

Anchorage Police Department Regulations and Procedures Manual	Operational Procedures 3.10.035	
Policy and Procedure Title Arrest, Death, or Serious Injury of Foreign Nationals	Effective Date April 7, 2021	Page 1 of 4
Replaces Prior Policy: Diplomatic Immunity & Consular Notification for Foreign Nationals October 11, 2011	Approved by: Chief Justin Doll	

This Policy is for Departmental use only and does not apply in any criminal or civil proceeding. This Policy should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this Policy will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

3.10.035 Arrest of Foreign Nationals

PURPOSE

The purpose of this order is to establish protocols for Consular notification in those cases where there is an arrest, death, or serious injury of a foreign national in compliance with the Vienna Convention on Consular Relations (VCCR).

POLICY

It is the policy of the Anchorage Police Department that foreign nationals arrested or detained by members of this agency shall be advised of their right to have their consular officials notified, or that their consular officials shall be notified if such notification is mandatory. Consular officials will be notified if requested by the foreign national or regardless of the wishes of the foreign national if such notification is mandatory. Consular officials may have access to detainees to provide consular assistance. Consular offices shall be notified of the death or serious injury of a foreign national.

DEFINITIONS

Foreign National: Any person who is not a U.S. citizen.

Consular Official (Consul): A citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government's citizens in a foreign country.

Optional Notification: A foreign national may refuse the offer to have their consular office notified of their detention.

Mandatory Notification: Bilateral agreements require that the consul be notified in the event of a detention of a national, regardless of the wishes of the detainee.

Detention: An arrest, protective custody, or other custodial situation. A traffic stop or threshold inquiry is not a detention for the purposes of this policy.

I. PROCEDURE

A. Arrest and Detention of Foreign Nationals

1. When a foreign national is arrested or detained, there are legal requirements to ensure that the foreign national's government can offer the detainee appropriate consular assistance.
2. If the foreign national is arrested and remanded into the custody of the Department of Corrections, DOC, the notification will be made by DOC. The State of Alaska, Department of Corrections policies and procedures, 811.15, Detention, Death, or Serious Injury of Foreign Nationals.
3. If the foreign national is being detained by a member of APD, reference a pending criminal investigation or there will be an extended amount of time before they are remanded with DOC, they shall be advised of their right to have their consular officials notified.
 - i. The officer shall ask the detainee their country of origin. In absence of other information, assume this is the country on whose passport or other travel documents the foreign national travels.
 - ii. All foreign nationals are entitled to consular notification regardless of their immigration status.
 - iii. The officer shall include that the foreign national was advised of his/her option for consular notification, or advised of mandatory notification in the incident report, and if such notification was made.
 - iv. The officer will determine if the detainee's country of origin is one requiring mandatory notification. A list of countries requiring notification can be found at the U.S. Department of State, Bureau of Consular Affairs website (<http://travel.state.gov/content/travel/en/consularnotification.html>) If mandatory notification is required the officer will:
 - a) Notify the foreign national by using forms provided on the U.S. Department of State, Bureau of Consular Affairs website, listed above, in the appropriate language, if available; and
 - b) Mandatory consul notifications shall be made regardless of the detainee's wishes.

- v. Nationals of countries not listed as mandatory notification shall be considered as optional notifications. In the case of an optional notification the officer will:
 - a) Advise the foreign national of his/her right of consular notification and access using “optional notification” forms provided on the U.S. Department of State, Bureau of Consular Affairs website listed above; and
 - b) Make the notification if requested by the National.
- vi. All notification forms shall be filed with the report.

B. Notification of Consul

1. All actual notifications of foreign consuls shall be made as soon as possible, and such notification noted in the report. At a minimum, officers will document the date and time of notification, the employee making notification and include a copy of the fax notification form.
2. All notifications will be made using the fax notification forms provided on the U.S. Department of State, Bureau of Consular Affairs website listed above.
3. The Department of State can be contacted during normal business hours (202)647-4415 (EST). After hours and on weekends and holidays, officers should call the State Department Operations Center at (201) 647-1512 or email address consnot@state.gov.
4. After refusing notification of consul, foreign nationals may request notification be made on their behalf at any time while being held.
5. Privacy concerns or the possibility that a foreign national may have a legitimate fear of persecution or other mistreatment by his/her government may exist in some mandatory notification cases. The notification requirement still must be honored. Employees are not obligated to provide any further information regarding the foreign national’s detention or circumstances.
6. Under no circumstances shall any information indicating that a foreign national may have applied for asylum in the United States or elsewhere be disclosed to that person’s government.

C. Deaths or Life-Threatening Injuries of Foreign Nationals

1. In the event that a foreign national die or suffers a life threatening injury (accident, crime victim, criminal action, unattended death, etc.), the consul of that national's country must be notified. The foreign government may then notify the deceased's next of kin, cancel the party's passport, etc.
2. Notification may be made by FAX or telephone. Attach a copy of the FAX to the incident report.

D. Support and Help Resources for Consular Notification

1. The U.S. State Department publication "Consular Notification and Access" is located at:
<http://travel.state.gov/content/travel/en/consularnotification.html>
2. Assistance is available at the Office of Public Affairs and Policy Coordination for Consular Affairs at: ConsNot@state.gov

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