

The University of Texas
Rio Grande Valley™

CAMPUS CARRY WORKING GROUP
INTERIM RECOMMENDATIONS

TABLE OF CONTENTS

- I. Background
- II. Engaging Stakeholders
- III. Working Group Recommendations
 - A. Recommended Concealed Carry Exclusion Zones
 1. Child-Care Facilities
 2. Patient Care Areas
 3. Intercollegiate/Athletic Events
 4. UTRGV Mathematics and Science Academy (MSA) –
Brownsville Campus
 5. Laboratories
 6. Animal Care Areas and Vivariums
 7. Watercraft
 8. Residential facilities
 9. Disciplinary or Grievance Hearings
 10. Programs or Camps for Minors
 - B. Additional Recommendations that Enhance Implementation
 1. Mental Health Services
 2. Training
 3. Handgun Storage
 - C. Policy Language Regarding License Holder Responsibilities
 - D. Classrooms

IV. Conclusion

V. Appendices

A. Town Hall Meetings

B. Campus Carry Working Group

C. References

I. Background

The 84th Session of the Texas Legislature passed and Governor Greg Abbott signed Senate Bill 11 (“S.B. 11”), known as the “campus carry” law. Senate Bill 11 provides that, beginning August 1, 2016, persons who hold a license to carry a handgun may carry a concealed handgun on the grounds of or in buildings of an institution of higher education such as UTRGV. Provisions of S.B. 11 authorize the president of a public university to establish reasonable rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on a campus. However, these rules, regulations, or other provisions may neither generally prohibit nor have the effect of generally prohibiting license holders from carrying concealed handguns on campus.

To assist in implementing S.B. 11, President Guy Bailey established the UT Rio Grande Valley Campus Carry Working Group (“Working Group”). Comprised of student, faculty, staff, and community representatives, the Working Group was charged with discussing S.B. 11 and how it might apply to UTRGV; consulting with internal and external campus community stakeholders by seeking comments, perspectives, and other information; and, using this input, developing recommendations for campus-specific rules, policies, and practices that focus on UTRGV’s unique campus environments. The Working Group’s guiding principles were to maintain UTRGV’s commitment to complying with S.B. 11 while at the same time maintaining safe and secure campus environments as its priority.

It must be noted that House Bill 910, commonly known as the “open carry” law and which goes into effect January 1, 2016, expressly exempts institutions of higher education. In other words, the open carry of handguns on the UTRGV campus is now and, after January 1, 2016, will remain a crime. Additionally, the laws pertaining the carrying of prohibited weapons, except for handguns carried by license holders, remain in effect and subject to the Texas Penal Code.

II. Engaging Stakeholders

As noted above, one of the Working Group’s charges was to consult with internal and external campus community stakeholders, seeking their comments and perspectives in implementing the requirements of S.B. 11 at UTRGV. To this end, a series of Town Hall meetings were held at the Brownsville, Harlingen, and Edinburg campuses. At these Town Hall meetings, participants were provided both a presentation on the provisions of S.B. 11 as well as an

opportunity to provide their comments, suggestions or perspectives as to how S.B. 11 should be implemented at UTRGV. Approximately 598 persons attended the five Town Hall Meetings. Comments were provided by students, faculty, staff and members of the external community. Some participants voluntarily indicated they were licensed to carry handguns.

The well-attended forums were intended to seek open comments and suggestions on the implementation of S.B. 11, with a focus on recommendations on handgun “exclusion zones” on campus and how to best develop policies and protocols that would maintain a safe campus environment, rather than to poll the number of persons “for” or “against” the provisions of the law. The comments were varied and many concerns were directed against the passage of S.B. 11 rather than on recommendations on how to safely and best implement the law.

The Working Group was very pleased with the high level of participation, discussion, debate and engagement by the campus community. Some faculty members allowed their classes to attend the forums and for some students attending was part of their course work. One class provided written comments after the forum. Some faculty members provided comments based on their research or work experience, and others indicated that they would initiate research on Texas campus carry.

Additionally, 96 comments were received through the campuscarry@utrgv.edu email address. An additional 46 comments from a class were received in writing. Additional small group or individual meetings were held with students, staff and faculty throughout the process.

To keep the campus community informed on campus carry discussion activities, announcement and invitations to forums and meetings, a web page, <http://www.utrgv.edu/campuscarry/index.htm>, was established.

III. Working Group Recommendations

In the last three months the Working Group met in person and via teleconference at the Brownsville, Harlingen, and Edinburg campuses to review, discuss, debate, and consider recommendations made during the Town Hall meetings, at other forums, and through email submissions to the campus carry email address.

The Working Group reached consensus and submits the following interim recommendations:

A. Recommended Concealed Carry Exclusion Zones

Certain statutory exclusion zones currently exist under the Texas Penal Code and are not affected by S.B. 11, such as polling places that might be located on the UTRGV campus or pre-K-12 school-sponsored activities held at UTRGV. While these exclusion zones do not require written notice under Texas Penal Code Section 30.06, fair notice (e.g., “Pre-K-12 school-sponsored activity in progress” or “Polling Place”) would be appropriate.

Likewise, the concealed carry of handguns should be prohibited in areas for which state or federal law, licensing requirements, or contracts require exclusion exclusively at the discretion of the state or federal government, or are required by a campus accrediting authority. Notice should conform to the requirements of Texas Penal Code Section 30.06, unless overriding federal or state requirements exist.

The Working Group recommends the following specific exclusion zones be considered as well:

1. Child-Care Facilities. Rules of the Texas Department of Family and Protective Services prohibit the possession of firearms on the premises of licensed facilities with before- or after-school care and for licensed child-care centers (40 Texas Administrative Code Sections 744.2607 and 746.3707). However, because there is no enforcement mechanism in the Texas Penal Code other than possibly suspension or revocation of the child-care center’s license, the law may be viewed as not specifically prohibiting the carrying of concealed handguns in such locations. The Working Group believes that prohibiting concealed handguns on the premises of child-care facilities at UTRGV is sensible.

Recommendation:

The concealed carry of handguns should be prohibited at child-care facilities on campus, such as:

- Counseling and Assessment and Preparation Clinic – Edinburg Campus
- Child Development Center – Edinburg Campus
- University Head Start Program, College of Education and P-16 Initiatives, Education Building – Edinburg Campus

2. Patient Care Areas. Section 46.035(b)(4) of the Texas Penal Code prohibits the concealed carry of handguns in hospitals licensed under Chapter 241 of the Texas Health and Safety Code. By analogy and extension, the Working Group recommends that the concealed carry of handguns be prohibited in patient-care areas at UTRGV where health care services or counseling services are provided. This includes any existing or future clinics, mental health treatment areas, or hospitals. The Working Group suggests that “patient care area” should involve patients for whom a formal record of treatment is maintained.

Recommendation:

Concealed carry of handguns should be prohibited in patient-care areas where health care services or counseling services are provided, such as:

- John Austin Pena Primary Care and Substance Abuse Treatment Facility in Edinburg
- Health Services Clinics at the Edinburg and Brownsville campuses.
- Counseling and Psychological Services at the Edinburg and Brownsville campuses.
- Other patient treatment facilities or clinics as identified.

UTRGV also provides non-professional counselors and advocates in its Office of Victim Advocacy and Violence Prevention to assist those who report having suffered sexual misconduct or assault. Although formal “treatment records” are not maintained by that office, they do provide counseling and support to victims. By analogy and extension, the Working Group recommends that the concealed carry of handguns not be permitted in this office.

3. Intercollegiate/Athletic Events. Section 46.035(b)(2) of the Texas Penal Code prohibits the carrying of a handgun (regardless of whether concealed) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event. High school or professional sporting events do not require written notice be provided. For collegiate sporting events (e.g., a UTRGV NCAA women's basketball game), statutory notice must be provided in accordance with Texas Penal Code Section 30.06 – meaning, through written communication on the back of or appended to a ticket.

The Working Group recommends that, by analogy and extension, the concealed carry of handguns should be prohibited at any sporting event held on UTRGV campuses if they are ticketed, whether an intercollegiate event or not.

Recommendation:

Concealed handguns should be prohibited on the premises where any ticketed sporting event is taking place.

4. UTRGV Mathematics and Science Academy (MSA). The MSA is a program for high school-aged students who are gifted in math and science. MSA students take classes from UTRGV faculty with current UTRGV students, gaining exposure to the university experience during high school but with more supervision and guidance than traditional university students. The MSA offers students the opportunity to complete two years of college concurrently with the last two years of high school.

After August 1, 2016, the Texas Penal Code Section 46.03(a)(1) will still prohibit the carrying of a handgun on the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution, or a passenger transportation vehicle of a school or educational institution,

unless carrying is permitted pursuant written regulations or written authorization of the institution.

