

EMPLOYEE DRUG TESTING IN THE UNITED STATES

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Abstract

Workplace drug testing programmes are still prolific in the United States, despite often being heavily criticized. This paper will discuss the state of drug testing programmes and give a short preview of how the testing started and which workplaces were included firstly for testing and then move on to deal with the state of drug testing in the public sector and describe the various factors which influence the drug testing policies in various states. This is compared to drug testing in the food service industry in order to find out if they serve a purpose, i.e. do workplaces which conduct such test have a lower number of drug-using employees and how these procedures influence the motivation of employees.

Keywords: substance abuse; drug testing; employee morale; employee motivation; public sector; private sector.

Introduction

The National Survey on Drug Use and Health is a yearly interview performed by the Substance Abuse and Mental Health Services Administration gives the most accurate estimates of drug, alcohol and tobacco use in the US. According to 2018 findings illicit drug use have increased in the past few years, especially with the recent trends of using marijuana more, with prescription pain reliever abuse coming in as the second most abused substance. Nearly 1 in five people aged 12 or older have used an illicit drug in 2018, which is driven by marijuana use as 43.5

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million users of marijuana were recorded. Although pain relievers come in second place with 16 million users, its use has declined by 3,6% since 2015. A bit more concerning statistic shows that there are approximately 7800 new drug users each day, and almost 55% of those new users are under 18 years of age. The survey finds that most substance abuser are employed, although only about 9% are full-time employees. (SAMHSA, 2019: 5)

In her book *Nickel and Dimed: On (Not) Getting by in America* from 2001 Barbara Ehrenreich describes her experiences working low-paid jobs as an undercover journalist between 1998 and 2000 in order to find out how do people at the edge of poverty get by. She goes through several jobs, including being a waitress, hotel maid, house-cleaner and Walmart salesperson, to find out if she could make a living just on \$6 or \$7 an hour. The lessons she has learnt in the process are invaluable to society as she has shown that those kinds of jobs, although not requiring higher education, do indeed require a worker to be quite skilful as they are high-paced and energy consuming so in order to succeed a worker requires focus, good memory, quick thinking and fast learning. She also describes all the things, sometimes humiliating and demeaning, which she had to go through while applying for the job. One of those things is the drug testing programme which is done by urinalysis, and as she puts it, such tests are “a fairly general rule”.

Workplace drug testing programmes, despite being vocally criticised, are still prolific in the US. Labour unions and employees have given major resistance to being submitted to drug testing, deeming it a breach of their constitutional rights and an intrusion of their privacy. Nevertheless, throughout the 1990s and into the first two decades of the new millennia, workplace drug testing has not only remained a constant, but the number of firms that conduct it has risen. (Kitterlin and Moreo, 2014: 40) While this is not necessarily bad in itself, as testing for substance abuse can lead to a healthier and safer work environment, the drug testing procedure is often demeaning and this leads to lower morale among employees. That is why this paper argues that drug testing procedures should be changed in a way to protect the workers' rights to privacy.

This paper will discuss the state of drug testing programmes in the United States. In the first chapter a short preview of how the testing started and which workplaces were included firstly for testing. The second chapter deals with the state of drug testing in the public sector and describes the various

factors which influence the drug testing policies in various states. The third chapter describes drug testing in the food service industry in the United States in order to find out just how often those tests are administered and if they indeed serve a purpose, i.e. do workplaces which conduct such test have a lower number of drug-using employees. The chapter finishes with a discussion on motivation of employees who have to go through a drug testing procedure.

1. The start of the Drug Testing Programme in the United States

The drug testing programme was started by the Department of Defence in the United States, after a large number of soldiers have been found to have used drugs during the Vietnam war. Special testes were devised to test the soldiers in the battlefield, and during the 1980-s a mandatory drug testing programme was implemented for all military personnel. Following these actions taken by the military, president Reagan ordered 1986 that all Federal workplaces in the United States must be drug free, and that drug users were unsuitable for Federal employment. Each Federal agency needed to propose a policy statement on how it would enact a program that would ensure that all Federal employees would be drug-free. (Sunshine, 1993: 2) The policy had to inform about the purpose and goals of the programme, how the rights of participants would be protected, which substances were prohibited, how the drug testing programme was to be administered, the penalties attached with drug use, the Employee Assistance Programme which was meant to assist in the rehabilitations process of possible drug users. Each employee had to agree to abide by those rules. Any employee who tested positive for drug could return to their function only if they have successfully completed rehabilitation, tested negatively for illicit drugs and have been approved by a medical department to return to work. After their return to work, they also had to be subjected to one year of random drug testing.

