
**A GUIDE FOR CONTACTS WITH DIPLOMATS, FOREIGN DIPLOMATIC STAFF, CONSULAR
PERSONNEL, AND FOREIGN NATIONALS**

A. POLICY STATEMENT

International law, to which the United States is firmly committed, requires that the domestic law enforcement authorities of the United States extend extraordinary privileges and immunities to members of foreign diplomatic missions and consular posts. Most of these privileges and immunities are not absolute, however, and in any event law enforcement officers retain their fundamental responsibility to protect and police the orderly conduct of persons present in the territory of the United States. The Concord Police department is committed to cooperating with the United States government in affording members of foreign missions and consular posts the rights and privileges to which they are entitled, while at the same time ensuring the safety of all persons within our jurisdiction.

B. GENERAL

1. Because of the potential consequences that could result from the mishandling of an incident, individual diplomats, and their staff, we need to have an understanding of our responsibilities by adopting basic guidelines
2. It is the intent of this Procedure to involve a supervisor, as soon as possible, with any person claiming diplomatic immunity that is contacted by this agency.

C. PURPOSE

1. The purpose of this Procedure is to provide a basic guideline for officers to follow if they should contact foreign diplomats, their staff, and consular personnel. The majority of the information contained herein is taken directly from the United States Department of State guidelines.

D. DEFINITIONS

Definitions are primarily by the function they perform and are meant to be general because of their very nature.

1. Arrest or Detention
 - .1 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.
 - .2 A brief traffic stop or an arrest resulting in a citation for a misdemeanor and release at the scene does not trigger such requirements
 - .3 Requiring a foreign national to accompany a law enforcement officer to a place of detention may trigger the consular notification 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.

2. Foreign National

- .1 Any person who is not a U.S. citizen; same as “alien”.
- .2 Aliens who are lawful permanent residents in the United States and who have a alien registration card (“green card”) are foreign nationals.
- .3 Undocumented or “illegal” aliens are foreign nationals

3. Consular Officers or Consul

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

4. Diplomat

- .1 A foreign official assigned to his/her country’s embassy in Washington, D.C., assigned to represent the country.
- .2 Diplomats may also perform consular functions, and should be treated the same as a consular officer.

5. “Mandatory Notification”

- .1 Consular notification procedures that apply when you arrest or detain a foreign national from any of the 57 countries that have agreed to special rules with the United States.
- .2 For such a foreign national, you must notify the consular officer regardless of whether the national requests or wants you to do so (mandatory notification countries and jurisdictions are listed in Attachment A)

6. ”Upon Request” Notification

- .1 Consular notification procedures that apply when you arrest or detain a foreign national from any country not on the “mandatory” list of 57 countries

E. PROCEDURE FOR CONTACTS WITH FOREIGN DIPLOMATS AND CONSULAR PERSONNEL

- 1. Personal inviolability is enjoyed, to some degree, by a majority of foreign diplomatic or consular personnel. However, where public safety is in imminent danger or it is apparent that a serious crime may otherwise be committed, police may intervene to the extent necessary to halt such activity. This includes the power of police to defend themselves from personal harm.
- 2. Stopping a diplomatic or consular officer and issuing a traffic citation does not constitute arrest or detention and is permissible, although signature of the citation by such individual is not required. Accordingly, a police officer should never hesitate to follow normal procedures to intervene in a traffic violation which he or she has observed—even if immunity ultimately bars any further action at the scene, the officer should always stop persons committing moving violations, issue a citation if appropriate, and report the incident in accordance with usual procedures. Sobriety tests may be offered

in accordance with local procedures but may not be required or compelled. If the police officer judges the individual to be intoxicated the officer should not (even in the case of diplomatic agents) permit the individual to continue to drive. The officer's primary concern in this contact should be the safety of the community and of the intoxicated individual.

