

TEXARKANA POLICE DEPARTMENT

GENERAL ORDERS MANUAL

SUBJECT	Consular Notification		
NUMBER	1102.33	EFFECTIVE DATE	July 19, 2012
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APPROVED BY		ALEAP Standards	10.22

I. Purpose and Scope

- A. The purpose of this policy is to institute a series of rules and guidelines that define the Texarkana Police Department's obligations and responsibilities during those instances in which members of the Department become involved in the arrest of a foreign national or an investigation surrounding the death of a foreign national.

II. Policy

- A. It shall remain the policy of the Texarkana Police Department to recognize and comply with all United States treaty obligations surrounding consular notification and access. All members of the Texarkana Police Department shall recognize and adhere to the guidelines set forth within this policy.

III. Definitions

- A. **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.
- B. **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 the term “counsel,” which is an attorney authorized to provide legal advice. Consuls are not authorized to practice law.
- C. **Diplomat**—A foreign official at the country's embassy in Washington, D.C. who is assigned to represent the country. Diplomats may also perform consular functions and should be treated the same as a consular officer.
- D. **Mandatory Notification**—Consular notification procedures that apply when an officer arrests a foreign national who originates from any of the 57 countries that have agreed to special rules with the United States. Whenever a foreign national from one of these 57 countries is arrested, officers must notify the consular officer regardless of whether the foreign national agrees to the notification. The “mandatory” list of these 57 countries can be located in Section V, Paragraph B of this policy.
- E. **Upon Request Notification**—Consular notification procedures that apply when an officer arrests or detains a foreign national from any country not on the “mandatory” list of 57 countries.

IV. Procedures

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A. Consular Notification Procedures [ALEAP 10.22](#)

1. The obligation to notify the foreign national's respective consular official is triggered when the foreign national is booked into the Texarkana Jail. The officer responsible for the foreign national's arrest is responsible for implementing the notification process and ensuring the appropriate [Statement of Consular Notification](#) and the [Consular Notification Form](#) is completed.
 - a. The Consular Notification Form is universal for all consular notifications. This form can be located on the Department's server within the folder entitled Consular Notification after accessing the information folder.
 - b. The Statement of Consular Notification has been prepared in several different languages to include English, Arabic, Cambodian, Chinese, Creole, Farsi, French, German, Greek, Hindi, Italian, Japanese, Korean, Lao, Polish, Portuguese, Russian, Spanish, Filipino, Thai and Vietnamese. Each of these forms can be accessed within the Consular Notification folder as well.
2. The arresting officer must determine to the best of his/her ability the foreign national's country of origin. The officer should attempt to locate the foreign national's passport or Visa, and when a passport or Visa is located, the officer should assume the country identified therein is the foreign national's country of origin. In the absence of citizenship documentation, a valid passport, visa or any other evidence to the contrary, the officer will accept the foreign national's statement regarding his/her country of origin.
3. Once the country of origin has been determined, the officer must determine whether or not the particular country is a mandatory notification country. A listing of these countries can be found in Section V, Paragraph B of this policy. Consular notifications which are affiliated with any mandatory notification country shall be forwarded to the respective consular office regardless of any desire to the contrary on the part of the foreign national. Foreign nationals who originate from countries other than those on the mandatory list can decline a consular notification, and in those instances, officers will not notify the foreign national's consular office.

a. Mandatory Notifications

- (1) After determining the foreign national originates from a mandatory notification country, the officer must present the arrested foreign national with the Statement of Consular Notification Form. The statement located at the bottom of the form addresses mandatory notifications, and the officer should request the foreign national's signature that documents the delivery of the form. Should the foreign national be unable or unwilling to endorse the form, the officer shall write this fact on the form and ensure the date and time is also recorded. Officers will leave a copy of this completed form with the foreign national and forward the original copy of form to CRC in the same manner as other official documentation.
- (2) The officer must complete the Consular Notification Form as well. Once completed, the Consular Notification Form shall be delivered to the officer's supervisor who will ensure the form is faxed to the appropriate consular office. The officer's arrest report should include language documenting the notification process and the completion of the necessary paperwork.
- (3) Appropriate fax numbers for every consular office can be accessed within the [Consular Notification Index](#) located on the server. Supervisors shall ensure all consular notifications are completed before the supervisor concludes his tour of duty. All completed Consular Notification Forms shall be forwarded to CRC in the same manner as other official documentation.

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- (4) When confronted with a mandatory notification, the foreign national has no right to refuse such a notification. Should the foreign national request assistance in seeking asylum, officers shall not disclose any information to the foreign national's consular official related to any request for asylum. Notwithstanding the basic information contained within the Consular Notification Form, the officer should contact the Department of State at the following number if the consular official requests any information the foreign national does not want disclosed:

(a) Department of State: (202) 647-4415.

b. Upon Request Notifications

- (1) After determining the foreign national originates from a country that does not mandate consular notification, the officer must present the arrested foreign national with the Statement of Consular Notification Form. The statement located at the top of the form serves to inform the foreign national from the non-mandatory notification country that he/she **may** have his/her consular officer notified of the arrest.

