

**STATE OF MINNESOTA  
Hennepin COUNTY DISTRICT COURT  
Fourth JUDICIAL DISTRICT**

**Potentially Hazardous Exhibit Procedures**

January 1, 2004

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# Introduction

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## Regulatory Basis

The Fourth Judicial District Court employees are protected by the Minnesota Employee Right to Know Act (MN-ERTK), under Minnesota Statute §182.653, *Rights and Duties of Employers*.

The MN-ERTK requires employers to evaluate their workplaces for the presence of hazardous substances, harmful physical agents, and infectious agents and to provide information and training to employees concerning those substances or agents to which employees may be exposed. The Minnesota Employee Right To Know Act (MN-ERTK) rules are available online at <http://www.revisor.leg.state.mn.us/arule/5206/>

The Fourth Judicial District Court has completed an inventory of hazardous substances, harmful physical agents, and infectious agents. Based on this inventory, the Fourth Judicial District Court has determined that employees may be potentially exposed to hazardous substances and infectious agents. This document describes the handling of potentially hazardous exhibits established by and for the Fourth Judicial District. Employees are not exposed to hazardous physical agents such as defined in MN-ERTK rules

Compliance with the procedures outlined in this document does not in itself constitute compliance with applicable state, federal health and/or Hennepin County safety policies and procedures. For more information contact your departmental Health and Safety Team Leader.

## Evidence Integrity

In addition to protecting the health and safety of District Court employees, the Court has an interest in ensuring that evidence integrity is maintained and that the property rights of individuals are preserved.

These procedures are safety measures regarding the handling of certain items, which may be used as exhibits. Nothing contained in these procedures is intended to override the inherent power of the Court to render rulings, consistent with the rules of evidence and the rules of civil and criminal procedure, on the handling of exhibits being offered into evidence before the Court.

# Exhibit Procedures

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## OFFERING EVIDENCE

If a party intends to offer into evidence blood or other potentially hazardous substances at a hearing or trial, the party must give verbal notice to the judge hearing the case no later than 24 hours prior to offering the evidence describing the nature of the materials.

The Court, in its discretion, may issue an order regulating the handling, use and disposition of the materials and/or substances concerning any of the following matters:

- a jury view and/or photograph in lieu of transportation of the hazardous substance to the courthouse;
- appointment of a custodian;
- appointment of a disposition expert (hazardous substance contractor);
- appointment of a medical expert;
- the amount to be transported or viewed;
- the container in which the hazardous substance is to be stored;
- the location and duration of handling and storage of the hazardous substance;
- the disposition of the hazardous substance; and
- other matters intended by the court to safeguard the public and the evidentiary record.

## FAILURE TO COMPLY

Failure to provide timely notice may be grounds for excluding or delaying the submission of hazardous substances in the Courthouse.

# **Containment Procedures**

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The following procedures have been developed to minimize exposure and potential injury of District Court employees and others involved in judicial proceedings related to evidence admission and handling.

## **POTENTIALLY HAZARDOUS SUBSTANCES AND SHARPS**

Potentially hazardous substances must be contained and/or stored in an approved container and/or storage bag, as outlined below, strong enough to prevent breakage and contain spillage. The outside of the container and/or storage bag must:

- clearly identify the contents
- be marked with appropriate hazardous warnings (e.g. corrosive, toxic) or labeled with a biohazard label, or both; and
- be labeled as required by city, state and federal regulations.

Bloodied clothing must be dry and shall be submitted in a sealed wrapping or package that is properly marked and labeled.

Blood vials must be submitted in approved secondary containers that are properly marked and labeled.

Contaminated sharps (hypodermic needles, razors, knives, etc.) must be submitted with protective coverings or within protective containers. Examples include sheathed knives and capped needles placed in sealed evidence bags. Contaminated sharps that cannot be sheathed or capped shall be enclosed in sealed, puncture-resistant containers.

## **NARCOTICS**

All drugs/narcotics are to be submitted in clear heavy-duty plastic bags or other types of transparent non-breakable containers. The access point of the bag or other container must be completely sealed with exhibit tape and properly marked and labeled.

## **GUNS & AMMUNITION**

All live ammunition is to be submitted to the Court in labeled and sealed envelopes.

