

# TEXARKANA POLICE DEPARTMENT

## GENERAL ORDERS MANUAL

<b>SUBJECT</b>	<b>Diplomatic and Consular Related Immunity</b>		
<b>NUMBER</b>	1102.07	<b>EFFECTIVE DATE</b>	May 3, 2011
<b>Scheduled Review Date</b>	November 06, 2021	<b>ISSUE DATE</b>	May 3, 2011
<b>Date Reviewed</b>	November 06, 2019	<b>REVISION DATE</b>	
<b>APPROVED BY</b>		(Reserved for Expansion)	

### I. Purpose and Scope

- A. The purpose of this policy is to institute a series of rules and guidelines that serve to define the Texarkana Police Department's requirements whenever a commissioned officer encounters a foreign diplomat or consular official in an official enforcement capacity.

### II. Policy

- A. It shall remain the policy of the Texarkana Police Department to operate within and recognize the special privileges and immunities accorded foreign diplomatic and consular representatives assigned to the United States of America which have been developed among the nations of the world regarding the manner in which civilized international relations must be conducted.
- B. All members of the Texarkana Police Department shall recognize and adhere to the guidelines set forth within this policy.

### III. Definitions

- A. **Diplomatic Immunity**—A principal of international law by which certain foreign government officials are not subject to the jurisdiction of local courts and other authorities for both their official and—to a large extent—their personal activities.
- B. **Diplomatic Missions**—The principle communication link between the country that sends the official and the United States of America. The staffs of diplomatic missions—commonly referred to as embassies—are afforded the highest level of privileges and immunities within the United States of America.
- C. **Diplomatic Agents**—Ambassadors and other diplomatic officials who maintain the function of dealing directly with officials within the United States government. These agents are entitled to the highest degree of privileges and immunities.
- D. **Consular Officers**—Those members of consular posts who are recognized by both the sending country and the United States of America as fully authorized to perform the broad array of consular functions. These officers are only entitled to functional immunity with respect to both criminal and civil matters.
- E. **Members of Administrative and Technical Staff (Diplomatic Missions)**—Official members of the diplomatic mission that include those persons who support the activities of the diplomatic agents.

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These personnel include secretaries, clerical personnel, office managers and professional security personnel.

- F. **Members of the Service Staff (Diplomatic Missions)**—Official members of the diplomatic mission who perform tasks such as driving, cleaning or grounds maintenance.

#### IV. Privileges and Immunities

##### A. Diplomatic Agents

1. Diplomatic Agents enjoy the highest degree of privileges and immunities. They enjoy complete personal inviolability, which means that they may not be handcuffed (except in extraordinary circumstances), arrested or detained.
2. All property—including vehicles and residences—may not be entered into or searched. Unless their immunity is waived by the sending country, Diplomatic Agents are entitled to complete immunity from the criminal jurisdiction of all courts within the United State of America and thus cannot be prosecuted no matter how serious the offense.
3. Diplomatic Agents are entitled to complete immunity from the obligation to provide evidence as witnesses and shall not be required to offer any testimony.
4. Unless the family member has become a national or a permanent citizen of the United States of America, all family members forming part of the Diplomatic Agent’s household are entitled to the same privileges and immunities accorded to the sponsoring Diplomatic Agent.

##### B. Members of Administrative and Technical Staff—Diplomatic Missions

1. Members of the administrative and technical staff of a diplomatic mission perform tasks critical to the inner workings of the embassy. Accordingly, they enjoy privileges and immunities identical to those of diplomatic agents in respect of personal inviolability, immunity from criminal jurisdiction and immunity from the obligation to provide evidence as witnesses.
2. Unless the family member has become a national or a permanent citizen of the United States of America, the recognized family members of administrative and technical staff are entitled to the same privileges and immunities accorded to their sponsor.
3. Members of the administrative and technical staff of a diplomatic mission who become a national or a permanent citizen of the United States of America forfeit all of their immunities.

##### C. Members of Service Staff—Diplomatic Missions

1. Members of the service staff of diplomatic missions perform less critical support tasks for the missions and are accorded much less in the way of privileges and immunities and are not entitled to any immunity associated with personal inviolability and the obligation to provide evidence as witnesses. The families of service staff members enjoy no privileges or immunities.

##### D. Consular Officers

1. Consular officers are entitled to official acts or functional immunity with respect to criminal matters, and their personal inviolability is extremely limited. Consular officers may be arrested or detained pending trial only if the offense is a felony and only if the arrest is made pursuant to a warrant issued by competent judicial authority.

