
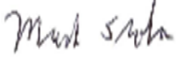
	<b>GAITHERSBURG POLICE DEPARTMENT</b>		
	<b>Diplomatic Immunity</b>		
	<b>GENERAL ORDER</b>	<b>627.1</b>	
<b>Effective Date</b>	<b>06/23/2016</b>		
<b>Authorized by:</b>	<b>Mark P. Sroka</b> CHIEF OF POLICE	SIGNATURE 	DATE <b>06/23/2016</b>

**I. DEPARTMENT POLICY**

It is the policy of the department that members will honor diplomatic status of individuals when applicable. When it is established that an individual is entitled to special privileges entitling them to "diplomatic immunity", the individual's level of immunity will be honored by officers. For each of these categories of persons, particular rules apply and, even within these categories, different degrees of "immunity" may be accorded to different classes of persons. The term "Diplomatic Immunity" is a principle of International Law, and is based in the "Diplomatic Relations Act" of 1978 (22 USC 254).

**II. PERSONS ENTITLED TO PRIVILEGES AND IMMUNITY**

**A. Diplomatic Agents**

Diplomatic Agents enjoy the highest degree of privilege and immunities. They enjoy complete inviolability, which means they may not be arrested or detained and are owed a special measure of respect and protection. Neither their property nor their residences may be entered or searched and they cannot be prosecuted regardless of the seriousness of the offense. They have complete immunity from the obligation to provide evidence as witnesses and cannot be required to testify, even when they have been the victim of a crime.

**B. Diplomatic Agents' Family Members**

Family members of Diplomatic Agents enjoy precisely the same privileges and immunities as the sponsoring diplomatic agents. Family members are spouses and children until the age of 21 (until age of 23 if the children are full-time students at an institution of higher learning). Also considered family members are other persons expressly agreed to by the Department of State in extraordinary circumstances.

**C. Members of Administrative and Technical Staff**

Administrative and Technical Staff enjoy privileges and immunities identical to those of diplomatic agents, with regard to personal inviolability. They also enjoy immunity from criminal jurisdiction and are

immune from the obligation to provide evidence as a witness.

**D. Family Members of Administrative and Technical Staff**

These persons enjoy the same privileges and immunities from criminal jurisdiction as their sponsors, but must be recognized by the Department of State.

**E. Members of Service Staff**

These persons are accorded fewer privileges and immunities. They only have immunity for acts committed while acting in their official capacity and enjoy no personal inviolability. They must testify in Court, if summoned.

**F. Families of Service Staff**

Enjoy no privileges or immunities under the Diplomatic Relations Act.

**G. Nationals or Permanent U.S. Residents**

The United States, as a matter of policy, does not normally accept the accreditation of its own nationals or permanent residents as diplomatic agents. Family members of diplomatic agents and staff enjoy no privileges or immunities if they are nationals of the United States.

**H. Consular Officers**

Consular Officers have only "official acts" immunity, a concept that pertains in numerous circumstances. No law enforcement officer is expected or authorized to determine whether a given set of circumstances constitutes an "official act" because this is an issue which may only be resolved by a U.S. Court with subject matter jurisdiction over the alleged crime.

**I. Consular Officers' Family Members**

Without a special bilateral agreement to the contrary, family members of consular office have no personal inviolability and no jurisdictional immunity of any kind.

**J. Consular Employees**

Perform the administrative and technical services for the consular post and have no personal inviolability, but have "official acts immunity", and have immunity from the obligation to provide evidence as witnesses only in

respect to official acts.

**K. Consular Employees' Family Members**

Have no personal inviolability or jurisdictional immunity of any kind.

**L. Consular Service Staff**

Do not have personal inviolability and do not have jurisdictional immunity of any kind, but do have immunity from the obligation to provide evidence as witnesses regarding their official acts.

**M. Family Members of Consular Service Staff**

Have no personal inviolability, nor jurisdictional immunity of any kind.

**N. Nationals or Permanent U.S. Residents**

Consular Officers who are U.S. nationals or permanent residents have personal inviolability only in respect of the performance of official acts. Consular employees and staff who are U.S. nationals or permanent residents enjoy no personal inviolability or jurisdictional immunity in the U.S.

