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DOCUMENTS OF THE GENERAL FACULTY

Following are the minutes of the regular Faculty Council meeting of January 25, 2016.

Hillary Hart, Secretary General Faculty and Faculty Council

MINUTES OF THE REGULAR FACULTY COUNCIL MEETING OF JANUARY 25, 2016

The fifth regular meeting of the Faculty Council for the academic year 2015-16 was held in the Main Building, Room 212 on Monday, January 25, 2016, at approximately 2:45 PM.

ATTENDANCE.

Present: Gayle J. Acton, William Beckner, Carolyn M. Brown, Patricia L. Clubb, M. Lynn Crismon, Stephanie W. Crouch, Elizabeth Cullingford, Ann Cvetkovich, Arturo De Lozanne, Jonathan B. Dingwell, Gregory L. Fenves, Alan W. Friedman, Philip M. Gavenda, Sophia Gilmson, Andrea C. Gore, Lauren E. Gulbas, Michelle Habeck, Louis Harrison, Hillary Hart, Linda A. Hicke, Steven D. Hoelscher, Coleman Hutchison, Brent L. Iverson, Jody Jensen, Maria G. Juenger, Jonathan Kaplan, Susan L. Kearns, Kerry A. Kinney, Mary Knight, Desiderio Kovar, Judith Langlois, John C. Lassiter, Naomi E. Lindstrom, Lauren A. Meyers, Julia Mickenberg, Jennifer Moon, Stephanie Mulder, Donald P. Newman, Gordon S. Novak, Patricia C. Ohlendorf, Sheila M. Olmstead, Rachel A. Osterloh, Gage E. Paine, Dennis S. Passovoy, Na'ama Pat-El, Edward R. Pearsall, Jonathan T. Pierce-Shimomura, Nancy L. Roser, Cesar A. Salgado, David M. Schnyer, Christen Smith, Zachary B. Stone, Jessica R. Toste, David A. Vanden Bout, Kirk L Von Sternberg, Brian Wilkey, Karin G. Wilkins, Edward T. Yu.

Absent: Meagan N. Abel (excused), Dean J. Almy (excused), Chad J. Bennett (excused), Jay M. Bernhardt, Lance Bertelsen (excused), Lydia Maria Contreras, James H. Cox (excused), Douglas J. Dempster (excused), Randy L. Diehl, Andrew P. Dillon, David J. Eaton (excused), Catharine H. Echols (excused), David R. Engleman, Bradley G. Englert, Amy S. Enrione (excused), Veit F. Erlmann, Angela M. Evans, Ward Farnsworth, Terrance L. Green (excused), Marvin L. Hackert, Lorraine J. Haricombe, Barbara J. Harlow, Susan S. Heinzelman, Hans Hofmann (excused), Daniel T. Jaffe, S. Claiborne Johnston, Manuel Justiz, Harrison Keller, Susan R. Klein (excused), Julie A. Minich (excused), David L. Leal (excused), Bradford R. Love (excused), Timothy J. Loving (excused), Julie A. Minich (excused), James C. Spindler (excused), Rajashri Srinivasan (excused), Vincent S. (Shelby) Stanfield, Laura T. Starks, Frederick R. Steiner, Alexa Stuifbergen, Emanuel Tutuc (excused), Gregory J. Vincent, Jo Lynn Westbrook (excused), Hannah C. Wojciehowski (excused), Sharon L. Wood, Cara Young (excused), Luis H. Zayas.

Voting Members:	46 present,	30 absent,	76	total.
Non-Voting Members:	12 present,	22 absent,	34	total.
Total Members:	58 present,	52 absent,	110	total.

I. REPORT OF THE SECRETARY (D 13976-13990).

Secretary Hillary Hart (distinguished senior lecturer, civil, architectural, and environmental engineering) welcomed three new members to the Faculty Council: Professor Lauren Gulbas (anthropology), Dean Angela M. Evans (LBJ School of Public Affairs), and Vice President for Research Daniel T. Jaffe. The secretary reported that memorial resolutions had been completed for Fred P. Ellison (government), Joseph F. Malof (English), Stephen T. Gerald (theatre and dance), and Ronald C. Bunous (social work). She announced that thirteen *Undergraduate Catalog* proposals had received final approval, sixty-one were pending UT System, forty were pending review by the provost, and twelve were pending Faculty Council approval on a no-protest basis. The secretary noted that the Educational Policy Committee proposal to change the Designated Scholars policy (D 13694-13695) was still pending approval from the president.

II. APPROVAL OF MINUTES.

Secretary Hart asked for and received approval, with no objections or changes to the minutes of the regular meetings of the Faculty Council held November 16 (D 13991-14014) and December 7, 2015 (D 14015-14030).

III. COMMUNICATION WITH THE PRESIDENT.

Before turning the podium over to the president, Chair Andrea Gore remarked that President Fenves had only been in office since June but that it seemed much longer because so much had happened. She thanked the president for attending the meeting and for listening to the faculty express their opinions and concerns on Campus Carry and noted that the discussion would get back to the issue following the president's communication with the Council.

President Fenves agreed with Andrea that it did seem a bit longer than eight months since he took office, but that "It's been great so far." The president then announced that since the December meeting decisions had been made on several searches that included the appointment of Vice President for Research Daniel T. Jaffe, the appointment of Angela M. Davis as dean of the LBJ School of Public Affairs, and of Jay C. Hartzell as dean of the McCombs School of Business. He said the search for a new dean in the Moody College of Communication was moving very well and a decision would be made in the near future, and the search for the senior vice president and chief financial officer would conclude soon and that an announcement would be forthcoming. In addition, the president announced that Dr. Maurie McInnis from the University of Virginia (associate vice provost) had accepted the position of executive vice president and provost and would begin full-time starting May 2 and would assume duties on July 1. He thanked Interim Provost Judy Langlois for "agreeing to serve in an incredibly effective manner."

