

King County Policies and Procedures Pertaining to Immigration and Arrests

Prepared by the Law Enforcement-ICE Working Group of the Strengthening Sanctuary Alliance, Thurston County, Washington. January 9, 2020.

Attached are documents pertaining to procedures that officers and staff should follow in King County when they've arrested someone who discloses themself as a citizen of another country. In Thurston County, the Sheriff's Department manages the county jail. In King County, the two county jails are managed by the Department of Adult and Juvenile Detention (DAJD), which answers to the King County Executive. King County also has a sheriff, who answers to the voters of King County (as the sheriff in Thurston County answers to the voters of Thurston County). Consequently, King County's DAJD has a General Policy Manual which spells out required actions of county corrections officers, and the sheriff has a General Orders Manual which spells out policies for sheriff's deputies. As of right now, the policies of the DAJD and the sheriff regarding immigration are not identical, as far as we can tell.

To help work through the maze of King County's policies, we've pulled a few documents together in the following pages. Contained are:

- A comparison of a section of the King County Code (passed by the King County Council) with portions of the Keep Washington Working Act, passed in 2019 by the Washington State Legislature. (Begin page 2)
- Sections 5.02.017 and 5.02.006 of the King County Department of Adult and Juvenile Detention's General Policy Manual. The first section was recently adopted by the DAJD after negotiations with the ACLU and other organizations, and the second section is referred to in 5.02.017 under Consular Notification (though it is not transparently clear how 5.02.006 deals with consular notification). (Begin page 4)
- The section of the King County Sheriff's General Orders Manual that pertains to consular notification. (Begin page 10)
- The section of the Seattle Police Department Manual that pertains to interactions with foreign nationals (this includes information on consular notification). (Begin page 12)

The recently negotiated Section 5.02.017 of the DAJD manual makes reference to other sections of the General Policy Manual, particularly 1.01.012 Release of Information; 5.02.004 Booking Procedures; 5.01.001 Intake Procedures; and 5.02.006 Booking Federal Hold Prisoners. The DAJD manual is not available online, but we have obtained copies of all these sections. However, we have only included 5.02.006 in this document since it seems most relevant to our interests.

Comparison of King County Code Language on Immigration with the Keep Washington Working Act

Prepared by the Law Enforcement-ICE Working Group of the Strengthening Sanctuary Alliance

| King County Code 2.15: Language on Immigration | Equivalent/Similar Language in the Keep WA Working Act |
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| 2.15.010A: A King County office, department, employee, agency or agent shall not condition the provision of county services on the citizenship or immigration status of any person | Section 6.10: A state and local government or law enforcement agency may not deny services, benefits, privileges, or opportunities to individuals in custody, or under community custody pursuant to RCW 289.94A.701 and 9.94A.702, or in probation status, on the basis of the presence of an immigration detainer, hold, notification request, or civil immigration warrant.... |
| 2.15.010B: All applications, questionnaires and interview forms used in relation to the provision of county benefits, opportunities or services shall be reviewed by each agency, and any question requiring disclosure of information related to citizenship or immigration status, unless required by state or federal law, or international treaty, shall be, in the agency's best judgment, either deleted in its entirety or revised such that the disclosure of the information is no longer required. | No equivalent language. |
| 2.15.010D: Except where necessary to provide King County services, or where otherwise required by state or federal law or regulation or directive or court order, King County agents and employees are not permitted to either maintain or share, or both, personal information or information about national origin, race, etc. | No exact parallel. The closest is Section 6 (9) (a): To ensure compliance with all treaty obligations, including consular notification, and state and federal laws, on the commitment or detainment of any individual, state and local law enforcement agencies must explain in writing: (i) The individual's right to refuse to disclose their nationality, citizenship, or immigration status; and (ii) That disclosure of their nationality, citizenship, or immigration status may result in civil or criminal immigration enforcement, including removal from the United States. |
| 2.15.015D: The sheriff's office shall not initiate any inquiry of, or enforcement action against, a member of the public, based solely on a person's <ol style="list-style-type: none"> 1. Civil immigration status; 2. Race; 3. Inability to speak English; 4. Inability to understand the sheriff's office personnel; or 5. Hit on the National Crime Information Center database. | The closest is Section 6 (8): An individual must not be taken into custody, or held in custody, solely for the purposes of determining immigration status or based solely on a civil immigration warrant, or an immigration hold request. The NCIC database is not mentioned in KWW. |
| 2.15.020B: King County and its agents and departments and county employees shall not: <ol style="list-style-type: none"> 3. For purposes of execution of federal civil | KWW allows ICE to interview inmates, if the inmate has given permission: Section 6 (6) (b): Permission may be granted to a federal immigration authority to conduct an |

