Trends in Forensic Drug Testing

Will Medical Marijuana Have an Impact?

Jeff P. Sims, CSAPA
President
A’TEST Consultants, Inc.
Discussion Topics

- Current drug abuse and drug testing statistics
- Drug testing methodologies
- Troubleshooting the results of a drug test
- The new Arkansas Medical Marijuana Amendment
- Summary and questions
Current drug abuse and drug testing statistics
Top Reason for Children’s Entry Into Foster Care
State Fiscal Year 2016

Substance Abuse is #1 (2,182 cases)

Source: Annual Report Card, State Fiscal Year 2016, Arkansas Department of Human Services, Division of Children and Family Services
A’TTEST / Arkansas Department of Human Services, Division of Children and Family Services

Positivity Rate

- 7% increase between 2015 and 2016
- 1% increase this year, currently 11% higher than 2015

A big factor is the state medical and recreational marijuana legalization efforts throughout the U.S. reducing the perceived harm
A’TEST / Arkansas Department of Human Services, Division of Children and Family Services

Positivity Rate

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<tr>
<th>Year</th>
<th>Negative</th>
<th>Positive</th>
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<tr>
<td>2015</td>
<td>268</td>
<td>165</td>
</tr>
<tr>
<td>2016</td>
<td>296</td>
<td>238</td>
</tr>
<tr>
<td>2017 (May 15)</td>
<td>112</td>
<td>108</td>
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Source: A’TEST Consultants, Inc. 2017
Positive test results for THC, the psychoactive component in marijuana that is specifically identified in a drug test, increased 46% between 2015 and 2016.

Other notable increases that occurred in 2016 were cocaine with a 30% increase, and amphetamines 20% increase compared to 2015.
A’TEST / Arkansas Department of Human Services, Division of Children and Family Services

Drug Preference

<table>
<thead>
<tr>
<th>Year</th>
<th>Marijuana</th>
<th>Cocaine</th>
<th>PCP</th>
<th>Opiates</th>
<th>Amphetamines</th>
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<tr>
<td>2015</td>
<td>97</td>
<td>13</td>
<td>2</td>
<td>1</td>
<td>1</td>
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<tr>
<td>2016</td>
<td>142</td>
<td>57</td>
<td>1</td>
<td>1</td>
<td>60</td>
</tr>
<tr>
<td>2017 (May 15)</td>
<td>55</td>
<td>22</td>
<td>2</td>
<td>1</td>
<td>31</td>
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THC+ = 22% of total

Source: A’TEST Consultants, Inc. 2017
A’TEST Positive Rate of Court Ordered Testing (Divorce Decree, Child Custody & Visitation)

Source: A’TEST Consultants, Inc. 2017
A’TEST Positive Rate of Court Ordered Testing (Divorce Decree, Child Custody & Visitation)

- From 2015 to 2016
  - 29% increase in marijuana positive test
- 21% increase in amphetamine positive test
- 42% increase in cocaine positive test
A’TEST /Court Ordered Testing
(Divorce Decree, Child Custody & Visitation)
Drug Preference

Source: A’TEST Consultants, Inc. 2017
Drug Testing Methodologies
Standard Drugs of Abuse Panel

- Amphetamines
  - Methamphetamine
  - Amphetamine
- Cocaine
- Cannabinoids (marijuana)
- Opiates
  - Codeine
  - Morphine
  - Heroin
- Phencyclidine
  - PCP
Other Drugs of Concern

- Benzodiazepines (Valium, Xanax)
- Ecstasy (MDMA)
- Oxycodone (Percocet)
- Fentanyl
- Tobacco
- LSD
- Steroids
- Over-the-counter drugs
How is drug testing done?

- Urinalysis is the most common drug testing method, and the only method currently allowed in federal drug testing programs.

- Other matrixes which can be used for testing:
  - Hair
  - Oral fluids
  - Sweat patch
  - Blood
  - Point of Collection Testing or POCT
  - Fingernail
Urine Drug Testing

**Advantages**

- Highest assurance of reliable results (uniform testing, performance testing, federally approved)
- Least expensive
- Able to test of more drugs than standard 5 panel

**Disadvantages**

- No dose concentration relationship (can only determine presence or absence)
- Specimen can be adulterated, diluted or substituted
- Collection procedure may be considered invasive and embarrassing
- Detection time 2-3 days
Hair Drug Testing

**Advantages**

- Provides a longer estimate of time of drug use
- More difficult to adulterate
- Specimen is more stable
- Good alternative to hair if the donor is “hair impaired” or religion/faith prevents hair cutting

**Disadvantages**

- Inability to detect recent use
- Possibility of hair color bias
- Collection procedures may be considered invasive
- Concerns regarding no head hair - where to collect
- More costly
Fingernail Drug Testing

