

# TEXAS JUSTICE COURT



## TRAINING CENTER

Texas State University  
1701 Directors Blvd, Suite 530  
Austin, Texas 78744  
Tel (512) 347-9927 or (800) 687-8528  
Fax (512) 347-9921  
[www.tjctc.org](http://www.tjctc.org)

### FY2019 Webinar

# Emergency Detention Orders, Transport, and Resources

Presented by:

Camille Reasor  
Staff Attorney  
Texas Justice Court Training Center



An Educational Endeavor of the Justices of the Peace and Constables Association, Inc.  
Funded by a grant from the Texas Court of Criminal Appeals

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1701 Directors Blvd, Suite 530, Austin, TX 78744

# Emergency Detentions

**Camille Reasor**  
**Staff Attorney**  
**Texas Justice Court Training Center**

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# What is an Emergency Detention?

# What is an Emergency Detention?

- **Governed by Health & Safety Code (HSC) Chapter 573.**

## What is an Emergency Detention?

- **Occurs when a person with a mental illness,**
- **Who is exhibiting signs of that illness,**
- **Is detained in order to prevent harm to themselves or others.**

## Options for Detaining

**A mentally ill person can  
be detained by:**

- **Emergency Detention  
Order,**
- **Law enforcement  
officer without a  
warrant, or**
- **A person's guardian.**

# Emergency Detention Order Process

# Emergency Detention Order Process

APPLICATION for  
emergency detention



WARRANT for emergency  
detention issued



DETENTION by law  
enforcement officer



PRELIMINARY  
EXAMINATION at a mental  
health facility

## Application for Emergency Detention

- Starts the emergency detention process.
- Filed by any adult.

**HSC §573.011(a)**

# Application for Emergency Detention

HSC §573.011(b),(c)

**Application must include the following information:**

- **Person shows signs of mental illness,**
- **Person poses a high risk of serious harm to self or others,**
- **Specific description of the risk of harm,**
- **Risk of harm is imminent unless the person is immediately restrained,**

# Application for Emergency Detention

HSC §573.011(b),(c)

**Application must include the following information (cont.):**

- **Belief of harm is based on specific recent behavior, acts, attempts, or threats,**
- **Description of the specific behavior, acts, attempts, or threats,**
- **Description of the applicant's relationship to the person,**
- **Any additional relevant information.**

# Application for Emergency Detention

- **Must be presented to a magistrate for review.**

**HSC §573.012(a)**

## Granting the Application

HSC §573.012(b)

**Magistrate must find reasonable cause to believe:**

- **Person shows signs of mental illness,**
- **Person shows signs he/she poses a high risk of serious harm to self or others,**
- **Risk of harm is imminent unless immediately restrained,**
- **Necessary restraint can't be accomplished without emergency detention.**



## Granting the Application

- **Application MUST be denied if there isn't reasonable cause to believe EACH requirement.**

**HSC §573.012(b)**

## Substantial Risk of Serious Harm

- **May consider:**
  - **Person's behavior, or**
  - **Evidence of severe emotional distress and deterioration in the person's mental condition.**

**HSC §573.012(c)**

## Substantial Risk of Serious Harm

### When considering the facts:

- Note as many clues as possible.
- Put the clues into context of the situation.
- Be mindful of environmental and cultural factors.

## Warrant Issued

- If application granted, warrant issued.
- Directs an on-duty peace officer to immediately apprehend the person.

