

*Maryland-National Capital Park Police  
Prince George's County Division*

## DIVISION DIRECTIVE

TITLE <b>DIPLOMATIC IMMUNITY</b>			PROCEDURE NUMBER <b>PG410.0</b>
SECTION <b>Operational Procedures</b>	DISTRIBUTION <b>A</b>	EFFECTIVE DATE <b>02/01/05</b>	REVIEW DATE <b>02/01/07</b>
REPLACES <b>PG410.0 "Diplomatic Immunity", issued 05/01/02</b>			
RELATED DIRECTIVES <b>PG304.0, 400.0, 430.0</b>	REFERENCES <b>CALEA 61</b>	AUTHORITY <b>Commander Larry M. Brownlee, Sr.- Division Chief</b>	

### I. POLICY

The Division's policy is to fully recognize and abide by the policy and procedures of the United States Department of State regarding the inviolability of a diplomatic agent's person, personal property, vehicle and premises.

### II. DEFINITIONS

#### A. Categories of persons entitled to privileges and immunities:

There are different categories of persons within each diplomatic mission, some of whom must be accorded greater protection than others. The categories of diplomatic mission personnel are defined primarily with reference to the functions they perform. **ALL CLAIMS OF DIPLOMATIC OR IMMUNITY STATUS WILL BE VERIFIED THROUGH THE DIPLOMATIC SECURITY COMMAND CENTER.**

1. Diplomatic Agent: The term assigned to Ambassadors and the other diplomatic officers who generally have the function of dealing with the host country. Diplomatic Agents have the highest degree of privileges and immunities. They enjoy complete personal inviolability, which means they **CANNOT** be arrested or detained; and their property, vehicles or residences cannot be entered or searched. Diplomatic Agents also enjoy complete immunity from criminal prosecution, no matter how serious the offense. They also have complete immunity from the obligation to

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provide evidence as witnesses and they cannot be required to give testimony, even if they are the victims of a criminal act. Family members of diplomatic agents enjoy the same privileges and immunities as the sponsoring diplomatic agent.

2. Administrative and Technical Staff: These individuals perform tasks critical to the inner workings of the embassy. Accordingly, they enjoy privileges and immunities identical to those of diplomatic agents with respect to personal inviolability, immunity from criminal jurisdiction and immunity from the obligation to provide evidence as witnesses. Members of the administrative and technical staff have immunity from civil liability only in connection with the performance of their official duties. This situation is known as “Official Acts” immunity. Family members of the administrative and technical staff enjoy the same immunities and privileges as their spouses; however, they have no immunity from civil liability.
3. Service Staff Members: These individuals perform more menial support tasks for the missions and are therefore afforded much less in the way of privileges and immunities. Service staff members have inviolability or immunity from the obligation to provide evidence as witnesses. Family members of the service staff personnel enjoy no privileges or immunities.
4. United Nations and International Organizations: A limited number of officers, their families and official staff of various international organizations are entitled to diplomatic immunity. Examples of International Organizations include the United Nations, Organization of American States, World Bank and the International Monetary Fund. Only high-ranking members of these organizations are entitled to immunity. **The immunity status for members of any of these organizations should be verified through the Department of State Diplomatic Security Command Center.**
5. Members of Consular Posts: These individuals are often erroneously considered to be identical to diplomats and their staff in regards to privileges and immunities. Most consular officers only have “Official Acts Immunity” in respect to both criminal and civil matters. **The immunity status for members of any of these consulates should also be verified through the Department of State Diplomatic Security Command Center.**

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#### **B. Official Acts Immunity:**

Official Acts Immunity is an affirmative defense to be raised before the court that has jurisdiction over the alleged crime. No law enforcement officer is expected or authorized to determine whether a given set of circumstances constitutes an official act. This is an issue that may only be resolved by the court having jurisdiction over the alleged crime.

#### **C. Bilateral Agreements:**

The previous categories and/or requirements are not applicable to some countries. These are countries with which the United States has executed bilateral agreements that grant **ALL** members of the embassy staff, the privileges and immunities normally reserved for diplomats. Police officers must be aware of this distinction, because they may confront situations where a chauffeur or mechanic from the embassy of one of these countries asserts the right to full diplomatic immunity. The United States and the following countries have executed these bilateral agreements: Philippines, South Korea, Poland, Hungary, Czech Republic and the sixteen successor states of the former Union of Soviet Socialist Republic.

