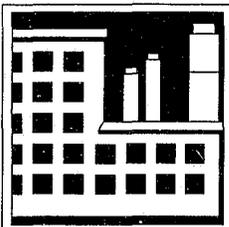


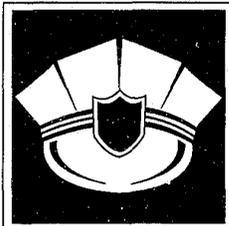
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# COMBATING WORKPLACE DRUG CRIMES



## Guidelines for Businesses, Law Enforcement & Prosecutors



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U.S. Department of Justice  
National Institute of Justice

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# COMBATING WORKPLACE DRUG CRIMES

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## Guidelines for Businesses, Law Enforcement & Prosecutors

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## SECTION 1

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# The Need for Guidelines

**H**ow many employers realize that the workplace has become one of the safest places in America to buy and sell drugs? Do employers recognize that drug sales and use by employees result in lost productivity, higher overhead costs, and employee theft and embezzlement? And do law enforcement agencies realize that targeting workplace drug trafficking can be an effective component in their overall antidrug efforts?

Employers often feel ill-equipped to respond properly to workplace drug crimes. They have limited experience with the criminal investigative process and may be fearful of legal liability issues. But by reaching out to law enforcement and other available resources, businesses have the opportunity to make a difference in reducing America's problem with drugs in the workplace. These guidelines are designed to help businesses, law enforcement agencies, and prosecutors cooperate more effectively in reducing workplace drug crimes.

According to the National Clearinghouse for Alcohol and Drug Information, at least 7 million Americans used cocaine or heroin one or more times in 1991. With millions of U.S. workers being drug users, where do they get those drugs—from street dealers? No! According to drug enforcement experts, most workers obtain illicit drugs at or around their workplace from coworkers.

Illegal drug use by workers has a negative impact on job performance and company profits. The National Institute on Drug Abuse reports that the typical drug-abusing worker was

- five times more likely to file a claim for workers' compensation,

- involved in accidents almost four times more often than other workers, and
- on sick leave twice the normal level and late to work three times more often than nonabusing employees.

Added to these losses are incalculable indirect costs. Workplace drug crimes impair worker judgment, diminish quality, increase health insurance claims and premiums, and push productivity and morale down.

The guidelines in this publication consist of steps that companies and law enforcement agencies should take when workplace drug crimes are discovered or suspected. They also offer tips to help employers determine whether drug crimes are taking place on their premises. These guidelines reflect the best practices of legal, law enforcement, business, and security experts from across the nation.

The key to success is early cooperation. Ideally, businesspeople and law enforcement professionals should get to know each other before enforcement is needed. An ongoing relationship between the two increases the chances for successful investigations and prosecutions. It also improves the odds of saving the company money and reducing liability.

These guidelines are presented in three sections—for businesses, law enforcement agencies, and prosecutors. They provide simple directions for making decisions and taking action. The steps should lead you to the right resources for assistance. Although no general instruction fits every circumstance, the guidelines should help employers and law enforcement agencies cooperate effectively in investigating and prosecuting workplace drug crimes.

## CASE STUDY 1

# Overdose Wakes Up Management

In the Southwest, a maker of technical parts for nuclear submarines had a rude awakening to its workplace drug problem. One day an employee suffered a seizure at work. The personnel manager wondered aloud what could be wrong with the worker. Coworkers standing nearby replied, "Isn't it obvious? It's a cocaine overdose."

The shocked manager decided to root out the drug problem. The work the company performed had to meet close tolerances; there was no margin for drug-induced error. He contacted the local police department, which referred him to a private investigative agency that could conduct an undercover investigation into workplace drug use. The police then assigned one of their own detectives to oversee the case.

