



## CONSULAR NOTIFICATION

### POLICY.

It is the policy of the Deschutes County Sheriff's Office – Adult Jail (AJ) to assist the U. S. Department of State in carrying out international obligations of the United States concerning the detention of foreign nationals in this country. Members will inform foreign national inmates detained in the jail of their right to have their government informed of their status, or of the jail's obligation to do so under international treaties and conventions.

### PURPOSE.

The purpose of this policy is to provide specific guidelines for members notifying foreign nationals inmates of their right to consular notification and how and when to notify consulates.

### OREGON JAIL STANDARDS:

- B-205 Intake Information
- B-206 Foreign-Born Arrestees

### REFERENCES:

- U. S. Department of State, Bureau of Consular Affairs, *Consular Notification and Access: Instruction for Federal, State, and other Local Law Enforcement and Other Officials Regarding Foreign Nationals in the United States and the Rights of Consular Officials to Assist Them* (Available online at: [http:// travel.state.gov/consul\\_notify.html](http://travel.state.gov/consul_notify.html))
- Code of Federal Regulations- *Title 8 – Alien and Nationality- Part 287 Field officers: Powers and Duties. Section 7: Detainer and provision under 287 (d) (3) of the Act.*
- ORS 181A.820, Enforcement of Federal Immigration Laws
- ORS 180.805, Prohibited Involvement of Public Bodies in Federal Immigration Law Enforcement

### DEFINITIONS:

**Criminal Alien Program (CAP).** CAP focuses on identifying criminal aliens who are incarcerated within federal, state and local facilities.

**Foreign National.** A person who is a lawful citizen of another country. Lawful permanent resident aliens with a resident alien registration card (INS Form I-551), commonly called a “green card,” are foreign nationals for the purposes of consular notification.

**Immigration Enforcement Agents (IEA).** Uniformed agents that apprehend and remove criminal aliens found in the nations’ jails and prisons.

**Law Enforcement Support Center (LESC).** A national enforcement operations center that provides timely immigration status and identifies information to local, state and federal law enforcement agencies on aliens suspected arrested or convicted of criminal activity.

**National Crime Information Center (NCIC).** The United States' central database for tracking crime-related information.

**Office of Detention and Removal (DRO).** Responsible for enforcing the nation’s immigration laws and ensuring the departure of all removable aliens from the United States.

**U.S. Immigration and Customs Enforcement (ICE).** A federal law enforcement agency under the United States Department of Homeland Security, responsible for identifying, investigating, and dismantling vulnerabilities regarding the nation’s border, economic, transportation, and infrastructure security.

**PROCEDURES:**

**SECTION A: GUIDELINES**

- A-1. Consular Notification and Access Reference Card.** Each deputy is issued a Consular Notification and Access Reference Card from the U.S. Department of State as a part of new employee orientation. Deputies must carry the card at all times as a part of duty uniform equipment.
  
- A-2. Notification Materials.** Supervisors will post notification flyers in the housing units, in the intake area, and at the court security checkpoint as a notice to foreign nationals of their right to consular notification. Supervisors will also maintain consular notification materials in the booking room, sergeant’s office and court security office. Materials will include the following:
  - a. Advisement of Foreign National Custody Fax Form No.1300
  - b. State Department translations of suggested inmate notification statements
  - c. Consulate Notification Form Notice Form No.1301
  - d. Consulate contact and fax telephone numbers
  - e. Spare Consular Notification and Access Reference Cards
  
- A-3. Identifying Foreign Nationals.** The deputy will ask each inmate they process, whether they are a U. S citizen or a foreign national and, if the latter, from which country. The

deputy will look for proof of the inmate's nationality as part of property inventory at intake.

**A-4. Need for Notification.** The deputy will refer to the list of countries on the consular notification card to see if the inmate's country requires mandatory notification the inmate is in custody.

