Comparing City Policies on Mandatory Drug Testing: A Process Evaluation

Presidential decree and federal legislation have resulted in substantial employee drug testing at all levels of government as well as among private sector contractors. Joining the War on Drugs, many other employers have taken up the practice voluntarily. However we may feel about the arguments for and against drug testing — whether on the basis of public safety, integrity, access to sensitive information, etc. — the fact remains that drug testing policies are non-uniform and unevenly applied, and the common testing technologies are unreliable. If we believe as a society that drug testing serves a legitimate public function consistent with our cultural and legal values, then uniform standards and procedures must be developed. If not, we should give greater consideration to alternative measures, such as employee education and assistance.

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Since President Reagan issued an Executive Order in September 1986 calling for a drug-free workplace, much debate and controversy has emerged over mandatory drug testing in the workplace. The President's order took aim at federal employees who held "sensitive" or "public safety" positions.[1] The signal given by this executive order, in addition to the War on Drugs mentality and the recognized problems associated with drug abuse in the United States, has catapulted drug testing onto the public agenda.

Major legislation has further formalized the importance of drug testing and its increasingly accepted use in the public sector. The federal Anti-Drug Abuse Act of 1988 (P.L. 100-690) has contributed to the spread of drug testing in the public sector. Title V, Subtitle D of this act requires recipients of federal grants and contracts to implement drug-free workplace policies. The following conditions are supposed to be met:

1. Contractors and grantees should publish and distribute to workers a policy forbidding the use of illegal drugs in the workplace.
2. They should establish drug-free workplace programs which inform employees about the dangers of drugs and the penalties that will be imposed if drugs are used at work.
3. Employees must notify the contractor or grantee within five days if

they are convicted of a drug-related workplace offense and the employee is also obligated to inform the government of this infraction within ten days.

4. Employees who abuse drugs should face disciplinary measures and/or be required to successfully participate in a drug rehabilitation program.

5. The government has three options for punishing contractors and grantees who do not meet the above requirements:

(a) temporarily suspend payments to contractors or grantees;
(b) terminate contracts or grant agreements; and
(c) bar contractors or grantees from federal work for a period of up to five years.

Contractors and grantees may also be punished if a significant number of employees are convicted of drug-related workplace crimes and it is clear that employers have not made a "good faith effort" to implement drug-free workplace provsions.[2] These provisions particularly apply to businesses with contracts valued at more than $25,000 and all federal grant recipients. Thousands of businesses and millions of employees are threatened by the withdrawal of federal funds if drug-free workplace standards are not met.[3]

Potential Advantages of Mandatory Drug Testing

To the extent that mandatory drug testing might deter drug usage, not only in the workplace but among the young who might be tempted to experiment with drugs, it could be useful. From studies on drug abuse in the workplace, it is well known that drug usage lowers productivity and performance levels.[4] Alcohol and drug abuse reaches into every industry in the United States. Substance abusers are late for work three times more frequently than the average employee.[5] In comparison to the average worker, substance abusers are sixteen times more likely to miss work days. They are four times more likely to be involved in on-the-job accidents and five times more likely to file compensation claims.[6] It is estimated that one out of every seven workers in the United States is affected at the workplace by drug or alcohol addiction.[7]

As a result, substance abuse is very costly in terms of productivity and on-the-job injuries. In 1986, for example, the United States Chamber of Commerce estimated that drug and alcohol abuse cost employers approximately $60-100 billion a year in lost productivity. It is further estimated (based on 1983 statistics) that annually there are ten million injuries from alcohol alone—two million may be disabling and there may be as many as 18,000 fatalities.[8]

The rationale for mandatory drug testing revolves around three central, but controversial, tenets:

1. Drug testing enables the employer to maintain the integrity of the employee's job performance.

2. Drug testing will preserve the public safety as well as each employee's safety.

3. Drug testing allows employers to identify drug users and channel them into employee assistance Programs for the purpose of rehabilitation.[9]

Job performance in "sensitive-public safety" positions is particularly important. Substance abusers may be more apt to have accidents as in the case of the Conrail engineer in the January 1987 Amtrak collision near Baltimore, Maryland. Not only performance, but employee integrity, may be affected by drug abuse. Drugs alter decision-making abilities and it has been shown that workers who abuse drugs are more prone to theft.[10] Integrity in public service is invaluable particularly in law enforcement where officers in drug units must not be tainted by illegal drug usage. Confidentiality is often stressed in public service and may be impaired by drug abuse. People who are entrusted with the public safety and welfare may be poor guardians unless drug abuse is detected and treated.[11] Drug testing does not have to be punitive and can be used positively by allowing organizations to identify substance abusers, channel them into rehabilitation programs and then allow them to return to the workplace drug-free.