President Fenves gave an update on the status of the *Fisher v. University of Texas* case. He reminded members that two days following the December 7 Faculty Council meeting, he was in Washington DC, to hear oral arguments on the case. He said UT Austin had outstanding counsel, and he thanked Vice President for Legal Affairs Patricia Ohlendorf for her work on the *Fisher* case, including the *Fisher 2* oral arguments in December. He said there had been a great turnout that included students who were in the gallery for oral arguments, "I was very proud of our students and their statements after the Supreme Court oral arguments." He said he did not expect an announcement on the case until June. He opined that admissions would be an issue in the next legislative session and that he could not say how UT Austin would move forward with admissions until the Supreme Court makes a decision.

Regarding the review that the president commissioned on academic and student services in the Athletics Department, President Fenves announced that Gene Marsh, a prominent attorney and expert in NCAA and student athlete aspects, had completed and released his final report, which the president said was excellent and thorough. He said that Mr. Marsh had interviewed over eighty faculty, students, administrators, and coaching staff. He remarked that UT Austin has one of the best athletics programs in the country, "but, like any large enterprise in a dynamic environment, and intercollegiate athletics is certainly a dynamic environment, there are things that we can do better." The president noted that the report outlined fourteen recommendations and said, "I'm firmly committed to all fourteen

recommendations, and we will look at many of the factors that he has brought up in the review. And again, the goal is to provide the best experience—academic and athletic—for our student athletes."

President Fenves announced that he had submitted a proposal to increase tuition to UT System that would be presented to the Board of Regents at a future meeting. He said UT Austin Tuition Policy Advisory Committee (TPAC) had met throughout the fall session and recommended a 3% increase. He said the students were supportive of the proposal, which included a \$5 green fee for environmental services. He said the Council would hear more about the proposal at a future meeting.

Finally, the president announced that Professor Jamie Pennebaker (psychology, executive director and special advisor to the provost) would lead Project 2021, which would bring together many of the ideas that came out of the Campus Conversation along with the initiatives that have been underway in the provost's office for a number of years, including learning sciences, continuing education, developing the extended campus, and the Faculty Innovation Center. President Fenves explained that it had been titled "Project 2021" because it was expected to last five years as the group works with the colleges, departments, and faculty across campus on some very exciting degree transformation ideas. He thanked Dr. Pennebaker for taking the lead on the project.

Having concluded his comments, President Fenves turned to questions that had been submitted by faculty members who were concerned about Campus Carry. He noted that two members of the Campus Carry Working Group, Professors Steve Goode (chair, law) and Coleman Hutchison (English), were present and would lead a discussion on the topic later in the meeting. The president said the working group had make twenty-five recommendations in their report that had been released in the fall. He said he had not made any decision yet as he was still collecting information, including the debate at this meeting. He said he had been working with UT System on some general guidelines on the implementation of SB 11; they expected his decision by the middle of February.

In preface to answering the questions submitted by faculty members prior to the meeting, President Fenves said, "My answers are going to sound a little bit legalistic. I've been working with our general counsel's office because SB 11 is the law, and there are other governing laws on concealed weapons in Texas and have been for many years."

Professor Sarah Lopez (architecture) submitted the first question.

I would like to know if professors will be allowed to ask students who are carrying concealed weapons to please sit in the back of the class. Students who are using computers are sometimes asked to sit in the back of the class since the computer screen is distracting. I think other students would like to know if they are sitting next to a gun or not, I would also personally not want to have a gun near the front of class where I might accidentally see it and get distracted during lecture.

In answer to the question, President Fenves explained that the identity of individuals having a Concealed Handgun License (CHL) is confidential and that only law enforcement officials were allowed to check CHL holders for their licenses. As a result, asking students who have concealed handguns to sit at the back of the classroom would be "tantamount to them self-identifying that they have a CHL and under existing Texas statute, that would not allowed."

Professors Joan Neuberger (history) and Max Snodderly (neuroscience) submitted two questions:

1. As the working group recognized, it will be very difficult to enforce partial bans on guns in campus buildings. Would you support a policy that if any part of a building is gun free, such as animal facilities and laboratories, or offices, the whole building should be gun free?

President Fenves remarked that the working group had spent a lot of time on this issue, and he thought Steve Goode would address the question later in the meeting. He opined that the

problem was that most everyone recognized that the majority of buildings on campus are mixed use with just a few designated for a single purpose. Nevertheless, he said the working group's recommendations recognized that within some buildings, there would be reasons for guns to be prohibited and that could be discussed later in the meeting.

2. The WG recommendations contain numerous contradictions and ambiguities about justifications for banning or not banning CHL holders from carrying handguns into UT facilities. For example, the justification for prohibiting the concealed carry of handguns into labs include (#13) "The training required for handgun license holders does not include special training regarding the safe use of weapons in such facilities." and (#14) "Compliance with these protocols [for removing clothing] by someone carrying a concealed handgun may have the effect of increasing the risk of its discharge, contamination, or unanticipated separation from the license holder." Yet CHL holders have no training regarding the safe use of firearms in classrooms of any kind, around other students, or in the face of a criminal with a gun and students who carry handguns in holsters routinely remove that clothing to use the bathroom in a way that might also risk discharge, contamination, or unanticipated separation from the license holder. Given the similarities, shouldn't concealed carry of handguns be prohibited in any situation that risks accidental discharge or separation for the CHL holder? That is to say in classrooms, offices, and dorms?

Given such contradictions, would you consider requesting a postponement or injunction to allow the university to attempt to resolve such contradictions?

President Fenves answered the latter question saying that he did not think he could have an injunction and that he would have to ask for a legal opinion on the matter. As to the substance of the question, the president stated that the working group had made three recommendations based on safety to reduce the possibility of accidental discharge. He suggested that Steve Goode would be able to discuss those particular issues in more detail later in the meeting. However, the president gave some examples of criteria for excluding special facilities such as having to change or wear protective clothing in a laboratory or clean room that would make it either impossible or very difficult to deal with a concealed weapon or in areas where there were explosive or radioactive materials or fire hazards, which would be extremely dangerous in the event of an accidental discharge. Regarding the issue of training CHL holders, the president said that the training was geared for carrying concealed handguns in public areas such as grocery stores or movie theatres but not in special places such an animal facility or laboratory with highly explosive materials, which he said was an entirely different situation.

The president then opened the floor for other questions.

