screening – IMIT
urine

have lab

85¢ per drug per test
– for sample + lab

800 samples per day

[redacted]

does not include
independent

employment tests
b/c more procedures

centralized collection

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics

Drugs & Crime Data

March 1992

Fact Sheet: Drug Testing in the Criminal Justice System

As part of ongoing research the Drugs & Crime Data Center & Clearinghouse prepared this fact sheet on drug testing in the criminal justice system. "Drug testing" in this fact sheet refers to urinalysis, since that is the testing methodology typically used throughout the criminal justice system.

Who is tested?

Drug testing can take place in all stages of the criminal justice system: arrest, in the pretrial phase, and during incarceration, probation, and parole. Testing does not, however, take place in all stages in all jurisdictions.

What is the purpose of drug testing?

Drug testing in the criminal justice system can serve several purposes:

- *Inform judges for bail-setting and sentencing.* For example, a positive drug test at the time of arrest may result in a pretrial release condition that incorporates periodic drug testing. A subsequent failed drug test could result in revocation of bail or other more stringent release conditions.

- *Indicate whether specified rules or conditions are being complied with.* If a defendant is being monitored while on pretrial release, probation, parole, work release, or furlough, a drug test can help ensure that he or she is remaining drug-free. The results may be used in revocation hearings. Drug tests in prisons can also assist in monitoring drug use in correctional facilities and by inmates during temporary absences from the institution.

- *Identify persons in need of treatment.* Drug tests can identify drug users who can be placed in treatment. Drug testing is also used to monitor persons undergoing drug treatment.

Drug testing technology

There are two primary methods of detecting drugs in the urine: *immunoassays* and *chromatography*. Immunoassays are the most common method for initial screening in the criminal justice system, using antibodies to detect the presence or absence of drugs in the urine. The specimen is compared to a calibrator, which contains a known quantity of the drug being tested. If the sample specimen is higher than or equal to the calibrator, then the test is considered positive. If the specimen is lower than the calibrator, then the test is considered negative.

An *immunoassay* commonly used in the criminal justice system is EMIT™ (enzyme multiplied immunoassay technique) manufactured by Syva Company. EMIT can be conducted in-house and costs under $5 for each drug tested.[3] Other methods used include Abuscreen™ RIA (radio immunoassay) by Roche Diagnostics and TDx™ FPIA (fluorescence polarization immunoassay) by Abbott Laboratories. Toxicologists recommend that a positive immunoassay be retested and confirmed, preferably by a different technique of equal or greater sensitivity, such as gas chromatography/mass spectrometry.[4]

Chromatography involves separating and identifying the components of a specimen. GC/MS (gas chromatography/mass spectrometry) is considered to be "the most legally defensible" method of urinalysis.[5] GC/MS testing, however, is more expensive than immunoassay testing (typically between $25 and $100 a test),[6] more time consuming, and more complex (needs to be done by a laboratory). Other chromatography methods include TLC (thin-layer chromatography), GLC (gas-liquid chromatography), and HPLC (high-performance liquid chromatography).

Drug testing methods other than urinalysis include blood, hair, and saliva analysis, but are not used extensively in the criminal justice system at this time either because of high costs, because the technology is not yet fully developed, and/or are more intrusive.

What can positive test results indicate?

A positive drug test can show the presence or absence of specific drugs in urine at the detectable level of the test. However, it cannot determine the dosage, when the drug was administered, how it was administered, or the degree of impairment.

A negative result does not guarantee that the individual did not consume the drugs being tested for. The level of the drug may not have been high enough to exceed the test's cutoff level.

Most drugs can be detected in urine for up to 3 days after being taken; some up to 2 weeks (see table).

It is possible for a legal substance to interact with a substance in a urine specimen resulting in a "false positive," a positive drug test even though an illicit drug was not in fact used. Such reactions have reportedly, although infrequently, occurred from antihistamines, ibuprofen, and other anti-inflammatory drugs, and poppyseeds. Proper confirmation procedures should guard against false positive results.

Notes

[1]The White House, *National drug control strategy*, February 1991, p. 34.

