

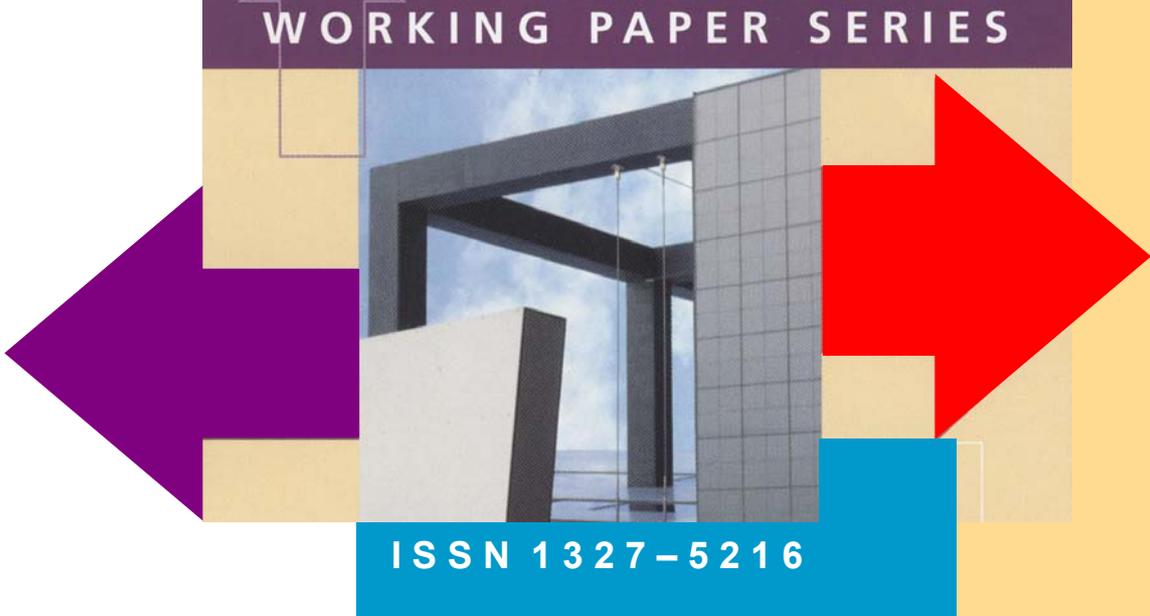


DRUG TESTING IN THE WORKPLACE: IT AIN'T WHAT YOU DO IT'S THE WAY THAT YOU DO IT

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Abstract

Alcohol and illicit substance abuse in the workplace is increasingly becoming a major human resource and employee relations issue. Whilst more sophisticated measures have been developed to test and monitor drug use in the workplace, and despite tacit union support on the grounds of occupational health and safety (OH&S), the implementation of drug testing procedures remains a contentious issue. This paper firstly examines the arguments for and against drug testing, and secondly, examines the issue through two case studies in the Australian mining industry where the introduction of the drug testing resulted in industrial disputation that was resolved in very different outcomes.

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DRUG TESTING IN THE WORKPLACE: IT AIN'T WHAT YOU DO IT'S THE WAY THAT YOU DO IT

THE ISSUE OF SUBSTANCE ABUSE AT WORK

Substance abuse and the potential dangers it poses in the workplace are well documented. For example, Wall (1992) identifies that both illicit substance abuse and “recreational” substance use (i.e. alcohol) impact negatively upon almost all industries in Australia, causing substantial costs in both human and economic terms. Conservatively it has been estimated that substance abuse in Australia:

- Imposes direct costs upon industry (predominantly in lost productivity) amounting to some \$3.7 billion annually;
- Imposes indirect costs to industry of \$10 billion annually (eg. employee turnover, poor decision making; employee stress); and
- Accounts for 10 per cent of workplace deaths and 25 per cent of workplace accidents (Wilkie, 1998).

