

March 25, 2004
OPINION 04-0037

Captain Cheryl Cooper
Acting Chief
Lake Charles Harbor & Terminal District
Harbor Police Department
PO Box 3753
Lake Charles, Louisiana 70602

Dear Captain Cooper:

This office is in receipt of your request for an opinion of recent date wherein you asked the following question: inasmuch as Calcasieu or Port of Lake Charles is not mentioned in LSA-R.S. 34:26, can this be construed or misconstrued to be interpreted as the Port of Lake Charles ("POLC") Harbor Police not having any Peace Officer powers at all?

In response to your question, LSA-R.S. 34:26 cannot be construed as giving the POLC Harbor Police any peace officer powers. LSA-R.S. 34:26 cannot be applied to the Port of Lake Charles, because the Port of Lake Charles is governed by LSA-R.S. 34:201 et seq. These codal provisions mandate the authority of the Port Commission.

LSA-R.S. 34:26, specifically allows the Board of Commissioners of the Port of New Orleans to pay port and harbor police and further provides that the port and harbor police have the power to make arrests and execute and return all criminal warrants. There is an analogous or corresponding codal provision with regard to the Board of Commissioners of the Lake Charles Harbor and Terminal District, LSA-R.S. 34:203A(2)(c)(ix).

LSA-R.S. 34:203A(2)(c)(ix), outlines the specific powers and authorities of the Lake Charles Harbor & Terminal District with regard to police powers. This article states in relevant part: "It (The Board of Commissioners) may provide light, water, and **police protection** for the district and for all harbor and terminal facilities situated therein;" *emphasis added*. In light of this provision, the Lake Charles Harbor Police, have police power. Therefore, since the Harbor Police have police powers they are peace officers within the meaning of LSA-R.S. 40:2402.

LSA-R.S. 40:2402 states in relevant part:

"Peace officer" means any full-time employee of the state, a municipality, a sheriff, or other public agency, whose permanent duties actually include the making of arrests, the performing of

searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state, but not including any elected or appointed head of a law department.”

It is the opinion of the Attorney General’s Office that, LSA-R.S. 34:26 cannot be construed as giving the POLC Harbor Police any peace officer powers. However, based on LSA-R.S. 34:203A(2)(c)(ix), the Lake Charles Harbor Police are peace officers under the jurisdiction and control of the Board of Commissioners of the Lake Charles Harbor and Terminal District.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY: _____
PAUL KNIGHT
ASSISTANT ATTORNEY GENERAL

PRK/et/jy

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90-1 PORT COMMISSIONS

LSA-RS 34:26, LSA-RS 34:201, LSA-R.S. 34:203A(2)(c)(ix), and LSA-RS 40:2402.

LSA-R.S. 34:26 cannot be construed as giving the POLC Harbor Police any peace officer powers. However, based on LSA-R.S. 34:203A(2)(c)(ix), the Lake Charles Harbor Police are peace officers under the jurisdiction and control of the Board of Commissioners of the Lake Charles Harbor and Terminal District.

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Date received:
Date released: March 25, 2004

PAUL KNIGHT
ASSISTANT ATTORNEY GENERAL

