

Reasonable Suspicion and the Drug Epidemic



Presenter: Catherine Burgett

Agenda

- Components of a Drug and Alcohol Testing Policy
- Types of Tests
- Types of Drugs
- Reasonable Cause
- Best Practices for Testing Procedures
- If it's positive....
- Role Playing
- Why Do You Care?



Components of a Drug and Alcohol Policy



- Prohibits the possession, use, transfer, sale, or manufacture of unlawful drugs or alcohol
- Prohibits the taking of lawful drugs in unlawful manner
- Requires the reporting of any criminal drug conviction
- Prohibits the taking of lawful drugs if they impair and requires reporting

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Components of a Drug and Alcohol Policy



- Considers split samples
- Considers transportation issues
- Considers payment terms
- Establishes chains of command
- Addresses discipline possibilities and RTW
- Discusses counseling options
- Provides for pre-issue self reporting

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Components of a Drug and Alcohol Policy



- Sets limits but leaves wiggle room
- Addresses confidentiality
- Addresses negative tests and RTW
- Provide for searches
- Addresses educational components and training
- What to do with dilute negatives

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Types of Tests



- Post incident
 - Significant damage; or
 - Injury requiring medical treatment;
 - When causal connection exists
- Pre-employment
- Reasonable suspicion
- Return from layoff, LOA, suspension, reinstatement in excess of 30 days
- Random

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Types of Drugs

- Stimulant
- Depressant
- Hallucinogen
- Narcotic



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Stimulant Types

- Cocaine (crack, blow, nose, snow, toot, white, rock, flake)
- Amphetamine (meth, uppers, bennies, crank, crystal)
- Caffeine
- Forms: crystal, powder, pills, liquid



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Stimulant Effects

- **Short Term**
 - Well-being, alert, energetic, restless, dizzy, euphoric, confusion, less appetite, talkative, increased breathing and heart rate, elevated blood pressure
 - Grandiosity, impulsiveness, increased strength and mental capacity, headache, blurred vision, fever, sweating, irritability, panic, violence, heart attack, stroke, coma, seizures
 - “Crash” period
- **Long Term**
 - Malnutrition, fatigue, sleeplessness
 - Severe anxiety, tension, high blood pressure
 - Lowered immune system
 - Bizarre and/or violent behavior
 - Amphetamine Psychosis (similar to paranoid schizophrenia, hallucinations, paranoid delusions, compulsion)

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Stimulant Withdrawal

- Depressions
- Guilt
- Body complaints
- Irritability
- Skin-picking
- Insomnia
- Anorexia (loss of appetite)
- Anhedonia (loss of pleasure)
- Cravings

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Depressants Types

- Alcohol
- Barbiturates (ludes, sleepers, downers, tranquilizers)
- Benzodiazepines (Valium, Ativan, Librium, Xanax, sleepers, downers, tranquilizers)
- Forms: liquid, pill, blotter paper



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Depressant Effects

- **Short Term**
 - Slurred speech
 - Impaired vision, balance, memory, coordination, judgment
 - Relaxed, drowsy, dizzy, overly self-confident
 - Hostile, depressed, withdrawn
 - Lowered inhibitions, impaired judgment, risky behavior
- **Long Term**
 - Liver disease, cancer, stomach ulcers, brain damage, behavior change, nervous system damage, pancreatic inflammation, heart disease, high blood pressure, stroke, less immunity to disease and infection

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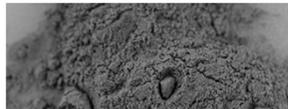
Depressant Withdrawal

- Shakes
- Sweats
- Nausea
- Headache
- Anxiety
- Rapid heart beat
- Increased blood pressure
- Cravings
- DTs (seizures/convulsions, hallucinations)



Hallucinogen Types

- LSD (acid)
- Mescaline (cactus)
- Psilocybin (s'hrooms, mushrooms)
- MDMA (love drug, X, ecstasy)
- PCP
- Marijuana (pot, grass, weed, brick, joint. Thai Stick, MJ, Mary Jane)
- Hashish (hash, ganja, rope)
- Aerosol sprays, glues, paint thinners, gasoline, household chemicals, etc.
- Forms: plants, pills, paper, sugar, solvents



Hallucinogen Effects - LSD

▪ Short Term

- Auditory/visual hallucinations user is not aware are unreal
- Time perception distorted
- Diminished concentration, thinking
- Anxiety, exhilaration
- Rapid, wide-ranging mood swings
- Muscles twitching, weakness, impaired coordination
- Rapid breathing, increased blood pressure, body temperature and heart rate
- Dizziness, nausea, vomiting

