

# PROPERTY CLOSURE MANUAL

---

*Thirteenth Edition*  
2003



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

TEXAS ATTORNEY GENERAL'S OFFICE  
PROPERTY CLOSURE MANUAL

2003 TABLE OF CONTENTS

---

Introduction .....	1
Summary.....	3
Gang Abatement .....	6
Plan for Nuisance Abatement Flowchart .....	7
Targeting a Nuisance Location .....	8
Investigation .....	9
Case File Checklist .....	14
Meeting and/or Lawsuit .....	15
Insufficient evidence .....	15
Sufficient evidence.....	16
Nuisance Abatement Statistics.....	17
Attachments	
A. Chapter 125 of the Texas Civil Practice & Remedies Code	
B. Section 101.70 of the Texas Alcoholic Beverage Code	
C. Summary of Illegal Activity	
D. Notification Letter	
E. Guidelines of Operation	
F. Officer Declarations	

# INTRODUCTION

---

The Office of the Attorney General (OAG) currently assists municipalities, local prosecutors, Texans, and law enforcement agencies, (including sheriff's offices, the Texas Alcoholic Beverage Commission (TABC), or task forces) in targeting, processing, and filing suit against property owners who allow public and common nuisances to exist on their property. Chapter 125 of the Texas Civil Practice & Remedies Code and Section 101.70 of the Texas Alcoholic Beverage Code are considered the "Texas Nuisance Abatement Statutes." These statutes permit law enforcement agencies to close any piece of property involved in illegal activities, such as violations of the Texas Penal Code, the Texas Alcoholic Beverage Code, and the Texas Controlled Substances Act. The purpose of a lawsuit filed under the Texas Nuisance Abatement Statutes is not to show or prove that the property owner is guilty of any illegal acts, but rather to prove that the property owner allowed the illegal activity to occur on the property and failed to make reasonable attempts to stop it. Once the property is determined to be a common nuisance, and after a successful suit, the property is closed for a period of one year, unless the property owner posts a penal bond as required by the statutes. If the property owner posts the bond and the illegal activity continues in violation of the court order and in violation of the bond, the bond may be forfeited and the property will be mandatorily closed for a period of one year. If the property is also determined to be a public nuisance, the property owner must post an additional bond in an amount up to \$10,000 as required by the statutes.

Actual litigation in many instances is not required. Once property owners face loss of income, bonds adding up to thousands of dollars, and the threat of forfeiture of those bonds, many owners are willing to enter into a voluntary abatement of the nuisance. The Civil Enforcement Section uti-

lizes arrest reports, calls for police service, and search warrants contained in local departmental records, as well as police officers' and residents' affidavits to prosecute the lawsuits against property owners. The nuisance laws can have a positive effect on locations where law enforcement agencies have spent numerous man hours policing. In addition, there is the possibility of large monetary savings for the law enforcement agencies. In several instances, businesses that have permitted illegal activity for years have been successfully closed.

When local law enforcement lacks the resources or experience in such cases, the OAG will send staff to any area of the state to provide technical assistance in initiating the nuisance abatement process. Once the evidence is compiled and sent to the OAG for review, a lawsuit will be filed in the name of the State if the OAG determines that sufficient evidence exists. The OAG will provide legal representation for the duration of the lawsuit.

Many police departments have become skilled at this procedure and have had great success on their own. By denying criminal offenders the use of real property as a base of operations, and by securing the property owner's cooperation in the removal of criminal offenders, neighborhood revitalization becomes a reality. Our goal at the OAG is not to abandon other conventional methods of law enforcement at these nuisance sites, but to supplement these efforts by providing an additional tool to address illegal activity in our Texas communities.

# SUMMARY

---

## **Which statutes are considered the “Texas Nuisance Abatement Statutes”?**

- Chapter 125 of the Texas Civil Practice & Remedies Code
- Section 101.70 of the Texas Alcoholic Beverage Code

## **What kind of illegal activity can be addressed by the Texas Nuisance Abatement Statutes?**

- Prostitution
- Obscenity
- Gambling
- Organized criminal activity as a member of a combination
- Delivery, possession, manufacture, or use of a controlled substance
- Discharge of a firearm
- Alcohol violations

## **What kind of illegal activity can be addressed by the Texas Nuisance Abatement Statutes on a multi-unit residential property that is located in a municipality?**

- Prostitution
- Obscenity
- Gambling
- Organized criminal activity as a member of a combination
- Delivery, possession, manufacture, or use of a controlled substance
- Discharge of a firearm
- Alcohol violations
- Aggravated assault
- Sexual assault
- Aggravated sexual assault
- Robbery
- Aggravated robbery
- Unlawfully carrying a weapon

## **What type of property can be closed by the Texas Nuisance Abatement Statutes?**

Any place in the State of Texas that is causing a nuisance as defined by the Texas Nuisance Abatement Statutes.

- Businesses of all kinds
- Private residences
- Apartments
- Motels
- Convenience Stores
- Any type of property

**Who can be sued?**

- Owner(s) of real property
- Owner(s) of the business
- Lessee/renter of the property
- Manager of the property
- Management company
- Any combination of the above

**How long will the property be closed if the lawsuit goes to trial and it is determined that the property is a nuisance?**

- Under Chapter 125 of the Texas Civil Practice & Remedies Code, the property must be closed for a period of one year.
- Under Section 101.70 of the Texas Alcoholic Beverage Code, the property must be closed for a period of up to one year.

**What can the owner do to prevent the property from being closed once a judgment is entered to close the property?**

- Under Chapter 125 of the Texas Civil Practice & Remedies Code, the defendant can post a penal surety or cash bond of \$10,000.00 for a common nuisance.
- Under Section 101.70 of the Texas Alcoholic Beverage Code, the defendant can post a penal surety or cash bond of at least \$1,000 for a common nuisance.

**What happens if the defendant fails to post a bond and/or violates a temporary or permanent injunctive order and the illegal activities continue to take place on the property?**

For a common nuisance, the defendant is subject to the following:

- Loss of bond through forfeiture
- Property closure for up to one year

For a public nuisance, the defendant is subject to the following sentences for civil contempt:

- Fine of not less than \$1,000 nor more than \$10,000
- Confinement in jail for a term of not less than 10 nor more than 30 days
- Both fine and confinement

**Does the case always go to trial?**

No.

- The parties may enter into an Agreed Final Judgment. The amount of the bond to be posted, fees, and property improvements are negotiated and incorporated into the agreement. The property is then closely monitored.
- A notification letter is sent to property owners who may be cooperative, requesting a meeting to discuss the illegal activities occurring on their property. Operation guidelines to reduce illegal activities on the property will be discussed at the meeting. If the owner agrees to clean up the property and the referring agency observes improvement, a lawsuit is not filed but the property should be monitored.

# GANG ABATEMENT

---

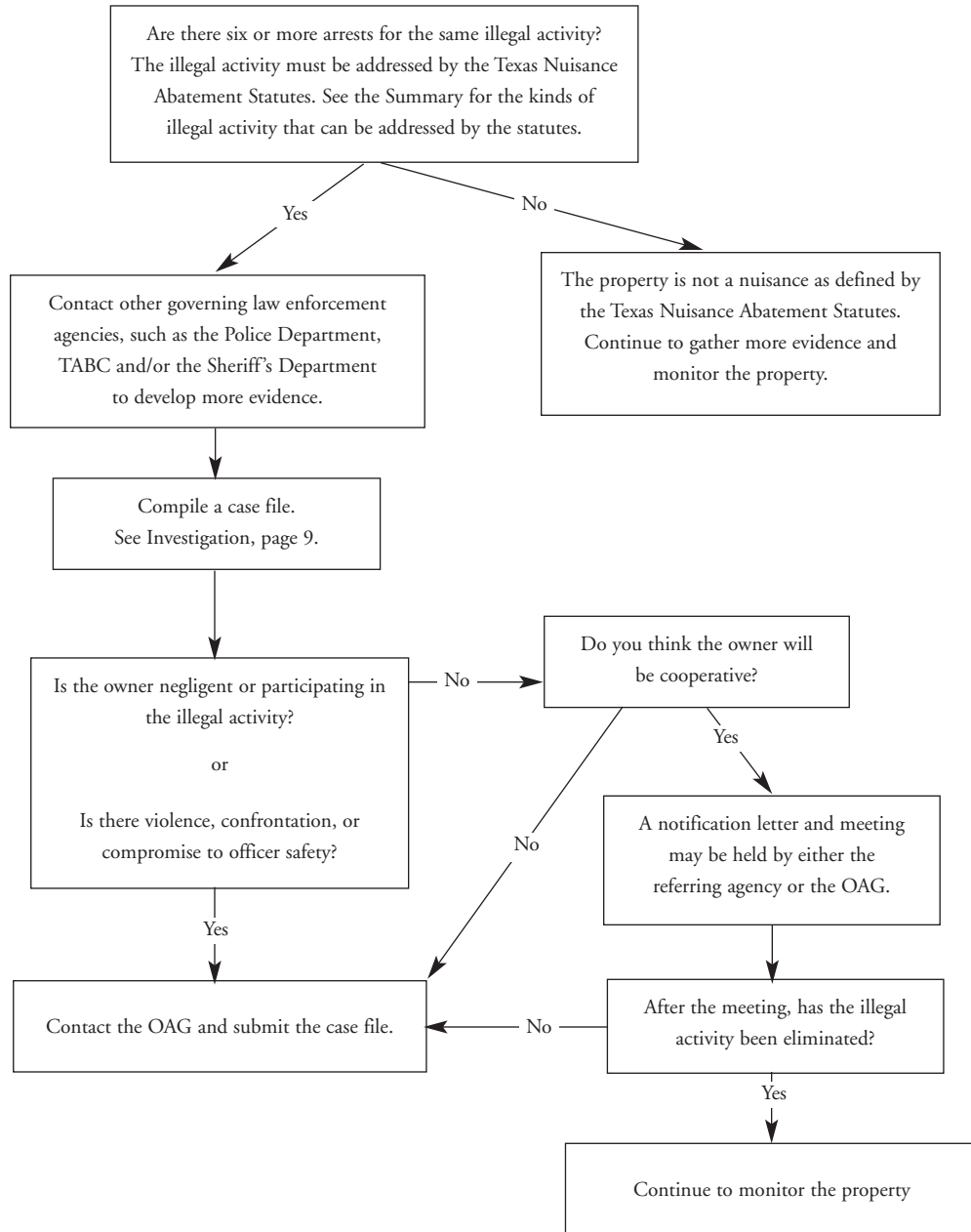
Over the years, street gangs have become a problem in smaller towns as well as the larger cities in Texas. Regardless of the town size, the Texas Nuisance Abatement Statutes can address gang problems. Under Subchapter D of Chapter 125 of the Texas Civil Practice & Remedies Code, the gang itself as well as the places used by the gang to conduct its criminal activities can be declared a public nuisance.

A nuisance suit under this subchapter can be brought against either the gang member(s) or the person who owns the subject property or both. In a successful suit, the court can enjoin the gang member(s) from engaging in criminal activity and make appropriate orders to prevent the continued use of subject property for organized criminal activity. Any violations of these court orders can result in civil contempt charges for the offending defendant that can include fines and/or jail time. Additionally, violation of the court order can impose criminal liability under §71.021 of the Penal Code.

