

Sample Firearm Procedures and Policies

Considerations: General Public

In addition to the obvious threat of physical danger posed to survivors and staff, survivors who have been threatened with guns or have other experiences of nonfatal firearm abuse could be significantly impacted if programs allow guns onsite. Further, the presence of children, and the possibility that an abuser could come to the location, make it critical that programs prohibit firearms on their property.

Texas statute lays out very specific language describing what written firearm prohibition notice must contain.¹ Programs can post notice prohibiting firearms on property, using the exact statutory language below, on signs at all entrances to the property. Staff should call law enforcement immediately if someone enters the property in violation of that notice. Staff should know that if they provide oral notice, the person with the firearm could be charged with a higher-level offense.² Staff should always take into account and prioritize the safety of themselves and other in deciding whether to provide oral notice.

Failure to follow these provisions precisely could result in a someone legally entering the premises armed. To make sure this does not occur, post these notices immediately, even if written policies have not yet been developed.

Texas Prohibitions:

General Public

An agency may still prohibit firearms on their property (even with the Texas Firearms Carry Act of 2021) as long as they post a sign with the language the law requires. This applies to survivors, employees, and other visitors, but does not apply for law enforcement officers.

The law requires the sign to:

- be in both English and Spanish;
- appear in contrasting colors with block letters at least one inch in height;
- be displayed in a “conspicuous manner clearly visible to the public; and
- be posted at each entrance.³

¹ Section 30.05(c), Texas Penal Code (criminal trespass)

² Section 30.05(d-3), Texas Penal Code (criminal trespass)

³ Section 30.05(c), Texas Penal Code (criminal trespass)



INDIVIDUALLY WE POWER CHANGE.
TOGETHER WE POWER A MOVEMENT.

The sign must say either exactly the following or something “*substantially similar to the following:*” **“Pursuant to Section 30.05, Penal Code (criminal trespass), a person may not enter this property with a firearm.”**⁴

A person can be charged with criminal trespass if they have a firearm and refuse to leave after receiving notice that entry on the property with a handgun was forbidden.⁵ If the person with a firearm enters a property with the described signs, it is generally a class C misdemeanor.⁶ If the person with a firearm is given personal, oral notice that they were not allowed to bring the firearm onto the property and still refuses to leave, it is generally a class A misdemeanor.⁷ It is important to note, however, that general trespass laws automatically increase the penalty to a class A misdemeanor if the person trespasses on the property of a family violence shelter.⁸ Notice of prohibition may be given by the owner or by someone with the “*apparent authority to act as the owner.*”⁹

Sample Policies and Procedures: General Public

“Pursuant to Section 30.05, Penal Code (criminal trespass), a person may not enter this property with a firearm.”¹⁰

Considerations:

Employees

Employers have an affirmative duty to contribute to a professional environment that supports survivor and staff safety. Although employees have rights regarding firearms in parking areas or on the streets and sidewalks around the building, strongly consider not allowing employees to bring firearms into the building.

Employers cannot legally stop employees from having firearms in their personal vehicles, even onsite. However, they should strongly consider not allowing firearms in program vehicles, as significant liability and increased danger may result from allowing this. Programs should develop a written policy and have the employee sign and date it, noting that they are aware of the program’s policies and that they have an affirmative duty to follow them. Keep this document in the employee’s file. Due to the nature of this issue, if an employee possesses a firearm in violation of program policy and after receiving notice and opportunity to comply,

⁴ Section 30.05(c)(1), Texas Penal Code (criminal trespass)

⁵ Section 30.05(c), Texas Penal Code (criminal trespass)

⁶ Section 30.05(d-3), Texas Penal Code (criminal trespass)

⁷ Section 30.05(d-3)(1), Texas Penal Code (criminal trespass)

⁸ Section 30.05(d)(3)(A), Texas Penal Code (criminal trespass)

⁹ Section 30.05(d-3)(1), Texas Penal Code (criminal trespass)

¹⁰ Section 30.05(c)(1), Texas Penal Code (criminal trespass)

your program should be prepared to terminate employment.

