



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Conrad

JOHN A. LASOTA, JR.
ATTORNEY GENERAL

September 27, 1978

Mr. Vernon L. Hoy
Director
Arizona Department of Public Safety
2310 North 20th Avenue
P.O. Box 6638
Phoenix, Arizona 85005

Re: A78-227 (R78-154)

Dear Director Hoy:

In a letter dated May 24, 1978, then Acting Director W. D. Arthur, posed the following fact situation and pertinent questions thereto:

It has been a practice of the Arizona Department of Public Safety to permit off-duty officers to use their assigned marked patrol cars for traffic control at construction sites on the interstate highway system. The officers are paid by the various construction companies, and the construction companies reimburse the Department of Public Safety at the current prevailing rate for use of the vehicles. I respectfully request the opinion of the Attorney General on the following questions:

1. Is the above practice valid under current State law and policy?
2. Does the State self-insurance fund cover damage to State vehicles used for off-duty traffic control?
3. Does the State self-insurance fund cover damage to non-State vehicles caused by State vehicles used for off-duty traffic control?

1. A search of the statutes has revealed no statutory authority that would allow the Department of Public Safety to rent or lease their equipment to private parties. Basically, that is what is taking place in the above fact situation.

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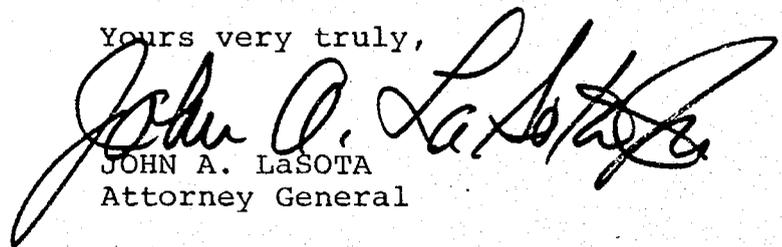
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Therefore, the answer to your first question is that the above practice is not valid under current State law and policy.

2. The State self-insurance fund would cover damage to the State vehicle itself wherever and whenever it is used, but Risk Management Services would have the right to subrogate against any party that negligently caused the damage to the vehicle. A.R.S. §§ 41-621.A(4) and § 41-621.B. This would include bringing an action against the Department of Public Safety officer if his negligent act occurred while he was employed by the contractor and was outside the scope and course of his employment for DPS.

3. The State self-insurance fund would not cover damage to non-State owned vehicles caused by the use of the State vehicle by the off-duty DPS officer or a third party. A.R.S. § 41-621.A(3). Nor would such fund cover any claim by third parties against the officer while the officer was off duty and working for an independent contractor.

Yours very truly,



JOHN A. LASOTA
Attorney General

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