



**STATE OF NEW YORK  
UNIFIED COURT SYSTEM**

**EXPOSURE CONTROL PLAN**

Revised September, 2015

# EXPOSURE CONTROL PLAN

## Introduction

Effective March 6, 1992, the Federal Occupational Safety and Health Administration (“OSHA”) established a standard for occupational exposure to blood and other potentially infectious material<sup>1</sup> [“Standard”] (a copy of the Standard is attached as Appendix A) so as to eliminate or minimize occupational exposure to Hepatitis B Virus [“HBV”], Human Immunodeficiency Virus [“HIV”]<sup>2</sup>, Hepatitis C and other blood borne pathogens. This same Standard also was adopted by the Public Employee Safety and Health Bureau of the State Department of Labor (“PESH”) and applies to the Unified Court System. The Standard requires an employer with having employees who have a risk of occupational exposure implement an Exposure Control Plan. The Standard covers all employees who, as part of the performance of their duties, may reasonably be anticipated to come into contact with blood and certain other potentially infectious bodily fluids and materials. Any employee not covered under the Standard should contact their local human resources professional to request approval to receive training or the vaccination available under this Plan, or to be included in any other aspect of this plan. The local human resources professional will contact the Division of Human Resources, Work-Safe Office (“Work-Safe Office”) regarding employee requests. The determination as to whether an employee is eligible shall be made by the Chief Administrator of the Courts or designee and shall be final.

The purpose of this Exposure Control Plan is to identify employees job tasks that may involve such occupational exposure and the categories of employees who perform those tasks and to present a general guide to the training, protective equipment, availability of vaccination and various procedures to be followed by employees covered under the Standard.

This Exposure Control Plan will be reviewed and updated at least annually and whenever necessary to reflect new or modified tasks and procedures which affect occupational exposure and to reflect new or revised employee positions with occupational exposure.

## I. Exposure Determination

The Standard defines “occupational exposure” as reasonably anticipated skin, eye, mucous membrane, or parenteral contact<sup>3</sup> with blood or other potentially infectious materials that may result from the performance of an employee’s duties. The following job classifications have been determined to have occupational exposure:

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<sup>1</sup> The standard applies to the following human body fluids – semen, vaginal secretions, amniotic fluid, and any body fluid that is visibly contaminated with blood and all body fluids where it is difficult or impossible to differentiate between body fluids. Bodily fluids such as saliva and urine are not covered under the Standard, unless visibly contaminated with blood.

<sup>2</sup> For information concerning AIDS and the Unified Court System’s Policy on AIDS, see Employee Relations Memo No. 92-1 entitled “AIDS in the Workplace”, a copy of which is attached as Appendix B.

<sup>3</sup> “Parenteral” means piercing the skin barrier of mucous membranes through events such as needle sticks, cuts, abrasions and human bites.

**A. Job Titles in which all Employees have Occupational Exposure:**

Associate Court Security Officer	NYS Court Officer, Sergeant
Assistant Chief Deputy of Public Safety	NYS Court Officer-Trainee
Case Manager I	NYS Court Security Liaison
Case Manager II	NYS Court Security Specialist
Case Technician	NYS Court Security Training Officer
Chief Court Attendant, App. Div.	NYS Principal Court Attendant, App. Div.
Chief of Security	NYS Security Coordinator
Chief of the Department of Public Safety	NYS Senior Court Attendant, App. Div.
Chief Security Attendant, COA	NYS Senior Court Security Training Officer
Court Assistant	NYS Senior Court Security Special
Court Attendant, App. Div.	NYS Senior Office Security Training Officer
Court Attendant, COA	Nursery Attendant
Court Officer Ex*	Principal Court Security Officer
Court Officer	Resource Coordinator I
Court Security Officer	Resource Coordinator II
Court Security Specialist	Resource Coordinator III
Deputy Chief Security Attendant, COA	Sec Applicant Verification Officer
Deputy Chief Security Services	Security Supervisor
Director of Court Security *	Senior Court Security Officer
District Security Administrator *	Senior Court Attendant, Appellate Division
First Dep. Chief Dept. of Public Safety*	Senior Court Officer*
NYS Associate Court Attendant App. Div.	Senior Security Attendant, COA
NYS Assoc. Court Security Training Officer	Supervising Applicant Verification Unit
NYS Chief of Court Security Training	Supervising Court Attendant, COA
NYS Chief of Security, App. Div.	Security Attendant, COA
NYS Court Officer	Security Coordinator
NYS Court Officer, Captain	Uniformed Court Officer*
NYS Court Officer, Lieutenant	MHLS Workers, App. Div.
NYS Court Officer, Major I	*Added as of 2012
NYS Court Officer, Major II	

