EXPERT COMMITTEE ON
ETHICAL ISSUES AND PROFESSIONAL STANDARDS

Quality, availability and reliability of drug screening tests used in the workplace: ethical issues and the difficulties of building dialogue and human relationships

by Claire Ambroselli

Preliminary question: how do we tackle the ethical problems inherent in choice of this topic?

This study calls for a few preliminary comments. I first suggested looking at a few manufacturers' websites, to find out how these new products - drug screening tests - came on the market, and how future customers were told about their use. I am not an expert on drug screening practices, or on these manufacturers whom – as I say – I found on the Web.

My feeling was that considering certain technical aspects of the use of tests would help us to gain a better understanding of what it meant to focus our working group's study of ethical issues on the problems raised by instrument-based testing, and not on the ethical issues proper, which are educational and cultural: studying the ethical issues raised by the possible use of tests to combat drug abuse in schools, and later the workplace, did not allow us to explore the issues thoroughly, or consider the significance of the group's stance against testing in schools – both necessary for any study of action to curb or prevent drug abuse.

Ethical dangers in choice of the study: unbalanced dialogue

Why move on so quickly, without looking closely at the ethical, i.e. educational and political problems which arise in schools, to another area – the workplace – where the fight against drug abuse is also instrument-based, again limiting ourselves to that aspect, and failing to make anti-drug action effective by tackling the educational and political problems which hamper dialogue between the various workplace players?

The danger here is that of simply coming back, in studying the workplace, to the problems already encountered in schools - problems which worsen as drug-abusers get older and which stand in the way of dialogue with those who want to help them. If the group looks no further than the problems raised by the instrument-based approach to combating drug use, it may well repeat its earlier conclusion, and make dialogue between those who want to control drug abuse, those who want to treat and cure it, and drug-abusers themselves even more difficult.

Unbalanced dialogue is likely to make anti-drug action less effective for all concerned by encouraging the proliferation of policies aimed more at those who want to control abuse than at those who seek human ways of treating it, and at those who abuse or depend on harmful substances, with whom we seek dialogue in all our anti-drug initiatives.

Young people whose educational and political problems are simply obscured (not solved) by controls and testing find it increasingly hard to integrate in the community, and have problems finding work and later in the workplace, while others have no idea how to talk to them usefully. And educational institutions (not just schools, but also the rapidly changing vocational training sector), employers and the authorities responsible for labour and anti-drug policies may well be unable to find ways of improving the dialogue, making anti-drug action more effective and helping everyone to find a place in the community.

Dialogue problems due to the players' situation and the relationships between them

Like any human dialogue, this one is difficult, complex and fraught with problems, The difficulty is exacerbated by the convoluted nature of the situation, and by the intractably strained relationships which exist between people who abuse others, who are themselves unable to cope with the various aspects of that abuse.

The complexity is connected with these dialogue problems, especially when they are ignored both personally and politically, as we have seen in the case of anti-drug abuse and trafficking measures, where the emphasis is mainly on devising more and more test procedures, whose

own complexity reflects that of "advanced" industrial societies, and which are increasingly remote from the real human needs which must be satisfied to make prevention effective. What becomes of the relational problems if prevention turns its back on them and is rendered even more remote by the constraints and limitations inherent in the growing use of tests which merely detect substance use, but do not – and cannot – tackle problems of abuse and dependence?

Instrument-based prevention: danger of obscuring the human problems

The tests we are talking about are the fruit of technical development, particularly in the industrialised countries. They rely on detection devices which have revolutionised certain areas of biological knowledge, both normal and pathological – on miniaturised, computerised measuring instruments which increase their diagnostic capacity and market usability.

Use of these instruments is widespread in biological and medical institutions, and is gradually becoming an important element in anti-drug programmes. The danger is that they may prove ineffective when the issues are complex and not obviously connected, but essentially conflicting. How can we study the interaction between the technical, biological, legal, political, social and cultural aspects of test use, and the personal, professional and political aspects of drug use, anti-drug measures, dependence and trafficking, which the tests merely detect?

