| DPS STANDARD OPERATING PROCEDURE  |                              |                 |                                  |  |  |
|---|------------------------------|-----------------|----------------------------------|--|--|
| PUBLIC  | SUBJECT: DIPLOMATIC IMMUNITY | DIVISION:       | DISTRIBUTION:                    |  |  |
| SAFET   | SOP 2007- 13                 | ALL             | ALL PERSONNEL                    |  |  |
| ISSUING AUTHORITY:  |                              | EFFECTIVE DATE: | SUPERSEDES:                      |  |  |
| CRAIG A. STONE ASSOC. V.P. & CHIEF, CAMPUS SAFETY AND EMERGENCY MANAGEMENT SERVICES |                              |                 | REVISED: CALEA TIER 2<br>UPDATES |  |  |
| (ELECTRONICALLY SIGNED)   |                              | OCTOBER 3, 2022 |                                  |  |  |

## **Diplomatic Immunity**

| INDEX   | PAGE |
|---|------|
| References, Attachments, Applicability, Purpose & Policy                    | 2    |
| Definitions   | 2    |
| General Information & Guidelines - Diplomatic Immunity                      | 3    |
| Categories of Diplomatic Personnel and Privileges                           | 3    |
| Procedures: Identification of Diplomatic & Consular Personnel               | 4    |
| Personal Inviolability and Public Safety                                    | 5    |
| Traffic Enforcement, Driving While Intoxicated                              | 5    |
| Property of Diplomatic Missions, Consular Posts and Personnel               | 6    |
| Consular Notification Procedures  | 6    |
| Duties of Patrol Sergeant, Waiver of Immunity Applications                  | 7    |
| Notification of U.S. State Department, Duties of DPS Investigations Section | 7    |
| Arrest Policy Re Foreign Nationals, or Diplomats, Contacting Consulate or   | 7    |
| Embassy   |      |
| Deaths of Foreign Diplomats and Foreign Nationals                           | 9    |
| Foreign Consulates and Embassies  | 10   |

## IACLEA STANDARDS

| Standard | Page | Standard | Page |
|----------|------|----------|------|
| 9.2.10   | 6    |          |      |

### CALEA STANDARDS

| Standard | Page | Standard | Page |
|----------|------|----------|------|
| 1.1.4    | 7-8  | 61.1.2   | 6    |

#### **REFERENCES:**

- Syracuse Police Department Rules and Regulations Volume I, Article 3 Section 12.00
- <u>U.S. State Department: Diplomatic and Consular Immunity: Guidance for Law Enforcement and Judicial Authorities</u>

#### ATTACHMENTS:

- Samples of US Diplomatic ID Cards
- **I. APPLICABILITY:** This Standard Operating Procedure is applicable to all Syracuse University Department of Public Safety (DPS) and Campus Safety and Emergency Management Services (CSEMS) employees.
- **II. PURPOSE:** The purpose of this policy is to disseminate policies and procedures to guide officers in the event that they encounter an individual who claims or warrants diplomatic immunity. Given the University's international student base it is not unlikely that an officer may encounter an individual who claims or warrants some level of diplomatic immunity.
- **III. POLICY:** It is the policy of Syracuse University 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.
  - **A.** 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 insure the efficient and effective performance of their official missions.
  - **B.** 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.
  - C. 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 receive the treatment to which they are entitled. In cases involving the arrest and detention of foreign nationals, it is the policy of the Syracuse University DPS to ensure that the guidelines established by the United States Department of State are followed.

#### IV. DEFINITIONS:

A. <u>Foreign National</u>: 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.

- B. <u>Categories of Diplomatic and Consular Immunity:</u> For police purposes, diplomatic and consular immunity is divided into three categories:
  - 1. <u>Inviolability:</u> 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 <u>emergency circumstances</u> involving self-defense, public safety, or the prevention of serious criminal acts.
  - 2. <u>Immunity from Criminal Jurisdiction</u>: The person is free from being prosecuted for a violation of criminal law.
  - 3. <u>Immunity from Civil Jurisdiction:</u> 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.