All of the titles above (except Nursery Attendant, Case Manager Series, Resource Coordinator Series, Case Technician and MHLS workers for the Appellate Division) are directly responsible for court security. Employees in court security titles are peace officers pursuant to Section 2.10(21) (a) of the Criminal Procedure Law and may be required to carry a firearm. They may execute warrants and make arrests. They work under the overall direction of the Chief of the Department of Public Safety and are responsible either directly, or by supervision and training, for maintaining order and providing security in court buildings and courtrooms. Those assigned to courtrooms guard defendants and prisoners in the courtroom and are responsible for escorting them to and from detention pens. Court security personnel may be required to physically restrain unruly individuals and provide assistance in emergency situations. Court security personnel perform duties that involve potential physical contact with criminal defendants, litigants, and members of the public, as these jobs involve escorting and guarding of potentially violent individuals, diffusing altercations, and physically searching persons for contraband. Employees in higher-level security titles are supervisors and managers who may not regularly be assigned to specific court locations, but ultimately are responsible for the work of those who are so assigned and each may be present during incidents of occupational exposure. Since it can be reasonably anticipated that

these activities may result in contact with blood or other potentially infectious materials, court security personnel have occupational exposure.

Nursery Attendants are responsible for supervising children and infants brought by litigants or witnesses to Family Courts in New York City. By feeding, changing, and cleaning these children, Nursery attendants have close physical contact with the children, and it can reasonably be anticipated that these duties may result in contact with blood or other infectious materials to make them at risk of occupational exposure.

Case Managers, Resource Coordinators and Case Technicians work in Problem-Solving Courts<sup>4</sup> throughout New York State and may be required to interact with drug offenders and mental health litigants. These employees may be required to conduct court-mandated drug testing (urine collection). It can reasonably be presumed that these duties may result in contact with blood or other infectious materials to make them at risk of occupational exposure.

The Mental Hygiene Legal Service (MHLS) provides legal services, advice and assistance to persons receiving care or alleged to be in need of care at inpatient and community-based facilities for individuals with mental disabilities. MHLS represents such persons in judicial and administrative proceedings concerning admission, retention, transfer, treatment and guardianship. In addition to handling judicial proceedings, MHLS provides advice and representation regarding standards of care and other matters affecting the civil liberties of persons receiving care at facilities for individuals who are incarcerated. It can reasonably be presumed that these duties may result in contact with blood or other infectious materials to make them at risk of occupational exposure.

**B. Job titles in which some Employees with this Title may have Occupational Exposure because of Tasks they Perform which Potentially Exposes them to Blood and/or OPIM.**

Appellate Court Assistant	Associate Law Clerk (NYC Family Court)*
Appellate Court Clerk	Associate Court Attorney (Trial Part) to AJ
Appellate Court Assistant II	Associate Court Attorney (NYC)
Assistant Appellate Court Attorney	Associate Court Attorney
Assistant Court Clerk JG18	Associate Court Clerk
Assistant Court Clerk JG16	Case Management Coordinator
Assistant Court Attorney (NYC)	Chief Court Attorney
Associate Surrogate Court Clerk	Court Clerk – Civil Term Coordinator
Associate Court Attorney-Trial Part	Court Clerk-Matrimonial Coordinator
Associate Court Clerk – PT	Court Clerk Specialist
Associate Deputy Clerk, App. Div. 2 <sup>nd</sup>	Court Attorney-Referee

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<sup>4</sup> Problem-Solving Courts take different forms depending on the problems they are designed to address. Drug and mental health courts focus on treatment and rehabilitation. Community courts combine treatment, community responsibility, accountability and support to both litigants and victims. Sex offense, domestic violence and integrated domestic violence courts employ judicial monitoring and the use of mandated programs and probation to ensure compliance, facilitate access to services and remove artificial barriers between case types.