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2. They can be prosecuted for misdemeanors, but they are entitled to remain at liberty pending trial or other disposition of charges. Absent a bilateral agreement, the family members of consular officers enjoy no personal inviolability and no jurisdictional immunity of any kind.
3. Determination of Official Acts
  - a. Official acts immunity manifests in numerous circumstances. All official acts on the part of any consular official entitles that official with immunity regarding criminal matters and personal inviolability. Members of the Texarkana Police Department shall not attempt to determine whether a given set of circumstances constitutes and official act. This issue may only be resolved by the court having jurisdiction over the alleged crime.
4. All members associated with all consular functions who become a national or a permanent citizen of the United States of America forfeit all of their immunities.

**E. Consular Employees**

1. Consular employees perform the administrative and technical support services for the consular post. They have no personal inviolability, only official acts immunity, and enjoy immunity from the obligation to provide evidence as witnesses only in respect of official acts. Their family members enjoy no personal inviolability or jurisdictional immunities of any kind.

**F. Consular Service Staff**

1. A Consular service staff member does not enjoy personal inviolability or jurisdictional immunity of any kind, but they do have immunity from the obligation to provide evidence as witnesses in respect of official acts. Their family members enjoy no personal inviolability or jurisdictional immunity of any kind.

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**V. Diplomatic and Consular Privileges and Immunities from Criminal Jurisdiction (Chart)**

 <b>DIPLOMATIC AND CONSULAR PRIVILEGES &amp; IMMUNITIES FROM CRIMINAL JURISDICTION</b> <b>LAW ENFORCEMENT ASPECTS SUMMARY</b>							
	Category	Arrested or Detained?	Enter Residence Subject to Ordinary Procedures?	Issued Traffic Citation?	Subpoenaed as Witness?	Prosecuted?	Recognized Family Member?
International Organizations	International Organization Staff <sup>1</sup>	Yes	Yes	Yes	No—for official acts. Yes, in all other cases.	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.
	Diplomatic-Level Staff of Missions to International Organizations	No <sup>1</sup>	No	Yes	No	No	Same as sponsor (full immunity and inviolability).
	Support Staff of Missions to International Organizations	Yes	Yes	Yes	No—for official acts. Yes, in all other cases.	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.
Diplomatic	Diplomatic Agent	No <sup>1</sup>	No	Yes	No	No	Same as sponsor (full immunity and inviolability).
	Member of Administrative and Technical Staff	No <sup>1</sup>	No	Yes	No	No	Same as sponsor (full immunity and inviolability).
	Service Staff <sup>2</sup>	Yes	Yes	Yes	Yes	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.
Consular	Career Consular Officers <sup>3</sup>	No, except in the case of a felony and pursuant to a warrant.	Yes <sup>4</sup>	Yes	No—for official acts. Testimony may not be compelled in any case.	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.
	Honorary Consular Officers	Yes	Yes	Yes	No—for official acts. Yes, in all other cases.	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.
	Consular Employees <sup>2</sup>	Yes	Yes	Yes	No—for official acts. Yes, in all other cases.	Official acts immunity. Consult Dept. of State.	No immunity or inviolability.

<sup>1</sup> Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or the prevention of serious criminal acts.  
<sup>2</sup> 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.  
<sup>3</sup> A small number of senior officers are entitled to be treated identically to "diplomatic agents."  
<sup>4</sup> 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.

Direct questions or inquiries to the Diplomatic Security Command Center. Call <b>571-345-3146</b> or Toll free to <b>1-866-217-2089</b> Available 24 hours daily	<b>CONSULAR NOTIFICATION</b> Assistance with consular notification procedures following the arrest or detention of a foreign national. Business hours: 202-647-4415 After hours: 202-647-1512 Fax Number: 202-647-7559	<b>IMMUNITY ISSUES</b> Contact the Office of Protocol: Diplomatic Affairs <b>202-647-1727</b>	DEPARTMENT OF STATE BUREAU OF DIPLOMATIC SECURITY Publication 11153 Revised August 2009
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**VI. Identification Cards, Automobile Registration and License Plates (Issued by the U.S. Department of State)**

- A. The only authoritative identity document is the identity card issued by the U.S. Department of State's Office of Protocol, and for those persons accredited to the United Nations, by the U.S. Mission to the United Nations.
- B. There are three types of identification cards utilized to identify those persons affiliated through the U.S. Department of State and the United Nations:
  - 1. Diplomatic—Identification card with blue border for all diplomats;
  - 2. Official—Identification card with green border for embassy employees; and
  - 3. Consular—Identification card with red border for consular personnel.
- C. All of these identification cards are 3¾" x 2½" 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 U.S. Department of State seal appear on the front of the card.
- D. 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 whenever the cardholder becomes involved in any serious incident or in any case where they have reason to doubt

the validity of the card. Police 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's Office of Protocol for verification if confronted with such situations.

