



**THE ATTORNEY GENERAL  
OF TEXAS**

October 25, 1990

**JIM MATTOX  
ATTORNEY GENERAL**

Honorable Erwin W. Barton  
Chairman  
Human Services Committee  
Texas House of Representatives  
P. O. Box 2910  
Austin, Texas 78769

LO-90-81

Dear Representative Barton:

You ask whether certain personnel at Dallas Love Field should be designated as "airport police officers" or "airport security officers."

Article 46g, V.T.C.S., provides in part:

(a) The governing body of any political subdivision of this state that operates an airport served by a Civil Aeronautics Board certificated air carrier may establish an airport security force and employ airport security personnel.

(b) A governing body may commission any employee of an airport security force established under this Act as a peace officer if he is certified as qualified to be a peace officer by the Commission on Law Enforcement Officer Standards and Education.

Article 2.12 of the Code of Criminal Procedure, as amended in 1989, see Acts 1989, 71st Leg., ch. 794, § 1, at 3587, provides that the following are peace officers:

(12) airport police officers commissioned by a city with a population of more than 900,000, according to the most recent federal census, that operates an airport that serves commercial air carriers;

(13) airport security personnel commissioned as peace officers by the governing

body of any political subdivision of this state, other than a city described by Subdivision (12), that operates an airport that serves commercial air carriers.

The bill analysis to the 1989 amendment to article 2.12 states that section 12 was added to enable cities to comply with federal law that requires law enforcement officers to be present at certain airports. Although the bill analysis does not provide any cites, we assume that it was referring to section 107.15 of title 14 of the Code of Federal Regulations, which provides as follows:

(a) Each airport operator shall provide law enforcement officers in the number and in a manner adequate to support--

(1) Its security program; and

(2) Each passenger screening system required by Part 108 or § 129.25 of this chapter.

(b) For scheduled or public charter passenger operations with airplanes having a passenger seating configuration (as defined in § 108.3 of this chapter) of more than 30 but less than 61 seats for which a passenger screening system is not required, each airport operator shall ensure that law enforcement officers are available and committed to respond to an incident at the request of a certificate holder or foreign air carrier and shall ensure that the request procedures are provided to the certificate holder or foreign air carrier.

It is not clear how the 1989 amendment to the Code of Criminal Procedure enabled airports to comply with federal law since article 46g already allowed governing bodies of political subdivisions to commission airport security personnel as peace officers in certain circumstances. In any case, the federal regulation requires the presence of law enforcement personnel; it does not require that law enforcement personnel be given a particular designation. Indeed, the federal regulation uses neither the term "airport police officers" nor "airport security officers." Therefore, we conclude that the 1989 amendment to article 2.12 does not require the use of particular terminology in

regard to airport security personnel who are commissioned as peace officers.

Some of the materials you provided suggest that certain cities are concerned that the use of a particular designation affects the status of commissioned airport security personnel under subchapter B of chapter 41 of the Local Government Code. The applicability of that subchapter turns on whether commissioned airport security officers are "employees of the police department." Local Gov't Code § 141.009(b). Although commissioned airport security officers may in some cases be employees of the police department, nothing in article 46g or sections 12 and 13 of article 2.12 of the Code of Criminal Procedures requires that they be.

Very truly yours,



Sarah Woelk, Chief  
Letter Opinion Section  
Opinion Committee

SW/lcd

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