

# Greer Police Department

## General Order 530.3 Legal Process

This order consists of the following numbered sections:

- I. PURPOSE
- II. PROCEDURE
- III. PRIORITY
- IV. TYPES OF CRIMINAL PROCESS
- V. WARRANTLESS ARRESTS
- VI. ARRESTS BY FOREIGN JURISDICTIONS
- VII. ARRESTS FOR OTHER JURISDICTIONS
- VIII. ARRESTS OF FOREIGN NATIONALS
- IX. OFFENSES INVOLVING FOREIGN NATIONALS  
AND CONSULAR OFFICIALS
- X. ALTERNATIVES TO ARREST

By Order of: *Matt Hamby*  
Chief of Police

**February 9, 2023**

CALEA 1.1.4, 1.2.5; 74.1.1; 74.1.2; 74.1.3; 74.3.1; 74.3.2

## **I. PURPOSE**

It is the responsibility of the Police Department to arrest all persons against whom process for that purpose shall issue from any competent court authority commanding such person to be taken into custody. Such arrests may be made with or without process, depending upon the circumstances.

## **II. PROCEDURE**

- A. All criminal process shall be served by sworn officers only. All warrants taken from County Magistrates or the Administrative Judge of the City Court are to be delivered as soon as possible to the Detention Officer on duty who will enter the warrant into the computer and prepare a list of the new warrants for the Shift Supervisor.
- B. Original warrants will not be removed from the Detention Section. Officers desiring to take warrants out for service will request the Detention Officer to pull the warrant from the Warrant File, make a copy for service and return the original to the Detention Officer to re-file. Officers preparing to serve warrants from the warrant file must inform their Supervisor of their plan of action including a review of the warrants selected for attempted service.
- C. Before a warrant is copied for attempted service, or an original warrant is served at the Detention Center, a computer check to confirm the status of the warrant in the electronic records must be done. This check will include the Warrant Recall file on the CityShare drive of the City's network as well as the Greenville Warrant screen. The Warrant Recall file on the Cityshare is maintained by The Greer Municipal Court. If the computer check does not show the warrant to be outstanding, i.e., recalled, served or not in the computer, the Detention Officer shall call the court to confirm the status of the warrant. If no one is available at the court, i.e. holidays, weekends or after hours, the OSD Commander will be contacted for further instructions.
- D. The Detention Officer who books a subject on a warrant will remove the warrant from the computer immediately upon its service. No warrant is to be left with or sent back to the issuing authority until final disposition is made of it in the Detention Office computer.
- E. All warrants delivered to the Detention Section will be reviewed to confirm that they contain all necessary information such as the judicial officer's signature, affiant signature, defendant's identity and description, a case number, if applicable, and a  
completed affidavit.
- F. The following information shall be included in the computer when process is recorded:
  - 1. Date and time received
  - 2. Type of Legal Process
  - 3. Nature of Document
  - 4. Source of Document
  - 5. Name of Plaintiff/Complainant and/or Name of Defendant
  - 6. Officer Assigned for Service
  - 7. Date of Assignment
  - 8. Warrant/Court Docket Number

9. Date Service Due

- G. Any change in the status of the warrant shall be updated in the computer.
- H. A record shall be maintained of all attempts to serve criminal process. The record shall include:
  - 1. Date and Time Service was Attempted
  - 2. Name of Officer(s) Executing/Attempting
  - 3. Name of Person Served
  - 4. Method of Service/Non-service
  - 5. Address of Service/non-service

Service the address where the service was attempted, the date and time of each attempt, the unit number of the officer attempting service and the status of the process. The information will be recorded in the V-Connect computer system and in the CAD system. Supervisors will document the number of attempted services during a tour of duty on the Daily Report.