1. All questions regarding an individual's status or immunity should be referred during work hours to the Office of Protocol, (202) 647-1985. All questions after work hours should be referred to the Bureau of Diplomatic Security, (202) 647-7277.

### E. Identification Cards

1. BLUE bordered cards are issued to diplomatic officers and their family members. They are entitled to full criminal immunity and may not be arrested or detained. BLUE bordered cards are also issued to United Nations diplomatic officers and their family members. They are also entitled to full criminal immunity and may not be arrested or detained.



2. GREEN bordered cards are issued to embassy administrative and technical staff employees and their family members. This card signifies the bearer is entitled to full criminal immunity and may not be arrested or detained. GREEN bordered cards are also issued to embassy service staff employees. This card signifies the embassy service staff employee is entitled to immunity for official acts only.



3. RED bordered cards are issued to career consular officials and their employees. This card signifies the bearer is entitled to immunity for official acts only.
  - a. RED bordered cards are also issued to consular officers, employees and their families from those countries with which the United States of America has special agreements. These personnel are entitled to full criminal immunity and may not be arrested or detained.



## F. Automobile Registration and License Plates

1. 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 operator permits for individuals who enjoy privileges and immunities in the United States. They should be relied upon only as an indication that the bearer may enjoy some degree of immunity. The plates are coded to reflect the degree of immunity which the registered owner of the vehicle enjoys:
  - a. Plates with a “D” prefix or suffix are issued to diplomatic missions and those members who hold diplomatic rank;
  - b. Plates with a “C” prefix are issued to consular missions and career consular officers;
  - c. Plates with a “S” prefix are issued to the administrative and technical staff at diplomatic missions and consular employees at consular missions; and
  - d. 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.
2. Examples of U.S. Department of State license plates:
  - a. The following license plates denote a Diplomatic Missions affiliation:



b. The following license plates denote a United Nations affiliation:



**VII. Enforcement Guidelines**

- A. During those instances in which an officer of the Texarkana Police Department encounters a criminal incident involving a person who claims diplomatic or consular immunity, the officer will immediately begin the process of verifying the suspect’s status. Should the person be unable to produce satisfactory identification—and if the circumstances would normally warrant the suspect’s arrest or detention—the officer should inform the individual that he/ she will be detained until his or her identity can be confirmed.
  - 1. In all cases—including those in which the suspect provides a U.S. Department of State issued identification card—the officer will verify the status with the U.S. Department of State or, in the case of the United Nations community, with the U.S. Mission to the United Nations.
- B. Once the suspect’s status has verified, the officer will complete an offense report that fully documents the details and circumstances of the incident in accordance with Department protocol.
  - 1. Unless the suspect poses an immediate threat to the safety of the officer or others, if the suspect is entitled to personal inviolability, he/she shall not be handcuffed, arrested or detained. After the officer has completed gathering all of the required information needed for a comprehensive report, the suspect must be released without further delay.
  - 2. The officer’s supervisor will ensure an email documenting the incident is forwarded to the Uniform Patrol Division Commander. The Uniform Patrol Division Commander will be responsible to ensure a copy of the incident report is forwarded to the U.S. Department of State in Washington, D.C., or to the U.S. Mission to the United Nations in New York if the suspect is affiliated with the United Nations community.

**C. Traffic Enforcement Guidelines**

- 1. Officers of the Texarkana Police Department may stop a mission or diplomatic member or their dependent(s) for a violation of the traffic laws of the State of Arkansas and issue a traffic citation for a moving violation, as issuing such a citation does not constitute arrest or detention and is permitted.
  - a. When issuing a citation under these circumstances, officers of the Department shall not compel the mission or diplomatic member to endorse the citation. The act of compelling such an endorsement would violate the person’s entitlement to personal inviolability.
- 2. In any such incident, officers will complete an incident report that fully documents the details and circumstances of the incident in accordance with Department protocol. The officer’s supervisor will ensure an email documenting the incident is forwarded to the Uniform Patrol Division Commander. The Uniform Patrol Division Commander will be responsible to ensure a copy of

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the incident report is forwarded to the U.S. Department of State in Washington, D.C., or to the U.S. Mission to the United Nations in New York if the suspect is affiliated with the United Nations community.

