



**State of North Carolina
Department of Correction
Division of Prisons**

POLICY AND PROCEDURE

Chapter: C
Section: .0700
Title: **Consular Notification and Access**
Issue Date: 12/08/04
Supersedes: N/A (New Policy)

.0701 PURPOSE:

- (a) The purpose of this policy is to establish procedures to ensure affected consular officials are notified when a foreign-born national (herein referred to as “Foreign National”) is admitted to prison. A “Foreign National” for purposes of Consular Notification by the N.C. Division of Prisons is any person in DOP custody who is not a U.S. citizen, as indicated in *Consular Notification and Access*, published by the U.S. State Department, which, together with any successor publications is incorporated herein by this reference.
- (b) The NC DOP will notify foreign governments requiring notification of the admission of their nationals into our custody, regardless of admission status. Certain nations require mandatory consular notification. Notification to all other nations will be made upon a Foreign National’s request. Consular officials are entitled access to their nationals and are entitled to provide consular assistance. This policy also establishes procedures for reporting the death or escape/capture of any Foreign National.

.0702 MANDATORY NOTIFICATION COUNTRIES

The following countries require mandatory notification when a Foreign National from that country is arrested or detained. Notification must occur with or without the Foreign National’s consent. This chart may be updated by subsequent memoranda and is taken from information in *Consular Notification and Access*, published by the U.S. State Department.

Algeria	Grenada	St. Kitts & Nevis
Antigua & Barbuda	Guyana	St. Lucia
Armenia	Hong Kong ²	St. Vincent & Grenadines
Azerbaijan	Hungary	Seychelles
Bahamas (The Bahamas)	Jamaica	Sierra Leone
Barbados	Kazakhstan	Singapore
Belarus	Kiribati	Slovakia
Belize	Kuwait	Tajikistan
Brunei	Kyrgyzstan	Tanzania
Bulgaria	Malaysia	Tonga
China ¹	Malta	Trinidad and Tobago
Costa Rica	Mauritius	Turkmenistan
Cyprus	Moldova	Tuvalu
Czech Republic	Mongolia	Ukraine

Dominica	Nigeria	United Kingdom ⁴
Fiji	Philippines	U.S.S.R. ⁵
Gambia (The Gambia)	Poland ³	Uzbekistan
Georgia	Romania	Zambia
Ghana	Russia	Zimbabwe

Superscript Notes:

1. China – Excludes persons from Taiwan.
2. Hong Kong – Notify officials from China.
3. Poland – Non-permanent U.S. residents only.
4. United Kingdom – Includes Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands. Their residents carry British passports.
5. U.S.S.R. – For persons with passports from the former Soviet Union, notification is made to the successor state (as listed in the preceding chart) from which the Foreign National originates.

.0703 PROCEDURE

This procedure applies to all prison admissions, including safekeepers, PSDs, or committed inmates.

- (a) Within 96 hours of admission, excluding weekends and holidays, the diagnostic center staff will assume responsibility for completing consular advisements to a Foreign National (“Inmate Advisement”) and notifications to the Foreign National’s consulate (“Consular Notification”). These forms are automated to print from OPUS. Such responsibilities include:
 - (1) Completing the Inmate Advisement Form.
 - (A) A copy of the signed original is given to the Foreign National.
 - (B) The signed original will be filed in his/her unit jacket, and a second copy will be forwarded to Combined Records for filing in the headquarters’ file.
 - (2) Completing the Consular Notification Form.
 - (A) Diagnostic staff shall complete the Notification of Arrest/Detention of a Foreign National fax form with the information provided by the Foreign National.
 - (B) If required under the procedure below, Notification of Arrest/Detention of a Foreign National fax forms shall be faxed within 24 hours after the

Foreign National is interviewed or other need for Consular Notification arises.

- (C) Copies of the faxed notification form shall be filed in the unit jacket & Combined Records headquarters' file, together with a fax confirmation sheet.

(b) Notification Determination

- (1) The Diagnostic Center Staff (DC staff) shall be responsible for determining the nationality of newly admitted Foreign Nationals during initial processing. Country of origin will be entered on the appropriate OPUS file, based on available information from the Foreign National's documentation and statements. This Consular Notification procedure will not apply to naturalized U.S. citizens, but would apply to any non-citizens of the United States, such as resident aliens who have "Green Cards" and "illegal" aliens.
 - (A) If an admission is determined to be a Foreign National, the DC staff will determine if notification is mandatory or optional.
 - (B) Upon completion and processing of the Inmate Advisement Form and the Notification of Arrest/Detainment of a Foreign National fax form (when either mandatory/optional Consular Notification is required/requested), the applicable Inmate Advisement Form and Notification of Arrest/Detainment of a Foreign National fax form and fax confirmation will be files in the Foreign National's facility jacket.
 - (C) Appropriate OPUS files will be updated to show notification to the Foreign National's consulate has occurred.
- (2) The current list of mandatory notification countries is checked through OPUS to determine whether optional or mandatory notification is applicable.
 - (A) The DC staff shall read the Inmate Advisement form with either the Mandatory Consular Notification statement or the Optional Consular Notification statement, as appropriate, to the Foreign National.
 - (B) If the inmate does not speak English, a staff interpreter or the telephone interpreter service will be utilized for translation purposes. Any such use of a staff interpreter, the interpreter service, or on-site posters or other materials with other translations of the Consular Notification statement will be documented on the Inmate Advisement form.