Use of the Texas Nuisance Abatement Statutes for gang activity can be a useful addition to the various other methods law enforcement applies to stem the tide of gang activity in this state. Removing the availability of places for gangs to meet and congregate can be very effective in disrupting the gang culture, thus making their activities less organized and more manageable for law enforcement.



# PLAN FOR NUISANCE ABATEMENT FLOWCHART



**General Guideline** (may be more or less depending on the size of the jurisdiction and circumstances of each property)

# TARGETING A NUISANCE LOCATION

---

The first step is to determine whether the illegal activity at the targeted property constitutes a common or public nuisance as defined in the Texas Nuisance Abatement Statutes. A nuisance abatement action should be considered and an investigation should be initiated if several of the following questions are answered in the affirmative regarding a piece of property.

- Is the property used for prostitution; gambling; the discharge of a firearm; organized criminal activity; the delivery, possession, manufacture, or use of controlled substances; and/or violations of the Texas Alcoholic Beverage Code?
- Is a multi-unit residential property used for prostitution; gambling; the discharge of a firearm; organized criminal activity; the delivery, possession, manufacture, or use of controlled substances; aggravated assault; sexual assault; aggravated sexual assault; robbery; aggravated robbery; unlawfully carrying of a weapon; and/or violations of the Texas Alcoholic Beverage Code?
- Is there a history of arrests for one or more of these illegal activities at that property?
- Will these illegal activities continue indefinitely if legal action is not taken?
- Does the property have a reputation as a place to frequent for one or more of these illegal activities?
- Have the lives and/or businesses of people in the surrounding area of the property suffered or been adversely affected by these illegal activities?

For the definitions of a common and public nuisance as defined by Chapter 125 of the Texas Civil Practice & Remedies Code, see Attachment A; and for the definition of a common nuisance as defined by Section 101.70 of the Texas Alcoholic Beverage Code, see Attachment B.

# INVESTIGATION

---

The evidence compiled during the investigation is used to support the initiation of a nuisance abatement proceeding under the Texas Nuisance Abatement Statutes. Most of the evidence needed is contained in local departmental records. The evidence compiled must be fully documented because it may be used in the court of law and discovered by the defendant. The most important evidence is that showing that the property is a place to which persons habitually go for the purpose of those illegal activities addressed by the Texas Nuisance Abatement Statutes. This evidence can be obtained by the number of arrest reports, citations, search warrants, incident reports, complaints, and calls for police service at the property. Any documentation that can be compiled indicating illegal activity on the property for a two- to three-year time period may be used as evidence. If the investigation shows that an inordinate number of calls for police service have been made and six or more arrests for the same type of illegal activity have occurred in the last six months to a year, the case may be a good nuisance abatement case. However, the case must be submitted to the OAG for a more definite determination to be made.

Offense reports must establish the habitual use of the property for these illegal activities. To do this, it is important that the offense reports indicate that the illegal activity occurred, began, or ended on the targeted property. The reports must identify the property and be specific in the narrative as to the connection between the crime and the property. For example, to state that the prostitute or drug dealer was observed “coming out of or going into the establishment or parking lot of the property” or that the “criminal activity occurred in the establishment or on the parking lot of the property,” clearly connects the crime to the property. Stating that the prostitute or drug dealer was observed “on the street or roadway in front of the establishment” does not connect the crime to the property.

Site visits and/or surveillance of the property should be conducted to evaluate the physical appearance of the property and to observe the nature of the illegal activities occurring on the property. The site visits will also corroborate (or refute) complaints concerning the property. If code violations of any kind are observed, representatives from any other applicable agency should be contacted and requested to conduct inspections of the property.

During the investigation, please compile a case file that consists of the sections mentioned below with the described information enclosed. Many departments have an automated database that will provide statistical information.

- **Summary of Illegal Activity.** A general summary of the events occurring on the property and any pertinent information related to the investigation. Provide a list of all officers who have conducted investigations on the property and those officers who have made arrests on the property. Also, provide a list and give statistical data on calls for police service, general complaint citations, and offense reports generated on the subject property. See Attachment C for examples of a summary of illegal activity.
- **General Complaint Citations.** Copies of all general complaint citations that have been issued on the property for the last three years or for whatever period the property has been operating.
- **Arrest Reports.** Copies of all arrest reports generated on the property for the last three years. Please provide a subsection for each category of offenses that has occurred on the property. For example, place copies of all the arrest reports for narcotic violations in one section, alcohol violations in one section, prostitution cases in one section, assault cases in one section, etc. While the property is under investigation, all arresting officers should provide written narratives for each arrest report. It is important that the prosecuting attorney be provided with all the arrest reports up to the date of the court hearing, as the nuisance will have to be proven to be ongoing.
- **Final Dispositions.** Copies of all final dispositions, or pending actions, against any person arrested on the property for any of the illegal activities addressed by the statutes during a three-year period. Convictions of arrested persons and pending actions will support the allegation that the owner knew the illegal activity was occurring on the property.

- **Videotapes and Photographs.** Videotapes and photographs of illegal and/or disruptive activity on the property make excellent evidence. This evidence will provide demonstrative proof of how the property is maintained and the type of nuisance the property is to the neighborhood.
- **Search Warrants.** Copies of all search warrants served at the property, search warrant returns, and all arrest reports related to the search warrants should be included in this section. The probable cause articulated in the search warrants may contain additional information that will aid in the prosecution of the case.
- **Warrants.** Generate a summary on all active arrest warrants for persons who listed the subject property as their residence. This will identify individuals who have no legal relationship to the property, yet claim it as their residence, or it may identify individuals who may be contributing to the problems on the property.
- **Correspondence, documents, and notes.** Copies are needed of any correspondence, documents, notes, or memos regarding the subject property. Copies of all communications between the property owner, employees, managers, or any other person who has personal knowledge of the property should be included in this section. All registered or certified mail return receipts of correspondence and all documents evidencing an informal meeting with the property owner should be in this section. This will show the court that your law enforcement agency and the OAG have attempted to obtain the property owner's cooperation to address the illegal activity before filing suit in the case.
- **Officer Declarations.** Officer declarations should be obtained from every officer currently patrolling the neighborhood where the property is located, and from those who have previously patrolled the neighborhood. Officer declarations should also be obtained from every officer who has made an arrest, assisted on calls for police service, or conducted investigations on the property. The declaration should state any observations of illegal activity, the officer's involvement with the property, the property's reputation, and the officer's professional opinion of the property. See Attachment F for examples of an officer's declaration.
- **Citizen Declarations.** Citizens living in the vicinity of the property or persons associated with the property can provide helpful information regarding the illegal activities occurring on the property. Written statements in the form of letters, affidavits, or declarations from citizens can be persuasive evidence. If a citizen is threatened by anyone, or if an act of violence has been committed against him or her, we can request that the court order that any personal information obtained remain confidential.
- **Property and Property Owner Information.** The legal owner of the real property must be identified by obtaining a certified copy of the recorded deed (Warranty Deed or Deed of Trust) from the county clerk's office or a title agency in your county. The deed will not only provide the name of the owner(s) of the real property, but it will also provide the legal

description of the property. The owner(s) of the real property must not be confused with the owner of a business that may be located on the property. The legal owner may be an individual, a group of individuals (joint venture or partnership), or a corporation. Any other information that can be obtained regarding the property owner(s) may be added to this section. For example, if the owner(s) own(s) any other property, or businesses, or if they have a record of any kind, this information can be included. This section may also include, but it is not mandatory, the names, addresses, telephone numbers, driver's license numbers, photographs, and criminal histories of owner(s), managers, employees, agents, or persons who may be directly involved with the ownership or management of the property.

- **Declarations or Affidavits from Interviews.** Interviews conducted with citizens, informants, and suspects will be very helpful to the case. They can aid in proving that the property has a reputation for these illegal activities and can shed some light on other aspects of the property's history, such as who frequents the property, the type of concerns that they have with the property, what they have observed at the property, how the property is maintained, how the illegal activity adversely affects your law enforcement agency, etc. Each statement should be documented, signed, and notarized, i.e., they should be written statements in the form of a signed declaration or affidavit.
  
- **Regulatory Agency Inspections.** All documents regarding investigations or inspections by regulatory agencies should be included in this section. Please provide a subsection for each applicable regulatory agency. The governing agency should coordinate its efforts with inspectors and investigators of regulatory agencies, because this will not only benefit the case by providing additional evidence, but may also improve the property and help revitalize a deteriorating neighborhood. The property owners may make necessary improvements when they are issued citations by investigators of regulatory agencies for code violations. Since most illegal activities gravitate to neighborhoods that are poorly lit and maintained, such improvements may discourage illegal activity from occurring. Once you have contacted the regulatory agency and citations for code violations have been issued, you must keep communicating with the agency regarding the status and progress of the code violations. Regulatory agencies may differ in each city or county; below is a list of the types of inspection that may be conducted. The telephone numbers may be found in the blue city or county government pages of your local telephone directory.
  - Building (planning and development)
  - Fire
  - Noise Pollution
  - Housing Code Enforcement
  - Restaurant & Food Business
  - County Health Department Services
  - County Environmental Health Services
  - Texas Alcoholic Beverage Commission
  - County Sheriff's Office

- **Miscellaneous.** Items in this section should include information that may not be categorized in any other section of the notebook, but that will be helpful in prosecuting the case.

Once all the above-mentioned information has been compiled, contact the OAG and submit the case file for review by the OAG. If you need assistance at any time during the investigation, feel free to contact the Civil Enforcement Section of the Special Crimes Division.

# CASE FILE CHECKLIST

---

- \_\_\_\_\_ Summary of Illegal Activity. See page 10 and Attachment C.
- \_\_\_\_\_ General Complaint Citations. See page 10.
- \_\_\_\_\_ Arrest Reports. See page 10.
- \_\_\_\_\_ Final Dispositions. See page 10.
- \_\_\_\_\_ Videotapes and Photographs. See page 11.
- \_\_\_\_\_ Search Warrants. See page 11.
- \_\_\_\_\_ Warrants. See page 11.
- \_\_\_\_\_ Correspondence, documents and notes. See page 11.
- \_\_\_\_\_ Officer Declarations. See page 11 and Attachment F.
- \_\_\_\_\_ Citizen Declarations. See page 11.
- \_\_\_\_\_ Property and Property Owner Information. See page 11.
- \_\_\_\_\_ Declarations or Affidavits from Interviews. See page 12.
- \_\_\_\_\_ Regulatory Agency Inspections. See page 12.
- \_\_\_\_\_ Miscellaneous. See page 13.



## MEETING AND/OR LAWSUIT

---

**Insufficient evidence.** After the OAG reviews and determines that the information compiled by the referring agency is not sufficient to file suit, there are two options. The first option is that the governing agency may continue investigating the property to obtain more evidence so that a suit may be filed at a later date. Once enough evidence is obtained, the OAG will proceed with a lawsuit.