▪ Long Term

- Amotivational Syndrome
- Flashbacks years after use stopped
- Depression, anxiety
- “Bad trips” are highly negative, disturbing and psychologically harmful



Hallucinogen Effects - MDMA

▪ Short Term

- Great sense of pleasure, empathy, emotional insight, increased sociability
- Increased blood pressure, pulse, body temperature
- Blurred vision, nausea, vomiting, chills, sweats, muscle stiffness, jaw clenching, teeth grinding
- Distortions in perception and hallucinations
- Headache, loss of balance, fatigue, insomnia
- Confusion, depression, anxiety (may last weeks after a single dose)

▪ Long Term

- Increased hangover-type effects
- Weight loss, flashbacks, paranoia, depression
- Liver damage
- Brain damage



Hallucinogen Effects - Solvents



- **Short Term**
 - Euphoria, dizziness, lightheaded, feeling of great power or invincibility, exhilaration
 - Confusion, agitation, disorientation
 - Cramps, nausea, vomiting, chest pain
 - Muscle weakness, difficulty speaking, hallucinations
 - Significantly impaired judgment, risk taking, reckless behavior resulting in injury/death
- **Long Term**
 - Sores on mouth & nose, fatigue, weight loss, pale skin, numbness in hands & feet,
 - Kidney, lung, liver damage
 - Strong possibility of brain damage
 - Difficulty learning, memory loss, uncontrollable eye movements, hearing loss, clouded thinking
 - Depression, irritability, paranoia, hostility

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Hallucinogen Effects - Cannabinols

- **Short Term**
 - Feeling of well-being, relaxation
 - Distortion of reality, see things more clearly, sharply, new colors/shades of colors
 - Mental confusion, distortion of perception & thinking
 - Lack of concentration, decreased attention span, difficulty forming ideas & completing thoughts
 - Loss of sense of time, time seems to slow
 - Reduced intellectual performance
 - Impaired thinking, reading comprehension, coordination, judgment
- **Long Term**
 - Cancer, bronchitis, lung infection
 - Impaired short-term memory, concentration, abstract thinking ability.
 - Anxiety, personality disturbances and depression
 - Amotivational Syndrome (less active & ambitious than non-users, unconcerned about the future, unwilling or unable to make long-term plans)

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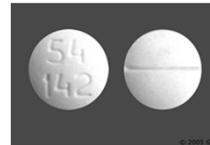
Hallucinogen Withdrawal

- Anxiety
- Depression
- Flashbacks
- Irritability
- Physical tension
- Decreased appetite
- Chills
- Headaches
- Muscular cramps
- Abdominal pain
- Tremors



Narcotics Types

- Heroin (horse, junk, smack, snow, H, brown, black, Morphine, Codeine (OxyContin, Tylenol with Codeine))
- Methadone
- LAAM
- Opium
- Forms: Crystal, powder, pills, liquid



Narcotic Effects

- **Short Term**
 - Intense rush
 - Well-being, euphoria, relaxation, drowsiness, mental confusion
 - Sleep, very low blood pressure, slowed pulse, slowed heart rate & breathing, low body temperature, muscle constriction, cold clammy skin, cyanosis, coma, death
 - Numbed physical & emotional responses
 - Apathy, inability to concentrate
 - Nausea, vomiting, sweating, chills
- **Long Term**
 - Chronic constipation
 - Impaired vision
 - Mood swings
 - Instability
 - Increased tolerance to drug requiring increased use to experience pleasurable effects



Narcotic Withdrawal

- Chills, hot flashes
- Sweats
- Cramps, nausea
- Tremors
- Loss of appetite
- Insomnia
- Dilated pupils, watery eyes
- Runny nose
- Yawning fits
- Diarrhea
- Panic attacks
- Bone & muscle aches
- Lethargy



Reasonable Cause

- Management determines there is Reasonable Cause to believe Employee is using Prohibited Drugs
- Based on specific, contemporaneous, articulable observations concerning appearance, behavior, speech, body odor
- *WHAT YOU SEE, HEAR, AND SMELL IN REAL TIME*



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Reasonable Cause Checklist

- **Stumbling, unsteady gait**
- **Drowsy, sleepy, lethargic**
- **Agitated, anxious, restless**
- **Hostile, belligerent**
- **More or less \$\$\$**
- **Irritable, moody**
- **Depressed, withdrawn**
- **Frequent use of mints, mouthwash, sprays, eye drops**
- **Excessive absenteeism, tardiness**