Richmond, Heather, Holt and Hu (1992), note that illicit drug use is also responsible for harm (stemming from negligence) to other individuals within the workplace. Under OH&S legislation (enacted in each Australian state) there is an obligation upon employers to provide a safe place of work for all employees and visitors to their sites. Employers are subject to strict liability under this law and face significant fines if found to be in breach (Keenoy & Kelly, 1998). Employer liability extends to their employees’ actions and/or omissions, regardless of their state of mind. Research from the USA, where drug-testing is common place, indicates that the use of drug-testing programs in both employment and pre-employment testing has been a major factor in the reduction of absenteeism and accidents, and is the most popular method of removing the issue of substance abuse in the workplace (Osterloh & Becker, 1990; Greenberg, 1992; Hartwell et al, 1996; Flynn, 1999). These points provide a compelling case for drug-testing in the workplace to ensure that firstly, the employee is meeting his/her contractual obligations to a satisfactory standard, and secondly, to meet the requirements of duty of care under OH&S legislation (DesJardine & McCall, 1990). Implicit in these points is that employers who do not have drug testing policies and programs are potentially maintaining an unsafe workplace (Redeker & Segal, 1989). However, as Gip (1999: 16) notes, a report by the American Civil Liberties Union (ACLU) questions the cost- effectiveness and overall value of drug testing:

The ACLU cites analysis by a committee of the National Academy of Sciences (NAS) that found that most workers who use illicit drugs never use them at work, and when they use drugs on their own time, they do so in a way that does not affect work performance.

The issue of performance is an important concept as DesJardine and McCall (1990:203) point out - To what level of performance are employers entitled? If an employee’s productivity is satisfactory he/she is meeting contractual obligations, the knowledge of drug use on the grounds of productivity is not pertinent. Secondly, whilst the issue of duty of care is important, equally not every job has the potential to do harm. DesJardine and McCall (1990: 204) argue:

To say that employers can use drug testing to prevent harm is not to say that every employer has the right to know about the drug use of every employee.

In this context therefore, less intrusive alternatives such as impairment testing to ensure fitness for work are likely to be more effective and are not likely to raise the concerns of privacy and fairness (Sorohan, 1994; Maltby, 1999). These are important considerations that employees and their representatives (trade unions) are concerned with when the issue of drug testing is raised in the workplace.

From an employee perspective, the first consideration is the right to privacy. Using Mills' principle of liberty, Bowie and Duska (1990:89) put the argument as follows "... employees have the right to do whatever they wish as long as it does not harm the employer". In this context, if a person chooses to take illicit drugs outside of work commitments, it is no concern of the employer as long as it does not impinge on work performance (Bowie & Duska, 1990). In addition, as Maltby (1987) suggests drug testing suffers from accuracy problems. Typically drug-tests cannot determine whether the effects of illicit drugs (which may remain in the system for days and even weeks) will substantially impair or affect performance. Webb and Festa (1994) also note that the link between drug usage and on-the-job injuries is at best tenuous. Drug testing may also uncover other medical conditions that may affect the employment status of workers. As Wasserstrom (1978) argues in this context, employees have a right to 'informational privacy'. This is supported DesJardine and McCall (1990: 202) who state:

.... an employee's right to privacy is violated whenever personal information is requested, collected, or used by an employer in a way or for a purpose that is irrelevant to or in violation of the contractual relationship that exists between employees and employers.

Thus the argument that the innocent have nothing to fear from drug-testing is erroneous, as it may violate employee rights in a number of ways if testing has the potential to provide the employer with generic medical information which is not relevant to the contractual relationship (Cranford, 2001). In addition mandatory testing may be open to improper or malicious use of procedures to intimidate or target employees who undertake activities that may be unpopular with management, such as union activism (Webb & Fester, 1994). Therefore, the use of drug testing within the workplace may create an atmosphere of insecurity, oppression and anxiety in employees and may actually result in lower performance and turnover (Redeker & Segal, 1989). Indeed Bohle and Quinlan (2000) have noted that this has been an important consideration of the Australian management of US-based organisations that have pursued the introduction of these measures. In addition, Bahls (1998:82) notes that the Internet is filled with tips on how illicit drug users can evade drug tests and detection.

