

In the Name and Under Authority of the State of Texas

I, **Randall Kelton**, have reason to believe and do believe that **Greg Abbott**, hereinafter referred to as “Governor”, while acting, or purporting to act, under the color (pretense) of an official capacity exerted an authority the beyond the scope of his office and, in the process denied Complainant and others similarly situated in the full and free access to and/or enjoyment of rights secured by the Constitution and laws of the State of Texas. Complainant has reason to believe that Governor Abbot committed various crimes against the laws of the State of Texas to include Official Misconduct, Official Oppression, Aggravated Assault, Depraved Heart Assault, Sedition to be shown as follows:

I. PHILOSOPHY OF OUR FOUNDERS

The people of the State of Texas are not frightened children quaking and quivering before the prospect of a pandemic. We are men and women of good conscious, buttressed by the wisdom of our predecessors blessed with a binding Constitution. We already have a savior and do not need another, no matter how benevolent the aspiring dictator.

H.G. Wells, in his Outline Of History, on speaking to the corruption of the Pope’s during the “dark age” very aptly observed,

“The giver of the law most owes the law allegiance. He of all beings should behave as though the law compels him. But it is the universal failure of mankind that, what we are give to administer we promptly presume we own.” [H.G. Wells – Outline of History](#)

Texas is a land of laws and the responsibility for those laws lay on the citizen as the master of the servant. Fortunately, our founders, in their wisdom, blessed us with a republic. The Texas Legislature, on adopting the [Open Government; Ethics Act](#) stated their philosophy very succinctly in the first sentence at [Section 552.001](#) which reads in pertinent part as follows:

“Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the “people...”

We are all aware of the pavement leading to hell and will not address good intentions here. Whatever the reasons and rationalizations the Defendant may offer as justifications for his actions, they must fall on deaf ears.

Our soldiers risked their lives, while tightly bound to rules of engagement. Their good faith in battle is simply not enough to protect the world from the atrocities men in stress are capable of. Our police and first responders are bound to existing law. How much more is the responsibility of the high powers of government? Complainant stands to test the sanctity of law in Texas.

Complainant will show that Defendant, Governor Greg Abbott, acting under the color of his authority as Governor of the State of Texas, took it upon himself to issue proclaim orders and edicts intended to be binding on the public who empowers him and to whom he has sworn fidelity on his oath. Complainant will show that the acts of the Governor, no matter how well intentioned, were outside the scope of the authority of the Governor of the State of Texas and in criminal violation of the laws of the State of Texas.

A. Land of Laws

Our founders carefully crafted the Texas Constitution with the intent that it stand sacrosanct in perpetuity, as demonstrated by [Texas Constitution Bill of Rights at Article 29](#) which reads as follows:

Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOLETE. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

With so many lives expended securing freedom for Texas, our funders intended that those lives not be frivolously expended. They intended to be a barrier bad behavior, difficult to enact and more difficult still, to change. In order to insure the sanctity of the corpus juris(body of law), our founders created a Legislature broken into two separate branches, one with local affiliation and the other with more general. They intended vigorous interchange of ideas and agendas between law makers of varying background and constituency. It was intended that this body be dedicated to the purpose of creating and maintaining a body of law resistant to the political passions of the moment and pork barrel politics.

B. Enforcement Authority

While the Legislature creates the laws, it does not enforce them. That power was given to the executive branch headed by the Governor, as follows:

[Texas Constiution Article IV, Section. 10.](#) He shall cause the laws to be faithfully executed; and shall conduct, in person, or in such manner as shall be prescribed by law, all intercourse and business of the State with other States and with the United States.

The Governor was charged with the duty of executing the intent of the Legislature, and holds in trust, the affairs of the State. It is inherent in the office of Governor that he has authority to issue orders, edicts, and proclamations to governmental agencies under his control and it is the custom to call certain orders “executive orders” even though any order given to a governmental agency by the head executive officer would be an order of the executive.

Nowhere in the Constitution was the Governor given, neither is there any indication our founders intended that the Governor have, law making powers.

C. Primary Political Protection

Knowing the tendency of power to corrupt, the Constitution, in delegating operational authority to the Governor, placed strict limits on that authority. The limit being that the Governor could issue orders to public agencies and employees, but not to the public itself. That power was restricted to the legislature. The intent of our founders in this regard can hardly be misconstrued on reading the [Texas Constitution Bill of Rights as Section 28](#) which reads as follows:

[Sec. 28. SUSPENSION OF LAWS.](#) No power of suspending laws in this State shall be exercised except by the Legislature.

It should be noticed that the Texas Constitution says nothing about the Governor abolishing or creating those laws.

D. Founder’s Supreme Law

The founder’s law, in the form of the Texas Constitution, is the supreme law of the land. All legislation flows from and is governed by the that constitution. It should be remembered that the Texas Constitution grants no rights to the people, but rather, creates governmental instruments then strictly defines the limits of the powers granted. By way of Texas Constitution Article 1, our founders forbad public officials from infringing upon certain enumerated rights.

Four justices on the Texas Supreme Court just fired a shot across the bow of government officials continuing draconian COVID-19 restrictions in Texas. In a concurring opinion, Justices Blacklock, Guzman, Boyd, and Devine reminded everyone that the “Constitution is not suspended when the government declares a state of disaster.”

“As more becomes known about the threat and about the less restrictive, more targeted ways to respond to it,” the opinion continued “burdens on constitutional liberties may not survive judicial scrutiny.” [IN RE SALON A LA MODE, ET AL](#)

This opinion was a message—the Constitution still applies, and the courts will enforce it.

E. Warring Against The Constitution

Governor Abbott, by his pronouncements and proclamations, issued by edict, purports to abolish some laws and create others. The Governor purported to commandeer the Department of Public Safety and convert it to his personal militia. The Governor then intended to use their armed authority to enforce the extent of the Governor’s unconstitutional proclaimed purpose. By this the Governor wars with the Constitution in an act of sedition in violation of [Texas Government Code Section 557.001](#) which reads in pertinent part as follows:

[Sec. 557.001. SEDITION.](#) (a) *A person commits an offense if the person knowingly:*

- (1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence;*
- (2) under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or*
- (3) participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence.*

By so doing, the Governor wars against the [Texas Constitution](#).

1. Powers of Governor

Below are the powers of the Governor as specified in [Article 4 of the Texas Constitution](#):

SEC. 7. *He shall be commander-in-chief of the military forces of the State, except when they are called into actual service of the United States. He shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, repel invasions, and protect the frontier from hostile incursions by Indians or other predatory bands.*

SEC. 8. *The Governor may, on extraordinary occasions, convene the Legislature at the seat of government, or at a different place in case that should be in possession of the public enemy or in case of the prevalence of disease thereat. His proclamation therefor shall state specifically the purpose for which the Legislature is convened.*

SEC. 9. *The Governor shall at the commencement of each session of the Legislature, and at the close of his term of office, give to the Legislature information, by message, of the condition of the State; and he shall recommend to the Legislature such measures as he*

may deem expedient. He shall account to the Legislature for all public moneys received, and paid out by him for any funds subject to his order, with vouchers; and shall accompany his message with a statement of the same. And at the commencement of each regular session he shall present estimates of the amount of money required to be raised by taxation for all purposes.

*SEC. 10. **He shall cause the laws to be faithfully executed;** and shall conduct, in person, or in such manner as shall be prescribed by law, all intercourse and business of the State with other States and with the United States.*

*SEC. 11. **In all criminal cases, except treason and impeachment, he shall have power, after conviction, to grant reprieves, commutations of punishment and pardons;** and under such rules as the Legislature may prescribe he shall have power to remit fines and forfeitures. With the advice and consent of the senate, he may grant pardons in cases of treason, and to this end he may respite a sentence therefor, until the close of the succeeding session of the Legislature; provided, that in all cases of remissions of fines and forfeitures, or grants of reprieve, commutation of punishment or pardon, he shall file in the office of the secretary of state his reasons therefor.*

*SEC. 12. **All vacancies in State or district offices,** except members of the Legislature, **shall be filled,** unless otherwise provided by law, by appointment of the Governor, which appointment, if made during its session, shall be with the advice and consent of two-thirds of the senate present. If made during the recess of the senate, the said appointee, or some other person to fill such vacancy, shall be nominated to the senate during the first ten days of its session. If rejected, said office shall immediately become vacant, and the Governor shall, without delay, make further nominations, until a confirmation takes place. But should there be no confirmation during the session of the senate, the Governor shall not thereafter appoint any person to fill such vacancy who has been rejected by the senate; but may appoint some other person to fill the vacancy until the next session of the senate or until the regular election to said office, should it sooner occur. Appointments to vacancies in offices elective by the people shall only continue until the first general election thereafter.*

*SEC. 13. **During the session of the Legislature the Governor shall reside where its sessions are held,** and at all other times at the seat of government, except when by act of the Legislature, he may be required or authorized to reside elsewhere.*

*SEC. 14. **Every bill which shall have passed both houses of the Legislature shall be presented to the Governor for his approval.** If he approve he shall sign it; but if he disapprove it, he shall return it with his objections, to the house in which it originated, which house shall enter the objections at large upon its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, in the other house, by which likewise it shall be reconsidered; and, if approved by two-thirds of the members of that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor with his objections within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature, by its adjournment, prevent its return; in which case it shall be a law, unless he shall file the same, with his objections, in the office of the secretary of state, and give notice thereof by public proclamation within twenty days after such adjournment. If any bill presented to the Governor contains several items of appropriation he may object to*

one or more of such items, and approve the other portion of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and no item so objected to shall take effect. If the Legislature be in session he shall transmit to the house in which the bill originated a copy of such statement and the times objected to shall be separately considered. If, on reconsideration, one or more of such items be approved by two-thirds of the members present of each house, the same shall be part of the law, notwithstanding the objections of the Governor. If any such bill, containing several items of appropriation, not having been presented to the Governor ten days (Sundays excepted) prior to adjournment, be in the hands of the Governor at the time of adjournment, he shall have twenty days from such adjournment within which to file objections to any items thereof and make proclamation of the same, and such item or items shall not take effect.

*SEC. 15. Every order, resolution or vote to which the concurrence of both houses of the Legislature may be necessary, except on questions of adjournment, **shall be presented to the Governor**, and before it shall take effect, shall be approved by him; or, being disapproved, shall be repassed by both houses; and all the rules, provisions and limitations shall apply thereto as prescribed in the last preceding section in the case of a bill. (**emphasis added**)*

You will find nothing in the above that asserts or implies that the Governor should have power to issue edicts, orders, or proclamations that act directly on the public.

2. No Power to Nullify Law

Governor, during his tenure as Governor of the State of Texas issued 31 executive orders. EO – 01,03, 04, 05, 07, and 10 appear to be issued within the scope of the authority granted to the Governor. The rest, EO – 02,06, 08, 09, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29,30, and 31 are in direct and blatant violation of the specific prohibition of the [Texas Constitution](#) which, thought quoted above, bears repeating:

Sec. 28. SUSPENSION OF LAWS. *No power of suspending laws in this State shall be exercised except by the Legislature.*

It is clear, our founders contemplated a situation where the high powers of government would be inclined to adjust or abridge the law to suit a consideration or concern of the moment and took steps to prevent it. Their intent to curtail the arbitrary breach of this constitution is buttressed by [Bill of Rights at Article 29](#) which again bears repeating:

Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOULATE. *To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.*

Rather than abolish law, the Governor was specifically commanded by [Article IV, Section X](#) as follows:

[SECTION X.](#) *He shall take care that the laws be faithfully executed.*

The above can hardly be construed as a polite request. The Constitution of the State of Texas is the highest law of the land and all governmental powers flow from it's authority. In the instant case, there is no authority for the above referenced executive orders

II. MAGISTRATES

All criminal complaints in Texas are directed to “some magistrate.” It was intended that magistrates, as a member of the Judicial branch of government, stand between the Executive branch and the people. This provision has been in law since the signing of the first Magna Carta in 1215 A.D. All complaints against free persons were required to be presented to a magistrate. The Executive, in its capacity as the enforcer of the law, had authority to investigate crime and arrest citizens on an onsite offense or and existing warrant.

A. What Are Magistrates

The Executive could secure authority to arrest for an offense that was not personally witnessed by presenting a complaint to some magistrate. The magistrate would then convene an ex parte examining trial. It would be ex parte as only the accuser would be present. Immediately after arrest the arresting officer was commanded by [Texas Code of Criminal Procedure Article 15.16](#) which reads in pertinent part as follows:

[Art. 15.16. HOW WARRANT IS EXECUTED.](#) *(a) The officer or person executing a warrant of arrest shall without unnecessary delay take the person or have him taken before the magistrate who issued the warrant or before the magistrate named in the warrant, if the magistrate is in the same county where the person is arrested. If the issuing or named magistrate is in another county, the person arrested shall without unnecessary delay be taken before some magistrate in the county in which he was arrested.*

The magistrate before whom the arrestee was taken was then required to convene an examining trial with both parties present under [Chapter 16 Texas Code of Criminal Procedure](#).

If a person is arrested for an on-sight offense, the arresting officer is required to take the person arrested directly to the nearest magistrate under [Texas Code of Criminal Procedure Section 14.06](#) which reads in pertinent part as follows:

[Art. 14.06. MUST TAKE OFFENDER BEFORE MAGISTRATE.](#) (a) Except as otherwise provided by this article, in each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall take the person arrested or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, to provide more expeditiously to the person arrested the warnings described by Article [15.17](#) of this Code, before a magistrate in any other county of this state. The magistrate shall immediately perform the duties described in Article [15.17](#) of this Code.

When the arrestee is brought before the magistrate, the magistrate is required to convene an examining trial under [Texas Code of Criminal Procedure Chapter 16](#).

B. Who Are Magistrates

But then, who are magistrates? The Legislature stipulated as to “who are magistrates” when they enacted [Texas Code of Criminal Procedure 2.09](#) which reads as follows:

Art. 2.09. WHO ARE MAGISTRATES. Each of the following officers is a magistrate within the meaning of this Code:

The justices of the Supreme Court,

the judges of the Court of Criminal Appeals,

the justices of the Courts of Appeals,

the judges of the District Court,

the magistrates appointed by the judges of the district courts of Bexar County, Dallas County, or Tarrant County that give preference to criminal cases,

the criminal law hearing officers for Harris County appointed under Subchapter L, Chapter 54, Government Code,

the criminal law hearing officers for Cameron County appointed under Subchapter BB, Chapter 54, Government Code,

the magistrates or associate judges appointed by the judges of the district courts of Lubbock County, Nolan County, or Webb County, the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County,

the associate judges appointed by the judges of the district courts and the county courts at law that give preference to criminal cases in Jefferson County,

the associate judges appointed by the judges of the district courts and the statutory county courts of Brazos County, Nueces County, or Williamson County,

the magistrates appointed by the judges of the district courts and statutory county courts that give preference to criminal cases in Travis County,

the criminal magistrates appointed by the Brazoria County Commissioners Court,

the criminal magistrates appointed by the Burnet County Commissioners Court,

the magistrates appointed by the El Paso Council of Judges,

*the county judges,
the judges of the county courts at law, judges of the county criminal courts,
the judges of statutory probate courts,
the associate judges appointed by the judges of the statutory probate courts under
Chapter 54A, Government Code,
the associate judges appointed by the judge of a district court under Chapter 54A,
Government Code,
the magistrates appointed under Subchapter JJ, Chapter 54, Government Code,
the magistrates appointed by the Collin County Commissioners Court,
the magistrates appointed by the Fort Bend County Commissioners Court,
the justices of the peace, and
the mayors and recorders and the judges of the municipal courts of incorporated cities or
towns.*

(Complaint put in the line breaks for emphasis)

In as much as the complaints contained herein are against the highest officer of the Executive branch, it seemed appropriate to file them with the highest, level member of the Judicial branch. Thus, the complaints contained herein are filed with the Chief Justice of the Texas Supreme Court, Nathan L. Hetch, in his capacity as a magistrate in the State of Texas.

Complaint moves Justice Hetch to either, convene an examining trial in accordance with [Texas Code of Criminal Procedure Chapter 16](#).

During a pandemic “the judiciary, the other branches of government, and our fellow citizens—must insist that every action our governments take complies with the Constitution, especially now. If we tolerate unconstitutional government orders during an emergency, whether out of expediency or fear, we abandon the Constitution at the moment we need it most.” Id.

or, in his discretion, petition a district judge to convene a court of inquiry under authority of [Chapter 52 Texas Code of Criminal Procedure](#) which reads in pertinent part as follows:

Art. 52.01. COURTS OF INQUIRY CONDUCTED BY DISTRICT JUDGES. (a) When a judge of any district court of this state, acting in his capacity as magistrate, has probable cause to believe that an offense has been committed against the laws of this state, he may request that the presiding judge of the administrative judicial district appoint a district judge to commence a Court of Inquiry. The judge, who shall be appointed in accordance with Subsection (b), may summon and examine any witness in relation to the offense in accordance with the rules hereinafter provided, which procedure is defined as a "Court of Inquiry".

III. FOURTH BRANCH OF GOVERNMENT

Our founders were well aware that three branches of government were not enough to secure our republic. They knew the ultimate power of the people must rest with the people and in their wisdom created the grand jury system. The grand jury is not a part of any other branch of government.

While the grand jury is empaneled by a member of the judiciary and assisted by a member of the executive and must follow the rules of the Legislature, it is beholden to none. Justice Scalia in [*United States v. Williams*, 504 36 \(US Supreme Court 1992\)](#) referred to the grand jury system as follows:

[T]he grand jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three Articles. It 'is a constitutional fixture in its own right'[case cites]. In fact the whole theory of its function is that it belongs to no branch of the institutional government, serving as a kind of buffer or referee between the Government and the people [*United States v. Williams*, 504 36 \(US Supreme Court 1992\)](#).

It is to this branch of government Complainant now appeals through a finding of probable cause by some magistrate.

A. Grand Juries as The Ultimate Balance to the Abuse of Power

Complainant is a radio talk show host out of Austin, Texas. We do a show about how the system really works as opposed to the high-minded rhetoric we hear from public officials and political pundits. Our public schools teach our children how the system should work and in a perfect world it might. But then, if this were a perfect world Complainant is sure he would not be in it and I suspect many politicians would not either.

The world is not perfect and neither are our constitutions, laws, governmental instruments or people. We do the best we can and have created a self-regulating system to guard us from our weaknesses.

1. Ultimate Arbiter

It is intended that Grand juries come to the table with no singular political agendas or external influences. The judges and prosecutors, with whom the grand jury regularly interacts, both are emersed in a polyglot of competing political interests. This is not intended as an indictment, but rather, as a recognition that each person brings their own circumstance to the table.

Grand juries are intended to be fresh outsiders with no particular partisan or political interest in the matters before it. It is your duty to faithfully find based on the facts before you. You are the point of the pin on which the rest of the system balances.

2. Trust the System

As the Complainant in the instant cause, I implore the grand jury to trust the system. Your only function is to determine if there is sufficient facts to give a reasonable person of ordinary prudence reason to believe that a crime has been committed and that the named defendant committed that crime. Any personal, moral, or political implications are for trial juries to grapple with. Trust the system to find a just adjudication of the matter.

B. Life Is Filled With Decisions

Complainant is a combat veteran. In combat, we all were bound by rules of engagement. As crisis go, they don't get much more immediate than combat. In combat, regardless of the threat, we had rules to follow. The Governor, in this time of crisis has power conveyed upon him but that power comes with rules of engagement we had sworn on our oaths to follow.

Complainant was a twin once. With 7 days left in country, Richard and 13 others jumped out of a helicopter somewhere southwest of Da Nang. He was the last man off the LZ(landing zone) when he stepped on a bouncing betty. He knew what it was and knew what it would do. He could have dove as far from the explosive as possible but chose to drop onto the projectile and capture it to protect his fellow soldiers.

1. Our Choices Define Us

Choice always carries consequences. Richard chose his course and paid heavy. Fourteen days later, at the 3rd Field Hospital in what was then Saigon, Complainant was given the honor and privilege of holding his hand as he died of gangrene. He died hard hard. Even as the gangrene and morphine took his mind away, he never once indicated regret for his decision.

2. We Live or Die by Our Decisions

Richard was not alone in his sacrifice. Our police and first responders make decisions every day that can have horrible consequences. It is my contention that Governor Abbott, being faced with

a pending pandemic, felt compelled to make decisions. Lest there be some consideration that this presentation is motivated by anything other than honor and respect for our Governor, I assure you, Complainant holds the Governor in the high regard. With that said, he made his decisions. In making those decisions he knew full well that consequences would flow from them.

3. Who is to Pay This Piper

The Governor's decisions had consequences, not just for himself, but for all the people of the State of Texas. Of all who owe honor to the consequences of their decisions, it should be the one who made them. It is my consideration that our Governor put his sacred honor at risk for what he believed to be in the interest of the people. He decided to ignore his sacred oath to the people and juxtapose his idea of expediency with the rule of law.

He took a grave risk with our lives. Now he owes it to honor to face the consequences. What honor is there in hard decisions without consequences?

IV. LIMITS ON EXERCISE OF POWER

Complainant will not address whether the executive orders complained of are rational, reasonable, or would well serve the public in this time of crisis. That may certainly be an issue that could be brought in defense to the charges brought, but they would not be a bar to prosecution. Perhaps the Governor can carve out an exception to the Constitution. Good luck with that.

*"The Constitution is not suspended when the government declares a state of disaster." In re Abbott, No. 20-0291, 2020 WL 1943226, at *1 (Tex. Apr. 23, 2020). All government power in this country, no matter how well-intentioned, derives only from the state and federal constitutions. Government power cannot be exercised in conflict with these constitutions, even in a pandemic. [IN RE SALON A LA MODE, ET AL.](#)*

A. Governor May Not Suspend Law

Where Governor Abbott, in his executive orders, purport to suspend law, exceeds his authority and breaches the separation of powers mandated by the Texas Constitution.

1. Governor My Suspend Rules and Regulations

In an emergency, the Texas Legislature purported to grant extraordinary powers to the Governor by the passage of *Texas* Disaster Act of 1975. Said statute purports to give the Governor the power to suspend certain laws during an emergency as follows:

Sec. 418.0155. SUSPENSION LIST. (a) *The Governor's office, using existing resources, shall compile and maintain a comprehensive list of regulatory statutes and rules that may require suspension during a disaster.*

(b) *On request by the Governor's office, a state agency that would be impacted by the suspension of a statute or rule on the list compiled under Subsection (a) shall review the list for accuracy and shall advise the Governor's office regarding any statutes or rules that should be added to the list.*

It should be clear to a reasonable person of ordinary prudence that the above only goes to rules promulgated by regulatory agencies.

Sec. 418.016. SUSPENSION OF CERTAIN LAWS AND RULES. (a) *The Governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.*

2. Only the Legislature May Suspend of Laws

Here, the statute is clear that the governor may only suspend “any regulatory statute.” The Governor, as the highest power within the Executive branch of Texas government should be vested with the above power. However, when that power is extended to the suspension of any law, the Governor runs afoul of [Chapter 39 Texas Penal Code](#).

a) Suspension of Law Restricted to Legislature

While it may be theoretically possible to suspend some law in such a way that it did not impinge upon Constitutionally protected right, the consideration is irrelevant as, the [Texas Constitution Article 1 Section 28](#) strictly forbids such an action as follows:

Sec. 28. SUSPENSION OF LAWS. *No power of suspending laws in this State shall be exercised except by the Legislature.*

It was the clear intent of the our founders that no power to suspend laws was to be exercised by any person or entity other than the Texas Legislature.

b) High Powers Singled Out

As if to emphasize the finality of Article 1, the Texas Bill of Rights, our founders included a prohibition found in no other state by the mandate contained in Section which reads as follows:

Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOLETE. *To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.*

The Governor, in the instant case is a lawyer, therefore, it cannot be lost on Governor Abbott that claiming authority under statute to suspend or abolish any law passed by the legislature is unconstitutional application of the statute.

c) Violates Separation of Powers

In the Republic of Texas, laws are adopted through the legislature in accordance with [Texas Constitution Article III](#), not ‘proclaimed’ by the Governor or by local officials.

“In Europe, charters of liberty have been granted by power. America has set the example ... of charters of power granted by liberty. This revolution in the practice of the world, may, with an honest praise, be pronounced the most triumphant epoch of its history, and the most consoling presage of its happiness.” – [James Madison, Essays for the National Gazette, 1792](#)

In addition to issuing proclamations masquerading as law, Governor Abbott has purported to suspend various laws pursuant to [Tex. Gov. Code § 418.016](#), which says the Governor may suspend ‘certain laws and rules’ in light of a declared disaster.

This issue of suspension of laws was the very first complaint mentioned in the [English Bill of Rights of 1689](#). It seems Western peoples have been engaging in this conflict against executive usurpation of law-making power for centuries.

Our founders first addressed the abuse of the power of one branch of government by another in [Texas Constitution Article II Section 1](#)^{supra}, although quoted above it bears repeating:

Sec. 1. SEPARATION OF POWERS OF GOVERNMENT AMONG THREE DEPARTMENTS. *The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.*

The Constitution is relatively silent on the issue of pandemics (aside from a brief mention empowering the Governor to call special sessions of the Legislature). However, they have addressed other, equally immediate crisis. Our founders, who had recently fought for their freedom from Mexico, warned that, even in times of enemy attack, the continuity of government is to be maintained as provided for by [Article III, Sec. 62 of the Texas Constitution](#) as follows:

Sec. 62. CONTINUITY OF STATE AND LOCAL GOVERNMENTAL OPERATIONS FOLLOWING ENEMY ATTACK. (a) *The Legislature, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by enemy attack, shall have the power and the immediate duty to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices. Provided, however, that [Article I of the Constitution of Texas, known as the "Bill of Rights"](#) shall not be in any manner affected, amended, impaired, suspended, repealed or suspended hereby.*

Even in extreme circumstances, the Texas Constitution explicitly states that the [Bill of Rights](#) cannot be suspended.

“Without liberty, law loses its nature and its name, and becomes oppression. Without law, liberty also loses its nature and its name, and becomes licentiousness.” – [James Wilson, Of the Study of the Law in the United States, 1790](#)

3. Current Law Could Be Sufficient

The measures instituted by the Governor through proclamation edict were simply unnecessary as ample law existed to deal with the current crisis. Shelter in place and mask orders all originate from a concern for expectorant and there are laws in place to cover this issue.

4. Intentional or Careless Contamination

The act of coughing or spitting on another person in order to expose them (jokingly or not) to COVID-19 has already been the cause of multiple arrests around the U.S. In Pennsylvania, [a man was arrested](#) after coughing in the face of a recovering pneumonia patient while repeatedly claiming to be infected with the coronavirus. A [Tennessee man was charged](#) with assault and a [New York woman was charged](#) with making a terroristic threat after coughing and spitting on people in Walmart claiming they had COVID-19.

5. Simple Assault as a Deterrent

In fact, no new law was needed. All that was needed was for the Governor to give notice to the public of existing law on the matter and direct law enforcement officers to [Texas Penal Code Article 22.01](#) which reads in pertinent part as follows:

[Sec. 22.01. ASSAULT.](#) (a) *A person commits an offense if the person:*

(1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;

(2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or

(3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

B. Denial of Liberty

Governor Abbott, in the above declaration acts forbidding citizens from visiting their loved ones who are confined to extended healthcare facilities acts as a dictate by the servant binding the master.

With specific intent to deny the people of the State of Texas in their liberty the Governor has exerted, or purported to exert an authority he does not have and in the process, denied the people of the State of Texas in the full and free exercise or enjoyment of their rights guaranteed under the [Texas Constitution](#).

1. No Power Over Citizens

The Governor issued orders directed at every citizen in the State of Texas in restriction preceded with, “every person in Texas shall.”

The office of Governor is created by [Texas Constitution Article IV. Section 7-15](#) specifies the powers of the Governor. An examination of Article IV will show that there is no power granted which would allow the Governor to exercise power over an individual citizen.

*“It will not be denied that power is of an encroaching nature and that it ought to be effectually restrained from passing the limits assigned to it.” [Federalist 48, 1788](#)
– [James Madison](#)*

Complainant does not challenge or doubt the good faith of the Governor in this regard. Best intentions and good faith are not the issue. Whether the above restrictions are rational and reasonable, is not the issue. The issue is: “*Does the Governor have the power to institute by fiat a proclamation which abridges any right guaranteed to the people?*”

Under current law, the only branch of Texas Government with the power to invoke control over the people is the Legislature through the enactment of law.

2. Legislative Option

In the matter of a novel crisis where statutory direction seems insufficient, it is not the place of the Governor to rest the powers of government from the various branches and act unilaterally.

“An elective despotism was not the government we fought for; but one in which the powers of government should be so divided and balanced among the several bodies of magistracy as that no one could transcend their legal limits without being effectually checked and restrained by the others.” – [FEDERALIST 84, 1788 BY JAMES MADISON](#)

With the above in mind, it should be considered that it was hardly necessary for the Governor to take unilateral action that violated the Texas Constitution when he had other remedies available. Specifically, [Article IV Section 8](#) which reads as follows:

***The Governor may, on extraordinary occasions, convene the Legislature** at the seat of government, or at a different place in case that should be in possession of the public enemy or in case of the prevalence of disease thereat. His proclamation therefor shall state specifically the purpose for which the Legislature is convened.*

I will leave it to the reader to fathom why the Governor chose to take the personal risk of acting outside the scope of his office and issue proclamations that affect the full and free exercise of rights of the citizens of the State of Texas instead of acting under his Constitutional authority by convening the Legislature in emergency session to deal with this crisis.

3. Remedy Is Already In Law

While we may have to endure a crisis, we need not endure oppression. The Governor, in his capacity as a public servant, owed a degree of deference to the wisdom and maturity of his masters.