Professor Steven Weinberg (physics and astronomy) asked if now would be the time to make a serious proposal for correction to the policy advocated by the working group. Chair Gore said that if he were able to stay to hear the working group's report, that would be the best time to make such a proposal. Professor Weinberg indicated that he would be able to stay.

Hearing no further questions, President Fenves said he looked forward to hearing the discussion later in the meeting.

IV. REPORT OF THE CHAIR—None.

- V. REPORT OF THE CHAIR ELECT-None.
- VI. UNFINISHED BUSINESS—None.
- VII. REPORTS OF THE GENERAL FACULTY, COLLEGES, SCHOOLS, AND COMMITTEES— None.

VIII. NEW BUSINESS.

A. An Update on and Understanding of the Campus Sexual Assault Initiative.

By way of introduction, Chair Gore said that Professor Noel Busch-Armendariz (social work) had recently been awarded a \$1.7 million grant to do research on campus sexual assault. The chair opined that it was an important topic and one worth taking time to hear about. Professor Busch-Armendariz said her report would be brief since there was important business the Council needed to take care of later in the meeting. For reference, see her Power Point presentation in <u>Appendix A</u>.

First, Professor Busch-Armendariz acknowledged that President Fenves was one of the presidents from across the country that had been most positively quoted following the release of the AAU study. She also acknowledged that campus sexual assault is a tough topic and a tough conversation to have and that her team of researchers, the Dean of Students, and the Title IX coordinator would be glad to engage faculty members on how to talk about the issue.

Next, Professor Busch-Armendariz pointed out that crimes against students such as sexual assault, sexual harassment, stalking, and intimate partner violence all get categorized under sexual assault. She said her team had just finished a study on the prevalence of sexual assault for the State of Texas and the numbers were staggering—the findings showed that 6.3 million Texans reported sexual assault experiences over their lifetime as compared to 1.9 million from the previous study done ten years ago. With the help of Dr. Bruce Kellison, an economist working for the Business of Bureau Research and a member of her team, they were able to determine the minimum cost to the State of Texas, which was estimated to be approximately \$8 billion and included \$42 million spent on services.

Regarding the recent AAU study, Professor Busch-Armendariz said The University of Texas at Austin was one of twenty-seven universities from across the country that participated. She said it was a bold move since UT Austin had no control over the survey or methodology, "They are excellent researchers, but still it wasn't culturally grounded for what we want to know about UT Austin." The overall results indicated that 23% of all female undergraduates reported sexual assault during their college career; at UT Austin, the numbers were slightly lower at 18%. In another study that looked at youths eighteen to twenty-four years of age, Professor Busch-Armendariz's team found that 48% reported sexual assault, although that survey was skewed because it was unclear if all the participants were actually in college when the assault occurred.

As a result of the AAU study, the leadership at UT Austin and at UT System had funded a study that would look at five target areas and would include thirteen of the fourteen System campuses. The study was launched in the fall and had already collected the first target described by Professor Busch-Armendariz as the "shallow dive," which was a climate study or more specifically, a prevalence and race study that invited 200,000 undergraduate students to give feedback about how their community is doing and about their experiences of sexual assault. The findings from that study were expected to come out and be released to the presidents and then to the broader community in August.

Professor Busch-Armendariz described the second target area as a "medium dive" where the campuses would conduct focus groups and interviews with faculty, staff, law enforcement and student to look at how policies and procedures at the universities are disseminated. She opined that this was particularly relevant because recently, a new Title IX policy had been implemented that "mandated that we all must report" a sexual assault incident. Professor Busch-Armendariz stated that in the first two years of the study, only four of the campuses would participate because they wanted to build the methodology since few people were doing this level of research. She explained that in this study, vulnerable populations would be targeted to find out how information and services are getting to this group of students.

The third cohort study, the "deep dive," would be initiated only at UT Austin and would eventually involve 600 undergraduate student volunteers who would be followed over four years at the University. Professor Busch-Armendariz said it was an unprecedented study that would look

at violent crimes and the lives of undergraduate students, and perhaps graduate students at a later date.

The fifth study would be a cost analysis and again would only involve UT Austin, which is the only entity looking into the costs of these kinds of crimes both at the micro and macro levels. Professor Busch Armendariz noted that what is known from working with students is that when one of these crimes happens, it impacts the student financially because they miss class, which may eventually cost them their financial aid; they drop out of class, which costs them tuition dollars, they may have to move or change their major, which may have lifetime projections of cost implications. In addition to looking at the costs to students and to UT Austin, they would also be looking at what the benefits are. As an example of increased cost to UT Austin, Professor Busch-Armendariz said the Title IX office increased its staff from one to nine to keep the University compliant with state and federal laws.

The final part of the study would be to make policy and service recommendations specific to each campus. Once all of the data are back, Professor Busch-Armendariz said they would work with each of the campuses to understand the data and how they relate to each particular culture and the community.

Professor Busch-Armendariz closed her remarks saying, "It's not just a legal obligation that we have right now or a legislative obligation, I think it's a moral obligation... I think the timing is right." She welcomed questions and offered her contact information for anyone who was interested.

B. Update on Campus Carry.

Before opening the floor to discussion of Campus Carry, Chair Gore thanked Steven Goode (chair, Campus Carry Policy Working Group and professor, law) and Colman Hutchison (Campus Carry Policy Working Group member, Faculty Council Executive Committee member, and associate professor English) for their willingness to attend the meeting and to answer questions and hear concerns related to the working group's recommendations on Campus Carry.

Regarding order of business, Chair Gore noted that non-Council members were welcome to speak and reminded everyone to introduce him or herself at one of the microphones stating their name and department. As a courtesy, she asked everyone to limit their comments to a couple of minutes and after having spoken, if someone wished to respond to another's comment/question, she asked those individuals to get back in line to speak at the microphone. Chair Gore said that Ann Cvetkovich (Council member and professor, English) had submitted a number of resolutions that would be taken up by the Council after Professors Goode and Hutchison's update.

