



Drug-Impaired Driving Toolkit for Employers

Drug-Impairment Methods of Detection: Admissibility in Court

Oral Fluid

- 🌿 Laboratory testing of oral fluid specimens incorporates validated protocols similar to currently accepted practices for blood testing. Therefore, oral fluids have been considered extremely reliable and admissible.
- 🌿 On-site oral fluid devices vary widely.
- 🌿 Oral fluid devices are mostly used as screening devices where additional specimens will be collected for laboratory testing; therefore, admissibility is not a significant issue.
- 🌿 In *Maryland v. King*, the U.S. Supreme Court recognized that oral fluid DNA testing is far less intrusive, dangerous, and painful than blood testing.
- 🌿 *Maryland v. King* also recognized that taking a cheek swab to verify a person's identity through DNA testing is a legitimate police booking procedure and permissible under the Fourth Amendment.



Drug Evaluation and Classification (DEC)/Drug Recognition Expert (DRE) Programs

- 🌿 The DRE/DEC program has been considered an effective although imperfect approach to detect drug impairment.
- 🌿 On February 3, 2000, The Supreme Court of Washington, En Banc. STATE of Washington, Appellant, v. Michael BAITY and Edward Arnestad, Respondents Case No. 66876 found that "DRE evidence is admissible under the previous Frye case decision of scientific "soundness" because it is generally accepted in the relevant scientific communities".
- 🌿 The Supreme Court of Washington also ruled that a properly qualified expert may use the 12-step protocol and the chart of categories of drugs to relate an opinion about the presence or absence of certain categories of drugs in a suspect's system."