

Safety vs. privacy: the debate over drug tests

by John Barnhard

Testing for illicit drug use on the job has emerged as a major issue in American industry. A quarter of the Fortune 500 companies already have on-the-job drug testing. A presidential commission recommended drug testing for federal employees and strongly urged it for state and local government and the private sector. Drug testing is catching on in fields beyond business, including sports.

It's also catching on in the construction industry, where drug and alcohol abuse is perceived to be a major problem even though there is no credible information on the extent of substance abuse in the workplace.

What does this mean for roofers? It means that somewhere down the road (if it hasn't already happened) they and their local unions will have to confront this issue in collective bargaining. Because of this, the International Union believes it is important for roofers to understand the major issues surrounding drug and alcohol testing and the potential consequences.

First of all, the International Union is not opposed to workplace rules forbidding employees from possessing, using, selling or being impaired from illegal drugs or alcohol on the job. What we do object to is the unwarranted searches, random drug testing and arbitrary discipline that comprise many employer- and owner-imposed plans.

We also object to plans that are imposed without the participation of the local union. Because many elements in these plans constitute a condition of employment, they are mandatory subjects of collective bargaining under the National Labor Relations Act.

Proponents of on-the-job drug and alcohol testing say that it improves efficiency, job safety and productivity. Those are worthy objectives. But many plans do the opposite. They victimize the worker and ignore his rights as a citizen and union member.

If efficiency, job safety and productivity are the real concerns, then those workers who appear stoned or drunk, or

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by Rick Rosenow

The use of controlled substances in the workplace has continued its growth nationwide. The problem includes the use of drugs and alcohol, and it affects both workers and managers. The epidemic of substance abuse has even prompted the White House to begin an all-out war against drugs and their use on the job. While the sale of liquor has diminished slightly, the sale of hard drugs has grown, a surprising fact considering the fatal results of the use of drugs.

The growing use of drug and alcohol tests is one response to the substance abuse epidemic that is eating away at our population. To illustrate the seriousness of the drug problem and the Reagan administration's attempt to find a solution, federal officials from the president on down are voluntarily submitting to drug tests.

The use of drug tests has remained controversial in spite of the support that drug testing has received from government and industry. Many employees have been reluctant to submit to testing procedures because they believe it is an infringement of their rights. The proponents of drug testing, on the other hand, point to the benefits that have been gained by the industries that use tests to control drug abuse.

These industries are boasting significant increases in production and attendance as well as improvements in their employees' outlook and attitude toward their jobs.

Does drug testing really lead to a happier and more productive workforce? I don't know the answer, but I do believe that the use of drug tests could remain an option to rid worksites of controlled substances. Because our industry already is viewed as a bad insurance risk, it can't afford to lose any technique such as drug testing that can make the worksite safer.

The critical issue in this debate is how to prevent the use of drugs on the job without violating the workers' rights. We must ask ourselves if drug tests are an unacceptable infringement of these rights. While I am against the encroachment

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are otherwise acting inefficiently or unproductively, should be tested. Contractors shouldn't screen en masse or conduct unwarranted searches. And they shouldn't conduct random testing of all employees or all employees in a certain classification.

And if a worker is found who has tested positive on the urine test, a second, more precise test should be conducted to confirm initial test results before assuming the worker is a drug user.

Tests' usefulness questionable

This leads to the issue of the test itself, where there are some serious concerns. First, drug tests can be only about 40 percent reliable or accurate. A major shortcoming is that these tests rely heavily on the skills and care of technicians who perform them, and those factors can vary greatly. A study that appeared in the April 1985 issue of the *Journal of the American Medical Association* bears this out. Thirteen labs that handled drug testing for 262 drug rehabilitation centers were sent urine samples with known quantities of drugs added. These tests found error rates of up to 100 percent in the results from some labs.

A second problem is that drug tests reveal the presence of drug residues in the system but they don't reveal when the drug was ingested, how much of the drug was taken, or if the person is a regular or occasional user. There is little correlation between positive test results and an employee's fitness for duty. Tests for marijuana can detect casual use within the last 14 days and chronic use for much longer periods following discontinuance of use. Because intoxication lasts only one to four hours, the test is useful only as an indicator of marijuana use, not as a measure of intoxication.

