

# Arming First Responders



# Lt. Jerry Kovar

- ❖ **LE Service - 26 years with the Travis County Sheriff's Office**
- ❖ **Formal Education – MSCJ, BAAS (CJ) & AAS (CJ)**
- ❖ **Professional Education - FBINA 237<sup>th</sup> & NJLCA #25**
- ❖ **Professional Certifications – CCE, CJM**
- ❖ **TCOLE Licenses – Master PO & Jailer, Firearms Instructor**
- ❖ **Adjunct CJ Professor – Texas State University and ACC**
- ❖ **Military Service – Retired First Sergeant, USMCR**
- ❖ **Family – Proud father of two adult children**

# Jay L Kovar, MD, FACEP

- 40 years various levels of Medical Care
- Professional Education – UTHSC San Antonio, Henry Ford Hospital Emergency Medicine
- Board Certified Emergency Medicine
- EMS Medical Director Air and Ground
- Medical Director LSC Paramedic Programs

# Position Points

## ❖ **First Responder Personal Safety**

- ❖ **risk of assault for EMS workers is roughly 30 times higher when compared to the average occupational risks in the United States.**
- ❖ **Most recently, paramedics and firefighters placed themselves in harm's way when they assisted police officers in retrieving downed officers during the July 7, 2016, ambush of Dallas police officers.**
- ❖ **Similar incidents are reported with regularity, nonetheless these brave men and women are deprived of the liberty to defend themselves.**

## ❖ **Right to Defend Oneself**

- ❖ **Removes employer prohibition to carry**

# Counter Position Points

- ❖ **Institutional Culture (First, Do No Harm)**
  - ❖ **Conjecture – the focus is on personal safety**
- ❖ **Mission Creep/Role Confusion**
  - ❖ **Do not gain any duty inherent to that of a LEO**
- ❖ **Weapons Retention Issues by First Responders**
  - ❖ **A genuine concern to be addressed**

# For

- Support for EMS and firefighters to legally carry weapons on duty is steadily growing.
- Concealed carry laws have been proposed in Texas, Kansas, Georgia, Florida and New York. And other states are quickly preparing to follow the trend.

# Against

- Critics say concealed carry laws will cause more problems than it will solve; however, many states are pushing ahead with legislation to protect their first responders, who may soon be forced to make a decision about their personal involvement with the new concealed carry laws.
- EMS providers may not be able to guard or secure their weapons at all times due to the normal distractions that come with providing patient care.



# For

- Chris McAllister, a Houston firefighter, decided to propose the bill after a 2012 shooting scene resulted in him and his ambulance crew being threatened by a man with a gun. He believes that first responders have a right to protect themselves considering the risks they face in the line of duty.
- “Nationwide, EMS first responders are assaulted 700,000 times a year,” says McAllister. “We are 30 times more likely to be assaulted than the general public, and we are seven times more likely to be murdered than any other health care professional in the line of duty.”
- Sen. Don Huffines of Dallas sponsored the bill, which was well-received among the largely Republican Senate.
- McAllister argues that first responders in Texas are already allowed to carry firearms. While the HFD prohibits being armed while on duty, other departments across the state do not have this policy.
- “The public trusts us with their life. It only seems appropriate the public would trust us to defend our own lives,” McAllister says.
- If the bill passes, departments wouldn’t be allowed to prohibit employees from carrying concealed handguns if they are licensed to do so and go through an additional 20 hours of firearms training. This would include learning how to seek cover in the line of fire and how to implement tactical-response shooting.
- McAllister also has another similar bill that is pending in the House. While he is pro-gun, he doesn’t agree with other proposed bills asking first responders to be able to openly carry firearms while working, as he believes this would pose too much of a safety risk.

# Against

- The bill is actually opposed by the Houston Fire Department, whose arson investigators, also certified police officers, are the only employees permitted to carry guns.
- Captain Ruy Lozano of the HFD disapproves of the bill because response times could be slowed if first responders have to secure their firearms before entering burning buildings, hospitals and other areas that prohibit firearms.
- Texas Gun Sense, a group based out of San Antonio, Andrea Brauer, executive director of the group, says they fear that the risk of accidental shootings could increase if the bill is passed.

# Who is a First responder?

- A public safety employee or volunteer whose duties include responding rapidly to an emergency.
- Includes fire protection personnel, including volunteer firefighters, and emergency medical services personnel, including emergency medical services volunteers.
- Does not include commissioned law enforcement personnel

# SB 1408 Applies to:

- “First responder” means a public safety employee or volunteer whose duties include responding rapidly to an emergency. The term includes:
  - Fire protection personnel, including volunteer firefighters;
  - Emergency medical services personnel, including emergency medical services volunteers. Volunteer?
  - The term does not include commissioned law enforcement personnel.

