



The State of Texas  
The House of Representatives  
Austin, Texas

RQ 789

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Fort Worth, Texas 76111  
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Doyle Willis  
District 90

Committees:  
Vice-Chairman, General Investigating  
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Texas Senate  
Member, 1953-1962  
President Pro Tempore, 1961

March 7, 1995 SJS  
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The Honorable Dan Morales  
Attorney General of Texas  
P.O. Box 12546  
Austin, TX 78711

Opinion Committee

RE: Opinion Request

Dear General Morales:

Please read the attached letter from the Honorable Thomas R. Windham, the Fort Worth Chief of Police, and send me an answer to the question he raised.

I thank you for the good work you and your staff have done for the State of Texas.

Respectfully submitted,

Doyle Willis  
Chairman  
Select Committee on Veterans Affairs

DW/mmr

Enc.



THOMAS R. WINDHAM  
CHIEF OF POLICE

FORT WORTH POLICE DEPARTMENT  
350 W. BELKNAP ST.  
FORT WORTH, TEXAS 76102-2004  
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March 1, 1995

The Honorable Doyle Willis  
District 90  
503 Sinclair Building  
Fort Worth, Texas 76102

Dear Representative Willis:

We have recently been confronted with somewhat of a legal dilemma concerning the "swearing" of commissioned officers within our department. Traditionally, we have only "sworn-in" our officers upon graduation from the police academy, or upon special appointment, as in the case of the Chief of Police. However, the Texas Secretary of State recently advised local police departments to ensure that officers are sworn, and re-sworn every two years in accordance with Arts. 16 § 1, and 16 § 30 of the Texas Constitution. Our dilemma arises in that there appears to be no allowance or guidance for cities, such as ours, which fall within the ambit of Art. 16 §30b of the Texas Constitution, which exempts civil service jurisdictions from these requirements, at least ostensibly. This is just the beginning as far as legal questions are concerned; we have several more questions which impact on the issue of "swearing-in" officers.

Where your office can be of assistance to us, as well as other police departments in Texas confronted with the same or similar challenges, would be to request an Advisory Opinion from the Texas Attorney General's office. As a municipality, we are prohibited from requesting such an opinion in accordance with Texas Government Code §402.042; however, on behalf of departments such as ours, and through committee action, an opinion can be obtained. For these reasons, we have drafted a sample inquiry which addresses the issues with which we are grappling:

On behalf of Home Rule cities in the State of Texas which employ police officers under the auspices of a civil service system, we request an Attorney General's opinion as to the applicability of Tex. Const. Art XVI §30 and §30b, based on the 1989 Legislative Amendment(s) to Art. XVI §1. In short, due to these changes, must civil service police departments from Home Rule cities now re-swear their officers every two years, despite the exceptions specifically stated

Fort Worth



All-America City

The Honorable Doyle Willis  
District 90  
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accommodating such departments in Art. XVI §30b, as well as the annotated Interpretive Commentary which accompanies the statute? Also, must these same departments accomplish the so-called Statement of Appointment Officer, or does §30b provide an exception to this requirement? Finally, if §30b does not provide for such an exception, must all officers sworn prior to the 1989 amendment accomplish the Statement of Appointed Officer? If this has not been accomplished, will these officers retain their rights and authority of peace officers during this interim period? What will be the impact upon arrests made by these officers, which fall within the ambit of Tex. Code Crim. Proc. Ann. Arts. 14.01(b), 14.03, 14.04 (Vernon Supp. 1995)?

We apologize for the imposition upon you and your office, but the seriousness of the issues presented has the potential to not only affect the way we do business, but could also affect the outcome of countless criminal cases which are currently pending in our local courts. Your assistance in resolving the questions presented will be greatly appreciated, and we thank you in advance for your understanding.

Very truly yours,



Thomas R. Windham  
Chief of Police

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