BEFORE THE PUBLIC EMPLOYEES RELATIONS BOARD

STATE OF OKLAHOMA

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, TULSA LOCAL NO. 523	)	
Petitioner,	)	
vs.	)	Case No. 12339 PA
THE CITY OF TULSA, OKLAHOMA a home rule charter municipal corporation,	)	
Respondent	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

THIS MATTER comes on before the Oklahoma Public Employees Relations Board (the "Board") upon the petition of the International Brotherhood of Teamsters, Local 523, (the "Union") to be certified as the bargaining agent for members of the Airport Safety Officers, employees of the Tulsa Airport Authority. The City of Tulsa (the "City") objects. Upon the request of the City for an administrative hearing in this matter, this issue was presented to the Board. Whereupon, the Board heard testimony, received evidence and otherwise was fully apprised of the facts and matters asserted. The Board also received proposed Findings of Fact and Conclusions of Law from the parties. The Board rules as follows upon the proposed Findings of Fact;

Stipulations numbered 1 through 5 of the Respondent, which were adopted by the Petitioner, are hereby accepted by the Board.

The Board accepts proposed findings of Facts of the Petitioner numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16.

The Board accepts proposed Findings of Fact of the Respondent numbers 1, 4, 5, 8, 9, and 11.

The Board rejects proposed Findings of Fact of the Respondent number 12.

The Board rejects as irrelevant proposed Findings of Fact of the Respondent numbers 2, 3, 6, 7, 10, and 13.

FINDINGS OF FACT

1. There were 21 Airport Safety Officers as of June 10, 1996, when the list of such employees filed herein was compiled.

2. Airport Safety Officers are employees of the City.

3. The City is a municipal corporation organized and existing under the laws of the State of Oklahoma.

4. Airport Safety Officers' duties include response to airport security checkpoints. FAA regulations require that airport employees whose duties include response to security checkpoints must have the power of arrest and authority to carry a firearm. Airport Safety Officers must, while on duty, have the authority to arrest, with or without a warrant, for violation of the criminal laws of the State of Oklahoma and local jurisdictions for crime committed in the officers' presence or felonies when the officers have reasonable grounds to believe the suspect has committed a felony. Airport Safety Officers are CLEET certified.

5. Airport Safety Officers are not employees of the City's Police Department, nor are they sworn members of the Tulsa Police Department. The classification of Airport Safety Officer was created by the City to combine the functions of operations officers and community service officers. The duties and the training of the job of Airport Safety Officer and the job of entry-level City police officer are different. Many of the functions that are performed by Airport Safety Officers were previously performed by operations officers.

6. Airport Safety Officers do not fall under the command and control of the Tulsa Police Department.

7. Airport Safety Officers are supervised by employees of the Tulsa Airport Authority.

8. Airport Safety Officers are not supervised by supervisors of the Tulsa Police Department.

9. Airport Safety Officers, in their scheduling of vacation time, shift assignment and hours of employment, have these items set by employees of the Tulsa Airport Authority.

10. Airport Safety Officers received annual performance reviews by employees of the Tulsa Airport Authority.

11. Airport Safety Officers are disciplined by supervisors of the Tulsa Airport Authority.

12. Airport Safety Officers who have been employees of the Tulsa Police Department do not have any seniority from the Tulsa Police Department as Airport Safety Officers.

13. Airport Safety Officers are hired by the Airport Operations Director or the Assistant Deputy Director for Operations for the Tulsa Airport.

14. Airport Safety Officers have direct access to the National Crime Information Computer ("NCIC"), and a computer date base with a separate and distinct originating agency number from the Tulsa Police Department.

15. Airport Safety Officers carry fire arms and may use deadly force when necessary.

16. Airport Safety Officers, as part of their duties, investigate armed robberies, burglaries, both first and second degree, investigate traffic accidents, and respond to bomb threats.

17. Airport Safety Officers have their own dispatching element as part of the Airport Police function with 24-hour dispatch during each shift.

18. Airport Safety Officers are the first responder to a crime scene on the airport complex.

19. Airport Safety Officers are full-time employees of the City and none of the Airport Safety Officers are reserve or auxiliary officers as those terms are defined by law.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the parties to and subject matter of the action. 11 O.S. § 51-104(b).

2. The facts in this action are similar to those resolved by the Board in Fraternal Order of Police, Oklahoma City and Lake Rangers v. City of Oklahoma City, Case No. 12268. Therein, the Board

determined that a municipality may maintain more than one police department within the municipality. Thus, the particular question to be resolved is whether a specific group of officers constitute a "regular police department." 11 O.S. 1991, § 50-101(6).

3. The Lake Rangers case is dispositive here. Airport Safety Officers are "regular" police officers within the meaning of Section 51-102(1) and Section 50-101(6). As this Board has previously stated, the phrase "the regular police department" in Section 50-101(6) distinguishes between "regular" and "reserve" municipal police officers who otherwise meet the requirements of Section 51-102(1) and 50-101(6). The evidence is uncontroverted that Airport Safety Officers can and must, with the specific intent of the City of Tulsa, act as police officers in the course of their duties for the Tulsa Airport Authority.

4. Inasmuch as it is equally uncontroverted that Airport Safety Officers operate wholly outside the control and supervision of the City of Tulsa Police Department, as a distinct police department within the City of Tulsa, the Airport Safety Officers may select their own bargaining agent. 11 O.S. 1991, § 51-101(B). Further the Board has the authority to determine the appropriated bargaining unit for the unit petitioned herein. 11 O.S. 1991, §51-103(D).

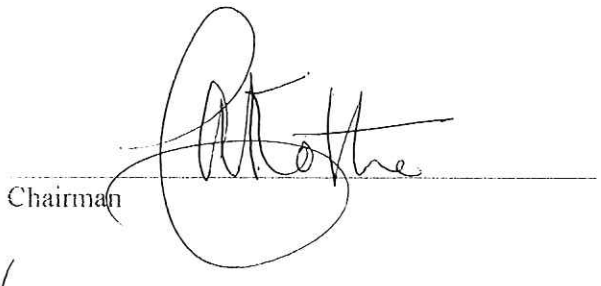
OPINION

This matter is not complicated. In order to accomplish compliance with federal airport safety regulations, the City of Tulsa created Airport Safety Officers, who are CLEET certified and authorized to carry out the functions of police officers, albeit within the confines of the Tulsa Airport Authority. Whether or not it was the intention of the City to create a separate police department, this is precisely what it did. Thus, the fact that the City assumes that other, non-police duties performed by Airport Safety Officers unmake what has been made, is not persuasive. It is uncontroverted that Airport Safety Officers must be able to perform duties of police officers in the event of a crime being committed at the Tulsa Airport. Airport Security Officers are the first responders to crime scenes at the airport and must, pursuant to federal regulations, perform police duties at security checkpoints at the airport. the fact that the Tulsa

Airport is not crime-ridden allows the Airport Safety Officers to perform other functions. This, however, does not cause the officers no longer to be police officers for should the need arise at any time, they have the ability and duty to perform police functions. The City's continued and unnecessarily demeaning assertion that its Airport Safety Officers are mere security guards is simply not convincing.

ORDER

Having concluded that Airport Safety Officers are within the coverage of the Fire and Police Arbitration Act, and having concluded that these Officers operate wholly apart from the Tulsa Police Department, an election shall be conducted pursuant to 11 O.S. 1991, § 51-103, and the rules of the Board. The parties shall be notified of the election schedule and procedures by letter from the Board.



Chairman

November 15, 1996

Dated