Widening the Net of Social Control

The integrity of the employee in the area of job performance is a particular concern in the public sphere where employees have access to sensitive information and where employees are involved in drug interdiction. However, many other professionals might be prime targets for drug tests; including judges, correctional employees, cash register operators, accountants, teachers and so on. The list may go on indefinitely as more rationalizations are developed for widening the net of social control through mandatory drug testing.

Drug testing for public safety could add other occupational groups to the rolls of those who should be tested; including police officers, nuclear plant employees, doctors, nurses, ambulance personnel, dispatchers, auto mechanics, airline pilots, air traffic controllers, firefighters, and all transportation workers. The dimension of employee safety further opens the door for more testees, including any employees who depend on their reflexes and the abilities of other employees (i.e., factory workers using heavy equipment or construction workers). If drug tests are to be used to identify substance abusers and subsequently to reform them and make them productive and reliable, the net of social control is cast wider to test more groups of people.[12]

The Disadvantages of Mandatory Drug Testing

Drug testing is one component of a substance abuse program. As a screening mechanism, it may have some useful purposes. But it also has some significant limitations. Three broad questions underscore these

limitations: 1) Are drug testing packages accurate? 2) Are the monetary costs of testing prohibitive? and 3) Does drug testing violate due process and individual rights?

There are five types of drug-screening methods used in industrial and public sector drug testing. These include the Enzyme Multiplied Immunoasay Test (EMIT), Radio-Immunoasay (RIA), Thin Layer Chromatography (TLC), Gas Chromatography (GC) and Mass Spectrometry (MS). Each type of test has inherent validity problems, strengths and weaknesses.[13] EMIT, RIA and TLC yield inaccurate results even when properly administered. They may yield false positives by identifying a clean urine sample as tainted with illegal drugs. One study reported a 66.5 percent rate of false positives among 160 urine samples from participants in a methadone treatment program.[14] The National Institute on Drug Abuse (NIDA) reported that error rates in drug tests are actually greater than the rate of illegal substance abuse in the general working population.[15]

The unattractiveness of relying solely on these tests is intensified by the fact that EMIT might mistake ordinary, over-the-counter drugs such as Contac, Sudafed or Nyquil for illegal substances. This phenomenon is called "cross reactivity." Certain diet pills, decongestants and heart medications may register as amphetamines, whereas cough syrups (containing dextromethorphan) and prescription antibiotics may imitate cocaine. Datril, Advil and Nuprin sometimes mimic marijuana. Even some common everyday foods may be mistaken for illegal drugs. Poppy seeds may register as heroin and morphine; herbal teas may be confused with cocaine. It is estimated that EMIT, for example, generally issues false positives five to 25 percent of the time. Yet companies that market EMIT tests often claim high rates of accuracy and reliability.[16]

EMIT and RIA do not work well when urine samples are more acidic or more akaline than normal; pH concentrations warp enzyme reactions. Stale urine or urine not maintained at optimal temperature may also lead to bad test results. The chief attraction of these initial tests is low costs which are estimated at $15 to $25 per test. Still, follow-up tests are essential with either EMIT, TLC or RIA.[17]

Initial urine testing has critical failings. The drugs under heavy scrutiny (i.e. cocaine and alcohol) are least susceptible to detection. Cocaine use is hard to detect since its chemical traces disappear in a few days. Alcohol, which is legal but considered detrimental to job performance, dissipates within twelve to 24 hours. On the other hand, urine testing is very sensitive to marijuana. Urine screens do not check for the presence of tetrahydrocannabinol (THC)—the intoxicant. Instead, THC's by-product metabolite which appears after THC breaks down and is no longer intoxicating is targeted. Thus, tests determine marijuana use but not actual intoxication on the job. This metabolite may be active and detectable for weeks after use of THC and the test may even pick up on passive inhalation. Other drugs may have a similar characteristic—

permitting detection of by-products long after the initial period of intoxication.[18]

Since an employer's drug test often can not demonstrate the recency of use or distinguish between chronic use and experimental use, it is severely limited. If such tests can not measure present intoxication or fix the time period when drugs were used, they can not accurately determine job impairment as a result of substance abuse. In addition, the chain-of-custody procedures used to ensure that the sample is correctly matched with the person who provided it add another layer of problems. For a proper chain-of-custody, a person must be watched carefully while providing the sample; storage locations of the samples must be secure; signatures of persons handling samples must be obtained; and secure shipment to a laboratory generally is required. Ensuring the integrity of the chain of custody imposes more labor and shipping costs. If proper monitoring is not performed, drug users may alter their urine samples by adding neutralizing substances such as table salt or they may substitute a "clean" urine sample.[19] It has recently been argued that Mountain Dew, a soft drink, has the same qualities as a urine sample in pH composition and could be a possible substitute if properly warmed for the occasion.