[2]The White House, *National drug control strategy*, February 1992, p. 127.

[3]Eric Wish, "Drug testing," *Crime file*, 1990, National Institute of Justice, p. 2.

[4]Richard L. Hawks, "Analytical methodology," in *Urine testing for drugs of abuse*, National Institute on Drug Abuse Research Monograph 73, 1986, p. 38.

[5]Michael Peat, "Analytical and technical aspects of testing for drug abuse: Confirmatory procedures," *Clinical Chemistry*, 34(3), p. 471.

[6]Bureau of Justice Assistance, U.S. Department of Justice, *Estimating the costs of drug testing for a pretrial services program*, Monograph, June 1989, p. 9.

Other sources

American Medical Association, Council on Scientific Affairs. 1987. "Scientific issues in drug testing." *Journal of the American Medical Association* 257(22):3110–3114.

Wish, Eric. 1990. "Drug testing." *Crime file*. Washington, D.C.: U.S. Department of Justice, National Institute of Justice.

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Duration of detectability of drugs in urine

Drug	Retention time during which detectable
Amphetamines and methamphetamines	48 hrs.
Barbiturates	short-acting (e.g., secobarbital), 24 hrs. long-acting (e.g., phenobarbital), 7 or more days
Benzodiazepines	3 days if therapeutic dose ingested
Cocaine metabolites	2–3 days
Methadone	approximately 3 days
Opiates	2 days
Propoxyphene (Darvon)	6–48 hrs.
Cannabinoids	single use, 3 days moderate smoker (4 times/week), 5 days heavy smoker (daily), 10 days chronic smoker, 21–27 days
Methaqualone	7 or more days
Phencyclidine (PCP)	approximately 8 days

Note: Retention times may vary depending on variables including drug metabolism and half-life, patient's physical condition, fluid intake, and method and frequency of ingestion.

Source: *Journal of the American Medical Association*, 1987, "Scientific issues in drug testing," 257(22), p. 3112.

This fact sheet was written by Anita Timrots, Senior Research Analyst at the Drugs & Crime Data Center & Clearinghouse. The Bureau of Justice Statistics manages this data center and clearinghouse, with partial funding by the Bureau of Justice Assistance, to support drug control policy research. For additional sources on drug testing, see *Drug Testing: Selected Bibliography* and *Drug Testing in the Workplace: Selected Bibliography*, which are available from the Drugs & Crime Data Center & Clearinghouse. For further information concerning the content of this fact sheet or other drugs and crime issues, call

1–800–666–3332

or write the Drugs & Crime Data Center & Clearinghouse, 1600 Research Boulevard, Rockville, MD 20850.

Emily,
Candy called to give you prices on drug tests:
urine - $35
hair - $45-50
sweat - $2-$4 (for patch $5-$20 for analysis
saliva - ? she doesn't have yet.
Call her if you have any questions
(301) 251-5552

Which agencies test inmates for drug use? How many tests were performed during 1993, and what percent of those tests were positive? What was the average cost per test?

50 agencies conduct drug testing on inmates. 1,043,664 tests were performed in 45 agencies during 1993, of which 44,777 or 4.3 percent were positive. For the average agency, 5.0 percent of the tests were positive. The average cost per test in 46 agencies was $6.96. (In addition, MA institutions conduct their own testing; TX tests for cause; and NH tests but could not provide data).

