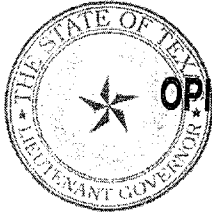


RECEIVED

FILE # ML-48257-17

I.D. # 48257



DEC 01 2017

The Senate of  
The State of Texas  
OPINION COMMITTEE

RQ-0196-KP

DAN PATRICK  
LIEUTENANT GOVERNOR

CAPITOL OFFICE  
State Capitol, Room 2E.13  
Post Office Box 12068  
Austin, Texas 78711  
(512) 463-0001  
Fax: (512) 463-8668

December 1, 2017

Via email to: [opinion\\_committee@oag.texas.gov](mailto:opinion_committee@oag.texas.gov)

The Honorable Ken Paxton, Attorney General  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

Re: Attorney General Opinion Request on Church Security

Dear Attorney General Paxton,

The recent church shooting in Sutherland Springs was an immense tragedy, the likes of which I pray to never see again. I know many are thankful for the Texan who stopped this attack through the exercise of his Second Amendment rights. However, I believe our state laws provide more protection than many Texans realize. As such, I write to request your opinion under section 402.042 of the Texas Government Code on two specific questions related to church security. I hope your answers can further inform and clarify those laws for all Texans.

- 1) May handgun license holders carry their handguns on the premises of a church that does not post signs excluding handguns?
- 2) By passing Senate Bill 2065 in the last regular legislative session, did the Legislature waive the private security fee for churches that Texas charges to private institutions?

I believe Texans who are licensed to carry a handgun may carry their handgun at church, unless a church properly posts a handgun exclusion sign, but confusion seems to exist over this topic because section 46.035(b)(6) of the Texas Penal Code says that a handgun license holder commits an offense by carrying "on the premises of a church, synagogue, or other established place of religious worship." Many readers may stop there, but section 46.035(i) makes clear that the above provision "do[es] not apply if the actor was not given effective notice under Section 30.06 or 30.07." Section 30.06 prohibits the concealed carrying of a licensed handgun. Section 30.07 prohibits the open carrying of a licensed handgun. Taken together, the Penal Code only criminalizes carrying of a licensed handgun in a church that posts signs excluding that type of

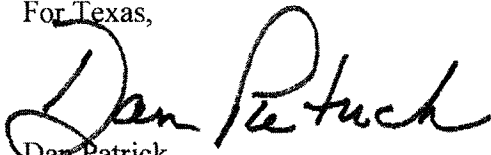
The Honorable Ken Paxton  
December 1, 2017  
Page 2

carrying (open or concealed). That means Texas law treats churches like most other private facilities. That is, the facility may exclude open carrying, concealed carrying, or both; and handgun license holders may carry in any manner a sign does not prohibit.

Senate Bill 2065, which passed in the last regular legislative session and became law on September 1 of this year, prescribes that the fee Texas charges for licensing private security no longer applies to churches. In 1999, the Legislature passed the Private Security Act to, among other things, create a board to license and regulate private security. Tex. Occ. Code, §§ 1702.001 – 1702.413. The fee for a church (classified as a private business) to obtain a letter of authority for a voluntary security team was \$400, and the annual renewal was \$225. 37 Tex. Admin. Code § 35.131. But out of concern that churches, especially smaller congregations, could not shoulder such burdens, Senate Bill 2065 was passed. Among other things, that law exempts churches from the regulations (and fees) under the Private Security Act as long as volunteer security personnel do not wear uniforms or badges that say “security” or give the appearance of being a security officer. Tex. Occ. Code, § 1702.333. Accordingly, Texas churches should be able to assemble volunteer security teams without needing to pay fees or submit to other regulations under the Private Security Act.

Next legislative session I will continue to support initiatives to clarify the law and protect gun rights in Texas. Meanwhile, I ask that you please expedite this request so that churches may know what legal options they have to improve their security. Thank you for all you do for Texas. I look forward to your prompt response.

For Texas,

A handwritten signature in black ink that reads "Dan Patrick". The signature is written in a cursive, flowing style.

Dan Patrick  
Lieutenant Governor