

# **MERIDIAN TOWNSHIP POLICE DEPARTMENT GENERAL ORDER**

Subject: <b>DIPLOMATIC IMMUNITY AND FOREIGN NATIONALS</b>	General Order: 950
Effective Date: January 22, 2007 Revision Date: March 22, 2017	Distribution: All Sworn Personnel

## **I. PURPOSE**

The purpose of this policy is to ensure that members of the Meridian Township Police Department protect the rights and privileges of foreign diplomatic and consular personnel and to provide personnel with guidelines regarding the arrest or detention of foreign nationals, and to ensure compliance with treaty obligations of the United States of America.

## **II. POLICY**

It is the policy of the Meridian Township Police Department to abide by international customs and treaties, to recognize the privileges and immunities afforded various members of diplomatic missions and consulates, and to treat such officials of foreign countries with respect and courtesy.

Diplomatic immunity, even at its highest level, does not exempt diplomatic officers from the obligations of conforming to national and local laws and regulations. It is not intended to serve as a license for such persons to flout the law and purposely avoid liability for their actions. The purpose of these privileges and immunities is not to benefit individuals, but to ensure the efficient and effective performance of their official missions.

Bilateral agreements with specific countries and the multilateral Vienna Convention on Consular Relations require that state and local law enforcement authorities carry out certain treaty obligations concerning the detention or arrest of foreign nationals 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. In cases involving the arrest and detention of foreign nationals, it is the policy of the Meridian Township Police Department to ensure that the guidelines established by the United States Department of State are followed.

## **III. PROCEDURES**

### **A. Definitions**

1. Foreign National: Any person who is not a citizen of the United States of America. Foreign nationals include illegal aliens, resident aliens, tourists, and persons with dual citizenship.

2. Categories of Diplomatic and Consular Immunity: For police purposes, diplomatic and consular immunity is divided into three categories:
  - a. Inviolability - A person granted such is free from arrest and detention. The person's residence, vehicle, personal papers and correspondence are free from being entered, searched or seized. Reasonable restraints, however, may be applied in emergency circumstances involving self-defense, public safety, or the prevention of serious criminal acts.
  - b. Immunity from Criminal Jurisdiction - The person is free from being prosecuted for a violation of criminal law.
  - c. Immunity from Civil Jurisdiction - The person is not subject to civil or administrative jurisdiction. There are exceptions to the civil immunity, but they are not listed because these civil matters are outside police jurisdiction.
3. Categories of Diplomatic Personnel and Extent of Privileges: The function and position of the person in the foreign mission or consulate determine the category and extent of privileges and immunities. The following provides general rules. The diplomatic and consular personnel of certain foreign countries may enjoy higher levels of privileges on the basis of special bilateral agreements. Individuals who are U.S. national or permanent residents of the U.S. generally enjoy reduced, or no, privileges and immunities.
  - a. Diplomatic Agent - A Diplomatic agent is the head of a diplomatic mission or a member of the diplomatic staff of the mission. Diplomatic agents and members of their immediate families are granted the highest levels of privileges and immunities including:
    - Full inviolability.
    - Immunity from criminal jurisdiction.
    - Immunity from civil jurisdiction.
    - Freedom from having to give evidence as a witness.
  - b. Administrative and Technical Staff - This group of the non-diplomatic support staff of a diplomatic mission and members of their families, enjoy full criminal immunity and civil immunity for acts performed as part of their official duties and inviolability. They are not obliged to give evidence as a witness.
  - c. Service Staff - This group of non-diplomatic support staff of a diplomatic mission enjoy civil and criminal immunity only for acts performed as part of their official duties. They enjoy no

inviolability. The family of a service staff member enjoys no immunity or inviolability.

