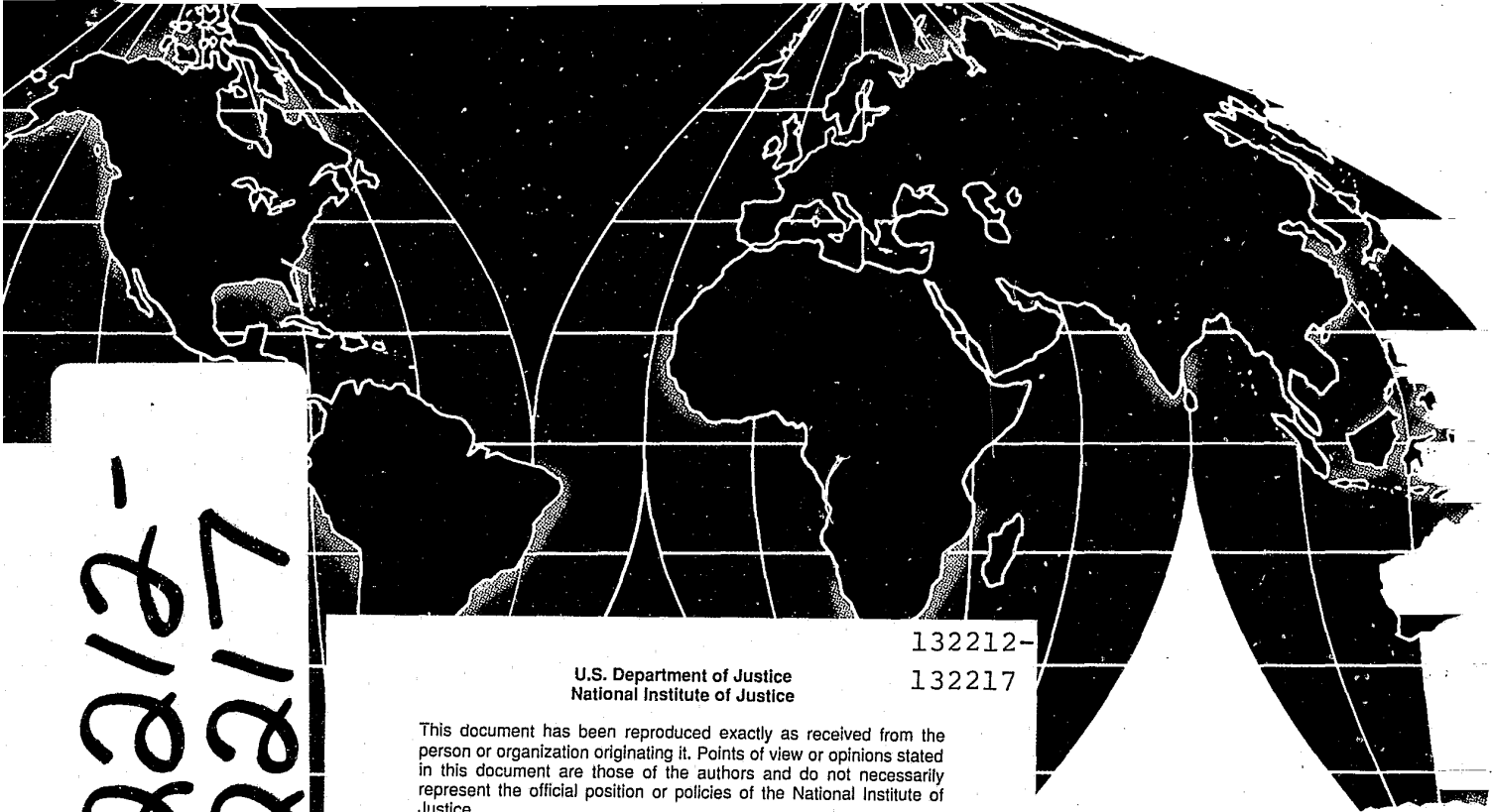


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Law Enforcement Bulletin



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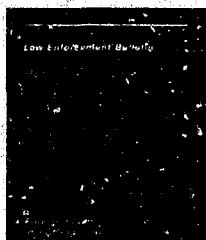
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William S. Sessions, Director

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Managing Editor—Kathryn E. Sulewski
Art Director—John E. Ott
Assistant Editors—Alice S. Cole
Karen F. McCarron
Production Manager—Andrew DiRosa
Staff Assistant—Carolyn F. Thompson

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The Kentucky State Police Drug Testing Policy

By
W. MICHAEL TROOP
and
JERRY LOVITT

Today, it is no longer enough for a law enforcement agency to claim that it is drug free; it must prove it. To this end, the Kentucky State Police developed and implemented an employee drug testing policy. This policy is an enhanced version of the Kentucky State Government's policies that will help to promote further the concept, and hopefully, the reality of a drug-free workplace.

