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| <p>RABUN COUNTY SHERIFF'S OFFICE</p>  <p>General Order Number: 5.06</p> | <p>Date of Issue</p> <p>2/23/2016</p>     | <p>Effective Date</p> <p>2/23/2016</p> | <p>Revision Date</p> |
| <p>Subject: <b>IMMUNITY FROM ARREST</b></p>  | <p>Amends:</p>                            |  | <p>Rescinds:</p>     |
| <p>Index as:<br/>Immunity From Arrest</p>  | <p>State Certification Standards: 1.9</p> |  |                      |

Special Instructions:

**PURPOSE**

The purpose of this General Order is to prescribe the Rabun County Sheriff's Office policies and procedures regarding the Immunity from Arrests that certain individuals may possess and the Detention of Foreign Nationals.

**STATEMENT OF POLICY**

It shall be the policy of the Rabun County Sheriff's Office that individuals who have limited or full immunity from arrest will be granted all rights and privileges given to them by statute law and international treaties. It shall also be the policy of the Rabun County Sheriff's Office to follow statute law and international treaties regarding the detention of foreign nationals.

**DEFINITIONS**

DIPLOMAT — An individual appointed to represent a government in its relations with another government.

DIPLOMATIC IMMUNITY — The exemption from taxation and ordinary processes of the law afforded to diplomatic personnel in a foreign county.

IMMUNITY — The exemption from legal duties, penalties, or liabilities, granted to a group.

LEGISLATOR — One that creates or enacts laws.

O.C.G.A. — The Official Code of Georgia Annotated

## I. IMMUNITY FROM ARREST

### A. Legislators

1. During legislative sessions or committee meetings and while in travel to or from such places, **all state legislators and members of congress** shall be free from arrest except for treason, felony, or breach of the peace. (GA Const. Art 3, Sec. 4, Para. IX)
2. Citations or physical arrest shall not be initiated without prior approval of the Field Supervisor.

### B. Foreign Diplomats/Consular Officials

1. Diplomatic and Consular immunity from arrest and detention does not preclude an official from prosecution. Therefore, when encountering a diplomat or consular deputy with immunity from arrest and detention, deputys will process the crime/accident scene as thoroughly as they would under normal circumstances unless specified below. Information will be gathered from the diplomat/consul as quickly as possible to allow him or her to continue on his/her way. All reports, records, and evidence collected will be referred to the appropriate prosecutor's office with copies to the Department of State.
2. Any individual claiming immunity is required to produce satisfactory evidence that she/he is entitled to immunity. The US Department of State issues identification to diplomatic agents and Consular officials accredited to the United States. The Georgia Secretary of State issues identification cards to honorary consuls and members of the families of career Consular officials if stationed in Georgia.
3. In all situations where an individual is claiming diplomatic or consular immunity, the deputy needs to verify entitlement to such immunity and may detain the individual until verification is obtained. Deputys may verify immunity by contacting the appropriate number as indicated:
  - a. Diplomats & families (202) 647-1664;
  - b. Diplomatic employees & families (202) 647-1405;
  - c. Consular personnel & families (202) 647-1404;
  - d. International Organizations (202) 647-1402;
  - e. Official Guests (404) 331-3521; and
  - f. **After normal business hours**: All verifications (202) 647-7277.

### C. Diplomatic Immunity

The term "diplomatic agent" refers to the head of a mission or an ambassador of a foreign government AND members of the diplomatic, administrative, and technical staff of a mission AND members of the

family of a diplomatic agency. Such individuals shall not be subject to arrest or detention. (23 U.S.C. 254a et seq.)