The Secretary of Health and Human Services issued a notice on mandatory workplace drug testing in 1989 which established the guidelines for certification of laboratories that planned to perform urine drug testing. After this several agencies issued orders that private sector employees which serve Federal agencies as contactors had to be tested for illicit drugs as well. Other drug

testing programmes include the private US Postal Service, the US Courts, the Bureau of Prisons and criminal justice field. (Sunshine, 1993: 3) Not wanting to fall behind in the drug testing game, and not wanting to be outdone by those who controlled the drug testing programmes, the private sector decided that a drug free workplace was in its best interest, although there is no federal law which regulates drug testing in the private sector. As stated earlier, private contractors who deal with federal agencies are required to perform a drug test, and the Department of Transportation requires the industries it regulates to conduct drug testing for workers in safety sensitive jobs. Since there is no federal law, this field is open to state regulations and it differs from state to state. Some states limit testing to “reasonable suspicion” and some explicitly authorize random testing. (ACLU, 2020: 1-6)

1.1 Issues with Drug Testing

The two most common drug testing programmes are urinalysis and hair analysis, with the latter being described as being far less intrusive and more protective of employees’ rights to privacy. But the questions arise to the accuracy of these testing programmes. “By now, for example, we are all familiar with the stories of employees eating poppy-seed bagels in the morning and testing positive for drug use that afternoon.” (Knowles and Riccucci, 2001: 427) Poppy seeds contain traces of opium and increase chances of an employee testing positive for heroin. Hair analysis, on the other hand, has been shown to be far less reliable method of testing as it gives much more false positives. This is usually attributes to the fact the hair is exposed to drug particles in the environment, but some results have found different result for light coloured and dark coloured hair which have been exposed to the same drug. If hair analysis becomes the predominant method of testing then the cost of testing will go up, as the number of false positives will be higher, thus requiring the test to be repeated. (Knowles and Riccucci, 2001: 427)

Companies in the US will usually test in five different instances, as they see fit. Pre-employment drug testing is probably the most frequent one, but there are also random tests, post-accident tests, reasonable suspicion tests and follow-up to a rehabilitation tests. The testing can take on many forms, and while urinalysis was the predominant form in the past, today oral samples and hair samples are frequently taken a source to conduct the test. The most frequent ways a testing is done is through pre-employment screening,

which requires all applicant for a certain position to provide urine samples, or post-employment surveillance, which is done on a random or suspicion-based basis. Thompson, Riccucci and Ban (1991: 520) state that drug testing can be quite costly for a firm, with a singular test costing anywhere between \$30 and \$150, with the cheaper ones being less reliable, which means that there is a high change of a false positive. This means that all positive tests in such cases are usually repeated, and that can turn out to be quite expensive for a firm, especially if they have a lot of employees. But the biggest problem in workplace testing is not the cost of the test, but the effectiveness of it, i. e. does it really discourage employees' drug use?

According to Kitterlin and Moreo (2012: 37) the price of a test has dropped in the years after this, with the price of a test ranging anywhere between \$13 and \$70 per test and that price includes the cost of collection, laboratory testing and medical review. The price can go up if various other factors are included, such as which drugs are being targeted, who is being tested, the frequency of testing, the consequences of positive findings, etc. Many organisations and businesses justify the price of drug testing by stating that they ensure a safe and reliable work environment and such a policy will pay itself off in the long run, as fewer accidents will occur, and employee absenteeism and turnover is much lesser and hence the cost to the business is equalled, if not reduced as absenteeism and employee turnover in particular can have significant negative impact on a business, especially if a position is vital to the interest of the company.