- a. The deputy will use the appropriate suggested statement on the card on whether notification is mandatory or not, to inform the inmate of the purpose for consular notification. The deputy will use a translation of the statement if the inmate does not clearly understand English.
- b. If the defendant does not read/speak English, you can have them read the appropriate language from the Consular Notification Notebook. When necessary, deputies will use the available phone/tablet based translation service.
  1. Statement 1, if the Consular Notification is at the Foreign National's option and
  2. Statement 2, if the Consular Notification is mandatory.

**A-5. Mandatory Notification.** If the inmate is from a mandatory notification country, the deputy, without delay, must notify the consulate of that country, regardless of the inmate's wishes. The deputy will complete the Advisement of Foreign National Form and fax or email the nearest Consular Office. Embassies and Consulate fax numbers are located in the Consular Notification Requirements Notebook. Fax numbers and email address can also be found on the U.S. Department of State – Bureau of Consular Affairs website for the most current contact information.

**A-6. Foreign Nationals Request for Notification.** If the country does **not** require notification at that time, the deputy will give the inmate the option of notification.

- a. If the inmate chooses notification at that time, the deputy will notify the consulate as the last step in the intake process. The deputy will complete the Advisement of Foreign National Form and send it to the nearest Consular Office. Embassies and Consulate fax numbers are located in the Consular Notification Requirements Notebook, and can also be found on the U.S. Department of State – Bureau of Consular Affairs website for the most current contact information. The deputy will have the inmate sign the Consulate Notification Form Notice and place it in their custody file. Place a copy of any Consular communication (email, fax and/or fax confirmation report) in the inmate's custody file.
- b. If the inmate chooses **not** to notify his consulate at intake, the deputy will tell the inmate that he may request consular notification at any time throughout his incarceration. Members will honor an inmate's request not to notify his consulate if notification is not mandatory and complete the Consulate Notification Form Notice and place it in the inmate's file.
- c. The deputy may **not** delegate a notification.

- d. Forward a copy of the sent fax or email to the District Attorney's Office to advise them that the defendant is a foreign national and notification was completed.
- A-7. Post-Intake Notifications.** The deputy receiving an inmate request for consular notification after intake must personally make the notification as soon as reasonably possible.
- A-8. Criminal Alien Program (CAP).** Immigration and Customs Enforcement (ICE), Office of Detention and Removal Operations (DRO), under the Department of Homeland Security, assumed responsibility from the ICE Office of Investigations (OI) for the Criminal Alien Program (CAP). Once foreign nationality is established under **A-3** a deputy may, as allowed by ORS 181A.820 (2) and ORS 180.805, notify the designated U.S. Immigration and Customs Enforcement (ICE) office.
- The deputy will make notification as soon as possible by phone as listed in the Consulate Notification notebook. All notifications, and attempts, must be documented in the inmate's JMS attachments.
  - Call ICE, or fax an ICE referral form to the numbers listed in Consulate Notification Notebook.
  - If faxed referrals are received after hours and on weekends they will not be received by the duty IEA until the next business day. Therefore, fax referrals should only be made during business hours.
  - If an alien is arrested on a NCIC alien fugitive warrant, contact ICE's Law Enforcement Support Center (LESC). If a positive identification is made, a copy of the warrant will be sent directly from the LESC for the fugitive alien.
  - The jail will only accept ICE warrants or court orders signed by a judge. ICE requests that we provide a copy of the warrant to the inmate.
- A-9.** If the alien is released on local charges and is being held by an ICE warrant or a court order, federal regulations (8 CFR 287.7) require the alien detained for a period not to exceed forty-eight (48) hours (excluding Saturday, Sunday and Federal holidays) to provide adequate time for ICE to assume custody of the alien. The booking deputy will notify ICE by phone.
- A-10.** If the alien is not transported within the forty-eight (48) hours, the shift supervisor will contact ICE by phone to notify ICE the alien will be released from custody.

**FORMS USED:**

- Advisement of Foreign National Fax, Form No. 1300
- Consulate Notification Notice, Form No.1301
- Consular Notification and Access Reference Card (U.S. Department of State Form 05-0227)