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| <p>immigration enforcement, permit ICE, CBP or USCIS officers, agents or representatives access to nonpublic areas of King County's facilities, property, equipment or nonpublic databases, or nonpublic portions of otherwise public databases, or people in King County's custody, absent a judicial criminal warrant specifying the information or persons sought unless otherwise required by state or federal law.... Any detention facilities, including secure detention facilities, prisons and halfway houses, that King County contracts with or leases land to for the purposes of criminal or civil detention must include the requirement in this subsection B.3. in any contract with King County</p> <p>4. Provide personal information to federal immigration authorities for purpose of civil immigration enforcement, except as required by state or federal law, about any person, including place of birth or household members, the services received by the person or the person's next court date or release date, absent a warrant signed by a judge or a law requiring disclosure.</p> | <p>interview regarding federal immigration violations with a person who is in the custody of a state or local law enforcement agency if the person consents in writing to be interviewed.</p> <p>No mention in KWW about contracts to detention facilities, etc., though this may be covered by forthcoming rules from the Attorney General's office.</p> <p>Most comparable are Sections 6 (4) (b) and Section 6 (5): State and local law enforcement officials may not: Provide information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement, except as required by law. (5) State and local law enforcement agencies may not provide nonpublicly available personal information about an individual, including individuals subject to community custody pursuant to RCW 279.94A.701 and 9.94A.702, to federal immigration authorities in a noncriminal matter, except as required by state or federal law.</p> |
| <p>2.15.020D3. Consistent with Article 36 of the Vienna Convention on Consular Relations, any person in custody or detention shall be informed through the person's attorney of the right to communicate with the consular post of a country of which the person is a national, if other than the United States, and informed that the person's consular officers have the right to visit, converse or correspond with the person, if the person wishes the communication. If a person chooses to disclose that the person is a foreign national and requests consular notification, the custodian shall contact the appropriate consulate.</p> | <p>See above, Section 6 (9) (a)</p> |
| <p>2.15.030A.1: King County and all its contractors shall provide free interpretation and translation services as required by this chapter to limited-English-proficient persons.</p> | <p>Not addressed in KWW</p> |

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|  King County | Department of Adult and Juvenile Detention All Divisions General Policy Manual | | |
| | Chapter 5 Intake, Transfer and Release | | |
| 5.02.017 ICE Detainers and Administrative Warrants, Gathering Immigration Related Information and Consular Notification/Access, and Access to Inmates and Records by Federal Immigration Authorities | Approved By: | | |
| | Effective Date: | | |
| | Reviewed By: | PRC Committee | |
| | Review Date: | | |
| Distribution: | | Document Code No. | |

Statement of Purpose

The purpose of this policy is to describe actions necessary to comply with county code and state law related to inmate immigration status and access by federal immigration authorities to inmates and information absent an appropriate criminal warrant. The county and state have taken actions to limit the collection of data regarding citizenship and place of birth, and to limit involvement in civil immigration matters. Additionally, the policy is intended to clarify issues of consular notification.