### **III. IDENTIFICATION**

#### **A. These are three types of Formal Identity Documents issued by the Department of State:**

1. Diplomatic – blue border for diplomats
2. Official – green border for official employees
3. Consular – red border for consular personnel

The cards will be 3.5” X 2.5” and will contain a photograph of the bearer. The bearer’s name, title, mission, city, state, date of birth, identification number, expiration date and a United States 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.

#### **B. Automobile Registration, License Plate and Driver’s Licenses:**

The Diplomatic Motor Vehicle Office (DMVO) of the office of Foreign Missions, the United States Department of State issues license plates, driver’s licenses for diplomatic persons and vehicles.

1. The vehicle license plates issued by DMVO are coded to reflect the degree of immunity the owner or primary driver is entitled. These plate codes may give a preliminary indication of a subject’s immunity status, but it can only be verified by checking

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with the United States' Department of State Security Command Center. The codes are as follows:

- a. "D" prefix = Diplomatic Agents and/or Diplomatic Missions\*
  - b. "S" prefix = Administrative and Technical Staff
  - c. "C" prefix = Consular Officers and/or Consular Missions\*  
(\* These tags may belong to a person or the embassy/mission)
2. Vehicle registration cards are issued by DMVO to accompany diplomatic license plates. The card provides the vehicle description, the name and address of the registered owner and the license plate number assigned to the vehicle. Verification of the registered owner, vehicle or license plate can be made through standard access of NLETS.
  3. Driver's licenses are issued by DMVO to qualified foreign mission personnel and their families. DMVO issues both temporary and permanent driver's licenses. The temporary license is valid for up to ninety (90) days and the permanent license is valid for up to five (5) years from the month of issue. The permanent license expires on the last day of the expiration month.

### IV. PROCEDURES

#### A. Traffic Enforcement: Moving Violations

When a driver is stopped for a moving violation and they have proper and valid identification indicating immunity, the officer **SHOULD** issue any appropriate citation(s) or warning(s). The issuance of a traffic citation does not constitute an arrest or detention. **It must be noted that the diplomat DOES NOT have to sign the citation and CANNOT BE arrested for refusal to sign or accept the citation.** If a diplomat refuses to sign the citation, the issuing officer will write "DIPLOMAT – REFUSED TO SIGN" in the space for the defendant's signature and will give the unsigned defendant's copy to the diplomat. If the diplomat refuses to accept the citation, the officer will turn in the defendant's copy with the other copies of the citation. In all cases where a diplomat is issued a citation, a photocopy of the citation should immediately be forwarded to the DMVO. In the event a diplomat refuses to accept the citation, the defendant's copy will also be sent to the DMVO.

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#### B. Traffic Enforcement: Driving Under Influence Violations

When a driver having diplomatic immunity is stopped for driving while under the influence, the officer may offer them the standard roadside sobriety tests, including a PBT test. The person is in no way obligated to submit to the tests, but they may take the tests voluntarily. **A diplomat is not subject to a Breathalyzer test or blood tests.** If a subject entitled to immunity is involved in a fatal or serious bodily injury accident, **IMMEDIATELY** contact the Department of State Diplomatic Security Command Center for guidance. If the officer believes the subject is under the influence the officer **WILL NOT**, even in the case of diplomatic immunity, allow the individual to continue driving. The officer's primary concern in this contact is the safety of the community and of the impaired driver. The officer should assist in parking the vehicles in a safe location and depending on the circumstances, do one of the following:

1. Call a taxi
2. Transport the diplomat home
3. Contact the diplomat's embassy or consulate for assistance
4. Contact the United States State Department for assistance

The diplomat may not be arrested and the vehicle may not be impounded or searched; however, the diplomat can request a tow truck at their expense, to safeguard the vehicle and their belongings.