HSC §573.012(d)

# Warrant Issued

- **Warrant commonly referred to as:**
  - **Emergency Detention Order (EDO)**
  - **Emergency Detention Warrant (EDW)**

## Detention by Law Enforcement Officer

- **Once the person is detained, he or she must be transported to the nearest inpatient mental health facility for a preliminary examination.**

**HSC §573.012(f)**

## Mental Health Facilities

HSC §573.012(f)

- **Warrant serves as an application for detention in the facility.**
- **Officer must give the facility:**
  - **Warrant**
  - **Copy of the application**

## Mental Health Facilities

- **If the facility is full or unavailable, person transported to a facility approved by the local mental health authority.**

## Preliminary Examination

- **Temporarily accepted for purposes of an examination.**
- **Must be seen by a mental health physician with 12 hours of being detained.**
- **Person will be admitted or released based on the physician's findings.**

Apprehension  
by a Peace  
Officer Without  
a Warrant

## Apprehension Without a Warrant

HSC §573.001

**Peace officer must have reason to believe:**

- **Person has a mental illness,**
- **Because of the mental illness there is a high risk of harm to self or others unless the person is immediately restrained, and**
- **There is not enough time to get a warrant.**

## Substantial Risk of Serious Harm

- **May consider:**
  - **Person's behavior, or**
  - **Evidence of severe emotional distress and deterioration in the person's mental condition.**

**HSC §573.001(b)**

## Substantial Risk of Serious Harm

- **Determined based on:**
  - **Officer's own observations, and/or**
  - **Information from a credible person.**

**HSC §573.001(c)**

## Substantial Risk of Serious Harm

- **If the person has a gun in their possession, the officer can seize it.**

**HSC §573.001(g)**

## Transport & Examination

HSC §§573.001(d), 573.002

- **Person must be transported to an inpatient mental health facility for an examination.**
- **Must file a notification of detention with the facility.**

## Transport & Examination

HSC §§573.001(g)

**Officer must immediately tell the person:**

- **Why they are being detained.**
- **That a staff member of the facility will inform them of their rights within 24 hours.**



# Proper Law Enforcement Agency For Transport

## Proper Agency for Transport

HSC §§573.001(d), 573.012(d)

With a  
warrant:

- Any on-duty peace officer.

Without  
a  
warrant:

- Officer who detained the person, or
- EMS *if* there is a Memorandum of Understanding.

# Proper Agency for Transport

- **Directed to ANY on-duty peace officer.**
- **Does not matter where the person to be apprehended is located.**
  - **A city police officer may apprehend a person located in the county.**

**AG Opinion KP-0206**

# Responsibility to Transport

- **Peace officer who apprehends also has the responsibility for transporting.**

**AG Opinion KP-0206**

# No Refusal to Transport

- **A peace officer MAY NOT refuse to transport a person he/she apprehends.**
- **Refusal could result in contempt.**

**AG Opinion KP-0206**

Local Mental  
Health  
Authorities

# Local Mental Health Authorities (LMHAs)

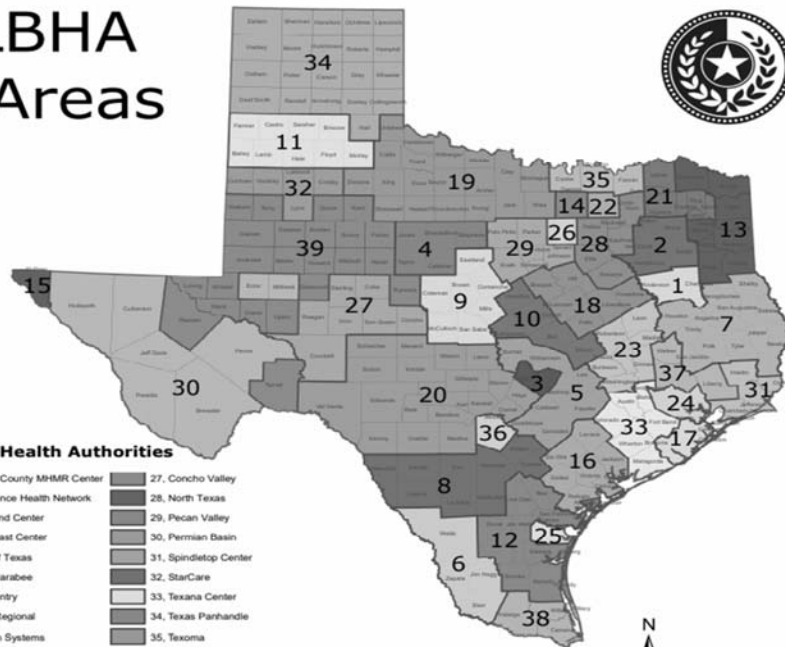
## Required to:

- Plan,
  - Develop policy,
  - Coordinate,
  - Allocate, and
  - Develop resources
- for mental health services in the local service area.

