



Texas House of Representatives
COMMITTEE ON GENERAL INVESTIGATING

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OPINION COMMITTEE

FILE # ML-41477-00
I.D. # 41477

Members:
Joe Crabb
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June 14, 2000

RQ-0248-JC

The Honorable John Cornyn
Attorney General of Texas
Post Office Box 12548
Austin, Texas 78711

Dear General Cornyn:

As chair of the House Committee on General Investigating, I request your opinion on a question that has arisen on a matter involving the concealed handgun carry law. The matter is not currently in litigation and is one of significant public interest.

Since Texas enacted its concealed handgun law in 1995, law enforcement agencies throughout the state struggle to ensure they enforce the legislative mandate. In their enforcement of the law, they are often confronted with questions about the application of the law.

A question has arisen concerning whether a public university, school district, city, county or other unit of government has authority to prohibit a licensee from carrying or taking a handgun onto property owned or controlled (including parking lots, parking garages or other parking areas, but not public thoroughfares) by the respective unit of government.

Previously, your office has answered questions where handguns are prohibited. However, I do not believe you have been asked to opine about a unit of government's authority to expand the prohibitions to other areas it controls or regulates. Does a unit of government have inherent authority to regulate behavior on its premises?

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Letter to the Honorable John Cornyn, RE: Opinion Request
June 14, 2000

Your office has already noted that Section 46.03 (a)(1) of the Penal Code makes it illegal to take or possess a firearm on the physical premises of a school or educational institution or on any grounds or building on which an activity sponsored by a school or educational institution. There is an exception if possession of the firearm is allowed pursuant to written authorization or written rules.

However, Section 46.035(f)(3) (defining premises to exclude parking lots and parking garages) applies to Section 46.03. Thus, your office has ruled that a licensee can possess or go onto a university parking lot or garage with a handgun without violating the Penal Code. *See Opinion No. DM-363 and Letter Opinion No. 96-009.*

Possession of a firearm on a university parking lot or parking garage may be acceptable under the Penal Code. However, may a unit of government promulgate rules, regulations, or policies under which such possession would be unacceptable on its own property or property subject to its control?

Thanks for your consideration of this matter. If you have any questions or need more information, please do not hesitate to call on me.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete P. Gallego", with a long horizontal flourish extending to the right.

Pete P. Gallego

PPG:cem