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|  | <b>SECTION:</b>   | <b>OPERATIONS</b>                       | <b>OPR-218</b> |
|   | <b>CHAPTER:</b>   | <b>ARREST – SEARCH AND SEIZURE</b>      |                |
|   | <b>DIRECTIVE:</b> | <b>DIPLOMATIC AND CONSULAR IMMUNITY</b> |                |
|   |                   |   |                |

**218.01 SUMMARY**

This directive describes Department policy and procedures for handling incidents involving diplomatic and consular officials. The directive also covers policy and procedures for incidents involving official guests.

Under Federal and International laws, diplomats and their families and certain consular officials enjoy immunity from arrest, except under certain circumstances. Further, diplomats and their families have immunity from prosecution.

Department policy is to treat diplomatic and consular officials and official guests with the utmost courtesy and respect, befitting their distinguished position. As a principle of International law, persons who enjoy the privilege of immunity correspondingly respect local laws and regulations.

**218.02 DEFINITIONS**

**DIPLOMAT** – Head of a mission (or “embassy”) of a foreign government to the United States or to the United Nations. A diplomatic official is a member of the diplomatic, administrative, and technical staff of a mission.

**DIPLOMATIC OFFICIAL** – For the purposes of this directive only, a person with diplomatic immunity.

**CONSULAR OFFICIAL** – An official member, or consul, of a foreign government’s consulate. Foreign governments often establish consular offices, or consulates, in U.S. cities to provide services to their nationals located in the U.S. or to provide commercial, tourist, or other services to U.S. citizens. For the purposes of this directive only, a person with consular immunity.

**OFFICIAL GUEST** – The U.S. Secretary of State may designate as an Official Guest a foreign national who is in the United States.

**POUCH** – A diplomatic or consular pouch is a container, of any size or type, used to transport official communications. It must be clearly marked as a diplomatic or consular pouch.

### 218.03 DIPLOMATIC IMMUNITY

**PROTECTED PERSONS** – In addition to the diplomat and the diplomat’s family members, the diplomatic, administrative, and technical staff of the mission, and members of their family households are entitled to diplomatic immunity.

**PERSONS NOT PROTECTED** – Usually, diplomatic immunity does not extend to U.S. citizens who are embassy employees.

A person entitled to diplomatic immunity cannot be arrested or prosecuted.

**IMMUNITY PROTECTION** – A person entitled to diplomatic immunity cannot be arrested or tried for any criminal offense unless the respective foreign government expressly waives immunity. Usually, this protection only lasts as long as the official is accredited to the United States.

**TREATMENT OF PERSONS WITH DIPLOMATIC IMMUNITY**– Federal and international law requires that persons with diplomatic immunity be treated with “due respect” and that “appropriate steps shall be taken to prevent any attack on his person, freedom, or dignity.”

### 218.04 CONSULAR IMMUNITY

**PROTECTED PERSONS** – Only the following career consular officials are entitled to immunity:

- Consul-generals
- Deputy consul-generals
- Consuls
- Vice-Consuls
- Consular agents who are official representatives of a foreign government accredited to the United States.

**PERSONS NOT PROTECTED** – The family members of Consular Officials are not entitled to immunity, but the Officer should treat them with appropriate courtesy and respect. Report incidents involving family members of Consular Officials through channels. Honorary consuls, usually citizens of the foreign government residing in the U.S. or U.S. citizens, have no consular immunity, except when performing official acts within the scope of their consular duties.

**IMMUNITY PROTECTION** – A Consular Official cannot be arrested or detained pending trial except in the case of a felony offense when the arrest warrant is issued by a judge. The official is subject to criminal prosecution, except for any act performed within the scope of consular duties.

**218.05 VERIFICATION OF IMMUNITY STATUS**

**STATE DEPARTMENT IDENTIFICATION CARD** – The U.S. State Department issues identification cards to Diplomatic Officials, Consular Officials, and Officials of international organizations. On the reverse side of the cards, the immunity to which the official is entitled and telephone numbers that may be used to further verify immunity status, are listed.

**NO IDENTIFICATION CARD** – If an official asserting immunity does not have the identification card and cannot produce satisfactory evidence of immunity status, or the Officer wants to confirm status, contact the U.S. State Department:

- **During Business hours (eastern time)**  
Diplomat & family members: (202) 647-4510  
Other Diplomatic Officials & family members: (202) 647-1405  
Consular Officials & family members (202) 647-1404  
Officials of international organizations: (202) 647-1402.
- **During Non-business hours**  
All inquiries: (202) 647-7277.

**DRIVER'S LICENSES** – The U.S. State Department issues motor vehicle operator permits (driver's licenses) to persons entitled to diplomatic and consular immunity, however the Officer should not rely on this license as conclusive proof of immunity status.

**DIPLOMATIC AND CONSULAR PLATES** – The U.S. State Department also issues motor vehicle licenses for vehicles operated by persons entitled to diplomatic or consular immunity. These plates are red, white, and blue, with tags beginning with the letter "D" for diplomatic vehicle, "S" for diplomatic staff vehicle, "C" for consular vehicle. The Officer should not rely on this plate as conclusive proof of the driver's immunity status.

**218.06 GENERAL PROCEDURES**

These procedures apply to all incidents that involve a person who asserts diplomatic or consular immunity.

**SUPERVISOR NOTIFICATION** – Notify your immediate Supervisor whenever a person asserts immunity from arrest.

**SUPERVISOR RESPONSIBILITIES** – The Supervisor will contact the U.S. State Department to 1) verify immunity status, if necessary, 2) report the incident, and 3) seek official guidance.

