

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 331.01

DATE: 14 May 2021

**SUBJECT: CONSULAR NOTIFICATION
PROCESS**

POLICY DIRECTIVE

PURPOSE:

To ensure the Division of Corrections and Rehabilitation complies with its legal obligation to extend appropriate consular services to *foreign nationals* arrested and detained in the United States.

REFERENCE:

1963 Vienna Convention on Consular Relations (VCCR); and United States Department of State Consular Notification and Access Manual, Fifth Edition, September 2018.

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject, including DOC Policy Directive 331.01, dated 01 October 2004.

APPLICABILITY:

All facilities within the Division of Corrections and Rehabilitation that have custody of adult inmates. This Policy is available for general distribution.

DEFINITIONS:

Foreign Nationals: For the purposes of this Policy, any person who is not a U.S. citizen, including those who have a resident alien registration card, more commonly known as a “green card.”

Consular Officer: For the purposes of this Policy, an official of a foreign government accredited by the U.S. Department of State and authorized to provide assistance on behalf of that government to that government's citizens in another country.

POLICY:

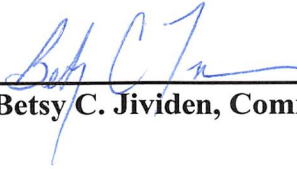
- I. When *foreign nationals* from most countries are detained, they may, upon request, have their consular officers notified without delay of their arrest or detention, and may have their communications to their consular officers forwarded without delay. In addition, *foreign nationals* must be advised of this information without delay. For *foreign nationals* of some countries, consular officers must be notified of the arrest or detention of a *foreign national*, even if the *foreign national* does not request or want notification.
- II. Consular officers are entitled to communicate with and to have access to their nationals in detention, and to provide consular assistance to them, including arranging for legal representation.
- III. When a law enforcement officer or other government official becomes aware of the death, serious injury, or serious illness of *foreign national*, consular officers must be notified.
- IV. The flow chart of arrest or detention notification procedures (**Attachment #1**) shall be posted in booking and intake areas. Steps to follow when a *foreign national* is arrested or detained include:
 - A. Determine the *foreign national's* country or nationality, in the absence of other information, assume this is the county on whose passport or other travel document the *foreign national* is traveling.
 - B. If the *foreign national's* country is on the list of "mandatory notification" countries:
 1. Inform the detainee that he or she may communicate with the consulate, and that you must notify consulate of arrest/detention.
 2. Notify the nearest consulate **without delay**.
 3. Make record of notification in case file by filing an incident report. If notification occurred by fax or email, keep fax confirmation or sent email.
 4. Allow consular officers access to detainee if they subsequently request access.
 - C. If the *foreign national's* country is not on the list of "mandatory notification":
 1. Inform detainee, **without delay**, that he or she may have consulate notified of arrest/detention. Make a note in the case file by filing an incident report.
 2. If the detainee wants the consulate notified, notify nearest consulate **without delay**.

- a. Make record of notification in case file by filing an incident report. If notification occurred by fax or email, keep fax confirmation or sent email.
 - b. Allow consular officers access to detainee if they subsequently request access.
3. If the detainee does not want the consulate notified, make a note in the case file by filing an incident report and do NOT inform the consulate.
- V. Additional information, along with the most up-to-date contact information for foreign embassies and consulates within the United States, is available online at *travel.state.gov/CNA*

ATTACHMENT(S):

- #1 Arresting a Non-U.S. Citizen Consular Notification Process (flow chart of arrest or detention notification procedures)

APPROVED SIGNATURE: _____


Betsy C. Jividen, Commissioner


Date

ARRESTING A NON-U.S. CITIZEN

Consular Notification Process



IN ALL CASES:

- Do not inform consulate about detainee's refugee or asylum status.
- Detainee may communicate with consular officer and may request consular access at any time (whether previously declined or not).
Consular officers may have access to detainee
- regardless of whether detainee requests it. Even if detainee does not want to be visited, consular officers may still have one face-to-face visit.

Consular Notification & Access (CNA)
U.S. Department of State
CA/P
SA-17, 12th Floor
Washington, DC 20522-1712

P: 202-485-7703
consnot@state.gov

Q. Are you a U.S. citizen?

A. "YES, I am a U.S. citizen."

(No further action required.)



"NO, I am not a U.S. citizen."



Q. Are you a national of one of these countries?

Albania	Costa Rica	Kazakhstan	Russia	Tunisia
Algeria	Cyprus	Kiribati	St. Kitts and Nevis	Turkmenistan
Antigua and Barbuda	Czech Republic	Kuwait	St. Lucia	Tuvalu
Armenia	Dominica	Kyrgyzstan	St. Vincent and the Grenadines	Ukraine
Azerbaijan	Fiji	Malaysia	Seychelles	United Kingdom ³
Bahamas	Gambia	Malta	Sierra Leone	Uzbekistan
Barbados	Georgia	Mauritius	Singapore	Zambia
Belarus	Ghana	Moldova	Slovakia	Zimbabwe
Belize	Grenada	Nigeria	Tajikistan	
Brunei	Guyana	Philippines	Tanzania	
Bulgaria	Hungary	Poland ²	Tonga	
China ¹	Jamaica	Romania	Trinidad and Tobago	

1. Includes Hong Kong and Macao. Does not include Republic of China (Taiwan).

2. Mandatory only for non-permanent residents in the United States (i.e., those not holding a "green card"); for green card holders, notification is upon request.

3. UK includes Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos islands. Residents' passports bear the name of their territory and may also bear the name "United Kingdom." Whether or not the passport bears the name "United Kingdom," consular services for these persons are provided by UK consulates.

A. "YES."

Step 1. Inform detainee that he or she may communicate with consulate, and that you must notify consulate of arrest/detention.

Step 2. Notify nearest consulate **without delay**.

Step 3. Make record of notification in case file. Where fax or email sent, keep fax confirmation or sent email.

Step 4. Allow consular officers access to detainee if they subsequently request access.

(No further action required.)



"NO."

Inform detainee, **without delay**, that he or she may have consulate notified of arrest/detention.



Q. Do you want your consulate notified of your arrest/detention?

A. "YES."

Step 1. Make note in case file.

Step 2. Notify nearest consulate **without delay**.

Step 3. Make record of notification in case file. Where fax or email sent, keep fax confirmation or sent email.

Step 4. Allow consular officers access to detainee if they subsequently request access.

(No further action required.)



"NO."

Step 1. Make note in case file.

Step 2. Do **NOT** inform the consulate.

(No further action required.)



For more information visit: travel.state.gov/CNA