Production of instrument-based tests: industrial and political aspects

We accordingly started by making a more specific, but also more limited, study of these tests. We did this by going to the main manufacturers' websites (see appendices), on the assumption that this would give us a clearer picture of their production problems, of the competitive and political pressures behind the current growth in output, and - in the context of our present study on various environments – their marketing methods.

In fact, the complex issues raised by the use of tests affect the whole anti-drug effort in the industrialised countries. In studying those issues, we must therefore relate them to the crisis in dialogue with the primary players – the drug abusers and addicts, who harm themselves and others, and also the international traffickers, who all too often go unpunished.

However, the complex implications of this rapid increase in the use of drug tests - not only for actual and potential test users, but also for pro-test policies – made me feel that studying the ethical issues raised by their use in the workplace would be difficult, and indeed premature, unless we narrowed our focus and attempted to pinpoint the issues we should really be exploring.

Aim of the study: proposed approach to the ethical issues we need to consider

My aim here is to provide a kind of "road map" to the issues we should be considering, as a prelude to studying, discussing and exploring them thoroughly later.

This road map comes in two parts: 1) a brief analysis of the ethical issues raised by problems inherent in action, dialogue and relationships involving all the various players concerned by the use of tests to curb drug abuse in the workplace; 2) presentation, in the appendices [1], of studies to serve as reference points on these issues, which can be accessed on the Web.

---

(1) Appendices available on request from the Pompidou Group Secretariat.

Ethical problems raised by this study

I – Ethical problems: quality, availability, reliability of the dialogue for effective prevention

My excessively brief opening comments actually refer to the effects of using tests, and their possibly negative repercussions on the quality, availability and reliability, not of the tests themselves, but of the dialogue needed between the various players involved in curbing and preventing drug abuse. These effects and repercussions are connected with the situation's complexity, and with the considerable difficulty of getting dialogue going between people who are pursuing different aims and do not feel the need to communicate better. What dialogue and relationships are possible between a) test manufacturers, the policy-makers and professionals who use their tests, and b) substance abusers and addicts, and the people involved in preventing and combating abuse and addiction?

The geopolitics of testing: a market which threatens preventive dialogue

The use of tests depends on their availability at various levels, and on changing patterns of use at various times and in various places.

Market availability depends on the very large number of manufacturers currently involved in developing new tests, whose *quality and reliability* may vary within or between firms, depending on the substances detected, the biological matrices used, and the types of test conducted (personal, professional, judicial). The instruments used range from specialised laboratory equipment to on-site screening tests, which are fast, but usually have to be confirmed, using traditional laboratory techniques.

Market availability also depends on the national institutions responsible for *monitoring the quality and reliability of tests* before they are marketed (marketing is conditioned by industrial supply and by political, professional, social and individual demand). At this stage in the marketing process, a complex geopolitical pattern starts to emerge, with dialogue developing between manufacturers and policy-makers, but not with those who are separately building a dialogue of their own to prevent drug abuse, and relationships of their own to make prevention more effective. And yet these people – the ones involved in this dialogue and these relationships, those who have had drug problems and those who have been trying to help them for over 20 years now - are the ones these policies target.

The connections between these three levels – industrial, political and preventive – are already complex in themselves, and current research on the ways in which the protagonists on each relate to their working environment is gradually extending its temporal and spatial reach, looking at a broader range of areas, and focusing on the central problem of the individual's existential freedom. In fact, workplace monitoring of drug use goes further than that, taking in drug use outside working hours and in non-working environments. Its concern is obviously the safety of everyone, but it sometimes finds it hard to define and evaluate the dangers to individuals, and strike a proper balance between evaluations. Moreover, the responsibilities of employers and employees are based on laws, rights, employment contracts and dialogue between the two sides.

