



Contacts with Diplomats and Foreign Nationals

.01 Policy

Some foreign nationals in the United States are entitled to diplomatic immunity. When it is established that an individual is entitled to diplomatic immunity, officers will respect their privileges.

It is the policy of the Department to ensure that prompt notifications of consular officials are made on behalf of foreign nationals that have been arrested or detained.

This Order contains language from numerous statutory citations and are correct as of the effective date of this Order. They are subject to change through legislation and case law. Officers are responsible for following the correct law in case the provision cited in this Order has been superseded.

.02 Terms

Detention: Refers to periods longer than reasonably required to verify identification, reconcile a minor problem, or record information for a police report.

Foreign Mission: Personnel and official premises of:

- A foreign government, including embassies and consulates;
- An international organization, including diplomatic missions of the organization; or
- Missions authorized under the Foreign Mission Act of 1982.

Foreign National: Any individual who is not a citizen of the United States.

Full Immunity: Accorded to certain personnel of foreign governments who have been accredited to the U.S. In some cases, this immunity covers both criminal and civil process; in others, only criminal process. Individuals with criminal immunity may not be:

- Detained longer than necessary to verify immunity status;
- Arrested;
- Prosecuted;

- Subjected to searches; or,
- Required to give evidence as witnesses.

Functional Immunity or Official Acts Immunity: Individuals are not immune from detention or arrest, but may assert immunity for actions carried out in the course of their official duties as an affirmative defense.

Vehicle Representative: Any individual authorized by a foreign mission to be responsible for any vehicle used by the mission, whether it bears diplomatic registration plates or not.

.03 Governing Legislation and Reference

Governing Legislation:

Diplomatic Relations Act of 1978 (22 USC 254).
Maryland Transportation Article, §16-901.

Reference:

Vienna Convention on Consular Relations (1963).

The U.S. Department of State publishes the following documents that may aid officers in determining an individual's immunity status:

- Blue Book - Lists accredited diplomatic officers and their spouses;
- White List - Lists administrative, clerical and service personnel of diplomatic missions;
- Grey List - Lists foreign consular officers in the U.S.; and,
- Diplomatic and Consular Privileges & Immunities.

General Order 305, Arrest, Processing, and Transport.

General Order 306, Juvenile Procedures.

General Order 309, Investigative Detentions.

Forms: N/A

.04 Procedure

A. Levels of Diplomatic Immunity

There are three broad categories of immunity:

1. Full Immunity—The following and their immediate family members are immune from arrest, detention, and prosecution:

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- Diplomats, including those in transit to a diplomatic post; and,
 - Embassy administrative and technical staff members.
2. Staff Employee Immunity—Staff members of international organizations, service staff members, and consular employees may be charged with any crime. Immunity is determined by the courts.
 3. Consular Immunity—Consular officers may be arrested for felonies when a charging document has been issued; they are immune from arrest for other acts or those committed as part of their official business; the courts determine immunity. Honorary consuls have official acts immunity but may be arrested for commission of any crime.

Officers shall contact the U.S. State Department to determine the proper course of action when dealing with individuals who claim diplomatic immunity.

Officers may temporarily detain individuals claiming diplomatic immunity. They shall request that the individual produce identification to verify their claim. Accredited diplomats carry a U.S. State Department identification card. The reverse side of the card lists the level of immunity to which the individual is entitled. If the individual does not have a State Department card in his or her possession, officers shall telephone the State Department.

If immunity is verified, the officer shall release the individual and complete a Case Report. A report copy will be forward to the U.S. State Department. If the diplomat is a member of the U.N., a report copy will be forwarded to "Host Country Section, U.S. Mission to the U.N.

Officers may use necessary force to preserve public safety or stop a battery against anyone. An arrest will not be made; the officer will complete a Case Report.

When an officer is the victim of a battery by a diplomat, a supervisor shall investigate the incident, and forward a Case Report to the Chief of Police through the chain-of-command.

B. Searches & Seizures of Property

Official documents, correspondence, and papers of an individual entitled to immunity may not be searched.

C. Registration Plates

The U.S. State Department issues diplomatic registration plates. Two plates are issued to each vehicle. The registration plates do not determine the level of immunity to which the driver of the vehicle is entitled.

Immunity attaches only to an individual; occupants of a vehicle bearing diplomatic registration plates may not have immunity.

Vehicles bearing the following U.S. State Department registration plates are immune from search and seizure: Diplomatic plates that begin with the letter "D";

- Staff plates that begin with the letter "S"; or,
- Plates with the words "United Nations" on the upper right corner.

Occupants of diplomatic vehicles suspected of being stolen or involved in the commission of a crime may be required to present identification. If the vehicle is stolen or was used in the commission of a crime, its inviolability is suspended, and search and seizure of the vehicle are permissible. Articles within the vehicle remain inviolable.