CREATING THE POLICY

Department administrators set out to make the drug testing policy a product of employees. To begin, they appointed representatives from the Trooper Advisory Panel and the Civilian Advisory Panel, whose members are elected by sworn and civilian employees respectively, to a Drug Testing Advisory Committee.



Then, employees from other areas of the agency, such as data processing, the laboratory, personnel, and the Legal Office, were also appointed to the committee. A Branch Commander from the Operations Division headed the 16-member committee. After 4 months of research and planning, the committee formulated a drug testing policy that was fair, workable, and one that ensured employee privacy, integrity, and dignity throughout the testing process.

The committee also developed a 20-page booklet to communicate the key points of the drug policy to the employees. And, prior to implementing the policy, a staff officer visited each of the Kentucky State Police's 16 posts to present the program to the employees and to address their questions and concerns. Additionally, post and section commanders received training in the drug testing program procedures.

THE DRUG TESTING PROCESS

Random Drug Testing

As of January 1, 1991, all sworn employees hired since 1984, when drug testing of job applicants began, and all aircraft support personnel became subject to random drug testing. Employees hired prior to 1984

are also subject to random drug testing. Random drug testing of civilian employees in certain safety-sensitive classifications, such as arson investigations, communications, the forensic laboratory, and in the armed facilities security section, will also become mandatory in 1991. However, before an agency employee can be randomly tested, written authorization is obtained on a voluntary consent form. This form stipulates that the employee agrees to be drug tested no less than once and no more than twice over a 2-year period.

Specific Selection Drug Testing

In addition to a random drug testing policy, the committee also set a specific selection drug testing policy. Under this policy, drug testing is mandatory for the following groups of employees:

- All sworn employee applicants
- Employees eligible for promotion
- Employees transferring into aircraft support
- Drug enforcement/special investigations staff members
- Special response team members and/or those involved in drug interdiction work.

Drug testing is also required for any sworn employee upon documented, reasonable suspicion of illegal drug use. If an employee refuses to be tested for possible drug use, they are then subject to disciplinary action. In addition, should an employee be involved in an accident

or critical incident, drug testing is available upon request.

The Drug Test

Every Monday, the post and section commanders coordinate the matching of employee names to individual identification numbers—not Social Security numbers. Only those employees subject to and available for random drug testing during a particular week are assigned identification numbers. Then, the identification numbers only are forwarded to the agency's personnel branch for entry into a computer system. The computer randomly selects a subset of the entered identification numbers, and any employee whose identification number matches one of the numbers that the computer selects will be drug tested within 5 working days. The selected employees' post

or section commanders withholds notification of testing until the day of the test so that drug testing is not compromised and that it occurs in a timely and efficient manner.

Drug testing is performed through urinalysis. Only Kentucky State Police Forensic Laboratory personnel and post or section commanders are authorized to administer the drug tests. At the time of the test, each employee is asked to complete a more-detailed voluntary consent form. This enhanced consent form: 1) Requests employee permission for a urine specimen to be collected and tested; 2) describes the list of drugs for which the specimen will be tested; 3) describes how the test results will be used and to whom they may be communicated; 4) delineates possible agency action if the test is positive; and 5) informs the em-



Mr. Troop



Major Lovitt

Mr. Troop is the Acting Kentucky State Police Commissioner and the Secretary of Justice. Major Lovitt is the Commander of the East Branch, Operations Division of the Kentucky State Police.

ployee of the consequences of violating any testing procedure. The form also requests a list of any medication the employee has taken over the last 15 days.

The employee is then handed a sealed, plastic specimen container with a built-in thermometer. The employee provides the urine specimen in a secured, private restroom. In the interest of employee privacy, there are no witnesses, and disrobing is not required. When the employee returns the filled specimen container to the drug testing personnel, it is immediately checked for temperature to ensure that the employee has provided an authentic sample. Next, in the presence of the employee, the specimen is divided into two containers. One of the samples is held as a control sample in case an employee would wish to verify positive results later with a laboratory of their choosing.