Texas Prohibitions: Employees

Employers may prohibit employees from possessing firearms on the premises, premises being defined only as the building or portion of a building. “Premises” do not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.¹¹

Private and public property owners may not legally ban employees from possessing a firearm in a “locked, privately-owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for the employees,” or transporting their firearm to their car.¹² This mandatory provision does not apply to vehicles owned or leased by the employer and used by the employee for work.¹³

Sample Policies and Procedures: Employees

“(Name of agency) prohibits firearms on the premises. Employees can choose to store the firearm in their personal vehicle and should keep it hidden and locked in the vehicle at all times and know that (name of agency) is not liable for property lost or stolen from a private vehicle. Employees may not carry or store firearms in vehicles owned or leased by (name of agency).

If the agency allows storage in a safe onsite, add: Alternatively, (name of agency) provides a gun safe onsite that can be used by staff. As a condition of employment, all staff shall follow the gun safe policy herein.

As a condition of employment, all staff shall provide the following information, updating it whenever relevant circumstances arise:

- a signed statement as to whether or not you are legally prohibited from possessing a firearm and the reason for the prohibition; and
- a signed statement that you will notify (name of agency) immediately if your ability to possess a firearm is suspended or revoked, and the reason for suspension or revocation.

If you possess a firearm in violation of agency policy, our agency will warn you and give you the opportunity to remove the firearm from the premises. If you refuse to do so, you will be asked to leave the premises until instructed by the executive director that you can return. If you still refuse to leave, staff will call the police and may result in criminal charges. Failure to

¹¹ Section 46.03, Texas Penal Code

¹² Section 52.061, Texas Labor Code

¹³ Section 52.062, Texas Labor Code

comply with this agency’s firearms policy may also be grounds for termination.”

Considerations: Survivors

Survivors

Respecting survivors’ decisions about how to best protect themselves and their children does not conflict with not allowing firearms onsite. Program policies to help promote staff and survivor safety are paramount. Programs should make clear to potential clients that they do not allow firearms on the property for this reason. Staff should address potential dangers posed by possession and access to firearms and ammunition directly with survivors at intake and throughout their safety planning process. Staff should be trained on the law and the connections between firearms and survivor safety. Advise survivors that abusers’ access to firearms is a lethality factor and of the serious safety risks associated with firearm possession. Staff should never make recommendations to survivors about whether they should obtain a firearm when they leave shelter, but they should encourage them to receive training about firearm safety if they choose to obtain a firearm.

Advise all survivors of the program’s firearm policy orally and in writing during intake, and ensure they understand the policy provisions.

Make sure to have a predetermined policy on how to respond if a survivor comes to shelter with a firearm. The program should develop a relationship with law enforcement or a local firearms dealer to store survivors’ firearms safely, at no cost to the program or survivor. The survivor must agree to follow the procedures of that agency or dealer. Set and communicate a policy that they must relinquish firearms when they come onsite.

Programs must provide survivors with options to comply with their firearms prohibitions policies, the safest of which is to require that survivors store firearms with the predetermined community resource. Survivors who decide not to comply with this policy and decide to seek shelter elsewhere should receive a referral and the opportunity to meet with a staff member to develop a thorough safety plan. Programs should advise survivors in writing of firearm prohibitions, and that they cannot allow prohibited possessors to possess a firearm. Anyone providing a firearm to a prohibited possessor will violate state and federal law.¹⁴

Staff should never attempt to disarm anyone with firearms onsite. Instead, they should call 911, and take staff and clients to the shelter safe room.

Sample Policies and Procedures: Survivors

“Certain people are legally prohibited from possessing a firearm, including protective order

¹⁴ Section 46.06, Texas Penal Code; 18 U.S.C. 922(D)

respondents while the order is in effect, and people convicted of a felony or a qualifying misdemeanor domestic violence offense, during certain periods of time. Such possession constitutes a separate crime. If staff has reason to believe that you are a prohibited possessor, they cannot give you firearms, even your own, or they would be committing state and federal crimes.

