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WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

15001-02

John

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1/12

Name of Correspondent: Daniel O'Leary

☐ MI Mail Report

User Codes: (A) (B) (C)

Subject: Use of official cars by spouses
of department officials (Agriculture)

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
W Holland	ORIGINATOR	84.104.12			1/1/12
WATB	Referral Note:	A DD 84.104.13			1/1/12
	Referral Note:				1/1/12
	Referral Note:				1/1/12
	Referral Note:				1/1/12
	Referral Note:				1/1/12

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RECORDS MANAGEMENT ONLY

CLASSIFICATION SECTION

No. of Additional Correspondents: _____ Media: P Individual Codes: 1130 _____

Prime Subject Code: H 00102 Secondary Subject Codes: TN 001 _____
 FB 019 _____

PRESIDENTIAL REPLY

<u>Code</u>	<u>Date</u>	<u>Comment</u>	<u>Form</u>
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C		Time: _____	P- _____
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DSP		Time: _____	Media: _____
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- X - Miscellaneous
- Y - Study



United States
Department of
Agriculture

Office of
General
Counsel

Washington,
D.C.
20250

APR 11 1984

MEMORANDUM FOR: Fred F. Fielding
Counsel to the President

FROM : Daniel Oliver *DO*
General Counsel

SUBJECT : Use of Official Cars by Spouses of Department Officials

222000 *cu*

On April 2, 1984, you requested that I send you: (1) copies of all guidance issued by this Department regarding use of official cars by spouses; (2) copies of rules or other guidance on computation of reimbursement amounts to be repaid when official automobiles are determined to have been utilized for unofficial purposes; and (3) a description of the records which this Department keeps with respect to uses made of official cars.

A copy is enclosed of this Department's guidance on uses which may be made of official cars. No specific mention or discussion is made of use of official automobiles for the transportation of spouses. However, the guidelines are fairly specific in describing what constitutes "official business" for which the Department's automobiles are generally available.

This Department has issued no memorandum or other specific guidance on the manner in which reimbursement amounts should be computed when it is determined that official cars have been used for unofficial purposes. In a recent instance, however, those amounts were computed based upon mileage traveled (i.e., approximate taxi fares for similar trips) with an additional factor added for applicable driver overtime.

You also asked whether the Department keeps records regarding use of official cars. Except with respect to the cars provided for the Secretary and the Deputy Secretary, for which I understand no logs or records are maintained, specific and detailed records are kept for all official automobiles. These records, consisting principally of the drivers' logs, record all trips made, including times of day, points of origin, destinations, and names of passengers transported.

* * *

Enclosure

GUIDELINES FOR USE OF STAFF CARS

To make the most effective use of the limited number of vehicles, and to keep costs to a minimum, the following guidelines should govern your use of the vehicles. A prioritized list of individuals authorized to use the cars is attached. The drivers will honor requests in the order received with first priority going to List A.

- I. Staff cars may only be used for official purposes.
 - A. Use of Government vehicles for transportation of officers and employees between home and office is specifically excluded from the definition of "official purposes" by 31 U.S.C. 638a(c)(2).
 - B. The Secretary and the Deputy Secretary are exempted from this provision. In addition, use of staff cars between home and office may be authorized in limited instances when such use is in the interest of the Government, e.g., during emergencies, or when such use is demonstrably in the Government's interest. Any such authorization, however, must be based on reasons transcending personal convenience.
 - C. By direction from the Secretary or Deputy Secretary, a car can be dedicated for a specific period of time and for a specific purpose.
- II. Persons on List A may use the staff cars at anytime. Persons on Lists B and C should not use the staff cars before 8:00 a.m. or after 6:00 p.m. Use of a staff car outside normal duty hours requires overtime pay to the driver. At overtime rates, the cost of using a staff car is frequently 4-5 times the cost of a taxi. On long trips to outlying areas, the driver's salary almost always exceeds the cost of car rental.
- III. Only those persons on List A may request a staff car to transport subordinates or official visitors. This request should be made to the Assistant Secretary for Administration.
- IV. Only those persons on List A may use staff cars on trips to Dulles International or Baltimore Washington International Airports, or on trips to outlying areas where the staff car would be tied up for two hours or more.

- V. Vehicles should not be used for personal errands, or to go to breakfast, lunch, dinner or attendance at social events unless you are representing the Department in an official capacity.
- VI. Staff car drivers should be used as couriers only when absolutely essential. For Special courier and messenger service to the Office of the Secretary, staff and general offices for priority items requiring expeditious handling, contact: Supervisor, Special Couriers, 447-5869. This service includes pick-up or delivery to other Government agencies and private concerns in the D.C. area.
- VII. Staff cars should not be tied up unnecessarily. When reserving a staff car, please tell the driver's supervisor when and where you want to go and when you need to be picked up.
- VIII. The supervisor of the drivers must be informed of any changes in your schedule. The drivers are understanding instructions to wait only 15 minutes unless notified otherwise.
- IX. PLEASE:
 - o Request pick-up for two-way trips as opposed to having the driver wait longer than 30 minutes.
 - o Share the vehicle with others whenever practical.
 - o Encourage drivers not to violate traffic laws, e.g., speeding.
 - o Use metro rail or taxicabs, instead of official cars whenever practical. You will be reimbursed.

Trip logs showing pick-up and delivery points and mileage usage are available for inquiry under the Freedom of Information regulations.

Compliance with these guidelines can help to ensure full and proper use of Government vehicles in USDA

U.S. DEPARTMENT OF AGRICULTURE
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20250

OFFICIAL BUSINESS

SPECIAL

The Honorable Fred F. Fielding
Counsel to the President
Room 45 Old Executive Office Building
Washington, D. C.

Mailroom: Call X2632 for pickup

WHITE HOUSE MAIL
RECEPTION & SECURITY
1031 APR 12 AM 11:49

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

F001-02

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1/Name of Correspondent: John J. Knapp☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Automobiles -- Personal Use
(HUD)

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
<u>W Holland</u>	ORIGINATOR	<u>84104119</u>		<u>1/1/</u>
<u>Cur IP</u>	Referral Note: <u>D/84104120</u>			<u>584104126</u>
	Referral Note: _____	<u>1/1/</u>		<u>1/1/</u>
	Referral Note: _____	<u>1/1/</u>		<u>1/1/</u>
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No. of Additional Correspondents: _____ Media: 2 Individual Codes: 1136 _____

Prime Subject Code: FI 001 02 Secondary Subject Codes: TN 001 _____
FG 023 _____

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DSP		Time: _____	Media: _____

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- X - Miscellaneous
- Y - Study



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

APR 19 1982

THE GENERAL COUNSEL

MEMORANDUM FOR: Fred F. Fielding
Counsel to the President

223145 *u*

FROM: John J. Knapp *John J. Knapp*

SUBJECT: Automobiles -- Spousal Use

Attached is a memorandum on the above subject, indicating that the issue has not much arisen here. There is little likelihood of unknowing violations of the new guidelines, at least currently, because the Secretary's wife generally is in New York.