Policy

Detainers and Administrative Warrants: DAJD will only honor Immigration Detainers (including notification requests) or Administrative Warrants that are accompanied by a criminal warrant issued by a U.S. District Court Judge or magistrate.

Gathering Immigration Related Information and Consular Notification: DAJD will not inquire about, or request from any person information about the citizenship or immigration status or place of birth of any person booked into DAJD facilities. However, if DAJD becomes aware that an inmate is a Foreign National it will ensure that consular notification is pursued in accordance with applicable law.

Access to Inmates by Federal Immigration Authorities: DAJD will not permit ICE, CBP or USCIS officers, agents or representatives access to inmates without a judicial criminal warrant.

Limited Access to Records and Information by Federal Immigration

Authorities: DAJD will not release inmate records to ICE, CBP, or USCIS officers, agents or employees beyond what is available to the public under state law without an accompanying criminal warrant issued by a U.S. District Court Judge or magistrate.

DAJD will not provide ICE, CBP, or USCIS officers, agents or employees access to non-public databases or interfaces under the control of DAJD, such as JILS LE.

DAJD employees may not provide any information, including information in response to a notification request, to ICE, CBP, or USCIS, except as noted below, without an accompanying criminal warrant issued by a U.S. District Court Judge or magistrate. The fact that some inmate records may be available to the public does not mean that DAJD staff may discuss the information contained in those records with ICE, CBP, or USCIS officers, agents or employees. Staff may refer federal immigration authorities to DAJD public-facing websites but will not expend DAJD resources providing federal immigration authorities with information available on these websites.

Exception to Limited Access to Information by Federal Immigration Authorities:

Authorities: Under federal law, 8 U.S.C. Section 1373, local governments may not prohibit their employees from discussing a person's "immigration and citizenship status" with federal officials. While it would be unusual for a DAJD employee to have definitive information about the actual immigration status of inmates, discussions about an inmate's "immigration status and citizenship" are not prohibited by this policy.

References

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| K.C.C. | Chapter 2.15 |
| Federal | 8 U.S.C. 1373 Vienna Convention on Consular Relations, Article 36 |
| RCW | 70.48.100 43.43.705 ESSSB 5497 |
| Department Forms | Consular Notification Form (F-620) Notice of Request for Hold (F-808) |
| Department Policy | 1.01.012 Release of Information 5.02.004 Booking Procedures 5.01.001 Intake Procedures 5.02.006 Booking Federal Hold Prisoners |

Definitions

Administrative Warrant: A noncriminal immigration warrant of arrest, order to detain or release alien, notice of custody determination, notice to appear, removal order, warrant of removal or any other document, issued by the USDHS sub-agencies ICE, CBP, or USCIS that can form the basis for a person's arrest or detention for civil immigration enforcement purposes. An administrative warrant includes, but is not limited to, civil immigration warrants issued on forms I-200 or I203, or their successors, and civil immigration warrants entered in the National Crime Information Center (NCIC) database.

CBP: The United States Customs and Border Protection agency of the United States Department of Homeland Security.

Criminal Justice Agency: Agencies whose principle function is to apprehend, prosecute, adjudicate, or rehabilitate "criminal offenders."

DHS: The United States Department of Homeland Security.

Immigration Detainer: A request from ICE, CBP, or USCIS for DAJD to provide notice of release or maintain custody of a person based upon an alleged violation of civil immigration law. An immigration detainer includes a detainer issued under sections 236 or 287 of the Immigration and Nationality Act, 287.7 or 236.1 of Title 8 of the Code of Federal Regulations. An immigration detainer also includes a detainer issued under DHS form I-247 entitled Immigration Detainer – Notice of Action, as well as predecessor or successor versions.

ICE: The United States Immigration and Customs Enforcement agency of the United States Department of Homeland Security.

USCIS: The United States Citizenship and Immigration Services agency of the United States Department of Homeland Security.

