
	Florida State University Police Department	
FOREIGN NATIONALS		
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Policy - Foreign Nationals

Purpose. The purpose of this general order is to provide guidelines for dealing with foreign nationals who are arrested or detained and for dealing with matters of immunity. The Florida State University Police Department will abide by the guidelines set forth by the United States Department of State regarding consular notification/access and diplomatic immunity for foreign nationals.

Procedures

A. Steps to Follow When a Foreign National Is Arrested or Detained

1. Determine the foreign national's country. In the absence of other information, assume this is the country on whose passport or other travel document the foreign national travels.
2. A list of countries and jurisdictions that require consular notification upon the arrest/detention of their nationals is located in the U. S. Department of State's "Diplomatic and Consular Immunity" handbook in the shift supervisor's office.
3. If the foreign national's country is not on the mandatory notification list:
 - a. Offer to notify the foreign national's consular officials of the arrest/detention. Read the person "Statement 1" from the "Consular Notification and Access Reference Card".
 - b. If the foreign national asks that consular notification be given, notify the nearest consular officials of the foreign national's country without delay. For telephone numbers, fax numbers, and a suggested fax sheet for notifying foreign embassies and consulates in the United States, see the U. S. Department of State's "Diplomatic and Consular Immunity" handbook in the shift supervisor's office.
4. If the foreign national's country *is* on the list of mandatory notification countries:
 - a. Notify that country's nearest consular officials, of the arrest/detention. Telephone numbers, fax numbers, and a suggested fax sheet are available in the U. S. Department of State's "Diplomatic and Consular Immunity" handbook in the shift supervisor's office.
 - b. Tell the foreign national that you are making this notification by reading "Statement 2" "Consular Notification and Access Reference Card". Translations into selected languages are

found in the U. S. Department of State's "Diplomatic and Consular Immunity" handbook in the shift supervisor's office or are posted at the Leon County Jail.

5. Keep a written record of notification and actions taken.

B. Identification Cards

Identification Cards Issued by the U. S. Department of State: The only authoritative identity document is the identity card (see attachment) issued by the U. S. Department of State, Office of Protocol or by the U. S. Mission to the United Nations, in the case of persons accredited to the United Nations. The identification cards contain a photograph of the bearer. The bearer's name, title, mission, city and state, date of birth, identification number, expiration date, and a U. S. Department of State seal appear on the front of the card. A brief statement of the bearer's criminal immunity is printed on the reverse side. Space is provided for the bearer's signature. While this form of identification is generally to be relied upon, law enforcement authorities are nonetheless urged to immediately seek verification as indicated below in connection with any serious incident or in any case where they have reason to doubt the validity of the card. Officers should be alert to the fact that newly arrived members of diplomatic and consular staffs may not yet have these official identity documents and should contact the U. S. Department of State, Office of Protocol, for verification if confronted with such situations.

1. Blue Bordered Cards - Diplomatic (Blue Border for Diplomats):

- a. Issued to diplomatic officers and their families. They are entitled to full criminal immunity and may not be arrested or detained.
- b. Issued to United Nations (UN) diplomatic officers and their families. They are entitled to full criminal immunity and may not be arrested or detained.

2. Green Bordered Cards - Official (Green Border for Embassy Employees):

- a. Issued to embassy administrative and technical staff employees and their families. They are entitled to full criminal immunity and may not be arrested or detained.
- b. Issued to embassy service staff employees. This card signifies that the bearer is entitled to immunity for official acts only.

3. Red Bordered Cards - Consular (Red Border for Consular Personnel):

- a. Issued to career consular officers. This card signifies that the bearer is entitled to immunity for official acts only.
- b. Issued to consular officers/employees and their families from countries with which the United States has special agreements. They are entitled to full criminal immunity and may not be arrested or detained.
- c. Issued to honorary consular officers. This card signifies that the bearer is entitled to limited immunity for official acts only.

4. Foreign Diplomatic Passports and U. S. "Diplomatic" Visas: Not Conclusive:

- a. Foreign diplomatic passports containing U. S. "A" or "G" visas are issued to a broad range of persons, including those who are not accredited to the United States or to international organizations and who, therefore, enjoy no privileges and immunities in the United States. This situation is often not fully understood, even by the bearers of such documents, so officers must be alert to good faith, but erroneous assertions of immunity by those not entitled to it.
- b. All foreign personnel assigned to official duty at bilateral diplomatic or consular missions in the United States would have category "A" visas.
- c. Category "G" visas are issued to foreigners assigned to duty at an international organization in the United States or at a foreign country's mission to such organization

The possession of these documents is an indication that the bearer *might* be entitled to privileges and immunities in the United States. As mentioned above, temporary duty visitors to the UN might only have such documents and might nonetheless be entitled to immunity in the United States. A similar situation could arise in connection with the foreign officer who has just joined a diplomatic mission or consular post and has not yet received the appropriate U. S. identity documents. In cases of doubt, officers should always contact the Department of State for advice.

