



POLICIES AND PROCEDURES MANUAL

	CONSULAR NOTIFICATIONS	
	POLICY NUMBER: 1-2	ISSUING AUTHORITY 
	EFFECTIVE DATE: January 1, 2025	Christine A. Elow Police Commissioner

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 when they are detained or arrested. These rights are also granted to American citizens in the foreign countries that are also signatories. This reciprocal relationship is particularly important for Americans in countries that do not provide to their own citizens or visiting foreigners many of the rights that Americans enjoy.

The application of this treaty rests with the employees of each police department 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.

The most current guidance and forms from the U.S. Department of State can be found at Travel.State.Gov.

II. POLICY

It is the policy of the Cambridge Police Department to:

- A. advise foreign nationals arrested or detained by members of the department of their right to have their consular officials notified, or that their consular officials shall be notified if such notification is mandatory; see Consular Notification and Access Manual, pages 71-100;
- B. notify consular officials if requested by the foreign national; or regardless of the wishes of the foreign national if such notification is mandatory;
- C. provide consular officials with access to detainees to provide consular assistance; and
- D. notify consular offices of the death of a foreign national.

III. DEFINITIONS

- A. *Consular Official (Consul)*: A citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government's citizens in a foreign country.
- B. *Detention*: An arrest, protective custody, or other custodial situation. A traffic stop or threshold inquiry is not a detention for the purposes of this policy.
- C. *Foreign National*: Any person who is not a U.S. citizen.
- D. *Mandatory Notification*: Bilateral agreements require that the consul be notified in the event of a detention of a national, regardless of the wishes of the detainee.
- E. *Optional Notification*: Foreign nationals may refuse the offer to have their consular office notified of their detention.

IV. PROCEDURES

- A. Arrest and Detention of Foreign Nationals
 - 1. Summary of Requirements Pertaining to Foreign Nationals as Provided by the U.S. Department of State
 - a. When foreign nationals from most countries are arrested or detained, they may, upon request, have their consular officers notified without delay of their arrest or detention, and may have their communications to their consular officers forwarded without delay. In addition, foreign nationals must be advised of this information without delay.
 - b. For foreign nationals of some countries, consular officers must be notified of the arrest or detention of a foreign national even if the foreign national does not request or want notification.
 - c. Consular officers are entitled to communicate with and to have access to their nationals in detention, and to provide consular assistance to them, including arranging for legal representation.
 - d. When a law enforcement or other government official becomes aware of the death, serious injury, or serious illness of a foreign national, consular officers must be notified.
 - e. When a guardianship or trusteeship is being considered with respect to a foreign national who is a minor or an incompetent adult, consular officers must be notified.
 - f. When a foreign ship shipwrecks or a foreign aircraft crashes in U.S. territory, consular officers must be notified.
 - g. These requirements are mutual obligations that also apply to foreign authorities when they arrest or detain U.S. citizens abroad. In general, officers should treat a foreign

national as they would want a U.S. citizen to be treated in a similar situation in a foreign country. This means prompt and courteous compliance with the above requirements.

2. Steps to Follow When a Foreign National is Arrested or Detained as Provided by the U.S. Department of State
 - a. Determine the foreign national's country of nationality. 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 list of mandatory notification countries and jurisdictions:
 - (1) Inform the foreign national, without delay, that he or she may have his or her consular officers notified of the arrest or detention and may communicate with them. For a statement in several different languages, see Consular Notification and Access Manual, pages 71-100.
 - (2) If the foreign national requests that consular officers be notified, notify the nearest embassy or consulate of the foreign national's country without delay. Foreign embassy and consulate phone numbers, fax numbers and email addresses can be found on the Department of State's web site at travel.state.gov/CNA. A suggested notification fax sheet appears on page 101.
 - (3) Forward any communication from the foreign national to consular officers without delay.
 - c. If the foreign national's country is on the list of mandatory notification countries:
 - (1) Notify that country's nearest embassy or consulate, without delay, of the arrest or detention. Phone numbers, fax numbers, and email addresses can be found on the Department of State's website at travel.state.gov/CNA. You may use the suggested fax sheet on page 101 for making the notification.
 - (2) Tell the foreign national that you are making this notification and inform them, without delay, that they may communicate with consular officers. A suggested statement to the foreign national in several different languages appears on pages 71 through 100 of the CNA manual.
 - (3) Forward any communication from the foreign national to consular officers without delay.
 - d. Keep a written record of:
 - (1) The information provided to the foreign national and when.
 - (2) The foreign national's requests, if any.
 - (3) Whether you notified consular officers and, if so, the date and time of notification and the means you used to notify them (e.g., fax, phone or email). If you used fax to

notify the consular officers, you should keep the fax confirmation sheet in your records. If you used email to notify the consular officers, you should retain the sent email in your records.

(4) Any other relevant actions taken.

B. Cambridge Police Department Requirements

1. Notification

a. All notifications of foreign consuls shall be made without delay and such notification noted in the booking or incident report. The entry must contain at a minimum the:

- (1) identity of the foreign national;
- (2) date and time of notification;
- (3) employee making notification; and
- (4) identity of the country notified.

b. Privacy concerns or the possibility that a foreign national may have a legitimate fear of persecution or other mistreatment by his/her government may exist in some mandatory notification cases. The notification requirement still must be honored. Employees of the department are not obligated to provide any further information regarding the foreign national's detention or circumstances.

c. In cases of foreign nationals who are not subject to mandatory reporting and decline to have their consulates notified, such cases shall be documented and signed by the foreign national.

2. Application for Asylum

a. 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.

3. Access of Consular Officials to Detainees

a. Consular officials are entitled access to their nationals in detention and are entitled to provide consular assistance, subject to provisions of this policy. Consular officials may be granted access to detainees either in person or by telephone, at the discretion of the Shift Commander. Prior to granting access, the supervisor should at a minimum consider:

- (i) the reason for the foreign national being detained and nature of the charges;
- (ii) the detainee's demeanor such as violent or intoxicated;
- (iii) bail status and anticipated length of custody;
- (iv) security considerations; and
- (v) availability of personnel or appropriate facilities to accommodate such a visit.

4. Consular officials and diplomats shall be afforded the same access and visitation privileges as attorneys and are subject to visiting rules, conditions, and procedures as set forth in the department policy on detaining prisoners.
5. Consular officials may not act on behalf of the foreign national if the foreign national opposes their involvement.
6. A consular official may not act as an attorney for the foreign national.
7. If a foreign national is found deceased or suffers a life-threatening injury, such as in an accident, as a victim of a crime, in a criminal action, or in an unattended death, the consul of that foreign national's country must be notified. If the foreign national is deceased, the foreign government may then notify the deceased's next of kin or cancel the person's passport.