General Guidelines

A. Immigration Detainers and Administrative Warrants

1. DAJD will only honor Immigration Detainers and Administrative Warrants that are accompanied by a criminal warrant issued by a U.S. District Court Judge or magistrate.
2. Upon receiving an Immigration Detainer or Administrative Warrant DAJD staff shall provide a copy of the Immigration Detainer or Administrative Warrant to the subject inmate and inform the inmate whether DAJD intends to comply with the Immigration Detainer or Administrative Warrant (Form F-808).

B. Gathering Immigration Related Information and Consular Notification

1. DAJD will not inquire about, or request from any person information about the citizenship or immigration status or place of birth of any person booked into DAJD facilities.
2. However, if DAJD becomes aware that an inmate is a Foreign National it will ensure that consular notification pursuant to the Vienna Convention and/or U.S. bilateral treaties is pursued in accordance with the consular notification procedure detailed below. An example of when this could occur are when the inmate volunteers that he or she is a foreign national and requests consular notification or when DAJD arrests someone who presents a foreign passport for identification.

C. Access to Inmates by Federal Immigration Authorities:

DAJD will not permit ICE, CBP or USCIS officers, agents or representatives' access to an inmate without a criminal warrant issued by a U.S. District Court Judge or magistrate.

D. Access to Records and Information by Federal Immigration Authorities:

1. The Department will not release inmate records, beyond what is available to the public under RCW 70.48.100(1) to ICE, CBP, or USCIS officers, agents or employees. The fact that some inmate records may be available to the public does not mean that DAJD staff may discuss the information contained in those records with ICE, CBP, or USCIS officers, agents or employees.
2. DAJD employees may not provide any information, including a person's next court date or release date, to ICE, CBP, or USCIS officers, agents or representatives, except that nothing in this policy prohibits DAJD employees from sending to, receiving from, requesting from, or exchanging with any federal, state or local governmental agency information regarding the immigration status of a person or from maintaining such information. Staff may direct federal immigration authorities to DAJD public-facing websites.
3. The Department will not provide ICE, CBP, or USCIS officers, agents or employees access to non-public databases or interfaces under the control of DAJD, such as JILS LE.

Procedure

A. Consular Notification

If an inmate seeks consular notification or DAJD becomes aware, without making an inquiry, that an inmate is a Foreign National, Officers shall follow DAJD Policy, 5.02.006 Booking Federal Hold Prisoners.

B. Access to Records and Information by Federal Immigration Authorities:

The Department will monitor databases and interfaces under DAJD control such as JILS LE, to ensure ICE, CBP, or USCIS officers, agents or employees have not been provided access.

King County, Department of Adult and Juvenile Detention, Adult Divisions General Policy Manual

5.02.006 BOOKING OF FEDERAL HOLD PRISONERS – 08/01/2000

Policy

It is the policy of this Department to book individuals with Federal Detainers who have been arrested by local law enforcement officers.

A. General Guidelines

1. Inmates with Federal Detainers will be picked up by the U.S. Marshal's Service the first business day following notification (Monday through Friday).

B. Procedure

1. Pre-book Officer shall:

- a. Stamp packets with "U.S. Marshal Prisoner" stamp.
- b. Deliver all documentation to the ITR Sergeant for review.
- c. Process the inmate using *5.01.001 ADMISSIONS PROCEDURE*.
- d. Identify U.S. Marshals sent to pick up inmates.

2. Booking Officer shall:

- a. Process the inmate using the *5.02.004 BOOKING PROCEDURE*.
- b. Add Federal Detainers if there are no local charges.
- c. Add Federal Detainers after local charges are resolved.
- d. Staple the Federal Detainer to the front of the booking packet.
- e. Add a booking note that the inmate has a Federal Detainer.
- f. Teletype the U.S. Marshal's service with information including, but not limited to:
 - Name, B/A number and DOB of inmate.
 - That inmate has no local charges and is ready for pick up.
 - Name and serial number of officer sending the information.
- g. Call the U.S. Marshal's Service and give the same information as above.

3. Release Officer shall:

- a. Only "investigate and release" a Federal Detainer hold placed by a local agency when the Federal Detainer is delivered to the Facility.
- b. Upon the release of all local charges, book the Federal Detainer using the steps listed above for the booking officer.

- c. Process the inmate's release using the *5.04.007 RELEASE PROCEDURE*.
- d. Identify the U.S. Marshals sent to pick up all inmates with Federal holds.
- e. Have the U.S. Marshall sign the inmate booking packet for those inmates who are "transfers of custody" releases.
- f. Submit inmate's booking packet for review by the ITR Sergeant.

4. ITR Sergeant shall:

- a. Review all Federal Detainers prior to accepting inmate for booking.
- b. Review and authorize all Federal Detainer releases.
- c. Designate a Commitment Officer to act in his/her absence.

King County Sheriff General Orders Manual Section Pertaining to Consular Notification

5.06.015

DEPUTY'S RESPONSIBILITY: 07/08

1. Whenever a foreign national is taken into custody, the arresting deputy shall attempt to determine the foreign national's citizenship and consult the list in section .030 to determine if notification is mandatory.
2. This notification is to be made before any interrogation or booking is made.
3. If the detainee is a national of one of the countries listed, there is a bilateral agreement in force with that country requiring notice in all detentions.
4. The nearest consulate or embassy is to be notified as soon as possible and the detainee so informed.
 - Notification must be made, regardless of the national's wishes.
5. Foreign consular officers have the right to visit, to converse, correspond with, and to arrange legal representation for their nationals.
6. Under no circumstances shall the foreign national be turned over to any foreign government official.
 - They shall remain in custody until they are booked or delivered to Immigration Customs Enforcement.
7. If the detainee is a national of a foreign country which is not listed, the Vienna Convention on Consular Relations and/or customary international law require that he/she must be informed without delay of the right to have his/her government notified.
 - If notification is requested, it must be given without delay to the nearest consulate or embassy.

5.06.020

SUGGESTED STATEMENTS: 08/98

The following suggested statements may be used when foreign nationals are arrested or detained.

1. When Consular notification is at the foreign national's option.

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 contact your country's consular officials?

2. When Consular notification is mandatory.

Because of your nationality, we are required to notify your country's consular representative 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 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.

5.06.025

NOTIFICATION: 07/08

1. When a foreign national is detained and a notification to an embassy or consulate needs to be made, deputies shall:

- a. Notify a supervisor.
 - b. Inform the Communications Center of:
 - The nationality of person detained.
 - The reason for detention.
 - The location of detention.
 - c. Request the person's embassy or consulate phone information from the Communications Center if:
 - The foreign national's country requires a mandatory report.
 - Contact is requested by the foreign national if reporting is not mandatory.
 - d. Notify the Diplomatic Security Command Center (571) 345-3146 even if there is no contact made to an embassy or consulate.
 - e. Attempt phone contact with the foreign national's embassy or consulate.
 - f. Provide the embassy or consulate with the necessary information requested.
 - g. If for some reason deputies are unable to make these notifications, they shall be made by the Communications Center.
2. The name of the person contacted and the results of the contact shall be included in the incident report.
3. If notification is optional and is not requested by the detainee, that fact should be recorded in the incident report.
4. If notification is not made to the foreign national's embassy or consulate, document the attempt to notify in an incident report.
5. If the foreign national is seeking asylum in the U.S. do not disclose this information in the embassy or consulate notification.

05.06.030

COUNTRIES FOR WHICH CONSULAR NOTIFICATION IS MANDATORY: 07/08

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

¹ Does not include the Republic of China (Taiwan).

² United Kingdom includes England, Scotland, Wales, Northern Ireland and the British dependencies

of Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands.

³ Although the U.S.S.R. no longer exists there are persons still using its passports.

Seattle Police Department Manual

Carmen Best, Chief of Police

Title 6 - Arrests, Search and Seizure

6.020 - Interactions with Foreign Nationals

Effective Date: 05/07/2019

It is the Seattle Police Department's intent to foster trust and cooperation with all people served by the Department, including immigrant and refugee residents. The Department encourages any person who wishes to communicate with Seattle Police officers to do so without fear of inquiry regarding their immigration status.

6.020-POL 1 - General Policy Regarding Contacts with Foreign Nationals

The Department recognizes that local law enforcement has no role in immigration enforcement. "Unlawful presence" in the country is a civil matter and not within the department's jurisdiction.

1. Employees Will Not Inquire About Any Person's Citizenship or Immigration Status.

There are no exceptions to this policy, unless approved by the Chief of Police or designee.

2. Employees Will Not Request Specific Documents for the Sole Purpose of Determining a Person's Immigration Status

A general request for adequate identification as part of a criminal investigation or to issue a Notice of Infraction is typically all that is necessary or appropriate.

Employees may rely on immigration documents to establish someone's identity if they are the person's only source of identification.

3. Employees Will Not Initiate, Maintain, or Participate in any Police Action Based on an Individual's Immigration Status

SPD employees will not act on NCIC/WACIC hits issued by Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), or other DHS agencies. These hits may include some or all of the following language:

- "Administrative Warrant of Removal from the United States"
- "Immigration Violation – Failure to Appear for Removal"
- "Outstanding Warrant for Deportation"

SPD Employees regardless of assignment within SPD or participation in joint task force operations must comply with this policy.

4. Employees Will Notify a Bureau Chief Through the Chain of Command Before Contacting the Department of Homeland Security (DHS) Regarding Foreign Nationals

Employees will not contact DHS or any agencies thereof, respond to DHS inquiries, or grant DHS access to police facilities under any circumstances involving a foreign national without first notifying a bureau chief or above.

6.020 -POL 2 - Arrest and Detention of Foreign Nationals

The Vienna Convention and other treaties outline notification procedures when a foreign national is detained or arrested. Consular officials may access their nationals in detention and provide consular assistance. However, notification places no obligation upon consular officials to perform any services on behalf of the foreign national. Compliance with this policy enhances the ability of the United States to insist that foreign officials provide the same rights to United States citizens arrested abroad. The US Department of State has more information on consular notification on their website.

1. Employees Will Notify a Bureau Chief Through the Chain of Command Before Contacting the Department of Homeland Security (DHS) Regarding Foreign Nationals

Employees will not contact DHS or any agencies thereof, respond to DHS inquiries, or grant DHS access to police facilities under any circumstances involving the arrest or detention of a foreign national without first notifying a bureau chief or above.

2. Employees Will Notify Detained or Arrested Foreign Nationals of the Right to Consular Notification

Employees will not inquire about any person's citizenship or immigration status. When an arrested or detained person voluntarily gives information or a search yields documentation that he or she is a foreign national, employees will advise the arrestee or detainee of the right to have consular officials notified. This applies whether or not the suspect will be interrogated.

- The notification occurs after arrival at the precinct, jail, or other significant detention such as hospitalization, but before interrogation or booking. **Department of State – Consular Notification and Access**

Note: A person who is a citizen of the United States and another country (dual citizenship) may be treated exclusively as a United States citizen when in the United States. Consular notification is not required if the detainee is a U.S. citizen. This is true even if the detainee's other country of citizenship is a mandatory notification country.

Absent other information, officers may accept the person's passport or other travel document as evidence of the person's nationality. The employee making the arrest makes the consular notification.

See 6.020 TSK1 – Employee Making a Consular Notification

3. Some Circumstances Trigger Automatic Consular Notification

The Department of State maintains a list of countries that require consular notification when one of their citizens is arrested or detained. Once an employee is made aware that the arrested or detained person is a citizen of one of these countries, notification must be made regardless of the foreign national's wishes.

That list is located here: **Mandatory Notification Countries**

The following circumstances also trigger automatic consular notification.

- When a government official becomes aware of the death of a foreign national;
- When a guardianship or trusteeship is being considered with respect to a foreign national who is a minor or incompetent;
- When a foreign ship or aircraft is involved in a collision or accident.

4. Employees Will Record Details of Consular Notification in the Report

Employees will document the steps taken to notify the consulate or advise the arrestee/detainee of their right to consular notification.

5. Employees Will Verify Claims of Diplomatic Immunity

The Department of State issues identification cards to foreign nationals with diplomatic immunity. The degree of immunity is detailed on the back of the cards.

Once a person claims to be entitled to immunity, officers will immediately advise the person that their immunity status must be verified and request identification to substantiate the claim.

If the person claiming immunity cannot provide documentation, and the offense would warrant arrest or detention, the officer may continue to detain the suspect until confirming the individual's status.

If the claim of immunity is not valid, the officer will follow standard procedures, keeping in mind the appropriate consular notification and/or advisement.

Employees may contact the **Department of State** with questions on diplomatic immunity. Their website contains phone and fax numbers.

6. Employees May Intervene for Public Safety Regardless of an Involved Person's Diplomatic Status

When a foreign national with full diplomatic immunity is involved in an incident, and the safety of the public is in imminent danger or a crime may otherwise be committed, employees may intervene to halt such activity. This intervention may include use of force and/or arrest if otherwise justified according to existing

policy.

If an officer has a person stopped and the officer believes the person is too impaired by alcohol/narcotics to drive safely, the officer will not permit that person to continue to drive (even in the case of diplomatic agents).

In these cases, the screening sergeant contacts the Department of State for guidance as soon as feasible.

7. Employees May Stop Foreign Nationals for Investigation (Terry Stop) or Stop and Cite for Traffic Violations Regardless of Their Diplomatic Immunity

A stop for a traffic infraction is not considered an arrest or detention as it relates to diplomatic immunity.

8. Employees Will Thoroughly Document Incidents Involving Immunity

Investigating and preparing reports does not violate diplomatic immunity. Absent a public safety emergency, when a foreign national with full diplomatic immunity is suspected of committing a crime, officers shall obtain as much information as possible during the initial investigation.

In addition to the offense(s) being investigated, employees will list “Diplomatic-Personnel-Involved” in the “Offenses” section.

The primary officer will send the Report to a sergeant for approval, notify the sergeant directly, and send any paper documents to the Data Center in an ALERT Packet.

The sergeant will route the Report as an ALERT packet after review and approval.

The Data Center will fax a copy of the report to the Department of State.

9. Joint Operations with Federal Agencies Require Bureau Chief Approval

The Department designates personnel to assist federal agencies from time to time, and these operations may involve the arrest of persons who have been previously deported and are currently involved in criminal activity. Any such joint operations, including access to SPD facilities, require approval of the employees' bureau chief via the chain of command.

6.020 TSK 1 - Employee Making a Consular Notification

When an arrestee/detainee voluntarily provides information or documentation that he or she is a foreign national, the **employee**:

1. **Advises** the arrestee/detainee of the following:
 - a. For a **mandatory** notification country:

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 a **non-mandatory** notification country:

As a non-United States 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?

- The Department of State has this notification in different languages and contact information for consular offices on their **website**.
- 2. **Notify** that country's nearest consular official if required or requested by faxing or emailing SPD form 58.0.
 - If a fax machine and email are not available, **call** to make consular notification and **document** the date, time, and point of contact in the Report.
- 3. **Submit** the fax sheet and fax transmittal report or a printout of the sent email to the Data Center.
 - If the fax machine does not print a fax transmittal report, **record** the date and time the fax was sent in the Report.
- 4. **Document** the method of notification or attempt in the Report.
- 5. **Notify** jail staff if the suspect is being booked and notification has not yet been made.