DSC 20 2015

## OPINION COMMITTEE





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28 December 2015

Office of the Attorney General Attention: Opinion Committee

P.O. Box 12548

VIA Email:

Opinion.Committee@texasattorneygeneral.gov

Dear Sirs.

I am the District Attorney for the 79th Judicial District of Texas which includes the City of Alice within its jurisdiction. The City Attorney for Alice had submitted a request for an Attorney General Opinion on December 21, 2015, and was advised that he would need to have an authorized requestor submit the request. I am submitting the request on behalf of the City of Alice. The request is attached as Exhibit A, and incorporated in this request letter for all purposes.

After reviewing the analysis and opinions in both KP-0050 and KP-0051, along with the issues set forth in Exhibit A. I believe an opinion is necessary to address the five questions set forth by the City of Alice.

Thank you for your assistance. Please do not hesitate to contact me if you need additional information.

Respectfully.

Carlos Omar Garcia

xc: David D. Towler, City Attorney, City of Alice

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December 21, 2015

Office of the Attorney General Attention Opinion Committee P.O. Box 12548 Austin, Texas 78711-2548

Email:
Opinion.Committee@texasattorne
ygeneral.gov

Re: Carrying handguns on City premises.

Dear sirs,

I am the City Attorney for the City of Alice, and the City is in the process of considering what restrictions will be imposed on carrying handguns on City premises. The City of Alice has a Council Chambers (on the second floor) where the open meetings are held, and a separate room (below the first floor) where closed sessions are held. The language of the Concealed Carry Notice (Penal Code §30.06(c)(3) and the Open Carry Notice (Penal Code §30.07(c)(3) statutes appears to leave some open questions:

- a. The Open/Concealed carrying is prohibited only "in the room or rooms where a meeting of the governmental entity is held," and possibly only while the meeting is being held. Tex. Penal Code 46.035(c).
- b. However, the Open Carry Notice requires that the Notice be posted "at each entrance to the property." Tex. Govt. Code §30.07(c)(3).
- c. Although the term "premises" is defined, the term "property" is not.
- d. Tex. Govt. Code §411.209(a) prohibits an unauthorized notice under Penal Code §30.06 (but not §30.07).

Both Concealed and Open Carry Notices must be posted "on the property," (Penal Code §30.06(c)(3)(B) and Penal Code §30.07(c)(3)(B).) However, the City must post the Open Carry Notice "at each entrance to the property," but is prohibited from posting the Concealed Carry Notice unless authorized by Penal

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Code §46.03 or §46.035. The questions I have are:

- a. Does the Open Carry Notice have to be posted at the entrance to the building, or at the entrance to the Council Chambers and Closed Meeting Room?
- b. May the City post the Concealed Carry Notice at the entrance to the building, or is this Notice limited to the entry to Council Chambers and the Closed Meeting Room?
- c. The Govt. Code §30.06(c)(3) and §30.07(c)(3) Notices state that a person may not "enter this property" with a concealed or open-carried handgun, but Penal Code §46.035(c) only limits the carrying to "the room or rooms where a meeting of a governmental entity is held." May the City prohibit entry to the entire City Hall, or just to the Council Chambers/Closed Meeting Room?
- d. If the Notices are posted at the entrance to the building, must/may the Notices state that the restrictions only apply to Council Chambers and the Closed Session Meeting Room, and only while City Council is in session?
- e. May the Concealed Carry and Open Carry (sign) Notices be left up at times when a City Council Meeting is not being held? If not, how long in advance of, and after, the actual time of the Meeting (Open Meeting or Closed Session) may the Notices be given? Is this different for a "card or other document?"

Thank you for your assistance with this. Please advise if you need further information.

Very truly yours,

/S/ David D. Towler

DDT/sf

xc: Rene Marshall, City Clerk Rex Ramon, Police Chief