“I have no fear that the result of our experiment will be that men may be trusted to govern themselves without a master.” – [Thomas Jefferson, Letter to David Hartley, 1787](#)

The act of coughing or spitting on another person in order to expose them (jokingly or not) to a known contagion has already been the cause of multiple arrests around the U.S. In Pennsylvania, [a man was arrested](#) after coughing in the face of a recovering pneumonia patient while repeatedly claiming to be infected with the coronavirus. A [Tennessee man was charged](#) with assault and a [New York woman was charged](#) with making a terroristic threat after coughing and spitting on people in Walmart claiming they had COVID-19.

In fact, no new law was needed. All that was needed was for the Governor to give notice to the public of existing law on the matter and direct law enforcement officers to [Texas Penal Code Article 22.01](#) which reads in pertinent part as follows:

Sec. 22.01. ASSAULT. (a) *A person commits an offense if the person:*

- (1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;*
- (2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or*
- (3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.*

A proclamation asserting that, carelessness and disregard on the part of the public, where that carelessness can be shown to be the cause of the spreading of contamination by one person to others by failure to exercise minimum standards of care as recommended by the President of the United States and the Governor of the State of Texas can be construed as reckless behavior as contemplated by [Texas Penal Code Section 22.01. ASSAULT\(a\)](#). Such a proclamation would have been within the power of the Governor to issue and would not have violated any constitutional provision.

This is not to suggest that the Governor should have made the above recommendation. It is only offered as a demonstration that there were alternatives open to the Governor that did not involve trashing our Constitution.

C. Schools Closing as Unlawful Taking

By the above executive order, the Governor issued or continued orders affecting the closing of public schools. The Texas Education Agency has power to oversee how schools operate, as follows:

[Texas Education Code § 7.021. Texas Education Agency Powers and Duties](#)

(a) The agency shall perform the educational functions provided by Subsection (b).

(b)

(1) The agency **shall administer and monitor compliance** with education programs required by federal or state law, including federal funding and state funding for those programs.

(2) The agency shall **conduct research, analysis, and reporting** to improve teaching and learning.

(3) The agency **shall conduct hearings involving state school law** at the direction and under the supervision of the commissioner.

(4) The agency shall establish and implement pilot programs established by this title.

(5) The agency shall carry out the duties relating to the **investment capital fund** under [Section 7.024](#).

(6) The agency shall develop **and implement a teacher recruitment program** as provided by [Section 21.004](#).

(7) The agency shall carry out duties under **the Texas Advanced Placement Incentive Program** under Subchapter C, Chapter 28. ¹

(8) The agency **shall** carry out powers and duties relating to **community education** as required under Subchapter H, Chapter 29. ²

(9) The agency **shall develop a program of instruction in driver education** and traffic safety as provided by [Section 29.902](#).

(10) The agency shall carry out duties assigned under [Section 30.002](#) concerning children with **visual impairments**.

(11) The agency shall carry out powers and duties related to **regional day school programs for the deaf** as provided under Subchapter D, Chapter 30. ³

(12) The agency shall establish and maintain an **electronic information transfer system** as required under [Section 32.032](#), maintain and expand telecommunications capabilities of school districts and regional education service centers as required under [Section 32.033](#), and establish technology demonstration programs as required under [Section 32.035](#).

(13) The agency shall **review school district budgets**, audit reports, and other fiscal reports as required under [Sections 44.008](#) and [44.010](#) and prescribe forms for financial reports made by or for school districts to the commissioner or the agency as required under [Section 44.009](#).

(14) The agency shall **cooperate with the Texas Higher Education Coordinating Board** in connection with the Texas partnership and scholarship program under Subchapter Q, Chapter 61. ⁴

(c) The agency may **enter into an agreement with a federal agency concerning a project related to education**, including the provision of school lunches and the construction of school buildings. Not later than the 30th day before the date the agency enters into an agreement under this subsection concerning a new project or reauthorizing a project, the agency **must provide written notice, including a description of the project, to:**

- (1) the Governor;*
- (2) the Legislative Budget Board; and*
- (3) the presiding officers of the standing committees of the senate and of the house of representatives with primary jurisdiction over the agency.*

The schools are created, funded, and operated by the citizens of each county. Taxes have been collected from the citizens of the county and allotted to the education of the students by the county. The Governor, by issuing the order to shut down the school, exceeded his authority and his edict acted as an unconstitutional taking from the citizens of each affected county.

a) Violation Constitutional Prohibition

The above cannot be construed as a violation of the separation of powers as, the dictates the Governor directed at the school is something the is not withing the State of Texas. The only entity authorized by the Texas Constitution is the Legislature, however, even the Texas Legislature is restricted concerning making laws affecting the schools. Texas Constitution [Article III Section 56](#) specifically prohibits the Legislature as follows:

[Article 3 - LEGISLATIVE DEPARTMENT Section 56 - LOCAL AND SPECIAL LAWS](#)

(a) The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing:

(18) regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;

The public schools are county business. The people of the county pay for the schools with their taxes, not the State of Texas and, therefore, the operation of the schools is the business of the county. There is nothing in public law that contemplates giving the Governor the power to take over the management of the schools from the counties.

b) Unlawful Taking

The Legislature, on passing the Texas Disaster Act of 1975, increased the powers of the Governor. It should be noted that the powers granted to the Governor under the Texas Disaster Act of 1975 only increased his power over governmental agencies. Sections 418.016 and 418.017 give the Governor the authority abolish regulatory statutes. It should be noted that “Regulatory Statutes” are not “General States

[Sec. 418.016. SUSPENSION OF CERTAIN LAWS AND RULES.](#)

(a) *The governor may suspend the provisions of any **regulatory statute** prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.*

(b) *Upon declaration of a state of disaster, **enforcement of the regulation** of on-premise outdoor signs under [Subchapter A, Chapter 216, Local Government Code](#), by a municipality that is located in a county within, or that is located in a county adjacent to a county within, the disaster area specified by the declaration is suspended to allow licensed or admitted insurance carriers or licensed agents acting on behalf of insurance carriers to erect temporary claims service signage for not more than 30 days or until the end of the declaration of disaster, whichever is earlier.*

c) Compensation

The Governor may commandeer private property in order to cope with an emergency but then, the state becomes liable for compensation under [Sec. 418.017](#) as followsP

[Sec. 418.017. USE OF PUBLIC AND PRIVATE RESOURCES.](#) (a) *The governor may use all available resources of state government and of political subdivisions that are reasonably necessary to cope with a disaster.*

(b) *The governor may temporarily reassign resources, personnel, or functions of state executive departments and agencies or their units for the purpose of performing or facilitating emergency services.*

(c) *The governor may commandeer or use any private property if the governor finds it necessary to cope with a disaster, **subject to the compensation requirements of this chapter.***

d) Deposit Required Before Taking

In the instant case, as the state did not take physical possession of the property over which the Governor asserted control, the state was required to provide a deposit of money to compensate the owner for the taking.

[Article I Section 17 Section 17 - TAKING, DAMAGING, OR DESTROYING PROPERTY FOR PUBLIC USE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES](#)

*No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and, **when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money;** and no irrevocable or uncontrollable grant of special privileges or immunities, shall be made; but all privileges and franchises granted by the Legislature, or created under its authority shall be subject to the control thereof.*

e) Failed To Provide Claim Mechanism

The Governor, on issuing his proclamations wherein he took control of properties owned by private parties failed to provide a method for seeking claims as required by [Sec. 418.153](#).

[COMPENSATION CLAIMS](#) which reads as follows:

[Sec. 418.153. COMPENSATION CLAIMS.](#) (a) *A person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim for compensation with the division in the form and manner required by the division.*

(b) *Unless the amount of compensation on account of property damage, loss, or destruction is agreed on between the claimant and the division, the amount of compensation is computed in the same manner as compensation due for taking of property under the condemnation laws of this state.*

f) Prohibition On Taking Without Compensation

While the requirement for compensation does not apply in all circumstances, property cannot be taken without compensation when said taking is in violation of the constitution as stipulated by Section Sec. [Texas Government Code Section 418.154](#) which reads in pertinent part as follows:

[Sec. 418.154. CERTAIN CLAIMS EXCLUDED.](#) *This subchapter does not apply to or authorize compensation for:*

(3) *contravention of [Article I, Section 17, of the Texas Constitution](#) or statutes pertaining to that section.*

The [Texas Constitution Article 1 Section 17](#) strictly forbids the taking of private property without compensation as follows:

[Sec. 17. TAKING PROPERTY FOR PUBLIC USE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES.](#)

(a) *No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for:*

(1) *the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by:*

(A) *the State, a political subdivision of the State, or the public at large; or*

(B) *an entity granted the power of eminent domain under law; or*

(2) *the elimination of urban blight on a particular parcel of property.*

(b) *In this section, "public use" does not include the taking of property under Subsection (a) of this section for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues.*

(c) *On or after January 1, 2010, the legislature may enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house.*

(d) *When a person's property is taken under Subsection (a) of this section, except for the use of the State, compensation as described by Subsection (a) shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities shall be made; but all privileges and franchises granted by the Legislature, or created under its authority, shall be subject to the control thereof.*

It should be noted that the above prohibition is contained in [Article I of the Texas Constitution, The Bill of Rights](#). As such, it is a permanent fixture in the law and may not be changed or circumvented by subsequent legislation.

D. Freedom to Travel

Freedom of movement under United States law is governed primarily by the [Privileges and Immunities Clause](#) of the [United States Constitution](#) which states,

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

Since the [circuit court](#) ruling in [Corfield v. Coryell, 6 Fed. Cas. 546](#) (1823), [freedom of movement](#) has been judicially recognized as a fundamental Constitutional right.

In [Paul v. Virginia, 75 U.S. 168 \(1869\)](#), the Court defined freedom of movement as

"right of free ingress into other States, and egress from them."

In [Saenz v. Roe, 526 U.S. 489 \(1999\)](#) the court addressed the right of free egress from state to state as follows:

"The right of 'free ingress and regress to and from' neighboring states which was expressly mentioned in the text of the Article of Confederation, may simply have been 'conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created.' " Id. at 501 (citations omitted). [In Saenz v. Roe, 526 U.S. 489 \(1999\)](#)

In [Paul v. Virginia, 75 U.S. \(8 Wall.\) 168 \(1869\)](#) the court spoke to the necessity of equal rights to travel among the various states without prejudice to the rights of the individual was best covered by the Privileges or Immunities Clause of the [Fourteenth Amendment](#), and was necessary to the Republic as follows:

"without some provision . . . removing from citizens of each State the disabilities of alienage in other States, and giving them equality of privilege with citizens of those

States, the Republic would have constituted little more than a league of States; it would not have constituted the Union which now exists."

1. Duty of State to Protect Rights

The [U.S. Supreme Court](#) did not invest the federal government with the authority to protect freedom of movement. Under the "privileges and immunities" clause, this authority was given to the states, a position the Court held consistently through the years in cases such as [Ward v. Maryland, 79 U.S. 418 \(1871\)](#), the [Slaughter-House Cases, 83 U.S. 36 \(1873\)](#) and [United States v. Harris, 106 U.S. 629 \(1883\)](#).

By the above, it is the duty of the State of Texas to protect the freedom of movement of citizens of the United States. The governor, by his proclamation acted to deny citizens of the various states in their rights and, thereby, exerted an authority he did not have.

2. Unlawful Seizure

The point is not that screening entry into the state is necessarily a problem, the problem is that, in order to enlist the cooperation of the people the governor would have to deny the affected citizens in the full and free access to or enjoyment of their right to be free from unlawful seizure and that is something neither the Governor or the Legislature has the power to do.

Complainant alleges that, by the above Defendant, **Greg Abbott**, violates the [Texas Constitution Article 1 Section 19](#) which reads as follows:

[Sec. 19. DEPRIVATION OF LIFE, LIBERTY, PROPERTY, ETC. BY DUE COURSE OF LAW.](#) No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

3. General Warrants

Governor Abbott issued executive orders GA – 11, 12, and 20 which purported to order general warrants to seize the public in their liberty as follows:

Every person who enters the State of Texas as the final destination through an airport, from a point of origin or point of last departure in New York, New Jersey, Connecticut, or the City of New Orleans, or in any other state or city as may be proclaimed hereafter, shall be subject to mandatory self-quarantine for a period of 14 days from the time of entry into Texas or the duration of the person's presence in Texas, whichever is shorter.

In said orders, Governor Abbott purports to further restrict liberty as follows:

A covered person shall remain in the designated quarantine location for a period of 14 days or the duration of the person's presence in Texas, whichever is shorter, leaving only to seek medical care or to depart from Texas. During that period, a covered person shall not allow visitors into or out of the designated quarantine location, other than a health department employee, physician, or healthcare provider, and shall not visit any public spaces.

The above amounts to seizure by proclamation where the Legislature could have been brought into special session for the purpose of passing the above proclamations into substantive law.

"That general warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offense is not particularly described and supported by evidence, are grievous and oppressive and ought not to be granted." [George Mason, Virginia Declaration of Rights, Article 10, June 12, 1776](#)

You will notice that the Governor chose not to enlist the power of the legislature but rather, took it upon himself to issue general warrants to seize the public in their liberty.

"Your Honors will find in the old books concerning the office of a justice of the peace precedents of general warrants to search suspected houses. But in more modern books you will find only special warrants to search such and such houses, specially named, in which the complainant has before sworn that he suspects his goods are concealed; and will find it adjudged that special warrants only are legal. In the same manner I rely on it, that the writ prayed for in this petition, being general, is illegal. It is a power that places the liberty of every man in the hands of every petty officer." [James Otis, Against Writs of Assistance, 1761](#)

a) Unlawful Search

The right to ingress to or egress from any state to or from any other state is fundamental to a functioning republic as addressed above. The above restrictions amount to an unlawful seizure in violation of the [Texas Constitution Bill of Rights Section 9](#) forbids the denial of certain rights as follows:

[Sec. 9. SEARCHES AND SEIZURES.](#) *The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.*

It would be bad enough if the Governor subjected citizens to a custodial detention while questions were asked, temperatures were taken, or tests were made, but to impose imprisonment by house arrest is far beyond any power contemplated by the Texas Constitution or Legislature. By the above referenced executive orders the Governor purports to impose a period to two weeks imprisonment for anyone egressing the state from points of origin of his choosing.

“That no free government, nor the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue; by frequent recurrence to fundamental principles; and by the recognition by all citizens that they have duties as well as rights, and that such rights cannot be enjoyed save in a society where law is respected and due process is observed.” [George Mason, Virginia State Constitution](#)

b) Threat of Force

Governor Abbott has converted all Department of Public Safety officers to members of his personal militia **as addressed above**. By the above referenced executive orders the Governor has threatened all citizens of the State of Texas with the use of force, or deadly force, by his militia to enforce the intent of his purpose as follows:

DPS Special Agents will conduct unannounced visits to designated quarantine locations to verify compliance by confirming the physical presence of covered persons. Any failure to comply with this order to self-quarantine shall be a criminal offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both.

c) It Happened While We Slept

The United States is the worst police state the world has ever seen. While, according to FBI statistics, crime was dropping dramatically every year for the last 30 years, while the number of police officers has risen from just over 7,000,000 to 1.2 million.

We have been indulging in a drug war and a war on crime by militarizing and overfunding our police to the point we have police on the street who must find crime even when there is not enough to go around. At the present, then United States houses more of its citizen in jails around the country, per capita, than any other country in the world.

Now we have digressed to the point that one of our politicians has commandeered our state police as his personal militia and set them on the public with orders to storm your houses without warrants or probable cause to “Society in every state is a blessing, but government even in its best state, is but a necessary evil; in its worst state, an intolerable one.” [Thomas Paine, Common Sense, 1776](#)

The Governor, emboldened by our inaction has set the hounds upon us.

‘When bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle.’ [Edmund Burke --Thoughts on the Cause of the Present Discontents, April 23, 1770](#)

The above is most often paraphrased as:

“All that is necessary for evil to succeed is that good men do nothing.”

4. Breach of Article I, Sections 10, 28 and 29

Governor purported to create law affecting the people of the State of Texas. These laws had the effect of denying covered persons in the right to be free from unlawful seizure and the right to be free from self-incrimination. The purported law, created by the Governor, through proclamation, requires a traveler to bear witness against him/herself by filling out a [government document](#) under penalty of prosecution for a violation of [Texas Penal Code 37.10, Tampering With A Government Document](#) if an error is discovered on the document.

a) Violation Article I Section 10

There is a wonderful video on [youtube](#) where a law professor is talking to a class about [When to Advise Your Client To Talk to the Police](#) that everyone should watch. It can be summed up in three words: never, Never, NEVER! This is supported by the [Texas Constitution Article 1 Section 10](#) which reads as follows:

*Sec. 10. RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. **He shall not be compelled to give evidence against himself,** and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.*

b) Violation of Texas Constitution Article I Section 28

What part of, “**shall not be compelled to give evidence against himself,**” is hard for the Governor to understand? This is a clear demonstration as to why our founders included <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.557.htm> at [Article 1 Section 28](#) as it mandates the following:

Sec. 28. SUSPENSION OF LAWS. No power of suspending laws in this State shall be exercised except by the Legislature.

Violation of Texas Constitution Article I, Section 29

Our founders did not mince word when they included this prohibition in the constitution and, if there be any confusion as to the rational of the above that should be settled by then next provision, [Bill of Rights at Article 29](#), for any reasonable person of ordinary prudence, should settle the issue’.

[Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOLETE.](#) To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

c) Wrongful Detention

The only time a person may be arrested without a warrant first being issued is stipulated by [Texas Code of Criminal Procedure Chapter 14.01-03](#). I did not quote it here as 14.03 gets a bit long and detailed but in the case of a misdemeanor, the offense must have been committed within the sight or hearing of the arresting officer or must have been ordered by a magistrate who personally saw or heard the offense committed.

By the above executive order, the Governor would order a person to give up their right to remain silent or be arrested under this new law he just created by edict. So, what if you happened to take a cheap flight that originated in El Paso, stopped in New Mexico, then Colorado and dropped you off in Amarillo, and you got off in Colorado to get a snack. If you did not fill out the form, you would be subject to arrest. If you filled out the form you would find no place to include connecting flights. If the officer then found that you were on a connecting flight and got off in Colorado, you would be subject to criminal charges and jail for violating [Texas Penal Code 37.10, Tampering With A Government Document](#).

d) Violation of Texas Penal code 32.48

As shown above, not only did the governor not have power to create legal requirements he was using armed personnel to enforce, he was specifically forbidden by the Texas Constitution from doing so. By the creation of a document consequent to the false penal statute the governor promulgated by edict, constituted a simulated a legal process in violation of [Texas Penal Code Section 32.48](#) which reads in pertinent part as follows:

[Section 32.48](#)

(a) A person commits an offense if the person recklessly causes to be delivered to another any document that simulates a summons, complaint, judgment, or other court process with the intent to:

(1) induce payment of a claim from another person; or

(2) cause another to:

(A) submit to the putative authority of the document; or

(B) take any action or refrain from taking any action in response to the document, in compliance with the document, or on the basis of the document.

5. 1st Degree Felony Aggravated Assault

In Complaint's humble opinion, Texas has the best corpus juris (body of law) of any state in the union. Our legal system was conceived using English and United States law as a model. That amounts to 800 years of careful refinement. Texas took that mass of legal experience and honed it into a system that has a legal remedy for most any malady.

a) Simple Assault

In the instant case, Texas has a law unique to Texas. When Texas put pistols on the hips of public officials, they placed an incredible responsibility on them. In Texas, if you indulge in offensive speech or offensive touching you will be in violation of Texas Penal Code 22.01 which reads in pertinent part as follows:

[Sec. 22.01. ASSAULT.](#)

(a) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;

(2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or

(3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

The above is simple assault and is a class C misdemeanor unless the act is committed against a public official acting or on account of having acted in an official capacity, in which case it would be a class A misdemeanor.

b) Aggravated Assault

If simple assault, as defined above, is committed by someone who is prominently displaying a deadly weapon, that would be a second degree felony as follows:

[Sec. 22.02. AGGRAVATED ASSAULT.](#) (a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:

(2) *uses or exhibits a deadly weapon during the commission of the assault.*

(b) *An offense under this section is a felony of the second degree,*

So, if you are doing open carry or are an armed public official, you must exercise greater care.

c) 1st Degree Felony Aggravated Assault

However, if you commit simple assault while prominently displaying a deadly weapon and you are a public official acting under the color (pretense) of an official capacity, under [Texas Penal Code 22.02\(b\)\(2\)\(A\)](#) which reads as follows:

[Sec. 22.02. AGGRAVATED ASSAULT.](#)

(a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:

(2) *uses or exhibits a deadly weapon during the commission of the assault.*

(b) *An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if:*

(2) *regardless of whether the offense is committed under Subsection (a)(1) or (a)(2), the offense is committed:*

(A) *by a public servant acting under color of the servant's office or employment;*

The State of Texas takes the use of force, or threat of force, by its public officials very seriously. When they put pistols in the hands of their governmental instruments, they intended that pistol be taken very seriously.

E. Denial of Access To medical Care

The Governor, by the above has taken control of private business and denied the public in the right to contract for medical services.

The elements of tortious interference with an existing contract are:

- 1) an existing contract subject to interference;
- 2) a willful and intentional act of interference with the contract;
- 3) that proximately caused the plaintiff's injury; and
- 4) caused actual damages or loss. *Prudential Ins. Co. of Am. v. Fin. Review Servs., Inc.*, 29 S.W.3d 74, 77 (Tex. 2000).

Executive orders proclaimed by the Governor, establish on their face an intent to interfere with any and all contracts held by anyone in the State of Texas which involve the contracting for medical care. [*Funes v. Villatoro*, 352 S.W.3d 200, 213 \(Tex. App.--Houston \[14th Dist.\] 2011, pet. denied\)](#).

While the Governor had the option of seeking Legislation that would have given legal sanction to his actions, the Governor chose to forgo that option and act under the color of a non-existent official capacity.

The Governor's actions were not justified as they were in taken under a good faith claim of a colorable legal right. In as much as the Governor is learned counsel and once held the position of Attorney General of the State of Texas, he can hardly claim justifiable mistake. [*Texas Beef Cattle Co. v. Green*, 921 S.W.2d 203, 211 \(Tex. 1996\)](#).

1. Interference With Private Contract

Healthcare insurance, Medicare, Medicaid and VA medical among others are contracts the United States has with the public. Under the [United States Constitution, Article I, Section 10, Clause 1](#) reads as follows:

[Article I, Section 10, Clause 1](#), No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of

*Attainder, ex post facto Law, or **Law impairing the Obligation of Contracts**, or grant any Title of Nobility. (emphasis added)*

By the above, Governor Abbott, denied the citizens the right to contract for medical services and where contracts, in the form of medical insurance, already existed, denied the people in the right to benefit from the contracts already in place and paid for.

“A wise and frugal government, which shall leave men free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned — this is the sum of good government.” – [Thomas Jefferson, First Inaugural Address, 1801](#)

2. Violation of Oath

Upon taking office, Governor Abbott swore to the following oath:

*[IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS](#), I, , do solemnly swear (or affirm), that I will faithfully execute the duties of the **office** of of the State of Texas, and will to the best of my ability **preserve, protect, and defend the Constitution and laws of the United States and of this State**, so help me God.*

By the above, the Governor exerted and authority he did not have an in the process denied the citizens of the State of Texas in their right to seek medical care in accordance with contracts they had with private entities and the Federal Government.

F. Right to Bail Suspended

*[Article 17.03 of the Texas Code of Criminal Procedure](#), and all other relevant statutes and rules relating to personal bonds, **are hereby suspended** to the extent necessary to preclude the release on personal bond of any person previously convicted of a crime that involves physical violence or the threat of physical violence, or of any person currently arrested for such a crime that is supported by probable cause. **I hereby order that no authority should release on personal bond** any person previously convicted of a crime that involves physical violence or the threat of physical violence, or any person currently arrested for such a crime that is supported by probable cause.*

a) Right to Bail

Bail is a function of the courts, not the executive. The executive can ask for bail or that bail be withheld but only the courts or the local sheriff can grant it. The Governor of the State of Texas has no power to set or revoke bail. The Governor, by his proclamations had issued an order to the court commanding them to make a specific judicial determination. This is an act beyond the scope of the authority of the governor as is in direct contravention to the prohibitions in Texas Constitution Article I and Article II.

b) Separation of Powers

c) Mass Incarceration

For a number of years now the country has been dealing with what is called the “mass incarceration” issue. Half of the budget for the criminal justice system in Texas is currently being expended for pre-trial detainees. These are people who have had the temerity to be accused of crime while poor. They are put in massively overcrowded jail and held in for months awaiting trial.

d) Denied Opportunity to Stay Safe

With the current pandemic, this places all of these people in an extremely precarious position. They cannot social distance. There simply is not room. They cannot choose who they get close to as there is simply not room. They cannot leave because they can’t afford bail and the Governor wants to stop the courts from trying to relieve some of the crowding.

Anyone who contracts Covid 19 in one of these overcrowded jails, who would have been eligible for the release programs Governor Abbott has illegally curtailed is on the Governor’s head. This can be construed as nothing less than depraved heart assault and murder if death occurs.

2. Official Oppression

The Governor, by way of his proclamations purports to suspend laws passed by the Legislature as follows:

[Art. 17.15. Rules Fixing Amount of Bail Suspended](#)

Article 17.15 1 of the Texas Code of Criminal Procedure is hereby suspended to the extent necessary to prevent any person’s automatic release on personal bond because the State is not ready for trial.

a) 15.21 Release on Personal Bond Suspended

[Art. 15.21. RELEASE ON PERSONAL BOND IF NOT TIMELY DEMANDED.](#) *If the proper office of the county where the offense is alleged to have been committed does not demand an arrested person described by Article [15.19](#) and take charge of the arrested person before the 11th day after the date the person is committed to the jail of the county*

in which the person is arrested, a magistrate in the county where the person was arrested shall:

- (1) release the arrested person on personal bond without sureties or other security; and*
- (2) forward the personal bond to:*
 - (A) the sheriff of the county where the offense is alleged to have been committed; or*
 - (B) the court that issued the warrant of arrest.*

b) 42.032 Good Conduct Statute Suspended

Art. 42.032. GOOD CONDUCT.

Sec. 1. To encourage county jail discipline, a distinction may be made to give orderly, industrious, and obedient defendants the comforts and privileges they deserve. The reward for good conduct may consist of a relaxation of strict county jail rules and extension of social privileges consistent with proper discipline.

Sec. 2. The sheriff in charge of each county jail may grant commutation of time for good conduct, industry, and obedience. A deduction not to exceed one day for each day of the original sentence actually served may be made for the term or terms of sentences if a charge of misconduct has not been sustained against the defendant.

Sec. 3. This article applies whether or not the judgment of conviction is a fine or jail sentence or both, but the deduction in time may not exceed one-third of the original sentence as to fines and court costs assessed in the judgment of conviction.

Sec. 4. A defendant serving two or more cumulative sentences shall be allowed commutation as if the sentences were one sentence.

Sec. 5. Any part or all of the commutation accrued under this article may be forfeited and taken away by the sheriff:

- (1) for a sustained charge of misconduct in violation of any rule known to the defendant, including escape or attempt to escape, if the sheriff has complied with discipline proceedings as approved by the Commission on Jail Standards;*
- (2) on receipt by the sheriff of a certified copy of a final order of a state or federal court that dismisses as frivolous or malicious a lawsuit brought by a defendant while the defendant was in the custody of the sheriff; or*
- (3) if the defendant, in violation of an order entered under Article [42.24](#), contacts the victim of the offense for which the defendant is serving a sentence or a member of the victim's family.*

Sec. 6. Repealed by Acts 2009, 81st Leg., R.S., Ch. 854, Sec. 7, eff. June 19, 2009.

Sec. 7. The sheriff shall keep a conduct record in card or ledger form and a calendar card on each defendant showing all forfeitures of commutation time and the reasons for the forfeitures.

c) 42.035 Electronic Monitoring & House Arrest Suspended

Art. 42.035. ELECTRONIC MONITORING; HOUSE ARREST. (a) A court may require a defendant to serve all or part of a sentence of confinement in county jail by

participating in an electronic monitoring program rather than being confined in the county jail, if the program:

- (1) is operated by a community supervision and corrections department that serves the county in which the court is located and has been approved by the community justice assistance division of the Texas Department of Criminal Justice; or*
- (2) is operated by the commissioners court of the county, or by a private vendor under contract with the commissioners court, under Section [351.904](#), Local Government Code, if the defendant has not been placed on community supervision.*
- (b) A judge, at the time of the pronouncement of a sentence of confinement or at any time while the defendant is serving the sentence, on the judge's own motion or on the written motion of the defendant, may permit the defendant to serve the sentence under house arrest, including electronic monitoring and any other conditions the court chooses to impose, during the person's off-work hours. The judge may require bail of the defendant to ensure the faithful performance of the sentence.*
- (c) The court may require the defendant to pay to the community supervision and corrections department or the county any reasonable cost incurred because of the defendant's participation in the house arrest program, including the cost of electronic monitoring.*
- (d) A defendant who submits to electronic monitoring or participates in the house arrest program under this article discharges a sentence of confinement in the same manner as if the defendant were confined in county jail.*
- (e) A court may revoke a defendant's participation in an electronic monitoring program and require the defendant to serve the remainder of the defendant's sentence of confinement in county jail if the defendant violates a condition imposed by a court under this article, including a condition requiring the defendant to pay for participating in the program under Subsection (c).*

Setting the amount of bail is the responsibility of the Judiciary by Chapter 16 Texas Code of Criminal Procedure.

