

# Georgia State Patrol Policy Manual

<b>SUBJECT</b> <b>SPECIFIC GROUPS AND OFFICIALS</b>	<b>POLICY NUMBER</b> <b>17.12</b>
<b>DISTRIBUTION</b> <b>SWORN EMPLOYEES</b>	<b>DATE</b> <b>9/6/2002</b>

## 17.12.1 Purpose

To establish procedures for handling violations of Georgia state law committed by specific groups and officials identified in this policy.

## 17.12.2 Policy

Federal, state and international laws provide that under certain circumstances, individuals may be immune from arrest. With the limited exception of certain diplomatic officials, immunity from arrest does not preclude prosecution of the individual for the offense for which immunity from arrest is claimed. In all cases in which immunity is claimed, a member has the right to detain the person long enough to verify that the person is entitled to the immunity claimed. This can usually be done by examination of official identification cards. The member may also request that the Communications Equipment Officer contact the appropriate government agency to verify the individual's status.

In all cases in which a person asserts immunity from arrest, the detaining member shall immediately notify their supervisor. See the Diplomatic and Consular Immunity Requests for Asylum/Defection Exhibit #17.12-4.

A member shall not permit a person who is entitled to immunity from arrest to continue to operate a motor vehicle or boat if the member has probable cause to believe that the person is under the influence of alcohol or drugs.

## 17.12.3 Procedures

- A. Troop officers shall be notified, through the chain of command, whenever a member cites or detains one of the groups or officials listed in 17.12.3 B-D.
- B. United States Senators and Congressmen
  1. Article 1, Section 6, of the United States Constitution provides members of the United States Congress and Senate privilege from arrest during the session of their respective houses, and in going to and returning from the same.
  2. During the period specified by the United States Constitution, members may issue a written warning, a UTC or a notice to appear but will not subject a United States Congressman or Senator to custodial arrest, except in cases of treason, felony or breaches of the peace, e.g., DUI or assault.

C. State Legislators

1. The members of both houses shall be free from arrest during sessions of the General Assembly, or committee meetings thereof, and in going thereto or returning therefrom, except for treason, felony, or breach of the peace, e.g. DUI or assault. Legislators shall not be liable to answer in any other place for anything spoken in either house or in any committee meeting of either house. A member can write a UTC or warning for a traffic violation.

D. Foreign Nationals

1. Citizens of other nations who reside in or are visiting Georgia are subject to Georgia law and except as indicated below, foreign nationals who are arrested shall be treated in the same manner as U.S. citizens.
  - a. A foreign national who is arrested (taken into custody) shall be informed that they have the right under a treaty to which the United States is a party (the Vienna Convention), to have their country's embassy or nearest consulate notified of their arrest and detention. This should be done at the time of the arrest but no later than during booking at the jail.
    - 1) A notation should be made in the case file of the fact that the accused was advised of their rights under the Vienna Convention on Consular Relations and whether or not the accused requested that the embassy/consulate be contacted.
    - 2) If the foreign national asks that their embassy or consulate be notified, it is the arresting officer's responsibility to contact the consulate or embassy. Unless the accused is a national from the countries listed in the Mandatory Notification Countries and Jurisdictions Exhibit #17.12.1, do not notify the embassy/consulate unless the accused requests they be notified.
    - 3) An updated listing of consulates and embassies can be found at the U.S. State Department web site: <http://www.state.gov>. This site also contains translations of the suggested rights warning in several different languages.
  - b. By law, if a citizen from one of the countries listed in Exhibit #17.12-1 is arrested, the supervisor or their designee shall notify the nearest consulate or the embassy of the arrest.
    - 1) The accused will be told that their embassy shall be contacted, even if the accused does not want their consulate notified. A supervisor should contact the U.S. State Department for additional guidance if the accused indicates a fear of persecution or mistreatment by their government. The U.S. State Department may be contacted by phone at the following:
      - a) Business Hours: 202-647-4415, FAX 202-736-7559.
      - b) After Business Hours: 202-647-1512.
    - 2) Notification of the consulate will be made at the time the accused is booked. A suggested form for sending a fax notice to the applicable consulate can be found at the State Department Web Site.

