

Opinion No. 60-223

December 9, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Charles C. Stabb Director, Social Security Division Public Employees Retirement Assn. 403 Don Gaspar Avenue Santa Fe, New Mexico

QUESTION

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Is a probation officer to be considered a policeman for purposes of Social Security coverage?

CONCLUSION

No.

OPINION

{*646} **ANALYSIS**

Probation officers are provided for by § 13-8-11, N.M.S.A., 1953 Compilation. Their appointment, supervision, control, direction and discharge is exercised by the district court in the district in which they are appointed. Their duties are set forth in § 13-8-13, N.M.S.A., 1953 Compilation. Among their specifically enumerated duties are, (1) look after the interest of neglected, delinquent and dependent children; (2) make investigations of cases involving children appearing in court and appear in court on these cases and represent the children's interest; (3) receive reports from children placed on probation; (4) attempt to reconcile couples seeking divorces or legal separations when asked to do so by the court; (5) receive reports of adult offenders and otherwise generally supervise these adult offenders when they are placed on probation.

While there may be times when a probation officer would perform the duties of a policeman, we do not feel that this is his primary duty. We are of the opinion that the primary duties of a probation officer, as evidenced by the enumeration hereof in the above statute, are to supervise and attempt to rehabilitate both minor and adult offenders when placed on probation by the court. This is not normally thought to be the duty of a policeman.

We are, therefore, of the opinion that a probation officer is not to be considered a policeman for purposes of Social Security coverage.

By: Boston E. Witt

Assistant Attorney General