	Tests Done	Positive	Cost
Alabama	97,228	1.4%	$1.30
Alaska	5,148		
Arizona	47,244	5.9%	$1.50
Arkansas	2,442	7.2%	$1.60
California[1,2]	3,200	0.4%	$3.00
Colorado	2,000	4.0%	$6.75
Connecticut[3]	8,992		$6.00
Delaware	593	4.0%	$9.64
Dist. of Col.	69,096	7.3%	$8.10
Florida[4]	30,421	0.5%	$1.00
Georgia	8,025	4.3%	$5.50
Hawaii	10,225	8.7%	$12.95
Idaho[5]	3,875	5.5%	$6.59
Illinois	1,191	19.9%	$27.27
Indiana[5]	4,888	9.1%	$12.50
Iowa	2,142	3.4%	$3.75
Kansas	24,009	1.5%	$1.65
Kentucky	34,000	8.5%	$9.00
Louisiana[5]			$13.00
Maine[5]	1,506	6.7%	$7.33
Maryland	42,764	2.8%	$4.82
Michigan	206,000	4.9%	$8.45
Minnesota	173	4.6%	$22.00
Mississippi	14,716	1.8%	$1.59
Missouri[2,6]	6,000	10.0%	$2.50
Montana	1,569	9.4%	$25.00
Nebraska	2,903	6.1%	$3.75
New Jersey	18,000	5.0%	$6.80
New Mexico	22,431	12.5%	$3.50
New York[5]	75,887	4.9%	$1.00
North Carolina	30,982	3.7%	$5.00
North Dakota[2]	1,500	3.0%	$7.00
Ohio[7]	46,429	3.4%	$3.75
Oklahoma	38,406	10.2%	$9.45
Oregon	4,741	1.1%	$11.00
Pennsylvania[8]			$12.30
Rhode Island	12,100	2.8%	$4.00
South Carolina	10,847	4.6%	$1.55
South Dakota[9]	4,149	3.3%	$4.51
Tennessee[2]	7,010	4.0%	$1.65
Vermont[10]	1,000	6.0%	$17.00
Virginia	2,043	0.2%	$2.00
Washington	61,783	0.6%	$3.47
West Virginia	9,500	2.2%	$4.50
Wisconsin[2]	19,000	1.5%	$0.90
Wyoming	1,557	6.0%	$5.25
Federal[2,11]	45,949	1.4%	$9.08
Total and Average	**1,043,664**	**5.0%**	**$6.96**

[1]Limited testing. [2]Avg. % positive. [3]Data not compiled dept.-wide. 3 drugs/test, $2/test. [4]Only drug treatment progs. tested in 1993. Testing of gen. pop. began 2/94. [5]Avg. cost. [6]Testing not all random. [7]Random testing for programs and for cause. [8]Cost est., 1992 figure. [9]All positive tests tested twice. [10]Tests and no. positive est. [11]Excl. contract fac.

How many inmates were in various drug treatment programs on January 1, 1994? What was the total reported inmate population in drug treatment programs?

46 agencies reported that 158,158 inmates were in drug treatment programs on 1/1/94. 24,670 inmates were in separate addiction units within prisons in 32 agencies. 56,459 inmates in 38 agencies were in drug addiction groups, and 24 agencies reported 15,781 inmates were receiving drug counseling only.

	Separate Unit	Addiction Groups	Counseling Only	Total In Programs
Alabama	1,100	1,100		1,100
Alaska		410	210	620
Arizona				963
Arkansas	232	242	262	736
California	320	4,000	120	4,440
Colorado	45	450		1,100
Connecticut[1]	520	553		2,768
Delaware	163	635	472	1,270
Dist. of Col.	550	254	38	842
Florida	4,098	4,290	1,259	9,647
Georgia	116	415	5,523	44,138
Hawaii	2	23		23
Idaho		449		449
Illinois[2]	185	700	950	1,835
Indiana				1,717
Iowa	379	295	373	1,047
Kansas	43	220		263
Kentucky				514
Louisiana[3]	140			
Maine		83	306	211
Maryland		1,508		1,508
Massachusetts[4]	506			1,582
Michigan[5]				4,169
Minnesota	526	360	350	1,236
Mississippi	377			377
Missouri	480	950	480	950
Montana		64		
Nebraska	42	69	95	206
New Mexico		400	200	600
New York[6]	6,460	20,640	300	27,440
North Carolina	322	322	322	322
North Dakota	58	58	31	89
Ohio	585	477	597	5,329
Oklahoma				91
Oregon[7]	298	350	150	798
Pennsylvania[8,9]	250	8,750		9,000
Rhode Island		48		48
South Carolina[10]	60	2,355	825	3,240
South Dakota[11]		49		49
Tennessee		7		178
Texas	2,490	4,731	2,210	6,941
Vermont			24	24
Virginia[9]	158	105		1,711
Washington		280		280
West Virginia	5	75	625	700
Wisconsin	600			600
Wyoming		192		192
Federal[12]	3,560	550	59	16,815
Total	**24,670**	**56,459**	**15,781**	**158,158**