You also asked about manner of calculating reimbursement when there has been vehicle use in violation of portal-to-portal or other restrictions. As you know, we had several incidents a year or so ago. In cases where overtime was involved, we included the full costs, including standby time, in a manner consistent with the Comptroller General's position on Mr. Nimmo (B-208087). Where other official uses could be established during the same time, however, we subtracted for that.

Attachment

APR 19 1982



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

April 10, 1984

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM FOR JOHN J. KNAPP

From Burton Bloomberg
Associate General Counsel for Equal
Opportunity and Administrative Law

Subject Automobiles - Spousal Use

The following summarizes our findings concerning the issue of whether the use of a Government vehicle by a Cabinet-level officer's spouse is permissible in connection with the spouse's attendance at an official Government function.

1. We have found only one instance where this Office issued advice on this subject. In a memorandum dated May 23, 1980 (copy attached), we concluded that the Department could pay the travel expenses of former Secretary Landrieu's spouse in connection with her participation in an awards ceremony conducted by the Conference of Mayors. In that case, Mrs. Landrieu was to be an active participant in the event and it was determined that her participation would be a direct and substantial service to HUD. In this connection, it should be pointed out that we have never ruled on the permissibility of providing transportation to a spouse who was merely accompanying the HUD Secretary to an official event, such as a reception.

2. Neither GSA nor GAO has any written policy on a spouse's use of a government automobile for official purposes. (The Office of Government Ethics defers to GSA on matters involving the use of government automobiles.) Nevertheless, attorneys at both agencies agreed that a credible argument could be made that use of a government automobile to transport a Secretary's spouse to an official meeting or reception would not violate 31 U.S.C. §1344(a). The theory underlying this argument is that the spouse's attendance is for representational or protocol reasons and enhances the position of the Department. Attorneys at both agencies asserted that they would not approve reimbursement of the spouse for taxi fares in the same situation. However, they were unable to provide a convincing rationale for this distinction. Our discussions with them merely indicated that it was their belief that since the Secretary is permitted to use

a government automobile for commuting in any case, it was less likely that there would be objection when the same automobile was used for other official business than when a taxicab was so used.

3. For your information, the National Aeronautics and Space Administration has an internal policy that permits reimbursement of the travel expenses of an employee's spouse when the spouse is traveling for protocol and representational purposes. Interestingly, our discussion of this point with a representative of NASA's Office of General Counsel failed to surface any instance where reimbursement had occurred solely in connection with attendance at a reception or similar event in the Washington area.

Attachment

Jane Merkin, Director
Scheduling and Liaison, SPL

MAY 23 1980

Marilyn G. Wagner, Office of General Counsel, GF

Invitation for Mrs. Landrieu to Participate in
Conference of Mayors Meeting, Seattle, Washington

Your note to me of May 21 states that Secretary Landrieu's wife has been invited to participate in the Conference of Mayors' annual conference in Seattle. You attach a letter of invitation from John Gunther, Executive Director of the Conference which requests Mrs. Landrieu's participation in the Mayors' Awards Program recognizing outstanding volunteer efforts on behalf of city governments.

You ask whether HUD may pay for Mrs. Landrieu's airfare and expenses.

The general rule is that appropriated funds may be expended for travel for the spouse of an employee only when specifically authorized by law or under general statutory authority, if, in specific circumstances, the agency is able to determine that the spouse's presence or participation in an event is a direct and substantial service or benefit to the government and is necessary to carry out the purposes for which the appropriation is provided. The payment requires a proper administrative determination by the Secretary or his designee that the travel would aid or facilitate the work of the Department.

For example, the Comptroller General has ruled that if the employee's spouse is invited by an authorized official from outside the agency to perform travel for the bona fide purpose of speaking on government business or rendering some direct or substantial services to the government in the nature of official business, travel expenses may be paid in accordance with 5 U.S.C. 570 relating to travel of individuals serving without pay. (See 27 Comp. Gen. 183 37 id 349 and 39 id 55.)

57 C 4 7

In the instant case, Mrs. Landrieu will be officially participating in a conference and in a particular ceremony honoring volunteer efforts which contributes directly to the programs and mission of this Department with respect to the problems of U.S. cities. It seems clear that without the deserved public recognition accorded to the volunteer efforts of many interested individuals in urban areas, a very vital resource for work and money on behalf of cities could begin to disappear. As a prominent participating official at the Conference of Mayors ceremony, Mrs. Landrieu will be representing HUD and helping to further HUD's role and responsibilities in seeking to highlight and increase the talent and individual efforts available for meeting the needs of U.S. cities. In this capacity Mrs. Landrieu will be rendering a direct and substantial service to HUD.

Under these circumstances, it is my opinion that a proper administrative determination by the Secretary or his designee that Mrs. Landrieu's travel will aid and facilitate the work of the Department can reasonably be made and that her travel expense to Seattle and back can be paid out of HUD's appropriated funds.

Marilyn G. Wagner

Deputy Associate General Counsel
Finance and Administrative Law
Division

cc: Verna Landrieu

cc:
GF Wagner 10244 ✓
GF Margulies 10244
RF 10244
GF 10500
SA Walker 10218

GF:WAGNER:mjo 5/23/80

JV

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1Name of Correspondent: Thomas E. Harvey☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Use of government vehicles by USIA

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)

Action
CodeTracking
Date
YY/MM/DDType
of
Response

Code

Completion
Date
YY/MM/DDW/Holland

ORIGINATOR

DDP 4/105/11

Referral Note:

A84/105/14

Referral Note:

DDP

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- Y - Study

**United States
Information
Agency**

Washington, D.C. 20547



May 8, 1984

226655 *CU*

Dear Fred:

You asked that the various General Counsels of all agencies provide you with whatever internal guidance has been operative in those agencies regarding the use of agency automobiles, in particular for home to work transportation. The guidance that has been operative in USIA is enclosed.