The police detective, the investigative agency, and the company held an initial planning meeting. At the meeting, the police laid down three ground rules for the operation. The undercover investigator (UC) could buy drugs only with specific, prior permission from the police. Those purchases had to be made with police department money. And finally, the investigative agency had to make the UC available to testify. The police department's goal

was prosecution, not mere firing, of drug-using or drug-selling employees. The parties agreed to those rules.

The police did not include the local prosecutor in the meeting since they were already familiar with the prosecutor's case-filing standards.

The UC was placed in the work force. During a four-month period she identified a supervisor as the company cocaine dealer and made three well-documented buys from him. Each time, she would arrange the buy, quickly tell the police about it, obtain money from the police, buy the drugs, and immediately turn the drugs over to the police. Finally, uniformed police made an on-site arrest and seized the supervisor's car from the company parking lot.

The company used the dramatic episode as a springboard to begin an antidrug program. Company leaders gave antidrug speeches, the police assisted with training and literature, and the company implemented a drug-free workplace policy.

The investigation was successful. However, in the interest of doing first things first, the police department involved has a new rule. Before the department will assist with a workplace drug investigation, a company must have or develop a formal drug-free workplace policy. ■

## Drug-Free Workplace Program Components

This document focuses on one part of a drug-free workplace program: investigating and prosecuting drug crimes. These workplace crimes typically involve the possession, use, or sale of illegal drugs. However, it is important to realize that a complete drug-free workplace program consists of many elements.

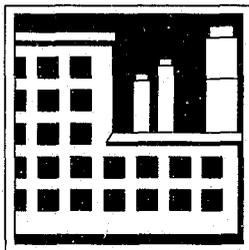
In some cases, drug abuse by employees may be treatable, and companies should consider that option. But drug trafficking in the workplace is a felony in most states and

should be dealt with seriously.

Among the elements of a comprehensive drug-free workplace program are the following:

- drug-free workplace policy
- substance abuse awareness efforts
- drug-abuse training for supervisors
- employee assistance program
- drug testing

Drug-abuse specialists and government resources listed at the end of these guidelines can help businesses develop such a program.



## SECTION 2

# Guidelines for Businesses

Illegal drug activity in our society is so widespread that no employer can afford to ignore it. If you believe drug crimes are taking place at your company, you will need to do the following:

- Take internal steps to define your problem.
- Get legal advice.
- Contact law enforcement.
- Use private security resources.
- Prosecute offenders.
- Continue your efforts to achieve a drug-free workplace.

Each of these steps is discussed below.

### TAKE INTERNAL STEPS

#### Review Policies

Business must make a firm commitment not to tolerate drugs in the workplace. Your organization should have a policy that addresses drug abuse in the workplace. Your policy should contain a total prohibition against using, possessing, selling, trading, and offering to sell illegal drugs on the job.

If you do not have such a policy, develop one immediately. Enlist line management and the work force to help draft or review it. For a sample policy, refer to the box on the next page.

For assistance in developing a comprehensive drug-free workplace program, consult your local law enforcement agency or a specialist in drug abuse prevention and training. See the resources at the end of these guidelines.

#### Confirm Commitment by Management

If you work in a hierarchical organization and are not the most senior executive, obtain the support of senior management when addressing the problem of drug activity at your workplace.

If you are a senior person within your organization, ensure that your subordinates fully understand your commitment to eliminating drug crimes from the workplace. Make certain everyone understands that this will be a team effort.

Use as many in-house resources as you can. For example, organizations with human resource, security, and legal staff can use these resources to evaluate the options when drug crimes are occurring.

Establish a realistic schedule and budget for your antidrug efforts. Eradicating drug crimes from the workplace takes time and money. Often, an effective program can be operated faster and cheaper than you first thought. Sometimes, however, the problem you first noticed is only the tip of the iceberg.

If your organization has a collective bargaining agreement, ask union representatives to help formulate a plan to eliminate workplace drug crimes. Unions generally condemn drug use among their members. Union support is vital in combating workplace drug use and trafficking.

