




ARLINGTON COUNTY POLICE DEPARTMENT DIRECTIVE MANUAL

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| Chapter: 5 Procedures | Effective Date: October 6, 2017 | Amends/Supersedes: March 1, 2005 | By Authority of the Chief of Police  Charles A. Penn |
| Accreditation Standard(s): ADM.02.04 | | | |

536.10 Diplomatic & Consular Immunity

I. Policy

The police department is fully committed to international law that requires law enforcement officers in the United States to extend certain privileges and immunities to members of foreign diplomatic missions and consular posts. Most of these privileges and immunities are not absolute, and law enforcement officers retain their fundamental responsibility to protect and police the orderly conduct of persons in the United States.

II. Definitions

- A. Consulate – In addition to having an embassy a country may have consulates located in cities throughout the U.S., each of which is headed by a consul general. Consulates generally provide the same services and carry out the same official functions as their embassy.
- B. Diplomatic Immunity - A principle of international law by which certain foreign government officials, in varying degrees, are not subject to the jurisdiction of local courts and other authorities for both their official and, to a large extent, their personal activities.
- C. Embassy – The diplomatic delegation from one country to another. Embassy is often used to refer to the chancery – containing the office of the chief of mission or ambassador – and other buildings for the offices of diplomatic staff.
- D. Personal Inviolability - The highest degree of privileges and immunities bestowed upon a diplomatic agent which prohibits them from being handcuffed (except in extraordinary circumstances), arrested, or detained; and neither their property (including vehicles) nor residences may be entered or searched. Diplomatic agents also enjoy complete immunity from the criminal jurisdiction of the host country's courts and cannot be prosecuted no matter how serious the offense unless their immunity is waived by the sending state.

III. Procedure

The U.S. Department of State (DOS) should be advised promptly of any serious difficulties arising in connection with diplomatic or consular personnel. Diplomats who violate traffic laws should be cited and allegations of serious crimes should be fully investigated and reported to DOS. Diplomatic immunity does not require officers to have a total "hands off" attitude in connection with criminal law enforcement actions involving diplomats, especially in the course of protecting the public welfare during a life-threatening situation.

- A. Persons Entitled to Privileges and Immunities (P&Is) - Personal inviolability is enjoyed to some degree by a majority of foreign diplomatic and consular personnel. DOS, Office of Foreign Missions publication, [Diplomatic and Consular Immunity: Guidance for Law Enforcement and Judicial Authorities](#), is a comprehensive guide to the categories of foreign mission personnel and the P&Is to which each is entitled. Additionally, officers may contact DOS Office of Protocol: Diplomatic Affairs directly with questions regarding immunity issues – click [here](#) for contact information. Contact information will also be found on the reverse of the diplomatic personnel's DOS issued diplomatic driver's license or diplomatic non-driver ID.
1. Diplomatic Personnel – Diplomatic agents, administrative and technical staff, service staff, nationals or permanent residents of the U.S.
 2. Consular Personnel – Consul general, administrative and technical staff, service staff, nationals or permanent residents of the U.S.
 3. Members of International Organizations - International organizations such as the United Nations (UN), International Monetary Fund, World Bank and the Organization of American States are staffed with administrative and executive employees to carry out their functions.
 4. Designated Employees of TECRO and TECO - *Taipei Economic and Cultural Representative Office (TECRO). Taipei Economic and Cultural Offices (TECO).*

The tables below provide a summary of the diplomatic and consular privileges and immunities related to criminal jurisdiction. DOS maintains a similar table entitled [Law Enforcement Aspect Summary](#).

| DIPLOMATIC PERSONNEL | Diplomatic Agent | Admin/Tech Staff | Service Staff (2) |
|--|---|---|---|
| Arrested or Detained | No ⁽¹⁾ | No ⁽¹⁾ | Yes |
| Enter Residence Subject to Ordinary Procedures | No | No | Yes |
| Issued a Traffic Citation | Yes | Yes | Yes |
| Subpoenaed as a Witness | No | No | Yes |
| Prosecuted | No | No | <i>Official acts immunity; Consult USDS</i> |
| Recognized Family Member | <i>Full immunity and inviolability.</i> | <i>Full immunity and inviolability.</i> | <i>No immunity or inviolability.</i> |