Sincerely,

Thomas E. Harvey
Thomas E. Harvey
General Counsel and
Congressional Liaison

The Honorable
Fred Fielding
Counselor to the President
The White House

1984 MAY 11 11 0 51

MANUAL OF OPERATIONS & ADMINISTRATION

700 PROPERTY MANAGEMENT PROCEDURES

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- 752 Definitions
 - 752.1 Government-Owned Motor Vehicles
 - 752.2 Operator
- 753 Prerequisites for Operating a Government-Owned Motor Vehicle
 - 753.1 Driver's License
 - 753.2 Identification Card (SF-46)
 - 753.3 General Services Administration (GSA) Road Test
 - 753.4 Responsibilities of Employee Serving as Operator or Incidental Operator
- 754 Use and Maintenance of Government-Owned Motor Vehicles
 - 754.1 Use
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MANUAL OF OPERATIONS & ADMINISTRATION

700 PROPERTY MANAGEMENT PROCEDURES

Section 750

Section 750-

MOTOR VEHICLES

751 STATUTORY REQUIREMENTS AND APPLICABILITY - The Federal Property and Administrative Services Act of 1949, as amended, (63 Stat. 377; 64 Stat. 578; 68 Stat. 1126; 40 U.S.C. 471 et seq.), expresses congressional intent to provide for an economical and efficient system for transportation of Government personnel and property. The act also provides for the establishment of procedures to assure safe operation of Government-owned motor vehicles for official purposes. This Section contains Agency procedures for the use of Government-owned motor vehicles and vehicles leased by the Agency and is issued in conformance with the act.

752 DEFINITIONS

752.1 Government-Owned Motor Vehicles, as referred to throughout this Section will mean any vehicle owned or leased by the Agency and operated by an Agency employee to conduct official Agency business.

752.2 Operator - An operator is any employee of the Agency who is required to operate a motor vehicle in the routine performance of his or her duties.

753 PREREQUISITES FOR OPERATING A GOVERNMENT-OWNED MOTOR VEHICLE (see also MOA V-A-860)

753.1 Driver's License - An employee must possess a valid driver's license of either the District of Columbia, Puerto Rico, or the State or possession in which he or she is domiciled or principally employed, for operation of the type of Government vehicle he or she is to use.

753.2 Identification Card (SF-46) - In addition to a valid driver's license described above, the employee, while operating a Government-owned motor vehicle, is required to have on his or her person a Standard Form 46, U.S. Government Motor Vehicle Operator's Identification Card, which will specify the type of Government-owned motor vehicle the holder is authorized to operate. General Services Branch, Domestic Support Division, (MGT/ADG) will furnish Agency employees with this identification card after determining that the employee's driving record warrants it and after being advised by the Office of Personnel Services, (MGT/P) that the employee meets the physical standards set by the Office of Personnel Management and published in Appendix A to Chapter 930 of the basic Federal Personnel Manual. The applicant or employee will complete Forms IA-340, Motor Vehicle Operator's Identification Card Application and Standard Form 47, Physical Fitness Inquiry for Motor Vehicle Operators, and forward them thru the executive or administrative office to MGT/ADG.

a. Renewing Identification Cards - Identification cards will be valid for not more than three years and will be renewable for additional periods of not more than three years.

(1) MGT/ADG reviews the employee's driving record and determines whether it warrants renewal of the employee's identification card.

(2) Sixty to ninety days in advance of the date an employee's identification card will expire, MGT/ADG requests the employing office to furnish the employee with a copy of Form SF-47, Physical Fitness Inquiry for Motor Vehicle Operators, and to forward the completed form through MGT/ADG to MGT/P.

MANUAL OF OPERATIONS & ADMINISTRATION

700 PROPERTY MANAGEMENT PROCEDURES

Section 750

(3) Based on review of the employee's SF-47 or the results of a medical examination, if required, ☆MGT/P☆ advises ☆MGT/ADG☆ whether the employee's physical fitness warrants renewal of his or her identification card. (See MOA V-A-862).

(4) ☆MGT/ADG☆ renews the identification card of each employee on whom the determinations in paragraphs (1) and (3) above are affirmative and sends the new identification card through the appropriate executive or administrative office to the employee.

b. Delegation of Authority to Relay Station Managers - At USICA establishments in the United States the responsibilities of ☆MGT/ADG and MGT/P☆ described in paragraphs 753.2 and 753.2a above are delegated to the Relay Station Manager subject to notification of ☆MGT/ADG☆ Washington, of the actions taken.

c. Surrendering Identification Card - When an employee leaves the Agency or transfers to a position where he or she not be required to drive a Government-owned motor vehicle for the Agency he or she will surrender his or her identification card to his or her Executive or Administrative Officer who will return it to ☆MGT/ADG☆.

753.3 General Services Administration (GSA) Road Test - Agency employees required to drive a motor vehicle with a weight capacity of 1 1/2 tons or more will be required to take the GSA Road Test. This test is administered by all GSA motor pools. ☆MGT/ADG☆ or the Relay Station Manager may waive the Road Test in connection with appointment or assignment to an incidental operator position at a work location at which it is impractical to require the test if the candidate's or employee's past driving record establishes his or her competence as a motor vehicle operator.

753.4 Responsibilities of Employee Serving as Operator or Incidental Operator will include:

a. Familiarizing himself or herself and complying with rules and instructions in paragraphs 754 and 755.

b. Reporting to his or her supervisor:

(1) Any illness or injury that might affect his or her physical ability to operate a motor vehicle,

(2) Any arrest or conviction for an offense committed while operating a motor vehicle whether on or off duty, and

(3) Any suspension or revocation of his or her state license to operate a motor vehicle.

754 USE AND MAINTENANCE OF GOVERNMENT-OWNED MOTOR VEHICLES

754.1 Use - A Government-owned motor vehicle will be used for transacting official Agency business ONLY. The driver will determine and USE the most direct route to transport personnel and/or property to the required destination.

754.2 Recording Use - The driver will record each trip on Form JF-2, Daily Vehicle Usage Report, and submit the form at the end of each day to the executive or administrative office. In New York the administrative office forwards these forms periodically to ☆MGT/AON☆; in Washington the executive or administrative office forwards these forms periodically to ☆MGT/ADG☆. The executive/administrative office, ☆MGT/ADG and MGT/AON☆, will maintain a file of these forms for not less than six months.

754.3 Maintenance - ☆MGT/ADG☆ will assume responsibility for arranging for all vehicle repairs in accordance with existing regulations and/or under the purview of any agreement entered into by the Agency.

