

# Foreign Diplomatic and Consular Representatives

## 422.1 PURPOSE AND SCOPE

Federal

This policy provides guidelines to ensure that members of the Indio Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

## 422.2 POLICY

Federal MODIFIED

The Indio Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them. It is the policy of this department to adhere to the guidance provided by the U.S. Department of State concerning immunities for foreign nationals based on international treaty obligations. Adherence to these international treaty obligations is required by law and also helps protect American diplomatic officers and consular officials stationed abroad.

### 422.2.1 DEFINITIONS

**Foreign National:** For the purposes of consular notification a foreign national is any person who is not a U.S. 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.

**Detainee:** A detainee in this context is a foreign national who is arrested or placed in custody pending investigation or judicial appearance, or both. Brief stops of such persons for motor vehicle violations or similar incidents are not considered detentions for purposes of this policy.

**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.

**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.

**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

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forbids U.S. 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.

#### **422.3 CLAIMS OF IMMUNITY**

Federal **MODIFIED**

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.
- (f) Only an identity card issued by the U.S. Department of State, Office of Protocol, or by the U.S. 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](http://travel.state.gov/law/consular/consular_746.html)):
  1. Blue border = diplomatic officers and their families.
  2. Green border = embassy administrative, technical, and service staff employees.
  3. Red border = consular officers, employees, or their families
- (g) License plates issued by the U.S. Department of State are coded to reflect the degree of immunity which the registered owner of the vehicle enjoys:
  1. Plates with a "D" prefix or suffix are issued to diplomatic missions and those members who hold diplomatic rank.
  2. Plates with a "C" prefix are issued to consular missions and career consular officers.
  3. Plates with a "S" prefix are issued to the administrative and technical staff at diplomatic missions and consular employees at consular missions. Plates with an "A" prefix or suffix are issued to official vehicles of the Secretariates of the United Nations and the Organization of American States and the personally

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owned vehicles of those staff members who have diplomatic status. These license plates are designed to assist officers 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.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

### **422.4 ENFORCEMENT**

#### **Federal**

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
  1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
  1. Diplomatic-level staff of missions to international organizations and recognized family members
  2. Diplomatic agents and recognized family members
  3. Members of administrative and technical staff of a diplomatic mission and recognized family members
  4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
  1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
  2. Support staff of missions to international organizations
  3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.

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4. Honorary consular officers
5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.

### 422.5 DOCUMENTATION

**Federal**

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

### 422.6 DIPLOMATIC IMMUNITY TABLE

**Federal**

Reference table on diplomatic immunity:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
<b>Diplomatic Agent</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Member of Admin and Tech Staff</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Service Staff</b>	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Career Consul Officer</b>	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
<b>Honorable Consul Officer</b>	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability

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<b>Consulate Employees</b>	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise.	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Int'l Org Staff (note (b))</b>	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability
<b>Diplomatic-Level Staff of Missions to Int'l Org</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Support Staff of Missions to Int'l Orgs</b>	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.