3. Losing the Hounds

The Governor, in GA-11 unleashed his personal militia on the public as follows:

DPS Special Agents will conduct unannounced visits to designated quarantine locations to verify compliance by confirming the physical presence of covered persons. Any failure to comply with this order to self-quarantine shall be a criminal offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both.
[Executive Order GA-11 Page 3](#)

The above executive order purports to subject persons entering into the State of Texas to a period of self-imposed imprisonment for 14 days. The order comes with the threat of force to be exercised by Special Agents of the Department of Public Safety who have been commandeered by the Governor as his personal militia.

Complainant refers the reader to Section **Error! Reference source not found.(B)** above for a presentation on the improper conversion of the Department of Public into the Governor's personal militia.

4. Depraved Heart Assault

Gov. Greg Abbott was sworn in January 15, 2019 at the state Capitol where he swore on his oath as follows:

I, Greg Abbott, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of Governor of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.

The constitution the Governor swore to preserve, protect and defend specifies his duty to enforce the laws as follows:

Sec. 10. EXECUTION OF LAWS AND CONDUCT OF BUSINESS WITH OTHER STATES AND UNITED STATES BY GOVERNOR. He shall cause the laws to be faithfully executed and shall conduct, in person, or in such manner as shall be prescribed by law, all intercourse and business of the State with other States and with the United States.

The Governor has no power to usurp the constitution or breach the separation of powers as stipulated by [Texas Constitution Article II Section 1](#) which reads as follows:

Sec. 1. SEPARATION OF POWERS OF GOVERNMENT AMONG THREE DEPARTMENTS. The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

The Governor is forbidden from suspending laws passed by the legislature by [Texas Constitution Article 1 Section 29](#) which reads as follows:

Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOLETE. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

The Governor failed cause the laws to be faithfully executed. In fact, he specifically ordered magistrates and sheriffs not to faithfully execute laws passed by the Legislature in the face of the specific prohibition on specifically that action.

In furtherance of the above, the Governor enlisted law enforcement personnel to illegally hold people in jail simply because they were poor, when they had a right to release. Said act was an act of depraved heart assault in violation of [Texas Penal Code Section 22.02\(b\)\(2\)\(A\)](#) which reads in pertinent part as follows:

[Sec. 22.02. AGGRAVATED ASSAULT.](#) (a) *A person commits an offense if the person commits assault as defined in Sec. 22.01 and the person:*

(2) *uses or exhibits a deadly weapon during the commission of the assault.*

(b) *An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if:*

(2) *regardless of whether the offense is committed under Subsection (a)(1) or (a)(2), the offense is committed:*

(A) *by a public servant acting under color of the servant's office or employment;*

5. Organized Crime

Any person held in a jail in Texas who would be eligible for release under Texas Code of Criminal Procedure Articles [17.03](#), [17.151](#), [15.21](#), [42.032](#), or [42.035](#), were subjected to depraved heart assault in violation of [Texas Penal Code Chapter 71](#) which reads in pertinent part as follows:

[Sec. 71.02. ENGAGING IN ORGANIZED CRIMINAL ACTIVITY.](#)

(a) *A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more of the following:*

(1) *murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, continuous sexual abuse of young child or children, solicitation of a minor, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;*

Criminal street gang is defined by [Texas Penal Code 71.01\(d\)](#) as follows:

[Texas Penal Code 71.01\(d\)](#) *"Criminal street gang" means three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.*

On or before the making and filing of this complaint, Governor Greg Abbott, conspired with the magistrates and sheriffs of the State of Texas to committed the act of 1st Degree Felony Aggravated Assault against all poor persons arrested on allegations of violent offenses who were eligible for personal recognizance release, to hold them in Covid 19 infected jails in violation of Texas Penal Code Chapter 71, against the peace and dignity of the State of Texas.

6. Seditious - Public Law 557.001

In this case, the Governor promulgated edicts which had to effect of breaching specific prohibitions contained in the Texas Constitution. He then commandeered armed agents to enforce his dictates. The above act wars with the constitution as considered by the Legislature on passing [Texas Public Law 557.001](#) which reads in pertinent part as follows:

A person commits an offense if the person knowingly:

(1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence;

(2) under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or

(3) participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence. [Texas Public Law 557.001](#)

Complainant is not saying quarantine is necessarily a bad idea. Complainant is not saying people should not take precautions. Complainant is saying, the Governor of the State of Texas has no power to issue such an order and certainly does not have the power to threaten the public with force of arms for not following one of his dictates. There is no corresponding law passed by the Texas Legislature and the Legislature specifically forbids anyone other than the Legislature from passing law. Any legislation, proclamations, or edict to the contrary is void on its face, ab initio (from the beginning).

7. Official Oppression

I, Randall Kelton, complainant in the above criminal affidavit allege and affirm that, on or before the making and of this complaint, **Greg Abbott** purported to promulgate law by edict on the filing of [Governor's Executive Order GA – 11](#). Said act had the effect of denying all persons entering the state of Texas by air in the full and free access to and enjoyment of their right to the above referenced constitutional protections. Said act by Governor was an act of [Official Oppression](#) as defined by [Texas Penal Code 39.03](#), against the peace and dignity of the State of Texas.

V. ACTS UNDER COLOR (PRETENSE) OF LAW

During his tenure as Governor of the State of Texas, Greg Abbott has issued 31 executive orders. Reading the orders should embarrass us all. When the Governor first stepped across a legal line, it was our duty to rise up and rail in righteous indignation.

'When bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle.' [Edmund Burke --Thoughts on the Cause of the Present Discontents, April 23, 1770](#)

The above is most often paraphrased as:

"All that is necessary for evil to succeed is that good men do nothing."

It was our job to police the governmental instruments we have created. In a state of over 25 million people, no one stood up, including complainant. Instead, we sat back and winked at his bad behavior. We created in the Governor a sense of self-confidence as his orders became more blatant and wrongful until they had the effect of completely undermining the republic we hold in safe keeping.

"There is danger from all men. The only maxim of a free government ought to be to trust no man living with power to endanger the public liberty." [John Adams, Notes for an Oration at Braintree, Massachusetts, 1772](#)

Our Governor has taken the most robust economy in the country, if not the world, and reduced it to a shambles and it is still crumbling in the aftermath; he imprisoned the public in their homes; he locked our children out of the schools we paid for; and he denied all of us in effective medical care.

Statistics show that people are dying of increased numbers of matters unrelated to Covid 19.

That is on our heads as well as the Governor's; the governors because of his proactive proclamations, and ours because we stood meekly by and let the Governor turn the proud state of Texas into a dictatorship.

"If ye love wealth better than liberty, the tranquility of servitude better than the animating contest of freedom, go home from us in peace. We ask not your counsels or your arms. Crouch down and lick the hands which feed you. May your chains set lightly upon you, and may posterity forget that you were our countrymen." [Samuel Adams - Speech at the Philadelphia State House, August 1, 1776](#)

A. Governor Is Without Power to Create, Abolish, or Change Law

The government of the State of Texas is broken into three branches, the Legislature, the Executive, and the Judiciary. The Legislature makes the law; the Executive enforces the law, and the Judiciary rules on the application of the law. Nothing in the intent of the founders as evidenced by the [Texas Constitution](#) indicates the Legislature intended that the Executive branch share law making powers with the Legislature.

a) We Have Been Here Before

The situation we now face is not unique or even unprecedented. Our founders were well-aware of the tendency of those in power to want to increase their power and that they would never let a good crisis go to waste. The best time for a power grab is during a crises. History shows that governmental officials can be trusted to never let a good crisis go to waste. Often, those in positions power and influence will create a crisis as justification for their misdeeds. Military coups are almost always perpetrated on the heels of a carefully crafted crisis.

b) Our Founders Saw This Coming

Our founders were well-aware of this tactic and put prohibitions in place to prevent it. The primary provision is contained in the [Texas Constitution Bill of Rights as Section 28](#) which reads as follows:

[Sec. 28. SUSPENSION OF LAWS.](#) No power of suspending laws in this State shall be exercised except by the Legislature.

This is not a complex concept. It is clear that our founders contemplated a situation where the high powers of government would be inclined to adjust or abridge the law to suit a consideration or concern of the moment and took steps to prevent it. This concern is further buttressed by [Texas Constitution Bill of Rights at Article 29](#) which reads as follows:

[Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOLETE.](#) To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

The above provision, by its very wording clearly indicates that the concern was not an outside interloper, but rather the “high powers” of our own government and the Governor is the highest

individual power in the state. It should be construed that Article I, Section 29 was pointed directly at the Governor.

c) Laws To Be Faithfully Executed

Rather than create, abolish, or change law, the Governor was specifically commanded by the [Texas Constitution at Article IV, Section X](#) as follows:

[SECTION X.](#) *He shall take care that the laws be faithfully executed.*

The above can hardly be construed as a polite request. [The Constitution of the State of Texas](#) is the highest law of the land and all governmental powers flow from it's authority. In the instant case, there is no authority for the above referenced action by the Governor. As the highest executive in the state, the Governor was specifically commanded to "take care that the laws be faithfully executed."

d) Binding Constitution

Thomas Jefferson gave us all fair good advise:

"...in questions of power then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the constitution." [Extract from Thomas Jefferson's Fair Copy of the Kentucky Resolutions of 1798](#)

The State of Texas has endured many tribulations but never did it abandon the constitution for the expediency of the moment. Never did Texas disrespect the sacrifice of those who gave their lives for this republic by abandoning their constitution to serve momentary convenience.

It is well established that the [Texas Constitution](#) is the highest law in the State of Texas and our founders forbad us to discard it to serve immediate inconvenience.

[Texas Constitution Bill of Rights at Article 29](#) although quoted above, bears repeating:

[Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOULATE.](#) *To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.*

e) The Screws Doctrine

The Governor is learned counsel, was the Attorney General of the State of Texas, therefore, it cannot be construed that he was not aware of the wrongful and unconstitutional nature of his

acts. This was addressed by the courts under the Screws Doctrine. In [Screws v. United States, 325 U.S. 91 at 109 \(1945\)](#), a sheriff and two deputies in Mississippi were drinking in a bar and were upset at a black person and decided to arrest him. The bar tender tried to reason with them but they would not be dissuaded. They subsequently arrested him then beat him to death on the courthouse steps. After being tried in the state then sued in the federal courts they complained that they did not have adequate notice. The court opined as follows:

He who defies a decision interpreting the Constitution knows precisely what he is doing. If sane, he hardly may be heard to say that he knew not what he did. [Screws v. United States, 325 U.S. 91 at 109 \(1945\)](#)

In the instant case, it cannot be construed that the Governor was somehow unaware of the illegal nature of his behavior.

2. Masters of the Servants

If the rule of law is so important that a citizen of this republic, the master of the governmental servant, can be held criminally liable for a “rolling stop” or “allowing their tires to touch the yellow line” can we stand by while our highest executive of the state flaunts abolishes those laws in direct contravention to the Constitution and exerts, or purports to exert an authority he does not have for the purpose the misuse of public funds.

3. Fears of Our Founders

This speaks to the greatest fear of our founders. They feared the very instruments they created to serve the people would wind up the undoing of the republic. The ultimate responsibility for preserving the republic is in the hands of the people.

*At the same time, all of us—the judiciary, the other branches of government, and our fellow citizens—**must insist that every action our governments take complies with the Constitution**, especially now. If we tolerate unconstitutional government orders during an emergency, whether out of expediency or fear, we abandon the Constitution at the moment we need it most.* [In re Salon A La Mode, et al, No.20—0340,2020 2020 WL 2125844 \(Tex.May5,2020\)](#)

Complainant, as a citizen of the State of Texas and the master of the governmental instruments we have created bring these issues before the grand jury and ask that they consider more than the moment, look past the instant crisis and act to preserve our precious republic.

“The Constitution is not suspended when the government declares a state of disaster.”
*In re Abbott, No. 20-0291, 2020 WL 1943226, at *1 (Tex. Apr. 23, 2020). All government*

power in this country, no matter how well-intentioned, derives only from the state and federal constitutions.

I ask that you not grant the Governor a moral waiver simply because he holds a high office. I remind you that our founder put safeguards in place I now invoke for the specific purpose of restraining the high offices of government.

Government power cannot be exercised in conflict with these constitutions, even in a pandemic. [*In re Salon A La Mode, et al, No.20—0340,2020 2020 WL 2125844 \(Tex.May5,2020\)*](#)

When the people lose the will to protect their rights, our government officials, acting in the best of faith will make sure to let no crisis go to waste, and will gladly take those rights from us as Governor Abbott has so aptly demonstrated.

At the Virginia Convention on March 23, 1775, [Patrick Henry](#) spoke these famous words in his speech. He addressed the audience with intentions of convincing them that they must enter the [Revolutionary War](#) in order to defend their freedom. He spoke about:

- How they were turning their eyes to an injustice
- How ignoring how Britain treated them could not be good for their country in the long run.
- It was their duty not only to themselves, but also to God to fight for the freedom they believed they so rightly deserved.

His last words to the audience were:

"Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty or give me death!"

B. Improper Taking

Governor Abbott, by a number of his executive orders purported to property in the private pervue of the people.

a) Limits on Power To Take Property

The [Texas Constitution Article IV](#) creates the office of Governor and assigns certain powers and authorities to the Governor. The office of Governor was created to be the head of the Executive branch of government and was given power over offices and agencies of the executive branch.

b) Disaster Act Only Grants Increased Power Over Regulatory Agencies

The Legislature, on passing the [Texas Disaster Act of 1975](#), increased the powers of the Governor. It should be noted that the powers granted to the Governor under the Texas Disaster Act of 1975 only increased his power over governmental agencies. [Sections 418.016](#) and [418.017](#) give the Governor the authority abolish regulatory statutes. It should be noted that “Regulatory Statutes” are not “General States. Regulatory statutes apply to regulatory agencies and parties who are in contractual privity with the agency through an occupational license. Those regulations only apply to the licenses individual in the limited capacity of the licensee’s actions under authority of the license.

Sec. 418.016. SUSPENSION OF CERTAIN LAWS AND RULES.

*(a) The governor may suspend the provisions of any **regulatory statute** prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.*

*(b) Upon declaration of a state of disaster, **enforcement of the regulation** of on-premise outdoor signs under [Subchapter A, Chapter 216, Local Government Code](#), by a municipality that is located in a county within, or that is located in a county adjacent to a county within, the disaster area specified by the declaration is suspended to allow licensed or admitted insurance carriers or licensed agents acting on behalf of insurance carriers to erect temporary claims service signage for not more than 30 days or until the end of the declaration of disaster, whichever is earlier.*

c) Compensation

The Governor may commandeer private property under specific and limited circumstances, only in order to cope with an emergency but then, the state becomes liable for compensation under [Sec. 418.017](#) as follows:

Sec. 418.017. USE OF PUBLIC AND PRIVATE RESOURCES. *(a) The governor may use all available resources of state government and of political subdivisions that are reasonably necessary to cope with a disaster.*

(b) The governor may temporarily reassign resources, personnel, or functions of state executive departments and agencies or their units for the purpose of performing or facilitating emergency services.

*(c) The governor may commandeer or use any private property if the governor finds it necessary to cope with a disaster, **subject to the compensation requirements of this chapter.***

d) Deposit Required Before Taking

In the instant case, as the state did not take physical possession of the property over which the Governor asserted control, the state was required to provide a deposit of money to compensate the owner for the taking.

[Article I Section 17 Section 17 - TAKING, DAMAGING, OR DESTROYING PROPERTY FOR PUBLIC USE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES](#)

No person's property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the State, such compensation shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities, shall be made; but all privileges and franchises granted by the Legislature, or created under its authority shall be subject to the control thereof.

e) Constitutional Prohibition

[Sec. 9. SEARCHES AND SEIZURES](#). *The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.*

“A Government is instituted to protect property of every sort...This being the end of government, that alone is a just government, which impartially secures to every man, whatever is his own.” [James Madison, Property, March 29, 1792](#)

f) Failed To Provide Claim Mechanism

The Governor, on issuing his proclamations wherein he took control of properties owned by private parties failed to provide a method for seeking claims as required by [Sec. 418.153. COMPENSATION CLAIMS](#) which reads as follows:

[Sec. 418.153. COMPENSATION CLAIMS.](#) (a) *A person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim for compensation with the division in the form and manner required by the division.*

(b) *Unless the amount of compensation on account of property damage, loss, or destruction is agreed on between the claimant and the division, the amount of compensation is computed in the same manner as compensation due for taking of property under the condemnation laws of this state.*

g) Prohibition On Taking Without Compensation

While the requirement for compensation does not apply in all circumstances, property cannot be taken without compensation when said taking is in violation of the constitution as stipulated by Section Sec. [Texas Government Code Section 418.154](#) which reads in pertinent part as follows:

[Sec. 418.154. CERTAIN CLAIMS EXCLUDED.](#) This subchapter does not apply to or authorize compensation for:

(3) contravention of [Article I, Section 17, of the Texas Constitution](#) or statutes pertaining to that section.

The [Texas Constitution Article 1 Section 17](#) strictly forbids the taking of private property without compensation as follows:

[Sec. 17. TAKING PROPERTY FOR PUBLIC USE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES.](#)

(a) No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for:

(1) the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by:

(A) the State, a political subdivision of the State, or the public at large; or

(B) an entity granted the power of eminent domain under law; or

(2) the elimination of urban blight on a particular parcel of property.

(b) In this section, "public use" does not include the taking of property under Subsection (a) of this section for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues.

(c) On or after January 1, 2010, the legislature may enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house.

(d) When a person's property is taken under Subsection (a) of this section, except for the use of the State, compensation as described by Subsection (a) shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities shall be made; but all privileges and franchises granted by the Legislature, or created under its authority, shall be subject to the control thereof.

It should be noted that the above prohibition is contained in [Article I of the Texas Constitution, The Bill of Rights](#). As such, it is a permanent fixture in the law and may not be changed or circumvented by subsequent legislation.

C. Governor's Personal Militia

The State of Texas does not maintain a standing militia. If it did, the Governor would effectively have his own army. Our Texas founders did not see fit to create a standing militia with good cause. The founders of the United States spoke to the dangers of a standing army as follows:

During the Virginia ratifying convention, James Madison described a standing army as the “*greatest mischief that can happen.*”

[Delegate to the Constitutional Convention of 1787, George Mason](#) addressed standing armies as follows:

“No man has a greater regard for the military gentlemen than I have. I admire their intrepidity, perseverance, and valor. But when once a standing army is established in any country, the people lose their liberty. When, against a regular and disciplined army, yeomanry are the only defence [sic], — yeomanry, unskillful and unarmed, — what chance is there for preserving freedom? Give me leave to recur to the page of history, to warn you of your present danger. Recollect the history of most nations of the world. What havoc, desolation, and destruction, have been perpetrated by standing armies!” [George Mason](#)

[James Madison, in the Federalist, No. 29](#) opined on the subject as follows:

If circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little, if at all, inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow-citizens. This appears to me the only substitute that can be devised for a standing army, and the best possible security against it, if it should exist. [James Madison, in the Federalist, No. 29](#)

In an essay published in the Wall Street Journal last August, [Radley Balko, author of “Rise of the Warrior Cop”](#) presents chilling and convincing evidence of the blurring of the line between cop and soldier:

Driven by martial rhetoric and the availability of military-style equipment — from bayonets and M-16 rifles to armored personnel carriers — American police forces have often adopted a mind-set previously reserved for the battlefield. The war on drugs and, more recently, post-9/11 antiterrorism efforts have created a new figure on the U.S. scene: the warrior cop — armed to the teeth, ready to deal harshly with targeted wrongdoers, and a growing threat to familiar American liberties. [Radley Balko, -- “Rise of the Warrior Cop”](#)

Texas has divided up law enforcement among the 254 counties with elected Sheriff's ruling over each department. This was no accident on the part of our founders. It was a conscious and necessary strategy to prevent just the situation the Governor would now put upon us.

Our founders did not create a state police, with good reason. State police only became expedient when the Legislature created a statewide traffic code which the local sheriffs were reluctant to enforce. In the creation of the Highway Patrol, restrictions were carefully crafted to keep them out of the hands of the politicians.

What will we say when our children ask how we managed to give them this police state? We will have to answer, “Baby steps.” Through a series of seemingly minor adjustments toward administrative convenience and adjudicative expediency, we gradually let the flood gates open while we slept.

We cannot stand by while our Governor, acting as a most kind and benevolent dictator, converts our traffic police to the standing army our founders warned us about.

1. DPS Statutory Authority

The Governor is given power over the military forces of the State of Texas by the [Texas Constitution Article IV Section VI](#) as follows:

[SECTION VI.](#) He shall be Commander in Chief of the militia of the State, except when they are called into the actual service of the United States.

The Governor, by his executive orders, has commandeered the [Texas Department of Public Safety](#) and has tasked them with enforcing his edicts in violation of their charter as stipulated by [Texas Administrative code Title 37 Rule 1.11\(d\)](#) which reads in pertinent part as follows;

(d) It is a solemn obligation of members of the department to uphold the constitutions of the United States and the State of Texas as well as to enforce the statutory enactments. Constitutional provisions take precedence over statutory enactments. In the enforcement of the provisions of a statute, personnel of the department of public safety will refrain from infringing upon any rights or privileges guaranteed by the constitutions.

Further, it is the statutory policy of the Department of Public Safety, at [Texas Administrative code Title 37 Rule 1.11\(e\)](#) to only enforce regulatory authorities and leave criminal enforcement to local law enforcement as follows:

(e) The department recognizes that the basic responsibility for the enforcement of the criminal laws rests with the local officers in their respective jurisdictions. It is the policy of the department to cooperate with and assist local officers fully in these matters but to leave the basic responsibility to them unless specifically assigned to do otherwise.

The Legislature of the State of Texas, on creating the DPS only intended that the agency enforce traffic laws by [Texas Administrative code Title 37 Rule 1.11\(f\)](#) which reads as follows:

(f) It is the policy of the department to assume primary responsibility for traffic supervision on the rural highways of this state, including the regulation of commercial traffic.

The [Texas Department of Public Safety](#) by way of [Texas Administrative code Title 37 Rule 1.11\(g\)](#), was tasked with cooperating with all governmental agencies in discharging statutory duties as follows:

(g) The department will cooperate with all governmental agencies discharging statutory duties when assistance complies with state law and departmental policies and regulations.

There is nothing in the enacting legislation that can be construed to give [Texas Department of Public Safety](#) power to enforce proclamations or pronouncements of the Governor. In fact, they were specifically restricted to statutory duties.

2. Improper Use of Military Style Force

Governor Abbott, by the above, threatened the citizens of the State of Texas with the use of force or deadly force when he commandeered the [Department of Public Safety](#) as an enforcement arm of his personal militia. This will be discussed in more detail below in the discussion of each relevant executive order.

The Governor has further threatened each “covered person” with search of their private abodes, without warrant, by his armed militia with the threat of arrest, fine and/or imprisonment, if they defy one of his edicts to the letter.

Further, since the edicts fail to specify the nature and cause of the proclamations, the people are left to infer when they are in compliance and when they are not.

D. Business Closure Violates The Due Process Clause

Under Governor Abbott’s Executive Orders, Relators’ businesses are assumed to be virus incubators despite a lack of evidence demonstrating so and without providing those businesses with any due process to contest that assumption. [Article I, § 19 of the Texas Constitution](#) provides that:

“No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due process of the law of the land.”

[Article 1.04 of the Texas Code of Criminal Procedure](#) parrots the language of the due course of law provision identified in article I, section 19 of the Texas Constitution and reads as follows:

[Art. 1.04. DUE COURSE OF LAW.](#) No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

Moreover, [Texas Code of Criminal Procedure art. 38.03](#) provides that:

[Art. 38.03. PRESUMPTION OF INNOCENCE.](#) All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that he has been arrested, confined, or indicted for, or otherwise charged with, the offense gives rise to no inference of guilt at his trial.

[Article I, section 19](#), precludes a governmental from requiring that a person prove his/her innocence before they will be allowed to exercise a constitutionally protected right. Under the Governor's executive orders, one must prove a near death condition before they can seek medical care or face criminal penalties. One must prove they are not infected before they can enter into the State of Texas and exercise their right to locomotion. Also, if someone is arrested and poor, they are subject to being denied the right to release on personal recognizance and will be held in a crowded, Covid19 incubator awaiting trial.

E. Orders Violate Separation of Powers Doctrine

Abbott's Executive Orders unconstitutionally infringe on the roles of the coequal branches of the Legislature and the Judiciary. The Texas Constitution divides the government into "three distinct departments, each of which shall be confided to a separate body of magistracy, to wit:

[Sec. 1. SEPARATION OF POWERS OF GOVERNMENT AMONG THREE DEPARTMENTS.](#) The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

The Texas separation of powers doctrine "prohibits one branch of government from exercising a power belonging inherently to another." [In re Dean, 393 S.W.3d 741, 747 \(Tex. 2012\)](#).

1. Exceptions Must Be Explicit

Because of the Texas Constitution's "explicit prohibition against one government branch exercising a power attached to another," [Perry v. Del Rio, 67 S.W.3d 85, 91 \(Tex. 2001\)](#),

exceptions to the constitutionally-mandated separation of powers may “never be implied in the least; they must be ‘expressly permitted’ by the Constitution itself.” [Fin. Comm'n of Texas v. Norwood, 418 S.W.3d 566, 570 \(Tex. 2013\)](#).

2. Legislation Expressly Delegated to Legislature

Here, the [Texas Constitution, Article I, §28](#), expressly delegates to the Legislature the sole authority to “suspend law” and there is no provision of Texas law in which the legislature has clearly, expressly, and unequivocally ceded that authority to the executive. The Texas Legislature, not Governor Abbott, is responsible for creating laws under Article II, §1.

3. Executive Orders Infringe On Legislative Power

Abbott’s Orders infringe upon the Legislature’s powers by suspending laws enacted by the Legislature, in the absence of constitutional authority to do so. The [Texas Constitution](#) vest all lawmaking power in the Legislature, including the power to make, alter, suspend, and repeal laws. [Walker v. Baker, 196 S.W.2d 324, 328 \(1946\)](#).

F. Orders Violate the Equal Protection Clause of the Texas Constitution.

Abbott, assumes that preventing the spread of COVID-19 represents a compelling government interest. However, the means to fulfill that interest usurp the laws or Constitution of the State of Texas.

Abbott’s Executive Orders seek to determine which people, services, and groups are essential and which are non-essential. His proclamations are based solely on his personal determinations which appear to be based on vague or arbitrary criteria. Such authority to make or alter constitutional rights and/or create legislation is the province of the legislature and the people, not by the unilateral declaration of one person, Governor Abbott.

G. Culpable Mental State

The Governor has issued orders that restrict the people in the full and free exercise of their rights. While the Legislature can make, amend, and repeal law, they cannot make law that binds the people in their rights.

There were options available to the government. This is not our first crisis and laws have already been enacted to handle such events. [Texas Penal Code Article 6.03](#) already addresses these circumstances as follows:

Sec. 6.03. DEFINITIONS OF CULPABLE MENTAL STATES.

(a) A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

(b) A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

(c) A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

(d) A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

H. Depraved Assault/Heart Murder

Every person in the State of Texas, by Governor Abbott's executive orders, have been subjected to depraved heart assault. Every person who stood aside from their rights in consideration of the threats of the Governor, backed by his self-appointed militia, have been subjected to the very depravations of liberty Patrick Henry was willing to die for, the very rights many have already died for.

"There is danger from all men. The only maxim of a free government ought to be to trust no man living with power to endanger the public liberty." [John Adams, Notes for an Oration at Braintree, Massachusetts, 1772](#)

The Governor purported to create laws by edict, then commandeered the Texas Department of Public Safety, as his personal armed militia, to physically enforce those law through the use of force or threat of force by persons prominently displaying deadly weapons with the clear intent of using those weapon toward deadly outcomes if resisted.

For every person who died of a life threatening condition, who did not know their condition was life threatening because they were ordered not to seek medical assistance unless they knew their condition was life threatening, or contracted the virus while being improperly held in a crowded jail and perished therefrom, their blood on the hands of the Governor who lost faith with his masters.

Depraved-heart murder can be described as involuntary manslaughter plus. That is, it has all of the elements of involuntary manslaughter plus an additional element of outrageousness.²² An argument against the crime's existence is the difficulty of ascertaining when the level of outrageousness has reached the level of depraved heart. Professor Crump once described the concept of depraved heart as having a wonderful rhetorical flourish like Robert Burns's "O, my luve's like a red, red rose," and being just as devoid of meaning.²³ I agree that precisely where the line is between recklessness and outrageous recklessness can be a bit murky, and undoubtedly, there are some cases that are close to the line. Nevertheless, there are some easy cases, and they should be punished accordingly. [UNINTENTIONAL KILLINGS Arnold H. Loewy](#)

1. Access To Medical Care

Consequent to the above, people refrained from seeking medical attention unless they knew their conditions were life threatening. Statistics show a dramatic increase in deaths from treatable conditions during the time in which the executive orders from the Governor restricted public access to medical facilities.

[Sec. 19.01. TYPES OF CRIMINAL HOMICIDE.](#) (a) *A person commits criminal homicide if he intentionally, knowingly, recklessly, or with criminal negligence causes the death of an individual.*

(b) *Criminal homicide is murder, capital murder, manslaughter, or criminally negligent homicide.*

Where it can be shown that one person, in response to the threats made by the Governor, failed to seek medical treatment and subsequently died of a treatable condition, the Governor's unlawful proclamations must be construed as a proximate cause of the death.

2. Denied Access to Bail

The Governor, by edict, ordered magistrates and sheriff's to deny people accused of crime but who were eligible for release on personal recognizance bonds, release from jail. For some reason, the Governor limited his restriction only to the poor.

This trapped poor defendant inside the worst of Covid 19 incubators, the local jails.

If it can be shown that anyone contracted Covid 19 while being denied release they were otherwise entitled to, the Governor should be considered criminally culpable for depraved heart assault. If anyone subsequently died, there death would be an act of depraved heart murder and would be on the head of the Governor as the proximate cause.