If the referring agency believes the property owner will cooperate in any attempts to eliminate the illegal activity, the second option is to hold a meeting with the property owner. A notification letter is sent to the property owner requesting a meeting. All concerned parties should be present at this meeting. Individuals present may include representatives of the referring agency, the OAG, regulatory agencies, and the property owner or representatives. The purpose of the meeting is to notify the property owner of the persistent illegal activity taking place on the property and to obtain voluntary compliance in addressing the problem. The owner is given suggested guidelines of operation and made aware of the potential fines, bonds, and civil actions that could be taken against him or her for maintaining a nuisance. The regulatory agencies and the referring agency will be given an opportunity to express their concerns and provide information regarding code violations. The property owner will also be advised as to the assistance he or she can expect from the referring agency and other regulatory agencies. After the meeting, if the illegal activity declines or is eliminated, the referring agency must continue to monitor the property. If the illegal activity has not declined or been eliminated, the OAG will proceed with a lawsuit once sufficient evidence has been obtained. See Attachment D for an example of a notification letter and Attachment E for the guidelines of operation. The notification letter and the guidelines of operation can be modified according to the specific nature of the property involved.

**Sufficient evidence.** Once sufficient evidence exists, you can either request a meeting with the property owner to obtain voluntary compliance or file a lawsuit against the property owner. The OAG will file suit on behalf of the referring agency and will provide all of the legal representation for the duration of the lawsuit. **\*The OAG does not represent the referring agency but represents and will file on behalf of the State.**

# NUISANCE ABATEMENT STATISTICS

---

## FOR ALL THE CASES FROM 1991 THROUGH APRIL 30, 2002

- 308 cases opened and investigated  
(134 open cases and 174 closed cases)
- 16 surety bonds posted
- 1 surety bonds forfeited
- 3 cash bonds posted
- 1 civil contempt/fine paid to state
- 69 properties closed
- 6 properties demolished

<u>STATUS OF CASE</u>	<u>NUMBER OF CASES</u>	<u>PERCENTAGE OF CASES</u>
Cases resolved prior to litigation	113	39.12%
Cases resolved through litigation	66	17.41%
Pending investigations	125	41.12%
Cases in Litigation	4	2.35%
	308	100.00%

<u>LARGE CITIES</u>	<u>NUMBER OF CASES INVESTIGATED</u>	<u>POPULATION</u>
Houston	6	1,953,631
Dallas	16	1,030,150
San Antonio	10	972,400
El Paso	12	527,194
Austin	13	526,128
Fort Worth	99	470,650
Arlington	2	279,600
Corpus Christi	3	257,453
Plano	1	222,030
Lubbock	2	186,206
Irving	4	165,950
Amarillo	3	157,615
Wichita Falls	3	125,239
Waco	4	109,296
Grand Prairie	2	104,692
San Angelo	1	101,555
Odessa	5	93,900
Midland	1	91,996
Carrollton	1	85,640
McCallen	1	84,021
Tyler	2	75,450
Longview	1	70,311
Killeen	2	69,932
Denton	1	21,505
Galveston	4	59,070
Port Arthur	1	57,755
College Station	1	55,746
Bryan	6	55,002
Harlingen	2	48,735
Temple	1	47,251
Texas City	7	41,603

<u>MEDIUM CITIES</u>	<u>NUMBER OF CASES INVESTIGATED</u>	<u>POPULATION</u>
Nacogdoches	3	58,929
League City	1	40,000
Desoto	1	35,100
McKinney	1	34,269
Lufkin	5	31,295
San Marcos	1	28,173
Conroe	2	27,610
Marshall	1	25,858
Uvalde	1	25,343
Greenville	3	25,051
Paris	1	24,699
Friendswood	1	22,814
Plainview	4	22,597
Denison	1	21,505
Mansfield	2	21,470
Waxahachie	2	20,545
Alice	1	19,788
Bay City	2	18,170
Georgetown	1	18,000
Dickinson	1	17,777
Harker Heights	10	16,500
Gainesville	1	15,538
Hereford	1	14,745
City of South Houston	1	14,207
La Marque	1	14,120
Bellaire	1	13,842

<u>SMALL CITIES</u>	<u>NUMBER OF CASES INVESTIGATED</u>	<u>POPULATION</u>
El Campo	1	10,511
Richmond	1	10,042
Liberty	1	8,932
Jasper	4	7,824
Marlin	1	6,386
River Oaks	1	6,600
Everman	1	6,348
Sinton	1	5,517
Rockdale	1	5,235
Elgin	4	4,874
Clarksville	1	4,311
Madisonville	1	4,222
Hempstead	2	3,556
Eagle Lake	2	3,551
Granite Shoals	1	2,254
Newton	1	1,789
Springtown	1	1,781
Cactus	1	1,519
Hunter (in Comal County - 51,832)	1	not in Texas State Directory
Bacliff (in Galveston County - 217,399)	1	not in Texas State Directory
Tierra Grande (in Nueces County - 291,145)	1	not in Texas State Directory
Huffman, Texas (Harris County)	1	not in Texas State Directory
Webster (Harris County - 3,275,630)	1	not in Texas State Directory
Cleburne (Johnson County - 121,480)	1	not in Texas State Directory
Mesquite (Dallas County - 117,560)	1	not in Texas State Directory
Limestone (Limestone County - 20,797)	1	not in Texas State Directory
Baumont (Jefferson County - 244,812)	1	not in Texas State Directory
Navasota (Grimes County - 22,531)	1	not in Texas State Directory

<u>TYPE OF PROPERTY</u>	<u>NUMBER OF CASES</u>	<u>PERCENTAGE OF CASES</u>
House	50	17.54%
Apartments	49	18.15%
Hotel/Motel	51	16.16%
Subdivision	1	.35%
Trailer Park Home	1	.35%
Liquor Store	15	5.26%
Convenience Store	15	4.56%
Restaurant	6	2.11%
Video Store	1	.35%
Bar/Club	76	25.77%
Topless Bar/Club	5	1.75%
Nude Modeling Studio	2	.70%
Massage Parlor	1	.35%
Vacant Lot	1	.35%
Apartment and Bar	1	.35%
Auto Stereo Store	1	.35%
Unknown	1	.35%
Car Wash	4	1.40%
Bank	1	.35%
Websites	7	1.60%
<b>TOTAL</b>	<b>308</b>	<b>100%</b>

# TEXAS CIVIL PRACTICE AND REMEDIES CODE

## CHAPTER 125. COMMON AND PUBLIC NUISANCES

### Subchapter A. Suit to Abate Certain Common Nuisances

#### Section

- 125.001 Common Nuisance
- 125.002 Suit to Abate Common Nuisance; Bond
- 125.003 Suit on Bond
- 125.004 Evidence

### Subchapter B. Suit to Abate Certain Public Nuisances

#### Section

- 125.021 Public Nuisance
- 125.022 Suit to Abate Public Nuisance

### Subchapter C. Additional Nuisance Remedies

#### Section

- 125.041 Definitions
- 125.045 Remedies
- 125.046 Additional Remedies; Receiver

### Subchapter D. Organized Criminal Activity

#### Section

- 125.061 Definitions
- 125.062 Public Nuisance; Combination
- 125.063 Public Nuisance; Use of Place
- 125.064 Suit to Abate Nuisance
- 125.065 Court Order
- 125.066 Violation of Court Order
- 125.069 Use of Place; Evidence



## §125.001 Common Nuisance

- (a) A person who knowingly maintains a place to which persons habitually go for the following purposes maintains a common nuisance:
- (1) prostitution or gambling in violation of the Penal Code;
  - (2) discharge of a firearm in a public place in violation of Section 42.01(a)(9), Penal Code;
  - (3) reckless discharge of a firearm as described by Section 42.12, Penal Code;
  - (4) engaging in organized criminal activity as a member of a combination as described by Section 71.02, Penal Code; or
  - (5) delivery, possession, manufacture, or use of a controlled substance in violation of Chapter 481, Health and Safety Code.
- (b) A person maintains a common nuisance if the person:
- (1) knowingly maintains a multiunit residential property described by Subsection (c) to which persons habitually go to commit the following acts:
    - (A) aggravated assault as described by Section 22.02, Penal Code;
    - (B) sexual assault as described by Section 22.011, Penal Code;
    - (C) aggravated sexual assault as described by Section 22.021, Penal Code;
    - (D) robbery as described by Section 29.02, Penal Code;
    - (E) aggravated robbery as described by Section 29.03, Penal Code; or
    - (F) unlawfully carrying a weapon as described by Section 46.02, Penal Code; and
  - (2) has failed to make reasonable attempts to abate such acts.
- (c) Subsection (b) applies only to a multiunit residential property, as that term is defined by Section 125.041, that is located in a municipality that has a population of at least 440,000.

## **§ 125.002. Suit to Abate Common Nuisance; Bond**

- (a) A suit to enjoin and abate a common nuisance may be brought by an individual, by the attorney general, or by a district, county, or city attorney. The suit must be brought in the county in which it is alleged to exist against the person who is maintaining or about to maintain the nuisance. The suit must be brought in the name of the state if brought by the attorney general or a district or county attorney, in the name of the city if brought by a city attorney, or in the name of the individual if brought by a private citizen. Verification of the petition or proof of personal injury by the acts complained of need not be shown. For purposes of this subsection, personal injury may include economic or monetary loss.
- (b) If judgment is in favor of the petitioner, the court shall grant an injunction ordering the defendant to abate the nuisance and enjoining the defendant from maintaining or participating in the nuisance. The judgment must order that the place where the nuisance exists be closed for one year after the date of judgment unless the defendant or the real property owner, lessee, or tenant of the property posts bond.
- (c) The bond must:
  - (1) be payable to the state at the county seat of the county in which the nuisance exists;
  - (2) be in the penal sum of \$10,000;
  - (3) have sufficient sureties approved by the court; and
  - (4) be conditioned that the property will not be used or permitted to be used for prostitution, discharge of a firearm, organized crime or gambling in violation of the Penal Code or for the delivery or use of a controlled substance in violation of Chapter 481, Health and Safety Code.

## **§ 125.003. Suit on Bond**

- (a) If a condition of a bond filed or an injunctive order entered under this subchapter is violated, the district, county, or city attorney of the county in which the property is located or the attorney general shall sue on the bond in the name of the state. In the event the attorney general originates the suit, the whole sum shall be forfeited as a penalty to the state. In the event the suit is originated by any office other than the attorney general, the whole sum shall be forfeited as a penalty to the originating entity. On violation of any condition of the bond or of the injunctive order and subsequent to forfeiture of the bond, the place where the nuisance exists shall be ordered closed for one year from the date of the order of bond forfeiture.

- (b) The party bringing the suit may recover reasonable expenses incurred in prosecuting the suits authorized in Subsection (a) including but not limited to investigative costs, court costs, reasonable attorney's fees, witness fees, and deposition fees.
- (c) A person may not continue the enjoined activity pending appeal or trial on the merits of an injunctive order entered in a suit brought under this subchapter. Not later than the 90th day after the date of the injunctive order, the appropriate court of appeals shall hear and decide an appeal taken by a party enjoined under this subchapter. If an appeal is not taken by a party temporarily enjoined under this article, the party is entitled to a full trial on the merits not later than the 90th day after the date of the temporary injunctive order.
- (d) In an action brought under this chapter, the court may award a prevailing party reasonable attorney's fees in addition to costs. In determining the amount of attorney's fees, the court shall consider:
  - (1) the time and labor involved;
  - (2) the novelty and difficulty of the questions;
  - (3) the expertise, reputation, and ability of the attorney; and
  - (4) any other factor considered relevant by the court.
- (e) Nothing herein is intended to allow a suit to enjoin and abate a common nuisance to be brought against any enterprise whose sole business is that of a bookstore or movie theater.

