



COLUMBIA POLICE DEPARTMENT

"Policing Excellence through Community Partnerships"

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1.0 INTRODUCTION

The Vienna Convention on Consular Relations, Bilateral Consular Conventions, and other relevant agreements establish specific protocol concerning the privileges, immunities, rights, and mandatory notification requirements pertaining to law enforcement interaction with foreign nationals, Foreign Diplomats, Foreign Consular Officials, and International Organization Officials.

2.0 CONSULAR NOTIFICATION OBLIGATIONS

ALL ARRESTED AND/OR DETAINED FOREIGN NATIONALS HAVE A RIGHT TO CONSULAR ACCESS.

Treaties and agreements with specific foreign countries require mandatory consular notification regarding the arrest, detention, or death of one of their citizens. Mandatory consular notification must be made without delay. Foreign nationals from Mandatory Notification Countries must be informed that consular notification has been made.

Foreign nationals from countries that do not require mandatory notification must still be informed of their right to consular access without delay, *regardless of their visa or immigration status in the United States.*

- All custodial arrests require that consular notification procedures be followed.
- Detentions lasting a number of hours or overnight require that consular notification procedures be followed.
- It is not necessary to follow consular notification procedures when a foreign national is cited and immediately released or during brief routine detentions, such as for traffic violations or accident investigations.
- Consular notifications are NOT necessary for United States citizens or individuals claiming to be a citizen of the United States.

3.0 IDENTIFYING FOREIGN NATIONALS

For the purpose of this directive, a “foreign national” is any person who is not a United States citizen. This includes all aliens, permanent resident aliens, illegal aliens, and individuals with dual citizenship.

Review all forms of identification carefully to verify they belong to the individual in question and to identify the country of origin. Forms of identification can include:

- Immigrant visa
- Non-immigrant visa
- Employment Authorization Document
- Border Crossing Card, a.k.a. BCC Visa
- National Identity card
- Resident Alien Card or Permanent Resident Card (INS Form I-551), a.k.a. “green card”
- Foreign Birth Certificate
- Foreign Drivers License
- International Driving Permit
- Passport

In instances where an individual is a national/citizen of two or more countries other than the United States, Consular notification requirements for each of the countries must be honored.

Individuals having dual citizenship in the United States and another country may be treated exclusively as a United States citizen. Consular notification is NOT necessary, even if the other country is on the mandatory notification list.

4.0 MANDATORY NOTIFICATION COUNTRIES AND JURISDICTIONS

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

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 interests 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 officials 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 United Kingdom includes England, Scotland, Wales, Northern Ireland and Islands, and the British dependencies of 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.

5.0 CONSULAR NOTIFICATION PROCEDURES

Police officers will make every effort to identify the nationality of arrested or detained individuals.

If an arrested or detained individual is determined to be a Foreign National, the Watch Commander shall be notified.

5.1 Mandatory Notification Countries

The Watch Commander is responsible for verifying the foreign national's country of origin and determining if mandatory notification is required.

If the foreign national's country is on the list of mandatory notification countries, the Watch Commander shall:

- Identify what language the individual can read. Provide the individual a copy of the Department of State's written statement for Mandatory Consular Notification in their language.
- Use the listing of Foreign Embassies and Consulates provided by the Department of State to identify the appropriate fax and/or phone number for the notification. Notification must be made without delay.
- Inform the foreign national that mandatory consular notification is being made.
- Complete the Consular Notification of Arrest or Detention form and provide the form to the Telephone Response Unit, who will be responsible for faxing the form.
- Ensure that actions involving consular notification are documented in the incident report.

Notification of the foreign national's consular officials must be made for arrests and/or detentions even if the individual objects or claims to be afraid. **Under no circumstances should the fact that a foreign national has requested and/or applied for asylum be revealed to the individual's government.** Specific guidance from the Department of State may be obtained if the alien is an asylum seeker.

5.2 Non-Mandatory Notification Countries

If the foreign national's country is NOT on the mandatory notification list, the Watch Commander shall:

- Identify what language the individual can read. Provide the individual a copy of the Department of State's written statement for Optional Consular Notification in their language.
- If the foreign national asks that consular notification be made, the nearest officials of the foreign national's country must be contacted without delay.
- Ensure that the offer to make consular notification, the individual's response, and actions involving consular notification, if any, are documented in the incident report.

5.3 Death of Foreign Nationals

When a police officer becomes aware of the death of a foreign national, the Watch Commander will be notified to arrange for consular notifications if the deceased is from a Mandatory Notification country. All consular notification actions will be documented in an incident report.

6.0 CONSULAR NOTIFICATION VERSES MIRANDA WARNING

Consular notification should not be confused with Miranda warnings. Consular notification is given as a result of international legal requirements, so that a foreign government can provide its nationals with appropriate assistance.