If the occupants are not authorized to use the vehicle, whether or not they are entitled to immunity, the vehicle shall be released to a vehicle representative or impounded for safekeeping. Such vehicles shall be processed for evidence only at the owner's direction or with supervisory authorization.

The validity of a diplomatic driver's license should be verified separately. The status of drivers' licenses and registration plates issued by the State Department may be queried through NLETS.

D. Traffic Violations

(Maryland Transportation Article §16-901)

Officers confronting individuals who have committed a moving violation under the vehicle laws or regulations of this State or any local authority, and display a U.S. State Department issued driver's license or otherwise claim diplomatic immunity shall:

- Contact the U.S. State Department to verify immunity;
- Document all relevant information from the driver's license or identification card; and,

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- Forward to the Motor Vehicle Administration copies of any accident reports, case reports, citations, or other charging documents issued to the driver within 5 workdays of the incident.

Officers may issue traffic citations for any violation of the Maryland vehicle laws, however:

- The violator's signature on the citation is not mandatory; and,
- The violator, if entitled to criminal immunity, shall not be arrested or subjected to any test without his or her permission.

When individuals with immunity are detained for longer than several minutes or removed from the scene, they shall be provided with access to a telephone. Officers shall complete a Case Report whenever they issue a citation to a diplomatic or consular officer.

When dealing with individuals who are suspected of driving while intoxicated and have diplomatic immunity, officers shall ensure that the individual does not endanger himself or herself or the public. The officer may:

- Offer field-sobriety or chemical tests;
- Safeguard the violators until they are capable of driving safely;
- Park and secure the violator's vehicle; and,
- Provide transportation to the violator.

E. Parking Violations

Vehicles bearing diplomatic registration plates may be towed only if necessary to prevent a serious obstruction of traffic. When possible, the officer shall attempt to contact a vehicle representative and seek voluntary removal of the vehicle.

If towed, the vehicle will be moved to the closest available legal parking space. The officer shall request that a vehicle representative accept financial responsibility for the crane service. If the representative is unavailable, unwilling, or unable to do so, the officer shall sign the tow service invoice and advise the crane operator to submit it to the Police Department for payment. When a diplomatic vehicle is moved by crane at an officer's direction, the officer shall complete a Case Report.

F. Arrest or Detention of Foreign Nationals

When officers arrest or detain a foreign national, they shall contact the US. State Department to determine whether the individual's country requires notification of the action.

When the agreement with the arrestee's country requires notification, the reporting officer shall make the notification, document the name of the individual notified on the Case Report, and advise the arrestee that it has been made.

If notification is optional, and the arrestee wishes that it be made, the officer shall immediately inform the appropriate foreign mission, and document the name of the individual notified on the Case Report. If the arrestee declines notification, this shall be documented on the Case Report.

Subject to security considerations, consular officers shall be permitted to visit and speak with the arrestee and to arrange for their legal representation. The consular officer may be prohibited from these contacts if the arrestee opposes them.

G. Foreign Nationals Seeking Asylum

Sworn members will render assistance to foreign nationals seeking asylum by immediately taking the individual into protective custody and provide notification to the immediate supervisor. Under no circumstances shall this communication occur over the police radio.

Sworn members will not question the individual's motives, direct the individual to someone else, or influence the individual's decision to seek asylum. Sworn members will not allow any interference or intervention in a situation that involves a foreign national seeking asylum.

Supervisors shall contact the Immigration and Naturalization Service (INS) District or Asylum Office and arrange secure transportation to another location through the proper authorities. The foreign national shall remain in protective custody until they are delivered to the proper authority.

The primary officer will document the incident in a case report, which will include the receiving agency's information. All other involved officers will complete supplement reports.

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H. Notifications

If a diplomat is seriously injured or dies in the Town, the Chief of Police or Lieutenant will make notification to:

- The diplomat's embassy; and,
- The U.S. State Department.


I. Contact Information

- contact Number - Consular Notification:
 - Department of State
Bureau of Consular Affairs
Normal Business Hours: (202) 647-4415
Fax: (202) 736-7559
 - Department of State
Operations Center
(After hours): (202) 647-1512
- Contact Number - Diplomatic and Consular Immunity
 - Department of State
Office of Protocol
Normal Business hours: (202) 647-1985
 - Department of State
Diplomatic Security Command Center
(After Hours):
(571) 345-3146 or 1-(866) 217-2089
Fax: (202) 895-3613

HISTORY: Adopted November 16, 2009

This General Order supersedes all other orders and memoranda in conflict therewith.

Authority:



Charles L. Owens
Chief of Police