

## 1.22 CONSULAR NOTIFICATIONS

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# CONSULAR NOTIFICATIONS

POLICY & PROCEDURE NO. <b>1.22</b>	SECTION <b>OPERATIONS</b>	PAGES: 4
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## I. GENERAL CONSIDERATIONS AND GUIDELINES

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.

## II. POLICY

Foreign nationals that are arrested or detained by the West Brookfield Police Department shall be advised of their right to have their consular officials notified or that notification of their consular officials is mandatory. The West Brookfield Police Department shall notify the consulate without delay, if the arrested or detained foreign national requests such notification. Consular officials shall be allowed to communicate with and have reasonable access to the arrested/detained foreign national. The West Brookfield Police Department will comply with treaties mandating that consular officials be notified of an

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arrest or detention of one of their nationals regardless of the detainee's wishes (Mandatory Notification Countries). Consular notification is mandatory for any foreign national's death. The Officer shall ensure that all requested or required notifications are made to the foreign national's embassy or consulate.

### **[72.7.2(1-F)]**

For the purposes of this policy, detention is an extended period of time, lasting a number of hours or overnight, during which a foreign national is held against their wishes. Traffic stops or brief inquiries resulting in the issuance of a citation or summons do not apply. A foreign national is defined as any individual who is not a U.S. citizen. **[72.7.2(1-A,B)]**

## **III. DEFINITIONS**

## **IV. PROCEDURES**

During the booking process or any other period of detention, the booking officer shall ask the detainee their country of origin. In the absence of other information, assume this is the country on whose passport or other travel documents the foreign national travels. The booking officer shall then consult the Consular Notification and Access guide published by United States Department of State. **[72.7.2(1-C)]**

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, including 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 forms in the CNA or obtained from the US Department of State website. **[72.7.2(1-F)]**

### **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

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notification, then notification shall be made using forms from the CNA or obtained from the US Department of State website.

### **CONSUL 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 their 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 to 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: **[72.7.2(1-D)]**

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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/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 booking documents by the booking officer.

The telephone number for Consular Notification and Access is:  
(202-485-7703), the fax number is (202-485-6170).