

22nd Judicial District
MADRAS & PRINEVILLE COURTHOUSES

**Procedures for Handling, Transportation, &
Disposal of Hazardous Substances,
Biological Evidence, & Contraband in Court
Proceedings**

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Presiding Judge



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SECTION ONE

Controlled, Hazardous, or Infectious Substances and Chemicals Offered as Evidence Court Proceedings

In accordance with Uniform Trial Court Rule (UTCRC) 6.140, the Jefferson County State Court Security Improvement Plan and the Crook County State Court Security Improvement Plan,

- (1) If a party intends to offer into evidence any hazardous substance at an evidentiary hearing or trial, the party must file a motion no later than 28 days prior to the hearing or trial seeking an order from the court regulating, use and disposition of the hazardous substance.
- (2) "Hazardous Substance" in this rule is defined as any substance listed or hereafter added to the Department of Transportation Hazardous Substances List and the Oregon State Police List of Chemicals and Precursors for Methamphetamine Production and any other hazardous substance designated by supplemental local court rule.
- (3) The court, in its discretion, may issue an order concerning any of the following matters:
 - (a) a jury view and/or photograph in lieu of transportation of the hazardous substances to the courthouse;
 - (b) appointment of a custodian;
 - (c) appointment of a disposition expert;
 - (d) appointment of a medical expert;
 - (e) the amount to be transported or viewed;
 - (f) the container in which the hazardous substance is to be stored;
 - (g) the location and duration of handling and storage of the hazardous substance;
 - (h) the disposition of the hazardous substance; and
 - (i) other matters intended by the court to safeguard the public and the evidentiary record.
- (4) Failure to file a timely motion under subsection (1) of UTCRC 6.140 may be grounds for excluding any hazardous substance from the courthouse.
- (5) Relief from this rule may be sought under UTCRC 1.100.

Classification of Hazardous Materials

High Hazard: chemical samples associated with methamphetamine cases, explosives, biological material (including items contaminated with body fluids), highly flammable materials, or toxic substances.

Medium Hazard: items contaminated by drug labs. May include drug paraphernalia and quantities of drugs.

Low Hazard: small amounts of drugs, ammunition, weapons, paper documents, photographs, or any other properly packaged or secured items from a crime scene that have potentially been contaminated with a hazardous substances.

SECTION TWO

Controlled, Hazardous, or Infectious Substances and Chemicals in the Courtroom after Being Allowed as Evidence under Section One

In accordance with UTCR 6.150-6.160, the Jefferson, and the Crook County State Court Security Improvement Plans,

- (1) Unless otherwise ordered by the court, only a representative sample of controlled substances shall be brought into the courtroom to be presented as evidence. Such sample must have been placed in a see-through, heat-sealed container prior to coming into the custody of the court and must not be opened except by order of the court. The remainder may be presented by photograph, videotape, or may be available for viewing by the jury in some secure setting.
- (2) At all times between the receipt of the controlled substances and the return of the controlled substances to the submitting party, under UTCR 6.120 or destruction or transmittal of the controlled substances to the appellate courts, **the controlled substances shall be in the custody of the appropriate law enforcement agency** as ordered by the court.
- (3) Hypodermic needles must be provided with covers over needle points and sealed in a transparent puncture-proof bag. A secondary container that is puncture-resistant and leak-proof must also be provided if there is a risk of puncture of the primary container.
- (4) An unbreakable, transparent tube that locks on one end must be provided for safe handling and viewing of chemicals, pharmaceuticals, and biological substances. A secondary container that is puncture-resistant and leak-proof must also be provided if there is a risk of puncture of the primary container.
- (5) Noncompatible hazardous chemicals must be stored in separate container (e.g., oxidizers and flammable substances).
- (6) Further, hazardous materials offered as exhibits will not be accepted unless they are properly labeled, including the identity of the content, hazard warning, necessary precautions for safe handling, and emergency first aid handling. All biological hazards must be appropriately labeled with a red or orange-red universal label for "Biohazard."
- (7) Hazardous material shall be highlighted or bolded on the exhibit log.

Juror Handling of Controlled, Hazardous, or Infectious Substances and Chemicals

Jurors must be advised if any controlled, hazardous, or infectious substances or chemicals to be handled by them in the courtroom or jury room present a danger. The

submitting party must provide jurors with instructions on safe handling, including protective devices if necessary.