#### IV. GENERAL INFORMATION AND GUIDELINES ON DIPLOMATIC IMMUNITY

- A. 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 be granted higher levels of privileges on the basis of special bilateral agreements. Individuals who are U.S. national or permanent residents of the U.S. are generally granted reduced, or no, privileges and immunities.
  - 1. <u>Diplomatic Agent</u>: 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:
    - a. Full inviolability
    - b. Immunity from criminal jurisdiction
    - c. Immunity from civil jurisdiction
    - d. Freedom from having to give evidence as a witness
  - 2. <u>Administrative and Technical Staff:</u> This group of the non-diplomatic support staff of a diplomatic mission and members of their families, have full immunity, civil immunity for acts performed as part of their official duties and inviolability. They are not obliged to give evidence as a witness.
  - 3. <u>Service Staff:</u> This group of non-diplomatic support staff of a diplomatic mission have civil and criminal immunity <u>only for acts performed as part of their official duties.</u> They have no inviolability. <u>The family of a service staff member has no immunity or inviolability.</u>
  - 4. <u>Private Servants:</u> A person privately employed by a member of a diplomatic mission is <u>not a member of the mission</u> and does not have any immunity or inviolability.

- 5. <u>Career Consular Officers</u>: 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 have a significantly <u>lower level of privileges</u>. They may be arrested provided that the offense is a felony and the arrest is made pursuant to a warrant. Consular officers enjoy <u>civil and criminal immunity</u> from prosecution <u>only for official acts</u>. 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 have no immunity or inviolability.
- 6. <u>Consular Employees:</u> This group performs the administrative and technical services for the consular post. <u>They may be arrested or detained</u>. They are granted civil and criminal <u>immunity only for official acts</u>. They are not obliged to give evidence as a witness concerning official matters. The members of their families have no immunity or inviolability.
- 7. <u>Consular Service Staff</u>: Service staff members have <u>no immunity</u> or inviolability of any kind, but they are not obliged provide evidence as witnesses concerning official matters.
- 8. <u>Honorary Consular Officers:</u> 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 <u>individuals have civil and criminal immunity for official acts</u> 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 have no immunity or inviolability.
- 9. <u>International Organizations and Missions to them:</u> The staff of certain international organizations and missions of such international organizations are granted privileges and immunities as specified in relevant treaties or headquarters agreements. Officers should <u>be guided by U.S. Department of State identification documents</u> and, when appropriate, by contact with the Department of State.

#### V. PROCEDURES:

#### A. Identification of Diplomatic and Consular Personnel:

- 1. <u>DPS Officers confronted by a person claiming immunity</u> shall immediately request that the person present his/her official U.S. Department of State identification in order to verify the person's status and immunity.
- 2. The only authoritative identity document is the identity card issued by the U.S. Department of State, the U.S. Mission to the United Nations in the

case of persons accredited to the United Nations, and the American Institute in Taiwan for the employees of TECRO or TECO.

There are three types of identification cards: Diplomatic (blue border for diplomats), Official (green border for embassy employees and United Nations Permanent Mission support staff, and TECRO (Taipei Economic and Cultural Representative Office) employees), and Consular (red border for consular personnel and TECO employees).

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.

- 3. When proper identification is produced the individual's privileges and immunity shall be fully respected to the degree to which he/she is entitled. Whenever it is established that the individual is entitled to full inviolability he/she may not be arrested or detained and should not, except in extraordinary emergency circumstances, be handcuffed or restrained in any way.
- 4. 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.
- 5. 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/she will be detained until proper identity can be confirmed. Officers shall record all pertinent details from the identification card.
- 6. If for any reason the status cannot be readily determined locally, the following telephone contacts may be attempted:
- 7. <u>During normal business hours</u>: Office of Protocol of the U.S. Department of State at (202)-485-7703.
- 8. <u>At any other time</u>: Command Center of the Bureau of Diplomatic Security of the U.S. Department of State at (202) 647-1512.
- 9. 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.

#### B. Personal Inviolability and Public Safety: (61.1.3d)

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.