Court Clerk – PT	Principal Law Clerk (NYC Family Court)*
Court Clerk	Principal Settlement Coordinator
Court Attorney	Principal Court Attorney (Trial Part) to AJ
Court Attorney (Trial Part) to AJ	Principal Court Clerk
Court Attorney-Trial Part	Principal Appellate Court Attorney
Decision Clerk	Project Director II
Deputy Chief Clerk II	Project Director I
Deputy Chief Clerk IV	Second Deputy County Clerk, NYC
Deputy County Clerk, NYC	Security Coordinator
Deputy Chief Clerk	Senior Appellate Court Attorney
Deputy Chief Clerk I	Senior Court Attorney (Trial Part) to AJ
Deputy Chief Clerk V	Senior Settlement Coordinator
Deputy Chief Clerk Arraignment Part	Senior Appellate Court Clerk
Deputy Chief Clerk	Senior Court Attorney-Trial Part
Deputy Clerk of the Court	Senior Appellate Court Clerk
Deputy Chief of Court, App. Div.	Senior Court Attorney (NYC)
Deputy Chief Clerk III	Senior Court Attorney
Differentiated Case Mgt Track Coordinator	Senior Appellate Court Asst
Principal Court Attorney	Senior Court Clerk
Principal Appellate Court Clerk	Settlement Coordinator
Principal Surrogate Court Clerk	Supervising Court Attorney
Principal Surrogate Court Clerk - PT	

Court Employees who do not serve in security titles or in Problem-Solving Courts or work in MHLS are far less likely to have occupational exposure, as their jobs do not involve direct physical contact with individuals, and it cannot be reasonably anticipated that their duties would otherwise involve occupational exposure. However, employees in the Project Director series and certain court clerk titles have supervisory responsibilities over problem solving court employees and court security personnel and, respectively the First and Second Departments, persons holding court clerk titles are peace officers and can make warrant less arrests, use physical force in making arrests, and perform searches according to section 2.20 of the Criminal Procedure Law. It can be reasonably anticipated that the supervision of court personnel and the exercise of peace officer powers may result in occupational exposure.

## **II. Exposure Control Plan**

### **A. Hepatitis B Vaccination**

The hepatitis B virus (“HBV”) is a potentially life threatening blood borne pathogen. The virus can survive for at least one week on environmental surfaces, even when dried. The most effective method of preventing occupationally acquired HBV is the hepatitis B vaccine. Offering the vaccine to all employees who are reasonably anticipated to be at risk for occupational exposure substantially reduces the risk of infection to employees who are not otherwise immune to the disease, and who experience an exposure incident.

### **B. Availability of the Vaccine**

All employees who, as part of the performance of their duties may be reasonably anticipated to have occupational exposure (i.e. employees in court titles as designated in Section I (Exposure Determination), are eligible to receive, without cost, the hepatitis

B vaccination<sup>5</sup>. The vaccine will be made available to current employees and made available to new employees within ten working days after their initial assignment. The employees will first be given complete information about the vaccine. The vaccination will be provided during working hours by an OCA-designated medical facility. A copy of the Blood borne Pathogen regulation will be provided to this healthcare provider. No employee is required to undergo administration of the vaccine; the decision to be vaccinated is up to the individual employee.

The vaccine will not be administered to an employee who already has received it, or if antibody testing has indicated that the employee is immune, or if there are medical reasons proscribing its administration. Employees are not required to participate in a pre-screening program prior to receiving the vaccination.