If no drug testing policy is in place, consider establishing one. Employee drug testing can be an important element in achieving a drug-free

## **Sample Workplace Drug Abuse Policy Statement**

(Company Name) is committed to providing a safe work environment and to fostering the well-being and health of its employees. That commitment is jeopardized when any (Company Name) employee illegally uses drugs on the job, comes to work under their influence, or possesses, distributes or sells drugs in the workplace. Therefore, (Company Name) has established the following policy:

- (1) It is a violation of company policy for any employee to possess, sell, trade, or offer for sale illegal drugs or otherwise engage in the illegal use of drugs on the job.
- (2) It is a violation of company policy for anyone to report to work under the influence of illegal drugs.
- (3) It is a violation of company policy for anyone to use prescription drugs illegally. (However, nothing in this policy precludes the appropriate use of legally prescribed medications.)
- (4) Violations of this policy are subject to disciplinary action up to and including termination.

It is the responsibility of the company's supervisors to counsel employees whenever they see changes in performance or behavior that suggest an employee has a drug problem. Although it is not the supervisor's job to diagnose personal problems, the supervisor should encourage such employees to seek help and advise them about available resources for getting help. Everyone shares responsibility for maintaining a safe work environment and coworkers should encourage anyone who may have a drug problem to seek help.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs is incompatible with employment at (Company Name).

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If your company is subject to the requirements of the Drug-Free Workplace Act of 1988 (because of a federal government grant or contract), you should add the following statement to your drug policy:

As a condition of employment, employees must abide by the terms of this policy and must notify (Company Name) in writing of any conviction of a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

*(Taken with permission from the President's Drug Advisory Council.)*

workplace. For more information on drug testing, contact the resources listed at the end of these guidelines.

### **Evaluate the Problem**

Develop a means for evaluating the workplace drug problem. Law enforcement and private security resources may be able to help gauge the level of illicit drug activity in your organization.

Assess civil and criminal liability, safety issues, and other risks your workplace drug program might encounter. Consult a qualified advisor, such as an attorney, security consultant, or law enforcement official. Make a comprehensive list of risks.

Collect readily obtainable evidence. Look for

tell-tale signs of drug use, such as physical, behavioral, and performance indicators with employees or discarded drug paraphernalia in refuse containers, stairwells, or parking areas. Ask trusted employees what they know about workplace drug crimes, and encourage all employees to report any presence of drugs at work.

In evaluating the problem, check records and ask yourself these questions:

*Have internal thefts of property, equipment, and supplies increased?*

*Has tardiness or absenteeism increased?*

*Has employee turnover increased?*

*Has productivity declined?*

*Have accidents increased?*

*Have workers' compensation claims increased?*

## **CASE STUDY 2**

### **Failing to Put First Things First**

A food-processing company in the Pacific Northwest determined it had a drug problem and asked the police to conduct an undercover investigation. However, the company hadn't put first things first. It got cold feet and canceled the investigation, but only after wasting much of its own, and the police's, time and money.

Two incidents drew the company's attention to workplace drug activity. First, a manager found drugs in a company rest room. Second, another manager saw a drug sale between two employees. When the company fired them for being outside their assigned work areas, other employees stepped forward with more information about workplace drug activity.

The 500-employee company, which held military contracts and hence was subject to the federal Drug-Free Workplace Act of 1988, decided it had better do something about drug crimes. At the request of the company president, the human resources manager contacted the local police agency. The police ironed out a plan with the company: The police would locate a free-lance undercover operative (UC) and provide him with buy money, and the company would pay the operative's salary and pro-

vide him with an apartment to live in.

Setup, including the police search for an appropriate UC, took about two months. A week before the UC was to be placed in the company, the company decided it was not fair to investigate its employees before promulgating a clear company policy on drugs in the workplace. The company decided to put the investigation off for 30 days while it designed and communicated the policy.

Three weeks later (one week before the investigation was slated to start), two employees reported that they were using methamphetamine and entered an employee assistance program (EAP). The company felt the problem was solved, so it opted to postpone the investigation indefinitely. Later two more employees referred themselves to the EAP for the same reason. Since that time, the company has not allowed the investigation to proceed.

