiation training and when they were told they would have to voluntarily submit to an examination, about ten officers did not return to school the next day," he said.

It is no secret, Dineen said, that across the country people are "imbibing more and more" in the use of drugs and alcohol. "Whether it's marijuana, cocaine, heroin, barbiturates, amphetamines — there's more and more people getting involved and if you read the literature, if you're talking about the general population you're talking about 30 percent of the population becoming involved in some sort of chemical dependency."

Police agencies across the country have been implementing new means for assuring accuracy in marijuana testing, as well as ways of differentiating those applicants who have tried drugs in



the past but who are not users from those who are still currently engaged in narcotic use.

At the Baltimore County Police Department, Chief Behan said, more information is being fed into computers to try to predict the success of a recruit in the future. One of the items entered is the applicant's prior drug history. "We wouldn't be hiring anyone who was any more than an experimenter," he said.

In New York, as in Chicago, termination is recommended for officers with a chemical dependency. If an officer is suspected of using illegal drugs, Koehler said, the supervisor makes an observation of the officer and then calls the department advocate's office to explain his suspicions. The supervisor then has the right to order that officer to take a drug test. If the officer refuses to take the test or the test proves positive, he is fired.

"Drug use is a crime," Koehler said. "In order to put the drugs in your body you must commit a crime. It's different from alcohol, which is protected under Federal law." Koehler said drug abuse and alcohol abuse differ in terms of the criminality of drug use and in the fact that drug use is not considered an illness under Federal law. For that reason, Koehler said, the department has no drug treatment program and no intention of starting one.

The 4.2 percent of the 1,922 Chicago officers who were found to be using drugs is a much lower proportion than the level found among the general population. Still, according to Dineen, there is a problem. "The biggest problem is that many corporations that will identify alcoholism as a sickness have now identified chemical dependency as a sickness and have programs to treat and retain those people in the work place," he said. "I know of no police department in this country that will retain an officer who has been identified as having a chemical dependency."

Behan said that within the

Baltimore County ranks, any use of narcotics is unacceptable. "It's illegal and those who use it should be separated from this kind of work. Other professions should take the same attitude but they do not. They do not expel from their ranks those who they find to be users."

This is not the attitude in law enforcement, Behan continued. "It is a violation of the law and a police officer has no right to violate the law. The fact that they are users indicates their judgment could be impaired, their use of revolvers could be impaired and we don't want that to happen. In most cases we get rid of those people."

At present, the Chicago City Council is studying the possibility of ordering mandatory drug tests for some city employees. Dineen said that if the Council passes an ordinance to this effect, the FOP will take the city to court to protect the constitutional rights of officers. "That is not to say we are defending anyone who has violated the law, but we want to make sure the rights of all the officers are protected. We have the intention of bringing up this issue," he said, "at the negotiating table next month when we negotiate our contract."

In most departments, Behan said, on-the-job testing has not become a universal practice. "There is a trend toward that," he said. "If the abusing continues, you'll probably see an expansion of the idea of checking people. In this department, we give a urine test to every officer going into a narcotics squad. That's the way the trend is going, and you'll probably see more of that, not less."

Although none of the police officials questioned see a problem with substance abuse in their own departments, Behan said there is widespread concern within the law enforcement community. "We're concerned that drug abuse is out of control, especially cocaine, and we want to make sure that as we recruit and put people on special assignment that

they are not drug users and do not become drug users after coming to us."

Both Koehler and Behan believe that proper training is the key to preventing a substance abuse problem within an agency. If an applicant has experimented with drugs in the past, Behan said, he would not be barred from joining the force, but if tests showed recent drug use or heavy drug use, that applicant would be deemed unacceptable.

At the NYPD, Koehler said, 3 percent of the applicants to the force are turned away because of narcotics use. Koehler said that while other departments using different approaches turn up positive results on 25 to 30 percent of the tests done on applicants, NYPD hopefuls are told that if there is any detection of drug use they will not be hired. "We tell them that when they take their written test," Koehler said. "From the very beginning of the investigative process all the way through the 18 months they're in the academy and on probation and in the field training program, we indicate that any sign of drug use is going to result in their termination. There has never been an exception where an officer has taken a test and we've gotten a hit. That person's fired."

Koehler believes that the socialization process at the very beginning has led to the 3 percent hits. "Our objective is not to catch people who have ever used marijuana. Our objective is to make sure that they don't use marijuana as police officers. When you look at 3 percent hits, the message is out."



COVER STORIES

## Battling the Enemy Within

*Companies fight to drive illegal drugs out of the workplace*

*The night shift at the General Motors plant in Wentzville, Mo., was busy putting together Buick Park Avenues and Oldsmobile Regency 98s when ten policemen quietly entered the factory. Making their way along the assembly line, the officers clapped handcuffs on twelve workers. They had allegedly sold cocaine, hashish, marijuana and LSD with an estimated street value of \$250,000 to two young undercover agents who had been hired by GM to pose as assembly-line workers.*

*Alarmed by reports of widespread drug and alcohol use at its Laughlin, Nev., generating station, the Southern California Edison Co. organized its own raid. Corporate managers and security officers cut the personal padlocks off 400 employee lockers to rummage through the contents. They searched cars in the parking lot and even frisked a few workers. Seven employees were fired for possessing drugs or alcohol at work in violation of company rules.*

*Twenty Unocal employees were startled when company cars and vans converged on their remote oil-pumping station in Piru, Calif., and discharged a cordon of private security officers and drug-sniffing dogs to search the grounds. No drugs were found, but six workers were later suspended when urine tests demanded by the company showed traces of marijuana. The six were reinstated only after they agreed to submit to urinalysis regularly in the future.*

**I**n the old days, an oilworker might have decked his boss for asking him to supply a urine sample, and workplace raids by company vigilantes, let alone police, would have been unthinkable. But in the old days, it was rare for someone to come to work stoned on drugs or for managers to have to worry about coke-heads in the office. Not anymore, and not just in isolated instances either. Illegal drugs have become so pervasive in the U.S. workplace that they are used in almost every industry, the daily companions of blue- and white-collar workers alike. Their presence on the job is sapping the energy, honesty and reliability of the American labor force even as competition from foreign companies is growing ever tougher.

Now U.S. employers have decided to strike back at the drug plague. In high-rise office towers and sprawling factory complexes, in bustling retail stores and remote warehouses, companies are cracking

down on workers who get high on the job. Supervisors are watching closely for tell-tale signs and confronting workers who seem impaired. Employees caught with drugs are often fired on the spot, and suspected users are urged to enter rehabilitation clinics. Hundreds of companies are setting up programs to combat drugs, providing psychiatric counseling for employees, resorting to urinalysis to identify us-

ers, and in a few cases going so far as to install hidden video cameras or hire undercover agents.

A measure of the inroads drugs have made on the U.S. workplace came last week when the President's Commission on Organized Crime took the extraordinary step of asking all U.S. companies to test their employees for drug use. In an initial report based on a 32-month



study, the commission also urged the Government not only to test its own workers but to withhold federal contracts from private firms that refuse to do the same. "Drug trafficking is the most serious organized-crime problem in the world today," said the commission, which argued that the Government and private companies can play a vital role in curbing demand for drugs.

The recommendations immediately stirred a fire storm of controversy. Said Representative Peter Rodino, a New Jersey Democrat who chairs the House Judiciary Committee: "Wholesale testing is unwarranted and raises serious civil liberty concerns." Agreed Democratic Representative Charles Schumer of New York: "Trying to stop organized crime's multi-million-dollar drug business by creating a police state in federal office buildings would be virtually ineffective and would create one crime to stop another."

But many business leaders have con-

cluded that the threat posed by drugs on the job can be answered only with tough measures. Dr. Michael Walsh, chief of clinical and behavioral pharmacology at the National Institute on Drug Abuse, notes that the number of corporations that ask him for advice on how to get drugs out of the workplace has increased dramatically in the past few months. Says he: "The momentum is very, very strong at this point."

And with good reason. The costs of drug abuse on the job are staggering. The consequences range from accidents and injuries to theft, bad decisions and ruined lives. According to the Research Triangle Institute, a respected North Carolina business-sponsored research organization, drug abuse cost the U.S. economy \$60 billion in 1983, or nearly 30% more than the \$47 billion estimated for 1980. Other studies have found that employees who use drugs are far less productive than their co-workers and miss ten or more times as many workdays. Drug abusers are three times as likely as nonusers to injure themselves or someone else. Moreover, addicts with expensive habits are much more likely to steal cash from a company safe, products from a warehouse or equipment from a factory.

Concern is greatest, of course, in industries where mistakes can cost lives. Since 1975, about 50 train accidents have been attributed to drug- or alcohol-impaired workers. In those mishaps, 37 people were killed, 80 were injured, and more than \$34 million worth of property was destroyed. In 1979, for instance, a Conrail employee was high on marijuana at the controls of a locomotive when he missed a stop signal and crashed into the rear of another train at Royersford, Pa. The accident killed two people and caused damages amounting to \$467,500.

In the airline industry, the code of pride and honor that has kept most pilots and air-traffic controllers sober over the years may be seriously eroding. In September 1984 a pilot for a major international airline called 800-COCAINE, a New Jersey-based hot line that provides treatment referral and information. He said that he had been up for three days straight snorting cocaine and that he was scheduled to fly a passenger jet to Europe that night. He was feeling exhausted and paranoid, he confided, but was sure he could stay awake and alert if he just kept taking drugs. "Call in sick and get some sleep," urged the hot-line counselor. The counselor, who never found out what the pilot finally decided to do, says that such calls are not unusual.

The National Transportation Safety Board attributed a fatal 1983 air accident to illegal drug abuse. Two crewmen died when a cargo flight crash-landed at Newark airport. Autopsies showed that the pilot had been smoking marijuana, possibly while flying. In an incident last March, a New York-based air-traffic controller who had been injecting three grams of cocaine daily at work put a DC-10 jumbo jet on a collision course with a private plane.

At the last moment, the smaller aircraft made an emergency landing.

Even the space program has not been immune to the drug plague. Dr. Howard Frankel, who was medical director of Rockwell's space shuttle division from 1981 until 1983, says that he treated employees who were hallucinating on the job, collapsing from cocaine overdoses and using marijuana, PCP, heroin and numerous other drugs while they worked. Frankel estimates that 20% to 25% of the Rockwell workers at the Palmdale, Calif., plant, the final assembly point for the four space shuttles, were high on the job from drugs, alcohol or both. During the construction of the spacecraft, police raided Rockwell's shuttle assembly plant in Downey, Calif., several times after undercover agents bought cocaine, heroin, methamphetamines and marijuana from employees. Nine workers were fired.

