CONCORD POLICE DEPARTMENT
GENERAL ORDER

IMMIGRATION ENFORCEMENT, FOREIGN NATIONALS & DIPLOMATIC IMMUNITY

GENERAL ORDER: 09.18	**CREATED:** March 27, 2017	**ISSUED:** August 20, 2026
CALEA STANDARD: **NCLEA STANDARD:** 09.07		**EFFECTIVE:** August 20, 2026
ACTION: Amends general order dated September 5, 2023.		

09.18.0 PURPOSE

The purpose of this general order is to communicate the appropriate procedures to follow with regard to immigration enforcement, interactions with foreign nationals, and persons who claim - or are entitled to - diplomatic immunity.

09.18.1 POLICY

It shall be the policy of the Concord Police Department to comply with our nation's treaty obligations insofar as they relate to the department's operations. We will remain focused on achieving our vision and mission and balancing our limited responsibilities while maintaining established federal law enforcement partnerships.

09.18.2 DEFINITIONS

A. CITIZENSHIP

The term citizenship refers to the country in which a person is a lawful citizen.

B. DIPLOMATIC IMMUNITY

Diplomatic immunity is a principle of international law by which certain foreign government officials are not subject to the jurisdiction of local courts and other authorities for both their official and, to a large extent, their personal activities. The purpose of this privilege and immunity is not to benefit individuals, but to ensure the efficient and effective performance of their official missions on behalf of their governments. These persons may be members of diplomatic missions, consular posts, or employees of international organizations or members of national missions to such international organizations. Immunity is simply a legal barrier which precludes U.S. courts from exercising jurisdiction over cases against persons who enjoy it and in no way releases such persons from the duty, embodied in international law, to respect the laws and regulations of the United States.

C. FOREIGN NATIONALS

For the purpose of this procedure, a foreign national is defined as a person owing allegiance to, and entitled to the protection of, another sovereign state; specifically a person who claims the protection of that state, and applies especially to a person living or traveling outside that state. Simply stated, a foreign national is a citizen of another country who is in the United States, either legally or illegally, including both legal permanent resident aliens and temporary visitors.

D. IMMIGRATION STATUS

Immigration status refers to whether or not a person is in the United States lawfully. A person can be a citizen of another country, but be in the United States lawfully or unlawfully.

E. PERSONAL INVIOLABILITY

Personal inviolability is enjoyed to some degree by a majority of foreign diplomatic and consular personnel. This inviolability generally precludes handcuffing, arrest, or detention in any form and forbids U.S. authorities from entering the residences, automobiles, or other property of protected persons. However, in circumstances where public safety is in imminent danger or it is apparent that a grave crime may otherwise be committed, police authorities may intervene to the extent necessary to halt such activity. This naturally includes the power of the police to defend themselves from personal harm.

09.18.3 IMMIGRATION ENFORCEMENT

A. It shall be the policy of the Concord Police Department to implement an immigration enforcement strategy that is consistent with the mission of reducing the levels of crime, fear, and disorder in the City of Concord. However, this strategy must also be in balance with the jurisdictional responsibilities of the federal government and the corresponding jurisdictional limitations of a municipal law enforcement agency.

B. Enforcement of the nation's immigration laws is the responsibility of the federal government, particularly the United States Bureau of Immigrations and Customs Enforcement (ICE). Furthermore, the Concord Police Department's manpower, equipment, and financial resources are limited; and, the department does not receive federal funding or assistance to conduct immigration related investigations. Accordingly, the Concord Police Department shall not unilaterally undertake immigration related investigations and shall not routinely inquire into the immigration status of persons encountered during police operations. This prohibition does not preclude the department from cooperating with federal immigration officials when requested, or from notifying those officials in serious situations where a potential threat to the public is perceived. It should be noted that most immigration violations are civil in nature and fall under the sole jurisdiction of the federal government. As such, local law enforcement officers have no right of arrest in these matters.

C. With an evidence-based community policing philosophy, we are committed to ridding the city's streets of violent criminal offenders regardless of whether such offenders are in the United States legally or illegally. We are also committed to facilitating safe, sustainable communities where citizens are encouraged to report crime and provide the police with useful information and intelligence. However, proactive immigration enforcement by local police is inherently detrimental to our mission and policing philosophy when doing so ultimately deters some citizens from participating in their civic obligation to assist the police. It is therefore expected that each officer follow the procedures set forth below regardless of one's personal opinion or political ideology on the issue of immigration.

