

Oakland County Sheriff's Office
General Order # 3.7



SUBJECT: Foreign Nationals and Diplomats		NUMBER: 3.7
EFFECTIVE DATE: 3/3/2023 REVIEW DATE: Annually	MACP Standard Impact: 3.1.3 (e) and 3.6.4 (e)	
REPLACES AND RESCINDS: N/A	DISTRIBUTION: All Personnel	NUMBER OF PAGES: 4

This order replaces and rescinds all previously issued orders, procedures, rules and regulations, notices and/or practices in conflict with this General Order.

I. PURPOSE

This General Order contains procedures for processing the arrest or detainment of a foreign national with diplomatic immunity.

II. POLICY

It is the policy of the Sheriff's Office to adhere to the guidance provided by the U.S. Department of State concerning immunities for foreign nationals based on international treaty obligations. Law requires adherence to these international treaty obligations and helps protect American diplomatic officers and consular officials stationed abroad.

III. DEFINITIONS

- A. Foreign National: For the purposes of consular notification, a foreign national is any person who is not a US citizen. Lawful permanent resident aliens (or LPRs) who have resident alien registration cards (green cards) retain their foreign nationality and must be considered foreign nationals. The terms 'foreign national' and 'alien' are used interchangeably. Undocumented or illegal aliens are also included in the definition of a foreign national.
- B. Detainee: A detainee in this context is a foreign national who is arrested or placed in custody pending investigation, judicial appearance or both. Brief stops of such persons for motor vehicle violations or similar incidents are not considered detentions for purposes of this order.
- C. Consul or Consular Officer: A consular officer is a citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government's citizens in a foreign country. Consular officers are generally assigned to the consular section of a foreign government's embassy in Washington, DC, or to consular offices maintained by the foreign government in locations in the United States outside of Washington, DC.

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- D. Diplomatic Immunity: A principle of international law by which certain foreign government officials are not subject to the jurisdiction of local courts and authorities for both their official and, to a large extent, their personal activities.
- E. Inviolability: Embodied in international law that generally precludes law enforcement officials from handcuffing, arresting or detaining certain foreign diplomatic and consular officials in any form and forbids US authorities from entering the residences, automobiles or other property of protected persons. Where public safety is in imminent danger or it is apparent that a felony or crime of violence may otherwise be committed, police authorities may intervene to the extent necessary to halt such activity or defend themselves or others from personal harm.

IV. PROCEDURES

A. Identification

1. Deputies shall identify and verify the diplomatic status of the detainee in the most efficient manner possible.
2. Only an identity card issued by the US Department of State, Office of Protocol, or by the US Mission to the United Nations may be used as valid identification for diplomats and consular officials. The identification cards are color-coded according to the following: (http://travel.state.gov/law/consular/consular_746.html):
 - a. Blue border: diplomatic officers and their families
 - b. Green border: embassy administrative, technical, and service staff employees
 - c. Red border: consular officers, employees or their families
3. Foreign diplomatic passports, US diplomatic visas, tax exemption cards, vehicle registration, license plates and driver licenses should not be used to determine whether an individual enjoys immunity.
4. License plates issued by the US Department of State are designed to assist deputies in identifying vehicles that belong to persons who may enjoy some degree of immunity; however, in no circumstance should the license plate be used alone to verify the status of an individual claiming immunity. These license plates are coded to reflect the degree of immunity which the registered owner of the vehicle enjoys:
 - a. Plates with a "D" prefix or suffix are issued to diplomatic missions and those members who hold diplomatic rank.
 - b. Plates with a "C" prefix are issued to consular missions and career consular officers.
 - c. Plates with an "S" prefix are issued to the administrative and technical staff at diplomatic missions and consular employees at consular missions.
 - d. Plates with an "A" prefix or suffix are issued to official vehicles of the Secretariats of the United Nations and the Organization of American States and the personally-owned vehicles of those staff members who have diplomatic status.
5. When legal grounds permit, deputies should detain an individual who is unable to produce valid identification but claims diplomatic immunity. He or she shall be informed of the reason for detention. The US Department of State's Office of Protocol (██████████ during business hours) or Bureau of Diplomatic Security (██████████ after business hours) can confirm the proper identity. For urgent telephone matters outside

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normal business hours, contact [REDACTED].

B. Traffic Violations for Persons with Immunity (3.6.4 e)

1. Deputies shall issue traffic citations as normal to individuals with immunity.
2. Deputies shall fax a copy of the citation along with any other pertinent documentation to the US Department of State as soon as possible [REDACTED].
3. Deputies shall contact the US Department of State in serious incidents such as DWI, DUI, personal injury or accidents by telephone.
4. Deputies shall follow departmental policy in cases involving DWI but may not force the individual to comply with sobriety tests. If the deputy feels that the individual is too intoxicated to drive, any of the following measures may be taken:
 - a. Take the individual to the station or other location where he or she may recover sufficiently enough to drive.
 - b. Summon, or allow the individual to summon, a friend or relative to drive.
 - c. Summon a taxi.
 - d. Provide transportation for the individual.
5. The deputy shall follow established policy with respect to vehicle impoundment with the exception that the vehicle shall be transported to the station lot for security
6. The deputy shall not search or seize any items from the individual's vehicle.
7. If a vehicle that is owned by a foreign national is suspected of being stolen or used in a crime, the deputy shall request vehicle documentation. If it is determined that the vehicle is stolen or has been used in a crime, the vehicle may be searched and impounded.
8. The deputy shall fax a copy of the violation to the US Department of State promptly after an incident.

C. Detaining Foreign Nationals and Immunity (3.1.3 e)

1. Deputies shall request a supervisor when arresting or detaining an individual who claims to be a foreign national, consul or diplomat, regardless of the individual's immunity status.
2. If a person claims immunity when arrested or detained, the burden of proof shall be on the individual to provide proper identification. Deputies shall notify a supervisor and make all reasonable attempts to verify the individual's claim of immunity.
3. Until an individual's status of inviolability has been confirmed in situations that warrant criminal arrest, the individual shall be handcuffed and searched if he or she could reasonably pose a threat.
4. Once the individual's status of immunity has been confirmed, he or she shall be released immediately and the incident shall be fully documented in accordance with this order.

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5. Deputies shall prepare cases carefully and completely and document each incident properly so that charges may be pursued as far as possible in the US judicial system. The US Department of State will, in all incidents involving persons with immunity from criminal jurisdiction, request a waiver of immunity from the sending State if the prosecutor advises that but for such immunity he or she would prosecute or otherwise pursue the criminal charge.
 6. A copy of the incident report should be faxed or mailed to the US Department of State.
- D. Consular Notification Procedures shall be followed even if the individual enjoys diplomatic immunity.
1. If the foreign national's country is on the list of mandatory notification countries, notify that country's nearest embassy or consulate, without delay, of the arrest and detention.



ISSUED BY: Sheriff Michael J. Bouchard