Drug testing personnel then explain the chain-of-custody form to the employee. Once the employee verifies the information on this form, drug testing personnel seal the specimen containers with lids and with tamper-proof sealing tape. A label that identifies the specimens only by employee identification number is affixed to each container. The employee, after verifying that the identification number on the specimen containers matches the identification number on the list held by the post or section commander, signs off on this list. Afterward, drug testing personnel forward the chain-of-custody form and the specimen containers to the Kentucky State Police Forensic Laboratory.

“...the general public has a right to expect a stricter accounting of law enforcement employees concerning possible illegal drug use....”



At the laboratory, each employee's specimen is checked for possible tampering, logged in, and processed. A test tube sample is also drawn from an original specimen and stored for future testing, if needed. Several test tube samples are batched together, of which approximately 20 percent will be control samples for quality assurance checks.

Analysis

Immunoassay tests are used to screen the samples. These tests serve to identify substances, such as proteins, through their ability to stimulate physical responses from the body's immune system. Each specimen is screened for marijuana, cocaine, opiates, amphetamines, barbiturates, benzodiazepine, and propoxyphene. It is also checked for the presence of other elements to ensure the authenticity of the urine specimen.

The drug detection levels set in the agency's drug testing policy are as follows:

- Marijuana—50 ng/ml
- Cocaine—300 ng/ml
- Opiates—300 ng/ml
- Amphetamines—300 ng/ml
- Benzodiazepine—300 ng/ml
- Propoxyphene—300 ng/ml

If the first screening of a particular specimen is positive, a more-complex and expensive chemical analysis, such as gas chromatography or mass spectrometry, is performed to confirm the initial results of the immunoassay screening. If this test is positive, the specimen is sent to an independent laboratory for further analysis. A second positive confirmation will trigger administrative and/or disciplinary action against the tested employee.

Agency Response to Positive Test Results

All test results are sent directly to the Kentucky State Police's Employee Assistance Program—the only place where an identification number can be correlated to an employee's name. From this point, a medical review officer, who is a physician employed on a contract basis, meets privately with the employee whose test results indicate unsanctioned drug use.

If the medical review officer finds no legal reason for the positive test results, the physician notifies the Employee Assistance Program. The Employee Assistance Program then notifies the Internal Affairs Section, if the results concern a sworn employee, or the Legal Office, if the results concern a civilian employee. Internal Affairs or the Legal Office

will then contact the employee. The commissioner, who is empowered to authorize an immediate nondisciplinary administrative leave for the employee in question, is also informed of "presumptive" positive test results.

Any employee found to be involved in illegal drug use faces disciplinary action, up to and including dismissal. However, for prescription drug misuse, the agency's emphasis is on employee rehabilitation only. All employees, regardless of the type of drug use violation, are required to make themselves available to the Employee Assistance Program if referred to the program by a supervisor. Employees may also be required to complete satisfactorily a drug abuse assistance or treatment program as a condition of continued employment.

In an effort to direct employees to the best available drug abuse assistance or treatment programs, the Employee Assistance Program maintains an updated list of drug abuse treatment facilities nationwide.

CONCLUSION

The Kentucky State Police's drug testing policy is a product of its employees. It provides what is believed to be a total approach to the substance abuse issue, of which drug testing is but one component. The policy also emphasizes employee awareness/education programs; supervisor/manager training; prohibitions against the use, sale, possession or manufacture of illegal drugs; specific guidelines about the misuse of alcohol and prescription drugs; employee and family counseling through the Employee Assistance

Program; and support for long-term rehabilitation. As of February 1991, 98% of all sworn employees have voluntarily submitted to drug testing. As a whole, 84.4% of both sworn and civilian personnel within the Kentucky State Police have been tested.

It is the Kentucky State Police's belief that the general public has a right to expect a stricter accounting of law enforcement employees concerning possible illegal drug use than would routinely be expected of most government employees. Drug testing of law enforcement employees is a small step to take toward meeting that expectation. A law enforcement agency could not deliver a stronger message to the public it serves.

LEB



Wanted: Photographs

The *Bulletin* is always on the lookout for dynamic, law enforcement-related photos for possible publication in our magazine. We are interested in photos that visually depict the many aspects of the law enforcement profession and illustrate the numerous tasks law enforcement personnel perform.

We can use either black-and-white glossy or color prints or slides, although we prefer prints (5x7 or 8x10). Appropriate credit will be given to contributing photographers when their work appears in the magazine. Send your photographs to:

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