Advantages

- Long detection periods (3-6 months depending on nail length)
- A nail is 4 times thicker than hair, capturing more of the drug
- Biomarkers become locked in Keratin fibers along entire length

Disadvantages

- Costly
- Can take up to two weeks for detection in Keratin fibers
- Passive exposure will occur
- It takes 100 mg of sample, all 10 fingers @ 2-3mm length (thickness of quarter)
Oral Fluids Drug Testing

**Advantages**
- Sample is easily obtained at any location under direct observation
- Adulteration potential is minimal
- Reflects recent drug use
- Less invasive to collect than urine, hair or blood

**Disadvantages**
- Shorter window of detection
- Limited drug panel due to small volume of specimen
Blood Drug Testing

**Advantages**

- Able to detect a wide variety of drugs
- Test results may be interpreted in relationship to behavior of the donor

**Disadvantages**

- Collection is invasive, health concerns
- Expensive (analytical methods are difficult and time consuming)
- Longer turnaround time
**Point of Collection Testing**

- An inexpensive method of performing the initial screening test
- Limited to urine and oral fluid samples
- Current POCT technology has limited validity testing ability
- Specimen collector may be responsible for reporting test results which could be a conflict
- Not allowed in some states
Point of Collection Cont’d

- Not approved by DOT except for certain NHTSA approved alcohol screening devices which must be confirmed by EBT
- A non negative POCT should always be sent to a certified laboratory for confirmation testing (original or split) not a second specimen collection
Detection Times

- Urine: 48-72 hours (except THC - which can be detected in urine for up to 30 days after use)
- Hair: 7 days to 3 months
- Fingernail: 10 days to 6 months
- Oral fluids: 10-24 hours
- Blood: 10-24 hours
The Testing Process

- Drug Testing is a four step process:
  - Collection
  - Screening
  - Confirmation
  - Review
The Testing Process

- Specimen Collection
  - Identification
  - Explanation of testing process
  - Specimen security (tamper-evident bottle seals, initials)
  - Chain of Custody
The Testing Process

- Specimen Collection / Chain of Custody
  - Documentation of specimen collection, transport, testing and storage
  - Specimen identification started at the point of collection and continued through entire process
  - Eliminates the possibility of specimen mix up, barcoding
The Testing Process

- Screening
  - Specimen seals verified intact; chain of custody complete
  - A portion of the specimen is removed for analysis
  - Specimen is checked for the presence of any unusual characteristics or adulterants
  - Initial testing done by immunoassay, ELISA, or similar technique
The Testing Process

- **Confirmation**
  - Any specimen which tests non-negative is forwarded for confirmation testing by gas chromatography/mass spectrometry (GC/MS) or GC/MS/MS
  - To be a positive test result, specimen must both screen positive and confirm positive.
  - Data review by certifying scientist
Split Specimen

- Under the federal workplace testing program, all samples are collected in a single cup and split into two bottles (Bottles A and B) for transportation to the laboratory.
- Bottle “A” must contain 30 ml; Bottle B must contain at least 15 ml of urine.
- No POCT is allowed.
Troubleshooting the Results of a Drug Test
Medical Review Officer (MRO)

- Review
  - A positive result should be reviewed to determine if it is due to use of illegal substances or by other legal substances
  - The review may be done by a trained professional or by a Medical Review Officer (MRO)
  - An MRO is a licensed physician who has received additional training in drugs of abuse testing and is certified in drug test results interpretation
Interpretation and Verification Process

- The MRO interprets drug test results based on:
  - The laboratory results
  - The donor's explanation and supporting documentation
  - The MRO's medical assessment of the donor's behavior and physical symptoms during the donor interview
- The MRO must report only verified results to the client
- The MRO must not inform the designated contact when a positive, adulterated, or substituted result was verified as negative
Positive Results Unverified

- There are many medications that can cause a positive drug test and must be vetted out appropriately. Some examples include but not limited to:

  - Amphetamine: Vyvanse and Adderall
  - Methamphetamine: Didrex, Vicks Inhaler, Selegiline
  - Marijuana: Marinol, Dronabinol, Sativex, and Epidiolex
  - Barbiturates: Fioricet
  - Benzodiazepines: Valium and Xanax
  - Opiates: Cheritussin, Oxycodone, Hydrocodone
After the review and verification processes have been completed, the MRO reports the final, verified result(s) for a specimen to the designated contact (typically direct to the court).

The MRO will send the report in a manner designed to ensure confidentiality of the information:

- Secure fax, Courier, Mail, or secure electronic transmission
Trying to Beat the Test

“I heard it is easy to beat the test by…..”

