



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

March 8, 1989

Honorable Mark Stiles
Chairman, Committee on
County Affairs
Texas House of Representatives
P. O. Box 2910
Austin, Texas 78769

LO-89-18

Dear Representative Stiles:

You ask about the interpretation of article 6701m-2, V.T.C.S., which provides:

On every city or county-owned motor vehicle and piece of heavy equipment, there shall be printed upon each side the name of the city or county, followed in letters that are plainly legible at a distance of not less than 100 feet, the title of the department or official having the custody of the vehicle or piece of heavy equipment, and the inscription shall be in a color sufficiently different from the body of the vehicle or piece of heavy equipment so that the lettering shall be plainly legible, and the official having control thereof shall have the wording placed thereon as prescribed herein, and whoever drives any motor vehicle or piece of heavy equipment belonging to any city or county upon the streets of any town or city or upon a public highway without the inscription printed thereon shall be fined not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100). Provided however, upon approval of the governing body in the case of a city or the approval of the commissioners court in the case of a county, that the provisions of this Section shall not apply to automobiles used by police, sheriffs' and constables' departments, the office of criminal district attorney or

district attorney, or juvenile probation department vehicles used to transport children, when used for the purpose of performing official duties. This exception for unmarked vehicles does not apply to 'contract deputies'. (Emphasis added.)

You ask the following question about the interpretation of that provision:

Does the term 'police' in the statute refer specifically to the police department of a city or does it mean any department with general policing powers?

We asked for clarification of your question and were informed that you wanted to know whether automobiles used by a county attorney's office could be exempted from the requirements of article 6701m-2.

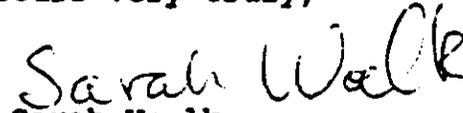
When article 6701m-2 was first enacted the exemption applied only to automobiles used by police and sheriffs' departments. Acts 1983, 68th Leg., ch. 818, at. 4705. The statute was amended in 1985 to make the exemption also apply to automobiles used by the offices of criminal district attorney or district attorney. Acts 1985, 69th Leg., ch. 864, at. 2980. Because the legislature thought it was necessary to amend the statute in order to make the exemption applicable to automobiles used by the offices of criminal district attorneys and district attorneys, it is clear that the legislature did not think that the phrase "police department" would include a prosecutor's office. Therefore, we do not think that automobiles used by a county attorney's office come within the exemption for automobiles used by a police department.

It has been suggested that a county attorney's office is the type of office listed in the exemption and that therefore the exemption should be read to apply to a county attorney's office. Although the omission of the county attorney's office may seem odd in light of the inclusion of the office of district attorney and the office of criminal district attorney, the exemption applies to specific offices rather than to offices that fit a general description. Therefore, we think the exemption applies only to the offices and departments listed. Further, in 1987 an amendment was introduced that would have made the exemption applicable to vehicles "used by a person performing law enforcement duties." H.B. 61, 69th Leg. (1984) (as originally introduced). The legislature did not adopt that

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proposed amendment. Therefore, we must conclude that the legislature intended the exemption to apply to the specific agencies listed rather than an agency or department that might generally be described as "performing law enforcement duties."

Yours very truly,



Sarah Woelk
Assistant Attorney General
Opinion Committee

SW/lcd

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