



POLICY STATEMENT

Policy Statement 5402
Policy Area: Facilities - Motor Vehicles
Effective Date: **JUN 14 2004**
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USE OF PRIVATELY-OWNED VEHICLES

I. COVERAGE

This Policy Statement applies to all employees of the Court Services and Offender Supervision Agency for the District of Columbia ("CSOSA") and the District of Columbia Pretrial Services Agency ("PSA"). The term "Agency" as used in this Policy Statement refers to both CSOSA and PSA.

II. BACKGROUND

The Agency recognizes that there are times when employees require access to vehicles in order to perform their duties efficiently and effectively. For example, quality and effective offender supervision requires that community supervision officers ("CSOs") conduct field visits, home visits, or even transport offenders to treatment centers. Employees may also need to attend out-of-office meetings. Use of a privately-owned vehicle ("POV") may be authorized when Agency vehicles are not available and when commercial transportation (i.e., taxis, buses, or metro) is not cost effective or efficient. Indeed, in certain circumstances, the use of a POV for official business may be more advantageous to the Agency than the use of other types of transportation.

This Policy Statement provides guidance to employees on the use of POVs for official business. It addresses under what circumstances POVs may be used, what expenses will be paid by the government, and to what extent employees could be held personally liable for property damage and/or injury arising out of a vehicular accident involving POVs.

III. POLICY

A privately-owned vehicle is defined as any vehicle owned or otherwise under the control of an employee that is *not* owned or leased by a government agency, and is not commercially leased or rented by an employee under a government rental agreement for use in connection with official government business. Employees may use POVs for official business when such use is

advantageous to the Agency, approved by the Agency and consistent with the procedures in this Policy Statement. The use of Agency vehicles is addressed in a separate Policy Statement.

IV. AUTHORITIES, SUPERSEDURES, REFERENCES, AND ATTACHMENTS

A. Authorities

31 U.S.C. § 3721 – Claims of personnel of agencies and the District of Columbia government for personal property damage or loss
41 C.F.R. Part 301-10, Subpart D – Privately Owned Vehicle (POV)
Executive Order 13043 – Increasing Seat Belt Use in the United States

B. Supersedures

None.

C. Procedural References

None

D. Attachments

Appendix A. General Procedures
Appendix B. Request to Use Privately-Owned Vehicle for Official Business
Appendix C. Vehicle Accident Report: Privately-Owned Vehicle

APPENDIX A GENERAL PROCEDURES

A. Agency Approval

1. Employees shall receive prior initial approval from their supervisors or other management officials (e.g., designated supervisor, Branch Chief) to use POVs for official Agency business. Once approval has been provided, an employee *need not* seek approval for each future use. If prior approval is not feasible, approval may be obtained *after* the POV has been used as long as the supervisor determines that such use was proper.
2. Employees should be aware, however, that if prior approval is not obtained, the employee runs the risk that his/her supervisor may not approve the request for mileage reimbursement. Thus, employees may choose to seek approval prior to each use.
3. Approved purposes will typically include attending meetings away from the office, transporting defendants or offenders, making field visits, and verifying employment. Supervisors will approve the use of a POV only when it is advantageous to the Agency to do so. In making such a determination, supervisors shall take into consideration the following factors: (1) the total cost to the Agency; (2) the actual costs of transportation; (3) the availability of public transportation and Agency vehicles; (4) location of the destination; and (5) any safety concerns posed by the use of public transportation. The personal convenience of the employee traveling shall not be considered a factor.
4. In no event will an employee be *required* to use his/her POV for work-related purposes or to transport a defendant or offender in his/her POV.
5. To obtain approval, employees must complete a "Request to Use Privately-Owned Vehicle for Official Business" (attached). The form need only be completed once, preferably prior to the use of the POV, and updated annually. Forms shall be submitted to the employee's immediate supervisor for signature.

B. When Use of a POV is Prohibited

It is within the supervisor's discretion to disallow the use of a POV and to deny reimbursement in those cases where the supervisor determines that an employee's use of a POV vehicle was or is not beneficial to the Agency. In such a case, the supervisor will determine what mode of transportation should be used on a case-by-case basis with the full consideration of the safety of the employee.