### **C. Declining the Vaccine**

Any eligible employee who declines to receive the hepatitis B vaccine must sign a form containing the following statement: (see Appendix C)

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with the hepatitis B vaccine, at no charge to myself. However, I decline the hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me.

As set forth above, if an employee has signed a declination form, and later decides to receive the vaccine, it will be made available to the employee.

## **III. Post-Exposure Evaluation and Follow-up**

In the event that an employee is involved in an exposure incident<sup>6</sup>, the employee is required to report the incident, as with any unusual occurrence, to the employee's supervisor and to complete an incident report (see Appendix D). Following an exposure incident, the court system will make immediately available to the employee a confidential medical evaluation and follow-up, to include blood testing and, if indicated, the hepatitis B vaccine. Following any exposure incident, a report must be prepared by the court. This response should evaluate the circumstances of the exposure incident for the purpose of identifying and correcting any problems in order to prevent the recurrence of any similar incidents.

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<sup>5</sup> The hepatitis B vaccine is given as a series of three injections in the arm, administered over a period of six months.

<sup>6</sup> Exposure incident means any 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 the employee's job duties.

## **A. Medical Evaluation**

A confidential medical evaluation with a healthcare professional is available to any employee following an exposure incident<sup>7</sup>. The medical evaluation will be conducted at an OCA-designated medical facility and will include the following:

1. Documentation of the route of exposure.
2. Documentation of the circumstances under which the exposure occurred.
3. Identification and documentation of the source individual, unless prohibited by law. If it is not known whether the source individual has the HBV, HCV or HIV, and the source individual consents, conducting of a blood test will be conducted to determine if that individual is infected with HBV, HCV or HIV.
4. Collection of the employee's blood for testing to determine HBV, HCV and HIV status. If the employee consents to blood collection but does not immediately consent to HIV testing, the employee's blood will be preserved for 90 days in the event that the employee decides to have the testing.
5. Post-exposure prophylaxis, when medically indicated.
6. Counseling.
7. Evaluation of reported illness.

Results of the source individual's blood testing will be made available to the exposed employee and the employee will be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.

## **B. Healthcare Professional's Written Opinion**

1. The Court System is required to provide an employee with a copy of the healthcare professional's written opinion within 15 days of completion of the evaluation.
2. A healthcare professional's written opinion for the hepatitis B vaccine will be limited to whether the employee should receive the vaccine and if the employee has received the vaccination.
3. A healthcare professional's written opinion for post-exposure evaluation and follow-up will be limited to or indicate that the employee has been told of the results of the evaluation and about any medical conditions resulting from the exposure incident that require additional evaluation or treatment.

Any other findings or diagnoses are confidential and are not to be included in the written opinion.

## **C. Healthcare Professionals**

Any healthcare professional providing a post-exposure evaluation and follow-up shall be provided with:

1. A copy of the Standard.
2. A description of the employee's duties, as they relate to the incident.

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<sup>7</sup> The medical evaluation and follow-up procedures set forth here are available to any employee who experiences an exposure incident, whether or not covered by the Standard.

3. Documentation of the route of exposure and the circumstances under which the exposure occurred.
4. Any blood test results, including that of the source individual if available.
5. Medical records relevant to treatment, including vaccination status, maintained by the court system.

#### **D. Evaluation of Exposure Incidents**

A written evaluation of the circumstances surrounding an exposure incident will be prepared by the supervisor of the affected employee and submitted to the Work-Safe Office.

This evaluation should include the following:

1. The procedures used during the incident to reduce the risk of occupational exposure.
2. The protective equipment used.
3. An evaluation of the work policies followed.
4. Any failure to follow established procedures.
5. How similar incidents could be avoided in the future.

### **IV. Methods of Compliance**

The Standard treats all blood and related substances as if they are known to be potentially infectious for HIV, HBV and other blood borne pathogens. Under the Standard, “universal precautions” must be taken against all occupational exposure so as to eliminate or reduce the risk.