#### **§ 125.004. Evidence**

- (a) Proof that an activity described by Section 125.001 is frequently committed at the place involved or that the place is frequently used for an activity described by Section 125.001 is prima facie evidence that the proprietor knowingly permitted the activity.
- (b) Evidence that persons have been convicted of offenses for an activity described by Section 125.001 in the place involved is admissible to show knowledge on the part of the defendant that the act occurred. The originals or certified copies of the papers and judgments of those convictions are admissible in the suit for injunction, and oral evidence is admissible to show that the offense for which a person was convicted was committed at the place involved.
- (c) Evidence of the general reputation of the place involved is admissible to show the existence of the nuisance.

## **§125.021. Public Nuisance**

The habitual use or the threatened or contemplated habitual use of any place for any of the following purposes is a public nuisance:

- (1) gambling, gambling promotion, or communicating gambling information prohibited by law;
- (2) promotion or aggravated promotion of prostitution;
- (3) compelling prostitution;
- (4) commercial manufacture, commercial distribution, or commercial exhibition of obscene material,
- (5) commercial exhibition of live dances or other acts depicting real or simulated sexual intercourse or deviate sexual intercourse;
- (6) engaging in a voluntary fight between a man and a bull if the fight is for a thing of value or a championship, if a thing of value is wagered on the fight, or if an admission fee for the fight is directly or indirectly charged, as prohibited by law;
- (7) discharge of a firearm in a public place in violation of Section 42.01(a)(9), Penal Code;
- (8) engaging in organized criminal activity as a member of a combination as described by Section 71.02, Penal Code; or
- (9) delivering or using a controlled substance in violation of Chapter 481, Health and Safety Code.

## **§125.022 Suit to Abate Public Nuisance**

- (a) A district, county, or city attorney, the attorney general, or a citizen of the state may sue to enjoin the use of a place for purpose constituting a nuisance under this subchapter.
- (b) If the suit is brought by the state, the petition does not require verification. If the suit is brought by a citizen, the citizen is not required to show personal injury.
- (c) Any person who uses, is about to use, or is a party to the use of premises for purposes constituting a nuisance under this subchapter may be made a defendant in the suit.
- (d) Service of any order, notice, process, motion, or ruling of the court on the attorney of record of a cause pending under this subchapter is sufficient service of the party represented by the attorney.

- (e) A person who violates a temporary or permanent order under this subchapter is subject to the following sentences for civil contempt:
- (1) a fine of not less than \$1,000 nor more than \$10,000;
  - (2) confinement in jail for a term of not less than 10 nor more than 30 days; or
  - (3) both fine and confinement.
- (f) A person may not continue the enjoined activity pending appeal or trial on the merits of an injunctive order in a suit brought under this subchapter. Not later than the 90th day after the date of the injunctive order, the appropriate court of appeals shall hear and decide an appeal taken by a party enjoined under this subchapter. If an appeal is not taken by a party temporarily enjoined under this subchapter, the party is entitled to a full trial on the merits not later than the 90th day after the date of the temporary injunctive order.
- (g) In an action brought under this chapter, the court may award a prevailing party reasonable attorney's fees in addition to his costs. In determining the amount of attorney's fees, the court shall consider:
- (1) the time and labor involved;
  - (2) the novelty and difficulty of the questions;
  - (3) the expertise, reputation, and ability of the attorney; and
  - (4) any other factor considered relevant by the court.

### **§125.041 Definitions**

For the purpose of this subchapter, a public nuisance is considered to exist at a place if one or more of the following acts occurs at that place on a regular basis:

- (1) gambling, gambling promotion, or communication of gambling information, as prohibited by Chapter 47, Penal Code;
- (2) promotion or aggravated promotion of prostitution, as prohibited by Chapter 43, Penal Code;
- (3) compelling prostitution, as prohibited by Chapter 43, Penal Code;

- (4) commercial manufacture, commercial distribution, or commercial exhibition of material that is obscene, as defined by Section 43.21, Penal Code;
- (5) commercial exhibition of a live dance or other act in which a person engages in real or simulated sexual intercourse or deviate sexual intercourse, as defined by Section 43.01, Penal Code;
- (6) discharge of a firearm in violation of Section 42.01(a)(9), Penal Code;
- (7) engaging in organized criminal activity as a member of a combination as described by Section 71.02, Penal Code; or
- (8) manufacture, delivery, or use of a controlled substance in violation of Chapter 481, Health and Safety Code.

### **§125.045 Remedies**

- (a) If, in any judicial proceeding, a court determines that a person has maintained a place at which a public nuisance existed, the court shall require the person to execute a bond. The bond must:
  - (1) be payable to the state at the county seat of the county in which the nuisance existed;
  - (2) be in the amount set by the court, but not less than \$5,000 or more than \$10,000;
  - (3) have sufficient sureties approved by the court; and
  - (4) be conditioned that the person will not allow a public nuisance to exist at the place.
- (b) If any party to a court case fails to cease and desist creating and maintaining a public nuisance within the time allowed by the court, a political subdivision may:
  - (1) discontinue the furnishing of utility services by the political subdivision to the place at which the nuisance exists;
  - (2) prohibit the furnishing of utility service to the place by any public utility holding a franchise to use the streets and alleys of the political subdivision;
  - (3) revoke the certificate of occupancy of the place;
  - (4) prohibit the use of city streets, alleys, and other public ways for access to the place during the existence of the nuisance or in furtherance of the nuisance; and
  - (5) use any other legal remedy available under the laws of the state.

## §125.046 Additional Remedies; Receiver

- (a) If, in any judicial proceeding under Subchapter A or B, a court determines that a person is maintaining a multiunit residential property that is a common nuisance or a multiunit residential property at which a public nuisance exists, the court may, on its own motion or on the motion of any party, order the appointment of a receiver to manage the property or render any other order allowed by law as necessary to abate the nuisance.
- (b) A receiver appointed under this section may not be appointed for a period longer than one year.
- (c) The court shall determine the management duties of the receiver, the amount to be paid the receiver, the method of payment, and the payment periods.
- (d) A receiver appointed under this section shall continue to manage the property during the pendency of any appeal relating to the nuisance or the appointment of the receiver.
- (e) A receiver appointed by the court may:
  - (1) take control of the property;
  - (2) collect rents due on the property;
  - (3) make or have made any repairs necessary to bring the property into compliance with minimum standards in local ordinances;
  - (4) make payments necessary for the maintenance or restoration of utilities to the properties;
  - (5) purchase materials necessary to accomplish repairs;
  - (6) renew existing rental contracts and leases;
  - (7) enter into new rental contracts and leases;
  - (8) affirm, renew, or enter into a new contract providing for insurance coverage on the property; and
  - (9) exercise all other authority that an owner of the property would have except for the authority to sell the property.
- (f) Expenditures of monies by the receiver in excess of \$10,000 under Subdivisions (3) and (5) of Subsection (e) shall require prior approval of the court.

- (g) On the completion of the receivership, the receiver shall file with the court a full accounting of all costs and expense incurred in the repairs, including reasonable costs for labor and subdivision, and all income received from the property.

### **§125.061 Definitions**

In this subchapter, “combination” and “criminal street gang” have the meanings assigned by Section 71.01, Penal Code.

### **§125.062 Public Nuisance; Combination**

A combination or criminal street gang that continuously or regularly associates in organized criminal activities as described by Section 71.02, Penal Code, is a public nuisance.

### **§125.063 Public Nuisance; Use of Place**

The habitual use of a place for engaging in organized criminal activity as described by Section 71.02, Penal Code, is a public nuisance.

### **§125.064 Suit to Abate Nuisance**

- (a) A district, county, or city attorney, the attorney general, or a resident of the state may sue to enjoin a public nuisance under this subchapter.
- (b) Any person who habitually associates with others to engage in organized criminal activity as a member of a combination or criminal street gang may be made a defendant in the suit. Any person who owns or is responsible for maintaining a place that is habitually used for engaging in organized criminal activity as described by Section 71.02, Penal Code, may be made a defendant in the suit.

### **§125.065 Court Order**

- (a) If the court finds that combination or criminal street gang constitutes a public nuisance, the court may enter an order enjoining a defendant in the suit from engaging in the organized criminal activities of the combination or gang.
- (b) If the court finds that a place is habitually used in a manner that constitutes a public nuisance, the court may include in its order reasonable requirements to prevent the use of the place for organized criminal activity.

### **§125.066 Violation of Court Order**

A person who violates a temporary or permanent injunctive order under this subchapter is subject to the following sentences for civil contempt:(1) a fine of not less than \$1,000 nor more than \$10,000;

- (2) confinement in jail for a term of not less than 10 nor more than 30 days; or
- (3) both fine and confinement.



### **§125.069 Use of Place; Evidence**

In an action brought under this subchapter, proof that organized criminal activity by a member of a combination or a criminal street gang as described by Section 71.02, Penal Code, is frequently committed at a place or proof that a place is frequently used for engaging in organized criminal activity by a member of a combination or a criminal street gang as described by Section 71.02, Penal Code, is prima facie evidence that the proprietor knowingly permitted the act, unless, the act constitutes conspiring to commit an offense as described by Section 71.02.

# TEXAS ALCOHOLIC BEVERAGE CODE

---

## §101.70 COMMON NUISANCE

- (a) A room, building, boat, structure, or other place where alcoholic beverages are sold, bartered, manufactured, stored, possessed, or consumed in violation of this code or under circumstances contrary to the purposes of this code, the beverages themselves, and all property kept or used in the place, are a common nuisance. A person who maintains or assists in maintaining the nuisance commits an offense.
- (b) The county or district attorney in the county where the nuisance exists or the attorney general may sue in the name of the state for an injunction to abate and temporarily and permanently enjoin it. Except as otherwise provided in this section, the proceeding is conducted as other similar proceedings.
- (c) The plaintiff is not required to give a bond. The final judgment is a judgment in rem against the property and a judgment against the defendant. If the court finds against the defendant, on final judgment it shall order that the place where the nuisance exists be closed for one year or less and until the owner, lessee, tenant, or occupant gives bond with sufficient surety as approved by the court in the penal sum of at least \$1,000. The bond must be payable to the state and conditioned:
  - (1) that this code will not be violated;
  - (2) that no person will be permitted to resort to the place to drink alcoholic beverages in violation of this code; and
  - (3) that the defendant will pay all fines, costs, and damages assessed against him for any violation of this code.
- (d) On appeal, the judgment may not be superseded except on filing an appeal bond in the penal sum of not more than \$500, in addition to the bond for costs of the appeal. That bond must be approved by the trial court and must be posted before the judgment of the court may be superseded on appeal. The bond must be conditioned that if the judgment of the trial court is finally affirmed it may be forfeited in the same manner and for any cause for which a bond required on final judgment may be forfeited for an act committed during the tendency of an appeal.