**N**o evidence suggests that Rockwell's drug situation had anything to do with the *Challenger* tragedy. The solid rocket booster that is suspected of causing the explosion was made by Chicago-based Morton Thiokol, and no reports of drug use among its employees have surfaced. Nonetheless, any drug abuse among production workers in the space program or the defense industry carries grave risks. Says Frankel: "In this kind of ultra-high-tech work, the guy who makes the little adjustments, the screw-on of parts, the bolter of nuts, is just as important as the project's chief engineer."

Besides fearing that stoned employees may do shoddy work on missiles and planes, defense industry executives are concerned about security. They fear that addicts on the payroll might sell defense secrets to support their habits. Moreover, because criminal narcotics-possession charges could lead to the loss of security clearances necessary for many jobs in the defense industry, drug abusers are extremely vulnerable to blackmail. Says R. Richard Heppe, the president of Lockheed California: "We do a lot of highly classified work here, and people with these problems are much higher security risks."

No one knows precisely how pervasive drug use on the job is. But there is no doubt that during the past couple of decades, illegal drugs have become deeply ingrained in American life. Federal experts estimate that between 10% and 23% of all U.S. workers use dangerous drugs on the job. Other research indicates that people who take drugs regularly, some 25% of the population according to Government calculations, are likely to use them at work or at least sometimes be on a high when they arrive at the workplace. In a 1985 study conducted by the 800-COCAINE counselors, 75% of those calling the hot line reported that they sometimes took coke while on the job, and 69% said they regularly worked under the influence of cocaine. One-fourth said they used cocaine at work every day.

Marijuana was once the most com-

mon drug in the workplace, but cocaine may now have become No. 1. According to estimates by the National Institute on Drug Abuse, the number of Americans who take marijuana at least occasionally declined between 1979 and 1982, the most recent years for which statistics are available, from 22 million to 20 million. During the same period, the ranks of cocaine users increased from 15 million to 22 million. The problem seems to be most prevalent among young adults. NIDA estimated last week that nearly two-thirds of the people now entering the work force have used illegal drugs and 44% have taken them during the past year.

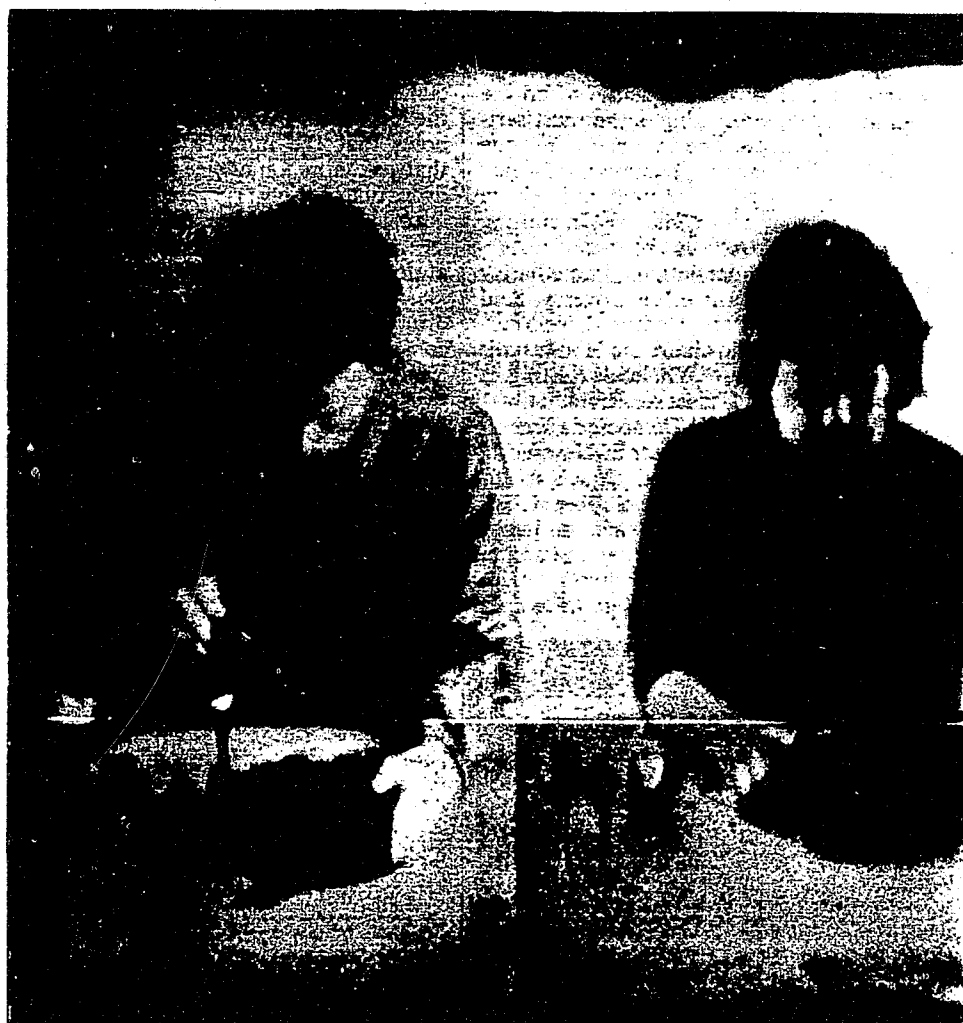
**C**ocaine is an increasingly popular drug to use at work, partly because the intense high it generates often gives users the false feeling that they can do their jobs better and faster. Moreover, cocaine is easy to hide. It is generally snorted rather than smoked, and does not give off an odor as marijuana does. Users have devised ingenious ways of taking the drug right in front of their co-workers without being detected. Some, for example, buy squeeze-bottle medications for sinus congestion, empty out the medicine and refill the bottles with cocaine. Cocaine vaporizes at temperatures above 80°, so merely carrying it in a pocket keeps the container close to normal body temperature of 98.6° and the coke ready for sniffing.

In many offices, drugs are as easy to obtain as paper clips from the stock room. Some dealers provide messenger services to deliver cocaine and marijuana right to their customers' desks. In other cases, users send unwitting company messengers on "business" errands to pick up packages that actually contain narcotics.

Dangerous drugs can be found at every level of industry, from the shop floor to the executive suite. Says Naomi Behrman, a counselor for AT&T/Bell Labs: "You can no longer assume that because a person wears a three-piece suit and a necktie, you can rule out drug abuse."

In fact, many managers are in an excellent position to hide drug habits because they can close their office doors and delegate work to others. Company officers also travel frequently, making it easier to use narcotics on the sly. Chief executives who order up internal investigations of drug problems are often shocked when the trail leads to some of their most trusted aides. Says Special Agent George Miller of the Drug Enforcement Administration "Companies never think of drug use on the executive level. They always think it's on the assembly line."

Sometimes the chief is the culprit. Chairman Terence Fox of Iroquois Brands, the Greenwich, Conn.-based maker of Champale malt liquor, was arrested in November after being discovered in a hotel room with \$8,000 worth of cocaine. Last year Miller Brewing filed a \$19 million civil suit against Robert Landau Associates, a New York City sports-promotion firm that had gone into bank-



ruptcy proceedings in 1984. The brewer, a former client of Landau Associates, charged that President Robert Landau spent \$2 million of Miller's promotional money on cocaine, racehorses and other personal expenses. Landau has denied the allegations.

Though drug abuse is most likely to make the headlines when it involves Hollywood celebrities and sports stars, the problem is also epidemic among doctors, lawyers and other professionals in high-pressure, fast-paced work environments. In the high-tech firms of California's Silicon Valley, sudden wealth has created a thirst for instant gratification and expensive highs. One former employee at a computer company tells of being the office cocaine pusher for three years. Says he: "It was made to order. I had an instant clientele—hundreds of people who worked with me."

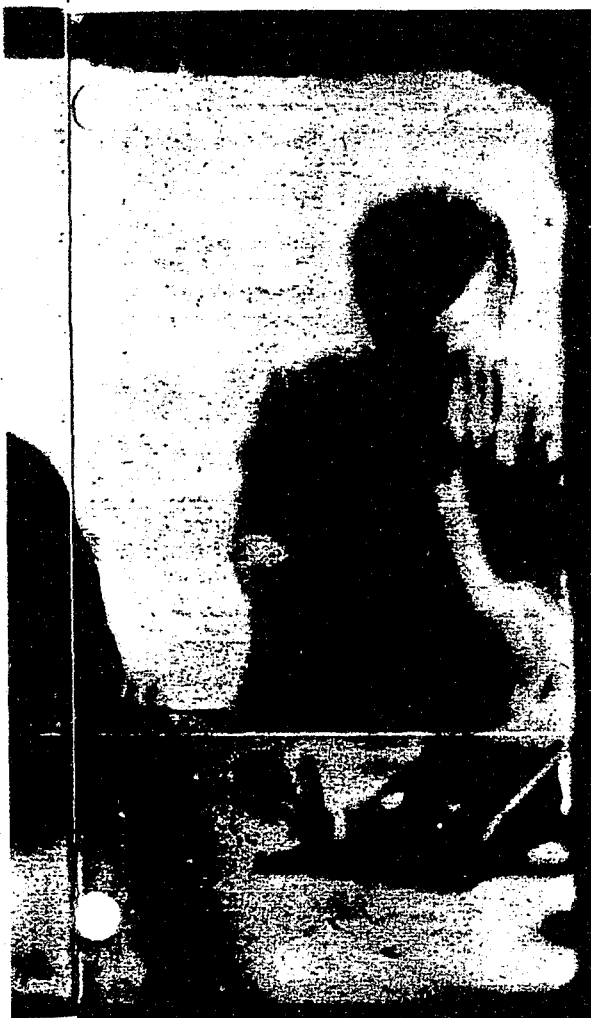
In the heady bull markets of the past two years, more than a few hot young brokers on Wall Street have stoked up on drugs for frenetic trading sessions. Steve, a stockbroker and recovering addict, snorted cocaine in his office, in men's rooms, even in elevators. "It woke me up and gave me strength," he recalls. "It made me feel like J.P. Morgan."