**O. Honorary Consuls**

Honorary Consuls or Career Consular Officers are normally nationals of the country from which they came. They have been sent to the U.S. to perform these functions for a specific period and then transferred to a further assignment. They are prohibited by international law from engaging in professional or commercial activities outside the scope of their official consular functions. Honorary consular officers are generally part-time employees of the country from which they came who provide a degree of consular representation in places not covered by career consular officers. The privileges and immunities of honorary consular officers approximate those of career consular officers, with limitations in certain respects.

In addition, it is U.S. policy to recognize as honorary consular officers only those who are U.S. nationals or permanent residents. Accordingly, honorary consular officers in the U.S. have personal inviolability only in connection with official acts. Arrests of honorary consuls is not limited to felonies and does not require a warrant, as is the case with career consular officers.

**P. Family Members of Honorary Consuls**

Have no personal inviolability nor jurisdictional immunity of any kind.

**Q. International Organization Personnel and National Missions**

The privileges and immunities of the personnel of International Organizations such as the United Nations and the personnel of national missions to such organizations have a different basis determined by examining the identity documents which have been issued to the individual in question.

**R. Personnel of International Organizations**

The majority of these employees have only "official acts immunity", as provided for by U.S. domestic legislation (see the "[International Organizations Immunities Act](#)" -22 USC 288), and have no personal inviolability. In certain cases, however, the most senior executives of such organizations have been accorded privileges and immunities equal to those afforded Diplomatic Agents, as is the case for the SECRETARY GENERAL and all ASSISTANT SECRETARIES-GENERAL OF THE UNITED NATIONS.

**S. Personnel of National Missions to International Organizations**

The most senior representatives in these missions to international organizations have privileges and immunities equivalent to those afforded DIPLOMATIC AGENTS. The remainder of the staffs of these missions have only "official acts immunity" pursuant to the International Organizations Immunities Act. The remainder of the staffs have no personal inviolability. Persons visiting in the U.S. on short-term official duty with diplomatic missions are ordinarily not recognized as enjoying any privileges and immunities. **Officers should always seek prompt verification from the Department of State in particular cases involving such individuals.**

**T. The United Nations**

In the case of the United Nations, a different legal situation exists whereby short-term official visitors from other countries to the United Nations, or to international conferences convened by the United Nations, may enjoy full diplomatic immunity equivalent to that afforded diplomatic agents. Because of the temporary nature of their visit, these visitors normally will not have the usual official identity documents recognizable in the U.S. **The Department of State recommends that law enforcement officers be sensitive to the existence of this type of situation and coordinate**

**with the U.S. authorities, if confronted with an apparent offender appearing to fall into the aforementioned category.**

### **III. IMMUNITY IDENTITY DOCUMENTS**

#### **A. Identifies Level of Immunity**

1. To assist law enforcement officers in establishing the level of immunity granted to an individual, the Protocol Office of the U.S. Department of State issues identification cards to all diplomatic and consular personnel and to persons associated with international organizations who are entitled to privileges and immunities.
2. There are three (3) types of identification cards, all of which measure 3 and 3/4 inches by 2 and 1/2 inches, and contain a photograph of the bearer.
  - a. DIPLOMATIC - has a blue border and is issued **exclusively** to diplomats.
  - b. OFFICIAL - has a green border and is issued to employees.
  - c. CONSULAR - has a red border and is issued to consular personnel.
3. The information that should appear on the identification card is:
  - a. Bearer's name,
  - b. Official title,
  - c. Mission,
  - d. City and State,
  - e. Bearer's DOB,
  - f. I.D. Number,
  - g. Expiration date,
  - h. U.S. Department of State official seal,
  - i. A brief statement of the bearer's immunity, and

- j. The bearer's signature.
4. While the above-described identification cards are generally to be relied upon, officers are urged to immediately seek verification from the phone numbers listed in this directive in connection with any serious incident, or in any case where police have reason to doubt the validity of the card. Officers must be alert to the fact that newly-arrived members of diplomatic and consular staffs may not yet have the above described identity document(s) and, therefore officers should be prepared to call the Protocol Office of the U.S. Department of State for verification, if confronted with such situations.