Confirmatory tests include gas chromatography (GC) and mass spectrometry (MS). These tests are more expensive, must be performed in laboratories and are very accurate. The GC/MS identifies substances from urine samples by breaking them into smaller molecular fragments by bombarding the specimen with electrons. The purpose of this test is to produce a molecular fingerprint that will demonstrate the presence of a particular compound. Positive EMIT, RIA or TLC results should be subjected to GC/MS results since its accuracy level approaches 99.98 percent. To obtain this high level of accuracy, organizations will pay dearly. Laboratory equipment for a GC/MS system costs $100,000 to $150,000 to acquire; technicians earn about $50 per hour. If these services are contracted out, the costs range from $30 to $100 per sample depending on the laboratory and the volume of work submitted by the organization.[20]

The statistical unreliability of drug tests also represents a fundamental flaw. The likelihood that a test represents a true positive indicator of drug usage depends on the cutoff value used when determining the degree to which the tested group actually uses drugs. For example, if an organization assumes that five percent of a group of employees engages in illegal drug use and the organization proceeds with a drug screening program that uses a 95 percent accuracy level to screen the group, the program will issue one false positive for every three true positive results. If it is assumed that only two percent of the group uses illegal drugs, then three out of every four results will be false positives. If President Reagan's Executive Order were enforced on all 2.8 million federal workers, an estimated 140,000 workers would be labled falsely as illegal drug users and would

be unjustly fired or disciplined.[21] Of course, just an initial test for all of these federal workers would cost, at $10 per test, approximately $28 million. If only five percent (or 140,000 employees) were to receive confirmatory tests at $50 per test, the costs would run an additional $7 million.

Besides the potential financial burdens represented by mass drug screening, there are greater costs that can not be measured. The qualitative costs of drug screening include an invasion of privacy, a heightened sense of distrust between labor and management, a lowering of worker morale, and a distinct presumption of guilt as employees must prove their innocence. The legal question in the courts vis-a-vis mandatory drug testing in the public sector is whether the intrusiveness of drug testing is mitigated by the governmental interests of safety in the workplace, employee integrity, and a reduction in the general demand for illegal drugs by requiring drug-free workplaces. The Fourth Amendment issues associated with drug testing (i.e. search and seizure and the right to privacy) are not a challenge to the governmental goals but are more directly questioning whether these goals can best be obtained by mandatory drug testing.[22]

The Courts, Drug-Testing and Privacy

Generally, the lower federal courts have supported a reasonable suspicion standard before an employee can be tested for drugs. The employer must make a decision to test based on objective facts and observations that drug use is occurring.[23] Balancing privacy against job performance, the New York Court of Appeals held that mandatory drug testing by urinalysis of probationary school teachers was illegal and an unjustified invasion of privacy.[24]

By relying on a reasonable suspicion standard, the courts have generally voided the use of random drug testing. Drug screening programs that test employees randomly where there is not an identified drug problem, no sensitive position and no threat to public safety are more likely to be held as contrary to the Fourth Amendment.[25] However, the Department of Transportation's random drug testing plan was upheld without prejudice in the U.S. District Court due to the sensitivity of transportation jobs and the need to protect public safety as well as the plaintiff's unpersuasive argument that the testing imposed unreasonable burdens on them.[26]

Recent Supreme Court rulings have generally upheld mandatory drug testing where safety-sensitivity needs appeared to require it. Specifically, employees involved in transportation, drug interdiction or who carry firearms may reasonably be tested under the Fourth Amendment. At the same time, the Court also ruled that those applicants applying for positions requiring them to handle "classified" materials did not necessarily fall into the same category as the above-mentioned positions and

their privacy interests should be given greater consideration.[27]

Process Evaluation

The implementation of drug-free workplace programs in the public sector is underway. In order to evaluate these programs, we surveyed 1,000 city managers nationwide in cities with populations of 10,000 residents or above. The list of city managers was obtained from the International City Management Association (ICMA). There are 2,758 known city managers in cities with populations of 10,000 or above. The ICMA list of managers represents a survey of their organization's membership and may not include all city managers. Nationally there are 7,095 members; 4,906 of them are employed as city managers, according to ICMA's survey. Surveys were representatively sent to all 50 states; we received responses from a total of 48 states.

The 1,000 surveyed city managers were selected by sending surveys to every third manager on the ICMA list, which was arranged according to zip code and therefore also arranged according to region. Each surveyed city manager received a 20-question survey, consisting primarily of open-ended questions about their drug screening policies. (See Figure 1 for a copy of the survey.)