- D. Consular Immunity  
Career Consuls are full time employees of a foreign government. Such individuals shall not be subject to arrest or detention except for felony offenses that endanger public safety, and can only be arrested with a warrant. Honorary Consuls are either citizens of a foreign government who have residence in the United States or are United States citizens. They are not entitled to immunity from arrest or detention unless performing official acts.
- E. Diplomatic and consular officials will only be restrained if they present a clear and actual danger to themselves or others. In these circumstances deputies will follow use of force guidelines according to departmental policy.
- F. Traffic citations may be issued when appropriate to both diplomatic and consular officials. They cannot be compelled to sign the citation and cannot be taken into custody for refusing to do so.
- G. When a consular or diplomatic official is considered a danger to himself or others because of a DUI offense, the deputy shall take one of the following actions:
1. Bring the official to Sheriff's Office or the Rabun County Detention Center where she/he may recover sufficiently to drive;
  2. Arrange for a taxi or other transportation;
  3. Allow a third party to drive the official in the motor vehicle; or
  4. Transport the official to the nearest safe location within the county.
- H. Diplomatic and consular officials may carry official documents in "DIPLOMATIC/CONSULAR POUCHES" These pouches are required to be clearly marked and may not be searched for any reason.
- I. Vehicles driven by officials with diplomatic immunity may not be searched or impounded. Vehicles may only be towed to a safe location out of the roadway. Vehicles, which are stolen or used by unauthorized individuals during the commission of a crime, may be searched and/or impounded as necessary. Vehicles driven by honorary and career consular officials may be searched in accordance with established search and seizure criteria.
- J. If a diplomatic or consular official is in possession of contraband, it may be seized in accordance with departmental evidence handling procedures.
- K. If a diplomat or consular official is involved in any of the following incidents, the investigating deputy will forward a copy of all incident reports, accident reports, and/or citations issued will be sent to:
1. Citations  
U.S. Department of State  
Washington, DC 20520
  2. Motor Vehicle Accidents  
OFM Diplomatic Motor Vehicle Office  
3507 International Place, N.W.  
Washington, DC 20008

3. D.U.I., Possession Of Contraband, Or Restraint Of Official  
Office of Protocol  
Department of State  
Post Office Box 2976  
Washington, DC 20520
4. Diplomats, Career Consuls and Official Guests if accused, victim, or witness of any crime  
U.S. Department of State  
101 Marietta Street, N.W.  
Suite 1010  
Atlanta, GA 30303 or to the Regional Office of the F.B.I.
5. Honorary consul who is accused, witness to, or victim of any crime  
U.S. Department of State  
101 Marietta Street, N.W.  
Suite 1010  
Atlanta, GA 30303

## II. REQUESTS FOR ASYLUM

If an deputy is approached by a foreign national who requests asylum in the United States, or indicates that he or she wants to defect to the U.S., the deputy will:

- A. Take the individual into protective custody;
- B. Permit no one to interfere with the situation;
- C. Contact, by secure means:  
  
U.S. Immigration & Naturalization Service  
77 Forsyth Street, Suite G-89  
Atlanta, GA 30303  
(404) 331-2765 or 331-2762
- D. Release the individual only to a federal representative; and
- E. Make appropriate Command Staff notifications.

## III. MILITARY PERSONNEL

- A. Members of the military forces (whether active, Reserve, or National Guard) are privileged from arrest during their attendance at active duty, drills, parades, meetings, and encampments or while traveling to or from such official functions except for treason, felony, or breach of the peace. (O.C.G.A. 17-4-2)
- B. Traffic citations shall be issued when appropriate and the violator released. If the offense is for a felony violation, the person shall be placed under arrest and processed in accordance with normal departmental procedures.

#### IV. OTHER PERSONS WITH LIMITED IMMUNITY

- A. Poll Deputys, Registrars and Deputy Registrars are immune from arrest on primary and election days, except for fraudulent misconduct of duty, felonies, or breach of the peace. (O.C.G.A. 21-2-215)
- B. Citizens are immune from arrest on Election Day while voting.
- C. A person who has been subpoenaed as a witness is immune from service of civil process while going to or returning from court.

A person asserting immunity as a witness should be able to produce either the subpoena or a court order. Verification may be requested from the Clerk of the Court that issued the subpoena.

#### V. ARREST AND DETENTION OF FOREIGN NATIONALS

Refer to General Order 4.67 – Immigration and Customs Enforcement 287 (g) Program.



By Order of the Sheriff: **Chad K. Nichols**  
Sheriff, Rabun County