

	MEDFIELD POLICE DEPARTMENT	POLICY NO. 1.22
CONSULAR NOTIFICATION		
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.1.4		DATE OF ISSUE: 05/28/2023
ISSUING AUTHORITY: Michelle Guerette Chief of Police		EFFECTIVE DATE: 05/28/2023 REVISION DATE: 11/07/2025

BACKGROUND:

As a signatory to the Vienna Convention on Consular Relations, the United States government has agreed to ensure the rights of foreign nationals to have access to their own governments in the event that they are detained or arrested. These rights are also granted to American citizens in the foreign countries that are signatories.

The application of this treaty rests with the employees of each police agency when they arrest or detain foreign nationals. Police employees should treat foreign nationals as they would want an American citizen to be treated in a similar situation in a foreign country.

POLICY:

Foreign nationals that are arrested or detained by the Medfield Police Department shall be advised of their right to have their consular officials notified, or that notification of their consular officials is mandatory. Consular notification is mandatory for any foreign national's death. The Shift Commander shall ensure that all requested or required notifications are made to the foreign national's embassy or consulate without delay.

DEFINITIONS:

Foreign national: Any person who is not a U.S. citizen; same as "alien." Aliens who are lawful permanent residents in the United States and who have a resident alien

registration card ("green card") are foreign nationals. So are undocumented or "illegal" aliens.

Arrest or detention: Any arrest, 1. 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.

PROCEDURES: [1.1.4]

During the booking process, the booking 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 booking officer shall then consult the Consular Notification and Access guide published by United States Department of State, located in the booking area.

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 <http://travel.state.gov/consularnotification>

Mandatory Notifications

The booking 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.

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.

Consular Notification

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:

1. Identity of the foreign national;

2. Date and time of notification;
3. Employee making notification; and
4. Identity of the country notified.

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.

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

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.

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.

Consular Officials Access to Detainees

Consular officials are entitled access to their nationals in detention, and are entitled to provide consular assistance. Consular officials will be subject to the same provisions as attorneys as outlined in the department policy on **Holding Detainees**. Prior to granting access, the supervisor should at a minimum consider:

1. The reason for being detained, nature of the charges;
2. The detainee's demeanor (violent, intoxicated, etc.);
3. Bail status and anticipated length of custody;
4. Security considerations; and
5. Availability of personnel or appropriate facilities to accommodate such a visit.

Consular officials may not act on behalf of the foreign national if the national opposes their involvement. Consular officials may not act as an attorney for the national.

Death or Life Threatening Injuries to a Foreign National

In the event that a foreign national becomes deceased or suffers a life threatening injury (accident, crime victim, criminal action, unattended death, etc.), the consul of that

national's country must be notified. The foreign government may then notify the deceased's next of kin, cancel the person's passport, etc.

Notification may be made by FAX or telephone and should include at the minimum:

1. The national's name, address, and date of birth if known;
2. A brief description of the circumstances surrounding the person's death (homicide, accident victim, found deceased, etc.); and
3. Passport number, date of issuance and place of issuance if known.

Reporting

The reporting officer shall include that the foreign national was advised of his 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 booking documents by the booking officer.