

Drug-Free Workplace Program

Human Resources Office

Code 7.3.3

Drug-Free Workplace Program

- The primary mission of the Department of the Navy is to protect the United States by the effective prosecution of war at sea and to maintain freedom of the seas.
- The performance of every civilian employee must support the mission of DON with a high level of productivity, reliability and judgment
- Illegal drug use is incompatible with the maintenance of high standards of conduct and performance, military discipline, military readiness, and safe and reliable mission accomplishment
 - Former Secretary of the Navy William L. Ball, III

Drug-Free Workplace Program

■ Goals

- To eliminate the use of illegal drugs among employees
- To promote a drug-free environment for all employees

Designed to accomplish these goals through deterrence, identification, rehabilitation and personnel action

■ Application

- Applies to all Department of Navy appropriated fund civilian employees
- Applies to all applicants tentatively selected for Department of Navy appropriated fund positions

Drug-Free Workplace Program

- Executive Order 12564 Drug Free Federal Program dtd 15 Sep 1986
 - Established drug-free workplace program
 - Made it a condition of employment for all federal employees to refrain from using illegal drugs on- or off-duty
 - Established criteria for testing
 - Established program elements

Drug-Free Workplace Program

- Public Law 100-71 dtd 11 Jul 1987
 - Established uniformity among federal agencies
 - Requires reliable and accurate drug testing
 - Permits employee access to their personal drug testing results
 - Ensures confidentiality of test results
 - Provides centralized program oversight

Drug-Free Workplace Program

- Department of Health and Human Services
Mandatory Guidelines for Federal
Workplace Programs dtd 1 Sep 1994
 - Established scientific and technical guidelines for federal workplace drug testing programs
 - Established certification program for laboratories engaged in drug testing for federal agencies

Drug-Free Workplace Program

- SECNAV Instruction 12792 Department of Navy Drug-Free Workplace Program dtd 8 Dec 1988
 - Ensures all DON civilian urinalysis collections are properly conducted
 - Provides guidance on documentation requirements
 - Contains DON testing designated position (TDP) list with justifications

Drug-Free Workplace Program

- NAVAIRWARCENACDIV
INSTRUCTION Civilian Drug-Free
Workplace Program 12792.1 CH-1 dtd 18
Feb 1999
 - Defines NAVAIR policy and procedures for
implementation of Civilian Drug-Free Workplace
Program

Drug-Free Workplace Program

■ Essential Elements

- Education
- Drug Testing
- Rehabilitation

■ Program Components

- Notices
- Supervisory Training
- Employee Education
- Safe Harbor
- Civilian Employee Assistance Program
- Drug Testing
- Program Safeguards

Notices

■ General Notice

- Issued approximately 1 Sep 1988 to all employees
- New Hires

■ Individual Notice

- Testing Designated Positions (TDPs)
- 30 days before random testing
- Temporary changes
- Signed receipt

Supervisory Training

- DON Drug-Free Workplace Policies
- Civilian Employee Assistance Program (CEAP)
- Problem Recognition
- Incident Documentation
- Administrative Actions
- Disciplinary Actions

Employee Education

- Negative effects of Drug Abuse
- DON Program Components

Safe Harbor

- Immunity from discipline for admitted illegal drug use for any employee who:
 - Voluntarily identifies self as a user prior to being identified by other means
 - Obtains counseling and rehabilitation
 - Agrees to be periodically tested after completion of counseling and rehabilitation
 - Consents to release of all records related to counseling and rehabilitation to DPC and CEAP
 - Refrains from using illegal drugs

Safe Harbor

- If occupying testing designated position, will be moved to non-testing designation position
- If hold security clearance, a review will be initiated by Security to determine if clearance should be revoked

Safe Harbor

- Does not protect from discipline for drug-dealing, drug trafficking or other drug-related offenses
- Does not protect employee from discipline for other non-drug related issues
 - Abuse of Leave
 - AWOL
 - Poor Performance
 - Failure to meet condition of employment

Safe Harbor

- Cannot invoke “Safe Harbor” after being notified of scheduled drug test, after specimen has been collected, or if identified as user by other means
- Safe Harbor considered first offense

Civilian Employee Assistance Program

- Work-site based program designed to assist in the identification and resolution of productivity problems associated with employees impaired by personnel concerns that may adversely affect employee job performance
- Confidential, appropriate, timely problem assessment services