The police felt their time was wasted, yet now agree that the company was right to promulgate a clear policy before conducting an investigation. In the meantime, the food-processing company has instituted a wide-ranging policy that includes preemployment, for-cause, and post-accident drug testing along with an EAP. ■

*How many employees may be involved in the drug situation in your workplace?*

*Are managers involved?*

*Is drug trafficking taking place? What types of drugs?*

To organize your thoughts and help others who will assist you, write a memo containing the facts about what you have found.

Plan how you will react in case of media attention on your company's antidrug activities.

Ask contacts in businesses similar to yours and business associations what they have done to stem drug crimes.

### **GET LEGAL ADVICE**

Once you have mapped out a desired course of action, have your assumptions and plans reviewed by an attorney. Otherwise, your intended actions could create avoidable exposure to litigation. If you do not have an attorney, contact the lawyer referral service of your local bar association and ask for a list of employment law specialists.

If your planned actions would weaken the ability of the criminal justice system to prosecute the case, you may need to modify them.

Most importantly, ensure that your actions do not violate criminal law. If a law enforcement agency is assisting you, it can guide you to ensure that criminal laws are not broken. For example, in most states it would be illegal for a supervisor to seize narcotics from an employee and retain the drugs in a file without notifying law enforcement.

### **CONTACT LAW ENFORCEMENT**

Hopefully, your company has a working relationship with local law enforcement agencies. If not, now is the time to establish contact with your law enforcement agency and prosecutor.

- If you are in a city or town, contact the local police department.
- If your company or organization is outside city or town limits, contact the sheriff's office or the county police department.
- In some parts of the country, a regional drug task force or the state police may be the appropriate agency to contact.

In some instances, the law enforcement agency may ask to take control of the case. They know what is necessary for a successful prosecution. You may be asked to assist, but they will want to supervise the investigation. If

so, suggest a partnership approach to the investigation. Insist on regular communication and meetings.

Some law enforcement agencies may be too small to conduct an investigation. Still, they may be able to provide guidance and make suggestions. In that case, whatever needs to be done will probably be up to your organization.

Regardless of the size of the law enforcement agency, the scope of illegal drug activity will determine the nature and extent of direct involvement by the police and prosecutor. Law enforcement and prosecutorial resources are often stretched thin. Law enforcement officials may be supportive but unable to assist until the size of the case warrants the use of public resources.

The local law enforcement agency may answer many of the questions you have as to what to do next. Allow the local law enforcement agency to decide whether state and federal agencies should be called in and whether the prosecutor's office should be involved.

### **USE PRIVATE SECURITY RESOURCES**

Sometimes the local law enforcement agency will not be able to do everything that needs to be done. Since most businesses do not have their own security personnel, the law enforcement agency may suggest that you retain a private security firm. Alternatively, it may be necessary to use private investigative resources to assess the magnitude of drug crimes at your company to demonstrate that there is a need for law enforcement's assistance.

If the local law enforcement agency is unable to help, a private security firm that specializes in workplace drug investigations should be contacted. When selecting a security firm, take the following steps:

- Ask your law enforcement agency, attorney, or a security advisor for a list of firms with experience in conducting workplace drug investigations.
- Check the firms' references for prior drug investigations. Review the credentials of any proposed undercover investigators for appropriate experience.
- Make sure any private investigative firm and its personnel are properly licensed or registered in your city or state.
- Ensure that the firm carries adequate liability insurance. To verify, obtain a copy of the firm's certificate of insurance.

- Insist on a written proposal that outlines the investigative plan and costs. Develop a contract that incorporates responsibilities, costs, and a schedule. Insist on frequent progress reports.
- Ensure that private investigators are available to testify in any prosecution. The outcome may depend on it.

