

From the desk of Chuck Chadwick

As the new year is upon us, we hope to see many new people come to Christ. Along with the influx of new people coming to your church comes the increased risk that a person with ill intent may show up at your church. Here is an article on the Criminal Trespass process.

The Criminal Trespass Process

By Chuck Chadwick

One of the most common security issues we face as Gatekeepers is the process of expelling an individual, or individuals, from your church's property. This is a multifaceted incident that can have legal consequences if not handled correctly.

One facet is the 30.06 and 30.07 issues and whether the church wants to ban either Concealed carry or Open carry. Most churches have decided to not try to ban concealed carry because of the difficulty of identification of those people carrying concealed. Most churches have decided to ban Open carry either via signage or verbal notification. Persons in violation of the church's policy and will not comply would be handled by you calling the local police to charge the person/persons with Criminal Trespass and taken to the local jail.

Another common problem in churches is the person who is causing a disturbance which is deemed "disorderly conduct". There is a process by which the church can ask the person to quit doing whatever they are doing that is causing the disturbance or to leave the property. If they fail to comply the church can have the person arrested for "Criminal Trespass".

However, simply telling the person to leave and them leaving is not the same as having the police serve them a criminal trespass citation or warning.

Typical process:

I would first meet with the church's management to get approval and instructions on what they want you to do when a person is being disorderly and needs to be told to leave the church property. Approval authority may come from the senior pastor, elder board, etc. Upon determination that a person needs to leave and not come back you would then call the police or local law enforcement and tell them that a person is disrupting the church service and need them to come serve the person with criminal trespass.

My advice is not to touch the person if it can be avoided and let the local police handle any hand-to-hand manipulation, if possible. Depending on the nature of the disturbance, you may have to act before the police get there. Regardless, when making any type of contact care needs to be taken so as to use only the force necessary to control the individual. However, take care not to be injured yourself. The person may respond with unexpected deadly force (pull out a knife).

Each police department may have a different process depending on their agency's policy. Sometime the citation lasts for 6 months, others may last indefinitely. My advice is to contact your local law enforcement before you need this done so that you will know their process.

A typical "controlled" process goes as follows:

When the police get there, meet them and tell them who you are and who the person is, what they are doing to merit the attention they are getting and that the church does not want the person on the church's property.

They will probably address the person, ask for identification and call in a check for any outstanding warrants and tell them to leave or face being arrested and taken to jail for criminal trespassing.

Usually, the police/sheriff will have a form they will fill out to record the incident. Get a copy.

Common myths:

“This is God’s house, and you can’t make me leave.” “This is a public place; I have a right to be here.”

Actually, the church is private property, and the church has the right to expel anyone from the property.

Here are a couple of Handy-Dandy references for your further information:

Definition of “disorderly conduct” from Texas DPS – PSB level 2 training manual:

Misdemeanors

Misdemeanors are offenses that are punishable by; a fine and or term in the county jail. The following two conditions must exist in order for you to arrest a person on a misdemeanor charge:

1. The misdemeanor must be against the public peace; not all misdemeanors fit under this category; and
2. The misdemeanor must be committed within your presence or view.

The following are common examples and are found in section 42.01 "Disorderly Conduct" in the Texas Penal Code:

2. Use of indecent, abusive, profane, or vulgar language or gesture in a public place to incite an immediate breach of the peace.
3. Creating, by chemical means, a noxious and unreasonable odor to incite an immediate breach of the peace.
4. Abuses or threatens a person in a public place in an obviously offensive manner.
5. Makes an unreasonable noise in a public place or near a private residence that he has no right to occupy.
6. Fights with another in a public place.
7. Enters on the property of another and for a lewd and unlawful purpose, looks into a dwelling on the property through any window or other opening in the dwelling.
7. Discharges a firearm in a public place other than a public road.
8. Discharges a firearm on or across a public road
9. Displays a firearm or other deadly weapon in a public place in a manner to cause alarm.
10. Exposes his anus or other genitals in public and is reckless about whether another may be present who will be offended or alarmed by his act.

Other examples of Misdemeanors against the public peace are:

11. Assault- if a person intentionally, knowingly or recklessly causes bodily injury to another or threatens another with imminent bodily injury.
12. Indecent Exposure- The act of exposing the person's anus or any part of his genitals with intent to arouse or gratify the sexual desire of another person and is reckless about whether another person is present who will be offended or alarmed.
13. Criminal Trespassing- Entering the property of another without permission; refusing to leave when asked. The offense may be aggravated if property is destroyed or damaged.
14. Criminal Mischief- Maliciously defacing, damaging, or destroying property.

14.01 [T.C.C.P.] If you arrest a suspect, you must deliver them to a peace officer or magistrate. When they arrive, turn the suspect over to them and make your statement.

Other things you will be expected to do when you make a misdemeanor arrest include:

- Meeting with the district attorney to discuss the case and give a sworn statement regarding what happened
- Attending the suspect's hearing,
- Testifying at the suspect's trial.

PENAL CODE

TITLE 7. OFFENSES AGAINST PROPERTY

CHAPTER 30. BURGLARY AND CRIMINAL TRESPASS

Sec. 30.05. CRIMINAL TRESPASS.

(a) A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, without effective consent and the person:

- (1) had notice that the entry was forbidden; or
 - (2) received notice to depart but failed to do so.
- (b) For purposes of this section:
- (1) "Entry" means the intrusion of the entire body.
 - (2) "Notice" means:
 - (A) oral or written communication by the owner or someone with apparent authority to act for the owner;
 - (B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;
 - (C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden;
 - (D) the placement of identifying purple paint marks on trees or posts on the property, provided that the marks are:
 - (i) vertical lines of not less than eight inches in length and not less than one inch in width;
 - (ii) placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground; and
 - (iii) placed at locations that are readily visible to any person approaching the property and no more than:
 - (a) 100 feet apart on forest land; or

I hope this article helps in writing your church's policies and procedures.

Highest Regards and God Bless,
Chuck Chadwick