755 ACCIDENTS

MANUAL OF OPERATIONS & ADMINISTRATION

700 PROPERTY MANAGEMENT PROCEDURES

Section 750

755.1 Employee's Responsibilities - An employee of the Agency who operates a Government-owned motor vehicle will exercise every precaution to prevent accidents. In the event of an accident involving a Government-owned vehicle the operator will:

- a. Notify his or her supervisor and/or his or her executive or administrative office as soon as possible.
- b. Notify the State, county, or municipal authorities of the accident as required by law.
- c. Record information pertaining to the accident on Standard Form 91, Operator's Report of Motor Vehicle Accident; obtain the name(s), address(es), and telephone number(s) of any witness(es) and wherever possible have the witness(es) complete Standard Form 94, Statement of Witness; and submit both forms (only one copy required) to his or her supervisor and/or executive/administrative office. (See MCA-IV 460, Safety Program, for additional information regarding submission of Forms SF-91 and SF-94.)
- d. Refrain from making any statement concerning responsibility for the accident except to his or her supervisor, executive or administrative office, or to a Government investigating officer.
- e. Employees who fail to report accidents may be subject to disciplinary action.

755.2 Supervisor's Responsibilities - The employee's supervisor will be responsible for notifying the State, county, or municipal authorities, as required by law, in the event bodily injury is involved and the operator cannot comply with the above requirements. The supervisor is also responsible for notifying the chief of the GSA motor pool that assigned the vehicle to the Agency, and the Chief, ☆MGT/ADG☆. For disposition of claims against the Government resulting from accidents see Part 101-39, Federal Property Management Regulations.

755.3 Claims - Legal action concerning damage to personal property and/or personal injury or death, resulting from the operation of a Government-owned motor vehicle by any employee of the Government while acting within the scope of his or her employment will be defended by the Attorney General. Upon certification by the Attorney General that the defendant employee was acting within the scope of his or her employment at the time of the accident, such action will be deemed a proceeding against the U.S. Government and will relieve the employee of his or her estate from liability in connection therewith. To obtain this protection, each process served upon the employee, or an attested true copy, must be submitted promptly to his or her supervisor who will forward the papers to ☆MGT/ADG. MGT/ADG☆ submits them to the Office of the General Counsel ☆(GC)☆ for evaluation and action including coordination with the appropriate officials of the Department of Justice.

756 TRAFFIC VIOLATIONS - An Agency employee authorized to drive a Government-owned motor vehicle assumes the same responsibility regarding illegal parking and traffic violations as he or she would in driving his or her own motor vehicle. Neither the Government nor the Agency will assume this responsibility.

757 REVOCATION OF IDENTIFICATION CARD - Grounds for withdrawing Motor Vehicle Identification Cards are found in FPM 930.

814 GOVERNMENT-OWNED VEHICLES

814.1 Delegation of Authority - Authority is delegated to the Associate Director, Associate Directorate for Management to approve the use of Government-owned vehicles by Agency employees engaged in field work in the United States. This approval includes the use of the vehicle for transportation between such places where the employee's presence is required incident to official business, between such places and places of temporary lodging, and, when public transportation is unavailable or its use is impractical, between either of the above places and places necessary to obtain suitable meals, and to drugstores, places of worship, cleaning establishments, and similar places required for the sustenance, comfort, or health of the employee in order to foster the continued efficient performance of Government business.

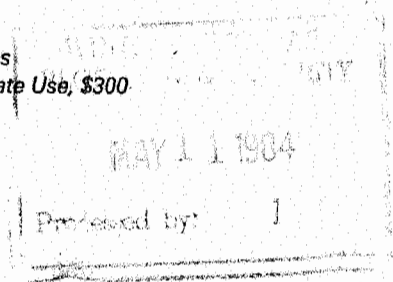
814.2 Redelegations - This authority may be redelegated by the Associate Director, Associate Directorate for Management, to the appropriate officials of the Agency.

814.3 Government Driver's Identification Card - An employee need not have a Government driver's identification card in order to use Government-owned vehicles when he or she is away from his or her official station and would be authorized to use a commercial rental vehicle if a Government-owned vehicle were not available.

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The Honorable
Fred Fielding
Counselor to the President
The White House



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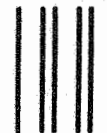
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WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

FI001-02

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1

Name of Correspondent: J. Edwin Dietel

John

☐ MI Mail Report

User Codes: (A) (B) (C)

Subject: Spousal use of government vehicles

(CIA)

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)

Action
CodeTracking
Date
YY/MM/DDType
of
Response

Code

Completion
Date
YY/MM/DD

CW Holland

ORIGINATOR

84106124

1/1

CWAT 18

Referral Note:

A

8410605

1/1

Referral Note:

1/1

1/1

Referral Note:

1/1

1/1

Referral Note:

1/1

1/1

Referral Note:

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments:

Keep this worksheet attached to the original incoming letter.

Send all routing updates to Central Reference (Room 75, OEOB).

Always return completed correspondence record to Central Files.

Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

RECORDS MANAGEMENT ONLY

CLASSIFICATION SECTION

No. of Additional Correspondents: _____ Media: 2 Individual Codes: 1110 4640 _____

Prime Subject Code: FI 001 02 Secondary Subject Codes: FB 006 02 _____
JH 007 _____
TN 001 _____

PRESIDENTIAL REPLY

Code	Date	Comment	Form
C _ _		Time: _____	P- _____
DSP		Time: _____	Media: _____

SIGNATURE CODES:

CPn - Presidential Correspondence

- n - 0 - Unknown
- n - 1 - Ronald Wilson Reagan
- n - 2 - Ronald Reagan
- n - 3 - Ron
- n - 4 - Dutch
- n - 5 - Ron Reagan
- n - 6 - Ronald
- n - 7 - Ronnie

CLn - First Lady's Correspondence

- n - 0 - Unknown
- n - 1 - Nancy Reagan
- n - 2 - Nancy
- n - 3 - Mrs. Ronald Reagan

CBn - Presidential & First Lady's Correspondence

- n - 1 - Ronald Reagan - Nancy Reagan
- n - 2 - Ron - Nancy

MEDIA CODES:

- B - Box/package
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- D - Official document
- G - Message
- H - Handcarried
- L - Letter
- M - Mailgram
- O - Memo
- P - Photo
- R - Report
- S - Sealed
- T - Telegram
- V - Telephone
- X - Miscellaneous
- Y - Study

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

Office of General Counsel

20 June 1984

238403

The Honorable Fred F. Fielding
Counsel to the President
The White House
Washington, D.C. 20500

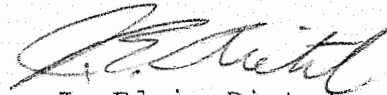
Dear Mr. Fielding:

This letter is in response to your request for information concerning the use of government vehicles by spouses of CIA employees. During the meeting you held on this subject, you asked for copies of a) any papers that we may have relied upon in the past for our authorities; b) what records we keep regarding spousal use; and c) any basis for repayment that a department or agency may have for such use.