#### C. Traffic Enforcement: (61.1.2)

- Traffic stops and the issuance of traffic citations: Traffic stops and the issuance of traffic citations or summons do not constitute arrest or detention. <u>DPS officers may issue summonses for traffic offenses without regard to the level of immunity or inviolability</u>. Officers desirous of issuing such a UTT must obtain supervisory approval prior to issuing any manner of ticket or summons.
- 2. <u>Driving While Intoxicated:</u> 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 themselves or the public.
  - Officers shall have the following options when resolving these incidents:
    - i. Take the individual to DPS headquarters or a location where they can recover sufficiently to drive safely.
    - ii. Release the individual to a responsible relative, friend, or mission official.
    - iii. Call a taxi for the individual.
    - iv. Take the Diplomat home.

# D. Property and Vehicles of Diplomatic Missions, Consular Posts and Their Personnel:

- 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 their designee.
- 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 them.
- 3. The property of an individual enjoying personal inviolability, including their residence and vehicle, may not be searched, entered or seized without the consent of the individual or the head of the mission.
- 4. 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.
- 5. 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.

# E. Consular Notification Procedures Regarding Foreign Nationals: (9.2.10) (1.1.4)

- 1. Whenever anyone with diplomatic immunity, or an individual who is a foreign national, is arrested, detained or otherwise 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. Details to be included in the report include, but are not limited to:
    - All notifications to foreign consular representatives and the fact that they were allowed access to the individuals upon request.
    - ii. In those cases where notification to a foreign consular is at the discretion of the detained foreign national, list in the report that the individual was informed of the option of consular notification.
    - iii. The date and time that the individual was notified of the option of consular notification and if they requested that notification.
    - iv. All reports prepared in relation to any such incident shall be clearly marked "COPY" must be sent to the U.S. Department of State.
    - v. If a confirmation of receipt of notification is available, it should be saved, if possible.
- 2. <u>Duties of the Patrol Sergeant:</u> The Patrol Sergeant shall immediately respond to the scene and shall notify the Duty Officer who shall ensure that the Chief is also notified.
- 3. <u>Duties of DPS Investigations Section:</u> It will be the responsibility of the Investigations Section to promptly forward a copy of all reports involving diplomatic or consular personnel to the U.S. Department of State.
- 4. <u>U.S. State Department Policy:</u> 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.
- 5. <u>Waivers of Immunity</u>: Waivers of immunity may be requested from the sending state to permit prosecution, or the individual may be expelled from the United States.
- 6. <u>Notification of U.S. Department of State:</u> 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.

### F. DPS Arrest Policy for Foreign Nationals and Diplomats: (1.1.4)

- A person with valid diplomatic immunity and inviolability <u>cannot</u> be detained or arrested.
- 2. As was specified in the Traffic Enforcement section above, no law enforcement action to include arrest or the issuance of any citation will be initiated absent DPS supervisory/command approval.
- 3. A foreign national without diplomatic immunity or inviolability may be arrested.
- 4. Whenever an officer of the DPS arrests, imprisons or otherwise detains a foreign national, that officer shall promptly inform the detainee of their right to have their government informed of the arrest or detention.
  - It is the responsibility of the detaining officer to determine if consular notification is mandatory, or an option for the individual to request notification.
- 5. If the detainee elects to exercise their right to have their 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.
  - b. A list of the telephone numbers of all-foreign consulates and embassies can be found by clicking the following link here:

#### Contact Info for Foreign Embassies & Consulates

- 6. 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.
  - a. Foreign consular officers and embassy officials shall not be permitted to take such actions if the person being held expressly opposes these actions.
- 7. Officers should also be aware that agreements with <u>certain countries</u> require <u>mandatory notification</u> 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 the embassy or consulate of the situation without delays.
- 8. Countries Requiring Consular Notification: A list of countries and jurisdictions with mandatory requirements of notifications is provided by the United States Department of State Bureau of Consular Affairs and can be found by clicking the following link here:

Countries and Jurisdictions with Mandatory Notifications

The foreign national shall be advised that their consulate or embassy is required to be notified. (10/03/22)

- 9. <u>United Kingdom Citizens:</u> Contact the United Kingdom consulate or embassy when nationals of England, Scotland, Wales, Northern Ireland and Islands and the British dependencies of Anguilla, British Virgin Islands, Bermuda, Monserrat and Turks and Caicos are detained.
- In the event an embassy or consulate can not 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.