D. A person's right to file a police report, participate in police-community activities, or otherwise benefit from police services is not contingent upon their immigration status. Consequently, officers shall not question any person about his or her immigration status unless that person is reasonably believed to be involved in one or more of the activities identified in (G) below.

E. Officers shall not request passports, visas, "green cards," or other documents relating to one's immigration status in lieu of, or in addition to, standard forms of identification such as a driver's license, state identification card, etc. Immigration related documents shall only be requested when standard forms of identification are unavailable, or when the officer is proceeding under (G) below.

F. Officers shall not contact, detain, or arrest a person solely for a suspected immigration violation unless such contact, detention, or arrest is in cooperation with and at the direction of federal immigration officials.

G. Officers shall not inform federal immigration officials of the whereabouts or behavior of any suspected illegal immigrant or foreign visitor, except when the immigrant or foreign visitor:

1. Is arrested for a felony.

2. Is arrested for a misdemeanor involving the possession or use of a dangerous weapon.

3. Is arrested for a terrorism-related offense or is otherwise reasonably suspected of involvement in terrorism and/or subversive activities.

4. Is arrested for any offense involving the entry or fraudulent assimilation of undocumented foreigners into the country or is reasonably suspected of participating in an organized venture to bring or fraudulently assimilate undocumented foreigners into the country.

5. Is a previously deported felon.

6. Is reasonably suspected of participating in criminal street gang activity.

H. In the event a officer needs to contact ICE, they shall first attempt to contact the local office of U.S. Citizenship and Immigration Services Office – Charlotte at 1-800-375-5283 or the local office of the Department of Homeland Security at 704-248-9605. If the local office is closed or if an agent is unavailable, the officer shall contact the ICE Law Enforcement Support Center (LESC) at 1-802-872-6050 or NLETS Administrative Message (AM) to VTINS07SO.

I. Only federal immigration officials can determine a person's immigration status; therefore, citizens wishing to report immigration violations shall be referred to the Homeland Security Office of the Inspector General at 1-800-323-8603.

09.18.4 U NONIMMIGRANT CLASSIFICATION (U-VISA)

A. The U nonimmigrant classification (better known as "U-Visa") provides legal status to victims of specified crimes and is intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault and other crimes against persons while offering protection to victims of such crimes.

B. To obtain a U-Visa, the requestor must complete a *Petition for U Nonimmigrant Status* (form I-918). This form is typically completed by the requestor's advocate (generally an attorney). The U-Visa application includes a section that must be signed and certified by the head of a certifying agency. A certifying agency must be a federal, state or local law enforcement agency, prosecutor or authority or federal or state judge that has the responsibility for the investigation, prosecution, conviction or sentencing of the qualifying criminal activity of which the petitioner was a victim.

C. The Chief of Police is the certifying official for all I-918 and Supplement B forms submitted to the Concord Police Department. Final eligibility and approval of any U-Visa application will be made by the Department of Homeland Security U.S. Citizenship and Immigration Services (USC IS), not the Concord Police Department.

D. Any coworker receiving form I-918 from a requestor shall forward it to the Chief of Police or designee who will prepare and review the necessary documentation. Under no circumstances shall any other department coworker sign any U-Visa certification forms or documents.

E. Coworkers may refer individuals who have questions regarding a U-Visa to the USC IS at 1-800-375-5283.

09.18.5 FOREIGN NATIONALS

A. PURPOSE

The U.S. Department of State requires the assistance of state and local law enforcement authorities in carrying out the treaty obligations of the United States concerning the detention or arrest of foreign nationals and contacts with foreign diplomats in this country. The cooperation of state and local law enforcement authorities is essential to carry out these obligations effectively, and to ensure that Americans arrested or detained abroad obtain the treatment to which they are entitled. These obligations are embodied in both bilateral agreements with specific countries and in the multilateral Vienna Convention on Consular Relations, to which the United States is a party. These treaty obligations are legally binding on all state and local governments.

Note: A decision by the United States Court of Appeals has established potential liability to police officers that fail to follow the Vienna Convention on Consular Relations procedures. Accordingly, officers shall pay particular attention to the procedures outlined below when dealing with foreign nationals.