Based on this Texas Penal Code provision, discrete physical locations associated with the Math and Science Academy, as premises on which an activity sponsored by a school or educational institution is being conducted, should be a statutory exclusion zone where license holders must not carry guns without further need for signage under Texas Penal Code Section 30.06. However, prudence would dictate that notice of these discrete physical locations be provided. To the extent MSA students take UTRGV classes with UTRGV students in UTRGV classrooms, these students would be treated like UTRGV students.

Recommendation:

The carrying of concealed handguns should be statutorily prohibited at discrete physical locations associated with the Math and Science Academy, such as:

- Brownsville Campus – Main Building
- Edinburg Campus – Future site

Notice should be provided of these discrete physical locations.

5. Laboratories. The handling of chemicals, biologic agents, explosive agents, or the equipment related to using these materials requires specific training and care, and often requires individuals to wear personal protective equipment (“PPE”) to minimize exposure to serious workplace injuries or illnesses. License holders are not specifically trained on the safe use of their handguns in such laboratory environments or in carrying handguns while wearing PPE. Accidental or purposeful discharge of a handgun in such areas could cause grave and catastrophic harm, either from the discharge itself or from the failure to follow proper safety protocols after a discharge. Handguns are inappropriate in the vicinity of some types of equipment, e.g., magnetic resonance imaging equipment because of the very strong magnetic field present. These safety considerations justify excluding handguns from campus laboratories.

Recommendation:

The concealed carry of handguns should be prohibited in areas where the discharge of a handgun might cause significant harm, such as laboratories with dangerous chemicals, biologic agents, or explosive agents, and areas with equipment incompatible with metallic objects (e.g., magnetic resonance imaging machines).

6. Animal Care Areas and Vivaria. Similar to laboratories, handguns should not be permitted in areas in which protocols increase the risk of discharge or contamination of a concealed handgun, or its unanticipated separation from the licensed holder. Some animal care facilities have strict protocols for entering and exiting the facility, including requirements for PPE including, but not limited to, gowns, caps, face masks, eye wear and gloves. The carrying of a concealed handgun is not conducive to the donning and removal of that equipment. Animals may carry viruses and bacteria that can be pathogenic to humans, which may require careful control over objects that are brought into or leave a facility. In addition to the risk of fomite transmission, there also exists the potential to compromise the integrity of the experiment and some protocols utilize flammable or corrosive liquids and gases. The many safety risks associated with such facilities give cause to recommend that concealed handguns be excluded.

Recommendation:

The concealed carry of handguns should be prohibited in animal facilities in which protocols regulating ingress and egress create a risk that a concealed handgun will accidentally discharge, be contaminated, or be separated from a license holder. Examples of these animal care or vivarium areas include the following:

- Edinburg – The BNSB Building
- The ERAHC
- The BSL-3 facility within the ERAHC.
- The Bio Medical Building Vivarium

7. Watercraft. UTRGV operates various vessels in several length classes that serve as a “floating” classroom or support academic research to include diving operations. Safe operation and navigation are a priority while on the Intercostal Waterway (ICW), the Laguna Madre, the Rio Grande River, the Gulf of Mexico or other waters. In marine environments weather is a critical operational factor which can change rapidly and create unexpected situations for the crew and occupants.

To legally carry a concealed handgun, the license holder must carry it on or about their person and in a manner not visible or discernable through ordinary observation. The individual use of life-preserving equipment (such as personal flotation devices and other safety equipment) must be worn as required and be properly secured on the person, and its wear cannot be impeded by a concealed handgun during emergency situations or in preparation for addressing severe weather. Additionally, marine related clothing or equipment used such as diving suits would prevent the necessary concealment of a handgun as required by law. Further, nothing in S.B. 11 requires UTRGV to modify its vessels to provide for safely and privately storing handguns.

Recommendation:

Concealed handguns should be prohibited onboard all vessels and watercraft owned or operated by UTRGV.

8. Residential Facilities. The law provides that institutions may establish rules for storage of handguns in dormitories or other residential facilities. Some people believe that this language reinforces an opinion that the intent of the law is to permit concealed carry in residential facilities. Others believe that the law empowers presidents to exclude concealed carry without limitation, other than the requirement that the president “may not establish provisions that generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus of the institution.”

Some UTRGV residential facilities are “traditional” residence halls, with shared bedroom space and rooms connected via bathrooms. These residential facilities do not provide sufficient space solely under a resident license holder’s control to permit the safe storage of handguns. The Working Group believes the danger of accidental loss, theft, or misuse by roommates or others in this scenario is unacceptably high.