# Training Requirements

- The director by rule shall establish minimum standards for a training course that a first responder who is a license holder to receive certification from the department. The training course must:
  - be administered by a qualified handgun instructor;
  - include not more than 20 hours of instruction; provide classroom training in:
    - self-defense;
    - de-escalation techniques;
    - tactical thinking relating to cover for and concealment of the license holder;
    - methods to conceal a handgun and methods to ensure the secure carrying of the concealed handgun; and
    - consequences of improper use of a handgun;

# Training Requirements

- provide field instruction in the use of handguns, including:
  - instinctive or reactive shooting;
  - tactical shooting;
  - shooting while moving; and
  - shooting in low light conditions;
- require physical demonstrations of proficiency in techniques learned in training; and
- provide procedures for securing a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

# Training Requirements

- A first responder is responsible for paying to the course provider the costs of the training course
- The director by rule shall approve devices to enable a first responder to secure a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.
- The department shall issue a certificate of completion to a first responder who completes the training course

# Governmental Entity Requirements

- A governmental entity that employs or otherwise supervises first responders may not adopt a rule or regulation that prohibits a first responder who holds a license to carry a handgun and who has received a certificate of completion from :
  - carrying a concealed handgun while on duty; or
  - storing a handgun on the premises of or in a vehicle owned or operated by the governmental entity if the handgun is secured with a device approved by the department.

# First Responder Obligations

- A first responder may discharge a handgun while on duty only in self-defense.
- Does not create a cause of action or liability
- The discharge of a handgun by a first responder who is licensed to carry a handgun is outside the course and scope of the first responder's duties

# Governmental Agency Obligations

- A governmental entity that employs or otherwise supervises first responders is not liable in a civil action arising from the discharge of a handgun by a first responder who is licensed to carry a handgun
- This section may not be construed to waive the immunity from suit or liability of a governmental entity that employs or otherwise supervises first responders under Chapter 101, Civil Practice and Remedies Code, or any other law.

# Unlawful Carrying of Handgun By License Holder

TX PC 46.05 - It is a defense to prosecution that at the time of the commission of the offense, the actor was:

- a first responder who:
  - was carrying a concealed handgun and held a license to carry a handgun;
  - has received a certificate of completion for a training course; and
  - was engaged in the actual discharge of the first responder's duties while carrying the handgun.

# Unlawful Carrying of Handgun By License Holder

TX PC 46.15(a), is amended to read: Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) do not apply to:

- a first responder who:
  - was carrying a concealed handgun and held a license to carry a handgun;
  - has received a certificate of completion for a training course; and
  - was engaged in the actual discharge of the first responder's duties while carrying the handgun.

# SB 1408

- This Act takes effect September 1, 2017.
- The change in law made by this Act in amending Sections 46.035 and 46.15, Penal Code, applies only to an offense committed on or after January 1, 2018.
- An offense committed before January 1, 2018, is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

## *Duty to Provide Care*

Must the prehospital providers enter a situation where they feel threatened?

- Prehospital care providers have no duty to place themselves at risk in order to care for a patient.

How should they interact with a dangerous patient?

- There is no responsibility to risk one's own health or safety for the benefit of another.

# Importance of LWP to:

## ❖ Firefighters and EMT Professionals

- ❖ Educate on the concerns of the LE profession

## ❖ Law Enforcement

- ❖ Inform on the parameters governing this new law.

## ❖ Community

- ❖ Educate the community on what to expect

# HFD vs AMR

## **Public**

- Cannot prohibit
- Extended carry
- Entity not liable

## **Private**

- May prohibit
- CHL laws apply
- No protection

# Where can I not Carry

- Airport

Now What?

# Implementation

- Even if you choose to never carry, you may still work shifts with a partner who does.

## Scene Safety

- Complacency kills.
- Never let the ability to carry a concealed weapon lull you into a false sense of security.
- Don't approaching a scene differently because you or your partner are carrying a weapon.
- The need to properly secure a scene never changes.

# Implementation

- EMS is leveling up in the EMS, fire and police triad.
- EMS was included from the beginning and continues to be included in over 90% of all proposed laws regarding concealed carry.
- Treat concealed carry like any other tool. Use it only when it makes sense to do so.
  - NVGs - flight crews never use goggles to fly into situations they wouldn't fly into without goggles.
- A concealed weapon is a tool only used (or even considered) in extreme situations and only after all other available options are spent.

# Implementation

- Standard Conceal/Open carry permit not sufficient
- Your partner needs to know.
- Know the laws even if you do not carry
- Learning as much as you can before laws are enacted

# Considerations

WWJRC?

(What would Johnny and Roy carry?)

- What type of weapons may be carried?

# Considerations

- What type of weapons may be carried?
- How does the EMS agency ensure that the personnel have appropriate permits and verify that they are kept current?
- How does the agency verify the training that the personnel have received on the use of firearms?
- How does the agency verify that the weapons are in proper working order.
- How and where are the weapons secured when personnel must remove them for operational or patient care purposes?

# EMS Medical Directors

- Knowledge
- Protect self
- ?Protect patient?
- LIABILITY FOR Medical Director/Service
- Training adequate?
- Tactical Medics ? Carry
- Personal ownership
- Personal carry
- Approve?