

Opinion No. 55-6283

September 15, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. John C. Hays, Administrator, Social Security Division, Public Employees' Retirement Ass'n of New Mexico, P. O. Box 2237, Santa Fe, New Mexico. Attention: Mr. Charles C. Staab Administrative Assistant

We have your letter of August 1st in which you requested an opinion from this office as to whether a sheriff is to be considered a policeman's position under the Old-Age and Survivors System.

Section 15-40-2, N.M.S.A., 1953, reads as follows:

"The sheriff shall be conservator of the peace within his county; shall suppress assaults and batteries, and apprehend and commit to jail, all felons and traitors, and cause all offenders to keep the peace and to appear at the next term of the court and answer such charges as may be preferred against them."

It is clear that the above named section providing for the duties of a county sheriff makes such officer a conservator of the peace within his county.

As indicated in **Pierce vs. Stephens**, 45 N.Y. Supp., 422, 18 App. Div., 101, a sheriff in a large measure has the same duties as a police officer. "He necessarily exercises police powers." See also, **80 C.J.S.**, Sheriffs and Constables, Section 42 at page 11.

From the above, we conclude that a sheriff is to be considered a policeman's position.

Trusting that we have answered your request, we remain

By: Paul L. Billhymer,

Asst. Atty. General