The chair then took the opportunity to make a couple of comments about her perspective on Campus Carry. She said that when the Senate was taking testimony on SB 11, she testified that she felt very strongly about not wanting guns on campus. Since then, the Faculty Council Executive Committee and the Faculty Council had come out with several statements and had passed multiple resolutions to that effect, specifically stating that handguns do not belong in dormitories or classrooms or offices or labs or other campus spaces. Regarding the working group's recommendations, she said it had been challenging for them to reconcile that sentiment with the legal side of the issue. She noted that there would be no way to reach a happy medium, because there would be guns in some spaces on campus, but she was optimistic that those present would "get a little more than we expected in this dialogue." The chair said that she hoped everyone had had the opportunity to read all forty-six pages of the report. In addition, she mentioned that UT System had put out a statement about their interpretation of the different campus statements, many of which were similar to the recommendations made by UT Austin's working group. She then turned the meeting over to Professors Goode and Hutchison.

Professor Goode thanked the chair for having them, but added, "I can't say I'm delighted to be here because I did think we were done a while back." He said the group had forwarded the draft of

the report to President Fenves six weeks prior. He urged members who had not yet read it, to read it in its entirety. He said the working group had "worked extremely hard to express as clearly and precisely as possible what our views were, and how we reached our conclusions." He said that if members were relying on the executive summary—or worse, what one were to read in the newspapers—"You're getting just a tiny fraction of what was said." For example, he said the discussion about classrooms in the executive summary fills less than one column, which was about one fifth of what was included in the full report. He said the report speaks for itself and that he would only make a few comments. Referencing the UT System report, Professor Goode explained that its working group had representatives from each component institution and that he was UT Austin's representative and had been actively involved in the drafting of the report. He said there was nothing inconsistent between the System report and UT Austin's. In fact, he said UT Austin's report went a good deal further by recommending that offices be allowed to be gun exclusion zones, and only one or two other institutions had recommended that dormitories be exclusion zones. He added that as far as he was aware, no campus had recommended that classrooms be included in that category.

Professor Goode pointed out that besides the gun exclusion zones, which is where most faculty members' concerns lay, the working group placed a lot of focus on safety as reflected in the first recommendation. It states that if someone carries on campus, the firearm must be on or about his/her person at all times. The second recommendation says that guns must be holstered, and the third recommendation states that a semiautomatic weapon must not have a chambered round. With regard to that, Professor Goode mentioned that in the course of giving his opinion to six questions asked by Senator Birdwell, Attorney General Paxton criticized UT Austin's report on safety and questioned whether or not the recommendations regarding holstering and chambering of ammunition were proper. Professor Goode said, "I think we stand on extremely strong legal ground there, but I do want to let you know that General Paxton has questioned this even though he wasn't asked about it."

Professor Goode then opened the floor to questions.

Professor Weinberg complimented the working group on its hard work, "and very sensible recommendations in many places." However, he argued that the working group "missed the bet" in one area, which was the possibility of banning guns from classrooms. As an alternative, he felt it would have been better if faculty members were allowed to decide if guns were to be allowed rather than having a "blanket allowance" in classrooms. He said that would have been the "happy medium," which he thought could have been simply implemented with a statement that "the University would not require any faculty member to admit guns in their classroom if they felt it was inappropriate." The professor opined "It would avoid the thing that bothered you so much about banning guns in classrooms, that it would effectively ban guns from the campus in conflict with the state legislation." More to the point, Professor Weinberg thought this option "would avoid the undo burden on the First Amendment rights of faculty members to speak their views in areas that are controversial." He pointed out that allowing concealed weapons in classrooms would put UT Austin at a disadvantage when recruiting faculty from universities that don't allow guns on campus. Professor Weinberg said that he felt so strongly about the issue, regardless of the University's regulations, that next term he would do as he did this term by stating in his syllabus that his class was not open to students carrying guns. He said he would be willing to take the consequence of going to court over the matter if necessary, "This is a question of First Amendment rights versus state legislation." Professor Weinberg urged President Fenves to adopt as the University policy "that no faculty member shall be required to admit into his or her course students who intend to carry firearms."

In response to Professor Weinberg's comments, Professor Goode disagreed with him on the assumption that few faculty members would prohibit guns in the classroom as belied by the applause Professor Weinberg received following his comments and by the number of faculty

members who had signed a petition that opposed guns in the classrooms. In effect, he said the proposed recommendation would amount to a general prohibition on Campus Carry.

Regarding Professor Weinberg's point on constitutional law, Professor Goode stated that the working group was not asked to assess the constitutionality of the statute, but instead were asked to make recommendations on how to implement SB 11 and comply with it while providing safety and security for the campus community. In his own opinion, Professor Goode said that a First Amendment academic freedom claim would win in court is "an illusion." He explained that the Campus Carry Working Group had cited three Campus Carry cases in Oregon, Utah, and Colorado, and in none of the three cases did a jurist find that the First Amendment academic freedom trumps the states right to enact one of its laws. Professor Weinberg countered that UT Austin should address the constitutionality of the law and that he did not find the cited cases convincing. He noted that each case was heard in state courts not a federal court. As an example, he cited the Meyer's v. Nebraska where Justice Douglas said that if the case were to be reviewed today, it would be under the First Amendment. He added that it didn't have to be phrased as an academic freedom issue, but rather that admission of guns into a classroom puts an undue burden on First Amendment rights and that it should be heard in the federal courts, and perhaps even by the Supreme Court. Professor Weinberg said, "I'm willing by my own actions to expose myself to a lawsuit in this."

Professor Hutchison remarked that the work of the group had been extraordinarily difficult, yet they had been extraordinarily creative. He assured Professor Weinberg and all present of the goodwill, good faith, and "especially the blood, sweat, and tears that went into the report." He stressed that all nineteen members of the group, including those who are gun owners and license holders, thought it would be best if guns were not allowed in classrooms. However, for the reasons previously stated, they were unable to make that recommendation. He opined that President Fenves put together a terrific committee that included four lawyers, two law professors, and a former chief justice of the Texas Supreme Court. He remarked that one of the great successes of the working group was the fairly creative and thorough reading of state and federal laws that led them to recommend that single occupancy office holders be given the ability to make their office spaces temporary exclusion zones. He reiterated Professor Goode's point that President Fenves charged the group with making recommendations that would promote safety and security for all members of the campus that would be fully compliant with the law. To make policy recommendations that would be fully compliant with the law required all nineteen members to think creatively and capaciously.