Firearms must have all ammunition removed prior to submission to the Court. When submitted, the firearm must be in a condition that will not allow the trigger to operate. For example, firearms must have bolts removed and taped securely to the side or locked to the rear, cylinders swung out, loading gates open, or slides or breeches locked open.

## **FLAMMABLE, EXPLOSIVE, & REACTIVE MATERIALS**

Flammable, explosive and reactive materials (e.g., black powder, or other explosive or highly reactive materials, excluding ammunition) shall be rendered non-explosive and/or non-reactive prior to submittal to the court.

## **OTHER POTENTIALLY HAZARDOUS SUBSTANCES**

If any object has the potential of being a hazardous substance, it must be properly sealed, labeled and marked as such.

## **IMPROPERLY SUBMITTED EVIDENCE**

Evidence that does not meet District Court containment specifications for evidence submission may not be accepted. In order to accommodate the needs of the court, a vendor under contract with the court may be contacted to contain or otherwise modify evidence to meet evidence requirements prior to submission to the court. In such instances a standard minimum fee of \$300 plus the cost of the containment will be charged to the submitting party.

# **Safekeeping of Exhibits During Trial**

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Before placing any exhibits in storage, the clerk responsible for exhibit storage is required to complete an inventory of the exhibits being received before placing them in storage. Upon completion of the inventory, the clerk responsible for storage must date and sign the Exhibit List certifying which exhibits have been placed in storage during trial.

## **OVERNIGHT STORAGE**

Storage of exhibits overnight during a trial must be in either the designated exhibit storage area or a locked exhibit cabinet in the courtroom/chambers. If there are no lockable exhibit storage cabinets available, exhibits may be stored in the courtroom overnight only if authorized by the judge. Overnight storage of biohazardous materials, controlled substances, explosives, flammable materials and/or other potentially hazardous substances must be in a locked area or the designated storage area. Additionally:

- Prior to placing exhibits in storage, the clerk will insure that exhibits needing special storage containers are adequately packaged to prevent contamination of the area, odor, breakage or spillage.
- Before a firearm is placed in storage, it must be checked to be sure that there is no ammunition in it. All firearms must be stored in sealed gun cases.
- Perishable exhibits or exhibits too large for the court's designated storage area will be stored in a manner and in a place approved by the trial judge.

# Return of Exhibits

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At sentencing, the court, at counsel's request, will provide counsel the opportunity to be heard as to the disposition of trial exhibits. In the event counsel does not request a disposition of exhibits, exhibits shall immediately be returned to the offering party for either safekeeping or for transmittal to the appropriate law enforcement or investigative agency for safekeeping.

In the event counsel requests a hearing for specific disposition of such exhibits, the court shall balance the following factors in fashioning such an order.

1. The safety of district court employees;
2. The public safety;
3. The preservation of the trial record for appeal;
4. The rights and interests of the parties;
5. Any other factors that bear on the fair, efficient and safe administration of justice.

The following are presumed to be appropriate dispositions:

1. Live ammunition, firearms, drugs, alcoholic beverages, perishable substances, flammable substances, hazardous substances, contaminated substances, and other potentially hazardous substances as identified by District Court shall be returned to the offering party for either safekeeping or for transmittal to the appropriate law enforcement or investigative agency for safekeeping.
2. Items that are unwieldy due to bulk or weight may be returned to the offering party.
3. Exhibits not identified above may be kept by District Court Administration.
4. All exhibits may be destroyed by the custodians of the exhibits after the expiration of sentence. Exhibits may be disposed of earlier with the consent of the court and prosecutor except that biological and fingerprint evidence related to the identity of the perpetrator may be disposed of early only after notice to the defendant and defense counsel and an opportunity to object.
5. Any party wishing to preserve exhibits or items beyond the time limits in paragraph 4 may file and serve an appropriate motion on the custodian of the exhibit or item before the date of destruction. Any person receiving such a motion shall preserve all exhibits and items until final order of the Court.
6. District Court staff shall label all exhibits, before dispersal, with the District Court case number and the date of permissible destruction.

# Employee Safety

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## EXPOSURE TO HAZARDOUS SUBSTANCES

If a District Court employee is exposed or believes he/she has been exposed to hazardous substances, the employee should immediately wash the affected area AND report the incident to the employee's supervisor. The supervisor is responsible for ensuring that a First Report of Injury is submitted to worker's compensation within seven (7) calendar days from the date of the incident. The supervisor shall contact a licensed medical professional if warranted. A licensed medical professional should be contacted within two (2) hours of exposure to potentially infectious agents.

