

OGDEN CITY POLICE

Office of the Chief

Policy No: 34

Subject Immunity from Arrest	Effective Date March 2018
Department Police	Replaces Policy Dated September 2002
Division All Police Personnel	Review Date March 2024
Authorized Signature 	

NOTE: This rule or regulation is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this agency, and then only in a non-judicial administrative setting.

I. PURPOSE

The purpose of this policy is to instruct officers of the Police Department in certain classes of people generally receiving immunity from arrest, and to provide guidelines with respect to the process of dealing with such persons during the performance of an officer's duties.

II. POLICY

The Ogden Police Department recognizes certain classes of people are immune from arrest. It is the policy of this Police Department to honor protections afforded to diplomatic personnel by the United States Government.

III. DEFINITIONS

- A. Full Immunity. Cannot be arrested or detained but may receive traffic citations.
- B. Partial Immunity. Cannot be arrested or detained if the incident arises out of the performance of their official duties. Are otherwise subject to arrest and prosecution. May also receive citations.

C. Inviolability. The status that precludes arrest or detention in any form, and forbids unwanted intrusion into the residence, automobile, or any other property of the individual. While inviolability usually attaches in immunity cases, it should never prevent an officer from protecting the public safety or preventing the commission of a serious crime.

IV. PROCEDURE

A. The United States Government under provision of the Vienna Convention of Diplomatic Relations, grants diplomatic immunity. It is managed by the U.S. State Department. There are varying degrees of immunity depending on the position of the person. While it is unrealistic to expect officers to understand all of the intricacies of this process, knowing the general guidelines will assist officers with properly dealing with diplomatic immunity situations.

1. All persons granted diplomatic immunity are issued ID cards by the U.S. State Department. These cards are color coded for diplomatic mission:
 - a. Blue Borders. Issued to Diplomatic Agents and their families. They are entitled to full immunity, at all times, anywhere in the U.S. They may not be arrested or detained but may be issued a traffic citation.
 - b. Green Borders. Issued to administration and technical staff of embassies, and also to embassy service staff. Some of these people will have full immunity while others will have immunity only while performing their official tasks.
 - c. Red Borders. Issued primarily to Consulate employees. Immunity applies only during the course of their official duties.

In all cases, the back of the ID card, regardless of color, will define the level of immunity for the particular person.

2. Since a person's status cannot be determined until the immunity claim is proffered, the person, if involved in the commission of a crime, can be apprehended, and detained until immunity status can be established.
 - a. When presented with an ID card or claim of immunity, officers should contact the U.S. State Department at the number provided on the back of the card to ensure that the status is current. This is a 24-hour number. If a person claiming immunity cannot provide the ID and the normal

course of action in response to the incident would be arrest or detention, then the officer may continue to detain the person until confirmation of the status of the person can be made. If the immunity status is confirmed, the officer will assume that inviolability is attached and will immediately release the person from detention or custody.

b. Upon the required release of a person, a comprehensive report of the incident will be prepared by the officer and forwarded to the U.S. State Department for their investigation.

3. The most frequent contact between local police and persons entitled to some degree of immunity is related to traffic offenses, including DUI.

a. Officers may cite any foreign official for any traffic offense. If the protected person refuses to sign the citation, the officer will write, "refused to sign/diplomatic personnel" on the signature line and will release the person. The citation, along with a report from the officer, will be forwarded to the State Department for action.

b. In the event of a suspected DUI, the officer may request the person submit to field sobriety tests. The protected person cannot be compelled to take the tests and, if the tests are refused, the person cannot be arrested for that refusal.

c. If the officer is able to articulate the danger presented by the protected person's continued operation of a vehicle, the officer will not allow the person to continue to drive upon release. The officer may assist in obtaining alternative transportation for the person or may agree to a "protective custody" ride to the police station where the person may arrange for transportation. The protected person's car cannot be impounded but may be moved or towed the distance necessary to remove it from obstructing traffic or endangering public safety.

B. During the session of the State Legislature and for fifteen days before and after the session, members of the State Legislature will be privileged from custodial arrest except for treason, a felony, or breach of the peace.

C. Members of Congress may not be detained for the issuance of a citation while they are in transit to or from the Congress of the United States. If a member of Congress is stopped for a traffic violation, he will, upon presentation of valid credentials, be immediately released. The officer may then obtain a citation for the member of Congress, covering the

observed violation and make arrangements to serve the citation at a time when the member of Congress is not in transit to or from Congress, or on official business.

- D. In all cases, except those of treason, felony, or breach of the peace, voters shall be privileged from arrest on the days of election, during their attendance at elections, and going to and returning therefrom.
- E. While most foreign nationals receive no type of diplomatic immunity, law enforcement does have a mandated responsibility with regard to these foreign nations, whether they are in the United States legally or illegally. When an officer is arresting a foreign national (non-U.S. citizen) the officer will inform the detained foreign national of their right to contact their embassy or Consulate.