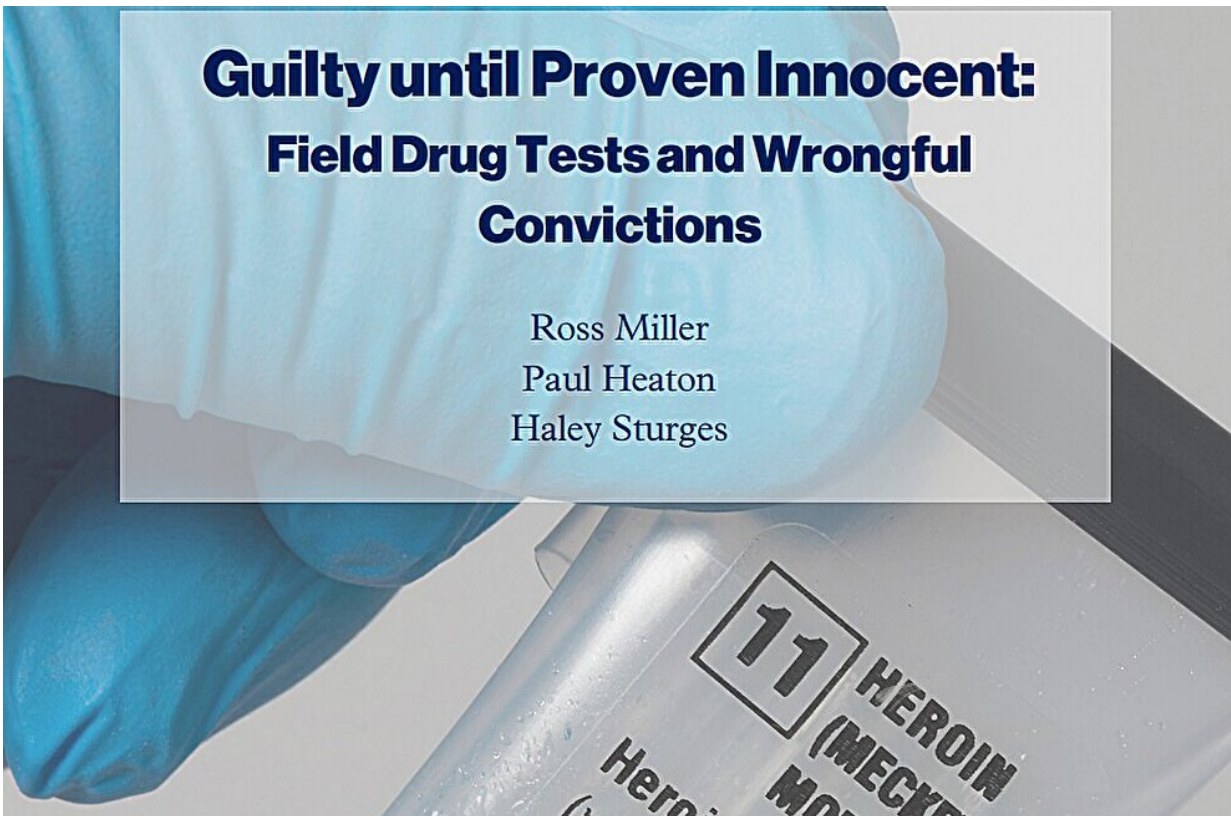


Report finds 'false positive' field drug tests lead to wrongful convictions

January 22 2024



Credit: Quattrone Center for the Fair Administration of Justice/University of Pennsylvania

A new research report providing the first-ever comprehensive analysis of presumptive drug field test usage across law enforcement agencies in the United States has been released by the Quattrone Center for the Fair

Administration of Justice at the University of Pennsylvania Carey Law School.

Utilizing a nationwide survey of agencies, [the report](#), "Guilty Until Proven Innocent: Field Drug Tests and Wrongful Convictions," shows that the use of presumptive field tests in [drug](#) arrests is one of the largest, if not the largest, known contributing factor to wrongful arrests and convictions.