## **EXAMPLE 1**

*This summary is only a suggested form and may be modified accordingly.*

**Motel Inn (Food Mart Place, etc.)  
12345 Cambridge Street  
Austin, Travis County, Texas 78711**

I. Owners:

- a. Name of Owner  
1000 Cambridge Street  
Austin, Texas 78711
  
- b. Name of Owner  
1234 Sunnyside  
Austin, Texas 78711

II. Management:

- a. Name of Manager  
1002 Drummond Drive  
Austin, Texas 78711

III. Lessee/Renter/others with interest in property

- a. List names and addresses

IV. Summary of Criminal Activity

- a. Specify nuisance activity and send all offense reports that occurred on the property. The following is a list of criminal activities that can be addressed by the “Texas Nuisance Abatement Statutes”: obscenity, prostitution, promotion of prostitution, compelling prostitution, illegal gambling, discharge of a firearm, organized crime in violation of the Texas Penal Code, violations of the Texas Controlled Substances Act, and/or liquor violations.

Possession of a Controlled Substance arrests \_\_\_\_  
List Case Numbers, Dates, and Persons Arrested  
List Arresting Officer(s)/Officer Witnesses  
List Date of Conviction/Conviction Number—if applicable and available

Delivery of a Controlled Substance arrests \_\_\_\_  
List Case Numbers, Dates, and Persons Arrested  
List Arresting Officer(s)/Officer Witnesses  
List Date of Conviction/Conviction Number—if applicable and available

Prostitution arrests \_\_\_\_  
List Case Numbers, Dates, and Persons Arrested  
List Arresting Officer(s)/Officer Witnesses  
List Date of Conviction/Conviction Number—if applicable and available

Discharge of a firearm arrests \_\_\_\_  
 List Case Numbers, Dates, and Persons Arrested  
 List Arresting Officer(s)/Officer Witnesses  
 List Date of Conviction/Conviction Number—if applicable an available

- b. Give number of calls for police service at the property, list the calls by offenses and give number of calls for that particular offense.

There were \_\_\_\_ number of calls for service at this location from \_\_\_\_, 1996 to \_\_\_\_, 1996.

<u>Offenses</u>	<u>Number of Calls</u>
Assaults	#
Robbery	#
Shootings	#
Fights	#
Stolen Vehicle	#
Shots Fired	#
Etc.	#

- c. List the reported offenses at the property and the number of arrests for each offense report.

<u>Offense</u>	<u>Offense Number</u>	<u>Number of Arrests</u>
Assault	#	#
Assault	#	#
Assault	#	#
Robbery	#	#
Shooting	#	#
Shooting	#	#
Shooting	#	#
Fight	#	#
Stolen Vehicle	#	#
Shots Fired	#	#
Shots Fired	#	#
Shots Fired	#	#
Shots Fired	#	#
Etc.	#	#

## **EXAMPLE 2**

*This summary is only a suggested form and may be modified accordingly.*

AMBASSADOR APARTMENTS  
511 TIERNEY STREET  
TARRANT COUNTY  
FORT WORTH, TEXAS 76112  
(817) 451-3218

**BUILDING & LAND**

**OWNERS:** M.P.C. Investments Inc.  
810 East Hattie  
Fort Worth, Texas 76104

**BUSINESS & PERSONAL  
PROPERTY**

**OWNERS:** Ambassador Associates  
P.O. Box 16643  
Fort Worth, Texas 76162  
(817) 297-3300

Dick Eudaly  
P.O. Box 16643  
2307 Longhorn  
Fort Worth, Texas 76162  
(817) 297-3300

The Fort Worth Police Department has received numerous complaints concerning the illegal activities occurring at the Ambassador Apartments, 511 Tierney Road. These complaints have resulted in many investigations and arrests.

Statistical data compiled from June 29, 1993, to July 29, 1995, discloses there were nine hundred and ten (910) calls for police service at this location. One hundred and fifty (150) offense/incident reports were generated as a result of those calls. The offense/incident reports include: murder and criminal attempt murder; aggravated assaults and aggravated sexual assault; aggravated kidnaping; aggravated robberies and robberies; narcotics violations; and prostitution offenses. Investigations conducted by the Fort Worth Police Department indicate that the following occurred on or about the premises:

In April, 1995, Fort Worth Police filed murder charges against two subjects for what the offense report describes as a drug related shooting resulting in the death of one person.

In January, 1995, three men kidnaped a subject at this location using a handgun and sawed-off shotgun. They ordered the subject into the trunk of his own vehicle and drove him to a local park where they either shot him in the head or beat him over the head with a blunt object, causing a large hole in the base of his skull. The three suspects were subsequently arrested by the Fort Worth Police and filed on for criminal attempt capital murder.

Ambassador Apartments  
Page 2  
August 11, 1995

In July, 1995, a man was shot in the face during what the offense report describes as a gang and drug related argument. According to the offense report the manager of the Ambassador Apartments on this date was also a witness to this offense and told the reporting officer that "young black males are always dealing dope and shooting their guns in the back of this apartment complex." The offense report listed the victim was in good condition and no arrests have been made in this offense as yet. The offense was referred to the Fort Worth Police Gang Unit for further investigation.

In December, 1994, a man was shot in the neck and right leg during in what the offense report describes as a gang related shooting. The report lists the victim's condition as serious. The two suspects in the offense have not as yet been apprehended.

In January, 1995, Fort Worth Police Officer B. Newell, ID 2518, arrested three (3) persons for possession of a controlled substance with intent to deliver. Over fifty-six (56) grams of crack cocaine were seized, along with two (2) guns.

There have been eighteen (18) other persons arrested and charged with possession of a controlled substance by the following Fort Worth officers:

H.D. Cusack, ID 2746  
J.K. Driver, ID 2602  
J.A. Ferguson, ID 1882  
K. Fitchett, ID 2315  
D.P. Henderson, ID 2746  
L.G. Johnson, ID 2195  
D.J. Nelson, ID 2188  
M.P. Osborne, ID 2668  
J.C. Ost, ID 2446  
I.M. Plowman, ID 2610  
J.A. Sosa, ID 2487  
M.R. Weber, ID 2502

Additionally, there have been three (3) general complaint citations issued at this location for possession of drug paraphernalia.



Ambassador Apartments  
Page 3  
August 11, 1995

The following officers of the Special Investigations Division, Vice Section, have arrested three (3) persons for prostitution offenses:

R. Johnson, ID 2285  
D.M. Rogers, ID 1712  
D.A. Torsiello, ID 2419

Furthermore, there have been four (4) general complaint citations for criminal attempt prostitution, and two (2) for manifestation of prostitution issued at this location.

The reputation of these apartments is of a place to purchase narcotics and prostitutes, and a place of gang and other violence.

Based on the statistics and interviews with Fort Worth Police officers it is apparent that the Ambassador Apartments are a nuisance to the health, safety, and peace of the people of Fort Worth, Texas. Therefore, the City of Fort Worth is seeking an abatement action against 511 Tierney Road, the Ambassador Apartments.

## INTER-OFFICE CORRESPONDENCE

**TO** L. Curtis, Lieutenant **DATE** August 7, 1995  
**FROM** T.A. Tilterson  
 Officer, Vice Section  
**SUBJECT** AMBASSADOR APARTMENTS

The Ambassador Apartments are located at 511 S. Tierney Road, although calls to police and police offense reports show the address as 511 Tierney Road.

From June 29, 1993, to July 28, 1995, there were approximately nine hundred and ten (910) calls for police service at this location. The following is a list of those calls:

Abandoned Vehicle	1
Accident/Major	1
Accident/Minor	1
Accident/Hit & Run	3
Assault	29
Assists	397
Burglary in a Building	1
Burglary Investigation	32
Call for Police	6
Demented Person	1
Disturbance	63
Domestic Disturbances	82
Drunk	1
Fight	10
Fire Call	1
Follow-up Investigation	11
Gang Fights	8
Investigation	132
Malicious Mischief	3
Meet	5
Meet Ambulance	5
Meet Complainant	4
Missing Person	1
Open Door	1
Other	24
Person with a Gun	8
Prisoner Pick-up	5
Robbery	1
Shots Fired	19
Shooting	10
Stabbing	2

Stolen Vehicle	8
Suspicious Person	6
Suspicious Person in Car	2
Theft Investigation	8
Traffic Violation on View	9
911 Hang Up Calls	24
<b>Total</b>	<b>910</b>

Of the nine hundred and ten (910) calls for police service one hundred and fifty (150) resulted in the listed offenses:

<u>Offense</u>	<u>Offense #</u>	<u>Deceased /Injured Person</u>	<u>Arr</u>	<u>Weapons</u>	<u>Narc</u>
Murder	95183429	deceased	2	handgun	
Criminal Attempt Capital Murder	95047870	injured	3	shotgun/gun	
Criminal Attempt Murder	95387279	injured		handgun	
Criminal Attempt Murder	95377040	injured		shotgun/gun	
Criminal Attempt Murder	94699097	injured		handgun	
Criminal Attempt Murder	94123724	injured	1	handgun	
Criminal Attempt Murder	93734895	injured	1	handgun	
Aggravated Assault	95293816	injured	1	bodily force	
Aggravated Assault	95198273			knife	
Aggravated Assault	95188850	injured		metal pipe	
Aggravated Assault	94315564			handgun	
Aggravated Assault	94296281	injured		crowbar	
Aggravated Assault	94163856			knife	
Aggravated Assault	94090374	injured	1	bottle	
Aggravated Assault	93663245	injured		bodily force	
Aggravated Assault	93392334			knife/vehicle	
Aggravated Sexual Assault	95125906	injured	1	bodily force	
Assault	95396214			threat	
Assault	95384612			bodily force	
Assault	95383940	injured		bodily force	
Assault	95355745	injured		bodily force	
Assault	95314741	injured		bodily force	
Assault	95334694	injured	1	bodily force	
Assault	95185915	injured	1	bodily force	

<u>Offense</u>	<u>Offense #</u>	<u>Deceased / Injured Person</u>	<u># Arr</u>	<u>Weapons</u>	<u>Narc</u>
Assault	95182381	injured		bodily force	
Assault	95127465	injured		bodily force	
Assault	95080577			threat	
Assault	95080408	injured		bodily force	
Assault	95042819	injured		bodily force	
Assault	95029937			threat	
Assault	94712713	injured		bodily force	
Assault	94672262	injured		bodily force	
Assault	94671341	injured	1	bodily force	
Assault	94550340	injured		bodily force	
Assault	94531658	injured	1	bodily force	
Assault	94530180	injured		bodily force	
Assault	94361974	injured		bodily force	
Assault	94339695	injured	1	bodily force	
Assault	94195259	injured		bodily force	
Assault	94188473	injured		knife	
Assault	94182536	injured		bodily force	
Assault	94071525	injured		bodily force	
Assault	94038529	injured		pipe	
Assault	93728960			bodily force	
Assault	93674621	injured		bodily force	
Assault	93591650			bodily force	
Assault	93452113	injured		clothes hanger	
Agg Kidnapping	94114182	injured		handgun	
Aggravated Robbery	95197689	injured	1	handgun	
Aggravated Robbery	95069567			handgun	
Aggravated Robbery	95033762			handgun	
Aggravated Robbery	95003884		3	handguns	coke/ marij
Aggravated Robbery	94606948			handgun	
Aggravated Robbery	94602136			scissors	
Aggravated Robbery	94576665	injured		blunt object	
Aggravated Robbery	94099892		1	handgun	
Aggravated Robbery	93717320			handguns	
Robbery	95023791	injured	1	vehicle	coke
Delivery Cont Sub	95383670				coke
Delivery Cont Sub	94113459				coke
Delivery Cont Sub	94103266		3		coke
Poss Cont Sub with Intent to Deliver	95393879		1		coke
Poss Cont Sub with Intent to Deliver	95365783		1	shotgun/gun	coke
Possession Cont Sub	95396446		1		coke