| CONSULAR PERSONNEL | Career Consular Officers | Honorary Consular Officers | Consular Employees |
|--|--|--|---|
| Arrested or Detained | <i>Yes, if for a felony and pursuant to a warrant</i> | Yes | Yes (2) |
| Enter Residence Subject to Ordinary Procedures | Yes (4) | Yes | Yes |
| Issued a Traffic Citation | Yes | Yes | Yes |
| Subpoenaed as a Witness | <i>No for official acts, and testimony may not be compelled in any case.</i> | <i>No for official acts, yes for all others.</i> | <i>No for official acts, yes for all others</i> |
| Prosecuted | <i>No for official acts. Yes, otherwise. (2)</i> | <i>No for official acts. Yes, otherwise.</i> | <i>No for official acts. Yes, otherwise. (2)</i> |
| Recognized Family Member | <i>No immunity or inviolability. (2)</i> | <i>No immunity or inviolability.</i> | <i>No immunity or inviolability. (2)</i> |
| MEMBERS OF INTERNATIONAL ORGANIZATIONS | International Organization Staff | Diplomatic-Level Staff of Missions to International Organizations | Support Staff of Missions to International Organizations |
| Arrested or Detained | Yes (3) | No (1) | Yes |
| Enter Residence Subject to Ordinary Procedures | Yes (3) | No | Yes |
| Issued a Traffic Citation | Yes | Yes | Yes |
| Subpoenaed as a Witness | <i>No for official acts. Yes, for all others.</i> | No | <i>No for official acts. Yes, for all others</i> |
| Prosecuted | <i>No for official acts. Yes, otherwise (3)</i> | No | <i>No for official acts. Yes, otherwise.</i> |
| Recognized Family Member | <i>No immunity or inviolability</i> | <i>Full immunity and inviolability</i> | <i>No immunity or inviolability</i> |
| TECRO/TECO | TECRO Designated Employee | TECO Head/Deputy Head | TECO Designated Employee |
| Arrested or Detained | No | <i>No, except in the case of a felony and pursuant to a warrant</i> | Yes |
| Enter Residence Subject to Ordinary Procedures | No | Yes | Yes |
| Issued a Traffic Citation | Yes | Yes | Yes |

| CONSULAR PERSONNEL | Career Consular Officers | Honorary Consular Officers | Consular Employees |
|---------------------------------|---|--|--|
| Subpoenaed as a Witness | No | No; for official acts Yes; in all other cases | No; for official acts Yes; in all other cases |
| Prosecuted | No | Official acts immunity. Consult AIT. | Official acts immunity. Consult AIT. |
| Recognized Family Member | Immunity from criminal jurisdiction arrest and detention | No immunity or inviolability | No immunity or inviolability |

- (1) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or prevention of serious criminal acts.
- (2) This table presents general rules. Particularly in the cases indicated, the employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (3) A small number of senior officers are entitled to be treated identically to “diplomatic agents”.
- (4) Note that consular residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

B. Verifying Status and Identity - The United States Department of State issues identification documents to foreign government personnel who are entitled to immunity.

1. **DOS Identification Cards - Officers should carefully read identification cards presented to them as it contains the degree of immunity the bearer enjoys. Their responsibility is to assure that the appropriate degree of immunity is afforded once the person concerned has been precisely identified. Samples of DOS issued identification cards are provided [here](#).**
 - a. When an officer is called to the scene of a criminal incident involving a person who claims diplomatic or consular immunity, the officer must verify the status of the suspect.
 - b. In all cases, including those in which the suspect provides a U.S. Department of State-issued identification card, the officer should verify the suspect’s status by contacting the DOS or, in the case of the UN community, with the U.S. Mission to the United Nations.
 - c. Should the person be unable to produce satisfactory identification and the situation is one that would normally warrant arrest or detention, the officer should detain the individual until their identity can be confirmed.
 - d. Foreign diplomatic passports, U.S. diplomatic visas, tax exempt cards, automobile registration, license plates, and driver’s licenses are not conclusive for immunity.
2. **DOS Automobile Registration, License Plates, Driver’s Licenses - The Department of State issues motor vehicle registrations and driver’s licenses to all persons entitled to privileges and immunities in the United States. The license plates are coded with prefix letters to correspond generally with the degree of immunity to which the owner or principal**

operator is entitled. Samples of DOS issued license plates can be viewed [here](#).

- a. Prefix (D) issued to diplomatic missions and those members who hold diplomatic rank.
- b. Prefix (S) issued to the administrative/technical staff at diplomatic and consular missions.
- c. Prefix (C) issued to consular missions and career consular officers.
- d. Prefix (A) issued to official vehicles of the UN and the Organization of American States and the personally owned vehicles of those staff members who have diplomatic status.

