



# Prosecuting Attorneys' Council of Georgia

**Policies & Procedures**

**Approved May 16, 2008**

**12.2**

**Motor Vehicles**

**Use of State Vehicles**

1. Authority and Application.
  - (a) This Policy is adopted pursuant to the authority granted to the Council pursuant to the provisions of O.C.G.A. §§ 15-18-12(d)(2); 15-18-40(c); and 15-18-44(c) and Chapter 8 of the Rules of the Prosecuting Attorneys' Council of Georgia. It is the intent of the Council in adopting this policy to implement sound practices to insure that state vehicles are operated and managed in an effective, efficient and responsible manner consistent with the policies applicable to other State agencies and the duties of the District Attorney under the Constitution and laws of this State.
  - (b) The Policy applies to any motor vehicle that is titled to the Council in accordance with O.C.G.A. § 40-2-37 regardless of the manner in which such vehicle is acquired or the source of the funds used to purchase such vehicle. By accepting a state motor vehicle for use in the performance of official duties, the district attorney agrees to operate such vehicle in accordance with this Policy and Chapter 8 of the Rules of the Prosecuting Attorneys' Council of Georgia.
  - (c) By accepting a state motor vehicle for use in the performance of his or her office's official duties, the district attorney agrees that such vehicle shall be maintained and operated in accordance with this Policy and Chapter 8 of the Rules of the Prosecuting Attorneys' Council of Georgia.
  - (d) This policy supersedes Council Policy 4.7 (Motor Vehicles), dated Oct. 17, 2002.
  - (e) The Council Fleet Manager may, from time-to-time, issue maintenance and safety of use messages concerning the operation and maintenance of state vehicles. Such messages may be advisory or directory. Directory messages shall be signed by the Executive Director and are binding on the district attorney's office to which a state vehicle is assigned.
  
2. Definitions. Unless otherwise specifically provided, as used in this Policy, "employee" means any person:
  - (a) Permanently or temporarily employed in the district attorney's office, regardless of the source of the funds used to compensate such employees;
  - (b) Permanently or temporarily employed by the Council;



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- (c) Employed by a government agency other than the district attorney's office or the Council and on temporary assignment to the district attorney's office. Individuals falling into this category must possess a valid State of Georgia operator's permit, be at least 18 years of age and have prior approval from their supervisor to operate a state vehicle;
- (d) Serving as a student interns (paid or unpaid) in a district attorney's office who have a valid State of Georgia operator's permit, are at least 18 years of age while acting within the course and scope of their duties and have prior approval from their supervisor to operate a state vehicle;
- (e) Performing work for a district attorney's office (i.e., a temporary employment service) as a contractors or employee of a contractors<sup>1</sup> who has been approved by the Council Fleet Manager to operate state vehicles; and
- (f) Participating as a volunteer in a program organized, controlled, and directed by the district attorney's office for the purpose of carrying out the functions of the office and who are at least 18 years of age.

### 3. Driver Qualifications.

- (a) Prior to being allowed to operate a state vehicle, an employee must:
  - (1) Certify, in writing, that they can safely operate the vehicle by completing the Driver Acknowledgment Form provided by the Council.
  - (2) Provide written consent for the Council staff to periodically obtain a copy of his or her Georgia Driver's History. Forms for this purpose will be provided by the Council.
  - (3) Complete the on-line driver training video provided by the Department of Administrative Services (DOAS).

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<sup>1</sup> See Chapter 8 of the Rules of the Prosecuting Attorneys Council of Georgia.



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- (4) Review the Driver Safety Tips before driving on state business.
  - (b) Documentation of the above requirements will be maintained by the Council staff.
4. Documentation of Vehicle Assignments.
- (a) State vehicles will normally be kept available for collective use (“pool vehicle”) and not assigned to an individual, unless the criteria set forth below is met and documented.
  - (b) Any state vehicle assigned to an individual will be documented using the Vehicle Assignment and Use Authorization Form (DOAS Form MV-1).<sup>2</sup>
    - (1) The justification for each vehicle assignment must be documented.
    - (2) Each DOAS MV-1 form must be signed and certified by the district attorney.
    - (3) Justification for an employee to drive a vehicle home on a routine basis must also be documented on this form.
    - (4) The form must be sent to the Council office in Atlanta
    - (5) The district attorney’s office must provide a copy of the form to the Council within 30 days of assigning a vehicle to an employee and before January 31 of each year.
    - (6) Failure to submit this form may result in action by the Council affecting the continued use of the state vehicle.
  - (c) Any vehicle that is **not** assigned to an individual and is used as a pool vehicle must have a DOAS MV-1 form completed, signed and certified by the district attorney and identified on the form that it is a pool vehicle.