B. ARRESTED OR DETAINED FOREIGN NATIONALS

For purposes of the following procedures, arrest / detention shall mean whenever an officer requires a person to accompany them to a place of detention (i.e., the Concord Police Department or Cabarrus County Jail).

1. Whenever an officer arrests or detains a person, the officer shall inquire as to that person’s citizenship to determine whether or not any consulate notification obligations apply. This is applicable when entering the subject into the department’s records management system by indicating what country they were born.

2. Whenever an officer arrests or detains a foreign national, he / she shall as soon as practicable:

   a. Notify the sergeant or watch commander of the place of detention and the citizenship of the person.

   b. Provide the sergeant or watch commander with a detailed account of the circumstances leading to the arrest / detention.

3. Upon learning that a foreign national has been arrested or detained, the sergeant or watch commander shall as soon as practicable:

   a. Ensure that the detainee is notified (e.g., prior to interrogation) of their right to have their government informed of the arrest / detention.

   b. Upon being notified that a foreign national has been arrested / detained and either wishes that his / her consulate or embassy be notified, or is a citizen from a country that requires consular notification, the sergeant or watch commander shall as soon as practicable:

      Notify the appropriate foreign consulate or embassy by completing and faxing the ~~completed~~ *Consular Notification of Arrest / Detention / Death / Serious Injury or Illness of Foreign Nationals* (form CN-1) to the appropriate consulate or embassy. The notifying officer shall consult the United States Department of State website at: (https://travel.state.gov/content/dam/travel/CNAtrainingresources/CNA%20flow%20chart-FINAL_June_2018.pdf) for the Consular Notification flowchart. The officer can also reference (http://travel.state.gov/CNA) for updated embassy/consulate addresses and telephone or fax numbers. Form CN-1 shall be forwarded to the Support Services Division commander for retention in department approved software.

   c. The sergeant or watch commander shall ensure that the foreign national is advised that his / her consulate has been notified and a written record of this confirmation shall be emailed to the bureau commander.

      Note: In the event the country of origin is not listed on the U.S. Department of State website, or the listed number is incorrect, the notifying officer shall contact Washington D.C. directory assistance at 202-555-1212 and request the specific country's embassy telephone or fax number.

4. Visitation

   Consular officers have the right to visit their nationals who are in prison, custody, or detention, to converse and correspond with them, and to arrange for their legal representation during their detention at the Concord Police Department.

   Note: A foreign consular officer should not take such actions on behalf of such a person if the person being held expressly opposes these actions. In addition, consular officers may not act as attorneys for their nationals.

5. All officers shall be aware that treaty agreements with certain countries (not excluding Mexico) require mandatory notification when their nationals are arrested or detained. In these cases, the foreign nation has no choice regarding the notification, and the detaining law enforcement agency shall notify the appropriate consulate or embassy of the situation without delay by following the steps listed above.

6. Questions and / or guidance regarding the arrest and detention of foreign nationals can be directed to the U.S Consular Affairs Office (phone 202-647-4415, after hours number 202-647-1512, and fax 202-736-7559).

C. DECEASED FOREIGN NATIONALS AND FOREIGN NATIONALS SUFFERING FROM LIFE THREATENING INJURY AND / OR MEDICAL CONDITIONS.

1. Officers shall notify the sergeant or watch commander of incidents where a foreign national is deceased or suffering from a life threatening injury and / or medical condition.

2. Upon being notified that a foreign national is deceased or suffering from a life threatening injury and/or medical condition, the sergeant or watch commander shall notify the appropriate foreign consulate or embassy by completing and faxing the completed *Consular Notification of Arrest / Detention / Death / Serious Injury or Illness of Foreign Nationals* (form CN-1) to the appropriate consulate or embassy. The CN-1 shall be forwarded to the support services division for retention.

09.18.6 DIPLOMATIC IMMUNITY

A. CATEGORIES OF PERSONS ENTITLED TO PRIVILEGES AND IMMUNITIES

1. Members of diplomatic missions – diplomatic missions are traditionally the principal communication link between the country that sends them and the host country. Accordingly, the staffs of diplomatic missions (embassies) are afforded the highest level of privileges and immunities in the host country in order that they may effectively perform their important duties. Members of these missions include:

   a. Diplomatic agents - enjoy complete personal inviolability, which means that they may not be 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 thus cannot be prosecuted no matter how serious the offense unless their immunity is waived by the sending state.

   b. Administrative and technical staff – enjoys the same privileges with respect to criminal jurisdiction, as do diplomatic agents (see above).

   c. Members of service staff – do not receive any immunity privileges.

