



## Hair Testing for Drugs: A Legal Summary

Forensic hair drug testing has found widespread acceptance throughout the United States. There have been some well-publicized cases in which forensic hair drug testing was used to assist the fact-finding process. For example, the FBI performed hair testing for cocaine during the investigation of Washington, D.C. Mayor Marion Barry. However, many more cases in which hair drug testing was used have not received wide publicity. Our experience shows that when one side in a legal dispute or investigation discusses the use of hair drug testing to evaluate the drug use history of defendants, plaintiffs or suspects, the change, charges are dropped, pleas are entered, or settlement processes begin.

The types of cases with which we have been involved include: divorce cases, child custody proceedings, child welfare cases, probation and parole tribunals, criminal prosecutions (predominantly homicide and sexual assault cases), death investigations, law enforcement-derived internal investigations, military court martial proceedings, labor proceedings (including medical staff investigations and wrongful termination hearings) and a wide assortment of civil cases (such as those involving medical misadventures and treatment of the elderly).

The following are two recent cases in which forensic hair drug testing results were entered into legal proceedings:

***United State of America v. Anthony Medina - 749 F. Supp. 59 (E.D.N.Y. 1990)***

In probation revocation proceedings, Judge Weinstein held that hair drug testing "...was sufficiently reliable and has attained sufficient acceptance to the scientific community to be admissible..."

***Burgel v. Burgel - 533 N.Y.S. 2d 735, 1988 (reprinted in 57 U.S.L.W. 2311 and discussed in the California Family Law Monthly, Vol. 3, No. 7, February 1989)***

A New York appellate court agreed with a trial court's discovery policy permitting hair drug testing for cocaine to be used in an examination to uncover evidence of the mother's habitual drug use. This decision was recently upheld again in the Matter of Adoption of Baby Boy L., 596 N.Y.S. 2d 997 (Fam. Ct. 1993).



In addition, there are literally dozens of articles in scientific and legal journals related to the use of hair testing for drugs of abuse. A few of these citations which attorneys may find to be helpful include:

*The National Law Journal - July 27, 1987*

The New Wave in Narcotics Testing: Analysis of Hair Traces Drug Use

*Journal of the Oregon Criminal Defense Lawyers Association - August 1987*  
The Hairy Side of Drug Testing

*The Army Lawyer - DA Pamphlet 27-50-206, February 1990*  
Hair Analysis - Overcoming Urinalysis Shortcomings

*National Institute of Justice Research in Brief - January 1993*  
Testing Hair for Illicit Drug Use

National Medical Services has provided testing in support of investigations and litigation nationwide, as well as cases in other countries. We provide state of the art kits to help ensure the integrity of the collection. Our forensic experts have testified in or provided depositions for cases in:

Alaska  
Colorado  
Florida  
Louisiana  
New Jersey  
Pennsylvania  
Tennessee  
U.S. Military

California  
Delaware  
Illinois  
Mississippi  
New York  
South Carolina  
Texas

Forensic hair drug testing is an expanding field of importance. It is our goal to remain at the cutting edge of the field, while maintaining our conservative and careful approach to scientific analyses and chain of custody requirements. We appreciate your interest in this work, and stand ready to serve you when the need arises.