Professor Edward Pearsall (music) noted that in the Butler School of Music, there are currently two projects that engage underage children who receive private lessons primarily between 3:00 to 8:00 PM, the String Project and the Piano Project. He said he understood that under Title IX, guns would not be permitted in buildings where there are underage children. He asked if the working group had taken that into consideration—if the Butler School of Music would be considered a gun exempt zone under those conditions? Professor Goode responded saying that he was not familiar with Title IX, but said that the state law was independent of the law that already prohibits concealed carry on the physical premises of an educational institution or school other than an institution of higher education. He reference the Houston Zoo, who was in a fight because it claimed to be an educational institution and had posted signs indicating that guns would not be allowed on its premises. However, advocates of SB 11 argued that the zoo was in violation, and therefore in violation of another state law SB 273 that states that if a business or institution posts signs that prohibit guns where they should be allowed, that entity would be subject to a fine of up to \$10,000 each day. Professor Goode stated that the law already protected UT Elementary School. However, the group did give a recommendation (#15) for campus programs for minors that says anyone—staff members, volunteers, parents, etc.—who participates in a program for minors must contractually agree not to carry a handgun as a condition of participation. Because those programs move around campus, he said it would not be feasible to post signs and be in compliance with the law. From his own personal experience, Professor Goode said that he was

well aware of the underage programs since his youngest son had taken piano lessons at the Butler School as a child. He recalled one Saturday morning in particular when he had received word from his wife that his son's piano instructor had been arrested for murdering his professor.

Professor Joan Neuberger (history) seconded Chair Gore's comments to President Fenves and personally thanked him for postponing his decision until he had received feedback from the Council. She also expressed her appreciation to the working group for their hard work.

Backtracking to the question of HCL training, Professor Neuberger opined that it was not a trivial matter. She cited an article written by Zachary Stone (Plan II honors, government) for the New York Times that reported that HCL training was "completely inadequate." In her opinion there was "no difference between the lack of training for firing a gun around chemicals and lack of training for firing a gun around human beings." She said it seemed like an absolute contradiction and asked Professor Goode to comment on that. Professor Good said that regardless of how one might view the training that the state mandates for a handgun license, it is the state law, and the law now says that as of August 1, 2016, concealed carry will be allowed on campus. To come up with reasonable recommendations, he said the working group had looked at examples where the state had already prohibited handguns such as in the courts and tried to find places on campus that were analogous and could be labeled as gun exclusion zones, such examples included hospitals under chapter 241 of the Health and Safety Code. He said the group actually went to various city facilities and asked if they allowed guns-e.g. the city libraries, city auditoriums, and theaters, which allowed handguns because they had no reason not to. Professor Goode said the committee had to ask itself, how are these facilities different from ones at UT Austin? He said the committee could not justify prohibiting guns in similar locations on campus. But, regarding laboratories with highly explosive or volatile agents where an accidental discharge could cause a catastrophic event or in an animal research facility where a primate might actually be able to reach out and grab a handgun or in a lab with dangers of biological contamination, those places were different.

Professor Goode said, "But even if I grant you your point, that only gets you to the first step of the analysis." He reminded members of the discussion of guns in classrooms and that the working group had acknowledged that the presence of handguns in campus classrooms might "chill speech or hinder recruitment and retention." He said that even if the committee had found a reasonable reason for regulating handguns, it could not be a general prohibition under the law and in the group's opinion, excluding handguns from classrooms would be a general prohibition. Professor Hutchison pointed out recommendations in the report that focused on safety, e.g. a gun cannot having a chambered round, and it must be on or about the person at all times. Another set of recommendations that he considered proactive measures and sympathetic to the standpoint of GunFreeUT involved training. Just as HCL holders are not trained to handle guns in places such as laboratories and animal research facilities, Professor Hutchison said it became clear to the working group that most faculty members were not trained on how to deal with an active shooting event, and what to do in classrooms in such an event. He said one of the group's recommendations included a proactive measure on training and awareness—not just as it relates to handguns but for any physical conflict that might occur on campus. Professor Hutchison mentioned that he had participated in the "teach-in" that GunFreeUT had sponsored the previous Friday and that it was a terrific event. On training, Professor Goode also complimented Mr. Stone on his New York Times piece saying that it was very well done. Related to that, he cited a two-part series on the *The Daily* Show "Good guy with a Gun" where host Jordan Klepper takes up the issue of training he received for getting a license to carry. Professor Goode said it was very informative.

Professor Charlotte Canning (theater and dance) also thanked the committee. She commented that it seemed to many in the College of Fine Arts that the recommendations were not based on the kinds of classrooms that happen in the arts, which involve extensive physical contact among students and between students, such as dance, voice, etc. She said backpacks were often left outside or at the edges of classrooms. She felt that there was a need to address the very diverse kinds of situations that encompass the term "classroom" on campus and to consider the full range of what faculty members do with students in the classrooms. Professor Hutchison thanked Professor Canning for making an excellent point. He said thinking about the incredible diversity of teaching spaces on campus was crucially important. He remarked that the first several recommendations in the report address her examples. He said the idea of "on or about your person" was predicated on something in the law that is especially important in the state of Texas, "It is the CHL holder's responsibility to keep control and be solely in control of their handgun." Individuals would be in violation of the law if they were unable keep their weapons on or about their persons at all times. If, by the nature of the class, students were required to leave their backpacks at the back of the studio, classroom, or lecture hall, they would be infringing on the law if they were to carry a concealed weapon since they would have to be separated from it. Professor Goode pointed out that the working group's recommendations actually went beyond the statutory criminal regime and then highlighted the importance of the first recommendation. He explained that there is nothing inherently illegal about someone being separated from his or her handgun; however, the HCL holder would be criminally negligent if someone else were to pick it up and shoot somebody possibly making the HCL holder liable in a tort action. He said the working group's recommendation made it a violation of UT Austin's policy to do something that would ordinarily be permitted under the law, which is why it was a critical component of the report. Referring back to Professor Canning's example, Professor Goode said, "It would not be the music department that would be in violation. It would be the individual student who is not complying with the rules that President Fenves would have enacted in his power under section SB 11."