#### G. Deaths of Foreign Diplomats and Foreign Nationals

- 1. <u>Death of a Foreign Diplomat or Foreign National:</u> If any member of the department becomes aware of the death of a foreign diplomat or foreign national, they will:
  - a. Immediately notify a supervisor who will then insure that DPS Command staff is notified.
  - b. Facilitate DPS response with local law enforcement agencies, medical examiner, and the on-duty District Attorney.
  - c. Prior to completing the investigative report, will ensure that the lead agency has notified the nearest consulate of the death and will document that notification accordingly.
  - d. Complete an incident report fully recording the details of the incident.
  - e. The Supervisor will ensure that the University hierarchy is apprised of the incident in a timely manner.

#### H. Foreign Consulates and Embassies (10/03/22)

1. <u>Current on-line Contact List:</u> For the most current contact list and phone numbers for Foreign Consulates and Embassies, click on the following link:

**Contact Info for Foreign Embassies and Consulates** 

#### POLICY REVISION HISTORY

| NO | SECTION REVISED                                       | DATE ISSUED |
|----|---|-------------|
| 1  | Revised re format and Titles                          | 2/19/13     |
| 2  | Revised re IACLEA and Consular Notifications Pg. 4, 6 | 9/09/15     |
| 3  | Revised CALEA Tier 2; Contact Hyper Links Updated     | 10/03/22    |
| 4  |   |             |
| 5  |   |             |

Attachment: U.S. Diplomatic ID Card Samples on following 2 pages





This person is registered with Alf and enjoys immunity from criminal jurisdiction. The bearer is not liable to any form of arrest or detention, but may be given a notice of violation. The bearer shall be treated with due respect and all appropriate steps shall be taken to prevent any attack on the bearer's person, freedom, or dispritly

The issuance of this card is approved by the U.S. Department of State. This card is the property of ATL II found or for inquiries, please contact ATL at 703) 525-8474 (M-F. 900AM - 500PM ET). At all other times call (571) 345-3146 or toll free at (866) 217-2089.



2000146696 HE776CED23

002



This person is registered with AIT and enjoys immunity from criminal jurisdiction. The bearer is not liable to any form of arrest or detention, but may be given a notice of violation. The bearer shall be ireated with due respect.

The issuance of this card is approved by the U.S. Department of State. This card is the property of AIT. If found or for inquiries, please contact AIT at (703) 525-8474 (M-F 900AM - 5:00PM ET). At all other times call (571) 345-3146 or foll free at (866) 217-2580



2000146695 HA44332088

002 Alia

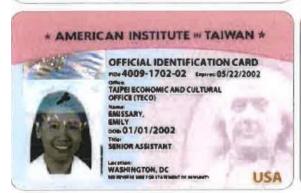


This person is registered with ATI and is immune from suit and all legal processes relating to acts performed within the scope of authorized functions for TECO. This immunity must be assetted before, and proven to appropriate judicial authorities. The bearer is not liable to pre-trial arrest or detention except on a warrant for an offense punishable by 1 year or more in prison, but may be given a notice of violation. The bearer shall be treated with due respect and all appropriate steps shall be taken to prevent any attack on the bearer's person, freedom, or dignity.

The issuance of this card is approved the U.S. Department of State. This card is the property of AIT. If found or for inquiries, please contact AIT at (703) 525-8474 (M-F 9-00AM - 5:00PM ET). At all other times call (5/1) 345-3146 or toll free at (866) 217-389.

2000146705 H9208F2997

500



This person is registered with AIT and is immune from suit and all legal processes relating to acts performed within the scope of authorized functions for TECO. This immunity must be asserted before, and proven to, the appropriate judicial authorities. The bearer is not immune from arrest or the issuance of a citation. The bearer shall be treated with due respect and all appropriate steps shall be taken to prevent any attack on the bearer's person, freedom, or dignity.

The issuance of this card is approved by the U.S. Department of State, This card is the property of AIT, if found or for inquaries, please contact AIT at (703) 525-8474 IM.F 900 AM - 5:00PM ET), At all other times call (571),345-3146 or toll free at (866) 217-2089.

2000146710 H39A62B79F

ADI