

Jul-10-1991-600
ADMINISTRATIVE ORDER NO. 91- 8
OF THE JEFFERSON COUNTY COMMISSION

JUNE 1991

Pursuant to the authority vested in the Jefferson County Commission by law, the following Administrative Order is hereby issued:

PURPOSE:

To establish a uniform policy for the use of County automobiles, mobile telephones, and automotive equipment and accessories.

(1) Policy: The County Commission acknowledges the Constitution and laws of the State of Alabama regarding use of County owned motor vehicles, accessories, automotive equipment and mobile telephones as follows:

(a) Section 94, Constitution of Alabama of 1901, as amended by Amendment No. 112, provides in pertinent part:

The Legislature shall not have power to authorize any county, city, town or other subdivision of this state to lend its credit or to grant public money or thing of value in aid of, or to any individual, association, or corporation whatsoever, or to become a stock holder in any such corporation, association, or company, by issue of bonds or otherwise.

(b) Section 40-12-250, Code of Ala. 1975, provides in pertinent part regarding all motor vehicles owned or used by counties:

Such motor vehicles shall be used exclusively in the governmental or corporate functions of the state, county, municipality to which issued.

(c) Title 62, § 162, § 165 and § 166, Code of Ala. (Recomp. 1958) provide:

§ 162. Penalty for private use of county automobile, etc. -- Any officer, agent, servant or employee of the county, who for his own private use or purpose, or for the use or purpose of any person, firm or corporation other than such county, uses or authorizes any other person to use any automobile

owned or controlled in whole or in part by such county, or any gasoline or other motor fuel, any motor oil, any tires, accessories, or automotive equipment belonging to such county in whole or in part, shall be guilty of a misdemeanor.

§ 165. Use of county automobiles for public business only. -- It shall be unlawful for any person or persons to use or operate, or permit the use or operation of, any automobile owned or controlled by the county for any purpose other than the public business of such county.

§ 166. Punishment. -- The doing of any act herein declared to be unlawful, or herein prohibited, or the violation of any of the provisions hereof, or any intentional connivance at, or circumvention, or attempt to circumvent the provisions of the nine preceding sections, shall constitute a misdemeanor, and any one adjudged to be guilty thereof shall be punished by fine not exceeding five hundred dollars, and may be sentenced to hard labor for the county affected for not exceeding twelve months, one or both.

It is the POLICY of the Commission that county commissioners, other elected officials, employees and all other individuals who are assigned or otherwise authorized to use any county motor vehicle, accessories, automotive equipment and mobile telephones, shall be personally responsible for compliance with the foregoing laws of Alabama and this policy.

It is the POLICY of the Commission that the mobile telephones are assigned to officials and employees for the conduct of County business only. Any charge attributable to non-County business is assessed to and the personal responsibility of the official/employee assigned such mobile telephone.

(2) Caution. Nothing within this policy shall be interpreted as any waiver or modification of any of the foregoing laws but may only be in addition thereto and is implemented for purposes of disciplinary actions by the County or other administration by the County of county-owned motor vehicles and equipment. Compliance with the following is not a guarantee against prosecution by someone outside the County for violations of the foregoing laws.

(3) Explanation of County Policy: An official/employee who is in control of a County vehicle will not be authorized to undertake a private/non-County trip in the County vehicle independent of and not within a County purpose.

It will not be a violation of this policy if a private/non-County use occurs within the official use of and/or within the best interest of the County.

Examples - Automobiles:

(a) If an official/employee is proceeding from the courthouse to point A to conduct County business, he may be authorized to stop in route to perform some private/non-County function (which does not otherwise violate County policy) such as pick up a loaf of bread. Provided, such private/non-County function does not require a significant deviation from the most appropriate route to point A.

Rationale. Such private/non-County function would be within the official and authorized travel.

(b) If an official/employee has an assigned County automobile for his official use and is authorized to take it home overnight for the convenience of the County, during a business day he may undertake a trip in the County automobile for the sole purpose of obtaining a meal so long as the distance is not unreasonable.

Rationale. The official/employee is prevented from using his personal vehicle to obtain a meal because of the convenience of the County. Therefore, a reasonable deviation from the courthouse or workplace to obtain a meal is within the official and authorized use.

(c) If an official/employee is operating a County vehicle on official business in another city and needs to carry out a private/non-County function he may use the County vehicle so long as the deviation is not unreasonable.

Rationale. The official/employee is away from home and prevented from using his personal vehicle because of official business. Therefore, a reasonable deviation is within the official and authorized travel.

(d) Mobile Telephone. Mobile telephones constitute County equipment or automotive equipment and are assigned to public officials and County employees for official County business only. Such mobile telephones shall not be used for any private/non-County purpose. Mobile telephone billing records are subject to audit. It is the responsibility of each mobile telephone assignee to be prepared to demonstrate the County purpose of mobile telephone calls. Any charge attributable to any private-non-County purpose shall be assessed to the assignee of the mobile telephone.

(4) (a) Because the POLICY of the Commission relating to use of motor vehicles necessarily involves the exercise of judgment, there may be occasional unintentional violations. The cost to the County of such violations shall be determined and collected from the individual by the Finance Director and paid to the Treasurer.

(b) The Communications Management Office shall submit a report, at least monthly, to the Commission of the individuals with mobile telephones and the respective charges for unauthorized use. The Finance Director shall collect the charges from the individual and pay it over to the Treasurer.

(c) Any individual with any doubt about what constitutes a "reasonable deviation," may avoid a violation of the motor vehicle use policy by submitting in advance a written description of the facts to the County Attorney for an opinion. Compliance with the written opinion of the County Attorney shall not result in any violation of this policy being asserted for disciplinary purposes.

Caution. The County Attorney's opinion is not controlling upon any one outside the County asserting a violation of the foregoing laws.

(d) Violations of this POLICY reflect bad judgment. Accordingly, repeat violations or failure to promptly satisfy any charge attributable to a violation shall result in a disciplinary action which may include suspension or termination of the use of the County motor vehicle, equipment or mobile telephones.

APPROVED BY THE
JEFFERSON COUNTY COMMISSION
DATE: 7-10-91
MINUTE BOOK: 95
PAGE NO. _____