Professor Caroline Thomas (economics) commented that she did not feel that the working group or the president was on "our side." She said she did not have the impression that either was really hearing how distressed faculty members were about the issue. She opined that the working group's recommendations did not reflect what the majority of the faculty wanted. She agreed with Professor Weinberg saying, "It would be wonderful if we had a choice." She said she was upset by the analogy of the supermarket, public library, and theatre to the University:

I am not an anonymous person going about my daily business. I'm a teacher in a class. I stand educating students who pay to come to this University, which has a mission statement to educate. It is not a random place. I would like my position as an educator to be respected at least by the University if not by the legislature.

Given that she could not forbid students from bringing concealed weapons into the classroom, Professor Thomas asked if she could include in her syllabus a statement that would strongly urge students not to bring guns into the classroom out of respect for her personal sensibilities. If she did so, she asked if the University would follow-up with sanctions against her or would it defend her right to make such a statement? She asked if she could have a sign in her office that indicated that she did not allow guns since she did not want to have to tell individuals that each and every time that they went to her? She also asked for confirmation that she and other members of the University community were prohibited from asking individuals if they were CHL holders or if they had a concealed weapon? If so, she wanted to know how the police would check that guns were holstered without a chambered round, and what the sanctions would be? She also asked if the University would follow up on the recommendations once implemented, and she wanted to know if anything could be done to go beyond the recommendations of the working group, i.e. give faculty a choice in what to allow in their classrooms?

Professor Goode responded saying, "First, we are not taking sides in this thing. We were asked to make recommendations as to how best to implement a law that was passed by the Texas legislature that said people have a right to carry a concealed handguns on campus if they have a license." He said the committee had spent a lot of time listening to what the campus community had to say; it read over 33,000 comments and held two public forums. He and members of the working group met with the Faculty Council, Staff Council, Texas Exes, Texas Parent Association, and student groups. He stressed that the working group

listened and heard what people were saying and understood the sentiment on campus, and in many instances--especially with regard to classrooms—the committee agreed with that sentiment, which was reflected in the report. But, he reiterated that the working group's task was to make recommendations that would be consistent with Senate Bill 11. He stated that the report came out prior to the attorney general's opinion and that the only reason he had mentioned that was to give those present an idea of the serious legal issues involved. He said, "We pushed as hard as we could to come up with this set of recommendations that took into account, that yes, this is a university." He said his committee worked hard to balance a state law that many people wish would never be implemented and to do it in a responsible way.

Chair Gore indicated that she would allow two more speakers and asked them to keep their remarks brief and to the point. Afterwards, she said the Council would consider the proposed resolutions.

Professor Betsy Greenberg (information, risk, and operations management) questioned if faculty members who wanted to prohibit handguns in their offices would be required to indicate that orally to each person and every time someone enters the office? She wanted to know if there was a reason why faculty members couldn't simply post a sign. She also asked if they were not allowed to ask students who carry to sit at the back of the classroom, how were they supposed to ask someone with a concealed handgun to leave their offices. To avoid having to put up the two foot by three foot signage required by the statute, Professor Goode explained that faculty members could simply announce to their classes at the beginning of the semester that concealed weapons would not be allowed in their offices. A suggestion that he gave that was not a recommendation in the report was that members might post a "no gun pictograph" outside their offices as a way of expressing their view. But in lieu of signage, Professor Goode suggested making the statement orally because it would be more efficient and much less public. Professor Coleman recalled that one of Chancellor McRaven's first statements on SB 11 was that he did not want to see the UT System campuses look like a military zone with the proliferation of large exclusion zone signs. When making their recommendations, the working group took the chancellor's comments into consideration in addition to their own concern of the possibility of setting up or exacerbating a "two-class system" where employees who share an office wouldn't have the same ability as those who were sole occupants. As a compromise, since the group didn't want "the perfect to be the enemy of the good," they recommended allowing oral announcement of offices as gun-free zones. Professor Greenberg asked if faculty members could include such a statement on their syllabi. Professor Goode said the recommendation was that it should be done orally and not be done by signs or in the syllabus.

Professor Martha F. Hilley (music) said that over the past five years, she had always asked students to leave their backpacks at the front of the digital keyboard lab because of the history of damage to floor plugs by backpacks. She asked if she would no longer be allowed to ask them to do that. Professor Goode said that if there were a valid reason for telling students to keep their backpacks at the front of the room, it would be a legitimate request. However, it did not mean that every faculty member could now say, put your backpack at the front when historically, there had not been a reason for doing so. He said that would appear as someone trying to circumvent the law and would be a big problem. Professor Hilley said that she previously had signs that read "Absolutely No Liquids Allowed in Classroom" but changed it to read "Absolutely No Liquids or Firearms Allowed in Classrooms." She said that she had been told that she could be fined \$1000 to \$10,000 per day because of the statement. So, instead of the signs, she was considering having T-shirts printed that would read, "I'm here to learn..." on the front side and on the back, "No Firearms Needed!" She asked if that would be allowed since she would not be disallowing

firearms but would simply be making a statement. Professor Goode said he would have to check with legal counsel.

Professor Zenzi M. Griffin (psychology) asked if she could hear more about the Implementation Committee. Professor Hutchison commented that the working group had been talking about an implementation committee from the beginning of the process but that he did not have any details on it and that might be a question for the president. He added that he thought the real challenges would be implementing the policies once they are decided upon by President Fenves.

Chair Elect Jensen commented that there had been a lot of discussion on "How are we going to deal with it?" But, she opined that there was a disconnect because everyone seemed to keep falling back on, "It's the law" and she felt that there was no "expression of moral outrage from the leadership" about what the University is being forced to do. "I understand the legal difference between open carry and CHL, but at some point your faculty are asking you for some moral outrage even if you can't change it; they want to hear that we don't think this is where guns should be."

Chair Gore again thanked Professors Goode and Hutchison for "being under the gun or in the crosshairs" so to speak. She expressed her gratitude for their hard work and the hard line the committee had to tread between what they wanted personally and what was required by law. She then asked for and received a round of applause to show the Council's appreciation.