[1]Data not dept -wide [2]Sep. unit=rehab. Addict. grps.=12 step grps. Couns.=other sub. trtmt. svcs. Total=Sub. Abuse Progs., excl. 500 inm. in drug ed. [3]140-bed, 60-day res. trtmt. unit for male inm. w/sub. abuse probs. [4]Total incl. self-help. [5]As of 9/30/93. [6]Sep. unit is res. Addict. Grps. incl. non-res. (5,788) & AA/NA (14,852). [7]Couns. incl. alc. & drug ed [8]Inm. in drug/alc trtmt. incl. self-help to TC placemt. Ind/Group couns. Addict. grps. incl. couns. only. [9]Total est [10]Addict. grps.=AA/NA & drug addict. grps. Couns only=ed. & couns. [11]Addict. grps.=sub. abuse grps. [12]Excl. contract fac.; except inm. in couns., inm. may be enrolled in >1 prog; incl. 12,646 inm. in ed. progs.

1994

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Process: Intensive staff is responsible for both screening clients for participation in the program and closely supervising their compliance with program guidelines once released into the community. These responsibilities require the following tasks: (1) Screening - reinterview, reverify information, prepare updated report with recommendation and appear at court hearing, and (2) Supervision - monitor defendant 3 times per week by telephone and twice weekly in person, oversee twice weekly drug test results and nightly curfew monitoring, schedule immediate counseling session for curfew violators, prepare noncompliance reports immediately upon determining a violation has occurred, testify at court proceedings, and monitor halfway house population awaiting release and transfer into Intensive Program. The Intensive program provides a high level of supervision for higher risk defendants.

Time: Since the Intensive Supervision Program is being reinstated, and close supervision is the essential component to the success of the program, a very low client to counselor ratio is used in determining unit costs. Therefore, the cost variance between routine Post Release Supervision and Intensive Supervision is significant. However, the level of service cannot be compared and should not be evaluated as comparable option or services.

Unit Cost: The unit's gross personnel costs are $85,000, with an hourly rate of $13.62. Three staff spends an average of 4 hours per case per week, totaling a unit cost to supervise high risk defendants at $54.48.

FTE Analysis

The Intensive Supervision Unit staff screens an average of 19 cases per week spending about one hour per case. They maintain an active case load of at least 39 defendants under their supervision requiring approximately 3 hours per client per week. The staff spends 136 hours per week divided by 40 hours = 3.4 FTEs.

- **Drug Testing**

Program Mission: Drug Testing, General

The Agency is required by statute to provide pertinent information on the pretrial release eligibility of defendants. Perhaps the most important factor to be considered is drug use, given the strong empirical relationship between drugs and crime. The Agency operates a very large drug testing operation in the courthouse, providing almost instantaneous results to judges in a variety of situations. The drug testing operation is considered a national model, using the latest technology and a sophisticated management information system to process from 400 to 700 samples per day! This is done with very high standards of reliability and at a cost-per-test that is far lower than any other drug testing operation in the District of Columbia, or, for that matter, nationally. There are three units associated with drug testing: (1) the on-site lab; (2) the adult intake unit; and (3) the juvenile intake unit.