- d. Private Servants - A person privately employed by a member of a diplomatic mission is not a member of the mission and does not enjoy any immunity or inviolability.
- e. Career Consular Officers - This group consists of career employees who are appointed to perform consular duties on behalf of their country. When stationed at a diplomatic mission, consular officers are accredited as diplomatic agents. When stationed at a consulate, they are accredited as consular officers and enjoy a significantly lower level of privileges. They may be arrested provided that the offense is a felony and the arrest is made pursuant to a warrant. Consular officers enjoy civil and criminal immunity from prosecution only for official acts. They are not obliged to give evidence as a witness concerning official matters. They may be called on to testify in other matters, but no measures of coercion or penalties may be applied if they decline to testify. Members of their family enjoy no immunity or inviolability.
- f. Consular Employees - This group performs the administrative and technical services for the consular post. They may be arrested or detained. They enjoy civil and criminal immunity only for official acts. They are not obliged to give evidence as a witness concerning official matters. The members of their families enjoy no immunity or inviolability.
- g. Consular Service Staff - They do not enjoy immunity or inviolability of any kind. They are not too obliged provide evidence as witnesses concerning official matters.
- h. Honorary Consular Officers - These are U.S. nationals or legal permanent residents of the U.S. who are appointed and received as Honorary Consular Officers and perform a variety of consular functions. Such officers do not receive identification cards from the U.S. State Department of the type issued to career consular officers, though they may exhibit reduced-size copies of the exequatur or diplomatic note evidencing recognition by the United States Government.

These individuals enjoy civil and criminal immunity for official acts performed in the exercise of their official consular functions. They are subject to arrest and detention. They are not obliged to give evidence as a witness concerning official matters. Members of their families enjoy no immunity or inviolability.

- i. International Organizations and Missions to Them - The staff of certain international organizations and missions of such international organizations enjoy privileges and immunities as specified in relevant treaties or headquarters agreements. Officers should be guided by U.S. Department of State identification documents and, when appropriate, by contact with the Department of State.

B. Identification of Diplomatic and Consular Personnel

1. Police officers confronted by a person claiming immunity shall immediately request that the person present his official U.S. Department of State identification in order to verify the person's status and immunity. The only authoritative identity document is the identity card issued by the U.S. Department of State Protocol Office. The identification cards will contain a photograph of the bearer and the bearer's name, title, mission, and date of birth. The expiration date, U.S. State Department identification number, and a U.S. Department of State seal will appear on the front of the card. A brief statement of the bearer's immunity will be printed on the reverse side.
2. When proper identification is produced, the individual's privileges and immunity shall be fully respected to the degree to which he is entitled. Whenever it is established that the individual is entitled to full inviolability, he may not be arrested or detained and should not, except in extraordinary emergency circumstances, be handcuffed or restrained in any way.
3. Officers should not accept other forms of proof of diplomatic status as conclusive evidence of the person's position or privilege. Other forms of proof may include, but are not limited to, diplomatic passports or visas, diplomatic license plates, automobile registrations and tax exemption cards. If the individual claiming diplomatic status is unable to produce satisfactory identification and the situation would normally warrant arrest or detention, officers shall inform the individual that he will be detained until proper identity can be confirmed. Officers shall record all pertinent details from the identification card.
4. If for any reason the status cannot be readily determined locally, the following telephone contacts may be attempted:
  - During normal business hours: Office of Protocol of the U.S. Department of State at (202) 647-4570.
  - At any other time: Command Center of the Bureau of Diplomatic Security of the U.S. Department of State at (202) 663-0812 or 647-2412.

- For verification of the status of United Nations personnel, officers may call (212) 415-4131 during business hours and (212) 415-4444 at other times.

C. Personal Inviolability and Public Safety

1. In circumstances where public safety is in imminent danger or it is apparent that a serious crime may otherwise be committed, officers may intervene to the extent necessary to halt such activity.

D. Traffic Enforcement

1. Traffic stops and the issuance of traffic citations or summons does not constitute arrest or detention. Officers may issue summonses for traffic offenses without regard to the level of immunity or inviolability.
2. Individuals believed to be driving while intoxicated shall not be allowed to continue to drive. Individuals enjoying inviolability may be offered breath and chemical tests, but they are not required or compelled to submit to the tests. Officers shall ensure that the person is not a danger to himself or the public. Officers shall have the following options when resolving these incidents:
  - Take the individual to the department or a location where the individual can recover sufficiently to drive safely.
  - Call a relative, friend, or mission official to help the individual.
  - Call a taxi for the individual.
  - Take the diplomat home.

E. Property and Vehicles of Diplomatic Missions, Consular Posts and Their Personnel

1. Diplomatic and consular premises cannot be entered without the consent of the head of the diplomatic mission or by the head of the post or his designee.
2. Diplomatic and consular archives, documents, records, and correspondence are inviolable at all times and wherever they may be. In addition, 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 the other activities of an honorary consul and persons working with him.
3. The property of an individual enjoying personal inviolability, including his residence and vehicle, may not be searched, entered or seized

without the consent of the individual or the head of the mission. Residences and vehicles of consular officers are not generally inviolable. Inviolable vehicles may be towed the distance necessary to remove them from obstructing traffic or endangering public safety. Vehicle occupants may be required to present vehicle and personal identifications. If the vehicle is stolen or was used by unauthorized persons in the commission of a crime, the inviolability to which the vehicle would normally be entitled is temporarily suspended and normal search and detention of the vehicle is permissible.