I can find no papers or opinions of this Office specifically on this point. Furthermore, the Agency does not maintain definitive records on the spousal use of our vehicles, but we have surveyed our top officials on this subject. We are satisfied that their spouses have used Agency vehicles only for official functions or in the interest of good and prudent security practices.

If you need anything further on this matter, do not hesitate to give me a call.

Sincerely,



J. Edwin Dietel
Deputy General Counsel

ENC 101 35 1 20

Office of General Counsel
Central Intelligence Agency
Washington, D.C. 20505

VIA COURIER

A843338

The Honorable Fred F. Fielding
Counsel to the President
The White House
Washington, D.C. 20500

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1Name of Correspondent: Margery Wapman☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Special use of transportation
(Chesapeake)

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>W Holland</u>		ORIGINATOR	<u>8410629</u>			<u>1/1</u>
<u>CVAT18</u>		Referral Note:	<u>8410702</u>			<u>1/1</u>
		Referral Note:				<u>1/1</u>
		Referral Note:				<u>1/1</u>
		Referral Note:				<u>1/1</u>
		Referral Note:				<u>1/1</u>

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FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: May 18 84. W. Holland. Antitater. 204. Hollister

Keep this worksheet attached to the original incoming letter.

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RECORDS MANAGEMENT ONLY

CLASSIFICATION SECTION

No. of Additional Correspondents: _____ Media: A Individual Codes: 1130 _____

Prime Subject Code: F100112 Secondary Subject Codes: TN001 _____
 FB 012 _____

PRESIDENTIAL REPLY

Code	Date	Comment	Form
C		Time: _____	P- _____
DSP		Time: _____	Media: _____

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- X - Miscellaneous
- Y - Study



DEPARTMENT OF THE TREASURY
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20220

MAY 18 1984

MEMORANDUM FOR PETER J. WALLISON
GENERAL COUNSEL

THRU: MARGERY WAXMAN *mw*
DEPUTY GENERAL COUNSEL

FROM: Arnold Intrater *AI*
Assistant General Counsel
(Administrative & Legislation)

SUBJECT: Use of Government Vehicles

The Department traditionally has provided a Treasury car and driver to the Secretary's spouse when the spouse is required to attend an official function or perform representational duties on behalf of the Secretary. We have researched the relevant statutory provisions and decisions of the Comptroller General to determine whether the practice followed by the Department is consistent with the criteria established by the Congress governing the use of government vehicles.

CONCLUSION

Although there is considerable confusion among the agencies as to the proper use of government vehicles and little guidance from Congress or the Comptroller General, Treasury traditionally has viewed the use of department automobiles by the spouse of the Secretary as proper when such use was deemed related to an official use. After re-examining the relevant statutes, regulations and legislative history, we continue to believe that 31 U.S.C. 1344(b), which exempts the official use of an automobile or aircraft by the head of a department from any other restriction, is properly construed to permit the use of government transportation by the spouse of a cabinet secretary under appropriate circumstances.

DISCUSSION

I. The Statute

The statutory provision which governs the use of government automobiles is found in 31 U.S.C. 1344.1/ This section provides, in relevant part, that:

(a) Except as specifically provided by law, an appropriation may be expended to maintain, operate, and repair passenger motor vehicles or aircraft of the United States Government that are used only for an official purpose. An official purpose does not include transporting officers or employees of the Government between their domiciles and places of employment . . .

* * *

(b) This section does not apply to a motor vehicle or aircraft for the official use of --

(1) the President;

(2) the heads of executive departments listed in section 101 of title 5; or

(3) principal diplomatic and consular officials.

[Emphasis added]

The 1982 codification of title 31 2/ simplified and revised the language of the previous statutory provisions. It did not effect any substantive changes in the

1/ Pub. L. 97-258, 96 Stat. 924 (1982) (formerly 31 U.S.C. 638a(c)(2)).

2/ Pub. L. 97-258, 96 Stat. 877 (1982).

preexisting law.^{3/} It is therefore important to analyze the relevant portions of 31 U.S.C. 638a ^{4/}, the predecessor of 31 U.S.C. 1344. In relevant part, 31 U.S.C. 638a provided that:

(a) Unless specifically authorized by the appropriation concerned or other law, no appropriation shall be expended to purchase or hire passenger motor vehicles for any branch of the Government other than those for the use of the President of the United States, the secretaries to the President, or the heads of the executive departments enumerated in section 101 of title 5.

* * *

(c) unless otherwise specifically provided, no appropriation available for any department shall be expended--

* * *

(2) for the maintenance, operation, and repair of any Government-owned passenger motor vehicle or aircraft not used exclusively for official purposes; and "official purposes" shall not include the transportation of officers and employees between their domiciles and places of employment Any officer or employee of the Government who willfully uses or authorizes the use of any Government-owned passenger motor vehicle or aircraft, or of any passenger motor vehicle or aircraft leased by the Government, for other than official purposes or otherwise violates the provisions of this paragraph, shall be suspended from duty by the head of the department concerned, without compensation for not less than one month, and shall be suspended for a longer period or summarily removed from office if circumstances warrant. The limitations of this

^{3/} Sec. 4(a), Pub. L. 97-258, 96 Stat. 1067 (1982).

^{4/} Act of August 2, 1946, C. 744, Sec. 16(a), 60 Stat. 810.

paragraph shall not apply to any motor vehicles or aircraft for official use of the President, the heads of the executive departments enumerated in section 101 of title 5, ambassadors, ministers, charges d'affaires, and other principal diplomatic and consular officials.

[Emphasis added]

Although the draftsmanship of section 638a is awkward, the following general conclusions can be made: First, the use of government-owned cars by subordinate officials must be "exclusively" for "official purposes"; second, the "exclusive official purpose" limitation does not apply to heads of executive departments; and third, the only limitation placed on heads of departments is that the use of a government vehicle be an "official use."