3. Legislative Option Ignored

Had the Governor convened the Legislature to apply strict scrutiny to the proclamations by the Governor would have addressed the likelihood that people may dies unnecessarily and thereby, these ill-considered proclamations would have succumbed to prudence and good judgment. By acting unilaterally, in his official capacity, the Governor exerted, or purported to exert an authority he did not have, while using the DPS in the form of his own militia as a threat of force or deadly force against anyone who would defy his proclamations, committed the act of [Aggravated Assault](#), in violation of [Texas Penal Code 22.02\(b\)\(2\)\(A\)](#) against all who needed life saving medical intervention or was trapped in jail as a result of the Governor's friendly dictatorship.

4. Unlikely Justice

It is unlikely that the Governor will ever be called to answer for deciding who gets to during this crisis. It is the nature of public officials to protect public officials and that is precisely why I am here appealing to a grand jury of my peers.

At the time of this filing, 5% of the available hospital space is being taken up by people who have Covid 19. However, 75% of our hospital space is now empty as a direct result of the personal proclamations of Governor Abbott and people are still dying from lack of medical care.

5. Jails as Covid 19 Incubator

The jails are an absolute incubating ground for the virus. It can hardly be construed that the Governor was unaware of the likelihood that people would die as a result of his order. I am sure the Governor rationalized his interference with the rule of law with the considerations that possibly more people would die if he did not take the actions he did. But we don't get to round up the infected, pile them up and burn them to protect the un-infected.

6. Civil Binds Us to the Rules

In Viet Nam, the CIA spooks told us that, if we went into a village and killed half the kids, the soldiers in the field would be demoralized and return home to protect their families. That was the CIA. They apparently didn't have rules, but we did. We had rules and we followed them. The Governor had rules binding him down to the Constitution and he chose to ignore them. This is on him.

VI. IMPROPER EXECUTIVE ORDERS

A. GA – 02 Suspension of Laws

On the 13th day of September, 2017 the Governor issued an executive order [Relating to the suspension of the seven-day waiting period for certain state unemployment insurance claimants who have become unemployed as a direct result of the disaster created by Hurricane Harvey](#). Said order reads in pertinent part as follows:

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, by virtue of the power and authority vested in me by [Section 207.0212 of the Texas Labor Code](#), do hereby order the suspension of the seven-day waiting period requirement imposed under [Section 207.021\(a\)\(8\) of the Texas Labor Code](#) to authorize an individual to receive benefits for that waiting period if the individual is:

unemployed as a direct result of a natural disaster that resulted in the major disaster declaration issued by the President of the United States (FEMA 4332- DR) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Section 5121 etseq.; and

otherwise eligible for unemployment compensation benefits under the Texas Unemployment Compensation Act; and

not receiving disaster unemployment assistance benefits for the period included in that waiting period.

1. Section 207.021(a)(8) of the Texas Labor Code Unconstitutional

In this executive order Governor Abbott claims authority under [Section 207.0212 of the Texas Labor Code](#) which reads as follows:

(a) In this section, “disaster unemployment assistance benefits” means benefits authorized under Section 410, Robert T. Stafford Disaster Relief and Emergency Assistance Act ([42 U.S.C. Section 5177](#)), and rules adopted under that section.

(b) Notwithstanding [Section 207.021](#) , the Governor, by executive order, may suspend the waiting period requirement imposed under [Section 207.021\(a\)\(8\)](#) to authorize an individual to receive benefits for that waiting period if the individual:

- (1) is unemployed as a direct result of a natural disaster that results in a disaster declaration by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ([42 U.S.C. Section 5121 et seq.](#));*
- (2) is otherwise eligible for unemployment compensation benefits under this subtitle; and*
- (3) is not receiving disaster unemployment assistance benefits for the period included in that waiting period.*

It is clear from a reading of the referenced code that the code grants no power to change the mandate of [Section 207.02 l\(a\)\(8\) of the Texas Labor Code](#). It appears as though the Governor was testing the waters to see if anyone raised an objection. It is amazing to Complainant that, with over 25 million citizens in this republic, not one raised an issue over passage of the above legislation. The legislation purports to grant the Governor power to abolish law. This is a direct violation of the specific prohibition of the [Texas Constitution Bill of Rights as Section 28](#) which reads as follows:

[Sec. 28. SUSPENSION OF LAWS](#). No power of suspending laws in this State shall be exercised except by the Legislature.

The power to abolish law was intended to be in the hands of the Legislature and the Legislature only. There is nothing in the Texas Constitution to indicate that our founders intended that the Legislature had the power to delegate its primary authority.

a) High Powers Singled Out

It is clear that our founders contemplated a situation where the high powers of government would be inclined to adjust or abridge the law to suit a consideration or concern of the moment and took steps to prevent it. This concern is further buttressed by [Texas Constitution Bill of Rights at Article 29](#) which reads as follows:

[Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOLETE](#). To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

b) Laws Be Faithfully Executed

Rather than abolish law, the Governor was specifically commanded by [Article IV, Section X](#) as follows:

[SECTION X](#). He shall take care that the laws be faithfully executed.

The above can hardly be construed as a polite request. The [Constitution of the State of Texas](#) is the highest law of the land and all governmental powers flow from its authority. In the instant case, there is no authority for the specific act and the highest executive in the state was specifically commanded to “take care that the laws be faithfully executed.”

2. Official Misconduct

The Governor, while acting under the color (pretense) of his official capacity as the highest level public officer in the State of Texas, abridged laws of the state and improperly dispersed funds in excess of \$300,000.00, in violation of [Texas Penal Code 39.02](#) which reads in pertinent part as follows:

[Sec. 39.02. ABUSE OF OFFICIAL CAPACITY.](#)

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

(1) violates a law relating to the public servant's office or employment; or

(2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) is:

(7) a felony of the first degree if the value of the use of the thing misused is \$300,000 or more.

Complaint alleges that, on or before the making and filing of this complaint, **Greg Abbott**, exerted an authority he did not have by abridging a law of the State of Texas and illegally disbursed amounts in excess of \$300,000.00 from the public treasury, to the public in order to enhance his electability, in an act of [Official Misconduct](#), in violation of [Texas Penal Code Article 39.02\(c\)\(7\)](#) against the peace and dignity of the State of Texas.

B. GA – 06 Suspension of Laws

On the 13th day of July, 2019 Governor Abbott issues and order [Relating to necessary assistance from qualified plumbers with disaster recovery and preparedness, suspending Section 1301.003 of the Texas Occupations Code to prevent the imminent abolition of the Texas State Board of Plumbing Examiners and expiration of the Plumbing License Law on September 1, 2019, and delaying that abolition and expiration until disaster needs subside or the 87th legislature addresses the matter](#) which reads as follows:

NOW, THEREFORE, by virtue of the power and authority vested in me by the [Texas Constitution](#) and the [Texas Disaster Act of 1975](#), I do hereby suspend [Section 1301.003 of the Texas Occupations Code](#) to prevent the imminent abolition of [the Texas State Board of Plumbing Examiners](#) and expiration of the [Plumbing License Law](#) on September 1, 2019, and to delay that abolition and expiration until disaster needs subside or the 87th legislature addresses the matter. To facilitate the legislature's consideration of the issue, this suspension shall have the force and effect of law until May 31, 2021. This executive order supersedes all previous orders on this matter that are in conflict or inconsistent with its terms, and this order shall remain in effect and in full force until modified, amended, rescinded, or superseded by me or by a succeeding Governor.

1. TEXAS SUNSET ACT.

[Chapter 325 Texas Government Code](#), referred to as [The Texas Sunset Act](#), as passed in 1977 by the Sixty-fifth Legislature, provided for a commission to review most state agencies every twelve years in order to determine if they should be continued or abolished.

a) Roots of Sunset Provisions Go Way Back

The roots of sunset provisions are laid in [Roman law](#) of the [mandate](#) but the first philosophical reference is traced in the laws of Plato. At the time of the [Roman Republic](#), the empowerment of the [Roman Senate](#) to collect special taxes and to activate troops was limited in time and extent. Those empowerments ended before the expiration of an electoral office, such as the [Proconsul](#). The rule *Ad tempus concessa post tempus censetur denegata* is translated as "what is admitted for a period will be refused after the period". The same rules were applied in the Roman emergency legislation. The fundamental principle appeared in several areas of legislation and later codified in the [Codex Iustinianus](#) (10, 61, 1). The principle was broken when [Julius Caesar](#) became dictator for life.

b) The Texas Version

The Texas Sunset provision was established in 1977. Under Texas law, all agencies – except universities, courts, and agencies established by the [Texas Constitution](#) – will be abolished on a specific date, generally 12 years after creation or renewal, unless the [Texas Legislature](#) passes specific legislation to continue its functions.

(1) Advisory Commission

A 12-member [Sunset Advisory Commission](#) oversees the provisions of the Texas Sunset Act. The commission consisting of five members of the [Texas Senate](#) and one member from the general public appointed by the [Lieutenant Governor of Texas](#), and five members of the House and one member from the general public appointed by the Speaker of the [Texas House of Representatives](#). Legislative members are appointed for four-year terms, with half of the commission reappointed on or before September 1 of odd-numbered years, while public members serve two-year terms. The chairman and vice-chairman are appointed by the lieutenant Governor and speaker, and the chairmanship alternates between the Senate and House every two years. The Commission is assisted by an executive director and staff, who review each agency subject to sunset provisions.

(2) Compulsory Self Review

Under the process, each agency must perform for the commission a self-review of its roles and responsibilities, including areas where its duties may overlap those of other agencies and the effect of the agency's abolition on loss of federal funding. The self-review must be completed by September 1 of the odd-numbered year before the year when the agency would be otherwise abolished. The commission must then complete its own review by the following January 1 and hold public hearings by the following February 1.

About 20 to 30 agencies go through the sunset process each legislative session. Constitutionally established agencies are subject to review, but they cannot be abolished under the sunset provisions.

(3) Commission Recommendation

The commission may recommend that an agency be continued in its present form (nearly always with recommendations to the legislature for improvement), consolidated with another agency, or abolished, with its duties either eliminated or transferred to other agencies.

2. Governor Lacked Power to Circumvent the Sunset Act

By the above, Governor Abbot proclaimed that, “, I do hereby suspend [Section 1301.003 of the Texas Occupations Code](#) to prevent the imminent abolition of [the Texas State Board of Plumbing Examiners](#) and expiration of the [Plumbing License Law](#) on September 1, 2019. Governor Abbott asserts authority to override the laws of the State of Texas.

Of all tyrannies a tyranny sincerely exercised for the good of its victims may be the most oppressive. [C. S. Lewis, from his 1948 book God in the Dock: Essays on Theology](#)

Under the dictates of the Texas Constitution, the Governor is forbidden to suspend law.

3. Official Misconduct

The Governor, while acting under the color (pretense) of his official capacity as the highest level public officer in the State of Texas, abridged laws of the state and improperly dispersed funds in excess of \$300,000.00, in violation of [Texas Penal Code 39.02](#) which reads in pertinent part as follows:

[Sec. 39.02. ABUSE OF OFFICIAL CAPACITY.](#)

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

(1) violates a law relating to the public servant's office or employment; or

(2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) is:

(7) a felony of the first degree if the value of the use of the thing misused is \$300,000 or more.

Complaint alleges that, on or before the making and filing of this complaint, **Greg Abbott**, exerted an authority he did not have by abridging a law of the State of Texas and illegally disbursed amounts in excess of \$300,000.00 from the public treasury, to the public in order to

enhance his electability, in an act of [Official Misconduct](#), in violation of [Texas Penal Code Article 39.02\(c\)\(7\)](#) against the peace and dignity of the State of Texas.

C. Texas Disaster Declaration

On the 13th day of March, 2020 Governor Abbott issued a [disaster proclamation](#), certifying under [Section 418.014 of the Texas Government Code](#) that COVID-19 poses an imminent threat of disaster for all counties in the State of Texas which reads in pertinent part as follows:

TO ALL TO WHOM THESE PRESENTS SHALL COME:

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, do hereby certify that COVID- 19 poses an imminent threat of disaster. In accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I hereby declare a state of disaster for all counties in Texas.

Pursuant to [Section 418.017](#) of the code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to [Section 418.016](#) of the code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor.

However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to cope with this declared disaster, I hereby suspend such statutes and rules for the duration of this declared disaster for that limited purpose.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

1. Suspension of Random Laws

In paragraph's 11 and 12 of the Governor's disaster declaration the Governor orders the suspension of laws as follows:

*Pursuant to [Section 418.016](#) of the code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster **shall be suspended upon written approval of the Office of the Governor.***

However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to cope with this declared disaster, I hereby suspend such statutes and rules for the duration of this declared disaster for that limited purpose.

2. Section 410.012 Unconstitutional on its Face

[Section 418.012](#) of the [Texas Disaster Act](#) states that executive orders, proclamations, and regulations' issued under that chapter have the force and effect of law as follows:

[Sec. 418.012. EXECUTIVE ORDERS.](#) *Under this chapter, the governor may issue executive orders, proclamations, and regulations and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law.*

This provision of the Texas Disaster Act renders the entire act unconstitutional on its face.

3. 418.173 Unconstitutional on its Face

To the extent the [Disaster Act of 1975](#) allows for the creation of laws by the Governor or any local official, that is effective against any citizen of the State of Texas, said provision is unconstitutional and void. Texas Government Code 418.173 purports to give local officials the power to prescribe punishment or fines against citizens as follows:

[Sec. 418.173. PENALTY FOR VIOLATION OF EMERGENCY MANAGEMENT PLAN.](#)

(a) A state, local, or interjurisdictional emergency management plan may provide that failure to comply with the plan or with a rule, order, or ordinance adopted under the plan is an offense.

(b) The plan may prescribe a punishment for the offense but may not prescribe a fine that exceeds \$1,000 or confinement in jail for a term that exceeds 180 days.

Regulatory agencies of the executive branch of government are empowered to create rules and regulations that govern government agencies. The only entity in the State of Texas authorized by the Texas Constitution to create to create law is the Texas Legislature. See [Section V\(A\)](#) above.

4. Executive Orders Violate of Separation of Powers Doctrine

The Texas Constitution vests law-making power in the legislature. [TEX. CONST. art. II, §1](#) as follows:

[Sec. 1. SEPARATION OF POWERS OF GOVERNMENT AMONG THREE](#)

[DEPARTMENTS.](#) *The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.*

See [Boykin v State, 818 S.W.2d 782, 785 \(Tex. Crim. App. 1991\)](#);

When we interpret statutes such as Article 4476-15b, § 2(a)(1), we seek to effectuate the "collective" intent or purpose of the legislators who enacted the legislation. Camacho v. State, 765 S.W.2d 431 (Tex. Cr. App. 1989). We do so because our state constitution assigns the lawmaking function to the Legislature while assigning the law interpreting function to the Judiciary. See Tex. Const, art. II, § 1.

This is a condition not to be breached lightly. Our founders spoke at length to this subject. [George Washington, in his farewell address, on September 19, 1796](#) left us with this admonition:

It is important, likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them."

James Madison, in [The Federalist Papers No. 47](#) spoke to the issue as follows:

The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny. [James Madison The Federalist Papers No. 47](#)

Thomas Jefferson, in his work, [Thomas Jefferson On Politics & Government, at 21](#) spoke to the separation of powers as follows:

The principle of separation of powers applies not only to the Federal and State governments, but also to the three branches within each government. When this separation is properly respected, no single branch can gather sufficient power to itself that will allow it to exercise despotic control over the whole nation.

We owe it to our progeny to heed the wisdom of our predecessors.

5. Emergency Legislative Session

The current emergency in no way required the suspension of law by the Governor. This state has functioned fine over the last 150 years without a takeover by the Governor. Instead of this current edict, the Governor had the power and the duty to convene the Legislature where changes in law were needed. [Article IV, §8 \(a\)](#) of the Texas Constitution provides as follows:

"The Governor may, on extraordinary occasions, convene the Legislature at the seat of government, or at a different place in case that should be in possession of the public enemy or in case of the prevalence of disease threat. His proclamation therefor shall state specifically the purpose for which the Legislature is convened." (emphasis added).

The founders of the Texas Constitution contemplated convening the legislature on “extraordinary occasions” and that “the prevalence of a disease threat” like COVID-19 may require the legislature to meet at a “different place” other than the “seat of government.” [TEX. CONST. art. IV, §8](#).

This provision allows our duly elected representative and not one individual, i.e., the Governor, to deal with the “extraordinary occasion.” Additionally, [Article IV, §8](#) respects the long-standing doctrine of separation of powers between co-equal branches of government.

Governor Abbott has not convened the legislature to address legislation related to “extraordinary occasions” surrounding the COVID-19 pandemic. Instead, Abbott continues to issue executive orders that suspend laws and infringe on the Constitutional liberties of Texans.

[Article IV, §8](#) is consistent with [Article I, §28](#) in that if it is necessary to suspend laws “on extraordinary occasions,” Governor Abbott can convene the legislature to do so. Additionally, [Article IV, §8](#) is consistent with our strong separation of powers tradition identified in [Article II, §1 of the Texas Constitution](#)

6. Official Misconduct

The Governor, while acting under the color (pretense) of his official capacity as the highest level public officer in the State of Texas, abridged laws of the state and improperly dispersed funds in excess of \$300,000.00, in violation of [Texas Penal Code 39.02](#) which reads in pertinent part as follows:

[Sec. 39.02. ABUSE OF OFFICIAL CAPACITY.](#)

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

(1) violates a law relating to the public servant's office or employment; or

(2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) is:

(7) a felony of the first degree if the value of the use of the thing misused is \$300,000 or more.

Complaint alleges that, on or before the making and filing of this complaint, **Greg Abbott**, exerted an authority he did not have by abridging a law of the State of Texas and illegally disbursed amounts in excess of \$300,000.00 from the public treasury, to the public in order to enhance his electability, in an act of [Official Misconduct](#), in violation of [Texas Penal Code Article 39.02\(c\)\(7\)](#) against the peace and dignity of the State of Texas.

Error! Reference source not found.Error! Reference source not found.Error! Reference source not found.Error! Reference source not found.

D. GA – 08 Liberty Restrictions – School Taking

On the 19th day of March, 2020 Governor Abbott issued an executive order [Relating to COVID-19 preparedness and mitigation \(coronavirus\)](#) which reads in pertinent part as follows:

*NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue **of the power and authority vested in me by the Constitution and laws of the State of Texas**, do hereby order the following on a statewide basis effective 11:59 p.m. on March 20, 2020, and continuing until 11:59 p.m. on April 3, 2020, subject to extension thereafter based on the status of COVID-19 in Texas and the recommendations of the CDC:*

Order No. 1: *Executive Order GA-08 Page 2 In accordance with the Guidelines from the President and the CDC, **every person in Texas shall avoid social gatherings** in groups of more than 10 people.*

Order No. 2: *In accordance with the Guidelines from the President and the CDC, people shall **avoid eating or drinking at bars**, restaurants, and food courts, or visiting gyms or massage parlors; provided, however, that the use of drive-thru, pickup, or delivery options is allowed and highly encouraged throughout the limited duration of this executive order.*

Order No. 3: *In accordance with the Guidelines from the President and the CDC, people **shall not visit nursing homes** or retirement or long-term care facilities unless to provide critical assistance.*

Order No. 4: *In accordance with the Guidelines from the President and the CDC, **schools shall temporarily close**.*

*This, executive **order does not prohibit people from visiting a variety of places**, including grocery stores, gas stations, parks, and banks, **so long as** the necessary precautions are maintained to reduce the transmission of COVID-19. This executive order **does not mandate sheltering in place**. All critical infrastructure will remain operational, domestic travel will remain unrestricted, and government entities and businesses will continue providing essential services. For **offices and workplaces** that remain open, employees should practice good hygiene and, where feasible, work from home in order to achieve optimum isolation from COVID-19. The more that people reduce their public contact, the sooner COVID-19 will be contained and the sooner this executive order will expire.*

*This executive order supersedes all previous orders on this matter that are in conflict or inconsistent with its terms, and this order shall remain in effect and in full force until 11:59 p.m. on April 3, 2020, subject to being extended, modified, amended, rescinded, or superseded by me or by a succeeding Governor. (**emphasis added**)*

1. Denial of Liberty

Governor Abbott, in the above declaration acts forbidding citizens from visiting their loved ones who are confined to extended healthcare facilities acts as a dictate by the servant binding the master.

With specific intent to deny the people of the State of Texas in their liberty the Governor has exerted, or purported to exert an authority he does not have and in the process, denied the people

of the State of Texas in the full and free exercise or enjoyment of their rights guaranteed under the [Texas Constitution](#). See [Denial of Liberty @ VI\(B\)](#) above.

2. Schools Closing as Unlawful Taking

By the above executive order, the Governor issued or continued orders affecting the closing of public schools. See [School Closing as Unlawful @ IV\(A\)](#) above.

3. Chapter 39 Texas Penal Code

Texas Penal Code Chapter 39 consists of 7 sections, only to of which go to the general behavior of public officials. Sections 39.02 and 3 prescribe the behavior of public officials in the general exercise of the authority granted to them. In most states these two statutes almost directly reflect 18 USC 242, Official Misconduct. Texas has broken official misconduct down into two separate sections. Official Misconduct in Texas goes to the misuse of money or property held in public charge. Official Oppression was singled out to give public officials fair warning that mistreating the people would not be tolerated. [Texas Penal code 39.03](#) reads, in pertinent part, as follows:

[Sec. 39.03. OFFICIAL OPPRESSION.](#)

(a) A public servant acting under color of his office or employment commits an offense if he:

(1) intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;

(2) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful; or

(3) intentionally subjects another to sexual harassment.

(b) For purposes of this section, a public servant acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

4. Official Oppression

On or before the making and filing of this complaint, Defendant **Governor Greg Abbott**, did then and there exert, or purport to exert an authority he did not have and in the process intentionally subjected the citizens of the State of Texas to mistreatment by issuing an executive order which dispossessed the citizens of rights in violation of [Texas Penal Code 39.03](#), against the peace and dignity of the State of Texas.

5. Losing the Hounds

The Governor, in GA-11 unleashed his personal militia on the public as follows:

DPS Special Agents will conduct unannounced visits to designated quarantine locations to verify compliance by confirming the physical presence of covered persons. Any failure to comply with this order to self-quarantine shall be a criminal offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both.
[Executive Order GA-11 Page 3](#)

The above executive order purports to subject persons entering into the State of Texas to a period of self-imposed imprisonment for 14 days. The order comes with the threat of force to be exercised by Special Agents of the Department of Public Safety who have been commandeered by the Governor as his personal militia.

Complainant refers the reader to Section **Error! Reference source not found.**(B) above for a presentation on the improper conversion of the Department of Public into the Governor's personal militia.

6. Sedition - Public Law 577.001

In this case, the Governor promulgated edicts which had to effect of breaching specific prohibitions contained in the Texas Constitution. He then commandeered armed agents to enforce his dictates. The above act wars with the constitution as considered by the Legislature on passing [Texas Public Law 557.001](#) which reads in pertinent part as follows:

A person commits an offense if the person knowingly:

(1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence;

(2) under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or

(3) participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence. [Texas Public Law 557.001](#)

Complainant is not saying quarantine is necessarily a bad idea. Complainant is not saying people should not take precautions. Complainant is saying, the Governor of the State of Texas has no power to issue such an order and certainly does not have the power to threaten the public with

force of arms for not following one of his dictates. There is no corresponding law passed by the Texas Legislature and the Legislature specifically forbids anyone other than the Legislature from passing law. Any legislation, proclamations, or edict to the contrary is void on its face, ab initio(from the beginning).

E. GA – 09 Suspension of Laws – Medical Treatment

On the 22nd day of March, 2020 Governor Abbott issued an executive order [Relating to hospital capacity during the COVID-19 disaster \(coronavirus\)](#) which reads in pertinent part as follows:

WHEREAS, under Section 4 18.173, failure to comply with any executive order issued during the COVID-19 disaster is an offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both fine and confinement.

*NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of **the power and authority vested in me by the Constitution and laws of the State of Texas**, do hereby order that, beginning now and continuing until 11:59 p.m. on April 21, 2020, **all licensed health care professionals and all licensed health care facilities shall postpone all surgeries and procedures that are not immediately medically necessary to correct a serious medical condition of, or to preserve the life of, a patient who without immediate performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician;***

PROVIDED, however, that this prohibition shall not apply to any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID- 19 disaster.

*At the request of the Texas Health and Human Services Commission, **I hereby suspend the following provisions** to the extent necessary to implement increased occupancy in the event of surge needs for hospital capacity due to COVID-19:*

25 TAC Sec. 133.1 62(d)(4)(A)(iii)(I);

25 TAC Sec. 133. 163(O(1)(A)(i)(fl)—(ffl);

25 TAC Sec. 133.1 63(fl(1)(B)(i)(ffl)—(W);

25 TAC Sec. 133.163(m)(1)(B)(ii);

25 TAC Sec. 133. 163(t)(1)(B)(iii)—(iv);

25 TAC Sec. 133.163(t)(1)(C);

25 TAC Sec. 133.163(t)(5)(B)—(C); and

any other pertinent regulations or statutes, upon written approval of the Office of the Governor.

This executive order shall remain in effect and in full force until 11:59 p.m. on April 21, 2020, unless it is modified, amended, rescinded, or superseded by me or by a succeeding Governor.

1. Suspension of Laws

Where Governor Abbott, in his executive orders, purport to suspend law, exceeds his authority and breaches the separation of powers mandated by the Texas Constitution. [See IV\(A\) above.](#)

2. Denial of Access to Medical Treatment

The Governor, by the above has taken control of private business and denied the public in the right to contract for medical services. See [VI\(E\)](#) above.

3. Official Oppression

The Governor, while acting under the color (pretense) of his official capacity as the highest level public officer in the State of Texas, abridged laws of the state and improperly dispersed funds in excess of \$300,000.00, in violation of [Texas Penal Code 39.02](#) which reads in pertinent part as follows:

[Sec. 39.02. ABUSE OF OFFICIAL CAPACITY.](#)

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

(1) violates a law relating to the public servant's office or employment; or

(2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) is:

(7) a felony of the first degree if the value of the use of the thing misused is \$300,000 or more.

Complaint alleges that, on or before the making and filing of this complaint, **Greg Abbott**, exerted an authority he did not have by abridging a law of the State of Texas and illegally disbursed amounts in excess of \$300,000.00 from the public treasury, to the public in order to enhance his electability, in an act of [Official Misconduct](#), in violation of [Texas Penal Code Article 39.02\(c\)\(7\)](#) against the peace and dignity of the State of Texas.

F. Error! Reference source not found.Error! Reference source not found.Error!
Reference source not found.Error! Reference source not found.**GA – 11 Right to Travel**

On the 26th day of March, 2020 Governor Abbot issued an executive order

[Relating to airport screening and self-quarantine during the COVID-19 disaster \(New York Tri-State Area, New Orleans, coronavirus\)](#) which reads in pertinent part as follows:

*NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of **the power and authority vested in me by the Constitution and laws of the State of Texas**, do hereby order the following on a statewide basis effective at noon on March 28, 2020:*

Every person who enters the State of Texas as the final destination through an airport, from a point of origin or point of last departure in New York, New Jersey, Connecticut, or the City of New Orleans, or in any other state or city as may be proclaimed hereafter, shall be subject to mandatory self-quarantine for a period of 14 days from the time of entry into Texas or the duration of the person's presence in Texas, whichever is shorter. This order to self-quarantine shall not apply to people traveling in connection with military service, emergency response, health response, or critical-infrastructure functions, as may be determined by the [Texas Division of Emergency Management](#). Each person covered under this order to self-quarantine shall be responsible for all associated costs, including transportation, lodging, food, and medical care.

A covered person shall use a form prescribed by the Texas Department of Public Safety (DPS) to designate a quarantine location in Texas, such as a residence or a hotel, and provide a full name, date of birth, home address, telephone number, and driver license or passport information. DPS Troopers, or other approved peace officers, shall collect a completed form from each covered person immediately upon disembarking and verify it against the person's driver license or passport. Providing false information on this form is a criminal offense under Section 37.10 of the Texas Penal Code. Questions about this form should be directed to DPS at (800) 525-5555.

A covered person shall proceed directly from the airport to the designated quarantine location entered on the DPS form. Any covered person exhibiting symptoms of COVID- 19 shall be escorted to the designated quarantine location by a DPS Trooper.

A covered person shall remain in the designated quarantine location for a period of 14 days or the duration of the person's presence in Texas, whichever is shorter, leaving only to seek medical care or to depart from Texas. During that period, a covered person shall not allow visitors into or out of the designated quarantine location, other than a health department employee, physician, or healthcare provider, and shall not visit any public spaces.

DPS Special Agents will conduct unannounced visits to designated quarantine locations to verify compliance by confirming the physical presence of covered persons. Any failure to comply with this order to self-quarantine shall be a criminal offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both. Executive Order GA-li Page 3

This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

1. Denied Right To Travel

Freedom of movement under United States law is governed primarily by the [Privileges and Immunities Clause](#) of the [United States Constitution](#) which states,

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

See [VI\(D\)](#) above.

2. Losing the Hounds

The Governor, in GA-11 unleashed his personal militia on the public as follows:

DPS Special Agents will conduct unannounced visits to designated quarantine locations to verify compliance by confirming the physical presence of covered persons. Any failure to comply with this order to self-quarantine shall be a criminal offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both.
[Executive Order GA-11 Page 3](#)

The above executive order purports to subject persons entering into the State of Texas to a period of self-imposed imprisonment for 14 days. The order comes with the threat of force to be exercised by Special Agents of the Department of Public Safety who have been commandeered by the Governor as his personal militia.

Complainant refers the reader to Section **Error! Reference source not found.(B)** above for a presentation on the improper conversion of the Department of Public into the Governor's personal militia.

