



IC61

FOREIGN DIPLOMATS

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POLICY

1. The Delta Police Department will respect its obligations under the *Foreign Missions and International Organizations Act* and more specifically, the Vienna Convention on Diplomatic Relations established by the United Nations in 1961.

REASON FOR POLICY

2. To ensure that heads and members of missions are extended the immunities and privileges accorded to their respective positions. For the purpose of this policy these persons shall be referred to as diplomats.

PROCEDURES

3. The Office of Protocol, Department of Foreign Affairs and International Trade (DFAIT) is responsible for all matters concerning foreign diplomats. The Diplomatic Protective Security Officer may be contacted during regular business hours Eastern Time or the DFAIT Watch Office may be contacted



24 hours a day. The Duty NCO maintains a list of numbers for DFAIT.

Classifications

4. The DFAIT classifies diplomats into the following categories:
 - a) Embassies have three categories: Diplomatic Agent, Administrative and Technical Staff, and Service Staff;
 - b) Consulates have three categories: Career Officer, Honourary Officer, and Consular Employee; and
 - c) International organizations may be represented by a foreign government representative or an international employee of the organization. Categories of international organizations are Representatives of Member States, Senior Officials, and Officials.

Diplomatic Immunity

5. Immunity is the protection from prosecution for breaches of Canadian laws by designated foreign nationals employed as diplomatic staff at an embassy, consular staff at a consulate and specified staff members of an international organization. There are two types of immunity:
 - a) Diplomatic Immunity provides absolute immunity from criminal jurisdiction for a diplomatic agent; and provides absolute immunity from criminal jurisdiction for a member of the Administrative and Technical staff while performing their official duties; and
 - b) Consular Immunity provides immunity from criminal jurisdiction when performing their official duties. Only a judge can decide whether or not the individual was in the performance of an official duty at the time of the offence.

Identification

6. Accredited diplomats, consuls and international organization representatives serving in Canada are provided with counterfoil Canadian Acceptance stickers inside their passports and identity cards by DFAIT.
7. The identity card contains the holder's photo, and cites their birth date, card expiry date, and the holder's official status as indicated by the entry under designation.



8. It is the responsibility of persons claiming immunity to present their identity cards or passports containing the Canadian Acceptance sticker. These are the only two pieces of identification which police officers recognize to establish positively the status of the person claiming immunity. When in doubt, contact the Office of Protocol, DFAIT, and Ottawa.
9. Dependents (over 16 years of age) and staff are issued counterfoil stickers and identity cards that outline their 'designation.'

Arrest of Diplomats

10. Foreign government representatives who are diplomatic agents or Administrative and Technical staff, and their dependants, who enjoy full immunity cannot be arrested or detained; but may be taken into 'temporary protective custody' in order to prevent the continuation of an offence which may endanger officer or public safety.
11. Representatives of international organizations working in Canada enjoy full immunity. As such, they cannot be arrested or detained; but may be taken into 'temporary protective custody' to prevent the continuation of an offence which may endanger officer or public safety.
12. Foreign government representatives who are career officers or consular employees may be arrested to prevent the continuation of an offence which may endanger public safety or held pending trial by obtaining a warrant for a "grave crime". A grave crime is a crime punishable by five (5) years or more imprisonment.
13. Honourary officers should be treated as Canadian citizens.
14. When a diplomat or representative of an international organization is taken into 'temporary protective custody,' the appropriate mission or a responsible family member will be contacted to attend and take responsibility for the person and vehicle. Should members be unable to contact the aforementioned, they must contact DFAIT.

Charges Against Diplomats

15. A diplomat or representative of an international organization entitled to immunity who has committed a criminal offence may be charged.
16. DFAIT is to be notified of any charges against a foreign government



- representative or representative of an international organization. While DFAIT may act to prevent the matter from proceeding to trial, the laying of the information will give DFAIT grounds to proceed with whatever sanctions are deemed necessary.
17. When persons or their dependents who have committed a criminal offence are claiming diplomatic immunity, police officers will:
- a) verify the credentials presented;
 - b) notify the supervisor or the Duty NCO;
 - c) investigate the complaint, and collect the appropriate evidence;
 - d) when necessary, place a person with diplomatic immunity in protective custody;
 - e) lay a charge by Summons application, if applicable; and
 - f) submit a report as soon as possible.
18. When a career consular officer or consular employee has committed a criminal offence, a member will:
- a) verify the credentials presented; and
 - b) establish whether the foreign representative is a career consular officer, or an honorary consular officer.
19. When a foreign representative is a career consular officer not in the exercise of an official function, and has committed a grave crime:
- a) he or she may be arrested only after a judicial warrant has been obtained first; or
 - b) if the charge carries a penalty of less than five (5) years, the charge will be laid by Summons application.
20. When a foreign representative is an honorary consular officer, a member may arrest where grounds for arrest exist.
21. In both of the situations described in Section 19 and 20, the member will



- notify a supervisor who will immediately notify the Duty NCO. The member will continue to investigate the complaint and collect the appropriate evidence.
22. The Duty NCO shall notify the Deputy Chief of Operations who shall inform the Chief Constable.
 23. In cases where a diplomat commits an offence that endangers public safety, the member will intervene to prevent the continuation of the offence and may place the diplomat into temporary protective custody.
 24. The Duty NCO will inform the diplomatic mission involved and DFAIT of the incident and ensure that a copy of the member's report is forwarded to the Deputy Chief of Operations without delay, who shall in turn inform the Chief Constable.
 25. Upon notification that a person with diplomatic status has committed a Criminal Code offence, the Chief Constable shall notify DFAIT, in writing, of the incident.

Traffic Violations

26. Members may issue a violation summons with respect to a traffic violation to diplomatic and consular officers, foreign government representatives, and representatives of international organizations who are entitled to immunity. Consideration, however, should be given to the special nature of this type of case.
27. The issuance of a violation summons does not constitute an arrest or detention. Vehicles registered to the mission or these persons may also be issued with parking tickets.

Searching

28. The right to search the property, residence and place of work of a person who enjoys immunity is restricted.
29. Searches of persons with full immunity will only be conducted when a member has reasonable grounds to believe a search is necessary in the interest of safety for the member or the public.
30. The personal baggage of a diplomatic agent, career consular officer, representative of member states and senior official of an international



organization will not be searched.

31. The personal baggage of other persons associated with an embassy, consulate or international organization may be searched unless the person claims to be carrying files or correspondence known as 'archives' which are the property of the foreign government. In such cases, the member will not search the personal baggage.

Foreign Military

32. When foreign military persons are members of diplomatic or consular groups, they enjoy immunity as per their 'designation.'
33. When foreign military persons are participating in military training or exercises, they may be detained and the nearest Military Police office contacted for guidance and assistance.

Foreign Nationals

34. A foreign national is a citizen of a state, nation or country other than Canada, whose presence in this country may be legitimate or illegal.
35. When foreign nationals are arrested, they must be given the opportunity to contact the appropriate embassy or consulate.
36. Diplomatic or consular representatives who have been arrested or detained have the right to call on foreign nationals to assist or arrange legal representation as required.

Asylum

37. Members who receive a request from a foreign national to defect or for asylum will escort the foreign national to a secure area away from public access. and request a supervisor attend the scene, without mentioning the purpose of the request over the radio.
38. The supervisor will immediately inform the Duty NCO who in turn will notify either the Canadian Security Intelligence Service; RCMP Immigration; or Citizenship and Immigration Canada.

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