



Policy Name:	DIPLOMATIC IMMUNITY / FOREIGN NATIONALS		
Policy #:	OP 4.16	Last Updated:	2022-04-07
Issued By:	COMMUNITY SERVICES BUREAU	Approved By:	SURREY POLICE BOARD
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RELATED POLICIES

OP 3.1 Arrest and Detention

1. PURPOSE

- 1.1. To ensure Surrey Police Service (SPS) Members are aware of their authorities and obligations when investigating incidents involving accredited Ambassadors, Consular Officers, their families, and members of their staff.
- 1.2. To provide procedures for Members when dealing with foreign nationals.

2. SCOPE

- 2.1. This policy applies to all Members.

3. POLICY

- 3.1. Accredited Ambassadors, their families, and members of their staff are granted immunity from prosecution. However, if their actions endanger the public safety, they can be restrained. Similar privileges are granted, with the same limitation, to members of the North Atlantic Treaty Organization and to United Nations Agencies. Consular Officers may be afforded immunity in limited circumstances, depending on the nature of the offence and the duties the official was engaged in.
- 3.2. A foreign national is a citizen of a state, nation or country other than Canada, whose presence in Canada may be legitimate (e.g., visitor, student, landed immigrant, visitor on extended visa/work permit) or illegal.
- 3.3. Members must be aware of the following procedure when investigations involve such persons.

4. PROCEDURE

4.1. Members conducting an investigation involving an Ambassador, a Consular Officer, or members of the family or staff of such person, must:

- i. immediately notify a Supervisor;
- ii. fully investigate the incident. Members will normally proceed by summons in all cases where charges are considered;
- iii. when searching a person with diplomatic immunity, any items designated as “archives” must not be searched;
- iv. notify the Duty Officer through the Supervisor of the incident. The authorisation of the Duty Officer must be obtained before imprisoning an Official with diplomatic status in the Jail; and
- v. send a copy of the General Occurrence (GO) report to the Duty Officer. The Duty Officer must forward immediately the report to the Chief Constable.

4.2. The Supervisor and/or investigating Member will:

- i. confirm diplomatic immunity status by asking the person to produce their Global Affairs Canada ID card; and
- ii. contact the 24-hour RCMP National Operations Centre in Ottawa at 613-993-4460 to confirm diplomatic immunity status.

4.3. Members can view the list of foreign representatives in Canada on the webpage maintained by Global Affairs Canada (updated daily):

https://www.international.gc.ca/protocol-protocole/rep.aspx?lang=eng&_ga=2.256859147.129828941.1644525993-1961665136.1644525993

4.4. The Chief Constable or an Officer designated by the Chief Constable is responsible to notify all Consulates and Global Affairs Canada regarding the details of any such investigation.

4.5. In all cases where charges are requested against a Diplomat, Consular Officer or a member of their staff or family, SPS Crown Liaison shall notify Senior Crown Counsel of the circumstances of the case at their earliest opportunity during normal office hours.

4.6. If a foreign national is a victim and unable to represent themselves (e.g., missing person, unconscious, or deceased), and there is no next-of-kin available, the embassy/consulate of the victim must be advised of the fact, whenever practicable.

4.7. In accordance with the *Vienna Convention on Consular Relations*, when a foreign national is arrested, imprisoned or otherwise detained, the arresting Member must:

- i. tell the person their right to contact their embassy or consulate by telephone or by mail; and

- ii. facilitate the phone call to the embassy or consulate, if the arrested party requests to make a phone call.

4.8. The Jail Supervisor must post a notice near the telephone intended for use by prisoners that states:

IF YOU ARE NOT A CITIZEN OF CANADA, YOU HAVE THE RIGHT TO NOTIFY YOUR EMBASSY
OR CONSULATE AND SEEK ASSISTANCE FROM THEM IN RELATION TO YOUR ARREST

4.9. The RCMP may assume jurisdiction for certain offences committed against “Internationally Protected Persons” as provided for under the *Security Offences Act*.

4.10. The *Security Offences Act* gives the RCMP primary jurisdiction for certain offences committed against “Internationally Protected Persons”. By agreement between the Federal and Provincial Government, the RCMP and SPS will consult on a case-by-case basis as to whether RCMP intervention is authorized within the meaning of the *Security Offences Act*.

4.11. If the RCMP and SPS disagree on a file, a Deputy Chief Constable or the Chief Constable will refer the matter immediately to the Attorney General of Canada (Department of Justice Canada) for resolution.

APPENDIX A: DEFINITIONS

“Chief Constable” means the Surrey Police Service Chief Constable or delegate.

“Duty Officer” means the Frontline Policing Inspector.

“Internationally Protected Persons” means, under Treaty E104265: *Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents*, a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister of Foreign Affairs, whenever any such person is in a foreign State, as well as members of their family who accompany them, or any representative of Official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against them, their official premises, their private accommodation or their means of transport is committed, is entitled pursuant to international law to special protection from any attack on their person, freedom or dignity, as well as members of their family forming part of their household.

“Member” means a sworn Police Officer appointed by the Surrey Police Board.

“Supervisor” means a Sergeant, Staff Sergeant, Inspector, Superintendent, Deputy Chief Constable, Chief Constable, and any other person acting in a Supervisory capacity who is accountable for a particular area or shift on behalf of SPS.

APPENDIX B: REFERENCES

Security Offences Act, R.S.C. 1985, c. S-7

Treaty E104265: *Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents*: <https://www.treaty-accord.gc.ca/text-texte.aspx?id=104265>