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#15.11	#15.11	Foreign Nationals

This policy addresses the privileges and immunities afforded to members of foreign diplomatic missions and consular posts.

This policy also addresses the legal requirements related to immigration and consular notifications that should occur when a foreign national is in custody.

The City of Kent Corrections Facility will treat foreign diplomatic and consular personnel with due regard for the privileges and immunities to which they are entitled under international law. The City of Kent Corrections Facility will investigate all claims of immunity and accept custody of the person when appropriate.

The City of Kent Corrections Facility will also honor the laws related to foreign nationals in custody by making proper consular notifications and by assisting those who wish to contact their consular representative.

The City of Kent Corrections Facility will notify United States immigration officials when any foreign national is committed to the custody of the City of Kent Corrections Facility.

Definitions

Consular - A consular officer serving as an official representative of a foreign government. Consuls enjoy only limited immunities as opposed to diplomatic officers, who enjoy unlimited immunity.

Diplomat -Diplomats are entitled to diplomatic immunity, broadly defined as the freedom from local jurisdiction accorded to duly accredited diplomatic officers, their families, staffs, and servants. Although a diplomat may be entitled to immunity, that immunity may be waived by the sending state upon request of the U.S. Department of State, who advises it requests waivers of immunity in every case where the prosecutor advises that, but for the immunity, charges would be pursued.

Foreign National - Any citizen of another country, excluding diplomats and consuls, who are in the United States on a temporary basis, either legally or illegally. This includes tourists, students, and aliens. It also includes those holding an Alien Registration Card (green card). They are subject to arrest and detention.

Honorary Consular - A person, often a foreign national, who has limited duties to assist diplomatic officials. They have no claim of diplomatic immunity. If the incident is noteworthy, notification procedures shall be followed as the incident is investigated. Copies of these reports shall be forwarded to the Administrative Corrections Sergeant and the Jail Commander.

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Diplomatic and Consular Immunity

Resources

The Administrative Corrections Sergeant or designee will ensure that current contact information for the U.S. Department of State and the U.S. Mission to the United Nations is readily available for the City of Kent Corrections Facility Corrections Staff who needs to verify a claim of diplomatic or consular immunity. Relevant material for law enforcement published by the U.S. Department of State Bureau of Diplomatic Security should be readily available as well.

Claims of Diplomatic or Consular Immunity

When an arrestee who claims diplomatic or consular immunity is brought to the City of Kent Corrections Facility the receiving Corrections Staff shall first inform the on-duty Corrections Sergeant and/or Shift Supervisor then generally proceed as follows:

- Do not accept custody of the person from the transporting officer. The person should not be brought inside the City of Kent Corrections Facility unless doing so would facilitate the investigation of his/her claim of immunity.
- Do not handcuff the person, or, if handcuffs have been applied, remove them unless there is an articulable threat that would justify their use.
- If the person has already been accepted into custody, inform the person that they will be detained until their identity and immunity can be confirmed. Attempt to obtain a U.S. Department of State-issued identification card or other identification or documents that may relate to the claimed immunity.
- In all cases, verify the status and level of immunity by contacting the [U.S. Department of State](#) or [the U.S. Mission to the United Nations](#), as appropriate.

It will be the responsibility of the on-duty Corrections Sergeant and/or Shift Supervisor to communicate the claim of immunity to the on-duty supervisor of the arresting agency (if not the City of Kent Corrections Facility).

The on-duty Corrections Sergeant and/or Shift Supervisor may assist another agency in determining the person's immunity status. the on-duty Corrections Sergeant and/or Shift Supervisor is responsible for ensuring appropriate action

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is taken based upon information received regarding the person's immunity status

Reporting

If the person's immunity status has been verified, the on-duty Corrections Sergeant and/or Shift Supervisor should ensure a report is prepared describing the details and circumstances of any detention or custody.

A copy of the report should be faxed or mailed as soon as possible to the U.S. Department of State in Washington, D.C. or to the U.S. Mission to the United Nations in New York in cases involving a member of the United Nations community.

Consular Notifications

The Administrative Corrections Sergeant, Jail Commander or designee will ensure that [the U.S. Department of State's list of countries and jurisdictions that require mandatory notification](#) is readily available to the City of Kent Corrections Facility Corrections Staff.

There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be faxed and then retained for the record. Prominently displayed placards informing inmates of rights related to consular notification should also be posted.

Inmates detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and officials at the U.S. Department of Homeland Security ([28 CFR 115.51](#)).

Consular Notification at Booking

The City of Kent Corrections Facility Corrections Staff assigned to book inmates shall:

- Inform the foreign national, without delay, that they may have their consular officers notified of the arrest or detention and may communicate with them. Corrections Staff shall ensure this notification is acknowledged and documented in an incident.
- Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.

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- If the foreign national's country is not on the list for mandatory notification but the foreign national requests that their consular officers be notified, then:
 - Notify the nearest embassy or consulate of the foreign national's country of the person's arrest or detention by faxing the appropriate notification form. If no fax confirmation is received, a telephonic notification should be made and documented in an incident report.
 - Forward any communication from the foreign national to his/her consular officers without delay.

- If the foreign national's country is on the list for mandatory notification, then:
 - Notify the nearest embassy or consulate of the foreign national's country, without delay, of the person's arrest or detention by faxing the appropriate notification form. If no fax confirmation is received, a telephonic notification should be made and documented in an incident report.
 - Tell the foreign national that this notification has been made and inform their without delay that they may communicate with his/her consular officers.
 - Forward any communication from the foreign national to their consular officers without delay.
 - Document all notifications to the embassy or consulate in an incident report and retain the faxed notification and any fax confirmation for the inmate's file.

Corrections Staff should not discuss anything with consulate personnel beyond the required notifications, such as whether the inmate is requesting asylum.

Requests for asylum should be forwarded to the Administrative Corrections Sergeant, Jail Commander or designee

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