From a union perspective, the Australian Council of Trade Unions (ACTU) generally does not support the introduction of any form of biological testing of workers for alcohol or other drugs in the workplace, except in very limited circumstances and subject to joint union and employer agreement (ACTU, 1991). They argue that the introduction of testing cannot be seen as a quick fix solution and is unacceptable and inappropriate in most circumstances. The ACTU does not consider that the introduction of a testing program is an effective strategy for the workplace. Testing for alcohol and other drugs is usually an inappropriate feature of any prevention program for a number of reasons:

- The inaccuracy of test results, both positive and negative;
- Drugs testing measures exposure, not impairment. This is especially the case with drugs other than alcohol;
- The problems and errors with interpretation of test results;
- The impact of prescribed medication and over-the-counter drugs;
- The focus on the individual;
- The infringement of individual rights;
- The problems associated with the right to privacy; and
- The disruption to industrial relations. (ACTU, 1991)

The ACTU position is that there must be joint development of any drug testing policy by unions and employers, particularly where alcohol or other drug misuse is identified as a workplace issue. Indeed, any policies dealing with workplace hazards and OH&S should be jointly developed and implemented. The ACTU policy framework on the subject focuses on:

- Safety at work specifically;
- Having full participation in and joint control by workers and their representatives;
- Applicability to both workers and management;
- Addressing the workplace causes of alcohol or other drug misuse;
- Being consultative, educative and rehabilitative, not punitive; and
- Maintaining confidentiality at all levels (ACTU, 1991)

This pluralist stance adopted by the ACTU is based upon the argument that it is only when drugs and alcohol are misused, to the extent that the user cannot properly and safely carry out regular duties that a need for control and prevention measures arises. In any consideration of an appropriate response in particular workplaces, there must first be involvement of union representatives, and secondly an examination of the broad environmental factors such as those listed above. The ACTU also argues that rehabilitation action should be undertaken during working hours or through schemes that include paid leave. A key issue the ACTU promotes is that the misuse of alcohol and other drugs may be symptomatic of other problems:

- Hazardous work;
- Poor work environment;
- Unrealistic deadlines;
- Lack of job satisfaction;
- Lack of participation and control;
- Inadequate training and supervision;
- Work culture; and
- Shift work (ACTU 1991).

Indeed the fatigue generated by these factors combined with increased deregulation of the labour market in Australia raises major issues regarding OH&S in the workplace (ACIRRT, 1999). As Nolan (2000: 2) argues:

Employees and unions have questioned why random drug testing has assumed such priority in an industrial climate where increasing demands have been placed upon worker to work twelve-hour shifts. Evidence suggests that it is fatigue and not impairment through drugs and alcohol abuse that leads to the majority of accidents.

If management is truly interested in these issues, argues the ACTU (1991), then a more holistic approach should be adopted; for example to include fatigue monitoring and management systems. This raises a second often more subtle and complex issue - that of control in the workplace. Trade unions often see the introduction of concepts such as drug-testing as management exercising control under the guise of 'managerial prerogative', and a strategy to marginalise the counter-veiling power of unions, limiting their effectiveness whilst significantly increasing managerial control, particularly where there is no consultation on the subject. As Webb and Festa (1994: 101) note:

On a broader scale, the notion of testing programs, especially if introduced unilaterally and without reference to or consultation with employees and their representative bodies, is philosophically at variance with labour relations in Australia.

This can potentially become a major issue of conflict between management and the trade unions. Indeed, this was the context within which major disputes flared at the South Blackwater Mine in Queensland and three BHP mine sites in the Pilbara.