Up and down Madison Avenue, cocaine has become almost a currency in advertising agencies. Coke for models,

photographers and artists is buried in budgets. Copywriters use cocaine to jump-start their creative juices. Independent producers supply it to agency representatives on location. In a survey of 300 advertising directors conducted by *Advertising Age* magazine in August, 45 reported cases in which cocaine had been used as under-the-counter compensation. Sometimes, ad agency employees hire production companies to make commercials only if the firms offer bribes of cocaine.

But drug abuse is not just a by-product of life in the fast lane. Drugs are also used by multitudes of blue-collar workers to relieve the deadening boredom of menial jobs. Says Miriam Ingebritson, clinical director for a St. Louis-based consulting firm that provides drug-therapy services for IBM, the Cincinnati Reds and the City of St. Louis: "Frequently we find that it is not the exhilarating high that people are looking for, but rather to escape from tedium."

GM, Ford and other manufacturers with large blue-collar work forces have discovered that drug dealers offer virtually an alternative cafeteria service in their plants. Instead of meat loaf, macaroni and apple pie, the choices are marijuana, hashish, cocaine and amphetamines. For Cherry Electrical Products, a semiconductor and electrical-equipment manu-



facturer near Chicago, the seamy side of company life came to light in October 1984, when two employees were arrested late one evening for selling marijuana to an undercover policeman. President Peter Cherry then discovered that drugs were being peddled in the company's stock room. One woman employee with an unmanageably expensive habit had allegedly become a parking-lot prostitute during breaks. Within three weeks, 20 workers who were accused of taking or selling drugs quit or were fired. Says Cherry: "It

was like Pandora's box was opened. We were stunned."

Some workers get so freaked out on drugs that they become a menace to everyone around them. A meter reader for a Washington utility became crazed after taking PCP and ran from one backyard to another. He hid behind bushes and jumped out and screamed at frightened neighborhood residents until police arrested him. In New Jersey a dentist who injected himself with three syringes of cocaine every morning as he drove down the turnpike to work began to complain that the fillings he was putting into patients' mouths were talking to him. His partners quickly forced the dentist to sell his share of the practice.

Many professionals have ridden their drug habits to bankruptcy and homelessness. Bob, a Wall Street trader, was so hooked on cocaine that he lost his job and wound up eating out of garbage cans and living on the streets. David, an attorney in New Jersey, spent \$60,000 on cocaine in 1983 and frequently free-based cocaine in his office. Fearing that invisible people were watching him at all hours, he nailed shut the windows in his house and covered them with sheets, but still believed they were coming through the walls. Both men now regularly attend meetings of Cocaine Anonymous, a national self-help group patterned on the principles of Alcoholics Anonymous. While David is back on the job, many of the people he used to get high with were not so fortunate. Says he: "A lot of my old friends are dead."

Until recently, many companies have been slow to respond to their growing drug dilemmas. They did not realize how widespread the abuse was and had no idea how to combat it. Managers were not sure how to recognize the signs of drug use and were often afraid to confront workers who appeared to be high. Many executives doubted that the problem was serious enough to warrant a crackdown that might generate bad publicity.

But the smoking, snorting and dealing on the job eventually became so blatant and the results so tragic that companies could no longer afford to ignore what was

going on. New York-based Capital Cities/ABC woke up to its drug troubles in 1984 after an employee collapsed at work, and subsequently died, from a cocaine overdose. Shortly thereafter, Capital Cities, which later acquired ABC, discovered organized drug dealing in one of its divisions. Last year, according to Dr. Robert Wick, corporate medical director for American Airlines, a computer operator who was high on marijuana failed to load a crucial tape into a major airline's computer reservations system. Result: the system was out of service for some eight hours, costing the company about \$19 million. Says Wick: "That was an awfully expensive joint by anybody's standards."

Such revelations have broken down corporate resistance to taking a strong stand against drugs. Psychiatrist Robert DuPont, a former director of the National Institute on Drug Abuse who now helps companies set up antidrug programs, says that employers "have gone through a mental barrier that was blocking them before. What was that barrier? The barrier was that it was a private matter. The barrier was that it was not very important. The barrier was that there was not anything to be done about it anyhow. The barrier was that it was a societal problem and not a work-related problem. There was a whole series of barriers that kept the companies from moving, and they are all falling down."

Employee attitudes toward drugs are slowly changing as well. Workers have long been reluctant to turn in their colleagues for drug use. They have been afraid of ruining their co-workers' careers and of being ostracized for snitching. In addition, they could not be sure that management would believe them or back them up. But more and more employees are becoming fed up with working alongside people who are stoned. Says a news correspondent for a major New York City TV station: "After all, you work for days sometimes to make a story the best you can, and then some drug-abusing idiot pushes the wrong button when you're on the air. Why should I put up with that?"

Once companies acknowledge and

## Telltale Hair

Do cokeheads have hot hair?

The answer to that question holds a potential way out for employers who wish to test workers or job applicants for drug use but are reluctant to face the delicate task of asking for urine or blood samples. Not surprisingly, executives and assembly-line workers often balk at the indignity of testing. But people might object less to losing just a snippet of hair, particularly if it meant a less demeaning and more accurate method of drug screening. The question is relevant because scientists have discovered that human hair holds a permanent record of all chemicals that a person has taken.

Los Angeles Chemist Werner Baumgartner has developed a new drug test that utilizes radiation. When performed

on human hair, it reveals what drugs have been taken and, unlike blood or urine tests, shows when the chemicals were consumed.

Baumgartner and his partner, Psychopharmacologist Ronald Siegel, claim that the hair test is more reliable than urinalysis. The San Diego-based Navy Drug Rehabilitation Center has been using the test on an experimental basis since last December. At the same time, Baumgartner and Siegel are training technicians so that the test can be tried on a broader scale.

A fascinating sidelight of the research is that the test can be used on preserved hair samples from long-dead famous figures. Among samples that Baumgartner and Siegel have analyzed are locks belonging to John Keats, the 19th century poet. The test confirmed scholars' suspicions that the author of *Ode on a Grecian Urn* was an opium user.

## Economy & Business

confront the drug threat, their first task is to establish a consistent policy that is both firm and fair. Typically, companies decide to dismiss workers caught taking or selling drugs on the job but also offer a helping hand to users who voluntarily admit their problem.

To help put impaired workers on the road to rehabilitation, about 30% of the FORTUNE 500 largest industrial corporations have established in-house employee-assistance programs, commonly known as EAPs. Many of these programs were set up during the 1970s for workers suffering from alcoholism, and have since been expanded to include drug abusers. The motivation behind the EAPs has been economic as well as humanitarian. Says Drug Consultant Ingebritson: "It's much easier to help a person who has been on the job for nine years than it is to hire and train someone to replace him."

Mobil's drug-treatment program is fairly typical. Employees with a problem can call or stop by the medical departments at any of the oil company's facilities around the world. Supervisors who spot unusual behavior that is affecting job performance can encourage workers to contact an employee-assistance counselor. After initial medical examinations and counseling sessions, patients are generally referred to a hospital or outpatient drug clinic for treatment, which may take from four to six weeks. During that period the employees are given sick leave with pay, and their status is kept confidential. Company health-insurance benefits pay all the treatment costs. Once employees return to the job, they are allowed to attend follow-up counseling sessions during work hours. Says Dr. Joseph M. Cannella, Mobil's medical director: "We like to identify people, get them treated and back to work." He claims that Mobil's rehabilitation efforts have been 70% to 75% successful.

Many companies, including Capital Cities/ABC, Xerox and Dean Witter, have made it easier for employees to seek help by setting up nationwide hot lines with toll-free 800 numbers that workers and their families can call to get advice on drug problems. The service offers a guarantee of privacy to employees who are reluctant to approach their bosses or stop by medical departments. Once the drug user is on the phone, the hot-line counselor can encourage him to get help through an EAP or local clinical program.

While helping current employees to quit taking drugs, many companies are working to make sure that they do not take on any additional drug users. More and more firms are requiring job applicants to submit to new, sophisticated laboratory tests that can detect traces of narcotics in urine samples, and before long, companies may also be testing hair (see box).

The list of corporations that ask all job applicants to undergo urinalysis is like a roll call of the largest and most presti-

gious firms in the U.S. Among them: Exxon, IBM, Lockheed, Shearson Lehman, Federal Express, United Airlines, TWA, Hoffmann-La Roche, the New York Times. On March 1, Du Pont became the newest name on the list. And this spring, AT&T, which already tests applicants at plants where volatile chemicals are handled, will start screening all potential employees at its manufacturing facilities for drug use. About one-fourth of the FORTUNE 500 companies now screen applicants for drugs, and an additional 20% are expected to begin doing so this year.

**A**n increasing number of firms are testing not only applicants but also certain classes of current employees. Rockwell, for example, makes test pilots give periodic urine samples. Dozens of companies, including the Los Angeles Times, Southern Pacific railroad and Georgia Power, an electric utility, now demand that employees take drug tests if their supervisors think they may be impaired. All the major U.S. oil companies have instituted such a policy for workers on drilling rigs. Since last month, a Federal Railroad Administration regulation has required some 100,000 employees who operate U.S. railroads to undergo urinalysis whenever their supervisors think they may be high. This week a new regulation takes effect requiring workers to take a test when they have been involved in a serious accident.

