

	<b>GENERAL ORDER</b>	<b>Effective: 10-01-21</b>	<b># 07-02</b>
	<b>Section: Detention Operations</b>	<b>Replaces or Modifies: Special Order 2017-03</b>	
	<b>Title: SB1849 Jail Related Provisions</b>		
<b>Issued by: Chief Deputy Mattie Provost</b>			

**Purpose:**

To provide guidance on compliance with provisions of Senate Bill 1849 passed by the Texas Legislature in its 85<sup>th</sup> regular session and signed into law by the Governor as they relate to procedures in the County Jail and diversion of certain persons in lieu of placement into the County Jail – unless otherwise noted the effective date on provisions is 09-01-17.

**Policy:**

The Fort Bend County Sheriff’s Office will comply with provisions of Senate Bill 1849. Part of this compliance is dependent upon direction given by the Texas Commission on Jail Standards (hereinafter referred to as the Commission); therefore, as direction is given it will be followed.

**Procedure:**

- I. Serious Incident Reporting (legal reference Texas Government Code Section 511.020)
  - A. The Bureau Commander shall ensure that the serious incident report as detailed in Section 511.020 is presented to the Chief Deputy for approval /signature so that it may be sent to the Commission on or before the 5<sup>th</sup> day of each month.
  - B. The report shall be in the manner/form as determined by the Commission.
  - C. The report shall cover occurrence(s) from the preceding month of any of the following incidents involving a prisoner in the county jail
    - 1. Suicide
    - 2. Attempted suicide
    - 3. Death
    - 4. Serious bodily injury (as defined in Texas Penal Code Section 1.07)
    - 5. Assault
    - 6. Escape
    - 7. Sexual Assault
    - 8. Any use of force resulting in bodily injury (as defined in Texas Penal Code Section 1.07)
  - D. The report shall not include the name or other identifying information of a county jailer or jail employee.
  - E. The Commission is required to prescribe the form concerning Section 511.020 no later than January 1, 2018 – therefore, until promulgation of form information shall be collected in anticipation of reporting requirements.

**Fort Bend County Sheriff’s Office General Order # 07-02  
SB1849 Jail Related Provisions**

- II. Independent Investigation of Death Occurring in County Jail (legal reference Texas Government Code Section 511.021)
  - A. Provisions of General Order 03-06 “Custodial Deaths” will be followed concerning any death of a prisoner in the county jail. As the Commission develops its mandated rules on this process, General Order 03-06 will be revised to meet requirements as necessary. Employees are to follow current General Order 03-06 and guidance found in this General order.
  - B. Upon notification of a death of a prisoner in the county jail all employees will ensure that the scene is preserved for evidentiary purposes in keeping with General Order 03-06 I.B.
  - C. The Chief Deputy will make assignment of investigative duties to ensure that an outside agency investigates the death as soon as possible. This direction will be in accordance with any existing rules of the Commission. As warranted, the Sheriff may assume this duty of investigation assignment.
  - D. All employees will abide by the rules promulgated by the Commission as it applies to cooperation between law enforcement agencies and procedures for handling evidence as they apply to the death of a prisoner in the county jail.
  - E. The Commission is required to adopt the rules concerning Section 511.021 no later than January 1, 2018 – therefore, prior to adoption of these rules current processes remain in effect as detailed in General Order 03-06.
- III. Early Identification of Defendant Suspected of Having Mental Illness or Intellectual Disability (legal reference Texas Code of Criminal Procedure Article 16.22)
  - A. The Bureau Commander over the Detention Bureau shall develop and implement SOPs to ensure that provisions of Article 16.22 are followed including but not limited to written or electronic notice to the magistrate within 12 hours after receiving credible information that may establish reasonable cause to believe a defendant committed to the sheriff’s custody has a mental illness or is a person with an intellectual disability.
  - B. An employee with knowledge that tends to establish credible information described in III.A. preceding is to ensure that this information is relayed to Detention Bureau personnel so that proper notification may be made. One example is patrol personnel’s observations made before, during, and/or after arrest.
- IV. Prisoner Access to Health Services and Mental Health Services [legal reference Texas Government Code Section 511.009(a)(23)]
  - A. The Bureau Commander over the Detention Bureau is to ensure that the rules and procedures adopted by the Commission concerning access to Health Services and Mental Health Services are met by the Fort Bend County Jail. These Commission rules become mandatory for County Jails on 09-01-20.
- V. Continuity of Prescription Medications for Care and Treatment of Prisoners [legal

**Fort Bend County Sheriff’s Office General Order # 07-02**  
**SB1849 Jail Related Provisions**

reference Texas Government Code Section 511.009(d)]

- A. The Bureau Commander over the Detention Bureau is to ensure that the rules and procedures adopted by the Commission concerning continuity of prescription medicines are met by the Fort Bend County Jail. The Commission is charged with adoption of these rules no later than 01-01-18 and at that time they become mandatory for County Jails.

VI. Diversion of Persons Suffering Mental Health Crisis or Substance Abuse Issue (legal reference Texas Code of Criminal Procedure Article 16.23)

- A. In lieu of placing someone into the County Jail employees are to make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center within Fort Bend County if all of the following conditions are met:
  - 1. There is an available and appropriate treatment center to which the person may be diverted
  - 2. It is reasonable to divert the person
  - 3. The offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence
  - 4. The mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense
  - 5. The offense that the person is accused of is not one under any of the following Texas Penal Code Sections 49.04 (DWI related), 49.045 (DWI related), 49.05 (Flying while Intoxicated), 49.06 (Boating while Intoxicated), 49.065 (Assembling or Operating Amusement Ride while Intoxicated), 49.07 (Intoxication Assault), or 49.08 (Intoxication Manslaughter).
- B. Prior to diversion approval must be obtained from Lieutenant or higher authority. In addition, employees serving as Patrol Watch Commander per General Order 09-05 II.A. may also authorize diversion.
- C. Employees will refer to General Order 06-01 "Mental Health Crisis Strategies" for further guidance.
- D. Full details of why diversion was made, how it was accomplished, and the approving authority will be documented in the report concerning the incident.

VII. Jail Administrator Position (legal reference Texas Government Code Section 511.00905)

- A. The day to day administration of the County Jail is delegated to the Captain over Jail Operations [per General Order 01-01 Attachment "A" 2(c)(i)] and as such is generally considered the Jail Administrator for purposes of this section. This Captain performs these duties subject to appropriate direction from his/her chain of command.
- B. The Bureau Commander and the Captain over Jail Operations of the

**Fort Bend County Sheriff's Office General Order # 07-02  
SB1849 Jail Related Provisions**

Detention Bureau will be expected to pass the jail administrator position examination (as approved by the Texas Commission on Law Enforcement) within the timeline established by the Commission/Law.

- C. In the absence of a person designated as jail administrator who is duly qualified under Section 511.00905 the Sheriff is by Law designated as jail administrator without need for any examination.
- D. Nothing in this section of this General order is to be construed to alter normal chain of command hierarchy established under General Order 01-01 Section I (Organization and Management).

VIII. Only the Sheriff or Chief Deputy may authorize exceptions to this General order.