Industrial manufacturers

The geopolitics of testing could be analysed in terms of plurality and complexity: plurality and complexity of the test-producing *companies*, both major companies which make other things too, and major companies which make nothing else (Securetec), whose number has been increasing since 1995; plurality and complexity of the *goals* pursued by anti-drug policies in high-risk situations (cars, boats, aircraft), high-risk plants (chemical, nuclear), other firms or working environments, and school and sports environments, where screening relies on tests dating back to the first measures taken by the US Government in 1986, in response to accidents.

National policies and the public need for preventive dialogue

The first US policies led to industrial test-production, which is now booming and spreading through Europe and other parts of the world. Governments themselves are introducing regulations to promote the manufacture and use of tests, which are increasingly user-friendly, but not always reliable for all substances or adapted to new, and particularly synthetic, substances.

It is not the quality, availability or technical reliability of the tests increasingly used in various situations (high-risk jobs, transport, insurance, court proceedings, private companies, etc.) which cause the chief ethical problems, but *the increasingly complex conditions in which they are being used.* In fact, they are now being used for industrial and political purposes, in ways which clash with personal, civil, professional, social and cultural needs, and whose aims have nothing to do with the issues at stake in anti-drug action – the issues which are raised by drug-users, not test-users (unless the two coincide).

The conditions in which test use is increasing, as a result of this close geopolitical relationship between manufacturers, governments and employers, are so complex that they are also affecting the quality, availability and reliability of tests and their use in another dialogue area, that *of treatment and prevention.* The product of anti-drug policy, this is an area beset with problems, and dialogue here is between drug users and those who are helping them to overcome drug abuse and addiction.

How do these pressures to use tests, on which so many industrial and political issues are riding beforehand, and which raise so many questions of professional responsibility and civic liberty afterwards, affect the fragile human relationships which are crucial to winning the battle against drugs by helping abusers to do without them at work and outside, whereas tests merely detect and measure substances?

II – Ethical problems: fragile and vulnerable human relationships

This question forces us to focus our study, as specified by the Working Group, on the ethical issues raised by use of these tests in the environment we are considering, and ignore their industrial, political, technical, biological, professional, social and cultural implications. Obviously, the latter must be looked at too, but the only way of making them part of our brief would be to agree on an aim and working method which linked them with the ethical issues rooted in the situation's complexity: how does this complexity, which derives from the current increase in the use of tests in various social strata and which remains a constant, affect the central relationship between drug users and those who try to help them? And how does it satisfy the ethical requirements of that relationship, which is crucial to winning the fight against drugs?

Meeting the needs of those tested

There is obviously no question of using poor-quality tests, which are not available and offer no reliable way of curbing and preventing drug abuse. It is more a question of studying the ethical problems of using them in the complex conditions we have described.

Thus the ethical issues raised by quality, availability and reliability of the tests used in the workplace are not relevant to the tests themselves, but they are relevant to study of the complex conditions in which policy-makers promote their use and, later, the conditions in which their use may or may not help drug-users to prevent abuse and dependence. The ethical issues raised by quality, availability and reliability of tests depend on the ability of those who use them to meet the needs of those for whom they use them. If combating drug abuse and dependence is the aim, then the primary concern of those involved - drug users and the teams working on prevention and treatment – must be to maintain a dialogue adapted to the fragility of the human ties between them.

This fragile and vulnerable relationship has its own complexity - a complexity determined by the individual's relationship with him/herself and others. So how is it affected by the various outside pressures to which it is subjected? The ultimate fragility of drug-users' relationships with themselves, and with helpers focused on cure and prevention, is highlighted by the issues which come up when screening tests - using methods taken from other dialogue levels, and not always suited to their needs - are applied to them.

It also becomes clear when we consider the various types of complexity which surround it: complexity of the geopolitical patterns we have outlined above, which is rooted in the various levels of dialogue which precede therapeutic dialogue, when industry and policy-makers decide to use screening tests; and complexity of the therapeutic dialogue itself, reflecting the pressures exerted on environments other than the therapeutic or judicial environment, e.g. the workplace (police in the case of drivers, high-risk jobs of all kinds, and other checks in schools, where the problems are even greater).