3. Sedition - Public Law 577.001

In this case, the Governor promulgated edicts which had to effect of breaching specific prohibitions contained in the Texas Constitution. He then commandeered armed agents to enforce his dictates. The above act wars with the constitution as considered by the Legislature on passing [Texas Public Law 557.001](#) which reads in pertinent part as follows:

A person commits an offense if the person knowingly:

(1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence;

(2) *under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or*

(3) *participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence.* [Texas Public Law 557.001](#)

Complainant is not saying quarantine is necessarily a bad idea. Complainant is not saying people should not take precautions. Complainant is saying, the Governor of the State of Texas has no power to issue such an order and certainly does not have the power to threaten the public with force of arms for not following one of his dictates. There is no corresponding law passed by the Texas Legislature and the Legislature specifically forbids anyone other than the Legislature from passing law. Any legislation, proclamations, or edict to the contrary is void on its face, ab initio (from the beginning).

4. Breach of Article I, Sections 10, 28 and 29

Governor purported to create law affecting the people of the State of Texas. These laws had the effect of denying covered persons in the right to be free from unlawful seizure and the right to be free from self-incrimination. The purported law, created by the Governor, through proclamation, requires a traveler to bear witness against him/herself by filling out a [government document](#) under penalty of prosecution for a violation of [Texas Penal Code 37.10, Tampering With A Government Document](#) if an error is discovered on the document.

a) Violation Article I Section 10

There is a wonderful video on [youtube](#) where a law professor is talking to a class about [When to Advise Your Client To Talk to the Police](#) that everyone should watch. It can be summed up in three words: never, Never, NEVER! This is supported by the [Texas Constitution Article 1 Section 10](#) which reads as follows:

[Sec. 10. RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS.](#) *In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself, and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a*

violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.

b) Violation of Texas Constitution Article I Section 28

What part of, “**shall not be compelled to give evidence against himself**,” is hard for the Governor to understand? This is a clear demonstration as to why our founders included <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.557.htm> at Article 1 Section 28 as it mandates the following:

Sec. 28. SUSPENSION OF LAWS. No power of suspending laws in this State shall be exercised except by the Legislature.

Violation of Texas Constitution Article I, Section 29

Our founders did not mince word when they included this prohibition in the constitution and, if there be any confusion as to the rational of the above that should be settled by then next provision, [Bill of Rights at Article 29](#), for any reasonable person of ordinary prudence, should settle the issue’.

Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOLETE. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

c) Wrongful Detention

The only time a person may be arrested without a warrant first being issued is stipulated by [Texas Code of Criminal Procedure Chapter 14.01-03](#). I did not quote it here as 14.03 gets a bit long and detailed but in the case of a misdemeanor, the offense must have been committed within the sight or hearing of the arresting officer or must have been ordered by a magistrate who personally saw or heard the offense committed.

By the above executive order, the Governor would order a person to give up their right to remain silent or be arrested under this new law he just created by edict. So, what if you happened to take a cheap flight that originated in El Paso, stopped in New Mexico, then Colorado and dropped you off in Amarillo, and you got off in Colorado to get a snack. If you did not fill out

the form, you would be subject to arrest. If you filled out the form you would find no place to include connecting flights. If the officer then found that you were on a connecting flight and got off in Colorado, you would be subject to criminal charges and jail for violating [Texas Penal Code 37.10, Tampering With A Government Document](#).

d) Violation of Texas Penal code 32.48

As shown above, not only did the governor not have power to create legal requirements he was using armed personnel to enforce, he was specifically forbidden by the Texas Constitution from doing so. By the creation of a document consequent to the false penal statute the governor promulgated by edict, constituted a simulated a legal process in violation of [Texas Penal Code Section 32.48](#) which reads in pertinent part as follows:

[Section 32.48](#)

(a) A person commits an offense if the person recklessly causes to be delivered to another any document that simulates a summons, complaint, judgment, or other court process with the intent to:

(1) induce payment of a claim from another person; or

(2) cause another to:

(A) submit to the putative authority of the document; or

(B) take any action or refrain from taking any action in response to the document, in compliance with the document, or on the basis of the document.

5. 1st Degree Felony Aggravated Assault

In Complaint's humble opinion, Texas has the best corpus juris (body of law) of any state in the union. Our legal system was conceived using English and United States law as a model. That amounts to 800 years of careful refinement. Texas took that mass of legal experience and honed it into as system that has a legal remedy for most any malady.

a) Simple Assault

In the instant case, Texas has a law unique to Texas. When Texas put pistols on the hips of public officials, they placed an incredible responsibility on them. In Texas, if you indulge in offensive speech or offensive touching you will be in violation of Texas Penal Code 22.01 which reads in pertinent part as follows:

[Sec. 22.01. ASSAULT.](#)

(a) A person commits an offense if the person:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;*
- (2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or*
- (3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.*

The above is simple assault and is a class C misdemeanor unless the act is committed against a public official acting or on account of having acted in an official capacity, in which case it would be a class A misdemeanor.

b) Aggravated Assault

If simple assault, as defined above, is committed by someone who is prominently displaying a deadly weapon, that would be a second degree felony as follows:

[Sec. 22.02. AGGRAVATED ASSAULT.](#) *(a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:*

- (2) uses or exhibits a deadly weapon during the commission of the assault.*
- (b) An offense under this section is a felony of the second degree,*

So, if you are doing open carry or are an armed public official, you must exercise greater care.

c) 1st Degree Felony Aggravated Assault

However, if you commit simple assault while prominently displaying a deadly weapon and you are a public official acting under the color (pretense) of an official capacity, under [Texas Penal Code 22.02\(b\)\(2\)\(A\)](#) which reads as follows:

[Sec. 22.02. AGGRAVATED ASSAULT.](#)

(a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:

- (2) uses or exhibits a deadly weapon during the commission of the assault.*
- (b) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if:*
 - (2) regardless of whether the offense is committed under Subsection (a)(1) or (a)(2), the offense is committed:*
 - (A) by a public servant acting under color of the servant's office or employment;*

The State of Texas takes the use of force, or threat of force, by its public officials very seriously. When they put pistols in the hands of their governmental instruments, they intended that pistol be taken very seriously.

G. GA – 12 Right to Travel

On the 29th day of March, 2020 Governor Abbot issued an executive order [Relating to roadway screening and self-quarantine during the COVID-19 disaster \(coronavirus\)](#) which reads in pertinent part as follows:

*NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue **of the power and authority vested in me by the Constitution and laws of the State of Texas**, do hereby order the following on a statewide basis effective at noon on March 30, 2020:*

*Every person who enters the State of Texas through roadways from Louisiana, or from any other state as may be proclaimed hereafter, shall be subject to **mandatory self-quarantine for a period of 14 days** from the time of entry into Texas or the duration of the person's presence in Texas, whichever is shorter. This order to self-quarantine **shall not apply to** people traveling in connection with commercial activity, military service, emergency response, health response, or critical-infrastructure functions, as may be determined by the Texas Division of Emergency Management. **Each person covered by this order to self-quarantine shall be responsible for all associated costs**, including transportation, lodging, food, and medical care.*

*The **Texas Department of Public Safety (DPS)** shall enforce this executive order along the Texas-Louisiana border. Using a form to be prescribed by DPS, each covered person shall designate a quarantine location in Texas, such as a residence or a hotel, and provide a full name, date of birth, home address, telephone number, and driver license or passport information. DPS Troopers, or other approved peace officers, will collect a completed form from a covered person and verify it against the person's driver license or passport. Providing false information on this form is a criminal offense under Section 37.10 of the Texas Penal Code. Questions about this form should be directed to DPS by calling (800) 525-5555. A covered person shall proceed directly to the designated quarantine location entered on the DPS form. Any covered person exhibiting symptoms of COVID-19 shall be escorted to the designated quarantine location by a DPS Trooper.*

A covered person shall remain in the designated quarantine location for a period of 14 days or the duration of the person's presence in Texas, whichever is shorter, leaving only to seek medical care or to depart from Texas. During that period, a covered person shall not allow visitors into or out of the designated quarantine location, other than a health department employee, physician, or health care provider, and shall not visit any public spaces.

*DPS Special Agents will **conduct unannounced visits to designated quarantine locations** to verify compliance by confirming the physical presence of covered persons. Any failure to comply with this order to self-quarantine shall be a criminal offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both.*

This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

1. Freedom to Travel

[See discussion at GA – 11 above.](#)

2. Sedition - Public Law 577.001

In this case, the Governor promulgated edicts which had to effect of breaching specific prohibitions contained in the Texas Constitution. He then commandeered armed agents to enforce his dictates. The above act wars with the constitution as considered by the Legislature on passing [Texas Public Law 557.001](#) which reads in pertinent part as follows:

A person commits an offense if the person knowingly:

- (1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence;*
- (2) under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or*
- (3) participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence. [Texas Public Law 557.001](#)*

Complainant is not saying quarantine is necessarily a bad idea. Complainant is not saying people should not take precautions. Complainant is saying, the Governor of the State of Texas has no power to issue such an order and certainly does not have the power to threaten the public with force of arms for not following one of his dictates. There is no corresponding law passed by the Texas Legislature and the Legislature specifically forbids anyone other than the Legislature from passing law. Any legislation, proclamations, or edict to the contrary is void on its face, ab initio(from the beginning).

Duty of States to Protect Freedom of Movement

The [U.S. Supreme Court](#) did not invest the federal government with the authority to protect freedom of movement. Under the ["privileges and immunities" clause](#), this authority was given to

the states, a position the Court held consistently through the years in cases such as [Ward v. Maryland](#), 79 U.S. 418 (1871), the [Slaughter-House Cases](#), 83 U.S. 36 (1873) and [United States v. Harris](#), 106 U.S. 629 (1883).

By the above, it is the duty of the State of Texas to protect the freedom of movement of citizens of the United States. The Governor, by his proclamation acted to deny citizens of the various states in their rights and, thereby, exerted an authority he did not have.

3. Breach of Article I, Sections 10, 28 and 29

Governor purported to create law affecting the people of the State of Texas. These laws had the effect of denying covered persons in the right to be free from unlawful seizure and the right to be free from self-incrimination. The purported law, created by the Governor, through proclamation, requires a traveler to bear witness against him/herself by filling out a [government document](#) under penalty of prosecution for a violation of [Texas Penal Code 37.10, Tampering With A Government Document](#) if an error is discovered on the document.

a) Violation Article I Section 10

There is a wonderful video on [youtube](#) where a law professor is talking to a class about [When to Advise Your Client To Talk to the Police](#) that everyone should watch. It can be summed up in three words: never, Never, NEVER! This is supported by the [Texas Constitution Article 1 Section 10](#) which reads as follows:

*[Sec. 10. RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS.](#) In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. **He shall not be compelled to give evidence against himself**, and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.*

b) Violation of Texas Constitution Article I Section 28

What part of, “**shall not be compelled to give evidence against himself**,” is hard for the Governor to understand? This is a clear demonstration as to why our founders included <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.557.htm> at Article 1 Section 28 as it mandates the following:

Sec. 28. SUSPENSION OF LAWS. No power of suspending laws in this State shall be exercised except by the Legislature.

Violation of Texas Constitution Article I, Section 29

Our founders did not mince word when they included this prohibition in the constitution and, if there be any confusion as to the rational of the above that should be settled by then next provision, [Bill of Rights at Article 29](#), for any reasonable person of ordinary prudence, should settle the issue’.

Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOLETE. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

c) Wrongful Detention

The only time a person may be arrested without a warrant first being issued is stipulated by [Texas Code of Criminal Procedure Chapter 14.01-03](#). I did not quote it here as 14.03 gets a bit long and detailed but in the case of a misdemeanor, the offense must have been committed within the sight or hearing of the arresting officer or must have been ordered by a magistrate who personally saw or heard the offense committed.

By the above executive order, the Governor would order a person to give up their right to remain silent or be arrested under this new law he just created by edict. So, what if you happened to take a cheap flight that originated in El Paso, stopped in New Mexico, then Colorado and dropped you off in Amarillo, and you got off in Colorado to get a snack. If you did not fill out the form, you would be subject to arrest. If you filled out the form you would find no place to include connecting flights. If the officer then found that you were on a connecting flight and got off in Colorado, you would be subject to criminal charges and jail for violating [Texas Penal Code 37.10, Tampering With A Government Document](#).

d) Violation of Texas Penal code 32.48

As shown above, not only did the governor not have power to create legal requirements he was using armed personnel to enforce, he was specifically forbidden by the Texas Constitution from doing so. By the creation of a document consequent to the false penal statute the governor promulgated by edict, constituted a simulated a legal process in violation of [Texas Penal Code Section 32.48](#) which reads in pertinent part as follows:

Section 32.48

(a) A person commits an offense if the person recklessly causes to be delivered to another any document that simulates a summons, complaint, judgment, or other court process with the intent to:

(1) induce payment of a claim from another person; or

(2) cause another to:

(A) submit to the putative authority of the document; or

(B) take any action or refrain from taking any action in response to the document, in compliance with the document, or on the basis of the document.

4. 1st Degree Felony Aggravated Assault

In Complaint's humble opinion, Texas has the best corpus juris (body of law) of any state in the union. Our legal system was conceived using English and United States law as a model. That amounts to 800 years of careful refinement. Texas took that mass of legal experience and honed it into as system that has a legal remedy for most any malady.

a) Simple Assault

In the instant case, Texas has a law unique to Texas. When Texas put pistols on the hips of public officials, they placed an incredible responsibility on them. In Texas, if you indulge in offensive speech or offensive touching you will be in violation of Texas Penal Code 22.01 which reads in pertinent part as follows:

Sec. 22.01. ASSAULT.

(a) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;

(2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or

(3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

The above is simple assault and is a class C misdemeanor unless the act is committed against a public official acting or on account of having acted in an official capacity, in which case it would be a class A misdemeanor.

b) Aggravated Assault

If simple assault, as defined above, is committed by someone who is prominently displaying a deadly weapon, that would be a second degree felony as follows:

[Sec. 22.02. AGGRAVATED ASSAULT.](#) (a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:

(2) uses or exhibits a deadly weapon during the commission of the assault.

(b) An offense under this section is a felony of the second degree,

So, if you are doing open carry or are an armed public official, you must exercise greater care.

c) 1st Degree Felony Aggravated Assault

However, if you commit simple assault while prominently displaying a deadly weapon and you are a public official acting under the color (pretense) of an official capacity, under [Texas Penal Code 22.02\(b\)\(2\)\(A\)](#) which reads as follows:

[Sec. 22.02. AGGRAVATED ASSAULT.](#)

(a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:

(2) uses or exhibits a deadly weapon during the commission of the assault.

(b) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if:

(2) regardless of whether the offense is committed under Subsection (a)(1) or (a)(2), the offense is committed:

(A) by a public servant acting under color of the servant's office or employment;

The State of Texas takes the use of force, or threat of force, by its public officials very seriously. When they put pistols in the hands of their governmental instruments, they intended that pistol be taken very seriously.

H. GA – 13 Suspension of Laws – Right to Bail

On the 29th day of March, 2020 Governor Abbot issued an executive order

[Relating to detention in county and municipal jails during the COVID-19 disaster \(coronavirus\)](#)

which reads in pertinent part as follows:

*NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of **the power and authority vested in me by the Constitution and laws of the State of Texas**, do hereby order the following on a statewide basis effective immediately:*

***Article 17.03 of the Texas Code of Criminal Procedure**, and all other relevant statutes and rules relating to personal bonds, **are hereby suspended** to the extent necessary to preclude the release on personal bond of any person previously convicted of a crime that involves physical violence or the threat of physical violence, or of any person currently arrested for such a crime that is supported by probable cause. **I hereby order that no authority should release on personal bond** any person previously convicted of a crime that involves physical violence or the threat of physical violence, or any person currently arrested for such a crime that is supported by probable cause.*

***Article 17.15 1 of the Texas Code of Criminal Procedure** is hereby suspended to the extent necessary to prevent any person's automatic release on personal bond because the State is not ready for trial.*

***Article 15.21 of the Texas Code of Criminal Procedure** is hereby suspended to the extent necessary to prevent any person's automatic release on personal bond because the jail of the county where the offense is alleged to have been committed does not take charge of the arrested person before the 11th day after the date the person is committed to the jail of the county in which the person is arrested.*

***Article 42.032 of the Texas Code of Criminal Procedure**, and all other relevant statutes and rules, **are hereby suspended** to the extent necessary to preclude the grant of commutation of time for good conduct, industry, and obedience to achieve the release of any person who has previously been convicted of or is currently serving a sentence for a crime that involves physical violence or the threat of physical violence. **I hereby order that no authority should grant the commutation of time for good conduct, industry, and obedience to achieve the release of any person who has previously been convicted of or is currently serving a sentence for a crime that involves physical violence or the threat of physical violence.** This provision does not preclude the accumulation of credit for good conduct, industry, and obedience during the pendency of this executive order.*

***Article 42.035 of the Texas Code of Criminal Procedure** is hereby suspended to the extent necessary to preclude any release of a person to an electronic monitoring program, rather than being confined in the jail, if the person has previously been convicted of or is currently serving a sentence for a crime that involves physical violence or the threat of physical violence.*

***Sections 418.1015(b) and 418.108** of the Texas Government Code are hereby suspended to the extent necessary to preclude any county judge or mayor of a*

municipality, or any emergency management director, from releasing persons under any circumstances inconsistent with this order.

Provided, however, that nothing herein shall prevent the lawful exercise of authority by a county criminal court judge, district judge, or appellate judge in considering release on an individualized basis for health or medical reasons, provided that proper notice is given to the district attorney and an opportunity for hearing is given.

This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

If this doesn't frighten you then you are not paying attention.

1. Suspension of Laws

Where Governor Abbott, in his executive orders, purport to suspend law, exceeds his authority and breaches the separation of powers mandated by the Texas Constitution. [See IV\(A\) above.](#)

2. Denial of Right to Bail

Bail is a function of the courts, not the executive. The executive can ask for bail or that bail be withheld but only the courts or the local sheriff can grant it. [See IV\(F\) above.](#)

I. GA – 14 Restrict Liberty and School Taking

On the 31st day of March, 2020 Governor Abbot issued an executive order

[Relating to statewide continuity of essential services and activities during the COVID-19 disaster \(coronavirus\)](#) which reads in pertinent part as follows:

*NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of **the power and authority vested in me by the Constitution and laws of the State of Texas**, do hereby order the following on a statewide basis effective 12:01 a.m. on April 2, 2020, and continuing through April 30, 2020, subject to extension based on the status of COVID-19 in Texas and the recommendations of the CDC and the White House Coronavirus Task Force:*

*In accordance with guidance from DSHS Commissioner Dr. Hellerstedt, and to achieve the goals established by the President to reduce the spread of COVID-19, **every person in Texas shall, except where necessary to provide or obtain essential services, minimize social gatherings and minimize in-person contact with people who are not in the same household.***

“Essential services” shall consist of everything listed by the [U.S. Department of Homeland Security in its Guidance on the Essential Critical Infrastructure Workforce, Version 2.0](#), plus religious services conducted in churches, congregations, and houses of worship. Other essential services may be added to this list with the approval of the [Texas Division of Emergency Management \(TDEM\)](#). TDEM shall maintain an online list of essential services, as specified in this executive order and in any approved additions. Requests for additions should be directed to

TDEM at EssentialServices@tdem.texas.gov or by visiting www.tdem.texas.gov/essentialservices.

*In providing or obtaining essential services, people and businesses **should follow** the Guidelines from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, implementing social distancing, and working from home if possible. In particular, all services should be provided through remote telework from home unless they are essential services that cannot be provided through remote telework. If religious services cannot be conducted from home or through remote services, they **should be conducted** consistent with the Guidelines from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, and by implementing social distancing to prevent the spread of COVID-19.*

*In accordance with the Guidelines from the President and the CDC, **people shall avoid** eating or drinking at bars, restaurants, and food courts, or visiting gyms, massage establishments, tattoo studios, piercing studios, or cosmetology salons; provided, however, that the use of drive-thru, pickup, or delivery options for food and drinks is allowed and highly encouraged throughout the limited duration of this executive order.*

*This executive order **does not prohibit people from** accessing essential services or engaging in essential daily activities, such as going to the grocery store or gas station, providing or obtaining other essential services, visiting parks, hunting or fishing, or engaging in physical activity like jogging or bicycling, so long as the necessary precautions are maintained to reduce the transmission of COVID-19 and to minimize in person contact with people who are not in the same household.*

*In accordance with the Guidelines from the President and the CDC, **people shall not visit nursing homes**, state supported living centers, assisted living facilities, or long-term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission.*

*In accordance with the Guidelines from the President and the CDC, **schools shall remain temporarily closed** to in-person classroom attendance and shall not recommence before May 4, 2020.*

This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts essential services allowed by this executive order or allows gatherings prohibited by this executive order. I hereby suspend [Sections 418.1015\(b\) and 418.108 of the Texas Government Code](#), Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order. Given under my hand this the 31st day of March, 2020.

This executive order supersedes Executive Order GA-08, but not Executive Orders GA-09, GA10, GA-11, GA-12, or GA-13, and shall remain in effect and in full force until April 30, 2020, unless it is modified, amended, rescinded, or superseded by the Governor.

1. Denial of Liberty

The Governor issued orders directed at every citizen in the State of Texas as follows:

“every person in Texas shall ...”

While there may be need for care and consideration in this time of pandemic, the authority for issuing mandates enforceable against the public, by the Governor, is non-existent. See [IV\(B\)](#) above.

2. Schools Closing as Unlawful Taking

By the above executive order, the Governor issued or continued orders affecting the closing of public schools. [See IV\(C\) above.](#)

3. Sedition - Public Law 577.001

In this case, the Governor promulgated edicts which had to effect of breaching specific prohibitions contained in the Texas Constitution. He then commandeered armed agents to enforce his dictates. The above act wars with the constitution as considered by the Legislature on passing [Texas Public Law 557.001](#) which reads in pertinent part as follows:

A person commits an offense if the person knowingly:

- (1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence;*
- (2) under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or*
- (3) participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence. [Texas Public Law 557.001](#)*

Complainant is not saying quarantine is necessarily a bad idea. Complainant is not saying people should not take precautions. Complainant is saying, the Governor of the State of Texas has no power to issue such an order and certainly does not have the power to threaten the public with force of arms for not following one of his dictates. There is no corresponding law passed by the Texas Legislature and the Legislature specifically forbids anyone other than the Legislature from

passing law. Any legislation, proclamations, or edict to the contrary is void on its face, ab initio (from the beginning).

J. Error! Reference source not found. Error! Reference source not found. Error! Reference source not found. Error! Reference source not found. GA – 15

Suspension of Laws

On the 17th day of April, 2020 Governor Abbott issued an executive order [Relating to hospital capacity during the COVID-19 disaster \(coronavirus\)](#) which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis beginning at 11:59 p.m. on April 21, 2020, and continuing until 11:59 p.m. on May 8, 2020:

*All licensed health care professionals and all licensed health care facilities shall **postpone all surgeries and procedures that are not medically necessary** to diagnose or correct a serious medical condition of, or to preserve the life of, a patient who without timely performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician; provided, however, that this prohibition shall not apply to either of the following:*

- any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster; or*
- any surgery or procedure performed in a licensed health care facility that has certified in writing to the Texas Health and Human Services Commission both: (1) that it will reserve at least 25% of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients; and (2) that it will not request any personal protective equipment from any public source, whether federal, state, or local, for the duration of the COVID 19 disaster.*

*I hereby **continue the suspension of the following provisions** to the extent necessary to implement increased occupancy in the event of surge needs for hospital capacity due to COVID-19:*

25 TAC Sec. 133.162(d)(4)(A)(iii)(I);

25 TAC Sec. 133.163(f)(1)(A)(i)(U)—(ffl);

25 TAC Sec. 133.163(O)(1)(B)(i)(ffl)—(W); 25 TAC Sec. 133.163(m)(1)(B)(ii);

25 TAC Sec. 133.163(t)(1)(B)(iii)—(iv);

25 TAC Sec. 133.163(t)(1)(C);

25 TAC Sec. 133.163(t)(5)(B)—(C); and

Any other pertinent regulations or statutes, upon written approval of the Office of the Governor.

This executive order shall remain in effect and in full force until 11:59 p.m. on May 8, 2020, unless it is modified, amended, rescinded, or superseded by the Governor.

1. Suspension of Laws

Where Governor Abbott, in his executive orders, purport to suspend law, exceeds his authority and breaches the separation of powers mandated by the Texas Constitution. [See IV\(A\) above..](#)

K. GA – 16 Liberty Restrictions and School Taking

On the 29th day of March, 2020 Governor Abbot issued an executive order

[Relating to the safe, strategic reopening of select services as the first step to Open Texas in response to the COVID-19 disaster \(coronavirus\)](#) which reads in pertinent part as follows:

*NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue **of the power and authority vested in me by the Constitution and laws of the State of Texas**, do hereby order the following on a statewide basis effective immediately, and continuing through April 30, 2020, subject to extension based on the status of COVID-19 in Texas and the recommendations of the CDC and the White House Coronavirus Task Force:*

*In accordance with guidance from DSHS Commissioner Dr. Hellerstedt, and to achieve the goals established by the President to reduce the spread of COVID-19, **every person in Texas shall**, except where necessary to provide or obtain essential services or reopened services, minimize social gatherings and minimize in-person contact with people who are not in the same household.*

*“Essential services” **shall consist of** everything listed by the U.S. Department of Homeland Security (DHS) in its Guidance on the Essential Critical Infrastructure Workforce, Version 2.0 or any subsequent version, plus religious services conducted in churches, congregations, and houses of worship. **Other essential services may be added** to this list with the approval of the Texas Division of Emergency Management (TDEM). TDEM shall maintain an online list of essential services, as specified in this executive order and any approved additions. Requests for additions should be directed to TDEM at EssentialServices@tdem.texas.gov or by visiting www.tdem.texas.gov/essentialservices. **“Reopened services” shall consist of:***

- Starting at 12:01 a.m. on Friday, April 24, 2020, retail services that are not “essential services,” but that may be provided through pickup, delivery by mail, or delivery to the customer’s doorstep in strict compliance with the terms required by DSHS. The DSHS requirements may be found at www.dshs.texas.gov/coronavirus.*
- Such additional services as may be enumerated by future executive orders or proclamations by the Governor. In providing or obtaining essential services or reopened services, people and businesses should follow the Guidelines from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, implementing social distancing, and working from home if possible. In particular, all such services should be provided through remote telework from home unless they cannot be provided through remote telework. Religious services should be conducted in accordance with the Guidelines for Houses of Worship During the COVID-19 Crisis, as promulgated by the attorney general and Governor.*

*In accordance with the Guidelines from the President and the CDC, people **shall avoid eating or drinking at bars**, restaurants, and food courts, or visiting gyms, massage establishments, tattoo studios, piercing studios, or cosmetology salons; provided, however, that the use of drive-thru, pickup, or delivery options for food and drinks is allowed and highly encouraged throughout the limited duration of this executive order. This executive order does not prohibit people from accessing essential or reopened services or engaging in essential daily activities, such as going*

to the grocery store or gas station, providing or obtaining other essential or reopened services, visiting parks, hunting or fishing, or engaging in physical activity like jogging or bicycling, so long as the necessary precautions are maintained to reduce the transmission of COVIB- 19 and to minimize in-person contact with people who are not in the same household.

*In accordance with the Guidelines from the President and the CDC, **people shall not visit nursing homes**, state supported living centers, assisted living facilities, or long term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by the HHSC, including minimizing the movement of staff between facilities whenever possible.*

*In accordance with the Guidelines from the President and the CDC, **schools shall remain temporarily closed** to in-person classroom attendance by students and shall not recommence before the end of the 2019-2020 school year. Public education teachers and staff are encouraged to continue to work remotely from home if possible, but may return to schools to conduct remote video instruction, as well as perform administrative duties, under the strict terms required by the Texas Education Agency. Private schools and institutions of higher education should establish similar terms to allow teachers and staff to return to schools to conduct remote video instruction and perform administrative duties when it is not possible to do so remotely from home.*

*This executive order **shall supersede any conflicting order issued by local officials** in response to the COVID-19 disaster, but only to the extent that such a local order restricts essential services or reopened services allowed by this executive order or allows gatherings prohibited by this executive order. **I hereby suspend [Sections 418.10 15\(b\) and 418.108](#) of the Texas Government Code**, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.*

This executive order supersedes Executive Order GA- 14, but does not supersede Executive Orders GA-09, GA-b, GA-li, GA-12, GA-13, or GA-15. This executive order shall remain in effect and in full force until 11:59 p.m. on April 30, 2020, unless it is modified, amended, rescinded, or superseded by the Governor.

1. Denial of Liberty

The Governor issued orders directed at every citizen in the State of Texas as follows:

“every person in Texas shall ...”

While there may be need for care and consideration in this time of pandemic, the authority for issuing mandates enforceable against the public, by the Governor, is non-existent. See [IV\(B\)](#) above.

2. Schools Closing as Unlawful Taking

By the above executive order, the Governor issued or continued orders affecting the closing of public schools. [See IV\(C\) above.](#)

3. Sedition - Public Law 577.001

In this case, the Governor promulgated edicts which had to effect of breaching specific prohibitions contained in the Texas Constitution. He then commandeered armed agents to enforce his dictates. The above act wars with the constitution as considered by the Legislature on passing [Texas Public Law 557.001](#) which reads in pertinent part as follows:

A person commits an offense if the person knowingly:

(1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence;

(2) under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or

(3) participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence. [Texas Public Law 557.001](#)

Complainant is not saying quarantine is necessarily a bad idea. Complainant is not saying people should not take precautions. Complainant is saying, the Governor of the State of Texas has no power to issue such an order and certainly does not have the power to threaten the public with force of arms for not following one of his dictates. There is no corresponding law passed by the Texas Legislature and the Legislature specifically forbids anyone other than the Legislature from passing law. Any legislation, proclamations, or edict to the contrary is void on its face, ab initio(from the beginning).