F. Reporting Procedures

1. Whenever anyone with immunity is involved in an incident, investigation, crime or traffic violation, officers shall:
  - a. Immediately notify a supervisor.
  - b. Complete an incident report fully recording the details and circumstances of the incident. Proper documentation and notification is essential to permit the U.S. Department of State to take appropriate action.
2. The Supervisor shall immediately respond to the scene and shall notify the Uniform Division Commander.
3. It is the policy of the U.S. Department of State to suspend the operator's license of diplomatic personnel who are irresponsible drivers, and to take action against diplomatic personnel who violate criminal statutes. Waivers of immunity may be requested from the sending state to permit prosecution, or the individual may be expelled from the United States. This policy may only be effectively enforced if all driving related infractions and criminal investigations are fully reported to the U.S. Department of State.
4. It will be the responsibility of the Records Unit Supervisor to promptly forward a copy of all reports involving diplomatic or consular personnel to the U.S. Department of State.
  - a. All reports prepared in relation to any such incident shall be clearly marked COPY must be sent to the U.S. Department of State.

G. Arrest Policy

1. Officers do not have the authority to arrest a foreign national for entering the United States illegally. No foreign national shall be unreasonably detained. A foreign national may be held only on the authority of United States Immigration and Customs Enforcement (ICE).

2. A person with valid diplomatic immunity and inviolability cannot be detained or arrested.
  3. A foreign national without diplomatic immunity or inviolability may be arrested.
  4. Whenever an officer of the police department arrests, imprisons or otherwise detains a foreign national, that officer shall promptly inform the detainee of his right to have his government informed of the arrest or detention.
  5. If the arrested individual elects to exercise his right to have his government notified, the detaining officer shall inform the appropriate foreign consulate or embassy without delay and shall make a written record of such notification in the narrative portion of the incident report (see I below for exceptions). A list of the telephone numbers of all foreign consulates and embassies is located in booking. The Services Division Commander shall be responsible for their update.
- H. Consular officers and embassy officials shall be permitted to visit foreign nationals who are in custody or detained by the department, to converse and correspond with them and to arrange for their legal representation. Foreign consular officers and embassy officials shall not be permitted to take such actions if the person being held expressly opposes these actions.
- I. Officers should also be aware that agreements with certain countries require mandatory notification when their nationals are arrested or detained. In these cases, the foreign national has no choice regarding notification, and the officer must notify the consulate or embassy of the situation without delay. The foreign national shall be advised that his consulate or embassy have been notified. The United States has these special arrangements with the following countries:

ANTIGUA, BAHAMAS, BARBADOS, BELIZE, BRUNEI, BULGARIA, CHINA (P.R.C.), COSTA RICA, CYPRUS, CZECHOSLOVAKIA, DOMINICA, FIJI, THE GAMBIA, GHANA, GRENADA, GUYANA, HUNGARY, JAMAICA, KIRIBATI, KUWAIT, MALTA, MALAYSIA, MAURITIUS, NIGERIA, POLAND, PHILIPPINES, ROMANIA, SEYCHELLES, SIERRA LEONE, SINGAPORE, ST. CHRISTOPHER & NEVIS ST. LUCIA, ST. VINCENT & GRENADINES, TANZANIA, TONGA, TRINIDAD & TOBAGO, TUVALU, UNITED KINGDOM, ZIMBABWE

(Please contact the United Kingdom consulate or embassy when nationals of Anguilla, British Virgin Islands, Bermuda, Montserrat and Turks and Caicos are detained.)

- J. In the event an embassy or consulate cannot be contacted, or if any questions arise in connection with this procedure, officers shall immediately telephone the U.S. Department of State at (202) 647-4415 or (202) 663-0812. Written inquiries may be addressed to Office of the Assistant Legal Adviser for Consular Affairs, Department of State, Washington, D.C. 20520. The Immigration and Customs Enforcement (ICE) contact information is:

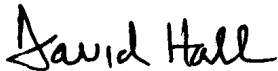
Law Enforcement Support Center (LESC)  
188 Harvest Lane  
Williston, Vermont 05495  
802-872-6050 or via the NLETS Administrative Message (AM) to **VTINS07S0**

- K. Appendix A is a faxable form to be used in making notification. Appendix B is matrix showing immunity levels for diplomatic and consular privileges and immunities from criminal jurisdiction.