- I. When an officer makes a radio inquiry about a warrant check on an individual and the computer records reveal that an active warrant is on file in the Warrant File, the warrant should be located by the Detention Officer and the field unit advised that the warrant is in hand before the individual is arrested. If the computer record check or a phone call to another agency reveals that another jurisdiction has a warrant, the Detention Officer will confirm by phone with that jurisdiction's Warrant Division that the warrant is in hand and they will extradite if necessary prior to the arrest of the individual.
- J. Only Detention personnel and officers assigned to perform detention duties are authorized to search for or remove warrants. All such removed warrants should be re-filled by Detention personnel only. The warrant file will remain locked and is accessible through the Detention Officer twenty- four hours a day.
- K. If a detainee who has been, or is about to be, arrested for a City Bench Warrant states that they have resolved the issue with the Court, even when the computer checks show the warrant to be valid, the Court will be contacted to verify the status of the warrant prior to further actions by the Police or Detention Officer. If the Court cannot be contacted, the OSD Commander will be contacted for instructions.
- L. Access to warrant information is available 24 hours a day.

### **III. PRIORITY**

It shall be the policy of the Police Department to adhere to the following priorities for serving outstanding arrest warrants:

- A. Generally, people who willfully fail to appear in court when required to do so do not remain in the area for long. Therefore, failure to appear warrants should be served or attempted as soon as they are received.
- B. Bench warrants, regardless of the source, should take precedence over regular arrest warrants.
- C. Felony warrants should take precedence over misdemeanor warrants.

- D. Arrests of habitual offenders should take precedence over arrests of first-time offenders, especially if multiple warrants are on hand.
- E. Arrest warrants having complete names, addresses, descriptions and locations should take precedence over warrants with incomplete information.

#### **IV. TYPES OF CRIMINAL PROCESS**

##### **A. Arrest Warrants**

1. Criminal arrest warrants include all warrants issued by county magistrates or city court as a result of sworn testimony given to them by affidavit of a law enforcement officer or citizen who states that a violation of a South Carolina or City of Greer law has been committed.
2. Service of a warrant may be made any where in the City of Greer by an officer of the Greer Police Department. Anyone arrested pursuant to a criminal warrant must be taken before a magistrate or, in the case of City warrants, the City Administrative Judge, as soon as possible to be informed of the charge made against him and to be told the type and amount of bond required for his release. All information required about the defendant on the warrant should be completely given, including first, middle and last name (No initials unless part of official name), current address and phone number, and physical identifiers. The front of the warrant should contain the case report number. After all means to serve a warrant have been exhausted, the warrant should either be placed in the file or returned to the issuing authority until more information is available.
3. Non violent misdemeanor warrants such as a single fraudulent check can be handled by advising the subject of the warrant by phone or in person and for them to contact the Court during regular business hours. This information should be documented V-Connect computer system to assist in confirming compliance. The decision to not physically arrest must be based on several factors to include: availability of magistrate for arraignment, age of warrant, whether or not first criminal offense; and time of day. In general, non violent misdemeanor warrant service should be attempted between the hours of 07:00 and 19:00.

##### **B. Bench Warrants**

Bench warrants are warrants that are issued by direct order of a judge who may be presiding in General Sessions Court, Common Pleas Court, Family Court, Magistrates Court or City Court. Bench warrants are usually issued because a defendant failed to appear in court at a designated time or a defendant failed to comply with a judge's order or sentence. When a defendant is arrested pursuant to a bench warrant, he is incarcerated unless the wording in the warrant requires that the defendant be taken before the issuing court first. No bond is allowed and the defendant is held in custody until taken to the issuing court. A copy of the bench warrant may be given to the Detention Center in lieu of a commitment order as authority to hold the defendant temporarily until arrangements can be made for court appearance.

##### **C. Insanity Warrants**

Insanity warrants, or detention orders, are issued by the Probate Court judge. Such a

warrant authorizes any law enforcement officer to take into custody the person named in the warrant for the purpose of taking that person to a physician for examination. Unless a particular physician is named for the examination, the patient is taken to Greer Mental Health Center. If that agency is closed, they will be taken to the emergency room of Greer Memorial Hospital. If the warrant pertains to a mental examination, only one doctor's signature is needed on a certificate. If the warrant pertains to a chemical abuse examination, two physician's signatures are required. If a physician certifies that treatment is needed, the patient should then be transported to the facility named in the application. No person taken into custody for a mental examination should be placed in the Detention Center. A physician will always be available, the State hospital will receive patients at any time and the Police Department can transport any time day or night. When a person is taken into custody pursuant to an insanity order, he should be advised that he is entitled to have an attorney

present when he is examined. If the examining physician does not certify that treatment is needed, the patient should be released immediately.