Unions have been a major factor in the whole drug testing arena, trying to protect the rights of employees. In one case, a teacher's union successfully sued a school board over its drug testing policy, as the US Appeal Court ruled that the school's policy violated the teachers' rights to privacy guaranteed by the Fourth Amendment because it did not respond to any identified problems of drug use. (Knowles and Riccucci, 2001: 430) Unions have had success in other areas as well. For example, in New York drug testing is mandatory only if the government employer has reasonable doubt that an employee is using drugs and that the use of such drug will lead to impaired job performance. Otherwise drug testing is a mandatory item of bargaining, meaning that the policy cannot unilaterally be altered by the employer. The interests of the public and the employees suggests that drug testing policies cannot be taken lightly, and the matter cannot be ignored. Courts, unions, and employers all

constitute a part of the puzzle, and everyone's interest should be satisfied. While drug testing is permitted by the law, it must be said that employers and public entities are not required to test their employees. Some states have strict policies on drug testing based on their constitutions. The county of San Francisco prohibits random drug testing as well as drug testing as a condition of continued employment, but allows testing when the employer has reasonable doubt that the employee is impaired to perform their duties. (Knowles and Riccucci, 2001: 429)

1.2 Reasons for Drug Testing and the Its Effectiveness

It is commonly accepted that the presence of a drug-testing program will reduce employee absenteeism, turnover and work-related accidents. Research from the past showed mixed results regarding this. Parish (1989: 45-46) found neither significant relationship between drug abuse and absenteeism nor a relationship between a positive pre-employment drug test and substandard work performance, while Zwerling, Ryan and Orav (1990: 2641) found that marijuana users had an increase of 78% in absenteeism and reported 55% more work-related accidents. Levine and Rennie (2004) asserted that the presence of a banned substance does not mean that cognitive impairment is present or clinical performance is impacted. Testing does not measure impairment, abuse or intoxication. They state that there is also evidence that antihistamines or other prescribed substances can impair functioning and that over-the-counter products and some beverages can cause a false positive on a drug test.

However, not all companies agree that such programs bring more stability to the functioning of a company, and particularly that they justify the costs of testing. Kitterlin and Moreo (2012: 39) state that one international full-service restaurant company which has over 22,000 employees and a turnover rate of 77 percent does not use drug testing programs as it would be cost prohibitive for them. For a company which has such large numbers of employees, these tests would be almost impossible to administer. And there is the problem of international laws, as various employment laws in various countries allow or prohibit drug testing.

When discussing a risky activity such as drug use and the reasons why do certain people entertain such an activity, the sociologic theory of edgework has to be mentioned. Edgework theory explains how people partake in risky

activities in order to experience thrills and sensations. They are far less likely to adapt to the social rules and to conform, and more likely to take risks and partake in illicit drug use. For them those risks are a motivating factor and it gives them a reason to navigate through life and the difficult choices they have to make. (Kaminski et al., 2018: 2)

It would seem that drug testing deters employees from drug abuse, but there is no consensus and not enough evidence that such testing can be made into a prevention strategy in the workplace. Many issues arise, as the justification of the costs of testing, validity and reliability of testing, the issues of unreasonable search and seizure and the rights to privacy. Another point is that many employers inform their employees beforehand that they will be subjected to a drug test. This creates an opportunity for the individual to manipulate the test, as only the uninformed or most likely the severely-addicted workers will fail the test. This proves that one-time negative result does not rule out drug abuse, nor can a one-time positive result define a single worker as an addict or impaired to do the job in the long run. Another point is that some drugs stay in the body longer and will show on the test even after several days or weeks, and certain drugs will not be visible after only a couple of hours. Drug testing as a means to capture harm-causing workplace impairment has been well repudiated. A 1994 National Academy of Sciences empirical research on drug use and workplace safety concluded that the data which they came up with did not provide clear evidence of harmful effects of drugs other than alcohol on safety and other job performance indicators. Testing can only detect the presence of an illegal substance in a body, and not whether or to which extent that substance affects job performance. Other than that, sometimes drug tests will identify someone who has used a certain drug during the weekend, such as alcohol, while it may miss certain users who have just taken a certain drug and are under the influence at that exact moment as certain drugs appear on the test only after several hours. (Char, 2014: 43)

