


<p style="text-align: center;">GENERAL ORDER</p> 	<p>Effective: 05-31-2023</p>	<p># 09-12</p>
	<p>Section: Operations</p>	<p>Replaces or Modifies: 04-29-2022</p>
	<p>Title: Seizure of Firearms from Mentally Ill</p> <p>Issued by: Chief Deputy Mattie Provost</p>	

I. Purpose:

To establish policies and procedures which comply with Health and Safety Code 573.001, Code of Criminal Procedure 18.191 and 18 USC 922(d)(4) as relevant to seizure, notification and disposition of firearms seized from mentally ill persons.

II. Policy Statement:

It is the policy of the Fort Bend County Sheriff’s office to comply with all state and federal laws concerning the seizure and release of firearms to certain individuals with mental illness.

III. Details and Procedures:

A. Patrol Procedures

When seizing a firearm under Section 573.001, Health and Safety Code, and not in connection with an offense involving the use of a weapon or an offense under Chapter 46, Penal Code, the deputy shall immediately provide the person with a written copy of the receipt for the firearm and a written notice of the procedure for the return of the firearm by use of Form MH 01 with a copy of CCP 18.191 attached. Designees of the Patrol Division, CIT and Property/Evidence Unit are to be notified of the seizure no later than the following business day. This is accomplished by forwarding the appropriate copies of Form MH 01.

When booking a firearm and related items (ammunition, magazines, holsters, etc.), related to this section, the deputy shall apply a green (Mental Health) sticker to the property, allowing Property/Evidence personnel to identify the property as being related to a mental health call.

B. CIT Designee Procedures

1. Not later than the 15th day after seizure of the firearm, the CIT designee shall provide written notice of the procedure for the return of the firearm to the last known address of the person’s closest immediate family member by use of Form MH 02 with a copy of CCP 18.191 attached and sent by certified mail, return receipt requested.
2. Not later than the 30th day after the firearm is seized, the CIT designee shall contact the Probate Courts in Harris and Fort Bend County to order commitment under Chapter 574,

Health and Safety Code, and request the disposition of the case. The CIT designee will contact the Probate Court of the county having jurisdiction if not Harris or Fort Bend County.

3. Not later than the 30th day after receiving the disposition of the case, the CIT designee shall:
 - a) Conduct a criminal history check to verify whether the person may lawfully possess a firearm (under 18 U.S.C. Sec. 922 (g)); and
 - b) Notify the person in writing, via certified mail and by use of Form MH 03, that they may lawfully possess a firearm or that they are prohibited from possessing a firearm. This notice shall include the following,
 - i. A copy of CCP 18.191 detailing the procedure for the return of the firearm.
 - ii. An affidavit for release of the firearm if the designee is prohibited from possessing a firearm (Form MH 04)
4. If the person received court-ordered mental health services and requests that the firearm be returned to his designee, a criminal history check shall be conducted to verify that his designee may lawfully possess a firearm under 18 U.S.C. Sec. 922 (g)
 - a) It will be necessary for the person's designee to complete the affidavit for return of the firearm (Form MH 04) and have it notarized
5. If no request is received by the owner or owner's designee for return of the firearm, the firearms will be handled in accordance with CCP 18.191 (h).

IV. Necessary Forms

A. MH 01 Receipt and Notice of Rights for Seized Firearms

1. Completed by members of the Patrol Division and maintained by the Records Division as an attachment to the original case file
2. Necessary to fulfill the immediate notification requirement upon initial seizure of a firearm.
3. Form is to be completed by carbon copy (or duplicate)
 - a) Top copy (white) attached to case file with copies forwarded to the Patrol Division as an attachment to the original case file
 - b) Bottom copy (yellow) to the person from whom the firearm was seized

B. MH 02 Fifteen Day Notice of Seized Firearm

1. Completed and maintained by the CIT Division designee

2. Necessary to fulfill the requirement of fifteen (15)-day notification to the person's immediate family member outlining the procedure and date by which a request for the return of the firearm must be submitted

C. MH 03 Disposition of Seized Firearm

1. Completed by the CIT Division designee
2. Necessary to fulfill the requirement of notification to the person as to
 - a) Whether or not they can legally possess a firearm, and
 - b) Procedures and options for the return of the seized firearm

D. MH 04 Affidavit of Third Party Transfer of Firearm and/or Ammunition

1. Provided to the person by the CIT Division designee if the designated person is prohibited from possessing a firearm

V. Release of Firearm and Firearm-Related Property

- A. CIT designee will advise Property/Evidence Division by email who (owner or owner designee) the firearm and/or ammunition and other related property may be released to and provide their contact information
- B. Property/Evidence Division designee will contact the owner or owner designee to arrange the release of the firearm and/or ammunition and other related property and complete a property release form
- C. CIT designee will ensure all related documents are submitted to the Records Division for future reference