If a private firm is retained to investigate your workplace for drug crimes, you should notify your local law enforcement agency. This may encourage the law enforcement agency to collaborate with the private firm. Note that your law enforcement agency must control all investigations if prosecution is desired as an option.

### **PROSECUTE OFFENDERS**

Your willingness to prosecute workers for violating drug laws is essential in combating workplace drug activity and in obtaining the cooperation of law enforcement and the prosecutor. Moreover, prosecuting workers who are drug offenders sends a clear message to others in your organization.

Before beginning an investigation, it may be helpful to hold a joint meeting with your law enforcement agency, prosecutor, and any other outside resources that will be involved.

Commit yourself and your organization to the goal of prosecuting drug crime offenders. Outcomes of thorough investigations can be surprising. Are you prepared to support the prosecution of drug traffickers if they turn out to be long-time, loyal employees or managers of your organization?

Be patient. The legal process takes time. Ask the prosecutor or the law enforcement agency for periodic progress reports.

Be understanding. For various reasons, some cases will not be prosecuted. Consult your attorney about other options you may have for dealing with drug offenders.

### **CONTINUE YOUR EFFORTS**

Your drug prevention plan should continue regardless of the success of your efforts. If drug crimes at your workplace

have ceased and the offenders have been convicted or disciplined, you still need to follow up to fine-tune the program. Mistakes and oversights should be corrected.

Take the following preventive measures to guard against a resurgence of the problems that led to drug crimes in your workplace:

- Reexamine policies.
  - Review your company drug prevention policy and program. Are they adequate? How can they be improved?

### **What Happens in a Drug Investigation?**

Many businesspersons are unfamiliar with typical law enforcement procedures. These procedures vary in specific cases, but below is a list of what to expect generally in a law enforcement workplace drug investigation:

- surreptitious surveillance of employees
- use of confidential informants
- placement of an undercover investigator
- evidence collection or drug "buys"
- interviews of suspects
- arrests, searches, and seizures of evidence
- testimony at court hearings and trials

### **Disciplinary Options**

Employers may take disciplinary action against employees who commit drug offenses regardless of the outcome of any criminal prosecution. Inaction by employers may tell employees that drug use is tolerated. Disciplinary options include the following:

- reprimand
- suspension and loss of pay
- dismissal

An employee may be disciplined for violating company policy on drug possession, use, and trafficking. In some instances, employee insubordination—such as refusal to cooperate with a search of the employee's property—can be the basis of disciplinary action.

Disciplinary actions must not violate the employee's privacy rights or other legal rights. The advice of an attorney is critical to ensure that rights are not violated.

In all cases, documenting the reasons for disciplinary action is essential. Employers should detail how the policy was violated and which of the policy's concerns, such as worker safety, was involved.

- Revise and refine the policy and program.
- Continue to carefully monitor employee performance at work.
- Use publicity.
  - Publicize your successful drug investigations and prosecutions within your company. If everyone knows that drug trafficking and use will not be tolerated, some would-be offenders will be deterred.
  - Share your experience with others outside your company. Neighboring companies, chambers of commerce, labor unions, and other groups may benefit from your experience.
- Bolster resources.
  - If the resources you needed were inadequate or unavailable, help strengthen or create those resources. If law enforcement failed to properly advise or assist with your drug situation, let your chief law enforcement executive know how you feel and what you expect. Alternatively, if the expertise and cooperation from law enforcement were excellent, write the chief or sheriff a letter expressing your organization's appreciation.
  - Review the preceding guidelines to strengthen your entire drug-abuse prevention program.

### **CASE STUDY 3**

## Step by Step to Success

When a 200-employee, Mid-Atlantic publishing company became aware of drug trafficking at work, it took all the recommended steps and followed through for a successful, lasting resolution.

Several employees told company management they suspected drug trafficking at work. The company first contacted the county police department to discuss options. Next, management hired a private investigative firm to conduct an undercover operation. The firm contacted the police for guidelines. The police and the investigative firm agreed that the undercover operative (UC) would identify suspects and purchase drugs under the direction of a police narcotics detective.