The term applicable to cabinet secretaries is "official use", which is neither defined by nor limited in the statute; the term "official purposes", applicable to subordinate officials, is defined only as not including home-to-work transportation and is exclusive. The meaning of these terms must be determined in light of the rules of statutory construction and relevant legislative history. A cardinal rule of statutory construction is that statutory language must be interpreted so as to avoid an absurd result.^{5/} If the terms "official purpose" and "official use" are synonymous, the provisions of the statute would be contradictory and department heads -- as well as the President and other high officials -- would be subject to the same limitations as subordinate officials. This clearly is not what Congress intended when it provided a specific exemption for the officials listed in the law.

Subsection (c)(2) requires that subordinate officials use government vehicles exclusively for "official purposes". No limitation, however, appears in connection with the requirement in subsection (c)(2) that the Secretary's use of a vehicle be an "official use". We believe this distinction demonstrates congressional awareness that use of a vehicle for an "official use" is less restrictive than use for "official purposes" and further, that in the context of use by the President and cabinet secretaries,

personal use and official use tend to merge. The section therefore permits the Secretary to use a vehicle in circumstances where a similar use by subordinate employees is prohibited.

Moreover, we believe it is significant that the Congress chose to define the Secretary's use of a vehicle in terms of an "official use" rather than "official purposes". The noun "purpose" means the reason for which something exists or occurs.^{6/} In the context of section 638a, the "official purpose" for using a government vehicle must therefore directly and exclusively relate to the mission of the Department. This is to be contrasted with the definition of the noun "use", which means "occasion" or "need".^{7/}

While it is clear that the statutory terms "official purposes" and "official use" are not the same, the question remains whether Congress intended to impose any constraints on the use of government transportation by department heads. The answer, we believe, is that while Congress did intend to impose some limits on the use of vehicles by department heads, the exact scope of the limitations cannot be ascertained, and whether the use of government transportation is an "official use" is a matter for the department head to decide in view of the particular facts and circumstances. Whether to enable the department head to perform additional work or for any other reason related to his or her functions, the ultimate decision concerning the propriety of using a government vehicle is within the province of the agency head. In fact, given such considerations as the Secret Service protection provided to the Secretary and the necessary communications equipment installed in the government vehicle assigned to him, we cannot readily envision any realistic circumstance when his use of government transportation could, as a matter of law, be questioned.

^{6/} The Random House College Dictionary, p. 1074 (Revised Edition (1980)).

^{7/} Id., at 1448.

In our opinion, however, there is a limitation implicit in the term "official use" on the Secretary's authority to make his automobile available to others, including in appropriate circumstances, making it available for use by his spouse.^{8/} As such, the propriety of the use of a government vehicle by the Secretary's wife will be determined by the underlying facts and circumstances.

It is relatively easy to determine the propriety of the use of a government vehicle by the Secretary's wife in certain circumstances. For example, it is clear that the Secretary's wife may use a government vehicle to attend a White House state dinner. It is equally clear that her

^{8/} Both Government-wide and Treasury Department regulations exist which, under appropriate circumstances, allow government transportation to individuals who are not employees of the Government. Under the Federal Acquisition Regulations, for example, contractors may use interagency motor pool vehicles. Specifically, section 51.201 of the FAR provides that "If it is in the Government's interest, the contracting offices may authorize cost-reimbursement contractors to obtain, for official purposes only, interagency motor pool vehicles and related services" The Treasury Department's directive prescribing the rules for using official transportation similarly permits the use of Government cars by members of the private sector under appropriate circumstances. It provides that, upon appropriate Departmental approval, transportation may be provided to individuals who are invited to Washington on official business. Also, the Comptroller General has ruled in 57 Comp. Gen. 226 (1978), the dependent of a Government employee may accompany the employee in a Government vehicle under certain circumstances. As the Comptroller General noted, when the dependent "accompanies the employee on an otherwise authorized trip scheduled for the transaction of official business, and the agency involved makes a determination that it is in the Government's interest for the dependent to accompany the employee (for instance, for morale purposes), we do not believe that the provisions of section 638a(c)(2) would be violated." (Emphasis added)

use of a government vehicle to attend a dinner with non-government friends is not permitted when the purpose is clearly personal. The difficulty arises, however, under factual circumstances which fall between the two extremes. In such circumstances we believe that two factors generally will control: the underlying purpose of the event and the identity of the persons invited. Balancing these factors, we would regard as questionable, for example, her use of a government vehicle to attend a luncheon for cabinet wives hosted by a private individual.

II. Legislative History

A review of the legislative history accompanying the various acts concerning use of government vehicles reflects a Congressional intent to limit the availability of a government vehicle to the highest level government officials. With respect to these officials, Congress has allowed significant leeway in the extent to which the cabinet heads may use government vehicles.

In the general appropriation act for 1905, Congress prohibited the use of appropriated funds for "paying expenses of horses and carriages or drivers therefor for the personal use of any officer provided for by this or any other act other than the President of the United States, the heads of Executive Departments, and the Secretary to the President." 9/

The House debate on this provision indicates a congressional concern with the increasing practice of making government carriages available to subordinate officials, coupled with a concern that some of the carriages were being used for social, rather than official purposes. Notwithstanding this concern, the President and heads of executive agencies were exempted from any limitation on the use of their government vehicles.

In the appropriation act for 1906 10/, Congress again limited the use of government by prohibiting the use of

9/ Act of March 18, 1904, C. 716, Sec. 3, 33 Stat. 142 (emphasis added).

10/ Act of February 3, 1905, C. 297, Sec. 4, 33 Stat. 687.

appropriated funds for the purchase or maintenance of a carriage or vehicle for the personal or official use of subordinate cabinet officials. Once again, however, the President and cabinet heads were exempted from this limitation. While the legislative history does not disclose the reason for proscribing the "official use" of a vehicle by subordinate officials, it appears that Congress did not want any purchase or use of vehicles for subordinate officials even if they were to be used strictly for official purposes.

In 1914, the Congress again focused on the use of government vehicles by cabinet officials. The Senate adopted an amendment to the 1914 appropriation act that prohibited, unless otherwise specifically authorized, the expenditure of appropriated funds for the purchase of any government vehicle, including presumably the vehicles which would have been available to cabinet heads. 11/ The only floor statement 12/ concerning the amendment was presented by Congressman Mann of Illinois, who expressed his concern that the amendment would reverse the then existing practice of making government vehicles available to cabinet heads. His statement contains the only direct reference to this issue:

. . . I do not believe we should take away from the Cabinet officers what they now have in the way of passenger-carrying vehicles, usually a team or teams, and a carriage of some kind. These have been practically a part of the compensation of the Cabinet officers for many years. They are not used purely for official purposes. They are used largely for social purposes. They are used largely by the wives and daughters of the Cabinet officers, and I think are properly so used. We require certain duties of the families of these officials. They

11/ Act of July 16, 1914, C. 141, Sec. 5, 38 Stat. 508. In addition, agencies were required to submit formal requests for vehicles and specify the sums required, the intended public purposes and the officials by whom the vehicles would be used.

