



June 26, 2024

Yoon Kim
County Administrator
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972.548.4675

Re: Request for an Exception to Vehicle-Marking, Exempt-License-Plate, and Color Requirements
and Notice of Intention to Apply for Several Alias Titles and Registrations

Dear Yoon:

In light of the recent distribution of a draft vehicle policy, I am renewing my Office's request for an exception to the Transportation Code's requirements that (1) county vehicles be marked as specified, and (2) have a license plate bearing the word "exempt." I am also renewing my Office's request for an exemption to (3) the proposed county requirement that all vehicles be white. Lastly, I am notifying you of my intention to apply for (4) alias titles and registrations for several vehicles used by CID deputies in undercover work.

I understand that the Commissioners Court may further consider its vehicle policy at its regular session scheduled for Monday, July 8. Please don't hesitate to call if you'd like to discuss.

Vehicle Markings

A county office with control over a motor vehicle owned by the county "shall have printed on each side of the vehicle . . . the name of the . . . county" and the relevant office.¹ Under 721.005, a commissioners court, however, may exempt from 721.004's requirement "an automobile when used to perform an official duty by a . . . (B) sheriff's office."² Under 721.005(b), the key requirement is "*when used to perform an official duty.*"

License Plates Bearing the Word "Exempt"

In general, a county vehicle must have a license plate that bears the word "exempt."³ But DPS must issue a regularly designed license plate not bearing the word "exempt" for a vehicle that is

¹ See Transportation Code, § 721.004.

² Transportation Code, § 721.005(b)(1)(B).

³ Transportation Code, § 502.451(c).

exempt by law and that is exempt from 721.004's inscription requirement by a commissioners court's 721.005 order.⁴

Section 502.451(f)(3) ties its exemption to 721.005(b)'s when-used-to-perform-an-official-duty restriction.⁵ That is, a commissioners court may exempt a county vehicle from both 721.004's decal or marking requirement and 502.451(c)'s exempt-license-plate requirement with one court order and on one ground: "*used to perform an official duty*" by an SO. The Commissioners Court should exempt the same list of county-owned vehicles from both requirements.

The Commissioners Court should exempt a list of SO vehicles from these two requirements.

A county exception to 721.004's marking requirement and 502.451(c)'s exempt-plate requirement should invoke the breadth of 721.005(b)(1)'s phrase, "used to perform an official duty." This is a broad phrase and can accommodate several reasons for an exception.

Here, I have good reasons for the Court to exempt a list of SO vehicles from these requirements for performance of an official duty. For example, plainclothes officers often prefer to use unmarked vehicles that do not have license plates bearing the word "exempt" to reduce the risk of identification as a peace officer.

In addition, SO officers, including supervisors, drive through areas, neighborhoods, and stretches of road or highway to observe the ordinary or "normal" status. For example, officers do this to assess complaints about speeding or other traffic infractions. People don't react the same way to unmarked vehicles as they do to marked police vehicles. Other times, of course, officers prefer to use marked vehicles for the very purpose of changing behavior, such as slowing traffic.

SO personnel often prefer to pick up or meet some witnesses, victims, or families, in unmarked vehicles to avoid calling attention. For instance, officers do this in child-abuse or sex-abuse cases or, in the case of informants, drug cases.

By law, when a court orders a person to receive emergency mental-health care, a deputy must transport the person in an unmarked vehicle.⁶ This provision alone reflects the legislature's concurrence with this sort of privacy interest.

Deputies may use unmarked vehicles in death notifications as well.

⁴ See Transportation Code, § 502.451(f)(3).

⁵ See Transportation Code, § 502.451(f) ("The department [DPS] shall provide by rule for the issuance of regularly designed license plates not bearing the word 'exempt' for a vehicle that is exempt by law and that is: . . . (3) a vehicle exempt from inscription requirements under an order or ordinance adopted by a governing body of a municipality or commissioners court of a county as provided by Section 721.005, if the applicant presents a copy of the order or ordinance.").

⁶ See Health & Safety Code, § 574.045(e).

All SO vehicles carry expensive or attractive equipment, such as radios, rifles, body armor, and ammunition. A crime-scene vehicle carries cameras and field-test equipment. An unmarked vehicle may be less of a target for theft, especially when unattended.

At times, officers or supervisors drive to a scheduled meeting or a court appearance, or an emergency scene, and they prefer to use unmarked vehicles to reduce the perception that a deputy is ignoring traffic infractions, which would be the appearance if they drove a marked vehicle.

In short, 721.005(b)(1) wisely allows an exception for vehicles “when used to perform an official duty.” Second guessing the legislature by narrowing the list of reasons for exemptions to the vehicle-inscription and exempt-plate requirements serves no one.

Command vehicles should be black in color.

A provision in the recently circulated draft policy would require all county vehicles to be white. I prefer that the vehicles of my command deputies be black in color. This helps deputies and others readily identify senior supervisors in public or at an incident.

Forfeited vehicles should be eligible to remain their color at the time of forfeiture.

As you know, the SO periodically receives vehicles in forfeiture proceedings under chapter 59 of the Code of Criminal Procedure or under federal law. The SO should be able to retain and use these vehicles in their color at the time of seizure. This would also save the cost of repainting.

I intend to apply for alias titles and registrations for several vehicles.

In a recent investigation and arrest, a suspect told SO investigators that he had noticed a vehicle following him on a county road and that he asked a contact at another agency to run the license plate and that the return came back “Collin County.” Investigators confirm that they had followed the suspect as part of their investigation. Obviously, this development is alarming. A suspect who is able to identify a vehicle as a likely police vehicle is a clear danger to our deputies and to investigations. This is the precise reason the state allows for alias titles and registrations.

I intend to apply for an alias registration and title and an exemption from the payment of a registration fee for vehicles used by law enforcement under an alias for covert criminal investigations.⁷ I believe that I have this authority as the executive administrator of a law-enforcement agency and as the person with authority to certify that the vehicles meet the requirement of use in a covert criminal investigation.⁸

⁷ See Transportation Code, § 501.006 (alias certificate of title), § 502.453(a)(6) (alias registration and exemption); 43 Tex. Admin. Code § 217.13 (alias certificate of title), § 217.55 (alias registration).

⁸ See, e.g., Transportation Code, § 501.006, § 502.453(b); 43 Tex. Admin. Code § 217.13(b), § 217.55.

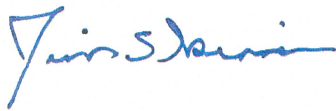
Conclusion

The SO should have a set of unmarked vehicles for appropriate official duties. I recommend that the County exempt the same list of vehicles from both 721.004's marking requirement and 502.451(c)'s exempt-plate requirement and the exception apply to appropriate vehicles when used to perform an official duty. The County should not limit the exception to the exempt-plate requirement to vehicles used in "covert criminal investigations." Comal County's Order #424 is a good example.⁹

In addition, the County should permit the vehicles used by the SO's senior command staff to be black in color, and it should permit vehicles received in forfeiture to remain their original color. Lastly, I intend to apply for alias titles and registrations for several vehicles used by CID deputies in undercover work.

Please let me know if you disagree with any part of my position because, if you do, I'd like to discuss this further in person. Thank you.

Sincerely,



Sheriff Jim Skinner

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<https://www.co.comal.tx.us/Orders/2019/Order%20424%20Exempting%20Certain%20County-owned%20Motor%20Vehicles%20from%20Required%20Inscriptions%2005-30-19.pdf>