Through the survey instrument, we compare and contrast city personnel policies for the purpose of developing a composite description of: 1) drug-screening programs nationally and 2) differences that might be attributed to city size. The two most important criteria for analyzing these programs are: 1) due process and individual rights and 2) the punitive versus rehabilitative nature of the drug programs. Two additional criteria included to evaluate the variations among these policies are: 1) how drug screening affects labor-management relations and 2) the direct costs associated with drug screening.

Various questions contained in the survey were particularly aimed at assessing whether the programs protected due process and individual rights by showing concern for privacy and by demonstrating an awareness of the problems in obtaining accurate drug test results. Questions directly related to due process and individual rights were questions 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, and 18. These questions sought to gauge the impact of drug testing on due process issues along six dimensions: 1) Which employees are targeted for drug screening and why?; 2) Are drug screenings mandatory and if so, are they conducted regularly or infrequently?; 3) Are they randomly administered and/or based on a probable cause finding? Are they announced or unannounced?; 4) Is the policy itself well-publicized?; 5) What type of initial test is employed? Are there follow-up screenings for those who test positively? and 6) Are there concerns over the accuracy of the tests as administered in the various jurisdictions?

Other questions were aimed at determining whether the drug-screen-

Figure 1
Drug Screening Policy Survey

The following is a series of questions designed to obtain an understanding of how city managers across the nation are addressing the use of drug testing for city employees in their various jurisdictions. This survey is being distributed to 1,000 randomly selected city managers for the purpose of research. Names of city managers will remain confidential in any reporting of the data derived from this survey. The name of the city will also be withheld upon the request of the respondent. Your response to these questions and your return of this survey in the enclosed, stamped envelope would be greatly appreciated. Thank you very much for your participation.

If you have any questions concerning this survey, feel free to contact Dr. Ruth Ann Strickland at Appalachian State University. She may be reached at (704) 262-6169 or 262-3085. Feel free to leave messages at 3085 if she is not available at her office number (6169). For results of the survey, you may mail a stamped, self-addressed envelope to: Dr. Ruth Ann Strickland, Department of Political Science and Criminal Justice, Appalachian State University, Boone, North Carolina 28608.

1. Your name
2. City State
3. Approximate Size of City (Please circle one of the following to indicate the approximate population size of your jurisdiction).

(A) 10,000-24,999
(B) 25,000-49,999
(C) 50,000-99,999
(D) 100,000-249,999
(E) 250,000-449,999
(F) 500,000-1,000,000
(G) Over 1,000,000

4. Do you have a drug screening policy for selected city employees? If not, why not? Are you considering the implementation of such a policy? Why?

Please comment:

5. If you have a drug screening policy, consider the following possible objectives and rank those that apply to your jurisdiction in order of importance from 1 (the top objective) to 5 (the objective of least concern).

[ ] To maintain the performance levels of the employees
[ ] To ensure the honesty and integrity of employees in sensitive jobs
[ ] To maintain employee safety
[ ] To identify drug users for rehabilitation purposes
[ ] To protect the safety of the public
[ ] Other (please specify):

6. Which city employees (i.e., police or firefighters) are targeted for drug screening?

7. Why were these specific groups targeted?

Figure 1, continued

8. How regularly are drug screenings conducted? once a week? once a month? other?

9. Are drug screenings mandatory for the targeted groups? If so, why? If not, why not?

10. Are drug screenings random (administered to everyone or to randomly selected individuals) for the targeted groups? If so, why? If not, why not?

11. Does your jurisdiction base drug screenings on a probable cause finding? Why? Why not?

12. Are tests announced or unannounced? Why was one approach selected over another?

13. Are there follow-up screenings for those who test positive for drug usage? Why or why not?

14. What are the consequences of testing positive? Please circle one or more of the following responses as they apply to your jurisdiction.

(A) Those who test positive are subject to disciplinary measures
(B) Those who test positive are encouraged to attend counseling and/or to participate in an employee assistance program
(C) Those who test positive are immediately discharged
(D) Other (please specify):

Comments:

15. What are the estimated costs of drug screening in your jurisdiction (i.e., the cost of the test itself and the administering of the tests)?

16. Is the drug screening policy itself (whether tests are announced, whether they are random, and the action taken on a positive test result, etc.) well-publicized to every employee in your municipality?

17. What type of drug screening test is employed? blood tests? urine samples? other?

18. Do you feel the drug tests employed in your jurisdiction are accurate? Why or why not?

19. Have any legal challenges been mounted against the drug screening policy adopted in your jurisdiction? If so, on what grounds?