3. In all cases where a person is contacted and claims some form of immunity a supervisor shall be notified and he shall respond to the scene of contact.
 - .1 Following the guidelines listed in the verification section of this Procedure, attempts will be made to verify the individual's status.
 - .2 Appropriate action shall be taken to safeguard the interests of public safety, as well as affording the individual the level of immunity he is entitled to.
4. In all cases of contact with persons who claim to have diplomatic immunity, a police report shall be made (a chart summarizing diplomatic and consular privileges and immunities by position is available in the jail – see Consular Notification and Access Manual, July 2010)
 - .1 This report shall fully document all aspects of the contact.
 - .2 A copy of the report shall be sent to the State Department as soon as practical. Route reports to this address:

U.S. Department of State
235 Pine Street, Suite 900
San Francisco, CA 94104
Phone: (415) 705-1176
Fax: (415) 705-1187

5. In the case of contact with someone who has diplomatic immunity who is a suspect in either a felony or misdemeanor crime, the State Department will be notified by telephone as soon as possible.
 - .1 It is recommended this be done prior to termination of the contact with the individual.
6. Search and Seizure
 - .1 The property of a person enjoying full immunity, including his or her vehicle, may not be searched or seized. Such vehicles may not be impounded or "booted" but may be towed the distance necessary to remove them from obstructing traffic or endangering public safety. If the vehicle is suspected of being stolen or used in the commission of a crime, occupants of the vehicle may be required to present vehicle documentation to permit police verification of the vehicle's status through standard access to "NLETS." Should the vehicle prove to have been stolen or to have been used by unauthorized persons in the commission of a crime, the inviolability to which the vehicle would normally be entitled must be considered temporarily suspended, and normal search of the vehicle and, if appropriate, its detention, are permissible.
 - .2 It is recommended that prior to proceeding with any search of a person, vehicle, or property, the State Department be contacted.

F. CONSULAR NOTIFICATION PROCEDURES

1. Notification obligation triggered at time of booking. The notification process will begin at the time the arrested national is booked into the detention facility.
2. The arresting officer is responsible for implementing all aspects of the notification procedure.

3. The arresting officer will determine the foreign national's country. In the absence of other information, assume this is the country on whose passport the foreign national travels.
4. Absent citizenship documentation or other evidence to the contrary, accept the foreign national's own statement as to his or her nationality
5. 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 from countries on the mandatory notification list:

- .01 Notify the nearest consulate of the foreign national's country via fax immediately or as soon as reasonably possible, and in no case no later than the end of the arresting officer's shift. Contact information for consulates is at www.travel.state.gov/consulatenotification.
- .02 Notify the consulate even if the foreign national does not want notification made.
- .03 If the foreign national has requested asylum, never tell the consular officer that this request has been made. If the consular officer insists on information the foreign national does not want disclosed, the arresting officer should notify their supervisor and will contact the U.S. State Department at (202) 647-4415.
- .04 Inform the foreign national that you notified his or her consulate. It is recommended that the sample statements (Attachment A) available in different languages be used when making this advisement to the foreign national, available at www.travel.state.gov/consularnotification.
- .05 Officers may use the department's translation service to assist in completing the advisement.
- .06 Note the completed notification in the police report and log the fax sheet into evidence. If notification is made by telephone (Fax is preferred) note in the police report the name of the consular employee to whom you gave the information and the name and location of the consular notified.
- .07 Attachment B is a sample of the information that should be faxed to the consular office when making a notification of the arrest or detention of a foreign national of that country.

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

- .01 As soon after the arrest and as reasonably possible but no later than booking, inform the foreign national that he or she may have his or her consular officer notified of the arrest or detention. It is recommended that the arresting officer uses the sample statement (Attachment A), available in several languages at www.travel.state.gov/consularnotification.
- .02 Officers may use the department's translation service to assist in completing the advisement.
- .03 Note the notification and the foreign national's decision in the police report

- .04 If the foreign national requests notification, notify the nearest consulate of the foreign national's county as soon as reasonably possible, but no later than by the end of shift. Contact information for consulates is at www.travel.state.gov/consularnotification.
- .05 If the foreign national has requested asylum, never tell the consular officer. If the consular officer insists on information that the foreign national does not disclose, the arresting officer should notify their supervisor and will contact the U.S State Department at (202) 647-4415
- .06 Note the completed notification in the police report and log the fax sheet into evidence. If notification is made by phone (Fax is preferred) note in the police report the consular employees name whom you gave the information and the name and location of the consular notified
- .07 Attachment C is a sample of the information that should be faxed to the consular office when making a notification of the arrest or detention of a foreign national of that country.

