

BATON ROUGE POLICE DEPARTMENT

General Order
No.204

Effective Date
05-15-1996

Revised Date
08-01-2001

Subject: Diplomatic Immunity

Reviewed 9/1/16

POLICY

It is the policy of this department to conform to the provisions of all international treaties governing the immunities of diplomats and consular officials. The following procedure is limited to those situations where an arrest is made, either by summons or custodial. The issuance of traffic citations will not be affected.

Our country has entered into agreements with many other countries regarding the arrest of diplomatic and consular personnel. It is necessary that officers observe the provisions of these treaties as they are bilateral; that is, our diplomatic personnel enjoy the same immunities in the other countries. Family members of diplomatic and consular personnel shall be treated in the same manner.

DEFINITIONS

Diplomatic Agent

Head of a mission or a member of the staff of a mission having diplomatic rank.

Administrative and Technical Staff

Staff members employed by the administrative and technical service of the mission.

Consular Officer

Any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions.

Consular Employees

Any person employed in the administrative and technical staff of a consular post.

Service Staff

Any person employed in the domestic service of a consular post.

Honorary Consuls

Consular officers other than career consular of the sending state.

Resident and Nonresident Representatives of Member Nations of the U.N.

All delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

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Other U.N. Officials

Individuals within categories of officials designated by the Secretary - General as entitled to immunities.

PROCEDURES

I. Misdemeanor Offenses

- A. When an officer encounters an individual who claims or may qualify for diplomatic immunity, the officer must ascertain the name of the individual's home country and his diplomatic or consular title. The individual should have in his possession documents indicating both.
- B. Once this has been accomplished, the possibility exists that the subject may be immune from jurisdiction. If so, the subject may not be compelled to sign a citation.
- C. The officer or other officer-in-charge should cause a query to be made of the Department of State to ascertain if the subject has diplomatic immunity. The query should be made through:

**Office of Protocol
United States Department of State
Washington, D.C. 20520
Telephone (202) 647-1985
FAX (202) 647-1560**

- D. If the Department of State confirms that the individual has immunity, the officer will not compel the person to sign the citation. The officer will:
 - 1. write **"DIPLOMAT/REFUSED"** in the signature block of the citation/summons;
 - 2. give the subject his/her copy;
 - 3. report the incident as soon as possible to:

**Release Violations
Diplomatic Motor Vehicle Office
3507 International Place, NW Washington, D.C. 20008
Telephone: (202) 895-3521 / FAX:(202) 895-3646**

- E. If the subject has no immunity, the officer will proceed under normal department procedure regarding the issuance of citations and/or summonses.

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II. Serious/Arrestable Offense (DWI)

- A. When an officer encounters an individual where detention of the individual may result and the individual claims or may qualify for diplomatic immunity, the officer must first ascertain the name of the individual's home country and his diplomatic or consular title. The individual should have in his possession documents indicating both.
- B. Once this has been accomplished, the possibility exists that the subject may be immune from jurisdiction.
- C. The officer or other officer-in-charge should cause a query to be made of the Department of State to ascertain if the subject has diplomatic immunity. The query should be made as stated in Section I(C) of this order.
- D. If, in the case of DWI, the officer offers and/or performs a field sobriety test and/or preliminary breath tests, and/or the Department of State confirms that the individual has immunity, the officer should take all measures necessary to protect traffic safety. He should then cite/charge per department procedures and report the incident as soon as possible to the Diplomatic Motor Vehicle Office as stated in Section I (D(3)) of this order.

III. Felony Investigations

- A. If an officer encounters a case where an individual may be arrested as the result of the commission of a felony and the individual claims or may qualify for diplomatic immunity, the officer must first ascertain the name of the individual's home country and his diplomatic or consular title. The officer will have to initiate procedures with the Department of State to attempt to have the individual brought before the jurisdictional court.
- B. After the issuance of the warrant (immediately, before detention on probable cause), the case agent must notify the United States Department of State as listed in section I(C) of this order.
- C. The Department of State will then inform the person's diplomatic mission of the incident, request an "express waiver of immunity", and explain consequences of refusal of waiver.
- D. The person's diplomatic mission responds with either:
 - 1. Granted - the Department of State will notify the jurisdictional court, cause the accused to appear before the court, and abide by the judgment of the court; or
 - 2. Refused - the Department of State notifies the jurisdictional court and imposes proper sanctions.

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- E. If an officer is in doubt of the proper procedures regarding diplomatic immunity, questions should be addressed to the Department of State as listed in section I(C) of this order.