### **V. Engineering and Work Practice Controls**

#### **A. Procedures employed to reduce the risk of occupational exposure:**

1. Evidence used in court proceedings, especially sharp objects, such as needles and knives, should be kept in plastic bags within a puncture resistant container, when possible.
2. Court security personnel assigned to magnetometers should inspect bags and pocketbooks using a hand scanner or other probing device. Bare hands should never be placed inside a bag or pocketbook.
3. Court security personnel, upon suspecting or discovering an offending object on a person, should direct the person to remove the object, rather than having the employee do so.

#### **B. Hand Washing Facilities**

1. Hand washing facilities are readily available to employees in the courthouses.
2. All courts have available antiseptic hand cleanser and paper towels, or antiseptic towelettes, as part of their first aid equipment.

3. Employees must wash their hands, or any other part of their body, with soap and water as soon as possible after contact with blood or other potentially infectious materials. Employees must wash their hands after the removal of any personal protective equipment.
4. Employees who use any means other than soap and water to clean their hands shall, as soon as feasible after exposure, wash their hands with soap and water.

### **C. Prohibition Against Food and Cosmetics**

Employees who are covered under this Standard must not eat, drink, smoke, apply cosmetics or lip balm, or handle contact lenses in those areas, such as courtrooms and, in or near detention pens, where there is a reasonable anticipation of occupational exposure.

### **D. Personal Protective Equipment**

Disposable gloves will be made available for the use for all employees with occupational exposure. The purpose of using disposable gloves is to prevent blood or other infectious material from coming into direct contact with the employee. The decision to wear gloves should be made on a case-by-case basis based upon the severity of the situation.

1. Use of Gloves
  - a. Gloves must be worn when it is reasonably anticipated that an employee may come in hand contact with blood or other potentially infectious materials.
  - b. Gloves must be worn when handling any contaminated items.
  - c. Disposable gloves may not be reused.
  - d. Disposable gloves must be replaced as soon as possible if they become torn or contaminated.
  - e. Employees must wash their hands as soon as possible after removing gloves.
2. Exceptions to the Use of Personal Protective Equipment
  - a. An employee may decline to use personal protective equipment when, in the employee's professional judgment, the use of the equipment would present a greater threat than not using it. For example, a court officer would not be expected to stop and put on gloves if confronted unexpectedly by a violent defendant.
  - b. In the event that an employee does not use personal protective equipment in a situation that calls for its use, an investigation will be conducted to determine whether any change in procedure should be adopted so that personal protective equipment would be used in that situation in the future.

## **VI. Maintenance of Facilities**

1. Courtrooms and detention areas should be maintained in a clean and sanitary condition in accordance with existing cleaning schedules.
2. Problem-Solving Courts take different forms depending on the problems they are designed to address. Drug and mental health courts focus on treatment and rehabilitation. Community courts combine treatment, community responsibility,

accountability and support to both litigants and victims. Sex offense, domestic violence and integrated domestic violence courts employ judicial monitoring and the use of mandated programs and probation to ensure compliance, facilitate access to services and remove artificial barriers between case types.

3. Employees should not use bare hands to pick up any broken glass that may be contaminated. Some other object, such as a brush and dustpan should be used.
4. Disposal of regulated waste:
  - a. Needles or other sharp objects (including broken glass) that may be contaminated with blood or other infectious material must be disposed of in a closeable, leakproof, puncture-resistant container which is labeled to indicate that it contains a "biohazard," or is colored red. Where more than one contaminated object is placed in the same container, precautions must be taken to avoid exposure to the employee from the other contaminated objects. The containers should be sealed when full. Contact the Work-Safe Office regarding disposal.
  - b. Any contaminated object<sup>8</sup> that is not placed in a container as set forth above, must be labeled to indicate its status. If the contamination has been removed, labeling is not required.

## **VII. Training Program**

All employees who are at risk for occupational exposure must participate in a training program to acquaint them with the risks faced in the workplace, the nature of blood borne diseases and their transmission, the manner for handling exposure incidents, the availability and use of personal protective equipment, and the contents of this Exposure Control Plan.

