



THE TEXAS HOUSE OF REPRESENTATIVES  
COMMITTEE ON URBAN AFFAIRS

FRED HILL  
CHAIRMAN

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GOVERNMENTAL INQUIRY  
UNIT

November 12, 1997

Opinion Committee

The Honorable Dan Morales  
Texas Attorney General  
P.O. Box 12548  
Austin, TX 78711-2548

RQ-1044  
FILE # ML-39912-97  
I.D. # 39912

Dear Dan,

In Fort Worth, a teacher was arrested for carrying a concealed weapon onto a school parking lot. The District Attorney released her saying that she hadn't broken any laws. One of my constituents said that he called the Fort Worth Police Department and asked how the District Attorney could have claimed that she had committed no crime. The officer said that they run into this problem all the time. They arrest people carrying weapons onto school parking lots and the people are always released.

According to the Penal Code §46.11, "**Penalty If Offense Committed Within Weapon-Free School Zone.** (a) Except as provided by Subsection (b), the punishment prescribed for an offense under this chapter is increased to the punishment prescribed for the next highest category of offense if it is shown beyond a reasonable doubt on the trial of the offense that the actor committed the offense in a place that the actor knew was:

- (1) within 300 feet of the premises of a school; or
- (2) on premises where:

(A) an official school function is taking place; or

(B) an event sponsored or sanctioned by the University Interscholastic League is taking place.

(b) This section does not apply to an offense under Section 46.03(a)(1).

(c) In this section, 'institution of higher education,' 'premises,' and 'school' have the meanings assigned by Section 481.134, Health and Safety Code."

According to the Health and Safety Code, Section 481.134, "...(4) 'Premises' means real property and all buildings and appurtenances pertaining to the real property."

I called the Texas Department of Public Safety and asked how a person could bring a concealed gun to a school parking lot, since that would mean the weapon was much closer than 300 feet of the

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Kevin Bailey, Vice Chairman

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school, and not be charged with breaking the law. I was told that the problem comes from the word "premises". The police are interpreting it to mean within 300 feet of a school parking lot, where the District Attorney is interpreting it to mean within 300 feet of the actual school building.

I would appreciate it if you would give your opinion as to the meaning of the word "premises" so that the police would not have to waste time and effort arresting people who will not be charged. If they understood that a citizen with a licensed weapon, securely locked away in the trunk of a car which is parked 300 or more feet away from a school building, is not committing a crime, they would be on the same wavelength as the District Attorney's office. A clarification on this point would simplify matters for those involved.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Hill". The signature is stylized with a large, looping initial "F" and "H".

Fred Hill  
FH/dmo