Drug Foes Aren’t High On Civil Liberties

By Gary T. Marx

CAMBRIDGE, Mass. — In the novel “Gorky Park,” the police inspector asks a central character whom she suspects of having stolen her ice skates. She replies, “Everyone. The inspector responds, “So do I.”

In the same way, people in our society who advocate the indiscriminate use of drug tests and lie detectors appear to suspend everyone.

The list of those subject to drug testing has grown daily — military personnel, athletes, reporters, computer programmers, business workers, teachers, airline ticket agents, even high school students. Lie detectors, too, have also become increasingly widespread.

One feature of such testing is that it often has a dragnet quality. Everyone is subject to it. On the surface, this seems equitable. Yet it poses disturbing problems for civil liberties.

There are flaws in nearly all the major arguments for categorical testing. For example, a procedure should be judged only by its reliability. But a fundamental principle of drug testing is that means, as well as ends, have moral component. The argument assumes that the innocent suffer from intrusive investigations of questionable reliability. But even if reliability were not an issue, this argument fails to appreciate the reason why we are sensitive to this.

We value envelope ground letters and the confidentiality of our spouses, and yet a polygraph is a lie detector is not, at will.

The tests are valid because they are based on neutral scientific measurement. Yet the machines are not infallible; neither are the humans interpreting the tests and interpreting the results. The American Psychological Association has concluded that the polygraph is not a lie detector test.

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