#### D. Search Warrants

The Fourth Amendment to the U.S. Constitution prohibits unreasonable searches. Officers conducting searches without a warrant bear the burden of proving that the search was reasonable. Therefore, officers should consider obtaining a search warrant whenever time and circumstances permit.

Knock and Announce: Prior to considering a forced entry into a dwelling, officers must knock at the entrance and announce their identity and purpose unless one of the following circumstances exist:

- a. The officer's purpose is already known to the occupant.
- b. When the personal safety of the officer or others would be jeopardized by the announcement.
- c. When the delay caused by the announcement may enable the suspect to escape.
- d. When a prisoner has escaped and retreated to his home.
- e. When the announcement may cause evidence to be destroyed.
- f. Note: If officers believe that one of the above circumstances exist prior to obtaining the warrant, they should seek judicial approval for a "no-knock" warrant by clearly outlining the factors believed to exist in the affidavit for the warrant.
- g. No-knock warrants are not authorized unless specifically reviewed and approved by the Chief of Police. No-knock warrants, where legally permitted and specified in the warrant, shall be conducted in accordance with state law.
- h. Should nighttime service be anticipated or desired, justification shall be included in the affidavit and must be authorized in the search warrant.

#### E. Military Writ

A military writ is issued by a military court and is the equivalent of a bench warrant. The writ is issued after the person named in the writ has failed to appear for a military court hearing as ordered. The writ authorizes the apprehension and detention of the defendant until he can be picked up by military authorities. Persons arrested pursuant to a military writ are processed in the same manner as one arrested by service of an arrest warrant insofar as reports and identification procedures are concerned, except that military personnel arrested on a military writ are placed directly in the Detention Center to await pick-up by military authorities.

F. AWOL Notice

An AWOL notice informs law enforcement agencies that a subject has deserted from military duty and requests the apprehension of the subject. This is sufficient notice to temporarily detain a subject. However, it must be supported by confirmation from NCIC or otherwise prior to the arrest of an AWOL person. If the AWOL status is confirmed, the subject is arrested and placed in the Detention Center to await pick-up by military authorities.

G. Fugitive Warrants

A fugitive warrant can be issued by any court of this State authorized to issue warrants. The warrant is issued for the arrest of any person who is found in this state and who is accused by any other state of having committed in that state an offense punishable either capitally or by imprisonment for one year or more. The warrant is issued after information is given under oath to a magistrate or other competent authority establishing probable cause for issuance of the warrant. Such probable cause usually consists of either a certified copy of the requesting state's warrant or a teletype message sent to any law enforcement agency of the asylum state by the requesting state which sets forth the charge(s) made against the fugitive by the requesting state. Although any officer has the authority to arrest a fugitive without a warrant based upon existing probable cause, the safest procedure is for the officer to obtain a fugitive warrant from a magistrate before making the arrest. Officers should be certain that the person they are arresting is the same person charged with the crime in the requesting state.

H. Officers May Arrest Without Warrant for Offenses Committed in View

Police officers may arrest without a warrant any and all persons who, within their view, violate any of the criminal laws of this State if such arrest is made at the time of such violation of the law or soon thereafter.

I. Service of Criminal Process on Sunday

Criminal process may be served on Sunday, as on any other day of the week, for all crimes, felonies, and misdemeanors alike. It shall also be lawful for any officer to retake, on Sunday, as on any other day, any prisoner who has escaped.

J. Right to Be Informed of Reason for Arrest

Every person arrested by virtue of process or under any other circumstances by an officer in this state has a right to know from the officer who arrests or detains him, the true reason the arrest was made. An officer who (a) refuses to answer a question regarding the reason for such arrest; (b) answers such question untruthfully; (c) gives to the person arrested a false reason for the arrest; or, (d) neglects to show the person arrested or to any person acting in his behalf the law which calls for such arrest, shall be punished as for a misdemeanor.

K. Posse Comitatus (South Carolina Code of Laws 23-15-70): Any Police officer may call out the bystanders or posse comitatus of his jurisdiction to assist him whenever he is resisted or has reasonable ground to suspect and believe such assistance will be necessary in the service/execution of process in any criminal case. He may also call out such posse comitatus to assist in enforcing the laws and in arresting violators thereof. Any person failing to respond and render assistance when summoned by

a police officer shall be guilty of a misdemeanor.