20. Have there been any successful legal challenges of the drug screening policy in your jurisdiction? Have there been alterations of the drug screening policy due to possible challenges?

ing programs used nationwide are basically punitive or rehabilitative in orientation. Question 5 partially reveals how the goal of identifying drug users in the workplace for rehabilitation purposes is viewed in the rank ordering of objectives. In addition, question 14 asks employers to identify the consequences of testing positive (e.g., are employees subject to disciplinary measures, counseling or immediate dismissal?). These options or combination of options highlight the degree of "punitiveness" associated with drug screening.

The remaining substantive questions deal with the costs of drug screening (question 15) and the effects of drug screening on labor-management relations (questions 19 and 20). Question 15 asks city managers to estimate the costs of drug screening in their respective jurisdictions—particularly the costs of the test and the costs of administering the test for each employee tested. Questions 19 and 20 attempt to evaluate the degree of consensus between labor and management according to whether legal challenges have been mounted against drug-screening programs across the jurisdictions surveyed, and whether any of these challenges were successful and possibly contributed to alterations in the drug-screening policy.

This study represents a process evaluation rather than an impact evaluation. It is therefore preliminary in scope since impact evaluation can not occur without clearcut notions of what a program is supposed to accomplish. Where a process evaluation focuses on the way a program is implemented, the impact evaluation dwells more on the end results of programs. In this study, we examine the variations among drug screening programs and the differing objectives and means of implementation. Essentially, we are investigating what is done to whom and what activities are taking place as a result of drug screening. Those who will conduct impact evaluations in this area will examine whether a drug screening program actually reduced drug abuse in the workplace (i.e., what happened to the target populations as a result of drug screening).[28]

A Nationwide Survey of City Managers on Drug Screening: The Findings

From the 1,000 mailed surveys, we received a response from 290 city managers — a 29 percent response rate. Out of 290 responses, 118 (40.7 percent) had implemented a drug-screening program while 172 (59.3 percent) had not. Of those who had not yet implemented drug testing, 62 (36 percent) were either developing or considering a drug-screening or substance-abuse program. Many city managers (70) explained why they currently had no drug-screening program. (See Table 1 for their explanations.)

When asked to rank order the objectives of their drug screening programs, city managers most frequently chose public safety as their primary objective. Second in importance was maintaining employee safety. Their third greatest interest was ensuring the performance levels

of employees. Fourth and fifth in importance respectively were ensuring employee integrity and identifying drug users for purposes of rehabilitation. Other objectives that were suggested but not ranked in order of importance included maintaining the confidence of the public in the organization, protecting the city from liability suits, curtailing drug use in the surrounding community, weeding out potential problem employees, and complying with the law (see Table 2).

Table 1
City Managers' Explanations
For Lack of Drug Screening Policy

Comments	Number of Respondents
Low priority item	7
Perceived legal difficulties	15
No perceived need/no drug abuse	37
Union resistance	2
Too costly/ too time-consuming	6
Too political	1
Lack of statutory guidelines	1
City manager personally opposes a policy1	
Total Number of Respondents	**70**

NOTE: Forty-eight of those who participated generally did not answer this question or felt that it was not applicable to their drug screening programs.

Due process orientations of the drug screening programs are reflected in the responses to questions 6, 7, 8, 9, 10, 11, 12, 13, 16 and 17. Also, questions 19 and 20 reflect employee views of mandatory drug testing by asking whether or not any legal challenges have been mounted against drug screening programs. The responses to questions 6 and 7 indicated whether city employees undergo mass screening, or whether certain occupation groups are targeted. These questions measure the basic intent of the program—why some groups are singled out while others are not.

Table 2
City Managers Rank Order
Objectives of Drug Screening Policies

To maintain the performance levels of the employees
Ranks/Responses
1: 9
2:15
3:45*
4:30
5:10

To ensure the honesty and integrity of employees in sensitive jobs
Ranks/Responses
1: 8
2: 9
3:26
4:39*
5:26

To maintain employee safety
Ranks/Responses
1:24
2:58*
3:20
4: 9
5: 0

To identify drug users for rehabilitation purposes
Ranks/Responses
1: 1
2: 5
3: 8
4:23
5:59*

To protect the safety of the public
Ranks/Responses
1:70*
2:24
3: 9
4: 5
5: 3

NOTE: * denotes the highest number of responses allocated to the rank ordering of a particular objective.

Table 3
Groups Targeted by Drug Screening Programs

"Which city employees (i.e., police or firefighters) are targeted for drug screening?"

Responses	Number of Respondents
Police officers only	25
Firefighters only	15
All city employees	11
Pre-employment screening only	5
Reasonable suspicion only	6
Pre-employment and reasonable suspicion	11
Police/dispatchers/equipment operators	11
Police/firefighters	14
Police/equipment operators	3
Police/firefighters/transit drivers/ department directors/equipment operators	2
Police/firefighters/ambulance operators/ bus drivers/airport personnel/nurses/mechanics	1
Police/firefighters/school bus drivers/impaired employees	1
Police/firefighters/heavy equipment operators/ public works employees	4
Public safety employees	3
Pre-employment/police/firefighters/reasonable suspicion	2
Employees handling sensitive documents/ public funds	2
No answer/not applicable	5
Total	118

"Why were these specific groups targeted?"