**In all cases, cite the offender as appropriate and fully document the DUI on an Incident Report. DR-15 requirements do not apply to subjects with immunity because there is no custodial arrest. A copy of these documents should be forwarded to the DMVO as soon as practical.**

It is the policy of the DMVO to suspend or revoke the operator's license of foreign mission personnel who are not responsible drivers. In addition, the DMVO assesses points on diplomatic licenses and suspends the license of a diplomat who accumulates eight (8) points.

#### C. Parking Violations

A citation may be issued to illegally parked diplomatic vehicles. If such a vehicle is creating a severe traffic hazard or inconvenience, the officer will attempt to notify the owner or operator to move the vehicle. If the officer cannot locate the operator, the officer will have the vehicle towed to the nearest legal parking space and issue the appropriate parking violation notice. The officer will accept the tow bill from the towing company and complete a memorandum, prior to the end of the tour of duty, via the chain of command to the Assistant Chief, Field Operations, explaining the

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necessity for towing the vehicle. The tow bill should accompany this memorandum. Whenever a diplomatic vehicle is moved, Communications should be notified and given a full description of the vehicle and its location. The Shift Supervisor or dispatcher will then immediately notify the State Department about the moved vehicle. Illegally parked vehicles **MAY NOT** be impounded.

#### **D. Traffic Accidents**

Members of the diplomatic community involved in traffic accidents may be issued a citation, when appropriate.

1. The officer will include in the report, the occupation and place of employment, including the embassy, delegation or international organization, of any person who claims diplomatic immunity.
2. A copy of the accident report will be forwarded to the DMVO.

If a subject entitled to immunity is involved in a fatal or serious bodily injury accident, **IMMEDIATELY** contact the Department of State Diplomatic Security Command Center for guidance. All traffic related reports and copies of citations are forwarded to the DMVO at the following address:

U.S. Department of State  
Office of Foreign Missions  
Diplomatic Motor Vehicle Office  
3507 International Place, NW  
Washington, D.C., 20008

#### **E. Arrests: Personal Inviolability vs. Public Safety**

In circumstances where public safety is in imminent danger or it is apparent that a crime may otherwise be committed, officers may intervene to the extent necessary to halt such activity. If an individual entitled to diplomatic immunity assaults a police officer, the officer is justified in using a reasonable amount of force to subdue the individual, just as if the individual were subject to a physical arrest. **HOWEVER, NO ARREST WILL BE MADE.**

## **V. RESPONSIBILITIES**

#### **A. Officers**

1. Officers will identify the category of immunity a person claiming immunity is entitled to through the Diplomatic Security Command Center.

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2. Officers will respect the individual's immunity to the degree that the particular individual is entitled. If it is determined that an individual is entitled to full inviolability and immunity of a diplomat, the officer will not arrest or detain the subject, beyond what is necessary for the officer and public safety.
3. Officers will be mindful that such persons entitled to immunity are official representatives of foreign governments and they are to be accorded the maximum degree of respect possible befitting the circumstances.
4. Officers will report any incident involving a person entitled to diplomatic immunity through an Incident Report, detailing the person(s) identity, level of immunity and all pertinent facts surrounding the incident.

#### **B. Operations Duty Officers/Officer In Charge (OIC)**

Will ensure that all diplomatic and consular corps members are extended the courtesy and consideration deserving their position by all officers of this Division.

1. Operations Duty Officers/OIC will ensure that officers fully document all incidents involving persons entitled to diplomatic immunity via the appropriate crime/incident report.
2. Operations Duty Officers/OIC will ensure that the appropriate U.S. Department of State office is promptly notified, via telephone, in any of the following incidents involving persons entitled to diplomatic immunity:
  - a. All traffic stops;
  - b. Serious injury or death;
  - c. Commission or victim of criminal act;
  - d. Traffic stop and/or charges for DUI;
  - e. An illegally parked diplomatic vehicle that has been moved to a legal space;
  - f. An individual claiming immunity, without satisfactory identification;
  - g. When an officer believes that invalid or false identification is being presented;
  - h. Any incident that the ODO/OIC feel notification is necessary.

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3. Operations Duty Officers/OIC will notify the Chief, Park Police Division, via the chain of command, any time an action other than a traffic stop is taken against a subject entitled to immunity.

C. Records Management Supervisor

Will forward copies of all accident reports, incident reports and citations, involving subjects entitled to immunity, to the U.S. Department of State.

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