Finally, positive results on a chemical test can arise from chemicals in a person's system other than the drug being tested for. Urine tests for amphetamine use may give a positive result if the person being tested has used some kind of eye drops, nasal decongestants, or certain non-prescription

cold tablets, allergy pills or diet medications. One of the most popular urine tests to detect marijuana use can produce positive results if the person tested has taken a common aspirin substitute such as Advil or Nuprin.

So what does all this mean? It means that employers have been made to believe that the technology is available for eliminating drug abuse when in fact the technology has severe limitations. These tests have already ruined the careers of those people who have refused to take them or who have been wrongly labeled as drug users.

It also means that the kind of drug testing program being carried out throughout the industry is really an attempt to improve behavior—not productivity, not efficiency, not safety. It's an attempt to influence an employee's life off the job, his private life.

Urine tests are cheap but the resulting cost to workers can be too high. It can mean sacrificing workers' rights to privacy and confidentiality and ultimately their right to earn a living.

Are these tests worth the price? The International Union thinks not.

References

Krauthammer, Charles "Drug Testing," *Washington Post*, April 11, 1986.

Rothstein, Mark *Medical Screening of Workers*, Washington, D.C., Bureau of National Affairs, 1984.

Van, Jon "Detecting Drug Abuse," *Chicago Tribune*, May 25, 1986, Section 6.

Contractors should conduct random testing of all employees or all employees in a certain classification.



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of my own rights, I also believe there comes a time when these rights must be questioned.

Even the International Union agrees that controlled substances do not belong in the workplace, and it seeks to participate with management in the implementation of controls. However, the Union weakens its position by also stating that this issue belongs as part of the collective bargaining agreement.

I believe just the opposite. Techniques that could save someone's life or prevent an injury do not belong on the bargaining table *ever*. Those employees who do not use drugs should strongly support any good testing program because of its ability to help rid their workplace of the substances that jeopardize their lives as well as the lives of fellow workers and friends.

International's concern that management would use drug programs and controls to victimize employees is also unwarranted. I don't believe testing programs were ever conceived or intended to victimize workers.

The International's proposal to test only those people who, by their actions or inefficient and unproductive work habits, appear to be under the influence of drugs is also subject to abuse. It leaves unanswered the question of who should be the judge of the employees' actions. And it depends too heavily on that person's judgment to keep the program fair and unprejudiced. The only clear and definitive means to avoid prejudicial judgments appears to be a random urine testing program.

Random screening does not single out individuals for harassment. Instead, it gives contractors a method to fairly and equitably evaluate each worker's condition. If these tests were a pre-employment requirement, they could help contractors avoid hiring people that may initiate an accident due to their mental or physical condition. Tests conducted in this manner would not be used to evaluate the person's efficiency, but rather provide the medical information needed to reduce the possibility of workplace fatalities.

Cooperation is necessary

Drug tests aren't perfect, however. I strongly agree with the union that we should be concerned with the accuracy of the tests. One way to control this accuracy would be to allow only accredited laboratories to analyze the samples using only specific criteria.

Other questions must also be answered before a drug testing program can be instituted. For instance, the level of impairment that is unacceptable is one issue that labor and management must come to an agreement on during the planning stages. Another question that must be addressed is the use of prescription or non-prescription drugs for medical reasons. If these drugs affect a person's ability to function safely and adequately, some mechanism must be set up to identify workers who are taking these medications and control their use.

The steps that should be taken once testing exposes a drug abuse problem must also be carefully considered by labor and management together. As a business owner, I would hope that the rapport I share with my employees would allow us to combine our efforts to find help for the workers with drug problems. If a qualified worker can be rehabilitated through the programs that are available in the community rather than dismissed, everyone benefits.

Because overall employee safety is the primary goal of any drug testing program, I believe that labor and management should be able to cooperate on this issue. As we work together, however, we must realize that some rights may have to be infringed upon to pursue our goal. The final outcome of such an effort could be our growth as an industry concerned in each other.



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