



DEPARTMENT OF LAW
OFFICE OF THE
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STATE CAPITOL
Phoenix, Arizona 85007

JOHN A. LASOTA, JR.
ATTORNEY GENERAL

August 1, 1978

Vernon L. Hoy, Director
Department of Public Safety
2310 North 20 Avenue
Phoenix, Arizona 85005

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ARIZONA ATTORNEY GENERAL

Re: 78-173 (R78-186)

Dear Mr. Hoy:

This is in response to your letter of June 13, 1978 in which you asked if the Department of Public Safety could pay civilian employees overtime compensation. In light of the recent enactment of a new Arizona Revised Statute § 23-391, we are of the opinion that the Department of Public Safety cannot pay overtime to its civilian employees.¹

A.R.S. § 23-391 (Chap. 14, Laws 1978) allows a state employee to receive either overtime pay or compensatory time off for work in excess of such person's normal work week if such person is serving in a position determined as eligible for overtime compensation by the State Personnel Board, or the Board of Regents, or the State Community College Board of Directors, or the Board of Directors for the School for the Deaf and Blind, or the governing body of a political subdivision.

Employees of the Department of Public Safety, however, are not within the ambit of the State Personnel System or (obviously) of any of the above entities. Instead, they are under the Law Enforcement Merit System Council. A.R.S. § 23-235. Because the Law Enforcement Merit System Council

1. A.R.S. § 23-392 covers law enforcement employees who are to be distinguished from civilian employees.

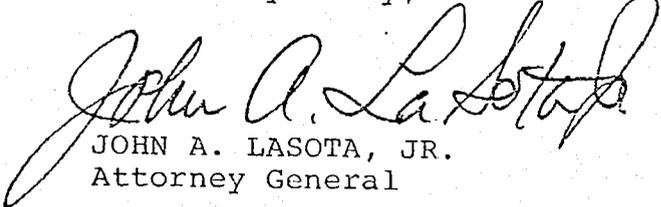
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was not enumerated in § 23-391 as one of the boards or bodies which may authorize overtime pay, it may provide only for compensatory time off and not overtime pay for Department of Public Safety Employees not covered by A.R.S. § 23-392. See State v. Boykin, 109 Ariz. 289, 508 P.2d 1151 (1973) and State v. Boykin, 1112 Ariz. 109, 538 P.2d 383 (1975).

If you have further questions, please feel free to contact us.

Yours very truly,


JOHN A. LASOTA, JR.
Attorney General

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