2. Drug Testing in the Public Sector

State and federal courts have been a part of the drug testing programme ever since its inception representing the body of law which gives the conditions under which drug testing can be executed. Courts have focused on two

major issues concerned with drug testing: privacy and due process. The first issue is reflected in the fact that drug testing is a search, and according to federal courts, such an act invokes the Fourth Amendment and its protection against unreasonable searches and seizures. The issue is that the courts have to establish a balance between the individual's right to privacy with the government's need to protect the public safety. In addition to the issue of privacy, courts have also examined the legality of drug testing under the Fifth and Fourteenth Amendments' due process provisions. Here it is stated that individuals cannot "be deprived of life, liberty or property, without due process of law". (Knowles and Riccucci, 2001: 425) The problem here is the question of whether due process is violated if employees are not given a prior notice on drug testing, or if there are no procedural guidelines of conducting a testing, or if employees are not granted a formal hearing in case of a positive test.

After President Reagan's Executive Order of a "Drug-Free Federal Workplace" in 1986, the US Department of Health and Human Services was charged with the responsibility of issuing mandatory guidelines for federal workplace drug testing programmes, which included 30 federally regulated industries and their contractors. After these efforts were done on a national level, subsequently there was much activity at state and local levels of government. Occupations that were already tested, such as police and public works, were being subjected to even aggressive testing and occupation which were not tested up to that point, such as school teachers, were added to the list.

The SAMHSA (2019: 5-6) study also shows that male tend to abuse drugs more than females and that young adults tend to abuse drugs more than older adults. That is why industries with more males and young adults have higher rates of drug abuse. Another factor that can be included is worker wage. An estimated 10% of health care professionals abuse drugs, which is about the same rate as the general public. However, it has been found that health care professionals typically abuse prescription pain relievers to cope with physical pain and stress on the job. Attorneys and lawyers report some of the highest rates of alcohol abuse. 29% of lawyers in their first decade of practise report a drinking problem. This can be connected with large amounts of stress on the job, but also large amount of debt that a lot of lawyers have in order to pay for their college. Police officers also tend to abuse alcohol the most, although opioids are also commonly abused. Alcohol consumption has a societal role among police officers, as they tend to drink together, especially after a stressful

day at work. Police officer have one of the highest rates of stress on the job which is connected with arrests, drug busts, hostage situations, robberies and they deal with deaths more often. That is the reason why alcoholism rate among the police is double than that of the general public. (Gonzales, 2020)

Other industries that have some of the highest rates of alcohol use are mining and construction work, which shows that industries with higher rates of males and younger adults tend to have higher rates of alcohol abuse. On the other hand, as far as illicit drugs are concerned, accommodation and food service industry have by far the highest rate of abusers with almost 20% of all employees using illicit drugs, and art, entertainment and creation following at a rate of almost 14%. In both categories, educational services, health care and social assistance, and public administration have the lowest rates of substance abusers. This shows that education, job description, work environment, and wages are one of the most important factors that contribute why employees in certain industries tend to use illicit drugs more than workers in other industries.

3. Drug Testing in the United States Food Service Industry

According to Allen et al. (2015: 1) the foodservice industry is one of the top employers in the United States, with a workforce of approximately 13.5 million employees. When that number is transferred into percentage, almost 10 percent of American population of working age are employed in the foodservice industry. Most employees, such as servers, hosts, cooks, dishwashers and bartenders are paid by the hour, while managers and executives usually have a salary job. All of the jobs combined contribute to annual sales of over \$800 million, which amounts to a total of 4 percent of the US domestic gross product. (Kaminski et al., 2018: 1) All of these number just show how important the foodservice industry is for the US domestic market. However, the restaurant industry is not without its pitfalls. Studies (Belhassen and Shani, 2012; Bose et al., 2016; Bush and Lipari, 2015) also show that the workers in the foodservice industry are far more prone to illicit drug use than workers in other industries.