Drug testing of all employees is still

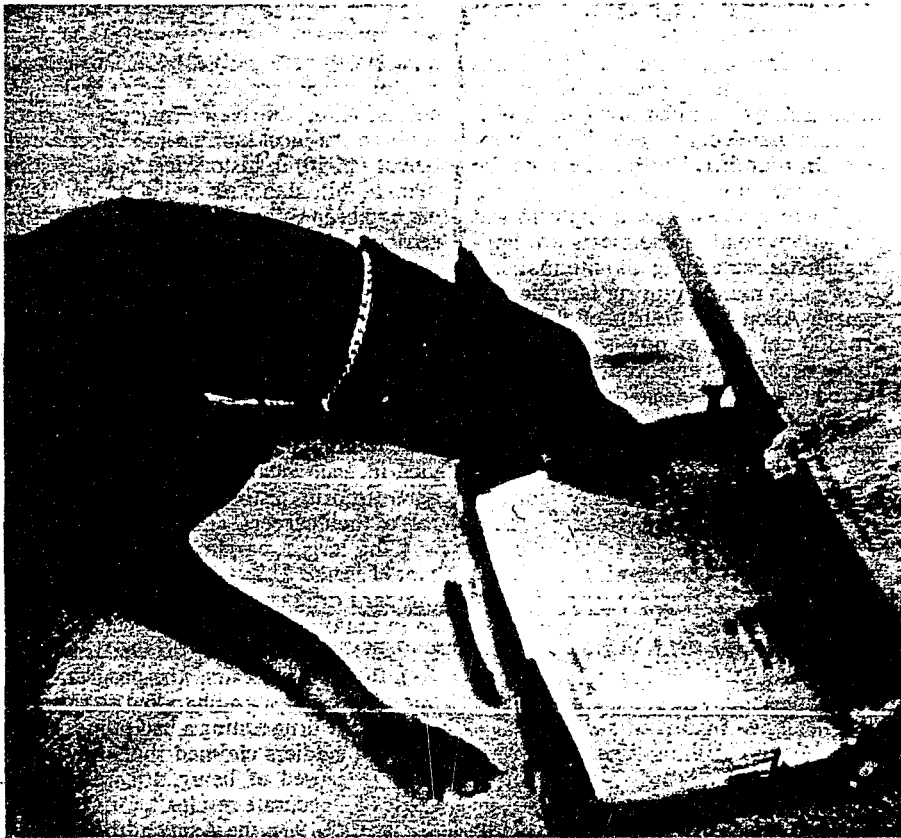
rare, but some organizations are considering that step, especially in professional sports. After the New England Patriots suffered the most humiliating Super Bowl defeat (46-10) in history last January, the team admitted that several of its key players had been using illegal drugs during the season. Coach Raymond Berry has asked all players to submit to random drug testing. Two weeks ago, Baseball Commissioner Peter Ueberroth suspended seven players for one year without pay for using and distributing drugs. To be reinstated, the players must give 10% of their 1986 salaries to drug-rehabilitation programs, contribute 100 hours of community service in each of the next two years and agree to drug testing on demand for the rest of their careers.

The largest employer to test all personnel is the U.S. military. Alarmed by rampant drug use among men and women in uniform, the Pentagon began widespread random testing in 1982, starting with the Army. At first, the program was developed so fast and handled so sloppily that it gave drug testing a bad name. Hundreds of soldiers claimed that they were falsely accused of being drug users because of inaccurate results.

In July 1984, the Army admitted that in tests of 60,000 soldiers, about half of the urine samples had been mishandled. In many cases, samples were mixed up in the lab, and service members received results from specimens that were not their own. Since then, the Pentagon has improved







procedures and extended the tests to all branches of the armed forces. It claims to have cut drug use by military personnel in half since 1980.

The most widely used new urine test, known as EMIT (for Enzyme Multiplied Immunoassay Test), is believed to be 97% accurate in the best of circumstances. But since laboratory workers often mishandle or accidentally contaminate the samples

during analysis, the rate of accuracy may be considerably less. Because of such doubts, few companies fire employees or refuse to hire applicants on the basis of only one test. If the first test indicates drug use, employers generally try to confirm that result with a second urinalysis using a different laboratory technique.

A few companies are waging a more active—and clandestine—war against

drugs. GM, for example, has used private undercover agents supervised by the police to make some 200 arrests at its plants within the past 18 months. In the sting operation at the Wentzville plant, the company was able to hire two young former narcotics agents unobtrusively when it added a second shift. Dressed in T shirts and jeans, they mingled easily with the assembly-line workers. During a six-month period they bought everything from cocaine to LSD from the plant's alleged pushers. Says Dr. Robert Wienczek, GM's director of occupational safety and health: "We want any individual who is selling drugs in our plants to know that his days as a GM employee are numbered. We're not going to tolerate it." Last week Electronic Data Systems, a subsidiary of GM, began firing employees in the Detroit area who had failed drug-screening tests given to 104 security guards, clerks and secretaries in February.

Some firms are literally calling in the dogs. Canine detectives, trained to recognize the smell of marijuana and other drugs, have nosed around offshore oil platforms owned by Pennzoil, Mobil and Exxon. Atlanta's Alpha Academy of Dog Training supplies drug-sniffing German shepherds, springer spaniels and golden retrievers to corporate clients and law-enforcement agencies.

The corporate battle against drugs is a bonanza for dozens of small companies that provide the weapons. Private laboratories that perform drug tests, for example, are growing rapidly. So are security firms that supply undercover agents. Professional Law Enforcement, a five-year-old Dayton firm, has doubled its business in the past year. Says President William Taylor III: "Companies are starting to recognize that they have to attack the

## The Other Plague

**A**s executives confront the scary phenomenon of drug use on the job, they cannot afford to forget about an older and even more prevalent problem: alcoholism among workers. Though drinking hard liquor is not as fashionable as it once was and Americans have cut their average consumption of alcohol by 4% since 1980, the number of people who are addicted to booze has increased by 8%, to 12 million, according to the National Institute on Alcohol Abuse and Alcoholism. More than any other ailment, alcoholism breeds absenteeism, high medical bills and reduced work quality. North Carolina's Research Triangle Institute estimates that alcoholism cost the U.S. economy \$117 billion in 1983, up 30% since 1980.

Today, though, physicians and counselors are increasingly encountering a different kind of alcoholic—one who uses both booze and drugs. Says Dr. Jules Trop, the administrator of the Addiction Treatment Center at Mount Sinai Medical Center in Miami Beach and himself a recovered cocaine addict: "A pure alcoholic is a rarity these days, just as a pure coke junkie is." Addicts who stick to alcohol alone are typically over 45, while younger people are more likely to use a combination of cocaine, marijuana and liquor. Dr. Joseph Pursch, medical director of CompCare, a chain of treatment

centers based in Irvine, Calif., points out that workers who are drunk on the job sometimes think that cocaine or some other stimulant will sober them up and help them perform better.

Many companies' employee-assistance programs combat alcoholism and drug abuse with similar methods of hospital care and psychiatric counseling. Says Peggy Carey, manager of New England Telephone's treatment program: "We treat addicts as addicts, no matter what the substance."

While alcoholism strikes janitors and corporate chiefs alike, executives can be the most difficult to deal with. They often wield such power in an organization that few people feel able or willing to challenge their performance. Says Dr. Gregory Collins, director of the alcohol and drug recovery program at the Cleveland Clinic: "Executives have very little accountability. They're very intimidating and don't come in [for treatment] until very late in the game."

In contrast to drug use, drinking usually starts out as an innocent, relatively harmless social pastime. Only later, and not always, does it turn out to be a problem. While a certain stigma still attaches to drug use despite its wide popularity, society remains tolerant of drinking even after it has passed the moderate stage. Says J. Bennet Tate, director of Kaiser Aluminum's treatment program: "Alcohol is easy. It's acceptable. It's legal." That is why curbing alcoholism will never be a simple task.

problem in a different way. You can't send a standard security guard or a management person out there to handle a person dealing in drugs."

Because narcotics abuse spawns stealing, companies that specialize in investigating employee theft are much in demand. A Baltimore firm called Loss Management provides its clients with a national hot line and has solved cases with the help of office tipsters who report theft at their place of work. In one case, a clerk called the hot line when the invoices she was processing did not add up correctly. As it turned out, three top managers at the company were embezzling money to buy cocaine.

Though employee support for antidrug programs is growing, some workers feel that their companies are going too far. At the Kansas City *Star* and *Times*, two newspapers owned by Capital Cities/ABC, employees were stunned in January when management proposed to use narcotics-sniffing dogs as part of an experimental antidrug effort. Though newsroom wags passed around dog biscuits, most employees were in no mood to laugh. They felt that using the dogs would be an implicit accusation and an unwarranted and heavy-handed action. After heated staff protests, Capital Cities/ABC backed down and called off the experiment.

Much of the criticism of corporate antidrug efforts focuses on the growing use of urinalysis (see box). Opponents charge that urine tests are a particularly invasive and humiliating method of determining whether a worker has used drugs. Says Bus Driver Randy Kemp, whose employer, Seattle Metro, requires employees who appear to be impaired to submit blood and urine samples: "You've got to have a search warrant to search my



house. Well, my body is a lot more sacred than my home."

Some executives agree. Hewlett-Packard and McDonnell Douglas, for example, do not ask job applicants or employees to take drug tests. Says Hewlett-Packard Spokesman Gene Endicott: "It's an invasion of the employee's privacy."

Another objection to urinalysis is that companies are trying to control what

workers do in their private time as well as during working hours. Because the tests do not reveal when a drug was used, workers could be penalized or fired for what they do in the evening or at weekend parties. Workers' rights advocates maintain that corporate antidrug policies can be particularly unfair in the case of marijuana, which has been virtually decriminalized in some states and cities. Says Los

## Testing Testing

When it comes to broad-scale efforts to check out employee drug use, the toughest test of all may be the court test. Even some members of the President's Commission on Organized Crime were surprised at the commission's recommendation that tests be given to many employees of the U.S. and of private companies with federal contracts. Like the other 18 commissioners, Thomas McBride, associate dean of Stanford Law School, saw a draft of the report but not the staff-prepared final version. The language calling for broad testing was an effort to reconcile various suggestions from the commissioners. "I never would have approved it," McBride says.

Since the phenomenon of drug testing is relatively new, the legal limits are not yet clear. Public employees are protected by the Fourth and 14th Amendments' safeguards of privacy and due process. But, says Michigan Federal Judge Avern Cohn, if the tests are job related or have something to do with job performance, then the courts are going to uphold them. "As for private-sector employees, because the Constitution is concerned largely with dealings between citizens and government, its provisions do not apply to most relations between them and their employers. Even so, argues Berkeley Law School Dean Jesse Choper, it would be excessive "to invade the body, in mass testing, without any partic-

ular cause to believe that any particular individual is a user." Job seekers may be the least protected of all. Most authorities believe that companies may require pre-employment drug screening for every applicant.

Here and there rules on the leeway and limits are beginning to emerge for those on the job. Some union contracts define when workers may be tested or dismissed. A Greyhound mechanic in Detroit was twice fired after testing positive for marijuana, and twice reinstated by arbitrators—first because the procedure was error prone and not described to employees in advance, then because there was no indication that he was not doing his job adequately. In those cases that have come before them, courts have been looking closely at such issues as how reliable and how invasive a test is. For instance, to prevent cheating, witnesses sometimes must accompany those giving urine samples.