(a) Officers should include within the narrative of their arrest report language that documents the issuance of this form to the foreign national as well as the foreign national's decision regarding consular notification. The officer should request the foreign national's signature on the form that documents its delivery. Should the foreign national be unable or unwilling to endorse the form, the officer shall write this fact on the form and ensure the date and time is also recorded.

(b) If the foreign national declines to have his/her consular office notified, no further action on the part of the officer is necessary. A copy of this completed form shall be forwarded to CRC in the same manner as other official documentation.

(c) If the foreign national requests the notification of his/her consular, the officer will complete the Consular Notification Form. Once completed, this form shall be delivered to the officer's supervisor who will ensure the form is faxed to the appropriate consular office. The officer's arrest report should include language documenting the implementation of the notification process and the completion of the necessary paperwork.

- (2) Appropriate fax numbers for every consular office can be accessed within the Consular Notification Index located on the server. Supervisors shall ensure all consular notifications are completed before the supervisor concludes his/her tour of duty. All completed Consular Notification Forms shall be forwarded to CRC in the same manner as other official documentation.

- (3) Should the foreign national request assistance in seeking asylum, officers shall not disclose any information to the foreign national's consular official related to any request for asylum. Notwithstanding the basic information contained within the Consular Notification Form, the officer should contact the Department of State at the following number if the consular official requests any information the foreign national does not want disclosed:

(a) Department of State: (202) 647-4415.

B. Facility Access and Visitation by Consular Officials

1. Upon request, members of the Texarkana Police Department shall provide consular officers and diplomats access to a foreign national housed in the Bi State Jail. Properly identified consular officers and diplomats shall have the same visitation privileges accorded to attorneys who are

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meeting with their clients in the jail, and these officials are required to adhere to the same visitation guidelines, rules and regulations as attorneys.

2. Consular officers and diplomats must have proper identification before being allowed entry into the Bi State Jail. These officials should be carrying identification cards issued by the Department of State. Should anyone develop a reason to doubt the authenticity of any identification card presented by any consular official, the State Department should be contacted at the following numbers:
 - a. During normal duty hours: (202) 647-1985; and
 - b. After duty hours: (571) 345-3146 or (866) 217-2089.

C. Foreign National Death Investigation

1. In the event the Texarkana Police Department begins an investigation surrounding the death of a foreign national, the initial investigating officer should attempt to determine the foreign national's country of origin. Such information can be obtained from a passport, visa or green card. Once the country of origin is determined, the investigating officer will complete the [Consular Notification of Death Form](#) which is located on the Department's server.
 - a. If the officer is unable to determine the foreign national's country of origin, information regarding this inability will be included within the narrative of the officer's report. The detective who is assigned the death investigation will continue additional attempts to identify the foreign national's country of origin, and should the detective uncover this information, he/she will complete the Consular Notification of Death Form and ensure it is faxed to the appropriate consular office.
2. Once completed, this form shall be delivered to the officer's supervisor who will ensure the form is faxed to the appropriate consular office. The officer's report should include language documenting the implementation of the notification process and the completion of the necessary paperwork.
3. Appropriate fax numbers for every consular office can be accessed within the Consular Notification Index located on the server. Supervisors shall ensure all consular notifications are completed before the supervisor concludes his tour of duty. All completed Consular Notification of Death Forms shall be forwarded to CRC in the same manner as other official documentation.

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V. Charts

A. Consular Notification Flow Chart



ARRESTING A NON-U.S. CITIZEN

Consular Notification Process

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

^{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 sent, keep fax confirmation.

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 sent, keep fax confirmation.

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

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.

Bureau of Consular Affairs
 U.S. Department of State
 Washington, D.C. 20520
 P: 202-647-4415
 F: 202-736-7559
 consnot@state.gov

B. Mandatory Notification Country Chart

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

¹ Notification is not mandatory in the case of persons who carry "Republic of China" passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office ("TECRO"), the unofficial entity representing Taiwan's interests in the United States, can be notified at their request.

² Mandatory notification only for foreign nationals who are not lawful permanent residents in the United States (i.e., "green card" holders). Otherwise, upon the national's request.

³ The bilateral consular convention between the United States and the United Kingdom applies to British nationals from Great Britain (England, Wales, and Scotland); Northern Ireland; the Crown Dependencies of Jersey, Guernsey, and the Isle of Man; and the British Overseas Territories, including Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat, and the Turks and Caicos Islands, along with other island territories. Residents of the Overseas Territories may be traveling on a passport issued by the territory with no indication that the territory is British. Nevertheless, for them and all others from a British possession listed above, consular notification and access should be provided to the nearest U.K. consulate.