- Internet sites
  - A recent Google search for “beat drug test” came up with 4,920,000 hits Advise on how to beat the test and products for sell
- Adulteration
  - urine luck, stealth, klear, hair shampoos, mouthwash for oral fluids
- Dilution (urine)
  - golden seal tea, fizzies, green clean
- Substitution (urine)
Adulterants and Substitution
Alcohol Testing

- Detection times in urine, oral fluids, breath or blood are short (2-8 hours)

- Ethyl glucoronide (ETG) is a unique metabolic enzyme product of alcohol

- Offers an extended window of detection for alcohol consumption

- By using cutoff of 500 ng/mL and review of all positive results by MRO will diminish the possibility that positive result if caused by incidental exposure
The New Arkansas Medical Marijuana Amendments Impact
The States Where It's Legal To Smoke Marijuana

Laws on recreational and medical marijuana use in the US*

- Legalized for recreational & medical use
- Medical use only

Legalized for recreational & medical use
Washington
Washington D.C.
Oregon
Alaska
Colorado
California
Massachusetts
Nevada
Maine

* As of Nov 10, 2016 - laws in some states have not yet taken effect.
Some states not highlighted allow limited medical marijuana access

Source: NY Times
## How Many Legal Marijuana Patients in the United States?

<table>
<thead>
<tr>
<th>State</th>
<th>Medical marijuana patients</th>
<th>State population</th>
<th># of patients per 1,000 state residents</th>
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### Legal Medical Marijuana Patients:

Total medical marijuana users in 21 (out of 23) states and DC with legal medical marijuana (as of Mar. 1, 2016)

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### Estimated Number of Users:

Estimated number of users if medical marijuana were legal throughout all 50 US states and DC (based on avg. of 8.06 patients per 1,000)

- **2,604,079**

### Average:

- **323,086,798**

(US population as of Mar. 1, 2016)
Medical Marijuana Still Conflicts with Federal Law

Under the federal **Controlled Substance Act (CSA)**, marijuana is still classified as a Schedule I Drug.

- Drugs are classified as Schedule I drug if:
  - (A) The drug or other substance has a high potential for abuse.
  - (B) The drug or other substance has no currently accepted medical use in treatment in the United States.
  - (C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

However, the Department of Justice has allowed states to legalize marijuana for **medicinal and recreational** purposes.

The DOJ has listed eight priorities for enforcing violations of the Controlled Substances Act, none of which include prosecuting users of marijuana for medicinal and recreation use.
Medical Marijuana and Substance Abuse

Substance Abuse and Mental Health Services Administration reports in 2015:

- 27.1 million people with past month Illicit drug use age 12 and older
- Of this number, 22.2 million used marijuana (8.3% of the population)
  - Drug and alcohol problems cost roughly $276 billion every year
  - From 2012-14, positive employee marijuana drug test results increased by 6.2% nationally, and between 20-23% in Colorado and Washington

Colorado User Statistics as of August, 2016:

- 63% male; 36% female
  - Average patient is 42-43 years old
  - Most common conditions being treated are severe pain and muscle spasms
  - Seizures only represent 1.4% of users, cancer represents 1.5% of users

Who in Arkansas will Qualify?

Over a half million Arkansans would qualify for medical marijuana!
Arkansas Medical Marijuana Amendment

Qualifying Medical Conditions

- **12** enumerated conditions:
  - Alzheimer’s, Amyotrophic Lateral Sclerosis (ALS), Arthritis, Cancer, Crohn’s Disease, Fibromyalgia, Glaucoma, Hepatitis C, HIV/AIDS, Post Traumatic Stress, Tourette’s Syndrome, Ulcerative Colitis

- **And** a chronic or debilitating disease that produces the following:
  - Wasting Syndrome or cachexia, peripheral neuropathy, severe nausea, seizures, or severe and persistent muscle spasms; or
  - Intractable pain (defined as pain that has not responded to ordinary treatments for more than **6 months**).

- Any other medical condition or its treatment as approved by the Dep’t of Health
Arkansas Medical Marijuana Amendment

Applicability
- Cardholders
  - Qualifying Patient
  - Designated Caregiver
  - Cultivation Facility Agent
  - Dispensary Agent
- Out-of-state visitor with a medical cannabis card issued in their state of residence for a qualified medical condition in Arkansas

Quantity Allowed
- 2.5 oz. of usable marijuana every 14 days

How Dispensed
- Licensed dispensaries
  - At least 20 but no more than 40 dispensary licenses
  - No more than 4 dispensaries in 1 county
Arkansas Medical Marijuana Amendment

How to Obtain a Registry ID Card

- Registry Identification Card issued by the Arkansas Department of Health
- **Written Certification**: document signed by a physician stating the following:
  - (1) in his/her professional opinion,
  - (2) after reviewing the patient’s medical history and current medical condition in the course of a physician-patient relationship,
  - (3) the patient has a **Qualifying Medical Condition** and the potential benefits of the Medical Use of Cannabis would likely outweigh the health risks to the patient. **(Act 5 of 2017 removes this sentence)**
  - Note: The Written Certification should also specify the Qualifying Medical Condition.
  - Note: While it is illegal to prescribe marijuana under federal law, some states have held that a written certification for marijuana is the “functional equivalent” of a prescription for the purposes of some state benefits.
  - You will not be eligible for a card with a felony conviction and cardholders are required to submit to a background check.
It’s Very Easy to Get a Recommendation