4. Breach of Article I, Sections 10, 28 and 29

Governor purported to create law affecting the people of the State of Texas. These laws had the effect of denying covered persons in the right to be free from unlawful seizure and the right to be free from self-incrimination. The purported law, created by the Governor, through proclamation, requires a traveler to bear witness against him/herself by filling out a [government document](#)

under penalty of prosecution for a violation of [Texas Penal Code 37.10, Tampering With A Government Document](#) if an error is discovered on the document.

a) Violation Article I Section 10

There is a wonderful video on [youtube](#) where a law professor is talking to a class about [When to Advise Your Client To Talk to the Police](#) that everyone should watch. It can be summed up in three words: never, Never, NEVER! This is supported by the [Texas Constitution Article 1 Section 10](#) which reads as follows:

*Sec. 10. RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. **He shall not be compelled to give evidence against himself,** and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.*

b) Violation of Texas Constitution Article I Section 28

What part of, “**shall not be compelled to give evidence against himself,**”, is hard for the Governor to understand? This is a clear demonstration as to why our founders included <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.557.htm> at Article 1 Section 28 as it mandates the following:

Sec. 28. SUSPENSION OF LAWS. No power of suspending laws in this State shall be exercised except by the Legislature.

Violation of Texas Constitution Article I, Section 29

Our founders did not mince word when they included this prohibition in the constitution and, if there be any confusion as to the rational of the above that should be settled by then next provision, [Bill of Rights at Article 29](#), for any reasonable person of ordinary prudence, should settle the issue’.

Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOLEATE. To guard against transgressions of the high powers herein delegated, we

declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

c) Wrongful Detention

The only time a person may be arrested without a warrant first being issued is stipulated by [Texas Code of Criminal Procedure Chapter 14.01-03](#). I did not quote it here as 14.03 gets a bit long and detailed but in the case of a misdemeanor, the offense must have been committed within the sight or hearing of the arresting officer or must have been ordered by a magistrate who personally saw or heard the offense committed.

By the above executive order, the Governor would order a person to give up their right to remain silent or be arrested under this new law he just created by edict. So, what if you happened to take a cheap flight that originated in El Paso, stopped in New Mexico, then Colorado and dropped you off in Amarillo, and you got off in Colorado to get a snack. If you did not fill out the form, you would be subject to arrest. If you filled out the form you would find no place to include connecting flights. If the officer then found that you were on a connecting flight and got off in Colorado, you would be subject to criminal charges and jail for violating [Texas Penal Code 37.10, Tampering With A Government Document](#).

d) Violation of Texas Penal code 32.48

As shown above, not only did the governor not have power to create legal requirements he was using armed personnel to enforce, he was specifically forbidden by the Texas Constitution from doing so. By the creation of a document consequent to the false penal statute the governor promulgated by edict, constituted a simulated a legal process in violation of [Texas Penal Code Section 32.48](#) which reads in pertinent part as follows:

Section 32.48

(a) A person commits an offense if the person recklessly causes to be delivered to another any document that simulates a summons, complaint, judgment, or other court process with the intent to:

(1) induce payment of a claim from another person; or

(2) cause another to:

(A) submit to the putative authority of the document; or

(B) take any action or refrain from taking any action in response to the document, in compliance with the document, or on the basis of the document.

5. 1st Degree Felony Aggravated Assault

In Complaint's humble opinion, Texas has the best corpus juris (body of law) of any state in the union. Our legal system was conceived using English and United States law as a model. That amounts to 800 years of careful refinement. Texas took that mass of legal experience and honed it into a system that has a legal remedy for most any malady.

a) Simple Assault

In the instant case, Texas has a law unique to Texas. When Texas put pistols on the hips of public officials, they placed an incredible responsibility on them. In Texas, if you indulge in offensive speech or offensive touching you will be in violation of Texas Penal Code 22.01 which reads in pertinent part as follows:

[Sec. 22.01. ASSAULT.](#)

(a) A person commits an offense if the person:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;*
- (2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or*
- (3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.*

The above is simple assault and is a class C misdemeanor unless the act is committed against a public official acting or on account of having acted in an official capacity, in which case it would be a class A misdemeanor.

b) Aggravated Assault

If simple assault, as defined above, is committed by someone who is prominently displaying a deadly weapon, that would be a second degree felony as follows:

[Sec. 22.02. AGGRAVATED ASSAULT.](#) *(a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:*

- (2) uses or exhibits a deadly weapon during the commission of the assault.*
- (b) An offense under this section is a felony of the second degree,*

So, if you are doing open carry or are an armed public official, you must exercise greater care.

c) 1st Degree Felony Aggravated Assault

However, if you commit simple assault while prominently displaying a deadly weapon and you are a public official acting under the color (pretense) of an official capacity, under [Texas Penal Code 22.02\(b\)\(2\)\(A\)](#) which reads as follows:

Sec. 22.02. AGGRAVATED ASSAULT.

(a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:

(2) uses or exhibits a deadly weapon during the commission of the assault.

(b) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if:

(2) regardless of whether the offense is committed under Subsection (a)(1) or (a)(2), the offense is committed:

(A) by a public servant acting under color of the servant's office or employment;

The State of Texas takes the use of force, or threat of force, by its public officials very seriously. When they put pistols in the hands of their governmental instruments, they intended that pistol be taken very seriously.

Error! Reference source not found.Error! Reference source not found.Error! Reference source not found.Error! Reference source not found.

L. GA – 18 Liberty Restriction and School Taking

On the 27th day of April, 2020 Governor Abbot issued an executive order [Relating to the expanded reopening of services as part of the safe, strategic plan to Open Texas in response to the COVID-19 disaster \(coronavirus\)](#) which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately, and continuing through May 15, 2020, subject to extension based on the status of COVID-19 in Texas and the recommendations of the Governor's Strike Force to Open Texas, the White House Coronavirus Task Force, and the CDC:

*In accordance with **guidance from DSHS Commissioner Dr. Hellerstedt**, and to achieve the goals established by the President to reduce the spread of COVID-19, every person in Texas shall, except where necessary to provide or obtain essential services or reopened services, minimize social gatherings and minimize in-person contact with people who are not in the same household. People over the age of 65, however, are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and, if leaving the home, to implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation.*

***"Essential services"** shall consist of everything listed by the U.S. Department of Homeland Security (DHS) in its Guidance on the Essential Critical Infrastructure Workforce, Version 3.0 or any subsequent version, plus religious services conducted in churches, congregations, and houses of worship. Other essential services may be added to this list with the approval of the Texas Division of Emergency Management (TDEM). TDEM shall maintain an online list of essential services, as specified in this executive order and any approved additions. Requests for additions should be directed to TDEM at EssentialServices@tdem.texas.gov or by visiting the TDEM website at www.tdem.texas.gov/essentialservices.*

***"Reopened services"** shall consist of the following to the extent they are not already "essential services:"*

- 1. Retail services that may be provided through pickup, delivery by mail, or delivery to the customer's doorstep.*
- 2. Starting at 12:01 a.m. on Friday, May 1, 2020: a) In-store retail services, for retail establishments that operate at up to 25 percent of the total listed occupancy of the retail establishment. b) Dine-in restaurant services, for restaurants that operate at up to 25 percent of the total listed occupancy of the restaurant; provided, however, that:*
 - a) In-store retail services, for retail establishments that operate at up to 25 percent of the total listed occupancy of the retail establishment.*
 - b) Dine-in restaurant services, for restaurants that operate at up to 25 percent of the total listed occupancy of the restaurant; provided, however, that (a) this*

applies only to restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages and are therefore not required to post the 51 percent sign required by Texas law as determined by the Texas Alcoholic Beverage Commission, and (b) valet services are prohibited except for vehicles with placards or plates for disabled parking.

c) Movie theaters that operate at up to 25 percent of the total listed occupancy of any individual theater for any screening.

d) Shopping malls that operate at up to 25 percent of the total listed occupancy of the shopping mall; provided, however, that within shopping malls, the foodcourt dining areas, play areas, and interactive displays and settings must remain closed.

e) Museums and libraries that operate at up to 25 percent of the total listed occupancy; provided, however, that (a) local public museums and local public libraries may so operate only if permitted by the local government, and (b) any components of museums or libraries that have interactive functions or exhibits, including child play areas, must remain closed.

f) For Texas counties that have filed with DSHS, and are in compliance with, the requisite attestation form promulgated by DSHS regarding five or fewer cases of COVID- 19, those in-store retail services, dine-in restaurant services, movie theaters, shopping malls, and museums and libraries, as otherwise defined and limited above, may operate at up to 50 percent (as opposed to 25 percent) of the total listed occupancy.

g) Services provided by an individual working alone in an office.

h) Golf course operations.

i) Local government operations, including county and municipal governmental operations relating to permitting, recordation, and document-filing services, as determined by the local government. j) Such additional services as may be enumerated by future executive orders or proclamations by the governor.

The conditions and limitations set forth above for reopened services shall not apply to essential services. *Notwithstanding anything herein to the contrary, the Governor may by proclamation identify any county or counties in which reopened services are thereafter prohibited, in the Governor's sole discretion, based on the Governor's determination in consultation with medical professionals that only essential services should be permitted in the county, including based on factors such as an increase in the transmission of COVID-19 or in the amount of COVID- 19-related hospitalizations or fatalities.*

In providing or obtaining essential services or reopened services, people and businesses should follow the minimum standard health protocols recommended by DSHS, *found at www.dshs.texas.gov/coronavirus, and should implement social distancing, work from home if possible, and practice good hygiene, environmental cleanliness, and sanitation. This includes also following, to the extent not inconsistent with the DSHS minimum standards, the Guidelines from the President and the CDC, as well as other CDC recommendations. Individuals are encouraged to wear appropriate face coverings, but no jurisdiction can impose a civil or criminal penalty for failure to wear a face covering. Religious services should be conducted in*

accordance with the joint guidance issued and updated by the attorney general and Governor.

People shall avoid visiting bars, gyms, public swimming pools, interactive amusement venues such as bowling alleys and video arcades, massage establishments, tattoo studios, piercing studios, or cosmetology salons. The use of drive-thru, pickup, or delivery options for food and drinks remains allowed and highly encouraged throughout the limited duration of this executive order.

This executive order does **not prohibit people from accessing essential or reopened services** or engaging in essential daily activities, such as going to the grocery store or gas station, providing or obtaining other essential or reopened services, visiting parks, hunting or fishing, or engaging in physical activity like jogging, bicycling, or other outdoor sports, so long as the necessary precautions are maintained to reduce the transmission of COVID-19 and to minimize in-person contact with people who are not in the same household. In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by the HHSC, including minimizing the movement of staff between facilities whenever possible.

In accordance with the Guidelines from the President and the CDC, **schools shall remain temporarily closed** to in-person classroom attendance by students and shall not recommence before the end of the 2019-2020 school year. Public education teachers and staff are encouraged to continue to work remotely from home if possible, but may return to schools to conduct remote video instruction, as well as perform administrative duties, under the strict terms required by the Texas Education Agency. Private schools and institutions of higher education should establish similar terms to allow teachers and staff to return to schools to conduct remote video instruction and perform administrative duties when it is not possible to do so remotely from home.

This executive order **shall supersede any conflicting order** issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts essential services or reopened services allowed by this executive order, allows gatherings prohibited by this executive order, or expands the list of essential services or the list or scope of reopened services as set forth in this executive order. I hereby suspend [Sections 418.1015\(b\) and 418.108](#) of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

This executive order supersedes Executive Order GA-16, but does not supersede Executive Orders GA-b, GA-il, GA-l2, GA-13, GA-15, or GA-17. This executive order shall remain in effect and in full force until 11:59 p.m. on May 15, 2020, unless it is modified, amended, rescinded, or superseded by the Governor.

1. Denial of Liberty

The Governor issued orders directed at every citizen in the State of Texas as follows:

“every person in Texas shall ...”

While there may be need for care and consideration in this time of pandemic, the authority for issuing mandates enforceable against the public, by the Governor, is non-existent. See [IV\(B\)](#) above.

2. Schools Closing as Unlawful Taking

By the above executive order, the Governor issued or continued orders affecting the closing of public schools. [See IV\(C\) above.](#)

3. Sedition - Public Law 577.001

In this case, the Governor promulgated edicts which had to effect of breaching specific prohibitions contained in the Texas Constitution. He then commandeered armed agents to enforce his dictates. The above act wars with the constitution as considered by the Legislature on passing [Texas Public Law 557.001](#) which reads in pertinent part as follows:

A person commits an offense if the person knowingly:

- (1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence;*
- (2) under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or*
- (3) participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence. [Texas Public Law 557.001](#)*

Complainant is not saying quarantine is necessarily a bad idea. Complainant is not saying people should not take precautions. Complainant is saying, the Governor of the State of Texas has no power to issue such an order and certainly does not have the power to threaten the public with force of arms for not following one of his dictates. There is no corresponding law passed by the Texas Legislature and the Legislature specifically forbids anyone other than the Legislature from

passing law. Any legislation, proclamations, or edict to the contrary is void on its face, ab initio(from the beginning).

M. GA – 19 Suspension of Laws

On the 27th day of April, 2020 Governor Abbot issued an executive order [Relating to hospital capacity during the COVID-19 disaster \(coronavirus\)](#) which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis beginning at 12:01 a.m. on May 1, 2020:

All licensed health care professionals shall be limited in their practice by, and must comply with, any emergency rules promulgated by their respective licensing agencies dictating minimum standards for safe practice during the COVID-19 disaster.

Every hospital licensed under Chapter 241 of the Texas Health and Safety Code shall reserve at least 15 percent of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients, as determined by the Texas Health and Human Services Commission.

*I hereby **continue the suspension** of the following provisions to the extent necessary to implement increased occupancy in the event of surge needs for hospital capacity due to COVID-19:*

25 TAC Sec. 133.162(d)(4)(A)(iii)(I);

25 TAC Sec. 133.163(O)(1)(A)(i)(II)—(ffl); 25 TAC Sec. 133.163(O)(1)(B)(i)(ffl)—(W);

25 TAC Sec. 133.163(m)(1)(B)(ii); 25 TAC Sec. 133.163(t)(1)(B)(iii)—(iv);

25 TAC Sec. 133.163(t)(1)(C); 25 TAC Sec. 133.163(t)(5)(B)—(C); and

Any other pertinent regulations or statutes, upon written approval of the Office of the Governor. This executive order will supersede Executive Order GA-15 as of 12:01 a.m. on May 1, 2020, but will not supersede Executive Orders GA-10, GA-11, GA-12, GA-13, GA-17, or GA-18.

This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

1. Suspension of Laws

Where Governor Abbott, in his executive orders, purport to suspend law, exceeds his authority and breaches the separation of powers mandated by the Texas Constitution. [See IV\(A\) above..](#)

2. Seditious - Public Law 557.001

In this case, the Governor promulgated edicts which had to effect of breaching specific prohibitions contained in the Texas Constitution. He then commandeered armed agents to enforce his dictates. The above act wars with the constitution as considered by the Legislature on passing [Texas Public Law 557.001](#) which reads in pertinent part as follows:

A person commits an offense if the person knowingly:

(1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence;

(2) under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or

(3) participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence. [Texas Public Law 557.001](#)

Complainant is not saying quarantine is necessarily a bad idea. Complainant is not saying people should not take precautions. Complainant is saying, the Governor of the State of Texas has no power to issue such an order and certainly does not have the power to threaten the public with force of arms for not following one of his dictates. There is no corresponding law passed by the Texas Legislature and the Legislature specifically forbids anyone other than the Legislature from passing law. Any legislation, proclamations, or edict to the contrary is void on its face, ab initio(from the beginning).

3. Breach of Article I, Sections 10, 28 and 29

Governor purported to create law affecting the people of the State of Texas. These laws had the effect of denying covered persons in the right to be free from unlawful seizure and the right to be free from self-incrimination. The purported law, created by the Governor, through proclamation, requires a traveler to bear witness against him/herself by filling out a [government document](#) under penalty of prosecution for a violation of [Texas Penal Code 37.10, Tampering With A Government Document](#) if an error is discovered on the document.

a) Violation Article I Section 10

There is a wonderful video on [youtube](#) where a law professor is talking to a class about [When to Advise Your Client To Talk to the Police](#) that everyone should watch. It can be summed up in three words: never, Never, NEVER! This is supported by the [Texas Constitution Article 1 Section 10](#) which reads as follows:

*Sec. 10. RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. **He shall not be compelled to give evidence against himself,** and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.*

b) Violation of Texas Constitution Article I Section 28

What part of, “**shall not be compelled to give evidence against himself,**”, is hard for the Governor to understand? This is a clear demonstration as to why our founders included <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.557.htm> at [Article 1 Section 28](#) as it mandates the following:

Sec. 28. SUSPENSION OF LAWS. No power of suspending laws in this State shall be exercised except by the Legislature.

Violation of Texas Constitution Article I, Section 29

Our founders did not mince word when they included this prohibition in the constitution and, if there be any confusion as to the rational of the above that should be settled by then next provision, [Bill of Rights at Article 29](#), for any reasonable person of ordinary prudence, should settle the issue’.

Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOULATE. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

c) Wrongful Detention

The only time a person may be arrested without a warrant first being issued is stipulated by [Texas Code of Criminal Procedure Chapter 14.01-03](#). I did not quote it here as 14.03 gets a bit long and detailed but in the case of a misdemeanor, the offense must have been committed within the sight or hearing of the arresting officer or must have been ordered by a magistrate who personally saw or heard the offense committed.

By the above executive order, the Governor would order a person to give up their right to remain silent or be arrested under this new law he just created by edict. So, what if you happened to take a cheap flight that originated in El Paso, stopped in New Mexico, then Colorado and dropped you off in Amarillo, and you got off in Colorado to get a snack. If you did not fill out the form, you would be subject to arrest. If you filled out the form you would find no place to include connecting flights. If the officer then found that you were on a connecting flight and got off in Colorado, you would be subject to criminal charges and jail for violating [Texas Penal Code 37.10, Tampering With A Government Document](#).

d) Violation of Texas Penal code 32.48

As shown above, not only did the governor not have power to create legal requirements he was using armed personnel to enforce, he was specifically forbidden by the Texas Constitution from doing so. By the creation of a document consequent to the false penal statute the governor promulgated by edict, constituted a simulated a legal process in violation of [Texas Penal Code Section 32.48](#) which reads in pertinent part as follows:

Section 32.48

(a) A person commits an offense if the person recklessly causes to be delivered to another any document that simulates a summons, complaint, judgment, or other court process with the intent to:

(1) induce payment of a claim from another person; or

(2) cause another to:

(A) submit to the putative authority of the document; or

(B) take any action or refrain from taking any action in response to the document, in compliance with the document, or on the basis of the document.

4. 1st Degree Felony Aggravated Assault

In Complaint's humble opinion, Texas has the best corpus juris (body of law) of any state in the union. Our legal system was conceived using English and United States law as a model. That amounts to 800 years of careful refinement. Texas took that mass of legal experience and honed it into a system that has a legal remedy for most any malady.

a) Simple Assault

In the instant case, Texas has a law unique to Texas. When Texas put pistols on the hips of public officials, they placed an incredible responsibility on them. In Texas, if you indulge in offensive speech or offensive touching you will be in violation of Texas Penal Code 22.01 which reads in pertinent part as follows:

[Sec. 22.01. ASSAULT.](#)

(a) A person commits an offense if the person:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;*
- (2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or*
- (3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.*

The above is simple assault and is a class C misdemeanor unless the act is committed against a public official acting or on account of having acted in an official capacity, in which case it would be a class A misdemeanor.

b) Aggravated Assault

If simple assault, as defined above, is committed by someone who is prominently displaying a deadly weapon, that would be a second degree felony as follows:

[Sec. 22.02. AGGRAVATED ASSAULT.](#) *(a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:*

- (2) uses or exhibits a deadly weapon during the commission of the assault.*
- (b) An offense under this section is a felony of the second degree,*

So, if you are doing open carry or are an armed public official, you must exercise greater care.

c) 1st Degree Felony Aggravated Assault

However, if you commit simple assault while prominently displaying a deadly weapon and you are a public official acting under the color (pretense) of an official capacity, under [Texas Penal Code 22.02\(b\)\(2\)\(A\)](#) which reads as follows:

Sec. 22.02. AGGRAVATED ASSAULT.

(a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:

(2) uses or exhibits a deadly weapon during the commission of the assault.

(b) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if:

(2) regardless of whether the offense is committed under Subsection (a)(1) or (a)(2), the offense is committed:

(A) by a public servant acting under color of the servant's office or employment;

The State of Texas takes the use of force, or threat of force, by its public officials very seriously. When they put pistols in the hands of their governmental instruments, they intended that pistol be taken very seriously.

N. GA – 20 Right to Travel

On the 27th day of April, 2020 Governor Abbot issued an executive order [Relating to expanding travel without restrictions as part of the safe, strategic plan to Open Texas in response to the COVID-19 disaster \(coronavirus\)](#) which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective at 12:01 a.m. on Friday, May 1, 2020:

*Executive Order GA-12 is **hereby rescinded and terminated** in its entirety. Executive Order GA-11 and the March 29, 2020 proclamation are **hereby rescinded** and terminated to the extent applicable to **travelers from** the City of New Orleans or the State of Louisiana. Any mandatory self-quarantine already in effect as a result of these executive orders, to the extent applicable to travelers from the City of New Orleans or the State of Louisiana, is terminated immediately as of the effective date of this executive order.*

*Executive Order GA- 11 and the March 29, 2020, **proclamation are otherwise superseded** by this executive order, except that any mandatory self-quarantine already in effect thereunder, as of the effective date of this executive order, shall continue until its expiration as set forth in Executive Order GA- 11.*

The following restrictions shall remain in place:

Every person who enters the State of Texas as the final destination through an airport, from a point of origin or point of last departure in the following—State of California; State of Connecticut; State of New York; State of New Jersey; State of Washington; City of Atlanta, Georgia; City of Chicago, Illinois; City of Detroit, Michigan; or City of Miami, Florida—shall be subject to mandatory self-quarantine for a period of 14 days from the time of entry into Texas or the duration of the person’s presence in Texas, whichever is shorter. The Governor may by proclamation add to or subtract from the list of states and cities covered by this executive order. This order to self-quarantine shall not apply to people traveling in connection with military service, emergency response, health response, or critical-infrastructure functions, as may be determined by the Texas Division of Emergency Management. Each person covered under this order to self-quarantine shall be responsible for all associated costs, including transportation, lodging, food, and medical care.

A covered person shall use a form prescribed by the Texas Department of Public Safety (DPS) to designate a quarantine location in Texas, such as a residence or a hotel, and provide a full name, date of birth, home address, telephone number, and driver license or passport information. DPS Troopers, or other approved peace officers, shall collect a completed form from each covered person immediately upon disembarking and verify it against the person’s driver license or passport. Providing false information on this form is a criminal offense under Section 37.10 of the Texas Penal Code. Questions about this form should be directed to DPS at (800) 525-5555.

A covered person shall proceed directly from the airport to the designated quarantine location entered on the DPS form. Any covered person exhibiting symptoms of COVID-19 shall be escorted to the designated quarantine location by a DPS Trooper.

A covered person shall remain in the designated quarantine location for a period of 14 days or the duration of the person’s presence in Texas, whichever is shorter, leaving only to seek medical care or to depart from Texas. During that period, a covered person shall not allow visitors into or out of the designated quarantine location, other than a health department employee, physician, or health care provider, and shall not visit any public spaces.

DPS Special Agents will conduct unannounced visits to designated quarantine locations to verify compliance by confirming the physical presence of covered persons. Any failure to comply with this order to self-quarantine shall be a criminal offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both.

This executive order supersedes Executive Order GA-11 and Executive Order GA- 12 as set forth above, but does not supersede Executive Orders GA-b, GA-13, GA-17, GA-18, or GA-19.

This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

1. Freedom to Travel

[See discussion at GA – 11 above.](#)

2. Sedition - Public Law 577.001

In this case, the Governor promulgated edicts which had to effect of breaching specific prohibitions contained in the Texas Constitution. He then commandeered armed agents to enforce his dictates. The above act wars with the constitution as considered by the Legislature on passing [Texas Public Law 557.001](#) which reads in pertinent part as follows:

A person commits an offense if the person knowingly:

(1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence;

(2) under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or

(3) participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence. [Texas Public Law 557.001](#)

Complainant is not saying quarantine is necessarily a bad idea. Complainant is not saying people should not take precautions. Complainant is saying, the Governor of the State of Texas has no power to issue such an order and certainly does not have the power to threaten the public with force of arms for not following one of his dictates. There is no corresponding law passed by the Texas Legislature and the Legislature specifically forbids anyone other than the Legislature from passing law. Any legislation, proclamations, or edict to the contrary is void on its face, ab initio(from the beginning).

3. Breach of Article I, Sections 10, 28 and 29

Governor purported to create law affecting the people of the State of Texas. These laws had the effect of denying covered persons in the right to be free from unlawful seizure and the right to be free from self-incrimination. The purported law, created by the Governor, through proclamation, requires a traveler to bear witness against him/herself by filling out a [government document](#) under penalty of prosecution for a violation of [Texas Penal Code 37.10, Tampering With A Government Document](#) if an error is discovered on the document.

a) Violation Article I Section 10

There is a wonderful video on [youtube](#) where a law professor is talking to a class about [When to Advise Your Client To Talk to the Police](#) that everyone should watch. It can be summed up in three words: never, Never, NEVER! This is supported by the [Texas Constitution Article 1 Section 10](#) which reads as follows:

*Sec. 10. RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. **He shall not be compelled to give evidence against himself,** and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.*

b) Violation of Texas Constitution Article I Section 28

What part of, “**shall not be compelled to give evidence against himself,**”, is hard for the Governor to understand? This is a clear demonstration as to why our founders included <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.557.htm> at [Article 1 Section 28](#) as it mandates the following:

Sec. 28. SUSPENSION OF LAWS. No power of suspending laws in this State shall be exercised except by the Legislature.

Violation of Texas Constitution Article I, Section 29

Our founders did not mince word when they included this prohibition in the constitution and, if there be any confusion as to the rational of the above that should be settled by then next provision, [Bill of Rights at Article 29](#), for any reasonable person of ordinary prudence, should settle the issue’.

Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT AND INVIOULATE. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

c) Wrongful Detention

The only time a person may be arrested without a warrant first being issued is stipulated by [Texas Code of Criminal Procedure Chapter 14.01-03](#). I did not quote it here as 14.03 gets a bit long and detailed but in the case of a misdemeanor, the offense must have been committed within the sight or hearing of the arresting officer or must have been ordered by a magistrate who personally saw or heard the offense committed.

By the above executive order, the Governor would order a person to give up their right to remain silent or be arrested under this new law he just created by edict. So, what if you happened to take a cheap flight that originated in El Paso, stopped in New Mexico, then Colorado and dropped you off in Amarillo, and you got off in Colorado to get a snack. If you did not fill out the form, you would be subject to arrest. If you filled out the form you would find no place to include connecting flights. If the officer then found that you were on a connecting flight and got off in Colorado, you would be subject to criminal charges and jail for violating [Texas Penal Code 37.10, Tampering With A Government Document](#).

d) Violation of Texas Penal code 32.48

As shown above, not only did the governor not have power to create legal requirements he was using armed personnel to enforce, he was specifically forbidden by the Texas Constitution from doing so. By the creation of a document consequent to the false penal statute the governor promulgated by edict, constituted a simulated a legal process in violation of [Texas Penal Code Section 32.48](#) which reads in pertinent part as follows:

Section 32.48

(a) A person commits an offense if the person recklessly causes to be delivered to another any document that simulates a summons, complaint, judgment, or other court process with the intent to:

(1) induce payment of a claim from another person; or

(2) cause another to:

(A) submit to the putative authority of the document; or

(B) take any action or refrain from taking any action in response to the document, in compliance with the document, or on the basis of the document.

4. 1st Degree Felony Aggravated Assault

In Complaint's humble opinion, Texas has the best corpus juris (body of law) of any state in the union. Our legal system was conceived using English and United States law as a model. That amounts to 800 years of careful refinement. Texas took that mass of legal experience and honed it into a system that has a legal remedy for most any malady.

a) Simple Assault

In the instant case, Texas has a law unique to Texas. When Texas put pistols on the hips of public officials, they placed an incredible responsibility on them. In Texas, if you indulge in offensive speech or offensive touching you will be in violation of Texas Penal Code 22.01 which reads in pertinent part as follows:

[Sec. 22.01. ASSAULT.](#)

(a) A person commits an offense if the person:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;*
- (2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or*
- (3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.*

The above is simple assault and is a class C misdemeanor unless the act is committed against a public official acting or on account of having acted in an official capacity, in which case it would be a class A misdemeanor.

b) Aggravated Assault

If simple assault, as defined above, is committed by someone who is prominently displaying a deadly weapon, that would be a second degree felony as follows:

[Sec. 22.02. AGGRAVATED ASSAULT.](#) *(a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:*

- (2) uses or exhibits a deadly weapon during the commission of the assault.*
- (b) An offense under this section is a felony of the second degree,*

So, if you are doing open carry or are an armed public official, you must exercise greater care.

c) 1st Degree Felony Aggravated Assault

However, if you commit simple assault while prominently displaying a deadly weapon and you are a public official acting under the color (pretense) of an official capacity, under [Texas Penal Code 22.02\(b\)\(2\)\(A\)](#) which reads as follows:

Sec. 22.02. AGGRAVATED ASSAULT.

(a) A person commits an offense if the person commits assault as defined in Sec. [22.01](#) and the person:

(2) uses or exhibits a deadly weapon during the commission of the assault.