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<sup>2</sup> DOAS Form MV-1 should not be confused the Department of Revenue Form MV-1 which is used annually to register motor vehicles.



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- (d) The Vehicle Assignment and Use Authorization Form must be updated annually and returned to the Council office on or before January 31 of each year.

5. Authorized Uses of State Vehicles.

- (a) A state vehicle shall be used solely in the performance of official duties and not for personal reasons. Use of a state vehicle for personal purposes having no connection with the accomplishment of official business is prohibited, except that an employee may:
- (1) Stop for meals when traveling on official business;
  - (2) Stop for a personal errand while traveling directly between the employees home and official business;
  - (3) While on travel status outside the Judicial Circuit which involves overnight travel and:
    - (A) Travel between official business and a place of temporary lodging;
    - (B) Travel between either a place of official business and a place of temporary lodging to:
      - (i) Obtain suitable meals;
      - (ii) Obtain medical assistance, including drug stores;
      - (iii) Visit places of worship;
      - (iv) Go to a barber or beauty shop;
      - (v) Take clothing to a dry cleaner or laundry;
      - (vi) Go to similar places required to sustain the health, welfare or continued efficient performance of the user, other than places of entertainment.



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- (4) Transport officers, officials, agents, employees, guests of the State or a political subdivision (such as witnesses, investigating officers, etc.) or, when in the direct interest of the State, consultants, contractors and commercial representatives;
  - (5) Carry materials, supplies, parcels, luggage or other items belonging to or serving the interests of the State;
  - (6) Transport any person or item in an emergency.
- (b) The following would not be an authorized use of a government vehicle:
- (1) For personal business;
  - (2) To transport family, friends, or other persons not qualifying under (a) above;
  - (3) To carry items of cargo unrelated to the conduct of official business;<sup>3</sup>
  - (4) To carry alcoholic beverages or controlled substances except when necessary to the performance of official duties.
- (c) A state vehicle will not be operated by any person who is under the influence of alcohol.
- (d) Use of Council vehicles for surveillance and or undercover investigative work.

Council vehicles should not be used by an employee who is assigned to provide direct support of surveillance and/or undercover investigative work where the knowledge of the identity of the vehicle or the individual is potentially life threatening or would place the vehicle in a situation where there is high probability of significant damage to the vehicle. If an employee is assigned to these activities, other vehicles should be acquired.

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<sup>3</sup> For example, transporting political campaign literature or similar material or individuals who are engaged in campaign activities. See O.C.G.A. §§ 21-5-30.2(a)(2) and 50-19-8.



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6. Driver Responsibilities.

- (a) Employees operating state vehicles are required to ensure their vehicle is always operated in a safe and reliable manner. Employees are expected to always drive defensively.
- (b) Employees are required to know and abide by all law and/or traffic regulations. When operating a state vehicle in another state, the employee is required to abide by the traffic regulations of that state.
- (c) Employees who operate state vehicles are required to obtain, and have in their possession at all times, a valid state of Georgia motor vehicle operator's permit. The type of permit may vary depending upon the type and size of vehicle being operated.<sup>4</sup> If unsure as to the type of operator's permit required, contact the nearest Georgia Department of Public Safety Driver's License Examination Station.
- (d) If, for any reason, the employee's operator's permit should be revoked, suspended, or restricted, it is mandatory for the employee to immediately notify the district attorney and the Council Fleet Manager. Employee's who have their operator's permit revoked or suspended are not authorized to operate a state vehicle.
- (e) It is mandatory that all occupants of state vehicles wear seat belts. It is the responsibility of the vehicle's operator to ensure all occupants have their seat belts securely fastened before the vehicle is placed in motion. Any malfunctioning seat belt should be immediately reported and repaired.

7. Theft and/or Damage Prevention.

- (a) It is the district attorney's responsibility to take all precautions necessary to prevent damage and/or theft of state vehicles and any state property that may be stored in them. To do this, the district attorney must insure that these basic principals are followed:

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<sup>4</sup> For example, operators of vehicles that haul ammunition on a permanent basis are required to have a valid Commercial Operator's Permit.



