


PB FORM 290  PITTSBURGH BUREAU OF POLICE <i>"...honor, integrity, courage, respect, and compassion."</i>		SUBJECT: "CONSULAR NOTIFICATION"	ORDER NUMBER: 46-03
		PLEAC STANDARD:	PAGE 1 OF 3
RE-ISSUE DATE: N/A	EFFECTIVE DATE: 9/13/2017	ANNUAL REVIEW DATE: AUGUST	RESCINDS: ALL PREVIOUS
			AMENDS: ALL PREVIOUS

1.0 POLICY OR PURPOSE

1.1 Under ordinary circumstances, a general request for adequate identification as part of a criminal investigation is all that is necessary or appropriate. Officers will not ask for documents relating to someone's immigration or alien status for the sole purpose of establishing their status but may be presented by the person if this is their only source of identification. Officers may ask the person if they are a foreign national after they are arrested or detained so that the mandatory advisement statement can be made.

1.2 It is the intent of the Pittsburgh Police Department to foster trust and cooperation with all people served by the Department. Complainants, witnesses and victims are encouraged to communicate with Pittsburgh Police officers without fear of inquiry regarding their immigration or alien status.

1.3 It is the policy of the Department that officers will not request specific documents for the sole purpose of determining someone's immigration or alien status. If offered by a person and not specifically requested by the officer, it is permissible to rely on immigration documents to establish someone's identity in response to a general request for identification.

1.4 Under the terms of the Vienna Convention and other treaties, whenever officers take a person into custody who states that they are a foreign citizen, additional notification procedures are required. Compliance with this policy and procedure is important because it enhances the ability of the United States to insist that foreign officials provide the same rights to United States diplomats and citizens who are arrested abroad

2.0 DEFINITIONS

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.

2.1 Alien: Any person who is not a citizen or national of the United States of America; foreigner.

2.2 Citizenship: Normally, citizenship describes the country that a person was born in. However, a person can change citizenship in a process called naturalization.

2.3 Consular Immunity: Consular immunity protections are similar but not as extensive as diplomatic immunity. Consular officers do not have absolute immunity from a host country's criminal jurisdiction and may be tried for certain local crimes. They are immune from local jurisdiction only in cases directly relating to consular functions.

2.4 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.

2.5 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.

2.6 Foreign National: A person who was born outside the jurisdiction of the United States, is a citizen of a foreign country, and has not become a naturalized United States citizen under United States law. The person may be a tourist, visitor, migrant worker with a temporary work permit, alien resident, illegal alien, asylum-seeker, or person-in-transit.

2.7 National: An individual who has pledged allegiance to a certain country.

2.8 Nationality: The description used on an individual's citizenship or country where the person is deemed a national.

2.9 "Mandatory" notification: Consular notification procedures that apply when a foreign national from any of the countries that have agreed to special rules with the United States is arrested or detained. For such a foreign national, the consular officer must be notified regardless of whether the national requests or wants you to do so.

2.10 "Optional" notification: Consular notification procedures that apply when a foreign national from any country not on the "mandatory" list of countries is arrested or detained.

3.0 PROCEDURES:

3.1 During the arrest process or if detained for investigative purposes, the officer shall ask the detainee their country of origin. In the absence of information to the contrary, officers may assume that the foreign national's country of origin is the country who has issued a passport or travel documents to that person. The officer shall then consult the Consular Notification and Access guide published by United States Department of State.

3.2 The Consular Notification and Access guide outlines the requirements pertaining to foreign nationals, to include a list of countries and jurisdictions that require notification. Immigration status does not alter the right to optional or mandated notification.

Updated CNA lists and forms, to include translation documents, are available on the internet at

[REDACTED]

Telephone: [REDACTED] Fax: [REDACTED]

Email: [REDACTED]

4.0 MANDATORY NOTIFICATIONS

The arresting officer, through the use of the CNA guide, shall determine if the detainee's country of origin is one requiring mandatory notification. If mandatory notification is required, then the detainee and the appropriate embassy or consulate shall be notified using the forms in the CNA, or obtained from the US Department of State website.

5.0 OPTIONAL NOTIFICATION

Nationals of countries not listed as mandatory notification shall be considered as optional notifications. Nationals of optional notification countries shall be advised of their right of consular notification and access using forms provided in the CNA or obtained on the US Department of State website. If the national requests consular notification, then notification shall be made using forms from the CNA or obtained from the US Department of State website.

6.0 CONSUL NOTIFICATION

6.1 All actual notifications of foreign consuls shall be made "without delay" and such notification shall be noted in the officer's report. The report must contain the following:

- 6.1.1 Identity of the foreign national;
- 6.1.2 Date and time of notification;
- 6.1.3 Employee making notification; and
- 6.1.4 Identity of the country notified.

6.2 For foreign nationals from optional notification countries who do not wish to have their consul notified, take no further action. After refusing notification of consul, foreign nationals may request notification be made on their behalf at any time while being held.

6.3 For foreign nationals who request notification, or are subject to mandatory notification of their consul, fax the notification using the Consul Notification Fax Sheet.

6.4 Privacy concerns, or the possibility that a foreign national may have a legitimate fear of persecution or other mistreatment by his government, may exist in some mandatory notification cases. The notification requirement still must be honored. Employees are not obligated to provide any further information regarding the foreign national's detention or circumstances.

6.5 Application for Asylum: Under no circumstances shall 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.

7.0 FACILITY ACCESS AND VISITATION PRIVILEGES OF CONSULAR OFFICERS

7.1 Consular Officers and Diplomats visiting a detained Foreign National shall have the same access privileges as attorneys visiting a client. Consular Officers and Diplomats are required to adhere to the same visitation procedures as attorneys.

7.2 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 [REDACTED] or after hours at [REDACTED] or [REDACTED].

8.0 REPORTING

8.1 The reporting officer shall include that the foreign national was advised of his/her option for consular notification, or advised of mandatory notification in the incident report, and if such notification was made. All notification forms shall be filed with the case file.

9.0 DEATH OR SERIOUS INJURY OF A FOREIGN NATIONAL

9.1 Standard operating procedure for death or serious injury notification shall be followed.

9.2 In addition to the above procedures, when a Foreign National dies, is seriously injured, or becomes seriously ill, notify the nearest consulate of his or her country immediately or as soon as reasonably possible. Make such notification by fax if possible using the Foreign National Death/Injury/Illness Consular Notification form, and by telephone if not.

9.3 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. Make an audio recording of the telephone call if possible and preserve it.

§ Suggested Statements to Arrested or Detained Foreign Nationals

Statement 1:

When Consular Notification Is at the Foreign National's Option

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. 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. 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?

Statement 2

When Consular Notification is Mandatory

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. 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.

Approved By:

Scott Schubert
Chief of Police