



# ORANGE COUNTY SHERIFF'S OFFICE GENERAL ORDER ARREST OF FOREIGN NATIONALS



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To: All Deputy Sheriffs & Office Personnel  
 From: Sheriff Carl E. DuBois  
 Subject: General Order - Arrest of Foreign Nationals

**PURPOSE:** The purpose of this General Order is to establish guidelines for the arrest of foreign nationals.

**I. POLICY.**

A. State and local law enforcement officials are legally bound to comply with United States treaty obligations concerning the arrest and detention of foreign nationals in this country. It is the policy of the Sheriff's Office and the duty of its members to recognize these obligations and comply with all pertinent directives and guidelines issued by the United States Department of State.

**II. PROCEDURE.**

A. Arrest of Foreign National:

1. Whenever a Deputy arrests or otherwise substantially detains a foreign national, the Deputy shall promptly inform the detainee of his right to have their government informed of such event. If the detainee asks to exercise this right, the Deputy or their supervisor shall immediately notify the appropriate foreign consulate or embassy. The United States Department of State Security Office or the United States UN Mission can be contacted for the telephone numbers of the various consulates and embassies.
2. In cases where special agreements with certain countries require it, notification must be made, whether the foreign national detainee consents to it or not. If a detainee waives their right to notification, the United States UN Mission or State Department Security should be contacted to determine if the detainee is affected by one of these agreements; and notification is to be made if required.
3. All contacts and notifications should be included in the Deputy's report on an incident of this type.
4. If s/he desires to do so, the detainee shall be allowed to converse by telephone with their consular representative as soon as possible and shall also be allowed one physical visit by one consular representative.
5. A foreign consulate shall not be allowed to arrange visitation, representation, or release of a detainee who expressly opposes these actions.

## B. Arrest of Undocumented Non-Citizen:

1. **Undocumented Non-Citizens** are also foreign nationals with respect to notification requirements and are entitled to the same right to have their embassies or consulates notified as other foreign nationals.
2. **Undocumented Non-Citizens** must also be reported immediately to the Bureau of Immigration and Customs Enforcement.

## C. Arrest of Persons in the Diplomatic Community:

1. Diplomatic immunity for police purposes generally relates to freedom from arrest or detention.
2. A police officer may not arrest or incarcerate any person who has been granted diplomatic immunity, and may detain such person only long enough to verify his diplomatic status. The unlawful imprisonment of a foreign official could lead to serious federal criminal charges.
3. The diplomatic community is divided into several categories. The application and extent of diplomatic immunity is dependent on the category of the individual and the circumstances surrounding an incident. The diplomatic community is divided, and is extended diplomatic immunity as follows:
  - (a) Diplomatic Agents – the head of a mission, members of the mission’s diplomatic staff and members of their immediate families (with the exception of family members who are also United States citizens) are entitled to complete immunity from arrest or incarceration.
  - (b) Non-Diplomatic Administrative Staff and Security Personnel – personnel, administrative officials, clerical staff, messengers and their immediate families are entitled to the same immunity from arrest or incarceration as diplomatic agents.
  - (c) Service Staff – chauffeurs and domestic staff who perform their duties at the mission are entitled to diplomatic immunity only when they are performing their official duties. Members of their families are not entitled to diplomatic immunity.
  - (d) Private servants – a servant privately employed by a member of a diplomatic mission is not entitled to any diplomatic immunity.

## D. Issuance of Traffic Summons and Parking Summons

1. A diplomat will not be issued a summons for a traffic infraction. If a traffic infraction is observed and a diplomat is involved, once their identity is ascertained, the investigating Deputy will release such person. The Deputy will then file an incident report regarding the incident and will include in the report the diplomat’s pedigree and the nation to which they are attached.
2. Parking violation summonses will not be issued to vehicles bearing diplomatic license plates.
3. For more information on foreign nationals and diplomatic immunity, or questions on the status of an individual or particular incident, contact the United States Department of State Security Officer or the United States Mission to the United Nations.

REFERENCE: NYS LEAP 47.1  
CALEA 1.2.5, 61.1.3