- L. Use of Control Techniques: The duty and authority of an officer to make an arrest necessarily carries with it the right to employ such reasonable degree of control as may be necessary in order to take the offender into custody. On the other hand, the use of control techniques which are excessive or unnecessary under the particular circumstances of the case is unjustified and may subject the officer to criminal as well as civil liability.

1. Use of Control Techniques Against Person:

- a. Refer to General Order 520.1

2. Use of Force against Property:

- a. Authority: An officer has the right to enter private premises in the performance of his duty to make arrests, to serve process and to protect life and property. He may enter a business establishment or other place where the public is invited. He may enter any building in an emergency such as fire, a reported shooting, a person in danger or where a person is suspected of being ill. It shall be lawful for any police officer to break and enter any house, after request and refusal, to arrest the person or to seize the goods of anyone in such house, provided such officer has process requiring him to arrest such person or seize such goods.

- b. Procedure: An officer seeking to make a lawful arrest or seizure of goods may use force to enter a building after he has announced his authority and intent, has demanded and been denied entry. The officer's authority to break and enter depends entirely upon his authority to arrest goods. If he has legal authority to arrest or seize goods force which is necessary to affect an arrest or to officer has the same authority to break and enter has to break and enter a building or dwelling to property. Any unnecessary damage to property

or seize  
he may use that  
seize property. An  
a motor vehicle as he  
make an arrest or to seize  
is unjustified.

**V. WARRANTLESS ARRESTS**

- A. Officers may arrest persons in their presence without a warrant when they have reason to believe that a crime has been or is being committed by the person to be arrested.

- B. An officer may arrest persons without a warrant for any crime committed in his presence.

- C. An officer may arrest a person without a warrant for a felony, whether the crime is committed in his/her presence or not. All crimes classified as felonies are listed in Section 16-1-10 of the South Carolina Code of Laws. Arrest without a warrant for a felony not committed in the officer's presence is valid if it is based on probable cause. Probable cause is more than suspicion but less than actual knowledge.

- D. An officer may arrest persons without a warrant for a misdemeanor when it is committed in his presence. An officer may NOT arrest a person without a warrant for misdemeanors not committed in his presence, except for limited exceptions as provided by law, such as the Domestic Violence Act.

1. A crime is committed in the presence of an officer when the officer obtains facts

through his senses (sight, touch, hearing, smell and taste which cause him to believe a crime is being committed).

2. If two or more officers individually observe a person commit part of a misdemeanor and keep themselves informed by radio communication, it is said that each officer possesses knowledge of the whole event and either one may effect an arrest of the misdemeanorant.
  3. If a misdemeanor arrest warrant is in the personal possession of an officer, any other officer who has received verbal confirmation of such possession may affect the warrantless arrest of the misdemeanorant named in the warrant.
- E. A person arrested with or without a warrant has the right to know the reason for his arrest or detention.
- F. An officer can break into a house without an arrest warrant:
1. To arrest a person who has committed a felony and exigent circumstances exist. This does not apply to routine felony arrests.
  2. To arrest a person who has committed a misdemeanor in the presence of the officer. The officer should not break into a house while trying to arrest a misdemeanorant unless he is in pursuit of the offender immediately after the crime is committed.
- G. Following a lawful arrest, an officer may conduct a search of the person arrested and the area within his immediate control without a search warrant.
1. The immediate control of an arrestee is that area from which he could easily reach to obtain a weapon or to destroy or conceal evidence. Nothing outside the reach of the arrested person may be searched.
  2. The officer is allowed to search for:
    - a. weapons
    - b. items the person might use as a means of escape
    - c. prevention of the destruction of evidence by the arrested person
- H. If during the time the officer is making a legal arrest, he sees in plain view contraband, fruits of the crime, instruments used to commit the crime, evidence of the crime, weapons or any other object related to the crime, the officer may seize such items without a warrant. If the object is in plain view and is obviously related to the crime or is contraband, it may be seized even if it is not within the arrested persons reach.
- I. Any seized items that were in plain view and show evidence of another offense may be used as evidence to support other charges on new offenses.
- J. A search following an arrest must be made reasonably soon after the arrest to be valid. For a search to be incident to arrest, the search of the person and place must be at the time of the arrest.

