

FORMAL OPINION

ferred to as professional planning. But in order to hold themselves out as professional planners, as well as professional engineers, land surveyors or architects, such persons must apply for and become separately licensed as professional planners.

Very truly yours,
ARTHUR J. SILLS
Attorney General

By: NICHOLAS SAROS
Deputy Attorney General

March 24, 1964

COLONEL DOMINIC R. CAPELLO
Superintendent
Division of State Police
West Trenton, New Jersey

MEMORANDUM OPINION—NO. 3

Dear Colonel Capello:

You have asked whether experience gained as an investigator in the Office of Special Investigations (OSI) of the United States Air Force satisfies the experience requirement of the Private Detective Act of 1939. N.J.S.A. 45:19-8 *et seq.* The pertinent section of the act provides in part:

“No license shall be issued to a person under the age of twenty-five years, nor to any person, firm, association or corporation unless such person or at least one member of the firm and one officer or director of the association or corporation has had at least five years’ experience as an investigator or as a police officer with an organized police department of the State or a county or municipality thereof, or with an investigative agency of the United States of America or any State, county or municipality thereof.”

For reasons expressed below, the Office of Special Investigations is construed to be “an investigative agency of the United States of America,” within the meaning of the act, and an applicant may be licensed if he has actually engaged in the law enforcement investigative activities of this agency for the statutory period.

There can be little question that the Office of Special Investigations is a component part of an agency of the United States. Cf. *United States of America vs. Steiner Plastics Manufacturing Company*, 231 Fed. 2d 149, 152 (2nd Cir. 1956). But the basic inquiry must be whether that agency is within the intent and purpose of the statutory modifier, “investigative”. In making such an inquiry:

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“It is proper to give effect to the obvious purpose of the Legislature, and to that end ‘words used may be expanded or limited according to the manifest reason and obvious purpose of the law. The spirit of legislative direction prevails over the literal sense of the terms.’ ” *New Capitol Bar and Grill Corp. v. Division of Employment Security*, 25 N.J. 155, 160 (1957).

Within the limits of the foregoing direction as to statutory interpretation it is not an unwarranted expansion of the words of the act to find a meaning which requires investigative experience in a law enforcement agency, i.e., one charged with the duty of investigating and preparing for prosecution or other disposition violations of the criminal law. This is in accord with our Memorandum Opinion dated October 9, 1961, which stated, in part, that an applicant “must establish that he has been predominantly engaged in criminal or related investigative work in order to meet the statutory requirements set forth in N.J.S.A. 45:19-12.”

That the Office of Special Investigations is an “investigative agency” within the meaning of the Private Detective Act of 1939 is readily ascertainable from a reading of the United States Air Force Regulation (U.S.A.F. Regulation No. 124-1) which sets forth the mission and responsibilities of the agency and provides in part:

“5. Functions of the OSI. OSI will conduct and supervise investigative operations within the Air Force to include the following:

a. The investigation of an alleged major offense committed against a person, personal property, or the United States Government or its property, as defined by regulation or law, and in accordance with jurisdictional agreements (for example, see AFR § 124-11 and 124-12). These offenses include but are not limited to:

(1) Arson, bribery, homicide, counterfeiting, sodomy, rape and other sex offenses, impersonation, improper use or diversion of Government property or employees, forgery, robbery, housebreaking, narcotics, violations of the Uniform Code of Military Justice, Federal, and other statutes and directives.

(2) A fraud against the Government in contract and pay and allowance matters, conflicts of interest, and other criminal irregularity in connection with appropriated and nonappropriated funds, procurement or disposition of Air Force property, and related activities.

(3) Matters pertaining to treason, sedition, subversion, security violations, disaffection, espionage and sabotage.”

Therefore, where an applicant provides adequate proof that he has been actually engaged as an investigator in the law enforcement investigative activities of the United States Air Force Office of Special Investigations, this activity may be used to satisfy the experience requirements of N.J.S.A. 45:19-12.

Very truly yours,
ARTHUR J. SILLS
Attorney General

By: EVAN WILLIAM JAHOS
Assistant Attorney General