Other UTRGV residential facilities employ an apartment-style structure which differs in physical layout. These apartments have private bedrooms which would enable a resident license holder to store a handgun in a place not accessible to roommates or visitors. The safety considerations which lead the Working Group to recommend the prohibition of concealed handguns in traditional residence halls are substantially mitigated in the apartment-style facilities (except for specific occupancy rooms that offer shared bedroom space).

Recommendation:

Carrying of concealed handguns should be prohibited in residential facilities which do not provide sufficient space solely under a resident’s control to permit the safe storage of handguns, such as:

- Dormitories designed for shared living in the same room.
- Unity Hall, Heritage Hall and Troxel Hall – Edinburg
- Casa Bella – Brownsville – Double Occupancy Rooms designed for shared living.

Carrying of concealed handguns should be permitted in residential facilities which allow for sufficient space solely under a resident’s control to permit the safe storage of handguns, such as:

- Casa Bella Apartments – Brownsville – Single Private Rooms
- The Village Apartments – Edinburg – Single Private Rooms

Residents in these areas will be required to provide their own handgun safe meeting or exceeding UTRGV specifications at their own expense, and to abide by any other safety requirements established as a condition of living in UTRGV residential facilities.

9. Disciplinary or Grievance Hearings. Section 46.03(a)(3) of the Texas Penal Code bans concealed handguns “on the premises of any government court or offices utilized by the court.” By analogy and extension, the Working Group believes the concealed carry of handguns should be prohibited in rooms or offices in which a formal hearing is being conducted in accordance with established discipline or grievance procedures for students, faculty, and staff (except for hearings involving commissioned peace officers under the policies of The University of Texas System Police).

Recommendation:

Carrying of concealed handguns should be prohibited in rooms or offices in which a formal hearing is being conducted in accordance with established discipline or grievance procedures. Written notice conforming to Texas Penal Code Section 30.06 must be provided in letters or emails notifying individuals of the hearing.

10. Programs or Camps for Minors. As previously noted, Texas Penal Code Section 46.03(a)(1) prohibits the carrying of handguns on “any grounds or building on which an activity sponsored by a school ... is being conducted.” UTRGV frequently hosts programs or camps offering recreational, athletic, educational, or other similar activities for school-age children. If such a program or camp is sponsored by a school, the carrying of handguns is automatically excluded under Section 46.03(a)(1), and nothing further is required from UTRGV to exclude the concealed carry of handguns for activities sponsored by a school.

UTRGV may sponsor, facilitate, or coordinate programs or camps for minors which are not affiliated with a school or educational institution. By analogy and extension, locations where children under the age of 18 participate in a program or camp sponsored, facilitated, or coordinated by UTRGV should be exclusion zones. Some discretion will likely be needed to determine which events rise to a level appropriate for exclusion of handguns. Further, it should be noted that exclusion may

not be practical for everyone on campus during the transit of children from one location on campus to another, or for informal gatherings such as lunch in a dining facility.

Recommendation:

Concealed carry of handguns should be prohibited at programs or camps for children under the age of 18 sponsored, facilitated, or coordinated by UTRGV.

B. Additional Recommendations that Enhance Implementation

1. Mental Health Services. The Working Group heard from professional counselors and staff, faculty, students, public safety personnel, and others on the importance of providing mental health services that offers immediate assistance to the campus population and mitigate the effects of stress, emotional distress, severe anxiety, and other psychological problems.

Recommendation:

The Working Group strongly recommends that consideration be given to expanding publicity of and identifying additional resources for current mental and behavioral health programs on campus to increase the availability of prevention, treatment, and rehabilitative services. Additionally, UTRGV's School of Medicine (SOM) brings greater opportunity to develop behavioral health clinics. The clinics may perhaps mirror the SOM's ongoing and important work now being provided through its highly recognized and solicited community outreach programs. Expanding access to mental health care will be a significant first step in mitigating the effects of stress, emotional distress, severe anxiety, and other psychological problems and assisting in keeping our communities safe.

2. Training. The Working Group received numerous comments requesting that training of students, employees, license holders, and campus

police be considered. Possible topics include active shooter training (already offered), training about what individuals should do if they see an armed individual, conflict-resolution, and behavioral intervention.

Recommendation:

The Working Group recommends that training programs related to campus carry policies and protocols, as well as related safety and other topics, be developed in coordination with Human Resources, Student Success, Campus Police and other departments as applicable.

3. Handgun Storage. Senate Bill 11 does not require institutions to build or provide handgun storage facilities; rather, the law simply requires that a license holder be permitted to carry their handgun on or about their person. It should be noted that handgun storage facilities are not required elsewhere in Texas. More important, the Working Group recognizes the safety and security risks associated with transferring handguns to and from storage, particularly the increased risk of accidental discharges associated with unloading handguns for proper storage. The Working Group believes such risks outweigh any benefits to providing such storage.

