Topical primer on faulty drug test results impacting pregnant patients
Courtesy of Shoshana Walter and Jill Castellano
Last updated on Feb. 10, 2026

Here are some key takeaways from The Marshall Project's extensive reporting on how the use of faulty drug tests on pregnant patients across the country is leading to investigations and arrests:

1. **Drug testing policies vary widely by hospital and state.** Not every patient in the U.S. is drug tested when they give birth. It's left up to hospitals to determine who gets tested. Some hospitals drug test every single patient, while others test only those who meet certain criteria (for example, a patient with limited prenatal care, a history of drug use or high blood pressure). Still others leave the decision up to individual providers, which can introduce bias in who gets tested.

2. **Many women don't know they are being tested.** Leading medical groups, such as the American College of Obstetricians and Gynecologists, advise hospitals to always obtain consent before drug testing a patient. Many women sign general consent to care forms, but these forms may not specifically mention drug testing, or that positive results might be shared with authorities such as a child welfare agency or law enforcement. A lot of hospitals have blanket policies of drug testing every patient who comes in to give birth, often without patients' explicit or informed consent — a policy that has been called discriminatory and a violation of civil rights by civil rights groups and the attorneys general of New York and New Jersey.

3. **Health care providers are often required to refer patients to child welfare authorities.** Most states have mandatory reporting laws that require health care providers to alert child welfare authorities anytime they suspect a baby has been exposed to drugs in the womb. Under many state laws, health care providers can be criminally charged if they fail to report. These laws also protect physicians who report "in good faith" — insulating hospitals from lawsuits if test results are wrong. So the incentive is there to report patients after they've tested positive on one of these tests, even if there has been no confirmation that the patient actually used illicit substances.

4. **Testing methods are error prone.** Hospitals typically use pee-in-a-cup tests that are fast and cheap, but have false-positive rates as high as 50%. Hospitals could order more precise tests, but more accurate testing takes longer and is much more expensive. While a urine screen can cost as little as $10 per test, confirmation testing requires equipment that costs hundreds of thousands of dollars, in addition to the cost of expert personnel and lab certification. And not a single state requires hospitals to confirm test results before reporting them, which means these policies are funneling thousands of families every year into the child welfare system and the criminal justice system, without any guarantee that the test results are accurate.

5. **Workplace drug testing regulations offer more safeguards.** Many workers drug tested on the job are entitled under state and federal laws to confirmation tests and a review from a specially trained doctor who knows how to interpret the results. These protections have existed for decades. In the '90s, a federal committee recommended that these same protections be put in place for pregnant patients, but state and

federal lawmakers failed to mandate safeguards, and hospitals have continued the practice of widespread drug testing.

6. **Bias is rampant, and screening criteria vary widely.** At one hospital, providers ordered a drug test if the pregnant woman had bad teeth. Multiple studies have found that low-income, Black, Hispanic and Native American women are more likely than White women to be drug tested when they give birth, more likely to be investigated, and less likely to be reunited with their children after they've been removed. Here are some of those studies:
    - Association of Race With Urine Toxicology Testing Among Pregnant Patients During Labor and Delivery, Journal of the American Medical Association, April 2023
    - Urine drug screening on labor and delivery, American Journal of Obstetrics & Gynecology, November 2022
    - Racial difference in urine drug screening on a labor and delivery unit, American Journal of Obstetrics & Gynecology, January 2022

Note: You can learn more about this topic from Shoshana Walter in this Marshall Project "Ask Me Anything" on Reddit.