## LMHA/LBHA Service Areas



TEXAS  
Health and Human  
Services



### Local Mental and Behavioral Health Authorities

|                              |                               |                                     |
|------------------------------|-------------------------------|-------------------------------------|
| 1, ACCESS                    | 14, Denton County MHMR Center | 27, Concho Valley                   |
| 2, Andrews Center            | 15, Emergence Health Network  | 28, North Texas                     |
| 3, Austin Travis County      | 16, Gulf Bend Center          | 29, Pecan Valley                    |
| 4, Betty Hardwick            | 17, Gulf Coast Center         | 30, Permian Basin                   |
| 5, Bluebonnet Trails         | 18, Heart of Texas            | 31, Spindletop Center               |
| 6, Border Region             | 19, Helen Farabee             | 32, StarCare                        |
| 7, Burke Center              | 20, Hill Country              | 33, Texasana Center                 |
| 8, Camino Real               | 21, Lakes Regional            | 34, Texas Panhandle                 |
| 9, Center for Life Resources | 22, LifePath Systems          | 35, Texoma                          |
| 10, Central Counties         | 23, Brazos Valley             | 36, Center for Health Care Services |
| 11, Central Plains           | 24, Harris County             | 37, TriCounty Services              |
| 12, Coastal Plains           | 25, Nueces County             | 38, Tropical Texas                  |
| 13, Community Healthcare     | 26, Tarrant County            | 39, West Texas Centers              |



0 35 70 140 210 280 Miles

Source: Health and Human Services Commission, Behavioral Health Services

# Local Mental Health Authorities (LMHAs)

- **List of local mental health authorities:**  
**<https://dshs.texas.gov/mhsa/lmha-list>**

## More Information

- **Magistration Deskbook**
- **Health & Safety Code Chapter 573**
- **Texas Department of State Health Services:**
  - **[www.dshs.texas.gov](http://www.dshs.texas.gov)**

Forms:  
[www.tjctc.org](http://www.tjctc.org)

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Texas State > Texas Justice Court Training Center > Resources > Forms

The TJCTC legal department has created 105 criminal and civil forms for judges', court personnel, constables' and deputy constables' use. We hope you will find these forms helpful in practice. Please note the following:

- These forms are compatible with Word. If you have an earlier version of Word, you may need to adjust the formatting after you save the form.
- We will continue updating the forms as more become available. Many new forms will be made available later this year in conjunction with our new deskbooks.

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### Magistration

Back

| Document  | Description | Revised   |
|---|-------------|-----------|
| 15.17 Hearing Forms – Arrest Under Warrant                |             | 3/17/2016 |
| 15.17 Hearing Forms – Warrantless Arrest                  |             | 3/17/2016 |
| Arrest Warrant – Complaint and Application                |             | 3/16/2016 |
| Arrest Warrant and Return                                 |             | 3/16/2016 |
| Bond Condition – Family Violence Offense – GPS Monitoring |             | 3/17/2016 |
| Bond Condition Order – Family Violence                    |             | 3/16/2016 |
| Bond Condition Order – General                            |             | 3/16/2016 |
| Bond Condition Order – Ignition Interlock                 |             | 3/16/2016 |
| Commitment Order  |             | 3/17/2016 |
| Defendants Plea – Guilty or Nolo Contendere               |             | 3/16/2016 |
| Defendants Plea – Not Guilty                              |             | 3/16/2016 |
| Emergency Detention – Application                         |             | 10/5/2016 |
| Emergency Detention – order                               |             | 10/5/2016 |
| Emergency Detention – Warrant                             |             | 10/5/2016 |