District Court recommends that employees seeking medical care for work-related injury obtain services through an Occupational Medicine Clinic. Employees may, at their discretion, seek medical care through their personal physician.

## SPILL RESPONSE

(THIS WILL NEED TO BE DETERMINED AT THE LOCAL LEVEL-see below for Hennepin County example)

*Example: Hennepin County Building Operations will facilitate the cleanup and decontamination of spills and/or releases of hazardous substances in District Court. In the event a spill occurs, block off the area and contact building operations for assistance, please note contact information by location below:*

*Div I: Government Center: 612-348-5133*

*Div II: Brookdale: 763-569-3680*

*Div III: Ridgedale: 952-541-6283*

*Div IV: Southdale: 952-608-0934 (pager)*

*Juvenile Justice Center: 612-348-2887*

*Public Safety Facility: 612-596-7740 or 612-596-7763*

*Family Justice Center: 612-596-7179*

# Acknowledgments

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Special thanks go to the following individuals for their contributions and feedback.

Andy Mitchell, Hennepin County Attorney  
C. Lynn Fundingsland, Minneapolis City Attorney  
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Court Executive Team  
David Wolff, Environmental Health and Safety  
Deb Kempf, Hennepin County District Court  
Hennepin County Criminal, Civil and Executive Committee  
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Janet Marshall, State of Minnesota  
Janina Wresh, Hennepin County Sheriff's Department  
Jennifer Bredenberg, Environmental Health and Safety  
JoAnn Gracyasz, Hennepin County District Court  
Judge Beryl Nord, Hennepin County District Court  
Judy Rehak, Attorney-State Supreme Court  
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Ken Bergstrom, Hennepin County District Court  
Kerstin Hammarberg, Minneapolis Police Department  
Linda Milburn, Hennepin County District Court  
Lt. Rick Werenicz, Hennepin County Sheriff's Department  
Marsha Unthank, Hennepin County District Court  
Mike Kelley, Hennepin County District Court  
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Richard D. Schultz, Hennepin County Risk Management Division  
Rita Weimar, Hennepin County Criminal Division  
Rudi Anders, State Supreme Court  
Toni Beitz, Hennepin County Attorney  
Vicki Riven, Hennepin County District Court

# Definitions

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Biohazard label	A label meeting the requirements of the Occupational Health and Safety Administration (OSHA) Bloodborne Pathogen Standard 29CFR1910.1030 for biohazard labels.
Biohazardous materials	Biohazardous materials are materials of biological origin that could potentially cause harm to humans, domestic or wild animals, or plants. Biohazardous materials may be infectious or toxic non-infectious in nature.
Bloodborne pathogen	Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).
Contaminated	The presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.
Contaminated Sharps	Any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.
Controlled substances	Drugs and drug products regulated under Controlled Substances Act.
Decontamination	The use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens or potentially infectious agents on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.
Drugs	(see Controlled substances)
Expiration of Sentence	The date a defendant is either discharged from probation without execution of sentence or the date a defendant serving an executed sentence is discharged from supervised or special release.
Explosive	A substance, especially a prepared chemical, that has the potential to explode or cause an explosion.
Exposure Incident	A specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

