

PSF-3.01 - Arrest, Persons Exempt

ARREST, PERSONS EXEMPT

Administrative Rules Adopted by Police Bureau Pursuant to Rule-Making Authority

ARB-PSF-3.01

Section 1- Procedure

Directive Specific Definition

Exempt From Arrest: An individual who will not be detained at the time an arrest is justified (does not mean a person will not have to answer for a crime). It is the opinion of the State Department that stops for routine traffic infractions and their resultant citations are not arrests nor detentions.

Diplomatic Immunity

- a. The head of a diplomatic mission or a member of his/her diplomatic staff is immune from arrest (civil, criminal or administrative).
- b. The person claiming diplomatic immunity from arrest has the burden of proof to establish identity entitling immunity.
- c. Vehicles with foreign consul license plates cannot be cited for parking violations. If the vehicle is a traffic hazard, it can be towed to another location.

Members of Congress

Members of the U.S. Congress, while in attendance at the session of their respective houses, or while traveling to or from the session, are exempt from arrest in all cases except treason, felony or breach of the peace.

State Legislators

State senators and representatives, while going to, coming from, or attending the legislative assembly, are exempt from all arrests except treason, felony or breach of the peace. They also are not subject to any civil process for 15 days before the beginning nor during the session of the legislative assembly.

Electors

Electors are exempt from arrest while going to, coming from, or in attendance at the polls in all cases except treason, felony, or breach of the peace.

Member Responsibilities

- a. When a person claims immunity, members should advise a supervisor of the situation as soon as possible.
 - b. Members may, if necessary, take the person to a precinct to establish immunity.
 - c. Based on the circumstances, members are entitled to decide whether or not the person is entitled to immunity.
 - d. Members will write a report if an above exempt person is observed in violation of a law. A copy of the report will be forwarded through channels to the Chief.
 - e. Members shall obtain a warrant for the person, except for foreign ambassadors, foreign ministers or legation attaches, after the “exempt-from-arrest” privilege has expired.
-

Section 2- References

U.S. Constitution, Article 1, Sec. 6, Clause 1
Diplomatic Relations Act, 09/30/78
Vienna Convention of Diplomatic Relations of 04/18/61
DIR 810.10 Arrest of Foreign Nationals

HISTORY

Submitted for inclusion in PPD March 6, 2002.
Originally published as Directive 810.00 of the Portland Police Bureau Manual of Policy and Procedure, August 2001.