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Reasonable Cause Checklist

- **Unresponsive, distracted**
- **Clumsy, uncoordinated**
- **Tremors, shakes**
- **Flu-like symptoms**
- **Suspicious, paranoid**
- **Hyperactive, fidgety**
- **Lowered job efficiency**
- **On-the-job accident**
- **Habitual friction in human relations**
- **Inappropriate, uninhibited behavior**
- **Early/late**
- **Mondays/Fridays**
- **Stained hands**

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Reasonable Cause Checklist

- **Flushed complexion**
- **Sweating**
- **Cold, clammy, sweats**
- **Bloodshot, tearing, watery eyes**
- **Dilated pupils**
- **Unfocused, blank stare**
- **Disheveled clothing**
- **Unkempt grooming**
- **Scent of Alcohol**
- **Slurred, thick speech**
- **Incoherent**
- **Exaggerated enunciation**
- **Loud, boisterous**
- **Rapid, pressured speech**
- **Excessively talkative**
- **Silly, nonsensical**
- **Cursing, inappropriate speech**
- **Scent of Cannabinols**

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Testing Procedure

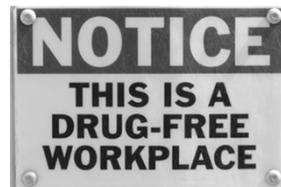
- Make reasonable cause determination
 - Observe, confirm, document, confront (but not really), test
 - Do not accuse
 - Keep it private
 - Keep it timely
 - It's OK to be wrong
 - Involve help as necessary



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Testing Procedure

- Advise employee of right to Union representation (If necessary)
 - Union representation must be present
- If applicable, conduct interview with employee – get their side of the story
 - Have a witness
 - Inquire about the reported behavior
- Request drug or alcohol test
- Have employee sign consent form
- Make transportation arrangements
- Advise employee HR will follow-up



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Testing Details

- Always get medical attention first if needed
- Dilute positives are still positives
- Have a plan if they walk off and refuse (and get into a car???)
- Document everything
- Be prepared to be surprised

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It is not Your Responsibility To:

- Diagnose drug and alcohol problems
- Have all the answers
- Provide counseling or therapy
- Be a police officer



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Legal Pitfalls

- Be sure to safeguard employees' confidentiality
- Ensure the policy is clearly communicated
- Establish procedures to investigate alleged violations
- Provide due process and ample opportunity for response to allegations
- If testing is included, ensure quality control and confirmation of positive tests
- Conform to union contracts, if applicable



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If the test is positive...

- Private meeting with employee and Union (if employee requests).
- Employee should be given an opportunity to explain.
- If first positive:
 - LCA?
 - EAP?
 - Random testing for 24 months?
 - Termination?



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Crisis vs Performance Issue



- Crisis:
 - Dangerous behavior
 - Threatening behavior
 - Obvious impairment
 - Possession of alcohol or drugs
 - Illegal activity
 - Should you involve law enforcement?
- Performance:
 - Everything else

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Enabling

- Enabling: Actions you take that protect the employee from the consequences of their activities and actually help them NOT to deal with the problem

Examples of enabling:

- Covering Up
- Rationalizing
- Withdrawing/Avoiding
- Blaming
- Controlling
- Threatening

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Supervisor Traps

- Sympathy
- Excuses
- Apology
- Diversions
- Innocence
- Anger
- Pity
- Tears



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Supervisor Do's Supervisor Dos

- DO emphasize that you only are concerned with work performance or conduct
- DO have documentation or performance in front of you when you talk with the employee
- DO remember that many problems get worse without assistance
- DO emphasize that conversations with an EAP, if applicable, are confidential
- DO explain that an EAP, if applicable, is voluntary and exists to help the employee
- DO call an EAP, if applicable, to discuss how to make a referral

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Don'ts for Supervisors Supervisor Don'ts



- DON'T try to diagnose the problem
- DON'T moralize; limit comments to job performance and conduct issues only
- DON'T discuss alcohol and drug use
- DON'T be misled by sympathy-evoking tactics
- DON'T cover up; if you protect people, it enables them to stay the same
- DON'T make threats that you do not intend to carry out

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Why do you care?

- According to OSHA, 10-20% of American workers who die at work have a positive result when tested for drugs or alcohol
- Of total drug users in the U.S., 74.8 percent are employed and active in the workplace — this means that 12.9 million individuals actively use drugs in the workforce
- 38 to 50 percent of all workers' compensation claims are related to substance abuse in the workplace; substance abusers file three to five times as many workers' compensation claims
- Substance abusers incur 300 percent higher medical costs than non-abusers
- Substance abusers are 2.5 times more likely to be absent eight days or more a year

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Role Playing

- Scenario 1:
- Scenario 2



THANK YOU!
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