12/ 51 Cong. Rec. 11276 (1914).

must perform those functions. If they did not, we ourselves would probably be up in arms, and certainly a large share of the people would be. And when we require this, I think we ought to furnish them what they have been accustomed to receive in the past--the proper passenger-carrying vehicles--both for the use of the Secretaries and for the use of their families. As I understand this provision, it is intended to deprive all of these officials of these vehicles because, forsooth, they are no better than Members of the House, no better than Members of the Senate; and as we see them ride by, not making such provision for ourselves, we become envious with the little envy that actuates a great many men in this world, some of them highminded men, and we say, "We will take these vehicles away from these Cabinet officers." I suppose if there were four or five hundred Cabinet officers we would not provide for them. There are not so many. There is some distinction in being a Cabinet officer. Even the title confers some distinction. Sometimes that is the only distinction the men who occupy the places have--the distinction conferred upon them by the title.

We have not discovered any significant evidence of what may have been the practice respecting government vehicles between 1914 and 1946. A general review of Treasury appropriation acts reveals that the Department generally requested appropriated funds for the purchase and maintenance of very few automobiles, generally one for the use of the Secretary and several others for the general use of the Department. All were to be used only for official purposes.

During World War II, Congress again became concerned with the misuse of government vehicles and chauffeurs by high ranking officials. In 1943, a special Joint Committee on Reduction of Nonessential Federal Expenditures issued recommendations that became the basis for the current statutory provision imposing penalties for use of a government vehicle for other than official purposes. In 1946, Congress made it clear that the use of government vehicles by the President and cabinet heads was to be subject to a standard different than that governing the use

of automobiles by subordinate officials. ^{13/} Specifically, the purchase, use and maintenance of government vehicles required specific authorization by an appropriation act or other law before any appropriated funds could be expended and use of government vehicles had to meet an official purpose test. Moreover, an employee violating the official purpose test was subject to a minimum 30 day suspension. The limitations and penalty provision were not made applicable to the purchase, maintenance and official use of vehicle by the President or cabinet heads.

It is not clear, however, what the term "official use" implies, although it certainly means something other than "official purpose". In fact, the House Report states that "new subsection (c)(2) prohibits the operation of automobiles and aircraft for the personal use of employees, with certain exceptions." ^{14/} This legislative history interprets the current statute and suggests that with respect to the President and cabinet heads, "personal use" is synonymous with "official use".

It is our opinion that Congress, in enacting the 1946 statute (codified without substantive change in 1982), recognized that the use of a government vehicle by the President and cabinet heads was a significantly different issue than the use of a vehicle by subordinate officials. The apparent merger of "official" and "personal" use similarly is explainable. The official and personal roles of the President and cabinet heads tend to merge. These officials are on duty 24 hours a day and their appearances at various social functions (with or without spouses) are often for official purposes. The use of a government vehicle for such purposes certainly constitutes an "official use". Congressman Mann had correctly characterized the obligations of the job of a cabinet officer, and the 1946 law clearly reinstated the distinction as to the availability and use of an automobile by the Secretary and by extension, the Secretary's wife.

^{13/} Act of August 2, 1946, C. 744, Sec. 16(a), 60 Stat. 810 (formerly codified at 31 U.S.C. 638a (1976)).

^{14/} H. Rept. 2186 (79th Cong., 2d Sess., 1946), at 9 (emphasis added). This passage of legislative history suggests that the current statute authorizes the Secretary to use a government vehicle for trips of an essentially personal nature.

III. Comptroller General Decisions

As with the underlying provisions of law, the Comptroller General has not directly addressed the use of government vehicles by spouses of cabinet officers. Two decisions of the Comptroller General, however, provide insight into how GAO may view such use.

In August, 1982, the Comptroller General reconsidered a prior opinion concerning two Interior Department receptions held at the Custis Lee Mansion. One reception was hosted jointly by the Secretary and his wife and attended by government officials. The other was hosted by the Secretary's wife and attended exclusively by other wives.

In reaffirming the original opinion holding that neither funds appropriated to Interior for salaries and expenses nor funds donated to the National Park Service could be used to pay for the receptions, the decision authorized payment for the jointly hosted reception from the Secretary's reception and representation fund. Although the decision characterized both receptions as "social, rather than official", it makes it clear that payment may still be appropriate from funds appropriated for such purposes. The decision strongly suggests that a "social" function may in fact be related to the mission of the sponsoring agency and that the distinction to be drawn is between "mission-related social" functions and "personal social" functions. With respect to the breakfast for wives hosted by the Secretary's wife, the Comptroller General noted that the expenditure of official funds (appropriated or donated) could be sustained only if the Secretary established that the receptions were given in connection with or to further official Park Service purposes. The Comptroller General declined, however, to decide whether the presence of the Secretary was required in order to sustain payment from the appropriate fund, but emphasized that the Department failed to establish a nexus between the reception and the official business of the Park Service:

Although we would not necessarily agree that the Secretary's presence -- or the presence of a member of his staff -- at a Park Service event is not necessary . . . the issue is whether the breakfast . . . was related to the Park Service mission or whether, instead, it was essentially a personal, social event. (emphasis added),

The Comptroller General contrasted the Interior receptions to a reception conducted by the National Science Foundation during which "necessary discussions" with official representatives of foreign countries were conducted at luncheon and dinner meetings. In a 1961 decision (B-142538) authorizing the payment of expenses for the reception from funds donated to the Foundation, the Comptroller General determined that the required nexus had been satisfied: "[I]t appears that the Foundation determined the luncheon and dinner periods of the conference necessary and a proper means, because of the circumstances then existing, of promoting an authorized activity (emphasis added).". Although social in nature, the reception was directly related to the mission of the Foundation.