SECTION THREE

Disposition of Controlled, Hazardous, or Infectious Substances and Chemicals

Upon conclusion of a trial or hearing, *unless otherwise ordered by the court*, all controlled, hazardous or infectious substances and chemicals submitted as exhibits shall be **immediately** returned to the custody of the submitting party or appropriate law enforcement agency. The submitting party or law enforcement agency must retain custody and control of the exhibit(s) until final disposition of the case or until a notice of appeal has been filed *and* the appellate court has made a request for transmission of nondocumentary exhibits. **If the court of appeals makes such a request, the court will, under ORAP 3.25, notify the party in whose custody the nondocumentary exhibits have been placed. The party must then resubmit the designated exhibits to the custody of the trial court for transmittal to the appellate court.**

If for some reason the court is unable to release the hazardous or controlled substance, storage of exhibits shall occur pursuant to the following levels of potential hazard:

High Hazard: Potential high hazard materials shall be sealed in a metal, court-approved evidence container by the exhibit clerk. The evidence and metal container shall be removed from the court facility under court order after the elapse of appeal time and transported to the Sheriff's Office or other police agency's hazardous storage area pending release or destruction. A sealed evidence container shall not be reopened in the court facility. Prior to reintroduction of any sealed high-hazard evidence, a court order should be obtained directing the sheriff to break the seal and reinspect the evidence to make certain additional health or safety problems have not developed.

Medium Hazard: Potential medium hazard materials shall be sealed in a metal, court-approved evidence container. A sealed evidence container shall not be reopened in the confines of the courthouse.

Low Hazard: Low hazard material may be stored in sealable metal containers approved by the court for evidence containment.

Court Handling of Controlled, Hazardous, or Infectious Substances and Chemicals

- Evidence that is stored by the court shall be stored in special containers that are labeled with the necessary data identifying the contents of the container.
- Appropriate entries shall be made in the OJIN case register regarding the hazardous, controlled substance, and contraband exhibit(s).

- Hazardous, controlled substance, and contraband exhibits shall be highlighted or bolded on the exhibit list.
- Staff shall use impermeable gloves when handling evidence of a hazardous or potentially hazardous nature to avoid accidental exposure.

SECTION FOUR

Accidental Exposure or Spills of Hazardous Substances

In the event of an accidental exposure to blood, body fluids, or other biohazard materials, court employees shall receive medical attention as outlined in Section F of OJD Policy Statement “Infectious Diseases,” Volume 4, Chapter 9, Section 3.

In the event of a spill of a hazardous chemical, the immediate area is to be evacuated and sealed. The trial court administrator or designee shall be immediately contacted, who shall then contact the fire department or county personnel trained in hazardous material response. Oregon Judicial Department (hereinafter OJD) employees shall not attempt to contain or clean up a hazardous substance spill or leak. OJD Policy Statement Volume 4, Chapter 9, Section 4 sets forth the communication policy regarding hazardous substances. That policy shall be followed in the event of a spill, leak, or other source of potential contamination. All OJD employees shall receive a copy of both of the above policies to place in their employee orientation manual.

SECTION FIVE

Contraband and Weapons Offered as Evidence

All firearms or other dangerous weapons entering the court facility to be offered as evidence shall be properly secured.

- All firearms, BB guns, and pellet guns must be unloaded and either rendered inoperable or equipped with a trigger lock/guard.
- Guns and ammunition must be kept separate at all times.
- Knives, scissors, and any other sharp object that could penetrate the skin must be sealed in puncture-proof containers, provided with secure and protective sheaths, or otherwise rendered harmless.

Disposition of Contraband and Weapons

Upon conclusion of a trial or hearing, unless otherwise ordered by the court, all weapons submitted as exhibits shall be returned to the custody of the submitting party or appropriate law enforcement agency. The submitting party or law enforcement agency must retain custody and control of the exhibit(s) until final disposition of the case or until a notice of appeal has been filed and the appellate court has made a request for transmission of non-documentary exhibits. **If the court of appeals makes such a request, the court will, under ORAP 3.25, notify the party in whose custody the non-documentary exhibits have been placed. The party must then resubmit the designated exhibits to the custody of the trial court for transmittal to the appellate court.**

SECTION SIX

Biological Evidence

At the time of a trial or hearing involving a covered offense, a party introducing an exhibit that contains biological evidence must provide the court in writing with the name, agency, mailing address, and telephone number for the custodian responsible for each exhibit that contains biological evidence. Counsel also must indicate whether the biological evidence was collected by the defense. For a trial, this information must be submitted with the list of pre-marked exhibits required under subsection (3) of UTCR 6.080.

For the purpose of UTCR 6.080 the following definitions apply:

1. "Biological Evidence has the meaning given in ORS 133.705
2. Covered offense " has the meaning given in ORS 133.705:
 - Aggravated Murder
 - Murder
 - Manslaughter in the first degree
 - Manslaughter in the second degree
 - Aggravated vehicular homicide
 - Rape in the first degree
 - Sodomy in the first degree
 - Unlawful sexual penetration in the first degree
3. "Custodian" has the meaning given in ORS 133.705. The law defines "custodian" to mean a law enforcement agency or any other person or public body charged with the collection, preservation, or retrieval of evidence in connection with a criminal investigation or prosecution. Courts are specifically excluded from the definition of custodian for this purpose.