



# SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



## Procedure 510 – Carrying Of Handguns

Office with Primary Responsibility:	CTA	Effective Date: Prior Revision Date:	July 06, 2016 December 30, 2015
Office(s) with Secondary Responsibilities:	PSC, PNC, TSC, SSD, MCC	Number of Pages:	5
Forms Referenced in Procedure:	DPS Affidavit For Revocation of Handgun License	Related Procedures:	None

### **.01 INTRODUCTION**

This procedure establishes guidelines for actions officers should take when coming into contact with citizens who are licensed by the State of Texas to carry handguns under Government Code, Chapter 411, Subchapter H, *License to Carry a Handgun*.

### **.02 POLICY**

The State of Texas, through passage of Senate Bill 60 by the 74th Texas Legislature and as amended via Senate Bill 321 by the 82<sup>nd</sup> Legislature, and House Bill 3142 and Senate Bill 299 by the 83<sup>rd</sup> Texas Legislature, has granted qualified citizens the eligibility to carry concealed handguns. Further legislation passed by the 84<sup>th</sup> Texas Legislature, under House Bill 910, granted qualified citizens the eligibility to carry non-concealed handguns.

Therefore, it is the policy of this Department to acknowledge qualified citizens' eligibility to carry handguns through training and education of officers on the applicable laws and also to safeguard all citizens through enforcement for violations of those laws.

### **.03 TERMINOLOGY** (For specific use within this procedure, see Glossary)

Concealed Handgun License (CHL)    Handgun    License Holder    Premises    Handgun License (HL)

### **.04 LICENSE REQUIRED TO CARRY HANDGUN**

- A. Before a citizen of this state may legally carry a handgun, a handgun license (HL) must be obtained through the Texas Department of Public Safety, except as provide below:
  1. The individual is on his/her own premises or premises under their control; or
    - a. Note: For purposes of this section, "premises" includes real property and a recreational vehicle that is being used as living quarters, regardless of whether that use is temporary or permanent.
    - b. Note: For the purposes of this section, "recreational vehicle" means a motor vehicle primarily designed as temporary living quarters or a vehicle that contains temporary living quarters and is designed to be towed by a motor vehicle. The term includes a travel trailer, camping trailer, truck camper, motor home, and horse trailer with living quarters.
  2. The individual is inside of or directly en route to a motor vehicle that is owned by the individual or under the individual's control.
  3. An individual commits an offense if the individual intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle that is owned by the individual or under the individual's control at any time in which:
    - a. The handgun is in plain view, unless carried in a belt holster or shoulder holster; or
    - b. The individual is:



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- (1) engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic;
  - (2) prohibited by law from possessing a firearm; or
  - (3) a member of a criminal street gang, as defined by Section 71.01 of the Texas Penal Code.
- B. A handgun license issued from another state does not authorize a person to carry a handgun in this state, unless a reciprocal agreement exists between that state and the State of Texas. Officers that come in contact with out of state handgun license holders will contact the Texas Department of Public Safety to verify that a reciprocal agreement exists.
- C. On the effective date of this procedure, the State of Texas has a reciprocal agreement with Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia and Wyoming. License holders from these states will be required to follow Texas law while carrying in this state.
- D. The handgun license must be carried by the license holder when he is in possession of a handgun. There is no distinction or limiting category among the types of handguns a HL allows the license holder to carry.
- E. Citizens currently in possession of valid CHLs are not required to obtain a separate handgun license.

### **.05 REQUIREMENT TO DISPLAY HL**

- A. If a license holder is carrying a handgun on or about the license holder's person when an officer **demands** that the license holder display identification, (**person is under lawful arrest, detention, or a witness to a crime**) the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license.
- B. Officers **shall not demand** that a person show a handgun license simply based on the fact that they are carrying a handgun.
- C. Officers cannot compel a person to identify themselves unless the person is under lawful arrest, detention, or witness to a crime. However, nothing in the law prevents an officer from inquiring about a person being a HL holder.
- D. Failure to display one's handgun license does not constitute any offense (Texas statutes list NO offense).
- E. Officers may access the Texas Criminal Information Center (TCIC) to identify HL holders.

### **.06 CARRYING OF A HANDGUN**

- A. Any citizen open carrying a handgun must have the weapon secured in either a belt holster or shoulder holster.
- B. Off-duty officers choosing to open carry must do so in accordance with *GM Proc. 309 Weapons*.

### **.07 LOCATIONS WHERE STATE LAW PROHIBITS THE CARRYING OF HANDGUNS**

- A. Penal Code Chapter 46, *Weapons*, prohibits a person from carrying prohibited weapons, including a handgun, onto any of the following locations:
1. Schools or school buses;



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2. Polling places;
3. Government courts or court offices;
4. Racetrack premises; and
5. Secured airport areas.