5. Tax Exemption Cards: Not Conclusive.

- a. Under international law, many members of diplomatic missions and consular posts and certain people associated with international organizations would normally be entitled to exemption from sales taxation in the United States. However, significant numbers of these individuals do not enjoy this privilege owing to considerations based on reciprocity.
- b. The U. S. Department of State issues tax exemption cards to all those entitled to such exemptions, but tax cards do not give definitive indication of the degree of immunity of the bearer. Accordingly, tax exemption cards should not be relied upon for immunity purposes and should be considered only as an indication that the bearer might enjoy some degree of immunity.
- c. Tax exemption cards have a powder blue background; the strip at the bottom can be blue, yellow, red, green, or red/green; lettering is dark blue, black, and red; there are holograms of the U. S. Department of State seal and the wording "U. S. Department of State" covering the front of the card.

6. Automobile Registration, License Plates, Driver Licenses: Not Conclusive.

The U. S. Department of State, through its Office of Foreign Missions' Diplomatic Motor Vehicle Office, has jurisdiction over the registration of vehicles, the issuance of distinctive license plates for those vehicles, and the issuance of operators permits for individuals who enjoy privileges and immunities in the United States. As in the case with tax exemption cards, these Federal registration documents and driver licenses do not definitively reflect the degree of privileges and immunities of the bearer. They should be relied upon only as an indication that the bearer might enjoy some degree of immunity. Agencies may access these records using the standard National Law Enforcement Telecommunications System (NLETS) registration and driver query formats. NLETS has assigned state code (destination ORI) "US" to this database. If an agency requires additional motor vehicle information, it can be obtained telephonically or by sending an Administrative Message (AM) to "DCDOS015V".

- a. Vehicle license plates issued by the Department of State are coded to reflect the degree of immunity that 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.
 - 4) 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) A vehicle registration card is issued at the time of initial registration and registration renewal. It contains the following information: name and address of the registered owner, license plate number, vehicle identification number, vehicle make, vehicle model, vehicle color, date of initial registration, and expiration date of the current registration. Decals with the month and year reflecting the expiration date of the current registration period are issued with the card and must be displayed on the vehicle's rear license plate.
 - 6) U. S. Department of State Non-Driver ID and Drivers Licenses have a powder blue background; lettering is dark blue, black, and red; there are holograms of the U. S. Department of State seal and the wording "U. S. Department of State" covering the front of the card.

b. Telephonic Information/Verification

- a. In all cases, including those in which the individual provides a U. S. Department of State-issued identification card, the law enforcement officer should verify the immunity status with the U. S. Department of State.
- b. Department of State representatives are available 24-hours daily to assist in emergency situations and when immediate confirmation of a person's status is required. Telephone numbers are provided in Attachment B, "List of Useful Telephone Numbers," of this general order.

C. Other Required Notifications

If the relevant information is available to the competent authorities of the receiving state, such authorities have the duty:

1. In the case of the death of a foreign national of the sending state, to inform without delay the consular post in whose district the death occurred;
2. To inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving state concerning such appointments; and
3. If a vessel having the nationality of the sending State is wrecked or runs aground in the territorial sea or internal waters of the receiving state, or if an aircraft registered in the

sending state suffers an accident on the territory of the receiving state, to inform without delay the consular post nearest to the scene of the occurrence.

D. Handling Incidents

1. U. S. Department of State Policy.

a. It is the policy of the U. S. Department of State with respect to alleged criminal violations by persons with immunity from criminal jurisdiction to encourage law enforcement authorities to pursue investigations vigorously, to prepare cases carefully and completely, and to document properly each incident so that charges may be pursued as far as possible in the U. S. judicial system.

b. The U. S. Department of State will, in all incidents involving persons with immunity from criminal jurisdiction, request a waiver of that 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.

(1) If the charge is a felony or any crime of violence, and the sending state does not waive immunity, the U. S. Department of State will require that person to depart the United States and not return unless it is to submit to the jurisdiction of the court with subject matter jurisdiction over the offense.

(2) Upon departure, the Department will request that law enforcement issue a warrant for the person's arrest so that the name will be entered in NCIC.

E. General Procedures

The vast majority of persons entitled to privileges and immunities in the United States are judicious in their actions and keenly aware of the significance attached to their actions as representatives of their sending State. On occasion, however, one of them may become involved in criminal misconduct. Whatever law enforcement officers make contact with official representatives of foreign governments will be treated with as much respect possible under the circumstances

1. When a law enforcement officer is called to the scene of a criminal incident involving a person who claims diplomatic or consular immunity, the first step should be to verify the status of the suspect.

a. Should the person be unable to produce satisfactory identification and the situation is one that would normally warrant arrest or detention, the officer should inform the individual that he or she will be detained until his or her identity can be confirmed.

b. In all cases, including those in which the suspect provides a State Department-issued identification card, the law enforcement officer should verify the status with the U. S. Department of State or in the case of the U. N. community, with the U. S. Mission to the United Nations.

c. Once the status is verified, the officer should prepare his or her report, fully, describing the details and circumstances of the incident in accordance with normal police procedures. If

- the suspect enjoys personal inviolability, he or she may not be handcuffed, except when that individual poses an immediate threat to safety, and may not be arrested or detained.
- d. Once all pertinent information is obtained, that person must be released.
 - e. A copy of the incident report should be faxed or mailed to the U. S. Department of State in Washington, D. C., or to the U. S. Mission to the U. N. in New York in cases involving the U. N. community, as soon as possible. Detailed documentation of incidents is essential to enable the U. S. Department of State to carry out its policies.