The [report](#) uses [survey data](#) and annual national estimates of drug arrests to examine the impact of the tests on wrongful arrests and racial disparities, and their subsequent impact on prosecutions and [criminal convictions](#).

According to the report, approximately 773,000 of the more than 1.5 million drug arrests conducted in the United States each year involve the use of color-based presumptive tests, despite the known accuracy issues associated with the tests (e.g., false positives indicating the presence of an illegal drug where none exists).

While the true error rate of these tests remains unknown, the available data suggests that around 30,000 people who do not possess controlled substances are falsely implicated by these tests and arrested each year.

"Presumptive field drug test kits are known to produce 'false positive' errors and were never designed or intended to provide conclusive evidence of the presence of drugs," says Ross Miller, Quattrone Center Assistant Director and lead author of the report.

"But in our criminal legal system, where plea bargaining is the norm and actual fact-finding by trial is exceedingly rare, these error-prone tests have become de facto determinants of guilt in a substantial share of criminal cases in the United States and, as a result, a significant cause of

wrongful convictions."

Although originally developed as a preliminary-only testing method due to their unreliability and unknown false-positive rate, widespread use of these tests has negatively impacted the entire criminal justice process. Almost 90% of prosecutors surveyed by the Quattrone Center reported that guilty pleas are permitted in their jurisdictions without verification of the field test by an accredited toxicology laboratory.

Further, 67% of drug labs in the national sample reported that they are not asked to review samples when the case is resolved by plea agreements, and 24% do not receive samples for testing when there are field test results available. Even when labs do receive samples, 46% reported that they do not conduct a confirmatory test if a guilty plea has already been filed for a case.

The report also details racially disparate impacts resulting from these tests, finding that a Black individual is three times more likely to experience a drug arrest with a false positive from a field test compared to a white individual.

"Every year, tens of thousands of innocent Americans are arrested on the basis of \$2.00 roadside drug test kits that are known to give [false positives](#). Now, this landmark study by the Quattrone Center demonstrates the scope of the harm done by these inaccurate [test](#) kits, including the disproportionate impact to African Americans," says Des Walsh, Founder of the Roadside Drug Test Innocence Alliance.

"Based on this study, we look forward to working with [law enforcement](#) and other interested parties to implement policies and adopt better testing techniques to substantially reduce the tragic number of innocent people arrested and convicted because of these false tests."

To combat wrongful convictions and de-emphasize the reliance on error-prone field testing in arrests, the report recommends several policy reforms, including conducting regular blind audits of cases using field drug tests to establish error rates. The report further encourages police to "cite and release" people who are arrested for drug possession—pending confirmatory lab tests—as the consequences of an arrest, like detention, can coerce a high rate of pleas from the innocent.

The report also recommends requiring confirmatory testing whenever a guilty plea is accepted while providing a right to withdraw the [guilty plea](#) following a finding that there was no controlled substance present. Finally, it advocates for limiting or forbidding the use of field drug tests and/or using more accurate tests.

"The relative volume of drug cases in criminal cases overall, combined with the widespread reliance on error-prone field testing in arrests, indicate that this is a significant and underexplored vector for [wrongful convictions](#)," adds Quattrone Center Academic Director and Professor of Law Paul Heaton.

"Law enforcement, prosecutors, defense attorneys, and the public all want an accurate criminal adjudication process. Reforming how presumptive tests are used could advance this shared goal."

More information: Guilty Until Proven Innocent: Field Drug Tests and Wrongful Convictions. www.law.upenn.edu/institutes/q...eld-drug-test-study/

Provided by University of Pennsylvania

Citation: Report finds 'false positive' field drug tests lead to wrongful convictions (2024, January

22) retrieved 27 April 2024 from <https://phys.org/news/2024-01-false-positive-field-drug-wrongful.html>

This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.