The UC was placed on the company's evening shift, the shift most highly suspected. Based on purchases the UC made, two employees were arrested, fired, and prosecuted on

charges of cocaine trafficking. The operation took eight months.

Neither the police nor the company stopped there, however. A police captain visited company premises to brief management on the problem of drugs in the workplace. Next the police detective who had supervised the case trained all company supervisors on the specifics of drug prevention; employee assistance programs; drug-free workplace policies; drug identification, terms, and prices; signs of drug abuse; and proper reaction to those signs.

The company also adopted a new, comprehensive drug-free workplace policy. Shortly thereafter, two more employees were fired for policy violations. In addition, six were required to take drug tests for cause. Those tests came up negative, perhaps because of the company's antidrug activities. ■



## SECTION 3

# Guidelines for Law Enforcement Agencies

**A**lthough investigating workplace drug crimes is an important activity of law enforcement agencies, it should not be law enforcement's only response to workplace drug problems. Each law enforcement agency has a responsibility to its community for providing crime prevention, education, public safety, and other services. These services, when applied to workplace drug crimes, can significantly help to reduce the community's overall drug problem.

### **RELATIONSHIP WITH THE BUSINESS COMMUNITY**

Law enforcement should be proactive in its approach to workplace drug crimes. This approach should include several steps:

- Get to know businesspersons in the community by regularly attending business-related functions such as local chamber of commerce meetings.
- Form relationships with businesses to encourage mutual communication and trust.
- Establish outreach programs to visit businesses through patrol officers, investigators, and crime prevention personnel.
- Encourage uniformed field officers to talk with businesspeople about public safety problems as a routine part of their patrol assignments.
- Develop crime prevention programs to assist

the business community in reducing external workplace crimes (robbery, burglary) as well as internal crimes (employee theft, computer crimes).

- Assign a specific officer to be responsible for liaison with the business community on workplace drug crimes.
- Provide training to the business liaison officer to give him or her a better understanding of business operations and the private workplace environment.
- Provide drug education and training programs to the business community. The following are key elements of such programs:
  - symptoms of drug abuse
  - recognizing commonly abused drugs
  - legal and social ramifications of drug crimes
  - drug crimes in the workplace
  - developing a drug-free workplace
  - model policies and programs
- Become familiar with private security firms, social service agencies, state drug abuse coordinators, and other resources that the business community may call on for assistance.
- Develop a written policy on how your agency will handle requests for workplace drug crime investigations. At a minimum, the policy should ensure that each business request will result in a personal, on-site visit by law enforcement personnel.

## **WORKPLACE DRUG CRIME INVESTIGATIONS**

The following steps are designed to guide law enforcement agencies in dealing with requests from businesses to investigate workplace drug crimes. There are two primary approaches to workplace drug investigations: (1) the law enforcement agency conducts the investigation, or (2) the business conducts the investigation using its own security personnel or a private security firm, often with law enforcement direction.

In either case, similar guidelines apply. These are general guidelines and not specific steps to be followed during the investigation. Each agency should follow its own standard operating procedures for drug investigations.

### **Investigations by Law Enforcement Agencies**

- Attempt to follow up in person each report of workplace drug trafficking. Due to the potential seriousness of the problem, a simple return telephone call is not sufficient.
- Meet with the employer or key management person and assess the situation with the following points in mind:
  - seriousness of the problem
  - business representative's understanding of drugs, drug use, and drug trafficking
  - company's willingness to prosecute
  - company's resources for combating drugs in the workplace (drug-free workplace policies, security staff, etc.)
- Based on this assessment, determine if your agency will conduct an investigation.
- If your agency decides to conduct a criminal investigation, determine if the business representative reporting the problem has the authority to allow workplace investigations by law enforcement. If not, make sure the proper company decision-making personnel are available before proceeding.
- Make sure the company has an appropriate drug-free workplace policy in effect. If not, help the company establish one before proceeding.
- Explain to the business representative all possible steps and decision points that could take place during the course of the investigation. The following points should be emphasized:
  - Law enforcement's primary goal in conducting a drug investigation is to arrest

and prosecute suspects, not to conduct a personnel action.