- **(4) Adult Drug Testing Unit, 14 FTEs, $457,000**

Program Mission: Adult Drug Testing Unit

The Adult Drug Testing Unit, which must be staffed for 12 hours per day, and on Saturdays, has two supervisors and 12 staff. The staff is responsible for collecting urine samples from arrestees awaiting their first appearance before a judicial officer. The daily workload fluctuates based on the number of individuals arrested the night before, but can reach as high as 160 individuals. Urine samples must be collected from each arrestee, under strict procedures designed to document the "chain-of-custody" for each sample. In addition to collecting samples from new arrestees, the staff of the unit is also responsible for hundreds of defendants each day who have been court-ordered to refrain from drug use and to submit to drug testing on a regular basis. The frequency of testing varies from weekly to daily. The procedures for processing this workload are detailed. Each defendant must be positively identified. This is done by checking digitized photographs (mug shots) prepared as part of the booking process by the Metropolitan Police Department. Then staff must go over a variety of information with the defendant before a sample is collected. The process entails a review of the defendant's current address; a review of all future court dates; recording the defendant's acknowledgment of the next court date; reviewing other conditions of pretrial release; and delivering any messages for the defendant that may have been posted in the computer by another employee or perhaps by the defendant's attorney. Once this process is complete, the defendant is given a new appointment slip for his next scheduled drug testing date, and a bar coded label is printed for use on the urine sample cup. Only then does an escort take the defendant to a restroom for the urine sample collection. Once the sample is collected, it is turned over to a laboratory technician, after having documented the chain-of-custody using bar codes and bar code scanners. **The staff handles more than 120,000 scheduled tests per year.** Although there are sixteen individuals staffing the unit, there are 14 FTEs, with salary and fringe totaling $457,000.

Key Output Indicators - Adult Drug Testing Unit	FY 1996 Outputs
Number of "lock-up" tests conducted on arrestees brought to Superior Court:	16,000
Number of surveillance tests conducted for pretrial defendants:	75,450
Number of evaluation/placement tests conducted for the Court:	4,850
Other drug events, including check-ins where no sample is submitted or where the sample is not accepted:	26,101
Number of Drug Status Reports sent to Judges advising them of compliance with pretrial release conditions to remain drug-free:	16,800

Unit Cost/FTE Analysis

Adult Drug Unit - Urine sample collection

Process: The collection of urine samples accounts for approximately 70% of the Adult Drug Unit's daily responsibilities. These tasks include:

obtaining positive identification of all defendants reporting for testing, ascertaining their PDID number and researching the drug testing data base for their records; checking defendant's status in drug testing and treatment; recording any prescription medications a defendant is using; reviewing the address, court date, release conditions and message information; adding any new events; printing an appointment slip; making drug treatment referral if needed; generating bar coded label for a urine cup; having a defendant sign and witness signature on an appointment slip; escorting the defendant to the bathroom; observing the voiding of a sample; recording results of sample collection in automated system and turning sample into the lab for analysis.

Time: Variables affecting unit cost time analysis are as follows: resolving identification problems, number of drug events to be logged and processed (ie; drug referral, change in an address, prescription medication), the number of times a defendant must be processed before voiding a sample.

Unit Cost: The total unit personnel cost is $457,000, minus half of the two supervisors salaries, equaling $407,030. Assuming urine collection takes 70% of staff time, the hourly rate per surveillance monitor averages $10.53. Using an average of 15 minutes per defendant to be processed and collect a sample times the hourly gives us **a unit cost of $2.63 to collect a urine sample.**

FTE Analysis:

The Adult Drug Unit handles over 120,000 scheduled tests per year. Numerous activities are involved in this process in addition to collecting urine samples. These tasks include: investigating and posting all failures to report for testing, researching all noncompliance with court orders to report for testing, posting all specimen final dispositions, investigating, updating and distributing all drug status reports, testifying at court proceedings and assisting attorneys with information concerning their clients' compliance. The unit has an average of 2307 tests scheduled per week x 15 minutes = 576 hours divided by 40 = 14.4 FTEs.

- **(5) Drug Testing Lab, 6 FTEs, $397,000 (of this figure, $200,000 is for lab supplies)**

Program Mission: Drug Testing Lab

The lab processes 400 to 700 urine samples per day, each sample for up to six drugs of abuse. All positive urine samples are retested. Results are made available usually within an hour, and can be accessed in some courtrooms by judges through computers on the bench. The lab director is a toxicological chemist with a variety of certifications who can be qualified as an "expert witness" in legal proceedings. In addition to supervising the lab staff, he is frequently summoned to courtrooms to address technical issues of drug testing. These issues might include retention times of drugs in the system, the effect on the test of "passive inhalation" of drugs, and the likelihood that prescription medications could "cross react" to produce a positive test. As with the intake staff, lab staff must adhere to strict procedures regarding the chain-of-custody of each and every urine sample. The lab is open six days per week, fourteen hours per day. The staff is very small - one lab supervisor and five lab technicians to cover all of the extended hours.