CASE STUDY – THE SOUTH BLACKWATER MINE

Background

South Blackwater Coal Ltd (SBCL) employs 400 workers and is located approximately 900km north-west of Brisbane at the heart of the Bowen Basin coal mining region of Queensland. As part of policy development to ensure a safer working environment, management and trade unions were in the process of negotiating policies and procedures for drug-testing at the mine (in line with that of other mines in the region). Previously, testing only took place if staff were involved in an accident. During this process, management found a used syringe on-site and took this as prima facie evidence of illicit drug use in the workplace. Management immediately moved to install drug-testing procedures at the mine. Trade unions advised their members to refuse this blanket testing for drugs, at which point they were stood-down by the company. After one week and three visits to the Australian Industrial Commission (AIRC) the case was (theoretically) resolved. The following analysis illustrates the problems and issues associated with the implementation of these procedures.

Issues Preceding the Dispute

SBCL management had been in negotiation with the Construction, Forestry, Mining and Energy Union (CFMEU) and the Communication, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Service Union (CUPE) for approximately 10 months, in an attempt to implement a company “Drugs and Alcohol” policy at the SBC Mine. From management’s perspective, the rationale for the introduction of such a drug policy was to:

- Identify any drug problems that might exist in the workforce and incorporate the results into the education process;
- Ensure that the drug testing scheme operates effectively, and consider any changes that may be required in future anti-drug efforts; and
- Ensure that the company provides a ‘safe workplace’ (for both employees and visitors) and that ‘safe systems of work’ are not jeopardised by individuals under the deleterious influence of illicit substances (AIRC, 2000:1).

In August 2000, a used syringe located in a toilet on-site caused a needle stick injury. General Manager Jim Randall noted that:

After we had our experts look at it, it was obvious it had been used for some kind of drug injection on-site.

Management took this as prima facie evidence of drug abuse in the workplace. Due to its responsibility to maintain a safe work environment, and its frustration with regard to the negotiation process to date, SBCL management informed the unions in July 2000 that it was going ahead with the implementation of its Drugs and Alcohol policy in August of that year. The first stage was the introduction of ‘blind’ drug tests for all employees (as a precursor to random drug testing). The ‘blind’ tests required each employee, contractor and even visitors to the site to provide a urine sample for testing, but no specific records (identifying individuals) were to be kept. Management justified this decision to the unions by citing a requirement under law to provide both a safe workplace and safe systems of work, as allowed for in the certified agreement, which stated:

This clause does not remove the right of SBCL to unilaterally develop and implement safety policies or procedures, subject to any dispute being dealt with in accordance with clause 2:15 (SBCL, 1998).

The mine’s management stated that the introduction of such a testing program was consistent with industry standards, and SBCL’s competitors had undertaken similar substance tests for some time (Randall, 2000). Management argued that the ‘blind’ testing was merely a way to provide the company with useful statistical data, upon which management could act should the need arise (Randall, 2000).

Senior SBCL management indicated that the company believed it had the right, if not the obligation, to test for illicit drugs and alcohol abuse, citing the concern for employee safety and the vicarious liability of the company for employee actions. Management attempted to alleviate employee/union concern by stressing that the policy was the result of a safety issue, and not one specifically designed to reduce workforce numbers. As Jim Randall stated:

...we are very concerned about drugs in the workplace and safety issues.... Management wanted to alleviate any employee fears about drug testing and stressed the policy was a safety issue (cited in Vale, 2000).

Dispute Over the Introduction of Drug and Alcohol Policy

Negotiations continued through the period leading up to the implementation of the blind test, however, no agreement was reached as the union refused to condone the company policy as it was presented. SBCL management enforced the implementation of the 'blind' testing regime, employing evidence of the used syringe found on-site as prima facie evidence of illicit drug use. As Jim Randall reiterated on the day of the implementation of the drug testing policy:

We've asked all the workers, not only all the workers but all the visitors, all the contractors, anybody on this site, we've asked them to participate in what we're referring to as a blind test, and a blind drug test is where we're simply testing anybody on site here as a precursor to random testing. But the blind test will not take anyone's name, its simply for information so that we can gather information about the incidence of drug-taking on our site

The CFMEU and CUPE advised their members to refuse to undertake the tests. Although the action of refusing to undertake a 'blind' test for illicit substance abuse was not considered to constitute 'industrial action' by the AIRC, SBCL management stood down all of the employees that refused to provide the required urine sample (250 in total) without pay, resulting in the initiation of industrial conflict.