Consular notification procedures should be followed in addition to providing Miranda or other required warnings.

7.0 DIPLOMATS, CONSULAR, AND INTERNATIONAL ORGANIZATION OFFICIALS

Foreign Diplomatic Officials, Foreign Consular Officials and International Organization Officials should be treated with courtesy and respect. These Foreign Officials, members of their staff, and family members are entitled to certain privileges and immunities. However, it is the duty of all persons enjoying such privileges and immunities to respect local laws and regulations.

7.1 Procedures For Contacting Foreign Officials

The United States Department of State issues Diplomatic Identification cards to all foreign government personnel having any level of immunity. Foreign Officials, members of their staff and their family members are entitled to different levels of diplomatic immunity. Identification cards should be read carefully; the degree of immunity that the individual is entitled is stated on the card. The Diplomatic and Consular Privileges and Immunities From Criminal Jurisdiction chart (attachment #1) outlines the levels of immunity for each category of Foreign Official.

- Foreign Officials may not be prosecuted for criminal acts committed while performing official duties.
- Foreign Officials may be issued citations for traffic offenses. The issuance of a traffic citation does not constitute an arrest or detention and does not violate the official's privilege of immunity.
- Foreign Officials may not be handcuffed unless it is necessary for the officer's safety.
- Foreign Officials may not be subjected to any sobriety tests.
- A Foreign Official's vehicle may not be searched or impounded.
- Official Diplomatic and/or Consular packages may not be searched.

Police Officers performing a traffic-stop on a vehicle with United States Department of State "DIPLOMAT" license plates or coming into contact with a potential suspect that claims to be a Foreign Official or to have diplomatic immunity shall notify their supervisor immediately.

Upon verifying the Foreign Official's credentials, extreme discretion must be exercised based on the individual's specific level of immunity, the nature/severity of the violation, and the totality of the circumstances.

In the event that a Foreign Official is a danger to himself or the public (i.e. public drunk, driving under the influence), the primary concern shall be for the Official's personal safety.

The following options should be considered:

- Take the Foreign Official to their local destination and release any vehicles involved to a family member or an employee.
- Allow the Foreign Official to call a relative or a friend to come for him.
- Take other non-enforcement actions to bring the situation to a safe conclusion.

All incidents involving a foreign official shall be documented on an incident report and shall be considered sensitive in nature.

Diplomatic and Consular Privileges and Immunities From Criminal Jurisdiction
Summary of Law Enforcement Aspects

Questions regarding an individual's status or immunity should be made during working hours to the Office of Protocol, (202) 647-1985; after hours to the Bureau of Diplomatic Security, (202) 647-7277

Category		May Be Arrested or Detained	Residence May Be Entered Subject to Ordinary Procedures	May Be Issued Traffic Citation	May Be Subpoenaed as Witness	May Be Prosecuted	Recognized Family Member
Diplomatic	Diplomatic Agent	No ¹	No	Yes	No	No	Same as sponsor (full immunity and inviolability).
	Member of Administrative and Technical Staff	No ¹	No	Yes	No	No	Same as sponsor (full immunity and inviolability).
	Service Staff	Yes ²	Yes	Yes	Yes	No— for official acts. Otherwise, yes. ²	No Immunity or inviolability. ²
Consular	Career Consular Officers	Yes, if for a felony and pursuant to a warrant. ²	Yes ⁴	Yes	No—for official acts. Testimony may not be compelled in any case.	No— for official acts. Otherwise, yes. ²	No immunity or inviolability. ²
	Honorary Consular Officers	Yes	Yes	Yes	No—for official acts. Yes, in all other cases.	No— for official acts. Otherwise, yes.	No immunity or inviolability
	Consular Employees	Yes ²	Yes	Yes	No—for official acts. Yes, in all other cases.	No— for official acts. Otherwise, yes. ²	No Immunity or inviolability. ²
International Organizations	International Organization Staff ³	Yes ³	Yes ³	Yes	No—for official acts. Yes, in all other cases.	No—for official acts. Otherwise, yes ³	No immunity or inviolability
	Diplomatic-Level Staff of Missions to International Organizations	No ¹	No	Yes	No	No	Same as sponsor (full immunity and inviolability).
	Support Staff of Missions to International Organizations	Yes	Yes	Yes	No—for official acts. Yes, in all other cases.	No—for official acts. Otherwise, yes.	No immunity or inviolability

¹ Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or the prevention of serious criminal acts.

² This table presents general rules. Particularly in the cases indicated, the employees of certain foreign countries may enjoy **higher** levels of privileges and immunities on the basis of special bilateral agreements.

³ A small number of senior officers are entitled to be treated identically to “diplomatic agents.”

⁴ Note that consular residences are sometimes located within the official premises. In such cases, **only** the official office space is protected from police entry.