Human fragility in the face of industrial, governmental and workplace authorities

The complexity of these conditions also depends on the actual increase in the use of tests and the growth of the companies which market them, especially in North America, where substance testing was first used to curb drug-use in the workplace in the 1980s. We are talking about complex authorities which control companies' market research, the screening techniques they are already introducing, and the techniques they employ in manufacturing tests for the many different substances used and screened for today, on the basis of policies and laws specific to the various countries of the Americas and Europe.

These authorities are generating geopolitical patterns which cause problems, given the educational and political shortcomings of anti-drug measures. They call for study, but lie outside the scope of the topic which concerns us here, i.e. quality, availability and reliability of the dialogue established between the various people involved in developing the use of screening tests in the workplace. This study would be useful if it shed more light on the ethical issues involved, which we are trying to separate from the complex cluster of authorities which offer no solution to the problems we face in trying to curb and prevent drug abuse. Its helpfulness would depend on our first forming a better idea of the true complexity of that situation, which first of all concerns the fragility of the human relationships specifically at issue in the fight against drug abuse, and the further action needed to secure effective prevention policies.

The issues raised by the complex conditions which govern the increasing use of tests are thus ethical to start with, and concern respect for the fragile dialogue generated with drug

users by anti-drug measures, the risk of making that dialogue even more fragile, and drug users' difficult human relationships with the rest of the community. Is the use of screening tests not incompatible with that dialogue and those fragile and vulnerable relationships? Is it compatible, and in what conditions is it compatible, with the policies needed to *tackle the personal, educational and political problems of drug users*, without getting side-tracked by the problems caused by test manufacturers and the pressures they exert on policy-makers and employers, to the detriment of the real needs of the people for whom these policies and workplaces are intended?

*

Conclusion: how do we overcome the problem of dialogue which is difficult, if not actually impossible?

In thinking about the ethical issues raised by our topic - the fragility of the human relationships between drug users and those who try to help them – we face two difficulties.

The first is the difficulty of apprehending the complex ways in which test manufacturers, policy-makers and employers must interact to bring screening tests onto the market and into the workplace, without obscuring the ethical issues raised by the personal, educational and political problems involved in fighting drug abuse. The main challenge here is to provide a sounder basis for the human relationships which exist between drug users and the teams trying to help them to overcome their problems and integrate in the community - an aim which may well be obscured by the complexities attendant on testing if we fail to explore ways of linking the pressures which impinge on these relationships with the new basis on which we want to place them.

The second difficulty follows on the first: how can we reconcile the external yet powerful complexity of the various groups involved in developing test use with the internal yet fragile human sympathies generated by certain anti-drug policies, and so - with or without screening tests – focus those policies more effectively on genuinely solving personal, educational and political problems, and allowing those involved to relate to one another on an enduring human basis by discussing those problems and devising an effective anti-drug strategy, suited to their own needs and those of the community.

I am appending to these preliminary observations on the ethical issues we need to raise and discuss, details of a few studies selected from the Internet which throw some additional light on our topic.

APPENDICES

- CCNE - ***Avis sur le dépistage des toxicomanies dans l'entreprise - Rapport,*** N°15, 16 octobre 1989, Rapport scientifique - Rapport éthique
http://www.ccne-ethique.fr/francais/avis/a_015.htm - deb

- ***Le cannabis : positions pour un régime de politique publique pour le Canada - Extraits***
Rapport du comité spécial du sénat sur les drogues illicites, Vol. I, parties I et II., *Prés.: P. C. Nolin, Vice-pr.: C. Kenny,* 2002.
http://www.parl.gc.ca/37/1/parlbus/commbus/senate/com-f/ille-f/rep-f/repfinalvol1-f.htm   - InterprÉter%20À%20la%20lumiÈre%20de%20principes