B. In addition to the above restriction, handgun license holders are prohibited from carrying a handgun, concealed or not, into any of the following locations or under any of the following conditions:

1. Prohibited Locations:

- a. On the premises of business licensed for the sale of alcohol, if the business derives fifty-one percent (51%) or more of its revenue from the sale of alcohol for on-premise consumption;
- b. On premises where a high school, collegiate, or professional sporting or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event;
- c. On the premises of a correctional facility;

2. Handguns are prohibited on the following premises, provided the location has posted proper signage (PC §30.06 and §30.07):

- a. On the premises of a hospital or nursing home licensed under the Health and Safety Code, unless the license holder has written authorization from the hospital or nursing home management;
- b. In an amusement park;
- c. On the premises of a church, synagogue, or other established place of religious worship; or
- d. At any meeting of a governmental entity, subject to the Texas Open Meetings Act.

3. Prohibited Conditions:

- a. If the license holder is intoxicated.

C. Institutions of higher learning, public or private, may not prohibit persons visiting or attending the institution from storing a legal handgun or ammunition in their locked vehicle while parked on campus.

D. Government facilities may prohibit persons carrying a handgun from entering the non-public/private areas of the facility.

### ***.08 EMPLOYER'S RIGHT TO NOT ALLOW THE CARRYING OF A HANDGUN ON PUBLIC OR PRIVATE PREMISES***

A. Employers, public or private, may not prohibit an employee from storing a legal handgun or ammunition in their locked vehicle in their parking lot.

B. If an employer elects not to allow the license holder to carry a handgun onto his premises, he should:

1. Post signs stating that the carrying of a handgun is not allowed, in accordance with PC §30.06 and §30.07; or
2. Notify the license holder orally or in writing not to carry a handgun onto his premises.



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### **.09 ENFORCEMENT ACTIONS BY OFFICERS**

- A. Handgun license holders who are carrying handguns in places or under conditions prohibited by Penal Code statutes, as listed in Subsection .07, shall be arrested in accordance with the applicable subsections of Chapter 46, *Weapons*, of the Penal Code.
- B. Handgun license holders who are carrying handguns on public or private premises where an employer has asked the license holders to leave, as listed in Subsection .08B, shall be advised:
  - 1. They are in violation of the Trespass statutes (PC 30.05, PC 30.06, or PC 30.07), and they must leave the premises; and
  - 2. They are subject to arrest for Trespass statutes (PC 30.05, PC 30.06, or PC 30.07) if the license holders refuse to leave the premises.
- C. A person in possession of an expired handgun license who is carrying a handgun should be arrested in accordance with Section 46.02, *Unlawful Carrying of Weapons*, of the Penal Code.

### **.10 OFFICER'S AUTHORITY TO SEIZE HANDGUN AND LICENSE OR TO DISARM LICENSE HOLDER**

- A. An officer arresting a license holder for a criminal violation in which the handgun was used or is evidence shall seize the handgun and handgun license and place them in the Property Room as evidence.
- B. An officer arresting a license holder for a criminal violation in which the handgun is not evidence shall place the handgun and license in the Property Room as personal property.
- C. An officer stopping or detaining a handgun license holder may disarm the license holder:
  - 1. If the officer reasonably believes it is necessary to disarm the license holder for the protection of the officer, license holder, or other persons; and
  - 2. The reasonable belief shall be listed in the officer's written report; and
  - 3. The handgun is returned to the license holder once the officer determines the license holder is not a threat and is not being arrested for a criminal violation.
- D. If an officer feels it is unsafe to return a weapon to a license holder who is not arrested, the officer shall:
  - 1. Contact a supervisor and request they respond to the scene;
  - 2. Issue a property receipt for the weapon, if applicable;
  - 3. Place the weapon in the property room under personal property, if applicable; and
  - 4. Articulate in a report the circumstances that led the officer to believe that it was unsafe to return the weapon.

### **.11 REPORT RESPONSIBILITY**

- A. An officer responding to any incident involving the carrying of a handgun by a license holder shall document the incident in an offense or incident report. The report shall contain, as a minimum, the following information:
  - 1. Any violation committed by the license holder;
  - 2. Actions taken by the officer;



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3. The name of the license holder;
  4. The handgun license number; and
  5. The model and serial number of the license holder's handgun.
- B. In order for the Texas Department of Public Safety to suspend the handgun license of a license holder in violation of any section of Chapter 46, *Weapons*, of the Penal Code, an officer shall also complete an approved *DPS Affidavit for Revocation of Handgun License*.
- C. Officers shall forward copies of all reports involving incidents related to the carrying of handguns by license holders and the original *DPS Affidavit for Revocation of Handgun License* to the Texas Department of Public Safety.
1. Officers are reminded that the *DPS Affidavit for Revocation of Handgun License* can be found in the forms library.
  2. The *DPS Affidavit for Revocation of Handgun License* stipulates that the affidavit, along with all attachments, must be sent to the Texas Department of Public Safety **within** 5 days after the affidavit is prepared.