Salary plus fringe benefits for this category come to $197,000. Non-personal services (drug testing reagents and lab supplies) comes to $200,000.

Key Output Indicators - Drug Testing Lab	FY 1996 Outputs
Number of samples processed from Juvenile Intake Unit:	25,135
Number of samples processed from Adult Intake Unit:	98,582
Number of samples processed from Social Services Division (Probation) of the D.C. Superior Court:	12,410
Total number of urine samples processed by lab:	136,127

Unit Cost/FTE Analysis

Drug Testing Lab - Analyzing Urine Samples

Process: The Drug lab is responsible for all activities related to both the testing and release of urine sample results and the overall maintenance of the lab and the Hitachi 717 Analyzer. Responsibilities of testing the samples include: accepting and logging the sample into the lab, performing tests to ensure the sample has not been tampered with or contains foreign objects, processing the sample through our drug test management system, checking to ensure a correct profile has been selected, printing a bar coded label for placement on the test tube, pouring and placing the sample on the analyzer's carousel, initiating the operation of the analyzer, reviewing results, repouring positive samples, releasing samples to the computer network.

Supplies: The largest proportion of the supply costs to analyze urine samples are to purchase reagents used by the analyzer in detecting the presence of drugs. Other supplies include cups, gloves, pipettes, test tubes, creatin and temperature testers, and distilled water. The unit spends $200,000 per year on supplies.

Time: The average time from when staff take receipt of a sample until a result is ready for release is one hour. Approximately 95% of the staff's duties concern analyzing samples.

Unit Cost: The total personnel costs for the Lab is $197,000, minus half of the supervisor's salary, equaling $166,854. The average hourly rate per staff is $13.85. Each sample requires at least 5 minutes of handling time. Each staff member can process 12 tests per hour divided into their hourly rate of $13,85 gives us a **unit cost per test, factoring personnel only, of $1.15.** Adding in the costs of supplies with personnel divided by the 136,127 tests processed, gives you an additional cost of $1.46 per test or a **combined unit cost of $2.61.**

FTE Analysis: The Lab tests 2617 samples per week x 5 minutes per sample = 13085 minutes or 218 hours/ 40 hours per week = 5.4 FTEs.

- **(6) Administrative/Computer Services, 17.5 FTEs, $1,155,000 ($298,000 is in non-personal services).**

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ON BALANCE

A NEWSLETTER OF THE CRIMINAL JUSTICE POLICY FOUNDATION • SPRING 1996

Drug Testing in the Criminal Justice System

We are pleased to present this first issue of ON BALANCE, a newsletter of The Criminal Justice Policy Foundation. ON BALANCE will contain information and evaluations about current criminal justice issues. CJPF's mission is to assist policymakers and the public by disseminating information about the criminal justice system. We want ON BALANCE to be thought-provoking. The views presented here are not necessarily those of The Criminal Justice Policy Foundation. ON BALANCE is sent to supporters of The Criminal Justice Policy Foundation, policymakers, members of the public, and the news media. We welcome your comments.--Eric E. Sterling, Editor-in-Chief; Sharon Jones, Managing Editor

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Pretrial Urine Testing: Implications for Drug Courts from a Decade's Positive Experience

by John A. Carver, J.D., Director, D.C. Pretrial Services Agency

On December 18, the President signed a memorandum to the Attorney General directing her to develop procedures for implementing a program of pre-arraignment drug testing of arrestees in the federal court system followed by routine drug testing as a condition of release. The memorandum declares

> ... agencies of our criminal justice system must do their part, giving criminal drug users powerful incentives to stay off drugs by putting a high price on continued drug use. These incentives -- commonly referred to as "coerced abstinence" -- should be applied at the earliest possible stage in a person's interaction with the criminal justice system following arrest.

