

ANNE ARUNDEL COUNTY DEPARTMENT OF DETENTION FACILITIES ADMINISTRATIVE DIRECTIVE	NO. 06.05 DATE: October 15, 2012 SUBJECT: Inmate Rights TITLE: Consular Notification for Foreign Nationals
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- I. Reference: ACA-3ALDF-3E-07-1 United States Department of State publication: Consular Notification and Access. Instructions for Federal, State, and Local Law Enforcement and Other Officials regarding Foreign Nationals in the United States and the Rights of Consular Officials to Assist Them.

- II. Applicable to: Anne Arundel County Department of Detention Facilities (AACDDF)

- III. Purpose: To establish guidelines for consular notification and access following the arrest and detention of a foreign national.

- IV. Policy:
 - A. The AACDDF shall comply with the treaty obligations of the United States Department of State as it regards the terms and conditions of consular notification and access in the event of an arrest and detention of a foreign national.

 - B. Foreign Nationals who are arrested or detained within the United States by any Federal, State, or Local Law enforcement personnel have the right to have their consular officials notified of their arrest if they so choose in accordance with international treaty obligations to which the United States is a signatory. These obligations are binding upon all Federal, State, and Local Officials. Similarly, consular officials have the right of access to their foreign nationals if requested by the foreign national.

 - C. In all cases, a foreign national must be told of his/her right of consular notification and access. In most cases the foreign national has the option of deciding whether to have their consular representatives notified of their arrest or detention. In certain cases, notification of the consular officials of the foreign national is mandatory regardless of the foreign national's wishes.

 - D. Copies of the Consular Notification and Access: Instructions for Federal, State, and Local Law Enforcement and Other Officials regarding Foreign Nationals in the United States and the Rights of Consular Officials to Assist Them (Publication) are located in Booking/Receiving, the Sergeant's and Lieutenant's Office, Compliance Office, ACFA-Inmate Services Office, Records Office, Pretrial Office and Classification Office. This document contains detailed instructions on the treatment of foreign nationals, frequently asked questions about the process, translations of the required information to provide to foreign nationals in a variety of languages, a

section on Mandatory notification provisions, telephone numbers of embassies and consulates, and sample fax sheets for use to provide notification; as well as any additional information. This document may also be accessed on the Department of State's Web page at <http://www.state.gov>, then use the Search option under Consular Notification and Access.

- E. Consular Notification – Where notification is required, this shall be made by the Records Department during regular business hours. During non-regular business hours, notifications will be made by a Sergeant or Lieutenant.
1. A foreign national must be advised of the right to have their consular officials notified of their arrest and/or detention. Prepared statements translated into a variety of languages are included in the State Department Publication in Part Five, page 75. These statements are to be used by staff when advising foreign nationals of their right of consular notification.
 2. Consular notification is expected to be completed within a twenty-four (24) hour period of detention. If any circumstance prohibits making notification within this time frame, it must be clearly documented in an Incident Report.
 3. In certain instances, the nearest consular official must be notified of the arrest or detention of a foreign national regardless of the wishes of the foreign national. **THIS NOTIFICATION IS MANDATORY.** A listing of the countries requiring mandatory notification may be found in the publication, Part One, page 4.
 4. Consular Officials are entitled access to their nationals in custody through professional visits and are entitled to provide consular assistance. Visits of consular officials shall normally occur during normal business hours but may be scheduled at other times as appropriate. Any contact by a Consular Official to visit a foreign national should be directed to the Shift Supervisor for approval.

Note: Consular and Diplomatic Officials have identification cards issued to them by the Department of State. A copy of these identification cards is contained in Part Five of the publication pages 99 and 100. If there are any questions about the identity of an official, the Office of Protocol of the United States Department of State may be called at 202-647-1985 during regular business hours (8:15 a.m. to 5:00 p.m.) or 202-647-7277, 571-345-3146, or 866-217-2089 at other hours.

5. When a government official becomes aware of the death of a foreign national, consular officials must be notified. This notification will be made by a Sergeant or Lieutenant.
6. When guardianship or trusteeship is being considered with respect to a foreign national who is a minor or incompetent, consular officials must be notified.

V. Procedure:

- A. When a foreign national is arrested or detained, the Booking/Receiving Officers shall determine his/her country of citizenship. In the absence of other information, assume this is the country on whose passport or other travel document the Foreign National is traveling.
- B. If the foreign national's country is **NOT** on the mandatory notification list included in the Publication at Part One, page 4:
 1. The Booking/Receiving Officer shall offer without delay, to notify the foreign national's Consular Officials of the arrest/detention. Use the sample notification statement included with this policy for both non-mandatory and mandatory countries. Translations of this document in a variety of languages are available in the State Department resource publication at Part Five, page 75.
 2. If the foreign national asks that consular notification be given, the individual listed in Section IV.E. shall notify the nearest consular Official of the foreign national's country without delay. The most current telephone and fax numbers for foreign embassies and consulates in the United States may be found at http://travel.state.gov/law/consular/consular_745.html. A suggested fax sheet for making notification is included with the Directive.
- C. If the foreign national's country is on the list of mandatory notification countries provided with this Directive and in the Publication at Part One, page 4:
 1. Notify that country's nearest Consular Official(s), without delay, of the arrest/detention. Again, telephone and fax numbers may be found at http://travel.state.gov/law/consular/consular_745.html. A sample fax sheet is included with this Administrative Directive.
 2. Advise the foreign national that notification is being made using the sample statement provided in the Publication at Part Five, page 75.

- D. The employee making the notification shall document this in an Incident Report and filed in Programs and Standards files. All actions taken must be recorded to include these elements:
1. Name(s) of the foreign national
 2. Country of Citizenship
 3. Type of Notification: Non-Mandatory or Mandatory
 4. Day, Date, and Time of notice to the foreign national
 5. Foreign national desired or not to have notification made
 6. If notice is made, day, date, and time that Consular Notice was made and to whom
 7. U. S. State Department called or not
 8. Translation required or not
- E. Under no circumstances should any information that a foreign national may have applied for asylum in the United States or elsewhere be disclosed to that person's government.

This policy shall be reviewed at least annually and revised as necessary.

Terry Kokolis
Superintendent

Rescinds AD 6.5 dated August 28, 2000



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