- 3) NOTE: If the accused also requests asylum, contact the U.S. State Department for further guidance prior to notifying the consulate or embassy.
- c. Diplomats and consular officers have the legal right to consult with their citizens who are detained by federal, state or local authorities. Any communication by a detained foreign national must be forwarded to the consular post without delay.
    - 1) A diplomatic or consular official who is acting in this capacity will be treated with the utmost courtesy as befits their rank.
    - 2) The right of consular access and communication are generally subject to local laws and regulations concerning prisoner visitations.
    - 3) Whenever possible a senior officer or prosecuting attorney should brief the diplomatic or consular officer on the fact and circumstances of the arrest and the legal process, which will be followed in the case.
  - d. If the foreign national who is arrested is in possession of a passport, visa, boarder-crossing card, resident alien card or alien registration card, the arresting officer shall make a photostatic copy of the documents and attach them to the arrest/booking report. A copy shall also be made of any other identity or travel documents in the possession of the accused.
  - e. When completing the arrest booking report, obtain the following information:
    - 1) A complete home address (foreign address) of the accused, and
    - 2) A complete local address for the accused.
  - f. The member who contacts an embassy or consulate on behalf of an accused foreign national shall note the date, time and the name of the person who received the call at the embassy or consulate in a supplemental report and place it in the case file.
  - g. If the accused foreign national is a juvenile who is not accompanied by a parent or legal guardian, the Immigration and Naturalization Service shall be notified at the same time as the Juvenile Court. It is the responsibility of the Immigration and Naturalization Service to contact the embassy of the accused juvenile's nation.
  - h. If the foreign national is unable to communicate in English, a supervisor will be contacted and every effort made to obtain a translator. Miranda warnings must be translated before questioning can begin. The investigating officer shall include the name, address, telephone number and relationship of the translator to the victim/witness in the Incident Report or Supplemental Report.
  - i. During major events such as the Olympics, international sporting events, or international conferences, if a foreign national who is officially connected with the event is arrested, the District Attorney or their designee (Solicitor-General in misdemeanor cases) should be immediately contacted by telephone and provided with an oral summary of the incident. The prosecuting attorney will advise the supervisor of any special procedures which should be followed.

2. If a foreign national is arrested for a felony, the U.S. Immigration and Naturalization Service (INS) will be notified and provided with the name of the accused and the nature of the charges. By law, the INS is required to notify the appropriate consulate or embassy if one of their citizens has been taken into custody by INS.

3. Contact INS at:

U.S. Immigration and Naturalization Service  
77 Forsyth Street, Suite G-89  
Atlanta, Georgia 30303  
Phone: 404-331-2765

#### E. Military Personnel

1. Members shall refer to O.C.G.A. § 17-4-2 which states that: The members of the organized militia or military forces shall in all cases, except treason, felony, or breach of the peace, e.g. DUI or assault, be privileged from arrest during their attendance at drills, parades, meetings, encampments and the election of officers and going to, during and returning from the performance of any active duty as such members.
2. Military personnel shall present a valid military identification card and their orders for duty to the member to prove active status.
3. Violations committed by military personnel not in the performance of their official duties shall be handled in a manner consistent with the enforcement guidelines of this policy.

#### F. Juvenile Enforcement Guidelines

Juvenile enforcement guidelines set forth in Georgia State Patrol Juvenile Operations Policy #17.01 shall be adhered to.

#### G. Nonresidents

1. Sworn members shall determine whether to issue a written warning or a UTC concerning the type of enforcement action taken for violations committed by nonresidents.
2. States listed in Exhibit #17.12-2 are not members of the Non-Resident Violator Compact and persons holding a driver's license from those states should not be issued an appearance ticket for any violation.
3. Georgia recognizes the valid firearm permits of any state that grants reciprocal privileges to Georgia firearm permit holders traveling within such states. Georgia shall recognize firearm permits of the states listed in Exhibit #17.12-3.