



**SOUTH COAST BRITISH COLUMBIA
TRANSPORTATION AUTHORITY
POLICE SERVICE**

DIPLOMATIC IMMUNITY

Effective Date: September 12, 2005

POLICY

1. Accredited representatives of diplomatic missions, consular posts and international organizations may be granted immunity from prosecution in Canada. These internationally protected persons are defined in s. 2 of the Criminal Code of Canada (CCC).
2. The South Coast British Columbia Transportation Authority Police Service (SCBCTAPS) will respect the obligations as outlined in International Law and Conventions of Canada in regards to the treatment of both diplomatic and consular personnel.

REASON FOR POLICY

3. To ensure that diplomatic and consular personnel are extended the immunities entitled by the respective positions.

PROCEDURES

Definition

4. Diplomatic immunity means and includes inviolability of person, premises and property and immunity from criminal, civil and administrative jurisdictions in Canada.

Identity Card

5. The Office of Protocol, Department of Foreign Affairs and International Trade (DFAIT) issues an identity card to persons who are granted immunity by the Canadian government from prosecution for offences in Canada. Each card contains the photograph of the bearer.

Produce Proof

6. When Members come into contact with internationally protected persons it is the responsibility of such persons to produce the appropriate identity card to prove that diplomatic immunity has been granted.

Check of Credentials

7. If a person who claims to have diplomatic immunity has committed a serious offence, the Member should detain the person and have checked, through the Watch Commander, on the credentials presented. The Watch Commander will contact the RCMP Protective Operations Branch through CSAS Dispatch (refer to SCBCTAPS Telephone Directory for number) and then the RCMP will then contact the Office of Protocol, DFAIT.

Offences Which May Endanger Public Safety

8. Regardless of the immunity status of the suspect, Members will prevent the repetition or continuation of an offence. If absolutely necessary, a person enjoying immunity may be taken into temporary protective custody (Not arrest, Not detain) until such time as a responsible member of the same mission arrives to relieve the police of this responsibility. In the absence of a member of the mission, a family member may be called.
9. If a Member takes into temporary protective custody a person entitled to immunity, the Member will contact the Watch Commander immediately.

Notification

10. If a person entitled to diplomatic immunity is taken into temporary protective custody by the SCBCTAPS, the Watch Commander or a designated officer of higher rank must immediately notify DFAIT and the local consulate (refer to SCBCTAPS Telephone Directory for numbers of the DFAIT 24 hour phone line and Diplomatic Security Liaison Officer).
11. If a person entitled to diplomatic immunity has committed a serious offence the Canadian government may request the foreign government to remove the person from Canada.

Search

12. Searches of persons with full immunity may only be conducted as a last resort when a Member has reasonable and probable grounds to believe a search is necessary for the Member's or the public's safety.
13. Honorary consuls should be treated as ordinary Canadian citizens except when clearly acting in their consular capacity.
14. Honorary consulate records will not be searched provided they are separate from all other office records and clearly marked as consulate documents.
15. Consular officials cannot be arrested or detained unless a judicial warrant has been obtained in advance and the charge is for a "grave crime" (one for which the maximum penalty is five years or more), and issues of public safety are involved.
16. The search of baggage of any person associated with a diplomatic mission, consular post or international organization will take into account that the person may be

carrying “archives”, i.e., files or correspondence, and these documents will not be searched under any circumstances. If a person claims to be carrying “archives”, these must be excluded from search.

Property Search

17. The vehicles and other personal property of a person entitled to immunity are also immune from search and seizure unless exceptional circumstances exist. Diplomatic Bags, which must “bear visible external markings of their character”, are not to be examined. In the absence of this identification special privileges and immunity cannot be claimed.

Traffic Offences

18. Members will follow procedures set forth in Chapter OJ010 – Traffic Management and Enforcement regarding traffic offences committed by foreign representatives.

Royal Canadian Mounted Police

19. When a person entitled to diplomatic immunity is uncooperative, the RCMP Protective Operations Branch will be notified.

Caution

20. When dealing with foreign representatives, Members will remember that these people are guests in Canada and must be treated with the same courtesy and dignity that Canadians would expect their representatives in foreign countries to be treated.
21. The Watch Commander will keep a detailed list of the categories of persons and a summary of available law enforcement measures.

Offences Against Internationally Protected Persons

22. The CCC has created specific offences pertaining to offences against internationally protected persons.

s. 424 CCC states:

Every one who threatens to commit an offence against Section 235, 266, 279 or 279.1 against an internationally protected person or who threatens to commit an offence under 431 is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

s. 431 CCC states:

Everyone who commits an attack upon the official premises, private accommodation or means of transport of an Internationally Protected Person that is likely to endanger the life or liberty of such person is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

23. The Security Offences Act states that the RCMP has primary jurisdiction for certain offences committed within the normal jurisdiction of municipal police departments. This includes offences against internationally protected persons. By consultation, the RCMP, the municipal police department and the SCBCTAPS will decide, on a case-to-case basis, whether or not an incident is one that requires RCMP intervention.

[See also: OK030 – Security to VIPS & Security Risks]