Professor Ann Cvetkovich (English) introduced herself as a Faculty Council member and as a representative of GunFreeUT who had devised a set of resolutions for the Faculty Council's consideration. She invited Professors Snodderly and Neuberger to come up to the podium with her. She also thanked the working group for their difficult task. Professor Cvetkovich provided a brief history of Faculty Council discussions and a summary of the five resolutions, which appear in a handout in <u>Appendix B</u>.

Referring to Resolution 4 below, Professor Michelle Habeck (theatre and dance) pointed out that the use of the term "open carry" ought to be changed to concealed carry, "Because we don't have open carry on campus."

Resolution 4: The University Police should receive extensive training to deal with open carry and concealed carry on the campus. Any person openly carrying a weapon of any kind or a replica should be escorted by police at all times while they are on campus.

Professor Snodderly disagreed and said that open carry is allowed everywhere on campus except in buildings. During the recent "mock shooting" demonstration, he said there had been an incident where two people had assault rifles in one of the parking garages that created a great deal of confusion for the police. Because the legal definition of "premises" applies only to the campus buildings and does not include parking garages, the police were unsure how to respond. He opined that what he and others wanted were "extremely clear guidelines that stated that anybody who is openly carrying any weapon or replica must be accompanied by police and not just allowed to go anywhere they want." Professor Neuberger said there might be confusion about open carry, which is not allowed at universities in Texas, with those who carry long guns, for which there is no law that bans them in public or on university campuses. The exception would be if of someone were to carry a long gun in a way that were deemed to be alarming. She said Resolution 4 was written in response to the parking garage incident. Professor Neuberger said it was the perfect example of why training is so important, not just for those carrying guns but for everyone.

Professor Alan W. Friedman (English) agreed with those who complimented the Campus Carry Working Group saying, "They had an extremely difficult task to perform in fulfilling its presidential charge and negotiating between SB 11 and opposing voices. I salute the professionalism with which they proceeded and their thoughtful and impressive report." However, he opined that the Faculty Council had "a different charge and a different task to pay fullest attention to the views of faculty, students and staff and reflect and represent them." He said the campus had spoken clearly on the matter of Campus Carry. He made an analogy between the present circumstances and one where he had served on a committee to investigate and make recommendations on tobacco usage on campus. The resulting report, much like the Campus Carry report, was complex and did not satisfy everyone, but it was the best they could do.

Fortunately, just before we submitted our report, the decision came down from on high that the entire campus would suddenly be tobacco-free. Practically everyone was hugely relieved and the transition went remarkably smoothly. I would imagine that the Campus Carry taskforce would welcome a similar deus ex machina, but it seems unlikely.

Professor Friedman opined that the University must do what it can under the circumstances to "protect the values of higher education and academic inquiry to the best of our ability." He believed that endorsing the set of resolutions would be a step in that process since it would "exclude guns from classrooms, eliminate the confusion surrounding mixed-use buildings, empower office occupiers to control their own offices, enhance University police training, and authorize an initiative to study gun violence and non-lethal means of enhancing safety." He also asserted "We should commit to changing the legislation so that public universities have the same right to self-determination in this crucial matter as private campuses do. Or perhaps this action will incentivize us into going private."

Professor Daniela Bini (French and Italian) agreed with Professor Friedman and asked, "We receive just 12% funding as a public institution, so why should the state delegate and give us the rule for everything?" Professor Neuberger remarked, "Unfortunately, 12% is a lot of money."

Chair Gore thanked the professors for proposing the resolutions and suggested changing the language about police training to read, "The University Police should receive extensive training to deal with the implementation of SB 11 on the UT Austin campus." Professor Snodderly felt that the language should be explicit. He cited a tragic incident in Colorado where a 911 dispatcher had been notified multiple times of a man on the street with a rifle; her response to the callers was that the man was legally allowed to carry it. Professor Snodderly said the man ended up shooting three people, "So I think we need to be very emphatic that the right to carry an armed weapon does not mean that nobody can accompany you; and we need to assure people."

Secretary Hillary Hart reminded members that procedure must be followed and if an amendment to the resolutions were being suggested, the exact language needed to be written on the document camera for all to see. And, she clarified that there is no such thing as a friendly amendment.

Professor Hutchison stated that SB 11 actually addressed both Campus Carry and open carry and had references to SB 273, which covers provisions for what open carry looks like, i.e. long guns, etc. He suggested removing "open carry and concealed carry on campus" and the last sentence of the resolution. Chair Gore said that was actually what she had proposed to start with. Professor Hutchison noted that it was his understanding from Associate Vice President for Campus Safety and Security Bob Harkins that any presence of a gun on campus would lead to the police being called. Rules of procedure where questioned and verified by Secretary Hillary Hart and Professor Friedman. Professor Snodderly was not in agreement with the amendment saying that he would rather keep the sentence that specifies that police would have to escort any person who openly carries a weapon or replica. Hillary Hart asked for confirmation that the resolution proposers were not in agreement with accepting the amendment to Resolution 4. Chair Gore asked if she could make an additional comment. She said that she agreed with and understood the sentiment of the sentence that was to be omitted, but opined that it did not belong in a resolution since it referred to such a specific situation, especially when there would probably be many other recommendations that could be made about training and not everything could be covered because it was just too broad. Consequently, the proposers decided to accept the amendment. Professor Habeck asked if

Resolution 4 would allow a map of the campus to be drawn that clearly identified where open carry and concealed carry would be allowed; i.e. the perimeters for those areas? She said she thought the police would need to know the boundaries. Professor Hutchison stated that he thought implicit and extensive training would involve mapping and clear signage.

Chair Gore suggested that the Faculty Council vote on all of the resolutions as a package rather than individually because faculty members had begun to leave. Professor Snodderly agreed. Chair Gore called the question to vote on the five resolutions. The notion passed with one vote against and two abstentions. Afterwards, Professor Snodderly asked if each resolution could include its rationale, at least as part of the minutes. Secretary Hart affirmed that would happen. (See Appendix B for the rationales.)