Civilian Employee Assistance Program

- Referrals for diagnosis, treatment and other assistance
 - Problems with children
 - Marital or other relationship crises
 - Child or spousal abuse
 - Mental or emotional disorders
 - Stress related issues
 - Work related difficulties
 - Legal and Financial referrals
 - Drug or alcohol abuse

Civilian Employee Assistance Program

- Provides initial counseling and referral to any employee who has been identified as a user of illegal drugs through a verified positive drug test, self-admission or by other means
- Monitors progress throughout treatment and rehabilitation
- Confidentiality of counseling and treatment protected by Code of Federal Regulations

Drug Testing

- Goal of Drug-Free Workplace Program is the deterrence of illegal drug use through a carefully controlled and monitored program of drug testing
 - Must be conducted in compliance with Health and Human Services Guidelines
 - Must ensure confidentiality of results and related documentation

Types of Testing

- Random Testing of Testing Designated Positions (TDPs)
- Applicant Testing
- Post Accident or Unsafe Practices Testing
- Reasonable Suspicion Testing
- Voluntary Testing
- Follow-up Testing

Testing Designated Positions (TDPs)

■ Criteria set forth in EO 12564

- Positions designated Special Sensitive, Critical Sensitive, Non-critical Sensitive
- Employees granted access to classified information
- Employees serving under Presidential appointments
- Positions involving law enforcement, national security, protection of life and property, public health and safety, functions requiring high degree of trust and confidence
- Positions that support national defense such as repair and overhaul of ships, airplanes and weapon systems

Testing Designated Positions (TDPs)

- Automatic Inclusion in TDP Pool
 - Employees holding Top Secret Clearance
 - Employees holding Secret Clearance with Access to Special Access Programs
 - Employees in Nuclear Weapon Personnel Reliability Program (PRP)
 - Military Sealift Command Civilian Mariners
 - Presidential Appointees
 - Navy Drug Screening Laboratory Employees

Testing Designated Positions (TDPs)

- Other Positions included in TDP Pool
 - Positions meeting title and description requirements in DON TDP List added to Activity TDP List
 - Activity position titles matched against position titles in DON TDP List
 - Position duties reviewed against description and criteria in DON TDP List

Testing Designated Positions (TDPs)

- Review of TDP Designation
 - Non-bargaining unit employees
 - Review by activity head
 - Written decision
 - No grievance
 - Bargaining unit members
 - Negotiated grievance process
 - Still subject to testing while seeking review

Random Testing

- Testing imposed without individualized suspicion that a particular individual is using illegal drugs
- Affects approximately 81,000 DON employees
- 30-day notice given before inclusion in activity TDP pool
- Applies to those employees in Testing Designated Position

Applicant Testing

- Testing of all tentatively selectees of testing designation positions prior to a final employment offer or position placement in Testing Designated Position
- Advised that drug testing is a condition of employment

Post Accident/Unsafe Practices Testing

- On-the-job accident or unsafe on-duty activity that results in:
 - Death or personal injury with hospitalization
 - Damage to property in excess of \$10K
- Requires higher-level authority
- Documentation Required
- Written Notice
- Applies to all Appropriated Fund Employees

Reasonable Suspicion Testing

- Belief that an employee is using illegal drugs
 - Observed drug use or possession
 - Physical symptoms of impairment
 - Abnormal conduct or behavior
 - Arrest or conviction for drug-related offense
 - Focus of criminal investigation for drug-related offense
 - Information from reliable and credible sources
 - Evidence of tampering with previous or current drug test

Reasonable Suspicion Testing

- Higher level authorization required
- Documentation required
- Written Notice
- Applies to all Appropriated Fund Employees

Voluntary Testing

- Testing of employees who volunteer to be included in TDP pool but who would not otherwise be subject to testing
- Subject to random procedures
- May withdraw at anytime (in writing)

Follow-up Testing

- Testing as part of or follow-up to a rehabilitation or counseling program
- Usually one year in duration
- Unannounced testing
- Applies to any employee who
 - Goes through Safe Harbor program
 - Has verified positive test result

Drugs Authorized for Testing

- Marijuana
- Cocaine
- Opiates
- PCP
- Amphetamines

- Reasonable Suspicion and Post-Accident
 - Schedule I and II of Controlled Substance Act (CSA)

