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OPINION COMMITTEE



FILE # ML-47182-12
I.D. # 47182

KERR COUNTY ATTORNEY

ROBERT HENNEKE

COUNTY COURTHOUSE, SUITE BA-103 • 700 MAIN STREET • KERRVILLE, TEXAS 78028

December 3, 2012

RQ-1102-GA

The Honorable Greg Abbott
Texas Attorney General
P.O. Box 12548
Austin, TX 78711

RE: Request for attorney general's opinion regarding issuance of criminal trespass notice for public property

Dear Attorney General Abbott:

Pursuant to Tex. Gov't Code §402.043, I respectfully request that you provide this office with a formal written opinion regarding the following questions:

1. Does a governmental entity's issuance of a criminal trespass notice against a person forbidding that person's entry upon property open to the public and owned by the governmental entity pursuant to Tex. Pen. Code §30.05 violate the person's constitutional rights?
2. If a governmental entity may issue a criminal trespass notice against a person forbidding that person's entry upon property open to the public and owned by the governmental entity, what criteria or conditions would the governmental entity need to satisfy so as to pass constitutional muster?

Please see the attached brief addressing the above referenced issues. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Henneke".

Robert Henneke