## **VI. ARRESTS BY FOREIGN JURISDICTIONS**



- A. All criminal process coming under the control of the Police Department which must be served by a foreign jurisdiction will first be logged in the warrant log in the Detention Section. Under compelling need, the on-duty supervisor may waive this requirement
- B. If the person named in the warrant is believed to have left the State and if the offense named in the warrant is a felony or a serious misdemeanor for which extradition is authorized, the warrant should be entered into the National Crime Information Center (NCIC). The Solicitor or one of his assistants normally decides whether extradition will be authorized. If extradition is approved, the officer who obtained the warrant shall be responsible for ensuring that the proper NCIC entry is made by Communications personnel. When the arrest is made and the defendant is returned to the custody of the Greer Police Department, it shall be the responsibility of the arresting officer to ensure that the NCIC entry is cancelled.
- C. A record will be maintained which names the agency to which a warrant or warrant copy was sent and the date it was sent. A copy shall be made and kept on file for any original warrant sent to another agency.
- D. Original warrants will be sent to other South Carolina law enforcement agencies only. Certified copies will be sent to agencies of other states.
- E. The CID Commander is designated the Extradition Officer for the Police Department. The Extradition Officer will be given all arrest warrants for persons living in another state or incarcerated in another state. He will be responsible for sending certified copies of warrants to the proper law enforcement agency in whose jurisdiction the fugitive is, as well as arranging the return of the fugitive upon his arrest and availability. All incoming correspondence, teletypes or phone calls are to be directed to the Extradition Officer who shall maintain records of all active extradition proceedings. The Extradition Officer should be informed of any correspondence made to any agency of another state by any officer in connection with a fugitive wanted by the Police Department.

## **VII. ARRESTS FOR FOREIGN JURISDICTIONS**

- A. Other jurisdictions within South Carolina:
  - 1. The original warrant shall be forwarded to this Department for service.
  - 2. Upon receipt of the warrant, it shall be taken before a county magistrate to be countersigned. Bench warrants issued by circuit court judges do not have to be countersigned.
  - 3. If a person is arrested on a bench warrant of any kind from a county within the State, that person shall be held without bond until he can be picked up by that county's law enforcement agency. That agency shall be notified as soon as possible of the arrest.
  - 4. If a person is arrested on a county warrant which allows for the posting of a bond, that person shall be allowed to post bond in the county where the arrest was made. If bond cannot be posted, then the jurisdiction holding the warrant shall be notified of the arrest and the need to take the person into custody as soon as possible.
  - 5. If circumstances exist which require the arrest of a person for another jurisdiction within the State without having that jurisdiction's original warrant in hand, the

arrest may be made upon receipt of a teletype from a law enforcement agency of that jurisdiction which sets forth all information about the person wanted and the warrant existing for that person. The requesting agency must agree to pick up the person arrested immediately after being informed of the arrest. If the person cannot be picked up before the time period of the temporary commitment expires, that person will have to be released without the original arrest warrant. A person should be arrested under these conditions only when absolutely necessary. A faxed copy of a warrant serves the same purposes as a teletype message.

**B. Other States**

1. Officers shall follow the procedures for a service of a fugitive warrant, if located in the City of Greer.
2. Probable cause to arrest a fugitive may be based on an NCIC "hit", supported by a confirmation from the requesting state. The NCIC hit of a warranted fugitive is sufficient for detaining the individual. However, further proof, such as confirmation from the agency that made the NCIC entry, should be obtained before formal arrest and incarceration.
3. Upon the arrest of an out-of-state fugitive, the CID Commander shall be notified immediately. He shall coordinate all extradition procedures on the fugitive.
4. If a person arrested as a fugitive from justice and there are no local charges, the arresting officer, in the absence of the CID Commander, should ask the person arrested if he/she will waive the extradition process. If the person is willing to do so, the waiver should be executed before a magistrate. Waiver forms are available for such purpose.
5. If the fugitive does have local charges pending, those charges should be disposed of before the matter of waiving extradition is considered.
6. If the person waives extradition, the original affidavit should be placed in an envelope and left at the detention center for the officers to get when they pick up the fugitive. A copy of the waiver affidavit should be forwarded to the CID Commander.