3. During incidents involving violations of the State's DWI / DUI laws or traffic crashes—especially those involving personal injury—the shift supervisor is responsible to immediately notify the U.S. Department of State by telephone. If appropriate, the investigating officer may offer standardized field sobriety testing to the suspect; however, officers of the Texarkana Police Department shall not compel any mission or diplomatic member to submit to these tests. Officers shall not compel such persons to submit to any chemical test.
4. If the suspect is too impaired to operate their vehicle safely, the officer should make the necessary arrangements to secure transportation from the scene of the encounter. Officers are not mandated to allow such persons—to include diplomatic agents—to operate their vehicles while impaired.
  - a. In any such incident, officers will complete an incident report that fully documents the details and circumstances of the incident in accordance with Department protocol. The officer's supervisor will ensure an email documenting the incident is forwarded to the Uniform Patrol Division Commander.
  - b. The Uniform Patrol Division Commander will be responsible to ensure a copy of the incident report is forwarded to the U.S. Department of State in Washington, D.C., or to the U.S. Mission to the United Nations in New York if the suspect is affiliated with the United Nations community.
5. **Searching and/or Impounding Mission or Diplomatic Member Vehicles**
  - a. The property of a person enjoying full criminal immunity, including his or her vehicle, may not be searched or seized. Vehicles falling within this category shall not be impounded, removed or towed by any officer of the Department; however, such vehicles may be towed the distance necessary to remove them from obstructing traffic or endangering public safety.
  - b. If a vehicle that is owned by a diplomat is suspected of being stolen or used in the commission of a crime, officers of the Texarkana Police Department are authorized to require the occupants of the vehicle to present vehicle documentation that serves to verify the vehicle's status through standard access to NLETS.
  - c. 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 shall be considered temporarily suspended. When deemed appropriate, the normal search of the vehicle and its detention are both permissible.
  - d. Vehicles registered to consular officials—including those with full criminal immunity—and their affiliated consulates are not inviolable and may be towed, removed or impounded in accordance with local procedures.
    - (1) In any such incident, officers will complete an incident report that fully documents the details and circumstances of the incident in accordance with Department protocol. The officer's supervisor will ensure an email documenting the incident is forwarded to the Uniform Patrol Division Commander.
    - (2) The Uniform Patrol Division Commander will be responsible to ensure a copy of the incident report is forwarded to the U.S. Department of State in Washington, D.C., or to the U.S. Mission to the United Nations in New York if the suspect is affiliated with the United Nations community.

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## Useful Telephone Numbers

FOR INFORMATION ON DIPLOMATIC AND CONSULAR PERSONNEL AND PERSONNEL OF INTERNATIONAL ORGANIZATIONS OTHER THAN THE UNITED NATIONS	
DURING BUSINESS HOURS (8 A.M. – 5 P.M. EST)	
Current status of U.S. Department of State drivers licenses, diplomatic license plates, registrations, or other diplomatic motor vehicle information:	(202) 895-3521 Fax: (202) 895-3646
For reporting traffic incidents or accidents, issuance of citations, etc., involving foreign missions personnel:	(202) 895-3521
Send all citations and/or reports to:	Fax: (202) 895-3646
To verify immunity status:	(202) 647-1985 or (202) 647-1727
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 Division	Fax: (202) 895-3613
AFTER BUSINESS HOURS	
All after business hours inquiries should be made to the U.S. Department of State Diplomatic Security Command Center (operates 24-hours daily):	(571) 345-3146 or toll free 1-866-217-2089

TO VERIFY THE IMMUNITY STATUS OF UNITED NATIONS PERSONNEL	
DURING BUSINESS HOURS (8 A.M. – 5 P.M. EST)	
Diplomatic agents and family members, UN Mission staff and family members, or UN Secretariat employees	(212) 415-4168 or (212) 415-4407 or (212) 415-4131
U.S. Department of State license tags, registration, or other motor vehicle information:	(646) 282-2825 or (646) 282-2812
AFTER BUSINESS HOURS	
Information is available from the Communications Section of the U.S. Mission to the United Nations (USUN - operates 24-hours daily)	(212) 415-4444