

**ARKANSAS ETHICS COMMISSION**  
**OPINION NUMBER 97-EC-017**

ISSUE PRESENTED:

ISSUED: October 16, 1997

Whether Ark. Code Ann. § 12-8-108(a) requiring the Arkansas State Police (ASP) to provide security for the governor authorizes the use of state-owned vehicles or airplanes to transport the governor to and from any destination for any purpose when the ASP determines that use of such a conveyance will optimize security for the governor?

BRIEF RESPONSE:

Yes. There are no statutory restrictions on the use of state-owned airplanes. Ark. Code Ann. § 19-4-2103 specifically permits the use of state-owned vehicles for personal or non-official business by state constitutional officers.

FACTS PRESENTED:

The Arkansas State Police and the Office of the Governor request a formal opinion to clarify the permitted uses of state-owned airplanes, particularly in light of the ASP's statutory duty of providing security to the Governor.

DISCUSSION:

As a result of its statutory duty to provide security to the Governor and his family, the Arkansas State Police (ASP) from time to time transports the Governor on its aircraft. Ark. Code Ann. § 12-8-108(a) reads as follows:

The Department of the Arkansas State Police shall be responsible for the safety and security of the Governor of the State of Arkansas and his family, the Lieutenant Governor and his family, the Governor's Mansion and mansion grounds, and the Arkansas State Capitol Building and Grounds.

If the State Police determine that it is in the best interest of the security of the Governor to transport him in its plane, there are no statutory restrictions preventing the Governor's use of the ASP plane, regardless of the nature of the journey<sup>1</sup>. Use of ASP aircraft by the Governor provides definite security advantages that are unavailable through the use of non state-owned aircraft. The Commission is particularly mindful of the ASP's duty to provide security to the Governor. The ASP's statutory duty of security to the Governor is unconditional and absolute and exists 24 hours a day, 7 days a week. The Commission is not willing to compromise or dilute the Governor's security.

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<sup>1</sup> Ark. Code Ann. § 19-4-2103(b) specifically permits operation of a constitutional officer's state-owned motor vehicle for personal or non-official state business.

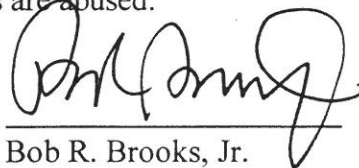
That said, the Commission is not willing to opine that the ASP plane can be used by the Governor for any reason. In this regard, the Office of the Governor furnished the Commission with a set of voluntarily adopted internal policies that restrict the use of state-owned airplanes, to wit:

1. State airplanes do not transport the Governor on journeys that are solely political in nature.
2. State airplanes do not transport the Governor on journeys that are solely religious in nature.
3. State airplanes do not transport the Governor on non-official, out-of-state trips or for any personal trips solely related to outside business or investment activities.

The Commission has specifically reviewed and debated the internal policies of the Governor. "We must and should presume that any officer of the state, and especially the chief of the executive branch of the government will act lawfully, correctly, in good faith and in sincerity of purpose in the execution of his duties." Rockefeller v. Hogue, 244 Ark. 1029, 429 S.W. 2d 85 (1968).

The Commission finds that the above policies are acceptable and expects that the Office of the Governor, not the ASP, will ensure that these policies are strictly observed when state-owned aircraft transport the Governor. If, however, the ASP determines that following these policies in a particular circumstance would pose a significantly higher security risk to the Governor (as for example, discovery of a threat to the life or health of the Governor), then the Commission will recognize such incident as an exception to these policies.

The Commission specifically reserves the right to review the Governor's use of the ASP plane and pursue appropriate enforcement action if the policies are abused.



Bob R. Brooks, Jr.  
Executive Director