



Additionally, Attorney General Opinion KP-0047 stated "the responsible authority that would notify license holders of their inability to carry on respective premises must make the determination of which government courtrooms and offices are essential to the operation of the government court." The OAG acknowledges that decisions such as this are for the governmental entity in the first instance, subject to review for abuse of discretion. Tex. Att'y Gen. Op. Nos. KP-0007 at 2 (2015), GA-0843 at 2 (2011), GA-0271 at 3 (2009), GA-0472 at 3 (2006); *see also Comm'rs Ct. of Titus Cnty. v. Agan*, 940 S.W.2d 77, 80 (Tex. 1997) (recognizing district court's supervisory control over a commissioners court that abuses its discretion).

In this instance the citizen complaint states that, outside the entrances to the Waller County Courthouse (the "courthouse"), located at 836 Austin Street, Hempstead, Texas 77445, there are signs referring to section 46.03(a)(3) of the Penal Code and warning handgun license holders that possession of a handgun on the premises is prohibited and punishable as a third degree felony. After reviewing the complaint, the OAG notes the courthouse is a multi-story, multipurpose building that houses the Waller County (the "county") district courts, county courts-at-law, commissioners court, and the district clerk, as well as the offices of the county clerk, treasurer, human resources, elections, and auditor, among others.

By correspondence dated August 4, 2016, Assistant District Attorney Elizabeth Dorsey provided a response to the complaint on behalf of the county. The county generally asserts the courthouse is a place where firearms are prohibited pursuant to section 46.03(a)(3) of the Penal Code. The county further asserts the signage in question is not in violation of section 411.209 because it does not reference 30.06 or "any handgun license law." The county has also provided the OAG with copies of the pleadings filed in a lawsuit brought by the county against the citizen complainant. The petition states the county seeks a declaratory judgment that section 46.03(a)(3) of the Penal Code "prohibits an individual from carrying firearms and other prohibited weapons throughout an entire building that houses a government court, including but not limited to" the courthouse.

The OAG has reviewed the information provided by the county, including its response to the complaint and its petition against the citizen complainant. Initially, the OAG notes section 411.209 of the Government Code does not contemplate a suit filed by the government against a citizen complainant. Regardless, the county's petition acknowledges the courthouse contains non-judicial county administrative offices such as the county clerk, county treasurer, and county elections offices. These offices are neither offices essential to the operation of the courts nor are they otherwise included in the specific exempted places listed under section 46.03 or 46.035 of the Penal Code. Section 46.03(a)(3) of the Penal Code does not allow a political subdivision to prohibit licensed handgun holders from entering into an entire building simply because the courts or the offices of the courts are located in a portion of that multipurpose building. Consequently, the OAG has determined the signs posted outside the entrances to the courthouse are in violation of the Government Code.

The Honorable Carbett "Trey" Duhon, III  
August 10, 2016  
Page 3

The county has fifteen (15) days from the receipt of this written notice to cure the violation. If the county fails to cure the violation within this fifteen day period, the OAG may proceed to file suit in district court and seek civil penalties pursuant to section 411.209(g) of the Government Code. Section 411.209(b) of the Government Code authorizes the court to assess civil penalties in the amount of:

- Not less than \$1,000 and not more than \$1,500 for the first violation; and
- Not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation.

Be advised that each day of a continuing violation constitutes a separate violation. TEX. GOV'T CODE § 411.209(c). Accordingly, beginning on the sixteenth (16<sup>th</sup>) day following the receipt of this written notice the county may be liable for a proposed maximum penalty of \$1,500 for each day the county remains in violation, as well as any reasonable expenses incurred by the Attorney General in obtaining relief under section 411.209(g) of the Government Code.

Sincerely,



Matthew R. Entsminger  
Assistant Attorney General  
Administrative Law Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
Telephone: (512) 475-4151  
Facsimile: (512) 457-4686  
matthew.entsminger@texasattorneygeneral.gov

cc: Terry Holcomb, Sr.  
Elizabeth Dorsey  
Sean Whittmore  
Elton Mathis