



**California State University, Los Angeles**  
**Department of Public Safety**

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EFFECTIVE: September 22, 2008

SUPERSEDES: N/A Reviewed/Revised: January 26, 2010

SUBJECT: **Consular Notifications & Foreign Nationals**

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I. PURPOSE:

To establish guidelines for the proper handling and notification requirements associated with the detention, arrest, and/or death of a foreign national. The obligations discussed in this general order are in fact a matter of international law, enacted under the Vienna Convention on Consular Relations and in some cases in bilateral agreements, conventions, or treaties, all of which are binding on federal, state, and local governments.

II. POLICY:

In accordance with federal law and the provisions of Section 834c of the California Penal Code, every officer, upon arrest and booking or detention for more than two hours of a known or suspected foreign national, shall advise the foreign national that he or she has a right to communicate with an official from the consulate of his or her country, except as provided in subdivision.

Countries requiring mandatory notification under Article 36 of the Vienna Convention shall be notified by officers as set forth in this section without regard to an arrested or detained foreign national's request to the contrary. The mandatory notification countries are listed at the end of this written directive and can also be found in Section 834c of the California Penal Code.

A current list of telephone and fax numbers for Foreign Embassies and Consulates in the United States can be obtained on the Department of State's website at:  
<http://www.travel.state.gov/law/notifv.html>.

III. DEFINITIONS: None.

III. PROCEDURES:

A. Foreign Nationals

1. Foreign nationals are all non-U.S. citizens. This group of individuals includes those traveling or living here in the country legally on green cards, visas, or passports, as well as those traveling or living here in the country illegally.
2. Foreign nationals can have dual citizenship. If a foreign national is also a U.S. citizen, no advisement is necessary. If a foreign national has dual citizenship between two other (non-U.S.) countries, then upon his/her request, or in the case of mandatory reporting, both countries shall be notified.

## B. Deaths, Arrests and Detentions of Foreign Nationals

1. During the course of any death investigation involving a foreign national, the investigating officer shall notify the coroner that the deceased is a foreign national, and the coroner's office will make the necessary notifications.
2. Whenever a foreign national is arrested or detained in the United States, there are legal requirements to ensure that the foreign national's government can offer him/her appropriate consular assistance. In all cases, the foreign national must be told of the right of consular notification and access.
3. In most cases, the foreign national then has the option to decide whether to have consular representatives notified of the arrest or detention. When consular notification is at the foreign national's option, the below notification admonishment is suggested.
  - a) As a non-US. 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.
  - b) 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 officials are notified, they may call or visit you. Do you want us to notify your country's consular officials?
4. In other cases the foreign national's consular officials must be notified of an arrest and/or detention regardless of the foreign national's wishes when he or she is from a mandatory reporting country.
5. A list of the mandatory reporting countries with informational notations as of January 1, 2008 is included in this written directive. Also, a current list of the mandatory reporting countries, the phone and fax numbers for all foreign embassies can be found on the U.S. State Department's WebPages at <http://www.travel.state.gov/notification6.html#phone>.
6. When consular notification is mandatory, the below notification admonishment is suggested.
  - a) 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.
  - b) 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.
7. Foreign nationals whose country requires mandatory notification should still be informed that the notification has been made and advised that he/she may also specifically request to see their consulate.
  - a) 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 should still be honored,

but it is possible to take precautions regarding the disclosure of information. For example, it may not be necessary to provide information about why a foreign national is in detention.

- b) Moreover, under no circumstances should 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. The Department of State can provide more specific guidance in these particular cases.
8. The arresting or reporting officer shall record in the body of his report that he/she complied with the notification and whenever possible record the subject's response. The case officer should include in his report, a copy of the fax confirmation as proof of notice.

#### C. Consular Access to Detained Foreign Nationals

1. Detained foreign nationals are entitled to communicate with their consular officers. Any communication by a foreign national to his/her consular representative must be forwarded by the appropriate local officials to the consular post without delay.
2. Foreign consular officers must be given access to their citizens. Such officers have the right to visit their nationals, to converse and correspond with them, and to arrange for their legal representation.
3. They must refrain from acting on behalf of a foreign national, if the foreign national opposes their involvement and consular officers may not act as attorneys for their citizens.

#### D. Mandatory Notification Countries and Jurisdictions

1. As of January 1, 2008, the countries listed below are currently on the list of mandatory reporting countries. The bracket notation refers to the information provide in paragraph 2 of this section.

Algeria	Georgia	Philippines	Tuvalu
Antigua and Barbuda	Ghana	Poland ( nonpermanent residents)	Ukraine
Armenia	Grenada	Romania	United Kingdom [c]
Azerbaijan	Guyana	Russia	USSR [d]
Bahamas	Hong Kong [b]	Saint Kitts & Nevis	Uzbekistan
The Barbados	Hungary	Saint Lucia	Zambia
Belarus	Jamaica	Saint Vincent and the Grenadines	Zimbabwe
Belize	Kazakhstan	Seychelles	
Brunei	Kiribati	Sierra Leone	
Bulgaria	Kuwait	Singapore	
China [a]	Kyrgyzstan	Slovakia	
Costa Rica	Malaysia	Tajikistan	
Cyprus	Malta	Tanzania	
Czech Republic	Mauritius	Tonga	
Dominica	Moldova	Trinidad and Tobago	
Fiji	Mongolia	Tunisia	
Gambia	Nigeria	Turkmenistan	

2. Informational notations on the mandatory countries of China, Hong Kong, United Kingdom, and U.S.S.R.
  - a) 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.
  - b) 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. United States officials are required to notify Chinese authorities 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.
  - c) 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.
  - d) 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.

V. APPENDICES: None