C. Reimbursement for Use of a POV

1. Employees are reimbursed for use of their POV at a per mile rate determined by the General Services Administration instead of the actual expenses of transportation. Mileage

reimbursement is computed by multiplying the distance traveled times the approved rate and is said to represent the actual cost of transportation. Current approved rates can be obtained from the Agency's finance offices. To obtain reimbursement for mileage, employees must submit a completed "Local Reimbursement Form" (SF 1164) available from administrative staff or CSOSA's "InForms" program. The form must be approved by the employee's immediate supervisor. The supervisor will be guided by paragraph V. B. of this Policy Statement in making his/her decision. For CSOSA employees, the SF 1164 should be submitted to CSOSA's Office of Financial Management and for PSA employees, to PSA's Office of Finance and Administration, Accounting Section.

2. The following expenses are not reimbursable: parking tickets, traffic tickets, charges for repairs, depreciation, replacements, or towing. Any mileage incurred in commuting to the destination from the employee's residence is not included in the computation.

D. Vehicle Insurance

1. Employees are advised to read and understand their automobile insurance policies and determine whether there are any restrictions that prevent the occasional use of their vehicle for conducting business on behalf of the Agency. If the policy does not cover such occasional use and there is damage to the car, he/she may be unable to recover from the Agency.
2. Under appropriate circumstances, the Agency may reimburse employees for the insurance deductible in case of vehicle damage, but will not provide reimbursement for any increase in insurance premiums or other incidental expenses. In the event that it is determined that the employee was not on official business or the damage was not incident to service, the Agency will not be responsible for any damage-related costs.
3. Employees who use their POVs for official business without initial approval will bear any expenses and/or loss as a result of such use.

E. Passengers

To reduce the risk of liability, it is strongly recommended that only those persons who are on official business with the Agency be permitted to ride as passengers in POVs. However, CSOs are to team up when on official business in accordance with agency safety and security guidelines.

F. Damage to Privately-Owned Vehicles

Employees are advised that their personal car insurance is the primary mechanism for monetary restitution for damages arising from automobile accidents. Nevertheless, employees may submit claims to the Agency to recover damages to their vehicle or loss arising out of a collision or other *work-related incident* pursuant to the Agency's claims policy. Each claim will be

adjudicated on a case-by-case basis. In general, such claims may be approved if the following conditions are met:

- the damage or loss is substantiated;
- the damage or loss was incident to the employee's service with the Agency and it was determined that use of the vehicle was reasonable or useful under the circumstances; and
- no part of the loss was caused by any negligent or wrongful act of the employee.

G. Accident Procedures

Any employee who has an accident in a POV while on official Agency business must:

- Not talk to anyone else about the accident except supervisors, other Agency representatives, other persons acting in an official capacity;
- Not admit fault or liability to the other party or to a police officer, if present;
- If necessary, explain that you have been instructed by the Office of the General Counsel (OGC) not to discuss details of the accident, unless it is to law enforcement officers;
- Be courteous and answer questions from authorized law enforcement officers to the extent necessary for reporting purposes;
- Call the OGC immediately or as soon as possible following the accident;
- Collect all pertinent information about the other party including name, address, telephone number, driver's license number, license plate number, and insurance information and provide the information to their supervisors. In the event that a police officer does not appear on the scene or otherwise fails to make a report, employees must provide such report to their supervisors; and
- Complete a Vehicle Accident Report (attached) within 24 hours of the accident, regardless of the extent of any damage or injury, and return such report to his/her supervisors. The report shall be used in the event the employee submits a claim for property damage or loss, or the other party submits a claim for damage or injury against the Agency.

Supervisors must sign and forward the original accident report to the OGC and maintain a copy for the employee's file. For CSOSA employees, the form must be forwarded to CSOSA's Office of Financial Management and for PSA employees, to PSA's Office of Finance and Administration, Accounting Section.