- (i) The Foreign National shall be asked to sign the appropriate advisement form. On the Optional Consular Notification Form, the Foreign National will also indicate whether or not he/she wishes the form to be sent to his/her consulate.
 - (ii) The appropriate DC staff completes a Notification of Arrest/Detention of a Foreign National fax form for faxing to the Foreign National's consulate and placement in the inmate file.
 - (iii) Both the notification of Arrest/Detention of a Foreign National and the appropriate Inmate Advisement form shall be placed in the inmate file.
- (3) If the Foreign National's nation is an Optional Notification Nation (not listed among the Mandatory Consular Notification countries above or in a subsequent updated memoranda), the DC staff will ask the Foreign National if Consular Notification is desired.
 - (A) If notification is requested, the Foreign National shall check the "yes" response box on the advisement form and signs the form.
 - (B) If Consular Notification is refused, the Foreign National shall check the "no" response box on the advisement form and sign the form. The Optional Consular Notification form is placed in the inmate file and no further action is necessary.
- (4) When notification is required or the Foreign National requests notification, a Notification of Arrest/Detention of a Foreign National fax form is completed.
- (5) Completed Notification of Arrest/Detention of a Foreign National fax forms are given to the designated staff for faxing.
- (c) If a Foreign National refuses to divulge his/her home country or does not request Consular Notification during initial processing, he/she may later request Consular Notification at any time. Each facility will designate a staff member to be responsible for Consular Notification. If the Foreign National refuses to sign the Inmate Advisement form, this should be documented.
 - (1) This designated staff member completes a Notification of Arrest/Detention of a Foreign National fax form at any later time when the home country information is given or the Consular Notification is requested by the Foreign National.
 - (2) The completed Notification of Arrest/Detention of a Foreign National fax form is faxed to the appropriate consulate.

- (3) Consulate telephone numbers and addresses may be provided to the Foreign National if requested.
 - (4) If the Foreign National gives his/her home country information, but refuses to sign the Inmate Advisement form, one or more witnesses shall sign the form indicating the refusal and that the Foreign National's Advisement of Consular Notification rights was made.
- (d) Designated staff will fax consular notifications within 24 hours of the Foreign National reading or signing the Inmate Advisement form.
- (1) The automated, faxable Consular Notification forms will display the receiving consulate's fax number. Additional information regarding the consulate, such as address and phone numbers is available on the appropriate OPUS FS02 screens. This data will be updated as needed.
 - (2) The completed notification fax forms are faxed to the nearest consulate, embassy, or entity representing the foreign nation on the OPUS FS02 screens.
 - (3) The Sending Authority enters the date and time the fax was sent where indicated on the Notification of Arrest/Detention of a Foreign National fax form.
 - (4) Once the forms have been faxed, the forms, together with fax confirmation sheets, are filed in the inmate's unit jacket and Combined Records.
- (e) Consular officials may visit with Foreign National's from their country.
- (1) Consular officials may visit Foreign Nationals from the country the consular official represents.
 - (2) Consular officials will sign in for a visit and present their U.S. State Department issued consular or diplomatic officer identification card. The authenticity of these cards or the identity and status of the official can be verified by calling the State Department's Office of Protocol at 202-647-1985 or 202-647-7277.
 - (3) Visits may be contact or non-contact as relates to the Foreign National's custody/control assignments.
 - (4) Consular officials are exempt from completing a Visitor's Application form so long as their status can be confirmed by identification or as described above with the U.S. State Department.
 - (5) Consular mail to and from a Foreign National is considered to be "legal mail".

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- (6) Consular officials are subject to “reasonable” security regulations, but due respect should be given to the office and position of the visiting consular official.
- (f) Death of a foreign-born national
- (1) Comply with all requirements of health care policy ADV-Z.
 - (2) Verify on the OR11 the national origin of any Foreign National who dies in custody. If place of birth is any location outside of the United States or its territories, contact the Chief of Auxiliary Services, Manager of Classification or their designee. This notification should occur within 24 hours of death.
 - (3) Auxiliary Services staff will also review the Alert Screen each day to determine if a Foreign National has died.
 - (4) Auxiliary Services will notify the appropriate consulate of the death of any Foreign National.
- (g) Escape/Capture of a foreign-born national
- (1) Verify on the OR11 the national origin of any Foreign National who escapes/or is captured. If the place of birth is any location outside the United States or its territories, contact the Chief of Auxiliary Services, Manager of Classification or their designee. This notification should occur within 24 hours of escape/capture.
 - (2) Auxiliary Services staff will also review the Alert Screen each day to determine if a Foreign National has escaped/or has been captured.
 - (3) Auxiliary Services will notify the appropriate consulate of the escape/capture of any Foreign National.

 12-A-04

Director of Prisons

Date

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