Illicit drugs include substances that are taken for non-medical purposes and are forbidden under international drug control treaties. These include marijuana (although it has been legalised in 11 states since 2012), cocaine, crack, heroin, hallucinogens and inhalants, as well as the misuse of prescription pain relievers, tranquilisers, stimulants and sedatives. (SAMHSA, 2016: 1-2) The Substance Abuse and Mental Health Services Administration indicated in 2012 that 8.6 percent of all full-time workers in the US used drugs. Another report from 2015 showed that 19.1 percent of foodservice workers had a substance use disorder. According to Bertha (2006: 4) the restaurant industry employs an estimated 12.7 million people in the US workforce, 45 percent of which are between the ages of 16 and 25. This is an important factor, as a government report from 1997 titled *Drug Use among US Workers* stated that this age group tends to have a higher rate of substance abuse. Zuber (1997: 1) also states the late-night hours, large availability of cash on hand and low management surveillance as key factors to why food service industry suffers from such a high number of drug abusing workers. This could be coupled with long working hours and the fact that the industry does not pay as much, so many workers are forced to find a second job in order to cope with everyday life expenses. Such life rhythm leads to tiredness and incapability to perform on a level required by a certain position. In such a scenario many workers use drugs to either relax or to boost their physical activity. This is seconded by Ehrenreich in her novel, where she writes that after a short time of working as a waitress she “started tossing drugstore-brand ibuprofens as if they were vitamin C” because her back was hurting all the time.

When it comes to explaining the factors and reasons as to why the foodservice industry is plagued with such high numbers of illicit drug use, there are several points that need to be mentioned. Firstly, the age population of the foodservice industry is relatively young. Young adults aged between 18 and 25 make up a substantial portion of the foodservice workforce. That is also the age population which is more inclined to use drugs on the whole, not just in the foodservice industry. Secondly, the work schedules in the foodservice industry tend to be quite erratic. Long hours, night and weekend shifts, overtime all contribute to high amounts of stress that these workers experience. Furthermore, if somebody is working in an upscale restaurant, then they interact with managers, executives and other people in position who can be quite rude and abusive if their standards and expectations are not met. Thirdly, the

foodservice industry mostly includes low-paid jobs with few benefits. This is also important to highlight because it means that most of the foodservice workforce live on the edge of poverty or actually are poor. Research made by Degenhardt and Hall (2012: 66) found that poverty is directly related to alcohol and drug abuse. High levels of stress that these individuals experience require a coping mechanism, and drug use is one of those mechanisms that can serve as an outlet and at least for a short period of time give the individual a sense of tranquillity.

A study by the Substance Abuse and Mental Health Services Administration found that at least one in every six adults working in the food service industry between 2002 and 2004 had used illicit drugs. (Kitterlin and Moreo, 2012: 37) Such a statistic pointed out that the food service industry is the number one category in drug abuse incidents. Although no part of society and the business world is exempt of this affliction, it would seem that the food service industry is at a much higher risk in having such cases appear in its lines. This has been taken as a valid argument by those who promote workplace drug testing programs in order to promote better and safer working environment for all employees. Other than that, claims have been made that employee drug abuse costs businesses high amounts of money, anywhere up to \$100 billion, most of which refers to lost time, accidents, turnover and health care.

Generally agreed upon effects of employee drug abuse include high absenteeism, crime and violence, work-related accidents, poor productivity, higher medical costs, theft, low employee morale and poor decision making. (Kitterlin and Moreo, 2012: 37) To fight this, many employers have decided to implement a pre-employment drug test in order to rule out the possibility of hiring a person with a tendency to abuse drugs. However, past research shows that such a practise has had mixed results and does not always lead to desired results. Testing procedure can be quite costly, and with the food service industry being number one in drug abuse instances the amount of money spent on tests can skyrocket.

Kitterlin and Moreo (2012) performed a survey on 110 Nevada restaurants of which 55 had pre-employment drug testing program and 55 had none, and they found that there is no significant difference in the rates of employee absenteeism, turnover and work-related injuries and accidents between the restaurants tested, i.e. those which have a pre-employment drug testing

program and those which do not. Although the research was limited only to the state of Nevada and to a relatively small number of restaurants, the results show nevertheless that carrying out pre-employment drug testing does not produce a better and safer environment and that such programs should be examined if they produce the required results.

