

Drug testing in the workplace essay sample

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Violates Privacy and is bad for Business Drug testing employees has gained much support, as well as much resistance, in recent years. Those in favor of testing claim that employee drug testing reduces employee absences, theft, and accidents in the workplace and as such improves worker productivity and safety. In her essay, "A Case against Workplace Drug Testing," Debra R. Comer makes an argument against workplace drug testing by identifying six individual "problems with drug testing" (Comer 259). Through an examination of statistical research into the effectiveness of drug testing in the workplace she "identifies the misconceptions about drug use and testing, underscores the technological limitations of testing, and reviews research on individuals' negative response to workplace testing" (Comer 259). Of the six problems Comer identifies to support her argument against workplace drug testing I believe three are the best arguments to support that workplace drug testing is a violation of employee privacy and is ultimately bad for business.

The first of Comer's arguments that I find compelling is that the technology behind the testing is flawed and limited. Drug testing is expensive so employers typically use the less expensive immunoassay (Comer 261) test which can identify specific substances in a sample of urine or blood. The problem with this type of testing is that there are instances of false positives where employees who haven't taken drugs actually test positive. Certain foods like poppy seeds, over-the-counter cold and pain relief medications and legally prescribed medications as well as some metabolic diseases, diabetes for example, can cause employees to test positive for drugs.

Technology is not 100% accurate even in the best of circumstances. The

laboratory testing the employee's blood or urine can make mistakes and may not meet the standards for laboratory certification set by the National Institute for Drug Abuse (Comer 261). In fact, " Brookler (1992) has reported that less than 7% of the nation's drug testing labs meet these standards" (qtd. Comer 261).

Individuals within any workplace can make errors but when those errors occur in a lab testing for drugs the accuracy of the results are extremely important to the employer and the employee. The result of a false positive for an otherwise good employee due to laboratory error can have devastating consequences in his unfair dismissal from the job. Technology is also limited in that there is no way to determine when a drug has actually been taken or how often it is being taken. An employee can be off work and out on a Friday evening and decide to use a drug. On Monday he reports to work sober and no longer under the effects of the drug but during a random drug test on Monday traces of the drug are found resulting in a positive drug test. The employee's ability to do his job has not necessarily been compromised by the drug he took on Friday but testing positive results in his termination.

The technology of the drug test does not differentiate between the employee who uses an occasional drug outside and away from work from the employee who has an actual long-standing issue with drugs and may be a liability to the company in terms of safety and productivity. I fully agree with Comer regarding the technological limitations of drug testing. An employee's fate rests solely on the ability of technology to differentiate between legally

prescribed medications, certain foods that metabolize strangely in the body, or metabolic diseases, and illegal drugs. Some employers have a one-strike you are out policy and will fire an employee based upon one positive test for drugs without providing the opportunity for the employee to be retested or provide medical information explaining the reason behind a false positive.

In the case of the potential employee a positive drug test will most likely result in his no longer being considered for the job. Companies are not required or obligated to confirm through other means the positive test results of their employees or potential employees. Drug testing is an expensive proposition for an employer so the likely hood that employers will choose to use the more expensive methods of drug testing are unlikely.

Those in favor of drug testing argue that the number of false positive test results is not significant enough to warrant eliminating drug testing.

Additionally they argue that the benefits of drug testing such as the identification of those actually guilty of using drugs, out-weigh the negatives of false positive results for innocent employees. I disagree. As the ACLU indicates on their website, out of “ an estimated 22 million [drug tests] administered, five percent yielded false positive results . . . that means 1. 1 million people could have been fired, or denied jobs” (ACLU) due to technological failure.

I contend that 1. 1 million is actually a significant number of individuals to be falsely accused and that is a one good reason for eliminating drug testing in the workplace. Additionally, I would argue that the firing of 1. 1 million based on technology limitations and errors is bad for business because a large

number of those employees could otherwise be considered excellent employees and in the absence of the test results would continue working for the company without incident. A considerable amount of time and money is spent by the company to hire and train employees. Those costs can increase exponentially when terminating employees solely on the basis of a positive drug test. The company time required to advertise, interview, hire and train replacement employees results in increased business costs which goes against a business' primary goal of making a profit. The second of Comer's arguments I find compelling is that drug testing violates the employee's right to privacy (Comer 261).

Comer compared and contrasted two philosophical views of the ethics of drug testing - deontologist and utilitarian. " Deontologist focus on whether an act itself is right or wrong, utilitarians consider the consequences of the act and judge it morally right if it results in the greatest good" (qtd. Comer 262). Deontologists argue that it is " morally inappropriate to deprive an individual of the right to privacy" while utilitarians maintain that " an organization is warranted in sacrificing the rights" of one employee in order to increase the " security of their co-workers and the public" (Comer 262). The majority of individuals who argue against drug testing in the workplace agree with the deontologists view that an individual employee's rights should not be sacrificed. What Comer only briefly touched upon was an individual's constitutional right to privacy which I think is an even more compelling reason against drug testing employees. Although not specifically mentioned in the Constitution, " the U. S. Supreme Court has held that part of the " liberty" protected by the Fourteenth Amendment is " a right of personal

privacy, or a guarantee of certain areas or zones of privacy” (qtd. DeCresce 16).

