

12.556 DIPLOMATIC IMMUNITY

References:

Standards Manual – 1.2.4, 1.2.5, 61.1.3

Information:

There are three types of identification cards:

- Diplomatic (blue border for diplomats)
- Official (green border for employees)
- Consular (red border for consular personnel)

Cards are 3³/₄" x 2¹/₂" and contain a photo 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 appears on the front of the card. A brief statement of the bearer's immunity is printed on the reverse side.

Definitions:

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.

Diplomatic Agents - a term embracing heads of missions, ambassadors, and charge d'affaires, and members of their diplomatic staff.

Administrative and Technical Staff - this category includes secretaries, clerical personnel, office managers, and certain professional security personnel. These persons also enjoy a high level of privilege, but somewhat less than diplomatic agents.

Service Staff - these persons are drivers, cleaners, and building/grounds personnel. They have much less in the way of immunity.

Consular Officers - are not to be confused with diplomatic agents and do not enjoy the privileges and immunities.

Special Bilateral Agreements - there are some foreign countries in respect of which the categories set above are not applicable. These are countries with which the United States has bilateral agreements which grant significantly higher privileges and immunities to **all** members of their embassy staffs and sometimes their family members.

Purpose:

To comply with federal laws regulating diplomatic immunity through the delivery of fair and impartial police services.

Establish Department procedure for dealing with diplomatic immunity. It is understood that dealing with diplomatic immunity poses particular problems for law enforcement officers in applying immunity if they do not understand it's purposes or rules.

Policy:

It is imperative that officers perform good investigations, keep good records, and report whatever appropriate, to the State Department. This allows the State Department to exercise the tools it has to remove individuals from the U.S. who are engaged in criminal activity or to revoke the driving privileges from individuals who repeatedly violate the traffic code.

Procedure:

A. Claims of Diplomatic Immunity:

1. When proper I.D. is shown and status is verified, officers will fully respect the immunity.
2. If a person claims immunity and cannot show proper I.D. during an incident that would normally require arrest or detention, or an officer believes invalid I.D. is being presented, inform the person that he/she will be held in custody until proper identity can be confirmed.
 - a. Contact the Command Center of the Bureau of Diplomatic Security, Department of State, at (202)-647-7277, 24 hrs./day.

B. Full Criminal Immunity:

1. Full criminal immunity is more than immunity from prosecution. It means that the residence, vehicles, papers, and correspondence of an individual with this immunity classification cannot be searched, the person cannot be detained or arrested, and is not required to give evidence as a witness.
2. The following individuals are entitled full criminal immunity:
 - a. Diplomatic agents
 - 1) Head of mission (Ambassador or Charge d'affaires)
 - b. Diplomatic Staff of Mission

- 1) Members of the Delegation of the Commission of the European Communities
 - 2) Permanent Representatives and Senior Staff of Missions to Organization of American States and United Nations
 - 3) Senior Officials of the United Nations Secretariat
- c. Administrative and Technical Staff
- 1) Administrative Officers/Assistants
 - 2) Security Officers
 - 3) Purchasing Agents
 - 4) Budget and Fiscal Technicians
 - 5) Archivists
 - 6) Cryptographers
 - 7) Receptionists/Secretaries
 - 8) Stenographers/Typists
 - 9) Clerks
 - 10) Couriers/Messengers
 - 11) Guards
- d. Families of Diplomatic Agents, Staff of Mission, Administrative and Technical Staff
- 1) Spouses
 - 2) Dependent children until age 21 or age 23 if full time student at an institution of higher learning.

C. Limited Criminal Immunity:

1. Service staff members have limited criminal immunity. They can be detained, arrested, and prosecuted for criminal acts. Service staff can be required to give evidence as witnesses and their persons and effects can be searched.
2. The following individuals are entitled limited criminal immunity:
 - a. Service staff members have limited immunity only for acts in the course of their duties. (Court decides if acts are in the course of duties)
 - 1) Chauffeurs
 - 2) Drivers
 - 3) Servants in missions
 - 4) Employees performing domestic duties in missions
 - b. Families of service staff do not have immunity.

D. Traffic Violations & Driving Under the Influence:

1. Officers may issue drivers having diplomatic immunity an appropriate citation or warning for **any** moving violation.
 - a. The issuance of a traffic citation does not constitute an arrest or detention.
 - b. Diplomats are **not** required to sign the citation and cannot be arrested for refusal to sign.
 - c. Officers will notify their supervisor of the issuance of a citation(s) and the refusal to sign.
 - d. A supervisor's presence at the scene is not required.
2. If an officer has probable cause to believe a person with full immunity is driving under the influence (DUI) he/she will:
 - a. Not allow the person to continue operating the vehicle.
 - b. Issue traffic citation(s) for DUI and other related traffic offenses. A physical arrest cannot be made.

- c. Provide assistance in parking the vehicle. Do not tow the vehicle.
- d. Offer field performance tests and Blood Alcohol Concentration (BAC) tests. Diplomats are not required to take tests.
- e. Notify supervisor.

E. Criminal Incidents:

- 1. Where public safety is in imminent danger or it's apparent that a serious crime has been committed, an officer(s) may intervene to the extent necessary to halt the activity.
- 2. Immediately notify a supervisor.
- 3. Record all pertinent details and circumstances of the incident and information from the I.D. card(s).

F. Supervisors will:

- 1. Respond to scene of incidents of immunity which would have resulted in an arrest for a person without immunity.
- 2. Report serious incidents by telephone as soon as possible to the Command Center of the Bureau of Diplomatic Security, Department of State, at (202)-647-7277, 24 hrs./day.
- 3. Fax a copy of related paperwork and information regarding all criminal incidents and traffic citations to Intelligence Section.