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OPINION COMMITTEE

September 9, 2015

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FILE # 47811-15
I.D. # 47811

RQ-0051-KP

RE: Request for Attorney General Opinion

Opinion Committee Members:

Hays County requests an Attorney General Opinion answering questions raised following the effective date of Texas Government Code, §411.209, (hereafter, “§411.209”) which creates a civil penalty for a state agency or political subdivision that provides notice “by a communication described by Section 30.06, Penal Code, or by any sign expressly referring to that law or to a concealed handgun license” that a licensed handgun carrier (“license holder”) is prohibited from entering or remaining on government premises if they are armed, except for premises or other places described by Texas Penal Code, Sections 46.03 or 46.035.

Texas Penal Code, § 46.03, prohibits a person from bringing a firearm (or other weapon) onto “the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court.” “Premises” is defined by Texas Penal Code, §46.035 as “a building or a portion of a building,” but not a “public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.”

The Hays County Government Center is a large, three-story structure housing a variety of government offices, including:

- the District Court judges’ chambers and offices for their staff
- the County Courts-at-law judges’ chambers and offices for their staff
- courtrooms for the above courts
- the District and County Clerk’s Offices
- the Criminal District Attorney’s Office
- the Grand Jury room
- a sally port and secure detention area for jail inmates awaiting hearings
- a justice of the peace office
- a constable’s office
- San Marcos Municipal Court Offices and Courtroom
- Juvenile and Adult Probation offices

- the County Treasurer
- the County Tax Assessor-Collector
- the County Elections Office
- Hays County Human Resources
- the Hays County Auditor's Office
- the Hays County Grants Office
- and Hays County Information Services (IT)

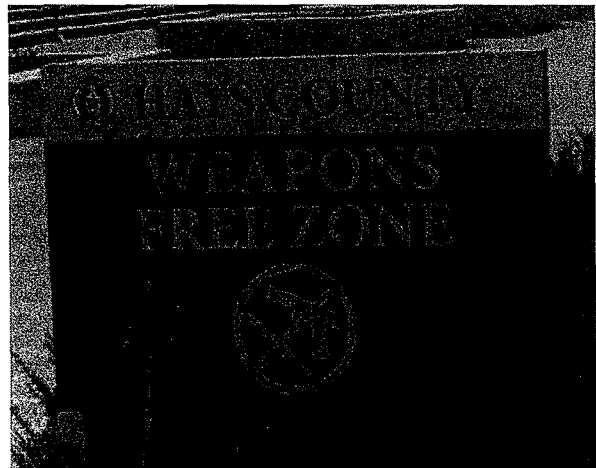
It is important to note that the second and third floors of the building are inhabited by either courts or offices serving the courts (*e.g.*, both Clerks' Offices, the Criminal District Attorney's office, and the Constable's Office). The first floor also contains offices that serve the courts, namely Adult and Juvenile Probation, Collections and Compliance (located in the Treasurer's Office), IT, and the Auditor's Office. Temporary detention for Hays County inmates visiting the courts is also located on the first floor. There are three offices on the first floor that arguably *do not* serve the courts: the Grants Office, the Tax Assessor-Collector's Office, and the Elections Office.

Hays County has historically prohibited weapons throughout the Hays County Government Center. While the first floor does contain non-court-related offices, those offices are interspersed with the offices that do serve the Courts on the first floor, and Hays County officials have understood the term "premises" of the courts, as defined by Texas Penal Code, §46.035, as constituting the entire Government Center (exclusive of the parking lot and surrounding walkways).

Currently, several signs in the parking lot and on the glass frontage of the building read "Weapons Free Zone" as depicted here:



Signage at entrance to Hays County Government Center



Signage in parking lot of Government Center

Otherwise, security for the building consists of a metal-detector-equipped security checkpoint a short distance inside the entrance. There are no "30.06 signs"¹ posted, and the existing signage does

¹ The term "30.06 sign" refers to

a sign posted on the property that:

- (i) includes the language ["Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun"] in both English and Spanish;
- (ii) appears in contrasting colors with block letters at least one inch in height; and
- (iii) is displayed in a conspicuous manner clearly visible to the public.

Texas Penal Code, §30.06(c)(3)(B).


not reference “a law or a concealed handgun license.” However, Sheriff’s deputies do not permit handguns past the security checkpoint, and concealed handgun licensees are provided notice upon passing through the security station that they may not proceed into the building with a firearm, as contemplated by Texas Penal Code, §30.06(a)(2)(B). License holders may check their firearms with the deputies, to be returned as the license holder leaves the building, or return to their vehicles and stow their firearms, at the option of the license holder.

The signage and security policy would therefore not invoke the prohibitions of Texas Penal Code, §30.06, until a license holder has entered the building and been given notice by the deputies that they may not proceed further while armed. In the event that license holder wishes to enter the Government Center to conduct business with one of the offices not directly utilized by the courts, and refuses to relinquish a carried firearm upon request, the following issues would be raised:

- 1) Does a sign that says, “Weapons Free Zone,” but which does not include the language of §30.06(c)(3)(A), violate the restrictions imposed on the government by §411.209, generally (*i.e.*, whether or not the Hays County Government Center constitutes court premises)?
- 2) Does oral notice by a security deputy to a license holder that he may not enter a building housing court and offices used by the courts, but which building also houses offices not directly used by the courts, such as the Hays County Government Center, violate the restrictions imposed on the government by §411.209?
- 3) Is a license holder who wishes to enter the Government Center in violation of Texas Penal Code, §30.06, if the license holder is told by security personnel that possessing a firearm in the building is prohibited and the license holder refuses to relinquish any carried firearms and also refuses to exit the building?

On behalf of myself, the Hays County Sheriff and Commissioners Court, and the members of the public interested in the issue, I respectfully request that the Attorney General issue an opinion pursuant to Texas Government Code, §402.042.²

Sincerely,


Wesley A. Mau
Criminal District Attorney
Hays County, Texas

² We are aware that a similar request for an opinion has already been submitted to the agency by the 51st District Attorney for Tom Green County. *See* RQ-0040-KP. While the issues are similar, we request separately both due to the distinctions between the Tom Green facilities and the Hays County Justice Center, and because the September 1, 2015, effective date of Texas Government Code, §411.209 now authorizes complaints to be filed by license holders under subsection (d) of that statute.