- The criminal investigation will be controlled by the law enforcement agency and the company may be provided with periodic updates.
  - Federal, state, and local antidrug laws enumerate several possible violations.
  - The criminal justice process involves many stages, including the possibility of court appearances.
  - Confidentiality will be needed during the investigation.
  - Some publicity about the drug crimes is likely, as arrest reports are generally public information.
- As soon as possible, set up a meeting between the business representative and the prosecutor's office to explain the steps in prosecuting workplace drug cases.
  - Consult with the prosecutor to review your agency's plan to conduct the workplace investigation.
  - Determine how the investigation will take place:
    - If your investigators' surveillances are conducted from a business parking lot or other property, secure the necessary authorization from the business to use company premises.
    - If an undercover law enforcement officer is to be inserted into the workforce, develop a plan for the company to employ him or her. The plan should cover the type of work, length of assignment, access to the suspect area, safety issues, backup by other officers, source of "buy" funds, and procedures in case the undercover officer is discovered.
    - Ensure that the undercover officer's identity will remain confidential during and after the investigation.
  - If the investigation is unsuccessful, tell the business why and provide suggestions for using other resources.
  - If your agency cannot investigate due to limited resources, say so and refer the businessperson to other resources such as those listed at the end of these guidelines.

### **Investigations by Private Security**

These guidelines are also designed to assist law enforcement agencies in working with businesses that wish to conduct their own investigations of drug crimes in the workplace.

Businesses must be made aware of the potential criminal and civil liability involved in undertaking a criminal investigation without law enforcement oversight.

- If the business chooses to use its own security personnel or a private investigative firm to conduct a workplace drug investigation, explain the necessity for law enforcement to control the investigation in critical areas (e.g., drug purchases).
- Meet with the prosecutor to discuss the company's decision to use its own resources.
- Apply the same guidelines to private security personnel as those used for confidential informants. For example, all drug purchases must be controlled by the law enforcement agency and all drugs must immediately be turned over to the law enforcement agency.
- Obtain daily activity reports from private security firms involved in workplace drug crime investigations.
- All involved parties should have a clear understanding of their roles and responsibilities during the investigation.
- Agree in advance on how any publicity surrounding the investigation and arrests should be handled.

### **Follow-Up Activities**

Follow-up activity should begin early. Law enforcement agencies should begin working with the business to develop a drug-free workplace strategy even before the investigation is completed.

- Have crime prevention or drug investigation personnel work with the business to fine tune drug-free workplace policies.
- Provide drug-abuse awareness training programs to company personnel, including managers, supervisors, and representative employee groups. The goal should be to "train the trainers" so company employees may conduct their own programs.
- Follow up with businesses that received assistance to determine if any changes were made. Consider contacting these businesses periodically to determine if more assistance is needed.

If your law enforcement agency lacks the resources to provide follow-up assistance, develop a list of sources to assist businesses in developing a drug-free workplace. These sources may include other law enforcement agencies in your jurisdiction, social service agencies, state drug abuse coordinators, and private drug prevention specialists.



## SECTION 4

# Guidelines for Prosecutors

**T**he business community is often unfamiliar with the process of criminal justice—especially the prosecution stages. It is important for prosecutors to ensure that businesspersons who become involved in workplace drug crime investigations have a full understanding of what will occur during a criminal investigation and trial.

Prosecutors can take several specific steps to help the business community and law enforcement combat drug crimes in the workplace. Prosecutors are encouraged to take a proactive approach to the problem.

### **WORKING WITH THE BUSINESS COMMUNITY**

When a business decides to cooperate with law enforcement in a workplace drug investigation, the prosecutor should work closely with the business representative during the investigation and prosecution phases.

