

	GENERAL ORDER	Effective: 05-31-2023	# 09-12
	Section: Operations	Replaces or Modifies: 04-29-2022	
	Title: Seizure of Firearms from Mentally Ill		
Issued by: Chief Deputy Mattie Provost			

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,

**Fort Bend County Sheriff’s Office G.O. 09-12
Firearms Seizure from Mentally Ill**

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

**FORT BEND COUNTY SHERIFF'S OFFICE
RECEIPT AND NOTICE OF RIGHTS FOR SEIZED FIREARMS**

CASE NUMBER: _____

Section 573.001, Health and Safety Code, Emergency Detention, authorizes a peace officer, without warrant, to take a person into custody if the officer has a reason to believe and does believe that the person is mentally ill and because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained and believes that there is no sufficient time to obtain a warrant before taking the person into custody. A peace officer who takes a person into custody may immediately seize any firearm found in possession of the person. After seizing a firearm the peace officer shall comply with the requirements of Article 18.191, Code of Criminal Procedure.

Pursuant to the Texas Health and Safety Code, Chapter 573.001, Emergency Detention, the firearms listed below were seized from you on _____ (date).

List make, model, caliber, serial number and ammunition:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

Code of Criminal Procedure, Article 18.191, and Disposition of Firearm Seized From Certain Persons with Mental Illness. A law enforcement officer who seizes a firearm from a person taken into custody 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, shall immediately provide the person a written copy of the receipt for the firearm and a written notice of the procedure for the return of a firearm under this article. The law enforcement agency holding a firearm subject to disposition under this article shall, as soon as possible, but not later than the 15th day after the date the person is taken into custody under Section 573.001, Health and Safety Code, provide written notice of the procedure for the return of a firearm under this article to the last known address of the person's closest immediate family member as identified by the person or reasonably identifiable by the law enforcement agency, sent by certified mail, return receipt requested. The written notice must state the date by which a request for the return of the firearm must be submitted to the law enforcement agency.

List the address of an immediate family member or point of contact:

Last, First, Middle	Address
() -	City, State, Zip
(Phone number)	

Once approved for release according to the Code of Criminal Procedure, Article 18.191, all property will be available at:

**Fort Bend County Sheriff's Office
1840 Richmond Parkway
Richmond, Texas 77469
281-341-3858**

I acknowledge receipt of a copy of this notice.

Signature of Person Notified	Date	Mailing Address
Signature of Deputy Serving Notice	Badge	Signature of Witness

THIS RECEIPT DOES NOT CONSTITUTE RECOGNITION OF LEGAL TITLE TO ABOVE PROPERTY

**FORT BEND COUNTY SHERIFF'S OFFICE
15 DAY NOTIFICATION OF SEIZED WEAPON**

Date of Notification _____

Name

Address

City, state, zip

Dear Mr./Ms. _____,

On this the _____ day of _____, _____, the proposed patient,
_____, was taken into custody under the Health and
Safety Code 573.001 and was in possession of a firearm that was seized for
safekeeping by the Fort Bend County Sheriff's Office, Case # _____.

In accordance with the Texas Code of Criminal Procedure Art 18.191(b), which states that the law enforcement agency holding a firearm subject to disposition under this article shall, as soon as possible, but not later than the 15th day after the date the person is taken into custody under Section 573.001, Health and Safety Code, provide written notice of the procedure for the return of a firearm under this article to the last known address of the person's closest immediate family member as identified by the person or reasonably identifiable by the law enforcement agency, sent by certified mail, return receipt requested. The written notice must state the date by which a request for the return of the firearm must be submitted to the law enforcement agency.

Please contact the subject listed above and provide them with this form on the procedures for the disposition of the firearm.

