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Newborns' exposure to drugs: Discrepancies in mandatory reporting

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Cases of newborn exposure to illicit substances are much less likely to be reported to the Department of Children and Family Services (DCFS) than to the Department of Public Health (DPH) in Illinois, despite regulations that mandate both agencies receive reports, according to a study forthcoming in *Child Abuse & Neglect*.

In 14 states and the District of Columbia, exposure to illicit substances in utero is considered a form of child abuse or neglect. In May 2018, the issue made national news in a *New York Times* feature on

children affected by the opioid epidemic, which discusses in-depth how various states address this issue and the effects of drug use on newborns and children.

On the federal level, the Child Abuse Prevention and Treatment Act of 1974 makes funding for drug abuse prevention and treatment services contingent on the reporting of all cases of substance-exposed newborns. But on the state level, requirements vary as to what triggers testing and reporting.

This study, led by researchers mostly based out of the University of Illinois, focuses on their home state in part because of the mandatory reporting policies there. Illinois does not have laws that outline which infants should receive testing. Rather, hospitals determine policies individually as to which infants should be screened. For those infants who are screened and test positive for substances, though, the state requires that these cases be reported both to the DPH and DCFS. Reports to the DCFS might then trigger the removal of the infant from the parent or other interventions. In light of these mandatory reporting laws, this study allows the authors to investigate whether these laws are fulfilled in practice and, if not, the factors associated with deviations from the mandate.

This research looks at differences in reporting by race and ethnicity as well as by geography, focusing on the rural-urban divide. This work builds on past research about racial disparities in child welfare. The researchers compared the number of reports filed with the DPH and DCFS in 2012 and analyzed related variables, including the type of substance involved. The authors note that the discretionary nature of Illinois screening practices serves as a limitation of the study.

They found:

- Just over 1 percent of total live births — 1,838 births — resulted in substance exposure reports to the DPH.
- The DCFS received less than one-quarter of this number of reports — 459 in total. The authors write that this "suggests that social services referrals are more conservatively approached than reports to public health agencies."
- Over 75 percent of DCFS reports were believed to have credible claims for maltreatment.
- Over 50 percent of the DPH's reports involved cannabinoids; this was the most common substance involved for white, black and Hispanic infants. (In Illinois, infant marijuana exposure is not considered maltreatment according to DCFS policy, though state statute contradicts this policy. Even in states where marijuana is legal, positive infant screens for THC can trigger the notification of child protective services.)
- White infants had more DPH reports for opioids than cocaine; the reverse was true for black infants. Hispanic infants had slightly more reports for opioids than cocaine.
- Compared to the DPH data, which had roughly equal reports for black and white infants, more white infants than black infants were reported to DCFS, and more of these reports involving white infants indicated credible evidence of maltreatment. The researchers suggest this might be because of the substances involved, as black infants more commonly were reported for cannabinoids, whereas white infants had comparatively more reports of opioids and cocaine.
- The authors suggest the gap in reports between the DPH and the DCFS might be explained partially by the fact that infants might test positive for illicit substances as a result of

their mothers' addiction treatment (e.g., methadone maintenance therapy). Still, they note, this violates the law, which requires a DCFS report for all positive drug tests.
- The DPH and DCFS both received the most reports from rural regions as compared to urban and suburban areas. However, DCFS reports for infants from rural areas were less likely to be categorized as credible claims for maltreatment than for those from urban areas.

The authors conclude that future research might examine the gap between DPH and DCFS reporting. They write, "Variations in the legal architecture both at the interstate and intrastate levels allow for developing of effective policy, but once identified, regulations should be clearly implemented and reinforced to maximize public health." They suggest state attorneys review "whether DCFS is appropriately executing its regulatory powers," and possibly amending state laws accordingly. They also suggest that clinicians consider creating statewide protocols to address discrepancies in testing and reporting infant exposure to illicit substances.

Looking for more on drug use and policy in the U.S.? *Journalist's Resource* has covered the narrowing race gap in prescription opioid use, safe injection sites' role as a path to treatment and how to write about fentanyl and synthetic opioids.

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Citation: Hoerr, Jordan J.; et al. "Substance-exposed Newborn Infants and Public Health Law: Differences in Addressing the Legal Mandate to Report," *Child Abuse & Neglect*, July 2018. DOI: 10.1016/j.chiabu.2018.04.021.

Drug Policy, Health Care, Public Health, Race, Studies babies, child abuse, Child Abuse Prevention and Treatment Act, child maltreatment, child welfare, cocaine, dcfs, department of child and family services, department of public health, dph, drugs, illinois, infants, mandatory reporting, marijuana, Marijuana legalization, Medical marijuana, mothers, neglect, newborn, opioids, pregnancy, prenatal