Several important cases are under way, notably a wrongful-dismissal suit brought against Southern Pacific by a computer-program designer. She was fired for refusing to submit to urinalysis ordered by the company last July for more than 200 randomly chosen employees in San Francisco. The uproar following that incident led the city to pass the nation's first ordinance barring employers from administering blood, urine or electroencephalogram tests at random. Legislation to restrict or regulate drug testing is being considered by Oregon, Maryland, Maine and California.

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Angeles Labor Lawyer Glenn Rothner: "Termination for marijuana use, or worse, for simply having minute traces of marijuana in the body when tested is sentencing these employees to the equivalent of corporate capital punishment for an offense that would only merit a \$100 fine in California."

The reaction of organized labor to antidrug efforts has been mixed. Unions generally support corporate drug-rehabilitation programs, but opposition to urinalysis is growing. Says Douglas Maguire, director of the labor assistance program

middle of the factory. We're just asking people to be fit while they're on the job."

Because drug use by workers can result in shoddy, unsafe products and accidents in the workplace, executives argue, individual rights must be subordinated to the broader welfare of fellow employees and customers. "We're not on a witch hunt," says Personnel Manager John Hunt of Southern California Edison. "Our No. 1 concern here is safety. We also have a responsibility to our customers. Our meter readers go into people's homes." Independent experts share the executives'

published the results of a study on how marijuana use affects the ability of pilots to land planes. The pilots in the experiment smoked marijuana and then tested their skills in flight simulators. A full day after taking the drug, long after any sensation of being high had passed, the pilots were still swerving dangerously upon landing. One "crashed" his plane beside the runway. The researchers, who are now expanding the study, concluded that marijuana users may have difficulty performing complex mechanical tasks or doing work that demands quick reactions for 24 hours after smoking the drug.



for the Los Angeles County Federation of Labor, AFL-CIO: "Labor is not supporting testing in the workplace. As part of a physical exam for new employees, it is acceptable, but otherwise there are problems of violating civil rights." Some unions also fight against firings of workers with drug problems. Rockwell's Frankel quit as the company's medical director in 1983 partly because, he says, management repeatedly gave in to union demands that drug abusers be reinstated in their jobs.

Many executives are becoming increasingly impatient with the objections of labor leaders and civil libertarians. Says Peter Cherry of Cherry Electrical: "We have a right to say how you behave at the workplace. You don't bring a gun to work. You can't come to work naked. You're not allowed to yell 'Fire!' in the

concerns. Says Peter Bensinger, a former head of the Drug Enforcement Administration who is now a leading consultant on corporate drug problems: "Companies do have a right and responsibility to establish sound working conditions. We're talking about people and their safety, and our own individual rights to work in a safe environment." Company officials also point out that a strong stance against drugs is basically humanitarian because it ultimately benefits workers who use them as much as it does the firm.

Furthermore, the argument that what employees do in their own time is none of the company's business is being undermined by new evidence of the lingering effects of drug use. In November, researchers at the Stanford University School of Medicine and the Palo Alto Veterans Administration Medical Center

**W**hile it is still too early to measure the success of the corporate war against drugs, some companies can already cite impressive results. Commonwealth Edison, a Chicago-based electric utility, started an antidrug education and rehabilitation program in 1982, offering treatment to users who came forward and threatening to fire those caught with drugs at work. The company also gives urine tests to job applicants. Since the program started, absenteeism is down 25%, and medical claims, which had been rising steadily at an average rate of 23% annually, rose only 6% last year. Moreover, the company had fewer on-the-job accidents in 1985 than in any previous year. Says Vice President J. Patrick Sanders: "I don't think that all of the improvements are directly related to the drug program. But it's got to be more than coincidental."

The corporate campaign against drugs may do more, however, than create safer, more productive workplaces. It may also begin to stem the plague of drug use in America. As more companies require job applicants to prove that they are drug free, it will become increasingly difficult to use drugs and make a living. The economic deterrent may begin to succeed where the legal deterrent has failed. Says Walsh of the National Institute on Drug Abuse: "We feel that if Big Business continues as it has in the last year to develop more and more stringent kinds of policies, it eventually will reduce the demand for illicit substances. It may be very effective in changing the way people view drug taking in this country."

Many executives believe that they can make a difference far beyond the office doors or the factory gates by insisting that their employees stay away from drugs. Says Capital Cities/ABC President Daniel Burke: "I consider drugs damn dangerous. I believe that my responsibility is such that my position against drugs has to be clearly understood by everyone who works under my direction." If companies can help employees kick the drug habit, the effort will pay dividends to business—and society—that cannot be measured in dollars and cents.

—By Janice Castro.  
Reported by Jonathan Beaty/Los Angeles, Barbara Dolan/Chicago, and Jeanne McDowell/New York



**L**ast June, two outstanding athletes — National Basketball Association second-draft choice Len Bias and professional football defensive back Don Rogers of the Cleveland Browns — died from cocaine overdoses. The abuse of “crack,” a purified, highly addictive form of cocaine, is described as an epidemic in certain cities, and its use among young people is spreading.

Most Americans are justifiably concerned with the drug problem, and many are asking these questions: Can we solve this problem? Are there methods available to prevent drug abuse and to identify abusers in the early stages of use, before greater harm is done to them and to the rest of us?

About 20 million Americans have used marijuana at least once in the last 30 days. About 4.2 million used cocaine in the same period, according to a study commissioned by the National Institute on Drug Abuse.

In California an estimated 2,271,000 persons used marijuana and 589,000 Californians used cocaine in the last 30 days — roughly 11 to 14 percent of the drug abusers in the nation.

Dr. Lloyd Johnston, who has conducted an annual National Survey of High School Seniors since 1975, reports that — while fewer than 10 percent of the graduates in 1975 claimed they had ever used cocaine — 40 percent of the same group had used it by 1985. Many of these young people are now in the workforce.

The degree of substance abuse is greater in California's schools, where 18 percent of the 11th graders in a UCLA study by Dr. Rodney Skager in 1985-86 reported using cocaine at least once in the previous six months. That is nearly twice the proportion of seniors nationally who had tried cocaine just 10 years earlier.

Most California 11th grade students (69 percent) had illegally consumed beer and 14 percent had used hydrocarbon inhalants to get high in the same six months of 1985-86. Many of these young people will be entering the California workforce in the next several years.

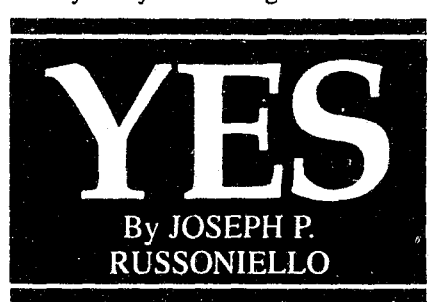
The adverse effects of illegal drugs on the user are more pervasive, more potent and surprisingly longer lasting than the obvious drug-induced changes sought by the abuser.

Today, the strain of commonly used marijuana known as “sinsemilla” is

seven to ten times as strong as the kind used ten years ago. The drug can take up to seven times as long to metabolize in the body as its weaker predecessor. Measurable traces of marijuana are showing up in the system two to three weeks after the last usage.

In other words, if you smoke dope on Friday night, it will be in your system at work on Monday morning. And, of course, if you use drugs during your lunch hour or on your way to work in the morning, the narcotic will likely be in your system throughout the work

day. Marijuana and amphetamines used to be the preferred drugs in the workplace, but are fast being replaced by cocaine because it is more easily used without arousing suspicion.



day. Marijuana and amphetamines used to be the preferred drugs in the workplace, but are fast being replaced by cocaine because it is more easily used without arousing suspicion.

Substance abuse, both of alcohol and drugs, costs business and industry about \$60 billion annually in lost productivity. There are about 6 million

drug users and 16 million alcohol abusers in the workforce. These people are four times more likely to be absent from work for more than one week, five times more likely to file a workers' compensation claim; they receive three times the average sick leave benefit. At work they tend to be lethargic, obstreperous, unpredictable and often perform at two-thirds of their capabilities. They often sell drugs to support their own habits or steal from employers for the same reason.

However, enhanced enforcement of the drug laws is not the only answer to this ubiquitous problem. A significant part of the law enforcement dollar is already committed to drug enforcement. There has been a measurable increase in the number of drug importation, manufacturing and distribution syndicates successfully prosecuted in recent years, and yet the impact of enforcement efforts on the availability of drugs or the price of drugs has been negligible.

The proposition (once widely accepted) that law enforcement alone could perform the task of eliminating or significantly reducing drug abuse is no longer seriously suggested, espe-

# Mandatory

## Are they fair

*Should government agencies and private employers be allowed to force employees to take periodic drug tests? Do these urine tests violate the individual's right of privacy? Are they any different from the tests required in California for suspected drunk drivers? Are the tests for drugs flawed? These are among the questions that are being raised in the current public debate over*

*YES, continued on page 26*

# drug tests: and legal?

*drug testing. Starting on the left is an argument for testing by Joseph P. Russoniello, United States attorney for the Northern District of California. On the right is an anti-testing argument by Dorothy Ehrlich, executive director of the American Civil Liberties Union of Northern California.*

On March 3, 1986, the President's Commission on Organized Crime proposed that all employees of the federal government, as well as all employees of private companies that contract with the federal government, be regularly subjected to urine tests for drugs as a condition of employment.

Although this proposal has been widely criticized, and several members of the commission have disavowed it, it symbolizes a trend toward forcing employees to submit to urine tests or else lose their jobs. Indeed, 25 percent of major American companies have now instituted such programs, presumably to remedy impaired job performance that results from drug abuse.

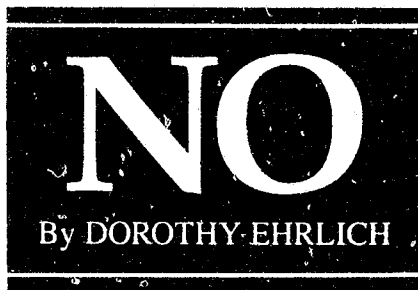
The American Civil Liberties Union opposes indiscriminate urine testing because we believe it is unfair and unreasonable to force millions of American workers who are not even suspected of using drugs, and whose job performance is satisfactory, to submit to degrading and intrusive urine tests on a regular basis. It is unfair to treat the innocent and the guilty alike.