G. IDENTIFICATION

1. The Department of State Office of Protocol issues identification documents (cards) to diplomatic and consular officer and other foreign government personnel stationed in the United States on official business, and who are entitled to some degree of diplomatic or consular immunity. These identification cards can assist officers in ensuring that persons seeking to visit detainees at a detention facility for purposes of consular access are in fact authorized to perform consular functions in the United States on behalf of a foreign government
2. There are three types of identification cards—*Diplomatic* , *Official* and *Consular* . The identification cards may contain a photograph of the bearer, the bearer's name, title, mission, city and state, date of birth, identification number, expiration date, and a United States Department of State seal A brief statement of the bearer's immunity will be printed on the reverse side.
4. While this form of identification is generally to be relied upon, law enforcement authorities are nonetheless urged immediately to seek verification, in connection with any serious incident or in any case where they have reason to doubt the validity of the card. During business hours (8:15am to 5:00pm. Eastern), direct any questions regarding an individuals official status or immunity to the Department's Officer of Protocol at (202) 647-1985. After hours, direct such questions to the Department's Bureau of Diplomatic Security at (202) 647-7277, (571) 345-3146, or (866) 217-2089, or send a fax to (202) 895-3613.
5. Police officers should be alert to the fact that newly-arrived members of diplomatic and consular staffs may not yet have these official identity documents and should be prepared to contact the United States Department of State Protocol Office, for verification if confronted with such situations.

H. VERIFICATION

1. Inquiry should also promptly be made to the Department of State in any case where an individual claims immunity and cannot present satisfactory identification or in any case where the officer has reason to believe that invalid identification is being presented. The attached telephone numbers are provided for use in this connection.

I. FACILITY ACCESS AND VISITATION PRIVILEGES OF CONSULAR OFFICERS

1. Consular officers and diplomats visiting a detained foreign national will be given the same access as attorneys visiting a client. Consular officers and diplomats are required to adhere to the same visitation guidelines, rules and regulations as attorneys
2. Consular officers and diplomats must have proper identification to gain access to our facility. They should be carrying identification cards issued by the Department of the State. If there is a question about a consular officer or diplomats credentials, use the verification resources identified in paragraph G.4 of this procedure.

J. OTHER DIRECTIONS FOR OFFICERS AND EMPLOYEES

1. For the purposes of this policy, officers of this department are not required to inquire about the nationality of everyone they arrest or detain. However, if the officer learns that the individual is a foreign national, the officer is then obligated to abide by the provisions of this procedure.
2. When a member of this department becomes aware of the death of a foreign national, or when a foreign national is discovered / reported seriously injured or ill, consular officials must be notified. The officer having primary responsibility for the investigation of the incident is responsible for making the required notification.

**Re: Diplomatic and Consular Personnel
and International Organizations Other than the UN**

During Normal Business Hours:

| | |
|---|----------------|
| Current status of federal diplomatic license tags, registration, or other motor vehicle information: | (202) 895-3532 |
| Current status of Department of State Driver licenses and general licensing Information: | (202) 895-3521 |
| For reporting traffic incidents/accidents, Issuance of citations, etc., involving Foreign missions personnel: | (202) 895-3521 |
| Diplomatic agents and family members: | (202) 647-1664 |
| Administrative and technical, service staff, and families: | (202) 647-1405 |
| Consular personnel and families: | (202) 647-1404 |
| International organizations: | (202) 647-1402 |

After Normal Business Hours:

| | |
|---|----------------------------------|
| All inquires should be made to the Command Center of the Bureau of Diplomatic Security, Department of State (operates 24 hrs./day): | (571) 345-3146 1-866-217-2089 |
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Re United Nations Personnel