Flammable	<p>A chemical that includes one of the following categories:</p> <p>(a) "Aerosol, flammable." An aerosol that, when tested by the method described in 16 CFR 1500.45, yields a flame projection exceeding 18 inches at full valve opening, or a flashback (a flame extending back to the valve) at any degree of valve opening.</p> <p>(b) "Gas, flammable." (1) A gas that, at ambient temperature and pressure, forms a flammable mixture with air at a concentration of 13 percent by volume or less; or (2) A gas that, at ambient temperature and pressure, forms a range of flammable mixtures with air wider than 12 percent by volume, regardless of the lower limit.</p> <p>(c) "Liquid, flammable." Any liquid having a flashpoint below 100°F (37.8°C), except any mixture having components with flashpoints of 100°F (37.8°C) or higher, the total of which make up 99 percent or more of the total volume of mixture.</p> <p>(d) "Solid, flammable." A solid, other than a blasting agent or explosive as defined in 1910.109(a), that is liable to cause fire through friction, absorption of moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard. A solid is a flammable solid if, when tested by the method described in 16 CFR 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.</p>
Harmful physical agent	Heat, noise, ionizing radiation and non-ionizing radiation as defined in Minnesota rules 5206.0500 HARMFUL PHYSICAL AGENTS. See text at <a href="http://www.revisor.leg.state.mn.us/arule/5206/0500.html">http://www.revisor.leg.state.mn.us/arule/5206/0500.html</a> .
Hazardous substance	Substances defined and listed in Minnesota rules 5206.0400 HAZARDOUS SUBSTANCES. See text at <a href="http://www.revisor.leg.state.mn.us/arule/5206/0400.html">http://www.revisor.leg.state.mn.us/arule/5206/0400.html</a> .
Infectious agent	Agents defined and listed in Minnesota rules 5206.0600 INFECTIOUS AGENTS. See text at <a href="http://www.revisor.leg.state.mn.us/arule/5206/0600.html">http://www.revisor.leg.state.mn.us/arule/5206/0600.html</a> .
Licensed Healthcare Professional	A person whose legally permitted scope of practice allows him or her to independently perform the activities required by under the Bloodborne Pathogen standard - Hepatitis B Vaccination and Post-exposure Evaluation and Follow-up.
Narcotics	(see Controlled substances)

Other Potentially Infectious Materials	(1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids; (2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and (3) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.
Parenteral	Piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions.
Personal Protective Equipment	Specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.
Reactive	Tending toward decomposition or other unwanted chemical change during normal handling or storage. A chemical that, in the pure state, or as produced or transported, will vigorously polymerize, decompose, condense or become self-reactive under conditions of shocks, pressure or temperature.
Secondary container	A second container which prevents leakage during handling, processing, storage, transport, or shipping.

# Forms

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# CRIMINAL EXHIBITS

## Defense Exhibits

Case No. \_\_\_\_\_ Expiration of Sentence Date \_\_\_\_\_ Page \_\_\_\_\_

STATE OF MINNESOTA -vs- \_\_\_\_\_  
Defendant

\_\_\_\_\_  
Judge Clerk

\_\_\_\_\_  
Attorney for State Attorney for Defendant

Defendant Exhibits	Rec'd by Courtroom	Rec'd by Admin	Returned Exhibits	Date	Initials
1)					
2)					
3)					
4)					
5)					
6)					
7)					
8)					
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10)					
11)					
12)					
13)					
14)					
15)					
16)					
17)					
18)					
19)					
20)					

Deposited by \_\_\_\_\_ Received by \_\_\_\_\_ Date \_\_\_\_\_

**DEFENDANT EXHIBITS**  
 Released to \_\_\_\_\_ by \_\_\_\_\_ Date \_\_\_\_\_

Returned to \_\_\_\_\_ by \_\_\_\_\_ Date \_\_\_\_\_

# CRIMINAL EXHIBITS

## State's Exhibits

Case No. \_\_\_\_\_ Expiration of Sentence Date \_\_\_\_\_ Page \_\_\_\_\_

STATE OF MINNESOTA -vs- \_\_\_\_\_  
Defendant

\_\_\_\_\_  
Judge Clerk

\_\_\_\_\_  
Attorney for State Attorney for Defendant

State Exhibits	Rec'd by Courtroom	Rec'd by Admin	Returned Exhibits	Date	Initials
1)					
2)					
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Deposited by \_\_\_\_\_ Received by \_\_\_\_\_ Date \_\_\_\_\_

STATE EXHIBITS  
 Released to \_\_\_\_\_ by \_\_\_\_\_ Date \_\_\_\_\_

Returned to \_\_\_\_\_ by \_\_\_\_\_ Date \_\_\_\_\_

Deft Name \_\_\_\_\_

**CRIMINAL EXHIBITS DESTRUCTION  
LIST**

Case # \_\_\_\_\_  
Date \_\_\_\_\_

	<b>Exhibit Item</b>	<b>County Sheriff</b>	<b>Bio-Cleaning</b>	<b>District Court</b>
1				
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10				
11				
12				
13				
14				
15				
16				

**Authorized Signature of Receiving  
Party for County Sheriff's  
Department** \_\_\_\_\_

**Authorized Signature of Receiving  
Party for Bio-Cleaning** \_\_\_\_\_

**Authorized Signature of Receiving  
Party for County  
District Court** \_\_\_\_\_