While not directly concerning the use of a government vehicle by the spouse of a cabinet officer, this opinion sheds some light on how the Comptroller General may rule in such a decision. Clearly, there is no limitation on the use of a government vehicle for home-to-work travel of the Secretary. Nor is there any limitation on the Secretary's use of a government vehicle other than such use be an "official use." We therefore expect the use of a government vehicle by a secretarial spouse to be judged under an identical standard, and that the appropriate test would be whether, under the particular facts and circumstances, the use was an "official use". Because the Secretary's use of a government vehicle for home-to-Treasury travel is an "official use" under the statute, an identical use by a secretarial spouse is equally "official". This is because such use would be permitted if the Secretary was present and we believe the presence of the Secretary to be merely incidental under such facts and circumstances. We believe the same to be true in the case of representational activities undertaken by the Secretary or his wife.

We also believe that expenses related to hosting a reception are to be distinguished from expenses related to attendance at such a function. In order for expenses for hosting a "social" reception to be deemed proper, the function must not be a "personal" event, but instead must bear a nexus to an official mission or purpose of the host agency. We cannot discern a basis for extending this test to expenses related to attendance at such functions. Indeed, even assuming a function to be unrelated to the mission or purpose of the sponsoring agency, the representational attendance of the Secretary is proper, and use of a government vehicle for such purpose is an "official

use". Similarly, the Secretary's use of a government vehicle to attend a function sponsored by a nongovernmental entity is entirely proper. As noted previously, however, the use of a government vehicle by the Secretary's wife, unaccompanied by the Secretary, to attend functions sponsored by nongovernmental entities will be proper only if the facts and circumstances so warrant. 15/

In June, 1983, pursuant to a request from the Chairman of the House Committee on Government Operations, the Comptroller General issued a decision (B-210555) concerning the use of government vehicles by high-ranking subordinate officials in the Departments of Defense and State for the purpose of travel between their homes and places of employment. The Department of State had urged that such travel is permissible (1) because the phrase "heads of executive departments included principal officials of the Department, (2) because the subordinate officials performed services identical to "principal diplomatic and consular officials", and (3) when an agency head deems that such travel is in the interest of the Government.

Although the Comptroller General squarely rejected each of these propositions, the decision is noteworthy for

15/ See supra pp 5-6. The decision, however, leaves unclear the appropriate source of funding from which to pay expenses for a government vehicle by a secretarial spouse. The decision indicates that the answer depends on whether the social function is related to an official mission, but does not indicate if the mission of the sponsoring agency or the attending agency controls. Based on our conclusion that the use of a government vehicle for purposes of attending a function hosted by a nongovernmental entity is proper, it is only logical to conclude that the determining factor would be whether the function is related to the mission of the Treasury Department. Under this test, payment from the general salaries and expenses appropriation would be appropriate in the case of a social function related to the mission of the Department. To the extent that a social function is deemed not related to the mission of the Department, it would seem appropriate to pay expenses from funds reserved for representation purposes.

its express acknowledgement of the confusion surrounding the issue caused by both the Congress and GAO. The decision notes that the practice of providing government vehicles for home-to-work travel by subordinate officials is in part due to the "apparent acquiescence by the Congress . . . [in] the uses to which [government vehicles] will be put but not imposing limits on . . . agencies in determining what uses constitute 'official business.'" Similarly, the Comptroller General acknowledged that its prior decisions on the subject "may have used overly broad language which implied exceptions to the statutory prohibition" that were not intended. On this basis the Comptroller General determined that its decision rejecting such use by subordinate officials would be prospective only, and that it would not be "appropriate to seek recovery from any officials who have benefited from home-to-work transportation to [the date of the decision]."

We conclude that the Secretary's wife may properly make use of a government vehicle if an "official use" is supported by the facts and circumstances. We also believe that representing the Secretary at appropriate functions is an expected --and sometimes required-- responsibility of a secretarial spouse, and that the use of a government vehicle for such a purpose constitutes an "official use". Examples of such representational duties include attendance at functions hosted by the White House, the Congress, embassies and international agencies.

Similarly, in view of the fact that the use of government vehicles by spouses of cabinet members is not specifically proscribed by statute, coupled with the long-standing practice of such use, we conclude that any future prohibition would be prospective only and not require the Secretary to reimburse the Department for the use of his car by his wife.^{16/}

^{16/} To the extent that reimbursement may be appropriate, the Financial Management Division has advised that the appropriate charges for the use of the Secretary's automobile is \$12.30 per hour (normal working hours) and \$17.87 per hour (overtime hours). These charges include the cost of leasing the Secretary's automobile and the hourly rates of pay for a driver.

IV. Treasury Practice

The Treasury Department always has made the use of a government vehicle available to the Secretary's wife when her use is related to the official business of the Department. It is our understanding that this practice is in line with the practice followed in other government departments during previous Republican and Democratic administrations. We have concluded that the use of a vehicle by the Secretary's wife is proper under the following general circumstances:^{17/}

1. When the Secretary's wife is appearing at a social or other official function in a representative capacity.

The Secretary's wife is requested to make various appearances at official functions, sometimes in the company of the Secretary, but some times on her own. For example, in this Administration, the Secretary's wife was invited to participate at a luncheon reception for Queen Noor of Jordan during a state visit by King Hussein. We determined that her appearance at the function was in the nature of official business and that the use of a government vehicle was appropriate.

2. When the Secretary's wife is joining the Secretary at a function or on a trip.

The Department has approved the use of an automobile by the Secretary's wife when she comes to Washington to join the Secretary for a function to which they both are invited. In some instances, the Secretary's wife has used the government vehicle to go home from such functions when the Secretary's departure has been delayed.

^{17/} A 1973 Circular issued by the Office of the Secretary prohibited the personal use of a government vehicle by Treasury officials and employees with the exception of the Secretary and his family. This provision was omitted from reissuances of the Circular. While we have not discovered any memoranda to indicate why the provision was deleted, Treasury continues to restrict the use of vehicles in this manner.

The Department has not made a government vehicle available to the Secretary's wife for trips of a personal nature. 18/ This includes shopping, escorting personal friends and similar activities not related to the official business of the Department.

On the basis of the analysis contained herein, we conclude that the current Treasury practice of providing a government vehicle for the use of the Secretary's wife in circumstances where her use properly may be considered "official" is consistent with the statute, its legislative history, and decisions of the Comptroller General.

18/ But see n. 14, supra. An argument can be made that the statute may be construed to permit such use.

to: Fred Fielding

room: _____ date: 6/27/84

Department
of the Treasury

Office of the
General Counsel

Spousal Travel

239793

Better late than never -

Evidentially this did not get to your office last month when it was signed off by Peter Wallison (that is Peter approved it for use but did not have to sign as we structured the memo).

I am hopeful that no news is good news in this area.

Margery

Margery Waxman
Deputy General Counsel

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