Here are some frequent questions posed by members of the public about ACLU's stand on drug testing:

*Don't employers have the right to expect their employees not to be high on drugs on the job?*

Of course they do. Employers have the right to expect their employees not to be high, or stoned, or drunk, or sound asleep. Job performance is the bottom line; if you can't do the work, you get fired. But urine tests don't measure job performance. Nor do they measure current impairment or intoxication. The only thing such tests are capable of detecting are the metabolites of various substances ingested some time in the past.

*Can urine tests determine when a particular drug was used?*



No. Urinalysis cannot determine when a particular drug was ingested, and the metabolites of some drugs will show up in urine weeks after ingestion. An employee who smokes a marijuana joint on a Saturday night may test positive the following Wednesday, long after the drug has ceased to have any effect. Why is what happened Saturday

the employer's business? And how does it differ from employees who have a drink over the weekend or in the evening? What has that to do with their fitness to work?

While employers do have the right to regulate their employees' activities during the workday, they do not and should not have the right to regulate their employees' off-the-job recreational activities. Millions of executives regularly have a drink or two at lunch, and it has never been deemed necessary to test them. Why test workers for their activities on weekends or on vacation?

*If you don't use drugs, you have nothing to hide. Why object to testing?*

Innocent people do have something to hide: their privacy. This "right to be left alone" is, in the words of the eminent Supreme Court Justice Louis Brandeis, "the most comprehensive of rights and the right most valued by civilized men." Urine tests are an unprecedented invasion of privacy.

In addition to evidence of illegal drug use, the tests can disclose numerous other details about one's private life. Urinalysis can tell a company whether an employee or job applicant is being treated for a heart condition, depression, epilepsy, diabetes or schizophrenia. It can also reveal whether an employee is pregnant.

Innocent people also have reason to be concerned because the method of urinalysis most commonly used in drug testing (the "EMIT kit") is inherently unreliable. The EMIT kit gives a false positive result at least 10 percent and possibly as much as 30 percent of the time.

Experts understand the test's unreliability. At a recent conference, 120 forensic scientists were asked, "Is there anybody who would submit urine for cannabinoid (marijuana) testing if his career, reputation, freedom or livelihood depended on it?" Not a single hand went up.

The EMIT test confuses substances. For example, over-the-counter cough medicines can show up as heroin. Certain antibiotics show up as cocaine; as many as 11 different legal substances may show up as marijuana. It is universally advised by doctors and toxicologists that the EMIT kit should never be used as definitive evidence that a person has or has not taken a particular drug.

*NO, continued on page 27*

cially now that attention has been refocused on prevention, and funding increases for treatment and education are promoted as at least as necessary as enforcement. Even if the criminal justice system could conceivably identify, apprehend and prosecute all drug offenders, jailing all users would be physically impossible and prohibitively expensive. Our prisons now house more than 528,000 inmates — 125 percent of capacity — with a like number in county jails. At current levels, it would cost \$75,000 per cell for new additional housing and \$15,000 to \$20,000 to maintain each cell.

In addition to the high costs of incarceration, such short-term "cures" — removing the drug offender temporarily from society and the drug market — are ineffective. Only long-term rehabilitation programs have worked. At a minimum, many billions of dollars would be needed if the government were required to treat drug abusers in institutional settings.

Finally, using law enforcement as a "cure" is like performing radical surgery to treat a metastasized disease. The judicial system has little flexibility: Arrest is followed by conviction, followed by sentencing and then imprisonment or rehabilitation. Considering the shame and anxiety this method invariably visits on the accused, it makes so much more sense to treat the patient at the first symptom of illness, and get right to the rehabilitation, wherever possible. The real question is how to do this.

The answer is obvious: We must complement vigorous enforcement against drug traffickers with all-out efforts to reduce the demand for illicit drugs.

**T**he question is not *whether* we should be pro-active with drug users but *how*. Education and persuasion are fine for some, but most abusers must be sought out wherever they are, and we must make available the kind and extent of treatment best suited to the situation and offer an opportunity for rehabilitation.

In the workplace — traditionally a controlled environment — this means providing a comprehensive drug and alcohol abuse program, including drug testing, where warranted. Not every workplace *must* have a program, but if

the estimate that 10 percent of the Fortune 500 companies' employees are drug users is true, and if approximately 6 million in the workplace use drugs, then most workplaces will need some kind of program.

Those who use illicit drugs at all or abuse alcohol regularly pose the greatest challenge. From members of this group and the apologists we often hear the cry, "Leave us alone! It's none of your business what we do with our own bodies. I don't need any help — I can handle drugs (or alcohol). I don't have a problem. You're violating my constitutional right of privacy by asking me to submit to an examination of any kind which seeks to find out what I've been doing to my body." In one form or another, this is the usual protest.

In spite of the abusers' attitudes of denial, more and more of the health-care resources of this nation must be channeled to deal with the consequences of continuous drug use. A society that takes pride in its recognized pre-eminence in



the health-care field cannot and should not permit itself to be victimized by a minority of its citizens whose self-inflicted injury could destroy its ability to provide first-class medical care for the truly needy patient.

The refusal of the user to recognize that there is a problem, coupled with the reality that the individual's drug usage will cost all the rest of us dearly, compels the conclusion that doing nothing to prevent, identify and treat drug abuse may exacerbate the problem.

The business community and government leaders can set an example for achieving a drug-free workplace and society.

President Ronald Reagan led the way to a nationwide drug-free workplace by his prototype order in September, calling for drug tests of some of the 2.8 million federal workers in sensitive positions, with rehabilitation available for those who are substance abusers.

In the same month, California Gov. George Deukmejian ordered a state plan for confidential drug testing of some of the 230,000 state employees, with counseling and rehabilitation available.

The Puerto Rican government now requires drug testing of all new job applicants and about 20,000 current Commonwealth public employees, under an order by Gov. Hernandez Colon.

The police department in Pleasanton, in San Francisco's East Bay, is pioneering a comprehensive, voluntary drug testing program for all officers — the first such policy program in California and reportedly the first such police program in the United States.

Can the program be mandated by the employer unilaterally? The answer is "yes." Every employee owes his or her employer an honest day's work for a fair and just wage. What this means is that employees are not free to abuse drugs so long as their work is not impaired, and so long as they pose no "clear and present danger" to the physical safety of themselves, co-employees or the public. It means that he or she will come to work on time whenever not truly "ill," will work to an optimal level of proficiency and will not be a nuisance or disruptive to the work environment, much less a physical danger. It has always been so.

In a phrase, being under the influence of drugs or alcohol violates that employment contract. In another age it would almost certainly have resulted in dismissal.

But termination does nothing to address the problem; it just shifts it to another employer or to the rest of us who support the unemployment benefit and Social Security systems which are usually called upon to sustain the unemployed user between fits of work.

Should we be objecting to the effort to implement a meaningful program in the workplace? It is a fact that American industry has undergone a remarkable change in its attitude toward substance abuse in the past 15 to 20 years, such that helping drug-using employees to recover their sobriety and return to the workplace instead of firing them is now the usual course pursued.

A 1969 survey of 500 companies showed 95 percent of the executives questioned would fire a drug-using em-

Companies that manufacture EMIT kits warn employers to follow up any positive result with additional, more sophisticated confirmatory tests. But such confirmatory tests are expensive, and in practice many employers do not use them. Millions of people across the country risk not being hired or losing their jobs and their reputations because of the EMIT kit test.

*Still, isn't indiscriminate testing the best way to catch the users?*

It may be the easiest way to identify drug users, but it is also by far the most un-American. There is a long tradition in the United States that general searches of innocent people are unfair. This tradition began in colonial America, when King George's soldiers searched everyone indiscriminately in order to uncover those few who were committing offenses against the Crown. These general searches were deeply hated by the early Americans, and were a leading cause of the Revolution.

After the Revolution, and fresh from the experience of the unfairness of indiscriminate searches, the Fourth Amendment was passed. It says that you cannot search everyone, innocent and guilty alike, to find the few who are guilty. You must have good reason to suspect a particular person before subjecting him or her to intrusive and degrading body searches.

But mandatory, general drug testing programs threaten to turn these traditional principles upside down. Compulsory blood and urine tests are bodily searches, according to the U.S. Supreme Court. The lower courts have already struck down mandatory testing programs in several government workplaces as violative of the Fourth Amendment because they were not based on particularized suspicion.

And although the Fourth Amendment doesn't legally limit the power of private employers, the same principles of fairness ought to apply. Tests should be limited to those workers who are reasonably suspected of using drugs (including alcohol) in a way that impairs job performance.

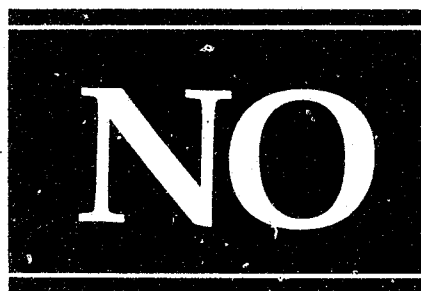
*Aren't there exceptions to the rule? Shouldn't workers such as airline pilots, who can endanger the lives of others if they aren't functioning properly, be subject to drug testing?*

Obviously people who hold the lives

of other people in their hands should be held to a higher standard of job performance. But urine testing won't do that. Urinalysis cannot measure current impairment or intoxication. It would be far more meaningful to require all airline pilots to undergo a brief neurological exam for impaired visual acuity or motor coordination before stepping into the cockpit. No one could object to that.

But urine testing is simply irrelevant to the issue of job impairment, and people in high-risk occupations should be subjected to urinalysis on the same basis as anyone else — only to confirm a reasonable suspicion, based on observation, that a particular individual is job-impaired because of drug abuse.

*What about the high economic costs to industry of drug use? Shouldn't employers be permitted to institute drug testing as a way to protect their investment?*



The economic costs to industry of drug use are cited to justify mass drug testing in the workplace. Billions of dollars, we are told, are lost through low productivity and absenteeism. Some experts question these estimates as extrapolations and projections that have no convincing data base.

Moreover, the economic costs of alcoholism and heavy cigarette smoking are without doubt higher, since so many more people use alcohol and smoke. But no one has yet suggested tests to discover the extent to which workers are drinking or smoking in the evenings or on weekends.

The people who most often cite the high economic costs to industry caused by drug use are the same people who are reaping huge profits from urine testing — manufacturers of the urine test, chemical laboratories and professional drug abuse consultants. Their pronouncements ought to be viewed with skepticism.