A WRITTEN REQUEST TO THE FORT BEND COUNTY SHERIFF'S OFFICE MUST BE SUBMITTED NO LATER THAN 121 DAYS FROM THE DATE OF RECEIVING THIS FORM. YOUR SUBMISSION DATE IS NO LATER THAN 3PM ON _____

**FORT BEND COUNTY SHERIFF'S OFFICE
DISPOSITION OF SEIZED FIREARM**

Date _____

Name

Address

City, State, Zip

Dear Mr./Ms. _____

On the _____ day of _____, _____ the proposed patient, _____, was taken into custody under Health and Safety Code 573.001 and was in possession of a firearm that was seized for safekeeping by the Fort Bend County Sheriff's Office, Case # _____.

In accordance with Texas Code of Criminal Procedure Art 18.191 (b), this is written notice to the person listed above of the procedures and options for the return of the seized firearm by the Fort Bend County Sheriff's Office.

An investigation by the Fort Bend County Sheriff's Office has shown the following: (check one)

- _____ (full name), **MAY LAWFULLY POSSESS** a firearm or ammunition and is not in violation of 18 U.S.C. Section 922(g).
- _____ (full name), is **PROHIBITED FROM POSSESSING** firearms or ammunition according to 18 U.S.C. Section 922(g).

After reviewing the attached information, contact:

**Fort Bend County Sheriff's Office
1840 Richmond Parkway
Richmond, Texas 77469
281-341-3858**

Sincerely,

Investigator

THE STATE OF TEXAS
COUNTY OF FORT BEND

AFFIDAVIT OF REQUEST FOR RETURN OF FIREARM

BEFORE ME, the undersigned authority, on this day personally appeared _____, who (Affiant) swore or affirmed to tell the truth, and stated as follows:

1. My name is: _____.
My address is: _____.
My phone number is: _____.
My date of birth is: _____. My ID number is _____.

(Initial)

- ___2. I am over the age of eighteen (18) years and I have never been convicted of a felony offense that would forbid my possession of the listed firearm(s).
- ___3. I am fully competent to make this affidavit. I have personal knowledge of the facts contained in this affidavit and said facts are true and correct.
- ___4. I have not been prosecuted for any charge relating to the seizure of said firearms(s) and I hereby request that said firearm(s) is returned to me.
- ___5. If said firearm(s) are released to me, I do not intend to transfer/give/sell the firearm to any person who has been convicted of a felony offense that would forbid them from possessing said firearm, I do not intend to use the firearm(s) unlawfully or in the commission of an unlawful act.
- ___6. I wholly or partly own said firearm(s) or I am the owner's designee. (Attach Notarized Designation Statement)
- ___7. I will not allow access to the firearm(s) by the person who was taken into custody under Section 573.001, Health and Safety Code, at any time during which that person may not lawfully possess a firearm under 18 U.S.C. Section 922(g).
- ___8. I acknowledge the responsibility of the person and no other person to verify whether the person who was taken into custody under Section 573.001, Health and Safety Code, has reestablished the person's eligibility to lawfully possess a firearm under 18 U.S.C. Section 922(g).

Agency Case Number: _____

- Weapon Description and serial number: 1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

State of Texas
County of Fort Bend

SWORN to and SUBSCRIBED before me, the undersigned authority, on
The _____ day of _____, _____ year, by

(Affiant)

NOTARY PUBLIC, STATE OF TEXAS

Date:

Attn: Fort Bend County Clerk

The following person is requesting the return of a firearm seized by this agency under Section 573.001 of the Health and Safety Code. I respectfully request notification regarding the disposition of this case. More specifically, was this person released under HSC Section 573.023 or ordered to receive inpatient mental health services under HSC Section 574.034 or 574.035.

Consumer name: (Full Name)

Date of Birth:

Date of Emergency Detention Order:

Agency Case Number:

Receiving Hospital: (Hospital Name and Address)

Your assistance is greatly appreciated,

(Investigator's Name and Badge #)

Property/ Evidence Unit

Fort Bend County Sheriff's Office

1410 Williams Way Blvd.

Richmond, Texas 77469

Office: 281-341-3858

Email: (Investigator's Email)