(b) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if:

(2) regardless of whether the offense is committed under Subsection (a)(1) or (a)(2), the offense is committed:

(A) by a public servant acting under color of the servant's office or employment;

The State of Texas takes the use of force, or threat of force, by its public officials very seriously. When they put pistols in the hands of their governmental instruments, they intended that pistol be taken very seriously.

O. GA – 22 Liberty Restriction Back-Tracking

On the 7th day of May, 2020 Governor Abbot issued an executive order [Relating to confinement during the COVID-19 disaster \(coronavirus\)](#) which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

*Executive Order GA-2 1, as it pertains to cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade, is hereby amended to immediately reopen, retroactive to April 2, 2020, such salons, shops, and establishments to the extent necessary to supersede and nullify the existence of any prior or existing state or local executive order, the violation of which could form the basis for **confinement in jail**. To the extent any order issued by local officials in response to COVID-19 would allow confinement in jail of a person inconsistent with Executive Order GA-2 1 or this executive order, that order is hereby superseded retroactive to April 2, 2020. All existing executive orders relating to COVID-19 are hereby amended to eliminate confinement in jail as an available penalty for any violation of the executive orders. No jurisdiction can confine a person in jail as a penalty for violating any executive order, or any order issued by local officials, in response to the*

COVID-19 disaster. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail, that order is hereby superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any order issued in response to the COVID-19 disaster. This amendment and suspension operates retroactively to April 2, 2020, and supersedes any contrary local or state order.

This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

2. No Power Over Citizens

The Governor issued orders directed at every citizen in the State of Texas as follows:

“every person in Texas shall ...”

While there may be need for care and consideration in this time of pandemic, the authority for issuing mandates enforceable against the public, by the Governor, is non-existent. The Governor is the highest executive officer of the state. While the executive branch has the duty to enforce law, it has no power to make law.

If the Governor had reason to believe new laws were necessary, he certainly could have convened the Legislature for that purpose as authorized by

<https://statutes.capitol.texas.gov/Docs/GV/htm/GV.557.htm> Article IV Section VIII which reads as follows:

SEC. 8. The Governor may, on extraordinary occasions, convene the Legislature at the seat of government, or at a different place in case that should be in possession of the public enemy or in case of the prevalence of disease thereat. His proclamation therefor shall state specifically the purpose for which the Legislature is convened.

It is [Article IV of the https://statutes.capitol.texas.gov/Docs/GV/htm/GV.557.htm](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.557.htm) that grants authority to the Governor. A careful reading of Article IV will show nothing that indicates that our founders intended that the Governor had power to issue any order binding on the citizens of the State of Texas.

1. Schools Closing as Unlawful Taking

By the above executive order, the Governor issued or continued orders affecting the closing of public schools. The Texas Education Agency has power to oversee how schools operate, as follows:

Texas Education Code § 7.021. Texas Education Agency Powers and Duties

(a) The agency shall perform the educational functions provided by Subsection (b).

(b)

(1) The agency **shall administer and monitor compliance** with education programs required by federal or state law, including federal funding and state funding for those programs.

(2) The agency shall **conduct research, analysis, and reporting** to improve teaching and learning.

(3) The agency **shall conduct hearings involving state school law** at the direction and under the supervision of the commissioner.

(4) The agency shall establish and implement pilot programs established by this title.

(5) The agency shall carry out the duties relating to the **investment capital fund** under [Section 7.024](#).

(6) The agency shall develop **and implement a teacher recruitment program** as provided by [Section 21.004](#).

(7) The agency shall carry out duties under **the Texas Advanced Placement Incentive Program** under Subchapter C, Chapter 28. ¹

(8) The agency **shall** carry out powers and duties relating to **community education** as required under Subchapter H, Chapter 29. ²

(9) The agency **shall develop a program of instruction in driver education** and traffic safety as provided by [Section 29.902](#).

(10) The agency shall carry out duties assigned under [Section 30.002](#) concerning children with **visual impairments**.

(11) The agency shall carry out powers and duties related to **regional day school programs for the deaf** as provided under Subchapter D, Chapter 30. ³

(12) The agency shall establish and maintain an **electronic information transfer system** as required under [Section 32.032](#), maintain and expand telecommunications capabilities of school districts and regional education service centers as required under [Section 32.033](#), and establish technology demonstration programs as required under [Section 32.035](#).

(13) The agency shall **review school district budgets**, audit reports, and other fiscal reports as required under [Sections 44.008](#) and [44.010](#) and prescribe forms for financial reports made by or for school districts to the commissioner or the agency as required under [Section 44.009](#).

(14) The agency shall **cooperate with the Texas Higher Education Coordinating Board** in connection with the Texas partnership and scholarship program under Subchapter Q, Chapter 61. ⁴

(c) The agency may **enter into an agreement with a federal agency concerning a project related to education**, including the provision of school lunches and the construction of school buildings. Not later than the 30th day before the date the agency enters into an agreement under this subsection concerning a new project or reauthorizing a project, the agency **must provide written notice, including a description of the project, to:**

(1) the Governor;

(2) the Legislative Budget Board; and

(3) the presiding officers of the standing committees of the senate and of the house of representatives with primary jurisdiction over the agency.

The schools are created, funded, and operated by the citizens of each county. Taxes have been collected from the citizens of the county and allotted to the education of the students by the county. The Governor, by issuing the order to shut down the school, exceeded his authority and his edict acted as an unconstitutional taking from the citizens of each affected county.

2. Violation Constitutional Prohibition

The above cannot be construed as a violation of the separation of powers as, the dictates the Governor directed at the school is something the is not withing the State of Texas. The only entity authorized by the Texas Constitution is the Legislature, however, even the Texas Legislature is restricted concerning making laws affecting the schools. Texas Constitution [Article III Section 56](#) specifically prohibits the Legislature as follows:

Article 3 - LEGISLATIVE DEPARTMENT Section 56 - LOCAL AND SPECIAL LAWS

(a) The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing:

(18) regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;

The public schools are county business. The people of the county pay for the schools with their taxes, not the State of Texas and, therefore, the operation of the schools is the business of the county. There is nothing in public law that contemplates giving the Governor the power to take over the management of the schools from the counties.

3. Official Misconduct

The Governor, while acting under the color (pretense) of his official capacity as the highest level public officer in the State of Texas, abridged laws of the state and improperly dispersed funds in excess of \$300,000.00, in violation of [Texas Penal Code 39.02](#) which reads in pertinent part as follows:

Sec. 39.02. ABUSE OF OFFICIAL CAPACITY.

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

(1) violates a law relating to the public servant's office or employment; or

(2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) is:

(7) a felony of the first degree if the value of the use of the thing misused is \$300,000 or more.

Complaint alleges that, on or before the making and filing of this complaint, **Greg Abbott**, exerted an authority he did not have by abridging a law of the State of Texas and illegally disbursed amounts in excess of \$300,000.00 from the public treasury, to the public in order to enhance his electability, in an act of [Official Misconduct](#), in violation of [Texas Penal Code Article 39.02\(c\)\(7\)](#) against the peace and dignity of the State of Texas.

P. GA – 23 Liberty Restriction

On the 18th day of May, 2020 Governor Abbot issued an executive order

[Relating to the expanded opening of Texas in response to the COVID-19 disaster \(coronavirus\)](#)

which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately, and continuing through June 3, 2020, subject to extension based on the status of COVID-19 in Texas and the recommendations of the Governor's Strike Force to Open Texas, the White House Coronavirus Task Force, and the CDC:

*In accordance with guidance from DSHS Commissioner Dr. Hellerstedt, and to achieve the goals established by the President to reduce the spread of COVID-19, **every person in Texas shall**, except where necessary to provide or obtain Covered Services, **minimize social gatherings and minimize in-person contact with people who are not in the same household**. People over the age of 65, however, are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and, if leaving the home, to implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation.*

***"Covered Services"** shall consist of everything listed by the [U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency \(CISA\) in its Guidance on the Essential Critical Infrastructure Workforce, Version 3.0 or any subsequent version, plus religious services conducted in churches, congregations,](#) and houses of worship. These covered services are not subject to the conditions and limitations, including occupancy or operating limits, set forth below for other covered services.*

***"Covered Services"** shall also consist of the following to the extent they are not already CISA services or religious services, subject to the conditions and limitations set forth below:*

- 1. **Retail services** that may be provided through pick-up, delivery by mail, or delivery to the customer's doorstep.*
- 2. **In-store, non-CISA retail services**, for retail establishments that operate at up to 25 percent of the total listed occupancy of the retail establishment.*
- 3. **Dine-in restaurant services**, for restaurants that operate at up to 25 percent of the total listed occupancy of the restaurant, effective until 12:01 a.m. on Friday, May 22, 2020, when this provision is superseded by the provision set forth below for expanded dine-in restaurant services; provided, however, that*
 - a. this applies only to restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages; and*
 - b. any components of the restaurants that have interactive functions or exhibits, including child play areas, interactive games, and video arcades, must remain closed.*

*4. **Movie theaters** that operate at up to 25 percent of the total listed occupancy of any individual theater for any screening; provided, however, that components of the movie theaters that have video arcades or interactive games must remain closed.*

*5. **Shopping malls** that operate at up to 25 percent of the total listed occupancy of the shopping mall; provided, however, that within shopping malls, the food-court dining areas, play areas, video arcades, and interactive displays and settings must remain closed.*

*6. **Museums and libraries** that operate at up to 25 percent of the total listed occupancy; provided, however, that a. local public museums and local public libraries may so operate only if permitted by the local government; and b. any components of museums or libraries that have interactive functions or exhibits, including child play areas, must remain closed.*

7. Golf course operations.

*8. **Local government operations**, including county and municipal governmental operations relating to licensing (including marriage licenses), permitting, recordation, and document-filing services, as determined by the local government.*

*9. **Wedding venues** and the services required to conduct weddings; provided, however, that for weddings held indoors other than at a church, congregation, or house of worship, the facility may operate at up to 25 percent of the total listed occupancy of the facility.*

*10. **Wedding reception services**, for facilities that operate at up to 25 percent of the total listed occupancy of the facility.*

*11. **Cosmetology salons**, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade; provided, however, that all such salons, shops, and establishments must ensure at least six feet of social distancing between operating work stations.*

*12. **Tanning salons**; provided, however, that all such salons must ensure at least six feet of social distancing between operating work stations.*

*13. **Swimming pools**, as determined by each pool owner; provided, however, that a. indoor swimming pools may operate at up to 25 percent of the total listed occupancy of the pool facility; and b. outdoor swimming pools may operate at up to 25 percent of normal operating limits as determined by the pool owner.*

*14. **Non-CISA services provided by office workers** in offices that operate at up to the greater of (i) ten individuals, or (ii) 25 percent of the total office workforce; provided, however, that the individuals maintain appropriate social distancing.*

*15. **Non-CISA manufacturing services**, for facilities that operate at up to 25 percent of the total listed occupancy of the facility.*

*16. **Gyms and exercise facilities** and classes that operate at up to 25 percent of the total listed occupancy of the gym or exercise facility; provided, however, that locker rooms and shower facilities must remain closed, but restrooms may open.*

*17. Starting **immediately for all Texas counties except** Deaf Smith, El Paso, Moore, Potter, and Randall counties:*

*a. **Massage establishments** and other facilities where licensed massage therapists or other persons licensed or otherwise authorized to practice under*

Chapter 455 of the Texas Occupations Code practice their trade; provided, however, that all such facilities must ensure at least six feet of social distancing between operating work stations.

*b. **Personal-care and beauty services** that have not already been reopened, such as tattoo studios, piercing studios, hair removal services, and hair loss treatment and growth services; provided, however, that*

(i) all such facilities must ensure at least six feet of social distancing between operating work stations; and

*(ii) to the extent such services are licensed or otherwise regulated by Texas law, such services may operate only as permitted by Texas law. c. **Child-care services other than youth camps as described below; provided, however, that to the extent such services are licensed or otherwise regulated by Texas law, such services may operate only as permitted by Texas law.***

18. Starting at 12:01 a.m. on Friday, May 22, 2020, for all Texas counties except Deaf Smith, El Paso, Moore, Potter, and Randall counties:

*a. **Dine-in restaurant services**, for restaurants that operate at up to 50 percent of the total listed occupancy of the restaurant; provided, however that*

(i) this applies only to restaurants that have less than 5 1 percent of their gross receipts from the sale of alcoholic beverages; and

(ii) any components of the restaurants that have interactive functions or exhibits, including child play areas, interactive games, and video arcades, must remain closed.

*b. **Bars and similar establishments** that are not restaurants as defined above, that hold a permit from the Texas Alcoholic Beverage Commission, and that are not otherwise expressly prohibited in this executive order, for such establishments that operate at up to 25 percent of the total listed occupancy of the establishment; provided, however, that any components of the establishments that have interactive functions or exhibits, including child play areas, interactive games, and video arcades, must remain closed.*

*c. **Aquariums, natural caverns, and similar facilities** (excluding zoos) that operate at up to 25 percent of the total listed occupancy or, for outdoor areas, at up to 25 percent of the normal operating limits as determined by the facility owner; provided, however, that*

*(i) **local public facilities** may so operate only if permitted by the local government; and*

(ii) any components of the facilities that have interactive functions or exhibits, including child play areas, must remain closed.

*d. **Bowling alleys**, bingo halls, simulcast racing to the extent authorized by state law, and skating rinks that operate at up to 25 percent of the total listed occupancy of the establishment; provided, however, that*

(i) bowling alleys must ensure at least six feet of social distancing between operating lanes; and

(ii) components of the establishments that have video arcades must remain closed.

*e. **Rodeos and equestrian events** that operate at up to 25 percent of the total listed occupancy or, for outdoor areas, at up to 25 percent of the normal operating limits as determined by the facility owner; provided, however, that this authorizes only the rodeo or equestrian event and not larger gatherings, such as county fairs, in which such an event may be held.*

*f. **Drive-in concerts**, under guidelines that facilitate appropriate social distancing, that generally require spectators to remain in their vehicles, and that minimize in-person contact between people who are not in the same household or vehicle.*

*g. **Amateur sporting events***

(i) at which there is no access to the general public allowed; and

(ii) for which all participants have tested negative for COVID-19 prior to the event, are quarantined for the duration of the event, are temperature-checked and monitored for symptoms daily, and are tested again for COVID-19 at the end of the event.

19. Starting at 12:01 a.m. on Friday, May 29, 2020, for Deaf Smith, El Paso, Moore, Potter, and Randall counties:

a. All services that were restored for other Texas counties on Monday, May 18 and Friday, May 22, 2020, in numbers 17 and 18 above.

20. Starting at 12:01 a.m. on Friday, May 29, 2020, for all Texas counties:

a. Outdoor areas of zoos that operate at up to 25 percent of the normal operating limits as determined by the zoo owner; provided, however, that

(i) indoor areas of zoos, other than restrooms, must remain closed;

(ii) any components of the zoos that have interactive functions or exhibits, including child play areas, must remain closed; and (iii) local public zoos may so operate only if permitted by the local government.

*21. Starting at 12:01 a.m. on Sunday, May 31, 2020, for **all Texas counties**:*

*a. **Professional basketball**, baseball, softball, golf, tennis, football, and car racing events, with no spectators physically present on the premises of the venue, as approved on a league-by-league basis by DSHS, in consultation with the Office of the Governor and any recommendations by the advisory Strike Force to Open Texas, based on whether the league has submitted a plan that applies to all events and that meets the minimum health and safety standards; provided, however, that each league must submit, along with a request for approval in the manner prescribed by DSHS, a plan that incorporates applicable minimum standard health protocols recommended by DSHS, as applicable, and such additional measures as are needed to ensure a safe plan for conducting the event.*

*b. **Youth camps**, including but not limited to those defined as such under Chapter 141 of the Texas Health and Safety Code, and including all summer camps and other daytime and overnight camps for youths.*

*c. **Youth sports programs**; provided, however, that practices may begin, but games and similar competitions may not begin until June 15, 2020.*

*22. For **Texas counties that have filed with DSHS**, and are in compliance with, the requisite attestation form promulgated by DSHS regarding five or fewer cases of*

COVID-19, those services, establishments, and facilities listed above with 25 percent occupancy or operating limits may, as otherwise defined and limited above, operate at up to 50 percent.

23. Such additional services as may be enumerated by future executive orders or proclamations by the Governor.

*For the **Covered Services listed above** with limits based on “total listed occupancy,” the total listed occupancy limits refer to the maximum occupant load set by local or state law, but for purposes of this executive order, staff members are not included in determining operating levels except for non-CISA manufacturing service providers and non-CISA services provided by office workers. The “total listed occupancy” limits do not apply to outdoor areas, events, facilities, or establishments.*

Additionally, **valet services are prohibited** except for vehicles with placards or plates for disabled parking.

Notwithstanding anything herein to the contrary, **the Governor may by proclamation** identify any county or counties in which Covered Services other than CISA services and religious services are thereafter prohibited, **in the Governor’s sole discretion**, based on the Governor’s determination in consultation with medical professionals that only CISA services and religious services should be permitted in the county, including based on factors such as an increase in the transmission of COVID-19 or in the amount of COVID-19-related hospitalizations or fatalities. In providing or obtaining Covered Services, **all persons** (including individuals, businesses and other organizations, and any other legal entity) **should use good-faith** efforts and available resources to follow the minimum standard health protocols recommended by DSHS, found at <https://www.dshs.texas.gov/coronavirus/>. All persons should also follow, to the extent not inconsistent with the DSHS minimum standards, the Guidelines from the President and the CDC, as well as other CDC recommendations. Individuals are encouraged to wear appropriate face coverings, **but no jurisdiction can impose a civil or criminal penalty for failure to wear a face covering**. Nothing in this executive order or the DSHS minimum standards precludes requiring a customer wishing to obtain services to follow additional hygiene measures.

Religious services should be conducted in accordance with the joint guidance issued and updated by the attorney general and Governor. Nothing in this executive order, the DSHS minimum standards, or the joint guidance issued and updated by the attorney general and Governor precludes churches, congregations, and houses of worship from using school campuses for their religious services or other allowed services.

Except as specifically allowed above, **people shall avoid visiting** interactive amusement venues such as video arcades, amusement parks, or water parks, unless these enumerated establishments or venues are specifically added as a Covered Service by proclamation or future executive order of the Governor. Notwithstanding anything herein to the contrary, **the Governor may by proclamation** add to this list of establishments or venues that people shall avoid visiting. To the extent any of the establishments or venues that people shall avoid visiting also offer Covered Services permitted above, such as restaurant services, **these establishments or venues can offer only the Covered Services** and may not offer any other services. **This executive order does not prohibit people from** accessing Covered Services or engaging in safe daily activities, such as going to the grocery store or gas station; providing or obtaining other Covered Services; visiting swimming pools, parks, beaches, rivers, or lakes; hunting or fishing; attending youth club meetings or events; or engaging in physical activity like jogging, bicycling, or other

outdoor sports, so long as the necessary precautions are maintained to reduce the transmission of COVID-19 and to minimize in-person contact with people who are not in the same household.

*In accordance with the Guidelines from the President and the CDC, **people shall not visit** nursing homes, state supported living centers, assisted living facilities, or long term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by the HHSC, including minimizing the movement of staff between facilities whenever possible.*

In accordance with the Guidelines from the President and the CDC, schools shall remain temporarily closed to in-person classroom attendance by students for the 2019-2020 school year, except for the following:

*1. **Public education students (accompanied by an adult if needed) may, as allowed by the school consistent with the minimum standard health protocols found in guidance issued by the Texas Education Agency (TEA), visit his or her school campus***

(a) for limited non-instructional administrative tasks such as cleaning out lockers, collecting personal belongings, and returning school items like band instruments and books; or

(b) for graduating seniors, to complete post-secondary requirements that cannot be accomplished absent access to the school facility and its resources, excluding any activity or assessment which can be done virtually.

*2. Beginning June 1, 2020, public school districts may offer, **and public education students may accordingly visit school campuses** for, in-person classroom instructional activities and learning options, such as summer school programs, special education evaluations, specialized assessments, and individualized tutoring, under the minimum standard health protocols found in guidance issued by the TEA.*

*3. **Public education teachers and staff are encouraged to continue to work remotely from home if possible**, but may return to schools to conduct remote video instruction, to perform administrative duties, and, beginning June 1, 2020, to provide in-person classroom instructional activities and learning options as permitted and offered by school districts, under the minimum standard health protocols found in guidance issued by the TEA.*

4. <https://www.dshs.texas.gov/coronavirus/> reopen campuses and are encouraged to establish similar standards to allow students, teachers, and staff to return to schools for the limited purposes set forth above.

*5. Notwithstanding anything herein to the contrary, **schools may conduct graduation ceremonies** consistent with the minimum standard health protocols found in guidance issued by the TEA.*

***This executive order**, as it pertains to cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade, is **retroactive to April 2, 2020, to the extent necessary to supersede and nullify the existence of any prior or existing state or local executive order, the violation of which could form the basis for confinement in jail.** To the extent any order issued by*

local officials in response to COVID-19 would allow confinement in jail of a person inconsistent with this executive order or any prior state executive order, that order is superseded retroactive to April 2, 2020.

All existing state executive orders relating to COVID-19 are amended to eliminate confinement in jail as an available penalty for any violation of the executive orders. No jurisdiction can confine a person in jail as a penalty for violating any executive order, or any order issued by local officials, in response to the COVID-19 disaster. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail, that order is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any order issued in response to the COVID-19 disaster. This amendment and suspension operates retroactively to April 2, 2020, and supersedes any contrary local or state order.

This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts Covered Services allowed by this executive order, allows gatherings prohibited by this executive order, or expands the list or scope of Covered Services as set forth in this executive order. I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

This executive order supersedes Executive Orders GA-21 and GA-22, but does not supersede Executive Orders GA-b, GA-13, GA-17, GA-19, or GA-20.

This executive order shall remain in effect and in full force until 11:59 p.m. on June 3, 2020, unless it is modified, amended, rescinded, or superseded by the Governor.

1. Denial of Liberty

The Governor issued orders directed at every citizen in the State of Texas as follows:

“every person in Texas shall ...”

While there may be need for care and consideration in this time of pandemic, the authority for issuing mandates enforceable against the public, by the Governor, is non-existent. See [IV\(B\)](#) above.

2. Official Misconduct

The Governor, while acting under the color (pretense) of his official capacity as the highest level public officer in the State of Texas, abridged laws of the state and improperly dispersed funds in excess of \$300,000.00, in violation of [Texas Penal Code 39.02](#) which reads in pertinent part as follows:

Sec. 39.02. ABUSE OF OFFICIAL CAPACITY.

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

(1) violates a law relating to the public servant's office or employment; or

(2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) is:

(7) a felony of the first degree if the value of the use of the thing misused is \$300,000 or more.

Complaint alleges that, on or before the making and filing of this complaint, **Greg Abbott**, exerted an authority he did not have by abridging a law of the State of Texas and illegally disbursed amounts in excess of \$300,000.00 from the public treasury, to the public in order to enhance his electability, in an act of Official Misconduct, in violation of Texas Penal Code Article 39.02(c)(7) against the peace and dignity of the State of Texas.

Q. GA – 25 Jail Liberty Restriction

On the 22nd day of May, 2020 Governor Abbot issued an executive order [Relating to in-person visitation at county and municipal jails during the COVID-19 disaster \(coronavirus\)](#) which reads in pertinent part as follows:

*NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of **the power and authority vested in me by the Constitution and laws of the State of Texas**, do hereby order the following on a statewide basis effective immediately:*

***All county and municipal jails are closed to in-person visitation**, and every person in Texas shall avoid in-person visitation at closed jails; provided, however, that this restriction does not apply to visitation by*

(i) an attorney meeting with a client; or

(ii) a religious leader or member of the clergy.

Any visitation allowed under this executive order should be conducted in accordance with guidance issued by the Texas Commission on Jail Standards.

This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

1. Denial of Bail

Bail is a function of the courts, not the executive. [See IV\(F\) above.](#)

2. Official Oppression

On or before the making and filing of this complaint, Defendant **Governor Greg Abbott**, did then and there exert, or purport to exert an authority he did not have and in the process intentionally subjected the citizens of the State of Texas to mistreatment by issuing an executive order which dispossessed the citizens of rights in violation of [Texas Penal Code 39.03](#), against the peace and dignity of the State of Texas.

R. GA – 26 Medical Liberty

On the 3rd day of June, 2020 Governor Abbot issued an executive order

[Relating to the expanded opening of Texas in response to the COVID-19 disaster \(coronavirus\)](#)

which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, and in accordance with guidance from DSHS Commissioner Dr. Hellerstedt and other medical advisors, the Governor's Strike Force to Open Texas, the White House, and the CDC, do hereby order the following on a statewide basis effective immediately:

Every business establishment in Texas shall operate at no more than 50 percent of the total listed occupancy of the establishment; provided, however, that:

1. There is no occupancy limit for the following:

a. any services listed by the [U.S. Department of Homeland Security's Cyber security and Infrastructure Security Agency \(CISA\) in its Guidance on the Essential Critical Infrastructure Workforce, Version 3. 1](#) or any subsequent version;

*b. **religious services** conducted in churches, congregations, and houses of worship;*

*c. **local government operations**, including county and municipal governmental operations relating to licensing (including marriage licenses), permitting, recordation, and document-filing services, as determined by the local government;*

d. child-care services;

*e. **youth camps**, including but not limited to those defined as such under Chapter 141 of the Texas Health and Safety Code, and including all summer camps and other daytime and overnight camps for youths; and*

f. recreational sports programs for youths and adults;

*2. Except as provided below by paragraph number 5, **this 50 percent occupancy limit does not apply to** outdoor areas, events, or establishments, except that the following outdoor areas or outdoor venues shall operate at no more than 50 percent of the normal operating limits as determined by the owner:*

*a. professional, collegiate, or similar **sporting events**;*

b. swimming pools;

c. water parks;

d. museums and libraries;

*e. **zoos, aquariums**, natural caverns, and similar facilities; and f. rodeos and equestrian events;*

*3. This **50 percent occupancy limit does not apply to** the following establishments that operate with at least six feet of social distancing between work stations:*

- a. cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade;
- b. massage establishments and other facilities where licensed massage therapists or other persons licensed or otherwise authorized to practice under [Chapter 455 of the Texas Occupations Code](#) practice their trade; and
- c. other **personal-care and beauty services** such as tanning salons, tattoo studios, piercing studios, hair removal services, and hair loss treatment and growth services;

4. **Amusement parks** and carnivals shall operate at no more than 50 percent of the normal operating limits as determined by the owner, except that in counties with more than 1,000 cumulative cases of COVID- 19, amusement parks may not begin operating until 12:01 a.m. on June 19, 2020;

5. For any outdoor gathering estimated to be in excess of 500 people, other than those set forth above in paragraph numbers 1, 2, or 4, the county judge or mayor, as appropriate, in consultation with the local public health authority, may impose additional restrictions;

6. For **dine-in services** by restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages, the occupancy limit shall increase at 12:01 a.m. on June 12, 2020, to permit such restaurants to operate at up to 75 percent of the total listed occupancy of the restaurant;

7. For **indoor bars** and similar indoor establishments that are not restaurants as defined above and that hold a permit from the Texas Alcoholic Beverage Commission, only those customers who are seated may be served;

8. For **any business establishment** that is subject to a 50 percent “total listed occupancy” limit or “normal operating limit,” and that is in a county that has filed with DSHS, and is in compliance with, the requisite attestation form **attestation form promulgated by Texas Department of State Health Services** regarding minimal cases of COVID-19, the business establishment may operate at up to 75 percent of the total listed occupancy or normal operating limit of the establishment starting 12:01 a.m. on June 12, 2020;

9. For purposes of this executive order, **facilities with retractable roofs** are considered indoor facilities, whether the roof is opened or closed; and

10. **Staff members are not included** in determining operating levels, except for manufacturing services and office workers.

Except as provided in this executive order or in the minimum standard health protocols recommended by DSHS, found at www.dshs.texas.gov/coronavirus, people should not be in groups larger than ten and should maintain six feet of social distancing from those not in their group. **People over the age of 65** are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and, if leaving the home, to implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation.

In providing or obtaining services, every person (including individuals, businesses, and other legal entities) should use good-faith efforts and available resources to **follow the minimum standard health protocols recommended by DSHS**. Nothing in this executive order or the DSHS minimum standards precludes requiring a customer to follow

*additional hygiene measures when obtaining services. Individuals are encouraged to wear appropriate face coverings, but no jurisdiction can impose a civil or criminal penalty for failure to wear a face covering. People **shall not visit nursing homes**, state supported living centers, assisted living facilities, or long-term care facilities unless as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by HHSC, including minimizing the movement of staff between facilities whenever possible. Notwithstanding anything herein to the contrary, the Governor may by proclamation add to the list of establishments or venues that people shall avoid visiting.*

*For the remainder of the 2019-2020 school year, **public schools may resume** operations for the summer as provided by, and under the minimum standard health protocols found in, guidance issued by the Texas Education Agency (TEA). Private schools and institutions of higher education are encouraged to establish similar standards. Notwithstanding anything herein to the contrary, schools may conduct graduation ceremonies consistent with the minimum standard health protocols found in guidance issued by TEA.*

***This executive order shall supersede any conflicting order** issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts services allowed by this executive order, allows gatherings prohibited by this executive order, or expands the list or scope of services as set forth in this executive order.*

Pursuant to [Section 418.016\(a\) of the Texas Government Code](#), I hereby suspend [Sections 418.1015\(b\) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code](#), and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

***All existing state executive orders relating to COVID-19 are amended** to eliminate confinement in jail as an available penalty for violating the executive orders. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail as an available penalty for violating a COVID-19-related order, that order allowing confinement in jail is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any executive order or local order issued in response to the COVID-19 disaster.*

*This executive order **supersedes** Executive Order GA-23, but does not supersede Executive Orders GA-b, GA-13, GA-17, GA-19, GA-20, GA-24, or GA-25. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the Governor. This executive order may also be amended by proclamation of the Governor.*

1. Denial of Access to Medical Treatment

The Governor, by the above has taken control of private business and denied the public in the right to contract for medical services. See [V\(1E\)](#) above.

