

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

SUBJECT: SEE BELOW

DATE: May 27, 2021

APPROVED

Memo# 2021-017

SUBJECT

DUTY MANUAL REVISION: L 8215 COMMUNICATION AND CONTACT BETWEEN CONSULAR OFFICIALS AND CITIZENS OF A FOREIGN COUNTRY

BACKGROUND

In September 2018, the United States Department of State released the manual [Consular Notification and Access](#). This manual contains instructions and guidance relating to the obligations of federal, state, local law enforcement, and other government officials to provide information to foreign consular officers and to permit foreign consular officers to assist their nationals in the United States. It focuses on the obligations of consular notification and access that pertain to the arrest and detention of foreign nationals, deaths and serious injuries to foreign nationals, wrecks or crashes of foreign ships or aircraft on United States territory, and the provision of consular services by foreign consular officers to their nationals in the United States.

As of February 3, 2021, the email address to the Consular General of Mexico was changed to consjose@sre.gob.mx. As such, disregard the email address provided in Training Bulletin 2021-002. This information is also posted at the SJPD Pre-Processing Center.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 8215 COMMUNICATION AND CONTACT BETWEEN CONSULAR OFFICIALS AND CITIZENS OF A FOREIGN COUNTRY:

Revised 05-27-21

In accordance with federal law and the provisions of California Penal Code §Section 834c, officers, upon arrest and booking or detention for more than two (2) hours of a known or suspected foreign national, shall advise the foreign national of their right to communicate with an official from the consulate of their country.

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Officers shall ask the detained person of his/her foreign national status. If the detained person is a foreign national, including a Lawful Permanent Resident (green card holder), the officer should ask the person to identify their country of citizenship and ask the foreign national if he/she would like the appropriate ~~c~~Consular ~~o~~Officer notified. A person who is a United States citizen and a national of another country may be treated exclusively as a United States citizen when in the United States. For purposes of consular notification, officers should make no distinctions based on whether the foreign national is in the United States "legally" or "illegally." The officer should note the corresponding responses to each question in the "Consulate Notification" section of the PPC Intake and Screening Form.

The Department considers satisfactory notification of a foreign consulate to be accomplished under this provision when one of the following is accomplished:

- The arresting or transporting officer completes a Pre-Processing Center Embassy/Consulate Fax Notification form and faxes the notification to the arrested/booked or detained foreign national's consulate.
- If unable to make fax notification, the arresting or transporting officer makes telephone contact with the appropriate foreign consulate for the arrested/booked or detained foreign national.

Documentation of these notifications will be accomplished by completing and attaching the Pre-Processing Center Embassy/Consulate Fax Notification Form to the corresponding General Offense Report (Form 200-2-AFR).

A list of countries requiring consulate notification, without regard to an arrested or detained foreign national's request to the contrary, can be found in Penal Code section 834c(d). In cases of mandatory consular notification, officers shall advise the person arrested and detained of the required notification to their consulate. In addition to the written documentation of notification, the watch commander ~~shall~~will be informed by the arresting or transporting officer whenever a consulate is notified under the requirements of this section.

Upon their request, ~~c~~Consular ~~o~~Officials are permitted to visit a national of their country who is under arrest or detention to communicate~~converse and correspond~~ with him/her and to arrange for their legal representation. Department members shall give consular officers and diplomats visiting a detained foreign national the same access privileges as attorneys visiting a client.

When a law enforcement agency becomes aware of the death of a foreign national, notification to consular officers should be made by the appropriate state or local authority (i.e. coroner, medical examiner, or law enforcement official) investigating the death. Department investigators should coordinate with the Coroner's Office to ensure notification is made.

When a law enforcement agency becomes aware of the serious injury or serious illness (i.e. in a coma or hospitalized with a life-threatening injury) of a foreign national, notification to consular officers is encouraged, but not required. Patrol officers should coordinate with hospital staff to ensure notification is made.

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If a ship or airplane registered in a foreign country wrecks or crashes in the United States, the investigative agency should ensure notification of the consular officers of the country in which the airplane or ship is registered. Department investigators should coordinate with the National Transportation Safety Board to ensure notification is made.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual section.



Anthony Mata
Chief of Police

AM:SD:DK