State/federal regulations	5
Public/employee safety	47
Nature of the job	14
It is legal	2
To protect the city from liability suits	1
Screen out problem employees	2
To ensure employee integrity	3
To maintain grant funds	1

Groups that were targeted most frequently were police (25 respondents) and firefighters (15 respondents). Another large segment of drug-screening programs tested all city employees (11 respondents) while

others chose to engage in reasonable suspicion testing only (6 respondents) and pre-employment screening only (5 respondents). The most frequent reason given for targeting groups or for screening all employees was to maintain public and employee safety (47 respondents). See Table 3 for other explanations. Generally, the answers to this question are positively oriented toward due process, since most drug-screening programs employed were not mass-screening, aimed at all employees regardless of their relationship to public safety. Still, at least eleven programs screened all employees, and five screened them before hiring with no reasonable suspicion requirement.

City managers were asked (in question 8) how regularly they conducted their drug screenings. The more regular the screenings, the more intrusive they are for city employees. The largest segment (20.3 percent) conducted drug screenings only prior to employment and upon reasonable suspicion. Some screened for drug use only upon hiring employees (18.6 percent) while others screened only on a reasonable suspicion basis (18.6 percent). These responses accounted for 68 of the 88 respondents who chose to answer this question. Only one respondent claimed to conduct daily screenings—the most undesirable use of a drug screening program when trying to balance employee needs for privacy against the governmental interests in public safety (see Table 4).

Table 4
The Regularity of Drug Screenings

"How regularly are drug screenings conducted? once a week? once a month? other?"

Responses	Number of Respondents
Pre-employment/reasonable suspicion	24
Reasonable suspicion only	22
Pre-employment only	22
Annually	5
Biennially	3
On the job injuries/accidents	1
Biennially until age 35/annually thereafter	1
Daily	1
Pre-employment/annually	2
Pre-employment/promotion/annually	2
Pre-employment/during police training	1
Pre-employment for police and firefighters/ probable cause for all	1
No answer/not applicable	30
TOTAL	118

Approximately 78 percent claimed their drug screenings were mandatory for targeted groups; only 12 percent did not require participation. Mandatory testing without a direct government interest in ensuring employee integrity could be regarded as overly intrusive. Public safety was the most often cited reason for having a mandatory drug-screening program (5 respondents). Other reasons offered for mandatory participation by separate, individual respondants were: 1) adhering to federal mandate; 2) screening out problem employees; 3) following state policy and 4) job sensitivity. Reasons offered by separate, individual respondents for not making participation mandatory included: 1) fear of legal difficulties; 2) the belief that such an approach would foster negative labor-management relations; 3) the belief that such programs are too costly; 4) the opinion that mandatory testing represents a privacy invasion; and 5) the feeling that there was no need for mandatory testing.

Another effort to gauge due process orientations was made when city managers were asked whether their screenings were random. The majority (57.6 percent) rejected the use of random screenings fearing legal problems (10 respondents) and possible bad effects on labor-employer relations (1 respondent). One respondent claimed that random screenings did not occur "unless necessary," while another held that they only occured during an employee's probationary period. Approximately 17 percent claimed that screenings were random. A large segment (19.4 percent) chose not to respond to this question.

The majority of those surveyed (58.4 percent) claimed to abide by a reasonable suspicion standard. The remainder either did not use this standard (13.5 percent); sometimes used this standard (3.4 percent); or chose not to answer the question (24.6 percent). Reasons offered for abiding by reasonable suspicion requirements included: 1) helping employees seek treatment (3 respondents); 2) protecting the employee and the organization (1 respondent); 3) maintaining public safety (3 respondents) and 4) avoiding liability suits (2 respondents). Those who did not base screening on reasonable suspicion did not offer any relevant reasons for not using the standard. Most programs are due process oriented in the area of applying reasonable suspicion as a standard for testing employees.

To determine whether programs were oriented toward giving employees reasonable notice of testing, city managers were asked whether their drug screenings were announced or unannounced. The largest segment (35.6 percent) responded that their employees were given advance notice of drug screens. One respondent noted that announced screenings were based on union bargaining and agreement while two others believed announced screenings protected the civil rights of employees. Another 19.5 percent of the respondents used unannounced drug screenings while 10.1 percent only occasionally announced screenings (e.g., in the instance where an employee is identified as a drug user on the grounds

of reasonable suspicion). Those who defended unannounced testing claimed that it was necessary to ensure the validity of drug tests. A large number of respondents (34.7 percent) chose not to answer this question.

