



**Domicile-to-Duty (DTD)  
&  
Internal Controls**



**Mr. Richard Bailey**

**April 10, 2013**



# Discussion

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- **Background**
- **31 U.S.C. §1344 Authorization**
- **41 CFR 102-5 Implementation**
- **DoDI 4500.36 Policy**
- **DoD 4500.36 - Regulation**
- **Frequency of Approval**
- **Management Oversight/Internal Controls**
- **Summary**
- **Questions**



## Background (1/2)

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- DTD is authorized by statute and regulation:
  - 10 U.S.C. § 2637 - **Combatant Commander** authority to designate DTD within their Command.
  - 31 U.S.C. § 1344 – The **head of a Federal agency** may approve DTD that is required for **field work** or performance of **intelligence, counterintelligence, protective services, or criminal law enforcement duties**.
  - 41 CFR Chapter 102.5 – DTD for **highly unusual circumstances** (clear & present danger, emergency, or other compelling operational considerations); requires **Congressional notification**, identifies required DTD documentation.



## Background (2/2)

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- DTD Policy:
  - DoDI 4500.36 “Acquisition, Management, and Use of Non-Tactical Vehicles (NTVs)”
  - DoD 4500.36-R. “Management, Acquisition, and Use of Motor Vehicles”
- DTD will be approved only under the following conditions: considered essential in response to highly unusual circumstances that present *a clear and present danger*, and *public or private transportation cannot be used*; *an emergency exists*; *compelling operational considerations*; *field work*; and when *essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties*.
- There is increased **OSD Senior Leader** scrutiny on renewal packages requiring actual logs, management plans, use cases, compelling rationale, and operational impact to continue DTD use.



# 10 U.S.C. §2637 Authorization

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- **PART IV – SERVICE, SUPPLY, AND PROCUREMENT; CHAPTER 157 – TRANSPORTATION “Transportation in certain areas outside the United States.”**
- **“The Secretary of defense may authorize the commander of a unified combatant command to use Government owned or leased vehicles to provide transportation in an area outside the United States for members of the uniformed services and Federal civilian employees under the jurisdiction of the commander, and for the dependents of such members and employees, if the commander determines that public or private transportation in such area is **unsafe or not available**. Such transportation shall be provided in accordance with regulations prescribed by the Secretary of Defense.”**
- **DoDI 4500.36 and DoD 4500.36-R governing issuances.**



# 31 U.S.C. §1344 Authorization

Hereafter  
shortened to “law  
enforcement”

- (a)(2)(A) “Transportation between the residence of an officer or employee and various locations that is... required for the performance of field work” or
- (a)(2)(B) “Transportation between the residence of an officer or employee and various locations that is... essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties, is transportation for an official purpose,”
- **Either one when “approved in writing by the head of the Federal agency.”**
- (d)(3) “The authority to...make determinations pursuant to subsections (a)(2)...**may not be delegated**”
- (h)(2) “The term ‘Federal Agency’ means...
  - (B) an **Executive Department (SECDEF)**
  - (C) a **Military Department (Service Secretary)**



# 41 CFR 102-5 Implementation

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“law enforcement”

- § 102-5.20 - Who is not covered by this part?
  - **“This part does not cover...Employees who are essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties when designated in writing as such by their agency head”**
- § 102-5.25 - What additional guidance concerning home-to-work transportation should Federal agencies issue?
  - **“Each Federal agency using Government passenger carriers to provide home-to-work transportation for employees who are essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties should issue guidance concerning such use.”**



# DoDI 4500.36 Policy

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- DoDI 4500.36 effective December 11, 2012
- 4(a) “**transportation between residence and place of employment (commonly known as domicile to duty (DTD))**”
- 4(a)(2) “Pursuant to [31 U.S.C. §1344] transportation between residence and place of employment **may be authorized** when necessary **for the performance of** intelligence; counterintelligence; protective services; **law enforcement** duties and field work; or when compelling operational considerations, an emergency, or a clear and present danger makes such transportation essential. Transportation between residence and place of employment in any of these circumstances must be approved by the **Secretary of Defense or the Secretary of a Military Department.**”
- Change 1 in coordination



## DoD 4500.36 – Regulation (1/2)

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- **C4.2.1 – “DTD transportation for these individuals [in Appendix 1] is considered an employer-provided fringe benefit and taxable income under current law.”**
- **Appendix AP1.3 – “**The following personnel** authorized domicile-to-duty transportation ordinarily **do not receive a taxable benefit** as their use of the vehicle meets the requirements of the Internal Revenue Code and Treasury Regulations:**
  - **AP1.3.2. **Law enforcement**, intelligence, counterintelligence, or protective services use authorized pursuant to this Regulation. Restrictions exist as to the personal use of the vehicle.**



## DoD 4500.36 – Regulation (2/2)

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- **C4.3.7 – “The Secretary of Defense or the Secretary of a Military Department **may authorize DTD transportation for** the performance of intelligence, counterintelligence, protective services, or criminal **law enforcement** duties. In these cases, justification for DTD transportation must be considered **essential for the safe and efficient conduct** of such mission. **DTD justification shall be submitted to the appropriate Secretary.**”**
- **C4.3.7.1 – “All DTD determinations made under this authority shall be updated and **approved annually** by the Secretary concerned.**
- **C4.3.7.2. When authorized, such transportation will be provided **only on days when the individual actually performs** intelligence, counterintelligence, protective services, or criminal law enforcement duties.**



# Frequency of Approval

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- Statute authorizes DTD; it is silent on length of authorization for “law enforcement” type duties, 90 days for other circumstances
- CFR establishes maximum lengths of authorization:
  - Two years for field work
  - 90 days for other circumstances
  - No timeline for “law enforcement”
- DoD policy also limits lengths of authorization:
  - Two years for field work
  - 90 days for other circumstances
  - One year for “law enforcement”



# Management Oversight/Internal Controls (1/2)

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- What the CFR requires for reporting and documentation:
  - Name and title of employee (or other identification, if confidential or higher) using the non-tactical vehicle
    - **Individual Names vs. Positions**
      - CFR gives agencies flexibility to approve DTD by position or name (**field work only**)
      - DoD-R, C4.3.2. requires names for **all unclassified authorizations**
  - Name and title of person authorizing use
  - Non-tactical vehicle identification
  - Date(s) DTD transportation is authorized
  - Location of residence
  - Duration
  - Circumstances requiring DTD transportation



## Management Oversight/Internal Controls (2/2)

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➤ **Additional items to consider:**

- **How do we ensure that DTD NTVs are used only on duty days?**
- **Are individuals authorized on a case-by-case basis?**
- **What system of record is used to track?**
- **What audit process does your agency have in place? Annual at least?**
- **How do you inform (some) users of tax liabilities?**



➤ **SUMMARY**

➤ **QUESTIONS?**