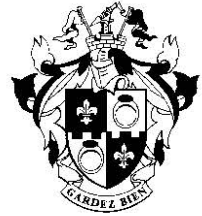




**OFFICE OF THE COUNTY SHERIFF**  
Montgomery County, Maryland  
*Raymond M. Kight, Sheriff*



**GENERAL OPERATIONAL PROCEDURES**

<u><b>Subject:</b></u>	<u><b>Number:</b></u>	<u><b>Effective Date:</b></u>
<b>Diplomatic Immunity</b>	<b>3.38</b>	<b>08/18/00</b>

Policy : It is the policy of the Sheriff's Office to conform to federal law regulating diplomatic immunity. Allegations of serious criminal offenses or other serious difficulties with diplomatic or consular personnel must be documented and promptly reported to the United States Department of State. The Department of State may remove individuals from the United States who are engaging in criminal activity or revoke the driving privileges of individuals who repeatedly violate the traffic code.

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**I. Definitions**

- A. Diplomatic Mission: Encompasses both the chancery where embassy work is performed and the residence of the head of the mission.
- B. Diplomatic Immunity: Full or limited criminal immunity which the personnel of a foreign diplomatic mission and, in varying degrees, their family members enjoy because they serve as representatives of a sovereign state and require special rights and guarantees for the effective functioning of the mission.
- C. Full Criminal Immunity: Full criminal immunity is granted to diplomatic agents, administrative and technical staff, diplomatic staff of missions and their families. Full criminal immunity means more than immunity from prosecution. It means that the residence, vehicles, papers, and correspondence of the individual with this immunity classification cannot be searched, the individual cannot be detained or arrested and is not required to give evidence as a witness.

- D. Limited Criminal Immunity: Individuals with limited criminal immunity can be detained, arrested, and prosecuted for criminal acts. These individuals can be required to give evidence as a witness, and, in accordance with local law, their persons and effects can be searched. If prosecuted, some individuals may raise "official acts" immunity as an affirmative defense. The court must determine whether or not the individual was acting in an official capacity at the time of the offense.
- E. Serious Incident: Any incident where a deputy would normally effect a custodial arrest if the individual did not have diplomatic immunity.

## II. Individuals with Immunity by Job Title

- A. Diplomatic Agents – Full Immunity
  - 1. Ambassador
  - 2. Charge d'affaires
- B. Diplomatic Level Staff of Missions to International Organizations – Full Immunity
  - 1. Members of the Delegation of the Commission of the European Communities.
  - 2. Permanent Representatives and Senior Staff to Missions to the Organization of American States and the United Nations.
  - 3. Senior Officials of the United Nations Secretariat.
- C. Administrative and Technical Staff – Full Immunity
  - 1. Administrative Officers/Assistants.
  - 2. Security Officers.
  - 3. Purchasing Agents.
  - 4. Budget and Fiscal Technicians.
  - 5. Archivists.
  - 6. Cryptographers.
  - 7. Receptionist/Secretaries.
  - 8. Stenographers/Typist.
  - 9. Clerks.
  - 10. Couriers/Messengers.
  - 11. Guards.
- D. Families of Diplomatic Agents, Staff of Missions, Administrative and Technical Staff – Full Immunity
  - 1. Spouses.
  - 2. Dependant children until age 21, or age 23 if a full-time student at an institution of higher learning.

- E. Service Staff – Immunity only for acts in the course of duties. The court must determine if the acts were in the course of duties.
  - 1. Chauffeurs.
  - 2. Drivers.
  - 3. Servant in missions.
  - 4. Employees performing domestic duties in missions.
- F. Families of Service Staff – No Immunity
- G. Private Servants and their Families – No Immunity
- H. Members of Consular Posts: Consular officers and their personnel must not be considered identical to embassies. Members of consulates have a significantly lower amount of privilege and immunity, reflecting the fact that consular officers are concerned with issuing travel documents, etc., and not with communication between countries. Consular officers have only "official acts" immunity in both criminal and civil matters. They may be arrested for felonies, with a warrant, but have immunity from providing evidence as witnesses where a case involves their official duties. Deputies are not expected to determine whether a given set of circumstances constitutes an "official act." Thus, a person enjoying "official acts" immunity may be prosecuted if the alleged criminal act is believed outside the scope of "official duties." The court must determine whether the alleged crime was part of an "official act." Family members of consular officers enjoy no immunity.
- I. Special Bilateral Agreements: **There are some foreign countries where the categories set forth above are not applicable.** These are countries with which the United States has bilateral agreements that grant significantly higher privileges and immunities to all members of their embassy staffs who are nationals of the sending countries and to certain of their consular personnel and family members. In some cases, these privileges and immunities approximate those accorded diplomatic agents. Deputies should be aware of this distinction because they may have to confront situations where a chauffeur or mechanic from the embassy of one of these countries asserts a right to full diplomatic privileges and immunities.

### III. Claims of Diplomatic Immunity

- A. There are three types of identification cards issued by the Department of State:
  - 1. Diplomatic (blue border for diplomats).
  - 2. Official (green border).
  - 3. Consular (red border).