H. Liability for Damage or Injury to Third Person

1. FTCA Policy

The Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 2671, *et seq.*, protects federal employees from liability arising out of their negligent or wrongful acts, as long as such acts were performed while acting within the scope of employment. Thus, employees

will not be held personally liable under the FTCA for injuries arising out of the operation of a POV if such use was authorized by the Agency and the employee was acting within the scope of his or her employment at the time of the accident. In such a case, the party's exclusive remedy is against the United States. However, employees must be aware that there is *no* protection if it is determined that the employee was *not* acting within the scope of his or her employment while operating an automobile. In other words, an employee could be sued in his/her individual capacity if he/she was acting beyond the scope of employment when the incident occurred. In addition, the Agency could take *disciplinary action* against the employee for a negligent act or omission, or may take action to recover damage to property which occurred as a result of the employee's negligence or wrongful act.

2. Scope of Employment

(a) General Rule

- (i) While on official business, employees may not use privately-owned vehicles for activities that are outside the scope of their employment.
- (ii) Conduct is *not* within the scope of employment if it is different from that which is authorized by the Agency, outside the authorized time and space limitations, or is not sufficiently motivated by a purpose to serve the Agency. Acts which are carried out *solely* for the purpose of the employee are *not* within the scope of employment. For example, an employee will be considered to be acting *outside* the scope of his/her employment if he/she stops while on official business to conduct personal business, such as running an errand.

(b) Specific Examples

- (i) The following illustrations are based upon actual vehicular accident cases in which the employee's conduct was determined to be *outside* the scope of employment:
 - taking a 40-mile detour to conduct personal business in a privately-owned vehicle on the way to a meeting/dinner on behalf of the government; and
 - fraternizing at a bar in an effort to "liaison" with other law enforcement officers prior to an accident.
- (ii) In the event that an employee stops for purposes of conducting personal business while traveling to or from an Agency-related destination, it will most likely be determined that the activity was outside the scope of employment. As a general rule, employees who use their POVs for official Agency business are strongly advised to go directly to and from the work-related destination and not stop to conduct personal business.

(iii) Depending upon the circumstances, it may be within the scope of employment to stop for a meal. This determination will depend upon such factors as the location of the meal site, the duration of the meal, and whether it was work-related. Other factors to be considered include, but are not limited to, applicable case law, the regulations and policies from the U.S. Department of Justice and any other federal agency with oversight and/or authority in this area.

(c) General Caveat

Employees are advised that the guidelines provided above are general in nature and do not address *every* circumstance or contingency that could arise in the course of an employee's use of a POV for official business. Strict adherence to the guidelines should, however, significantly reduce an employee's risk of being held personally liable for any property damage or injury arising out of the use of a POV for work-related purposes. Employees who choose to use their POVs for activities which are outside the scope of their employment run the risk of being held *personally* liable for any resulting injury or damage to property.



APPENDIX B

**Court Services and Offender Supervision Agency
for the District of Columbia**

**REQUEST TO USE PRIVATELY-OWNED
VEHICLE FOR OFFICIAL BUSINESS**

Name: _____

Date: _____ Time: _____

Purpose: Conducting official agency business relating to defendant or offender supervision including but not limited to: field visits; home and job verifications; and transporting defendants or offenders.

Other: _____

Passengers (if any): _____

I hereby certify that I will be using my privately-owned vehicle for official government business strictly for the above-stated purpose(s). I further certify that I have read the Agency's policy on the use of privately-owned vehicles. I understand that I will be liable for any injury or loss resulting from activities which are outside the scope of my employment.

SIGNATURE: _____
Employee

APPROVED: _____
Supervisor



APPENDIX C

**Court Services and Offender Supervision Agency
for the District of Columbia**

**VEHICLE ACCIDENT REPORT
Privately-Owned Vehicles**

Name: _____

Date of Accident: _____

Time of Accident: _____

Location of Accident: _____

Purpose of Travel: _____

Passengers in POV: _____

Insurance Carrier (a), Policy Number (b), Driver's License No. (c) Information:

Employee Driver:

Driver of Other Vehicle:

(a) _____

(b) _____

(c) _____

Facts and Circumstances of Accident:

Citations issued to Employee: _____

Citations issued to Other Driver(s): _____

I hereby certify that the foregoing statement is true and accurate.

SIGNATURE: _____
Employee

Date

RECEIVED BY: _____
Supervisor

Date