**B. Telephone Information/Verification**

- 1. During normal business hours:
  - a. To check current status of tags or vehicles: **(202) 895-3532**
  - b. To verify information pertaining to Consular Personnel and family members: **(202) 647-1404**
  - c. To verify information pertaining to Administrative and Technical Service Staff, and family members: **(202) 647-1405**
  - d. To verify information pertaining to Diplomatic Agents and family members: **(202) 647-1664**
  - e. To verify information pertaining to International Organizations: **(202) 647-1402**
- 2. After normal business hours, all inquiries, except for those pertaining to United Nations personnel, must be made to the Command Center of the Bureau of Diplomatic Security, Department of State:
  - a. **(202) 647-7277 (24-hour number)**
- 3. To check status of United Nations Personnel:
  - a. **(212) 415-4131 (normal business hours)**
  - b. **(212) 415-4444 (24-hour number)**

#### IV. HANDLING OF INCIDENTS

##### A. Use of Tact and Discretion

1. Whatever the offense or circumstances of contact, police officers must keep in mind that such persons are official representatives of foreign governments who are to be accorded the maximum degree of respect. It is not an exaggeration to say that police handling of incidents in this country may have a direct effect on the treatment of U.S. diplomatic or consular personnel abroad.
2. If during the course of responding to or investigating an apparent violation of criminal law, an officer is confronted with a person claiming immunity, official Department of State identification should be immediately requested in order to verify the person's status and immunity.
3. If the individual is unable to produce satisfactory identification, and the situation would normally warrant an arrest or detention, the officer should inform the individual that they will be detained only long enough to verify proper identity, which can be accomplished by calling one of the phone numbers previously listed.
4. If proper identification is available, the individual's immunity will be fully respected to the degree to which the particular individual is entitled.
5. If it is established that an individual is entitled to the full inviolability and immunity of a DIPLOMATIC AGENT, they may **not** be arrested and **should not, except in extraordinary circumstances, be handcuffed or detained in any way.**
6. In any incident involving any person entitled to immunity, officers will fully record the details and circumstances of the incident in a Police Information Report.
7. Personal inviolability is enjoyed to some degree by a majority of foreign diplomatic or consular personnel. All such personal inviolability is qualified that the U.S. does not give up its right to protect the safety and welfare of its populace, and retains the right, in extraordinary circumstances, to prevent the commission of a crime.
8. In circumstances where public safety is in imminent danger or it is apparent that a serious crime may otherwise be committed,

police officers are authorized to intervene to the extent necessary to stop the threat, which naturally includes the power of the police to defend themselves from personal harm, consistent with established Department policies and procedures governing the use of force.

9. While police officers are obliged to recognize the immunity of the Diplomatic Corp., they must not ignore or condone the commission of a crime(s).

## V. TRAFFIC CITATION ISSUANCE

### A. Procedures for Issuance

1. Traffic violations will be handled in the following manner when a driver stopped for any moving violation, and the driver has proper and valid identification indicating immunity:
2. A Traffic Citation and/or Warning Notice may be issued, at the officer's discretion. The issuance of a citation does not constitute an "arrest" or a "detention".
3. **The diplomat does not have to sign the citation(s) and shall not be arrested for refusing to sign.**
4. Failure of the diplomat to appear in Court to answer the citation will cause no action by the M.V.A. relating to the diplomat's driving privileges in Maryland. The diplomat can have the citation "administratively voided" if they turn it in to their legation, who, in turn, will submit it to the U.S. State Department, for disposition.
5. If an officer issues a citation to a diplomat, a copy of it will be forwarded immediately to the Office of the Chief of Police whenever the following situations exist:
  - a. The citation(s) is issued to the bearer of the U.S. Department of State diplomatic license plates, or
  - b. The citation is issued to the bearer of a U.S. Department of State diplomatic driver's license, or
  - c. The citation is issued to a driver whose identity has been confirmed by the U.S. Department of State, Office of Protocol, as a member of a foreign mission entitled to



immunity.