Recommendation:

Consistent with general practice across Texas, the Working Group recommends that UTRGV not provide handgun storage for license holders. License holders must carry their handguns on or about their person at all times, or store them in their vehicle as permitted by Texas law.

C. Policy Language Regarding License Holder Responsibilities

The Working Group recommends consideration of the following policy language on safeguarding handguns in a Handbook of Operating Procedures policy addressing weapons on campus:

"License holders bear the responsibility for safeguarding their handguns at all times, and must take all necessary precautions to ensure their handguns are secured in a manner that is most likely to prevent theft, loss, damage or misuse. License holders affiliated with UTRGV who fail to use reasonable care in securing their handguns are subject to disciplinary action, up to and including termination or non-renewal of appointment, or dismissal from UTRGV.

"A license holder fails to use reasonable care when he/she does not exercise the care which a reasonable or prudent person would exercise in similar circumstances, or takes action which a reasonable or prudent person would not take. Failing to secure or control a backpack, purse or other similar bag, or carryall containing a handgun at all times on the UTRGV campus would be considered a failure to use reasonable care."

In drafting the HOP policy, additional examples of a "failure to use reasonable care" should be considered, such as failing to use a holster covering the trigger and trigger guard area when carrying a handgun (even in a backpack, purse, or other bag), or carrying a semiautomatic handgun with a chambered round of ammunition.

Other HOP policies, such as those identifying conduct which is unacceptable or those describing disciplinary or grievance processes, may need to be modified to include language to place all individuals associated with UTRGV on notice of institutional policies concerning concealed carry of handguns and repercussions for violation of UTRGV policies.

D. Classrooms

The Working Group understands and appreciates the safety concerns expressed by faculty and students regarding handguns being present in the classroom environment. Yet, the Working Group is also mindful of its responsibility to follow the law and avoid recommendations that would generally prohibit or have the effect of prohibiting license holders from carrying concealed handguns on campus.

Since the primary on-campus activity for most UTRGV students is to attend class at one of UTRGV's campuses, the Working Group believes prohibiting license holders from carrying concealed handguns in classrooms would have the effect of generally prohibiting license holders

from carrying handguns on campus in contravention of the requirements of S.B. 11.

In assessing this issue, the Working Group did consider the alternative of providing gun storage so that license holders would have a place to store a weapon close to a classroom. However, as discussed above, the Working Group believes the risks associated with providing gun storage outweigh any benefits to providing such storage, and so did not find this alternative viable.

IV. Conclusion

The Working Group received substantial comments during the Town Hall meetings, via email, group meetings, and individual contacts that were immensely useful in developing our recommendations. While the Working Group believes that it heard and read the full range of concerns and recommendations on both sides of this difficult issue, one fact was always prevalent and became very clear: UTRGV students, faculty, staff and our external community came together, with a genuine affection for our school and a willingness to collectively contribute to finding the best possible recommendations on this sensitive issue. Even with opposing views, the participants were respectful, but frank and sincere in their opinions, comments and suggestions. After listening to them, there was no doubt that the Working Group would find a way to work through this issue, not just in developing these recommendations, but in all that we seek to accomplish, as a new university of the 21st century that maintains our founding principles of innovation, opportunity and purpose.

Appendix A

CAMPUS CARRY WORKING GROUP

Chair

Mr. Ben Reyna

Associate Vice President for Security and Campus Affairs, UTRGV

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Mr. Richard Sanchez

Associate Vice President of Governmental Relations, UTRGV

Steve Wilson, Ph.D.

Interim Chair of the Department of Criminal Justice, UTRGV

Mr. Manuel Vela

President & Chief Executive Officer, Valley Baptist Health System

Appendix B
TOWN HALL MEETINGS

Wednesday, Oct. 14, 2015

Harlingen Campus – Main Auditorium

Wednesday, Oct. 21, 2015

Edinburg Campus – Student Union Theatre, #1.102

Thursday, Oct. 22, 2015

Brownsville Campus – Student Union, El Gran Salon

Wednesday, Oct. 28, 2015

Brownsville Campus – Student Union, El Gran Salon

Thursday, Oct. 29, 2015

Edinburg Campus – Student Union Theatre, #1.102

Appendix C
REFERENCES

Full texts of Senate Bill 11, House Bill 910, the Texas Penal Code, other referenced statutes and codes can be found at Texas Legislature Online at: www.capitol.state.tx.us