Drugs Authorized for Testing

■ Schedule I

- High potential for abuse
- No currently accepted medical use in treatment in US
- Lack of accepted safety for use under medical supervision

■ Schedule II

- High potential for abuse
- Has currently accepted medical use in treatment with severe restrictions
- May lead to severe psychological or physical dependence

Random Selection

- FY Requirement – 50% of Pool
 - No minimum or maximum number of test dates
- True Random Selection through electronic software – HEIDI
- Simple Random Sampling (SRS)
 - All employees in pool are equally likely to be selected each time a random selection is done
- No undue influence to ensure that each employee is tested every year or to limit to a specific number of tests

Notification of Selection

- Supervisor notified day of test
- Employee notified by supervisor approximately 15 minutes before scheduled time
- Deferrals
 - Non-duty status
 - Official travel
 - Different shift
 - Work requirements
 - Exception – during treatment and rehabilitation
 - On deferral list for 60 days from first scheduled test date

Privacy in Testing

■ Unobserved

- Donor provides specimen in privacy of enclosed stall or restroom
 - Random Testing
 - Applicant Testing
 - Voluntary Testing
 - Post Accident/Unsafe Practices Testing

- Reasonable Suspicion Testing

Privacy in Testing

■ Observed

- Donor provides specimen under direct visual observation if reason to believe individual may alter or substitute specimen or has previously tampered with a drug test
- Reasonable suspicion can be observed
 - Authorized by second-level supervisor
 - Written notice
- Follow-up testing always observed

Collection Procedures

- Collection procedures must follow Health and Human Services (HHS) Guidelines
- Collector
 - BAE Systems
 - Drug & Alcohol Services
 - Chesapeake, VA

Collection Procedures

- Donor reports to collection site with Photo Identification
- Donor removes all outer garments
- Donor washes hands
- Catch container/specimen bottle selected
- Collector puts bluing agent in toilet
- Donor provides specimen

Collection Procedures

- If catch container used, donor observes transfer to specimen bottle
- Collector measures temperature
- Collector examines for signs of contaminants
- Collector ensures 30 ml obtained
- Collector places identification label/tamper-proof tape over bottle
- Collector and donor initial label/tape

Collection Procedures

- Federal Custody and Control Document completed
- Specimen sealed in leak-proof container/bag with custody and control form
- Seal signed and dated
- Specimen shipped to lab via one-day FedEx

Collection Procedures

- **Federal Custody and Control Document**
 - 5-part form
 - Laboratory copy – accompanies specimen to lab
 - MRO copy – sent to Medical Review Officer
 - Collector copy – retained by collector
 - Employer copy – retained by DPC
 - Donor copy – given to employee at end of test
 - Donor requested to note any and all medications they may be taking on back

Special Situations

- Failure to report to collection site
 - Supervisor notified
 - Failure to follow direct order
 - Treated as drug-related offense
 - Disciplinary action initiated
 - No referral to CEAP required
 - If applicant, job offer rescinded

Special Situations

- Refusal to be tested
 - Supervisor notified
 - Failure to follow direct order
 - Treated as drug-related offense
 - Disciplinary action initiated
 - No referral to CEAP required
 - If applicant, job offer rescinded

Special Situations

■ Insufficient Sample

- Partial collection disposed
- Given fluids
- Remain at site
- Second sample taken
- May be released without deferral

Special Situations

- Unable to void
 - Given fluids
 - Remain at site
 - May be required to obtain Medical Doctor's note
 - May be released without deferral

Special Situations

- Collection beyond regular shift
 - Remain at site
 - Supervisor notified
 - Approval requested for overtime or comptime
 - May be released with no deferral

Processing Specimens

■ Laboratory

Northwest Drug Testing

Salt Lake City, UT

- Substance Abuse and Mental Health Services Administration (SAMSHA)-certified
- Processes specimens 24 hours per day, 365 days per year

Processing Specimens

■ Validity Testing

- Tests for adulterants, contaminants, dilutions and substitutions

■ Screening Test

- Immunoassay (done twice)

■ Confirmatory

- Gas Chromatography/Mass Spectrometry (GC/MS)

“One positive does not a positive make”

