

Chapter: Employee Injury/Illness	<b>Effective Date: 4/15/16</b>
<b>Title: Occupational Exposure to Potentially Infectious Material</b>	Page: 1 of 4
ACA: 4-JCF-4C-22	Replaces: PRS.23.05, 12/1/11
Statutes: Health & Safety Code §81.050 Code of Criminal Procedure Article 18.22	

(a) **Policy.**

In compliance with applicable law, the Texas Juvenile Justice Department (TJJD) provides employees with access to proper reporting mechanisms and appropriate testing when occupational exposure to blood or other potentially infectious material occurs. An employee will not be subject to discrimination or retaliation for exercising any rights relating to an occupational exposure.

(b) **Resources.**

The following documents contain additional information about occupational exposures. Employees are encouraged to review these materials.

- (1) [Workplace Guidelines](#) -- These guidelines address precautions and procedures to reduce the risk of infection due to exposure to bloodborne pathogens, including human immunodeficiency virus (HIV), hepatitis B virus (HBV), and hepatitis C virus (HCV).
- (2) [Bloodborne Pathogen Exposure Control Plan](#) -- This plan provides information regarding exposure determination, universal/standard precautions, contaminated equipment, personal protective equipment, housekeeping, laundry procedures, post-exposure evaluation and follow up, interaction with healthcare professionals, training provided to TJJD employees, and record keeping.
- (3) [GAP.380.9197 \(HIV/AIDS\)](#) -- This policy addresses procedures to follow to provide a safe and healthful environment for youth in TJJD facilities as it relates to HIV and AIDS, including testing, confidentiality, reporting, housing, treatment, access to services, and education.
- (4) **HIV, AIDS, and the Workplace** -- This Texas Department of State Health Services (DSHS) pamphlet is provided to each newly hired TJJD employee during the new employee orientation session and to current employees on an annual basis.

(c) **Definitions.**

- (1) **Bloodborne Pathogen** -- a disease-causing microorganism that is present in human blood and certain other human body fluids that can be transmitted from an infected person to another person by contact with blood. The term includes HIV, HBV, and HCV.
- (2) **Occupational Exposure** -- contact between an employee's eyes, broken skin, and/or the mucus membranes of his/her nose or mouth with blood, body fluids, or other potentially infectious material that occurs while performing his/her job duties. Occupational exposure from blood includes all forms of human blood, including liquid, semi-liquid, or dried/caked blood.

(d) **General Provisions.**

- (1) Questions about the reporting procedure, time frames, and necessary documentation needed for testing, counseling, or benefits relating to occupational exposures should be addressed to the local human resources administrator (HRA) or to the director of nursing in Central Office.
- (2) Federal and state laws prohibit mandatory screening of employees for HIV/AIDS.
- (3) TJJD's occupational exposure criteria and testing protocols conform to DSHS requirements.

- (4) State and federal laws and regulations prohibit the release of an employee's confidential medical information unless the employee provides written consent specifying the person(s) to be notified. This includes information related to HIV/AIDS, HBV, and HCV. Violation of the law in regard to HIV/AIDS confidentiality or testing is a Class A misdemeanor, punishable by a fine or imprisonment, and may involve civil liability.
- (5) The State Office of Risk Management (SORM) determines whether a TJJJ employee who experiences an occupational exposure is eligible to receive workers' compensation benefits.

(e) **Procedures.**

(1) **Reporting an Occupational Exposure.**

- (A) If an employee has a possible occupational exposure, the employee must report the incident to his/her supervisor and to the local HRA regardless of the level of perceived risk or the perceived status of the source individual. All human blood and other human body fluids are treated as if they are infected with bloodborne pathogens.

Note: See the [Bloodborne Pathogen Exposure Control Plan](#) for staff responsibilities relating to cleaning of all contaminated surfaces.

- (B) The documentation requirements in [PRS.23.03](#) relating to occupational disease apply to all occupational exposures, including the requirement that the local HRA submit all appropriate forms to SORM immediately upon completion.
- (C) The accident and injury review board assesses the cause of the incident and determines whether additional preventive measures would help other employees avoid future occupational exposures.

