



ROCKFORD POLICE DEPARTMENT

GENERAL ORDER

NUMBER: 1.12

TITLE: Diplomatic Immunity and Detainment of Foreign Nationals

SERIES NUMBER: 1

SERIES TITLE / SUBJECT: Law Enforcement Role, Responsibility and Relationship

TOPICS/ REFERENCE: Consular, Foreign National, Immunity

APPENDICIES: None

ORIGINAL EFFECTIVE / ISSUE DATE: December 12, 2006

DATE OF LAST REVISION: May 01, 2013

THIS ORDER REMAINS IN EFFECT UNTIL REVISED OR RESCINDED

CALEA STANDARDS: 1.1.4 - 61.1.3

Policy:

It is the policy of the Rockford Police Department to observe the covenants, treaties, agreements and laws enacted by the United States Government for the protection of members of the diplomatic corps and foreign nationals that visit and/or reside in the United States.

Purpose:

The purpose of this General Order is to establish Department policy, procedures and guidelines for dealing with individuals who have been granted diplomatic status by the Department of State and to ensure those persons considered foreign nationals are accorded all rights granted by the United States of America, either by treaty or legislation.

These guidelines are not meant to be all-inclusive, since each incident must be dealt with on an individual basis, but are intended as broad guidelines to assist the employees and supervisors involved.

This General Order is comprised of the following numbered sections.

- I. DEFINITIONS
- II. DIPLOMATIC IMMUNITY OF FOREIGN OFFICIALS/DIPLOMATIC AGENTS
- III. ARREST AND DETENTION OF FOREIGN NATIONALS
- IV. EFFECTIVE DATE
- V. REVIEWS, REVISIONS AND CANCELLATIONS

Appendices:

- A. Mandatory Notification Countries and Jurisdictions

I. Definitions:

- A. Administrative and/or Technical Staff: Includes individuals who support the activities of Foreign Officials/Diplomatic Agents and may include secretaries, certain clerical personnel, office manager and certain professional security personnel. These individuals and recognized family members enjoy privileges and immunities identical to those of Foreign Officials/Diplomatic Agents. These individuals are issued identification cards and driver's licenses by the Department of State.
- 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. Family members: Includes a spouse, parent, brother or sister, child, or person to whom the foreign official/diplomatic agent stands in loco-parentis, or any other person living in the household and related to the foreign official by blood or marriage.
- D. Foreign National: Any person who is not a United States citizen. Interchangeable with "alien".
- E. Foreign Official/Diplomatic Agent: An officer of cabinet rank or above of a foreign government or the chief executive officer of an international organization, and any member of their family while in the United States.
- F. Official Guest: A citizen or national of a foreign country present in the United States as an official guest of the Government pursuant to a designation by the Secretary of State.
- G. Service Staff: Persons performing less critical support tasks (drivers, cleaners, building or grounds personnel) and are afforded much less in the way of immunity.

II. Diplomatic Immunity of Foreign Officials/Diplomatic Agents:

- A. Any officer having official contact with a foreign dignitary claiming diplomatic immunity is empowered to temporarily detain such person while official status is verified by the United States Department of State.
- B. Persons making such a claim must possess an identity card (not diplomatic passports) issued by the U.S. Department of State, Office of Protocol or by the United States Mission to the United Nations.
- C. There are three types of cards: Diplomatic – has a blue border, Official – has a green border, and Consular – has a red border. These cards contain a photograph of the bearer, the bearer's name, title, mission, city and state, date of birth, identification number, expiration date and an U.S. Department of State seal. A brief statement of the bearer's immunity is printed on the reverse side.
- D. It should be emphasized that even at its highest level, diplomatic immunity does not exempt diplomatic officers from the obligation of conforming to national and local laws and regulations. Police officers are obliged, under international customary and treaty law, to recognize immunity of the envoy; the commission of crimes must not be ignored or condoned.