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- (1) Ensure that all windows are closed whenever the vehicle is parked and unoccupied;
  - (2) Ensure that all doors are locked whenever the vehicle is parked and unoccupied;
  - (3) Ensure government equipment and other personal property has not been left in plain view when the vehicle has been parked. These items should be placed in the trunk or removed from view; and
  - (4) Ensure all necessary precautions are taken to safeguard the vehicle and its contents by parking it at designated parking places such as the parking lot at the office, off-street lighted areas that are close to a business or hotel entrance where normal police surveillance or some other type of security protection exists, etc.
- (b) If a state vehicle is assigned to an employee, and the employee is on sick, annual, compensatory, personal, or administrative leave, or any combination thereof, in excess of five working days, the employee is required to ensure their assigned vehicle is placed in a secure environment or at some other suitable state or local public safety facility. It is the responsibility of the employee to also ensure the vehicle's keys are secured and readily available for official use.

### 8. Vehicle Purchasing Card.

#### (a) Assignment of Personal Fuel Pin Numbers

All state vehicles will have a Vehicle Purchasing Card assigned to them. These cards are to remain in the vehicle and are to be used for only authorized purchases. Anyone having a personal pin number may use the card. Personal pin numbers will be assigned by the Council for all personnel in a district attorney's office and can be used with any card.



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- (b) Allowed Use of Vehicle Purchasing Cards.

Vehicle Purchasing Cards can only be used for fuel and approved maintenance on state vehicles. Cards are not to be used for food or other personal items. Such unauthorized personal use constitutes theft from the State of Georgia.

9. Maintenance.

- (a) Responsibility.

Responsibility for ensuring that state vehicles are properly maintained rests with the office to which the vehicle is assigned and any employee operating the vehicle. This responsibility includes ensuring that regular maintenance and warranty recall work is accomplished when required; and, a permanent record and paper trail is maintained on all work performed.

- (b) Purpose.

(1) Reliability of the vehicle is one of the benefits of ensuring vehicle maintenance is performed. This is especially important with today's necessity for retaining vehicles beyond 100,000 miles. With regular maintenance, the Council can ensure the use of its vehicles will not be interrupted for prolonged periods of time. When vehicles are maintained as efficiently as possible, operating costs are kept to a minimum. Proper maintenance of state vehicles reflects on the district attorney and of his or her use of tax dollars.

(2) Safety is another important reason for ensuring that maintenance is performed when required. Safety is impossible when the vehicle is not in good condition, including its tires, brakes, lights, wheel alignments and shock absorbers. The safe driver will always be sure the vehicle is well maintained.

- (c) Fuel, Oil & Lubricants:

(1) The manufacture's specifications concerning the type of fuel and oil required to ensure continued engine performance will be followed. However,



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manufacturers may issue technical service bulletins concerning recommended motor oils for specific vehicles.<sup>5</sup>

(2) The Council Fleet Manager may issue notices concerning oil and lubricant requirements.

(d) Emissions Inspections.

All state vehicles based in areas requiring emissions inspections shall be properly inspected annually as required by state law unless exempted by Department of Natural Resources Regulation 391-3-20-.03.

(e) Maintenance Requirements and Schedules.

Unless otherwise directed, state vehicles will be maintained in accordance with the manufacturer's specifications and schedules.

(f) Driver's Responsibility.

(1) Drivers should be aware of the vehicle's daily performance. This includes actively listening to the engine's normal running sound. This will help to make the driver aware of unfamiliar noises; bumps or hesitations, which indicate the vehicle, may need service.

(2) Drivers should make regular inspections of tire inflation and tire wear, windshield wiper blades, and both interior and exterior cleanliness of the vehicle. The driver should also be aware of the performance and condition of: lights, turn signals, brakes, steering, air conditioning, shocks, door locks, power windows, mirrors, heating, gauges, speedometer, transmission, battery, and horn.

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<sup>5</sup> For example, in 1995, Ford Motor Company issued a technical service bulletin that addressed the problem of using the wrong grade of oil in the Crown Victoria Police Pursuit vehicles equipped with the 4.6L V8 engine. In its bulletin, Ford announced that it recommends that only the SAE 5W-30 grade of oil be used. The reason for this, according to Ford, is the standard SAE 10W-30 oil does not lubricate the Police Interceptor engines as well as the SAE 5W-30 grade of oil.



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### 10. Accident Reporting.