<u>Offense</u>	<u>Offense #</u>	<u>Deceased / Injured Person</u>	<u>#Arr</u>	<u>Weapons</u>	<u>Narc</u>
Covered Drug Buy Possession Cont Sub	95310518		3	handgun	coke
Poss Cont Sub with Intent to Deliver	95244638		3	handguns	coke
Covered Drug Buy Poss Cont Sub with Intent to Deliver	95150002		3	handguns	coke
Possession Cont Sub	95004353		2	handguns	coke
Possession Cont Sub	94543404		1	knife	coke
Poss Cont Sub with Intent to Deliver	93426332		1		coke
Search Warrant Possession Drug Paraphernalia	94313472		1	handgun	coke
Prostitution of Self	94313367		1		coke
Prostitution of Self	95224937		1		
Prostitution of Self	93636739		1		
Prostitution of Self	93521079		1		
Other:					
Arson	93722254		1		
Endangering Child	94053542				
Indecency w/Child	93679039				
Injury to Child	93717302	injured		bodily force	
Arrest-Warrant	95289256		1		
Arrest-Warrant	95264366		1		
Arrest-Warrant	95167337		1		
Arrest-Warrant	94425050		1		
Burglary	95083520				
Burglary	94531650				
Burglary	94325514				
Burglary	94076460				
Burglary	93401522				
Burglary	93401273				
Burglary	93367866				
Criminal Attempt					
Theft	93586258				
Theft	95215106				
Theft	95174477				
Theft	95135341				
Theft	95103762				
Theft	95087061				
Theft	95001771				
Theft	94707589				
Theft	94475431				

<u>Offense</u>	<u>Offense #</u>	<u>Deceased / Injured Person</u>	<u>!Arr</u>	<u>Weapons</u>	<u>Narc</u>
Theft	94112200				
Theft	94010910				
Theft	93693762		1		
Theft	93678316				
Theft	93652432				
Theft	93649645				
Theft	93528289				
Theft	93450250				
Theft	93406485				
Theft	93364464				
Criminal Mischief	95332451			knife/brick	
Criminal Mischief	94314275				
Criminal Mischief	94069385				
Criminal Mischief	93672955				
Criminal Mischief	93663795				
Criminal Mischief	93663094				
Criminal Mischief	93642841				
Application Mental Detention	94186737	Injured			
Application Warrantless Mental Detention	95030111	Injured			
Emergency Mental Application	93449064				
Forgery	94344234				
Harassment	93487538				
Information	95203211				
Information/Domestic Disturbance	95120643				
Information	94179274				
Information/Domestic Disturbance	93591481				
Loaned Vehicle	95307401				
Missing Person	94502554				
Missing Person-Rec	93553850				
Pass Prohibited					
Weapon	95063290		1	shotgun	
Shots Fired	95370447				
Shots Fired	95256966				
Shots Fired	95251477				
Shots Fired	95147265				
Shots Fired	95135743				
Shots Fired	95127170				

<u>Offense</u>	<u>Offense #</u>	<u>Deceased / Injured Person</u>	<u>#Arr</u>	<u>Weapons</u>	<u>Narc</u>
Shots Fired	95089282				
Shots Fired	94698533				
Shots Fired	94370781				
Shots Fired	94144249				
Shots Fired	93458637				
Shots Fired	93684109				
Shots Fired	93611184				
Terroristic Threat	94664156			gun/threat	
Terroristic Threat	94312699			handgun	
Transport Intoxicated Woman with Children	95289838				
UCW-Pistol	94719073		1	handgun	
UCW-Pistol	94311636		7	handgun	
<b>Total</b>	<b>150</b>	<b>04</b>	<b>55</b>	<b>71</b>	<b>18</b>

From August 26, 1994, to June 20, 1995, eighteen (18) general complaint citations, which are tantamount to arrests, were written at this location, to include:

Assault	1
Disorderly Conduct	3
Possession Drug Paraphernalia	3
Criminal Attempt Prostitution	4
Manifestation of Prostitution	2
Public Intoxication	3
Theft	1
Criminal Attempt Trespass	1
<b>Total</b>	<b>18</b>

*T.A. Tillerson*

T.A. Tillerson  
Officer, Vice Section

jm

## SECTION E





ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 26, 2002

CMRRR 7001 0320 0000 7575 1004

PROPERTY OWNER'S NAME  
ADDRESS  
CITY, TX ZIP

RE: Notice of Criminal Activity at (Address of Property)

Dear NAME:

The Office of the Attorney General investigates common and public nuisance claims made against properties in which an excessive number of criminal violations occur on a regular basis. With the goal of neighborhood revitalization, our office works with local law enforcement to solicit the cooperation of property owners to rid these properties of criminal nuisances.

Public records reveal that you are the legal owner of the property located at 1207 7th Street, Port Arthur, Texas 77434. A review of the Port Arthur Police Department investigation reveals that the number of calls for police service is far greater than for other businesses in the area, and that numerous criminal violations have occurred on the property in the last few years.

Properties in which persons are involved in the possession, use and delivery of controlled substances, the illegal act of discharging a firearm, and/or organized crime, may be declared a "common nuisance" under section 125.001 of the Texas Civil Practice and Remedies Code Annotated. Under this civil remedy, a property owner may be required to post a bond in the amount of \$10,000 or risk closure of the structure for a period of one year.

We have investigated the complaints against your property and have determined that if these problems are not eliminated, they could become worse and endanger the lives of the citizens in its immediate community. The Port Arthur Police Department has informed our office that the property owner can expect the full support of the police and other regulatory agencies in the elimination of the existing crimes that are occurring on your property. The Office of the Attorney General also wants to solicit your support and assistance as the property owner in an effort to resolve these problems and avoid litigation. If these problems cannot be addressed by the property owner, the only option remaining is to seek the assistance of a court of law.

Please call me within the next ten (10) working days to schedule a meeting with you and/or an appointed representative, at (512) 936-1348. It is imperative that we work together to establish a liaison and cooperation that will allow us to make this community a safer place to live. We look forward to meeting with you.

Sincerely,

Kent S. Richardson  
Chief, Civil Enforcement Section  
Special Crimes Division  
Office of the Attorney General

KSR/jlr

## SECTION F

COUNTY OF TARRANT            §  
  §  
FORT WORTH, TEXAS           §

This document will serve as notification to the owners and managers of the Comfort Motel of the persistent criminal activity taking place on the premises. Said owners and managers and/or their agents attended a meeting this day, October 24, 1995, at 350 W. Belknap, Fort Worth, Texas, in the presence of representatives of the Fort Worth Police Department and the Office of the Attorney General.

While in attendance at this meeting, the property representatives of the business known as the Comfort Motel, located at 2108 East Lancaster Avenue, Fort Worth, Texas, were made aware of the criminal activity which makes the property a common and public nuisance under the Texas Civil Practice & Remedies Code. The representatives of the property in question, were also made aware of the potential fines, bonds, and civil action that could be taken against them for maintaining a common and public nuisance as defined under Texas Civil Practice & Remedies Code §125 (Vernon 1986).

ITEMS OF DISCUSSION:

1. Issuance of a permanent injunction enjoining defendants and defendants' agents servants, and employees, from allowing violations of the Texas Civil Practice & Remedies Code, Texas Alcoholic Beverage Code, and Texas Penal Code.
2. Mandatory closure of the premises for one year, unless a bond of \$10,000 is posted for maintaining a place at which a common nuisance exists.
3. The mandatory posting of a bond of \$10,000 for maintaining a place at which a public nuisance exists.
4. Costs of suit and attorneys' fees as provided by Texas Civil Practice & Remedies Code Annotated §125.003(c).
5. Cost of investigative fees.

While in attendance at said meeting, the representatives indicated a desire to make changes in the day to day operations of the property commonly known as the Comfort Motel, at 2108 East Lancaster Avenue, Fort Worth, Texas, in order to curb and eliminate such criminal activities that constitute a common and public nuisance.

## GUIDELINES OF OPERATION

THE FOLLOWING GUIDELINES ARE RECOMMENDED GUIDELINES THAT THE STATE OF TEXAS SUGGESTS TO MANAGERS AND OWNERS OF BUSINESSES AROUND THE STATE. THESE GUIDELINES ARE ONLY SUGGESTIONS THAT MAY HELP IN THE REDUCTION OF CRIMINAL ACTIVITY ON YOUR PREMISES; HOWEVER, THESE GUIDELINES ARE NOT EXCLUSIVE OF OTHER GUIDELINES OR REMEDIES THAT MAY HELP TO ELIMINATE ANY ILLEGAL ACTIVITY ON YOUR PREMISES. THESE GUIDELINES ARE IN NO WAY INTENDED TO BE USED TO ENCOURAGE DISCRIMINATION TOWARD ANY PERSON. THE STATE OF TEXAS ENCOURAGES PROPERTY OWNERS TO FOLLOW NONDISCRIMINATORY PRACTICES, ALL APPLICABLE LAWS, AND PROPER LEGAL AND JUDICIAL PROCEDURES WHEN DEALING WITH THE PUBLIC.

1. The property owners and managers should support all efforts to stop all illegal activities that occur on their premises by calling 9-1-1 when the managers or employees observe or suspect illegal activities occurring on their premises.
2. The property owners should post at least (3) three large signs in visible and conspicuous locations around the outside of the premises. The signs should read as follows:

“NO LOITERING, NO WEAPONS, NO CONSUMPTION OF ALCOHOL,  
AND NO CRIMINAL ACTIVITY WILL BE TOLERATED.”

AND

“THE [CITY] POLICE DEPARTMENT MAKES REGULAR AND  
FREQUENT PATROLS OF THIS PREMISES.”

3. The following are suggested grounds for the immediate issuance of trespass warnings and the expulsion of any person. If an individual:
  - a. commits a violation of Texas law;
  - b. commits a violation of the Texas Controlled Substance Act;
  - c. commits a violation of the Texas Alcoholic Beverage Code; or
  - d. commits a violation of the Texas Penal Code.
4. The property owners and managers should contact the [CITY] Police Department when an individual is trespassing to issue a trespass warning, and upon a second warning, an arrest for trespassing.
5. High intensity lighting should be installed on the exterior of the [ESTABLISHMENT], particularly in the parking lot, and the front and rear areas of the building. Also, the property owners should immediately replace any burned-out, worn or damaged lighting.
6. The property owners and managers should cooperate with the [CITY] Police Department by reporting all incidents of criminal activity promptly, which includes the notification through detailed written reports.
7. The property owners should comply with all city code requirements, and bring said buildings into code compliance within a reasonable time frame, if the building is not currently in compliance.
8. The property owners and managers should implement reasonable means of security, which could include but is not limited to:
  - a. maintaining a secure fence around the premises of the property; and
  - b. obtaining some form of manned security on the property, such as state-commissioned peace officers to patrol the property.