1. Official Oppression

On or before the making and filing of this complaint, Defendant **Governor Greg Abbott**, did then and there exert, or purport to exert an authority he did not have and in the process intentionally subjected the citizens of the State of Texas to mistreatment by issuing an executive order which dispossessed the citizens of rights in violation of [Texas Penal Code 39.03](#), against the peace and dignity of the State of Texas.

S. GA – 27 Medical Liberty

On the 25th day of June, 2020 Governor Abbot issued an executive order [Relating to the need for increased hospital capacity during the COVID-19 disaster \(coronavirus\)](#) which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following effective at 11:59 p.m. on Friday, June 26, 2020:

*Every hospital that is licensed under Chapter 241 of the Texas Health and Safety Code, and is also located in Bexar, Dallas, Harris, or Travis counties, **shall postpone all surgeries and procedures** that are not medically necessary to diagnose or correct a serious medical condition of, or to preserve the life of, a patient who without timely performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician; provided, however, that this prohibition shall not apply to any surgery or procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete any hospital capacity needed to cope with the COVID-19 disaster.*

***The Governor may by proclamation** add to or subtract from the list of counties covered by this prohibition.*

This executive order does not supersede Executive Orders GA-b, GA-13, GA-17, GA 19, GA-24, GA-25, or GA-26. This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

Research right to contract for medical care.

1. Denial of Access to Medical Treatment

The Governor, by the above has taken control of private business and denied the public in the right to contract for medical services. See [VI\(E\)](#) above.

2. Official Oppression

On or before the making and filing of this complaint, Defendant **Governor Greg Abbott**, did then and there exert, or purport to exert an authority he did not have and in the process intentionally subjected the citizens of the State of Texas to mistreatment by issuing an executive order which dispossessed the citizens of rights in violation of [Texas Penal Code 39.03](#), against the peace and dignity of the State of Texas.

T. GA – 28 Liberty Restrictions and Suspend Laws

On the 26th day of June, 2020 Governor Abbot issued an executive order

[Relating to the targeted response to the COVID-19 disaster as part of the reopening of Texas \(coronavirus\)](#) which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, and in accordance with guidance from DSHS Commissioner Dr. Hellerstedt and other medical advisors, the Governor's Strike Force to Open Texas, the White House, and the CDC, do hereby order the following on a statewide basis effective at noon on June 26, 2020:

Every business establishment in Texas shall operate at no more than 50 percent of the total listed occupancy of the establishment; provided, however, that:

*1. There is **no occupancy limit** for the following:*

*a. **any services listed by** the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) in its Guidance on the Essential Critical Infrastructure Workforce, Version 3.1 or any subsequent version;*

*b. **religious services**, including those conducted in churches, congregations, and houses of worship;*

*c. **local government operations**, including county and municipal governmental operations relating to licensing (including marriage licenses), permitting, recordation, and document-filing services, as determined by the local government;*

d. child-care services;

*e. **youth camps**, including but not limited to those defined as such under Chapter 141 of the Texas Health and Safety Code, and including all summer camps and other daytime and overnight camps for youths; and*

f. recreational sports programs for youths and adults;

*2. Except as provided below by paragraph number 5, this **50 percent occupancy limit does not apply** to outdoor areas, events, or establishments, except that **the following outdoor areas or outdoor venues shall operate at no more than 50 percent** of the normal operating limits as determined by the owner:*

a. professional, collegiate, or similar sporting events;

b. swimming pools;

c. water parks;

d. museums and libraries;

e. zoos, aquariums, natural caverns, and similar facilities; and

f. rodeos and equestrian events;

3. This 50 percent occupancy limit does not apply to the following establishments that operate with at least six feet of social distancing between work stations:

- a. cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade;*
- b. massage establishments and other facilities where licensed massage therapists or other persons licensed or otherwise authorized to practice under Chapter 455 of the Texas Occupations Code practice their trade; and*
- c. other personal-care and beauty services such as tanning salons, tattoo studios, piercing studios, hair removal services, and hair loss treatment and growth services;*

- 4. **Amusement parks shall** operate at no more than 50 percent of the normal operating limits as determined by the owner;*
- 5. For **any outdoor gathering in excess of 100 people**, other than those set forth above in paragraph numbers 1, 2, or 4, the gathering is prohibited unless the mayor of the city in which the gathering is held, or the county judge in the case of a gathering in an unincorporated area, approves of the gathering, and such approval can be made subject to certain conditions or restrictions not inconsistent with this executive order;*
- 6. For **dine-in services** by restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages, the occupancy limit shall remain at 75 percent until 12:01 a.m. on June 29, 2020, at which time such restaurants may only operate at up to 50 percent of the total listed occupancy of the restaurant, subject to paragraph number 9 below;*
- 7. People **shall not visit bars** or similar establishments that hold a permit from the Texas Alcoholic Beverage Commission (TABC) and are not restaurants as defined above in paragraph number 6; provided, however, that the use by such bars or similar establishments of drive-thru, pickup, or delivery options for food and drinks is allowed to the extent authorized by TABC;*
- 8. People **shall not use commercial** rafting or tubing services, including rental of rafts or tubes and transportation of people for the purpose of rafting or tubing;*
- 9. For any business establishment that is subject to a 50 percent “total listed occupancy” limit or “normal operating limit,” and that is in a county that has filed with DSHS, and is in compliance with, the requisite attestation form promulgated by DSHS regarding minimal cases of COVID-19, the **business establishment may operate at up to 75 percent** of the total listed occupancy or normal operating limit of the establishment;*
- 10. for purposes of this executive order, facilities with retractable roofs are considered indoor facilities, whether the roof is opened or closed;*
- 11. **Staff members are not included** in determining operating levels, except for manufacturing services and office workers;*
- 12. Except as provided in this executive order or in the minimum **standard health protocols recommended** by DSHS, found at www.dshs.texas.gov/coronavirus, people should not be in groups larger than ten and should maintain six feet of social distancing from those not in their group;*
- 13. **People over the age of 65** are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and, if leaving the home, to*

implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation; 14. In providing or obtaining services, **every person** (including individuals, businesses, and other legal entities) **should** use good-faith efforts and available resources to follow the minimum standard health protocols recommended by DSHS;

15. **Nothing** in this executive order or the DSHS minimum standards **precludes requiring a customer** to follow additional hygiene measures when obtaining services. Individuals are encouraged to wear appropriate face coverings, but no jurisdiction can impose a civil or criminal penalty for failure to wear a face covering;

16. **People shall not visit nursing homes**, state supported living centers, assisted living facilities, or long-term care facilities unless as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by HHSC, including minimizing the movement of staff between facilities whenever possible; and

17. For the remainder of the 2019-2020 school year, **public schools may resume operations** for the summer as provided by, and under the minimum standard health protocols found in, guidance issued by the Texas Education Agency (TEA). Private schools and institutions of higher education are encouraged to establish similar standards. Notwithstanding anything herein to the contrary, schools may conduct graduation ceremonies consistent with the minimum standard health protocols found in guidance issued by TEA.

Notwithstanding anything herein to the contrary, **the Governor may by proclamation** add to the list of establishments or venues that people shall not visit.

This executive order **shall supersede any conflicting order** issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts services allowed by this executive order, allows gatherings prohibited by this executive order, or expands the list or scope of services as set forth in this executive order.

Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

All existing state executive orders relating to COVID-19 are amended to eliminate confinement in jail as an available penalty for violating the executive orders. To the extent any order issued by local officials in response to the COVID-19 disaster would allow **confinement in jail** as an available penalty for violating a COVID-19- related order, that order allowing confinement in jail is superseded, and **I hereby suspend all relevant laws to the extent necessary** to ensure that local officials do not confine people in jail for violating any executive order or local order issued in response to the COVID-19 disaster. This executive order supersedes Executive Order GA-26, but does not supersede Executive Orders GA-b, GA-13, GA-17, GA-19, GA-24, GA-25, or GA-27.

This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the Governor. This executive order may also be amended by proclamation of the Governor.

1. Denial of Liberty

The Governor issued orders directed at every citizen in the State of Texas as follows:

“every person in Texas shall ...”

While there may be need for care and consideration in this time of pandemic, the authority for issuing mandates enforceable against the public, by the Governor, is non-existent. See [IV\(B\)](#) above.

2. Schools Closing as Unlawful Taking

By the above executive order, the Governor issued or continued orders affecting the closing of public schools. [See IV\(C\) above.](#)

3. Official Misconduct

The Governor, while acting under the color (pretense) of his official capacity as the highest level public officer in the State of Texas, abridged laws of the state and improperly dispersed funds in excess of \$300,000.00, in violation of [Texas Penal Code 39.02](#) which reads in pertinent part as follows:

[Sec. 39.02. ABUSE OF OFFICIAL CAPACITY.](#)

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

(1) violates a law relating to the public servant's office or employment; or

(2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) is:

(7) a felony of the first degree if the value of the use of the thing misused is \$300,000 or more.

Complaint alleges that, on or before the making and filing of this complaint, **Greg Abbott**, exerted an authority he did not have by abridging a law of the State of Texas and illegally disbursed amounts in excess of \$300,000.00 from the public treasury, to the public in order to enhance his electability, in an act of [Official Misconduct](#), in violation of [Texas Penal Code Article 39.02\(c\)\(7\)](#) against the peace and dignity of the State of Texas.

U. GA – 29 Liberty Restriction and Face Mask

On the 2nd day of July, 2020 Governor Abbot issued an executive order [Relating to the use of face coverings during the COVID-19 disaster \(coronavirus/masks\)](#) which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective at 12:01 p.m. on July 3, 2020:

Every person in Texas shall wear a face covering over the nose and mouth when inside a commercial entity or other building or space open to the public, or when in an outdoor public space, wherever it is not feasible to maintain six feet of social distancing from another person not in the same household; provided, however, that this face-covering requirement does not apply to the following:

- 1. any person younger than 10 years of age;*
- 2. any person with a **medical condition** or disability that prevents wearing a face covering;*
- 3. any person while the person is consuming food or drink, or is seated at a restaurant to eat or drink;*
- 4. any person while the person is*
 - (a) **exercising outdoors** or engaging in physical activity outdoors, and*
 - (b) **maintaining a safe distance** from other people not in the same household;*
- 5. any person while the person is **driving alone** or with passengers who are part of the same household as the driver;*
- 6. any person obtaining a **service that requires temporary removal** of the face covering for security surveillance, screening, or a need for specific access to the face, such as while visiting a bank or while obtaining a personal care service involving the face, but only to the extent necessary for the temporary removal;*
- 7. any person while the person is in a **swimming pool**, lake, or similar body of water;*
- 8. any person who is **voting**, assisting a voter, serving as a poll watcher, or actively administering an election, but wearing a face covering is strongly encouraged;*
- 9. any person who is actively providing or obtaining access to **religious worship**, but wearing a face covering is strongly encouraged;*
- 10. any person while the person is giving a speech for a broadcast or to an audience; or*
- 11. any person in a county*
 - (a) that **meets the requisite criteria** promulgated the Texas Division of Emergency Management (TDEM) regarding minimal cases of COVID-19, and*
 - (b) whose **county judge has affirmatively opted-out of this face-covering requirement** by filing with TDEM the required face-covering attestation form—*

provided, however, that wearing a face covering is highly recommended, and every county is strongly encouraged to follow these face-covering standards.

*Not excepted from this face-covering requirement is any person attending **a protest or demonstration involving more than 10 people** and who is not practicing safe social distancing of six feet from other people not in the same household.*

TDEM shall maintain on its website a list of counties that are not subject to this face-covering requirement pursuant to paragraph number 11. The list can be found at: www.tdem.texas.gov/ga29.

*Following **a verbal or written warning** for a first-time violator of this face covering requirement, a person's second violation shall be punishable by a **fine not to exceed \$250**. Each subsequent violation shall be punishable by a fine not to exceed \$250 per violation.*

*Local law enforcement and other local officials, as appropriate, can and should enforce this executive order, Executive Order GA-28, and other effective executive orders, as well as local restrictions that are consistent with this executive order and other effective executive orders. But **no law enforcement or other official may detain, arrest, or confine in jail any person for a violation of this executive order** or for related non-violent, non-felony offenses that are predicated on a violation of this executive order; provided, however, that any official with authority to enforce this executive order may act to enforce trespassing laws and remove violators at the request of a business establishment or other property owner.*

*This executive order hereby **prohibits confinement in jail as a penalty** for the violation of any face-covering order by any jurisdiction.*

Executive Order GA-28 is hereby amended to delete from paragraph number 15 the phrase: “, but no jurisdiction can impose a civil or criminal penalty for failure to wear a face covering.”

The Governor may by proclamation amend this executive order or add to the list of people to whom this face-covering requirement does not apply.

This executive order does not supersede Executive Orders GA-b, GA-13, GA-17, GA 19, GA-24, GA-25, GA-27, or GA-28 as amended. This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

1. Denial of Liberty

The Governor issued orders directed at every citizen in the State of Texas as follows:

“every person in Texas shall ...”

While there may be need for care and consideration in this time of pandemic, the authority for issuing mandates enforceable against the public, by the Governor, is non-existent. See [IV\(B\)](#) above.

2. Official Oppression

On or before the making and filing of this complaint, Defendant **Governor Greg Abbott**, did then and there exert, or purport to exert an authority he did not have and in the process intentionally subjected the citizens of the State of Texas to mistreatment by issuing an executive order which dispossessed the citizens of rights in violation of [Texas Penal Code 39.03](#), against the peace and dignity of the State of Texas.

V. GA – 30 Liberty Restriction

On the 11th day of September, 2020 Governor Abbott issued an executive order [Relating to the continued response to the COVID-19 disaster as Texas reopens](#) which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, and in accordance with guidance from the Commissioner of the Texas Department of State Health Services, Dr. John Hellerstedt, other medical advisors, the White House, and the CDC, do hereby order the following on a statewide basis effective at 12:01 a.m. on September 21, 2020:

*Every business establishment in Texas shall operate at no **more than 50 percent** of the total listed occupancy of the establishment; provided, however, that:*

*1. There is **no occupancy limit** for the following:*

- a. any services listed by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) in its Guidance on the Essential Critical Infrastructure Workforce, Version 4.0 or any subsequent version;*
- b. religious services, including those conducted in churches, congregations, and houses of worship;*
- c. local government operations, including county and municipal governmental operations relating to licensing (including marriage licenses), permitting, recordation, and document-filing services, as determined by the local government;*
- d. child-care services;*
- e. youth camps, including but not limited to those defined as such under Chapter 141 of the Texas Health and Safety Code, and including all summer camps and other daytime and overnight camps for youths;*
- f. recreational sports programs for youths and adults;*
- g. any public or private schools, and any public or private institutions of higher education, not already covered above; and*
- h. drive-in concerts, movies, or similar events, under guidelines that facilitate appropriate social distancing, that generally require spectators to remain in their vehicles, and that minimize in-person contact between people who are not in the same household or vehicle.*

*2. The following types of business establishments **may operate at up to 75 percent** of the total listed occupancy of the establishment, except for those establishments in areas with high hospitalizations as defined below:*

- a. in-store, non-CISA retail establishments;*
- b. dine-in restaurants, as defined below in paragraph No. 7;*
- c. non-CISA office buildings;*

- d. non-CISA manufacturers;*
- e. museums and libraries; and*
- f. gyms and exercise facilities and classes.*

“Areas with high hospitalizations” means any Trauma Service Area that has had seven consecutive days in which the number of COVID- 19 hospitalized patients as a percentage of all hospitalized patients exceeds 15 percent, until such time as the Trauma Service Area has seven consecutive days in which the number of COVID- 19 hospitalized patients as a percentage of all hospitalized patients is 15 percent or less. A current list of areas with high hospitalizations will be maintained at www.dshs.texas.gov/ga303 1.

*3. Except as provided below by paragraph No. 6, this **50 percent occupancy limit does not apply** to outdoor areas, events, or establishments, except that the outdoor areas or outdoor venues identified in paragraph No. 2 of Executive Order GA-28 shall operate at no more than the percentage of normal operating limits as was set forth in Executive Order GA-28.*

*4. There is **no occupancy limit for** the following establishments that operate with at least six feet of social distancing between work stations:*

- a. cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade;*
- b. massage establishments and other facilities where licensed massage therapists or other persons licensed or otherwise authorized to practice under Chapter 455 of the Texas Occupations Code practice their trade; and*
- c. other personal-care and beauty services such as tanning salons, tattoo studios, piercing studios, hair removal services, and hair loss treatment and growth services.*

*5. **Amusement parks** shall operate at no more than **50 percent** of the normal operating limits as determined by the owner.*

*6. For **any outdoor gathering in excess of 10 people**, other than those set forth above in paragraph Nos. 1, 2, 3, or 5, the gathering is prohibited unless the mayor of the city in which the gathering is held, or the county judge in the case of a gathering in an unincorporated area, approves of the gathering, and such approval can be made subject to certain conditions or restrictions not inconsistent with this executive order.*

*7. Only **restaurants that have less than 51 percent** of their gross receipts from the sale of alcoholic beverages, and whose customers eat or drink only while seated, may offer dine-in services.*

*8. **People shall not visit bars** or similar establishments that hold a permit from the Texas Alcoholic Beverage Commission (TABC) and are not restaurants as defined above in paragraph No. 7; provided, however, that the use by such bars or similar establishments of drive-thru, pickup, or delivery options for food and drinks is allowed to the extent authorized by TABC.*

*9. **People shall not use commercial rafting** or tubing services, including rental of rafts or tubes and transportation of people for the purpose of rafting or tubing.*

10. For any business establishment that is subject to a 50 percent “total listed occupancy” limit or “normal operating limit,” and that is in a county that has filed

with DSHS, and is in compliance with, the requisite attestation form promulgated by DSHS regarding minimal cases of COVID-19, the business establishment **may operate at up to 75 percent** of the total listed occupancy or normal operating limit of the establishment.

11. For purposes of this executive order, **facilities with retractable roofs** are considered indoor facilities, whether the roof is opened or closed.

12. **Staff members are not included** in determining operating levels, except for manufacturing services and office workers.

13. Except as provided in this executive order or in the minimum standard health protocols recommended by DSHS, found at <http://www.dshs.texas.gov/coronavirus>, people shall not be in **groups larger than 10** and shall maintain six feet of social distancing from those not in their group.

14. **People over the age of 65** are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and, if leaving the home, to implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation.

15. In providing or obtaining services, every person (including individuals, businesses, and other legal entities) should use good-faith efforts and available resources to follow the **minimum standard health protocols** recommended by DSHS.

16. Nothing in this executive order or the DSHS minimum standards precludes **requiring a customer to follow additional hygiene measures** when obtaining services.

17. **People may visit nursing homes**, state supported living centers, assisted living facilities, or long-term care facilities as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by HHSC, including minimizing the movement of staff between facilities whenever possible; and

18. **Public schools may operate** as provided by, and under the minimum standard health protocols found in, guidance issued by the Texas Education Agency (TEA). Private schools and institutions of higher education are encouraged to establish similar standards.

Notwithstanding anything herein to the contrary, **the Governor may by proclamation add** to the list of establishments or venues that people shall not visit.

This executive order shall **supersede any conflicting order** issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts services allowed by this executive order, allows gatherings prohibited by this executive order, or expands the list or scope of services as set forth in this executive order.

Pursuant to Section 418.016(a) of the Texas Government Code, **I hereby suspend** Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter F of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

*All existing state executive orders relating to COVID-19 are amended to eliminate confinement in jail as an available penalty for violating the executive orders. To the extent any order issued by local officials in response to the COVID-19 disaster would allow **confinement in jail** as an available penalty for violating a COVID-19-related order, that order allowing confinement in jail is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any executive order or local order issued in response to the COVID-19 disaster.*

*This executive **order supersedes** Executive Order GA-2\$, but does not supersede Executive Orders GA-b, GA-13, GA-17, GA-19, GA-24, GA-25, GA-27, or GA-29. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the Governor. This executive order may also be amended by proclamation of the Governor.*

1. Denial of Liberty

The Governor issued orders directed at every citizen in the State of Texas as follows:

“every person in Texas shall ...”

While there may be need for care and consideration in this time of pandemic, the authority for issuing mandates enforceable against the public, by the Governor, is non-existent. See [IV\(B\)](#) above.

2. Schools Closing as Unlawful Taking

By the above executive order, the Governor issued or continued orders affecting the closing of public schools. The Texas Education Agency has power to oversee how schools operate, as follows:

[Texas Education Code § 7.021. Texas Education Agency Powers and Duties](#)

(a) The agency shall perform the educational functions provided by Subsection (b).

(b)

*(1) The agency **shall administer and monitor compliance** with education programs required by federal or state law, including federal funding and state funding for those programs.*

*(2) The agency shall **conduct research, analysis, and reporting** to improve teaching and learning.*

*(3) The agency **shall conduct hearings involving state school law** at the direction and under the supervision of the commissioner.*

(4) The agency shall establish and implement pilot programs established by this title.

*(5) The agency shall carry out the duties relating to the **investment capital fund** under [Section 7.024](#).*

- (6) The agency shall develop **and implement a teacher recruitment program** as provided by [Section 21.004](#).
- (7) The agency shall carry out duties under **the Texas Advanced Placement Incentive Program** under Subchapter C, Chapter 28. ¹
- (8) The agency **shall** carry out powers and duties relating to **community education** as required under Subchapter H, Chapter 29. ²
- (9) The agency **shall develop a program of instruction in driver education and traffic safety** as provided by [Section 29.902](#).
- (10) The agency shall carry out duties assigned under [Section 30.002](#) concerning children with **visual impairments**.
- (11) The agency shall carry out powers and duties related to **regional day school programs for the deaf** as provided under Subchapter D, Chapter 30. ³
- (12) The agency shall establish and maintain an **electronic information transfer system** as required under [Section 32.032](#), maintain and expand telecommunications capabilities of school districts and regional education service centers as required under [Section 32.033](#), and establish technology demonstration programs as required under [Section 32.035](#).
- (13) The agency shall **review school district budgets**, audit reports, and other fiscal reports as required under [Sections 44.008](#) and [44.010](#) and prescribe forms for financial reports made by or for school districts to the commissioner or the agency as required under [Section 44.009](#).
- (14) The agency shall **cooperate with the Texas Higher Education Coordinating Board** in connection with the Texas partnership and scholarship program under Subchapter Q, Chapter 61. ⁴
- (c) The agency may **enter into an agreement with a federal agency concerning a project related to education**, including the provision of school lunches and the construction of school buildings. Not later than the 30th day before the date the agency enters into an agreement under this subsection concerning a new project or reauthorizing a project, the agency **must provide written notice, including a description of the project, to:**
- (1) the Governor;
 - (2) the Legislative Budget Board; and
 - (3) the presiding officers of the standing committees of the senate and of the house of representatives with primary jurisdiction over the agency.

The schools are created, funded, and operated by the citizens of each county. Taxes have been collected from the citizens of the county and allotted to the education of the students by the county. The Governor, by issuing the order to shut down the school, exceeded his authority and his edict acted as an unconstitutional taking from the citizens of each affected county.

3. Violation Constitutional Prohibition

The above cannot be construed as a violation of the separation of powers as, the dictates the Governor directed at the school is something the is not withing the State of Texas. The only entity authorized by the Texas Constitution is the Legislature, however, even the Texas Legislature is restricted concerning making laws affecting the schools. Texas Constitution [Article III Section 56](#) specifically prohibits the Legislature as follows:

[Article 3 - LEGISLATIVE DEPARTMENT Section 56](#) - LOCAL AND SPECIAL LAWS

(a) The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing:

(18) regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;

The public schools are county business. The people of the county pay for the schools with their taxes, not the State of Texas and, therefore, the operation of the schools is the business of the county. There is nothing in public law that contemplates giving the Governor the power to take over the management of the schools from the counties.

4. Official Oppression

On or before the making and filing of this complaint, Defendant **Governor Greg Abbott**, did then and there exert, or purport to exert an authority he did not have and in the process intentionally subjected the citizens of the State of Texas to mistreatment by issuing an executive order which dispossessed the citizens of rights in violation of [Texas Penal Code 39.03](#), against the peace and dignity of the State of Texas.

W. GA – 31 Suspension of Laws

On the 17th day of September, 2020 Governor Abbot issued an executive order [Relating to hospital capacity during the COVID-19 disaster](#) which reads in pertinent part as follows:

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

Every hospital that is licensed under Chapter 241 of the Texas Health and Safety Code, and is also located in an area with high hospitalizations as defined below, shall postpone all surgeries and procedures that are not medically necessary to diagnose or correct a serious medical condition of, or to preserve the life of, a patient who without timely performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician; provided, however, that this prohibition shall not apply to any surgery or procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete any hospital capacity needed to cope with the COVID-19 disaster. "Areas with high hospitalizations" means any Trauma Service Area that has had seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of all hospitalized patients exceeds 15 percent, until such time as the Trauma Service Area has seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of all hospitalized patients is 15 percent or less. A current list of areas with high hospitalizations will be maintained at www.dshs.texas.gov/ga303 1.

Furthermore, every hospital that is licensed under Chapter 241 of the Texas Health and Safety Code shall reserve at least 10 percent of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients, as determined by the Texas Health and Human Services Commission; provided, however, that any hospital that is part of a hospital system consisting of more than one member hospital may reserve less than 10 percent of its capacity so long as the cumulative capacity reserved throughout the hospital system within the same Trauma Service Area is at least 10 percent.

Pursuant to Section 418.016(a) of the Texas Government Code, I hereby continue the suspension of the following provisions to the extent necessary to implement increased occupancy in the event of surge needs for hospital capacity due to COVID-19:

25 TAC Sec. 133.162(d)(4)(A)(iii)(I);

25 TAC Sec. 133.163(f)(1)(A)(i)(II)—(ff);

25 TAC Sec. 133.163(O)(1)(B)(i)(ffl)—(W);

25 TAC Sec. 133.163(m)(1)(B)(ii);

25 TAC Sec. 133.163(t)(1)(B)(iii)—(iv);

25 TAC Sec. 133.163(t)(1)(C); 25 TAC Sec. 133.163(t)(5)(B)—(C); and any other pertinent regulations or statutes, upon written approval of the Office of the Governor.

This executive order supersedes Executive Orders GA-19 and GA-27, but does not supersede Executive Orders GA-b, GA-13, GA-17, GA-24, GA-25, GA-29, or GA-30. This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the Governor.

X. Governor Is Without Power to Create, Abolish, or Change Law

The government of the State of Texas is broken into three branches, the Legislature, the Executive, and the Judiciary. [See IV\(A\) above.](#)

Y. Sedition – Public Law 577.001

Here, Governor Abbott's conduct in issuing executive orders infringes on fundamental rights found in Article I, § 10, 28, and 29 Texas Constitution Article II, and Texas Constitution Article III Section 56.

I charge that heretofore, and before the making and filing of this complaint, on or before the ____ day of _____, _____, in the County of Travis and State of Texas, **Gregory Abbott**, did then and there unlawfully and willfully deny Complainant et al in the full and free exercise or enjoyment of rights protected by the Constitution while acting under the color of his official capacity in violation of **Article 39.03 Texas Penal Code**, against the peace and dignity of the State.

As shown above, Governor Abbott purported to create law binding on the individual then commandeered the Department of Public Safety as an enforcement arm of the Executive branch of government, which acted to supersede local sheriffs. The Governor, by said acts enacted through edict by proclamation, bypassed the Legislature and took power upon himself to dictate to the people of the State of Texas and thereby nullify the Legislature and the Constitution in violation of [Texas Penal Code 577.001 which reads as follows:](#)

[Sec. 577.001. SEDITION.](#)

(a) A person commits an offense if the person knowingly:

(1) commits, attempts to commit, or conspires with one or more persons to commit an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence;

(2) under circumstances that constitute a clear and present danger to the security of this state or a political subdivision of this state, advocates, advises, or teaches or conspires

with one or more persons to advocate, advise, or teach a person to commit or attempt to commit an act described in Subdivision (1); or

(3) participates, with knowledge of the nature of the organization, in the management of an organization that engages in or attempts to engage in an act intended to overthrow, destroy, or alter the constitutional form of government of this state or of any political subdivision of this state by force or violence.

(b) An offense under this section is a felony punishable by:

(1) a fine not to exceed \$20,000;

(2) confinement in the Texas Department of Criminal Justice for a term of not less than one year or more than 20 years; or

(3) both fine and imprisonment.

(c) A person convicted of an offense under this section may not receive community supervision under Chapter [42A](#), Code of Criminal Procedure.

Based on the above, Complainant charges and alleges that **Defendant, Governor Greg Abbott**, committed the act of **Sedition** against the peace and dignity of the **State of Texas**.

Randall Kelton

Acknowledgement

STATE OF TEXAS COUNTY OF _____

Before me, _____, on this day personally appeared Randall Kelton, known to me (or proved to me on the oath of _____ or through Texas Driver's License to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 2020

(Personalized Seal)

Notary Public's Signature

CERTIFICATE OF SERVICE

I, \$plaintiff_first \$ plaintiff_Last, hereby certify that a true and correct copy of above and foregoing has been delivered to \$defendant_name, \$defendant_address, on this the ____ day of _____ \$year, by certified mail (Certified Mail Receipt # _____), in accordance with the rules governing same.

\$plaintiff_first \$ plaintiff_Last

\$ plaintiff_address

\$ plaintiff_city, \$ plaintiff_stabr \$ plaintiff_zip

\$ plaintiff_email