City managers were also asked whether their jurisdictions conducted follow-up screenings when an employee tested positive in an initial screening. This is a due process question aimed at determining whether employees might be subject to firing or disciplinary measures without additionally testing for veracity. Most respondents (65.2 percent) used follow-up testing; only 5.9 percent did not. However, 28.8 percent of the sample chose not to respond. Of those who used follow-up tests, they used them to confirm positive tests (25 respondents) and to monitor employee rehabilitation (14 respondents). For those respondents who did not use follow-up testing, the only reason given was positive testees simply were not hired.

When asked what were the consequences of testing positively in the drug screening, the city managers were given a list of three possible consequences and were asked to circle the ones that applied to their jurisdictions. The following alternatives were presented to them:

A. Those who test positively are subject to disciplinary measures.
B. Those who test positively are encouraged to attend counseling and/or to participate in an employee assistance program.
C. Those who test positively are immediately discharged.
D. Other (please specify)

The respondents could circle more than one response. The consequence most frequently chosen was (B)—circled by 79 respondents. Equally popular was (A) which was selected by 73 respondents. Discharging positive testees immediately was the least popular approach; with only 23 respondents choosing this alternative. This question was used to indicate the punitive versus rehabilitative approaches that may be taken when employing drug screenings. Most programs appear to be rehabilitatively oriented. Nineteen respondents specified that they simply did not hire applicants who tested positively in a drug screening while two others claimed that the response to a positive test was not automatic and had to be handled according to individual circumstances.

The costs of testing was another concern—particularly if drug screening becomes more widespread. Costs were variable but most respondents (41.5 percent) claimed that costs of testing ranged between $10 to $50 per test. Another 18.6 percent acknowledged greater costs—estimating a range between $51 to $250 per test. Some respondents provided annual cost estimates ranging from $600 a year (2 respondents) to $5,000 a year (1 respondent). Many respondents (39.9 percent) did not know the costs of testing or had not actually tested anyone yet. Most city governments (51.6 percent) rely on urine samples for testing—the most intrusive and problematic testing procedure; 22.8 percent use both urine and blood samples for testing, depending on the individual circumstances. Another 6.7 percent rely only on blood samples; 1.7 percent used blood, urine and breathalizer tests. This question was not answered by 18.6 percent of the sample.

Drug-screening policies were well-publicized and circulated among employees; 64.4 percent of respondents noted the importance of this while approximately 17 percent claimed the policies were not well-publicized. The remainder chose not to answer this question.

Almost no one questioned the accuracy of the tests. Since these respondents have adopted a drug-screening strategy, most felt compelled to staunchly support their programs by asserting a strong belief in accuracy. Evidence discussed earlier indicates some of the accuracy problems of urinalysis in particular. Either respondents were unaware of these problems or they deliberately ignored accuracy problems; 79.6 percent claimed that they believed in the accuracy of the tests they employed. When asked why they believed in the accuracy of their tests, 18 respondents claimed that follow-up tests ensure accuracy while another 18 respondents believed that independant laboratories with reputable records ensured accuracy. Two cited that there was a well-documented chain of custody when transporting specimens and believed that this protected test accuracy. No one said that they did not believe in their accuracy but one respondent tentatively asserted that the tests were not totally accurate. Concern that someone might be wrongfully accused by inaccurate tests was low since no one raised any questions at all about the accuracy of these tests.

Nationwide, from this sample there were seven legal challenges mounted against drug-screening programs in the public sector. This is an indicator that drug screenings are causing tension between labor and management. The reasons given for the challenges included illegal search and seizure, privacy violations, unfair labor practices, and adverse reactions to mandatory and random testing as the reasons for discontent. For the other 92 respondents, no challenges had been mounted in their jurisdictions. One challenge was reported as successful wherein the respondent stated that the court prohibited random testing, requiring a reasonable suspicion standard instead. The remaining respondents replied that there were no successful legal challenges.

Most programs appear to be due process oriented by: 1) targeting groups to test rather than using mass screening, 2) by announcing tests rather than using random screening, 3) by publicizing the drug screening policy to affected employees, and 4) by relying on follow-up tests to confirm or disconfirm positive tests. However, more concern for the accuracy of these tests should be shown. Most respondents ranked rehabilitation as the least important objective when analyzing goals of their drug- screening programs. On the other hand, most of them did consider rehabilitation important as a consequence for testing positively

for drug use. The truly punitive programs were those that would not hire applicants as a result of an initial drug screening.