9. Persons wishing to patronize said premises should present a valid Texas Drivers License or Texas Department of Public Safety Official Identification Card. Paper IDs without a picture will not be accepted.

RECORDED ON THIS THE 24TH DAY OF OCTOBER 1995.

**INDIVIDUALS IN ATTENDANCE AT THE MEETING**

NAME OF OWNER  
**NAME OF ESTABLISHMENT**

OFFICER T. G. SIMPSON  
**FORT WORTH POLICE DEPARTMENT**

OFFICER T. A. TILLERSON  
**FORT WORTH POLICE DEPARTMENT**

STATE OF TEXAS §

Page number 1 of 1  
Statement taken at the TYLER  
Police Department on October 17, 1995.

COUNTY OF SMITH §


BEFORE me, the undersigned authority in and for the State and County aforesaid, on this date personally appeared Investigator JACKIE T. GRIER, who being by me duly sworn upon HIS oath deposes and says:

My name is Jackie T. Grier. I am a certified Peace Officer in and for the State of Texas. I have been employed by the SMITH COUNTY SHERIFF'S DEPARTMENT for approximately 15 years as a Law Enforcement Officer. I am currently assigned to the TYLER POLICE DEPARTMENT Special Investigations Unit (SIU). My primary responsibility is the investigation of VICE, NARCOTICS & LIQUOR Violations, that are committed against the Peace and Dignity of the STATE of TEXAS.

During my tenure as a CRIMINAL INVESTIGATOR, I have had several occasions to deal with individuals that frequent the SPORTSMAN CLUB which is located at 925 West Barrett Street, Tyler, Smith County, Texas. I have personally been involved in investigations that have occurred at the SPORTSMAN CLUB and know that this establishment (SPORTSMAN CLUB) is a place where DRUG DEALERS routinely congregate. I have personally purchased CONTROLLED SUBSTANCES, namely "crack" COCAINE from individuals that were utilizing the aforementioned property.

I have also observed DEFENDANTS to travel to and then go inside the SPORTSMAN CLUB in order to acquire "crack" COCAINE for me, from individuals that were inside of the SPORTSMAN CLUB. I have also witnessed individuals congregating on the property, ingesting ALCOHOLIC BEVERAGES, namely BEER, despite the signs that are visible that warn not to LOITER on the premises.

I have personally interviewed CONFIDENTIAL INFORMANTS, who have told me that "crack" COCAINE is and has in the past been distributed by individuals on the premises of the SPORTSMAN CLUB. I also know that numerous ARRESTS have been made by POLICE OFFICERS of the Tyler Police Department regarding the Unlawful Possession of COCAINE by DEFENDANTS that were on the property of the SPORTSMAN CLUB.

Signature   
SWORN to and SUBSCRIBED before me this 17 day of Oct, A.D., 1995.

SEAL



  
NOTARY PUBLIC  
STATE OF TEXAS



BEFORE ME, the undersigned authority in and for the State and County aforesaid, on this day personally

appeared ERASMO A MARTINEZ 2313

who being by me first duly sworn upon his/her oath deposes and says:

My name is ERASMO A MARTINEZ. I am and have been a police officer for the City of San Antonio, Texas for approximately fifteen years. I am currently 41 years of age and I read and write the English language. My career on the police department began with six years as a uniformed officer followed by one year of undercover narcotics work for the SAPD Narcotics Bureau as a patrolman. In 1986 I was assigned to the DEA Federal State and Local Task Force as a patrolman for two years. During that time, I worked mostly undercover assignments on the Federal level. I was promoted to Detective Investigator in 1988 and returned to the SAPD Narcotics Bureau as a Detective and have been assigned to that Unit ever since that year. During my training as a police officer and assignments in narcotics, I have attended many schools concerning narcotics trafficking, handling of confidential informants, money laundering, undercover training and identification, handling and testing narcotics. I have had experience with street drug dealers as well as drug users. I have made approximately in excess of 800 narcotics delivery cases in my career. During my career in narcotics work, I have become familiar with several of the narcotics "connections" throughout the city and many of the narcotics dealers who operate those connections. One of the locations is a residence known as 319 Altitude street in San Antonio, Texas. This location is a one story duplex which is used to store and sell cocaine and marijuana. The primary resident is JUAN DOMINGUEZ, DOB 012566, his wife and children. I have investigated this location many times with other investigators since I have been in the Narcotics Unit. I have had personal experiences with this location where cocaine, marijuana and semi-automatic weapons have been stored and inside the house. I have learned through conversation with other police officers from this department and other agencies that DOMINGUEZ and members of his organization have been selling large amounts of cocaine and marijuana from this location. I have personal knowledge that DOMINGUEZ utilizes several methods of protecting his narcotics and assets/money to include his organization members in numbers at the location at all times, burglar bars on all doors and windows, high privacy fences, pit bulldogs and other types of dogs strategically located in the backyard, visual threats and weapons. I know that DOMINGUEZ is aware of how police operate in execution of search warrants as evidenced by the aforementioned precautions that he has taken. I have received credible and reliable information from patrol officers who have informants who have seen DOMINGUEZ and the members of his organization in possession of narcotics weapons and money on many occasions. I have received information from my own credible and reliable informants who have advised me of the same type of information since 1986. I have recently learned through official police reports that DOMINGUEZ and his organization have recently reinforced their location by parking several junk cars in front of the house so that it is shielded from the street and that some members of the organization have displayed weapons and verbally threatened uniformed police who have been driving past the location. Detective Reginald Bays and myself have personally conducted surveillance of 319 Altitude from approximately one block away when members of the organization who are scouts have actually come out of the house and confronted the plainclothes officers inquiring as to their presence. One particular member later identified as EDDINBERTO VASQUEZ literally told the officers to move away from the area while making overt movements with his hand over his shirt as if to have a weapon. It is Detective Martinez' professional opinion based on his training, experience and previously mentioned information provided that DOMINGUEZ is the head of this organization trafficking in narcotics and that he is and has been using the address of 319 Altitude to further his organization for several years and that he will use any method available to protect it.

Signature Erasm A Martinez 2313  
 July \_\_\_\_\_ A.D. 1994

Arthur R. Trevino

EAL

STATE OF TEXAS

COUNTY OF

BEFORE ME, the undersigned authority, this day personally appeared ROBERT C. RUSSELL, JR., who is a credible person, and who, after being by me duly sworn, did depose and say:

THAT My name is Robert C. Russell, Jr. I am an Agent for the Texas Alcoholic Beverage Commission working out of the Amarillo District Enforcement Office.

I have been working out of the Amarillo District Office of the Texas Alcoholic Beverage Commission for the past 13 years. I have known the location known as the CADILLAC RANCH NB-212267 located at 2523 Britain Amarillo, Potter County, Texas for as many years as it has had a permit issued by the Texas Alcoholic Beverage Commission. During this time I have had many enforcement opportunities, to the point of being nightly, at this location. There has been citations written, fights broken up, shootings, and numerous occasions of Police Officers being in dangerous situations because the volatile atmosphere surrounding this club. On many occasions there have been as many as eight Amarillo Police Department vehicles containing at least two officers per unit and three of our units containing two Agents each. We have worked complaint cards stemming from loud music to minors and under age employees. The neighbors surrounding the location have complained of the fights, beer bottles being thrown, and public disorderliness, such as urinating in public.

This location is a constant enforcement problem for both the Texas Alcoholic Beverage Commission and the Amarillo Police Department.



SWORN TO AND SUBSCRIBED BEFORE ME, this 6<sup>th</sup> day of November  
A.D. 1994

  
Agent for the Texas Alcoholic  
Beverage Commission

OFFICER HOOTEN JEFFREY

TENDANT

STATE OF TEXAS  
COUNTY OF POTTER

BEFORE ME, THE UNDERSIGNED AUTHORITY, IN AND FOR SAID STATE OF TEXAS,  
THIS DAY PERSONALLY APPEARED JEFFREY WAYNE HOOTEN

HAVING BEEN BY ME FIRST DULY SWORN UPON HIS OATH, DEPOSES AND SAYS:  
name is Jeffrey Wayne Hooten. I am 34 years old. My birthdate is  
-1-59. I am a Patrolman for the City of Amarillo Police Department. I  
I contacted by Agent Cameron of the Texas Alcoholic Beverage Commission  
reference to assisting his agency in providing this Affidavit on  
circumstances that I have been directly involved with at the Cadillac  
Ranch, 2523 S. Brittain. Agent Cameron requested that I limit this  
information to incidents that occurred specifically on the premises of  
Cadillac Ranch, 2523 Brittain and not the surrounding parking lots of  
other businesses. I began working consistently in the south area of town  
beginning around February 1991, and continued to work South through May  
94. In that time period I have spent a large amount of time at  
incidents occurring at the Cadillac Ranch. Most of these offenses were  
fights, not only in the parking lot but also inside the car. It was not  
uncommon for me to be involved in fights at Cadillac Ranch more than once  
evening, sometimes as many as 3 to 4 fights on a weekend night. On  
other occasions fight calls would come in to dispatch and by the time we  
were there it would be over. It was so common to see fights erupting in  
parking lots that at any given night 3 or 4 nights may have been  
held in alleys and surrounding parking lots in order to try to diffuse  
fights before they got uncontrollable and someone got seriously  
injured. On many occasions the amount of subjects fighting would be  
where from 8 to 10 people, and as many as 10 to 20 people. I have  
witnessed many of these fights by myself, unable to subdue as more than  
one or 2 suspects. I have had to use my OC spray on a couple of occasions  
in order to subdue suspects. I have also used my baton on many occasions  
merely to push the fighters apart and also to keep myself from being  
rounded and attacked by the crowd. On one arrest I was walking a  
patrol to the patrol car and was jumped from behind. I have been  
witness many times when other officers have used their OC spray and  
batons to try and control multiple suspects. I arrested a suspect  
on duty in March 1994 that had used a broken beer bottle in a fight. I  
have been on the premises of Cadillac Ranch, 2523 Brittain taking reports  
on other offenses including assaults, hit and run accidents, disorderly  
conduct offenses including urinating in public, public intoxication,  
obscene language, etc, when other problems break out within my view. I  
remember one incident where a suspect was running free of me, got in his  
car and drove away. CONTINUED ON PAGE 2

Jeffrey W. Hooten #325

SUBSCRIBED AND SWORN TO BEFORE ME THIS 05TH DAY OF NOVEMBER, 1994



[Signature]  
NOTARY PUBLIC, STATE OF TEXAS  
MY COMMISSION EXPIRES  
2-22-97

Statement taken by DET. ROGER MILLER

Before me, the undersigned authority in and for the State and County aforesaid, on this day personally appeared DET. R.T. LOPEZ #2117 who being by me first duly sworn upon HIS oath depose and says:

MY NAME IS RAYMOND T. LOPEZ, AND I HAVE BEEN EMPLOYED AS A POLICE OFFICER FOR THE CITY OF SAN ANTONIO, FOR THE PAST 19-YEARS. I HAVE HELD THE RANK OF DETECTIVE FOR THE PAST 8-YEARS, AND HAVE WORKED FOR THE ROP UNIT IN AN UNDERCOVER CAPACITY FOR THE PAST 2-YEARS. DURING THESE LAST TWO YEARS, I HAVE EXECUTED NUMEROUS NARCOTICS SEARCH WARRANTS THROUGHOUT THE CITY, AND I HAVE NEVER ENCOUNTERED A RESIDENCE THAT IS SO WELL SECURED AS THE ONE LOCATED AT 319 ALTITUDE.