- E. In circumstances where public safety is in imminent danger or it is apparent that a serious crime may be committed, police authorities may intervene to the extent necessary to halt such activity. This includes the power of the police to defend themselves from personal harm.
 - F. In all cases, including those in which a subject provides a U.S. Department of State issued identification card, officers 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. Once verification is made, all pertinent information gathered and a supervisor has been consulted, the person must be released. This applies to both criminal and traffic incidents the subject is involved in.
 - G. Any such incident will be documented by a written report detailing the incident as you would with any other criminal investigation.
 - H. It will be the responsibility of the Commander of the Investigative Services Bureau to forward all incident reports to either the U.S. Department of State in Washington D.C., or to the U.S. Mission to the United Nations in New York.
- III. Arrest and Detention of Foreign Nationals:
- A. Whenever a foreign national is arrested or detained, there may be an obligation to notify diplomatic or consular representatives from the person's government. This applies to those persons not covered by diplomatic immunity as described in section II of this order.
 - B. Whenever a foreign national is arrested or detained, they must be informed of the right to have their government notified. If notification is requested, this must be done without delay to the nearest consulate or embassy.
 - C. When an arrested or detained foreign national declines to have their government notified, officers will check the list of countries shown in Appendix A to see if the suspects country is a mandatory notification country. If they are a citizen of such a country, notification to the nearest consulate or embassy is mandatory regardless of the suspect's wishes. The suspect will be informed of the notification. (Note: If an officer investigates the death of a foreign national the obligation to notify consular or embassy officials is also mandated.)
 - D. In all situations described in above paragraphs A, B and C, the arresting or investigating officer will notify the Shift Commander who will make the notification to the proper consulate or embassy.
 - E. Foreign consular officers have the right to visit their nationals, to speak with and correspond with them, and to arrange for their legal representation.
 - F. Any such incident will be documented by a written case report that will include the following information in the narrative: date, time, location, phone number, name of the consulate/representative notified and the Department representative making the notification. If the suspect is from an other than mandatory notification country, and they decline to have their government notified, that information must also be included in the report.
 - G. To assist with situations involving diplomatic immunity or the arrest/detainment of a foreign national, a book containing telephone numbers and fax numbers of

foreign consulates and embassies in the United States will be maintained in the Shift Commander's office.

IV. Effective Date:

- A. The Department's policy on Diplomatic Immunity and Detainment of Foreign Nationals became effective on December 12, 2006.

V. Reviews, Revisions and Cancellations

- A. This General Order will be reviewed each annually the Accreditation Section and, when necessary, revised or cancelled in accordance with the procedures for reviewing written directives established in General Order *10.01 – Written Directives*.
- B. Any employee with suggestions for revisions and/or improvements to this order are encouraged to submit their ideas to the Commander of the Administrative Services Bureau.

BY ORDER OF

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Chet Epperson
Chief of Police

APPENDIX A

Mandatory Notification Countries and Jurisdictions

Algeria	Malaysia
Antigua and Barbuda	Malta
Armenia	Mauritius
Azerbaijan	Moldova
Bahamas, The	Mongolia
Barbados	Nigeria
Belarus	Philippines
Belize	Poland (non-permanent residents only)
Brunei	Romania
Bulgaria	Russia
China ¹	Saint Kitts and Nevis
Costa Rica	Saint Lucia
Cyprus	Saint Vincent and the Grenadines
Czech Republic	Seychelles
Dominica	Sierra Leone
Fiji	Singapore
Gambia, The	Slovakia
Georgia	Tajikistan
Ghana	Tanzania
Grenada	Tonga
Guyana	Tunisia
Hong Kong ²	Turkmenistan
Hungary	Tuvalu
Jamaica	Ukraine
Kazakhstan	United Kingdom ³
Kiribati	U.S.S.R. ⁴
Kuwait	Uzbekistan
Kyrgyzstan	Zambia
	Zimbabwe

¹ Notification is not mandatory in the case of persons who carry “Republic of China” passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office (“TECRO”), the unofficial entity representing Taiwan’s interests in the United States, can be notified at their request.

² Hong Kong reverted to Chinese sovereignty on July 1, 1997, and is now officially referred to as the Hong Kong Special Administrative Region, or “SAR”. Under paragraph 3(f)(2) of the March 25, 1997, U.S.-China Agreement on the Maintenance of the U.S. Consulate General in the Hong Kong Special Administrative Region, U.S. officials are required to notify Chinese officials of the arrest or detention of the bearers of Hong Kong passports in the same manner as is required for bearers of Chinese passports - *i.e.*, immediately, and in any event within four days of the arrest or detention.

³ British dependencies also covered by this agreement are Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands. Their residents carry British passports.

⁴ Although the U.S.S.R. no longer exists, some nationals of its successor states may still be traveling on its passports. Mandatory notification should be given to consular officers for all nationals of such states, including those traveling on old U.S.S.R. passports. The successor states are listed separately above.