- (a) Motor vehicle accidents, regardless of how inconsequential they may seem to the driver, must be reported.
- (b) A copy of the vehicle accident report shall be provided to the Council Fleet Manager.
- (c) All state vehicles titled to the Council are insured by the Department of Administrative Services Risk Management Services, Automobile Physical Damage Agreement.<sup>6</sup> All collision and comprehensive losses are subject to a deductible per covered vehicle. All deductibles are the responsibility of the district attorney's office to which the vehicle is assigned.
- (d) The following procedures will be followed in the event of an accident.
  - (1) Immediately after becoming involved in an accident, or immediately after noticing damage to the vehicle, the driver is required to notify the nearest law enforcement agency, the district attorney, and the Council Fleet Manager. If the driver is unable, due to injury, to make this notification, the district attorney's office will make the notification.
  - (2) When possible, the driver of a state vehicle involved in an accident should render all assistance possible to ensure the comfort and safety of injured persons until proper medical assistance arrives.
  - (3) A state vehicle should never be removed from the scene of an accident until the accident has been properly investigated and the investigating officer has released it to the driver unless moving the vehicle is required by law. Parked vehicles that suffer damage while they are unattended should likewise not be moved until released by the investigating officer. Moving damaged vehicles without having the damage properly investigated may result in the loss of any potential claims.

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<sup>6</sup> A copy will be provided upon request.



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- (4) After notifying law enforcement, the district attorney and the Council Fleet Manager, notify DOAS Risk Management Services at the phone number provided on the Georgia Liability Identification card within 48 hours of the accident or the damage being noticed.
- (5) The Council Fleet Manager will send a Notice of Loss form and a Sworn Proof of Loss form for the driver to complete. The Notice of Loss form is due immediately to Council Fleet Manager and the Sworn Proof of Loss form is due after a repair estimate is obtained.

### 11. Theft Reporting.

The theft of a state owned or leased vehicle and any property taken from such vehicle will be reported in the same manner as vehicles damaged as a result of accidents.

- (1) The individual and/or office to which the vehicle is assigned initiates the reporting process. The first responsibility is to immediately notify the nearest law enforcement agency charged with the investigation of such losses. The next notification should be made to the individual's supervisor.
  - (2) When a state vehicle is stolen, the individual should take measures to ensure the vehicle is entered onto the GCIC system as stolen.
  - (3) The individual should then prepare and submit a report in the standard accident report format detailing how the loss occurred. Attached to this report should be copies of all notifications made, including the required incident report.
- (b) If the vehicle is recovered at any time during this two-year waiting period, and provided it is still in good condition, it may be returned to the assigned unit. If it is not in good condition, it will be disposed of as provided by Council Policy 12.3.



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### 12. Accounting for Use of Vehicles Used for Commuting Purposes for Federal Income Tax Reporting.

(a) Generally.

With the exception of certain certified law enforcement personnel who carry firearms and use a government vehicle routinely for bona fide arrests (see subsection (c) below), all employees (regardless of the source of compensation), including the District Attorney, who drive state vehicle to and from their residence are considered by the Internal Revenue Service to have derived gross income from such use of the PAC vehicle.

(b) Internal Revenue Regulations permit most employees (not elected officials) to value commuting use at \$1.50 per one-way trip.<sup>7</sup>

(1) The Internal Revenue Code requires that such income be reported with other gross income on individual income tax returns, and that taxes and FICA be paid on such income.

(2) The Internal Revenue Code also requires that:

(A) Employees report the number of commuting trips they make to their employers;

(B) Employers withhold associated taxes and FICA;

(C) Employers report such income and withholdings on individual employees W-2 forms; and

(D) Employers remit to the Internal Revenue Service, the employers's share of any FICA.

(3) State owned motor vehicles.

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<sup>7</sup> See 26 C.F.R. § 1.61-2T(f).



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- (A) Required reports:
- (i) Any state employee (other than an elected official) who is assigned a state vehicle must file a monthly report (Officer's Record of Non-Cash Fringe Benefit Received From Use of State Vehicle for Commuting To and From Work Form) with the Council detailing the number of commuter miles driven during the month.
  - (ii) Any employee who is assigned a state vehicle and not compensated from the state must file a monthly report (Officer's Record of Non-Cash Fringe Benefit Received From Use of State Vehicle for Commuting To and From Work Form) with the Council office detailing the number commuter miles driven during the month. The Council will keep a record of commuting miles and file a 1099 at year end. It will be the responsibility of the employee to pay any due taxes and FICA due on these non-cash fringe benefits.
  - (iii) The monthly report will be submitted no later than the 20th of the month following the month in which the vehicle was used.
- (B) If the employee fails to file the monthly report the Council fiscal office will calculate the value based on the assumption that the vehicle was used by you for commuting purposes 5 days a week for 52 weeks (round trip) at the rate of \$3.00 per day.
- (4) County owned motor vehicles operated by state paid personnel.