ON NOVEMBER 30, 1992, THIS OFFICER RECEIVED INFORMATION FROM AN INFORMANT, WHO STATED THAT A SUBJECT KNOWN AS BENNY DOMINGUEZ, LATIN MALE ABOUT 24-YEARS OLD, AND WHO LIVES AT 319 ALTITUDE, WAS DEALING NARCOTICS(COCAINE) AT ABOVE LOCATION. THIS OFFICER WAS TOLD THAT THE COCAINE WAS THERE AT 319 ALTITUDE AT THAT TIME, AND FOR ME TO RUN THE NARCOTICS SEARCH WARRANT RIGHT AWAY, BEFORE HE LEFT THE HOUSE.

THIS OFFICER HAD RECEIVED RELIABLE AND CREDIBLE INFORMATION FROM THIS INFORMANT IN THE PAST, AND FOR THAT REASON RAN THE NARCOTICS SEARCH WARRANT AT THE TIME.

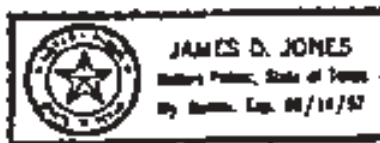
UPON OUR ARRIVAL, THE SUBJECT NAMED IN THE WARRANT BENNY DOMINGUEZ, HAD JUST LEFT THE LOCATION. ANOTHER SUBJECT, NICOLAS CASTILLO (L/M/07-06-58), WAS ARRESTED OUTSIDE THE RESIDENCE FOR POSSESSION OF COCAINE 0/28-GRAMS(.7-GRAMS).

ENTRY INTO THE RESIDENCE WAS HAMPERED BY THE DOUBLE-WIRED AND WELDED WROUGHT-IRON DOORS AT THE FRONT. THE WINDOWS TO THE RESIDENCE ARE ALSO SECURED IN THE SAME MANNER, WITH THE WROUGHT-IRON. THE FRAMES AROUND THESE DOORS AND WINDOWS ARE ALSO SECURED WITH 6" OR 8" BOLTS, THAT ARE WELDED BOTH ON THE INSIDE AND OUTSIDE OF THE HOUSE. ACCORDING TO THE INFORMANTS, THE HOUSE IS SECURED IN SUCH A MANNER SO AS TO KEEP LAW ENFORCEMENT PERSONNEL OUT, AND FOR NO OTHER REASON.

THIS OFFICER HAS RECEIVED NUMEROUS OTHER INFORMATION FROM OTHER INFORMANTS, AND/OR POLICE AGENCIES, WHO ARE ALSO FAMILIAR WITH THIS SUBJECT KNOWN AS BENNY DOMINGUEZ. THIS OFFICER HAS ASSISTED ON OTHER NARCOTICS SEARCH WARRANTS AT THAT SAME RESIDENCE, AND ENTRY WAS ALWAYS BEEN DIFFICULT TO ACCOMPLISH. NUMEROUS WEAPONS HAVE BEEN RECOVERED AT THE LOCATION, AND THIS PRESENTS A MORE DANGEROUS HAZARD TO OFFICERS EXECUTING THESE SEARCH WARRANTS.

Signature *Raymond T. Lopez*

sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19



*James D. Jones*  
JAMES D. JONES  
Notary Public in and for Bexar  
County, Texas



STATE OF TEXAS  
COUNTY OF BEXAR

STATEMENT TAKEN: DATE 07-16-94  
TIME 2:00 HRS.  
LOCATION: 314 W. NUEVA  
BY: DET. ROGER L. MILLER

BEFORE ME, the undersigned authority is and for the State and County  
aforesaid, on this day personally appeared ADAM ZELDES  
who being by me first duly sworn upon his oath deposes and says:

My name is ADAM ZELDES AND I AM A SAN ANTONIO POLICE OFFICER. I HAVE BEEN A  
POLICE OFFICER FOR FOUR YEARS AND PRIOR TO THAT I WAS DEPUTY CONSTABLE FOR  
SEVERAL YEARS.

I HAVE WORKED AROUND THE AREA OF 319 ALTITUDE FOR ABOUT THREE AND HALF YEARS.  
OTHER POLICE OFFICERS TOLD ME WHEN I FIRST STARTED WORKING OUT THERE THAT THIS  
LOCATION IS KNOWN AS A NARCOTIC CONNECTION AND THE ACTORS LIVING THERE ARE  
KNOWN TO CARRY GUNS. THE NEIGHBORS AROUND THIS LOCATION TOLD ME THAT THEY ARE  
AFRAID OF THE PEOPLE LIVING THERE AND DO NOT WANT TO GET INVOLVED BECAUSE OF  
THEIR SAFETY AND THE SAFETY OF THEIR FAMILIES. THE NEIGHBORS HAVE TOLD ME  
THAT VEHICLES STOP AT THIS LOCATION FOR A SHORT PERIOD OF TIME AND IT IS WELL  
KNOWN THAT THEY ARE BUYING NARCOTICS. IT IS ALSO KNOWN THAT PEOPLE STANDING  
A SHORT DISTANCE AWAY FROM 319 ALTITUDE ARE CARRYING GUNS AND ARE NOT AFRAID TO USE THEM TO  
PROTECT THE LOCATION. I HAVE RECEIVED DISPATCH CALLS TO THIS LOCATION FOR  
GUNS FIRED. WHEN I ARRIVED AT THE LOCATION THE PEOPLE STANDING IN FRONT OF  
THE HOUSE WOULD TELL ME THAT I COULD NOT ENTER THEIR PROPERTY WITH OUT A  
SEARCH WARRANT. I HAVE KNOWN THIS LOCATION TO BE FORTIFIED TO PREVENT ENTRY.  
POLICE OFFICERS EXECUTING SEARCH WARRANTS AND THEY ARE KNOWN TO BE CARRYING  
GUNS AND AK47 ASSAULT RIFLES AND OTHER AUTOMATIC WEAPONS.

SIGNATURE  #973

SWORN TO AND SUBSCRIBED BEFORE ME THIS 16th day of JULY, 1994



Notary Public in and for Bexar County, Texas

PAGE # 1 Statement taken by: DET PAT MICHALEC/2053

Before me, the undersigned authority in and for the State and County aforesaid, on this day personally appeared SGT. TIMOTHY E. PASTOL who being by me first duly sworn upon his oath deposes and says: MY NAME IS TIMOTHY PASTOL. I AM 41 YEARS OF AGE. I GRADUATED FROM HIGH SCHOOL AND I READ WRITE AND UNDERSTAND THE ENGLISH LANGUAGE. I AM CURRENTLY EMPLOYED BY THE THE SAN ANTONIO POLICE DEPARTMENT. I HAVE BEEN A POLICE OFFICER FOR A TOTAL OF 17 YEARS. MY CURRENT RANK IS SERGEANT AND I AM ASSIGNED AS A SUPERVISOR IN THE SPECIAL OPERATIONS UNIT, S.W.A.T. DETAIL. I AM GIVING THIS STATEMENT TO DETECTIVE MICHALEC AS I FAMILIAR WITH A HOUSE LOCATED AT 319 ALTITUDE IN SAN ANTONIO TEXAS. THE FIRST TIME I CAME IN CONTACT WITH THIS LOCATION WAS IN RESPONSE TO A REQUEST FROM NARCOTICS DETECTIVES WHO ASKED FOR THE ASSISTANCE OF S.W.A.T. OFFICERS IN ORDER TO GAIN ENTRY INTO 319 ALTITUDE DURING THE EXECUTION OF A NARCOTICS SEARCH WARRANT. I RECALL THAT ON THIS DATE THERE WERE SEVERAL ARREST MADE AT THIS LOCATION FOR NARCOTICS VIOLATIONS. DURING THE EXECUTION OF THIS SEARCH WARRANT I NOTICED THIS HOUSE TO BE STRONGLY FORTIFIED. I FOUND THE WINDOWS TO BE COVERED WITH BURGLAR BARS, BOTH FRONT ENTRY DOORS WERE METAL DOORS AND THE DOOR FRAMES HAD BEEN REINFORCED WITH METAL. WE FOUND METAL PLATING THAT HAD BEEN WELDED TO THE DOOR HINGES. IT WAS OBVIOUS TO ME THAT THIS HOUSE WAS INTENTIONALLY REMODELED WITH METAL STRUCTURES IN ORDER TO MAKE ANY FORCED ENTRY ATTEMPT VERY DIFFICULT. I HAVE OVER THE LAST FEW YEARS BEEN INVOLVED IN THE EXECUTION OF HUNDREDS OF SEARCH WARRANTS WHERE FORCED ENTRY HAD TO BE MADE. TO DATE I HAVE BEEN INVOLVED IN THE EXECUTIONS OF 3 DIFFERENT ARREST AND SEARCH WARRANTS AT 319 ALTITUDE. WITH THE EXECUTION OF EACH SUBSEQUENT WARRANT I FOUND THIS LOCATION EVEN MORE HEAVILY FORTIFIED THAN THE PREVIOUS SEARCH WARRANT EXECUTION.

WHILE ASSISTING DETECTIVES IN THE EXECUTION OF AN AGG. ROBBERY WARRANT ON 06/16/95, I FOUND 319 ALTITUDE TO BE REINFORCED HEAVIER THAN THE PREVIOUS ENTRY MADE INTO THIS LOCATION A FEW MONTHS PRIOR.

OVER THE LAST YEAR I HAVE PERSONALLY CAME INTO CONTACT WITH BENJAMIN DOMINGUEZ, WHO I KNOW TO BE AN ACTIVE GANG MEMBER AND NARCOTICS TRAFFICKER. IN EACH CONTACT WITH BENJAMIN DOMINGUEZ, HE INDICATED HIS RESIDENCY TO BE 319 ALTITUDE. AS A S.W.A.T. SERGEANT IT IS ONE OF MY RESPONSIBILITIES TO MAINTAIN INFORMATION PERTAINING TO LOCATIONS THAT ARE CONSIDERED DANGEROUS AND THAT CREATE A SUBSTANTIAL RISK TO OFFICER'S LIVES. 319 ALTITUDE IS AND HAS BEEN KNOWN TO ME AS ONE OF THE MOST DANGEROUS LOCATIONS FOR OFFICERS TO COME IN CONTACT WITH. DUE TO MY PRIOR EXPERIENCE WITH SUBJECTS KNOWN TO LIVE AND FREQUENT THIS LOCATION.

Timothy E. Pastol  
Signature

orn to and subscribed before me this 27<sup>th</sup> day of JUNE, A.D. 1995



SEAL

Elvin Burnes  
Notary Public in and for Bexar  
County, Texas

My Commission Expires



