

**DEPARTMENT OF PUBLIC SAFETY
INTEROFFICE MEMORANDUM**

TO: All Commissioned Officers

FROM: Office of General Counsel

DATE: January 10, 2023

SUBJECT: Texas Penal Code Section 46.02

Texas Penal Code § 46.02(a)(1)(2)(A) – Unlawful Carrying Weapons, states that an offense arises if a person younger than 21 years of age carries a handgun on or about his or her person. In *Firearms Policy Coalition, Inc. et. al., v. Steven McCraw, et. al.*, No. 4:21-cv-1245-P, United States District Judge Mark T. Pittman issued an order enjoining the department and all its officers, agents, and employees from enforcing this provision of the Texas Penal Code against 18-to 20-year-olds based solely on their age.

The District Court ruling was appealed to the Fifth Circuit Court of Appeals and the District Court order was stayed pending that appeal. The appeal has been dismissed and the injunction issued by Judge Pittman is now in effect. **As a result of the injunction, Commissioned officers may not enforce Texas Penal Code § 46.02(a)(1)(2)(A) against 18-to-20-year-olds based on age. This directive has immediate and permanent effect unless countermanded by the Office of General Counsel through your chain of command.**