The U.S. Department of State's distinctive license plates are designed to assist officers in identifying vehicles that belong to foreign mission and those mission members who may enjoy some degree of immunity. However, those plates alone should not be considered verification of the status of the vehicle's operator.

C. Handling Police Related Incidents

1. Criminal Incidents – While police officers are obliged under international law to recognize the immunity of diplomatic and consular personnel they must not ignore or condone the commission of a crime since there is still the possibility of prosecution. Even if the person has full criminal immunity the U.S. Department of State will request a waiver of immunity in every case where the prosecutor advises that, but for diplomatic immunity, charges would be pursued. The ability to secure such a waiver often depends on the strength and documentation of the case.
 - a. All criminal incidents involving diplomatic or consular personnel should have a supervisor dispatched to the scene as soon as practical and shall be fully investigated and documented in a case report.
 - b. The burden to claim privileges and immunities is always on the individual diplomat or consular personnel. Although, an officer must verify the identity of any person claiming diplomatic or consular immunity and may reasonably detain the person until their identity is confirmed; they may not be handcuffed, except if they pose an immediate threat to safety.
 - c. When it has been confirmed that the subject enjoys personal inviolability and all pertinent identifying information has been obtained the person must be released immediately.
 - d. They cannot be searched; their property (including automobiles) cannot be searched or impounded; their residence may not be entered or searched without their consent; and offices or annex buildings used by a foreign government may not be entered or searched without consent. But, recovered stolen property and/or contraband should be seized and turned into the Property Management Unit as evidence.

- e. A case report will be completed with all the information regarding the identity of the diplomat, name of the embassy or consular post, vehicle description, diplomatic status, and facts surrounding the incident. The term "Diplomatic Personnel" should be included in the title of the report and a copy of the report will be forwarded to the Operations Division Commander.
 - f. If an individual is accused of committing a felony, or in extreme cases involving public safety, the supervisor in charge should notify the U.S. Department of State immediately and advise them that a copy of the case report is available upon request from the Office of Professional Responsibility.
2. Traffic Enforcement - Stopping a mission member or dependent and issuing a traffic citation does not constitute an arrest or detention and is permitted. However, the subject may not be compelled to sign the citation. A copy of the VUS should also be forwarded to the U.S. Department of State as soon as possible. The VUS should be marked "DIPLOMAT" in the top right corner and a copy forwarded to the Operations Division Commander. Prior to the court date, the officer should advise the Commonwealth's Attorney's Office that the case involves a diplomat.
3. Driving While Intoxicated - the primary consideration in a D.W.I. incident is to assure that the driver does not endanger himself/herself or the public. A sobriety test may be offered in accordance with normal police department procedures, but cannot be required or compelled. A supervisor should immediately be dispatched to the scene. If the individual is intoxicated, the officer shall not permit the individual to continue driving. The following options may be considered depending upon the circumstances:
- a. A friend, relative, or taxi may be summoned to drive the individual home.
 - b. With the individual's permission, he/she may be taken to the police department or another location to recover sufficiently to drive.
 - c. Upon the approval of a supervisor, the individual may be transported home by a police officer.
 - d. In extreme cases, the Department of State Protocol Office should be notified immediately. The Protocol Office shall be responsible for notifying the respective embassy.
 - e. Should the diplomat refuse the above options, he/she shall be transported to police headquarters to wait arrival of an embassy or State Department official. For purposes of officer safety, a pat down search may be conducted prior to transport and only in extreme cases may the diplomat be restrained in any manner.

4. Parking Violations - Vehicles bearing valid DOS issued diplomatic plates may be issued a parking ticket if found to be in violation of Arlington County's Parking Regulations; however, such vehicles will not be impounded or booted for the failure to pay the parking tickets.

A vehicle bearing valid DOS issued diplomatic plates which is endangering public safety or obstructing traffic may be towed to the nearest legal parking space at the police department's expense. If this is not practical the vehicle may be taken to the Police Impound Lot for safekeeping. The impound form should be marked "Diplomat" and the vehicle should be released to an authorized person free of charge.

- D. Termination of Immunity - With the exception of immunity for official acts (which exists indefinitely), criminal immunity expires upon termination of the diplomatic or consular tour of the individual enjoying the immunity. Therefore, obtaining an indictment, information, or arrest warrant could be the basis for prosecution at a later date (e.g., if the diplomat returns to the U.S. at a later date in a private capacity). Moreover, the existence of an outstanding warrant may be entered into NCIC and thus serve to bar the subsequent issuance of a U.S. visa permitting such person to reenter the United States.