**GENERAL PROCEDURES  
(con't)**

**SERIOUS INCIDENTS** – Since a foreign government may expressly waive or withdraw an official’s immunity, particularly when the official is the suspect in a serious incident, never assume that a person asserting immunity will continue to have that protection. Refer serious incidents (that is, felonies, DUIs, and misdemeanors resulting in death or serious bodily injury) to the District Attorney for prosecution.

**218.07 IMMUNITY  
EXCEPTION –  
PROTECTION  
FROM DANGER**

An Officer may take reasonable actions to protect public safety if a person with diplomatic or consular immunity presents a clear, present, and actual danger to the official’s own safety or to the safety of others (including the Officer). An Officer may also take reasonable actions to prevent illegal activity if it is apparent that there is an imminent serious crime.

If the Officer must use restraint,

- The Officer will explain to the official why the Officer is using restraint and that the Officer will remove restraint once the person no longer presents a danger.
- The responding Supervisor will contact the U.S. State Department. The Supervisor will also notify the City Attorney and District Attorney Offices and report the incident through the chain of command.

An Officer who uses force when there is no clear, present, and actual danger (to the official or to others) may be liable for prosecution under Federal law.

**218.08 D.U.I. OR OTHER  
PUBLIC SAFETY  
OFFENSES**

If the official presents a danger to the official’s own safety or to the safety of others, see paragraph 218.07 in this directive. Additionally, a Supervisor may direct:

- Transportation of the official to another location to recover sufficiently to drive safely.
- Transportation of the official to a telephone to call another party to drive the official home.
- Transportation to the official's home.

If the Officer believes the official is operating a motor vehicle or boat while intoxicated, the Officer may ask the official to perform normal field sobriety tests while awaiting verification of immunity status.

**D.U.I. OR OTHER PUBLIC SAFETY OFFENSES (con't)**

If a person with diplomatic or consular immunity is involved, the Supervisor will contact the U.S. State Department Office of Protocol by telephone to advise them of the situation. Within 24 hours of the incident, the Supervisor will submit a full written report through the chain of command and via fax to:

Office of Protocol  
 Department of State  
 P.O. Box 2976  
 Washington, D.C. 20520

**218.09 TRAFFIC ACCIDENTS**

If a traffic accident involves either a person who has immunity status or a vehicle with a diplomatic or consular motor vehicle license plate, forward a copy of the accident report, a copy of any traffic citations issued to the person claiming immunity, and any supplemental reports through the chain of command to:

OFM Diplomatic Motor Vehicle Office  
 3507 International Place, N.W.  
 Washington, D.C. 20008

Note: State Department regulations require vehicles with diplomatic or consular license plates to be covered by liability insurance.

**218.10 TRAFFIC VIOLATION**

In accordance with international law, a traffic citation is not an arrest or detention. An Officer may therefore, after verifying the official's immunity status, issue a warning or citation. Forward a copy of the citation along with an incident report through the chain of command to the United States Department of State, Washington, D.C., 20520.

**218.11 CONTRABAND**

If a person with diplomatic or consular immunity has contraband (that is, controlled substances), the Officer may seize the contraband. Report the seizure to a Supervisor immediately. The Supervisor will contact the District Attorney, City Attorney and the U.S. State Department's Official of Protocol by telephone to advise them of the situation. Within 24 hours submit a full written report through the chain of command to:

Office of Protocol  
 Department of State  
 P.O. Box 2976  
 Washington, D.C. 20520

**218.12 DIPLOMATIC AND CONSULAR POUCHES** The Pouch, any of its contents, and any equipment used for communication of the contents, is protected from any search or seizure. **Never open a diplomatic or consular pouch under any circumstances.**

An Officer who has probable cause to believe that a Pouch is being used in a crime will report the facts to the Officer's Supervisor who will contact the U.S. State Department's Bureau of Diplomatic Security.

**218.13 OFFICIAL GUEST** **NO IMMUNITY** – An Official Guest does not have immunity from arrest.

**SUPERVISOR NOTIFICATION** – Notify a Supervisor immediately whenever an incident involves an Official Guest, whether as a suspect, victim, or witness.

**SUPERVISOR REPORTING** – Contact the City Attorney's Office and the District Attorney immediately. Submit an incident report through the chain of command to:

U.S. State Department  
 10920 Wilshire Boulevard  
 Los Angeles, California 90001

**VERIFICATION OF STATUS** – Obtain verification of Official Guest status from the U.S. State Department. During business hours (310) 235-6293. During non-business hours (202) 647-7277.

**218.14 CRIME VICTIM** The following procedures apply whenever a diplomatic official, consular official, or official guest is a victim of a crime.

**SUPERVISOR NOTIFICATION** – Notify a Supervisor immediately.

**SUPERVISOR RESPONSIBILITIES**

- If the victim is a diplomatic official or an official guest, notify the regional office of the Federal Bureau of Investigation and the U.S. State Department command post by telephone (202-663-0812). The FBI has primary jurisdiction. Also contact the City Attorney and District Attorney.
- If the victim is a consular official, contact the FBI. For all consuls, with or without immunity protection, contact the U.S. State Department, City Attorney and District Attorney.

**218.15 CRIME WITNESS**

The following procedures apply whenever a diplomat, consul, or official guest is a witness to a crime.

**WITNESS CONTACT INFORMATION** – Because of immunity, the witness can not be detained. Obtain the witness's name and a telephone number where the person may be contacted.

**SUPERVISOR RESPONSIBILITIES** – Notify the District Attorney in writing but as soon as possible that one of the witnesses is a diplomatic official, consular official, or official guest.

**INTERVIEWS** – The District Attorney's office will coordinate interviews with the witness.

**COURT TESTIMONY** – By law, diplomatic officials and consular officials can appear as a witness only with the prior consent of their government.