4. The Effect of Drug Testing on Employee Morale

Drug testing process can be degrading and demeaning, especially if there is direct observation included. This involves having to urinate in front of others as not to give false samples to the test procedure. People from certain cultures, and women more than men report that they are embarrassed and offended by having to go through such a procedure in front of others. Another aspect that some employees find inappropriate is the requirement to report any recent use of medications to exclude accidental or false accusations of being a drug abuser. But certain medical conditions are potentially embarrassing and stigmatising and some employees have a hard time giving out such personal information. (Char, 2014: 43)

Worker burnout is a common thing, especially within the field of foodservice. The reasons for this are the low wages in the sector and most of the workforce has to find a secondary job in order to provide and secure an existence for themselves and their families. When a person works for 16 hours a day and for a pay check that barely covers the essential life necessities, then the phenomenon of burnout is not so surprising. However, having random drug testing or post-incident drug testing can only lead to lower morale within the workforce as the gap between the managers and the employees widens and no trust is established. More effort needs to be put into employee counselling and other morale boosting techniques. This can also be seen in Ehrenreich's novel where in one instance, after a co-worker of hers used the restaurant's money to buy drugs during a late-night shift, all of her colleagues including herself were lined-up during working hours and scolded for such behaviour. They were told that in the future no-one is to be trusted and that more random drug testing will be performed. She expresses that she felt like being in high-school all over again and that such behaviour from her manager had an extremely negative impact on her on her colleagues' morale.

Weber (2017) reports that the number of US workers testing positive for illicit drug use is at an all-time high. The number rose from 4.0 percent in 2015 to 4.2 percent in 2016, which is the highest number since 2004. Of illicit drugs which have seen a spike in these positive tests, marijuana stands out with a 75 percent increase. This can be attributed to a number of states, including Colorado, Alaska, Oregon, Washington, California, Maine, Massachusetts, Nevada, District of Columbia, Michigan, Vermont and Illinois, having legalised marijuana for recreational usage, with all of them excluding Vermont and District of Columbia also legalising the commercial distribution of marijuana. Nevertheless, almost none of the tests that are used to detect illicit drug use have excluded marijuana from the procedure. (Kaminski et al., 2018: 5) Employers can still refuse to hire someone who tests positive for marijuana, since it is still illegal on the federal level. Previous studies (French et al., 1995; Zhang et al., 1999) have shown that workers who do use drugs are more likely to be missing from the job at least two work days a month, and are more likely to have three or more different employers within a year. This negatively effects the service quality as the relationship with other co-workers deteriorates and the overall profitability of an organisation suffers as a result. Other than the impact that illicit drug use has on the industry, it is important to mention the importance of personal well-being. According to a research by Minino and Smith (2001: 16-17) in 2000 approximately 460000 deaths in the United States were attributed to illicit drug use, and another 40 million illnesses and injuries were connected with tobacco, alcohol or drugs.

In research done by Kaminski et al. (2018: 3-4) a survey was done among foodservice employees and non-foodservice employees in order to determine whether foodservice employees use illicit drugs more than non-foodservice employees. The survey included 445 test subjects, among which 156 were foodservice workers, and 289 were non-foodservice workers. The results showed that a higher percentage of foodservice workers had used illicit drugs in the past than non-foodservice workers and that those who have used illicit drugs had a less of a concern for the negative effects for such a behaviour. (Kaminski et al., 2018: 5) Interestingly though, the foodservice workers had a greater concern for work productivity than non-foodservice workers, which could be explained by the nature of the job, as foodservice industry tends to be high-paced and requires workers to be always on the move. As a management move to help the workers, Kaminski et al. (2018: 5) state that the foodservice industry

should work on the factors that contribute to stress and lead an employee to start with drug use. They suggest reducing overtime, reducing double-shifts, introducing night-shifts, doing team-building and training together with their employees and producing an overall positive working environment where the best workers would be awarded and strict rules are followed. This would mean that there are consequences for breaking those rules and they encourage managers to do random drug tests more often and to introduce zero tolerance policy for a positive test. This would mean termination of contract for every positive test as they consider such disciplinary responses good for cultivating a healthy working environment without illicit drug use.