Any state employee who is assigned a county vehicle must file a monthly report with the county whose vehicle they are assigned (Non-Cash Fringe Benefit Received From Use of a County Vehicle for Commuting To and From Work Form) with the county office detailing the number of commuter miles driven during the month.



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- (c) Certified law enforcement personnel.
- (1) I.R.S. regulations provide an exception from the withholding requirements for law enforcement personnel who are assigned an unmarked vehicle.<sup>8</sup> To qualify for this exception, the individual must:
    - (A) Be "employed on a full-time basis to a government agency that is responsible for the prevention or investigation of crime involving injury to persons or property (including apprehension or detention of persons for such crimes);"<sup>9</sup> and
    - (B) Be "authorized to carry firearms, execute search warrants and make arrests (other than merely a citizen's arrest), and who regularly carries firearms."<sup>10</sup>
  - (2) In Georgia, POST certification is a prerequisite to qualifying for this exception.<sup>11</sup> An Assistant District Attorney who is also POST certified may qualify for this exception if his/her regularly assigned duties meet the criteria stated above (see paragraph (4) below).
  - (3) Use of the vehicle must be "incident to law-enforcement functions, such as being able to report directly to a stakeout or surveillance site, or to an emergency situation."<sup>12</sup>
  - (4) A district attorneys who believes that an employees (other than investigators who clearly meet the requirements set forth above) falls within this exception

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<sup>8</sup> 26 C.F.R. § 1.274-5T(k)(2)(ii).

<sup>9</sup> See 26 C.F.R. § 1.274-5T(k)(6)(ii).

<sup>10</sup> See 26 C.F.R. § 1.274-5T(k)(6)(ii).

<sup>11</sup> See O.C.G.A. §§ 15-18-21; 17-5-21(a), 17-5-24, 35-8-17(a); *Holstein v. State*, 183 Ga. App. 610, *cert. denied*, 183 Ga. App. 906 (1987).

<sup>12</sup> *Id.*



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must request confirmation in writing from the Department of Law. A copy of the memorandum confirming that this exemption applies will be forwarded to the Council and will be placed in the vehicle file and the employee's personnel file at the Council office.

- (d) Elected officials (District Attorneys and Solicitors-General).
- (1) I.R.S. Regulations provide that elected government officials cannot use the commuting value special rule which the State of Georgia has elected to use for state employees.<sup>13</sup> Elected officials should consult the Memorandum dated December 18, 2002, subject: Motor Vehicle Guidance concerning the procedures which must be followed.<sup>14</sup>
  - (2) For District Attorneys and Solicitors-General, the value of the vehicle for tax purposes will be determined in accordance with the automobile lease valuation rule, 28 C.F.R. § 1.61-21(d).
  - (3) District Attorneys and Solicitors-General with state vehicles are responsible for maintaining adequate records which will establish the amount of personal and business mileage, the time and place of the travel and the business purpose of the trip.
  - (4) District Attorneys and Solicitors-General who are assigned a state vehicle must file a monthly report showing what percentage of the District Attorney's use of the vehicle is considered personal use for income tax purposes.
  - (5) Monthly reports must be submitted to the Council office no later than the 20th of the month following the month in which the vehicle was used.

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<sup>13</sup> 28 C.F.R. § 1.61-21(f)(1)(v) and (f)(6).

<sup>14</sup> Available on-line at [http://www.opb.state.ga.us/State\\_Policies](http://www.opb.state.ga.us/State_Policies). Elected officials are encouraged to consult with a tax professional about this issue.



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13. Use of State Vehicles by a Solicitor-General's Office.
- (a) The provisions of this policy shall apply if the Council provides a motor vehicle to a solicitor-general's office pursuant to O.C.G.A. § 15-18-73(b).
  - (b) Prior to receiving a state vehicle, a solicitor-general must sign an agreement that such vehicle is for use in the performance of the office's official duties, and that the vehicle will be maintained and operated in accordance with Chapter 8 of the Rules of the Prosecuting Attorneys' Council of Georgia and the policies adopted pursuant thereto.