



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 9, 2016

The Honorable Jon H. Burrows
Bell County Judge
P.O. Box 768
Belton, Texas 76513

Via: CMRRR: 7012 1010 0002 4081 2799

RE: Wrongful Exclusion of Concealed Handgun License Holder Complaint
Bell County Justice Center
OAG Complaint No. 32

Dear Judge Burrows:

The Office of the Attorney General (“OAG”) received a citizen complaint, pursuant to section 411.209 of the Government Code, concerning the wrongful exclusion of handgun license holders from the Bell County Justice Center. After investigating the citizen complaint, the OAG has determined there is a violation of section 411.209.

Section 411.209(a) of the Government Code states as follows:

A state agency or a political subdivision of the state may not provide notice by a communication described by Section 30.06, Penal Code, or by any sign expressly referring to that law or to a concealed handgun license, that a license holder carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other places by Section 46.03 or 46.035, Penal Code.

TEX. GOV’T CODE § 411.209(a).

Generally, a political subdivision may post a Penal Code section 30.06 (“30.06”) or concealed handgun sign to warn handgun license holders against trespassing on a premises where weapons are prohibited by section 46.03 or 46.035 of the Penal Code.

Section 46.03 of the Penal Code prohibits a person, including a handgun license holder, from bringing weapons on certain premises. Violation of this section constitutes a third degree felony. Specifically, section 46.03(a)(3) allows the exclusion of weapons from “the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court[.]” Further, Attorney General Opinion KP-0047 (2015) stated “[t]he premises of a ‘government court or office utilized by the court’ means a government courtroom or those offices essential to the operation of the government court.”

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 (2011) at 2, GA-0271 (2009) at 3, GA-0472 (2006) at 3; *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, on the door of the entrance, inside the vestibule, and near the metal detector of the Bell County Justice Center (the “justice center”), located at 1201 Huey Drive, Belton, TX 76513, there are general “no weapons” signs and signs referencing 30.06 and warning handgun license holders not to enter the premises with their handguns. After investigating the complaint, the OAG notes the justice center is a multi-story, multipurpose building that houses the Bell County (the “county”) district courts, the county courts-at-law, the county clerk, and the county and district attorneys’ offices, among others.

In correspondence dated March 11, 2016, you provided the OAG a response to the complaint on behalf of the county. You state that on December 29, 2015, the District Judges of Bell County, the County Judges of Bell County, and the Bell County Commissioners Court, each issued orders determining that various enumerated areas within the justice center, including but not limited to the hallways, stairwells, elevators, common areas, and restrooms, are integral and necessary to the operation of the courts. Based on these orders and the posted signage, the OAG concludes the county intends to exclude the carrying of weapons from the entire premises of the justice center, purportedly pursuant to section 46.03(a)(3) of the Penal Code.

Although the justice center houses several courts, such as the district courts and the county courts-at-law, not all of the offices located in the justice center are offices essential to the operation of the courts. For example, the district and county attorneys’ offices are non-judicial county administrative offices that are not 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.

Although the county issued joint orders determining the entire justice center to be essential to the operations of the courts, a reviewing court would likely conclude the county abused its discretion by implementing joint orders that protect areas of the justice center that are clearly neither a government court nor offices essential to the court. *See Agan*, 940 S.W.2d at 80 (commissioners court abuses discretion by acting “illegally, unreasonably, or arbitrarily”). Consequently, the OAG has determined the signs located on the front door and inside the entrance of the justice center are in violation of the Government Code and the Penal Code.

The OAG is currently involved in litigation concerning legal issues relevant to a number of section 411.209 complaints related to government courts, including the complaint against the county. Accordingly, the OAG will abate immediate enforcement of this particular ruling. Should the

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OAG decide to seek a penalty or other equitable relief against the county, we will first issue a written notice stating the amount of any proposed penalty in compliance with Tex. Gov't Code § 411.209(f)(2). At that time the county will be allowed the statutory 15 days to cure the violation.

Sincerely,



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CC: Complainant