CFMEU and CUPE representatives cited two important issues behind their decision not to 'allow' their members to provide the samples required by management. Firstly, the union rejected managerial arguments concerning the need for a 'safer workplace'. The unions argued that the employer's concern was not so much safety, but rather an attempt to increase the ability to rid themselves of 'trouble employees' (Vickers cited in Vale, 2000). Union representatives were concerned that management seemed interested only in the issue of whether employees were using illicit substances, not why they were using them. Indeed, as the state secretary of the CFMEU, Andrew Vickers (cited in Olsson & Vale, 2000: 6), stated:

.. the miners were not against drug testing but did not want a half-baked scheme put up as part of a feel good exercise by management. Peeing in a cup and submitting that for drug testing will not tell you if you're stressed or fatigued. We want proper procedures and protocols used and genuine safety measures, not just more arrows in the company's quiver of punitive measures.

The second issue identified was that of the inability of substance testing to accurately gauge the level of employee impairment whilst on-duty. It was the contention of the unions that substance testing may be inherently flawed in efforts to ensure a safer workplace for all individuals. In addition, union representatives also noted that if the issue is OH&S, then measures of impairment and chemical ingestion related to the work itself should also be included in these safety procedures. As Steve Pierce of the CFMEU (cited in Olsson & Vale 2000), stated:

.... The union wanted pupil dilation tests and psych-motor test (which measure average reaction times), and protocols including anonymity, protection from legal action and proven validity attached to urine testing. It also wanted increasing use of 12-hour shifts examined in tandem with fatigue and stress tests. Finding out down the line that you've got dangerous practices is too late. ... I believe tests for impairment are probably more accurate than just a test for presence of substance... We're not condoning the use of illegal substances, but a person could be measured to have it in his system when in fact there is no impairment.

Representatives of the CFMEU maintained this argument, agreeing that whilst drug testing procedures were consistent with the company's "fitness for duty" policy, it needed to form part of a 'proper set of comprehensive procedures' aimed at the detection of fatigue and stress levels as well as illicit substance abuse and subsequent employee rehabilitation. The CFMEU counter position regarding the implementation

of the policy focused on four points:

- The union will refuse to allow members to submit for drug testing if the employees are collectively unhappy with the intrusion into their personal lives;
- The testing of urine samples does not reveal the extent of impairment, with some drugs staying in the human body long after any significant effects have ‘worn off’;
- The drug testing policy discounts any analysis of why the employee is taking illicit substances, focusing only on the question as to whether they are taking drugs. Such a lack of analysis fails to indicate whether working conditions may be partly responsible for employee dependence upon illicit substances (eg. 12-hour shifts, work stress levels, poor job satisfaction; unrealistic deadlines etc);
- The drug testing policy fails to test for chemicals that may enter the bloodstream of an employee via their work duties that may be harmful and adversely affect their performance (eg. carbon dioxide levels; excessive dust particles etc.) (Olsson & Vale 2000; Vale 2000; AIRC 2000).

Resolution of the Dispute

Despite the intervention of the AIRC, drug testing remained an issue that management and trade unions did not resolve until mid-2001. The case illustrates the problems, issues and complexity in the development of drug testing policies for the workplace, in particular the importance of due process and consultation.

BHP PILBARA MINES CASE STUDY

The Pilbara region in Western Australia (WA) is located 1600 kilometres north of Perth. BHP produces approximately 65 million tonnes of iron ore per annum from its mines in the region. Iron ore has more than 1563 employees and 1300 contractors. The largest open cut mine is at Newman. This is linked to major ore processing, stockpiling and shipping facilities at Nelson Point and Finucane Island, on opposite sides of the Port Headland harbour.