2. Members of consular posts – consular posts provide a variety of support services for diplomatic missions; however, consular personnel are granted only a very limited level of privileges and immunities. Coworkers of consular posts include:

a. Consular officers – may be arrested pending trial only if the offense is a felony and that the arrest is made pursuant to a decision by a competent judicial authority (e.g., a warrant issued by an appropriate court). They can be prosecuted for misdemeanors, but remain at liberty pending trial or other disposition of charges.

b. Consular employees – enjoy the same rights and privileges as consular officers.

c. Consular service staff – do not enjoy any personal inviolability or jurisdictional immunity of any kind.

B. IDENTIFICATION OF PERSONS ENTITLED TO PRIVILEGES/IMMUNITIES IN THE U.S.

The only authoritative identity document is the identity card issued by the U.S. Department of State, Office of Protocol, or by the U.S. Mission to the United Nations. There are three types of identification cards issued, one each for diplomats, embassy employees, and consular posts.

C. CRIMINAL INVESTIGATION PROCEDURES

1. Officers shall keep in mind that such persons, as described above, are official representatives of foreign governments who are to be accorded the maximum degree of respect possible.

2. Any investigating coworker called to the scene of a criminal incident involving a suspect who claims diplomatic or consular immunity shall verify the status of the suspect. The officer shall inform the individual that he or she will be detained until his or her identity can be confirmed.

3. In all cases, including those in which the suspect provides a U.S. State Department-issued identification card, the investigating coworker shall detain the suspect and immediately notify the sergeant or watch commander of the circumstances of the investigation and the identity of the suspect. The sergeant or watch commander shall then notify their bureau commander who shall be responsible for contacting the U.S. Department of State, or in the case of the U.N. community, the U.S. Mission to the United Nations to verify the suspect's diplomatic status (see the U.S. Department of State Diplomatic and Consular Immunity Manual).

4. Once the status is verified and all pertinent investigative information obtained, the suspect shall be released if he or she enjoys personal inviolability. These individuals cannot be handcuffed, except when he or she poses an immediate threat to safety, and they cannot be arrested or detained.

5. If the investigation reveals that probable cause exists to believe the suspect had committed a felony or violent crime, the appropriate bureau commander shall ensure that appropriate personnel are assigned to present the case to the district attorney's office for review and consideration of a deportation request to the U.S. Department of State.

6. All investigative reports shall be forwarded through the chain of command to the Office of the Chief for consideration of a deportation request to either the U.S. Department of State in Washington, D.C., or to the U.S. Mission to the U.N. in New York in cases involving the U.N. community.

D. TRAFFIC ENFORCEMENT

1. Stopping a mission member or dependent and issuing a traffic citation for a moving violation does not constitute arrest or detention and is permitted.

2. In DWI cases, the suspect shall be offered the standardized field sobriety test, however, those individuals enjoying personal inviolability privileges cannot be compelled to perform such tests. If the individual is too impaired to continue driving, the officer shall not permit the individual to drive, but may assist that individual in obtaining transportation.

3. The property of a foreign diplomat enjoying full criminal immunity, including his or her vehicle, may not be searched or seized and such vehicles may not be impounded.

4. Vehicles registered to consulates and/or consular officials, including those with full criminal immunity, are not inviolable and may be towed or impounded. The sergeant or watch commander shall be notified in such instances so that he or she may notify the U.S. Department of State - Office of Foreign Missions to follow up with the proper consular official or mission.

09.18.7 U.S. DEPARTMENT OF STATE RESPONSIBILITIES

A. The U.S. Department of State will, in all incidents involving persons with immunity from criminal jurisdiction, request a waiver of that immunity from the sending state if the prosecutor advises that, but for such immunity, he or she would prosecute or otherwise pursue the criminal charge.

B. If the charge is a felony or any crime of violence, and the sending state does not waive immunity, the U.S. Department of State will require that person to depart the United States and not return, but to submit to the jurisdiction of the court with subject matter jurisdiction over the offense.

C. Upon departure, the department will request that law enforcement issue a warrant for the person's arrest so that the name will be entered in NCIC.

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