During Normal Business Hours:

| | |
|---|----------------------------------|
| Diplomatic agents and family members | (212) 415-4131 |
| U.N. mission staff and family members | (212) 415-4168 |
| U.N. Secretariat employees | (212) 415-4131 (212) 415-4168 |
| U.S. Department of State license tags, registration, or other motor vehicle information | (212) 826-4500 |

After Normal Business Hours:

| | |
|---|----------------|
| Information is available from the Communications Section of the U.S. Mission to the United Nations (open 24 hrs/day): | (212) 415-4444 |
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Attachment A
Suggested Statements to Arrested or Detained Foreign Nationals

Statement 1:

For All Foreign Nationals Except Those From List Countries

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 of your situation. You are also entitled to communicate with your consular officers. A consular officer may be able to help you obtain legal representation, and may contact your family and visit you in detention, among other things. If you want us to notify your consular officers, you can request this notification now, or at any time in the future. Do you want us to notify your consular officers at this time?

Statement 2:

For Foreign Nationals From List Countries

Because of your nationality, we are required to notify your country's consular officers here in the United States that you have been arrested or detained. We will do so as soon as possible. In addition, you are entitled to communicate with your consular officers. You are not required to accept their assistance, but they may be able to help you obtain legal representation and may contact your family and visit you in detention, among other things.

Suggested Fax Sheets for Notifying Consular Officers of Arrests or Detentions

Date _____

Time _____

TO: Embassy of _____, Washington, D.C.
Consulate of _____, _____, _____
(country) (city) (state)

FROM: Name _____
Office _____
Street Address _____
City _____
State _____
ZIP Code _____
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 _____, _____.

Mr./Mrs. _____
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:

Mandatory Notification Countries and Jurisdictions

| | | |
|--|------------------------|-------------------------------------|
| Albania | Ghana | Saint Lucia |
| Algeria | Grenada | Saint Vincent and the Grenadines |
| Antigua and Barbuda | Guyana | Seychelles |
| Amenia | Hungary | Sierra Leone |
| Azerbaijan | Jamaica | Singapore |
| Bahamas | Kazakhstan | Slovakia |
| Barbados | Kiribati | Tajikistan |
| Belarus | Kuwait | Tanzania |
| Belize | Kyrgyzstan | Tonga |
| Brunei | Malaysia | Trinidad and Tobago |
| Bulgaria | Malta | Tunisia |
| China (including Macao and Hong Kong) ^{1[1]} | Mauritius | Turkmenistan |
| Costa Rica | Moldova | Tuvalu |
| Cyprus | Mongolia | Ukraine |
| Czech Republic | Nigeria | United Kingdom ^{2[2]} |
| Dominica | Philippines | Uzbekistan |
| Fiji | Poland ^{3[3]} | Zambia |
| Gambia | Romania | Zimbabwe |
| Georgia | Russia | |
| | Saint Kitts and Nevis | |

^{1[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 of their request. TECRO’s offices are listed on pages 126-127; see also footnote 128 on page 66.

⁷ Mandatory only for foreign nationals who are not lawful permanent residents in the United States (i.e., “green card” holders). Otherwise, upon the nation’s request. See the question “But since ‘green card’ holders are living in the United States permanently, why can’t I ignore consular notification requirements for them?” at page 12; see also footnote 18 on page 43.

⁶ The bilateral consular convention between the United States and the United Kingdom applies to British nationals from Great Britain (England, Wales, and Scotland); Northern Ireland; the Crown Dependencies of Jersey, Guernsey, and the Isle of Man; and the British Overseas Territories; including Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat, and the Turks and Caicos Islands, along with other island territories. Residents of the overseas Territories may be traveling on a passport issued by the territory with no indication that the territory is British. Nevertheless, for them and all others from a British possession listed above, consular notification and access should be provided to the nearest U.K. consulate. See page 24 of the Consular Notification and Access Manual on file in the Detention Facility for advice on how to ascertain whether an arrested or detained person is a British National.