#### IV. CANCELLATIONS

None

Authorized by:



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David Hall, Chief of Police

Index as:     Consulate  
                 Diplomat  
                 Foreign National  
                 Immunity

*Application: This directive constitutes department policy, and is not intended to enlarge the employer's or employee's civil or criminal liability in any way. It shall not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims insofar as the employer's or employee's legal duty as imposed by law.*



## Appendix A

Fax Sheet for Notifying Consular Officers of Arrests or Detentions**Date:** \_\_\_\_\_ **Time:** \_\_\_\_\_**To:** Embassy/Consulate of \_\_\_\_\_ in \_\_\_\_\_, \_\_\_\_\_  
(Country) (City) (State)**Fax:** (\_\_\_\_) \_\_\_\_\_ (see [http://www.travel.state.gov/law/consular/consular\\_745.html](http://www.travel.state.gov/law/consular/consular_745.html) for  
phone/fax nos.)**Subject: NOTIFICATION OF ARREST/DETENTION OF A NATIONAL OF YOUR COUNTRY****From:**

Name: \_\_\_\_\_

Office: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

**We arrested/detained the following foreign national, whom we understand to be a  
national of your country, on \_\_\_\_\_, \_\_\_\_\_.**

Mr./Mrs./Ms: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Place of Birth: \_\_\_\_\_

Passport Number: \_\_\_\_\_

Date of Passport Issuance: \_\_\_\_\_

Place of Passport Issuance: \_\_\_\_\_

**To arrange for consular access,** please call (\_\_\_\_) \_\_\_\_\_ between  
the hours of \_\_\_\_\_ and \_\_\_\_\_. Please refer to case number  
\_\_\_\_\_ when you call.**Comments/Charges (optional):**

## Appendix B

### Diplomatic and Consular Privileges and Immunities From Criminal Jurisdiction Summary of Law Enforcement Aspects

Category		May Be Arrested or Detained	Residence May Be Entered Subject to Ordinary Procedures	May Be Issued Traffic Citation	May Be Subpoenaed as Witness	May Be Prosecuted	Recognized Family Member
Diplomatic	Diplomatic Agent	No <sup>1</sup>	No	Yes	No	No	Same as sponsor (full immunity and inviolability).
	Member of Administrative and Technical Staff	No <sup>1</sup>	No	Yes	No	No	Same as sponsor (full immunity and inviolability).
	Service Staff	Yes <sup>2</sup>	Yes	Yes	Yes	No-for official acts. Otherwise yes. <sup>2</sup>	No immunity or inviolability. <sup>2</sup>
Consular	Career Consular Officers	Yes, if for a felony and pursuant to a warrant. <sup>2</sup>	Yes <sup>4</sup>	Yes	No-for official acts. Testimony may not be compelled in any case.	No-for official acts. Otherwise, yes. <sup>2</sup>	No immunity or inviolability. <sup>2</sup>
	Honorary Consular Officers	Yes	Yes	Yes	No-for official acts. Yes, in all other cases.	No-for official acts. Otherwise, yes.	No immunity or inviolability.
	Consular Employees	Yes <sup>2</sup>	Yes	Yes	No-for official acts. Yes, in all other cases.	No-for official acts. Otherwise, yes. <sup>2</sup>	No immunity or inviolability. <sup>2</sup>
International Organizations	International Organization Staff <sup>3</sup>	Yes <sup>3</sup>	Yes <sup>3</sup>	Yes	No-for official acts. Yes, in all other cases.	No-for official acts. Otherwise, yes. <sup>3</sup>	No immunity or inviolability.
	Diplomatic-Level Staff of Missions to International Organizations	No <sup>1</sup>	No	Yes	No	No	Same as sponsor (full immunity and inviolability).
	Support Staff of Missions to International Organizations	Yes	Yes	Yes	No-for official acts. Yes, in all other cases.	No-for official acts. Otherwise, yes.	No immunity or inviolability.

<sup>1</sup> Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or the prevention of serious criminal acts.

<sup>2</sup> 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.

<sup>3</sup> A small number of senior officers are entitled to be treated identically to "diplomatic agents."

<sup>4</sup> 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.