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		Effective: 3/10/2014	Reviewed:	
		Distribution: Public	Due for Rev:	3/2018
Chapter:	Reception and Orientation			
Subject:	Detention, Death or Serious Injury of Foreign Nationals			

I. Authority

In accordance with AS 44.28.030 and 22 AAC 05.155, the Department will maintain a manual of policies and procedures established by the Commissioner to interpret and implement relevant sections of Alaska Statutes and 22 AAC.

II. References

Treaty Obligation

Vienna Convention on Consular Relations and relevant bilateral treaties

Alaska Statutes

AS 33.30.011

United States Department of State Publication 10969:

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

III. Purpose

To establish and provide written procedures on the arrest, detention and death of, or serious injury to, a foreign national who is remanded into the custody of the Department of Corrections.

IV. Applications

All Staff, prisoners who are not citizens of the United States.

V. Definitions

A. Detention of a Foreign National

For the purposes of this Policy & Procedure, the detention of a foreign national occurs when a foreign national is incarcerated for more than a few hours or overnight.

B. Foreign National

Any person who is not a United States citizen, which includes lawful permanent residents who have a resident alien registration card (green card), foreign nationals who are in the United States on nonimmigrant visas, as well as undocumented persons who are in the United States illegally. This does not include foreign diplomatic personnel with A, G or NATO visas.

C. Consul or Consular Officer

A foreign official authorized by the Department of State to provide assistance to the foreign government's citizens in the United States.

D. Diplomat

A foreign official at the country's embassy in Washington, D.C., assigned to represent that country. A diplomat may also perform consular functions and should be treated the same as a Consul or Consular Officer (see C, above).

E. Mandatory Notification

Consular notifications procedures that apply when the department detains a foreign national from any of 57 countries (listed on Annex A) that have agreed to special rules with the United States. For such a foreign national, notification is

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mandatory regardless of whether the foreign national wants or requests consular notification.

F. Upon Request Notification

Consular notification procedures that apply when the department detains a foreign national from a country that is not on the 'mandatory notification' list of 57 countries.

VI. Policy

It is the policy of the Department to comply with all United States treaty obligations on consular notification and access.

VII. Procedures

A. Remand of a Foreign National:

1. The Consular Notification process begins at the time a Foreign National is remanded or committed to an institution in accordance with Policy 811.01 [Authority to Admit]. The Superintendent or most senior staff member on duty shall be notified at the time it is determined that a foreign national is remanded.
2. The booking officer who processes the foreign national is responsible for implementing the consular notification process.
3. In the absence of other information, the booking officer will assume a foreign national is a citizen of the country which issued the passport upon which the remand is traveling. In the absence of citizenship documentation or other evidence to the contrary, the booking officer will accept the foreign national's own statement as to his or her nationality.
4. The booking officer shall determine whether the remand's country of citizenship is on the 'mandatory' notification list (Annex A). If the country is not on the list, the booking officer shall determine the remand is from an 'upon request' country (see Definitions, E and F).
 - a. For foreign nationals whose country is on the list of mandatory notification countries (Annex A):
 - i. Notify the nearest consulate of the foreign national's country via fax or email as soon as reasonably possible and in no case longer than the end of the booking officer's shift.
 - ii. Notify the nearest consulate even if the foreign national does not want his or her consulate notified.
 - iii. The booking officer may obtain the fax number of the consulate as well as download a fax cover sheet (available in multiple languages) at the State Department web site: <http://travel.state.gov/CNA>.
 - iv. If the foreign national requests asylum or if a consular official or diplomat requests information that the foreign national does not wish to disclose, contact the State Department at (202) 485-7703.
 - v. Upon successful completion of the notification process, Inform the foreign national that his or her consulate has been notified. The booking officer may download the

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- notification statement, available in several languages, at <http://travel.state.gov/CNA>.
- vi. Document the completed process on the prisoner's cumulative log (form 602.01B). The Fax cover sheet and fax machine confirmation should be retained in the prisoner file.
- b. For foreign nationals whose country is not on the list of mandatory notification countries:
 - i. As part of completing the booking process, the booking officer shall inform the foreign national that he or she may have his or her consular officer notified of the remand. The notification statement is available in different languages at <http://travel.state.gov/CNA>.
 - ii. Document the foreign national's decision in the cumulative log (form 602.01B).
 - iii. If the foreign national requests notification, the booking officer or superintendent's designee shall notify the nearest consulate as soon as reasonably possible but no longer than 72 hours after remand. The fax number of the consulate and email address as well as download a suggested fax sheet for notifying consular officers of detentions at the State Department web site: <http://travel.state.gov/CNA>.
 - iv. If the foreign national requests asylum or if a consular official or diplomat requests information that the foreign national does not wish to disclose, contact the State Department at (202) 485-7703.
 - v. Document the completed notification on the foreign national's cumulative log (form 602.01B). The Fax cover sheet and fax machine confirmation should be retained in the prisoner file.
- B. Facility Access and Visitation Privileges for Consular Officers:
Consular Officers and Diplomats visiting a detained foreign national shall be afforded the same access privileges as attorneys visiting a client. Consular Officers and Diplomats are required to adhere to the same visitation rules and guidelines as attorneys. Consular Officers and Diplomats must have proper State Department-issued identification or acceptable photo ID in order to gain facility access. If there is reason to doubt the authenticity of the identification card shown, contact the State Department at (202) 647-1985 or, after hours, (571) 345-3146 or (866) 217-2089.
- C. Death of, or Serious Injury to, a foreign national:
 1. When a foreign national dies, is seriously injured or becomes seriously ill, the Superintendent or designee shall notify the nearest consulate of his or her country immediately or as soon as reasonably possible.
 2. Notification should be by fax or email if possible, or by telephone if not. A sample fax sheet is available at <http://travel.state.gov/CNA>.

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3. Document the completed notification on the foreign national's cumulative log (form 602.01B). The Fax cover sheet and fax machine confirmation should be retained in the prisoner file.
- D. When a remand is believed to be in the United States illegally:
1. When a staff member knows or suspects a prisoner or offender is in the United States illegally they shall report the relevant facts to the Shift Supervisor or Field Office Supervisor. If in the supervisor's opinion, reason exists to believe an offender/prisoner is in the country illegally, he or she shall contact the Immigration and Customs Enforcement Office of Detention and Removal by telephone at (907)271-3106 during normal business hours.
 2. When the Booking Officer knows or suspects a remand is in the United States illegally, and this remand is likely to be released overnight or within 24 hours, the Booking Officer should contact the Duty Officer at Immigration and Customs Enforcement Office of Detention and Removal by telephone at the regular number (listed in VII D 1 above) or if after hours or on weekends at (907) 382-8112 or (907) 382-8112.

VIII. Implementation

This policy and procedure is effective upon being date signed by the commissioner. Each manager shall incorporate the directions outlined in this document into local policy and procedure. All local policies and procedures must conform to these directions.

3/10/2014

Date

SIGNATURE ON FILE

Joseph D. Schmidt, Commissioner
Department of Corrections

Annex A: List of Mandatory Reporting Countries

Original: 3/17/1987

Revised: 12/01/1990

Revised: 12/13/2007