This directive represents a major shift in emphasis for the federal court system. Some are already saying it will be too expensive. Others believe that such an approach, if widely adopted by state and local courts, could greatly reduce the nation's drug problem, since heavily-addicted drug users are concentrated in the criminal justice system.

One jurisdiction -- the District of Columbia -- is already following the President's suggested approach with considerable success. For many years the District has drug tested virtually all arrestees -- adult and juvenile -- and made the results available to the judicial officer at the defendant's first appearance. This testing is accomplished by the Pretrial Services Agency which operates a highly-automated lab in the courthouse, capable of producing accurate results in a very short time. Drug-positive arrestees are routinely ordered to refrain from illegal drug use and report regularly for testing as a condition of pretrial release. A number of courtrooms are now equipped with computers which permit judges to access from the bench all of a defendant's drug test results.

For the past several years, the D.C. Pretrial Services Agency and the Superior Court of the District of Columbia have been operating a drug court demonstration project with five-year funding from the Center for Substance Abuse Treatment and the National Institute of Justice. The project is evaluating the feasibility and cost effectiveness of several approaches designed to reduce drug use and criminality. All of the strategies use elements of the President's directive, including frequent urine testing, sanctions, and incentives.

Sanctions

One of the approaches being evaluated is the use of immediate and graduated sanctions for positive drug tests or missed appointments. Felony drug defendants with substance abuse problems are ordered into twice-weekly drug testing as a condition of their release. If they continue to test positive, they are encouraged to join the Sanctions Program. While they can decline the invitation, the judge makes clear that they will continue to be drug tested until sentencing, and that they are unlikely to receive a probationary sentence if they are testing positive.

By joining the program, they agree to abide by conditions of release requiring twice weekly urine testing. If they test positive or miss the test, they understand that they must appear before the judge the next day for a "sanctions hearing." They further agree in advance to a series of escalating consequences for violations. These are: first violation, three days sitting in the jury box observing the drug court; second violation, 3 days in jail; third violation, seven days in a residential detox program; fourth violation, seven days in jail. While they are not specifically ordered to enroll in a drug treatment program, their case-manager will assist them with a referral if they so desire.

Each day, as the calendar is called, the judge turns first to a computer screen positioned on the bench. The judge relies heavily on the information displayed on the screen. It is the foundation of the drug court. While it contains much more than the results of frequent urine tests, it is the immediate access to test results that creates the drug court environment. This environment is one in which there are clear, unambiguous measures of progress. It is a constructive environment that does not foster dependency, but empowers addicts to take responsibility for their actions. It is an environment in which there are rewards for sobriety and consequences for drug use. Those consequences are immediate and tangible. The language of the drug court is clear, immediate and universally understood. The defendant either appeared for drug testing or did not. The result of

a test was negative or positive. The rewards or the sanctions are completely predictable, and, more importantly, within the defendant's power to control.

Defendants understand that the court is focusing on them and will not ignore their drug use. Some defendants, like a weight-watcher facing a scale, need only regular testing to induce them to abstain. Others benefit from their time in the jury box, watching the judge sanction and sentence other abusers. They too judge defendants, and evaluate themselves in light of that judgement. As one judge observed: "Watching from the jury box enables them to see themselves as part of the judge's team. For the first time, they are in court as the actors, not the acted upon." Another judge, describing the "bonding" that seems to occur between defendants and judge, noted that "at first, they are furious about being there. But by the end of the day, they are identifying with the judge and advising him not to believe the excuses of other defendants."

Some defendants "get the message" more quickly than others. For some, three days in jail, with the knowledge that more incarceration will follow more drug use, induces abstinence. Many other defendants benefit by a combination of several sanctions, together with testing and discussion with the judge and counsellors.

The Superior Court Drug Intervention Program is still relatively new. The evaluation will continue for the full five-year duration of the program. Long term outcomes will not be available for several more years. However, the "early returns" and the anecdotal evidence are very promising.