F. Traffic Enforcement

Stopping a mission member or dependent and issuing a traffic citation for a moving violation does not constitute arrest or detention and is permitted. However, the subject may not be compelled to sign the citation.

1. In all cases officers should fully document the facts of the case. A copy of the citation and any other documentation regarding the incident should be forwarded to the U. S. Department of State as soon as possible.
 - a. For "must appear" offenses, the Department of State uses the citation and any report as the basis for requesting "express waiver of immunity."
 - b. Individuals cited for pre-payable offenses are given the option of paying the fine or obtaining a waiver in order to contest the charge.
2. In serious cases [e. g., Driving Under the Influence (DUI), personal injury, accidents] telephonic notification to the U. S. Department of State is urged.
3. The officer should follow Department guidelines with respect to the conduct of field sobriety exercises. If appropriate, standardized field sobriety exercises should be offered and the results fully documented. These exercises may **not** be compelled.
4. If the officer judges the individual too impaired to drive safely, the officer should not permit the individual to continue to drive (even in the case of diplomatic agents). Depending on the circumstances, there are several options:
 - a. The officer may, with the individual's permission, take the individual to the police station or other location where he or she may recover sufficiently to drive.
 - b. The officer may summon, or allow the individual to summon, someone to drive.
 - c. The officer may call a taxi for the individual. If appropriate, the officer may choose to provide the individual with transportation.
5. The property of a person enjoying full criminal immunity, including his or her vehicle, may not be searched or seized.
 - a. Such vehicles may not be impounded or "booted," but may be towed the distance necessary to remove them from obstructing traffic or endangering public safety. If a vehicle that is owned by a diplomat is suspected of being stolen or used in the commission of a crime, occupants of the vehicle may be required to present vehicle documentation to permit police verification of the vehicle's status through NLETS.

- b. Should the vehicle prove to have been stolen or to have been used by unauthorized persons in the commission of a crime, the inviolability to which the vehicle would normally be entitled must be considered temporarily suspended, and normal search of the vehicle and, if appropriate, its detention, are permissible.
- c. Vehicles registered to consular officials (including those with full criminal immunity) and consulates are not inviolable and may be towed, impounded, or booted in accordance with local procedures. The U. S. Department of State should be notified if a consular vehicle has been detained or impounded so that its Office of Foreign Missions can follow up with the proper consular official or mission.
- d. Federal License plates issued by the U. S. Department of State are not the property of the diplomat or of a diplomatic mission and remain the property of the Department of State at all times. As such, they must be surrendered to the U. S. Department of State when recalled. Similarly, these license plates may not be transferred from the vehicle to which they were assigned by the U. S. Department of State without the authorization of its Office of Foreign Missions.
- e. In cases where the officer at the scene has determined that the vehicle is being operated without insurance and/or has verified with the U. S. Department of State that the vehicle bearing U. S. Department of State license plates is not the vehicle for which those plates were intended, the Department of State may request that the local law enforcement agency impound the plates and return them to the Department of State. Such impoundment should only be upon the request of the U. S. Department of State. Subsequent detention of the vehicle must conform to the guidelines above.

F. Nationals, Dual Nationals, Or Permanent Residents of The United States

1. Dual Nationals

- a. A person who is a national/citizen of two or more countries, other than the United States, should be treated in accordance with the rules applicable to each of those countries
- b. A person who is a citizen of the United States and another country may be treated exclusively as a U. S. citizen when in the United States. Consular notification is not required if the detainee is a U. S. citizen. This is true even if the detainee's other country of citizenship is a mandatory notification country.

- 2. **Nationals or Permanent Residents of the United States:** Consular employees and consular service staff who are U. S. nationals, legal permanent residents, or who permanently reside in the United States, enjoy no personal inviolability or jurisdictional immunity in the United States.

Glossary.

Consul - The terms "consular officer" and "consul" mean the same thing, for purposes of the issues discussed in this general order.

Consular Officer - 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, D. C., or to consular offices maintained by the foreign government in locations in the United States outside of Washington, D. C.

Foreign National - For the purposes of consular notification, a foreign national is any person who is not a U. S. citizen.

Inviolability - Security from violation. Safe from trespass or assault.

Receiving State - The country to which the foreign national is sent to represent that foreign country.

Sending State - The country of which the foreign national is a representative.

Indexing. This general order shall be indexed as:


Consul
Consular Officer
Department of State
Diplomat
Diplomatic Immunity
Foreign National
Foreign Nationals, Traffic Enforcement
Traffic Enforcement, Foreign Nationals

Attachments.

Suggested Statements to Arrested or Detained Foreign Nationals
U. S. State Department I.D. Cards
List of Useful Department of State Telephone Numbers

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