But these stances are completely opposite to research done in order to find out what kind of effects does workplace drug testing produce among the employees. According to research done by French et al. (2004: 598), the drug testing programme in no way reduces the number of positive drug tests or the number of work injuries related to drug and alcohol use. The only positive effect they could see (and this is just a speculation on their part) is that drug users probably do not apply for a job with companies that have a drug testing programme in effect. They call for all companies with that do apply a drug testing procedure to carefully examine the ups and downs of such a programme and to see if it really has any true value. Comer in her 1994 paper calls against workplace drug testing saying that there is no conclusive evidence that drug testing enhances working effectiveness, nor do such drug testing programmes deter drug users from continuing with their risky behaviour. She also asserts that such procedures can and are in some cases racially biased and that they violate employee's personal rights. But the biggest objection that she gives is that such procedures have a negative effect on worker's morale and that workers reported feeling humiliated, had less confidence in themselves and a lower co-worker trust. Instead of drug testing she calls for performance testing to be conducted instead. These include skills tests and critical tracking tests which shows the employees ability to conclude logically and to demonstrate their hand-eye coordination. These kinds of tests can show if a person is intoxicated or under the influence.

Conclusion

Drug testing policies cannot be guided only by referring to the US Constitution, but by state constitutions as well, because sometimes the state constitution goes beyond the Fourth Amendment and offer expansive protection of individual privacy. Some states give their employees more protection by forbidding random drug testing, some give more power to unions to bargain over drug testing policies and some do not do either of those and leave more power in the hands of employers. Even though drug testing is an important aspect of creating a safe a healthy workplace, some parts of it are more evasive to employees' rights than other, and that is why policy maker should reflect the fact how good is their current policy. Random drug testing is not good for employee morale and the consensus is that it should be avoided wherever possible. On the other hand, pre-employment and reasonable doubt testing has proved to be effective as it has brought to fewer workplace accidents and a more happy and healthy work environment.

As it could be seen, the United States food industry is one of the biggest in the United States and one of the most important for young adults as this demographic has the highest percentage of employment in it. Unfortunately, the age group between 18 and 25 are the most likely to use illicit drugs and taking this reason and combining it with several others, such as long working hours, late-night shifts, demanding customers and managers produce quite a stressful environment to be working in. This is seen in Ehrenreich's book, where she quit her first waitressing job after only two weeks. It is no wonder that many employees working in the food service industry resort to using drugs as a stress relief to cope with all of the problems.

There is a high number of companies within the food service industry that fight this problem by administering drug tests in order to find any employees that might be working under the influence. This is a legitimate claim, as the industry can lose quite a lot of money because of workers inability to perform on the job or if certain injuries happen. There is a lot of research in favour of testing and a lot of against it, but the numbers go in hand with those that are against the testing policy, or at least with the policy to limit the testing to pre-employment only. Drug testing has an extreme influence on worker's morale and greatly limits work productivity and this is something that nobody can be satisfied with. Hence, there should be a rethinking of the drug

testing policy and all companies should aspire to create a friendlier and a more trustworthy atmosphere. This is where the public sector has an advantage, because through unions they can fight harder for their rights and have a better chance of turning down sentences made by the courts. It was shown that some states actually make this work by making random testing illegal and this has brought a better work environment. With all the statistics showing that certain professions, such as the food service industry, have higher rates of substance abuse, it becomes clear that pushing more rigorous and frequent testing will not produce the desired results as all of the factors were not considered. The public sector has one of the smallest rates of substance abusers, but this just shows that the policy makers need to work on securing better working conditions and better wages for those working in the food service and other industries that have high rates of drug users. Any other methods will eventually become unsuccessful.

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TESTIRANJE RADNIKA NA DROGE U SJEDINJENIM AMERIČKIM DRŽAVAMA

Sažetak

Testiranje na droge na radnim mjestima u Sjedinjenim Američkim Državama još su uvijek vrlo česta iako se takva praksa nerijetko žestoko kritizira. U ovome se radu raspravlja o stanju programa testiranja na droge i kratko se prikazuje kako je testiranje započelo te koja su radna mjesta prvo uključena u program testiranja. Potom se govori o testiranju na droge u javnome sektoru te se opisuju čimbenici koji utječu na politiku testiranja u raznim državama. To se uspoređuje s testiranjem na droge u ugostiteljstvu kako bi se doznalo služi li testiranje svrsi, odnosno imaju li radna mjesta na kojima se provode takva testiranja manji broj radnika koji konzumiraju drogu i kako te procedure utječu na motivaciju radnika.

Ključne riječi: ovisnost o drogama; testiranje na droge; moral zaposlenika; javni sektor; privatni sektor.