*If urine testing is out, is there anything left that can be done about the*

*drug "epidemic?"*

Urine testing doesn't prevent drug use, or cure addiction. Education and voluntary rehabilitation are the only approaches that do. A well-funded, well-coordinated public education effort, such as the anti-smoking campaign, would do more to bring drug use under control than the most massive program of testing.

Such efforts work. Since 1965, the proportion of Americans who habitually smoke cigarettes has gone down from 43 percent to 32 percent. Those who have studied this decline attribute it to public education. Certainly, it cannot be attributed to forced testing or employer sanctions.

In a number of schools, drug education courses have succeeded in teaching teenagers that it is all right to say "no" to drugs. We cannot stop everyone from using drugs, but we can encourage people to be more intelligent and prudent in their attitudes and behavior toward drugs, just as we do with alcohol and cigarettes.

*Have any courts ruled that mandatory urine testing of government employees is a violation of the Constitution?*

Virtually every court that has heard a constitutional challenge to testing by government agencies and employers has found that some degree of individual suspicion is necessary. These courts have prohibited programs that included "random" or "blanket" drug testing.

A state court judge in New York ruled that a local board of education could not subject all teachers being considered for tenure to urinalysis because "an invasive bodily search may be constitutionally made only when based upon reasonable suspicion based on supportable objective facts." A federal judge in Iowa ruled that random tests of prison guards were unconstitutional unless conducted on the basis of "reasonable suspicion."

*But if the Constitution doesn't apply to private employees, how can the privacy rights of private employees be protected?*

Only by special federal or state laws or by union contracts. At this time, employees of private companies have virtually no protection against the mandatory drug testing programs that have now been adopted by 25 percent of the Fortune 500 companies.

The ACLU believes it is grossly unfair that government workers are pro-

Pro: Russoniello



Con: Ehrlich

### *NO, continued from page 27*

tected in their right to privacy while their counterparts in private industry are not. Labor unions should push to include a ban on blanket testing in collective bargaining agreements, and the rights of non-union employees can only be protected by pressing for the passage of federal, state or local legislation.

Because of the efforts of the ACLU and other concerned organizations, the City of San Francisco, for example, has enacted a model law which protects workers in private industry from indiscriminate drug testing. The new law says that no employer doing business in San Francisco "may demand, require, or request employees to submit to, to take or to undergo any blood, urine, or encephalographic test in the body as a condition of continued employment" unless three conditions are met:

1. The employer has reason to believe the employee's faculties are impaired on the job;
2. The employee's impairment presents a clear and present danger to his own safety or the safety of others;
3. The employer gives the employee the opportunity, at the employer's expense, to have the sample tested by an independent laboratory and gives the employee an opportunity to rebut or explain the results.

This law strikes the delicate balance between an employee's fundamental right to privacy, and the legitimate business needs of the employers. ■

### *YES, continued from page 26*

ployee. By 1979, only 10 percent of those of similar positions preferred the firing option. Formal Employee Assistance Programs (EAPs) now exist in 50 percent of Fortune 500 companies. Many of the medical and support-service expenses are reimbursable under company group insurance plans, a fact which encourages the creations of EAPs.

As a society, we should take advantage of the employers' change in attitude toward benevolence and even insist on workplace-based EAPs, run by professional counselors and funded from profits and earnings, union dues and/or insurance proceeds, rather than relying on time-worn and discredited social service programs funded from usually inadequate and unpredictable tax revenues.

**W**hy must drug testing be a component of the EAP? First, for its deterrent value: The threat of an unannounced or "random" test should deter those who can be persuaded that the effects of "recreational" use will carry over to the workplace.

Secondly, for the employee who spurns all offers of assistance and whose conduct suggests continued abuse, the test has a two-fold purpose. It may provide convincing evidence to the employee that the drug or alcohol is still in the system and in dangerously high amounts, in spite of the employee's claim of sobriety. This "discovery" just might provide the needed incentive for him to seek help or accept assistance.

Equally important is the fact that proving that a person is under the influence is not as easy to do as pundits suggest. Yet firing someone without hard evidence could easily result in a wrongful termination claim by the former employee or further disruption in the workplace if the employee is allowed to stay or wins the right to return to work. The positive test result or the employee's refusal to submit to it should insulate the employer from inventive and disingenuous claims that termination was based on arbitrariness and caprice.

Thirdly, a company's pre-announced policy to conduct drug testing gives notice to employees and is the least personally intrusive and most reliable available method for balancing soci-

ety's right to drug-free workplaces — where its decisions and tools are made — with the individual's right to be left alone. This balance rests on the proposition that society has this right, and the individual's right to privacy is qualified, not absolute.

One irrefutable fact proves the truth of both notions — the fact that just and properly enacted laws, the expression of society's will, have determined that the use of illicit drugs is an unlawful act even if indulged in by the individual in the privacy of his or her home.

No one has the right — nor should anyone expect to be able — to use illicit drugs at any time, anywhere, immune from arrest and prosecution. For instance, in California the courts have determined that privacy rights do not extend to the smoking of marijuana or use of cocaine in one's home. A person in danger of becoming addicted or who uses or is under the influence of controlled substances is, in California, guilty of a misdemeanor and subject to an involuntary commitment for rehabilitation purposes. It is a somewhat fatuous notion that one who violates our drug laws is, in spite of it, absolutely insulated from on-the-job inspection, but that is virtually what those who object to drug testing in the workplace contend.

Privacy rights protected by the U.S. Constitution and most state constitutions are implicated only if there is state action or conduct under color of lawful authority. Neither is triggered when private enterprise requires its employees to submit to tests conducted by responsible private laboratories, the results of which are confidential to the employer-employee. This is a confidence that only the employee can waive, or be prevented from claiming, by (for example) the employee's filing a lawsuit for wrongful termination of employment if founded on claims of substance abuse.

A program by employers to test for substance abuse in the workplace — applied in an evenhanded manner, with clearly defined policy, notice to employees, reliable tests, confidential results and other safeguards — is a much-needed mechanism to deter and treat the dangerous spread of drug use in our communities and throughout our economy.

It is a legitimate and reasonable means toward achievement of a socially desirable end. ■

# Police and Drug Testing: A Look at Some Issues

By JAMES K. STEWART, Director  
National Institute of Justice



The availability and widespread use of illegal drugs is a cause of national alarm today. Reports of the tragic consequences of drug abuse come from every segment of our society—from major sports figures to highly paid professionals to assembly workers to suburban housewives. Thus, it should come as no surprise that some police officers, despite our professional code of ethics, have not been immune to the contagion of drug abuse. For police leaders, the challenge is to deal with these isolated incidents in ways that enhance rather than diminish public confidence in the department, and to establish policies and procedures that minimize the potential for future problems.

Police officers today enjoy a high level of public esteem. Due, I believe, in no small part to the work of this nation's police chiefs over the past 15 years, we see increased professionalism, close relationships with the community and rising respect and status for the individual officers. But that esteem can be sharply eroded and those gains quickly lost. One allegation of drug use in a department can foment rumors that abuse is rife within the force. It takes only one or two officers involved with drugs, or an unrefuted allegation that officer drug abuse played a role in a shooting incident, the use of force, or a pursuit accident, to threaten years of progress and public trust in an entire department. Recognizing that speculation of drug abuse can shatter both the integrity of their department and the public respect and trust which the vast majority of their officers have earned, many police chiefs are moving to ensure and empirically demonstrate that their departments are drug-free. These chiefs say they view the new efforts, such as drug testing for officers, not as "admitting the department has a problem" but as

part of their responsibility for ensuring a drug-free workplace and setting an example within their communities.

To help police chiefs cope with this new challenge, the National Institute of Justice, at the request of the major law enforcement organizations, has launched an effort to learn how departments are currently dealing with the problem and what further steps should be considered. This article reports on the results of a survey of 33 major police departments recently completed for NIJ by Research Management Associates, Inc. In early 1987, the National Institute will publish a report giving police managers an in-depth look at how agencies are working to minimize the extent of drug use among police employees.

## The Current Picture

The survey of major police departments revealed the following:

- 73 percent of the departments surveyed were conducting drug screening tests of applicants.



James K. Stewart, Director, NIJ

- Virtually all the departments had written policies and procedures for conducting tests under "reasonable suspicion" that officers were using illegal drugs.

- 21 percent of the departments stated that they were seriously considering mandatory testing of all officers.

- 24 percent of the departments indicated that treatment (rather than dismissal) would be appropriate for officers under some circumstances, generally depending on the type of drug and frequency of use.

Some departments surveyed provided statistics on the outcome of drug tests they conducted. Two departments, for example, reported that only one percent of recruits in their academies tested positive. At the applicant level, eight departments said drug test results indicated that an average of 4 to 5 percent of the applicants tested positive for drugs. In all cases, applicants whose tests were positive were not hired.

## What Needs to be Done

The survey results show that many departments are moving positively to assure that drug abuse will not

JAMES K. "CHIPS" STEWART, director of the National Institute of Justice, Box 6000, Rockville, MD 20850, was appointed by President Reagan as the Institute's director in 1982, having served earlier as special assistant to former Attorney General William French Smith. Mr. Stewart holds a bachelor's degree in philosophy and psychology from the University of Oregon and a master's degree in public administration from California State University. He is a graduate of the FBI's National Academy, 115th Session.



affect their ranks. More work still needs to be done, however. Our survey revealed, for example, that legal clarification is needed at the local level to give more direction on the limits, scope and procedures for drug screening of officers. We also need to determine the most appropriate procedures for ensuring employee rights in drug testing while satisfying the department's need to know that the department is drug-free. Some departments have begun to devote attention to drug awareness training for future line staff and supervisors; this approach warrants broader consideration, as does the development of procedures and programs for treatment of substance abuse among employees.

Police chiefs are legally responsible for identifying officers whose behavior jeopardizes their job performance and the community's safety. This general responsibility covers all types of employee problems, including physical and psychological ailments, alcohol abuse and illegal drug use. In any of these areas, a depart-

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**Some departments require tests of officers when they are transferred to sensitive assignments such as vice, narcotics and internal affairs. Obviously, the integrity of officers in these positions must be beyond question. Officers in these positions generally agree voluntarily to the tests as a condition of accepting the assignment.**

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ment may be held legally liable if it did not know, or did not anticipate, that an employee was unable to carry out his responsibilities in a reasonable and careful manner.