(2) **Testing, Counseling, and Other Workers' Compensation Benefits.**

- (A) An employee who has experienced an occupational exposure is not required to be tested for communicable diseases. Such testing is strictly voluntary.
- (B) If an employee decides to be tested:
  - (i) TJJJ medical staff or contracted medical staff will not conduct the test; and
  - (ii) TJJJ will not be provided access to the test results.
- (C) The Centers for Disease Control and Prevention recommends that individuals who have experienced an occupational exposure should obtain testing and seek medical attention as soon as possible. Therefore, TJJJ encourages an employee who believes he/she may have experienced an occupational exposure to seek medical attention within two hours after the incident to be assessed for the need for post-exposure testing and possible preventative medication. The employee is allowed time off for such testing and medical attention in the same manner as an employee seeking immediate medical attention for a work-related injury.
- (D) TJJJ encourages employees to be tested following an occupational exposure because the test results may affect eligibility for workers' compensation benefits (e.g., the cost of the initial test and/or the cost of treatment of a communicable disease or health condition resulting from an occupational exposure).
  - (i) According to SORM guidelines, an employee must report the exposure incident to the local human resources office, be tested no later than 10 calendar days after the incident, and have a negative test result to be eligible for workers' compensation benefits.
  - (ii) The negative test result may be used to show that a disease or health condition that may be diagnosed in a follow-up test is a result of the occupational exposure, rather than the result of a pre-existing condition.

- (iii) If the employee delays the testing beyond 10 calendar days after the incident, SORM determines eligibility for workers' compensation benefits on a case-by-case basis.
  - (E) An employee who has experienced an occupational exposure may request counseling at the expense of the state.
  - (F) If the employee incurs a communicable disease or health condition as a result of the occupational exposure, the employee must notify the local HRA or designee no later than the 30th day after the employee knew or should have known that the disease might be related to the occupational exposure. See [PRS.23.03](#) for procedures and requirement for filing workers' compensation claims.
- (3) **Requesting a Test for the Source of Exposure.**
  - (A) **Consent to Testing.**

Any employee who experiences an occupational exposure may request that the source individual be tested for communicable diseases. Such a request may be made regardless of whether the source individual is another employee, contractor, youth, or volunteer. However, if the source individual is a youth, procedures in (B) below must be followed.
  - (B) **Youth's Consent to Testing.**
    - (i) If the occupational exposure involves a youth as the source of the exposure, an employee may request that the local health services administrator or designee attempt to obtain legal consent from the youth in accordance with procedures in [HSP.07.04](#).
    - (ii) If the youth is under age 18, the **superintendent** ensures the youth's parent/guardian receives the Authorization for the Use and Disclosure of Protected Health Information (PHI) by TJJJ, [HLS-660](#). This form documents the parent/guardian's consent for TJJJ health care staff to release the youth's test results to the employee.
    - (iii) The **designated TJJJ staff** provides the completed HLS-660 to the TJJJ Medical Department.
    - (iv) The **TJJJ medical director** or **TJJJ director of nursing**:
      - (I) collaborates with the local human resources department to contact the employee;
      - (II) verbally provides the results to the employee; and
      - (III) documents the conversation in a confidential file.

Note: Two attempts are made to contact the employee.
  - (C) **Refusal to Consent to Testing.**
    - (i) If the source individual is a youth at a secure facility and the youth does not consent to be tested for communicable diseases, the youth may be compelled to be tested by:
      - (I) a court order following a request made by an employee of the facility, pursuant to Article 18.22 of the Texas Code of Criminal Procedure, or
      - (II) an order following a request by a TJJJ employee who performs a service in the facility in accordance with §81.050 of the Texas Health and Safety Code.
    - (ii) If the source individual is not a youth at a secure facility and the individual does not consent to be tested for communicable diseases, the individual may be compelled to be tested by an order following a request by a TJJJ employee who performs a service in the facility in accordance with §81.050 of the Texas Health and Safety Code.

(iii) If testing is compelled, the employee has a right to receive the test results of the source individual through one of the following methods:

(I) the local health authority, pursuant to Article 18.22 of the Texas Code of Criminal Procedure; or

(II) DSHS or designee, pursuant to §81.050 of the Texas Health and Safety Code.

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