Population Size Findings

All the results were sorted according to city population size. There were seven sizes ranging from smallest to largest: 1) 10,000-24,999 residents; 2) 25,000-49,999 residents; 3) 50,000-99,999 residents; 4) 100,000-249,999 residents; 5) 250,000-449,999 residents; 6) 500,000-1,000,000 residents; and 7) over 1,000,000 residents. The rank ordering of objectives corresponds across city size to the results obtained in the national and regional breakdowns. One expected but interesting variation is that the larger the city, the more likely it is to have a drug screening program.

Table 5
Drug Screening Programs by City Size

10,000 - 24,999: With Policy—34; Without Policy—97 =	131
25,000 - 49,999: With Policy—39; Without Policy—49 =	88
50,000 - 99,999: With Policy—24; Without Policy—16 =	40
100,000 - 249,999: With Policy—13; Without Policy—7 =	13
250,000 - 449,999: With Policy—5; Without Policy—2 =	7
500,000 - Over 1,000,000: With Policy—3: Without Policy =	1

In cities with 10,000-24,999 residents, 25.8 percent of respondents had implemented a drug-screening program. In cities with 25,000-49,999 residents, 44 percent of respondents had drug screening programs. Sixty percent of cities with 50,000-99,999 populations had drug testing programs; 65 percent of cities sized 100,000-249,999 possessed drug screening programs. In cities with 250,000-449,999 residents, 71.4 percent of respondents had implemented drug-screening programs. Three-fourths of cities with populations over 500,000 had drug-screening programs. This was the most significant difference found according to population size. For the breakouts of those cities with policies and those cities without policies based on size, see Table 5.

Conclusions

The findings indicate that city managers rank order the objectives of their drug screening programs in the following order of importance: 1) public safety; 2) employee safety; 3) ensuring employee performance levels; 4) ensuring employee integrity; and 5) rehabilitation of employees who use drugs. Groups targeted most frequently for drug screenings were police, firefighters, and city employees. The great majority of drug screenings were mandatory, not voluntary. Most conducted drug screenings prior to employment, upon hiring or on a reasonable suspicion basis. Over half of all city managers surveyed rejected random drug screenings with a large segment responding that employees were given advanced warning of drug screenings. A majority of city managers also indicated that follow-up screenings for employees testing positively were used.

Most of the drug screening programs appear to take due process issues seriously. They generally are not punitive in nature but at the same time rehabilitation was not ranked as a top priority. Many city managers are cautious about instituting a punitive component within their drug screening programs in part due to legal controversies that might be generated and also due to fears that labor-management relations would be damaged. Future court rulings will play a decisive role in determining whether due process/privacy issues will be taken seriously in the future, and the message from the White House combined with court rulings may determine the punitiveness of future programs.

These findings suggest that more attention should be paid to the accuracy of the drug-screening tests employed by city managers. A majority of managers perceive high levels of confidence in their testing procedures. At the same time evidence shows that they are relying on highly inaccurate urine tests. Indeed, only the most advanced and expensive urine screenings approximate the accuracy levels necessary before accusing employees of drug abuse and damaging their reputations.

The future direction of drug-screening programs should be examined carefully by local public managers. Given the many problems associated with drug screening, alternatives to urine testing, in particular, should be considered. Many private employers have opted not to use urine screenings because they believe such tests: 1) represent serious invasions of privacy, 2) can not show on-the-job impairment, and 3) will impact negatively on employee morale.[29]

Besides these apprehensions, false positive results may lead to the firing of innocent employees or, in the case of pre-employment tests, to not hiring potentially innocent and competent employees. Drug-screening programs may deter employees from taking prescription drugs on the job which would enhance their efficiency due to fears of informing employers about illnesses that may be perceived as debilitating. Another reason for considering alternatives to drug-screening programs is that they involve public managers in law enforcement activities which take time and resources away from conducting very important public business.

Some suggested alternatives to drug-screening programs include: 1) drug awareness and education programs; 2) constructive confrontation by a supervisor when employee performance declines and subsequent referral to an appropriate employee assistance program; and 3) peer

referral to employee assistance programs in workplace settings where supervisors do not have close contact with their employees. These approaches may solve the problem of employee impairment due to drug abuse as effectively, or perhaps even more effectively, than drug-screening programs. Drug abuse in the workplace is a real problem but we need to find solutions that are consistent with our cultural and legal ideals (i.e., the right to privacy and the right to be free from unreasonable searches and seizures).

Notes

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[18]O'Keefe, p. 35; Felman and Petrini, pp. 265-266.

[19]Rosen, p. 202; Felman and Petrini, p. 266.

[20]Felman and Petrini, p. 262; Hoffman and Silvers, p. 204; Rosen, p. 201.

[21]Felman and Petrini, pp. 206-207.

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