Processing Specimens

- All results reviewed by Medical Review Officer (MRO)
 - Licensed Physician knowledgeable of substance abuse and drug toxicology
- Employee given opportunity to justify positive result with MRO
 - Neither use of hemp oil products or second-hand smoke justification for testing positive for marijuana
- MRO reviews all available information before making final determination
 - Employee can request retest of positive specimen in writing

Verified Positive Test Result

- Specimen has screened positive by laboratory with immunoassay test twice, confirmed by GC/MS test and determined by Medical Review Officer to have no legitimate medical reason for drug's presence in employee's system

Distribution of Results

■ Negative Results

- DPC notified via HIEDI
- Employee notified in writing by DPC
- Copy of test and notification filed in employee DFWP file

Distribution of Results

■ Verified Positive Results

- Employee notified by Medical Review Officer
- Results FedEx'd to DPC
- HRO notified by DPC
- Supervisor notified by HRO
 - Administrative Action initiated
 - Disciplinary Action initiated

Administrative Actions

- Appropriate administrative action will be taken in every instance of illegal drug use
 - Referred to CEAP
 - Immediately removed from sensitive position without regard to whether position is TDP
 - As part of counseling and rehabilitation may be returned to position if it is determined that such an act would not endanger public health, safety or national security
 - Review initiated to determine if clearance should be revoked

Disciplinary Actions

- First Offense - disciplinary action up to and including removal shall be initiated against any employee found to use illegal drugs
 - Exception – Safe Harbor
- Severity of action dependent on circumstances of each case
- Must be consistent with provisions of SECNAV 12752

Disciplinary Action

- Action to remove an employee shall be initiated in all cases when:
 - Employee refuses to obtain counseling and rehabilitation after having been found to use illegal drugs
 - Employee has failed to refrain from using illegal drugs after a first finding of illegal drug use – Second Offense
 - Employee fails to appear for scheduled test without deferral
 - Employee refuses to be tested when directed
 - Employee substitutes or adulterates a specimen

Disciplinary Actions

- A final offer of employment will not be made to any applicant:
 - With a verified positive result
 - Refused to be tested
 - Failed to report for test at scheduled date, time and location
 - Substituted or adulterated specimen
- Applicant will not be considered for employment or promotion for 6 months

Confidentiality

■ Privacy Act information

- All records must be kept in secure locked cabinet or safe
- All involved in any phase of the drug testing program must maintain confidentiality of information pertaining to individuals, test results and related documentation
- Any personal information obtained from an individual, from results of drug test, from a government or private health care facility concerning employee's drug use or other medical matter, must be held in confidence except for official purposes

Confidentiality

■ Privacy Act information

- Laboratories may only disclose test results to Medical Review Officer
- Any positive result which Medical Review Officer determines to be justified by legitimate medical use will be treated as a negative and may not be released for purposes of identifying illegal drug use

Confidentiality

■ Privacy Act information

- Test results may not be disclosed without prior written consent of employee except:
 - To Medical Review Officer
 - To DPC
 - To CEAP counselor for purposes of counseling and rehabilitation
 - To supervisor and HRO to recommend, decide or process an adverse personnel action
 - Under court order or required by government to defend an adverse personnel action

Program Safeguards

■ Chain of Custody

- Procedures to ensure the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition

■ Blind Performance Testing

- Used to audit the accuracy of the urinalysis process
- Used to evaluate on the chain of custody
- Used to monitor performance of Laboratory