The identification cards are 3 3/4" x 2 1/2" and contain a photograph of the bearer. The bearer's name, title, mission, city and state, date of birth, identification number, expiration date, and a Department of State seal appears on the front of the card. A brief statement of the bearer's immunity is printed on the reverse side with the bearer's signature. A manual issued by the Department of State, entitled "Diplomatic and Consular, Guidance for Law Enforcement and Judicial Authorities" containing examples of the various identification cards is maintained in the Criminal Section of the Sheriff's Office.

Tax exemption cards, auto registration, license plates, and driver's licenses are not conclusive proof of diplomatic immunity and should be considered only as an indication that the bearer may enjoy some degree of immunity.

- B. In situations when an individual claims diplomatic immunity of any kind, whether or not the individual displays credentials, deputies must immediately verify the individual's immunity status. Verification must be made through the Diplomatic Security Watch Officer, Department of State, which operates 24 hours a day. Deputies must either contact the Department of State directly or request through the Emergency Communications Center, that the Sheriff's Office contact the Department of State to verify the individual's status. Deputies should be alert to the fact that newly arrived individuals may not yet have official identity documents.
- C. If the situation would normally warrant arrest or detention, deputies are permitted to detain the person until proper identity can be confirmed. Deputies must inform the individual of the reason for the detention. When proper identification is shown and status is verified, the immunity must be fully respected. When there is full immunity as a diplomatic agent, the person may not be arrested and should not, except in the most extraordinary circumstances, be detained in any way. **(1.2.5)**
- D. When public safety is in imminent danger or it is apparent that a serious crime may be committed, deputies must intervene to the extent necessary to halt the activity.

#### **IV. Reporting of Serious Incidents**

- A. All serious incidents involving persons entitled to diplomatic immunity must be documented. The senior-ranking deputy involved in the incident must complete and submit an Incident Report (MCSO #9) prior to the end of their tour of duty describing the facts and circumstances of the incident and all pertinent information from the diplomat's identification card.
- B. The senior-ranking deputy involved in the incident must report the incident by telephone, as soon as possible, to the Diplomatic Security Watch Officer, Department of State.

- C. The Division Captain must fax a copy of the Incident Report, with a cover letter under the captain's signature, to the Diplomatic Security Service, Protective Liaison Division, Department of State. The captain must attach a copy of the letter and fax receipt to the original Incident Report.


**V. Traffic Violations Involving Diplomats**

Traffic violations involving diplomats must handled in accordance with General Operational Procedure 3.10, Traffic Enforcement.

**VI. CALEA Standards**

**1.2.5**

AUTHORITY:

  
Raymond M. Kight, Sheriff  
08/18/00

### Diplomatic and Consular Privileges and Immunities from Criminal Jurisdiction Summary of Law Enforcement Aspects (United States Department of State)

Category	May Be Arrested or Detained	Residence May Be Entered Subject to Ordinary Procedures	May Be Issued Traffic Citation	May Be Subpoenaed as Witness	May Be Prosecuted	Recognized Family Members
<b>DIPLOMATIC</b>						
Diplomatic Agent	No (1)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin. or Tech. Staff	No (1)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (2)	Yes	Yes	Yes	No for official acts. Otherwise, Yes (2)	No immunity or inviolability (2)
<b>CONSULAR</b>						
Career Consular Officers	Yes, if for a felony and pursuant to a warrant (2)	Yes (4)	Yes	No	No for official acts. Otherwise, Yes (2)	No immunity or inviolability (2)
Honorary Consular Officers	Yes	Yes	Yes	No for official acts. Yes, in all other cases	No for official acts. Otherwise, Yes	No immunity or inviolability
Consular Employees	Yes (2)	Yes	Yes	No for official acts. Yes, in all other cases	No for official acts. Otherwise, Yes (2)	No immunity or inviolability (2)
<b>INTERNATIONAL ORGANIZATIONS</b>						
International Organization Staff (3)	Yes (3)	Yes (3)	Yes	No for official acts. Yes, in all other cases	No for official acts. Otherwise, Yes (3)	No immunity or inviolability
Diplomatic-Level Staff of Missions to International Organizations	No (1)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Support Staff of Missions to International Organizations	Yes	Yes	Yes	No for official acts. Yes, in all other cases	No for official acts. Otherwise, Yes	No immunity or inviolability

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

**FOR INFORMATION ON DIPLOMATIC AND CONSULAR PERSONNEL  
AND PERSONNEL OF INTERNATIONAL ORGANIZATIONS OTHER  
THAN THE UNITED NATIONS**

***During Normal Business Hours (0800 – 1700 EST)***

Current status of U.S. Department of State ***Drivers*** licenses, (202) 895-3521  
***diplomatic license plates***, registrations, or other ***diplomatic***  
motor vehicle information: FAX (202) 895-3646

For reporting traffic incidents or accidents, issuance of citations, (202) 895-3521  
etc., involving foreign mission personnel:

***Send all citations and/or reports to:*** FAX (202) 895-3646

***To verify immunity status:*** (202) 274-1217

***Please Send Copies of Criminal Incident Reports and Citations to:***

***The Office of the Chief of Protocol*** FAX (202) 647-1198

***Diplomatic Security Service Protective Liaison Div*** FAX (202) 895-3613

***After Normal Business Hours***

Information is available from the ***Operations Center*** of the U.S. (202) 647-1512  
State Departments (operates 24 hours daily)