



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 10, 2016

The Honorable Daryl Melton
Sabine County Judge
201 Main Street
P.O. Box 716
Hemphill, Texas 75948

RE: Wrongful Exclusion of Concealed Handgun License Holder Complaint
Sabine County Courthouse
OAG No. 35

Dear Judge Melton:

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 Sabine County Courthouse. After investigating the citizen complaint, the OAG has determined Sabine County is in 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 doors of the east entrance to the Sabine County Courthouse (the “courthouse”), located at 201 Main Street, Hemphill, Texas 75948, there is a 30.06 sign warning handgun license holders not to enter the premises with a handgun. After reviewing the complaint, the OAG notes the courthouse is a multi-story, multipurpose building that houses the district and county courts, two justice of the peace offices, and the district clerk’s office, as well as an adult probation department office and the district and county attorneys’ offices, among others.

In correspondence dated March 9, 2016, you provided a response to the complaint on behalf of Sabine County (the “county”). Your response indicates that between December 31, 2016, and January 5, 2016, the Sabine County Commissioners Court, the District Judge of Sabine County, the Justices of the Peace of Precincts 1 & 2, and the County Court of Sabine County, each issued joint orders determining that various enumerated areas within the courthouse, 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 courthouse, purportedly pursuant to section 46.03(a)(3) of the Penal Code.

Although the courthouse houses several courts such as the district court and the county court, not all of the offices located in the courthouse 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 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 courthouse 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 courthouse 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 a sign attempting to restrict lawful access to the portions of the building that are not courtrooms or offices essential to the operation of the court, including the sign located on the east entrance to the courthouse, is in violation of the Government Code.

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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 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