## Setting Departmental Policies and Programs

One of the most essential elements of leadership a police chief can take is to establish a clear policy on drug use. The policy should state specifically that use of illegal drugs by employees is categorically prohibited and subject to explicitly defined disciplinary action. The policy should also stipulate the conditions under which an employee can be tested—testing procedures that respect individual dignity and include confirmatory tests, chain-of-custody procedures, employee notification steps, confidentiality of test results, and provisions for administrative hearings.

In establishing a policy, police chiefs must ensure the rights of employees under the Fourth and Fourteenth Amendments of the Constitution. Where criminal prosecution is a potential outcome, Fourth Amendment search and seizure provisions must be considered because, in criminal processing, obtaining and testing a blood or urine sample for evidence



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of drug use is a search and seizure. When public safety is involved, some courts have ruled that employee drug testing can be based on "reasonable grounds." Since employment is considered to be a property right, the Fourteenth Amendment guarantees that employees cannot be terminated after a positive drug test without an administrative hearing, since such an action would clearly be interpreted as violating due process.

One difficult aspect of the problem is how and when to test employees. It has been legally established in many jurisdictions that police officers can be required to take a drug test when the department has "reasonable suspicion" of drug use. Many department policies require drug tests when an officer is involved in an automobile accident, an excessive force incident, or supervisors observe unusual job performance activities. Because drug tests under these circumstances are performed only on reasonable suspicion, most officers accept it as a condition of employment.

Random drug testing of officers is more controversial. The rationale for random, unannounced testing is that employees will remain drug-free at all times because they will never know when they might be asked to submit to a test. However, this approach is being successfully challenged in some courts. The New York State Supreme Court recently barred the New York City Police Department from conducting random tests on the grounds that they violated the Fourth Amendment rights of employees. The ruling stated that drug tests were allowable as a condition of employment, but that the department must otherwise have "reasonable suspicion" of drug use.

The NIJ survey showed that some departments require tests of officers when they are transferred to sensitive assignments such as vice, narcotics and internal affairs. Obviously, the integrity of officers in these positions must be beyond question. Officers in these positions generally agree voluntarily to the tests as a condition of accepting the appointments.

Another alternative reported by some departments is requiring drug tests as part of an officer's annual physical. This approach makes the tests a routine part of the physical, but the disadvantage is that drug

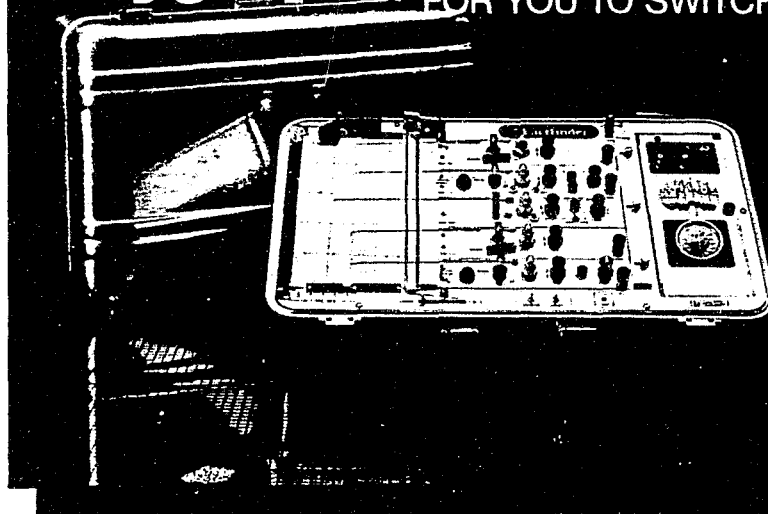
users can stop taking drugs before a scheduled physical and thus avoid detection.

The departments surveyed indicated that the usual drug testing technique was to screen urine samples by using the EMIT (Enzyme Multiplied Immunoassay Technique), accompanied by confirmatory tests when necessary using gas chromatography. Tests were generally performed by outside labs although three departments used existing crime labs. The EMIT test

has the reputation of being accurate and relatively inexpensive. Gas chromatography is even more accurate and is considered necessary to ensure that the initial EMIT results are correct. Even with both tests, however, police executives are still concerned about "false positive." Thus, there is usually further investigation of any officer who tests positive on these tests and contests the results.

A final policy concern of police chiefs is what action to take if an officer is using illegal drugs. While

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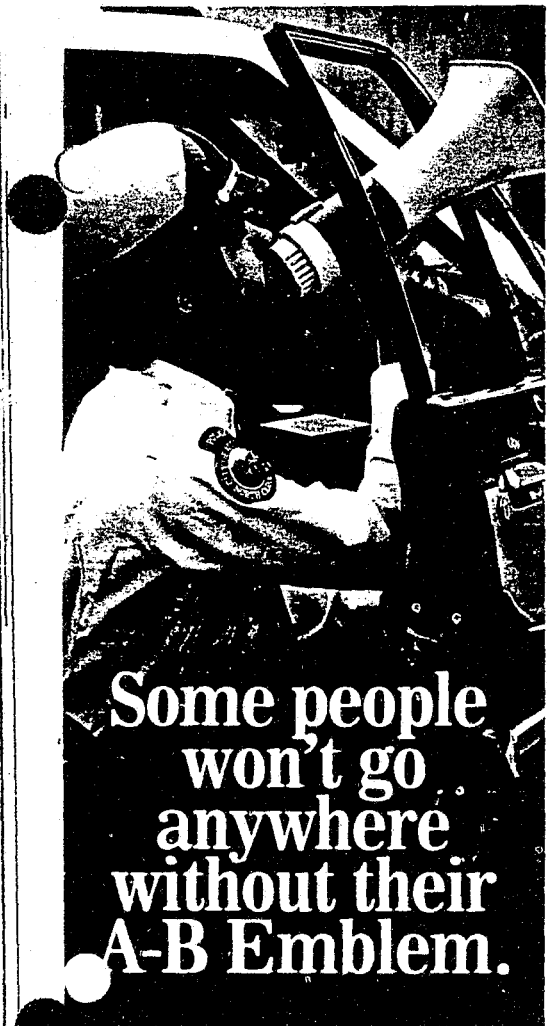
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each case must be judged on its merits, termination of employment is the usual response. This may be particularly difficult when the officer's record indicates good or exemplary job performance. However, police respondents said drug abuse outweighed employment records for several reasons. The most frequently cited fact was that obtaining and possessing an illegal substance for personal use is a crime. Beyond this fundamental conflict, chiefs stated the further fact that association by the officer with felons (drug dealers) is obviously incompatible with the sworn responsibility to enforce the laws against them. Departments also face potential legal liability if the officer who takes drugs subsequently acts in a negligent or careless manner. In addition, respondents noted the definite possibility of continued drug use by the officer even after a rehabilitation program.

Employee assistance programs in many police departments are expanding to include participants with drug problems. In fact, the experience of these programs is that alcohol and drug problems frequently occur simultaneously. These employee assistance programs are being endorsed by many police chiefs but they also present a dilemma. Disciplinary action may be initiated if it becomes known that an officer has enrolled in a program for drug use. As a result, employees must often enter these programs voluntarily without allowing their participation to be known to the department.

A number of departments are taking steps to make employees more aware of the problems of drug use and to encourage employees with problems to seek professional assistance. The New York City Police Department has developed a three-hour drug awareness workshop that is being provided to all officers. The department has also prepared a special drug awareness booklet as part of its Police Academy training manual and a drug awareness videotape that emphasizes department policies.

### Conclusion

There is, I believe, a growing national will to confront and deal with the scourge of drug abuse. It is embodied in President Reagan's initiative for attacking both supply and demand and for achieving a drug-free

society—including a drug-free workplace. It is reflected in the public's view: in a recent *Newsweek* poll, 85 percent of those queried believed that testing police officers for drug use was a "good idea." It is important to know that while police officers ranked first in this poll as the occupational group the public thought most important to test, air traffic controllers ranked a close second. The ranking thus does not suggest that the public suspects widespread drug abuse within law enforcement, but rather that citizens recognize the immense responsibility for life and safety that all of us in law enforcement hold.

It is, therefore, encouraging to see police managers taking strong leadership in addressing potential drug use within their agency. The National Institute of Justice intends to support these efforts by consolidating and sharing new information and ideas. We welcome the comments and suggestions of chiefs so that we can act together to ensure the professional integrity of law enforcement in the fight against drugs. ★

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1. Public Welfare
2. Loss of productivity
3. Cost of work accidents and mishaps
4. Administrative concern for drug abuse problem
5. Diseases (AIDS)
6. Types of tests used
7. Description of drugs to be tested for
8. Acceptance of drug use/abuse by society
9. Code of Silence
10. Health
11. Invasion of privacy
12. Success of trial programs
13. Liability of public entities
14. Contract mandated drug testing requirements
15. Change of values of employees
16. Harassment of employees
17. Discipline
18. Discrimination
19. Special interest groups
20. Public concern for government effectiveness
21. Employees assistance programs
22. Available work force
23. Reliability of drug screening tests
24. Technology
25. Civil rights of employees
26. Morale of employees
27. Confidentiality
28. Other methods to deter drug abuse by employees
29. Work place injuries and deaths due to drug abuse
30. Funding for testing
31. Legalization of drugs
32. Court rulings
33. Immunity to employees who come forward
34. Rehabilitation
35. Training
36. Changes in employee discipline procedures
37. Restrictions of searches and seizures

POSSIBLE FUTURE EVENTS

- E1 Corruption in a major police department is exposed and reveals that drug dealing involving police officers is the root of the problem.
- E2 Employee bargaining units agree to mandatory random drug testing as a condition of employment.
- E3 The United States Supreme Court hears a mandatory random drug testing case and rules that such testing violates the employee's Fourth Amendment rights.
- E4 A fatal traffic accident is caused by a police officer who is found to be under the influence of drugs.
- E5 A police officer violates the "Code of Silence" and turns in fellow officers to the administration of a police department thus exposing wide spread drug abuse.
- E6 AIDS, or a similar disease, is spread through police ranks by drug abuse devises and/or drugs.
- E7 Drugs who were considered illegal have been legalized.
- E8 Federal legislation requires all public entities which receive federal funding to require mandatory random testing of all employees to determine drug abuse.
- E9 Employee assistance programs are made available to drug abusing employees without fear of loss of job or exposure to discipline.
- E10 Tests for drug use are made low cost and 100% foolproof.
- E11 The California Supreme Court hears a drug testing case and rules that the good of the many out weighs the rights of the few and approves mandatory random drug testing of police employees.

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