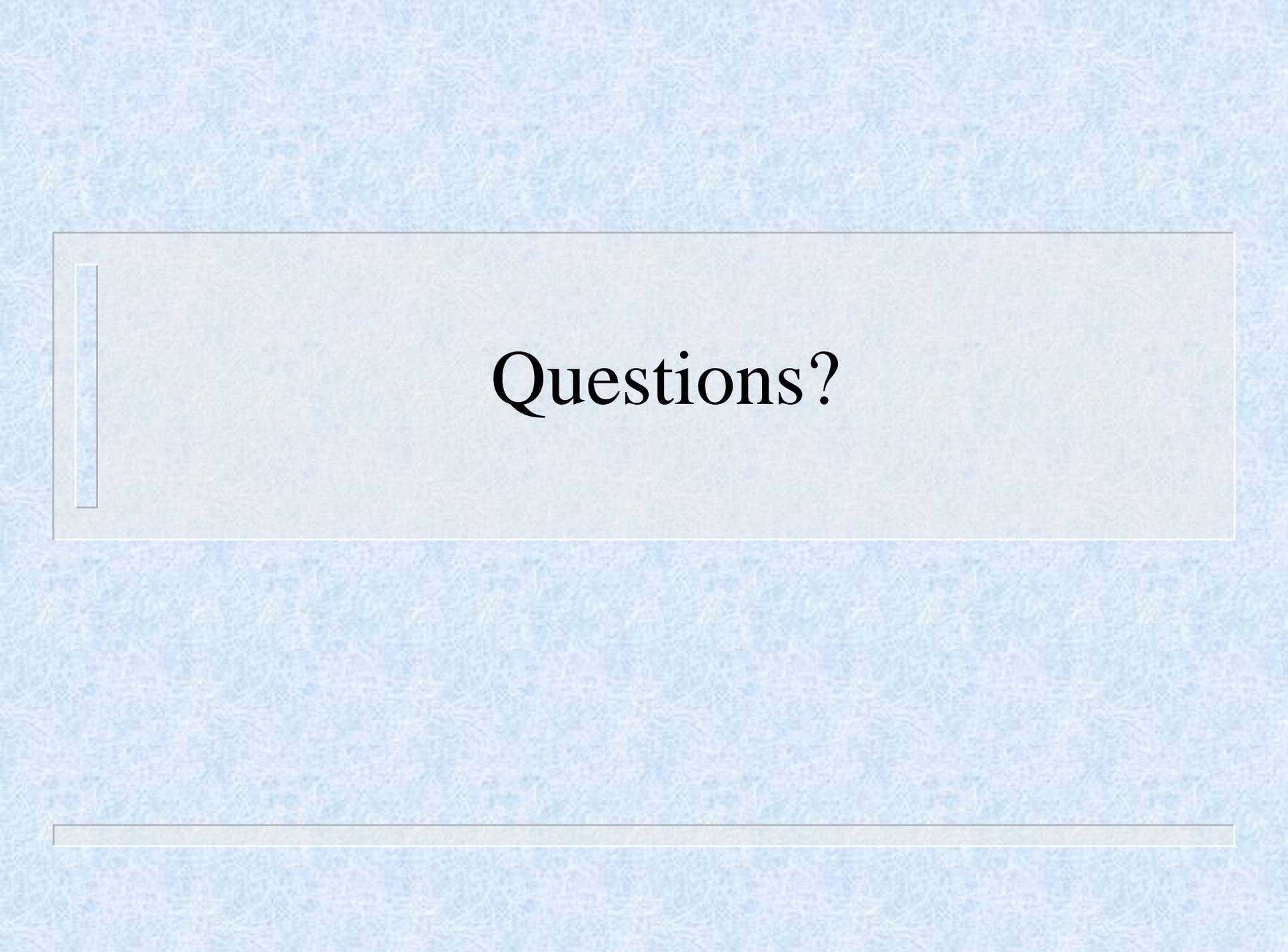
Program Safeguards

■ Blind Performance Testing

- Must meet Health and Human Services Guidelines
- Blind specimens prepared by Air Force Institute of Pathology
- Blind samples submitted to Lab along with selected activity specimens
- Must be submitted at a rate of 3% of total specimens
 - 80% must be certified negative
 - 20% will contain one or more of tested drug or their metabolites

Employee Responsibilities

- Provide a urine sample when requested
- Be responsible for successful completion of any rehabilitation or treatment required as the result of illegal drug use
- Cooperate with Medical Review Officer to provide additional information regarding a drug test
- Refrain from the illegal use of drugs on- or off-duty at all times



Questions?

Additional Information

- Lakehurst HRO Website
 - <http://www.lakehurst.navy.mil/hro-lakehurst/dfwp/dfwp.html>
- Substance Abuse and Mental Health Services Administration
 - <http://www.samhsa.gov>
- Department of Health and Human Services
 - <http://www.hhs.gov>
- The National Clearinghouse for Alcohol and Drug Information
 - <http://www.health.org>

Additional Information

- National Institute for Drug Abuse
 - <http://www.nida.gov>
- U.S. Department of Justice
 - <http://www.usdoj.gov/dea>
- Drug Enforcement Agency
 - <http://www.dea.gov>
- The Office of National Control Policy
 - <http://www.whitehousedrugpolicy.gov>
- Institute for a Drug-Free Workplace
 - <http://www.drugfreeworkplace.org>