The resolution as approved by the Faculty Council appears in <u>D 14033</u> and below: Be it Resolved:

- 1: Classrooms should be gun-exclusion zones.
- 2: When any part of a building is a gun-exclusion zone, the whole building should be a gun-exclusion zone.
- 3: University personnel who have declared their office a gun-exclusion zone should be able to post appropriate signage if the "whole building" policy proposed in Resolution 2 is not adopted. They should also not be required to meet an armed person at another location.
- 4: The University of Texas Police should receive extensive training to deal with the implementation of SB11.
- 5: The University should mount an initiative to study gun violence and non-lethal means of enhancing personal safety, both on-campus and off-campus.

Before adjourning the meeting, Chair Gore thanked President Fenves for staying for the full meeting and for listening to the discussion. She thanked the proposers for putting forth the resolutions, which she thought reflected the sentiments of the Faculty Council. She opined that it was important for the faculty voice to go on record. She then referenced the announcements below.

IX. ANNOUNCEMENTS AND COMMENTS.

- A. Nominations for the General Faculty Standing Committees open January 19 through February 5.
- B. The next Faculty Council meeting will be held on February 15 at 2:15 PM in MAI 212.
- C. Nominations for college representatives on the Faculty Council open February 15 through March 4.
- D. Joint Meeting of the Faculty Council with Texas A&M's Faculty Senate, March 7, at College Station.

X. QUESTIONS TO THE CHAIR-None.

XI. ADJOURNMENT.

The meeting adjourned at 5:01 PM.

Appendix A

The University of Texas at Austin 圜 School of Social Work

Cultivating Learning and Safe Environments (CLASE): An Update on Campus Sexual Assault Research

Noël Busch-Armendariz, PhD, LMSW, MPA School of Social Work Institute on Domestic Violence & Sexual Assault (IDVSA) Professor & Director



COST AND PREVALENCE OF SEXUAL ASSAULT IN TEXAS"



Appendix B

Resolutions on Campus Carry

On November 16, 2015, the UT Austin Faculty Council passed a resolution concluding that it "strongly opposes allowing guns in The University of Texas at Austin classrooms, laboratories, residence halls, university offices, and other spaces of education."

In December 2015, the Campus Carry Policy Working Group (CC working group) released its report recommending the gun-exclusion zones that should be allowed when Senate Bill 11 (SB 11) is implemented on August 1, 2016.

Consistent with the Faculty Council's resolution, the CC working group recommended excluding guns from:

- Laboratories
- Animal Facilities
- Dormitories (but not public spaces)
- Assigned offices (with responsibility for notifications and off-site meetings).

Although the working group expressed its strong opposition to guns in classrooms, it did *not* recommend excluding guns from them, and it reached no consensus on mixed use buildings.

Responding to the CC working group's recommendations, the Faculty Council recognizes that the CC working group had a difficult job and that they "made every effort to remain true to the charge President Fenves gave us: to recommend steps he can take that will promote safety and security for all members of the campus in a way that complies with the law" (Report p. 7). The Faculty Council also wishes to express its support for maintaining campus safety, but it also affirms its broader responsibility, one that includes protecting free inquiry and academic freedom from intimidating influences that impede learning and creative activities. With that responsibility in mind, the Faculty Council endorses the following resolutions:

Resolution 1: Classrooms should be gun-exclusion zones.

Commentary: All members of the working group felt that guns should not be allowed in classrooms. They were, nevertheless, concerned that excluding guns from classrooms would be considered a general prohibition and therefore illegal. They considered but rejected the alternative, which is to exclude guns from classrooms while providing secure storage for guns for students and instructors in class. Such storage could be provided as secure gun lockers in enclosed spaces at various locations on campus.

The working group reasoned that storing and retrieving guns introduces risks that are greater than just carrying guns. While it is true that there is a risk to storing guns, the risk is borne mainly by the gun owners, not the whole campus. If the risk is unacceptable, the gun owners have the option of leaving their guns at home. Students and faculty who feel intimidated, or at risk because of guns in the classroom, do not have the option of missing or cancelling classes.

Resolution 2. When any part of a building is a gun-exclusion zone, the whole building should be a gun-exclusion zone.

Commentary: Having parts of buildings as exclusion zones will be very difficult to enforce, while treating buildings as units will reduce requirements for signage, which is a goal of the Chancellor's. This policy will solve the problem of how to treat mixed-use buildings. In addition, it means that common areas in dormitories would be gun-exclusion zones.

Resolution 3. University personnel who have declared their office a gun-exclusion zone should be able to post appropriate signage if the "whole building" policy proposed in Resolution 2 is not adopted. They should also not be required to meet an armed person at another location.

Commentary: Recommendation #18 in the CC working group report proposes that an office holder who has prohibited concealed weapons should give oral notice to visitors and arrange somewhere else to meet with gun

owners. The expectation of oral notice and having to arrange external meeting space is complicated, timeconsuming, fraught, and intimidating, and it is an unjustifiable burden on University personnel. Gun owners who wish to meet with staff in a gun-exclusion zone should store their weapons and not create unnecessary work for already overburdened staff and faculty.

Resolution 4. The University Police should receive extensive training to deal with open carry and concealed carry on the campus. Any person openly carrying a weapon of any kind or a replica should be escorted by police at all times while they are on campus.

Commentary: A recent demonstration adjacent to campus and in a campus parking garage evoked a confused response from campus police. Several men with semiautomatic weapons on the roof of a parking garage were not considered reason for alarm. Open display of a handgun or a very good replica was also deemed acceptable. Students and staff asked officers on the scene if the open carry of handguns was permissible, and whether the garages were considered university premises, and the officers were unable to give clear answers. The University needs to establish a policy that assures the campus that the police are properly trained and will not allow armed individuals to intimidate or threaten the community.

Resolution 5. The University should mount an initiative to study gun violence, and non-lethal means of enhancing personal safety, both on-campus and off-campus.

Commentary: As the CC working group recognized, this important area of study has long been neglected. The University of Texas at Austin could quickly become a national leader by establishing an interdisciplinary research center or institute spanning STEM and Humanities disciplines and recruiting outstanding senior scholars to lead innovative approaches to these complex problems. This effort should include a robust multimedia Public Scholarship effort to make research results on gun violence and violence prevention accessible to the public. A working group should be tasked with developing a plan to establish these research and outreach efforts. One useful step might be an initial workshop on campus bringing leading scholars from other institutions to interact with UT faculty, staff, and development officers to help jump-start this process.