

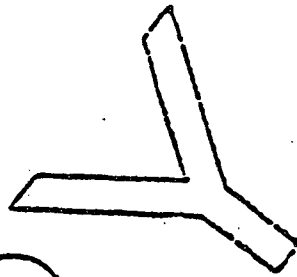


**WILLIAM J. SCOTT**  
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SPRINGFIELD

June 7, 1979

FILE NO. S-1442

PENSIONS:  
Determination of Which  
Employees Are Policemen for  
Social Security Purposes



Michael L. Mory  
Secretary  
State Employees' Retirement System of Illinois  
1201 South Fifth Street  
Springfield, Illinois 62706

Dear Mr. Mory:

I am in receipt of your letter in which you request a determination of which local government employees are considered policemen for the purpose of coverage under the Federal Old Age, Survivors and Disability Insurance Act. It is my opinion that the existing practice of considering only members of municipal police forces as policemen and thus excluding them from coverage by the Social Security system is correct.

The Illinois courts have not had occasion to define the word "policeman," but courts in other States have

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done so. They have generally adopted the definition of a policeman as one who is a member of:

"

\* \* \*

\* \* \*'[an] organized civil force for maintaining order, preventing and detecting crime, and enforcing the laws \* \* \*.' Webster's Twentieth Century Dictionary, Unabridged. \* \* \*

\* \* \*

"

(Green v. City of Bennettsville (S. C. 1941), 15 S.E. 2d 334, 337.)

Ballentine's Law Dictionary similarly states that a policeman "has the duty of maintaining order, [and] detecting crime". (Ballentine's Law Dictionary 958 (3d ed. 1969).)

The Handbook for State Social Security Administrators further observes that:

" \* \* \* In most States a 'policeman' is a member of an organized civil force which exists in incorporated municipalities for maintaining order, preventing and detecting crimes, and enforcing laws. The term 'policeman' does not include services performed in positions which, although connected with police functions, are not classified as police positions. In many jurisdictions, such positions as game warden, forester, forestry patrolman, crime investigator supervisor, police department stenographer, sheriffs, and highway patrolman have been held not to be 'policeman' positions."

Your policy at the level of local government has been to adopt a definition similar to these and to classify as "policemen" only those who are members of a municipal police force.

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As a general rule, an administrative agency may make reasonable interpretations of the statute governing its operation. Because there are several statutes that make reference to the creation of a "police force" or authorize the employment of personnel "to police" property, an interpretation of the word "policeman" is necessary. The interpretation that you have made of the word "policeman" is well within the power of an agency to make (Sugden v. Dept. of Public Welfare (1960), 20 Ill. 2d 119), particularly in light of the lack of case or statutory law in Illinois on the point. The administrative practice is eminently reasonable and hence is entitled to great deference. People v. Collins (1966), 35 Ill. 2d 499.

You also ask if your conclusion that former Chicago park district personnel that have been transferred to the City of Chicago police department are now to be considered "policemen" for Social Security purposes. Again, I am of the opinion that your conclusion is correct. The relevant statute is "AN ACT in relation to an exchange of certain functions, property and personnel among cities, and park districts having coextensive geographic areas and populations in excess of 500,000" (Ill. Rev. Stat. 1977, ch. 105, par. 333.51 et seq.) Section 4 (Ill. Rev. Stat. 1977, ch. 105, par. 333.54) of the Act provides in relevant part:

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"All persons employed by the park district upon the effective date as park policemen, or in boulevard maintenance and repair work, or in the investigation, study and planning of traffic on boulevards, who held such positions by virtue of the classified civil service under 'An Act relating to the civil service in park systems,' approved June 10, 1911, as amended, shall be transferred to the employment of the city and be given a civil service status under Division 1 of Article 10 of the Illinois Municipal Code, as heretofore and hereafter amended, without examination. \* \* \*"

Section 10 of the Act (Ill. Rev. Stat. 1977, ch. 105, par. 333.60) provides:

"Persons who were employed on the effective date as Park Policemen and whose employment is transferred to the city by the Act, shall, until January 1, 1960, remain members of the park police annuity fund. From and after January 1, 1960, such persons, as provided by the city policemen's annuity act, shall become members of the city policemen's annuity fund."

It is thus clear that former park district policemen are now city of Chicago policemen. The fact that they are included in the City's policemen's annuity fund shows that they and should be treated as such for Social Security purposes.

In summary, it is my opinion that the determination that, at the local government level, only those security personnel that are members of municipal police forces (including former Chicago park district personnel

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transferred to the city of Chicago police department) are  
"policemen" for the purpose of exclusion from the Social  
Security system is correct.

Very truly yours,

A T T O R N E Y G E N E R A L