

# KERN COUNTY SHERIFF'S OFFICE

## Detentions Bureau Policies and Procedures

---

**TITLE: FOREIGN CONSULAR NOTIFICATION**

**A-1900**

---

<b>EFFECTIVE:</b>	<b>REVIEWED:</b>	<b>REVISED:</b>	<b>UPDATED:</b>
December 12, 2003	07-11-24	03-05-15	07-11-24

**APPROVED BY:** Detentions Bureau Chief Deputy Cindy Cisneros

**REFERENCE:** 1963 VCCR, P.C. 834(c), DPPM J-110

---

### **POLICY**

Penal Code 834(c) requires California law enforcement agencies to conform to the 1963 Vienna Convention on Consular Relations Treaty (VCCR). The Treaty obligates law enforcement officers to advise "without delay" any foreign national who is arrested or detained that they have the right to speak to an official from their country's consulate. If an individual chooses to exercise that right, the law enforcement official is required to notify the appropriate consulate. In the case of certain countries, such notification is required regardless of the foreign national's wishes.

Compliance with the treaty, through prompt and courteous notifications to foreign nationals and consulate officers, will make it easier for the United States to insist on similar treatment towards Americans overseas. Thus, it is the policy of the Detentions Bureau to attempt to identify foreign nationals and advise them of their right to consular notification as part of the incarcerated person receiving process. When such notification is requested or required, staff will ensure that notification is completed as soon as reasonably possible.

Typical services of a consular officer include arranging visits and phone calls regarding the foreign national's needs and situation. A consular may assist in arranging legal representation, monitor the case, monitor issues of confinement, and assist family members in communicating with the foreign national.

### **DIRECTIVE #1**

Sheriff's staff will not advise foreign governments of any request for political asylum made by foreign nationals. The consular notification requirements still apply. However, staff will refer all requests for, or inquiries regarding, political asylum to the United States Department of State.

**DEFINITIONS:**

For purposes of this policy, the following definitions will apply:

- **Foreign National:** any person not a citizen of the United States. Persons with dual citizenship of the United States and a foreign country are not foreign nationals for purposes of this policy.
- **Consular Officer:** a citizen of a foreign country employed by that country's government and authorized to provide assistance on behalf of that government to its citizens abroad. "Honorary Consuls" and "Diplomatic Officers" will be treated in the same manner. All have identification cards issued by the Department of State.
- **Notification:** an advisement, preferably by fax, to a consular officer of the presence and general situation of a foreign national (i.e., arrested, and detained). Specifics of the detention need not be released.
- **Optional Notification:** means the foreign national may request that consular notification be made.
- **Mandatory Notification:** the designated Sheriff 's personnel will make the consular notification, regardless of the wishes of the foreign national.

**Procedure A: Advising Foreign Nationals of their Right to Consular Notification**

When an arrestee at intake says that they are a citizen of a country other than the United States, the receiving deputy will:

- Attempt to determine what country the incarcerated person is a citizen of. This can be accomplished by asking the incarcerated person or examining any travel documents the incarcerated person possesses. Enter this information as prompted by the JMS.
- Determine if the incarcerated person is a federal contract incarcerated person being received from another penal institution. If this is the case, no consular notification is required. Enter this information as prompted by the JMS.
- Determine if the incarcerated person's country requires mandatory consular notification. the JMS will do this automatically when the incarcerated person's country is entered.

**If the incarcerated person's country requires notification, the receiving deputy will:**

- Read the statement provided by the JMS to the incarcerated person.
- Ensure that the facility's clerical staff receives the notification fax form that is printed automatically by the JMS.
- Notify the Shift Supervisor.

**If the incarcerated person's country does not require notification, the receiving deputy will:**

- Read the statement provided by the JMS to the incarcerated person. This will include asking the incarcerated person if they want their consular officer notified. Enter the incarcerated person's response (Y/N) into the JMS.
- if the incarcerated person requests to have their consular officer notified, ensure that the facility's clerical staff receives the notification fax form that is automatically printed by the JMS, and notify the shift supervisor of the request.

## **DIRECTIVE #2**

If an incarcerated person who is a foreign national, requests to have their consular officer notified of their arrest after the booking process has been completed, the staff member receiving the request will advise the shift supervisor. The shift supervisor will ensure that a Notification of Arrest, Detention, or Death Form (Attachment C) is completed and forwarded to the appropriate foreign consulate.

## **DIRECTIVE #3**

If the JMS is inoperable or does not print the necessary notification forms, staff will complete the notification procedure manually as described in Section J-110 of the Department Policy and Procedure Manual by printing out and completing Attachments A-C located on SheriffNet.

### **Procedure B: Notification to an Incarcerated person's Consular Officer**

**Upon receiving a notification fax form, clerical staff will:**

- Complete and fax the form to the appropriate consulate.
- Enter the required information onto the Foreign Consular Notification Log (Attachment D).

- Once the Foreign Consular Notification Log is full, forward the log to the facility administrative sergeant, who will retain the log for a minimum of five (5) years.
- Place the notification fax form and the fax confirmation receipt in the incarcerated person's file.

**Note:** The Central Receiving Facility Jail Office maintains a current list of foreign consulate contacts.