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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON D.C. 20548

B-210555.9

June 28, 1984

The Honorable Jake Garn  
United States Senate

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Dear Senator Garn:

This is in response to your letter dated April 3, 1984, requesting clarification of the law regarding the transportation of spouses of high-ranking Government officials in Government vehicles. As set forth below, it is our opinion that the circumstances in which the transportation of the unaccompanied spouse of a Government official, at least in the United States, reasonably could be deemed to be for an "official purpose," and therefore permissible, would be very limited.

The use of Government vehicles is governed by 31 U.S.C. §1344 which reads, in part:

"(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."

The balance of section 1344 deals chiefly with the transportation of Government employees in Government vehicles between their homes and workplaces and is not relevant in this analysis. (The law regarding home-to-work transportation of Government employees was reviewed in detail in a recent Comptroller General decision, 62 Comp. Gen. 438 (1983).)

Accordingly, the law in this area is not difficult to summarize: vehicles may be used to transport spouses or other relatives of Government employees in the United States<sup>1/</sup> only for an "official purpose." However, section 1344 provides no guidance as to what circumstances would give rise to an "official purpose." Further, precedent in this area is sparse.

<sup>1/</sup> 22 U.S.C. §2700 (1982) permits the transportation of families of Government employees stationed at overseas Foreign Service posts.

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In a July 8, 1983, internal office memorandum (B-211586-O.M.), we provided legal advice to GAO evaluators who were conducting a congressionally-requested review of Department of Defense (DOD) motor pool operations. In that memorandum, we discussed the propriety of the use of Government vehicles by relatives of high DOD officials:

"While the logs do not explain the specific purposes of each of the 51 trips in question, we find it hard to conceive of any instance--at least in the United States--when transportation of unaccompanied private persons (i.e., persons who are not themselves employees or officials of the Government) at Government expense would constitute official business. The fact that the transported persons are the spouses, children, or domestic employees of high-ranking officials does not, in and of itself, provide adequate legal justification for such an expenditure of appropriated funds. Compare 61 Comp. Gen. 260 (1982), affirmed on reconsideration, B-206173, August 3, 1982 (expenses incurred by spouses of Cabinet Secretaries and other high-ranking officials found not to be for official purposes). See also B-149372-O.M., August 23, 1977 (President Carter not authorized to provide ex-President Ford with transportation via Government aircraft for non-official purposes)."

This legal opinion was carried forward into the subsequent GAO letter report which concluded, "We can find no basis to authorize the transportation of unaccompanied relatives at government expense as official business." GAO/NSIAD-84-10 (B-211921, October 25, 1983).

The only likely circumstance in which the transportation in the United States of the spouse of a high official in a Government vehicle would be permissible is when the spouse is accompanying the official to or from an official function. In that circumstance, the provision of transportation to a non-official passenger would be permissible, provided it was incidental to otherwise authorized use of the vehicle involved and did not result in additional expense to the Government. See 62 Comp. Gen. 438, 447 (1983); cf. B-155950, July 10, 1975 (Julie Nixon Eisenhower allowed to travel free of charge on a space-available basis in a military aircraft). Further, we recognize that in certain circumstances, an unaccompanied spouse of an official who himself or herself is entitled to Government transportation as a perquisite of office pursuant

to 31 U.S.C. §1344(b) may also properly be transported to or from an official or quasi-official function; that is, when the spouse's presence at the function is in the Government's interest and circumstances make it awkward or impossible for the official to accompany the spouse enroute.

With regard to the specific hypothetical examples cited in your April 3 letter, the example of the spouse whose safety is threatened presents circumstances which could reasonably give rise to an "official purpose." In 54 Comp. Gen. 855 (1975), we concluded that home-to-work transportation of certain overseas Department of Defense employees could be warranted as "involving a Government interest which transcends considerations of personal convenience." 54 Comp. Gen. at 857. Our conclusion was based in part on a finding that it was "implicitly recognized" in provisions of Title 22 permitting such use of Government vehicles when necessary to protect overseas State Department personnel. *Id.* at 857-58. We conclude that the same analysis could be applicable to the transportation of spouses of Government officials whose safety is threatened as a consequence of the official's duties. However, such transportation would be permissible only when there was a "clear and present danger" to the spouse and when the furnishing of Government transportation would "provide protection not otherwise available." See 54 Comp. Gen. 855 at 858.

With regard to the other hypotheticals, it is our view that the fact that a spouse of a Government official may be performing services which benefit the Government would not, in itself, satisfy the statutory requirement that Government vehicles be used only for an "official purpose."

In summary, under current law, the transportation of spouses of high Government officials in Government vehicles would be permissible only in very limited circumstances, such as when the spouse is accompanying the official to or from an official function, when it is in the public interest for the spouse of a cabinet-level official to attend an official function and circumstances make it awkward or impossible for the official to accompany the spouse enroute, or when the spouse's safety is threatened and Government transportation would provide protection not otherwise available.

Although we believe that our interpretation of existing law in this area as set forth above is reasonable, we nevertheless believe that an amendment to 31 U.S.C. §1344(b)(2) which explicitly sanctions these limited uses of Government cars within clearly defined parameters would be advisable. In response to your invitation for our views on clarifying legislation, we have the following suggestion.

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At the end of the present subsection (a), a new sentence should be added as follows:

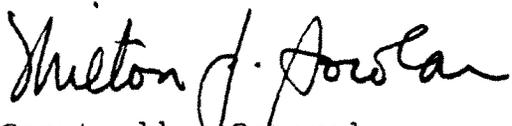
"An official purpose does not include transporting the spouse of a Government officer or employee except:

"(1) spouses of those officials listed in subsection (b) of this section traveling to or from an official function, whether or not accompanied on the trip by the Government official, where their attendance is considered by such officials to be appropriate and in the public interest; and

"(2) spouses of Government officials whose life or physical safety is threatened as a consequence of the official's duties, when the furnishing of Government transportation is determined by the head of the agency to be essential to provide protection not otherwise available."

We hope that we have been of assistance. Unless we hear otherwise from your office, this letter will be available for release to the public 30 days from today.

Sincerely yours,

*for*   
Comptroller General  
of the United States

VEHICLES  
Government  
Spouse transportation

VEHICLES  
Government  
Use other than official  
Prohibition