Background

On the recommendations of the coroner following a fatal (drug related) accident in 1994 and several other incidents, BHP sought to introduce drug and alcohol testing. Following the introduction of voluntary programs, BHP sought implementation of a mandatory drug and alcohol testing program at each of its sites in the Pilbara. The introduction of a mandatory program stemmed from a philosophy that BHP has a responsibility to ensure the safety of all its employees. As Judith Thompson, Manager of Public Affairs for BHP iron ore in WA reiterated:

There’s a duty of care that spreads among the workforce and from supervisory people to the workforce. Based on that duty of care, we have developed a policy in relation to drugs and alcohol on site, which is also related to the WA mining legislation¹ (ABC Radio National 1996).

¹ It is a requirement under the Western Australian Mines Safety and Inspection Act 1994, and associated regulations, that no drugs or alcohol are permitted on mine sites. Specifically, Regulation 4.7 prohibits anyone from being in or on a mine while the person is affected by drugs or alcohol and entitles the mine manager/supervisor to direct any employee reporting for duty who in their opinion is adversely affected by alcohol or drugs to leave the mine.

The mandatory program proposed by BHP required that an employee, as a condition of employment, submit to random drug testing. If a test proved positive, the employee, on the first occasion, was liable to be sent home on paid special leave. On the second occasion, within a period of two years, the employee was liable to be sent home on unpaid special leave. On the third occasion, within the same time period, the employee's continuing employment would be the subject of discussions with the company (*BHP Iron Ore Pty Ltd v Construction, Mining Energy Timberyards, Sawmills and Woodworkers Union WA Branch WAIRC 130 19 June (1998)*) [Hereafter *WAIRC 130 19 June 1998*]. Education was a central part of the program, and there was also provision for assistance to those employees with a suspected alcohol or drug dependency. As Judith Thompson noted:

The policy includes education about the effects of drug and alcohol abuse and also offers counselling to people should they have trouble controlling their use of these substances (ABC Radio National 1996).

Issues Preceding the Dispute

BHP held discussions with employees and four unions regarding the introduction and implementation of the program in 1997. The respective unions held separate meetings of members. A valid majority of employees approved the implementation of the program, with the exception of one union: the WA branch of the Construction Mining Timberyards Sawmills and Woodworkers Union. A majority of its members at the Newman and Finucane Island sites voted overwhelmingly to reject the program. Following these lengthy negotiations with employees and four unions, BHP did not implement the program. It was held to be impracticable if it did not apply to all employees alike. In addition, the three unions that supported the program did so on the proviso that it applied equally to all employees (*WAIRC 130 19 June (1998)*).

The main objection of the dissenting union was to drug testing. The union was initially opposed to both alcohol and drug testing, but by the time the case reached the WA Industrial Relations Commission (WA IRC), the union no longer objected to alcohol testing. The union argued that drug testing constituted an unreasonable intrusion of an individual's privacy. The union also objected to the requirement that employees using prescribed or over the counter drugs that might impair them in their work, report this to the company, which would be required to maintain records of the employee's drug use for a minimum of two years (*WAIRC 130 19 June (1998)*).

Dispute Over the Introduction Drug and Alcohol Testing

The dispute over the introduction and implementation of drug and alcohol testing at three BHP sites was referred to the WA IRC by BHP, after two years of consultation with the workforce. The WA IRC was asked to consider the program as a whole; specifically whether it was fair and reasonable.

Union Position

The dissenting union put forward three key arguments in opposing the introduction of the program. Firstly, the union questioned the prevalence of drug use in the workplace and argued that there was no evidence to justify the introduction of such a program. For example, the union highlighted that whilst voluntary drug testing was in force at BHP sites during 1997-1998, there were no reported incidents. Secondly, the union questioned urine testing as a reliable indicator of impairment resulting from drug abuse. Thirdly, the union argued that BHP should not impose the program on members simply because they had obtained the consent of the members of other unions (*WAIRC 130 19 June (1998)*).

