

**LT. GOV. DAN PATRICK ASKS ATTORNEY GENERAL TO CLARIFY  
CONSTITUTIONALITY OF CHAPLAINCY PROGRAM AND PRAYER IN  
COURTS**

*After Judge Wayne Mack was “strongly cautioned” to dismantle his volunteer chaplaincy program and stop opening his court sessions in prayer, Lt. Governor Patrick asks for clarification on the constitutionality of the practice*

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**Austin, TX, February 17, 2016** – Today, Lt. Governor Dan Patrick asked Attorney General Ken Paxton to provide a legal opinion clarifying the constitutionality of Judge Wayne Mack’s volunteer chaplaincy program and his practice of allowing chaplains to open court sessions in prayer.

Lt. Governor Dan Patrick says, “Based on United States Supreme Court precedent, in my view, both of these programs are constitutional and consistent with a long history in the United States of acknowledging the role of religion in American life by all three branches of government.” Patrick continued, “It is my hope that an expeditious opinion by the Texas Attorney General will provide Judge Mack and all Texas Judges the clarity they deserve as to the constitutionality of these programs.”

Read statement from Lt. Gov. Dan Patrick: <https://www.ltgov.state.tx.us/2016/02/17/lt-governor-patrick-requests-ag-opinion-on-volunteer-chaplaincy-programs-and-courtroom-prayer/>

Several years ago, Judge Mack, a Justice of the Peace for Montgomery County, implemented a volunteer chaplaincy program for religious leaders of all faiths. When there is a death in the county, mourners may request a volunteer chaplain to come and comfort them according to their wishes and religious beliefs. In order to honor the volunteer chaplains’ work and to solemnize his courtroom proceedings, Judge Mack invites volunteer chaplains to open his court proceedings with a short prayer.

After receiving a complaint from the Freedom from Religion Foundation, the Texas State Commission on Judicial Conduct launched an investigation into Judge Mack’s practices.

In October 2015, First Liberty Institute represented Judge Mack at a hearing before the Commission. Soon after, the Commission officially dismissed the complaint, but “strongly cautioned” Judge Mack to dismantle the chaplaincy program and end his practice of opening his court sessions in prayer.

First Liberty Institute attorneys say the Constitution permits Judge Mack’s practices. They point out that the U.S. Supreme Court opens with a solemnizing prayer, while the Texas Supreme Court opens with a prayer and a recitation of “God save the State of Texas and this honorable

Court.” Additionally, the prayers given during Judge Mack’s opening ceremonies are very similar to those upheld in the U.S. Supreme Court cases of *Town of Greece v. Galloway* and *Marsh v. Chambers*.

“Judge Mack’s practice of opening his court sessions in prayer is protected under legal precedent and mirrors the tradition of both the Texas and United States Supreme Courts,” said Kelly Shackelford, President and CEO of First Liberty Institute. “We are grateful Lt. Governor Patrick has asked Attorney General Paxton to bring clarity to this important issue, addressing the constitutionality of volunteer chaplains and prayer in the public arena.”

### **About First Liberty Institute**

First Liberty Institute is the largest legal organization in the nation dedicated exclusively to defending religious freedom for all Americans. Read more at [FirstLiberty.org](http://FirstLiberty.org)

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