The mandatory testing of an employee’s urine or blood allows employers to intrude on the private lives of their employees thus violating an employee’s constitutional right to privacy. The test removes an employee’s right to privacy of body and subjects the individual to an offensive and degrading process. Urination is one bodily function that many people choose to keep private. It is typically done behind a closed door and it is an activity in which individuals have a “ legitimate expectation of privacy in both the process and the product” (DeCresce 17). During a drug test an employee is accompanied to a bathroom or lab and is made to urinate in the presence of an observer removing all privacy during the process. The intrusion of an outsider into a private bodily process is humiliating. Additionally, the information gained from the drug test can reveal significant amounts of the employee’s private medical information such as medical conditions, genetic disorders and even pregnancy, which may have no bearing on the employee’s ability to perform his job.

The medical information once obtained could be used by the employer to terminate an employee to keep medical insurance rates lower or, as the Washington, DC Police Department was found to be doing, using “ urine samples collected for drug tests to screen female employees for pregnancy – without their knowledge or consent” (ACLU). In those false positive cases when an employee is actually given the opportunity to defend himself, he will be compelled to reveal his private medical information to his employer.

His medical condition does not prevent him from doing his job nor does it affect how he does his job and yet he will have to disclose extremely personal medical information in order to keep his job. If the medical condition and treatment has no effect on how the employee does his job then it is of no business to the employer. Additionally, there is no guarantee that the employer won't use his personal medical information further down the road as a reason to justify terminating the employee to keep company medical insurance rates low.

Advocates of drug testing in the workplace insist that the Constitutional right to privacy protects employees only from actions taken by the government or its agents. They contend that an employer is a private institution and as such there is no violation of the employee's right to privacy (Dusek 254).

Unfortunately the courts can't seem to agree on the constitutionality of drug testing and privacy. One court has " held that [drug] tests interfere with certain public employees' constitutional privacy rights" (DeCresce 16), while another has " held that the constitutional right of personal privacy falls only within the areas of family and procreation" and as such " concluded that privacy did not include the right to be free from a drug test" (DeCresce 17). Until the courts can agree on the privacy issue employees will continue to exercise their right to sue for violation of privacy. Such litigation can only increase a company's expenses as it is forced to defend its drug testing policy.

The third of Comer's arguments that I find compelling, and of which I agree, is that " many employees respond negatively to drug testing" (Comer 262).

The data Comer presents suggests that whether an individual views drug testing negatively rests upon whether the employer tests all employees or only in cases of suspected drug use. Also a factor in how employees view work place drug testing rests upon how an employer uses positive test results - as an opportunity to provide rehabilitation or as a basis for termination. Employees who respond negatively to workplace drug testing fear the potential of a false positive test result, view testing as a sign that the employer doesn't trust their employees and consider testing a violation of their privacy. Supporters of drug testing in the workplace argue that if an employee is not guilty of using drugs then they have nothing to fear from the drug test. Drug testing employees will root out the guilty and improve the safety of the workplace and increase productivity.

As was detailed previously in this paper, technology is limited so an employee's fear of the test is justifiable and can be substantiated by data. Employee morale can be negatively affected when there is a perception that employees are guilty until proven innocent. Because drug tests cannot detect impairment on the job, but only the presence of drugs in the system, employees may perceive drug tests as a way for an employer to snoop into the employee's private life (DeCresce 133). Many employees feel it is none of their employer's business what an employee does outside work in the privacy their own home. Such negativity can affect how an employee does his job and as such the productivity, and income, of the company suffers.

Although I agree with drug testing supporters that the use of drugs in the workplace can negatively affect the safety and productivity of the employee,

co-workers and the company, I do not believe that drug testing all employees is the best business practice a company can employ. The limitations of the technology, the questions of employee privacy and the negative effects of drug testing on employee morale are factors that make drug testing bad for business. The technology is expensive, perceived violations of privacy increase the likelihood of litigation and court costs and negative morale and its effect on productivity all hit at the bottom line of a company. Until all three of these issues can be addressed effectively by a company and the courts then

Works Cited

ACLU

Comer

DeCresce, Robert P., Mark S. Lifshitz, Adrienne C. Mazura, and Joseph E.

Tilson. *Drug Testing in the Workplace*. Chicago: American Society of Clinical

Pathologists Press, 1989. Print. Dusek, Dorothy E., Daniel A. Girdano. *Drugs:*

A Factual Account. 5th ed. New York: McGraw-Hill, 1993. Print.