



DEPARTMENT OF LAW  
OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

BRUCE E. BABBITT  
ATTORNEY GENERAL

April 26, 1977

Honorable Frank J. Felix  
Arizona State Senator  
State House, Senate Wing  
Phoenix, Arizona 85007

Re: 77-71 (R77-81)

Dear Senator Felix:

By letter dated March 4, you requested our opinion on the following question:

Will the inclusion of investigators working for the city or county attorney under the definition of peace officer in [A.R.S. § 1-215(23)] allow these investigators to qualify for membership in the Public Safety Personnel Retirement System?

We answer in the affirmative based on the reasons set forth below.

A.R.S. § 38-842(15)(a) provides that, with the exception of municipal policemen, firemen, and state law enforcement officers, the only "members" of the Public Safety Retirement System are those employees "included in a group designated as eligible employees under a joinder agreement entered into by their employer . . . ." An eligible "employee" is defined in Paragraph 11 of A.R.S. § 38-842 as "any person who is a member of a group of public safety personnel regularly assigned to hazardous duty, including groups of municipal policemen, municipal firemen, state highway patrolmen, county sheriffs and deputies, fish and game wardens, penitentiary guards, college campus policemen, and special agents . . . ."

The term "special agents" is nowhere defined, but it is reasonable to conclude that in the context of government, it is synonymous with "investigator". (For example, all regularly employed F.B.I. investigative personnel are called "special agents.")

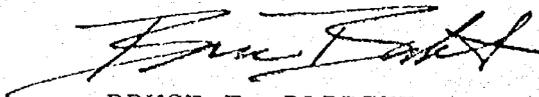
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Assuming that investigators employed by county and city attorneys actually are "regularly assigned to hazardous duties", we believe that defining such investigators as "peace officers" makes them qualified and eligible for membership in the Public Safety Personnel Retirement System. What would then be needed to bring these investigators into this System is a joinder agreement with the System, on behalf of the investigators as an eligible group, by their respective counties and cities pursuant to the provisions of A.R.S. § 38-851, which provide for the participation of new employers in the Public Safety Personnel Retirement System. A.R.S. § 38-842(12)(d) provides that an "employer" for the purposes of the Public Safety Personnel Retirement System means "the state, or any political subdivision thereof, including but not limited to towns, cities and counties which has elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968".

The legislative granting of peace officer status to a group of "employees" does not automatically draw them into the membership of the Public Safety Personnel Retirement System. New classes of "peace officers" are included within the System only if their employers "elect to participate in the system" on their behalf as a group in the manner provided by A.R.S. § 38-851. For example, juvenile probation officers are given peace officer status in A.R.S. § 8-205(3), but Maricopa County has not elected to include them within the System. Such officers are, in our view, qualified for membership in the Public Safety Personnel Retirement System, but they definitely are not participating members of the System.

Please advise us if you have any further questions concerning this matter.

Sincerely,



BRUCE E. BABBITT  
Attorney General

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