



FOREIGN NATIONALS & CONSULAR NOTIFICATION

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I. POLICY

It is the policy of Anne Arundel County Police Department to comply with all United States treaty obligations on consular notification and access.

II. DEFINITIONS

A. Arrest or Detention

Any arrest, detention, or other commitment to custody which results in a foreign national being incarcerated for more than a few hours triggers consular notification requirements. A brief traffic stop or an arrest resulting in a citation for a misdemeanor and release at the scene does not trigger such requirements. On the other hand, requiring a foreign national to accompany a law enforcement officer to a place of detention may trigger the consular notification requirements, particularly if the detention lasts for a number of hours or overnight. The longer a detention continues, the more likely it is that consular notification requirements are triggered.

B. Foreign National

Any person who is not a U.S. citizen; same as "alien." Aliens who are lawful permanent residents in the United States and who have a resident alien registration card ("green card") are foreign nationals. So are undocumented or "illegal" aliens.

C. Consular Officer or Consul

A foreign official authorized by the Department of State to provide assistance to the foreign government's citizens in the United States. Different from "counsel," which is an attorney authorized to provide legal advice. Consuls are not authorized to practice law.

D. Diplomat

A foreign official at the country's embassy in Washington, D.C., assigned to represent the country. Diplomats may also perform consular functions, and should be treated the same as a consular officer.

E. Mandatory Notification

Consular notification procedures that apply when you arrest or detain a foreign national from any of the 56 countries that have agreed to special rules with the United States. For such a foreign national, you must notify the consular officer regardless of whether the national requests or wants you to do so. The "mandatory" list of these 56 countries is in Appendix C of this Index Code.

F. Upon Request

Consular notification procedures that apply when you arrest or detain a foreign national from any country not on the “mandatory” list of 56 countries.

III. CONSULAR NOTIFICATION PROCEDURES

A. Obligation Triggered at Time of Booking

The notification process will normally begin at the time the arrested foreign national is booked into the Anne Arundel County Central Holding and Processing Center (CHPC). The CHPC booking officer who processes the foreign national is responsible for implementing the notification process. If, however, a foreign national is transported to a Temporary Detention Area at a District Station prior to booking, the arresting officer will be responsible for implementing the notification process and follow the directions below. Officers can refer to the “Consular Notification and Access” manual found at https://travel.state.gov/content/dam/travel/CNAtrainingresources/CNA%20Manual%205th%20Edition_September%202018.pdf

B. Determine the Foreign National’s Country

In the absence of other information, assume this is the country on whose passport the foreign national travels. Absent citizenship documentation or other evidence to the contrary, accept the foreign national’s own statement as to his or her nationality.

C. Determine Whether or Not This Country is a Mandatory Notification (“List”) Country

If the foreign national’s country is not on the list of “mandatory notification” countries, he or she is from an “upon request” country.

1. For foreign nationals whose country is on the list of mandatory notification countries:

a. Notify the nearest consulate of the foreign national’s country via fax (Appendix B) immediately or as soon as reasonably possible, and in no case longer than the end of the booking shift. Notify the consulate even if the foreign national does not want notification. Contact information for consulates can be found at <https://travel.state.gov/content/travel/en/consularnotification/ConsularNotificationandAccess.html>

b. Never tell the consular officer that the foreign national has requested asylum. If the consular officer insists on information the foreign national does not want disclosed, contact your supervisor or the Department of State at (202) 485-7703.

c. Inform the foreign national that you notified his or her consulate. Use the English sample statement in Appendix A of this Index Code. There are other sample statements in several languages in the “Consular Notification and Access” manual.

d. Make a note of the completed notification in your report and *scan* the fax (Appendix B) and fax confirmation *as a PDF and add it as an attachment to the report in the records management system*.

2. For foreign nationals whose country is not on the list of mandatory notification countries:

a. Inform the foreign national that he or she may have his or her consular officers notified of the arrest or detention. Use the sample English statement in Appendix A of this Index Code. There are other sample statements in several languages in the “Consular Notification and Access” manual.

b. Make a note of the foreign national’s decision in your police report.

c. If the foreign national requests notification, notify the nearest consulate of the foreign national’s country as soon as reasonably possible but no later than 72 hours after arrest. Contact information for consulates can be found at <https://travel.state.gov/content/travel/en/consularnotification/ConsularNotificationandAccess.html>

d. Never tell the consular officer that the foreign national has requested asylum. If the consular officer insists on information the foreign national does not want disclosed, contact your supervisor or the Department of State at (202) 485-7703.

e. Make a note of the completed notification in your report and *scan* the fax (Appendix B) and fax confirmation *as a PDF and add it as an attachment to the report in the records management system*.

IV. FACILITY ACCESS & VISITATION OF CONSULAR OFFICIALS

A. Give consular officers and diplomats visiting a detained foreign national the same access privileges as attorneys visiting a client. Consular officers and diplomats are required to adhere to the same visitation guidelines, rules, and regulations as attorneys.

B. Consular officers and diplomats must have proper identification to gain facility access. They should be carrying identification cards issued by the Department of State. If you have reason to doubt the authenticity of the identification card, call the Department at (202) 647-1985 or after hours at (571) 345-3146 or (866) 217-2089.

V. REQUIRED DOCUMENTATION

A. Document the consular notification and/or offer of notification in Tiburon on the foreign national's note screen.

B. Make the consular notification by fax if possible, and by telephone if not. Place a copy of the fax and fax confirmation receipt in the foreign national's file. Use the sample fax sheet in Appendix B of this Index Code.

C. If notification must be made by telephone, note the name and location of the consulate notified, the name of the person to whom you gave the information, and the date and time of notification.

D. For foreign nationals from "upon request" countries, make a notation that you told the national that he or she may have the consulate notified, and note the national's response. Indicate the date and time of your offer and the national's response. Use the English sample statement in Appendix A of this Index Code. There are other sample statements in several languages in the "Consular Notification and Access" manual.

E. For foreign nationals from mandatory notification ("list") countries, make a notation that you told the national that you notified the consulate. Use the English sample statement in Appendix A of this Index Code. There are other sample statements in several languages in the "Consular Notification and Access" manual.

F. Print the note screen and include it in the paperwork for the foreign national's records file.

G. The supervisor will be responsible for ensuring the proper notations are made in the record.

H. A copy of all documentation relating to the foreign national must be forwarded to the Homeland Security and Intelligence Unit.

IV. DEATH, SERIOUS INJURY OR SERIOUS ILLNESS OF A FOREIGN NATIONAL

A. When a foreign national dies, is seriously injured or becomes seriously ill, the investigating officer will notify the nearest consulate of the victim's country immediately or as soon as reasonably possible. Contact information can be found at <https://travel.state.gov/content/travel/en/consularnotification/ConsularNotificationandAccess.html>. Make such notification by fax if possible, and by telephone if not. Use the sample fax sheet in Appendix B of this Index Code.

B. Document this notification in the incident report, and scan a copy of the fax and the fax confirmation receipt *as a PDF and add it as an attachment to the report in the records management system*.

V. PROPONENT UNIT: Bureau of Patrol

VI. CANCELLATION: This Index Code cancels Section XI of Index Code 2001.1, dated **06-15-20**.