### **A. Time of Training**

Training will be provided at the time an employee is first assigned to job tasks where occupational exposure may take place, and annually thereafter. In the event of the adoption of new procedures or other changes affecting an employee's risk of occupational exposure, additional training will be provided as it relates to those new matters.

### **B. Training Curriculum**

1. The training program will consist of the following:
  - a. An accessible copy of the regulatory text of the Standard and an explanation of its content.
  - b. General description of the epidemiology and symptoms of blood borne diseases.
  - c. An explanation of this Exposure Control Plan, in conjunction with the Standard and how employees may get a copy.
  - d. An explanation of the modes of transmission of blood borne pathogens.
  - e. An explanation of the methods for recognizing tasks and other related activities that may involve exposure to blood and other potentially infectious materials.

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<sup>8</sup> An example of a potentially contaminated object would be a needle or syringe with dried blood on it.

- f. An explanation of the use and limitation of methods that will prevent or reduce occupational exposure, including engineering controls, work practices, personal protective equipment, and other equipment.
- g. Personal Protective Equipment:
  - i. an explanation of the types, use, location, handling, removal and disposal of personal protective equipment.
  - ii. an explanation of the basis for selection of personal protective equipment.
  - iii. An explanation of the Hepatitis B vaccine, including information on its efficacy, safety, method of administration, benefits and that the vaccine and vaccination will be offered free of charge.
  - iv. The procedure to be followed in the event of an exposure incident; whom to contact, methods of reporting the incident and the medical follow-up that will be provided.
  - v. Information on the post-exposure evaluation and follow-up that the employer is required to provide following an exposure incident.
  - vi. An explanation of the hazard labeling used to warn employees of danger.
  - vii. A question and answer period.

## **VIII. Labeling and Other Forms of Hazard Communication**

Red bags or red containers will be used to identify contaminated waste or materials. When a red bag or red container is not available the following biohazard symbol will be affixed to the container.



## **IX. Record Keeping**

### **A. Occupational Exposure Incident Records**

A confidential record shall be maintained for each employee with occupational exposure<sup>9</sup>. The record will contain the following:

1. Name and employee number.
2. Record of the employee's hepatitis B vaccine status.

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<sup>9</sup> No information contained in these records may be released without the consent of the employee, except as required by law. Employees may request to see or obtain a copy of this record. The records are required to be kept for thirty years beyond the duration of employment.

3. A copy of any written reports prepared as a result of examination following an exposure incident, including the healthcare professional's opinions and any information given to a healthcare professional as part of an evaluation.
4. An employee's HIV, HBV and HCV status must be kept confidential.

## **B. Medical/Vaccination Records**

Medical records will be maintained by the Work-Safe Office. This will include the following:

1. Names and employee ID of the employees.
2. A copy of the employee's vaccination status, including the dates of all the vaccinations and any medical records relative to the employees ability to receive the vaccination.
3. A copy of results, medical examinations and follow-up procedures as indicated in the regulation.
4. The employer's copy of the healthcare professional's written opinion.
5. A copy of the information provided to the healthcare professional.

Medical records will be maintained for the length of employment plus 30 years and in accordance with 20 CFR1910.1020.

## **C. Training Records**

1. Records of training will be maintained by the Work-Safe Office<sup>10</sup>.
2. Training records contain the following information:
  - a. The dates of the training sessions and the names and titles of the attendees.
  - b. A summary of the contents of the training sessions.
  - c. The names and qualifications of the instructors.

## **D. Sharps Injury Log**

A Sharps Injury Log was developed to record percutaneous injuries from contaminated sharps and contains the following information:

1. The type and brand of device.
2. The department or work area where the exposure incident occurred.
3. An explanation of how the incident occurred.

The Sharps Injury Log must be maintained for 5 years from the end of the calendar year.

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<sup>10</sup> Training Records are required to be maintained for three years.

Appendix A – Copy of the Standard  
Appendix B – AIDS in the Workplace  
Appendix C – Declination Statement  
Appendix D – Exposure Incident Form