(Name of agency) prohibits firearms onsite. Any survivor who arrives with a firearm should store it off-site. Survivors who choose to store the firearm in their personal vehicle should keep it hidden and locked in the vehicle at all times and know that (name of agency) is not liable for property lost or stolen from a private vehicle. Survivors also have the option of storing their firearm with (agency with whom the program has developed a relationship and protocol) and must follow the written rules of that agency.

If a program allows storage in a safe onsite, add: “Alternatively, (name of agency) provides a gun safe onsite that can be used by survivors utilizing (name of agency)’s services. All survivors shall follow the safe storage policy herein.”

(Name of agency) prioritizes the safety of survivors and staff. If a survivor or staff member is found in possession of a firearm in violation of agency policy, that person will be warned and given the opportunity to follow the agency’s rules for storage or leave the property. If that person refuses to do so, staff will call the police, and the other survivors and staff will go to the safe room and remain there until police arrive and secure the area.”

Considerations:

Gun Safes

Programs should give strong consideration as to whether they will allow storage of firearms in a gun safe onsite. Gun safes do not guarantee the safety of staff, survivors, or their children, who could get access to firearms in violation of program policies. The presence of firearms can affect survivors’ sense of safety, so tell survivors at the time of intake whether the program allows gun storage onsite. Programs using gun safes must set specific safety and procedural protocols, notice of which must be given to all staff and survivors. Survivors must sign a document identifying the firearms they intend to store, so staff release firearms to only the owner. Programs may want to discuss bringing a gun safe onsite with a lawyer and their property insurer for liability purposes.

Sample Policies and Procedures: Clients Using a Gun Safe

“(Name of agency) allows survivors who arrive with a firearm to store it in an onsite gun safe. Only staff has access to the safe, and survivors can only get the firearm immediately before they leave the premises. Upon return, the survivor must give the firearm to staff immediately to store in the safe.

Survivors wishing to use the gun safe must provide information to staff to identify the firearm

as theirs, so staff can release the correct property, only to the owner. Survivors will be asked to sign the firearm in and out of the safe, to protect ownership. Staff have been instructed that they cannot return a firearm to anyone known to be prohibited from possessing a firearm under state or federal law.”

Sample Policies and Procedures: Employees Using a Gun Safe

“(Name of agency) prohibits employees from possessing a firearm on their person onsite. Staff choosing to use (name of agency)’s gun safe shall lock the firearm in the safe immediately upon their arrival in the building and leave the firearm in the safe until immediately before they leave. Staff may not remove their firearm from the safe at any other time or loan to any client any firearm owned by a staff member.

(Name of agency)’s onsite gun safe shall remain locked at all times. Before releasing a firearm to a survivor, staff must require the client to identify the firearm pursuant to information collected from the survivor and shall release firearms only to the survivor identified as the owner of that firearm. Staff shall sign all firearms in and out of the safe immediately upon release and return. Staff members cannot return firearms to anyone they know to be prohibited from possession under state or federal law.

Doing so would violate that staff member’s employment duties and put them in jeopardy of being prosecuted under state and/or federal firearms law.”

or

“(Name of agency)’s onsite gun safe shall remain locked at all times. Only (list name of agency staff position) may have access to the safe. Direct all survivors and other staff requesting that the program to store or remove a firearm from the safe must be directed to (list name of agency staff position). Before releasing a firearm to a survivor, the (list name of agency staff position) must require the survivor to identify the firearm pursuant to information collected from the survivor and shall release firearms only to the survivor identified as the owner of that firearm. (list name of agency staff position) shall sign all firearms in and out of the safe immediately upon release and return. Do not delegate these responsibilities another staff member without express permission from the Executive Director. Staff members cannot return firearms to anyone they know to be prohibited from possession under state or federal law. Doing so would violate that staff member’s employment duties and put them in jeopardy of being prosecuted under state and/or federal firearms laws.”

For further information about family violence and firearms, including staff training, please contact TCFV.