6. The Chief of Police will ensure that documentation pertaining to the citation is forwarded to the:
  - a. U.S. Department of State, Office of Foreign Mission Driver Records Unit, 3005 Massachusetts Avenue, N.W., Washington, D.C. 20008
7. When an officer is confronted with an individual claiming to have "Diplomatic Immunity", the below listed procedures will be followed:
  - a. When proper identification is shown by the individual, the immunity will be respected.
  - b. When there is "full immunity" as a diplomatic agent, the individual may not be arrested and should not, except in the most extraordinary circumstances, be detained in any way.
8. In any serious incident the officer will record all pertinent details from the person's I.D. card, along with the details and circumstances of the incident on a "Police Information Report." The Chief of Police will send a copy of the report to:
  - a. Command Center, Office of Security, Department of State, Washington, D.C. 20520
9. Incidents of an extremely severe nature, should be reported by telephone as soon as possible by calling the Office of Security's Command Center at (202) 647-4000.
10. Officers will notify the MCP Vice/Intelligence Section (301) 840-2496 when they issue a traffic citation to a diplomat or verify a crime committed by a diplomat that would have resulted in an arrest for a person without immunity.
11. When an officer is confronted with an individual claiming to have "Diplomatic Immunity" and the individual cannot produce satisfactory identification, and the situation would normally warrant an arrest or detention, the officer will inform the individual that he/she will be detained just until proper identity can be confirmed.
  - a. The State Department's Protocol Office will be contacted immediately at (202) 647-2663 (normal business hours).

- b. After hours number - (202) 647-1512.

## VI. DWI OFFENSES

### A. Procedures

1. When an officer stops an individual suspected of being D.W.I. and it is determined that the individual is entitled to "Diplomatic Immunity", the situation will be handled in the following manner:
2. If the state of intoxication of the individual entitled to immunity, whether claimed or not, is such that their driving would endanger the safety of the community, the officer shall request the diplomat not to drive and the officer will assist in parking the vehicle or securing a sober driver.
3. Once the vehicle is parked, the location of where the vehicle was parked should be written down for the Diplomat's reference.
4. A traffic citation(s) for D.W.I., and any related charges, may be issued to the Diplomat, however **under no circumstances will a physical arrest be made and the diplomat does not have to sign the citations.**
5. A "Police Information Report" (**not a DWI Arrest Report**) will be written, along with copies of any and all citations and reports.
6. If the Diplomat refuses assistance or a claim is made that the officer's requested action would restrict the effective exercise of the Diplomat's function, the officer will politely inform the Diplomat that he is free to go, but the vehicle may not be moved, and the embassy or legation concerned will be contacted immediately for advice or assistance in obtaining a driver and removing the vehicle.
7. If the driver is entitled to "Diplomatic Immunity", he should not be restrained, except in the most extreme cases and will not be subjected to any sobriety or any other mandatory test.
8. Force will not be used, except when necessary to prevent injury to the Diplomat or others and then only the absolute minimum should be applied.
9. If it becomes necessary to tow a vehicle bearing Diplomatic registration, officers will follow the procedures listed below and be cognizant that a Diplomat's vehicle cannot be searched.

- a. Unless the diplomat or their embassy has a preference regarding a tow company, have the nearest available towing company tow the Diplomat's vehicle to the nearest legal parking space or adjacent side street; and
- b. Accept the tow bill from the towing company and submit it with a Police Information Report.

## **VII. THE PERSONA NON-GRATA PROCEDURE**

### **A. Overview**

1. Persons may be stripped of their privileges and immunity by their host countries. These individuals have a reasonable amount of time to exit the host country.

This concept is known as the "**Persona Non-Grata Procedure**" and it may be employed at any time by the "host" country. There is no requirement, under international law, for such countries to justify their action. For the U.S., however, use of this procedure has inherent constraints.

The Department of State's Office of Protocol recommends a high standard of police investigation, records, and reporting in diplomatic incident cases, which is essential to permit the Department of State responsibly to exercise the diplomatic tools available to remove persons engaged in criminal activity in the U.S.

### **B. Report Required**

Officers will therefore document all diplomatic incidents on the appropriate report forms and submit them for supervisory approval, without unnecessary delay.