

East Haven Police Department 	Type of Directive: Policies & Procedures		No. 304.2
	Subject/Title: Consular Notification and Access	Issue Date: July 29, 2014	
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		Rescinds: 304.1	
		Amends: N/A	

I. PURPOSE

- A. The purpose of this directive is to set forth the policies and procedures of the East Haven Police Department regarding Consular Notification.

II. POLICY

- A. It is the policy of the East Haven Police Department to uphold the human and treaty rights of all foreign nationals whom its personnel take into custody. Personnel shall comply with all United States treaty obligations on consular notification and access.

III. GENERAL CONSIDERATIONS AND GUIDELINES

The United States is a party to an international treaty known as the Vienna Convention on Consular Relations (VCCR). It is binding on local police to the extent that we from time to time arrest and detain foreign nationals.

Because of its comprehensive nature and near universal applicability, the VCCR now establishes the baseline for most obligations with respect to the treatment of foreign nationals in the United States and for treatment of U.S. citizens abroad for foreign governments. Therefore, the procedures outlined in this policy, which are in conformity with the VCCR, focus primarily on providing consular notification and access with respect to foreign nationals arrested or detained in the United States, so that their governments can assist them. The obligations of consular notification and access apply to United States citizens in foreign countries just as they apply to foreign nationals in the United States.

When U.S. citizens are arrested or detained abroad, the United States Department of State seeks to ensure that they are treated in a manner consistent with these instructions, and that U.S. consular officers can similarly assist them. It is therefore particularly important that federal, state, and local government officials in the United States comply with these obligations with respect to foreign nationals here.

IV. DEFINITIONS

- A. Foreign national: Any person who is not a U.S. citizen; same as “alien.”
- 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.
- C. Diplomat: A foreign official at the country’s embassy in Washington, D.C., assigned to represent the country.
- D. “Mandatory” notification: Consular notification procedures that apply when you arrest or detain a foreign national from any of the 57 countries that have agreed to special rules with the United States.
- E. “Upon request” notification: Consular notification procedures that apply when you arrest or detain a foreign national from any country not on the mandatory list of 57 countries.

V. PROCEDURES

- A. Any arrest, detention, or other commitment to custody which results in a foreign national being incarcerated triggers consular notification requirements.
 - 1. A brief traffic stop or an arrest resulting in a citation for a misdemeanor and release at the scene does not trigger such requirements.
- B. The booking officer is responsible for implementing the notification process at the time the arrested foreign national is booked at the police station. Without delay he or she must begin the following procedures.
 - 1. Determine the foreign national’s country.
 - a. In the absence of other information, assume this is the country on whose passport the foreign national travels.
 - b. Absent citizenship documentation or other evidence to the contrary, the booking officer shall accept the foreign national’s statement as to his or her nationality.
 - 2. All foreign nationals are to be told they have a right to have their consulate notified of their arrest and detention.
 - 3. Determine whether or not this country is a “mandatory notification” country. The updated list is available at the US State Department’s website, **www.travel.state.gov/consularnotification**.

4. For foreign nationals whose country is on the list of “mandatory notification” countries notify the nearest consulate of the foreign national’s country via fax immediately or as soon as reasonably possible.
 - a. Notify the consulate even if the foreign national does not want notification.
 - b. If the foreign national requests asylum **Do Not** tell the consular officer that the foreign national has done so. If the consular officer insists on information the foreign national does not want disclosed, contact the Department of State at (202) 647-4415.
 - c. Contact information for consulates is at **www.travel.state.gov/consularnotification**. The Consular Notification fax cover sheet is available on Power DMS.
5. Tell the foreign national that you are making this notification. Please use the following Statement to facilitate this purpose.
 - a. “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.”
 - b. For assistance with interpretation, please see Language Assistance Policy 301.
 - c. Make a note of the completed notification in the case file with the fax and fax confirmation sheet.
6. For foreign nationals whose countries are not on the list of “mandatory notification” countries.
 - a. As soon after the arrest as reasonably possible, but no later than booking, inform the foreign national that he or she may have his or her consular officers notified of the arrest or detention. Use this statement.
 - 1) “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?”
 - 2) Make a note of the foreign national’s decision on a supplemental report.
 - 3) If the foreign national requests notification, notify the nearest consulate of the foreign national’s country as soon as reasonably possible after booking.

Contact information for consulates is at
www.travel.state.gov/consularnotification.

- 4) Never tell the consular officer that the foreign national has requested asylum. If the consular officer insists on information the foreign national does not want disclosed, contact the Department of State at (202) 647-4415.
 - 5) Make a note of the completed notification in the case file and keep the fax and fax confirmation sheet.
7. Facility Access and Visitation Privileges of Consular Officers
- a. Give consular officers and diplomats visiting a detained foreign national the same access privileges as attorneys visiting a client. Consular officers and diplomats are required to adhere to the same visitation guidelines, rules, and regulations as attorneys.
 - b. Consular officers may not act as attorneys for their nationals.
 - c. 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 of State at (202) 647-1985 or after hours at (571) 345-3146 or (866) 217-2089.
8. Documentation and Recordkeeping
- a. The Department of State from time to time receives inquiries and complaints from foreign governments concerning foreign nationals in detention. The Department in such cases may request information from the relevant law enforcement officials on whether consular notification was in fact given. Concerns about consular notification may also be raised by foreign consular officials directly with the responsible federal, state, and local officials. Good recordkeeping will facilitate responding to these inquiries and to any consular notification issues that may be raised in litigation.
 - b. Document the consular notification or offer of notification on a supplemental report.
 - c. Make the consular notification by fax if possible, and by telephone if not. Place a copy of the fax and fax confirmation receipt in the foreign national's file.
 - 1) 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. Use a taped line and make an audio recording of the telephone call if possible and preserve it.
 - d. For foreign nationals from "upon request" countries, make a notation on the supplemental report that you told the national that he or she may have the

consulate notified. Document the national's response. Indicate the date and time of your offer and the national's response.

- e. Print the supplemental report and include it in the paperwork for the foreign national's records file.
9. Shift Commander Responsibilities
- a. The shift commander will be responsible for reviewing the bookings of foreign nationals and ensuring that all the proper steps are taken and notations made in the record.
- C. Death, Serious Injury, or Serious Illness of a Foreign National
- 1. The response to a death or life-threatening injury or illness of a foreign national in the Department's custody shall be subject to the Department's regular policies and procedures for such incidents.
 - 2. When a foreign national dies or is seriously injured or becomes seriously ill in Department custody the shift commander shall notify the nearest consulate of his or her country immediately or as soon as reasonably possible.
 - a. Make such notification by fax if possible, and by telephone if not.
 - b. Document this notification in the incident report, and place a copy of the fax and the fax confirmation receipt in the foreign national's file.