

	WASHINGTON COUNTY Court Administration  <i>Standard Operating Procedures</i>	Number: Date: 1/9/12  Revision:	No. of Pages: 11
Chapter:	Subject: <b>Handling of Weapons and Potentially Hazardous Exhibits</b>		

AUTHORITY	Minnesota Statute §182.653, <i>Rights and Duties of Employers</i>
PURPOSE	To minimize exposure and potential injury of District Court employees and others involved in judicial proceedings related to evidence admission and handling.
APPLICABILITY	Blood Vials, Bloodied Clothing, Sharps, DWI & Crim Sex Kits, DNA Kits, Narcotics, Guns & Ammo, and Flammable, Explosive & Reactive Materials
POLICY	MN State Court System Administrative Policy No. 2  Minnesota Judicial Branch Policy 507

**THIS POLICY APPLIES TO ALL HEARINGS AND TRIAL PROCEEDINGS HELD IN WASHINGTON COUNTY.**

**I. Offering Evidence**

- A. The offering party must provide written notice to the Court at least one week prior to offering the evidence describing the nature of the materials.
- B. The Court shall review the procedures for handling the weapon or potentially hazardous exhibit before the intended use of the exhibit.

**II. Failure to Comply**

- A. Failure to provide timely notice may be grounds for excluding or delaying submission of the weapon or potentially hazardous exhibit to the Court.

**III. Containment**

**A. Firearms/Ammunition and Other Weapons**

1. Any party intending to offer a weapon as evidence shall give written notice to the Court and the WCSO Court Security Commander or designee of that intent at least one week prior to the commencement of the trial or hearing.

2. Firearms must have all ammunition removed prior to submission to the Court.
  3. When submitted, the firearm must be in a condition that will not allow the trigger to operate, i.e. disabled by trigger lock.
  4. Firearms and other weapons must be submitted in a labeled box or plastic sheathing. (**See Example 1**)
  5. All live ammunition is to be submitted to the Court separately in labeled and sealed envelopes.
  6. No one shall be allowed to display a firearm or weapon until foundation for its admissibility has been laid.
    - a. If counsel wishes to display a weapon during opening statements, he/she may do so by photograph or drawing.
  7. Once the weapon has been received into evidence, it shall be placed in the custody of the court clerk for the duration of the trial.
    - a. At no time shall a weapon be placed on counsel tables or at the witness box except with the advance permission of the Court.
  8. Firearms and ammunition shall be kept separate in the courtroom.
    - a. The clerk shall have a secure lock box in which to place ammunition during testimony.
  9. If firearms and ammunition are no longer needed for evidence presentation, they shall be placed in the safe.
  10. In the event it is necessary to a party's case to demonstrate how a gun was loaded or handled, or to demonstrate the effect of a silencer, counsel shall obtain prior authorization from the Court, and procedures for a safe demonstration shall be developed.
11. Jury Handling:
- a. Firearms or ammunition exhibits shall only be sent into the jury room at the direction of the presiding judge.
  - b. In the event the jury wishes to examine firearms or ammunition exhibits, each will be sent into the jury room separately and returned to the assigned judicial aide before the other is sent in for examination.
  - c. The Court may include special instructions to the jury regarding the receipt of a weapon into evidence and the presence of weapons in the jury deliberation room.
- B. Potentially Hazardous Substances and Sharps
1. 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.
  2. The outside of the container and/or storage bag must:
    - a. clearly identify the contents;
    - b. be marked with appropriate hazardous warnings (e.g., corrosive, toxic) or labeled with a biohazard label, or both; and
    - c. be labeled as required by city, state and federal regulations.

3. Clothing or other items that are bloodied or contain other biohazards must be dried and shall be submitted in a transparent, sealed wrapping or package that is properly marked and labeled. (**See Examples 2 and 3**)
4. Blood vials must be submitted in approved secondary containers that are properly marked and labeled. (**See Example 4**)
5. 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. (**See Example 5**)

**C. Narcotics**

1. 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. (**See Example 6**)

**D. Flammable, Explosive, and Reactive Materials**

1. 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 submission to the Court.

**E. Other Potentially Hazardous Substances**

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

**IV. Improperly Submitted Evidence**

- A. Evidence that does not meet these containment specifications for evidence submission may not be accepted by the Court.

**V. Safekeeping of Exhibits During Trial**

- A. Before placing any exhibits in storage, the clerk responsible for exhibit storage is required to complete an inventory of the exhibits being received.
- B. 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.

**VI. Overnight Storage**

- A. Overnight storage of weapons, ammunition, biohazardous materials, controlled substances, explosives, flammable materials and/or other potentially hazardous exhibits must be in the exhibit safe.
- B. Additionally:

1. 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.
2. 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.
3. Perishable exhibits or exhibits too large for the exhibit safe will be stored in a manner and in a place approved by the appropriate court administration supervisor.

**VII. Return of Weapons and Potentially Hazardous Exhibits**

- A. At sentencing or other final hearing, the Court, at counsel's request, will provide counsel the opportunity to be heard as to the disposition of trial exhibits.
- B. In the event counsel does not request a disposition of exhibits listed below, exhibits shall be returned to the originating law enforcement agency or submitting party for safekeeping pending the end of appeal period or the expiration of the sentence, unless a different disposition is ordered by the presiding judge. This may include, but is not limited to, the following:
  1. live ammunition
  2. firearms
  3. controlled substances & alcoholic beverages
  4. perishable exhibits
  5. flammable exhibits
  6. chemicals
  7. biohazards or other contaminated exhibits
  8. exhibits that are unwieldy due to bulk or weight
- C. Before release pursuant to VII. B., a notice of release of exhibits shall be generated and shall include:
  1. itemized list of exhibits released
  2. date exhibits are released
  3. party accepting exhibits
  4. signature of accepting party
  5. date that exhibits may be returned or destroyed
- D. Before release pursuant to VII. B., a court administration supervisor shall label all exhibits with the District Court case number and the permissible destruction date, and will be responsible for ensuring appropriate release of exhibits.
- E. Exhibits may be returned to the rightful owner or destroyed by the custodians of the exhibits after the end of appeal period or the expiration of the sentence, whichever is longer.

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- F. Exhibits may only be returned, destroyed, or otherwise disposed of earlier with the consent of the Court, 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.
- G. Any party wishing to preserve exhibits beyond the time limits in paragraph E. may file and serve an appropriate motion on the custodian of the exhibit before the date of destruction.
- H. Any person receiving such a motion shall preserve those exhibits until final order of the Court.