
Diplomatic and Consular Contacts

422.1 PURPOSE AND SCOPE

The Vienna Convention on Consular Relations sets forth certain rights of foreign nationals from member countries when they are arrested, detained or imprisoned by law enforcement officials in this country. This policy provides direction to officers when considering a physical arrest or detention of a foreign national. All foreign service personnel shall be treated with respect and courtesy, regardless of the level of established immunity. As noted herein, the United States is a party to several bilateral agreements that obligate authorities to notify the consulate upon the person's detention, regardless of whether the detained person requests that his/her consulate be notified. The list of specific countries that the United States is obligated to notify can be found on the U.S. Department of State (DOS) [website](#).

422.1.1 DEFINITIONS

Definitions related to this policy include:

Foreign National - Is anyone who is not a citizen of the United States. A person with dual U.S. and foreign citizenship is not a foreign national.

Immunity - Refers to various protections and privileges extended to the employees of foreign governments who are present in the U.S. as official representatives of their home governments. These privileges are embodied in international law and are intended to ensure the efficient and effective performance of their official missions (i.e., embassies and consulates) in foreign countries. Proper respect for the immunity to which an individual is entitled is necessary to ensure that U.S. diplomatic relations are not jeopardized and to maintain reciprocal treatment of U.S. personnel abroad.

Although immunity may preclude U.S. courts from exercising jurisdiction, it is not intended to excuse unlawful activity. It is the policy of the DOS Office of Foreign Missions (OFM) that illegal acts by foreign service personnel should always be pursued through proper channels. The host country's right to protect its citizens supersedes immunity privileges. Peace officers may intervene to the extent necessary to prevent the endangerment of public safety or the commission of a serious crime, regardless of immunity claims.

422.2 ARREST OR DETENTION OF FOREIGN NATIONALS

Officers should take appropriate enforcement action for all violations observed, regardless of claims of diplomatic or consular immunity by violators. A person shall not, however, be subjected to in-custody arrest when diplomatic or consular immunity is claimed by the individual or suspected by the officer, and the officer has verified or reasonably suspects that the claim of immunity is valid.

422.3 LEVELS OF IMMUNITY

The specific degree of immunity afforded to foreign service personnel within the U.S. is directly related to their function and position in this country.

422.3.1 DIPLOMATIC AGENTS

Diplomatic agents (e.g., ambassadors and United Nations representatives) are afforded the highest levels of immunity. They are exempt from arrest or detention and are immune from

Peoria Police Department

Policy Manual

Diplomatic and Consular Contacts

all criminal (and most civil) prosecution by the host state. Their property or residences may not be searched, even with a warrant. The family members of diplomatic agents enjoy these same immunities.

422.3.2 CONSULAR OFFICERS

Consular officers are the ranking members of consular posts, who perform various formal functions on behalf of their own governments. Typical titles include consul general, consul and vice consul. These officials are immune from arrest or detention, except pursuant to a felony warrant. They are only immune from criminal and civil prosecution arising from official acts. Official acts immunity must be raised as an affirmative defense in the court jurisdiction, and its validity determined by the court. Under this defense, the prohibited act itself must have been performed as an official function. It is not sufficient that the consular agent was on-duty or in an official capacity at the time of the violation. The family members of consular officers generally enjoy no immunity. However, any family member who has a higher level of immunity is issued an identification card by DOS enumerating any privileges or immunities on the back of the card. Examples are consular officers and family members from Russia or China.

There are currently two permanent consulates in Arizona: the Canadian Consulate General and the Consulate of Mexico.

422.3.3 HONORARY CONSULS

Honorary consuls are part-time employees of the country they represent and are either permanent residents of the U.S. or U.S. nationals (unlike career consular officers, who are foreign nationals on temporary assignment to the U.S.). Honorary consuls may be arrested and detained, however, limited immunity for official acts may be available as a subsequent defense. Family members have no immunity.

Honorary consuls include Austria, Belgium, Bolivia, Costa Rica, Croatia, Czech Republic, Denmark, Ecuador, France, Finland, Germany, Guatemala, Great Britain, Honduras, Iceland, Japan, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Romania, Spain, Sweden, Switzerland and Tanzania.

422.4 IDENTIFICATION

Persons protected by diplomatic immunity will have an identification card provided by the U.S. Department of State that contains a photograph of the person, the person's name, title, mission, City and state, date of birth, identification number, expiration date and State Department Seal. It may also contain a statement regarding the application of immunity to the person. If the officer is uncertain as to the validity of the identification or the application of immunity to the person detained, a supervisor should be contacted immediately. Agents of the FBI or the State Department may be contacted to assist in verifying consular status as well as the existence and scope of a person's immunity.

422.4.1 VEHICLE REGISTRATION

Vehicles that are owned by foreign missions or foreign service personnel and their dependents are registered with DOS OFM, and display distinctive red, white and blue license plates. Vehicles assigned to diplomatic or consular officers will generally have license plates labels with the words diplomat or consul. Vehicles owned by honorary consuls are not issued OFM license plates but may have Arizona license plates with an honorary consul label. A driver's identity or immunity status should not be presumed from the type of license plates displayed on the vehicle. The status of an OFM license

Peoria Police Department

Policy Manual

Diplomatic and Consular Contacts

plate should be run via the National Law Enforcement Telecommunications System (NLETS), designating U.S. as the state, if the officer has reason to question the legitimate possession of the license plate.

422.5 TRAFFIC COLLISIONS

Persons involved in traffic collisions who possess a Department of State OFM Diplomatic Driver's License, issued by the DMVO, shall have D coded in the license class box of the Traffic Collision Report. The actual driver license class (e.g., 1, 2, 3, or A, B, C, M), along with the claimant's title, country and type of identification presented, should be recorded in the narrative portion of the report. Issuance of a citation to, or arrest of, an immunity claimant at the accident scene should be handled in accordance with the procedures specified in Policy Manual § 422.5.

422.5.1 VEHICLES

Vehicles which are owned by subjects with full immunity may not be searched, stored or impounded without the owner's permission. Such permission may be assumed if the vehicle has been stolen. These vehicles may, however, be towed the necessary distance to remove them from obstructing traffic or creating any other hazard.