- 38ᵉ congrès du TIAFT - The International Association of Forensic Toxicologists – Helsinki 2000 – Extraits, A. Verstraete (Belgique*)*
Les récents développements des tests sur la route en Europe – Rosita
http://www.sfta.org/societe/CRcongres/HELSINSKI/P2.htm et http://www.rosita.org
La position européenne en matière de dépistage des drogues en milieu professionnel
http://www.sfta.org/societe/CRcongres/HELSINSKI/P3.htm

- ***Annales de toxicologie analytique*****, vol XIV, 2002**
http://www.sfta.org/ATA/ATAsommaire/ata02n1.htm
*History of workplace drug testing : European and American aspect*s, Alain Verstraete, Marc Devaux
Place of oral fluid and hair for workplace drug testing, Nele Samyn, Vincent Areschka, Pascal Kintz
How to avoid positive results in urine and hair testing with substitution, dilution and adulteration, Véronique Dumestre-Toulet
Du prélèvement au résultat: une chaîne de qualité stricte, -From sampling to results: a strict chain of custody, Philippe Corteel, Yvan Gaillard, Gilbert Pépin

- **Le centre L'Etape du Bassin de Maskinongé inc, Canada** http://www.etape.qc.ca/
La fiabilité des tests par rapport au produit : cocaïne, cannabis, Rohypnol
http://www.etape.qc.ca/drogues/cocaine.htm - DÉPISTAGE
http://www.etape.qc.ca/drogues/rohypnol.htm - Test%20de%20dépistage

- ***Plan gouvernemental de lutte contre les drogues illicites, le tabac et l'alcool, 2004-2005-2006-2007-2008,*** **MILDT 2004 -** Extraits
http://psydoc-fr.broca.inserm.fr/toxicomanies/Textes/plan_2004_2008_drogues_illicites_alcool_tabac.pdf

- Colloque MILDT/INSERM *« Recherches sur les enjeux sanitaires et sociaux des drogues », comparaison France/Etats-Unis*, Pierre Lascoumes et Renaud Crespin, 18 février 2005, Résumé (pp. 25-27) http://www.drogues.gouv.fr/fr/pdf/Colloque fiche resume.pdf

- Colloque « Conduites addictives » CHRU Lille, octobre 2005
Outils de dépistage : méthodes, matériels, quelles utilisations ? Luc Humbert, CA de la SFTA
http://www.inma.fr/telechar/addicto/INMA_ColloqueLille_OutilsDepistage_02.pdf

- CR réunion du GT « Drogues et Conduite Automobile », Paris, le 15 décembre 2005 – SFTA
L'étude « Stupéfiants et Accidents Mortels » (SAM) pilotée par l'OFDT, Pierre Mura
http://www.sfta.org/commissions/CRconduiteauto%20151205.pdf

- DATIS-Le dépistage des drogues http://www.drogues.gouv.fr/rubrique157.html
Tableau des durées de positivité http://www.drogues.gouv.fr/article3099.html

- Premières rencontres nationales des acteurs des « consultations « cannabis », MILDT et DGS, Février 2006 : *Évaluation et repérage des usages problématiques : concepts, outils, expériences.*
http://www.addictologie.org/spip.php?id_rubrique=4&page=avectitre
Introduction au repérage des usages problématiques : contexte et concepts, Baptiste Cohen
http://www.addictologie.org/dist/telecharges/Cohen.pdf

- Office of National Drug Control Policy, ONDCP, US gov, *Developing a testing program, What Kinds of Tests Are Available?* (mars 2006) - *What You Need to Know About Starting a Student Drug-Testing Program*
http://www.whitehousedrugpolicy.gov/publications/student_drug_testing/student_drug_testing.pdf

- **Site : Pronight -** *Drogues-tests, où en est-on ?* - Securetec Detektion System AG (Al.) – Labtec (Suisse) http://www.pronight.com/site/prevention_outils-107.html
La société Dräger, IDenta- Kit, ODV - NarcoPouch et Narcotest, NIK, DRUG CHECK 5, SALIVA DRUG-TEST, QUICKSCREEN