Medical Marijuana Evaluations
Get Yours Today
The Doctor Is In
Arkansas Medical Marijuana Amendment

Organizations charged with implementation

- 3 State agencies have 120 days (until March 9) to promulgate new rules
  - **Department of Health***
    - Regulate qualifying patients, medical conditions, designated caregivers, issue registry identification cards, labeling and testing standards, consider petitions to add new qualifying conditions
  - **Medical Marijuana Commission**
    - Create licensing process for dispensaries and cultivations facilities
    - Must accept applications for licenses by June 1, 2017
  - **Alcoholic Beverage Control Division**
    - Create rules for oversight, record-keeping, security, personnel, manufacturing and packaging process, advertising restrictions (also Act 640 of 2017), procedures for disposal of marijuana, inspection and investigation
    - Create licensing process for agents of dispensaries and cultivation facilities
    - Inspect dispensaries and cultivation facilities
  
*The deadline for the Department of Health will likely be extended by at least 30 days.*
Arkansas Medical Marijuana Amendment

Employment, Civil and Criminal Protections

- Creates broad civil and criminal protections
  - Qualifying Patients and Designated Caregivers “shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board for the medical use of marijuana in accordance with this law . . .”

- Creates a rebuttable presumption of lawful activity
  - Qualifying patients and designated caregivers are “presumed to be lawfully engaged in the Medical Use of Cannabis in accordance with this chapter” if in actual possession of a lawfully issued card and a legal amount of Cannabis
    - Presumption can be rebutted by evidence that conduct related to marijuana was not for the purpose of medical treatment
    - Medical use and possession is restricted to 2.5 oz. usable marijuana per qualifying patient or designated caregiver
Arkansas Medical Marijuana Amendment

- In order to take adverse employment action, the employer must have proof of the employee’s public/workplace use OR proof of being “under the influence”
  - This amendment does not permit any person to:
    - Undertake any task *under the influence* of marijuana when doing so would constitute negligence or professional malpractice
    - Possess, smoke, or otherwise engage in the use of marijuana
      - On a school bus
      - On the ground of a daycare center, preschool, primary or secondary school, college or university
      - At a drug or alcohol treatment facility
      - At a community or recreation center
      - In a correctional facility
      - On any form of public transportation
      - Or in a public place

NOTE: The Amendment does not define “under the influence” or “public place”
Arkansas Medical Marijuana Amendment

Employment, Civil and Criminal Protections

- “This amendment does not permit any person to:
  - Operate, navigate or be in actual physical control of any motor vehicle, aircraft, motorized watercraft or any other vehicle drawn by power other than muscular power while under the influence of marijuana.”

- “This amendment does not require:
  - A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana unless federal law requires reimbursement
  - An employer to accommodate the ingestion of marijuana in a workplace or an employee working under the influence of marijuana
  - An individual or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property
  - An individual or establishment in lawful possession of property to admit a guest, client, customer, or other visitor who is inebriated as a result of his or her medical use of marijuana

  NOTE: “Inebriated” is not defined by the Amendment
Arkansas Medical Marijuana Amendment

Amendment by General Assembly
- Arkansas Legislature would not be allowed to make medical marijuana illegal again without voter approval
- Permits General Assembly to amend sections by 2/3 supermajority vote except:
  - Civil and criminal protections for users and caregivers
  - Lawful engagement presumption
  - Limits on minimum and maximum number of dispensaries and cultivation facilities
Relevant Bills That Passed This Session of the Assembly

- Act 5 - Physician notes, FOIA
- Act 438 - Telemedicine Ban
- Act 479 - National Guard
- Act 544 and 545 - Background checks
- Act 593 - Workplace
- Act 640 - Advertising, Child-proof packaging
- Act 740 - Smoking marijuana in presence of under 14/12 vehicle, pregnant, under 21 patients, warning labels
- Act 1023 - Child-packaging and storage, vending, 10mg THC in edibles
Summary Recommendations

- Drug abuse continues to be on the rise after many years of stability
- Drug testing methodologies should be used together depending on the circumstance
- With POCT, use split specimen testing and send the split for confirmation
- Blind sample monitor POCT devices
- Better collector training
- Have a medical review officer determine legitimate or illegitimate use
- How will medical MJ cardholders and caregivers impact adoptions, foster care, parental rights? Can it?
- Will our teen marijuana use increase like it did in other states?
- ....................... Stay tuned in we will see in a year!
Questions?

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