Management Position

BHP, in response to the union, argued that the implementation of the program was necessary in order to enable it to satisfy its common law duty to provide a safe workplace and satisfy WA mining legislation. In response to the issue of privacy, BHP argued that the program protected the privacy of employees as far as possible, by providing strict security measures. Such measures were designed to avoid publication of any test result and any other information given as part of the program. Responding to the union's second argument, BHP acknowledged the criticisms surrounding drug tests as an indicator of impairment. In fact, the company acknowledged that such tests were not a test of impairment. BHP maintained that the cut off levels of drugs allowed under the program before a positive result was returned were at such high levels, that a positive result was a reliable indicator of safety issues. Finally, BHP argued that it should be free to implement the policy in accordance with the wishes of a significant majority of the workforce, after having extensive consultation with the employees and unions, regarding the implementation and implications of the program (*WAIRC 130 19 June (1998)*).

Both parties used expert witnesses to debate the extent to which drugs adversely affect safety in the workplace. This was a contentious and noteworthy issue in this dispute. The union argued that very little was known about the impact of drugs on safety, and that in fact, some drugs could have positive effects. BHP, whilst accepting that little was known about the effect of drugs on workplace safety, argued that the effects of drugs on cognitive functions, psychomotor performance and other skilled tasks strongly predicted serious adverse effects on workplace safety (*WAIRC 130 19 June (1998)*).

Resolution of the Dispute

On the 19th June 1998 the WA IRC endorsed a requirement that BHP employees working on three sites, Newman, Finucane Island and Nelson Point, submit to random drug testing (Moodie 1998). On this basis, The WA IRC considered it reasonable for BHP to implement a scheme designed to detect, so far as possible, the level of consumption of drugs by employees, and, to implement procedures designed to deter the use of drugs in the workplace. The WA IRC decided the program was not unreasonable, harsh or unfair in BHP's attempt to satisfy its responsibility to provide a safe workplace (*WAIRC 130 19 June (1998)*).

Weighing up intrusion and privacy concerns with the legal obligation to provide a safe workplace, the WA IRC concluded that whilst the program intruded on the privacy of individual employees, workplace health and safety requirements and community expectations were such that there would necessarily be some constraint on the civil liberties of employees. In addition, the program included elements that aimed to minimise intrusion of privacy. For example, urine samples were to be given in private and were not witnessed by the tester (*WAIRC 130 19 June (1998)*).

The WA IRC in its decision upheld several elements of the program as important. These included the provision for formal education, counselling and rehabilitation. The fact that the penal elements of the program were also subordinated to these concepts was also important in the WA IRC's assessment. For example, the program provided that after the expiration of two years, any positive reading was expunged from an employee's record. An additionally important feature of the program was the cut off levels set for a positive test. These cut off levels were held to be relatively high, and in fact, were significantly higher than the Australian standard, distinguishing the program from many others. In this sense, the tests were regarded as rigorous, with experts identifying the probability for error in either test, as less than one per cent (*WAIRC 130 19 June (1998)*).

In summary, the WA IRC found insufficient merit for the union's objection to the program, and, endorsed BHP's extensive consultation with the workforce on the dynamics of the program. The WA IRC, in its support for the program, also noted the importance of a formal review mechanism, as new, more efficient and effective drug and alcohol testing methods become available (*WAIRC 130 19 June (1998)*).

CONCLUSION

High profile disputes over drug testing illustrate the contentious nature of the issue at the workplace. They also highlight the importance of developing a participatory framework to deliver workable solutions. Any activity in this area must be part of a broad based OH&S program that is jointly developed by employers and employees and/or unions. A unilateral drug-testing policy that places an employee in a position that could jeopardise their employment is coercive and therefore unacceptable (Nolan, 2000). For sensitive issues like this to be handled successfully, employee acceptance is critical. Whilst alcohol and illicit substance abuse in the workplace may need to be viewed in the context of an employer providing a safe and healthy workplace, the issues are not clear cut, and should be examined in the broad context of OH&S in the workplace. Research indicates that high-quality employee education and assistance programs are important factors in preventing and reducing drug abuse (Desjardine & Duska, 1997; Oliver, 1994). Indeed, a drug testing policy not linked to a well established rehabilitation program is likely to result in the removal of the employee from the workplace, but not the illicit drug usage that may well enter the workplace with the replacement employee.

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