



CONSULAR NOTIFICATION AND ACCESS

I. Purpose

This Procedure will:

- a. This policy will summarize the basic requirements of consular notification and access for all police officers who may, in the performance of their official functions, have contact with a foreign national in a situation triggering a requirement to notify the foreign national's consular officials.
- b. This policy will suggest notification statements to be given to a detained foreign national, a suggested fax notification to be transmitted to a detained foreign national's consular officials, and samples of identification cards that a consular official may present when seeking access to a detained foreign national.

II. Summary of Requirements Pertaining to Foreign Nationals

- a. When foreign nationals are arrested or detained, they must be advised of the right to have their consular officials notified.
- b. In some cases, the nearest consular officials must be notified of the arrest or detention of a foreign national, regardless of the national's wishes.
- c. Consular officials are entitled to access to their nationals in detention, and are entitled to provide consular assistance.
- d. When a government official becomes aware of the death of a foreign national, consular officials must be notified.
- e. When a guardianship or trusteeship is being considered with respect to a foreign national who is a minor or incompetent, consular officials must be notified.
- f. When a foreign ship or aircraft wrecks or crashes, consular officials must be notified.

These are mutual obligations that also pertain to American citizens abroad. In general, you should treat a foreign national as you would want an American citizen to be treated in a similar situation in a foreign country. This means prompt, courteous notification to the foreign national of the possibility of consular assistance, and prompt courteous notification to the foreign national's nearest consular officials so that they can provide whatever consular services they deem appropriate.

III. Steps to follow When a Foreign National is Arrested or Detained

The Watch Commander will determine the foreign national's country. In the absence of other information, assume this is the country on whose passport or other travel document the foreign national travels. The Watch Commander will be responsible for having the appropriate notifications made.

If the foreign national's country is **on** the list of mandatory notification countries on the following page:

Notify that country's nearest consular officials, without delay, of the arrest/detention. Phone and fax numbers are located in the Department of State instructions located in the Watch Commander's office.

Tell the foreign national that you are making this notification. See Appendix 1 for a suggested statement to the foreign national. Translations into selected foreign languages are located in the Department of State publication in the Watch Commander's office.

If the foreign national's country is **not on** the mandatory notification list on the next page:

- 1) Offer, without delay, to notify the foreign national's consular officials of the arrest/detention. For a suggested statement to the foreign national, see Appendix 1. For translations of the statement into selected foreign languages, see United States Department of State, Consular Notification and Access, located in the office of the Watch Commander.
- 2) If the foreign national asks that consular notification be given, notify the nearest consular officials of the foreign national's country without delay. For phone and fax numbers for foreign embassies and consulates in the United States, see Department of State instructions located in the Watch Commander's office.
- 3) A written record of the notification and actions taken will be recorded on the booking sheet. If notification is made by FAX, a copy and receipt of the FAX will be attached and retained with the booking sheet. If the FAX machine is not capable of providing a receipt, a notation will be made on the booking sheet indicating who sent the FAX and when it was sent.

Police Commissioner

MANDATORY NOTIFICATION COUNTRIES AND JURISDICTIONS

Antigua and Barbuda	Malaysia
Armenia	Malta
Azerbaijan	Mauritius
Bahamas, The	Moldova
Barbados	Mongolia
Belarus	Nigeria
Belize	Phillipines
Brunei	Poland (non permanent residents only)
Bulgaria	Romania
China ¹	Saint Kitts and Nevis
Costa Rica	Saint Lucia
Cyprus	Saint Vincent and the Grenadines
Czech Republic	Seychelle
Dominica	Sierra Leone
Fiji	Singapore
Gambia, The	Slovakia
Georgia	Tajikistan
Ghana	Tanzania
Grenada	Tonga Trinidad and Tobago
Guyana	Turkmenistan
Hong Kong ²	Tuvalu
Hungary	Ukraine
Jamaica	United Kingdom ³
Kazakhstan	U.S.S.R. ⁴
Kiribati	Uzbekistan
Kuwait	Zambia
Kyrgyzstan	Zimbabwe

APPENDIX ONE

¹ Notification is not mandatory in the case of persons who carry "Republic of China" passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office ("TECRO"), the unofficial entity representing Taiwan's interest in the United States, can be notified at their request.

² Hong Kong reverted to Chinese sovereignty on July 1, 1997, and is now officially referred to as the Hong Kong Special Administrative Region, or "SAR." Under paragraph 3(f)(2) of the March 25, 1997, U.S.-China Agreement on the Maintenance of the U.S. Consulate General in the Hong Kong Special Administrative Region, U.S. officials are required to notify Chinese official of the arrest or detention of the bearers of Hong Kong passports in the same manner as is required for bearers of Chinese passports - i.e., immediately, and in any event within four days of the arrest or detention.

³ British dependencies also covered by this agreement are Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands. Their residents carry British passports.

⁴ Although the U.S.S.R. no longer exists, some nationals of its successor states may still be traveling on its passports. Mandatory notification should be given to consular officers for all nationals of such states, including those traveling on old U.S.S.R. passports. The successor states are listed separately above.

11/4/98

Procedure 98-16

SUGGESTED STATEMENTS TO ARRESTED OR DETAINED FOREIGN NATIONALS
(For Translations, see State Department Publication)

When Consular Notification is at the Foreign National's Option

As a non-U.S. citizen who is being arrested or detained, you are entitled to have us notify your country's consular representatives here in the United States. A consular official from your country may be able to help you obtain legal counsel, and may contact your family and visit you in detention, among other things. If you want us to notify your country's consular officials, you can request this notification now, or at any time in the future. After your consular official are notified, they may call or visit you. Do you want us to notify your country's consular officials?

When Consular Notification is Mandatory

Because of your nationality, we are required to notify your country's consular representatives here in the United States that you have been arrested or detained. After your consular officials are notified, they may call or visit you. You are not required to accept their assistance, but they may be able to help you obtain legal counsel and may contact your family and visit you in detention, among other things. We will be notifying your country's consular officials as soon as possible.

FAX SHEET FOR NOTIFYING CONSULAR OFFICERS

To: Embassy of _____, Washington, D.C.

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OR
Consulate of _____,
(Country) (City) (State)

FROM: Name: _____ BADGE # _____

Office: Cambridge Police Department
Street Address: 5 Western Avenue
City: Cambridge, Massachusetts 02139
Telephone: _____
FAX: _____

SUBJECT: Notification of Arrest/Detention of a National Of Your Country

We arrested/detained the following foreign national, whom we understand to be a national of your country on _____.

Name: _____

Date of birth: _____

Place of birth: _____

Passport number: _____

Date of passport issuance: _____

Place of passport issuance: _____

To arrange for consular access, please call _____ between the hours of _____ and _____. Please refer to case number _____ when you call.

Comments: