



State of New Jersey

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DIVISION OF CRIMINAL JUSTICE

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ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2018-6

TO: All Law Enforcement Chief Executives
FROM: Gurbir S. Grewal, Attorney General
DATE: November 29, 2018
SUBJECT: Directive Strengthening Trust Between Law Enforcement and Immigrant Communities

In recent years, the federal government has increasingly relied on state and local law enforcement agencies to enforce federal civil immigration law. This trend presents significant challenges to New Jersey's law enforcement officers, who have worked hard to build trust with our state's large and diverse immigrant communities.

It is well-established, for example, that individuals are less likely to report a crime if they fear that the responding officer will turn them over to immigration authorities. This fear makes it more difficult for officers to solve crimes and bring suspects to justice, putting all New Jerseyans at risk.

It is therefore crucial that the State of New Jersey makes very clear to our immigrant communities something that may seem obvious to those of us in law enforcement: there is a difference between state, county, and local law enforcement officers, who are responsible for enforcing *state criminal law*, and federal immigration authorities, who enforce *federal civil immigration law*.

Put simply, New Jersey's law enforcement officers protect the public by investigating state criminal offenses and enforcing state criminal laws. They are not responsible for enforcing civil immigration violations except in narrowly defined circumstances. Such responsibilities instead fall to the federal government and those operating under its authority.

Although state, county, and local law enforcement officers should assist federal immigration authorities when required to do so by law, they should also be mindful that providing assistance above and beyond those requirements threatens to blur the distinctions



between state and federal actors and between federal immigration law and state criminal law. It also risks undermining the trust we have built with the public.

In August 2007, Attorney General Anne Milgram issued Attorney General Law Enforcement Directive No. 2007-3 (AG Directive 2007-3) to “establish the manner in which local, county, and state law enforcement agencies and officers shall interact with federal immigration authorities.” AG Directive 2007-3 recognized that “enforcement of immigration laws is primarily a federal responsibility,” and that “[t]he overriding mission of [New Jersey] law enforcement officers . . . is to enforce the state’s criminal laws and to protect the community that they serve.” That Directive also acknowledged that “[t]his requires the cooperation of, and positive relationships with, all members of the community,” including immigrants.

Since 2007, technological advances and changes in federal immigration enforcement priorities have rendered AG Directive 2007-3 less effective at “establish[ing] the manner in which local, county, and state law enforcement agencies and officers shall interact with federal immigration authorities.” Today’s new Directive seeks to ensure effective policing, protect the safety of all New Jersey residents, and ensure that limited state, county, and local law enforcement resources are directed towards enforcing the criminal laws of this state.

To be clear, nothing in this new Directive limits New Jersey law enforcement agencies or officers from enforcing state law – and nothing in this Directive should be read to imply that New Jersey provides “sanctuary” to those who commit crimes in this state. Any person who violates New Jersey’s criminal laws can and will be held accountable for their actions, no matter their immigration status.

Similarly, nothing in this Directive restricts New Jersey law enforcement agencies or officers from complying with the requirements of Federal law or valid court orders, including judicially-issued arrest warrants for individuals, regardless of immigration status. For the purposes of this Directive, a “judicial warrant” is one issued by a federal or state judge. It is not the same as an immigration detainer—sometimes referred to as an Immigration and Customs Enforcement (ICE) detainer—or an administrative warrant, both of which are currently issued not by judges but by federal immigration officers. *See, e.g.*, U.S. Immigration and Customs Enforcement Policy Number 10074.2: Issuance of Immigration Detainers by ICE Immigration Officers (Effective Apr. 2, 2017). Under federal and state law, local law enforcement agencies are not required to enforce civil administrative warrants or detainers issued by federal immigration officers rather than federal or state judges.

Finally, nothing in this Directive prohibits state, county and local law enforcement agencies from imposing their own additional restrictions on providing assistance to federal immigration authorities, so long as those restrictions do not violate federal or state law or impede the enforcement of state criminal law. This Directive does not *mandate* that law enforcement

officials provide assistance in any particular circumstance, even when, by the terms of the Directive, they are *permitted* to do so.

Pursuant to the authority granted to me under the New Jersey Constitution and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, which provides for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the state in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the state, I hereby direct all law enforcement and prosecuting agencies operating under the authority of the laws of the state of New Jersey to implement and comply with the following directives. This Directive repeals and supersedes the provisions of AG Directive 2007-3.

I. Racially-Influenced Policing

No law enforcement officer shall at any time engage in conduct constituting racially-influenced policing as defined in Attorney General Law Enforcement Directive No. 2005-1.

II. Enforcement of Federal Civil Immigration Law

A. ***Use of immigration status in law enforcement activities.*** Except pursuant to Sections II.C and III below, no state, county, or local law enforcement agency or official shall:

1. Stop, question, arrest, search, or detain any individual based solely on:
 - a) actual or suspected citizenship or immigration status; *or*
 - b) actual or suspected violations of federal civil immigration law.
2. Inquire about the immigration status of any individual, unless doing so is:
 - a) necessary to the ongoing investigation of an indictable offense by that individual; *and*
 - b) relevant to the offense under investigation.

B. ***Limitations on assisting federal immigration authorities in enforcing federal civil immigration law.*** Except pursuant to Sections II.C and III below, no state, county, or local law enforcement agency or official shall provide the following types of assistance to federal immigration authorities when the sole purpose of that assistance is to enforce federal civil immigration law:

1. Participating in civil immigration enforcement operations.
2. Providing any non-public personally identifying information regarding any individual.¹
3. Providing access to any state, county, or local law enforcement equipment, office space, database, or property not available to the general public.
4. Providing access to a detained individual for an interview, unless the detainee signs a written consent form that explains:
 - a) the purpose of the interview;
 - b) that the interview is voluntary;
 - c) that the individual may decline to be interviewed; *and*
 - d) that the individual may choose to be interviewed only with his or her legal counsel present.
5. Providing notice of a detained individual's upcoming release from custody, unless the detainee:
 - a) is currently charged with, has ever been convicted of, or has ever been adjudicated delinquent for a violent or serious offense, as that term is defined in Appendix A;
 - b) in the past five years, has been convicted of an indictable crime other than a violent or serious offense; *or*
 - c) is subject to a Final Order of Removal that has been signed by a federal judge and lodged with the county jail or state prison where the detainee is being held.
6. Continuing the detention of an individual past the time he or she would otherwise be eligible for release from custody based solely on a civil immigration detainer request, unless the detainee:

¹ Non-public personally identifying information includes a social security number, credit card number, unlisted telephone number, driver's license number, vehicle plate number, insurance policy number, and active financial account number of any person. *See* N.J.S.A. 47:1A-1.1, N.J. Court Rule 1:38-7(a). It may also include the address, telephone number, or email address for an individual's home, work, or school, if that information is not readily available to the public.

- a) is currently charged with, has ever been convicted of, or has ever been adjudicated delinquent for a violent or serious offense, as that term is defined in Appendix A;
- b) in the past five years, has been convicted of an indictable crime other than a violent or serious offense; *or*
- c) is subject to a Final Order of Removal that has been signed by a federal judge and lodged with the county jail or state prison where the detainee is being held.

Any such detention may last only until 11:59 pm on the calendar day on which the person would otherwise have been eligible for release.

C. ***Exceptions and exclusions.*** Nothing in Sections II.A or II.B shall be construed to restrict, prohibit, or in any way prevent a state, county, or local law enforcement agency or official from:

- 1. Enforcing the criminal laws of this state.
- 2. Complying with all applicable federal, state, and local laws.
- 3. Complying with a valid judicial warrant or other court order, or responding to any request authorized by a valid judicial warrant or other court order.²
- 4. Participating with federal authorities in a joint law enforcement taskforce the primary purpose of which is unrelated to federal civil immigration enforcement.
- 5. Requesting proof of identity from an individual during the course of an arrest or when legally justified during an investigative stop or detention.
- 6. Asking an arrested individual for information necessary to complete the required fields of the LIVESCAN database (or other law enforcement fingerprinting database), including information about the arrestee's place of birth and country of citizenship.

² As noted earlier, a "judicial warrant" is one issued by a federal or state judge. It is not the same as an immigration detainer (sometimes referred to as an ICE detainer) or an administrative warrant, both of which are currently issued not by judges but by federal immigration officers. Under federal and state law, local law enforcement agencies are not required to enforce civil administrative warrants or civil detainers issued by federal immigration officers.

7. Inquiring about a person's place of birth on a correctional facility intake form and making risk-based classification assignments in such facilities.
8. Providing federal immigration authorities with information that is publicly available or readily available to the public in the method the public can obtain it.
9. When required by exigent circumstances, providing federal immigration authorities with aid or assistance, including access to non-public information, equipment, or resources.
10. Sending to, maintaining, or receiving from federal immigration authorities information regarding the citizenship or immigration status, lawful or unlawful, of any individual. *See* 8 U.S.C. §§ 1373, 1644.

III. Agreements with the Federal Government

- A. ***Section 287(g) agreements.*** No state, county, or local law enforcement authority shall enter into, modify, renew, or extend any agreement to exercise federal immigration authority pursuant to Section 287(g) of the Immigration and Nationality Act, 8 U.S.C. § 1357(g), unless:
 1. The Attorney General grants written approval; *or*
 2. The agreement is necessary to address threats to the public safety or welfare of New Jersey residents arising out of a declaration of a state or national emergency.

No state, county, or local law enforcement officer shall otherwise exercise federal civil immigration authority outside the context of Section 287(g). Nothing in Section II of this Directive shall apply to law enforcement agencies that are party to an agreement to exercise federal immigration authority pursuant to Section 287(g) when they are acting pursuant to such agreement.

- B. ***Intergovernmental Service Agreements.*** Nothing in Section II of this Directive shall apply to law enforcement agencies that are currently party to an Intergovernmental Service Agreement (IGSA) to detain individuals for civil immigration enforcement purposes when they are acting pursuant to such an agreement.

IV. Requests for T and U Nonimmigrant Status Certifications

- A. ***Establishing certification procedures.*** Before March 15, 2019, all state, county, and local law enforcement agencies must put in place a set of procedures for processing requests for T- and U-visa certifications (*see* 8 U.S.C. §§ 1101(a)(15)(T) and 1101(a)(15)(U)) from potential victims of crime or human trafficking within 120 days of the request being made. Each police department shall post information about its procedures on its website, or, if the department does not have its own website, then on the municipality's website when feasible.
- B. ***T-visa certifications.*** For T-visa certification requests, each agency's certification procedure shall include a determination of whether, pursuant to the standards set forth in federal law and instructions to USCIS Form I-914 Supplement B, the requester:
1. Is or has been a victim of a severe form of trafficking in persons; *and*
 2. Has complied with requests for assistance in an investigation or prosecution of the crime of trafficking.
- C. ***U-visa certifications.*** For U-visa certification requests, each agency's procedure shall include a determination of whether, pursuant to the standards set forth in federal law and instructions to USCIS Form I-918 Supplement B, the applicant:
1. Is a victim of a qualifying criminal activity; *and*
 2. Was, is, or is likely to be, helpful in the investigation or prosecution of that activity.
- D. ***Inquiry into and disclosure of immigration status.*** Notwithstanding any provision in Section II, state, county, and local law enforcement agencies and officials may ask any questions necessary to complete a T- or U-visa certification. They may generally not disclose the immigration status of a person requesting T- or U-visa certification except to comply with state or federal law or legal process, or if authorized by the visa applicant. However, nothing in this section shall be construed to restrict, prohibit, or in any way prevent a state, county, or local law enforcement agency or official from sending to, maintaining, or receiving from federal immigration authorities information regarding the citizenship or immigration status, lawful or unlawful, of any individual. *See* 8 U.S.C. §§ 1373, 1644.

V. Considerations for Prosecutors

- A. ***Initial court appearances.*** At a defendant's initial court appearance before a judge, the prosecutor shall confirm that the defendant has been advised on the record that:
1. Potential charges and convictions may carry immigration consequences, *see Padilla v. Kentucky*, 559 U.S. 356 (2010); and
 2. The defendant may have rights to consular notification pursuant to the Vienna Convention on Consular Relations.
- B. ***Pretrial detention.*** In assessing whether to seek pretrial detention of an arrestee under N.J.S.A. 2A:162-15 to -25, the prosecutor shall make an individualized assessment based on the specific facts presented in each case, and shall not simply assume that a non-citizen presents a risk of flight.
- C. ***Admissibility of immigration evidence.*** In most instances, evidence of a defendant's immigration status is not relevant to the crime charged or to a witness's credibility and therefore may not be presented to a jury. *State v. Sanchez-Medina*, 231 N.J. 452, 462-63 (2018). In the rare cases where proof of a person's immigration status is relevant and admissible at trial, the prosecutor should not seek to admit such evidence without first raising the issue with the Court outside of the jury's presence, under N.J.R.E. 104, and requesting that the Court give an appropriate limiting instruction.
- D. ***Charging, resolving, and sentencing cases.*** As in all cases, the prosecutor should be mindful of potential collateral consequences and consider such consequences in attempting to reach a just resolution of the case. Nothing in this Directive shall be construed to require any particular charge or sentence, to limit prosecutorial discretion in reaching a just resolution of the case, or to prevent the prosecutor from making any argument at sentencing.

VI. Notifications and Recordkeeping

- A. ***Notifications to detained individuals.*** State, county, and local law enforcement agencies and officials shall promptly notify a detained individual, in writing and in a language the individual can understand, when federal civil immigration authorities request:

1. To interview the detainee. (*See* § II.B.4.)
2. To be notified of the detainee's upcoming release from custody. (*See* § II.B.5.)
3. To continue detaining the detainee past the time he or she would otherwise be eligible for release. (*See* § II.B.6.)

When providing such notification, law enforcement officials shall provide the detainee a copy of any documents provided by immigration authorities in connection with the request.

B. *Annual reporting by law enforcement agencies.* On an annual basis, each state, county, and local law enforcement agency shall report, in a manner to be prescribed by the Attorney General, any instances in which the agency provided assistance to federal civil immigration authorities for the purpose of enforcing federal civil immigration law described in Sections II.B.1 to II.B.6. Each year:

1. Any local or county law enforcement agency that provided assistance described in Sections II.B.1 to II.B.6 during the prior calendar year shall submit a report to the County Prosecutor detailing such assistance.
2. Each County Prosecutor shall compile any reports submitted by local or county law enforcement agencies pursuant to Section VI.B.1 and submit a consolidated report to the Attorney General detailing the agencies' assistance.
3. The New Jersey State Police and all other state law enforcement agencies that provided assistance described in Sections II.B.1 to II.B.6 during the prior calendar year shall submit a report to the Attorney General detailing such assistance.
4. The Attorney General shall post online a consolidated report detailing all instances of assistance by all state, county, and local law enforcement agencies, as submitted to the Attorney General pursuant to Sections VI.B.2 and VI.B.3, during the prior calendar year.

VII. Training

A. *Development of training.* The Division of Criminal Justice, shall, within 30 days of the issuance of this Directive, develop a training program to explain the

requirements of this Directive as they pertain to state, county, and local law enforcement agencies and officers. Such program shall be made available through the NJ Learn System or by other electronic means.

- B. ***Training deadline.*** All state, county, and local law enforcement agencies shall provide training to all officers regarding the provisions of this Directive before March 15, 2019.

VIII. Other Provisions

- A. ***Establishment of policy.*** All state, county, and local law enforcement agencies shall, before March 15, 2019, adopt and/or revise their existing policies and practices, consistent with this Directive, either by rule, regulation, or standard operating procedure.
- B. ***Community relations and outreach programs.*** Each County Prosecutor shall undertake efforts to educate the public about the provisions of this Directive, with a specific focus on strengthening trust between law enforcement and immigrant communities. Within 120 days of the effective date of this Directive, each County Prosecutor shall report to the Attorney General on such public education efforts.
- C. ***Non-enforceability by third parties.*** This Directive is issued pursuant to the Attorney General's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice throughout the state. This Directive imposes limitations on law enforcement agencies and officials that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and state statutes and regulations. Nothing in this Directive shall be construed in any way to create any substantive right that may be enforced by any third party.
- D. ***Severability.*** The provisions of this Directive shall be severable. If any phrase, clause, sentence, or provision of this Directive is declared by a court of competent jurisdiction to be invalid, the validity of the remainder of the Directive shall not be affected.
- E. ***Questions.*** Any questions concerning the interpretation or implementation of this Directive shall be addressed to the Director of the Division of Criminal Justice, or his or her designee.

- F. ***Effective date.*** In order to give state, county and local law enforcement agencies sufficient time to implement the provisions of this Directive and to conduct the required trainings, this Directive shall become operational on March 15, 2019. Once effective, this Directive shall remain in force unless it is repealed, amended, or superseded by Order of the Attorney General.



Gurbir S. Grewal
Attorney General

ATTEST:



Veronica Allende
Director, Division of Criminal Justice

Dated: November 29, 2018

ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2018-6

APPENDIX A

(Issued November 29, 2018)

For the purposes of Sections II.B.5 and II.B.6, the term “violent or serious offense” is defined as follows:

1. Any first or second degree offense, as defined in N.J.S.A 2C:43-1;
2. Any indictable domestic violence offense defined in N.J.S.A. 2C:25-19;
3. Any other indictable offense listed in the chart below; *or*
4. Any indictable offense under the law of another jurisdiction that is the substantial equivalent to an offense described in paragraphs 1-3 above.

Chart of Additional Violent & Serious Offenses
(Referenced in Paragraph 3 Above)

Statute	Description
2C:12-1	Assault
2C:12-1.1	Knowingly Leaving Scene of Motor Vehicle Accident Involving Serious Bodily Injury
2C:12-10	Stalking
2C:12-13	Throwing Bodily Fluid at Officers
2C:14-3	Criminal Sexual Contact
2C:16-1	Bias Intimidation
2C:17-1	Arson
2C:17-2	Causing Widespread Injury or Damage
2C:18-2	Burglary of a Dwelling
2C:24-4	Endangering the Welfare of Children
2C:28-5	Witness Tampering and Retaliation
2C:29-2B	Eluding a Law Enforcement Officer
2C:29-3A(5)	Hindering Apprehension of Another Using Force or Intimidation
2C:29-3B(2)	Hindering Apprehension of Oneself Using Force or Intimidation
2C:29-9	Criminal Contempt (Violation of Restraining Orders, Domestic Violence Orders, Etc.)
2C:40-3B	Aggravated Hazing

DEPARTMENT OF HOMELAND SECURITY
IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID:
Event #:

File No:
Date:

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)

FROM: (Department of Homeland Security Office Address)

Name of Alien: _____

Date of Birth: _____ Citizenship: _____ Sex: _____

1. DHS HAS DETERMINED THAT PROBABLE CAUSE EXISTS THAT THE SUBJECT IS A REMOVABLE ALIEN. THIS DETERMINATION IS BASED ON (complete box 1 or 2).

- A final order of removal against the alien;
- The pendency of ongoing removal proceedings against the alien;
- Biometric confirmation of the alien's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- Statements made by the alien to an immigration officer and/or other reliable evidence that affirmatively indicate the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

2. DHS TRANSFERRED THE ALIEN TO YOUR CUSTODY FOR A PROCEEDING OR INVESTIGATION (complete box 1 or 2).

- Upon completion of the proceeding or investigation for which the alien was transferred to your custody, DHS intends to resume custody of the alien to complete processing and/or make an admissibility determination.

IT IS THEREFORE REQUESTED THAT YOU:

- **Notify DHS** as early as practicable (at least 48 hours, if possible) before the alien is released from your custody. Please notify DHS by calling U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP) at _____. If you cannot reach an official at the number(s) provided, please contact the Law Enforcement Support Center at: (802) 872-6020.
 - **Maintain custody** of the alien for a period **NOT TO EXCEED 48 HOURS** beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody. The alien **must be served with a copy of this form** for the detainer to take effect. This detainer arises from DHS authorities and should not impact decisions about the alien's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters
 - Relay this detainer to any other law enforcement agency to which you transfer custody of the alien.
 - Notify this office in the event of the alien's death, hospitalization or transfer to another institution.
- If checked: please cancel the detainer related to this alien previously submitted to you on _____ (date).

(Name and title of Immigration Officer)

(Signature of Immigration Officer) (Sign in ink)

Notice: If the alien may be the victim of a crime or you want the alien to remain in the United States for a law enforcement purpose, notify the ICE Law Enforcement Support Center at (802) 872-6020. You may also call this number if you have any other questions or concerns about this matter.

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE ALIEN WHO IS THE SUBJECT OF THIS NOTICE:

Please provide the information below, sign, and return to DHS by mailing, emailing or faxing a copy to _____.

Local Booking/Inmate #: _____ Estimated release date/time: _____

Date of latest criminal charge/conviction: _____ Last offense charged/conviction: _____

This form was served upon the alien on _____, in the following manner:

- in person by inmate mail delivery other (please specify): _____

(Name and title of Officer)

(Signature of Officer) (Sign in ink)

NOTICE TO THE DETAINEE

The Department of Homeland Security (DHS) has placed an immigration detainer on you. An immigration detainer is a notice to a law enforcement agency that DHS intends to assume custody of you (after you otherwise would be released from custody) because there is probable cause that you are subject to removal from the United States under federal immigration law. DHS has requested that the law enforcement agency that is currently detaining you maintain custody of you for a period not to exceed 48 hours beyond the time when you would have been released based on your criminal charges or convictions. **If DHS does not take you into custody during this additional 48 hour period, you should contact your custodian** (the agency that is holding you now) to inquire about your release. **If you believe you are a United States citizen or the victim of a crime, please advise DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.**

NOTIFICACIÓN A LA PERSONA DETENIDA

El Departamento de Seguridad Nacional (DHS) le ha puesto una retención de inmigración. Una retención de inmigración es un aviso a una agencia de la ley que DHS tiene la intención de asumir la custodia de usted (después de lo contrario, usted sería puesto en libertad de la custodia) porque hay causa probable que usted está sujeto a que lo expulsen de los Estados Unidos bajo la ley de inmigración federal. DHS ha solicitado que la agencia de la ley que le tiene detenido actualmente mantenga custodia de usted por un periodo de tiempo que no exceda de 48 horas más del tiempo original que habría sido puesto en libertad en base a los cargos judiciales o a sus antecedentes penales. **Si DHS no le pone en custodia durante este periodo adicional de 48 horas, usted debe de contactarse con su custodio** (la agencia que le tiene detenido en este momento) para preguntar acerca de su liberación. **Si usted cree que es un ciudadano de los Estados Unidos o la víctima de un crimen, por favor avise al DHS llamando gratuitamente al Centro de Apoyo a la Aplicación de la Ley ICE al (855) 448-6903.**

AVIS AU DETENU OU À LA DÉTENUÉ

Le Département de la Sécurité Intérieure (DHS) a placé un dépositaire d'immigration sur vous. Un dépositaire d'immigration est un avis à une agence de force de l'ordre que le DHS a l'intention de vous prendre en garde à vue (après cela vous pourrez par ailleurs être remis en liberté) parce qu'il y a une cause probable que vous soyez sujet à expulsion des États-Unis en vertu de la loi fédérale sur l'immigration. Le DHS a demandé que l'agence de force de l'ordre qui vous détient actuellement puisse vous maintenir en garde pendant une période ne devant pas dépasser 48 heures au-delà du temps après lequel vous auriez été libéré en se basant sur vos accusations criminelles ou condamnations. **Si le DHS ne vous prenne pas en garde à vue au cours de cette période supplémentaire de 48 heures, vous devez contacter votre gardien (ne)** (l'agence qui vous détient maintenant) pour vous renseigner sur votre libération. **Si vous croyez que vous êtes un citoyen ou une citoyenne des États-Unis ou une victime d'un crime, s'il vous plaît aviser le DHS en appelant gratuitement le centre d'assistance de force de l'ordre de l'ICE au (855) 448-6903**

NOTIFICAÇÃO AO DETENTO

O Departamento de Segurança Nacional (DHS) expediu um mandado de detenção migratória contra você. Um mandado de detenção migratória é uma notificação feita à uma agência de segurança pública que o DHS tem a intenção de assumir a sua custódia (após a qual você, caso contrário, seria liberado da custódia) porque existe causa provável que você está sujeito a ser removido dos Estados Unidos de acordo com a lei federal de imigração. O DHS solicitou à agência de segurança pública onde você está atualmente detido para manter a sua guarda por um período de no máximo 48 horas além do tempo que você teria sido liberado com base nas suas acusações ou condenações criminais. **Se o DHS não leva-lo sob custódia durante este período adicional de 48 horas, você deve entrar em contato com quem tiver a sua custódia** (a agência onde você está atualmente detido) para perguntar a respeito da sua liberação. **Se você acredita ser um cidadão dos Estados Unidos ou a vítima de um crime, por favor informe ao DHS através de uma ligação gratuita ao Centro de Suporte de Segurança Pública do Serviço de Imigração e Alfândega (ICE) pelo telefone (855) 448-6903.**

THÔNG BÁO CHO NGƯỜI BỊ GIAM

Bộ Nội An (DHS) đã ra lệnh giam giữ di trú đối với quý vị. Giam giữ di trú là một thông báo cho cơ quan công lực rằng Bộ Nội An sẽ đảm đương việc lưu giữ quý vị (sau khi quý vị được thả ra) bởi có lý do khả tín quý vị là đối tượng bị trục xuất khỏi Hoa Kỳ theo luật di trú liên bang. Sau khi quý vị đã thi hành đầy đủ thời gian của bản án dựa trên các tội phạm hay các kết án, thay vì được thả tự do, Bộ Nội An đã yêu cầu cơ quan công lực giữ quý vị lại thêm không quá 48 tiếng đồng hồ nữa. Nếu Bộ Nội An không đến bắt quý vị sau 48 tiếng đồng hồ phụ tội đó, quý vị cần liên lạc với cơ quan hiện đang giam giữ quý vị để tham khảo về việc trả tự do cho quý vị. Nếu quý vị là công dân Hoa Kỳ hay tin rằng mình là nạn nhân của một tội ác, xin vui lòng báo cho Bộ Nội An bằng cách gọi số điện thoại miễn phí 1(855) 448-6903 cho Trung Tâm Hỗ Trợ Cơ Quan Công Lực Di Trú.

被拘留者通知書

國土安全部(Department of Homeland Security, 簡稱DHS)已經對你發出移民拘留令。移民拘留令為一給予執法機構的通知書, 闡明DHS意欲獲取對你的羈押權(若非有此羈押權, 你將會被釋放); 因為根據聯邦移民法例, 並基於合理的原由, 你將會被遞解離美國國境。DHS亦已要求現正拘留你的執法機構, 在你因受到刑事檢控或定罪後, 而在本應被釋放的程序下, 繼續對你作出不超過四十八小時的監管。若你在這附加的四十八小時內, 仍未及移交至DHS的監管下, 你應當聯絡你的監管人(即現正監管你的機構)查詢有關你釋放的事宜。若你認為你是美國公民或為罪案受害者, 請致電ICE執法部支援中心(Law Enforcement Support Center)知會DHS, 免費電話號碼: (855)448-6903。

SAMPLE

How the Immigrant Trust Directive Changes Law Enforcement Practices

Attorney General Directive 2018-6, known as the “Immigrant Trust Directive,” is designed to strengthen trust between New Jersey’s law enforcement officers and the state’s diverse immigrant communities, thereby **ensuring that victims and witnesses feel safe** reporting crimes.

The Directive is intended to draw a clearer distinction between state, county, and local law enforcement officers, who are responsible for enforcing state criminal law, and federal immigration authorities, (including Immigrations and Customs Enforcement, or ICE), who enforce federal civil immigration law. The Directive **limits the types of voluntary assistance** that New Jersey’s 36,000 law enforcement officers may provide to federal immigration authorities and applies to state and local police officers, correctional officers working in state prisons and county jails, and state and county prosecutors.

The Directive goes into effect in March 2019. Under the new rules, except in limited circumstances:

New Jersey’s police officers:

- Cannot stop, question, arrest, search, or detain any individual based solely on actual or suspected immigration status.
- Cannot ask the immigration status of any individual, unless doing so is necessary to the ongoing investigation of a serious offense and relevant to the offense under investigation.
- Cannot participate in ICE’s civil immigration enforcement operations.
- Cannot provide ICE with access to state or local law enforcement resources, including equipment, office space, databases, or property.

New Jersey’s correctional officers:

- Cannot allow ICE to interview individuals detained on criminal charges, unless the detainee is advised of his or her right to a lawyer and signs a written consent form.
- Cannot continue to hold a detained individual arrested for a minor criminal offense, without certain prior convictions,

past the time he or she would otherwise be released from custody simply because ICE has submitted an “immigration detainer” request.

New Jersey’s prosecutors:

- Cannot attack a witness’s credibility at trial based on his or her immigration status.
- Cannot seek pretrial detention of an individual based solely on his or her immigration status.

New Jersey’s law enforcement agencies:

- Must develop procedures to assist victims and witnesses applying for T-Visas and U-Visas, which provide special immigration status for those cooperating with law enforcement investigations.
- Must update current policies to comply with this Directive and train all officers before March 2019.



To learn more, visit:

nj.gov/trust



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How the Immigrant Trust Directive **Doesn't Change** Law Enforcement Practices

The Immigrant Trust Directive establishes important new protections for New Jersey's immigrant communities. But it is also important to understand what these policies do not change about the state's law enforcement practices.

- Nothing in the Directive suggests that New Jersey provides "sanctuary" to individuals who commit crimes in the state.
- Nothing in the Directive limits the ability of law enforcement officers to enforce state criminal law.
- Nothing in the Directive restricts officers from complying with the requirements of federal law, including 8 U.S.C. § 1373.
- Nothing in the Directive prevents officers from enforcing valid court orders, including search or arrest warrants signed by state or federal judges.
- Nothing in the Directive stops officers from assisting federal immigration authorities in response to exigent circumstances.
- Nothing in the Directive addresses under what circumstances ICE may enter into contracts with county jails to house individuals detained for federal civil immigration violations.
- Nothing in the Directive requires that prosecutors seek, or decline to seek, a particular charge or sentence in a criminal case.
- Nothing in the Directive limits prosecutorial discretion in reaching a just resolution of a case.
- Nothing in the Directive prevents a prosecutor from making any argument at sentencing.
- Nothing in the Directive mandates that officers provide voluntary assistance to federal immigration authorities, even when the Directive makes clear that officers are permitted to do so.
- Nothing in the Directive prohibits law enforcement agencies from imposing their own additional restrictions on providing voluntary assistance to federal immigration authorities.

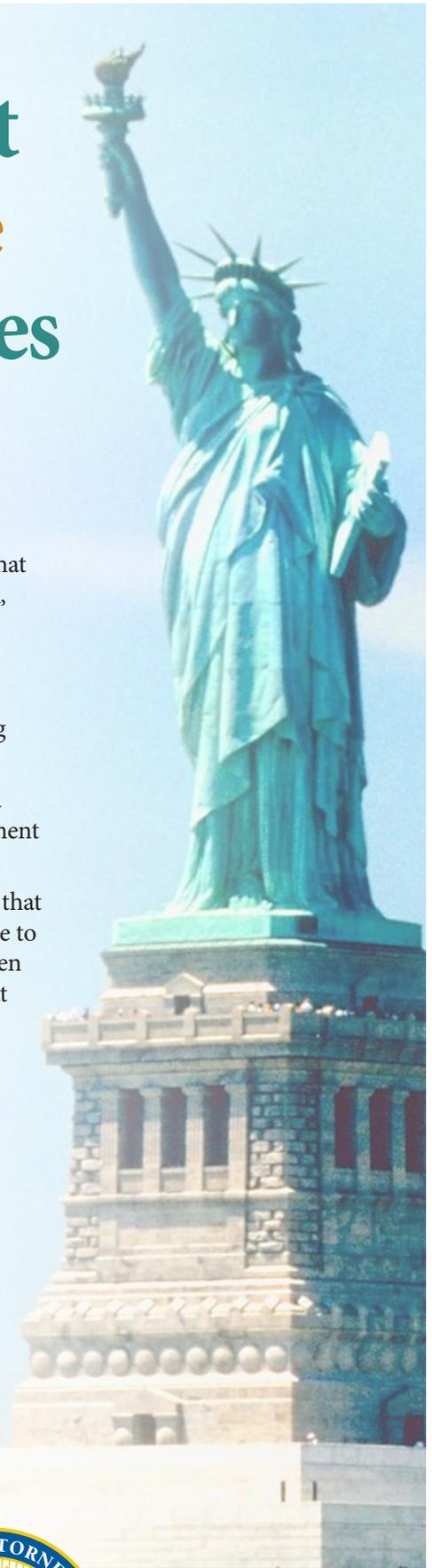
Note: This document summarizes relevant provisions of the Immigrant Trust Directive. Readers should review the full text of the Directive, which describes exceptions and exclusions to some of the rules described in this summary.

To learn more, visit:

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U VISA IMMIGRATION RELIEF FOR VICTIMS OF CERTAIN CRIMES

An Overview for Law Enforcement

As a law enforcement official, you play an important role in the application process for U nonimmigrant status (also known as a U visa). The U visa can be a key tool to support your case. The U visa can help certain crime victims feel safer reporting crimes, so that they may be more willing to work with you, even if they do not have lawful immigration status.

If approved, the U visa provides the victim with:

- temporary immigration status including work authorization;
- temporary immigration status for qualifying family members of the victim; and
- the possibility of lawful permanent resident status.



U VISA ELIGIBILITY

U.S. Citizenship and Immigration Services (USCIS), within the Department of Homeland Security (DHS), decides if a person is eligible for a U visa. Law enforcement does not determine who is eligible for a U visa; however, law enforcement provides information so that USCIS can determine if the person:

- is a victim of a qualifying crime or criminal activity;
- has information about the crime or criminal activity; and
- is, was, or is likely to be helpful in the detection or investigation of the qualifying crime or criminal activity, or the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.

THE ROLE OF LAW ENFORCEMENT



To qualify for a U visa, a victim must submit a signed certification from a law enforcement official. This certification (known as USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification) is evidence in support of the petition to USCIS for U nonimmigrant status. Victims may ask you to complete this certification. The certification gives USCIS basic information about the criminal activity perpetrated against the victim and the victim's willingness to assist in the detection, investigation, prosecution, conviction, or sentencing. You may also encounter victims who could qualify for a U visa but do not know about it. Providing them with information about the U visa may enable them to feel more comfortable working with you.

WHAT CONSTITUTES A QUALIFYING CRIME OR CRIMINAL ACTIVITY?

The following table lists the criminal activities that are considered “qualifying criminal activities” for purposes of U visa eligibility. These are general categories of crimes and it is important to note that any similar criminal activities that violate Federal, state, or local laws may also be considered “qualifying criminal activities” for purposes of U visa eligibility.

- | | | | |
|--------------------------|--------------------------------------|--------------------------|-------------------------------|
| • Abduction | • Female Genital Mutilation | • Obstruction of Justice | • Stalking |
| • Abusive Sexual Contact | • Fraud in Foreign Labor Contracting | • Peonage | • Torture |
| • Being Held Hostage | • Incest | • Perjury | • Trafficking |
| • Blackmail | • Involuntary Servitude | • Prostitution | • Witness Tampering |
| • Domestic Violence | • Kidnapping | • Rape | • Unlawful Criminal Restraint |
| • Extortion | • Manslaughter | • Sexual Assault | |
| • False Imprisonment | • Murder | • Sexual Exploitation | |
| • Felonious Assault | | • Slave Trade | |

Qualifying crimes include any similar activity where the nature and elements of the crime are substantially similar to one of the crimes listed. Attempt, conspiracy, or solicitation to commit any of the crimes listed above may also count as a “qualifying criminal activity.”

WHICH LAW ENFORCEMENT AUTHORITIES ARE ELIGIBLE TO CERTIFY?

The following law enforcement authorities are eligible to complete the USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification:

- Any Federal, state, or local law enforcement authority (including prosecutors and judges) that has responsibility for the detection, investigation, prosecution, conviction, or sentencing of qualifying criminal activity.
- If more than one qualifying law enforcement authority is involved in the case, such as a Federal agency and a local agency, any one of them may complete the certification. The law enforcement authority that completes and signs the certification will be considered the “certifying agency” and, therefore, the point of contact for USCIS should any questions about the certification arise.
- Law enforcement authorities with criminal investigative jurisdiction in their respective areas of expertise, including but not limited to child protective services, the Equal Employment Opportunity Commission, and the Department of Labor may also complete the certification.

WHO CAN SIGN A CERTIFICATION?

- The head of the certifying agency.
- Any person in a supervisory role who is specifically designated by the head of the agency to sign.
- A Federal, state, or local judge.

IS ANY LAW ENFORCEMENT AUTHORITY REQUIRED TO COMPLETE A CERTIFICATION?

The decision whether to complete Supplement B is at the discretion of the certifying agency. **However, keep in mind that a victim’s U visa petition will be denied without this certification.**

DOES THE VICTIM AUTOMATICALLY RECEIVE A U VISA BECAUSE A CERTIFICATION HAS BEEN SIGNED?

No. The certification by itself does not grant any immigration benefit. USCIS reviews all of the evidence submitted along with the certification to determine whether a victim is eligible for a U visa. USCIS also conducts a thorough background check of each U visa petitioner (as well as each included family member).



AT WHAT STAGE IN A CRIMINAL CASE CAN A LAW ENFORCEMENT AUTHORITY SIGN A CERTIFICATION?

Law enforcement may sign a certification at any time, including after detection of the criminal activity or while an investigation or prosecution is pending. Keep in mind:

- Law enforcement may sign a certification even after the case is over.
- Law enforcement may sign a certification regardless of how the case turns out. A conviction, prosecution, or arrest is *not* necessary for a victim to be eligible for relief.
- The victim may be eligible for a U visa even if the perpetrator is acquitted or convicted of a different crime.
- Law enforcement may also withdraw the certification if the victim stops cooperating with the investigation or prosecution.

TIPS FOR COMPLETING THE CERTIFICATION

- Find the certification form and instructions at uscis.gov/i-918.
- Use blue ink (preferably) for the signature.
- Submit an original (“wet”) signature—not a photocopy or scan.
- Make sure that Supplement B is completed entirely by the certifying agency.
- Give the completed certification to the petitioner—do not submit it directly to USCIS.

WHO IS RESPONSIBLE FOR PREVENTING U VISA FRAUD?

The USCIS Fraud Detection and National Security Directorate works to ensure that individuals seeking to defraud our immigration system are not granted a U Visa.

WHERE CAN I FIND ADDITIONAL INFORMATION?

Please consult the **U and T Visa Law Enforcement Resource Guide**:

dhs.gov/publication/u-visa-law-enforcement-certification-resource-guide

USCIS Form I-918, Petition for U Nonimmigrant Status and Instructions: uscis.gov/i-918

For technical assistance: USCIS Office of Policy and Strategy (202) 272-1470

For information about upcoming trainings for law enforcement:

Email the USCIS Public Engagement Division at T_U_VAWATraining@uscis.dhs.gov

For more information about other immigration benefits that may be available to victims, including T nonimmigrant status (T visa) and Violence Against Women Act (VAWA) relief:

uscis.gov/humanitarian

YOUR CERTIFYING OFFICIAL IS:

Blank space for the certifying official's name and signature.

U and T Visa Law Enforcement Resource Guide

for Federal, State, Local, Tribal and Territorial
Law Enforcement, Prosecutors, Judges, and
Other Government Agencies



U and T Visa Resource Guide

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Introduction

As a federal, state, local, tribal or territorial law enforcement officer, prosecutor, judge, or other government official, you play an important role in the application process for U nonimmigrant status (also known as a U visa) for victims of certain crimes and T nonimmigrant status (also known as a T visa) for victims of human trafficking. U and T visas not only help protect victims of crime, but are also key tools for you in your work. Lack of legal immigration status in the United States may be among the reasons for some victims choosing not to come forward to work with law enforcement. Perpetrators and human traffickers also use victims' lack of legal status as leverage to exploit and control them. By stabilizing their status in the United States, immigration relief can be critical to providing victims of crime a greater sense of security that also makes it easier for them to assist you with your law enforcement and prosecutorial efforts.

In order to qualify for the U and T visa, the victim must prove to U.S. Citizenship and Immigration Services (USCIS) that he or she cooperated with law enforcement.¹ USCIS is the federal component of the Department of Homeland Security (DHS) responsible for adjudicating (approving or denying) U and T visa applications. One of the primary ways that a victim may demonstrate cooperation is by submitting a signed statement from law enforcement as part of the application. In the U visa context, this statement is a required part of the petition and is known as USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification (Form I-918B or certification). In the T visa context, this statement is known as USCIS Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim in Trafficking of Persons (Form I-914B or declaration). While not required in the T visa context, the signed declaration provides valuable evidence of the victim's cooperation.

Because these signed statements from law enforcement are such critical pieces of U and T visa applications, victims may approach you to request that you certify their cooperation. You may also encounter victims who are afraid or reluctant to cooperate in a criminal investigation because they lack a lawful immigration status, and who are not aware that they may qualify for a U or T visa.

DHS has created this Resource Guide to inform you and address concerns about the role of law enforcement agencies within these visa programs. This Guide includes information about U and T visa requirements; the I-918B certification and I-914B declaration processes; best practices; answers to important and frequently asked questions from judges, prosecutors, law enforcement agencies, and other officials; where to look for more resources; and contact information for DHS personnel on U and T visa issues.

¹ See 8 CFR 1.1, 1.2, 100.1. Exceptions to the cooperation requirement exist for U and T visa applicants who are under age 18 or who have suffered trauma.

U Visa Basics

Why was the U visa created? How does it help law enforcement?

The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000² was enacted to strengthen the ability of law enforcement agencies to investigate and prosecute serious crimes and trafficking in persons, while offering protections to victims of such crimes without the immediate risk of being removed from the country. Congress, in the VTVPA, created the U nonimmigrant status program out of recognition that victims without legal status may otherwise be reluctant to help in the investigation or prosecution of criminal activity. Immigrants, especially women and children, can be particularly vulnerable to criminal activity like human trafficking, domestic violence, sexual assault, stalking, and other crimes due to a variety of factors, including but not limited to: language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences. Accordingly, under this law, Congress sought not only to prosecute perpetrators of crimes committed against immigrants, but to also strengthen relations between law enforcement and immigrant communities.

What is the U visa? What are the benefits to the victim?

The U visa is an immigration benefit for victims of certain crimes who meet eligibility requirements.³

USCIS may find an individual eligible for a U visa if the victim:

- Is the direct or indirect victim of qualifying criminal activity⁴;
- Has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity;
- Has information about the criminal activity;⁵ and
- Was helpful, is being helpful, or is likely to be helpful to law enforcement, prosecutors, judges, or other officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity.⁶

Additionally, the victim must be admissible to the United States based on a review of his or her criminal history, immigration violations, and other factors. If found inadmissible, an individual may apply for a waiver of inadmissibility for which he or she may be eligible.

The U visa allows eligible victims to temporarily remain and work in the United States, generally for four years. While in U nonimmigrant status, the victim has an ongoing duty to cooperate with law enforcement and cannot unreasonably refuse to assist with the investigation or prosecution of the

² Pub. L. No. 106-386, 114 Stat. 1464-1548 (2000).

³ <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>. See also INA 101(a)(15)(U).

⁴ The criminal activity occurred in the United States or violated U.S. laws.

⁵ If under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may possess the information about the criminal activity on the individual's behalf.

⁶ If under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may assist on behalf of the individual.

criminal activity. If certain conditions are met, an individual with a U visa may apply for adjustment to lawful permanent resident status (i.e., seek a green card in the United States) after three years.

Additionally, certain family members of a U visa recipient may also be eligible to live and work in the United States as “derivative” U visa recipients based on their relationship with the principal recipient. These include:

- Unmarried children under the age of 21;
- Spouse;
- Parents of U visa petitioners under age 21; and
- Unmarried siblings under 18 years old of U visa petitioners under age 21.

By law, there is a 10,000 annual cap on U visas for principal applicants. However, USCIS continues to adjudicate applications even after the annual cap has been reached. Cases that qualify for approval after the cap has been reached receive "conditional approval" and work authorization based on "deferred action" until U visas become available.

How does USCIS review U visa petitions?

USCIS takes several steps to determine whether a victim is eligible for a U visa. USCIS reviews the entire application, which includes the petition (Form I-918), Form I-918B certification, the victim’s affidavit, as well as supporting evidence such as police reports, medical records, photographs, court documents, and witness affidavits. If the applicant is inadmissible due to, for example, prior criminal history, immigration violations, or security concerns, USCIS also reviews any application received for a waiver of inadmissibility. However, some inadmissibilities cannot be waived. As a part of its review of the U visa certification (Form I-918B), USCIS may contact the certifying official to ask if the victim has continued to provide assistance reasonably requested or to request other information. USCIS may also contact the certifying agency if any issues or questions arise during the adjudication based on information provided in the certification.

For all U visa petitioners and their qualifying family members, USCIS conducts a thorough background investigation including a Federal Bureau of Investigation (FBI) fingerprint check and name check. USCIS also reviews the petitioner’s immigration records to assess whether any inadmissibility issues exist, such as the petitioner’s criminal history, immigration violations, or any security concerns. The results of these checks, as well as any evidence that certifying officials and immigration authorities possess, may be considered when determining eligibility for a U visa. Because qualifying “derivative” family members are subject to the same background checks, it is possible that a derivative’s adverse criminal or immigration background could result in a denial of derivative status even when the principal’s petition has been approved.

What is a U visa certification?

In order to be eligible for a U visa, the victim must submit a U visa certification completed by a certifying agency or official. USCIS Form I-918, Supplement B (Form I-918B or certification) is the U visa certification that a federal, state, local, tribal, and territorial law enforcement agency, prosecutor, judge, or other government official can complete for a victim who is petitioning USCIS for a U visa. The law enforcement certification explains the role the victim had, has, or will have in being helpful to the investigation or prosecution of the case.

Form I-918B and its instructions are available on the USCIS website at www.uscis.gov with the Form I-918

for the U visa. The certification must be signed by the certifying official with an original signature within the six months (6 months minus one day) immediately preceding the U visa petitioner's submission of Form I-918.

What kind of information does the U visa certification provide?

The certification, Form-I-918B, is a required piece of evidence to help demonstrate:

- That a qualifying criminal activity has occurred;
- That the victim has information about the criminal activity; and
- That the victim was helpful, is being helpful, or is likely to be helpful in the detection, investigation, prosecution, conviction, or sentencing of criminal activity.

Law enforcement may also report information about any known or observed harm sustained by the victim. While Form I-918B asks the law enforcement official to provide information about the injury to the victim, the certifying official is not required to assess whether the victim suffered substantial physical or mental abuse as a result of the criminal activity. This is a requirement that the U visa petitioner must establish to the satisfaction of USCIS.

Without a completed and signed U visa certification, the victim will not qualify for a U visa, as it is a required part of the application, and there is no exception to this requirement. However, by signing a U visa certification, the certifying agency, official, or judge is not sponsoring or endorsing the victim for a U visa, and the completed certification does not guarantee that USCIS will approve the U visa petition. USCIS considers the U visa certification as only one part of the evidence in support of the U visa petition. USCIS determines the victim's credibility and whether to approve the petition based on the totality of the evidence and circumstances of each case.

The decision whether to sign a certification is at the certifying agency's discretion. Each certifying agency should exercise its discretion on a case-by-case basis consistent with applicable U.S. laws and regulations, and the policies and procedures outlined in this guide as well as any internal policies of the certifying agency.

Which agencies may sign a U visa certification?

Certifying agencies include all authorities responsible for the detection, investigation, prosecution, conviction or sentencing of the qualifying criminal activity, including but not limited to:

- Federal, State Local, Tribal, and Territorial law enforcement agencies;
- Federal, State, Local, Tribal, and Territorial prosecutor's offices;
- Federal, State, Local, Tribal, and Territorial Judges;
- Federal, State, and Local Child and Adult Protective Services;
- Equal Employment Opportunity Commission;
- Federal and State Departments of Labor; and
- Other Federal, State, Local, Tribal, or Territorial government agencies that have criminal, civil, or administrative investigative or prosecutorial authority.

What does "Helpful" in the detection, investigation, prosecution, conviction, or sentencing mean?

"Helpful" means the victim has been, is being, or is likely to assist law enforcement, prosecutors, judges, or other government officials in the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity of which he or she is a victim. This includes providing assistance when reasonably requested. This also includes an ongoing responsibility on the part of the victim to be helpful. Those who unreasonably refuse to assist after reporting a crime will not be eligible for a U visa. The duty to remain helpful to law enforcement exists even after a U visa is granted, and those victims who unreasonably refuse to provide assistance after the U visa has been granted will not be eligible to obtain lawful permanent residence and may have the visa revoked by USCIS. Certifying agencies should contact and inform USCIS of the victim's unreasonable refusal to provide assistance in an investigation or prosecution: LawEnforcement_UTVAWA.VSC@uscis.dhs.gov.

Law enforcement, prosecutors, judges or government officials can certify a U visa based on past, present, or the likelihood of future helpfulness of a victim. A current investigation, the filing of charges, a prosecution or conviction is not required to sign the law enforcement certification. An instance may occur where the victim has reported criminal activity, but an arrest, prosecution, or conviction cannot take place due to evidentiary or other circumstances. Examples of this include, but are not limited to, when the perpetrator has fled or is otherwise no longer in the jurisdiction, the perpetrator cannot be identified, or the perpetrator has been deported by federal law enforcement officials. There is no statute of limitations on signing the certification – one can be signed for a crime that happened many years ago or recently. A certification may also be submitted for a victim in a closed case. However, the victim must submit a recently signed certification with his or her U visa petition (signed within six months of submission), even if the crime certified did not recently occur.

What constitutes a qualifying crime?

The following table shows the criminal activities that qualify a victim for the U visa.⁷

<ul style="list-style-type: none"> • Abduction • Abusive Sexual Contact • Blackmail • Domestic Violence • Extortion • False Imprisonment • Felonious Assault • Female Genital Mutilation • Fraud in Foreign Labor Contracting 	<ul style="list-style-type: none"> • Hostage • Incest • Involuntary Servitude • Kidnapping • Manslaughter • Murder • Obstruction of Justice • Peonage • Perjury • Prostitution • Rape 	<ul style="list-style-type: none"> • Sexual Assault • Sexual Exploitation • Slave Trade • Stalking • Torture • Trafficking • Witness Tampering • Unlawful Criminal Restraint • Related Criminal Activities⁸
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⁷ These are not specific crimes or citations to a criminal code; various federal, state, and local statutes could fall into these general categories of crime. One exception is "Fraud in Foreign Labor Contracting," which is the federal offense defined at 18 USC 1351.

⁸ Includes attempt, conspiracy, or solicitation to commit any of the above and other related crimes, as well as any similar activity where the elements of the crime are substantially similar. "Substantially similar" typically refers to a crime detected, investigated or prosecuted by a qualified certifying official that contains the same key elements as a qualifying criminal activity. For example, a simple robbery would not typically be a qualifying criminal activity. However, if the statute cited for the detection, investigation,

Review and Tips for Completing Form I-918B

The following are important notes and tips on filling out the Form I-918B:

- USCIS has the sole authority to grant or deny a U visa. The certification does not guarantee that the U visa petition will be approved by USCIS.
- A certifying official's decision to sign a certification is completely discretionary and under the authority of that agency or official. Neither DHS nor any other federal agency has the authority to require or demand that any agency or official sign the certification. There is also no legal obligation to complete and sign Form I-918B.
- The Form I-918B should be completed by the certifying agency or official (and not the victim, or the victim's advocate or attorney).
- By signing a certification, the certifying agency or official attests that the information is true and correct to the best of the certifying official's knowledge.
- The head of the agency has the authority to sign certifications or to delegate authority to other agency officials in a supervisory role to sign certifications. You should only sign the certification if your agency has given you this authority.
- If a certifying agency has a written delegation of authority, provide a copy to USCIS to keep on file by emailing it to LawEnforcement_UTVAWA.VSC@USCIS.dhs.gov.
- Federal, state, local, tribal, or territorial judges may sign U visa certifications. Delegation of authority is not applicable to or required of certifications by judges.
- Return the signed Form I-918B to the victim (or the victim's attorney, representative, etc.). The certifying official should not send the signed certification separately to USCIS. The victim is required to send the original signed certification form along with his or her complete U visa petition to USCIS.
- Be prompt in providing the signed certification to the victim or the victim's attorney or representative. USCIS must receive the U visa petition, which includes the Form I-918B, within six (6) months of the date the Form I-918B was signed.
- If the certifying official is providing additional documents (e.g., a copy of the police report or court order, or judicial findings, additional statements, photos, etc.) along with the certification or if more space is needed to fill out any of the information on the form, the official should provide that additional information as advised by the form instructions.
- When completing the Form I-918B, certifying officials are encouraged to check the boxes for all qualifying criminal activities detected based on the facts of the case at the time of certification. Certifying officials should not limit the boxes that are checked to the criminal activities that the agency has decided to investigate or prosecute and should check all qualifying criminal activities present in the case.
- As requested on the Form I-918B, the certifying official should document the helpfulness of the victim and whether that victim refused to be helpful at any time throughout the investigation or prosecution.
- The certification form **must contain an original signature** and should be signed in a color of ink other than black for verification purposes. Photocopies, faxes, or scans of the certification form cannot be accepted by USCIS as an official certification.

or prosecution is armed robbery, this may be a qualifying criminal activity. In most jurisdictions, armed robbery contains the elements of felonious assault as delineated in the federal criminal statutes, therefore armed robbery may be "substantially similar" to the qualifying crime of felonious assault.

T Visa Basics

Why was the T visa created? How does it help law enforcement?

The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000⁹ was enacted to strengthen the ability of law enforcement agencies to investigate and prosecute serious crimes and trafficking in persons, while offering protections to victims of such crimes without the immediate risk of being removed from the country. Congress, in the VTVPA, created the T nonimmigrant status (“T visa”) program out of recognition that human trafficking victims without legal status may otherwise be reluctant to help in the investigation or prosecution of this type of criminal activity. Human trafficking, also known as trafficking in persons, is a form of modern-day slavery, in which traffickers lure individuals with false promises of employment and a better life. Immigrants can be particularly vulnerable to human trafficking due to a variety of factors, including but not limited to: language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences. Accordingly, under this law, Congress sought not only to prosecute perpetrators of crimes committed against immigrants, but also to strengthen relations between law enforcement and immigrant communities.

What is the T visa? What are the benefits to the victim?

The T visa is an immigration benefit for victims of human trafficking who meet certain eligibility requirements.

USCIS may find an individual eligible for a T visa if the victim:

- Is or was a victim of a severe form of trafficking in persons (which may include sex or labor trafficking), as defined by federal law;¹⁰
- Is in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands or at a U.S. port of entry due to trafficking;
- Has complied with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking;¹¹ and
- Would suffer extreme hardship involving unusual and severe harm if removed from the United States.¹²

In addition, the victim must be admissible (based on a review of criminal history, immigration violations, and other factors) to the United States. If inadmissible, the individual may apply for a waiver of inadmissibility for which he or she may be eligible.

The T visa allows eligible victims to temporarily remain and work in the U.S., generally for four years. While in T nonimmigrant status, the victim has an ongoing duty to cooperate with law enforcement’s

⁹ Pub. L. No. 106-386, 114 Stat. 1464-1548 (2000).

¹⁰ “Sex trafficking” is defined as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.” 22 U.S.C. § 7102(10).

¹¹ Special exceptions are made for trafficking victims who are under 18, or those who are unable to cooperate due to physical or psychological trauma.

¹² <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>. See also INA 101(a)(15)(T).

reasonable requests for assistance in the investigation or prosecution of human trafficking. If certain conditions are met, an individual with T nonimmigrant status may apply for adjustment to lawful permanent resident status (i.e., apply for a green card in the United States) after three years in the United States or upon completion of the investigation or prosecution, whichever occurs earlier.

Additionally, certain family members of a T visa recipient may also be eligible to live and work in the United States as “derivative” T visa holders. These are:

- Unmarried children under the age of 21;
- Spouse;
- Parents of principal T visa recipients under age 21 at the time of application;
- Unmarried siblings under 18 years old of principal T visa applicants under age 21; and
- Adult or minor children of certain immediate family members of the T visa recipient

While in the United States, the victim has an ongoing duty to cooperate with law enforcement’s reasonable requests for assistance in the investigation or prosecution of human trafficking.

Congress capped the number of available T visas for principal applicants at 5,000 per fiscal year. However, to date, the annual cap has never been reached and visas remain available to applicants who qualify.

How does USCIS Review T visa applications?

USCIS takes several steps to determine whether a victim is eligible for a T visa. USCIS reviews the victim’s entire application, which includes the Form I-914 as well as the Form I-914B or other evidence of the victim’s cooperation, the victim’s affidavit, and supporting evidence. Supporting evidence may include court documents, witness affidavits, medical reports, and any other credible evidence to show that the victim is eligible for a T visa. If the applicant is inadmissible, USCIS also considers all evidence relevant to any potential waivers of inadmissibility.

For all T visa applicants and their qualifying family members, USCIS conducts a thorough background investigation, including a Federal Bureau of Investigation (FBI) fingerprint check and name check. USCIS will also review the applicant’s immigration records to assess whether any inadmissibility issues exist, such as criminal history, immigration violations, or security concerns. Any evidence that law enforcement and immigration authorities possess may be used in determining eligibility for a T visa. USCIS may contact the certifying law enforcement agency if there are any issues or questions that arise during the adjudication based on information provided in the law enforcement declaration. Because qualifying family members (derivatives) are subject to the same criminal background review, fingerprint checks, and immigration status checks as the principal victim applicant, it is possible that a derivative’s adverse criminal or immigration background would result in a denial of derivative status even when the principal has been approved.

What Is a T visa declaration?

The T visa declaration is supplementary evidence of a victim’s assistance to law enforcement that a federal, state, local, tribal, and territorial law enforcement agency, prosecutor, judge, or other government official can complete for a T visa applicant. The declaration must be provided on [Form I-914, Supplement B](#), and instructions are available on the USCIS website at www.uscis.gov. The T visa declaration is not a required document for a T visa application, but USCIS gives significant weight to the

declaration when reviewing the victim's application.

What kind of information does the T visa declaration provide?

Form I-914B is not a required piece of evidence, but when provided, it is helpful evidence to demonstrate that:

- The victim is or was a victim of a severe form of trafficking in persons; and
- The victim has complied with any reasonable requests from law enforcement in an investigation or prosecution of human trafficking.¹³

The T visa declaration is not conclusive evidence that the applicant meets these eligibility requirements, as only USCIS can make this determination. In addition, **by signing a T visa declaration, the certifying agency, official or judge is not sponsoring or endorsing the victim for a T visa. USCIS considers the T visa declaration as one part of the evidence in the T visa application.** USCIS also conducts a full background check and, in considering each T visa application and the applicant's credibility, examines the totality of the evidence and the circumstances of each case.

Signing a declaration is at the certifying agency's discretion which should be exercised on a case-by-case basis consistent with U.S. laws and regulations, and the policies and procedures outlined in this Guide, as well as internal policies of the certifying agency.

If the T visa applicant does not include a law enforcement declaration, the applicant must present credible evidence that he or she meets the cooperation requirement. The applicant must include an original personal statement that indicates the reason the law enforcement declaration doesn't exist or is unavailable and whether similar records documenting any assistance provided by the applicant are available. The statement or evidence should demonstrate that good faith attempts were made to obtain the law enforcement declaration, including describing the efforts the applicant undertook. USCIS will assess the evidence presented to determine whether the applicant satisfies the cooperation requirement.

Which agencies may sign a T visa declaration?

Certifying agencies include all authorities responsible for the detection, investigation, prosecution, conviction or sentencing of human trafficking, including but not limited to:

- Federal, State Local, Tribal, and Territorial law enforcement agencies;
- Federal, State, Local, Tribal, and Territorial prosecutors' offices;
- Federal, State, Local, Tribal, and Territorial Judges;
- Federal and State Departments of Labor; and
- Other Federal, State, Local, Tribal, or Territorial government agencies that have criminal, civil, or administrative investigative or prosecutorial authority related to human trafficking.

¹³ Special exceptions are made for trafficking victims who are under 18, or those who are unable to cooperate due to physical or psychological trauma.

Who is a victim of severe forms of trafficking in persons?

A victim of severe forms of trafficking in persons is an individual who is a victim of either:

- Sex Trafficking, which is defined as:
 - the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act,
 - or in which the person induced by any means to perform such act has not attained 18 years of age;¹⁴ or
- Labor Trafficking, which is defined as:
 - the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.¹⁵

State, local, territorial, and tribal law enforcement officers can play a key role in recognizing potential victims of human trafficking. **If you have identified a potential victim of trafficking, you should contact U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations, which investigates incidents of human trafficking, as soon as possible either through your local ICE office or through the national tipline at 1-866-347-2423 (1-866-DHS-2-ICE).** Specially trained federal agents may be dispatched to make sure the victim is safe and secure, as well as provide the victim with immediate services until longer term relief can be found.

What does “reasonable request for assistance” mean?

Whether a particular law enforcement request to a victim for assistance in the investigation or prosecution of human trafficking is “reasonable” depends on the totality of the circumstances. USCIS is responsible for making this determination. In determining “reasonableness” of the request, USCIS will consider certain factors such as, general law enforcement and prosecutorial practices; the nature of the victimization; and the specific circumstances of the victim, including fear, severe traumatization, and the age and maturity of young victims.

There are certain times when a victim is not required to cooperate with requests for assistance: (1) if the victim is under the age of 18, or (2) if the victim has experienced physical or psychological trauma that prevents him or her from complying with a reasonable request.

If the T visa applicant does not include a law enforcement declaration, the applicant must present credible evidence that he or she meets the cooperation requirement. The applicant must include an original personal statement that indicates the reason the law enforcement declaration does not exist or is unavailable and whether similar records documenting any assistance provided by the applicant are available. The statement or evidence should demonstrate that good-faith attempts were made to obtain the law enforcement declaration, including describing the efforts the applicant undertook. USCIS will assess the evidence presented to determine whether the applicant satisfies the cooperation requirement.

¹⁴ 22 U.S.C. § 7102(10).

¹⁵ 22 U.S.C. § 7102(9).

Review and Tips for Completing Form I-914B

The following are important notes and tips on filling out the Form I-914B:

- USCIS has the sole authority to grant or deny a T visa. The declaration does not guarantee that the T visa will be approved by USCIS.
- An agency's decision to sign a declaration is completely discretionary and under the authority of that agency or official. Neither DHS nor any other federal agency has the authority to require or demand that any law enforcement agency sign the declaration. There is also no legal obligation to complete and sign Form I-914B.
- The Form I-914B should be completed by the law enforcement agency or official (and not the victim or the victim's advocate or attorney).
- By signing a declaration, the law enforcement agency attests that the information is true and correct to the best of the official's knowledge.
- The head of the agency has the authority to sign declarations or to delegate authority to other agency officials in a supervisory role to sign declarations. You should only sign the declaration if your agency has given you this authority.
- If a certifying agency has a written delegation of authority, provide a copy to USCIS to keep on file by emailing it to LawEnforcement_UTVAWA.VSC@uscis.dhs.gov
- Federal, state, local, tribal, or territorial judges have direct authority to sign T visa declarations. Delegation of authority is not applicable to or required of declarations by judges.
- Return the signed Form I-914B to the victim (or the victim's attorney, representative, etc.). The law enforcement agency should not send the signed declaration separately to USCIS. The victim will send the original signed declaration form along with his or her complete T visa application to USCIS.
- If the law enforcement official is providing additional documents (e.g., a copy of the police report, additional statements, photos) along with the declaration or if more space is needed to fill out any of the information on the form, law enforcement should indicate on Form I-914B a note of "see attachment" or "see addendum." Each additional page should be provided on agency letterhead.
- The official must document on Form I-914B the cooperation of the victim and whether the victim refused to comply with requests at any time throughout the investigation or prosecution.
- The declaration form must contain an original signature. That signature must either be typed or printed legibly in a color other than black ink for verification purposes. Photocopies, faxes, or scans of the declaration form cannot be accepted by USCIS as an official declaration.
- The victim has an ongoing duty to cooperate with law enforcement even after they receive the T visa. If a victim stops cooperating, you can contact USCIS to withdraw or disavow your certification.

Best Practices for Agencies Signing Certifications and Declarations

Across the United States, law enforcement agencies, officials, and judges have taken different procedural approaches to signing U visa certifications and T visa declarations. Some examples of how various agencies or officials educate their officials about U visa certifications and T visa declarations and how they designate a certifier or certifiers in their agencies include:

- Distributing department policy or a general order on the process and use of the U visa certification or T visa declaration;
- Distributing a letter or memorandum from the Chief or Sheriff to the agency's designee in charge of signing U visa certifications or T visa declarations designating a process and authority to certify;
- Designating the head of the Victim Witness Assistance Program as the certifier;
- Sending written notification, via email or other method, from the Chief or Sheriff to the entire department explaining the purpose of the U or T visa, the certification/declaration process, and who is/are designated as the certifier(s); and
- Assigning the Investigations Bureau Chief as the certifier to delegate an officer or supervisor to review requests made by both law enforcement officers and the community and make a recommendation on the certification to the Bureau Chief.

This Resource Guide can be distributed for informational and training purposes. Certifying agencies are not required to have an internal policy or procedure before they can sign U visa certifications or T visa declarations. DHS encourages certifying agencies to implement policies that accurately reflect and conform with the statute, regulations and DHS policies and with the information contained in this and other publications issued by USCIS and DHS on the U visa and T visa programs. If a policy exists, the certifying agency is encouraged to send a copy to the Vermont Service Center of USCIS to keep on file to LawEnforcement_UTVAWA.VSC@uscis.dhs.gov.

Answers to Frequently Asked Questions for U Visa Certifications (Form I-918B) and T Visa Declarations (Form I-914B)

For several years, DHS has been providing training and holding external stakeholder events and outreach, as well as working with law enforcement, judges, and other officials on U visa certifications and T visa declarations. As a result, DHS has developed this list of answers to frequently asked questions grouped by topic. In addition, law enforcement agencies may request additional training and information by emailing USCIS at: T_U_VAWATraining@uscis.dhs.gov.

Questions Regarding the Certification and Declaration Process

Which law enforcement agencies are eligible to sign certifications or declarations?

A federal, state, local, tribal, or territorial law enforcement agency, prosecutor, judge, or other authority that has the responsibility for the detection, investigation, prosecution, conviction or sentencing of a qualifying crime or criminal activity or human trafficking is eligible to sign Form I-918B or Form I-914B. This includes agencies with investigative jurisdiction in their respective areas of expertise, including but not limited to: child and adult protective services, the Equal Employment Opportunity Commission (EEOC), and Federal and State Departments of Labor (DOL). Law enforcement agencies that can provide T visa declarations include components of the Department of Justice (United States Attorney's Offices, the Civil Rights and Criminal Divisions, the Federal Bureau of Investigation (FBI), and the U.S. Marshals Service), components of the Department of Homeland Security (U.S. Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP)), the Department of Labor, and the Diplomatic Security Service of the Department of State.

In cases where the information provided by the victim led to the detection of criminal activity, a certifying agency may sign a certification. In these cases it does not matter if another agency will be the one to determine whether to pursue a criminal investigation or prosecution. In cases where the police investigated the crime and prosecutors are now prosecuting the case, both police and prosecutors may sign a certification. The authority of the police to sign a certification does not end when the case is referred for prosecution.

Who in the certifying agency can sign Form I-918B or Form I-914B?

Form I-918B: A certifying official(s) can sign Form I-918B. The U visa regulation defines a certifying official as a judge or "[t]he head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency." 8 C.F.R. § 214.14(a)(3). Although not required with each certification, it is helpful to include a letter showing the designation of the signing official(s). The letter would be signed by the agency head and would reflect that person with a particular rank or title within the agency is to be the signing official(s).

Form I-914B: A supervising official of a Federal, state or local law enforcement agency that has the responsibility and authority for the detection, investigation, or prosecution of severe forms of trafficking in persons or other related activity may sign Form I-914B.

Which Officials Meet the Definition of a Judge For U Visa Certification Purposes?

Any official with delegated authority from a federal, state, local, tribal or territorial court to decide cases including but not limited to: administrative law judges, commissioners, magistrates, aldermen, judicial referees, surrogates, masters, and chancellors.

Is my agency required to create a policy for reviewing and signing Form I-918B and Form I-914B? Is there a template policy I may refer to in creating my agency's policy?

No. A law enforcement agency is not required under federal regulations to create a policy to review and sign Form I-918B or Form I-914B; however, many agencies have found this to be helpful. There is no federal template for creating an agency policy; however, you may find helpful information among similarly-situated federal, state, and local law enforcement agencies.

I am a designated official, but my agency and/or I have never signed a Form I-918B/I-914B. Should I notify USCIS that I will be signing the form or is there a training I should go through before signing the certification/declaration?

You are not required to submit any information to USCIS in advance or attend a training in order to sign Form I-918, Supplement B or Form I-914, Supplement B. However, if you would like to notify USCIS that you are the designated official, you may contact the Vermont Service Center directly at LawEnforcement_UTVAWA.VSC@uscis.dhs.gov. You may pose questions to USCIS or provide notification that you are the head of your agency and/or the designated official. Also, USCIS provides webinar trainings for law enforcement officials. You may contact T_U_VAWATraining@uscis.dhs.gov to find out information on the next webinar for law enforcement officials.

If I sign a certification or declaration, does the victim automatically get a U visa, T visa or lawful immigration status?

No. There are many additional eligibility requirements that USCIS evaluates based on a victim's U visa petition or T visa application, depending on which visa the victim is seeking (see above sections.) Upon receiving a U visa petition, including Form I-918B, or T visa application, USCIS will conduct a full review of all evidence and a thorough background check of the victim before approving or denying the petition or application. The background check will include an FBI fingerprint check, name and date of birth (DOB) check, and a review of immigration inadmissibility issues, including security-based and criminal inadmissibility grounds.

A victim may be found inadmissible if the victim does not meet required criteria in the Immigration and Nationality Act to gain admission to or lawful immigration status in the United States. Victims may seek a waiver of inadmissibility, which USCIS has discretion to grant. Waivers are considered based on the totality of the evidence in the case and the results of the background check. USCIS may also contact the certifying official for further information if necessary.

Note that, independent of the T and U visa processes, law enforcement agencies may seek "Continued Presence" for trafficking victims. Continued Presence is a form of temporary immigration relief that may be granted by ICE's Homeland Security Investigations, Law Enforcement Parole Unit. Continued

Presence enables the victim to work legally and remain in the United States without accruing unlawful presence. State or local law enforcement officials who identify a victim of human trafficking who is a potential witness should coordinate with their federal law enforcement partners to submit a request for Continued Presence with their local ICE office for a particular individual. Even if the victim may ultimately apply for and be granted a T or U visa, Continued Presence may provide greater stability to the victim before the petition or application is submitted or while it is pending. Please see more information about Continued Presence in this guide under the Other Protections for Victims section.

Am I legally required to sign this declaration or certification?

No. A law enforcement agency is under no legal obligation to complete a declaration or certification. Signing is at the discretion of each law enforcement agency, in accordance with that agency's policy. However, it is important to note that:

- Without a certification, a U visa petition will be denied.
- The declaration is not required for a T visa, but it is an important piece of evidence submitted by the applicant.¹⁶

Will my certifying agency be liable for any future conduct of someone who is granted a U or T visa?

What if I signed a certification or declaration for someone who later commits a crime?

No. A certifying agency/official cannot be held liable for the future actions of a victim for whom the agency signed a certification or declaration or to whom DHS granted a U or T visa. The U visa certification simply addresses whether the petitioner was a victim of a qualifying crime, possessed information relating to the crime, and was helpful in the detection, investigation, prosecution, conviction, or sentencing of that crime. The T visa declaration simply addresses whether the victim was a victim of human trafficking and has complied with all reasonable requests for assistance. The certification and declaration do not guarantee the future conduct of the victim or grant a U or T visa. USCIS is the only agency that can grant a U or T visa. If a victim is granted a U or T visa and is later arrested or commits immigration violations, federal immigration authorities will respond to those issues. If a certifying agency or official later discovers information regarding the victim, crime, or certification that the agency believes USCIS should be aware of, or if the agency or official wishes to withdraw the certification, the agency or official should contact USCIS by emailing the Vermont Service Center at LawEnforcement_UTVAWA.VSC@uscis.dhs.gov.

Who decides which benefit to seek, a U or T visa?

The victim or victim's advocate or attorney should make that decision and indicate the appropriate certification or declaration for law enforcement to sign. It is possible that an individual may qualify for both a U and a T visa.

¹⁶

http://www.uscis.gov/sites/default/files/USCIS/Resources/Humanitarian%20Based%20Benefits%20and%20Resources/TU_QAf%20orLawEnforcement.pdf

Helpfulness and Cooperation of the Victim:

A victim is requesting Form I-918B or Form I-914B, but I am unsure whether he or she meets the helpfulness requirement or the compliance with reasonable requests requirement. May I sign this certification or declaration?

Yes. Both the I-918B and the I-914B provide an opportunity for law enforcement to provide information to USCIS about the extent of the victim's assistance in the detection, investigation, prosecution, conviction, or sentencing of criminal activity. You may complete the form including all information you find relevant about the victim's assistance. USCIS will ultimately determine whether the victim meets these requirements.

- Form I-918B asks whether the victim possesses information concerning the criminal activity; was, is, or is likely to be helpful in the investigation and/or prosecution of the criminal activity; was asked to provide further assistance; and has unreasonably refused to provide assistance. You may select "yes" or "no" to these questions and further explain your answers.
- Form I-914B asks the certifying officer to provide information about the victim's cooperation and includes several options to select regarding the victim's cooperation with law enforcement.

What constitutes "helpfulness" or "enough cooperation" for a U visa certification?

USCIS regulation requires that the U petitioner has been, is being, or is likely to be helpful in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity. This means that since the initiation of cooperation, the victim has not unreasonably refused to cooperate or failed to provide information and assistance reasonably requested by law enforcement or prosecution in connection with a criminal investigation or prosecution.

USCIS will not provide a U visa to those petitioners who, after initially cooperating with the certifying official, refuse to provide continuing assistance when reasonably requested. USCIS also will not approve the petitions of those who are culpable for the qualifying criminal activity.

What constitutes "complying with any reasonable request" for a T visa declaration?

USCIS regulations require that the victim of trafficking comply with reasonable requests from law enforcement officials for assistance in the investigation or prosecution of the acts of trafficking in persons. To determine whether the request from law enforcement is reasonable, USCIS takes into account the totality of the circumstances, such as general law enforcement and prosecutorial practices; the nature of the victimization; and the specific circumstances of the victim, including fear, severe traumatization, and the age and maturity of young victims.

Law Enforcement Certification Authority and Timing:

At what stage in the criminal case can I sign a certification?

There is no required time when you may or may not sign a certification. It is possible to sign a certification at any stage in the case, including at the point of detection, during an investigation, when the prosecutor initiates a prosecution, before a trial, whether or not the victim is needed to testify, and

after the case is concluded.

You may sign a certification regardless of the outcome of the qualifying criminal case, including in the following instances:

- the prosecutor decided not to prosecute;
- the grand jury did not issue an indictment;
- the case was dismissed by the prosecutor or a judge;
- a case brought by the EEOC or DOL resulted in a judgment, settlement, or dismissal;
- a judge issued a protection order or custody ruling;
- a child abuse case was settled;
- the defendant entered a plea, whether or not the plea was to an offense that is a qualifying criminal activity; and
- the defendant was found not guilty.

If an investigation or case is closed, may law enforcement still complete Form I-918B or Form I-914B?

Is there a statute of limitations?

Certifying officials may complete Form I-918B or Form I-914B for an investigation or prosecution that is closed. There is no statute of limitations regarding the time frame in which the criminal activity must have occurred. Federal legislation specifically provides that a victim may be eligible for a U visa based on having been helpful *in the past* to the detection, investigation, prosecution, conviction, or sentencing of criminal activity. A crime victim may be eligible to receive U visa certification when, for example, the case is closed because the perpetrator could not be identified; a warrant was issued for the perpetrator but no arrest could be made due to the perpetrator fleeing the jurisdiction or fleeing the United States, or has been deported; before or after the case has been referred to prosecutors, as well as before or after trial and whether or not the prosecution resulted in a conviction. A trafficking victim could be eligible to receive a T visa declaration when a case is closed for similar reasons. The petitioner must still meet all the eligibility requirements for a U or T visa to be approved.

Does the victim have to testify to be eligible for certification or declaration?

No. As mentioned above, there is no requirement that an arrest, prosecution, or conviction occur for someone to be eligible for a U or T visa. While there is no requirement for the victim to testify at a trial to be eligible for a U or T visa, if the victim is requested to testify, he or she cannot unreasonably refuse to cooperate with the certifying law enforcement agency. If the victim unreasonably refuses to testify, the agency or official should notify USCIS and may withdraw the previously signed Form I-918B or Form I-914B.

What if the victim or witness has been detained or ordered removed for an immigration violation?

Individuals currently in removal proceedings or with final orders of removal may still apply for a U or T visa. A petitioner for U nonimmigrant status or an applicant for T nonimmigrant status has administrative remedies and is not prejudiced by completion of removal proceedings. Specifically, a victim who is the subject of a final order of removal, deportation, or exclusion may still file a petition or application for U or T nonimmigrant status directly with USCIS. If a victim is granted U or T nonimmigrant status prior to, or after, removal, the regulations provide a procedure whereby the victim may remain in or return to the United States. To avoid deterring individuals from reporting crimes, ICE

officers, special agents, and attorneys are expected to exercise all appropriate discretion on a case-by-case basis when making detention and enforcement decisions in the cases of victims of crime, witnesses to crime, and individuals pursuing legitimate civil rights complaints. Particular attention is paid to victims of domestic violence, human trafficking, sexual assault, or other serious crimes, and witnesses involved in pending criminal investigations or prosecutions. It is common for perpetrators to report immigrant crime victims and witnesses to immigration enforcement officials to gain advantage in a civil or family law case and/or to avoid prosecution in a criminal case. Congress created the U visa as a tool to counter such efforts by perpetrators.¹⁷

If a judge, law enforcement official, prosecutor, or other certifying official is aware of a victim or witness against whom a detainer has been lodged, who has been detained, who has been placed in removal proceedings for an immigration violation, or who has been ordered removed, the official should promptly contact his or her local ICE Enforcement and Removal Operations (ERO) contact or the local Office of the Chief Counsel to make ICE aware of the situation. Specifically with regard to a lodged detainer, the law enforcement official may notify the ICE Law Enforcement Support Center at (802) 872-6020 if the individual may be the victim of a crime or if the officials want this individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness. If a victim is scheduled to appear in court as a witness in a criminal or civil case, as a party in a protective order case or as a parent in a case involving the victim's children, judges and other certifying officials may contact the Law Enforcement Support Center to arrange for ICE officials to bring the victim to court or to facilitate participation in the court hearing electronically.¹⁸

Can I complete a U visa certification for a victim who is no longer in the United States?

Yes. While the criminal activity must have occurred in the United States, its territories, or possessions, or have violated U.S. law, victims do not need to be present in the U.S. in order to be eligible for a U visa and may apply from outside the United States.

Can I complete a T visa declaration for a victim who is no longer in the United States?

Yes. You may note, however, that one requirement of the T visa petition is that the victim be in the United States on account of the severe form of human trafficking. USCIS, not the law enforcement agency, determines whether the victim meets this physical presence requirement. Note that human trafficking victims who have left the United States may be eligible for a U visa because trafficking is a qualifying criminal activity. The decision whether to seek a T or U visa should be made by the victim, or the victim's advocate or attorney.¹⁹

Can I still certify if the perpetrator is no longer in the jurisdiction or prosecution is unlikely for some reason?

¹⁷ VTPA, Pub. L. No. 106-386, §§ 1502(a)(3), 1512(a)(2)(B), 114 Stat. 1464-1548 (2000).

¹⁸ See U.S. Immigration and Customs Enforcement, 11064.1: Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities (Aug. 23, 2013)(hereinafter "ICE Parental Directive") available at: https://www.ice.gov/doclib/detention-reform/pdf/parental_interest_directive_signed.pdf and U.S. Immigration and Customs Enforcement, *FAQs on the Parental Interests Directive*, available at: <https://www.ice.gov/about/offices/enforcement-removal-operations/parental-directive-faq.htm>.

Yes. There is no statutory or regulatory requirement that an arrest, prosecution, or conviction occur for someone to apply for a U or T visa. Instances may occur where the perpetrator has fled the jurisdiction, left the United States, or been arrested for unrelated offenses by another agency in another jurisdiction. An arrest, prosecution, or conviction may not be possible in these situations. A U visa petitioner will still have to meet the helpfulness requirement by reasonably assisting the certifying law enforcement agency, and will also have to meet all other eligibility requirements in order to qualify for a U visa. A T visa applicant will still have to comply with all reasonable requests for assistance.

Can a victim's petition still be approved if the defendant is acquitted or accepted a plea to a lesser charge, accepted a plea to an offense that is not qualifying criminal activity, or if the case was dismissed?

Yes. As mentioned above, a conviction is not required for someone to be eligible for a U or T visa. Plea agreements and dismissals do not negatively impact the victim's eligibility. As long as the victim has been helpful in the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity and meets all other eligibility requirements, the victim may petition for a U visa. In the case of a T visa, as long as the individual has been subject to human trafficking and has complied with reasonable requests for assistance, plea agreements and dismissals do not negatively impact the victim's eligibility. If the victim unreasonably refuses to assist the investigation or prosecution and harms the criminal case, this will negatively impact the victim's ability to receive an approval. The certifying law enforcement agency should notify USCIS if the victim has unreasonably refused to cooperate in the investigation or prosecution of the crime.

If a victim reports a crime that does not require investigation or cannot be investigated by my agency, because, for example, the victim cannot identify the perpetrator or the perpetrator is deported or fled the jurisdiction, may I certify that the person was helpful?

Yes. The law enforcement agency may sign Form I-918B or I-914B if the victim was helpful in the detection of criminal activity. Each law enforcement agency may determine its own policy on reviewing and signing Form I-918B or Form I-914B. USCIS will review each petition or application on a case-by-case basis to determine whether the victim meets all eligibility requirements, including whether the person is a victim of a qualifying crime or a victim of a severe form of trafficking and whether the person was helpful or complied with reasonable requests for assistance.

What if the victim stops cooperating after I sign his/her certification or declaration?

At its discretion, a certifying agency may withdraw or disavow a Form I-918B or Form I-914B at any time if a victim stops cooperating. When this occurs, the victim's petition or application will be denied, and all derivative family member applications associated with the original application or petition will also be denied.

To withdraw or disavow a certification, the certifying agency must notify the USCIS Vermont Service Center in writing or via email. Written notification regarding withdrawal or disavowal should include:

- The agency's name and contact information (if not included in the letterhead);
- The name and date of birth of the individual certified;
- The name of the individual who signed the certification and the date it was signed;
- The reason the agency is withdrawing/disavowing the certification, including information

- describing how the victim’s refusal to cooperate in the case is unreasonable;
- The signature and title of the official who is withdrawing/disavowing the certification; and
- A copy of the certification the agency signed (if a copy was retained by the agency).

The letter should be either scanned and emailed to the Vermont Service Center at LawEnforcement_UTVAWA.vsc@uscis.dhs.gov, or mailed to:

USCIS-Vermont Service Center
 ATTN: VAWA, T, and U Section
 75 Lower Welden Street
 St. Albans, VT 05479.

U Visa Specific:

For a U visa, if one crime is initially detected or investigated but a different crime is eventually prosecuted, does that have an impact on the certification?

A certification is valid regardless of whether the initial criminal activity detected or investigated is different from the crime that is eventually prosecuted. As long as the person is a victim of a qualifying criminal activity, that person may be eligible for a U visa. Examples include:

- An initial investigation of rape eventually leads to a charge and prosecution of sexual assault. Both rape and sexual assault are qualifying crimes.
- An initial investigation of embezzlement leads to a charge and prosecution of extortion. While embezzlement is not a qualifying crime, the investigation eventually led to a charge of extortion, which is a qualifying crime. If the person assisting in the investigation or prosecution is a victim of extortion, that person may qualify for a U visa.
- In the process of investigating drug trafficking allegations, police determine that the drug trafficker’s wife is a victim of domestic violence. The victim reported the domestic abuse. The state brings a prosecution against the husband for drug offenses but not domestic violence crimes. The wife is cooperating in the drug prosecution. Law enforcement may complete a Form I-918B certification for reporting the domestic abuse case that is not being prosecuted.
- An initial investigation of Fraud in Foreign Labor Contracting leads to a charge and prosecution of obstruction of justice.

Form I-918B certifications may also be submitted for criminal activities similar to the list of qualifying criminal offenses. Examples include:

- An investigation or prosecution into a charge of video voyeurism may fall under the qualifying crime of sexual exploitation. This may be determined by state or local criminal law and the facts and evidence in that specific case. Please note that while video voyeurism is not specifically listed as a qualifying crime, it may be considered a type of sexual exploitation, which is a qualifying crime. The victim would need to show how these crimes are related and present this evidence to USCIS, along with the Form I-918B certification form signed by a certifying law enforcement agency.
- An investigation or prosecution of child abuse or elder abuse may fall under the qualifying criminal activity of domestic violence. This occurs under the state domestic violence protection order statute or criminal domestic violence statute when the abuse experienced by the child, disabled adult, or senior meets the statutory elements of domestic violence. When the perpetrator/victim relationship is covered by the state protection order statute or criminal

domestic violence laws, the child, dependent adult, or elder abuse is considered domestic violence under state law. When this occurs, child, elder and dependent adult abuse cases may be considered a form of domestic violence.

- An investigation or prosecution of dating violence may fall under the qualifying criminal activity of domestic violence or stalking. When a state's domestic violence statute includes dating violence, then dating violence may be considered a form of domestic violence, a qualifying criminal activity. Similarly, stalking can be a part of the pattern of abuse co-occurring with dating violence. When the facts and evidence in the specific case meet the definition of stalking under state criminal laws or under a state's stalking protection order statute, dating violence may be considered stalking which is a qualifying criminal activity.

A victim would need to show how these crimes are related and present this evidence to USCIS, along with the Form I-918B certification signed by a certifying agency or official.

A victim has approached me to request certification of Form I-918B for a crime not listed on the form.

How may I fill out Form I-918B in this circumstance?

A law enforcement official may sign Form I-918B to indicate a person's helpfulness in the detection, investigation, prosecution, conviction, or sentencing of criminal activity. Each jurisdiction uses different terms for criminal activity. Also, each jurisdiction's crime definitions may include slightly different elements. Form I-918B requests the official to list statutory citations for the criminal activity. The official should provide those citations and may also provide information about the elements of the criminal activity and how it involves or is similar to the statutory list of criminal activity for the U visa.

Who would qualify to file for a U visa as an indirect victim?

Under certain circumstances, an indirect victim of a qualifying criminal activity may file as the principal applicant in a U visa petition. These circumstances include:

- In the case of murder, manslaughter, incompetent or incapacitated victims (which include children under 21 years of age):
 - Spouses; and
 - Children under 21 years of age at the time of filing.
- If the victim of the criminal activity is under 21 years of age at the time the qualifying criminal activity occurred:
 - Parents; and
 - Unmarried siblings under 18 years of age at the time of the qualifying criminal activity.

In the case of witness tampering, obstruction of justice or perjury, a victim can demonstrate that he or she has been directly or proximately harmed by one of these criminal activities if he or she can show that there are reasonable grounds to conclude that the perpetrator principally committed the offense as a means to avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring him or her to justice for other criminal activity, or to further his or her abuse, exploitation of, or control over the immigrant through manipulation of the legal system.

If the victim is a child, why would a non-citizen parent ask for a Form I-918B certification stating that the parent was the victim?

In many cases where a child is the victim of criminal activity, the child may not be able to provide law

enforcement with adequate assistance. This may be due to the child's age or trauma suffered, among various other reasons. Parents of a child victim play a crucial role in detecting and reporting criminal activity, providing information and assisting certifying officials in the detection, investigation, prosecution, conviction, or sentencing of the crime committed against the child. Recognizing this, an alien parent can apply for a U visa seeking to be recognized as an "indirect victim" if the principal victim is a child under 21 years of age and is incompetent or incapacitated to provide assistance to certifying officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity committed against the child or if the child is deceased due to murder or manslaughter. The immigration status of the child victim is not relevant to this determination; Form I-918B can be submitted for an alien parent whether or not the child is a U.S. citizen or a non-citizen. The parent(s), in order to qualify as an "indirect victim," must meet the remaining eligibility requirements for a U visa to receive an approval. Therefore, the "indirect victim" parent(s) must have information about the criminal activity, and must have been or be currently helpful, or must be willing to be helpful, to certifying officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity and the criminal activity must have occurred in the United States or violated U.S. law. The parent(s) must also demonstrate that he, she, or they suffered substantial physical or mental abuse as a result of the criminal activity and will be subject to the standard background checks (FBI fingerprint and name/DOB check) and immigration records review as well.

What constitutes "possesses information" for U visa petitioners?

To be eligible for a U visa, the victim of the criminal activity must possess credible and reliable information establishing that the victim has knowledge of the details of the criminal activity or events leading up to the criminal activity, including specific facts about the crime/victimization leading the certifying agency or official to determine that the victim has assisted, is assisting, or is likely to provide assistance in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity. If the victim was under 16 years of age or incompetent or incapacitated at the time the qualifying criminal activity occurred, a parent, guardian, or next friend may possess the information. A "next friend" is defined as a person who acts for the benefit of an alien who is under 16 or incompetent or incapacitated. The next friend is someone dedicated to the best interests of a victim who cannot appear on his or her own behalf because of inaccessibility, mental incompetence, or other disability. A next friend cannot be a party to a legal proceeding involving the victim and cannot be a court appointed guardian. A next friend also does not qualify for a U visa or any immigration benefit simply by acting as a next friend for the victim, but he or she may possess information about the criminal activity and may provide the required assistance. It is important to note that both "direct" and "indirect" victims can qualify to petition for U visas. Although they were not the direct victim of the criminal activity, indirect victims may possess information that is helpful to the detection, investigation, prosecution, investigation, conviction, or sentencing of criminal activity.

Who determines if the "substantial physical or mental abuse" requirement has been met for the U Visa?

USCIS will make the determination as to whether the victim has met the "substantial physical or mental abuse" standard on a case-by-case basis during its adjudication of the U visa petition. Certifying agencies and officials do not make this determination. Certifying agencies and officials may, however, provide any information they deem relevant regarding injuries or abuse on the Form I-918B. The Form I-918B asks the certifying official to provide information about any injuries the agency or official knows about, has

documented, or has made findings about. If the certifying agency or official has documentary evidence of injuries to the victim, the severity of the perpetrator's conduct, or the emotional impact on the victim's mental health as affected by the criminal activity, it is helpful to attach any relevant evidence of these facts, such as, photographs, police reports, findings, or court orders. While USCIS will consider any evidence of substantial physical or mental abuse provided by law enforcement, the U visa petitioner has the burden of proving the substantial physical or emotional abuse.

Factors that USCIS uses to make this determination are:

- the nature of the injury inflicted;
- the severity of the perpetrator's conduct;
- the severity of the harm suffered;
- the duration of the infliction of the harm; and
- the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

The existence of one or more of these factors does not automatically signify that the abuse suffered was substantial.

USCIS Processing:

What do I do with a completed certification or declaration?

Once the certifying official completes and signs the Form I-918B or Form I-914B, the original should be given to the victim or the victim's legal representative or advocate, so that it can be added to the original U visa petition or T visa application packet before submission to USCIS. Please also note that only a law enforcement official, prosecutor, judge, or other government official authorized to sign certifications/declarations may complete and sign the Form I-918B or Form I-914B. The victim or the victim's attorney or advocate may not sign the Form I-918B or Form I-914B.

I already signed Form I-918B or Form I-914B, but the victim has returned asking for another newly signed form. Why is this happening?

This may occur for two reasons. An application or petition must be submitted within six months after Form I-918B certification has been signed by law enforcement. If the Form I-918B expired before the petitioner was able to file the petition with USCIS, the victim would require a new form in order to properly file the U visa petition.

Also, a victim who has an approved U or T visa may become eligible and apply for lawful permanent resident status (i.e. a green card). To be eligible for adjustment of status, U visa holders cannot unreasonably refuse to provide assistance to an official or law enforcement agency, and T visa holders must continue to cooperate with reasonable requests from law enforcement. As evidence, the victim may request the law enforcement official to provide a newly signed Form I-918B, or Form I-914B or a signed document from the official or law enforcement agency.

Is there an "expiration date" on the Form I-918B or Form I-914B?

Form I-918B expires six months after the certifying official signs the form. USCIS must receive the

properly filed U visa petition including the Form I-918B within six months of the date on the Form I-918B. There is no expiration date for the Form I-914B.

What are the safeguards for protecting the U and T visa program against fraud?

USCIS recognizes that certifying agencies and officials may be in the best position to determine if a qualifying crime has taken place. If, in the normal course of duties, a certifying official or agency has determined that a qualifying criminal activity has taken place, the victim possessed information related to the criminal activity, and the victim has been helpful, law enforcement may sign the U visa certification. Whether a certifying agency or official signs the certification is under the authority of the agency or official. The certification also acts as a check against fraud and abuse, as the certification is required in order to be eligible for a U visa.

USCIS takes fraud and abuse of the U and T visa programs seriously. If USCIS suspects fraud in a U visa petition or T visa application, USCIS may request further evidence from the petitioner and may also reach out to the certifying official or agency for further information. USCIS also has a dedicated unit with the sole purpose of targeting and identifying fraudulent immigration applications. The Fraud Detection and National Security (FDNS) unit of USCIS conducts investigations of cases that appear fraudulent and works with other Federal, State, and local law enforcement agencies when fraud or abuse is discovered.

As an additional check against fraud, a U visa recipient cannot obtain a green card unless the victim proves that he or she cooperated, when requested, with law enforcement or prosecutors. In order to obtain a green card, if the U visa victim did not cooperate, he or she must prove to DHS' satisfaction that his or her refusal to cooperate was not unreasonable. A T visa recipient cannot obtain a green card unless he or she continues to comply with law enforcement's reasonable requests for assistance and has maintained good moral character since issuance of the T visa.

Will USCIS approve a victim with a criminal history?

USCIS may deny a U visa petition or T visa application for a variety of reasons including the victim's criminal history. Denials may occur in cases where a victim has multiple arrests or convictions, or has a serious or violent criminal arrest record. USCIS may also deny a petition if the victim was complicit or culpable in the qualifying criminal activity of which he or she claims to be a victim. USCIS conducts background and security checks (FBI fingerprint check, name/date of birth check, and a check of immigration records) on U visa petitioners and T visa applicants and reviews all available information concerning arrests, immigration violations, and security issues before making a final decision. The fact that a victim has a criminal history does not automatically preclude approval of U or T nonimmigrant status. Each petition or application is evaluated on a case-by-case basis, and USCIS takes into account whether any criminal behavior was related to the victimization. If the certifying official believes USCIS should know something particular about a victim's criminal history, that information can be cited on the certification or with an attached report or statement detailing the victim's criminal history with that law enforcement agency or his or her involvement in the crime.

Other Law Enforcement Tools to Assist in Investigations and Prosecutions

There are two significant tools law enforcement agencies can use to benefit immigrant victims who may not qualify for a T or U visa, but who may need a means of temporarily being in the United States lawfully during the course of an investigation. These tools include Continued Presence and Significant Public Benefit Parole.

Continued Presence

Continued Presence (CP) is a form of temporary immigration relief available to individuals who are identified by law enforcement as victims of human trafficking and who are potential witnesses in an investigation or prosecution. CP is authorized by ICE Homeland Security Investigations (HSI) Parole and Law Enforcement Program Unit and *can only be sponsored by a federal law enforcement agent*. **An application for CP should be initiated immediately upon identification of a victim of human trafficking.** CP allows victims of human trafficking to remain in the United States during an ongoing investigation into human trafficking- related crimes committed against them. CP is initially granted for one year and may be renewed in one-year increments. Recipients of CP also receive work authorization and social service benefits through the Department of Health and Human Services Office of Refugee Resettlement, which provides a sense of stability and protection. These conditions improve victim cooperation with law enforcement, which leads to more successful prosecutions and the potential to identify and rescue more victims.

CP is available to all trafficking victims, even if a human trafficking violation is not charged, if charges are never brought, or the victim is not cooperating in a law enforcement investigation. However, once an investigation has ended and a decision not to prosecute has been made, CP is no longer appropriate.

State, local, tribal, and territorial law enforcement officials who would like to request CP for human trafficking victims are encouraged to work with the local HSI office in their area. In addition, Victim Assistance Coordinators can assist law enforcement officials in obtaining referrals to non-governmental victim services providers who can offer a variety of services to assist crime victims, such as immigration legal assistance, crisis intervention, counseling, medical care, housing, job skills training, and case management.

Significant Public Benefit Parole

Significant Public Benefit Parole (SPBP) may be utilized as a means of permitting an individual outside of the U.S. to enter the U.S. temporarily to serve as a witness, defendant, or cooperating source, and if necessary in extremely limited cases, the individual's immediate family members. It must be emphasized that SPBP will only be granted for the minimum period required to accomplish the requested purpose, for example, if a trial is 3 months long, parole will be granted for 3 months. SPBP is a temporary measure used on a case by case basis to allow an individual who is otherwise inadmissible to enter the United States.

Other Forms of Legal Status for Immigrant Victims

Federal law provides additional options for immigration status to victims and witnesses of crime who may or may not be eligible for a T or U visa, including status under the Violence Against Women Act (VAWA) and Special Immigrant Juvenile Status (SIJS):

VAWA

Recognizing that immigrant victims of domestic violence may remain in an abusive relationship when their immigration status is tied to their abuser, the Violence Against Women Act of 1994 (VAWA) created a self-petitioning process that removes control from the abuser and allows the victim to submit his or her own petition for permanent residence without the abuser's knowledge or consent. Those eligible for VAWA protection include the abused spouse or former spouse of a U.S. citizen or Lawful Permanent Resident, the abused child or step-child of a U.S. citizen or lawful permanent resident, or the abused parent of a U.S. citizen. VAWA immigration relief applies equally to women and men. To file for VAWA immigration relief, the self-petitioner must send a completed [Form I-360](#) (Petition for Amerasian, Widow(er), or Special Immigrant) along with corroborating evidence to USCIS. A law enforcement certification is not needed in these cases.

Special Immigrant Juvenile Status

Some children present in the United States without legal immigration status may be in need of humanitarian protection because they have been abused, abandoned, or neglected by a parent. The abuse may have occurred in the United States or prior to the child's arrival in the United States. Special Immigrant Juvenile (SIJ) status is an immigration classification that may allow vulnerable children to immediately apply for Lawful Permanent Resident status. To be eligible for SIJ, a child must:

- be unmarried, under 21 years of age at the time of filing Form I-360 with USCIS;
- be physically present in the United States; and
- have an order from a state court with jurisdiction over the child that: (1) declares the child is a dependent of the court/dependent on the court, or legally commits or places the child under the custody of either a state agency or department or an individual or entity appointed by a juvenile court; (2) declares reunification with one or both of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and (3) finds it would not be in the child's best interest to be returned to his or her country of origin.

DHS Contact Information

USCIS Contacts

Type of Information/Inquiry	Where to go/Who to contact
For more information about the U and T visa programs and law enforcement certifications and declarations:	www.uscis.gov www.uscis.gov/humantrafficking
To ask a question about a specific case or to rescind a signed certification or declaration:	The question or rescind letter should be scanned and emailed to the Vermont Service Center at: LawEnforcement_UTVAWA.VSC@uscis.dhs.gov. <i>Please note that this e-mail address is for law enforcement personnel only. Any e-mail sent by any person or entity that is not law enforcement to this specific e-mail address will not be answered.</i> or mailed to: USCIS-Vermont Service Center Attn: VAWA,T, & U Section 75 Lower Welden Street St. Albans, VT 05479
To request T or U visa training for your agency:	T_U_VAWATraining@uscis.dhs.gov
To ask specific policy questions about T and U visa certifications:	Call (202) 272-1470
Representatives may submit an inquiry regarding a specific case by emailing:	hotlinefollowupI918I914.vsc@uscis.dhs.gov

Citizenship and Immigration Services Ombudsman

The Office of the Citizenship and Immigration Services Ombudsman (Ombudsman) is dedicated to improving the quality of citizenship and immigration services delivered to the public by providing individual case assistance, as well as making recommendations to improve the administration of immigration benefits by USCIS. Created by section 452 of the Homeland Security Act of 2002, the Ombudsman is an impartial and confidential resource that is independent of USCIS. Customers can request case assistance by visiting the website listed below. The Ombudsman's Office also has a duty officer available Monday-Friday between 11 a.m. and 3 p.m. to answer emails and phone calls for those who are unable to file through the online process.

Type of Information/Inquiry	Where to go/Who to contact
For more information about the CIS Ombudsman and protections for victims:	www.dhs.gov/cisombudsman
To refer U visa petitioners or T visa applicants who are experiencing problems that have not been able to be resolved through DHS customer assistance avenues:	http://cisomb.dhs.gov/oca/form7001.aspx

To request telephonic case assistance:	Toll Free: (855) 882-8100 Phone: (202) 357-8100
To share specific policy concerns about T and U visa certifications or request information about a pending request for assistance:	cisombudsman@dhs.gov

U.S. Immigration and Customs Enforcement (ICE)

If a law enforcement official is aware of a victim of human trafficking, the official should promptly contact his or her local ICE Homeland Security Investigations (HSI) office. If a law enforcement official is aware of a victim or witness against whom a detainer has been lodged, who has been detained, who has been placed in removal proceedings for an immigration violation, or who has been ordered removed, the official should promptly contact his or her local ICE Enforcement and Removal Operations (ERO) contact or the local Office of the Principal Legal Advisor (OPLA) to make ICE aware of the situation.

<i>Type of Information/Inquiry</i>	<i>Where to go/Who to contact</i>
To contact your local ICE HSI office:	http://www.ice.gov/contact/hsi/
To contact your local ICE ERO office:	http://www.ice.gov/contact/ero/
To contact your local ICE OPLA office:	http://www.ice.gov/contact/opla/
Specifically with regard to a lodged detainer, the law enforcement official should notify the ICE Law Enforcement Support Center:	Phone: (802) 872-6050 LESC Computer Services Division 188 Harvest Lane Williston, Vermont 05495 https://www.ice.gov/contact/lesc

Office for Civil Rights and Civil Liberties

<i>Type of Information/Inquiry</i>	<i>Where to go/Who to contact</i>
To refer individuals who would like to file a complaint concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department of Homeland Security:	By Mail: Office for Civil Rights and Civil Liberties U.S. Department of Homeland Security Building 410, Mail Stop #0190 Washington, D.C. 20528 By Phone or Email: Phone: (202) 401-1474 Toll Free: (866) 644-8360 TTY: (202) 401-0470 Toll Free TTY: (866) 644-8361 Fax: (202) 401-4708 E-mail: crcl@dhs.gov

To report a violation of T visa, U visa, or VAWA relief confidentiality protections by a federal employee (*see* 8 U.S.C. § 1367(a)(2)).

By Mail:
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security Building 410,
Mail Stop #0190
Washington, D.C. 20528

By Phone or Email:
Phone: (202) 401-1474
Toll Free: (866) 644-8360
TTY: (202) 401-0470
Toll Free TTY: (866) 644-8361
Fax: (202) 401-4708
crcl@dhs.gov
VAWA@hq.dhs.gov

Office for State and Local Law Enforcement

On the recommendation of the 9/11 Commission, Congress created the Office for State and Local Law Enforcement (OSLLE) in 2007 to serve as the liaison between the Department of Homeland Security and non-Federal law enforcement agencies across the country. The primary mission of OSLLE is to lead the coordination of DHS-wide policies related to state, local, tribal, and territorial law enforcement's role in preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disaster within the United States. For more information about DHS coordination with federal, state, local, tribal, and territorial law enforcement, please contact the DHS Office for State and Local Law Enforcement.

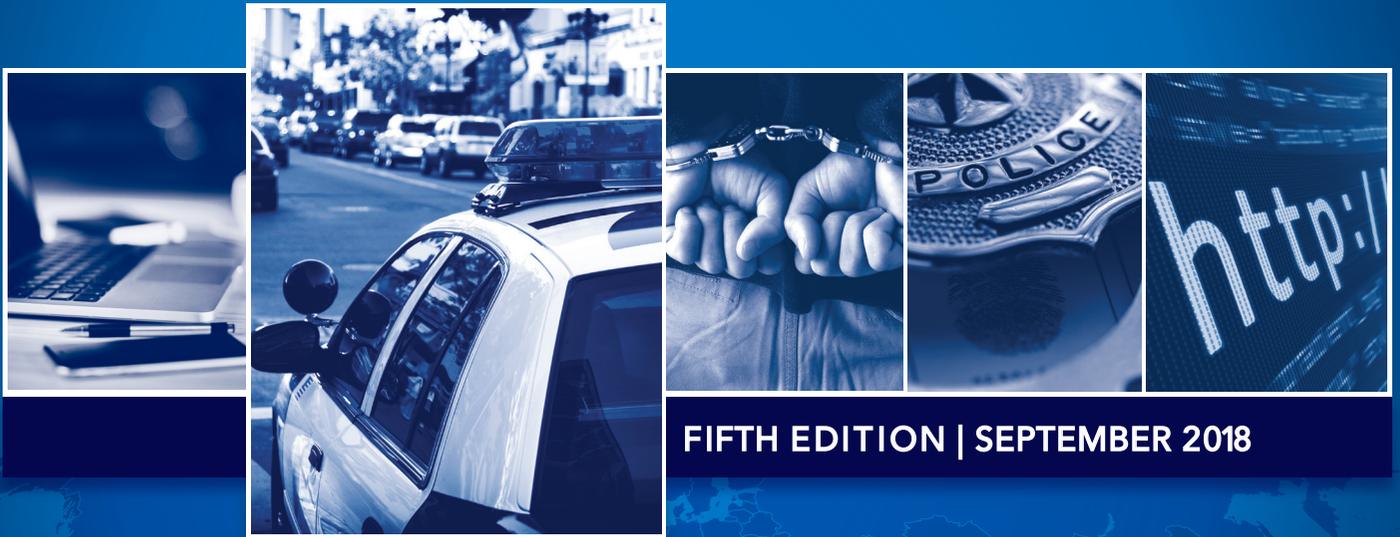
Phone: (202) 282-9545
Email: OSLLE@hq.dhs.gov

	<p><u>Roll-Call Video (Part 1) featuring law enforcement experts explaining human trafficking</u></p> <p><u>Roll-Call Video (Part 2) featuring law enforcement experts explaining immigration relief</u></p> <p>The DHS Federal Law Enforcement Training Center (FLETC) offers a <u>web-based human trafficking training course</u> which teaches law enforcement officers how to recognize human trafficking during routine duties, protect victims, and initiate human trafficking investigations.</p>
<p>Non-Governmental Organization Support</p>	<p>Anti-human trafficking task forces comprise federal, state, local, county, and tribal law enforcement and prosecutors, as well as non-governmental organizations (NGOs) providing victim services. To find out whether there is a task force in your area, visit the Bureau of Justice Assistance, <u>Anti-Human Trafficking Task Force Initiative Web page</u>.</p>



United States Department of State

CONSULAR NOTIFICATION AND ACCESS



FIFTH EDITION | SEPTEMBER 2018

Instructions for Federal, State, and Local Law Enforcement and Other Officials Regarding Foreign Nationals in the United States and the Rights of Consular Officials to Assist Them

DEPARTMENT OF STATE PUBLICATION
Office of the Legal Adviser and Bureau of Consular Affairs

Revised September 2018

ABOUT THIS MANUAL

This manual contains instructions and guidance relating to the obligations of federal, state, and local 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; the appointment of guardians for minor and adult foreign nationals; deaths and serious injuries of foreign nationals; and wrecks or crashes of foreign ships or aircraft on U.S. territory. It also addresses related issues pertaining to the provision of consular services by foreign consular officers to their nationals in the United States. The instructions and guidance in this manual pertain to all foreign nationals in the United States, regardless of their legal status.

This manual is designed to help ensure that foreign governments can extend appropriate consular services to their nationals in the United States and that the United States complies with its legal obligations to such governments. These legal obligations arise primarily from treaties, which form part of the supreme law of the land under Article VI of the U.S. Constitution. The instructions and guidance contained in this manual must be followed by all federal, state, and local government officials, whether law enforcement, judicial, or other, insofar as they pertain to foreign nationals subject to the officials' authority or to matters within the officials' competence. Compliance with these instructions and guidance will also help ensure that the United States can insist upon rigorous compliance by foreign governments with respect to U.S. nationals abroad, and will help prevent both international and domestic litigation. The Department of State appreciates the assistance of all federal, state, and local government officials in helping to achieve these objectives.

If you have any questions not addressed in this manual, write or call:

Consular Notification & Access (CNA)
U.S. Department of State
CA/P
SA-17, 12th Floor
Washington, DC 20522-1712

Telephone: (202) 485-7703
Email: consnot@state.gov
Website: travel.state.gov/CNA

For urgent telephone inquiries outside normal business hours, you may call the **Department of State Operations Center at (202) 647-1512**.

The text of this manual, which the Department of State updates periodically, is also available at travel.state.gov/CNA, along with the most up-to-date contact information for foreign embassies and consulates within the United States and other reference materials. All Department of State reference materials on this subject matter are available free of charge to U.S. law enforcement and other government officials. The Department also offers free training seminars on consular notification and access throughout the United States. Please visit the website listed above for further information and to request training.

Additional requirements must be followed in cases pertaining to foreign diplomatic and consular officers and their families. For information on the treatment of such individuals, including in cases of arrests, call the Department of State's Office of Protocol at (202) 647-1985. After hours, you may call the Protective Liaison Division of the Department of State's Bureau of Diplomatic Security at (571) 345-3146 or (866) 217-2089, or send a fax to (202) 895-3613. Further information about diplomatic and consular immunity can be found at www.state.gov/m/ds/immunities/c9118.htm.

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PART ONE: BASIC INSTRUCTIONS

The following pages summarize the basic requirements regarding consular notification and access. They are designed to be distributed or posted as readily accessible instructions or notices to all federal, state, and local officials who may have contact with a foreign national in a situation triggering a requirement to notify the foreign national's consular officers.

These basic instructions and implementation tools, which may be freely photocopied and posted as notices, include:

- ▶ **Summary of Requirements Pertaining to Foreign Nationals**
- ▶ **Steps to Follow When a Foreign National Is Arrested or Detained**
- ▶ **“Mandatory Notification” (“List”) Countries**
- ▶ **Flow Chart of Arrest or Detention Notification Procedures**

SUMMARY OF REQUIREMENTS PERTAINING TO FOREIGN NATIONALS

- ▶ 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.
- ▶ 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.
- ▶ 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.
- ▶ 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.
- ▶ 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.
- ▶ When a foreign ship wrecks or a foreign aircraft crashes in U.S. territory, consular officers must be notified.

These are mutual obligations that also apply to foreign authorities when they arrest or detain U.S. citizens abroad. In general, you should treat a foreign national as you 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.

BASIC INSTRUCTIONS

STEPS TO FOLLOW WHEN A FOREIGN NATIONAL IS ARRESTED OR DETAINED

1. 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.
2. IF THE FOREIGN NATIONAL'S COUNTRY IS NOT ON THE LIST OF "MANDATORY NOTIFICATION" ("LIST") COUNTRIES AND JURISDICTIONS (SEE PAGE 4 FOR THE LIST):
 - ▶ 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 suggested statement in several different languages, see Part Five on pages 71 through 103 of this manual.
 - ▶ If the foreign national requests that his or her 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.
 - ▶ Forward any communication from the foreign national to his or her consular officers without delay.
3. IF THE FOREIGN NATIONAL'S COUNTRY IS ON THE LIST OF "MANDATORY NOTIFICATION" ("LIST") COUNTRIES:
 - ▶ 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 web site at travel.state.gov/CNA. You may use the suggested fax sheet on page 101 for making the notification.
 - ▶ Tell the foreign national that you are making this notification and inform him or her, without delay, that he or she may communicate with his or her consular officers. A suggested statement to the foreign national in several different languages appears in Part Five on pages 71 through 103 of this manual.
 - ▶ Forward any communication from the foreign national to his or her consular officers without delay.
4. KEEP A WRITTEN RECORD OF:
 - ▶ What information you provided to the foreign national and when.
 - ▶ The foreign national's requests, if any.
 - ▶ 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.
 - ▶ Any other relevant actions taken.

MANDATORY NOTIFICATION COUNTRIES (“LIST” COUNTRIES)

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

¹ Notification is not mandatory in the case of persons who carry “Republic of China” passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office (“TECRO”), the unofficial entity representing Taiwan’s interests in the United States, can be notified at their request. See also footnote 129 on page 64.

² Mandatory only for foreign nationals who are not lawful permanent residents in the United States (i.e., “green card” holders). Otherwise, upon the national’s request. See the question “But since ‘green card’ holders are living in the United States permanently, why can’t I ignore consular notification requirements for them?” at page 12; see also footnote 18 on page 41.

³ The bilateral consular convention between the United States and the United Kingdom applies to British nationals from Great Britain (England, Wales, and Scotland); Northern Ireland; the Crown Dependencies of Jersey, Guernsey, and the Isle of Man; and the British Overseas Territories, including Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat, and the Turks and Caicos Islands, along with other island territories. Residents of the Overseas Territories may be traveling on a passport issued by the territory with no indication that the territory is British. Nevertheless, for them and all others from a British possession listed above, consular notification and access should be provided to the nearest U.K. consulate. For advice on how to ascertain whether an arrested or detained person is a British national, as well as a complete list of the Overseas Territories, see the question “What about British nationals” on page 23. For the U.S.–U.K. convention, see footnote 30 on page 45.

ARRESTING A NON-U.S. CITIZEN

Consular Notification Process



Q. Are you a U.S. citizen?

A. **"YES,** I am a U.S. citizen."

(No further action required.)



"NO, I am not a U.S. citizen."



Q. Are you a national of one of these countries?

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

1. Includes Hong Kong and Macao. Does not include Republic of China (Taiwan).

2. Mandatory only for non-permanent residents in the United States (i.e., those not holding a "green card"); for green card holders, notification is upon request.

3. UK includes Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos islands. Residents' passports bear the name of their territory and may also bear the name "United Kingdom." Whether or not the passport bears the name "United Kingdom," consular services for these persons are provided by UK consulates.

A. **"YES."**

Step 1. Inform detainee that he or she may communicate with consulate, and that you must notify consulate of arrest/detention.

Step 2. Notify nearest consulate **without delay**.

Step 3. Make record of notification in case file. Where fax or email sent, keep fax confirmation or sent email.

Step 4. Allow consular officers access to detainee if they subsequently request access.

(No further action required.)



"NO."

Inform detainee, **without delay**, that he or she may have consulate notified of arrest/detention.



Q. Do you want your consulate notified of your arrest/detention?

A. **"YES."**

Step 1. Make note in case file.

Step 2. Notify nearest consulate **without delay**.

Step 3. Make record of notification in case file. Where fax or email sent, keep fax confirmation or sent email.

Step 4. Allow consular officers access to detainee if they subsequently request access.

(No further action required.)



"NO."

Step 1. Make note in case file.

Step 2. Do **NOT** inform the consulate.

(No further action required.)



IN ALL CASES:

- Do not inform consulate about detainee's refugee or asylum status.
- Detainee may communicate with consular officer and may request consular access at any time (whether previously declined or not).

Consular officers may have access to detainee

- regardless of whether detainee requests it. Even if detainee does not want to be visited, consular officers may still have one face-to-face visit.

Consular Notification & Access (CNA)
U.S. Department of State
CA/P
SA-17, 12th Floor
Washington, DC 20522-1712

P: 202-485-7703
consnot@state.gov

For more information visit: travel.state.gov/CNA

PART TWO:

DETAILED INSTRUCTIONS ON THE TREATMENT OF FOREIGN NATIONALS

If you are a federal, state, or local law enforcement, judicial, or other government official, you should follow the instructions in this manual whenever you are taking official actions relating to a foreign national. These instructions pertain to: (1) the arrest and detention of foreign nationals; (2) the appointment of guardians for foreign nationals who are minors or incompetent adults; (3) deaths of or serious injuries to foreign nationals in the United States; and (4) crashes of foreign aircraft or wrecks of foreign ships in U.S. territory. These instructions also address issues pertaining to the provision of consular services by foreign consular officers to foreign nationals in the United States. They are intended to ensure that foreign governments can extend appropriate consular services to their nationals in the United States and that the United States complies with its legal obligations to such governments.

The instructions in this manual are based on international legal obligations designed to ensure that governments can assist their nationals who live and travel abroad. While these obligations are in part matters of customary international law, most of them are set forth in the 1963 Vienna Convention on Consular Relations (VCCR), a multilateral treaty to which the United States and more than 170 other countries are party. Other obligations are contained in bilateral agreements (sometimes called “conventions” or “treaties”). These are legally binding agreements between the United States and one other country. Treaties such as the VCCR and other consular conventions are binding on federal, state, and local government officials to the extent they pertain to matters within such officials’ competence as a matter of international law and the U.S. Constitution. See U.S. Const., art. VI, cl. 2 (“all Treaties made . . . shall be the supreme law of the land”).

These instructions 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 U.S. 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 U.S. 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.

These instructions also discuss obligations relating to the appointment of guardians for foreign nationals who are minors or incompetent adults; to deaths of, serious injuries to, and serious illnesses of foreign nationals; and to accidents involving foreign aircraft or ships. Like the obligations of consular notification and access for arrest and detention cases, these are mutual obligations that also apply abroad.

The Department of State appreciates the continued cooperation of federal, state, and local law enforcement agencies, corrections officials, prosecutors, members of the judiciary, and other government officials in helping to ensure that foreign nationals in the United States are treated in accordance with these instructions. Such treatment will permit the United States to comply with its legal obligations domestically and to continue to expect rigorous compliance by foreign governments with respect to U.S. citizens abroad.

ARRESTS AND DETENTIONS OF FOREIGN NATIONALS

Whenever you arrest or detain a foreign national in the United States, you must inform the foreign national, without delay, that he or she may communicate with his or her consular officers. In most cases, the foreign national then has the option to decide whether to have consular representatives notified of the arrest or detention. If the foreign national requests notification, you must notify the foreign national's consular officers of the arrest or detention. In some cases, a bilateral agreement between the United States and the foreign national's country may require you to notify the foreign national's consular officers of an arrest or detention automatically, regardless of the foreign national's wishes. Thus, you must notify consular officers that a national of their country has been arrested or detained if: (1) the foreign national requests notification after being informed of his or her option to make such a request; or (2) a bilateral agreement between the United States and the foreign national's country requires notification regardless of the foreign national's request. A list of all foreign embassies and consulates in the United States, with telephone and fax numbers, appears in Part Seven of this manual to facilitate notification in cases where notification is required.

NOTIFICATION REQUIRED AT THE FOREIGN NATIONAL'S REQUEST: THE GENERAL RULE

In all cases except those involving nationals from "mandatory notification" ("list") countries (see next section), you must inform the foreign national without delay that he or she may have his or her consular officers notified of the arrest or detention, and that he or she may communicate with the consular officers. Once informed of the option to request consular notification, the foreign national then decides

whether he or she wants notification to occur. Some foreign nationals will request that their consular representatives be notified of their arrest or detention, while others will not. If the foreign national requests notification, you must ensure that the nearest consulate or embassy of the foreign national's country is notified of the arrest or detention without delay. This rule is set forth in Article 36(1)(b) of the VCCR, which applies to most countries.

Thus, the decision whether consular officers should be notified is for the foreign national to make unless the foreign national is from a "mandatory notification" ("list") country.

MANDATORY NOTIFICATION: THE SPECIAL RULE

In cases involving foreign nationals of certain countries, you must notify consular officers if one of their nationals is arrested or detained, regardless of whether the national requests or wants consular notification. The 57 "mandatory notification" countries are listed on page 4 of this manual. They may be referred to in this manual and other Department of State guidance as "mandatory notification" countries, "list" countries, or "special rule" countries.

Mandatory notification requirements arise from bilateral agreements between the United States and these 56 countries. The terms of the bilateral agreements are not identical to one another, however. Mandatory notification generally must be made to the nearest consulate or embassy "without delay," "immediately," or within a specific period of time established in the agreement.

DETAILED INSTRUCTIONS

You should inform the foreign national that notification has been made and advise him or her of the option to communicate with his or her consular officers. The relevant provisions on mandatory notification in the United States' bilateral agreements are reproduced in Table A on pages 45 through 50.⁴

Privacy concerns or the possibility that a foreign national may have a legitimate fear of persecution or other mistreatment by his or her government may exist in some mandatory notification cases. The notification requirement should still be honored, but it is usually possible to take precautions regarding the disclosure of information. For example, it is not necessary to provide information about why a foreign national is in detention unless the agreement specifically requires that the reasons be given. A list of countries with bilateral agreements requiring you to give such reasons appears under the question "When I notify the consular officers, should I tell them the reasons for the detention?" on page 27. *Under no circumstances should any information indicating that a foreign national has or may have applied for asylum or withholding of removal in the United States or elsewhere be disclosed to that person's government.* If a consular officer insists on obtaining information about a detainee that the detainee does not want disclosed, the Department of State can provide more specific guidance.

RECORDKEEPING

Law enforcement agencies should keep written records sufficient to show compliance with the above notification requirements. At a minimum, these records should include:

- ▶ The date and time the foreign national was informed that he or she could communicate with consular officers and, if applicable, could request that consular officers be notified without delay of the arrest or detention. If information was provided in writing, retain a copy.
- ▶ Whether the foreign national requested notification, if applicable.
- ▶ Whether the consulate was notified and, if so, the date and time of notification, method of notification, and confirmation of receipt, if available. (If notification is sent via fax, the law enforcement agency should retain a copy of the notification receipt printed by the fax machine. If notification is sent via email, the law enforcement agency should retain a copy of the sent email.)
- ▶ Other relevant actions taken.

From time to time, the Department of State receives inquiries and complaints from foreign governments concerning foreign nationals in detention. In such cases, the Department may ask the relevant law enforcement officials whether and when the foreign national was provided with information about consular notification and access; whether he or she requested that his or her consular officers be notified of the arrest or detention; and whether and when this notification was in fact given to the consular officers. *The Department of State does not, however, maintain an inventory or tally of all foreign nationals jailed or imprisoned across the country, and cannot provide such information to foreign consular officers or foreign governments.* Foreign consular officers may raise concerns about consular notification directly with the responsible federal, state,

8 ⁴ The United States has bilateral agreements on consular matters with many countries, only some of which contain "mandatory notification" provisions. Others contain a notification requirement similar to that of the VCCR—that is, that consular officers be notified upon the request of a detained foreign national. While the relevant portions of most of these agreements are essentially the same as those of the VCCR, in rare cases they differ in a significant way. For example, some bilateral agreements, in contrast to the VCCR, require the competent authorities (such as the local police who arrested the foreign national) to give consular officers information on why the foreign national has been detained (for the list, see the question "When I notify the consular officers, should I tell them the reasons for the detention?" on page 27). Other bilateral agreements require that consular officers be permitted to converse privately with their nationals (for the list, see the question "Is a consular officer entitled to meet or converse privately with a detained foreign national?" on page 33). Still others differ in the types of detentions that trigger the notification requirement (for the relevant language, see Table B on pages 51-52). Where doubts arise as to whether the VCCR or a bilateral agreement applies in a given case, contact the Department of State.

and local officials. Good recordkeeping will facilitate responding to these inquiries and to any consular notification issues that may be raised in litigation.

CONSULAR ACCESS TO DETAINED FOREIGN NATIONALS

The VCCR and the relevant bilateral agreements allow detained foreign nationals to communicate with their consular officers. Specifically, under the VCCR you must forward any communication by a foreign national to his or her consular representative without delay. Foreign nationals have no right to be released from detention to visit their consular officers, however, and no right to require that a consular officer visit them in detention or otherwise communicate with them or assist them.

It is for the consular officer to decide whether, when, and how to respond to a notification that one of his or her nationals has been detained. Even where a foreign national has not requested a consular visit, the consular officers must be given access to the national and permitted to communicate with him or her. Such officers have the right to visit the national, to converse and correspond with him or her, and to arrange for legal representation. They must refrain from acting on behalf of the foreign national, however, if the national opposes their involvement. If the foreign national does not want consular assistance, the consular officer should be allowed an opportunity to confirm this fact directly (e.g., through a one-time, face-to-face visit). Consular officers may not act as attorneys for their nationals.

While visiting foreign consular officers cannot be restricted in the questions they pose to the detained foreign national, consular access and communication generally must be exercised subject to local laws and regulations. For example, consular officers may be required to visit during established visiting hours, and may, in accordance with local laws and regulations and applicable prison rules, be prevented from taking in prohibited items. They may also be prohibited from taking in recording devices, taking a statement from the foreign

national under oath, having the national sign a statement, or otherwise engaging in formal law enforcement activities. Nevertheless, federal, state, and local rules of this nature must not be so restrictive as to defeat the purpose of consular access and communication.

The above requirements are set out in Article 36 of the VCCR. Additional requirements may apply to particular countries because of bilateral agreements. For example, some agreements explicitly require that consular officers be permitted to converse privately with their nationals. (For the full list, see the question “Is a consular officer entitled to meet or converse privately with a detained foreign national?” on page 33.)

While some foreign governments make blanket requests for information on all foreign nationals incarcerated in the United States, the Department of State does not keep a prisoner inventory or tally for any country’s nationals. The Bureau of Prisons or state corrections bureaus may have such information and be willing to provide it, and representatives of the foreign government are free to contact these entities. *Neither the Department nor these entities, however, has an obligation to provide blanket information.*

DEATHS, SERIOUS INJURIES, AND SERIOUS ILLNESSES OF FOREIGN NATIONALS

If you become aware of the death of a foreign national in the United States, you must ensure that the nearest consulate of that national’s country is notified of the death without delay. This will permit the foreign government to make an official record of the death for its own legal purposes. For example, such notice will help ensure that passports and other legal documentation issued by that country are canceled and not reissued to fraudulent claimants. In addition, it may help ensure that the foreign national’s family and legal heirs, if any, in the foreign country are aware of the death and that the death is known for estate purposes in the foreign national’s country. Once notified of a death, consular officers may

in some circumstances act to conserve the decedent's estate, in accordance with the laws and regulations applicable in the jurisdiction.

The requirement to notify a consular officer in cases of deaths is set out in Article 37(a) of the VCCR, and Article 5 recognizes the functions of consular officers relating to deaths and estates. Additional requirements may apply to particular countries because of bilateral agreements.

Although serious injuries and illnesses are not specifically covered in the VCCR, the Department of State encourages U.S. officials to consider notifying consular officers as a matter of courtesy if a foreign national is in such a critical condition that contacting the consular officers would be in that person's best interests (e.g., if the foreign national is in a coma or is sent to the hospital with a life-threatening injury). Such notification may be particularly helpful if the foreign national's relatives are in the home country.

APPOINTMENTS OF GUARDIANS OR TRUSTEES FOR FOREIGN NATIONALS

Whenever a probate court or other legally competent authority considers appointing a guardian or trustee for a foreign national who is a minor or an adult lacking full capacity, a court official or other appropriate official involved in the guardianship process must inform the nearest consular officers for that national's country without delay. Notification would normally be required in the following situations:

- ▶ A foreign national is taken into protective custody, either by an individual or a government agency
- ▶ A petition to appoint a guardian for a foreign national is filed with a court
- ▶ Legal proceedings are initiated in which a foreign national minor is named as a party and the individual's parent or guardian cannot be located

consular officer should—if possible without prejudice to the appointment process—be permitted to express any interest his or her government might have in the issue. In some cases, consular officers may wish to assist in finding family members in the home country who could assist in caring for the minor or incompetent adult. The requirement to notify consular officers in cases of guardianship is set out in Article 37(b) of the VCCR, and Article 5 recognizes the functions of consular officers relating to minors and incompetent adults. Additional requirements may apply to particular countries because of bilateral agreements. If a minor child or incompetent adult is arrested or detained, the requirements that pertain to cases of arrests and detentions of foreign nationals must also be followed. If the minor child or incompetent adult is from a “mandatory notification” country, you can make a single notification of the arrest or detention and of any possible need for a guardian. If the minor child or incompetent adult is not from a mandatory notification country but consular notification is required because a guardian may be needed, the requirement to notify consular officers that a guardian is needed should take precedence over the usual requirement to notify only if requested to do so by the foreign national. Again, you can make a single notification of the arrest or detention and of any possible need for a guardian.

ACCIDENTS INVOLVING FOREIGN SHIPS OR AIRCRAFT

If a ship or airplane registered in a foreign country wrecks or crashes in the United States, the nearest consular officers of that country must be notified without delay. This requirement is set out in Article 37(c) of the VCCR. Once notification has been made, consular officers may undertake to coordinate contacts with the victims' families or to provide other emergency assistance on behalf of the foreign government concerned. Some of the other functions consular officers may undertake in cases involving shipwrecks or air crashes are enumerated in Article 5 of the VCCR. Additional requirements may apply to particular countries because of bilateral agreements.

PART THREE:

FREQUENTLY ASKED QUESTIONS

QUESTIONS ABOUT CONSULAR OFFICERS

Q. What is a “consular officer”?

A. For the purposes of this manual, a consular officer is an official of a foreign government accredited by the U.S. Department of State and authorized to provide assistance on behalf of that government to that government’s citizens in another country, regardless of whether a consular officer is assigned to a consular section of an embassy in Washington, D.C., or to a consular office maintained by the foreign government at a location in the United States outside of Washington, D.C. For other purposes, the officer assigned to an embassy is a “diplomatic officer.”

Q. What is a “consul”? What is a “consular official”?

A. The terms “consular officer,” “consular official,” and “consul” mean the same thing, for purposes of the issues discussed in this manual.

Q. How is a consular officer different from legal “counsel”?

A. The term “consul” should not be confused with “counsel,” which means an attorney-at-law authorized to provide legal counsel and advice. A foreign consular officer is not authorized to practice law in the United States.

Q. What is an “honorary consul”?

A. An honorary consul is a U.S. citizen or an alien who is a lawful permanent resident of the United States who has been authorized by a foreign government to perform consular functions on its behalf in the United States.

An honorary consul should be treated as a consular officer for purposes of the issues discussed in this manual insofar as he or she is acting as an honorary consul. (Some honorary consuls serve only on a part-time basis, and may also engage in work unrelated to their work as honorary consuls.)

Q. How are diplomatic officers different from consular officers?

A. A diplomatic officer or “diplomat” is an officer of a foreign government assigned to an embassy to represent that government to the host country. Many diplomatic officers are also authorized by their governments to perform consular functions, and thus to act as consular officers. As noted above, for the purposes of this manual, the term “consular officer” includes a diplomatic officer assigned to an embassy in Washington, D.C., who performs consular functions.

Q. Should I treat a diplomatic officer the same as a consular officer?

A. For the purposes of the issues discussed in this manual, you should treat a diplomatic officer and a consular officer similarly. Consular notification can be given to a diplomatic officer at an embassy if no consular officer is closer. A diplomatic officer should be permitted to conduct visits to detained foreign nationals and to perform the other kinds of consular functions discussed in this manual.

Q. How can I be sure that someone who claims to be a consular officer, a consul, an honorary consul, or a diplomatic officer is in fact one?

A. Diplomatic and consular officers (including consuls and honorary consuls) have identification cards issued by the Department of State. Sample cards are shown in Part Five of this manual, on pages 98 through 99. If you have any doubt about the authenticity of a State Department identification card, you can call the Department's Office of Protocol at (202) 647-1985 to have the identity and status of the official verified during business hours (8:15 a.m. to 5:00 p.m. Eastern). Outside of those hours, you may call the Diplomatic Security Command Center at the Department of State at (571) 345-3146 or (866) 217-2089. You may also consult www.state.gov/m/ds/immunities/c9118.htm.

QUESTIONS ABOUT FOREIGN NATIONALS

Q. Who is a “foreign national”?

A. For the purposes of consular notification and the instructions in this manual, a “foreign national” is any person who is not a U.S. citizen. (There are rare situations in which a person is neither a U.S. citizen nor a foreign national—i.e., is “stateless.” In such a case, consular notification requirements do not apply.)

Q. Is a foreign national the same as an “alien”?

A. Yes, for the purposes of this manual.

Q. Are “citizenship” and “nationality” the same thing?

A. Yes, for the purposes of consular notification and access.

Q. Is a person with a “green card” (a “lawful permanent resident”) considered a foreign national?

A. Yes. Lawful permanent resident aliens (“LPRs”), who have a resident alien registration card (Department of Homeland Security Form

I-551), more commonly known as a “green card,” are not U.S. citizens. They retain their foreign nationality and must be considered “foreign nationals” for the purposes of consular notification. (As described immediately below, special rules apply to Polish nationals holding green cards.)

Q. But since “green card” holders are living in the United States permanently, why can’t I ignore consular notification requirements for them? Are the rules different for Polish nationals?

A. You must comply with consular notification and access requirements even if the foreign national you are dealing with is a lawful permanent resident alien (“LPR” or “green card” holder). The rules apply no matter how long the foreign national has lived in the United States. There generally is no reason, for purposes of consular notification, to inquire into whether a foreign national is in the United States on a green card or in some other status.

In the case of Poland, however, Polish green card holders are subject to different rules. Under the bilateral convention between Poland and the United States, Poland is a “mandatory notification” country, but only with respect to “non-permanent residents.” That is, only Polish nationals who are not permanent residents are subject to “mandatory notification” requirements, and must accordingly be treated as nationals of a “mandatory notification” (“list”) country. Polish permanent residents, or green card holders, are to be treated like non-list nationals—that is, they are exempt from the mandatory notification requirement. Polish green card holders must instead be informed that they can have their consular officers notified of their arrest or detention, with notification to consular officers being made only if the Polish green card holder requests it.⁵

Q. Do I have to ask everyone I arrest or detain whether he or she is a foreign national?

A. Routinely asking every person arrested or

⁵ See footnote 18 on page 41.

FREQUENTLY ASKED QUESTIONS

detained whether he or she is a U.S. citizen is highly recommended and is done by many law enforcement entities. Asking this question is the most effective way to ensure that you are complying with consular notification requirements. Moreover, asking everyone this question will reduce concerns about discrimination based on national origin or ethnicity. If a detainee claims to be a U.S. citizen in response to such a question, you generally can rely on that assertion and assume that consular notification requirements are not relevant. If you have reason to doubt that the person you are arresting or detaining is a U.S. citizen, however, you should inquire further about nationality so as to determine whether any consular notification obligations apply. You should keep a written record of whether the individual claimed to be a U.S. citizen and of any additional steps you took to determine the individual's nationality.

Q. Short of asking all detainees about their nationality, how might I know that someone is a foreign national?

A. If you do not routinely ask each person you arrest whether he or she is a U.S. citizen, you will need to develop other procedures for determining whether you have arrested or detained a foreign national and for complying with consular notification requirements. A driver's license issued in the United States will not normally provide information sufficient to indicate whether the license holder is a U.S. citizen. Nor does the fact that a person has a social security number indicate that the person is necessarily a U.S. citizen. A foreign national may present as identification a foreign passport or consular identity card issued by his government or an alien registration document issued by the U.S. Government. If the person presents a document that indicates birth outside the United States, or claims to have been born outside the United States, he or she may be a foreign national. (Most, but not all, persons born in the United States are U.S. citizens; most, but not all, persons born

outside the United States are not U.S. citizens, but a person born outside the United States whose mother or father is a U.S. citizen may be a U.S. citizen, as will a person born outside the United States who has become naturalized as a U.S. citizen.) Unfamiliarity with English may also indicate foreign nationality, though some U.S. citizens do not speak English. Such indicators could be a basis for asking the person whether he or she is a foreign national. You should keep copies of any identification presented and note in the file the basis on which you concluded the person was or was not a foreign national.

Q. Are foreign nationals required to carry identity documents that indicate their nationality? Do consular notification procedures have to be followed if I can't verify a detainee's nationality through documentation?

A. Federal law requires that most foreign nationals carry immigration documents with them at all times while in the United States. See 8 U.S.C. § 1304(e). However, arresting officers will frequently come across aliens without documentation identifying their country of nationality. It is the arresting officer's responsibility to inquire about a person's nationality if there is any reason to believe that he or she is not a U.S. citizen.

In all cases where an arrestee claims to be a non-U.S. citizen, arresting officers should follow the appropriate consular notification procedures, even if the arrestee's claim cannot be verified by documentation.

Q. Should I ask persons I arrest whether they are in the United States legally? Should I treat undocumented and "illegal" aliens differently than aliens lawfully present in the United States?

A. Consular notification and access requirements apply regardless of immigration status. There is no reason, for purposes of

FREQUENTLY ASKED QUESTIONS

consular notification, to inquire into a person's legal status in the United States. For purposes of consular notification, you should make no distinctions based on whether the foreign national is in the United States "legally" or "illegally."

Q. What about dual nationals?

A. If a person has more than one nationality, the appropriate consular notification procedures will depend first on whether one of the person's countries of nationality is the United States.

A person who is a U.S. citizen and a national of another country may be treated exclusively as a U.S. citizen when in the United States. In other words, consular notification is not required if the detainee has U.S. citizenship, regardless of whether he or she has another country's citizenship or nationality as well. This is true even if the detainee's other country of citizenship is a mandatory notification ("list") country.

As a matter of discretion, however, the Department of State suggests that, when possible, you permit a visit from the consular officers of the detainee's other country of nationality, as long as the detainee requests a visit and wishes to be visited by those consular officers.

On occasion, moreover, the Department may ask you to allow a consular visit in cases where the other country permits U.S. consular officers to assist persons detained in that country who are both U.S. citizens and nationals of that country. Furthermore, allowing consular assistance will be particularly important in cases involving children, including those with two nationalities, who have no relatives in the United States. (For more information on minors, see the question "Should I notify the consulate any time I detain a foreign national who is a minor?" on page 17.)

A person who is not a U.S. citizen, but who is a citizen or national of two or more other

countries, should be treated in accordance with the rules applicable to each of those countries. Therefore, the consular officers of both countries will need to be notified if the foreign national so requests. If either country is a mandatory notification country, its consular officers will need to be notified whether or not the foreign national so requests. If both countries are mandatory notification countries, the consular officers of both will need to be notified regardless of whether or not the foreign national so requests.

QUESTIONS ABOUT WHICH OFFICIALS ARE RESPONSIBLE FOR PROVIDING CONSULAR NOTIFICATION TO FOREIGN CONSULAR OFFICERS

Q. Who is actually responsible for making the necessary notifications to the individual or the consular officer?

A. The responsibility for consular notification, whether in the case of an arrest or detention, a guardianship, or a death lies with what are generally called "competent authorities" in the relevant international agreements. For the United States, this term is understood to mean those officials, whether federal, state, or local, who are responsible for legal action affecting the foreign national and who are competent, within their legal authorities, to give the notification required. This interpretation makes sense as a practical matter: compliance with the notification requirements works best when it is assumed by those government officials closest to the foreign national's situation and with direct responsibility for it.

Q. Who is responsible for notifying the consular officers of arrests and detentions?

A. The law enforcement officers who actually make the arrest or who assume responsibility for the foreign national's detention normally should provide the foreign national with the required consular notification information, and make any required notification to the foreign national's consular officers, unless a relevant

FREQUENTLY ASKED QUESTIONS

implementing statute, regulation, or instruction provides for a different procedure (or if the person's foreign nationality is not known and cannot be determined at the time of arrest). For example, a jurisdiction might provide for the arresting officer to give the detainee consular information and for a different officer to notify the consulate. If the person's foreign nationality is not known at the time of arrest, but becomes known later, it will be necessary to complete consular notification procedures at that time; this may mean that the responsibility for the procedures would have to be assumed by someone other than the arresting officer (e.g. a corrections officer, judicial official, etc.).

In cases involving arrests by officers of the U.S. Department of Justice, the responsibility for implementing consular notification procedures is governed by regulations at 28 C.F.R. § 50.5. As of the date of this manual's publication, that regulation provided that the arresting officer (generally an official of the FBI or the U.S. Marshals Service) has responsibility for informing the foreign national of the relevant consular notification rights and requirements, and for conveying the foreign national's wishes to the U.S. Attorney. The U.S. Attorney is responsible for providing notification to the appropriate consular official when required. (For cases involving detentions by Department of Homeland Security authorities, see the question "Are foreign nationals in immigration detention covered by the consular notification requirement?" on page 18).

In some jurisdictions, magistrate or other judges are being asked to verify or ensure at the time of arraignment that consular notification procedures have been or are followed. If the person's foreign nationality becomes known prior to arraignment, however, consular notification procedures should be followed at that time, to ensure full compliance with applicable requirements.

Q. What is the responsibility of prosecutors for notifying consular officers of arrests and detentions?

A. Because they do not arrest or detain foreign nationals, prosecutors are not normally

responsible for providing foreign nationals with consular notification information or for notifying consular officers. They may be given responsibility for some or all of these functions by an implementing statute, regulation, or other instruction, however, and they may assist in ensuring that consular notification requirements are complied with even without such statute, regulation, or instruction. In addition, there may be circumstances in which foreign nationality becomes known only long after arrest and initial detention, e.g., as the result of a presentence report or in connection with a transfer to a prison. In such cases, it may be necessary for a prosecutor or prison official to assume responsibility for compliance.

Federal prosecutors are required to notify consular officers in cases involving arrests by officers of the U.S. Department of Justice, pursuant to regulations at 28 C.F.R. § 50.5. The arresting officer is responsible for informing the detainee that he or she may communicate with consular officers and have the consulate notified of his or her arrest or detention upon request.

Prosecutors are strongly encouraged in all cases involving foreign nationals to inquire whether consular notification procedures have been followed. Such inquiries will help promote compliance with consular notification requirements, facilitate the provision of consular assistance by foreign governments to their nationals, and ensure that consular notification compliance does not become an issue in litigation.

Q. What is the responsibility of judicial officials for notification of arrests and detentions?

A. The Department of State requests that judicial officials who preside over arraignments or other initial court appearances of foreign nationals inquire at that time whether consular notification procedures have been followed as required by the VCCR and any applicable bilateral agreement providing for mandatory notification. Some states have taken steps to have their magistrate judges address consular

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notification requirements at arraignment. Such inquiries will help promote compliance with consular notification procedures, facilitate the provision of consular assistance by foreign governments to their nationals, and ensure that consular notification compliance does not become an issue in litigation.

Q. Who is responsible for notifying consular officers of deaths?

A. Notification to consular officers of a death of a foreign national should be made by the appropriate U.S. state or local authority, be it a coroner, medical examiner, or law enforcement official investigating the death.

Q. Who is responsible for notifying consular officers of a serious injury or illness?

A. Notification of serious injuries and illnesses is not specifically required by the VCCR. Nevertheless, the Department of State encourages U.S. state and local officials to consider making consular notification if a foreign national is in such a critical condition that contacting the consular officers would be in that person's best interests (e.g., if the foreign national is in a coma or is sent to the hospital with a life-threatening injury). Such notification may be particularly helpful if the foreign national's relatives are in the home country.

In cases of serious injuries and illnesses, the competent authority will vary, but the Department of State encourages government officials in such situations to ensure that consular notification is made when appropriate. The Department of State should be contacted if there is any question about whether or not notification should be made in a particular case.

Q. Who is responsible for notifying consular officers of appointments of guardians?

A. Notification should be made by probate or family court officials or by any other appropriate official involved in the guardianship process. In cases involving abuse, neglect, or abandonment of children, this may be the

agency or entity acting to protect the child.

Q. Who is responsible for notifying consular officers of shipwrecks and aircraft crashes?

A. In the case of an accident or major disaster (such as an airplane crash or shipwreck), the competent authority may vary, but any federal, state, or local government officials responsible for investigating or providing aid or relief during such a situation should ensure notification of consular officers of the country in which the ship or airplane is registered. In addition, if the shipwreck or air crash results in the death of a foreign national, consular officers of the national's home country must be notified of the death.

Q. Why are state and local government officials expected to provide such notification?

A. State and local governments must comply with consular notification and access obligations because these obligations are embodied in treaties that are the law of the land under the Supremacy Clause in Article VI of the U.S. Constitution.

In addition, as a practical matter it is much more efficient for consular notification to occur at the local level. The VCCR and other consular conventions and agreements expressly provide for consular officers to interact directly with local government officials; consular officers are therefore not required to use their embassies in Washington, D.C., or the Department of State to communicate with local officials on consular matters. The federal government, however, would be responsible for addressing an international dispute with a foreign government concerning performance by state and local officials of obligations under the relevant treaties.

QUESTIONS ABOUT THE CIRCUMSTANCES IN WHICH CONSULAR NOTIFICATION REQUIREMENTS APPLY

Q. What kinds of detentions create consular notification obligations?

FREQUENTLY ASKED QUESTIONS

A. Under Article 36, the VCCR's requirements apply when a foreign national is "arrested or committed to prison or to custody pending trial

or is detained in any other manner." Most of the bilateral agreements use similarly broad language, and cover any form of detention. The term "detained in any other manner" is not defined in the VCCR, but the Department of State believes that it generally should be understood to cover any situation in which a foreign national's ability to communicate with or visit consular officers is impeded as a result of actions by government officials limiting the foreign national's freedom. The Department of State would not consider a "detention" to include a brief traffic stop or similar event in which a foreign national is questioned and then allowed to resume his or her activities.

Immigration, civil, and criminal detentions are all covered. The placement of a foreign national in government-ordered quarantine for more than a short period of time, or committing him or her involuntarily to a mental health institution, would also be covered. (For more on this issue, see the question "If I have a foreign national who is hospitalized or quarantined, do I have to provide consular notification?" on page 18.)

While there are no specific exceptions for short detentions, potentially lasting less than 24 hours, compliance with consular notification requirements may not be practicable. For example:

- ▶ A foreign national is arrested on misdemeanor charges and is released several hours later after the booking process is completed.
- ▶ A foreign national is arrested while intoxicated, is unable to understand consular notification information, and is held overnight and then released.
- ▶ A foreign national is detained for several hours of questioning and then released. As a practical matter, consular officers will be more concerned about arrests for

serious crimes and with detentions that last long enough to prevent the foreign national from communicating with his or her consular officers in essentially the same manner as he or she could if not detained. If a consular officer asks not to be notified about certain kinds of cases, you should ask that the request be confirmed in writing and consult with the Department of State.

Q. Do I have to inform and notify even when the detention is only while a traffic citation is written, or for a similar brief time?

A. No. The VCCR's requirements apply whenever a foreign national is arrested or detained in any manner, without distinguishing arrests that do not result in a significant detention. The primary purpose of the requirement is to ensure that a government does not place a foreign national in a situation in which the foreign national cannot communicate with or receive assistance from his or her own government. When a foreign national is stopped and released within a short period of time, this consideration is not relevant because the foreign national is free to contact consular officers independently. The Department of State therefore does not consider brief routine detentions, such as for traffic violations or accident investigations, to be the type of situations in which consular notification procedures must be followed.

Q. Should I notify the consulate any time I detain a foreign national who is a minor? What if the minor is unaccompanied and I am unable to locate the parent or guardian?

A. You must notify the nearest consulate, without delay, if the minor is a national of a "mandatory notification" ("list") country. If the minor is not a national of a list country, you should attempt to locate the minor's parent or guardian and ask whether he or she wants you to notify the consulate of the minor's detention. If you are unable to locate the legal guardian within 24 to 72 hours, or you believe the minor to be a victim of abuse or trafficking and that

contacting the parent or guardian would place the minor in danger, you should notify the consulate unless, under the circumstances, there is reason to believe notification could be detrimental to the minor (e.g., if the minor is seeking asylum in the United States). In such cases, you should ask a court or other competent authority to determine whether notification would be in the best interests of the minor. Consular notification is required in any case if the court or other appropriate authority initiates proceedings to appoint a guardian or trustee for the detained minor.

Q. If I have a foreign national who is hospitalized or quarantined, do I have to provide consular notification?

A. Usually. If the foreign national is hospitalized or quarantined pursuant to governmental authority (law enforcement, judicial, or administrative) and is not free to leave, under the VCCR and most bilateral agreements he or she must be treated like a foreign national in detention, and appropriate notification must be provided. Consular officers must be notified of the detention (regardless of the foreign national's wishes) if the detention occurs in circumstances indicating that the appointment of a guardian for the foreign national is required (e.g., if the detention is the result of an involuntary commitment due to mental illness).

Q. What about consular notification for adults who are mentally incompetent or lacking full capacity?

A. In cases where a detained adult foreign national is believed to lack full capacity, you must notify the national's consular officers if he or she is a national of a list country. If the individual is not a national of a list country, you should first determine whether his or her incapacity is likely to be temporary or to last for a significant period of time. If the foreign national is expected to recover his or her full capacity within 24 to 48 hours, you should wait until the individual has recovered and then ask whether he or she wants you to notify consular officers of the detention. If the foreign national

requests notification, a responsible official must ensure that notification is given to consular officers without delay. If the individual is not expected to recover his or her full capacity within 24 to 48 hours, pretrial services officers should bring the issue of consular notification to the attention of the court or other appropriate authorities, which should determine whether notification would be in the best interests of the detained individual. Notification to consular officers is required in all cases where the court or other appropriate authority initiates proceedings to appoint a guardian or trustee for an incapacitated adult.

Q. Are civil commitments of foreign nationals covered by consular notification requirements?

A. Usually. Under the VCCR and most bilateral agreements, a civil commitment is considered a detention. Even prior to the commitment, consular notification may be required by Article 37 of the VCCR, which requires that consular officers be notified whenever it appears that a guardian is needed for a foreign national, e.g., because he or she appears to be mentally ill or legally incompetent.

Q. Are foreign nationals in immigration detention covered by the consular notification requirement?

A. Yes. Consistent with this requirement, the Department of Homeland Security has addressed consular notification in its immigration regulations relating to the detention of aliens prior to removal (8 C.F.R. § 236.1(e)). In addition, if an alien is not admitted at a port of entry, but is taken to a detention facility and held there, consular notification requirements apply. If a foreign national is found inadmissible at a port of entry and required to remain at the port of entry until they can depart the United States, the Department considers such an individual to be detained within the meaning of the VCCR and the relevant bilateral agreements if the detention is long enough for consular notification to be practicable. Permitting consular communications by foreign

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nationals held at ports of entry can in some cases help resolve obstacles to the foreign national's admission. For example, a consular officer may be able to confirm whether or not a travel document suspected of being fraudulent is fraudulent or genuine.

Q. If I am a prison official taking custody of a foreign national long after his or her initial arrest or detention, do I have to inform the foreign national that he or she may have his or her consular officers notified, and to notify such officials where requested or where the national is from a list country?

A. The Department of State strongly recommends that consular notification procedures be followed routinely whenever a foreign national is transferred to a prison. There are a number of reasons for doing so. First, sometimes the fact that the person is a foreign national only becomes known when the person is transferred to a prison; in this case, prison officials themselves are responsible for completing consular notification procedures. Second, the transfer may also entail a transfer of the foreign national from one consular district to another, so that a new consular post will have jurisdiction over the foreign national. Third, a detained foreign national may decline consular notification or consular assistance in the early stages of a criminal proceeding but change his or her mind when faced with serving a sentence. Finally, following notification procedures when a foreign national comes into the prison system is a safeguard in case the procedures should have been followed earlier but were not.

Q. If I am a prison official taking custody of a foreign national who is being transferred to my prison from a different prison, do I have to go through consular notification procedures?

A. The Department of State strongly encourages that consular notification procedures be followed routinely whenever a foreign national is transferred from one prison to another, for the reasons discussed in the immediately preceding answer.

Q. Do I have to go through consular notification procedures if an already detained foreign national is charged with a new offense?

A. No, but notification is encouraged. Provided you went through consular notification procedures when the foreign national was detained on the original charges, you do not have to go through such procedures again if charges against the individual are added. Nevertheless, the Department of State encourages you to do so, in order to permit the consulate to provide whatever additional consular services to the individual it may feel are warranted. The Department strongly encourages repeating the consular notification process if the new charges are significantly more serious than the original charges, and especially if they expose the foreign national to the possibility of the death penalty.

Q. Do I have to go through consular notification procedures upon the release or parole of an incarcerated foreign national?

A. Possibly. A foreign national detainee who has been released to parole or to some other type of "aftercare" (e.g., to a halfway house) is generally able to establish contact with a consular official at his or her own discretion. Assuming that the competent authorities undertook consular notification procedures at the time of a foreign national's initial detention (i.e., informed the national that he or she may have his consular officers notified, and notified such officials upon his or her request, or in any event where he or she is a national of a "mandatory notification" ("list") country), there is no obligation to go through the procedures a second time when the national is released to parole or aftercare. At the same time, detaining authorities should keep in mind the purpose of consular notification requirements: to ensure that foreign nationals are not placed in situations in which they cannot receive assistance from their own governments. If it appears in particular circumstances that a detainee's parole or release to aftercare could have the practical effect of impeding the detainee's access to consular assistance, going through the procedures when there **19**

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has been a change in the detainee's status or location could be useful and could help prevent unnecessary complications.

Q. Do I have to go through consular notification procedures if I am taking a foreign national into custody for a parole violation (e.g., on a parole retake warrant) and he or she was given consular information when originally arrested or detained?

A. Yes. If the foreign national is taken back into detention after a period at liberty, consular notification procedures must be followed again. The relevant international agreements make no exception for such re-arrests. In addition, the need or desire for consular assistance may exist each time the person is returned to custody.

Q. Do I have to inform a foreign national that he or she may have his or her consular officers notified even if I give him or her the *Miranda* warning?

A. Yes. You must follow consular notification procedures with respect to detained foreign nationals in addition to providing *Miranda* or other warnings when required. Consular notification should not be confused with the *Miranda* warning. Neither can substitute for the other.

The *Miranda* warning is given regardless of nationality to protect the individual's constitutional rights against self-incrimination and to the assistance of legal counsel. The *Miranda* warning must be given prior to a custodial interrogation, regardless of when the interrogation occurs in relationship to the arrest or commencement of detention.

In contrast, the obligation to inform a foreign national that he or she may have consular officers notified stems from international legal requirements intended to permit foreign governments to provide their nationals with appropriate consular assistance. If the VCCR is the governing agreement, an arrested or

detained foreign national must be informed "without delay" that he or she may have consular officers notified, regardless of when the *Miranda* warnings are given.

For guidance on the timing of consular information and *Miranda* warnings, see the next section, "Questions About How Quickly You Must Give Consular Information to the Foreign National."

Q. If law enforcement officials of the foreign national's government are helping with our investigation, should I still go through the process of notifying consular officers?

A. Yes. It is important to distinguish between a government's consular officers and other officials, such as law enforcement officers, who have different functions and responsibilities. Even if law enforcement officials of the foreign national's country are aware of the detention and are helping to investigate the crime in which the foreign national allegedly was involved, it is still important to ensure that consular officers are made aware of the arrest or detention when required.

Q. Are there any circumstances in which I may comply with consular notification requirements by notifying someone other than the consular officer with responsibility for my geographic area?

A. The VCCR provides for notification to the "consular post." Consular officers are assigned to consular posts that have responsibility for consular districts, which are geographic areas. Consular officers have responsibilities and authority to act within their district. Thus, the original concept was that the consular officer with responsibility for the relevant geographic area would be notified. In practice, local authorities may not know the exact geographic areas served by each of the consulates in the United States. In cases of doubt, you should notify the nearest consulate or the consular section of the country's embassy in Washington, D.C., which will have supervisory

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authority over all of that country's consular officers in the United States.

The Department of State considers that the objectives of consular notification are met when consular officers of the country have notice of the detention because, if they are not the consular officers who would actually provide consular assistance, they will be in a position to ensure that the proper consular officers are notified. In such cases, you should keep a written record of who was notified, and the individual's location and title.

QUESTIONS ABOUT HOW QUICKLY YOU MUST GIVE CONSULAR INFORMATION TO THE FOREIGN NATIONAL

Q. How quickly do I need to inform the foreign national of the option to have his or her consular officers notified of the arrest or detention?

A. The VCCR requires that a foreign national be informed "without delay" of the option to have a consular officer notified of the arrest or detention. There should be no deliberate delay, and notification must occur as soon as reasonably possible under the circumstances.

The obligation to provide such consular information is triggered by knowledge that the person is a foreign national. Once foreign nationality is known, advising the national that he or she may have consular officers notified must follow promptly. If it appears that the person is probably a foreign national, you should provide consular information and treat the person like a foreign national until and unless you confirm that he or she is instead a U.S. citizen.

Ordinarily, you must inform a foreign national of the possibility of consular notification by or at the time the foreign national is booked for detention, which is a time when identity and foreign nationality can be confirmed in a safe and orderly way. If the identity and foreign nationality of a person are confirmed during a custodial interrogation that precedes booking,

consular information should be provided at that time. (Note, however, that there is no requirement to stop the interrogation if the foreign national requests that consular officers be notified of the detention, but nevertheless agrees to provide a statement voluntarily.) The Department of State encourages judicial authorities to confirm during court appearances of foreign nationals that consular notification procedures have occurred as required. If foreign nationality only becomes known during arraignment, consular notification procedures should be followed at that time.

If the fact that the person is a foreign national only becomes known after arrest, booking, or arraignment, the required procedures must be followed at that time. In some cases, this may be only after the person has been convicted and transferred to a prison, transferred from one prison to another, or when a presentence report is prepared. Thus prosecutors, judicial officials, corrections officials, and others should be alert to the possible need to comply with consular notification procedures well after an arrest or initial detention.

Q. Do I have to inform a foreign national of the option to have his or her consular officers notified of the arrest or detention at the same time that I give the *Miranda* warnings?

A. There is no requirement that consular information and *Miranda* warnings be given at the same time. On the other hand, some jurisdictions have found it convenient to combine these procedures, such as by including consular information on a card, script, or other written statement alongside the *Miranda* warnings. Such measures may help ensure compliance with consular notification requirements. Unlike when a detainee requests a lawyer after *Miranda* warnings, however, there is no requirement to delay an interview or interrogation while a consular officer is notified of a detention or travels to visit the detainee, if the detainee is willing to proceed.

For a sample of consular information language

that may be included on a card or script alongside the *Miranda* warnings, see page 73.

Q. If I inform a foreign national of the option to have his or her consular officers notified of the arrest or detention at the same time I give the *Miranda* warnings, can I be sure of complying with notification requirements?

A. In many cases providing consular information and *Miranda* warnings at the same time will result in compliance with consular notification requirements, but this may not always be the case. Consular information must be provided “without delay,” which generally means when you know that the person you have arrested or detained is a foreign national. This might or might not coincide with when *Miranda* warnings must be given. For example, there may be circumstances in which providing consular information only when *Miranda* warnings are given may result in consular information being provided later than it should be (e.g., if foreign nationality is known at the time of booking but any custodial interrogation, and hence the giving of *Miranda* warnings, occurs only later).

The Department of State recommends giving consular information when a detainee is booked because that is a time when identity is formally recorded and foreign nationality is likely to become known. If not at booking, the Department encourages jurisdictions to otherwise identify the point in their arrest or detention procedures at which foreign nationality is most likely to be established, and to make that point the focus of their consular notification procedures. Consular notification procedures will ideally include double-checking for compliance at other times, one of which might be when *Miranda* warnings are given.

QUESTIONS ABOUT THE MANNER IN WHICH YOU MUST GIVE CONSULAR INFORMATION TO THE FOREIGN NATIONAL

Q. Does the foreign national have to be informed in writing about the option to have his or her consular officers notified of the arrest or detention?

A. You may inform the detainee orally or in writing, but the Department of State strongly recommends providing the information in writing, particularly when the foreign national does not clearly understand English. In addition, the Department of State strongly recommends that you maintain a written record of the fact the foreign national was provided with consular information and of whether or not the foreign national requested that his or her consular officers be notified. You may want to ask the foreign national to sign a statement confirming that he or she was advised about consular notification and that he or she either did, or did not, want consular officers to be notified. A sample statement for these purposes (in English and several other languages) can be found in Part Five, on pages 73 through 100 of this manual.

Q. Does the foreign national have to be informed in his or her own language?

A. There is no requirement to inform a foreign national in his or her own language, but this is clearly preferable. Regardless of what language you use, you should seek to ensure that the foreign national understands what you are saying. Sample statements with translations appear in Part Five, on pages 73 through 100 of this manual, to facilitate providing information to foreign nationals notwithstanding language barriers.

Q. How do I figure out what country the foreign national is from, so that I know which consulate to notify? What if the national’s passport is from a country that no longer exists?

A. The best way is to check the foreign national’s passport or other identification documents, although many forms of identification (e.g., driver’s licenses and social security cards)

do not indicate nationality. In the absence of credible documents indicating nationality, ask the foreign national what his or her nationality is.

Some foreign nationals may be carrying a passport or other travel document bearing the name of a country that no longer exists, or exists with a different name. In rare cases, for example, you may encounter a national of a country that used to be part of the Soviet Union still in possession of an expired Soviet passport, or a national of the Czech Republic or Slovakia in possession of an expired passport issued by Czechoslovakia. More commonly, nationals of countries that made up the former Yugoslavia, especially the countries of Serbia, Montenegro, and Kosovo, may be carrying passports bearing the names of their individual countries or of the country they formerly composed: the “Federal Republic of Yugoslavia.” Kosovo nationals, moreover, may be using a travel document issued by the United Nations Mission in Kosovo or a passport bearing the name “Republic of Serbia.” In all such cases, you should attempt to ascertain from the foreign national his or her current country of nationality and, if he or she is unwilling to give such information, the country with which he or she wishes to establish consular communications. If requested to do so, and even if not so requested where the country in question is a “mandatory notification” (“list”) country, you must then contact that country’s consulate.

Residents of certain autonomous entities and territories, administrative regions, and other possessions may be carrying a passport that bears the name of their territory or entity along with the name of the country that has jurisdiction over it and provides its residents with consular services. Examples include certain overseas possessions of the United Kingdom (see the question “What about British nationals” immediately below); the Danish autonomous territories of Greenland and the Faroe Islands; and the Chinese special administrative regions of Hong Kong and Macao.

Barring evidence to the contrary, you should consider these persons nationals of the country with jurisdiction over the person’s territory of residence. For advice on figuring out whether the arrestee or detainee is a foreign national in the first place, see the question “Short of asking all detainees about their nationality, how might I know that someone is a foreign national?” on page 13.

Q. What about British nationals?

A. British nationality can be difficult to ascertain, as the United Kingdom has many current and former overseas territories whose residents may or may not be British nationals. Under the laws of the United Kingdom, certain residents of its former territories may have retained their British nationality upon independence. These persons will usually be dual nationals of the United Kingdom and the other country. As described above (see the question “What about dual nationals?” on page 14), a person who is not a U.S. citizen, but who is a citizen or national of two or more other countries, should be treated in accordance with the rules applicable to each of those countries. The United Kingdom and many of its former territories are “mandatory notification” (“list”) countries and must be notified in the event one of their nationals is arrested or detained, regardless of the individual’s wishes.⁶ The following former British territories are those that most frequently have residents who retained their British nationality upon independence, though this list is not exhaustive:

Antigua and Barbuda; Bahamas; Barbados; Dominica; Fiji; Grenada; Kiribati; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Seychelles; Tonga; Trinidad and Tobago; Tuvalu

These persons may or may not be carrying a passport issued by the United Kingdom or other documentation indicating their British nationality. The best or only method of ascertaining whether an individual from one of the above countries is also a British national, and that the British consulate must therefore

⁶ See footnote 19 on page 42, and footnote 30 on page 45.

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be notified, may be simply to ask the person to identify his or her nationalities.

Certain other territories currently belong to the United Kingdom. These are called “British Overseas Territories,” and their residents generally have British nationality. The British Overseas Territories do not have consulates of their own in the United States, even though they often do issue their own passports. Their residents rely on the consular services of the United Kingdom, so you will need to contact the nearest British consulate if you arrest or detain one of these persons. The British Overseas Territories are:

Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; British Virgin Islands; Cayman Islands; Falkland Islands, Gibraltar; Montserrat; South Georgia and the Sandwich Islands; Sovereign Base Areas of Akrotiri and Dhekelia; St Helena, Ascension, and Tristan Da Cunha; Pitcairn Islands; Turks and Caicos Islands

While these persons may be carrying a passport issued by the United Kingdom that contains the words “British” or “United Kingdom” on the cover or data page, they may be carrying a passport issued by their home territory (for example, Bermuda) with no indication of British nationality. Whatever the case, such persons are British nationals, and you must contact the nearest British consulate to inform it of the arrest or detention. Again, when in doubt, you may need to ask the individual to identify his or her nationalities.

Q. What if I can’t communicate with the foreign national? Can I notify consular officers regardless of what the foreign national’s wishes may be?

A. Yes, but such a course of action is not recommended unless the foreign national cannot understand what you are saying. If the case is covered by the VCCR (which in

most cases requires that a consular official be notified only if the foreign national requests notification), but you cannot communicate with the foreign national, you may notify the relevant consular post of the arrest or detention without ascertaining the foreign national’s wishes. You may also want to request the consular official’s assistance with interpretation.

The VCCR and the bilateral agreements do not create any right belonging to the foreign national that would be violated by informing his or her consular officers of the arrest or detention without his or her consent.⁷ However, except in certain cases involving minors and incompetent adults, the Department of State encourages respecting a foreign national’s desire not to have his or her consular officers notified when such a desire is known or ascertainable. (See the question “Why doesn’t the Department of State encourage consular notification in all cases, regardless of the foreign national’s wishes?” on page 26.) Some cases in which communication is not possible may involve minors or incompetent adults, where the VCCR provides for notification of the need for a guardian regardless of the foreign national’s wishes.

If the case is covered by a bilateral agreement that requires notification of the consular officer regardless of the foreign national’s wishes, then you should simply notify the consular officer as required. You may wish to advise the consular officer of the communication problem and to request assistance with interpretation. In all cases, you should be cautious about releasing information that a foreign national would not want released to his or her government. *You should never indicate to the foreign national’s government that the foreign national has requested asylum or withholding of removal.*

QUESTIONS ABOUT HOW QUICKLY YOU MUST NOTIFY THE CONSULAR OFFICERS OF

⁷ However, one bilateral consular convention—the convention between the United States and Ireland—does require you to refrain from contacting Irish consular officers if the detained Irish national, upon being informed about consular notification, requests that you not do so. For a citation to the convention, see footnote 55 on page 51.

⁸ Table B on pages 51-52 lists 19 “non-list countries” that have a bilateral agreement with the United States providing for consular notification upon request in terms similar to the VCCR. Most of these agreements require you to inform the consular officer “immediately.” Most of these are also parties to the VCCR. Following the same guidance set forth above in the main text—that is, there should be no deliberate delay, and notification to the consular officer must occur as soon as reasonably possible under the circumstances—will in many cases ensure compliance with the bilateral agreements.

THEIR NATIONAL'S ARREST OR DETENTION

Q. In a VCCR (“non-list country”) arrest or detention case, if the foreign national requests that consular officers be notified, how quickly do I have to do so?

A. Without delay. Under the VCCR, you must notify the consular officer of an arrest or detention “without delay” after the foreign national has been informed about consular notification and access and has requested that notification be made.⁸

Notification of arrests and detentions outside of a consulate’s regular working hours is not required; notification can be provided in the ordinary course of business. In fact, in some countries notification is given by mail and takes considerably longer to be received. Nevertheless, while the VCCR might not be breached if notification takes several business days, the Department of State recommends that notification be given within 24 to 72 hours of the arrest or detention. This is the standard the Department uses for seeking notification of U.S. citizens arrested abroad. In cases of emergencies (e.g., detentions of persons with serious health problems, deaths, or serious accidents), however, the Department of State urges that efforts be made to contact consular officers outside of normal hours. Some consulates maintain 24-hour coverage. In other cases it is possible and convenient to leave a voice mail at the consulate or to send a fax even though the consulate is closed. (If you leave a voice mail, the Department of State recommends a follow-up call during normal business hours to ensure that it was received; if you send a fax, keep a copy of the confirmation printout.)

Q. In a “mandatory notification” (“list”) country arrest or detention case, how quickly must the notification be provided to consular officers?

A. The bilateral agreements that provide for mandatory notification generally use such formulations as “without delay” and

“immediately.” One provides for notification “without delay” and expressly states that this contemplates within three days or, if this deadline cannot be met because of communication or other difficulties, “as soon as possible thereafter.” A few provide that notification should occur “immediately” and not later than within two, three, or four days of the arrest or detention. These latter agreements are intended to be more protective than the VCCR, by providing an outside limit or goal for informing a consular officer of a detention.

Table A: Provisions from Bilateral Agreements Requiring Mandatory Notification, on pages 45 through 50, reproduces the language from the mandatory notification bilateral agreements describing how quickly notification must be provided to consular officers. You should consult that language to determine whether notification must be provided within a certain number of days, “immediately,” or “without delay.” Following the same guidance as set forth in the immediately preceding answer will in many cases ensure compliance with the bilateral agreements; in other words, there should be no deliberate delay, and notification must occur as soon as reasonably possible under the circumstances.

QUESTIONS ABOUT THE MANNER IN WHICH YOU MUST NOTIFY THE CONSULAR OFFICERS OF THEIR NATIONAL'S ARREST OR DETENTION

Q. Can I agree to specific requests by particular consular officers to notify them of arrests or detentions that I am not required to tell them about?

A. A jurisdiction may agree to notify consular officers of all arrests or detentions of their nationals if it can do so consistent with any applicable federal, state, or local privacy laws. It is not unusual for a consular officer to request notification in all or certain kinds of cases. Such a request might be made because of a policy to offer assistance to all of the foreign government’s nationals in

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detention or as a safeguard against arresting or detaining officials forgetting to inform the foreign national that he or she may request consular notification. U.S. consular officers often ask local authorities to notify them of all arrests of U.S. citizens, even when no treaty requires such automatic notification. As noted on page 24, the VCCR does not create any right belonging to the foreign national that would be violated by informing his or her consular officers of the arrest or detention without his or her consent.⁹

Q. Can I simplify the process by notifying consular officers of all arrests or detentions, regardless of the foreign national's wishes, instead of worrying about which countries are "mandatory" ("list") and which are not mandatory?

A. While the VCCR does not create any right belonging to the foreign national that would be violated by informing his or her consular officers of the arrest or detention without his or her consent,¹⁰ the Department of State does not encourage jurisdictions to adopt a blanket policy of notifying consular officers in every case regardless of whether notification is automatically required by a bilateral agreement (i.e., regardless of whether the foreign national's country is a "mandatory notification" ("list") country). As previously noted, however, there may be situations in which it is appropriate to honor specific requests to notify particular consular officers of arrests and detentions even when notification is not strictly required, if this can be done consistent with applicable privacy and other laws.

Q. Are there any particular countries that we know want to be notified of arrests and detentions even in cases where I am not required to give notification?

A. Yes. The Government of Mexico has informed the Department of State of its desire to be notified of the detention of any minor, pregnant woman, or person "at risk" (meaning

a person with an extremely serious mental or physical problem or a person who is charged with a crime that could result in capital punishment). Federal, state, and local officials may agree to notify Mexican consular officers of arrests and detentions in such cases, even if the individual does not request notification, if this can be done consistent with any applicable federal, state, or local privacy or other laws.

Q. Why doesn't the Department of State encourage me to notify the consular officers of the arrest or detention in all cases, regardless of whether the foreign national wants me to notify them? Wouldn't that be simpler?

A. The Department of State does not encourage a policy of automatically notifying consular officers whenever one of their foreign nationals is arrested or detained, for a number of reasons. There is no uniformly applicable treaty or other federal-level requirement that consular officers be notified of all arrests and detentions of foreign nationals. Without such a governing federal requirement, privacy laws in some states may not permit notification unless the foreign national consents.

In addition, foreign nationals may not want the fact of their arrest or detention disclosed unnecessarily.¹¹ In some cases, a foreign national may be afraid of his or her government and may wish to apply for refugee status or asylum in the United States. Finally, some foreign consular offices may not have the capacity to deal with notifications in all cases. Learning only of cases in which the foreign national requests notification allows them to use their limited resources more efficiently.

Q. Isn't it wrong to follow "mandatory notification" procedures for list countries if the foreign national doesn't want his or her consular officers notified? What about the foreign national's privacy interests? What if the foreign national is afraid of his or her

26 ¹⁰ Under a bilateral agreement, the rules are different for detained Irish nationals. See footnote 7 on page 24.

¹¹ Moreover, one bilateral consular convention—the convention between the United States and Ireland—*requires* that you refrain from contacting Irish consular officers if the detained Irish national, upon being informed about consular notification, requests that you not do so. See footnote 7 on page 24, footnote 55 on page 51, and footnote 136 on page 66.

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own government?

A. If the foreign national is from a “mandatory notification” (“list”) country, the consular officers must be notified of the arrest or detention even if the foreign national objects or claims to be afraid. If the foreign national is an asylum seeker, arrangements can be made to protect the foreign national while ensuring that the United States fulfils its obligation to notify his or her consular officers. *You should never reveal to the foreign national’s government that the foreign national has or may have applied for asylum or withholding of removal.* The Department of State requests that you contact it for specific guidance when faced with such a case.

Q. If the foreign national is from a “mandatory notification” (“list”) country and I notify the consular officers as required, should I tell the foreign national?

A. Yes. The foreign national should always be told that his or her consular officers have been notified and that he or she may communicate with them. While the mandatory notification bilateral agreements generally do not expressly require that the national be informed of such notification, informing the national about consular notification and access is provided for in the VCCR. Most countries with which the United States has a bilateral agreement also belong to the VCCR, and even in cases in which countries are not party to VCCR, the Department of State expects the same procedures to be followed as a matter of customary international law. If questions arise concerning which instrument governs a particular question—the VCCR or the bilateral agreement—contact the Department of State.

Q. Can I comply with consular notification requirements by simply letting the detained foreign national have access to a telephone?

A. No. It is the obligation of the government officials responsible for the arrest or detention to ensure that consular notification procedures are followed. When the foreign

national requests that his or her consular officers be notified, or when notification is mandatory because the foreign national is from a “mandatory notification” (“list”) country, the government officials responsible for the detention must personally notify the consular officers or ensure (and be able to confirm) that it is provided.

Providing access to a phone and relevant phone numbers is only sufficient to satisfy the obligation to permit consular communication (also in Article 36(1)(b) of the VCCR), and only then if you can confirm that the communication in fact occurred.

Q. My detention facility only allows inmates to make collect calls when calling outside of the local area. What should I do if a consulate refuses to accept a collect call from a foreign national inmate? Do I have to allow the foreign national to call the consulate directly?

A. VCCR Article 36(1)(a) states that “consular officers shall be free to communicate with nationals of the sending State and to have access to them,” and that “[n]ationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State...” This obligation is satisfied by permitting the detainee to communicate by letter. The Department of State nevertheless encourages permitting telephone communications, including direct calls to consulates that do not accept collect calls, as long as the privilege is not abused.

Q. When I notify the consular officers, should I tell them the reasons for the detention?

A. A handful of bilateral consular agreements require you to give the foreign consular officer the reasons why the foreign national was detained:

Algeria: Only one bilateral agreement, the agreement with Algeria, requires you to inform

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the foreign consular officer of the reasons—in the words of the agreement, the “motivating circumstances”—behind the detention, whether or not the consular officer expressly asks you for the reasons.

Bulgaria, China (including Hong Kong and Macao), Czech Republic, Poland, and Slovakia: Bilateral agreements with these other six countries require you to inform the foreign consular officer of the reasons behind the detention only if the consular officer asks for the reasons.¹²

For all other countries, you do not have to inform the consular officer of the reasons why the foreign national was detained, as no such obligation exists under the VCCR or relevant bilateral agreements with other countries. Nevertheless, the Department of State recommends that, if the consular officers ask you the reasons, you provide them as a courtesy, if possible. Mexico, for example, has informed the Department that it would like to be advised of the reasons for the arrest of its nationals so that it can focus its consular resources on death penalty and other serious cases. The Department asks that, where possible, you comply with this request.

Generally you may use your discretion in deciding how much information to provide, consistent with privacy considerations and the applicable international agreements, in the initial notification of an arrest or detention. In doing so, you may wish to balance the privacy interests of the detainee with the interests of the foreign government in allocating its resources to respond first to the most serious cases. If a consular official insists that he or she is entitled to information about a foreign national that the foreign national does not want disclosed, the Department of State can provide guidance.

In some cases, federal or state law may prohibit you from providing detailed information concerning the reasons for the detention. For example, certain laws may prohibit you from

giving information to third parties concerning the medical condition of persons confined to a medical institution. Where you have detained a foreign national for medical reasons and the foreign consular officer asks to know the reasons for the detention—especially where the detainee’s nationality is Algerian, Bulgarian, Chinese, Czech, Slovakian, or Tunisian—contact the Department of State for guidance.

Q. Is there a guiding principle I can follow in applying the consular notification requirements?

A. Yes: reciprocity. Always keep in mind that these are mutual obligations. In general, you should treat the foreign national as you would want an American citizen to be treated in a similar situation in a foreign country. This means you should inform the foreign national promptly and courteously: (1) that he or she may communicate with consular officers and request consular notification; or (2) that you must notify the consulate because the detainee is from a “mandatory notification” (“list”) country. When required, you should promptly and courteously notify the foreign national’s nearest consular officers so that they can provide whatever consular services they deem appropriate.

QUESTIONS ABOUT WHAT HAPPENS IF YOU FAILED TO NOTIFY

Q. If I failed to go through consular notification procedures when I should have and the foreign national is still in detention, what should I do?

A. Consular notification is always “better late than never.” If the appropriate consular notification procedures were not followed at the time of the initial arrest or detention, you should follow the instructions in this manual as soon as you become aware that a foreign national is in your custody, so that the relevant foreign government is given the opportunity to provide consular assistance. You should go

28 ¹² Similarly, if the foreign national is ultimately charged with a crime and his or her consular officers ask to know the charges, bilateral agreements with Bulgaria, China (including Hong Kong and Macao), the Czech Republic, Mongolia, Poland, and Slovakia require you to tell them the charges. The agreement with Tunisia also requires you to tell the consular officers the charges, unless the detained Tunisian national expressly asks you not to do so.

FREQUENTLY ASKED QUESTIONS

through consular notification procedures even if a different government entity (e.g., the police, where you are the prosecutor or a prison official) failed to provide consular notification in the first place.

Q. If I failed to go through consular notification procedures but the foreign national is now receiving consular assistance, should I still notify the foreign consular officers of the arrest or detention?

A. If the foreign national has already established contact with his or her consular officers, it is useful but not essential to remedy a failure to provide consular notification by going through the procedures described in this manual. The consular notification procedures are a mechanism to ensure that a foreign government can provide consular assistance to its nationals who are detained. Once the foreign government's consular officers are aware of the detention it is not necessary, for the mere sake of formality, to follow consular notification procedures. Following consular notification procedures in such a case could be useful, however, to ensure that the foreign national understands his or her options and that there is an official record of compliance with the requirements, which may be helpful if compliance becomes an issue in litigation. In addition, if the foreign government officials involved are not consular officers (e.g., if they are foreign law enforcement officials), then consular notification procedures should still be followed.

Q. If I failed to go through consular notification procedures and the foreign national has already been released from detention, should I still go through the process of notification?

A. The appropriate action in such a situation will vary. If the foreign national is still subject to criminal proceedings arising from his or her arrest, it may be appropriate to advise the prosecutor that consular notification procedures were not followed or to take other

steps to ensure that the foreign national or his or her attorney is aware of the option to communicate with consular officers. It may make sense to notify consular officers directly of the ongoing proceedings, particularly if the foreign national is from a "mandatory notification" ("list") country.

Such steps will ensure that the foreign government is given the opportunity to provide consular assistance for the remaining period of the proceedings. If proceedings against the foreign national have ended and he or she is no longer detained, so that consular assistance is unlikely to have any continuing relevance, there is little or no reason to follow notification procedures. In cases involving brief detentions (e.g., less than 24 hours), the Department of State does not believe any need exists to notify the consular officers where the detainee has already been released, even if consular officers were not notified during the detention.

Q. What remedy might the foreign national or his or her country have if I failed to go through consular notification procedures?

A. The judicial remedies available to a foreign national alleging a violation of consular notification requirements vary by jurisdiction. Foreign nationals have sought money damages for alleged violations, though such suits are rarely successful. Some foreign nationals have also sought review of their convictions or sentences, claiming trial counsel provided ineffective assistance by not raising the consular notification violation at trial. The most significant consequence, however, is that the United States will be seen as a country that does not take its international legal obligations seriously.

In all cases where applicable consular notification procedures were not followed, you should determine the reason behind the failure and take steps to prevent similar mistakes in the future. If the country's consular officers complain about the failure to follow proper

procedures, it may be appropriate to apologize and to assure them that corrective actions have been or will be taken to prevent recurrences.

If the Department of State receives a complaint that consular notification was not provided as required, it will take whatever actions it deems appropriate, both at the international and domestic levels. The Department will likely request the relevant facts from the detaining federal, state, or local authority, and may intervene to ensure that consular access is permitted where the foreign national is still in detention. The Department will also work with the involved federal, state, or local detaining officials to improve future compliance.

QUESTIONS ABOUT HOW CONSULAR OFFICERS WILL PROVIDE ACCESS AND ASSISTANCE

Q. What can I expect a consular officer to do once notification of an arrest or detention has been made?

A. A consular officer may do a variety of things to assist a detained foreign national. The consular officer may ask to speak with the foreign national over the phone, may write to him or her, or may arrange one or more consular visits to meet with the detainee to discuss his or her situation and needs. A consular officer may assist in arranging legal representation, monitor the progress of the case, and seek to ensure that the foreign national receives a fair trial (e.g., by working with the foreign national's lawyer, communicating with prosecutors, or observing the trial). The consular officer may speak with prison authorities about the foreign national's conditions of confinement, and may bring the detainee reading material, food, medicine, or other necessities, if permitted by prison regulations. A consular officer will often get in touch with the foreign national's family members, particularly if they are in the country of origin, to advise them of his or her situation, morale, and other relevant information.

The consular officer may also deliver correspondence addressed to the foreign

national, subject to applicable regulations of the prison facility. These may include letters from the national's family members or government, including correspondence from courts of the home country or the national's lawyer in the home country on legal matters concerning the national. It is also within the scope of the consular officer's duties to assist the foreign national in transmitting correspondence to these outside entities, as long as any assistance provided is in accordance with applicable rules and regulations of the prison facility.

As the purpose of the consular visit is to allow the consular officer the opportunity to provide consular services to the foreign national with a view to safeguarding the national's own personal interests, the consular officer may not engage in law enforcement activities, such as taking or recording a statement from the national for use in a lawsuit or prosecution in the home country.

The actual services provided by a consular officer will vary in light of numerous factors, including the foreign country's level of representation in the United States and available resources. For example, some countries only have an embassy in Washington, D.C., and will rarely be able to visit their nationals imprisoned in locations elsewhere in the United States. Other countries have consulates located in many major U.S. cities and may regularly perform prison visits throughout the United States. Each country has discretion in deciding what level of consular services it will actually provide.

Q. Are consular officers obligated to provide assistance to their nationals?

A. The VCCR and bilateral consular agreements do not require consular officers to provide assistance to their detained nationals. Some countries may have internal policies or laws obligating their consular officers to provide certain services, but most consular assistance is provided at the discretion of the consulate based on resources, workload,

location of consulates in the United States, and other factors.

Q. Can I rely on the consular officer to arrange for legal counsel?

A. No. If the foreign national has a right to counsel and requests that he or she be given a court-appointed lawyer, you should follow ordinary procedures for arranging counsel. While a consular officer is permitted to assist in arranging counsel, whether or not to assist is fully within the consular officer's discretion.

Q. Is a consular officer entitled to act as legal counsel for a detained foreign national?

A. No. Consular officers are not permitted to practice law in the United States. They may, however, participate in litigation as "friends of the court," and they may assist a foreign national and his or her legal counsel in preparation of the foreign national's defense, if the foreign national agrees.

Q. Are a consular officer's communications with a detained foreign national privileged in the same way communications with lawyers are privileged? Can the consular officer take actions contrary to the foreign national's interests?

A. A consular officer is entitled to testimonial immunity concerning matters connected with the exercise of his functions, unless his government waives that immunity. In other words, the officer cannot be compelled to give testimony about what he or she has learned or done in the course of performing consular functions, unless his or her government waives such immunity. Even so, the Department of State expects consular officers to provide appropriate assistance to prosecutors and other U.S. authorities, e.g., by confirming the identity of their nationals, and helping the Department of Homeland Security to remove their nationals from the United States when an order of removal is final, regardless of whether the national wants to be removed.

A consular officer may take actions contrary to the foreign national's interests, and is not required to preserve the confidences of the foreign national unless so required under the laws of his or her own country. For example, a consular officer may share information obtained in an interview with the detainee with law enforcement authorities of his or her home country. A consular officer may also assist arresting or detaining authorities by doing things such as reviewing identity documents to determine if they are authentic, assisting with interpretation, or helping to contact witnesses or other interested persons.

Q. Do I have to permit a consular officer to have access to a detainee?

A. Yes—and you must allow one consular visit even if the foreign national doesn't want a visit. Consular officers are entitled to visit and to communicate with their detained nationals. This is true even if the foreign national has not requested a visit, or specifically tells you that he or she does not want to be visited or contacted by consular officers. In situations where you have told the foreign national that he or she may have his or her consular officers notified, and the foreign national declines notification, the consulate may become aware of the arrest or detention anyway, through independent means. The consulate may also become aware because you notified them, as required where the foreign national's country is a "mandatory notification" ("list") country. In either case, where consular officers have become aware of the arrest or detention and request consular access, you must allow it.

If the foreign national does not want consular assistance, the consular officer should be allowed an opportunity to confirm that directly—for example, through a one-time, face-to-face meeting. In the event that an in-person, face-to-face meeting is not practicable (e.g., in a quarantine situation or an involuntary commitment where the foreign national poses a danger to himself and others), you should develop a mutually acceptable alternative.

FREQUENTLY ASKED QUESTIONS

The Department of State can assist in these efforts.

However, you should never reveal to the foreign national's government that the foreign national has or may have applied for asylum or withholding of removal. If a consular officer insists on obtaining information about a foreign national that the national does not want disclosed, the Department of State can provide more specific guidance.

Q. Do I have to allow access by employees of the consulate who are not consular officers?

A. Not usually, but you may if you wish (see the exception for Iranian nationals described immediately below). As noted above, “consular officers” are officials of a foreign government accredited by the Department of State and authorized to provide assistance on behalf of the foreign government to that government's citizens in another country. The VCCR contains no prohibition on visits by consular employees who are not consular officers, but who are approved by the consulate to conduct visits to detained foreign nationals. If the government authority responsible for the arrest or detention has no objection to allowing such persons to conduct visits, they may do so. The government authority should keep a record of the visit and verify that the person is indeed authorized by the consulate to conduct the visit. If the government authority does not wish to allow non-consular officers to conduct visits, it need not do so, as it has no obligation to allow consular access by such persons.

Q. Do special rules apply if I detain an Iranian national?

A. Yes. As an exception to the rule described immediately above, if you arrest or detain a national of Iran you must allow consular access by “properly notified” employees of the Iranian Interests Section of the Embassy of Pakistan in Washington, D.C. These individuals do not possess consular identification cards. When faced with a request from the Iranian Interests Section for consular access, you should contact the Department of State to verify that the employees proposed to conduct the visit

have been properly notified to the Department in accordance with the protecting power arrangements between Department and the Embassy of Pakistan, and are thus authorized to conduct such visits. Pakistani consular officers may also conduct consular visits to Iranian nationals. If you detain a dual U.S.-Iranian national, see the question “What about dual nationals?” on page 14 of this manual.

Q. Are consular officers entitled to visit whenever they want to?

A. No. Law enforcement and corrections authorities may make reasonable regulations about the time, place, and manner of consular visits to detained foreign national, and consular officers may be required to visit during established visiting hours. In accordance with Article 36(2) of the VCCR, however, those regulations cannot be so restrictive that the purpose of consular assistance is defeated.

The Department urges law enforcement authorities to grant foreign consular officers liberal access to detained persons, and to provide the consular officer every courtesy and facility consistent with local laws and regulations. Liberal visiting privileges are particularly important when consular officers have to travel long distances to visit their nationals.

Q. Do consular officers have to comply with prison security regulations?

A. Yes. For example, consular officers may be prohibited from taking in prohibited items, such as recording devices; or from taking statements from the foreign national under oath, having the national sign a statement, or otherwise engaging in formal law enforcement activities. If the consular officer questions having to follow a particular security rule, you should tell him or her to address the question directly to the Department of State. Such questions may arise occasionally because, while not exempt from security regulations, under rules relating to the privileges and immunities of diplomatic and consular officers, consular officers conducting prison visits are entitled to be treated with respect.

FREQUENTLY ASKED QUESTIONS

Q. Is a consular officer entitled to meet or converse privately with a detained foreign national?

A. The United States has bilateral agreements with the following countries requiring you to allow the foreign consular officers to converse with their national in private:

Antigua and Barbuda; Bahamas; Barbados; Belize; Brunei; Costa Rica; Cyprus; Dominica; Fiji; Gambia; Ghana; Grenada; Guyana; Ireland; Jamaica; Japan; Kiribati; Kuwait; Malaysia; Malta; Mauritius; Nigeria; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Seychelles; Sierra Leone; Singapore; Tanzania; Tonga; Trinidad and Tobago; Tuvalu; United Kingdom; Zambia; and Zimbabwe.

In cases of nationals of other countries, privacy is encouraged but not required. The VCCR and other bilateral agreements entitle consular officers to converse with their nationals, but they do not explicitly state that such conversations must be in private. The Department of State would normally expect the privacy of communications between consular officers and their nationals to be respected. The aim of consular access is for the consular officer to safeguard the interests of the foreign national by, for example, checking on the person's welfare, helping arrange legal representation, and conversing with the person about the conditions of detention. This aim is best accomplished when the consular officer and foreign national are free to meet in private and converse in an unrestricted manner. The monitoring of consular conversations may have a chilling effect on the foreign national's ability to communicate freely with the consular officer about issues that go to the core of consular assistance.

Nevertheless, the Department of State recognizes that in rare cases safety or security procedures at a detention facility may require that all communications with detainees be monitored, or the circumstances of a particular detainee may require that communications with him or her be monitored (e.g., the detainee is especially dangerous and may attack the consular officer). In general, you should

be prepared to articulate specific safety or security concerns in cases where you believe you cannot provide a private meeting area to the consular officer and the detainee, or where you otherwise believe that monitoring the visit is essential. Where safety or security concerns are invoked, the measures taken to monitor the visit must be tailored to address the articulated concerns, in order to enable full effect to be given to the purposes of consular visits to the greatest extent possible. In most cases where safety or security concerns are invoked, the presence of a security guard will be sufficient to allay the concerns. Where a decision is made to monitor the visit, whether in person or remotely, you should disclose to the detainee and to the consular officer that they will be monitored.

If a consular officer insists upon a private meeting but the detained national objects to meeting privately, you should seek guidance from the Department of State.

Q. What is the role of a consular officer in a case involving the death of a foreign national?

A. The VCCR authorizes consular officers to safeguard the interests of nationals of their country who have died in the United States, in accordance with applicable federal, state, and local laws and regulations. In addition, many bilateral agreements authorize consular officers to undertake specific activities related to the personal estates of deceased foreign nationals, such as:

- ▶ Acting as provisional or temporary conservator of the property of the deceased citizen until an administrator is appointed.
- ▶ Acting as administrator of an estate of one of its nationals or of an estate in which one of its nationals may have an interest if no person having a superior right under the applicable local law is competent or willing to act.
- ▶ Representing the interests of its nationals in estate proceedings within the consular officer's jurisdiction.

FREQUENTLY ASKED QUESTIONS

Consular officers may also help identify the body of a deceased foreign national, notify next of kin, and help obtain and authenticate relevant documents. Notification of a death is particularly important because it allows foreign governments to cancel passports and other travel documents so that they are not fraudulently reissued, or fraudulently appropriated and used by a third party.

Q. Do I have to notify consular officers if a foreign national is seriously injured or ill?

A. Although serious injuries and illnesses are not specifically covered in the VCCR, the Department of State encourages U.S. officials to consider notifying consular officers if a foreign national is in such a critical condition that contacting the consular officers would be in that person's best interest (e.g., if the foreign national is in a coma or is sent to the hospital with a life-threatening injury). If the foreign national is put into quarantine or involuntary medical confinement, under the VCCR the appropriate consular notification procedures must be followed. For more on this issue, see the question "If I have a foreign national who is hospitalized or quarantined, do I have to provide consular notification?" on page 18.

Q. What is the role of a consular officer in a case involving the appointment of a guardian?

A. Consular officers are in a unique position to assist courts and other competent authorities in determining what is in the best interests of a foreign national minor or incapacitated adult. Consular officers may be able to:

- ▶ Help locate family in the United States or in the foreign national's country of origin that may be authorized to act as the individual's guardian or be willing to take on that role.
- ▶ Facilitate communications between the foreign national and his or her family.
- ▶ Help point out cultural differences that may be relevant in determining the foreign national's best interests.

- ▶ Obtain and authenticate relevant documents, such as medical or school records, in the foreign national's country of origin.
- ▶ Arrange for legal representation for the foreign national.

Article 5(h) of the VCCR authorizes a consular officer to safeguard "within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons." Yet Article 37(b) expressly recognizes that consular notification of guardianship procedures is not intended to interfere with such procedures; rather, notification is "without prejudice to the operation of the laws and regulations" concerning such appointments. Thus, the laws and regulations of the jurisdiction will determine whether, and in what manner, a consular officer may undertake particular activities on behalf of a foreign national in guardianship proceedings. In general, however, consular officers should be permitted to participate in guardianship proceedings if they so choose and should be permitted to present their views, either orally in writing, to the court or other competent authorities.

The actual services provided by a consular officer will vary in light of numerous factors, including the number of consulates and consular officers the foreign country has in the United States and available resources. As a result, you should not delay legal proceedings unless consular officers have expressed an interest in the case and the court or other competent authority determines that delaying the proceedings to permit consular officers an opportunity express their government's views or to provide assistance is in the best interests of the foreign national.

FREQUENTLY ASKED QUESTIONS

Q. Are consular officers entitled to receive copies of a foreign national's medical records in cases involving the death of a foreign national or the possible appointment of a guardian for a minor or incapacitated foreign national?

A. Be aware that federal or state privacy laws may impact whether you can provide consular officers with a deceased, minor, or incapacitated foreign national's medical information. Should questions arise in this respect, contact the Department of State for guidance.

Q. Is there a guiding principle I can follow with respect to consular access and dealing with consular officers?

A. Yes: reciprocity. Always keep in mind that these are mutual obligations. In general, you should permit a consular officer to perform consular functions in the same way that you would want an American consular officer to do so in a similar situation in a foreign country.

QUESTIONS ABOUT CONTACTING THE DEPARTMENT OF STATE

Q. Do I need to notify the Department of State whenever I arrest or detain a foreign national?

A. No. Your obligations are to notify the detainee's consular officers if the foreign national so requests or if the national is from a "mandatory notification" ("list") country. You do not need to inform the Department of State about the detention. In fact, the Department generally prefers that you not inform it (e.g., through courtesy copies or faxed notifications), since informing the Department often causes confusion about whether the foreign consulate has been informed properly and in a timely manner. On the other hand, it may be appropriate to inform the Department of unusual cases or anomalous situations not addressed in this manual, provided that you also simultaneously notify the detained individual and the appropriate foreign consulate when required to do so. If you have questions about any of the consular notification and access obligations or related matters addressed in

this manual, the Department stands ready to provide information and advice.

Q. How can I get answers to other questions?

A. Additional inquiries may be directed to:

Consular Notification & Access (CNA)
U.S. Department of State
CA/P
SA-17, 12th Floor
Washington, DC 20522-1712

Telephone: (202) 485-7703
Email: consnot@state.gov

Urgent telephone inquiries after regular business hours (8 a.m. to 5 p.m. Eastern) may be directed to the Department's Operations Center at (202) 647-1512.

Further information on this topic, including updates and training resources, can be found on the Consular Notification and Access website at travel.state.gov/CNA.

PART FOUR: LEGAL MATERIAL

The materials in this section include:

- ▶ **Legal Overview**
- ▶ **Vienna Convention on Consular Relations**
- ▶ **Bilateral Agreements**
- ▶ **Components of Tables A through D**
- ▶ **Customary International Law**
- ▶ **Basis for Implementation**
- ▶ **Table A: Provisions from Bilateral Agreements Requiring Mandatory Notification**
- ▶ **Table B: Provisions from Bilateral Agreements Requiring Notification upon Request**
- ▶ **Table C: Consular Convention and Agreement Status of All Countries**
- ▶ **Table D: Countries with Bilateral Agreements Containing Provisions on Consular Notification and Access**

LEGAL OVERVIEW

The following pages summarize and provide the basic legal authorities that pertain to consular notification and access. They include the key provisions of the VCCR and bilateral agreements providing for “mandatory notification,” as well as bilateral agreements providing for consular notification upon the detained foreign national’s request, and information concerning other treaties relevant to the provision of consular services.

A function of governments has long been to provide services to their nationals abroad. These “consular” services include certain legal services, such as notarizing documents or assisting with the estate of a national who dies abroad. They also include looking for missing nationals, determining whether nationals are safe, assisting in evacuating nationals from countries where their lives are in danger, and other similar “welfare and whereabouts” services. Another important consular service is the provision of assistance to nationals who are detained by a foreign government. Protecting such nationals may include attempting to ensure that they receive a fair and speedy trial with the benefit of counsel; visiting them in prison to ensure that they are receiving humane treatment; and facilitating communications with their families.

The performance of consular functions was originally a subject of customary international law but not uniformly addressed in any treaty. Eventually, efforts were made to codify in international treaties the rights of governments to provide consular services to their nationals. Such treaties might be called “treaties,” “conventions,” or “agreements,” but all generally enjoy the status of a treaty in international law, in that they legally bind the countries that become parties to them.

When the United States first began to conclude international agreements on consular relations with other countries, the usual vehicle was a type of bilateral treaty known as a treaty of “friendship, commerce, and navigation.” Later, bilateral conventions dealing exclusively with consular matters—typically referred to as “consular conventions”—became more common. The United States concluded bilateral consular conventions with many countries throughout the twentieth century, though with less frequency after it became a party to the Vienna Convention on Consular Relations (VCCR).¹³ As a result of decolonization and the breakup of several countries following the end of the Cold War, a number of new countries succeeded to the bilateral treaty obligations already in force between the relevant predecessor country and the United States. These are discussed below in the section entitled “Bilateral Agreements.”

VIENNA CONVENTION ON CONSULAR RELATIONS

On April 24, 1963, the multilateral VCCR was concluded and countries throughout the world began ratifying it.¹⁴ The VCCR entered into force on March 19, 1967, and the United States ratified it on December 24, 1969. Today, most countries are parties to the VCCR, which to a large extent codified customary international law and thus represents the most basic principles pertaining to the performance of consular functions. The United States relies on the VCCR as the principal basis for the conduct of its consular activities, although most of the bilateral consular conventions and other agreements with consular provisions that the United States has concluded with other countries remain in force alongside the VCCR.

Because of its comprehensive nature and near-universal applicability, the VCCR now

¹³ Vienna Convention on Consular Relations, Apr. 24, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261 (entered into force Mar. 19, 1967) (entered into force for the United States Dec. 24, 1969).

¹⁴ Another multilateral consular convention is the Havana Convention Relating to the Duties, Rights, Prerogatives and Immunities of Consular Agents, Feb. 20, 1928, 2 Bevens 714, 155 L.N.T.S. 291, reprinted in 26 AM. J. INT’L L. SUPP. 378 (1932) (entered into force Sept. 3, 1929) (entered into force for the United States Feb. 8, 1932). Unlike the VCCR, this convention deals only with the privileges and immunities of consular officers. As of 2009, the parties to it were: Brazil, Colombia, Cuba, Dominican Republic, Ecuador, El Salvador, Haiti, Mexico, Nicaragua, Panama, Peru, the United States, and Uruguay.

establishes the baseline for most obligations with respect to the treatment of foreign nationals in the United States, and for foreign governments' treatment of U.S. nationals abroad. More than 170 countries are now party to the VCCR, which leaves approximately 20 still outside the VCCR regime; as explained below, a smaller subset of these 20 also lacks a bilateral agreement with the United States dealing with consular matters.¹⁵ The VCCR provides rules for the operation of consulates and for the duties of consular officers of the "sending" country (that is, the country that has sent the consular officer abroad) in the "receiving" country (that is, the country to which the consular officer has been sent). Much of the VCCR addresses "privileges and immunities" of consular officers; for example, consular officers may not be sued for official acts.

The VCCR also addresses the services consular officers may provide to nationals in the receiving country. Article 5, reproduced below, enumerates several of these. Two additional articles—Articles 36 and 37—address consular assistance to nationals, further underscoring the special importance the international community places on giving such assistance. Article 36(1)(a) states the fundamental rule that consular officers and their nationals may communicate with and have access to each other. To ensure the ability of a foreign national to communicate with his or her consular officers when he or she is in custody or some other form of detention, Article 36(1)(b) provides that the "competent authorities" of the receiving country (e.g., the police, prosecutor, or prison authorities) must inform the foreign national "without delay" that he or she may have his or her "consular post" notified of the arrest or detention without delay, and have any communications forwarded to the consular post without delay. If the foreign national "so requests," these authorities must notify the consular post and forward communications. Article 36(1)(c), in turn, gives consular officers the right to visit their nationals in detention in the receiving country, to converse and correspond with them, and to arrange for their

legal representation. This article expressly bars consular officers from taking action on behalf of a foreign national that the foreign national opposes. Article 36(2) stipulates that foreign nationals and consular officers must carry out the activities outlined in Article 36(1) in conformity with the "laws and regulations" of the receiving country, but that those laws "must enable full effect to be given to the purposes for which the rights ... are intended."

Article 37 addresses consular functions in cases of death, major air and sea accidents, and where guardians are appointed for minors and others lacking legal competence. In each scenario, the "competent authorities" of the receiving country must notify the consular post of the affected foreign national or nationals. Article 37(b) expressly recognizes, however, that consular notification of guardianship procedures is not intended to interfere with such procedures. Rather, notification is "without prejudice to the operation of the laws and regulations" concerning such appointments.

The following is the full text of Articles 5, 36, and 37 of the VCCR:

Article 5: Consular Functions

Consular functions consist in:

- (a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
- (b) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention;
- (c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving

information to persons interested;

(d) issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State;

(e) helping and assisting nationals, both individuals and bodies corporate, of the sending State;

(f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;

(g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession mortis causa in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;

(h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons;

(i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defense of their rights and interests;

(j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with

international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;

(k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;

(l) extending assistance to vessels and aircraft mentioned in sub-paragraph (k) of this Article and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State;

(m) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

Article 36: Communication and Contact with Nationals of the Sending State

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

(b) if he so requests, the competent authorities

of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph;

(c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this Article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this Article are intended.

Article 37: Information in Cases of Deaths, Guardianship or Trusteeship, Wrecks, and Air Accidents

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

(a) in the case of the death of a national of the sending State, to inform without delay the consular post in whose district the death occurred;

(b) to inform the competent consular post without delay of any case where

the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments;

(c) if a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.

BILATERAL AGREEMENTS

Prior to its 1969 ratification of the VCCR, the United States entered into many bilateral treaties on the conduct of consular relations. Since that time, the United States has concluded a small number of additional bilateral consular agreements and memoranda of understanding on consular matters. Despite this occasional practice, the United States today adheres to a general policy of not entering into new bilateral agreements on consular matters, and instead urges universal ratification and application of the VCCR.

Today, bilateral consular conventions—as well as bilateral agreements on a variety of different subjects including consular relations—remain in force between the United States and more than 120 countries. A comprehensive list of these agreements appears in Table C, beginning on page 55. Most of these countries, in turn, are also parties to the VCCR, as indicated in that table. For many countries, the United States has more than one bilateral agreement with consular provisions.

It is useful to divide the bilateral agreements into three categories. First, many of them—especially those from the nineteenth and early twentieth centuries—are silent on consular

notification and access when a foreign national is arrested or detained, but nevertheless contain other important provisions relevant to the provision of consular assistance. These agreements should be consulted if particular questions arise as to the treatment of a foreign national of a particular country (e.g., with respect to the handling of deaths and estates of foreign nationals in the United States).¹⁶

Second, several bilateral agreements contain a provision requiring that consular officers be notified when one of their nationals is arrested or detained, but only upon the national's request, in terms similar to those of the VCCR.¹⁷ The relevant text of these "upon request" provisions appears in Table B, on pages 51 through 52.¹⁸

Third, bilateral agreements between the United States and 56 other countries require that consular officers be notified of the arrest or detention of one of their nationals automatically, regardless of whether the national wants such notification to occur. While these are commonly called "mandatory notification agreements" and the countries that are party to them are called "mandatory notification," "list," or "special rule" countries, a better term would have been "automatic notification" countries, because if requested by the foreign national after being informed, notification to the consular officers is also mandatory under the VCCR and the "upon request" bilateral agreements described in the previous paragraph. A complete list of the "mandatory notification" countries, and the relevant text of their mandatory notification

provisions, appears in Table A.

While the mandatory notification requirement pertains to 56 countries, it flows from just 14 bilateral agreements. This is because, in international practice relating to successor states, a treaty that applied to a country when it was part of or under the jurisdiction of another country may in some circumstances continue to apply to that country when it becomes independent.

Thus, the 1973 bilateral agreement with Czechoslovakia today applies to two countries, the Czech Republic and Slovakia; the 1951 bilateral agreement with the United Kingdom now applies to the United Kingdom itself along with 31 former British colonies;¹⁹ and the 1964 bilateral agreement with the Soviet Union now applies to 12 former Soviet republics.²⁰

COMPONENTS OF TABLES A THROUGH D

Table A lists the "mandatory notification" countries. **Table B** lists the countries with which the United States has a bilateral agreement requiring notification only "upon request." As noted above, the VCCR's duty to notify is triggered only when the national is "arrested or committed to prison or to custody pending trial or detained in any other matter," and only if the national requests notification. By contrast, some of the bilateral agreements use different language to describe the event—arrest, detention, etc.—that triggers the duty to notify. Tables A and B reproduce the language from the bilateral agreements describing this

¹⁶ For example, bilateral agreements with Austria, Estonia, Finland, Germany, Greece, Honduras, Latvia, Norway, Sweden, and Thailand require, in certain circumstances, that consular officers be notified when one of their nationals dies in the United States. See footnotes 64, 71, 91, 92, 95, 96, 99, 106, 116, and 125. This is also an express requirement in most of the bilateral consular conventions listed in the third column of Table C.

¹⁷ These are Belgium, Denmark, Eritrea, Ethiopia, France, Germany, Iran, Ireland, Israel, Japan, Netherlands, Luxembourg, Oman, Pakistan, Poland, South Korea, Suriname, Thailand, and Togo.

¹⁸ The bilateral agreement with Poland uniquely establishes different rules for Polish lawful permanent residents in the United States, on one hand, and all other Polish nationals, on the other. Polish "green card" holders—that is, lawful permanent resident aliens—must be informed of their right to request consular notification, and Polish consular officers must be notified only if the green card holder requests it. The arrest or detention of any other Polish national must be reported to Polish consular officers automatically, regardless of whether the Polish national requests it. For the citation to the bilateral agreement, see footnote 42 on page 48. The bilateral agreements with Denmark and Israel require that the foreign national actually be accused of a crime to trigger consular notification requirements, though Denmark is a party to the VCCR and, regardless of whether the foreign national is charged with a specific crime, both countries are required by customary international law to give the foreign national consular information, notify the consulate upon request, and allow a consular visit. See page 43-44 for a discussion of customary international law and footnotes 50 and 56 on pages 51 and 52 for a citation to the Danish and Israeli agreements.

“triggering event.”

Moreover, several of the “mandatory notification” agreements in Table A set an absolute time limit for mandatory notification, but also express a preference for notification within a shorter time such as “without delay” or “immediately.” For these agreements, the column in Table A labeled “Preferred Time Limit” lists the preferred time for providing notification, and the column labeled “Absolute Time Limit” lists the time within which notification must be provided. Most of the agreements in Table A, and all of the agreements in Table B, have only one time limit—that is, the “absolute” time limit.

The full citation to each of these bilateral agreements, with dates of signature and entry into force, appears in the footnotes accompanying Tables A and B. Citations to “Bevans” are to the *Treaties and Other International Agreements of the United States of America, 1776–1949*, compiled under the direction of Charles I. Bevans. Citations to “U.S.T.” are to *United States Treaties and Other International Obligations*, which were calendar-year volumes published from 1950 to 1984. Citations to “T.I.A.S.” are to the *Treaties and Other International Acts Series*, issued by the Department of State; pre-1984 T.I.A.S. prints of treaties were also subsequently compiled in U.S.T. Citations to “S. Treaty Doc. No.” are to pamphlets printed by the U.S. Government Printing Office and issued by the United States Senate. Citations to “L.N.T.S.” are to the *League of Nations Treaty Series*; citations to “U.N.T.S.” are to the *United Nations Treaty Series*.

The large number of bilateral agreements and the many variations in their provisions makes it impossible to reproduce their text in this manual, beyond the provisions on consular notification that appear in Tables A and B. If issues arise as to provisions in the bilateral agreements that are not reproduced in this manual, the Department of State can assist in finding those provisions.

Table C indicates the consular agreement status of all countries in the world, along with certain other jurisdictions. The **second column** indicates the year the VCCR entered into force between a given country and the United States. For those countries that ratified or acceded to the VCCR prior to 1969, “1969” appears in the first column, as that was the year the United States ratified the VCCR. For those countries not yet party to the VCCR, no year appears in the first column. The **third column** of Table C lists the bilateral consular convention or conventions between the country and the United States—if any—as well as other bilateral agreements dealing wholly or almost wholly with consular matters, and agreements amending such conventions or agreements. Where such an agreement exists for a given country, the column shows the year it entered into force between that country and the United States. Citations in the footnotes show the year of signature and other relevant information. The **fourth column** of Table C indicates, where applicable, the year of entry into force of other, more general agreements that include consular provisions of current relevance, such as treaties of “friendship, commerce, and

¹⁹ The former colonies are Antigua and Barbuda, the Bahamas, Barbados, Belize, Brunei, Cyprus, Dominica, Fiji, Gambia, Ghana, Grenada, Guyana, Jamaica, Kiribati, Kuwait, Malaysia, Malta, Mauritius, Nigeria, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Singapore, Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Zambia, and Zimbabwe. Current British dependencies also covered by the bilateral consular convention between the United States and the United Kingdom are Anguilla, the British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands. Residents of the Overseas Territories may be traveling on a passport issued by the territory with no indication that the territory is British. Moreover, certain residents of the former territories may have retained their British nationality upon independence alongside the nationality of the new country. For advice on how to ascertain whether an arrested or detained person is a British national, and therefore whether a British consulate must be notified of the arrest or detention, see the question “What about British nationals?” on page 23. For a citation to the U.S.-U.K. bilateral consular convention, see footnote 30 on page 45.

42 ²⁰ These are Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. Beyond the U.K., Czechoslovakia, and Soviet Union successors, 11 other countries are “mandatory notification” countries: Albania, Algeria, Bulgaria, China (including Hong Kong and Macao), Costa Rica, Hungary, Mongolia, Philippines, Poland (except with respect to detained Polish nationals who are lawful permanent resident aliens of the United States—i.e., “green card” holders), Romania, and Tunisia.

navigation” with some provisions setting forth consular functions. The second, third, and fourth columns of Table C are not a definitive record, however, and do not list all agreements relevant to the work of consular officers. Most common among the agreements not listed are those relating principally to passport and visa matters; customs and entry privileges for consular officers; social security totalization; and international legal assistance.

The **fifth column** of Table C indicates, where applicable, the year a multilateral or bilateral prisoner transfer agreement entered into force between a given country and the United States. “COE” before the year indicates that the country is a party to the multilateral 1983 Council of Europe (Strasbourg) Convention on the Transfer of Sentenced Prisoners.²¹ “OAS” indicates that the country is a party to the multilateral 1993 Organization of American States Inter-American Convention on Serving Criminal Sentences Abroad.²² “B” indicates that a bilateral prisoner transfer agreement exists between the United States and that country. The **sixth column** of Table C indicates, where applicable, the year the 1980 Hague Convention on the Civil Aspects of International Child Abduction entered into force between a given country and the United States.²³

Finally, **Table D** synthesizes certain information contained in Tables A, B, and C for quick

reference. Additional information on the status of these and other treaties can be found in the State Department publication *Treaties in Force*, accessible from the website of the Office of the Assistant Legal Adviser for Treaty Affairs at the Department of State, <http://www.state.gov/s/l/treaty>.

CUSTOMARY INTERNATIONAL LAW

While consular relations are now largely governed by the treaties discussed above, the United States still looks to customary international law as a basis for insisting upon adherence to consular notification and access requirements by a small number of countries not party to the VCCR or any bilateral agreement with a provision on consular notification and access.²⁴ The Department of State takes the view that consular notification and access upon request as set forth in the VCCR is a universally accepted, basic practice that should be followed even for nationals of countries not party to the VCCR or other applicable bilateral agreements. Following this procedure also is consistent with the practice of U.S. consular officers, who seek similar treatment for U.S. citizens abroad. Thus, in all cases not covered by a mandatory notification agreement, the minimum requirements are to inform an arrested or detained foreign national that his or her consular officers may be notified upon request; to notify these consular officers if the national requests; and to permit the

²¹ Convention on the Transfer of Sentenced Prisoners, Mar. 21, 1983, 35 U.S.T. 2867, 1496 U.N.T.S. 92 (entered into force July 1, 1985). The United States was a party to this convention when it entered into force.

²² Inter-American Convention on Serving Criminal Sentences Abroad, June 9, 1993, S. Treaty Doc. No. 104-35 (entered into force Apr. 12, 1996) (entered into force for the United States June 24, 2001). For all countries that ratified this convention before 2001, the year listed in Table C is 2001—the year of the United States’ ratification.

²³ Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11,670, 1343 U.N.T.S. 89 (entered into force Dec. 1, 1983) (entered into force for the United States July 1, 1988). Articles 37 and 38 set forth the rules for determining whether the Hague Convention is in force as between a given country and another country. As a result of this procedure, several countries have acceded to the Hague Convention, but because the United States has not accepted their accession, the Convention is not yet in force between the country and the United States. Table C accordingly does not list a year of entry into force with the United States for the following Hague Convention parties: Albania, Armenia, Belarus, Fiji, Georgia, Moldova, Nicaragua, Seychelles, Thailand, Trinidad and Tobago, Turkmenistan, and Uzbekistan.

consular officers to provide consular assistance if they wish to do so.

Even these customary international law requirements will not apply to the arrest of a foreign national if the United States and the foreign national's government have not made arrangements for the conduct of consular relations or, in the absence of such relations, for the performance of consular functions through other mechanisms, such as "protecting powers"—that is, third countries that have agreed to perform consular functions on behalf of the United States and the country with which it does not have consular relations. It could nevertheless be appropriate in such situations to inform the foreign national's government of an arrest or detention as a matter of courtesy. Should such a case arise, you should contact the Department of State for guidance.

BASIS FOR IMPLEMENTATION

Although the obligations of consular notification and access are not codified in any federal statute, they are binding on states and local governments as well as the federal government, by virtue of international law and the Supremacy Clause in Article VI of the United States Constitution, which provides that "all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." See also, e.g., *Kolovrat v. Oregon*, 366 U.S. 187, 190 (1961). Therefore, implementing legislation is not necessary, and the VCCR and bilateral agreements can be implemented by executive, law enforcement, and judicial authorities through their existing powers. It is nevertheless open to government entities to adopt laws or regulations for the purpose of implementing these obligations. For example, California and Oregon have adopted implementing legislation,²⁵ and both the U.S. Department of Justice (28 C.F.R. § 50.5) and the U.S. Department of Homeland Security

(8 C.F.R. § 236.1(e)) have adopted implementing regulations.

In addition, implementation can be undertaken directly on the basis of the relevant treaties and written guidance such as this manual, and through issuance of internal directives, orders, or similar instructions by appropriate federal, state, and local officials to their subordinates. For example, many police departments incorporate instructions on consular notification into their local manuals. The Wisconsin Department of Justice also has issued guidelines.²⁶

The Department of State encourages local law enforcement entities to develop practical guidance based on the instructions in this manual or to adapt the "basic instructions" at the front of this manual for general distribution to law enforcement officers in the field. The Department of State has created a model standard operating procedure (SOP) for law enforcement agencies to use as a template. This SOP appears on pages 109 through 113.

²⁴ These are Afghanistan, Burundi, Central African Republic, Chad, Comoros, Congo (Brazzaville), Côte d'Ivoire, Guinea-Bissau, Nauru, Palau, San Marino, Swaziland, Taiwan, and Uganda. On this question as concerns Israel, see footnote 18 on page 41.

²⁵ See CAL. PENAL CODE § 834c (1999); OR. REV. STAT. §§ 181.642(2), 426.228(9)(a) (2007).

²⁶ See WISCONSIN DEP'T OF JUSTICE, GUIDE FOR LAW ENFORCEMENT CONTACTS WITH FOREIGN NATIONALS, (Jan. 2008), at 4–6, available at <http://cdm16119.contentdm.oclc.org/cdm/singleitem/collection/p267601coll4/id/1117/rec/8>.

TABLE A: PROVISIONS FROM BILATERAL AGREEMENTS REQUIRING MANDATORY NOTIFICATION

COUNTRY/JURISDICTION	TRIGGERING EVENT	PREFERRED TIME LIMIT	ABSOLUTE TIME LIMIT
Albania ²⁷	Arrested or detained in any manner	--	72 hours ²⁸
Algeria ²⁹	Any measure taken to deprive person of liberty	--	Without delay
Antigua and Barbuda ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Armenia ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication
Azerbaijan ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication
Bahamas ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Barbados ^{30,32}	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Belarus ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication

²⁷ Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Socialist Republic of Albania Concerning the Re-Establishment of Diplomatic Relations, Mar. 15, 1991, art. 1(5), T.I.A.S. No. 12428 (effective Mar. 15, 1991).

²⁸ According to the bilateral agreement, the competent authorities shall notify the consular officers within 72 hours and permit access by a consular officer to the person within 24 hours of such notification.

²⁹ Consular Convention Between the Government of the United States of America and the Government of the Democratic and Popular Republic of Algeria, Jan. 12, 1989, art. 33(1), S. Treaty Doc. No. 101-13 (entered into force July 30, 1997).

³⁰ Convention, with Protocol of Signature, Between the United States of America and the United Kingdom of Great Britain and Northern Ireland, June 6, 1951, art. 16(1), 3 U.S.T. 3426, 165 U.N.T.S. 121 (entered into force Sept. 7, 1952).

³¹ Consular Convention Between the United States of America and the Union of Soviet Socialist Republics, June 1, 1964, art. 12(2) & Protocol ¶ 1, 19 U.S.T. 5018, 655 U.N.T.S. 213 (entered into force July 13, 1968).

³² Agreement Continuing in Force Between the United States and Barbados the Consular Convention of June 6, 1951 Between the United States and the United Kingdom, Sept. 14, 1972 & May 10, 1973, 24 U.S.T. 1803 (effective May 10, 1973).

TABLE A: PROVISIONS FROM BILATERAL AGREEMENTS REQUIRING MANDATORY NOTIFICATION

COUNTRY/JURISDICTION	TRIGGERING EVENT	PREFERRED TIME LIMIT	ABSOLUTE TIME LIMIT
Belize ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Brunei ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Bulgaria ³³	Any form of deprivation or limitation of personal freedom	Immediately	Three calendar days
China (including Hong Kong and Macao) ³⁴	Arrested or placed under any form of detention	Immediately	Four days ³⁵
Costa Rica ³⁶	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Cyprus ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Czech Republic ³⁷	Any form of deprivation or limitation of personal freedom	Without delay	Three calendar days
Dominica ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately

³³ Consular Convention, with Agreed Memorandum and Exchange of Letters, Between the United States of America and the People's Republic of Bulgaria, Apr. 15, 1974, art. 38(2), 26 U.S.T. 687 (entered into force May 29, 1975).

³⁴ Consular Convention, with Exchange of Notes, Between the United States of America and the People's Republic of China, Sept. 17, 1980, and Modifying Agreement Effected by Exchange of Notes, Jan. 17, 1981, art. 35(2), 33 U.S.T. 2973, 3048 (entered into force Feb. 19, 1982); Agreement Between the Government of the United States of America and the Government of the People's Republic of China Regarding the Maintenance of the U.S. Consulate General in the Hong Kong Special Administrative Region, Mar. 25, 1997, art. 3(f)(2), T.I.A.S. No. 12,845 (effective July 1, 1997) (same consular notification and access language applies to Hong Kong and Macao). Mandatory notification procedures are not applicable to persons carrying "Republic of China" passports issued by Taiwan; see footnote 129 on page 64.

³⁵ According to the bilateral consular convention, if notification within four days is impossible due to communications difficulties, the competent authorities should provide notification as soon as possible.

³⁶ Consular Convention Between the United States of America and the Republic of Costa Rica, Jan. 12, 1948, art. 7(2)(b), 1 U.S.T. 247, 70 U.N.T.S. 27 (entered into force Mar. 19, 1950).

³⁷ Consular Convention Between the United States of America and the Czechoslovak Socialist Republic, July 9, 1973, art. 36(1), T.I.A.S. No. 11,083 (entered into force Nov. 6, 1987).

TABLE A: PROVISIONS FROM BILATERAL AGREEMENTS REQUIRING MANDATORY NOTIFICATION

COUNTRY/JURISDICTION	TRIGGERING EVENT	PREFERRED TIME LIMIT	ABSOLUTE TIME LIMIT
Fiji ^{30,38}	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Gambia ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Georgia ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication
Ghana ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Grenada ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Guyana ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Hungary ³⁹	Detention pending trial or any other deprivation of personal liberty	Without delay	Three days
Jamaica ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Kazakhstan ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication
Kiribati ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Kuwait ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately

³⁸ Agreement on Continued Application of the United States–United Kingdom Convention of June 6, 1951, Oct. 16 & Dec. 12, 1972, 23 U.S.T. 3770 (effective Dec. 12, 1972).

³⁹ Consular Convention Between the United States of America and the Hungarian People’s Republic, July 7, 1972, art. 41(1), 24 U.S.T. 1141 (entered into force July 6, 1973).

TABLE A: PROVISIONS FROM BILATERAL AGREEMENTS REQUIRING MANDATORY NOTIFICATION

COUNTRY/JURISDICTION	TRIGGERING EVENT	PREFERRED TIME LIMIT	ABSOLUTE TIME LIMIT
Kyrgyzstan ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication
Malaysia ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Malta ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Mauritius ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Moldova ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication
Nigeria ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Philippines ⁴¹	Detained, arrested, in prison, or awaiting trial	--	Immediately
Poland ⁴²	Polish non-permanent resident in United States detained or arrested ⁴³	--	Three days

⁴¹ Consular Convention Between the United States of America and the Republic of the Philippines, Mar. 14, 1947, art. 7(2), T.I.A.S. No. 1741, 11 Bevans 74, 45 U.N.T.S. 23 (entered into force Nov. 18, 1948).

⁴² Consular Convention Between the Government of the United States of America and the Government of the Polish People's Republic, May 31, 1972, art. 29(2), 24 U.S.T. 1231 (entered into force July 6, 1973).

⁴³ The bilateral consular convention provides a different rule for Polish lawful permanent residents (i.e., holders of "green cards"): consular notification need only be provided if the person requests it. For more on the special rules applicable to detained Polish nationals, see footnote 18 on page 41.

TABLE A: PROVISIONS FROM BILATERAL AGREEMENTS REQUIRING MANDATORY NOTIFICATION

COUNTRY/JURISDICTION	TRIGGERING EVENT	PREFERRED TIME LIMIT	ABSOLUTE TIME LIMIT
Romania ⁴⁴	Any form of deprivation or limitation of personal freedom	Without delay	Two days
Russia ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication
St. Kitts and Nevis ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
St. Lucia ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
St. Vincent and the Grenadines ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Seychelles ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Sierra Leone ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Singapore ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Slovakia ³⁷	Any form of deprivation or limitation of personal freedom	Without delay	Three calendar days
Tajikistan ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication
Tanzania ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately

⁴⁴ Consular Convention Between the United States of America and the Socialist Republic of Romania, with Protocol, July 5, 1972, art. 22(1), 24 U.S.T. 1317 (entered into force July 6, 1973).

TABLE A: PROVISIONS FROM BILATERAL AGREEMENTS REQUIRING MANDATORY NOTIFICATION

COUNTRY/JURISDICTION	TRIGGERING EVENT	PREFERRED TIME LIMIT	ABSOLUTE TIME LIMIT
Tonga ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Trinidad and Tobago ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Tunisia ⁴⁵	Arrest or any form of restriction on personal freedom	--	Three days ⁴⁶
Turkmenistan ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication
Tuvalu ^{30,47}	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Ukraine ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication
United Kingdom ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Uzbekistan ³¹	Arrest or other form of detention	Immediately	Within one to three days from time of arrest or detention, depending on conditions of communication
Zambia ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately
Zimbabwe ³⁰	Confined in prison awaiting trial or otherwise detained in custody	--	Immediately

⁴⁵ Consular Convention Between the United States of America and the Republic of Tunisia, May 12, 1988, art. 39(1), S. Treaty Doc. No. 101-12 (entered into force Jan. 15, 1994).

⁴⁶ According to the bilateral consular convention, if notification within three days is impossible due to communications or other difficulties, notification shall be made as soon as possible thereafter.

⁴⁷ Agreement on Continued Application to Tuvalu of Certain Treaties Concluded Between the United States and the United Kingdom, 32 U.S.T. 1310, 1222 U.N.T.S. 293 (effective Apr. 25, 1980).

TABLE B: PROVISIONS FROM BILATERAL AGREEMENTS REQUIRING NOTIFICATION UPON REQUEST

COUNTRY/JURISDICTION	TRIGGERING EVENT	TIME LIMIT
Belgium ^{48,49}	Taken into custody	Immediately
Denmark ⁵⁰	Accused of a crime and taken into custody	Immediately
Eritrea ⁵¹	In custody	Immediately
Ethiopia ⁵¹	In custody	Immediately
France ⁵²	Arrest and detention	Immediately
Germany ⁵³	Taken into custody	Immediately
Iran ⁵⁴	In custody	Without unnecessary delay
Ireland ⁵⁵	Confined in prison, awaiting trial, or otherwise detained in custody	Immediately

⁴⁸ Consular Convention, with Exchange of Notes, Between the United States of America and Belgium, Sept. 2, 1969, art. 25(2), 25 U.S.T. 41 (entered into force Jan. 5, 1974).

⁴⁹ Treaty of Friendship, Establishment and Navigation Between the United States of America and the Kingdom of Belgium, Feb. 21, 1961, art. 1(4), 14 U.S.T. 1284, 480 U.N.T.S. 149 (entered into force Oct. 3, 1963).

⁵⁰ Treaty of Friendship, Commerce and Navigation Between the United States of America and the Kingdom of Denmark, Oct. 1, 1951, art. 3(2), 12 U.S.T. 908, 421 U.N.T.S. 105 (entered into force July 30, 1961).

⁵¹ Treaty of Amity and Economic Relations Between the United States of America and Ethiopia, Sept. 7, 1951, art. 6(2), 4 U.S.T. 2134, 206 U.N.T.S. 41 (entered into force Oct. 8, 1953).

⁵² Consular Convention Between the United States of America and France, July 18, 1966, art. 34(1), 18 U.S.T. 2939, 700 U.N.T.S. 257 (entered into force Jan. 7, 1968). See also Convention of Establishment Between the United States of America and France, Nov. 25, 1959, Protocol ¶1(a), 11 U.S.T. 2398, 401 U.N.T.S. 75 (entered into force Dec. 21, 1960) (similarly providing for consular notification upon request).

⁵³ Treaty of Friendship, Commerce and Navigation Between the United States of America and the Federal Republic of Germany, Oct. 29, 1954, art. 3(2), 7 U.S.T. 1839, 273 U.N.T.S. 3 (entered into force July 14, 1956).

⁵⁴ Treaty of Amity, Economic Relations, and Consular Rights Between the United States of America and Iran, Aug. 15, 1955, art. 2(4), 8 U.S.T. 899, 284 U.N.T.S. 93 (entered into force June 16, 1957).

⁵⁵ Consular Convention Between the United States of America and Ireland, May 1, 1950, art. 16(1), 5 U.S.T. 949, 222 U.N.T.S. 107 (entered into force June 12, 1954), as amended by Protocol Supplementary to the Consular Convention Between the United States of America and Ireland, Mar. 3, 1952, 5 U.S.T. 949, 222 U.N.T.S. 107 (entered into force June 12, 1954). Special consular notification and access requirements apply to detained Irish nationals under this convention; see footnote 7 on page 24. An earlier bilateral agreement that remains in force with Ireland similarly provides for consular notification upon demand of a foreign national accused of a crime taken into custody; see footnote 100 on page 59.

TABLE B: PROVISIONS FROM BILATERAL AGREEMENTS REQUIRING NOTIFICATION UPON REQUEST

COUNTRY/JURISDICTION	TRIGGERING EVENT	TIME LIMIT
Israel ⁵⁶	Accused of a crime and taken into custody	Immediately
Japan ⁵⁷	Confined in prison awaiting trial or otherwise detained	Immediately
Korea, South ⁵⁸	Under arrest or otherwise detained in custody	Immediately
Luxembourg ⁵⁹	Taken into custody	Immediately
Netherlands ⁶⁰	Taken into custody	Immediately
Oman ⁶¹	In custody	As soon as possible
Pakistan ⁶²	Taken into custody	Immediately
Poland ⁴²	Polish lawful permanent resident (i.e., "green card" holder) in U.S. detained or arrested ⁶³	Immediately
Suriname ⁶⁰	Taken into custody	Immediately
Thailand ⁶⁴	In custody	Immediately
Togo ⁶⁵	In custody	Immediately

⁵⁶ Treaty of Friendship, Commerce and Navigation Between the United States of America and Israel, with Protocol, Aug. 23, 1951, art 3(2), 5 U.S.T. 550, 219 U.N.T.S. 237 (entered into force Apr. 3, 1954).

⁵⁷ Consular Convention Between the United States of America and Japan, with Protocol, Mar. 22, 1963, art. 16(1), 15 U.S.T. 768, 518 U.N.T.S. 179 (entered into force Aug. 1, 1964).

⁵⁸ Consular Convention Between the United States of America and the Republic of Korea, Jan. 8, 1963, art. 5(2), 14 U.S.T. 1637, 493 U.N.T.S. 105 (entered into force Dec. 19, 1963). An earlier bilateral agreement that remains in force with South Korea also provides for consular notification upon demand of a foreign national taken into custody. See footnote 104 on page 59.

⁵⁹ Treaty of Friendship, Establishment and Navigation Between the United States of America and the Grand Duchy of Luxembourg, with Protocol, Feb. 23, 1962, art. 3(4), 14 U.S.T. 251, 474 U.N.T.S. 3 (entered into force Mar. 28, 1963).

⁶⁰ Treaty of Friendship, Commerce and Navigation Between the United States of America and the Kingdom of the Netherlands, with Protocol, Mar. 27, 1956, art. 3(2), 8 U.S.T. 2043, 285 U.N.T.S. 231 (entered into force Dec. 5, 1957) (entered into force for former Dutch colony of Suriname Feb. 10, 1963).

⁶¹ Treaty of Amity, Economic Relations and Consular Rights Between the President of the United States of America and the Sultan of Muscat and Oman and Dependencies, with Protocol, Dec. 20, 1958, art. 2(2), 11 U.S.T. 1835, 380 U.N.T.S. 181 (entered into force June 11, 1960).

⁶² Treaty of Friendship and Commerce Between the United States of America and Pakistan, Nov. 12, 1959, art. 3(2), 12 U.S.T. 110, 404 U.N.T.S. 259 (entered into force Feb. 12, 1961).

⁶³ The bilateral agreement provides a different rule for Polish nationals who are not lawful permanent residents: consular notification must be provided regardless of whether the national requests it. For more on the special rules applicable to detained Polish nationals, see footnote 18 on page 41.

⁶⁴ Treaty of Amity and Economic Relations Between the United States of America and the Kingdom of Thailand, May 29, 1966, art. 1(2), 19 U.S.T. 5843, 652 U.N.T.S. 253 (entered into force June 8, 1968).

⁶⁵ Treaty of Amity and Economic Relations Between the United States of America and the Togolese Republic, Feb. 8, 1966, art. 2(1), 18 U.S.T. 1, 680 U.N.T.S. 159 (entered into force Feb. 5, 1967).

TABLE C: CONSULAR CONVENTION AND AGREEMENT STATUS OF ALL COUNTRIES

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Afghanistan	--	--	1936 ⁶⁷	--	--
Albania	1991	--	1991 ²⁷	COE 2000	--
Algeria	1969	1997 ²⁹	--	--	--
Andorra	1996	--	--	COE 2000	--
Angola	1990	--	--	--	--
Antigua and Barbuda	1988	1952 ³⁰	--	--	--
Argentina	1969	--	1854 ⁶⁸	--	1991
Armenia	1993	1968 ³¹	1933 ⁶⁹	COE 2001	--
Australia	1973	--	1815 ⁷⁰	COE 2003	1988
Austria	1969	--	1931 ⁷¹	COE 1987	1988
Azerbaijan	1992	1968 ³¹	1933 ⁶⁹	COE 2001	--
Bahamas	1977	1952 ³⁰	--	COE 1992	1994

⁶⁶ As previously noted, “COE” before the year in this column indicates that the country is a party to the multilateral 1983 Council of Europe (Strasbourg) Convention on the Transfer of Sentenced Prisoners. “OAS” indicates that the country is a party to the multilateral 1993 Organization of American States Inter American Convention on Serving Criminal Sentences Abroad.

⁶⁷ Friendship and Diplomatic and Consular Representation: Provisional Agreement Between the United States of America and the Kingdom of Afghanistan, Mar. 26, 1936, 5 Bevans 1, 168 L.N.T.S. 143 (effective Mar. 26, 1936).

⁶⁸ Treaty of Friendship, Commerce and Navigation, Between the United States and the Argentine Confederation, July 27, 1853, 5 Bevans 61 (entered into force Dec. 20, 1854).

⁶⁹ Arrangements Between the United States of America and the Union of Soviet Socialist Republics Relating to the Establishment of Diplomatic Relations, Nonintervention, Freedom of Conscience and Religious Liberty, Legal Protection and Claims, Nov. 16, 1933, 11 Bevans 1248 (effective Nov. 16, 1933).

⁷⁰ Convention to Regulate the Commerce Between the Territories of the United States and of His Britannick Majesty, July 3, 1815, Art. 4, 12 Bevans 49 (entered into force July 3, 1815).

⁷¹ Treaty of Friendship, Commerce and Consular Rights Between the United States of America and the Republic of Austria, June 19, 1928, 5 Bevans 341, 118 L.N.T.S. 241 (entered into force May 27, 1931).

TABLE C: CONSULAR CONVENTION AND AGREEMENT STATUS OF ALL COUNTRIES

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Bahrain	1992	--	--	--	--
Bangladesh	1978	--	--	--	--
Barbados	1992	1952 ^{30,32}	--	--	--
Belarus	1989	1968 ³¹	1933 ⁶⁹	--	--
Belgium	1970	1974 ⁴⁸	1963 ⁴⁹	COE 1990	1999
Belize	2000	1952 ³⁰	--	OAS 2005	1989
Benin	1979	--	--	--	--
Bhutan	1981	--	--	--	--
Bolivia	1970	--	1862 ⁷²	COE 2004 B 1978 ⁷³	--
Bosnia and Herzegovina	1993	1882 ⁷⁴	1882 ⁷⁵	COE 2005	1991
Botswana	2008	--	--	--	--
Brazil	1969	--	1829 ⁷⁶	OAS 2001	2003
Brunei	--	1952 ³⁰	1853 ⁷⁷	--	--
Bulgaria	1989	1975 ³³	--	COE 1994	2005
Burkina Faso	1969	--	--	--	1992
Burma (Myanmar)	1997	--	1815 ⁷⁰	--	--

⁷² Treaty of Peace, Friendship, Commerce, and Navigation Between the United States of America and the Republic of Bolivia, May 13, 1858, 5 Bevens 721 (entered into force Nov. 9, 1862).

⁷³ Treaty Between the United States of America and the Republic of Bolivia on the Execution of Penal Sentences, Feb. 10, 1978, 30 U.S.T. 796, 1150 U.N.T.S. 11 (entered into force Aug. 17, 1978).

⁷⁴ Convention Between the United States of America and His Highness the Prince of Serbia, Defining the Rights, Immunities and Privileges of Consular Officers, Oct. 2 & 14, 1881, 12 Bevens 1233 (entered into force Nov. 15, 1882).

⁷⁵ Treaty of Commerce Between the United States of America and Serbia, Oct. 2 & 14, 1881, 12 Bevens 1227 (entered into force Nov. 15, 1882).

⁷⁶ Treaty of Peace, Friendship, Commerce, and Navigation, Dec. 12, 1828, 5 Bevens 792 (entered into force Mar. 18, 1829).

⁷⁷ Treaty of Peace, Friendship, Commerce, and Navigation, June 23, 1850, 5 Bevens 1080 (entered into force July 11, 1853).

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Burundi	--	--	--	--	--
Cambodia	2006	--	--	--	--
Cameroon	1969	--	--	--	--
Canada	1974	1935 ⁷⁸	1815 ⁷⁰	COE 1985 OAS 2001 B 1978 ⁷⁹	1988
Cape Verde	1979	--	--	--	--
Central African Republic	--	--	--	--	--
Chad	--	--	--	--	--
Chile	1969	1952 ⁸⁰	1834 ⁸¹	COE 1998 OAS 2001	1994
China	1979	1979 ⁸² 1982 ³⁴	--	B 1999 (Hong Kong) ⁸³	1997 (Hong Kong) 1999 (Macao) ⁸⁴
Colombia	1972	1851 ⁸⁵	1848 ⁸⁶	--	1996

⁷⁸ Arrangement Relating to Visits of Consular Officers to Citizens of Their Own Country Serving Sentences in Penal Institutions, Sept. 19, 1935, 6 Bevens 65 (effective Sept. 19, 1935).

⁷⁹ Treaty Between the United States of America and Canada on the Execution of Penal Sentences, Mar. 2, 1977, 30 U.S.T. 6263 (entered into force July 19, 1978).

⁸⁰ Reciprocal Agreement Relating to Free Importation Privileges for Consular Officers, Mar. 12, Apr. 16, & May 12, 1952, 3 U.S.T. 4293 (effective May 12, 1952).

⁸¹ General Convention of Peace, Amity, Commerce, and Navigation Between the United States of America and the Republic of Chile, May 16, 1832 & Sept. 1, 1833, 6 Bevens 518 (entered into force Apr. 29, 1934).

⁸² Agreement Between the Government of the United States of America and the Government of the People's Republic of China on the Mutual Establishment of Consular Relations and the Opening of Consulates General, Jan. 31, 1979, 30 U.S.T. 17 (effective Jan. 31, 1979). For other U.S.–China agreements on the opening of consulates general and the enlargement of consular districts, consult the Department of State publication *Treaties in Force* at <https://www.state.gov/s/t/treaty/tif/index.htm>.

⁸³ Agreement Between the Government of the United States of America and the Government of Hong Kong for the Transfer of Sentenced Persons, Apr. 15, 1997, S. Treaty Doc. No. 105-7 (entered into force Apr. 18, 1999).

⁸⁴ The Convention on the Civil Aspects of International Child Abduction, cited in footnote 23, is in force between the United States and Hong Kong, and between the United States and Macao, but not between the United States and the remainder of China.

⁸⁵ Consular Convention Between the Republic of New Granada and the United States of America, May 4, 1850, 6 Bevens 882 (entered into force Oct. 30, 1851).

⁸⁶ General Treaty of Peace, Amity, Navigation and Commerce Between the United States of America and the Republic of New Granada, Dec. 12, 1846, 6 Bevens 868 (entered into force June 10, 1848).

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Comoros	--	--	--	--	--
Congo (Brazzaville)	--	--	--	--	--
Congo, Democratic Republic of (Kinshasa)	1976	--	--	--	--
Costa Rica	1969	1950 ³⁶	1852 ⁸⁷	COE 1998 OAS 2001	2008
Côte d'Ivoire (Ivory Coast)	--	--	--	--	--
Croatia	1992	1882 ⁷⁴	1882 ⁷⁵	COE 1995	1991
Cuba	1969	1926 ⁸⁸	--	--	--
Cyprus	1976	1952 ³⁰	--	COE 1986	1995
Czech Republic	1993	1987 ³⁷	--	COE 1993	1998
Denmark	1972	--	1826 ⁸⁹ 1961 ⁵⁰	COE 1987	1991
Djibouti	1978	--	--	--	--
Dominica	1987	1952 ³⁰	--	--	--
Dominican Republic	1969	--	--	--	2007
Ecuador	1969	--	1842 ⁹⁰	COE 2005 OAS 2006	1992

⁸⁷ Treaty of Friendship, Commerce and Navigation Between the United States of America and the Republic of Costa Rica [sic], July 10, 1851, 6 Bevans 1013 (entered into force May 26, 1852).

⁸⁸ Consular Convention Between the United States of America and the Republic of Cuba, Apr. 22, 1926, 6 Bevans 1149, 60 L.N.T.S. 371 (entered into force Dec. 1, 1926).

⁸⁹ General Convention on Friendship, Commerce and Navigation, Between the United States of America and H. M. the King of Denmark, Apr. 26, 1826, 7 Bevans 1 (entered into force Aug. 10, 1826).

⁹⁰ Treaty of Peace, Friendship, Navigation and Commerce, Between the United States of America and the Republic of Ecuador, June 13, 1839, 7 Bevans 296 (entered into force Apr. 9, 1842).

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Egypt	1969	--	--	--	--
El Salvador	1973	--	--	OAS 2007	2007
Equatorial Guinea	1976	--	--	--	--
Eritrea	1997	--	1953 ⁵¹	--	--
Estonia	1991	--	1926 ⁹¹	COE 1997	2007
Ethiopia	--	--	1953 ⁵¹	--	--
Fiji	1972	1952 ^{30,38}	--	--	--
Finland	1980	--	1934 ⁹²	COE 1987	1994
France	1970	1968 ⁵²	1823 ⁹³ 1960 ⁵²	COE 1985 B 1985 ⁹⁴	1988
Gabon	1969	--	--	--	--
Gambia	--	1952 ³⁰	--	--	--
Georgia	1993	1968 ³¹	1933 ⁶⁹	COE 1998	--

⁹¹ Treaty of Friendship, Commerce and Consular Rights Between the United States of America and the Republic of Estonia, Dec. 23, 1925, 7 Bevans 620, 50 L.N.T.S. 13 (entered into force May 22, 1926).

⁹² Treaty of Friendship, Commerce and Consular Rights Between the United States of America and the Republic of Finland, Feb. 13, 1934, 7 Bevans 718, 152 L.N.T.S. 45 (entered into force Aug. 10, 1934), as amended by Protocol Between the United States of America and Finland Modifying Treaty of February 13, 1934, Dec. 4, 1952, 4 U.S.T. 2047, 205 U.N.T.S. 149 (entered into force Sept. 24, 1953), as supplemented by Protocol Between the Government of the United States of America and the Government of the Republic of Finland to the Treaty of Friendship, Commerce and Consular Rights of February 13, 1934, July 1, 1991, S. Treaty Doc. No. 102-34 (entered into force Dec. 1, 1992).

⁹³ Convention on Navigation and Commerce Between the United States of America and His Majesty the King of France and Navarre, June 24, 1822, 7 Bevans 822 (entered into force February 12, 1823) (extended to Madagascar in 1896), as amended by Agreement Modifying the Provisions of Article VII of the Convention of Navigation and Commerce of June 24, 1822, July 17, 1919, 7 Bevans 899 (entered into force Jan. 10, 1921).

⁹⁴ Convention Between the United States of America and the Republic of France on the Transfer of Sentenced Persons, Jan. 25, 1983, 35 U.S.T. 2847 (entered into force Feb. 1, 1985).

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Germany	1971	--	1925 ⁹⁵ 1956 ⁵³	COE 1992	1990
Ghana	1969	1952 ³⁰	--	--	--
Greece	1975	1903 ⁹⁶	1954 ⁹⁷	COE 1988	1993
Grenada	1992	1952 ³⁰	--	--	--
Guatemala	1973	--	1852 ⁹⁸	OAS 2005	2008
Guinea	1988	--	--	--	--
Guinea-Bissau	--	--	--	--	--
Guyana	1973	1952 ³⁰	--	--	--
Haiti	1978	--	--	--	--
Holy See	1970	--	--	--	--
Honduras	1969	--	1928 ⁹⁹	COE 2009	1994
Hungary	1987	1973 ³⁹	--	COE 1993	1988
Iceland	1978	--	--	COE 1993	1996
India	1977	--	1815 ⁷⁰	--	--
Indonesia	1982	--	--	--	--

⁹⁵ Treaty of Friendship, Commerce and Consular Rights Between the United States of America and Germany, Dec. 8, 1923, 8 Bevens 153, 52 L.N.T.S. 133 (entered into force Oct. 14, 1925), as amended by Agreement Concerning the Treaty Between the United States of America and Germany on Friendship, Commerce and Consular Rights of December 8, 1923, as Amended, June 3, 1953, 5 U.S.T. 1939, 253 U.N.T.S. 89 (entered into force Oct. 22, 1954).

⁹⁶ Convention Concerning the Rights and Privileges of Consuls, Dec. 2, 1902, 8 Bevens 313 (entered into force July 9, 1903).

⁹⁷ Treaty of Friendship, Commerce and Navigation Between the United States of America and the Kingdom of Greece, Aug. 3, 1951, 5 U.S.T. 1829, 224 U.N.T.S. 279 (entered into force Oct. 13, 1954).

⁹⁸ General Convention of Peace, Amity, Commerce and Navigation Between the United States of America and the Republic of Guatemala, Mar. 3, 1849, 8 Bevens 461 (entered into force May 13, 1852) (articles relating to commerce and navigation terminated Nov. 4, 1874).

⁹⁹ Treaty of Friendship, Commerce and Consular Rights, Dec. 7, 1927, 8 Bevens 905, 87 L.N.T.S. 421 (entered into force July 19, 1928).

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Iran	1975	--	1957 ⁵⁴	--	--
Iraq	1970	--	--	--	--
Ireland	1969	1954 ⁵⁵	1950 ¹⁰⁰	COE 1995	1991
Israel	--	--	1954 ⁵⁶	COE 1998	1991
Italy	1969	1878 ¹⁰¹	1949 ¹⁰²	COE 1989	1995
Jamaica	1976	1952 ³⁰	--	--	--
Japan	1983	1964 ⁵⁷	1953 ¹⁰³	COE 2003	--
Jordan	1973	--	--	--	--
Kazakhstan	1994	1968 ³¹	1933 ⁶⁹	--	--
Kenya	1969	--	--	--	--
Kiribati	1982	1952 ³⁰	--	--	--
Korea, North	1984	--	--	--	--
Korea, South	1977	1963 ⁵⁸	1957 ¹⁰⁴	COE 2005	--
Kosovo	2008 ¹⁰⁵	1882 ⁷⁴	1882 ⁷⁵	--	--

¹⁰⁰ Treaty of Friendship, Commerce and Navigation Between the United States of America and Ireland, with Protocol, Jan. 21, 1950, 1 U.S.T. 785, 206 U.N.T.S. 269 (entered into force Sept. 14, 1950) (Article 2(2) requiring consular notification upon the request of a foreign national accused of a crime and taken into custody).

¹⁰¹ Consular Convention Between the United States and Italy, May 8, 1878, 9 Bevans 91 (entered into force Sept. 18, 1878).

¹⁰² Treaty of Friendship, Commerce and Navigation Between the United States of America and the Italian Republic, with Protocol, Feb. 2, 1948, 9 Bevans 261, 79 U.N.T.S. 171 (entered into force July 26, 1949).

¹⁰³ Treaty of Friendship, Commerce and Navigation Between the United States of America and Japan, Apr. 2, 1953, 4 U.S.T. 2063, 206 U.N.T.S. 143 (entered into force Oct. 30, 1953).

¹⁰⁴ Treaty of Friendship, Commerce and Navigation Between the United States of America and the Republic of Korea, with Protocol, Nov. 28, 1956, 8 U.S.T. 2217, 302 U.N.T.S. 281 (entered into force Nov. 7, 1957) (Article 3(2) requiring consular notification upon the request of a foreign national taken into custody).

¹⁰⁵ The VCCR is applicable as between the United States and Kosovo. On February 17, 2008, Kosovo issued its declaration of independence, in which it assumed the treaty and other international obligations of the former Socialist Federal Republic of Yugoslavia to which Kosovo is bound as a former constituent part, including the VCCR.

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Kuwait	1975	1952 ³⁰	--	--	--
Kyrgyzstan	1994	1968 ³¹	1933 ⁶⁹	--	--
Laos	1973	--	--	--	--
Latvia	1992	--	1928 ¹⁰⁶	COE 1997	2007
Lebanon	1975	--	1924 ¹⁰⁷	--	--
Lesotho	1972	--	--	--	--
Liberia	1984	1939 ¹⁰⁸	--	--	--
Libya	1998	--	--	--	--
Liechtenstein	1969	--	--	COE 1998	--
Lithuania	1992	--	--	COE 1996	2007
Luxembourg	1972	--	1963 ⁵⁹	COE 1988	1988
Macedonia	1993	1882 ⁷⁴	1882 ⁷⁵	COE 1999	1991
Madagascar	1969	--	1896 ⁹³	--	--
Malawi	1980	--	--	--	--
Malaysia	1991	1952 ³⁰	--	--	--
Maldives	1991	--	--	--	--
Mali	1969	--	--	--	--
Malta	1997	1952 ³⁰	--	COE 1991	2003
Marshall Islands	1991	--	1986 ¹⁰⁹	B 2004 ¹¹⁰	--

¹⁰⁶ Treaty of Friendship, Commerce and Consular Rights, Apr. 20, 1928, 9 Bevens 531, 80 L.N.T.S. 35 (entered into force July 25, 1928).

¹⁰⁷ Convention Between the United States of America and France Regarding the Mandate for Syria and Lebanon, Apr. 4, 1924, 7 Bevens 925 (entered into force July 13, 1924).

¹⁰⁸ Consular Convention Between the United States of America and Liberia, Oct. 7, 1938, 9 Bevens 607, 201 L.N.T.S. 183 (entered into force Dec. 21, 1939) (Article 6 giving consular officers a right of access to detained nationals).

¹⁰⁹ Agreement for the Implementation of the Compact of Free Association Between the Government of the United States of America and the Governments of the Marshall Islands and of the Federated States of Micronesia, Pub. L. 99-239, Title II, 99 Stat. 1770 (1986), as amended by Pub. L. 108-188, 117 Stat. 2720 (2003), 48 U.S.C. § 1921 et seq.

¹¹⁰ Agreement Between the United States of America and the Marshall Islands on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions, with Agreed Minute, Apr. 30, 2003, Title IV (entered into force May 1, 2004, with effect from Oct. 21, 1986).

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Mauritania	2000	--	--	--	--
Mauritius	1970	1952 ³⁰	--	COE 2004	1993
Mexico	1969	1943 ¹¹¹	--	COE 2007 OAS 2001 B 1977 ¹¹²	1991
Micronesia	1991	--	1986 ¹⁰⁹	B 2004 ¹¹³	--
Moldova	1993	1968 ³¹	1933 ⁶⁹	COE 1991	--
Monaco	2005	--	--	--	1993
Mongolia	1989	--	--	--	--
Montenegro	2006	1882 ⁷⁴	1882 ⁷⁵	COE 2006	1991
Morocco	1977	--	1837 ¹¹⁴	--	--
Mozambique	1983	--	--	--	--
Namibia	1992	--	--	--	--
Nauru	--	--	--	--	--
Nepal	1969	--	1947 ¹¹⁵	--	--

¹¹¹ Consular Convention Between the United States of America and the United Mexican States, Aug. 12, 1942, 9 Bevans 1076, 125 U.N.T.S. 301 (entered into force July 1, 1943) (Article 6(2) giving consular officers a right of access to detained nationals).

¹¹² Treaty Between the United States of America and the United Mexican States on the Execution of Penal Sentences, Nov. 25, 1976, 28 U.S.T. 7399 (entered into force Nov. 30, 1977).

¹¹³ Agreement Between the United States of America and the Federated States of Micronesia on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions, with Agreed Minute, May 14, 2003, Title IV (entered into force June 25, 2004, with effect from Nov. 3, 1986).

¹¹⁴ Treaty of Peace, Sept. 16, 1836, 9 Bevans 1286 (entered into force Jan. 28, 1837).

¹¹⁵ Agreement Relating to Friendship and Commerce, Apr. 25, 1947, 10 Bevans 1, 16 U.N.T.S. 97 (effective Apr. 25, 1947).

TABLE C: CONSULAR CONVENTION AND AGREEMENT STATUS OF ALL COUNTRIES

Country/Jurisdiction	If party to VCCR, year in force with U.S.	If party to bilateral consular convention, year in force with U.S.	If party to other bilateral agreement addressing consular issues, year in force with U.S.	If party to prisoner transfer agreement, agreement type and year in force with U.S. ⁶⁶	If party to Hague Child Abduction Convention in relation to U.S., year in force with U.S.
Netherlands	1985	--	1957 ⁶⁰	COE 1988	1991
New Zealand	1974	--	1815 ⁷⁰	--	1991
Nicaragua	1975	--	--	OAS 2001	--
Niger	1969	--	--	--	--
Nigeria	1969	1952 ³⁰	--	--	--
Norway	1980	--	1932 ¹¹⁶	COE 1993	1989
Oman	1974	--	1960 ⁶¹	--	--
Pakistan	1969	--	1815 ⁷⁰ 1961 ⁶²	--	--
Palau	--	--	1986 ¹¹⁷	--	--
Panama	1969	--	--	COE 1999 OAS 2001 B 1980 ¹¹⁸	1994
Papua New Guinea	1975	--	1815 ⁷⁰	--	--
Paraguay	1969	--	1860 ¹¹⁹	OAS 2004	2008
Peru	1978	--	--	B 1980 ¹²⁰	2007
Philippines	1969	1948 ⁴¹	1946 ¹²¹	--	--

¹¹⁶ Treaty of Friendship, Commerce and Consular Rights, June 5, 1928, 10 Bevans 481, 134 L.N.T.S. 81 (entered into force Sept. 13, 1932).

¹¹⁷ Agreement for the Implementation of the Compact of Free Association Between the Government of the United States of America and the Government of Palau, Pub. L. 99-658, 100 Stat. 3673 (1986), 48 U.S.C. § 1931 et seq.

¹¹⁸ Treaty Between the United States of America and the Republic of Panama on the Execution of Penal Sentences, Jan. 11, 1979, 32 U.S.T. 1565, 1280 U.N.T.S. 363 (entered into force June 27, 1980).

¹¹⁹ Treaty of Friendship, Commerce, and Navigation Between the Governments of the United States of America, and of the Republic of Paraguay, Feb. 4, 1859, 10 Bevans 888 (entered into force Mar. 7, 1860).

¹²⁰ Treaty Between the United States of America and the Republic of Peru on the Execution of Penal Sentences, July 6, 1979, 32 U.S.T. 1471, 1233 U.N.T.S. 139 (entered into force July 21, 1980).

¹²¹ Treaty of General Relations Between the United States of America and the Republic of the Philippines, with Protocol, July 4, 1946, 11 Bevans 3 (entered into force Oct. 22, 1946). See also Provisional Agreement Between the United States of America and the Republic of the Philippines Concerning Friendly Relations and Diplomatic and Consular Representation, July 4, 1946 (effective July 4, 1946).

TABLE C: CONSULAR CONVENTION AND AGREEMENT STATUS OF ALL COUNTRIES

Country/Jurisdiction	If party to VCCR, year in force with U.S.	If party to bilateral consular convention, year in force with U.S.	If party to other bilateral agreement addressing consular issues, year in force with U.S.	If party to prisoner transfer agreement, agreement type and year in force with U.S. ⁶⁶	If party to Hague Child Abduction Convention in relation to U.S., year in force with U.S.
Poland	1981	1973 ⁴²	--	COE 1995	1992
Portugal	1972	--	--	COE 1993	1998
Qatar	1988	--	--	--	--
Romania	1972	1973 ⁴⁴	--	COE 1996	1993
Russia	1989	1968 ³¹	1933 ⁶⁹	COE 2007	--
Rwanda	1974	--	--	--	--
Saint Kitts and Nevis	1983	1952 ³⁰	--	--	1995
Saint Lucia	1986	1952 ³⁰	--	--	--
Saint Vincent and the Grenadines	1999	1952 ³⁰	--	--	--
Samoa	1987	--	--	--	--
San Marino	--	--	--	COE 2004	2008
Sao Tome and Principe	1983	--	--	--	--
Saudi Arabia	1988	--	1933 ¹²²	--	--
Senegal	1969	--	--	--	--
Serbia	2001	1882 ⁷⁴	1882 ⁷⁵	COE 2002	1991
Seychelles	1979	1952 ³⁰	--	--	--
Sierra Leone	--	1952 ³⁰	--	--	--
Singapore	2005	1952 ³⁰	--	--	--
Slovakia	1993	1987 ³⁷	--	COE 1993	2001

¹²² Provisional Agreement Between the United States of America and the Kingdom of Saudi Arabia in Regard to Diplomatic and Consular Representation, Juridical Protection, Commerce and Navigation, Nov. 7, 1933, 11 Bevans 456, 142 L.N.T.S. 329 (effective Nov. 7, 1933).

TABLE C: CONSULAR CONVENTION AND AGREEMENT STATUS OF ALL COUNTRIES

Country/Jurisdiction	If party to VCCR, year in force with U.S.	If party to bilateral consular convention, year in force with U.S.	If party to other bilateral agreement addressing consular issues, year in force with U.S.	If party to prisoner transfer agreement, agreement type and year in force with U.S. ⁶⁶	If party to Hague Child Abduction Convention in relation to U.S., year in force with U.S.
Slovenia	1992	1882 ⁷⁴	1882 ⁷⁵	COE 1994	1995
Solomon Islands	1978	--	--	--	--
Somalia	1969	--	--	--	--
South Africa	1989	--	1815 ⁷⁰	--	1997
Spain	1970	--	1903 ¹²³	COE 1985	1988
Sri Lanka	2006	--	1815 ⁷⁰	--	2008
Sudan	1995	--	--	--	--
South Sudan	2011 ¹²⁴	--	--	--	--
Suriname	1980	1855 ¹²⁵	1963 ⁶⁰	--	--
Swaziland	--	--	--	--	--
Sweden	1974	1911 ¹²⁶	--	COE 1985	1989
Switzerland	1969	--	1855 ¹²⁷	COE 1988	1988
Syria	1978	--	1924 ¹⁰⁷ 1944 ¹²⁸	--	--
Taiwan	--	--	1948 ¹²⁹	--	--
Tajikistan	1996	1968 ³¹	1933 ⁶⁹	--	--

¹²³ Treaty of Friendship and General Relations Between the United States of America and Spain, July 3, 1902, 11 Bevans 628 (entered into force Apr. 14, 1903).

¹²⁴ In an exchange of letters between the United States and South Sudan dated July 7 and September 7, 2011, South Sudan concurred with the United States that diplomatic relations between the two countries would be conducted in accordance with the VCCR. South Sudan also committed to fulfilling the then existing treaty obligations of the Republic of Sudan to the United States, which include obligations of the Republic of Sudan stemming from its status as a party to the VCCR.

¹²⁵ Convention Regarding Consuls in the Colonies of the Netherlands, Jan. 22, 1855, 10 Bevans 28 (entered into force May 25, 1855).

¹²⁶ Convention on Rights, Privileges, and Immunities of Consular Officers, June 1, 1910, 11 Bevans 730 (entered into force Mar. 18, 1911).

¹²⁷ General Convention of Friendship, Reciprocal Establishments, Commerce, and for the Surrender of Fugitive Criminals, Nov. 25, 1850, 11 Bevans 894 (entered into force Nov. 8, 1855).

¹²⁸ Agreement Relating to the Recognition of the Independence of Syria and to the Rights of the United States and Its Nationals, Sept. 7 & 8, 1944, 11 Bevans 970, 124 U.N.T.S. 251 (effective Sept. 8, 1944).

¹²⁹ Treaty of Friendship, Commerce and Navigation Between the United States of America and the Republic of China, with Protocol, Nov. 4, 1946, 6 Bevans 761, 25 U.N.T.S. 69 (entered into force on Nov. 30, 1948). This agreement is administered on a nongovernmental basis by the American Institute in Taiwan and does not constitute recognition of the Taiwan authorities. See footnote 1 on page 4.

TABLE C: CONSULAR CONVENTION AND AGREEMENT STATUS OF ALL COUNTRIES

Country/Jurisdiction	If party to VCCR, year in force with U.S.	If party to bilateral consular convention, year in force with U.S.	If party to other bilateral agreement addressing consular issues, year in force with U.S.	If party to prisoner transfer agreement, agreement type and year in force with U.S. ⁶⁶	If party to Hague Child Abduction Convention in relation to U.S., year in force with U.S.
Tanzania	1977	1952 ³⁰	--	--	--
Thailand	1999	--	1968 ⁶⁴	B 1982 ¹³⁰	--
Timor-Leste (East Timor)	2004	--	--	--	--
Togo	1983	--	1967 ⁶⁵	--	--
Tonga	1972	1952 ³⁰	--	COE 2000	--
Trinidad and Tobago	1969	1952 ³⁰	--	COE 1994	--
Tunisia	1969	1994 ⁴⁵	1904 ¹³¹	--	--
Turkey	1976	--	1927 ¹³²	COE 1988 B 1981 ¹³³	2000
Turkmenistan	1996	1968 ³¹	1933 ⁶⁹	--	--
Tuvalu	1982	1952 ^{30, 47}	--	--	--
Uganda	--	--	--	--	--
Ukraine	1989	1968 ³¹	1933 ⁶⁹	COE 1996	2007
United Arab Emirates	1977	--	--	--	--
United Kingdom	1972	1952 ³⁰	1815 ⁷⁰	COE 1985	1988
Uruguay	1970	--	--	--	2004
Uzbekistan	1992	1968 ³¹	1933 ⁶⁹	--	--
Vanuatu	1987	--	--	--	--

¹³⁰ Treaty on Cooperation in the Execution of Penal Sentences Between the Government of the United States of America and the Government of the Kingdom of Thailand, Oct. 29, 1982, Senate Treaty Doc. No. 98-8 (entered into force Dec. 7, 1988).

¹³¹ Agreement on Relations in Tunis, Mar. 15, 1904, 7 Bevans 862 (entered into force May 7, 1904).

¹³² Agreement on Relations, Feb. 17, 1927, 11 Bevans 1109 (effective Feb. 17, 1927).

¹³³ Treaty on the Enforcement of Penal Judgments Between the United States of America and the Republic of Turkey, June 7, 1979, 32 U.S.T. 3187 (entered into force Jan. 1, 1981).

TABLE C: CONSULAR CONVENTION AND AGREEMENT STATUS OF ALL COUNTRIES

Country/Jurisdiction	If party to VCCR, year in force with U.S.	If party to bilateral consular convention, year in force with U.S.	If party to other bilateral agreement addressing consular issues, year in force with U.S.	If party to prisoner transfer agreement, agreement type and year in force with U.S. ⁶⁶	If party to Hague Child Abduction Convention in relation to U.S., year in force with U.S.
Venezuela	1969	--	1836 ¹³⁴	OAS 2001 COE 2003	1997
Vietnam	1992	-- ¹³⁵	--	--	--
Yemen	1986	--	1946 ¹³⁶	--	--
Zambia	--	1952 ³⁰	--	--	--
Zimbabwe	1991	1952 ³⁰	--	--	1995

¹³⁴ Treaty of Peace, Friendship, Navigation and Commerce Between the United States of America and the Republic of Venezuela, Jan. 20, 1836, 12 Bevans 1038 (entered into force May 31, 1836).

¹³⁵ The United States and Vietnam concluded an agreed minute in 1994 in which each side made certain commitments with respect to consular relations. While paragraph 5 of this minute provides for automatic notification of the arrest or detention of passport holders of the sending country, its terms are nonbinding and the Department of State therefore does not consider Vietnam to be a "mandatory notification" ("list") country. The agreed minute is on file with the Department of State Office of the Legal Adviser.

¹³⁶ Agreement Between the United States of America and the Kingdom of the Yemen Relating to Friendship and Commerce, May 4, 1946, 12 Bevans 1223, 4 U.N.T.S. 165 (effective May 4, 1946).

TABLE D: COUNTRIES WITH BILATERAL AGREEMENTS CONTAINING PROVISIONS ON CONSULAR NOTIFICATION AND ACCESS

Country/Jurisdiction	If party to VCCR, year in force with U.S.	If party to bilateral convention addressing consular issues, year in force with U.S.	Article in bilateral convention concerning consular notification	Notification of consulate mandatory, or only upon foreign national's request?
Albania	1991	1991 ²⁷	Art. 1(5)	Mandatory
Algeria	1969	1997 ²⁹	Art. 33(1)	Mandatory
Antigua and Barbuda	1988	1952 ³⁰	Art. 16(1)	Mandatory
Armenia	1993	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
Azerbaijan	1992	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
Bahamas	1977	1952 ³⁰	Art. 16(1)	Mandatory
Barbados	1992	1952 ^{30,32}	Art. 16(1)	Mandatory
Belarus	1989	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
Belgium	1970	1974 ⁴⁸	Art. 25(2)	Upon request
Belize	2000	1952 ³⁰	Art. 16(1)	Mandatory
Brunei	--	1952 ³⁰	Art. 16(1)	Mandatory
Bulgaria	1989	1975 ³³	Art. 38(2)	Mandatory
China (including Hong Kong and Macao)	1979	1982 ³⁴	Art. 35(2)	Mandatory
Costa Rica	1969	1950 ³⁶	Art. 7(2)(b)	Mandatory
Cyprus	1976	1952 ³⁰	Art. 16(1)	Mandatory
Czech Republic	1993	1987 ³⁷	Art. 36(1)	Mandatory
Denmark	1972	1961 ⁵⁰	Art. 3(2)	Upon Request
Dominica	1987	1952 ³⁰	Art. 16(1)	Mandatory
Eritrea	1997	1953 ⁵¹	Art. 6(2)	Upon request

TABLE D: COUNTRIES WITH BILATERAL AGREEMENTS CONTAINING PROVISIONS ON CONSULAR NOTIFICATION AND ACCESS

Country/Jurisdiction	If party to VCCR, year in force with U.S.	If party to bilateral convention addressing consular issues, year in force with U.S.	Article in bilateral convention concerning consular notification	Notification of consulate mandatory, or only upon foreign national's request?
Ethiopia	--	1953 ⁵¹	Art. 6(2)	Upon request
Fiji	1972	1952 ^{30,38}	Art. 16(1)	Mandatory
France	1970	1968 ⁵²	Art. 34(1)	Upon request
Gambia	--	1952 ³⁰	Art. 16(1)	Mandatory
Georgia	1993	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
Germany	1971	1956 ⁵³	Art. 3(2)	Upon request
Ghana	1969	1952 ³⁰	Art. 16(1)	Mandatory
Grenada	1992	1952 ³⁰	Art. 16(1)	Mandatory
Guyana	1973	1952 ³⁰	Art. 16(1)	Mandatory
Hungary	1987	1973 ³⁹	Art. 41(1)	Mandatory
Iran	1975	1957 ⁵⁴	Art. 2(4)	Upon request
Ireland	1969	1954 ⁵⁵	Art. 16(1)	Upon request ¹³⁷
Israel	--	1954 ⁵⁶	Art. 3(2)	Upon request
Jamaica	1976	1952 ³⁰	Art. 16(1)	Mandatory
Japan	1983	1964 ⁵⁷	Art. 16(1)	Upon request
Kazakhstan	1994	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
Kiribati	1982	1952 ³⁰	Art. 16(1)	Mandatory
Korea, South	1977	1963 ⁵⁸	Art. 5(2)	Upon request
Kuwait	1975	1952 ³⁰	Art. 16(1)	Mandatory
Kyrgyzstan	1994	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
Luxembourg	1972	1963 ⁵⁹	Art. 3(4)	Upon request

¹³⁷ On the special consular notification and access requirements that apply to detained Irish nationals, see footnote 7 on page 24.

TABLE D: COUNTRIES WITH BILATERAL AGREEMENTS CONTAINING PROVISIONS ON CONSULAR NOTIFICATION AND ACCESS

Country/Jurisdiction	If party to VCCR, year in force with U.S.	If party to bilateral convention addressing consular issues, year in force with U.S.	Article in bilateral convention concerning consular notification	Notification of consulate mandatory, or only upon foreign national's request?
Malaysia	1991	1952 ³⁰	Art. 16(1)	Mandatory
Malta	1997	1952 ³⁰	Art. 16(1)	Mandatory
Mauritius	1970	1952 ³⁰	Art. 16(1)	Mandatory
Moldova	1993	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
Mongolia	1989			
Netherlands	1985	1957 ⁶⁰	Art. 3(2)	Upon Request
Nigeria	1969	1952 ³⁰	Art. 16(1)	Mandatory
Oman	1974	1960 ⁶¹	Art. 2(2)	Upon request
Pakistan	1969	1961 ⁶²	Art. 3(2)	Upon request
Philippines	1969	1948 ⁴¹	Art. 7(2)	Mandatory
Poland	1981	1973 ⁴²	Art. 29(2)	Upon request if lawful permanent resident of U.S., mandatory otherwise ¹³⁸
Romania	1972	1973 ⁴⁴	Art. 22(1)	Mandatory
Russia	1989	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
Saint Kitts and Nevis	1983	1952 ³⁰	Art. 16(1)	Mandatory
Saint Lucia	1986	1952 ³⁰	Art. 16(1)	Mandatory
Saint Vincent and the Grenadines	1999	1952 ³⁰	Art. 16(1)	Mandatory
Seychelles	1979	1952 ³⁰	Art. 16(1)	Mandatory
Sierra Leone	--	1952 ³⁰	Art. 16(1)	Mandatory
Singapore	2005	1952 ³⁰	Art. 16(1)	Mandatory

¹³⁸ On the special consular notification and access requirements that apply to detained Polish nationals, see footnote 18 on page 41.

TABLE D: COUNTRIES WITH BILATERAL AGREEMENTS CONTAINING PROVISIONS ON CONSULAR NOTIFICATION AND ACCESS

Country/Jurisdiction	If party to VCCR, year in force with U.S.	If party to bilateral convention addressing consular issues, year in force with U.S.	Article in bilateral convention concerning consular notification	Notification of consulate mandatory, or only upon foreign national's request?
Slovakia	1993	1987 ³⁷	Art. 36(1)	Mandatory
Suriname	1980	1963 ⁶⁰	Art. 3(2)	Upon Request
Tajikistan	1996	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
Tanzania	1977	1952 ³⁰	Art. 16(1)	Mandatory
Thailand	1999	1968 ⁶⁴	Art. 1(2)	Upon request
Togo	1983	1967 ⁶⁵	Art. 2(1)	Upon request
Tonga	1972	1952 ³⁰	Art. 16(1)	Mandatory
Trinidad and Tobago	1969	1952 ³⁰	Art. 16(1)	Mandatory
Tunisia	1964	1994 ⁴⁵	Art. 39(1)	Mandatory
Turkmenistan	1996	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
Tuvalu	1982	1952 ^{30,47}	Art. 16(1)	Mandatory
Ukraine	1989	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
United Kingdom	1972	1952 ³⁰	Art. 16(1)	Mandatory
Uzbekistan	1992	1968 ³¹	Art. 12(2) Protocol ¶ 1	Mandatory
Zambia	--	1952 ³⁰	Art. 16(1)	Mandatory
Zimbabwe	1991	1952 ³⁰	Art. 16(1)	Mandatory

PART FIVE: SUGGESTED STATEMENTS TO DETAINED FOREIGN NATIONALS, NOTIFICATION FAX SHEETS, AND CONSULAR IDENTIFICATION CARDS

The following section includes suggested statements to give to foreign nationals arrested or detained in the United States. The statements are provided both in English and in translations from the most commonly used foreign languages in the United States.

- ▶ **Statement 1: For All Foreign Nationals Except Those from “Mandatory Notification” Countries**
- ▶ **Statement 2: For Foreign Nationals from “Mandatory Notification” Countries**
- ▶ **Fax Sheet for Notifying Consular Officers of Arrests or Detentions**
- ▶ **Fax Sheet for Notifying Consular Officers of the Possible Appointment of a Guardian or Trustee for a Foreign National**
- ▶ **Fax Sheet for Notifying Consular Officers of the Death, Serious Injury, or Illness of a Foreign National**
- ▶ **Diplomatic and Consular Officer Identification Cards**

In order to comply with the VCCR and applicable bilateral agreements with provisions on consular notification and access, the Department of State recommends that the suggested statements listed below be given to foreign nationals arrested or detained in the United States. You should give **Statement 1** to those foreign nationals who are not from a “mandatory notification” (“list”) country. The foreign national should answer “yes” or “no” to this question, and you should record his or her answer. The Department of State recommends that the foreign national be asked to sign and date the form to confirm his or her answer and the date he or she was informed. You should give **Statement 2** to those foreign nationals who are from a “mandatory notification” (“list”) country. A foreign national from such a country does not need to answer any questions, but a record should be kept that you provided this information to the foreign national.

The English versions of Statement 1 and Statement 2 have been translated into the languages most commonly used by foreign nationals in the United States. In the translations of Statement 1, the words “yes” and “no” appear in both the foreign language and in English, to help minimize the possibility of any misunderstanding between you and the foreign national.

If at all possible, you should give the statement in the foreign national’s own language, or in a language he or she understands. If no translation into the foreign national’s own language is available, you should determine whether he or she can understand any of the other languages for which a translation is provided. If you have doubts about the foreign national’s ability to read, you should also give the statement orally if possible. Please notify the Department of State of additional languages for which translations would be helpful, and the Department may post additional translations on its website in response to such requests.

Translations for the following languages appear below:

Arabic
Burmese
Cambodian (Khmer)
Chinese (Simplified and Traditional)
Creole
Farsi (Persian)
French
German
Greek
Hebrew
Hindi
Indonesian
Italian
Japanese
Korean
Lao
Polish
Portuguese
Romanian
Russian
Somali
Spanish
Swahili
Tagalog (Philippines)
Thai
Vietnamese

The Department of State has designed a poster showing Statement 1 translated into these languages, to be used by law enforcement or corrections agencies in locations where foreign nationals who have been arrested or detained can see it. You may download an electronic copy of the poster from the Department’s website at travel.state.gov/CNA.

In the pages following the suggested statements, three fax sheets appear. You may photocopy and use these fax sheets for notifying foreign consulates, or model your own fax sheets after them:

- ▶ Fax Sheet for Notifying Consular Officers of Arrests or Detentions
- ▶ Fax Sheet for Notifying Consular Officers of the Possible Appointment of a Guardian or Trustee for a Foreign National
- ▶ Fax Sheet for Notifying Consular Officers of the Death, Serious Injury, or Illness of a Foreign National

ENGLISH

Statement 1:
**For All Foreign Nationals Except Those from
“Mandatory Notification” Countries**

As a non-U.S. citizen who is being arrested or detained, you may request that we notify your country’s consular officers here in the United States of your situation. You may also communicate with your consular officers. A consular officer may be able to help you obtain legal representation, and may contact your family and visit you in detention, among other things. If you want us to notify your consular officers, you can request this notification now, or at any time in the future. Do you want us to notify your consular officers at this time?

YES

NO

Printed Name: _____

Witness: _____

Signature: _____

Date: _____

Statement 2:
**For Foreign Nationals from
“Mandatory Notification” Countries**

Because of your nationality, we are required to notify your country’s consular officers here in the United States that you have been arrested or detained. We will do this as soon as possible. In addition, you may communicate with your consular officers. You are not required to accept their assistance, but your consular officers may be able to help you obtain legal representation, and may contact your family and visit you in detention, among other things. Please sign to show that you have received this information.

Printed Name: _____

Witness: _____

Signature: _____

Date: _____

ARABIC

Statement 1: For All Foreign Nationals Except Those from “Mandatory Notification” Countries

إذا كنتم مواطنين غير أمريكيين يجري توقيفكم أو احتجازكم، يجوز لكم أن تطلبوا منا إخطار المسؤولين العاملين في قنصلية بلادكم هنا في الولايات المتحدة بأنكم محتجزين أو أنكم تعرضتم للتوقيف، ويجوز لكم كذلك الاتصال بمسئولي قنصلية بلادكم، إذ قد يتمكن هؤلاء المسؤولون من توفير محامين يتولون تمثيلكم، كما يجوز لهم الاتصال بأسرتكم أو زيارتكم في مكان احتجازكم، ضمن أشياء أخرى قد يقدمونها لكم. ويجوز لكم أن تطلبوا منا الآن أو في أي وقت في المستقبل أن نقوم بإخطار مسئول قنصلية بلادكم، إذا أردتم منا القيام بذلك. هل تريدون منا إخطار مسئول قنصلية بلادكم في هذا الوقت؟

لا (NO)

نعم (YES)

.....: الشاهد
Witness
.....: التاريخ
Date

.....: الاسم مكتوب بخط واضح
Printed Name
.....: التوقيع
Signature

Statement 2: For Foreign Nationals from “Mandatory Notification” Countries

إننا ملزمون بسبب جنسيتكم بإخطار المسؤولين العاملين في قنصلية بلادكم في الولايات المتحدة بأنكم قد تعرضتم للتوقيف أو للاحتجاز، وسوف نقوم بذلك في أقرب فرصة ممكنة. ونحيطكم علماً، علاوة على ذلك، بأن يجوز لكم الاتصال بالمسؤولين العاملين في قنصلية بلادكم، وأنكم غير ملزمين بقبول مساعدتهم لكم، ولكنهم مع ذلك قد يتمكنون من توفير محامين يتولون تمثيلكم، كما يجوز لمسئولي قنصلية بلادكم الاتصال بأسرتكم وزيارتكم في مكان احتجازكم، ضمن أشياء أخرى قد يقدمونها لكم. الرجاء التوقيع على هذا البيان لإثبات حصولكم على المعلومات التي يتضمنها.

.....: الشاهد
Witness
.....: التاريخ
Date

.....: الاسم مكتوب بخط واضح
Printed Name
.....: التوقيع
Signature

BURMESE

Statement 1:
For all Foreign Nationals Except Those from
“Mandatory Notification” Countries

1. ဖော်ပြချက်-၁

“မဖြစ်မနေ အသိပေးရမည့်” နိုင်ငံများမှအပဖြစ်သည့် နိုင်ငံခြားသားများ အားလုံးသို့

ဖမ်းဆီးခံထားရသည့် သို့မဟုတ် ထိန်းသိမ်းခံထားရသည့် အမေရိကန်ပြည်ထောင်စု နိုင်ငံသားမဟုတ်သူ တစ်ဦးအတွက်၊ အမေရိကန်ပြည်ထောင်စုတွင် ရှိနေသော၊ သင့်နိုင်ငံ၏ ကောင်စစ်ဝန်ရုံး အရာရှိများထံ သင်၏ အခြေအနေကို အသိပေးအကြောင်းကြားရန် တောင်းဆိုနိုင်ပါသည်။ သင်က ကောင်စစ်ဝန်အရာရှိ များနှင့်လည်း ဆက်သွယ်နိုင်ပါသည်။ ကောင်စစ်ဝန်အရာရှိ တစ်ဦးက ဥပဒေကြောင်းအရ ကိုယ်စားပြုမှု အတွက် ကူညီပေးကောင်း ကူညီနိုင်ပါသည်။ ထို့အပြင် အခြားကိစ္စများအဖြစ်၊ သင်၏ မိသားစုသို့ ဆက် သွယ်ပေးခြင်းနှင့် သင်ထိန်းသိမ်းခံထားရစဉ်အတွင်း လာရောက်တွေ့ဆုံခြင်း ပြုနိုင်ပါသည်။ အကယ်၍ သင်က သင်၏ ကောင်စစ်ဝန်ရုံး အရာရှိများထံ မိမိတို့က ဆက်သွယ်ပေးစေလိုပါလျှင်၊ ဤသို့ အသိပေးရန် တောင်းဆိုချက်ကို ယခု သို့မဟုတ် အနာဂတ်ကာလတွင် မည်သည့်အချိန်မဆို ပြုလုပ်နိုင်ပါသည်။ သင်က ယခုအချိန်တွင် သင်၏ ကောင်စစ်ဝန်ရုံး အရာရှိများထံ မိမိတို့က ဆက်သွယ်ပေးရန် လိုလားပါသလား။

မှန်သည်။

မမှန်ပါ။

အမည်ကိုဖော်ပြပါ။ _____ သက်သေ။
လက်မှတ် _____ နေ့စွဲ။

Statement 2:
For Foreign Nationals from “Mandatory Notification” Countries

2. ဖော်ပြချက်-၂

“မဖြစ်မနေ အသိပေးရမည့်” နိုင်ငံများမှ နိုင်ငံခြားသားများ အားလုံးသို့

သင်၏ နိုင်ငံသားဖြစ်မှုအတွက်၊ မိမိတို့သည် အမေရိကန်ပြည်ထောင်စုရှိ သင့်နိုင်ငံ၏ ကောင်စစ်ဝန်ရုံး အရာရှိများထံသို့ သင် ဖမ်းဆီးခံနေရကြောင်း၊ သို့မဟုတ် ထိန်းသိမ်းခံထားရကြောင်း အသိပေးအကြောင်း ကြားရန် လိုအပ်ပါသည်။ မိမိတို့က ဖြစ်နိုင်သမျှ ဆောလျှင်စွာ ဤကိစ္စကို ဆောင်ရွက်ပါမည်။ ထို့အပြင်၊ သင်က သင်၏ ကောင်စစ်ဝန်ရုံး အရာရှိများထံသို့လည်း ဆက်သွယ်နိုင်ပါသည်။ သင်က သူတို့၏ အကူ အညီများကို လက်ခံရန် မလိုအပ်ပါ။ သို့သော်လည်း၊ သင်၏ ကောင်စစ်ဝန်ရုံး အရာရှိများက ဥပဒေကြောင်း အရ ကိုယ်စားပြုမှုအတွက် ကူညီပေးကောင်း ကူညီနိုင်ပါသည်။ အခြားကိစ္စများဖြစ်သည့် သင်၏ မိသားစု ထံ ဆက်သွယ်ပေးခြင်းနှင့် သင် ထိန်းသိမ်းခံထားရစဉ်အတွင်း လာရောက်တွေ့ဆုံခြင်း ပြုနိုင်ပါသည်။ ယခု သတင်းအချက် အလက်ကို လက်ခံရရှိကြောင်း ဖော်ပြရန်၊ ကျေးဇူးပြု၍ လက်မှတ်ရေးထိုးပါ။

အမည်ကိုဖော်ပြပါ။ _____ သက်သေ။
လက်မှတ် _____ နေ့စွဲ။

CAMBODIAN (KHMER)

Statement 1: For All Foreign Nationals Except Those from “Mandatory Notification” Countries

ក្នុងករណីត្រូវចាប់ខ្លួន ឬចាប់ឃុំ ក្នុងនាមជាជនបរទេស មិនមានសញ្ជាតិអាមេរិកាំង លោកអ្នកអាចស្នើសុំឲ្យយើងជូនដំណឹងដល់មន្ត្រីស្ថានកុងស៊ុលរបស់លោកអ្នកនៅសហរដ្ឋអាមេរិកអំពីស្ថានភាពរបស់លោកអ្នក ។ លោកអ្នកអាចទំនាក់ទំនងផ្ទាល់ជាមួយមន្ត្រីកុងស៊ុលរបស់លោកអ្នក ។ មន្ត្រីកុងស៊ុលអាចជួយលោកអ្នក ដូចជារកអ្នកតំណាងផ្លូវច្បាប់ ទាក់ទងជាមួយគ្រួសារលោកអ្នកនិងចូលសួរសុខទុក្ខលោកអ្នកក្នុងមន្ទីរឃុំឃាំង ព្រមទាំងធ្វើកិច្ចការផ្សេងៗ។

បើលោកអ្នកចង់ឲ្យយើងជូនដំណឹងដល់មន្ត្រីកុងស៊ុល លោកអ្នកអាចស្នើសេចក្តីជូនដំណឹងនេះឡើយនេះ ឬនៅពេលណាមួយ។

តើលោកអ្នកចង់ឲ្យយើងទាក់ទងមន្ត្រីកុងស៊ុលរបស់លោកអ្នកឬទេ នៅពេលនេះ?

បាទ (YES)

ទេ (NO)

សរសេរឈ្មោះអក្សរធំ: _____
Printed Name

សាក្សី: _____
Witness

ហត្ថលេខា: _____
Signature

ថ្ងៃខែ: _____
Date

Statement 2: For Foreign Nationals from “Mandatory Notification” Countries

ដោយសារលោកអ្នកជាពលរដ្ឋបរទេស ជាចាំបាច់យើងត្រូវប្រាប់មន្ត្រីនៃស្ថានកុងស៊ុលប្រទេសរបស់លោកអ្នកប្រចាំសហរដ្ឋអាមេរិកថា លោកអ្នកបានត្រូវចាប់ខ្លួន ឬឃុំខ្លួន។ យើងនឹងជូនដំណឹងទៅស្ថានទូតរបស់លោកអ្នកយ៉ាងឆាប់រហ័សតាមលទ្ធភាព។ ក្រៅពីនេះ លោកអ្នកអាចទាក់ទងជាមួយមន្ត្រីកុងស៊ុលរបស់លោកអ្នក។

លោកអ្នកនឹងមិនតម្រូវជាចាំបាច់ឲ្យរកជំនួយជំនួយពីមន្ត្រីស្ថានកុងស៊ុលរបស់លោកអ្នកទេ ក៏ប៉ុន្តែមន្ត្រីស្ថានកុងស៊ុលអាចជួយលោកអ្នករកអ្នកតំណាងផ្លូវច្បាប់ ឬ អាចទាក់ទងជាមួយគ្រួសារលោកអ្នក ទៅសួរសុខទុក្ខលោកអ្នកក្នុងមន្ទីរឃុំឃាំង ព្រមទាំងធ្វើកិច្ចការផ្សេងៗ។ សូមចុះហត្ថលេខាខាងក្រោមនេះ ដើម្បីបញ្ជាក់ថា លោកអ្នកបានទទួលព័ត៌មាននេះ។

ឈ្មោះអក្សរធំ: _____
Printed Name
ហត្ថលេខា: _____
Signature

សាក្សី: _____
Witness
ថ្ងៃខែ: _____
Date

CHINESE

Statement 1: **For All Foreign Nationals Except Those from “Mandatory Notification” Countries**

你作为非美国公民，在被拘留或者逮捕时可以要求我们将你的情况通知你们国家派驻美国的领事；你也可以和你们国家的领事通话。你们国家的领事有可能帮助你争取法律援助、联系家人、到拘留地点探访你，和做一些别的事情。

你如果要我们通知你们的领事，可以现在就提出，也可以在日后任何时候提出。

你需要我们现在就通知你们的领事吗？

要 (YES)

不要 (NO)

用正体书写姓名： _____
Printed Name

证人： _____
Witness

签名： _____
Signature

日期： _____
Date

Statement 2: **For Foreign Nationals from “Mandatory Notification” Countries**

鉴于你的国籍，我们必须将你被捕或者被拘留的情况通知你们国家派驻美国的领事。我们会尽快通知。另外，你可以和你们的领事通话。你并非一定要接受他们的援助，但是你们的领事有可能帮助你获得法律援助、联系你的家人和到拘留地点探访你，和做一些别的事情。请在下面签名表示你已经被告知以上信息。

用正体书写姓名： _____
Printed Name

证人： _____
Witness

签名： _____
Signature

日期： _____
Date

CHINESE (Traditional)

Statement 1: **For All Foreign Nationals Except Those from “Mandatory Notification” Countries**

作為非美國公民，你在被逮捕或拘留時可以要求我們將你的情形通知你們國家派駐美國的領事。你也可以和你們國家的領事通話。你們國家的領事有可能幫助你爭取法律援助，聯絡家人，留地點探訪你，還可以為你做一些別的事情。你如果要我們通知你們的領事，可以現在就提出，也可以在今後任何時候提出。

你需要我們現在就通知你們國家的領事嗎？

要 (YES)

不要 (NO)

用正楷書寫姓名： _____

證人： _____

Printed Name

Witness

簽名： _____

日期： _____

Signature

Date

Statement 2: **For Foreign Nationals from “Mandatory Notification” Countries**

鑒於你的國籍，我們必須將你被捕或被拘留的事情通知你們國家派駐美國的領事。我們會盡知。另外，你也可以和你們國家的領事通話。你並非一定要接受他們的援助，但是你們國家事有可能幫助你獲得法律援助，聯絡家人，到拘留地點探訪你，還可以為你做一些別的事情。在下面簽名，表示你已經被告知以上資訊。

用正楷書寫姓名： _____

證人： _____

Printed Name

Witness

簽名： _____

日期： _____

Signature

Date

CREOLE

Statement 1:

For All Foreign Nationals Except Those from “Mandatory Notification” Countries

Kòm yon moun ki pa sitwayen ameriken ke otorite yo ap arete oubyen ap mete nan prizon, ou gen dwa mande pou nou mete otorite nan konsila peyi ou ki isit o Zetazini okouran sityasyon an. Ou kapab tou pran kontak ak otorite ki nan konsila peyi ou. Yon ofisyèl nan konsila peyi ou kapab an mezi pou li ede w jwenn konkou avoka, e li kapab tou pran kontak ak manm fanmi ou e ofisyèl sa a kapab vizite w nan prizon an, ak lòt bagay ankò. Si ou vle nou mete otorite nan konsila peyi ou okouran, ou gen dwa fè demand pou yo fè avètisman sa a kounyela menm, oubyen nenpòt ki lòt lè nan lavni. Eske ou ta renmen nou mete otorite konsila peyi ou okouran kounyela menm?

WI (YES)

NON (NO)

Ekri non ou : _____

Printed Name

Siyati: _____

Signature

Temwen : _____

Witness

Dat : _____

Date

Statement 2:

For Foreign Nationals from “Mandatory Notification” Countries

Akoz nasyonalite ou, nou gen obligasyon pou nou mete otorite konsila peyi ou ki isit o Zetazini okouran ke yo arete ou oubyen yo mete ou nan prizon. Nou pral fè sa osito posib. An plis de sa, ou kapab pran kontak ak otorite ki nan konsila peyi ou. Ou pa oblije aksepte èd yo, men li posib pou otorite konsila peyi ou ede w jwenn èd yon avoka, e yo byen kapab pran kontak ak manm fanmi ou, epi rann ou vizit nan prizon an, ak lòt bagay ankò. Silvouplè, siyen pou w fè wè ou te resevwa enfòmasyon sa a.

Ekri non ou : _____

Printed Name

Siyati: _____

Signature

Temwen : _____

Witness

Dat : _____

Signature

FARSI

Statement 1:

For All Foreign Nationals Except Those from “Mandatory Notification” Countries

شما منحیث یک شخص که تبعه ایالات متحده امریکا نیستید و توقیف و بازداشت شده اید، میتوانید از ما بخواهید تا راجع به وضع شما با مامورین قونسلگری کشور تان، این جا، در ایالات متحده در تماس شویم. همچنان شما میتوانید که با مامورین قونسلگری خویش حرف بزنید. یک مامور قونسلگری شاید بتواند به شمول کار های دیگر شما را در مورد استخدام یک وکیل قانونی کمک نماید، با خانواده شما در تماس شود، و در توقیف شما را ملاقات کند. اگر شما خواسته باشید که ما با مامورین قونسلگری تان در تماس شویم، شما میتوانید همین حالا این درخواست را ارائه کنید ویا در آینده کدام وقت دیگر این اطلاع را به ما بدهید. آیا شما میخواهید که ما فعلاً با مامورین قونسلگری شما در تماس شویم؟

بلی (YES) نه خیر (NO)

چاپ اسم: _____ شاهد: _____
Printed Name Witness
امضا: _____ تاریخ: _____
Signature Date

Statement 2:

For Foreign Nationals from “Mandatory Notification” Countries

به دلیل ملیت و تابعیت شما، ما مکلف هستیم تا مامورین قونسلگری شما را در ایالات متحده با خبر سازیم که شما توقیف و یا بازداشت شده اید. ما این کار را هرچه زود تر ممکن باشد انجام خواهیم داد. علاوه بر این، شما میتوانید که با مامورین قونسلگری خویش در تماس باشید. شما مکلف نیستید که کمک های آنها را بپذیرید ولی مامورین قونسلگری شما شاید بتوانند علاوه بر مسایل دیگر در مورد استخدام وکیل قانونی با شما کمک نمایند، با خانواده تان تماس بگیرند و از شما در توقیف دیدن کنند. لطفاً امضا کنید تا نشان دهید که شما این معلومات را دریافت نموده اید.

چاپ اسم: _____ شاهد: _____
Printed Name Witness
امضا: _____ تاریخ: _____
Signature Date

FRENCH

Statement 1:
For All Foreign Nationals Except Those from
“Mandatory Notification” Countries

Si vous êtes arrêté ou détenu, et ressortissant d’un pays autre que les Etats-Unis, vous pouvez nous demander de prévenir le consulat de votre pays ici aux Etats-Unis. Vous pouvez également communiquer avec vos fonctionnaires consulaires. Un fonctionnaire consulaire peut notamment être en mesure de vous aider à obtenir un avocat, contacter votre famille et vous rendre visite lors de votre détention. Si vous désirez que nous prévenions le consulat, vous pouvez en faire la demande maintenant ou plus tard, au moment de votre choix. Souhaitez-vous que nous prévenions maintenant votre consulat ?

OUI (YES)

NON (NO)

Nom: _____
Printed Name

Témoin: _____
Witness

Signature : _____
Signature

Date : _____
Date

Statement 2:
For Foreign Nationals from
“Mandatory Notification” Countries

Si vous êtes arrêté ou détenu, nous sommes tenus, en raison de votre nationalité, de prévenir le consulat de votre pays ici aux Etats-Unis. Nous le ferons le plus tôt possible. De plus, vous pouvez également communiquer avec vos fonctionnaires consulaires. Vous n’êtes pas obligé d’accepter leur aide mais ils peuvent notamment être en mesure de vous aider à obtenir un avocat, contacter votre famille et vous rendre visite lors de votre détention. Nous vous prions de bien vouloir apposer ci-dessous votre signature, ce qui apportera la preuve que cette information vous a bien été communiquée.

Nom: _____
Printed Name

Témoin: _____
Witness

Signature : _____
Signature

Date : _____
Date

GERMAN

Statement 1: **For All Foreign Nationals Except Those from “Mandatory Notification” Countries**

Als ausländischer Staatsangehöriger, der in den Vereinigten Staaten verhaftet oder festgenommen wurde, können Sie beantragen, dass wir die Konsularbeamten Ihres Landes hier in den USA über Ihre Situation unterrichten. Sie dürfen sich ebenfalls mit den Konsularbeamten Ihres Landes in Verbindung setzen. Ein Konsularbeamter kann Ihnen unter anderem bei der Beschaffung eines Rechtsbeistandes behilflich sein, sich mit Ihrer Familie in Verbindung setzen und Sie in der Haft besuchen. Wenn Sie wünschen, dass wir die Konsularbeamten Ihres Landes unterrichten, können Sie dies jetzt sofort oder auch später zu einem beliebigen Zeitpunkt beantragen. Wünschen Sie, dass wir die Konsularbeamten sofort unterrichten?

JA (YES)

NEIN (NO)

Name in Druckbuchstaben: _____
Printed Name

Zeuge: _____
Witness

Unterschrift: _____
Signature

Datum: _____
Date

Statement 2: **For Foreign Nationals from “Mandatory Notification” Countries**

Aufgrund Ihrer Staatsangehörigkeit sind wir verpflichtet, die Konsularbeamten Ihres Landes in den Vereinigten Staaten davon zu unterrichten, dass Sie verhaftet oder festgenommen wurden. Wir werden diese Unterrichtung so bald wie möglich vornehmen. Außerdem dürfen Sie sich mit den Konsularbeamten Ihres Landes in Verbindung setzen. Sie sind nicht dazu verpflichtet, deren Hilfe anzunehmen, aber die Konsularbeamten Ihres Landes können Ihnen unter anderem bei der Beschaffung eines Rechtsbeistands behilflich sein, sich mit Ihrer Familie in Verbindung setzen und Sie in der Haft besuchen. Bestätigen Sie bitte mit Ihrer Unterschrift, dass Sie diese Informationen erhalten haben.

Name in Druckbuchstaben: _____
Printed Name

Zeuge: _____
Witness

Unterschrift: _____
Signature

Datum: _____
Date

GREEK

Statement 1: **For All Foreign Nationals Except Those from “Mandatory Notification” Countries**

Ως μη υπήκοος των Η.Π.Α. που έχετε συλληφθεί ή έχετε τεθεί υπό κράτηση, μπορείτε να μας ζητήσετε να ειδοποιήσουμε την προξενική αρχή της χώρας σας εδώ στις Ηνωμένες Πολιτείες σχετικά με την κατάστασή σας. Μπορείτε ακόμα να επικοινωνήσετε με την προξενική σας αρχή. Ανώτερος προξενικός υπάλληλος μπορεί να είναι σε θέση να σας βοηθήσει προκειμένου να λάβετε νομική εκπροσώπηση, και μπορεί να έρθει σε επαφή με την οικογένειά σας και μεταξύ άλλων, μπορούν να σας επισκέπτονται κατά τη διάρκεια της κράτησής σας. Αν μας θέλετε να ειδοποιήσουμε την προξενική σας αρχή, μπορείτε να το ζητήσετε είτε τώρα, είτε οποιαδήποτε άλλη στιγμή στο μέλλον. Θέλετε να ειδοποιήσουμε τώρα την προξενική σας αρχή;

NAI (YES)

OXI (NO)

Όνοματεπώνυμο: _____
Printed Name

Μάρτυρας: _____
Witness

Υπογραφή: _____
Signature

Ημερομηνία: _____
Date

Statement 2: **For Foreign Nationals from “Mandatory Notification” Countries**

Λόγω της υπηκοότητάς σας, είμαστε υποχρεωμένοι να ειδοποιήσουμε την προξενική αρχή της χώρας σας εδώ στις Ηνωμένες Πολιτείες ότι έχετε συλληφθεί ή ότι βρίσκεστε υπό κράτηση. Θα το κάνουμε όσο το δυνατό πιο σύντομα. Επιπλέον, μπορείτε να επικοινωνήσετε με την προξενική σας αρχή. Δεν είναι υποχρεωτικό να δεχθείτε την βοήθειά τους, αλλά η προξενική σας αρχή είναι δυνατόν να σας βοηθήσει να λάβετε νομική εκπροσώπηση, όπως επίσης μπορεί να επικοινωνήσει με την οικογένειά σας και μεταξύ άλλων, να μπορούν να σας επισκέπτονται κατά τη διάρκεια της κράτησής σας. Παρακαλούμε όπως υπογράψετε σαν απόδειξη ότι λάβατε τούτη την γνωστοποίηση.

Όνοματεπώνυμο: _____
Printed Name

Μάρτυρας: _____
Witness

Υπογραφή: _____
Signature

Ημερομηνία: _____
Date

HEBREW

Statement 1:

*For All Foreign Nationals Except Those from
"Mandatory Notification" Countries*

הצהרה מס. 1

עבור כל הזרים למעט אלו שהם
מארצות עליהם חלה "חבות הצהרה"

מאחר ואינך אזרח/ית ארצות-הברית והינך עצור או כלוא, ניתנת לך בזאת האפשרות לבקש שנודיע לנציגי הקונסוליה של מדינתך כאן בארצות הברית על היותך עצור או כלוא. בנוסף, את/ה יכול/ה להיות בקשר עם נציגי הקונסוליה של מדינתך. נציגי הקונסוליה עשויים לעזור לך, בין השאר, במציאת ייצוג משפטי, ביצירת קשר עם בני משפחתך, ולבקר אותך בעת מעצרך. אם אתה מעונין ביצירת קשר עם נציגי הקונסוליה ניתן לבקש זאת עתה או בכל עת בעתיד. האם ברצונך שנודיע לנציגי הקונסוליה על מצבך בשלב הנוכחי?

לא

כן

_____ חתימת העד:

_____ שמך המלא:

_____ תאריך:

_____ חתימתך:

Statement 2:

For Foreign Nationals from "Mandatory Notification" Countries

הצהרה מס. 2

עבור כל הזרים מארצות עליהם חלה "חבות הצהרה"

בגלל אזרחותך, אנחנו מחוייבים להודיע לנציגי הקונסוליה של מדינתך, כאן בארצות הברית, שהינך כלוא או עצור. נעשה זאת בהקדם האפשרי. בנוסף, את/ה יכול/ה להיות בקשר עם נציגי הקונסוליה שלך. אינך מחויב לקבל עזרה זו, אך נציגי הקונסוליה עשוי לעזור לך, בין השאר, במציאת ייצוג משפטי, ביצירת קשר עם בני משפחתך, ולבקר אותך בעת מעצרך. חתימתך כאן מהווה הוכחה שמידע זה נימסר לך.

_____ חתימת העד:

_____ שמך המלא:

_____ תאריך:

_____ חתימתך:

HINDI

Statement 1:
**For All Foreign Nationals Except Those from
“Mandatory Notification” Countries**

यदि एक गैर-अमरीकी होते हुए आपको गिरफ्तार किया जा रहा है या हिरासत में रखा जा रहा है, तो आप यह अनुरोध कर सकते हैं कि हम अमरीका में आपके देश के काउंसलर अधिकारियों को आपकी स्थिति की सूचना दें। आप अपने देश के काउंसलर अधिकारियों से संपर्क भी कर सकते हैं। एक काउंसलर अधिकारी आपको कानूनी प्रतिनिधित्व दिलाने में मदद कर सकता है, और आपके परिवार से संपर्क कर सकता है और, अन्य बातों के साथ साथ, वह जेल में आपसे मिलने भी आ सकता है। यदि आप चाहते हैं कि हम आपके काउंसलर अधिकारियों को सूचित करें, तो इस अधिसूचना के लिए आप अभी निवेदन कर सकते हैं, या भविष्य में किसी भी समय ऐसा कर सकते हैं। क्या आप चाहते हैं कि हम आपके काउंसलर अधिकारियों को इस समय सूचना दें ?

हाँ (YES)

नहीं (NO)

साफ़ लिखा नाम: _____

Printed Name

हस्ताक्षर: _____

Signature

साक्षी: _____

Witness

तारीख: _____

Date

Statement 2:
For Foreign Nationals from “Mandatory Notification” Countries

आपकी राष्ट्रीयता के कारण हमारे लिए अनिवार्य है कि हम यहाँ अमरीका में आपके देश के काउंसलर अधिकारियों को सूचित करें कि आपको गिरफ्तार कर लिया गया है या आप हिरासत में हैं। हम जितनी जल्दी संभव होगा ऐसा करेंगे। इसके अलावा, आप चाहें तो अपने काउंसलर अधिकारियों से संपर्क कर सकते हैं। आपके लिए ज़रूरी नहीं कि आप उनकी मदद लें, लेकिन काउंसलर अधिकारी आपको कानूनी प्रतिनिधित्व दिलवाने में सहायता कर सकते हैं, और आपके परिवार से संपर्क कर सकते हैं और, अन्य बातों के साथ साथ, जेल में आपसे मिलने आ सकते हैं। कृपया यह बताने के लिए हस्ताक्षर कीजिये कि आपको यह जानकारी मिल गई है।

साफ़ लिखा नाम: _____

Printed Name

हस्ताक्षर: _____

Signature

साक्षी: _____

Witness

तारीख: _____

Date

INDONESIAN

Statement 1:

All Foreign Nationals Except Those From "Mandatory Notification" Countries

Sebagai bukan warganegara A.S. yang ditangkap atau ditahan, anda boleh meminta kami memberitahukan situasi anda kepada petugas konsuler negara anda di Amerika. Anda juga boleh berkomunikasi dengan petugas konsuler anda. Seorang petugas konsuler bisa membantu anda antara lain untuk memperoleh perwakilan hukum, dan menghubungi keluarga anda serta mengunjungi anda di tahanan. Jika anda ingin kami memberitahu petugas konsuler anda, anda bisa meminta pelaksanaan pemberitahuan ini sekarang, atau kapan saja di kemudian waktu. Apakah anda ingin kami memberitahu petugas konsuler anda sekarang?

YA (*Yes*)

TIDAK (*No*)

Nama dalam huruf cetak: _____
(*Printed name*)

Saksi:
(*Witness*)

Tanda tangan: _____
(*Signature*)

Tanggal:
(*Date*)

Statement 2:

For Foreign Nationals from "Mandatory Notification" Countries

Karena status kewarganegaraan anda, kami harus memberitahu petugas konsuler negara anda di Amerika Serikat bahwa anda telah ditangkap atau ditahan. Kami akan melakukan ini sesegera mungkin. Selain itu, anda bisa berkomunikasi dengan petugas konsuler anda. Anda tidak harus menerima bantuan mereka, tetapi petugas konsuler anda bisa membantu anda antara lain untuk memperoleh perwakilan hukum, dan bisa menghubungi keluarga anda dan mengunjungi anda di tahanan. Tanda tangani formulir ini untuk menunjukkan bahwa Anda telah memperoleh informasi ini.

Nama dalam huruf cetak: _____
(*Printed Name*)

Saksi:
(*Witness*)

Tanda tangan: _____
(*Signature*)

Tanggal:
(*Date*)

ITALIAN

Statement 1: **For All Foreign Nationals Except Those from “Mandatory Notification” Countries**

Lei non è cittadino degli Stati Uniti d’America ed è stato arrestato o detenuto dalle autorità statunitensi. Come tale, può chiedere che le autorità consolari competenti del Suo Paese presenti negli Stati Uniti d’America vengano informate della Sua situazione. Inoltre, Lei può comunicare con i suddetti funzionari che, fra l’altro, potrebbero aiutarLa ad assumere un avvocato, contattare la Sua famiglia, o visitarLa mentre è in stato di detenzione. Se desidera che le autorità consolari del Suo Paese vengano informate, lo può chiedere adesso o in qualsiasi momento nel futuro. Desidera che contattiamo le suddette autorità in questo momento?

SÌ (YES)

NO (NO)

Nome in stampatello: _____
Printed Name

Testimone: _____
Witness

Firma: _____
Signature

Data: _____
Date

Statement 2: **For Foreign Nationals from “Mandatory Notification” Countries**

In virtù della Sua cittadinanza, siamo obbligati a formalmente avvisare le autorità consolari competenti del Suo Paese presenti negli Stati Uniti d’America, che Lei è stato arrestato o detenuto. Lo faremo al più presto possibile. Inoltre, può comunicare con i suddetti funzionari, e benché non sia tenuto ad accettare la loro assistenza, essi potrebbero, fra l’altro, assisterLa ad assumere un avvocato, contattare la Sua famiglia, o visitarLa durante lo stato di detenzione. La preghiamo di apporre la Sua firma nello spazio indicato qui sotto a conferma di aver ricevuto questo avviso.

Nome in stampatello: _____
Printed Name

Testimone: _____
Witness

Firma: _____
Signature

Data: _____
Date

JAPANESE

Statement 1:

For All Foreign Nationals Except Those from “Mandatory Notification” Countries

逮捕もしくは拘留された非米国市民として、あなたは、当局が米国にあるあなたの国の領事館の係官にあなたの置かれている状況について通知するよう要請してもいいです。また、あなたの国の領事館の係官と連絡を取ってもいいです。領事館の係官はあなたが弁護人を手配するのを助けることができるかもしれませんが、他にもいろいろありますが、ご家族に接触したり拘留中のあなたを訪ねることもあります。もし当局があなたの国の領事館の係官に通知することをお望みなら、今、または今後いつでも、この通知を要請できます。この機会に、あなたの国の領事館の係官に当局から通知してほしいですか？

はい (YES)

いいえ (NO)

名前の活字体表記: _____

Printed Name

署名: _____

Signature

証人: _____

Witness

日付: _____

Date

Statement 2:

For Foreign Nationals from “Mandatory Notification” Countries

あなたの国籍のゆえに、当局はあなたが逮捕もしくは拘留されたことを米国にあるあなたの国の領事館の係官に通知しなければなりません。できるだけ早くそうします。加えて、あなたは、あなたの国の領事館の係官と連絡を取ってもいいです。係官の助けを受け入れる義務はありませんが、あなたの国の領事館の係官はあなたが弁護人を手配するのを助けることができるかもしれませんが、他にもいろいろありますが、ご家族に接触したり拘留中のあなたを訪ねることもあります。この情報を受理した証に署名をしてください。

名前の活字体表記: _____

Printed Name

署名: _____

Signature

証人: _____

Witness

日付: _____

Date

KOREAN

Statement 1: **For All Foreign Nationals Except Those from** **“Mandatory Notification” Countries**

귀하는 비 미국 국적인으로서 현재 체포, 또는 구금 중이므로, 귀하는 당 기관으로 하여금 미합중국 내에 있는 귀하 국가의 영사관 직원에게 귀하의 상황에 관하여 통보를 하도록 요청할 수 있습니다. 귀하는, 또한, 귀하 국가의 영사관 직원과 통신할 수도 있습니다. 영사관 직원은 귀하로 하여금 법적 대리인을 선임할 수 있도록 도움을 줄 수 있으며, 무엇보다도, 귀하의 가족과 연락하며 구금 중인 귀하를 방문할 수 있습니다. 귀하 국가의 영사관 직원에게 당 기관으로 하여금 통보하도록 원하신다면, 귀하는 지금이나, 향후 언제라도 그러한 통보를 요청하실 수 있습니다. 귀하는 바로 지금 귀하 국가의 영사관 직원에게 당 기관이 통보하는 것을 원하십니까?

예 (YES)

아니오 (NO)

인쇄체 성명: _____

Printed Name

서명: _____

Signature

증인: _____

Witness

일자: _____

Date

Statement 2: **For Foreign Nationals from** **“Mandatory Notification” Countries**

귀하의 국적을 사유로 하여, 당 기관은 미합중국 내에 있는 귀하 국가의 영사관 직원에게 귀하가 체포, 또는 구금되었다는 사실을 통보할 의무가 있습니다. 당 기관은 이러한 통보를 가능한 한 조속히 실행할 것입니다. 이에 추가하여, 귀하는 귀하 국가의 영사관 직원과 통신할 권리가 있습니다. 귀하는 그들의 협조를 반드시 받을 필요는 없으나 영사관 직원은 귀하로 하여금 법적 대리인을 선임할 수 있도록 도움을 줄 수 있으며, 무엇보다도, 귀하의 가족과 연락하며 구금 중인 귀하를 방문할 수 있습니다. 귀하가 이러한 안내 설명을 이미 들었다는 표시로서 아래에 서명하십시오.

인쇄체 성명: _____

Printed Name

서명: _____

Signature

증인: _____

Witness

일자: _____

Date

LAO

Statement 1: For All Foreign Nationals Except Those from “Mandatory Notification” Countries

ໃນຖານະທີ່ທ່ານບໍ່ຖືສັນຊາດອະເມຣິກັນ ທີ່ຖືກຈັບ ຫລື ຖືກກັກໂຕ ທ່ານອາດສາມາດຂໍຮ້ອງໃຫ້ພວກເຮົາ ແຈ້ງໄປທາງ ເຈົ້າໜ້າທີ່ກົງສູນຂອງທ່ານຢູ່ໃນສະຫະລັດອະເມຣິກາຊາບ ເພື່ອພິຈາລະນາສະພາບການຂອງທ່ານ. ທ່ານອາດສາມາດຕິດຕໍ່ກັບເຈົ້າໜ້າທີ່ກົງສູນຂອງທ່ານໄດ້. ເຈົ້າໜ້າທີ່ກົງສູນ ນອກຈາກວຽກງານປະຈຳແລ້ວ ອາດສາມາດຊ່ວຍທາທະນາຍຄວາມ, ຊ່ວຍຕິດຕໍ່ຄອບຄົວຂອງທ່ານ ແລະມາຢ້ຽມຢາມທ່ານໃນຂະນະທີ່ຖືກກັກ ໂຕຢູ່. ຖ້າທ່ານຕ້ອງການ ໃຫ້ພວກເຮົາແຈ້ງໄປທາງເຈົ້າໜ້າທີ່ກົງສູນຂອງທ່ານຊາບ ທ່ານຄວນຍື່ນຄຳຮ້ອງໃຫ້ ພວກເຮົາ ໃນເວລານີ້ ຫລືໃນອະນາຄົດກໍໄດ້. ທ່ານຕ້ອງການໃຫ້ພວກເຮົາແຈ້ງໄປທາງເຈົ້າໜ້າທີ່ກົງສູນຂອງ ທ່ານໃນເວລານີ້ບໍ່?

ຕ້ອງການ (YES)

ບໍ່ຕ້ອງການ (NO)

ພິມຊື່: _____
Printed Name

ຊ່ອງໜ້າ: _____
Witness

ລາຍເຊັນ: _____
Signature

ວັນທີ: _____
Date

Statement 2: For Foreign Nationals from “Mandatory Notification” Countries

ຍ້ອນສັນຊາດຂອງທ່ານ ພວກເຮົາຈຳເປັນຕ້ອງແຈ້ງໃຫ້ເຈົ້າໜ້າທີ່ກົງສູນຂອງປະເທດຂອງທ່ານຢູ່ໃນ ສະຫະລັດ ອະເມຣິກາຊາບວ່າ ທ່ານຖືກຈັບ ຫລື ຖືກກັກໂຕ. ພວກເຮົາຈະພະຍາຍາມດຳເນີນເລື່ອງ ຂອງທ່ານໃຫ້ໄວທີ່ສຸດ ເທົ່າທີ່ຈະໄວໄດ້. ທ່ານອາດສາມາດຕິດຕໍ່ກັບເຈົ້າໜ້າທີ່ກົງສູນຂອງທ່ານໄດ້. ທ່ານບໍ່ຈຳເປັນຈະຕ້ອງຮັບເອົາຄວາມ ຊ່ວຍເຫລືອຈາກຂະເຈົ້າ, ແຕ່ທາງເຈົ້າໜ້າທີ່ກົງສູນ ນອກຈາກວຽກງານປະຈຳແລ້ວ ອາດສາມາດຊ່ວຍທາ ທະນາຍຄວາມ, ຊ່ວຍຕິດຕໍ່ຄອບຄົວຂອງທ່ານ ແລະ ມາຢ້ຽມຢາມທ່ານໃນຂະນະທີ່ຖືກກັກໂຕຢູ່. ກະລຸນາເຊັນຮັບ ຂ້າງລຸ່ມນີ້ ວ່າທ່ານໄດ້ຮັບຮູ້ຂໍ້ມູນນີ້.

ພິມຊື່: _____
Printed Name

ຊ່ອງໜ້າ: _____
Witness

ລາຍເຊັນ: _____
Signature

ວັນທີ: _____
Date

POLISH

Statement 1: **For All Foreign Nationals Except Those from “Mandatory Notification” Countries**

Jako osoba nie będąca obywatelem USA, która zostaje aresztowana lub zatrzymana, może Pan(i) poprosić abyśmy powiadomili o Pana(i) sytuacji urzędników konsularnych Pana(i) kraju w Stanach Zjednoczonych. Może Pan(i) także komunikować się z tymi urzędnikami konsularnymi. Urzędnik konsularny może być w stanie pomóc Panu(i) w uzyskaniu porady prawnej oraz może m. in. powiadomić Pana(i) rodzinę i odwiedzić Pana(i) w areszcie. Jeśli życzy sobie Pan(i), abyśmy powiadomili urzędników konsularnych Pana(i) kraju, może Pan(i) poprosić o takie powiadomienie teraz lub w dowolnej chwili w przyszłości. Czy chce Pan(i), abyśmy niezwłocznie powiadomili urzędników konsularnych Pana(i) kraju?

TAK (YES)

NIE (NO)

Imię i nazwisko: _____
Printed Name

Świadek: _____
Witness

Podpis: _____
Signature

Data: _____
Date

Statement 2: **For Foreign Nationals from “Mandatory Notification” Countries**

Ze względu na Pana(i) narodowość, mamy obowiązek powiadomić urzędników konsularnych Pana(i) kraju w Stanach Zjednoczonych o tym, że został Pan(i) aresztowany lub zatrzymany. Zrobimy to możliwie jak najszybciej. Ponadto może Pan(i) komunikować się z tymi urzędnikami konsularnymi. Nie ma Pan(i) obowiązku przyjąć ich pomocy, ale mogą oni być w stanie pomóc Panu(i) w uzyskaniu porady prawnej i mogą m. in. powiadomić Pana(i) rodzinę oraz odwiedzić Pana(i) w areszcie. Proszę potwierdzić otrzymanie tych informacji swoim podpisem.

Imię i nazwisko: _____
Printed Name

Świadek: _____
Witness

Podpis: _____
Signature

Data: _____
Date

PORTUGUESE

Statement 1:
For All Foreign Nationals Except Those from
“Mandatory Notification” Countries

Como não-cidadão dos Estados Unidos que está sendo preso ou detido, você pode requerer que notifiquemos os funcionários consulares de seu país aqui nos Estados Unidos sobre a sua situação. Você pode se comunicar com os funcionários consulares de seu país. Um funcionário consular poderá, entre outros, ajudá-lo(a) a obter assistência jurídica, contatar sua família e visitá-lo(a) na prisão. Se desejar que notifiquemos os funcionários consulares de seu país, pode solicitá-lo já ou a qualquer momento no futuro. Você deseja que notifiquemos os funcionários consulares já?

SIM (YES)

NÃO (NO)

Nome por extenso: _____
Printed Name

Testemunha: _____
Witness

Assinatura: _____
Signature

Data: _____
Date

Statement 2:
For Foreign Nationals from
“Mandatory Notification” Countries

Devido à sua nacionalidade, somos obrigados a notificar os funcionários consulares de seu país aqui nos Estados Unidos que você foi preso ou detido, o que faremos assim que possível. Ademais, você pode se comunicar com os funcionários consulares de seu país. Você não é obrigado(a) a aceitar a ajuda deles, mas os funcionários consulares poderão, entre outros, ajudá-lo(a) a obter assistência jurídica, contatar sua família e visitá-lo(a) na prisão. Favor assinar indicando que recebeu esta informação.

Nome por extenso: _____
Printed Name

Testemunha: _____
Witness

Assinatura: _____
Signature

Data: _____
Date

ROMANIAN

Statement 1

For All Foreign Nationals Except Those from “Mandatory Notification” Countries

Ca cetățean/cetățeană ne-american/ă, care este arestat/ă sau reținut/ă, aveți dreptul de a ne cere să-i înștiințăm pe agenții consulari ai țării dumneavoastră de aici, din Statele Unite, despre situația dumneavoastră. Aveți de asemenea posibilitatea de a comunica cu agenții consulari ai țării dumneavoastră. Agentul consular vă poate ajuta să obțineți reprezentare legală, poate contacta familia dumneavoastră și vă poate vizita în timpul detenției, printre altele. Dacă doriți să-i contactăm pe agenții consulari ai țării dumneavoastră, puteți cere înștiințarea lor acum sau în oricare alt moment în viitor. Doriți să-i înștiințăm pe agenții consulari ai țării dumneavoastră acum?

DA

NU

Numele în litere de tipar: _____ Martor:

Semnătura: _____ Data:

Statement 2:

For Foreign Nationals from “Mandatory Notification” Countries

Datorită cetățeniei dumneavoastră, avem obligația de a-i înștiința pe agenții consulari ai țării dumneavoastră de aici, din Statele Unite, că ați fost arestat/ă sau reținut/ă. Vom face acest lucru cât mai curând posibil. În plus, puteți comunica cu agenții dumneavoastră consulari. Nu sunteți obligat/ă să acceptați asistența oferită de agenții consulari, dar agenții consulari ai țării dumneavoastră vă pot ajuta să obțineți reprezentare legală, pot contacta familia dumneavoastră și vă pot vizita în timpul detenției, între altele. Vă rugăm să semnați că ați primit aceste informații.

Numele în litere de tipar: _____ Martor:

Semnătura: _____ Data:

RUSSIAN

Statement 1:

For All Foreign Nationals Except Those from “Mandatory Notification” Countries

В случае ареста или задержания Вы, не будучи гражданином США, вправе потребовать, чтобы мы уведомили представителей Вашего консульства в Соединённых Штатах о Вашей ситуации. Вы также имеете право находиться в контакте с представителями Вашего консульства. Сотрудник Вашего консульства может оказать Вам содействие в найме адвоката или юрисконсульта, связаться с Вашей семьёй, посетить Вас в месте задержания и т.п. Если Вы желаете, чтобы мы уведомили представителей Вашего консульства, с требованием об этом можно обратиться сейчас или в любое время в дальнейшем. Хотите ли Вы, чтобы мы уведомили представителей Вашего консульства сейчас?

Да (YES)

Нет (NO)

Имя/фамилия: _____
Printed Name

Свидетель: _____
Witness

Подпись: _____
Signature

Дата: _____
Date

Statement 2:

For Foreign Nationals from “Mandatory Notification” Countries

В связи с Вашим гражданством, мы обязаны уведомить консульское учреждение Вашего государства в Соединённых Штатах о том, что Вы арестованы или задержаны. Это будет сделано при первой возможности. Вы также имеете право находиться в контакте с представителями Вашего консульства. Вы не обязаны принимать помощь от представителя консульства, но он может оказать Вам содействие в найме адвоката или юрисконсульта, связаться с Вашей семьёй, посетить Вас в месте задержания и т.п. Ваша подпись засвидетельствует то, что настоящая информация была Вами получена.

Имя/фамилия: _____
Printed Name

Свидетель: _____
Witness

Подпись: _____
Signature

Дата: _____
Date

SOMALI

Statement 1:
**For All Foreign Nationals Except Those from
“Mandatory Notification” Countries**

Adiga oo ah Muwaadin aan aheyn Mareeykan oo la xiray ama la qabtay, waxa aad codsan kartaa in aan wargalino xaaladaada saraakiisha qunsuliyadda wadankaaga ku leeyahay Mareeykanka. Sidoo kale waxa aad la hadli kartaa saraakiisha qunsuliyadaada. Sarkaalka qunsuliyadda ayaa laga yaabaa in uu kaa caawiyo helitaanka matalaad sharciga ah, iyo uu la xariiro qoyskaaga iyo in uu kugu soo booqdo meesha lagugu hayo iyo waxyaabo kale. Haddii aad rabto in aan wargalino saraakiisha qunsuliyadaada, hadda ayaad codsan kartaa in la wargaliyo, ama waqti kasta oo mustaqbalka ah. Ma dooneysaa in aan wargalino sarkaalka qunsuliyadaada waqtigan hadda la joogo?

HAA

MAYA

Qor Magacaaga:----- Markhaati:-----

Saxiixa:----- Taariikhda:-----

Statement 2:
**For All Foreign Nationals Except Those from
“Mandatory Notification” Countries**

Jinsiyadaada darteed, waxaa waajib nagu ah in aan ku wargalino saraakiisha qunsuliyadda wadankaaga ee ku taala Mareeykanka in lagu xiray ama lagu qabtay. Waxa aan sidaa u sameeyn doonaa sida ugu dhaqsaha badan. Waxaa taas soo raaca, in aad la hadli karto saraakiisha qunsuliyadaada, Kuma khasbanid in aad qaadato kaalmadooda, laakiin saraakiisha qunsuliyadaadu waxa ay karaan in ay gacan kugu siiyaan in aad hesho matalaad xagga sharciga ah, iyo in ay la xariiri karaan qoyskaaga, iyo in ay kugu soo booqan karaan meesha laguugu hayo, iyo waxyaalo kale. Fadlan saxiix si ay u muuqato in aad heshay macluumaadkaan.

Qor Magacaaga:----- Markhaati:-----

Saxiix:----- Taariikhda:-----

SPANISH

Statement 1:
**For All Foreign Nationals Except Those from
“Mandatory Notification” Countries**

Por no ser ciudadano de los Estados Unidos, y estar arrestado o detenido, usted puede pedirnos que notifiquemos de su situación a los funcionarios consulares de su país en los Estados Unidos. También puede comunicarse con los funcionarios consulares de su país. Entre otras cosas, un funcionario consular de su país puede ayudarle a conseguir asesoramiento legal, y también puede ponerse en contacto con su familia y visitarle en el lugar de detención. Si usted desea que notifiquemos a los funcionarios consulares de su país, puede solicitarlo ahora o en cualquier oportunidad en el futuro. ¿Desea que notifiquemos ahora a los funcionarios consulares de su país?

SÍ (YES)

NO (NO)

Nombre: _____
Printed Name

Testigo: _____
Witness

Firma: _____
Signature

Fecha: _____
Date

Statement 2:
**For Foreign Nationals from
“Mandatory Notification” Countries**

Debido a su nacionalidad, estamos obligados a notificar a los funcionarios consulares de su país en los Estados Unidos que usted ha sido arrestado o detenido. Haremos esta notificación lo más pronto posible. Además, usted puede comunicarse con los funcionarios consulares de su país. Usted no está obligado a aceptar su ayuda, pero esos funcionarios pueden ayudarle, entre otras cosas, a conseguir asesoramiento legal, y también pueden ponerse en contacto con su familia y visitarle en el lugar de detención. Sírvase firmar para indicar que ha recibido esta información.

Nombre: _____
Printed Name

Testigo: _____
Witness

Firma: _____
Signature

Fecha: _____
Date

SWAHILI

Statement 1:

For All Foreign Nationals Except Those from “Mandatory Notification” Countries

Kama mtu ambaye unakamatwa au kuwekwa kizuizini si raia wa Marekani, unaweza kuomba kwamba tujulishe maafisa wa ubalozi wa nchi yako waliopo hapa Marekani kuhusu suala lako. Unaweza pia kuwasiliana na maafisa wako wa ubalozi. Afisa wa ubalozi anaweza kukusaidia kupata uwakilishi wa kisheria, na anaweza kuwasiliana na familia yako na kukutembelea kizuizini, miongoni mwa mambo mengine. Kama unataka tujulishe maafisa wako wa ubalozi, unaweza kuomba taarifa hii sasa, au wakati wowote katika siku zijazo. Je, unataka tuwajulishe maafisa wako wa ubalozi wakati huu?

NDIYO

HAPANA

Jina Kamili: _____

Shahidi: _____

Saini: _____

Tarehe: _____

Statement 2:

For Foreign Nationals from “Mandatory Notification” Countries

Kwa sababu ya uraia wako, tunatakiwa kujulisha maafisa wa ubalozi wa nchi yako waliopo hapa Marekani kwamba umekamatwa au kuwekwa kizuizini. Tutafanya hivyo haraka iwezekanavyo. Zaidi ya hayo, unaweza kuwasiliana na maafisa wako wa ubalozi. Si lazima ukubali msaada wao, lakini maafisa wako wa ubalozi wanaweza kukusaidia kupata uwakilishi wa kisheria, na wanaweza kuwasiliana na familia yako na kukutembelea kizuizini, miongoni mwa mambo mengine. Tafadhali weka saini kuonyesha kwamba umepokea maelezo haya.

Jina Kamili: _____

Shahidi: _____

Saini: _____

Tarehe: _____

TAGALOG (PHILIPPINES)

Statement 1: For All Foreign Nationals Except Those from “Mandatory Notification” Countries

Kung kayo’y maaresto o madetained dito sa Amerika, at kahit na hindi naman kayo U.S. Citizen, maaari ninyong ipakiusap na ipagbigay alam ang nangyaring ito sa inyo, sa consular officer ng Philippine Embassy na narito sa Amerika. Puwede ring kayo na mismo ang kumontak sa Philippine Embassy. Maaaring kayong magpatulong sa mga namamahala ng ganitong kaso sa Embahada ng Pilipinas , na maghanap ng makakahawak ng inyong kaso, magkaroon ng isang makakakontak sa inyong kamag-anakan, para kayo’y madalaw o mapuntahan sa inyong kinaroroonan at nang may makapag-asikaso ng mga dapat gawin. At kung gusto na ninyo silang kontakin, ngayon mismo o kung kailan ninyo gusto, magsabi lang kayo. Gusto na ba ninyong ipagbigay alam namin sa Philippine Embassy ang tungkol sa inyo? Gusto ba ninyong kontakin na namin sila?

Opo (YES)

Huwag na p o. (NO)

i-print ang buong pangalan: _____

Printed Name

Pirma: _____

Signature

Testigo: _____

Witness

Petsa: _____

Date

Statement 2: For Foreign Nationals from “Mandatory Notification” Countries

Dahil sa kayo’y Taga Pilipinas, kailangan po naming ipagbigay alam sa Philippine Embassy dito sa Amerika na kayo’y naaresto o nakadetained. Kailangan ho naming gawin ito sa lalong madaling panahon . Puwede rin naman na kontakin ninyo ang Philippine Embassy. Hindi ho naman kailangang magpatulong kayo sa kanila , Pero baka ho naman may maitulong sila sa inyong makahanap ng hahawak ng inyong kaso, O kaya’y kontakin ang inyong kamag-anakan nang madalaw o mapuntahan kayo sa inyong kinaroroonan. At matulungan kayo tungkol sa mga iba pang bagay. Pir ahan ninyo ito bilang pagpapatunay na itong impormasyong ito’y nakarating, sinabi at ipinaliwanag sa inyo.

i-print ang buong pangalan: _____

Printed Name

Pirma: _____

Signature

Testigo: _____

Witness

Petsa: _____

Date

THAI

Statement 1: For All Foreign Nationals Except Those from “Mandatory Notification” Countries

ในฐานะบุคคลที่มีถิ่นสัญชาติสหรัฐซึ่งถูกจับหรือถูกคุมขังอยู่
ท่านอาจขอร้องให้เราแจ้งแก่เจ้าหน้าที่กงสุลจากประเทศของท่านซึ่งประจำอยู่ในสหรัฐให้ทราบ
ถึง สถานะของท่าน ท่านอาจติดต่อกับเจ้าหน้าที่กงสุลของท่าน
โดยเจ้าหน้าที่กงสุลอาจสามารถ ช่วยท่านจัดหาตัวแทนทางกฎหมาย
ติดต่อกับครอบครัวของท่าน และมาเยี่ยมท่านใน ที่คุมขังเหล่านี้เป็นต้น
หากต้องการให้เราแจ้งเจ้าหน้าที่กงสุลของท่าน ก็สามารถขอให้ เราดำเนินการได้ในบัดนี้
หรือเมื่อใดก็ตามในภายหลัง ท่านต้องการให้เราแจ้งเจ้าหน้าที่
กงสุลของท่านในเวลานี้เลยหรือไม่

ต้องการ (YES)

ไม่ต้องการ (NO)

ชื่อตัวบรรจง: _____
Printed Name

พยาน: _____
Witness

ลายเซ็น: _____
Signature

วันที่: _____
Date

Statement 2: For Foreign Nationals from “Mandatory Notification” Countries

เนื่องจากสัญชาติที่ท่านถืออยู่ เราจำเป็นต้องแจ้งแก่เจ้าหน้าที่กงสุลจากประเทศของ
ท่านซึ่งประจำอยู่ในสหรัฐให้ทราบว่าท่านถูกจับหรือถูกคุมขังอยู่ โดยจะแจ้งโดยเร็วที่สุด
นอกจากนี้ ท่านอาจติดต่อกับเจ้าหน้าที่กงสุลของท่าน โดยท่านไม่จำเป็นต้อง
รับความช่วยเหลือจากเจ้าหน้าที่กงสุล แต่เจ้าหน้าที่กงสุลอาจสามารถช่วยท่านจัดหา
ตัวแทนทางกฎหมาย ติดต่อกับครอบครัวของท่าน และมาเยี่ยมท่านในที่คุมขัง เหล่านี้ เป็นต้น
โปรดลงลายเซ็นเพื่อแสดงว่าท่านได้รับทราบข้อความข้างต้นนี้

ชื่อตัวบรรจง: _____
Printed Name

พยาน: _____
Witness

ลายเซ็น: _____
Signature

วันที่: _____
Date

VIETNAMESE

Statement 1: **For All Foreign Nationals Except Those from “Mandatory Notification” Countries**

Là người không có quốc tịch Hoa Kỳ, hiện đang bị bắt hay bị giam, Ông/Bà có quyền yêu cầu chúng tôi thông báo cho các viên chức lãnh sự của nước Ông/Bà tại Hoa Kỳ về hoàn cảnh của Ông/Bà. Ông/Bà cũng có thể liên lạc với các viên chức lãnh sự của nước Ông/Bà. Viên chức lãnh sự có thể giúp Ông/Bà tìm người đại diện pháp lý, có thể liên lạc với gia đình Ông/Bà và tới thăm Ông/Bà trong nhà giam, ngoài các việc khác. Nếu muốn chúng tôi thông báo cho các viên chức lãnh sự của nước Ông/Bà thì Ông/Bà có thể yêu cầu thông báo ngay bây giờ, hay bất cứ lúc nào sau này. Ông/Bà có muốn chúng tôi thông báo cho các viên chức lãnh sự quán nước mình vào lúc này không?

CÓ (YES)

KHÔNG (NO)

Tên viết hoa: _____
Printed Name

Người làm chứng: _____
Witness

Ký tên: _____
Signature

Ngày tháng: _____
Date

Statement 2: **For Foreign Nationals from “Mandatory Notification” Countries**

Vì lý do quốc tịch của Ông/Bà, chúng tôi bắt buộc phải thông báo cho các viên chức lãnh sự của nước Ông/Bà ở Hoa Kỳ là Ông/Bà đã bị bắt hay bị giam. Chúng tôi sẽ thi hành việc này ngay. Ngoài ra, Ông/Bà có quyền liên lạc với các viên chức lãnh sự của nước Ông/Bà. Ông/Bà không bắt buộc phải nhận sự giúp đỡ của họ, nhưng các viên chức lãnh sự này có thể giúp Ông/Bà tìm người đại diện pháp lý, và có thể liên lạc với gia đình Ông/Bà tới thăm Ông/Bà trong nhà giam, ngoài các việc khác. Xin ký tên để chứng tỏ ông bà đã nhận được thông tin này.

Tên viết hoa: _____
Printed Name

Người làm chứng: _____
Witness

Ký tên: _____
Signature

Ngày tháng: _____
Date

FAX SHEET – CONSULAR NOTIFICATION

SUBJECT:

NOTIFICATION OF ARREST OR DETENTION OF A NATIONAL OF YOUR COUNTRY

DATE/TIME: _____

TO: Embassy/Consulate of _____ in _____, _____
(COUNTRY) (CITY) (STATE)

FROM:

Name/Office _____

Address _____

City _____ State _____ Zip Code _____

Telephone (_____) _____ Fax (_____) _____

We arrested/detained the following foreign national, who we understand is a national of your country, on _____ .
(DATE)

Name: _____

Date of Birth/Place of Birth: _____

Nationality/Country: _____

Passport Issuing Nation: _____

Passport Number: _____

This person has been or may be charged with the following offense(s):

For more information, please call _____ between the hours of _____.

Please refer to case number _____ when you call.

ADDITIONAL INFORMATION:

FAX SHEET – CONSULAR NOTIFICATION

SUBJECT:

NOTIFICATION OF POSSIBLE APPOINTMENT OF GUARDIAN OR TRUSTEE

DATE/TIME: _____

TO:

Embassy/Consulate of _____ in _____, _____
(COUNTRY) (CITY) (STATE)

FROM:

Name/Office _____

Address _____

City _____ State _____ Zip Code _____

Telephone (_____) _____ Fax (_____) _____

Steps are being taken for the possible appointment of a guardian or trustee for the following foreign national, who we understand is a national of your country and who appears to be either a:

minor child **OR** *an adult lacking full capacity.*
(CIRCLE ONE)

Name: _____

Date of Birth/Place of Birth: _____

Nationality/Country: _____

Passport Issuing Nation: _____

Passport Number: _____

A HEARING IS SCHEDULED FOR:

_____, _____, _____ AT _____ a.m./p.m.
(DAY) (MONTH) (YEAR) (TIME) (CIRCLE)

FAX SHEET – CONSULAR NOTIFICATION

SUBJECT:

NOTIFICATION OF DEATH, SERIOUS INJURY OR ILLNESS OF A NATIONAL OF YOUR COUNTRY

DATE/TIME: _____

TO: Embassy/Consulate of _____ in _____, _____
(COUNTRY) (CITY) (STATE)

FROM:

Name/Office _____

Address _____

City _____ State _____ Zip Code _____

Telephone (_____) _____ Fax (_____) _____

The following individual, who we understand is a national of your country:

*has died, was seriously injured, **OR** is seriously ill within our jurisdiction.*

(CIRCLE ONE)

Name: _____

Date of Birth/Place of Birth: _____

Nationality/Country: _____

Passport Issuing Nation: _____

Passport Number: _____

Date of Death: _____ Place of Death: _____

Apparent Cause of Death: _____

For more information, **please call** _____ between the hours of _____.

Please refer to **case number** _____ when you call.

ADDITIONAL INFORMATION:

IDENTIFICATION CARDS

DIPLOMATIC AND CONSULAR OFFICER IDENTIFICATION CARDS

The Department of State's Office of Protocol issues identification documents to diplomatic and consular officers and other foreign government personnel stationed in the United States on official business, and who are entitled to some degree of diplomatic or consular immunity. These identification cards can help you ensure that persons seeking to visit detainees at your facility for purposes of consular access are in fact authorized to perform consular functions in the United States on behalf of a foreign government.

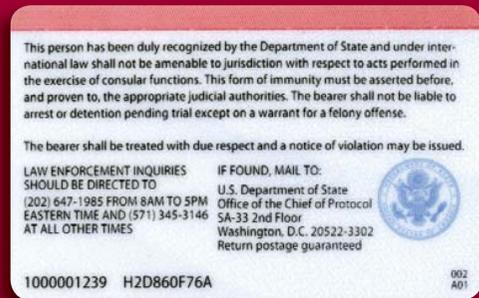
During business hours (8:15 a.m. to 5:00 p.m. Eastern), you may direct any questions regarding an individual's official status or immunity to the Department's Office of Protocol at (202) 647-1985. After hours, you may direct such questions to the Department's Bureau of Diplomatic Security at (202) 647-7277, (571) 345-3146, or (866) 217-2089, or send a fax to (202) 895-3613. You may also consult www.state.gov/m/ds/protection/immunities/c9118.htm.

Below are samples of the different types of diplomatic and consular identification cards. Because different degrees of immunity exist, you should carefully read the back of the card.

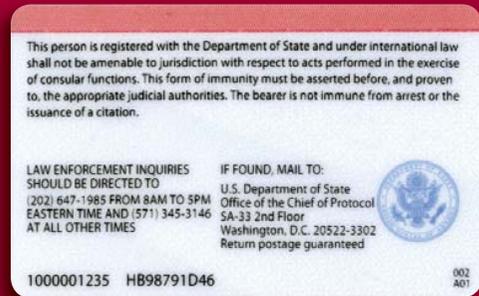
<p>★ UNITED STATES DEPARTMENT OF STATE ★</p> <p>DIPLOMATIC IDENTIFICATION CARD</p> <p>PID# 4009-1702-02 Expires: 05/22/2002</p> <p>Mission: CURIPANIA EMBASSY</p> <p>Name: DIPLOMAT, AMANDA DOB: 01/01/2002 Title: AMBASSADOR E. & P.</p> <p>Location: WASHINGTON, DC SEE REVERSE SIDE FOR STATEMENT OF IMMUNITY</p> <p>USA</p>	<p>This person has been duly notified to the Department of State and under international law enjoys immunity from criminal jurisdiction. The bearer shall not be liable to any form of arrest or detention, but may be given a notice of violation.</p> <p>The bearer shall be treated with due respect and all appropriate steps shall be taken to prevent any attack on the bearer's person, freedom, or dignity.</p> <p>LAW ENFORCEMENT INQUIRIES SHOULD BE DIRECTED TO (202) 647-1985 FROM 8AM TO 5PM EASTERN TIME AND (571) 345-3146 AT ALL OTHER TIMES</p> <p>IF FOUND, MAIL TO: U.S. Department of State Office of the Chief of Protocol SA-33 2nd Floor Washington, D.C. 20522-3302 Return postage guaranteed</p> <p>1000001255 HC12D285EC</p> <p>002 A01</p>	<p>BLUE bordered cards are issued to diplomatic officers and their families. They are entitled to full criminal immunity and may not be arrested or detained.</p>
<p>★ UNITED STATES DEPARTMENT OF STATE ★</p> <p>OFFICIAL IDENTIFICATION CARD</p> <p>PID# 4009-1702-02 Expires: 05/22/2002</p> <p>Mission: CURIPANIA EMBASSY</p> <p>Name: DIPLOMAT, AMANDA DOB: 01/01/2002 Title: ADMINISTRATIVE STAFF</p> <p>Location: WASHINGTON, DC SEE REVERSE SIDE FOR STATEMENT OF IMMUNITY</p> <p>USA</p>	<p>This person has been duly notified to the Department of State and under international law enjoys immunity from criminal jurisdiction. The bearer shall not be liable to any form of arrest or detention, but may be given a notice of violation.</p> <p>The bearer shall be treated with due respect and all appropriate steps shall be taken to prevent any attack on the bearer's person, freedom, or dignity.</p> <p>LAW ENFORCEMENT INQUIRIES SHOULD BE DIRECTED TO (202) 647-1985 FROM 8AM TO 5PM EASTERN TIME AND (571) 345-3146 AT ALL OTHER TIMES</p> <p>IF FOUND, MAIL TO: U.S. Department of State Office of the Chief of Protocol SA-33 2nd Floor Washington, D.C. 20522-3302 Return postage guaranteed</p> <p>2000000595 H1BF0A2BBF</p> <p>002 A01</p>	<p>GREEN bordered cards are issued to embassy administrative and technical staff employees and their families. This card signifies that the bearer is entitled to full criminal immunity and may not be arrested or detained.</p>
<p>★ UNITED STATES DEPARTMENT OF STATE ★</p> <p>OFFICIAL IDENTIFICATION CARD</p> <p>PID# 4009-1702-02 Expires: 05/22/2002</p> <p>Mission: CURIPANIA EMBASSY</p> <p>Name: DIPLOMAT, AMANDA DOB: 01/01/2002 Title: SECURITY GUARD</p> <p>Location: WASHINGTON, DC SEE REVERSE SIDE FOR STATEMENT OF IMMUNITY</p> <p>USA</p>	<p>This person has been duly notified to the Department of State and under international law enjoys immunity from jurisdiction with respect to acts performed in the course of official duties. This form of immunity must be asserted before, and proven to, the appropriate judicial authorities. The bearer is not immune from arrest or the issuance of a citation.</p> <p>LAW ENFORCEMENT INQUIRIES SHOULD BE DIRECTED TO (202) 647-1985 FROM 8AM TO 5PM EASTERN TIME AND (571) 345-3146 AT ALL OTHER TIMES</p> <p>IF FOUND, MAIL TO: U.S. Department of State Office of the Chief of Protocol SA-33 2nd Floor Washington, D.C. 20522-3302 Return postage guaranteed</p> <p>1000001250 HBA07845D4</p> <p>002 A01</p>	<p>GREEN bordered cards are issued to embassy service staff employees. This card signifies that the bearer is entitled to immunity for official acts only.</p>

IDENTIFICATION CARDS

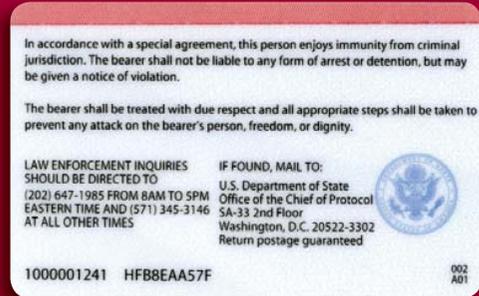
RED bordered cards are issued to career consular officers. This card signifies that the bearer is entitled to immunity for official acts only.



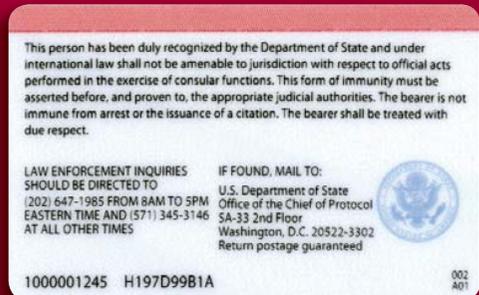
RED bordered cards are issued to career consular employees. This card signifies that the bearer is entitled to immunity for official acts only.



RED bordered cards are issued to consular officers/employees and their families from countries with which the U.S. has special agreements. They are entitled to full criminal immunity and may not be arrested or detained.



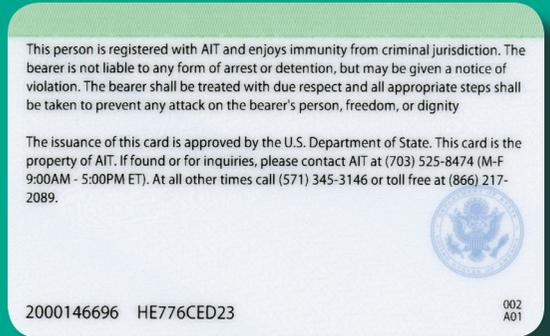
RED bordered cards are issued to honorary consular officers. This card signifies that the bearer is entitled to limited immunity for official acts only.



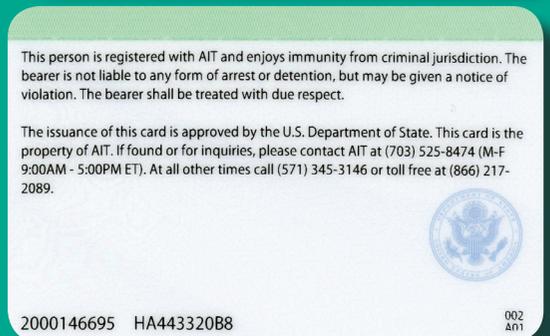
IDENTIFICATION CARDS

AMERICAN INSTITUTE IN TAIWAN TAIPEI ECONOMIC AND CULTURAL REPRESENTATIVE OFFICE (AIT TECRO)

TECRO
Employee



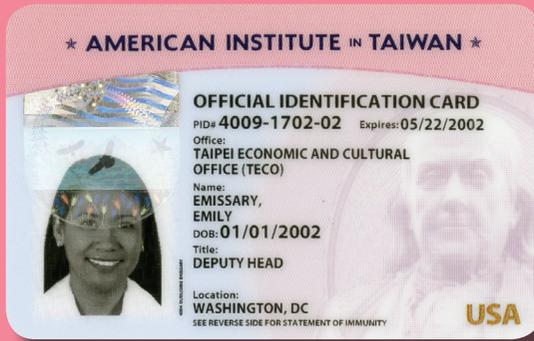
TECRO
Family



IDENTIFICATION CARDS

AMERICAN INSTITUTE IN TAIWAN TAIPEI ECONOMIC AND CULTURAL OFFICE (AIT TECO)

TECO Head
Deputy



This person is registered with AIT and is immune from suit and all legal processes relating to acts performed within the scope of authorized functions for TECO. This immunity must be asserted before, and proven to, appropriate judicial authorities. The bearer is not liable to pre-trial arrest or detention except on a warrant for an offense punishable by 1 year or more in prison, but may be given a notice of violation. The bearer shall be treated with due respect and all appropriate steps shall be taken to prevent any attack on the bearer's person, freedom, or dignity.

The issuance of this card is approved the U.S. Department of State. This card is the property of AIT. If found or for inquiries, please contact AIT at (703) 525-8474 (M-F 9:00AM - 5:00PM ET). At all other times call (571) 345-3146 or toll free at (866) 217-2089.

2000146705 H9208F2997

002
A01

TECO
Employee



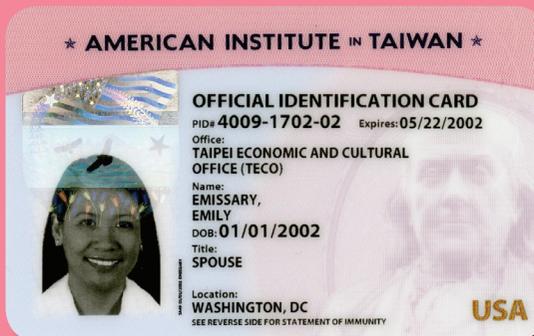
This person is registered with AIT and is immune from suit and all legal processes relating to acts performed within the scope of authorized functions for TECO. This immunity must be asserted before, and proven to, the appropriate judicial authorities. The bearer is not immune from arrest or the issuance of a citation. The bearer shall be treated with due respect and all appropriate steps shall be taken to prevent any attack on the bearer's person, freedom, or dignity.

The issuance of this card is approved by the U.S. Department of State. This card is the property of AIT. If found or for inquiries, please contact AIT at (703) 525-8474 (M-F 9:00 AM - 5:00PM ET). At all other times call (571) 345-3146 or toll free at (866) 217-2089.

2000146710 H39A62B79F

002
A01

TECO
Family



This person is the immediate family member of an individual registered with AIT. The bearer should be treated with due respect.

The issuance of this card is approved by the U.S. Department of State. This card is the property of AIT. If found or for inquiries, please contact AIT at (703) 525-8474 (M-F 9:00AM - 5:00PM ET). At all other times call (571) 345-3146 or toll free at (866) 217-2089.

2000146715 H4CFCAA499

002
A01

PART SIX: CONSULAR NOTIFICATION AND ACCESS MODEL STANDARD OPERATING PROCEDURE

In the pages that follow you will find a model standard operating procedure and written guidelines for law enforcement agencies.

- ▶ **Policy**
- ▶ **Definitions**
- ▶ **Consular Notification Procedures**
- ▶ **Facility Access and Visitation Privileges of Consular Officers**
- ▶ **Documentation and Recordkeeping**
- ▶ **Death, Serious Injury, or Serious Illness of a Foreign National**
- ▶ **References**

The obligations of consular notification and access are not codified in any federal statute. Implementing legislation is not necessary because executive, law enforcement, and judicial authorities can implement these obligations through their existing powers on the basis of the relevant international agreements and written guidance such as this manual. Implementation may also be facilitated through issuance of internal directives, orders, or similar instructions by appropriate federal, state, and local officials to their subordinates. For example, many local police departments incorporate instructions on consular notification into their internal manuals.

The Department of State strongly encourages all law enforcement agencies to develop standard operating procedures for complying with consular notification and access requirements. Such procedures help your agency avoid costly litigation and diplomatic complaints. Moreover, a written directive governing procedures for assuring compliance with consular notification and access requirements is now required for accreditation by the American Correctional Association (ACA) and the International Association of Campus Law Enforcement Administrators (IACLEA).¹³⁹

The model standard operating procedure (SOP) below is intended for law enforcement agencies to use as a template.

Please add or remove language to best fit your agency's needs. The Department of State does not intend this model SOP to be a complete or comprehensive restatement of the United States' international legal obligations under the VCCR or any bilateral agreement. Instead, the model SOP provides one set of suggested procedures that, if followed, will in most cases ensure that your department or agency complies with the law on consular notification and access. Going through the procedures precisely as outlined in the model SOP is not necessarily the only means by which your agency can ensure compliance with this body of law. For a more complete description of the legal regime governing consular notification and access, including many of its nuances, you should read Parts One through Four of this manual.

Questions and comments about the model SOP can be emailed to consnot@state.gov. A version of the model SOP reflecting any updates that may have occurred subsequent to this manual's publication is available for download at travel.state.gov/CNA.

¹³⁹ Visit www.aca.org and www.iaclea.org for information.

ARRESTS/DETENTIONS/DEATHS/SERIOUS INJURIES OF FOREIGN NATIONALS

STATEMENT OF PURPOSE

The purpose of this Standard Operating Procedure is to provide written policies and procedures on the arrest, detention, death, or serious injury of foreign nationals.

INDEX

- A. Policy
 - B. Definitions
 - C. Consular Notification Procedures
 - D. Facility Access/Visitation Privileges of Consular Officials
 - E. Documentation/Recordkeeping
 - F. Death, Serious Injury, or Serious Illness of a Foreign National
 - G. References
-

A. POLICY

It is the policy of **[NAME OF LAW ENFORCEMENT AGENCY]** to comply with all United States treaty obligations on consular notification and access.

B. DEFINITIONS

1. Arrest or detention: Any arrest, detention, or other commitment to custody which results in a foreign national being incarcerated for more than a few hours triggers consular notification requirements. A brief traffic stop or an arrest resulting in a citation for a misdemeanor and release at the scene does not trigger such requirements. On the other hand, requiring a foreign national to accompany a law enforcement officer to a place of detention may trigger the consular notification requirements, particularly if the detention lasts for a number of hours or overnight. The longer a detention continues, the more likely it is that consular notification requirements are triggered.
2. Foreign national: Any person who is not a

U.S. citizen; same as “alien.” Aliens who are lawful permanent residents in the United States and who have a resident alien registration card (“green card”) are foreign nationals. So are undocumented or “illegal” aliens.

3. 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. Different from “counsel,” which is an attorney authorized to provide legal advice. Consuls are not authorized to practice law.
4. Diplomat: A foreign official at the country’s embassy in Washington, D.C., assigned to represent the country. Diplomats may also perform consular functions, and should be treated the same as a consular officer.
5. “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. For such a foreign national, you must notify the consular officer regardless of whether the national requests or wants you to do so. The “mandatory” list of these 56 countries is at travel.state.gov/CNA.
6. “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 56 countries.

C. CONSULAR NOTIFICATION PROCEDURES

1. Obligation triggered 1. at time of booking. The notification process will begin at the time the arrested foreign national is booked into the detention facility. The booking officer who processes the foreign

national is responsible for implementing the notification process.

2. Determine the foreign national's country. In the absence of other information, assume this is the country on whose passport the foreign national travels. Absent citizenship documentation or other evidence to the contrary, accept the foreign national's own statement as to his or her nationality.

3. Determine whether or not this country is a mandatory notification ("list") country. If the foreign national's country is not on the list of "mandatory notification" countries, he or she is from an "upon request" country.

a. For foreign nationals whose country is on the list of mandatory notification countries:

i. Notify the nearest consulate of the foreign national's country via fax immediately or as soon as reasonably possible, and in no case longer than the end of the booking shift. Notify the consulate even if the foreign national does not want notification. Contact information for consulates is at travel.state.gov/CNA.

ii. 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 your supervisor or the Department of State at (202) 485-7703.

iii. Inform the foreign national that you notified his or her consulate. You may use the sample statement, available in several languages, at travel.state.gov/CNA.

iv. Make a note of the completed notification in the case file and keep the fax and fax confirmation sheet, or, the sent email.

b. For foreign nationals whose country is not on the list of mandatory notification countries:

i. 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. You may use the sample statement, available in several languages, at travel.state.gov/CNA.

ii. Make a note of the foreign national's decision in the case file.

iii. If the foreign national requests notification, notify the nearest consulate of the foreign national's country as soon as reasonably possible but no later than 72 hours after arrest. Contact information for consulates is at travel.state.gov/CNA.

iv. 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 your supervisor or the Department of State at (202) 485-7703.

v. Make a note of the completed notification in the case file and keep the fax and fax confirmation sheet, or, the sent email.

D. FACILITY ACCESS AND VISITATION PRIVILEGES OF CONSULAR OFFICERS

1. 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.

2. 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 at (202) 647-1985 or after hours at (571) 345-3146 or (866) 217-2089.

travel.state.gov/CNA.

6. Print the note screen and include it in the paperwork for the foreign national's records file.
7. The supervisor will be responsible for ensuring the proper notations are made in the record.

E. DOCUMENTATION AND RECORDKEEPING

1. Document the consular notification and/or offer of notification in CJIS **[OR OTHER APPLICABLE RECORD SYSTEM]** on the foreign national's note screen.
2. Make the consular notification by fax or email if possible, and by telephone if not. Place a copy of the fax and fax confirmation receipt, or the sent email, in the foreign national's file. You may use the sample sheet available at *travel.state.gov/CNA*.
3. 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. Make an audio recording of the telephone call if possible and preserve it.
4. For foreign nationals from "upon request" countries, make a notation that you told the national that he or she may have the consulate notified, and note the national's response. Indicate the date and time of your offer and the national's response. You may use the sample statement at *travel.state.gov/CNA*.
5. For foreign nationals from mandatory notification ("list") countries, make a notation that you told the national that you notified the consulate. You may use the sample statement at

F. DEATH, SERIOUS INJURY, OR SERIOUS ILLNESS OF A FOREIGN NATIONAL

8. **[NAME OF LAW ENFORCEMENT AGENCY]** will be subject to the guidelines outlined in **[AGENCY'S STANDARD OPERATING PROCEDURES]**.
9. In addition to the above procedures, when a foreign national dies, is seriously injured or becomes seriously ill, notify the nearest consulate of his or her country immediately or as soon as reasonably possible. Make such notification by fax or email if possible, and by telephone if not. You may use the sample fax sheet available at *travel.state.gov/CNA*.
10. Document this notification in the incident report, and place a copy of the fax and fax confirmation receipt or sent email in the foreign national's file.

Signature of Law Enforcement Agency Head:

G. REFERENCES

1. U.S. Department of State Publication, Consular Notification and Access: Instructions for Federal, State, and Local Law Enforcement and Other Officials Regarding Foreign Nationals in the United States and the Rights of Consular Officials to Assist Them available at *travel.state.gov/CNA*.

2. American Correctional Association and Commission Accreditation for Corrections Standards, Performance-Based Standards for Adult Local Detention Facilities (4th ed. 2004), p.100 (standard 4-ALDF-6A-06), available at http://www.aca.org/ACA_Prod_IMIS/ACA_Member/Standards___Accreditation/ACA_Member/Standards_and_Accreditation/SAC.aspx?hkey=7f4cf7bf-2b27-4a6b-b124-36e5bd90b93d.

PART SEVEN: CONTACT INFORMATION FOR FOREIGN EMBASSIES AND CONSULATES IN THE UNITED STATES

Contact information for foreign consular offices in the United States is available on our web site at *travel.state.gov/CNA*.

A

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