Preliminary data show that most of the participants are in compliance with all program requirements, i.e., appearing for drug testing and testing negative for the six drugs screened (including alcohol) within the first few months.

Most defendants (almost two-thirds) are sanctioned at the first level, but very few reach the fourth or fifth levels. The immediacy and the certainty of consequences seems to be having a significant impact on program performance.

"Give Me a Drug Test"

Although some defendants fail, there have been unexpected and encouraging results all along the line. Almost all defendants choose to enter this voluntary program even though they know that continued drug use will result in immediate jail time. Unexpectedly, many defendants become wedded to their drug tests. It is common to hear defendants say to the judge, "Let me take a test to prove I can stay clean." The vast majority miss few if any drug tests. They come to court to meet their sanction even if they know they must go to jail. Some defendants, admitting they cannot stay "clean," request immediate detoxification, bypassing lesser sanctions. The defendants' cooperation in their own "treatment" -- consisting largely of sanctions -- is highly unusual.

The evaluator for this project recently completed a series of focus group interviews with participants in the program. Their comments were very revealing:

> The group agreed some people need a push to get them to enter the program -- people would not sign up without jail time hanging over their heads. One, who had been in jail a few times before, resisted program entry, but joined because it was that or do time and he wanted to "show well" for his daughter and parents. Although most felt forced to go into the program, all agreed stopping drugs had to be a personal decision -- "Your can't just do it for your kids, you can't do it for your mother, or somebody that loves you, you have to love yourself and do it for yourself." Again and again they emphasized the choice was theirs -- a theme which implies one explanation for program success may be that it gives the defendants control over what happens to them at a point in their lives, and within a system, in which they generally feel powerless.

Clearly, this approach of regular drug testing, immediate sanctions, strong case management and most importantly, the personal involvement of the judge is effective in the short run. Long term effectiveness will no doubt depend on continued court pressure and aftercare. The next few years will tell us a great deal about the long-term effectiveness of this model. Certainly, the experience in the District of Columbia already provides strong support for the President's general policy direction.

For more information about the D.C. drug testing program, contact the author at 202-727-2911 or Adele Harrell, The Urban Institute, 202-857-8738.

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THE NATIONAL DRUG CONTROL STRATEGY: 1996

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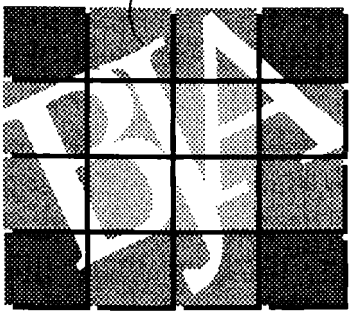

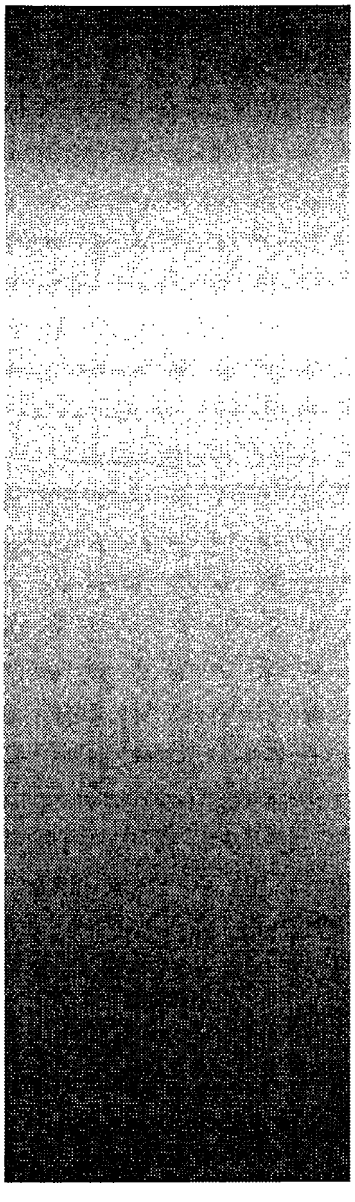

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Integrating Drug Testing Into a Pretrial Services System

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