

Annapolis Police Department



GENERAL ORDER

Number: C. 24

**Issue Date: February
2007**

TO: All Personnel

SUBJECT: Diplomatic Immunity

PURPOSE

The purpose of this General Order is to outline United States law, procedures applicable to diplomatic immunity and to provide guidance for special and difficult situations.

POLICY

It shall be the policy of the Annapolis Police Department to follow State Department guidelines and make prompt notifications when required to do so.

I. Guiding Principals

- A. Dealing with diplomatic immunity poses particular problems for law enforcement officers in that officers may be overly generous in applying immunity if they do not understand its purpose.
- B. Allegations of serious crime or other serious difficulties with diplomatic or consular personnel should be fully investigated and promptly reported to the State Department as set out in this policy.
- C. While officers will give every courtesy to diplomats, it is imperative that officers also perform solid investigations and keep detailed records/notes and reports. By doing so, it allows the State Department to exercise the tools at its disposal to remove from the United States persons who engage in criminal activity. The State Department may also cause driver's licenses to be revoked.

II. Immunity Issues

- A. The special privileges given to foreign mission representatives are not undertaken

arbitrarily but are a reflection of rules allowing for civilized international relations among all the nations of the world. One underlying concept is that the people sent to foreign countries have the expertise they need to carry out their official functions but may lack a full understanding of local laws and customs. The goal is to deal with offenders through diplomatic channels, not to ignore or condone the commission of a crime.

- B. While the rules of governing diplomatic immunity may seem complex. Certain guidelines will assist the officer:
1. Possession of diplomatic immunity means that the holder may not be arrested or detained, subject to a few qualifications (refer to section III). Possession of immunity does not mean officers should issue warning citations instead of Maryland State Uniform Citations.
 2. A citation may be given to any diplomat, regardless of immunity. However **the offender's signature is not required.** The State Department urges that citations not warnings be issued for traffic offenses. To run a computer check on the status of vehicle tags, registrations or other motor vehicle information have the Police Communications Operator enter "US" for the State code into the motor vehicle computer or call the State Department at 202-647-7277. Officers may also enter the "US" State code in their MDT's to access the vehicles information.
 3. All vehicles owned or operated by persons with immunity must bear two Department of State license plates (front and rear) and a valid registration card should be available. The "US" computer check will reveal whether the vehicle or plates have been reported stolen and the current status of the registration. Improper registration offenses should be cited.
 4. If the vehicle and/or tags/plates have been reported stolen or are being used by unauthorized person in the commission of a crime, then immunity to the vehicle is suspended and detention of the vehicle may be exercised.
 5. Drivers with immunity must obtain a Department of State driver's license within thirty (30) days after arrival in the United States. Drivers with immunity may drive on a home country license or an international driver's license only for the first thirty (30) days in the United States. Driver's license offenses should be cited.
 6. Sobriety tests may be offered but not demanded to any driver with immunity (refer to section III).
 7. Papers, property and vehicles of a person with full diplomatic immunity may not be searched or seized.
 8. Comprehensive, careful incident reports are invaluable to the State Department. Incidents involving persons with partial or full immunity will be

documented on an Incident Report. The Incident Reports will be faxed to the Diplomatic Security Service Protective Liaison Division at 202-895-3613. The reporting officer is responsible for ensuring that the report is written and faxed to the State Department prior to the end of the officers tour of duty.

9. Incidents involving persons with partial or full immunity will be documented on an Incident Report. A copy of this report shall be forwarded to the Office of the Chief prior to the end of the officer's tour of duty.
10. 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 the incident.

C. Identity Documents

When an officer is confronted with an individual claiming immunity the officer will:

Request identification remembering that:

- a. Tax exemption cards are not conclusive proof but only an indication that the bearer may be entitled to some degree of immunity.
 - b. Vehicle registration, license plates and driver's licenses are not conclusive proof as to immunity status.
 - c. The only conclusive and authoritative identity document is the Identity Card issued by the State Department. A statement of immunity is printed on the reverse side of the identity card. When in doubt, verify the identity card by calling 202-647-7277.
- D. When proper identification is displayed immunity will be respected. Do not detain or arrest persons with full immunity, except in the most extraordinary circumstances. Officers will record all pertinent details from the identity card as well as other relevant details. In a serious incident or where Driving While Impaired is suspected, the officer will notify the State Department by calling the twenty-four (24) hour number 202-647-7277.

III. Traffic Enforcement

- A. When a driver who is believed to have diplomatic immunity is stopped for a moving violation and has proper and valid identification indicating immunity, the officer may issue the appropriate traffic citation or warning. The issuance of a citation does not constitute an arrest or detention. A diplomat **does not have to sign the citation and cannot be arrested for refusal to sign or accept the citation.**

- B. When an officer stops a diplomat entitled to full immunity for DUI, the officer shall request that the diplomat not drive and provide assistance in the parking of the vehicle or securing another driver. If the diplomat refuses assistance then he/she is free to leave, but may not operate the vehicle. The appropriate diplomatic mission will then be notified of the incident and directed to the location of the vehicle and its contents.
- C. The official, if entitled to diplomatic immunity, shall not be compelled to take any sobriety or other mandatory test, and except in extreme cases, should not be restrained. Force must not be used except when necessary to prevent injury to the diplomat or others, and then only the absolute minimum amount of force should be applied. Sobriety tests may be offered in accordance with set procedures in order to determine the sobriety of the driver, but are not to be required.
- D. The property of a person enjoying full immunity, including his/her vehicle may not be searched or seized. Vehicles may not be impounded but may be towed the distance necessary to remove them from obstructing traffic or endangering public safety. If a diplomat's vehicle is suspected of being stolen or used in the commission of a crime, the occupants may be required to present vehicle documentation to permit police verification of the vehicle's status through a computer check. If the vehicle is verified to have been stolen or to have been used by unauthorized persons in the commission of a crime, it may be searched.
- E. To report suspected Driving While Impaired or serious traffic incidents call 202-647-7277. Officers will forward a copy of any citation issued to a member of the "diplomatic community" for a moving violation to: Diplomatic Motor Vehicle Officer, Attention Traffic Unit, 3507 International Place, NW, Washington, DC 20008, phone number 202-895-3521.
- F. The officer should always stop persons committing moving violations.

IV. Special Immunities

- A. When a person claims immunity but cannot present satisfactory identification or when an officer believes invalid identification is being presented telephone verification must be made. Refer to Appendix A.
- B. All members of the embassies of China and their families have full immunity.
- C. United Nations Officers will be governed by the Identification Card, but know that the vast majority of these employees enjoy only "Official Acts" immunity. In a very few cases, such as the Secretary General of the United Nations and his/her senior most colleagues, immunity is equal to that of ambassadors. "Official Acts" can be defined as acting in an capacity for an institution such as a government or governmental agency.

D. Persona Non Grata

A host country may strip any person of privileges and immunities allowing the person only a reasonable time to leave the county. In most cases this is done when there is a reasonable certainty that a criminal act has been committed. Only a high standard of an investigation and reporting will suffice to assist the State Department in its decision to require that the person leave the country.

Joseph S. Johnson
Chief of Police

References
1. Accreditation Standard: 1.1.4 2. Consular Notification and Access

Revision: This General Order replaces General Order E.5 Traffic Law Enforcement Section VI.