- Early in the process, the prosecutor should meet with the business representative, ideally in the presence of the participating law enforcement agency, and discuss the following topics:
  - applicable drug crime laws and penalties
  - steps in prosecution
  - need for specific evidence to meet standards of criminal law (e.g., purchase of drugs)
  - need for witnesses and testimony by employees
  - possible need for the company to pro-

duce certain business records  
– possibility (and reasons) that prosecution may not occur

- Prosecutors with victim/witness assistance units should make them available to businesspersons.
- Prosecutors with sufficient resources should consider designating the same prosecutor to handle the case from planning to final disposition (i.e., vertical prosecution).
- If the company is using its own or outside security personnel to assist law enforcement, meet with those parties to ensure they understand their roles, responsibilities, and legal restrictions during the investigation and subsequent criminal proceedings.
- Consider requesting the company to complete a victim impact statement that documents the effect workplace drug crime has had on the company. The impact statement, which will be useful at sentencing, should include financial loss, productivity loss, hours expended supporting the investigation and prosecution, and any emotional or psychological repercussions that occurred.

### **WORKING WITH LAW ENFORCEMENT**

Prosecutors should assume a leadership role in helping law enforcement agencies conduct workplace drug crime investigations. The following steps will ensure coordination among the prosecutor, law enforcement agencies, and businesses:

- Help law enforcement develop guidelines on

how workplace drug crimes will be investigated.

- Develop a policy on how your office will handle workplace drug prosecutions. The policy should include case filing criteria, plea bargaining, victim/witness assistance, and other issues.
- To encourage businesses to report drug crimes, consider prosecuting workplace drug crimes that do not meet the standard

case filing criteria (e.g., possession and distribution of small amounts of drugs).

The prosecutor plays a key role, not only in prosecuting workplace drug crimes, but also in helping businesses reduce the community's overall drug problem. Prosecutors should work hand in hand with law enforcement to encourage the business community to take a firm stand against workplace drug crimes.

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# Resources

## NATIONAL ASSISTANCE

### **Drug-Free Workplace Helpline**

800-843-4971

This is a service of the Center for Substance Abuse Prevention. Telephone consultation is available for businesses on developing and implementing comprehensive drug-free workplace programs. These counselors can put you in touch with other resources at the state and national level.

### **National Clearinghouse for Alcohol and Drug Information**

800-729-6686

This toll-free service has information specialists available on various aspects of substance abuse—from videos and prevention materials to specific program descriptions, resources in your state, and the latest research results. Many publications and educational materials are available free from the clearinghouse.

### **Drug Information, Treatment and Referral Hotline—Center for Substance Abuse Treatment**

800-662-HELP

This service provides information and referrals to individuals about the availability of drug and alcohol treatment services, including referrals to programs for those who cannot pay.

### **Department of Transportation's Anti-Drug Information Center**

800-225-3784

This system is designed to respond to inquiries regarding workplace drug and alcohol regulations for the transportation industry.

### **Department of Labor Substance Abuse Information Database (SAID)**

800-775-SAID

This free service provides employers an automated system with information on how to set up workplace drug prevention programs.

### **Employee Assistance Professionals Association (EAPA)**

703-522-6272

EAPA provides information on how to select EAPs and on the value EAPs can provide in workplace drug intervention and prevention.

### **Demand Reduction Coordinators**

The Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), and Law Enforcement Coordinating Committee (LECC) Coordinators of the U.S. Department of Justice offer assistance to employers on workplace drug reduction. Contact your local DEA, FBI, or U.S. Attorney's office to locate the nearest coordinator.

## STATE ASSISTANCE

### **National Association of State Alcohol and Drug Abuse Directors**

202-783-6868

Each state director's office coordinates with the governor's office, school boards, community coalitions, local health departments, business, industry, and others in eliminating drug abuse in its state. Many states run their own clearinghouses and provide some technical assistance to small businesses and others.