**VIII. ARREST OF FOREIGN NATIONALS**

- A. The U.S. Department of State requires the assistance of state and local law enforcement authorities in carrying out the regulations and instructions of the United States Department of State concerning the detention or arrest of foreign nationals in this country. The Greer Police Department shall adhere to these State Department regulations and instructions as published in the manual Consular Notification and Access found at <https://travel.state.gov/content/dam/travel/CNAtrainingresources>. This manual has also been added to the documents section of PowerDMS

1. Whenever the Police Department arrests, imprisons or otherwise detains a foreign national, the Police Department must promptly inform the detainee of his right to have his government informed of such event.
2. If the detainee asks to exercise this right, the Police Department must inform the appropriate foreign consulate or embassy without delay and should make a

written record of such notification. A list of the telephone numbers of all foreign consulates and embassies can be found at the State Department's webpage: <https://travel.state.gov/content/travel/en/consularnotification/ConsularNotificationandAccess.html>.

3. Subject to regulations regarding access to detained persons, consular officers have the right to visit their nationals in prison, custody or detention, to converse and correspond with them and to arrange their legal representation. A foreign consular officer should not take such actions if the person held expressly opposes these actions.
4. Officers should also be aware that agreements with certain countries require mandatory notification when their nationals are confined or detained. In these cases, the foreign national has no choice regarding notification and the Police Department must notify the consulate or embassy of the situation without delay. The foreign national should be advised that his consulate has been notified. Countries that require mandatory notification may be found on page 7 of the Consular Notification and Access.
5. The CID Commander shall normally be responsible for contacting the appropriate foreign embassy. However, when he is not available, the arresting officer, through his/her Supervisor, shall perform this duty and inform the CID Commander of all actions taken. The CID Commander shall coordinate all further proceedings with the foreign embassy. The U.S Department of State should be contacted immediately concerning any questions that arise in connection with the foregoing procedures at (202) 647-4415, Office of State, Washington,

DC 20502.

- B. The cooperation of the Police Department 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. The State Department requires that these requirements be strictly adhered to, in order to ensure that the United States not violate any of its obligations under these treaties.

## **IX. OFFENSES INVOLVING FOREIGN DIPLOMATS AND CONSULAR OFFICIALS**

well- Diplomatic and consular officials should be accorded their respective privileges, rights and immunities, as directed by international law and federal statute. These officials should be treated with the courtesy and respect that befit their distinguished positions. At the same time, it is a established principle of international law that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect local laws and regulations.

- A. Diplomatic Immunity: a principle of international law, is broadly defined as the freedom from local jurisdiction accorded to duly accredited diplomatic officials, their families and servants. Diplomatic officials should not be arrested or detained except for the commission of a grave crime. Family members of diplomatic officials, their servants and employees of a diplomatic mission are entitled to the same immunities under current U.S. law (22 U.S.C. 254), if they are not nationals of or permanently reside in the receiving state. Associated with this personal immunity is the inviolability enjoyed by the premises of the mission of the sending state and the private residence of a diplomatic agent, his property, papers and correspondence.

- B. Diplomatic Agents: Ambassadors and ministers are the highest ranking diplomatic representatives of a foreign government. Other diplomatic titles are Minister Counselor, Counselor, First Secretary, Second Secretary, Third Secretary and Attaché. These officials are located primarily in Washington, DC., but may travel throughout the United States. Diplomatic agents, their families, official staff and servants, who are not nationals of or permanent residents in the receiving state, are protected by unlimited immunity from arrest, detention or prosecution with respect to any civil or criminal offenses. Additionally, certain officials serving as representatives to or employed by the United States also enjoy this degree of immunity.
- C. Members of the administrative and technical staff of diplomatic missions also enjoy the same degree of criminal immunity and personal inviolability as do diplomatic agents.
- D. Consular Officials: Consular Officials are Consuls-General, Deputy Consuls-General, Consuls and Vice-Consuls. They are official representatives of the foreign governments. Consular officials are required to be treated with due respect and all appropriate steps are to be taken to prevent any attack upon their person, freedom or dignity. The same is true for the staff employees of Consulates. They are entitled to limited immunities as described below:
1. Immunities- Under prevailing international law and agreement, a foreign career Consular Official is not liable to arrest or detention pending trial. An exception is the case of a felony offense that would endanger the public safety and pursuant to a decision by a competent judicial authority in the federal court system is limited to acts performed in the exercise of consular functions and is subject to court determination. (Consular personnel of some countries are entitled by treaty to a higher degree of immunity, e.g. Republics that were the former USSR and the Peoples Republic of China).
  2. Identification- Career Consular Officials can be identified by credentials issued by the State Department and by other locally issued official identification papers. The State Department credential bears its seal, the name of the official, his title and the signatures of State Department officials.
- E. Honorary Consuls: Often, nationals or permanent residents of the receiving state are appointed and received as honorary consular officials to perform the functions generally performed by career Consular Officials. Such officials do not receive identification cards from the State Department of the type issued to career Consular Officials, though they may exhibit reduced size copies of diplomatic note evidencing recognition by the United States government. These individuals are not immune from arrest or detention; they are not entitled immunity from the civil and criminal jurisdiction of the receiving state, except as to official acts performed in the exercise of their consular functions. The consular archives and documents of a consular post headed by an honorary consul are inviolable at all times and wherever they may be, provided they are kept separate from other papers and documents of a private or commercial nature relating to other activities of an honorary consul and persons working with him.
- F. Families of Consular Officials: Family members of Consular Officials do not enjoy the same privileges and immunities with respect to the civil and criminal jurisdiction of the receiving state as do Consular Officials. However, they should be accorded appropriate courtesy and respect.
- G. Consular Archives, Documents, Records and Correspondence: The consular archives

and documents are inviolable at all times and wherever they may be. The official correspondence of the consular posts, which means all correspondence relating to the consular post and its functions is likewise inviolable.

#### H. Handling Incidents Involving Foreign Diplomats and Consular Officers,

1. Minor violations of Traffic and Criminal Law- When an official is apprehended for a minor violation of the law, the officer on the scene, upon being advised by the official that he is entitled to diplomatic or consular official immunity and ascertaining that he possesses the proper credentials, should exercise discretion, based on the nature of the violation and either:
  - a. release him with a warning of the danger of his actions or
  - b. proceed with the issuance of the appropriate citation. Mere issuance of a traffic citation does not constitute arrest or detention in the sense referred to above, or
  - c. take other non-enforcement action to bring the situation to a safe conclusion.

The official's vehicle may not be impounded or searched nor may the official be administered a sobriety test of any kind.
2. Other Situations- Supervisors should contact any member of the Command Staff for assistance in any situation involving an official, including any situation where an official may be the victim of a crime.
3. Special Instructions- Except when necessary for officer or public safety, an official should not be handcuffed or otherwise restrained. Any situation involving an official is, at best, a sensitive situation. The primary consideration is caring for the safety of the officer, the official and the public.

#### XI. ALTERNATIVES TO ARREST

- A. Under limited circumstances, officers may provide transportation to individuals in need of diversion. For instance, a non-violent intoxicated person (**NOT a D.U.I.**) may be transported to a Detoxification Center for treatment, thereby diverting him from arrest, confinement and trial in the Criminal Justice System.
- B. Pre-trial Diversion is administered through the Solicitor's Offices as a means within the Justice system of diversion from trial and possible confinement or supervised probation. This program requires restitution and requires the recommendation of the victim and the investigating officer. Officers are encouraged to use this program whenever possible.
- C. Pre-trial Release: Police officers may not accept bail for any criminal charge. Therefore, whenever a custodial arrest is effected the offender must appear before a judicial officer to have a bail established. Bail may be set via video arrangement, in person by the Magistrate at the Detention Facility, or by taking the offender to the appropriate Magistrate. Dependent upon the circumstances, the Magistrate may release the offender on his own recognizance or allow him to post a cash or property bond and then release him from custody. When the offender may not be able to post cash bond, the arresting officer will obtain an Order of Commitment from the Magistrate and then place the offender in the appropriate Detention Facility. Decisions on granting bond, the amount and form, are solely the responsibility of the Magistrate.

- D.      Courtesy Summons: The Greer Municipal Court does not issue Courtesy Summons pursuant to South Carolina Code 22-5-115.