



CHANDLER POLICE DEPARTMENT GENERAL ORDERS

Serving with Courage, Pride, and Dedication

Order

E-17 UNDOCUMENTED PERSONS / FOREIGN NATIONALS

Subject

100 Procedures

Effective

11/21/06

Low Frequency/High Severity

SUMMARY:

[1.1.4] [1.2.5]

This policy establishes procedures regarding the handling of undocumented persons and foreign nationals who have been arrested.

A. POLICY

The Chandler Police Department recognizes and values the diversity of the community it serves. This policy is designed to ensure the safety and well being of all persons regardless of their immigration status.

B. UNDOCUMENTED PERSONS

The investigation and enforcement of federal laws relating to illegal entry and residence in the United States is specifically assigned to the US Citizenship and Immigration Services (USCIS) of the United States Department of Homeland Security.

1. **OFFICERS MAY PROVIDE SECURITY** for immigration officers but **shall not** do any of the following:
 - a. Stop, detain, or interrogate persons for the purpose of determining immigration status
 - b. Arrest a person when the only violation is an infraction of a federal immigration law
 - c. Contact US Customs and Border Protection (USCBP) for the sole purpose of interpreting
 - d. Transport USCBP prisoners, except in life-threatening situations
2. **USCBP MAY BE CONTACTED** in order to attempt to obtain lawful temporary status

C. USCIS NOTIFICATION PROHIBITIONS

Officers **will not** contact USCIS regarding an undocumented person under the following conditions:

1. **THEY ARE VICTIMS OR WITNESSES** of a crime, unless a determination has been made by investigators to hold them as material witnesses
2. **WHEN CONTACTED DURING FAMILY DISTURBANCES**
3. **WHEN THE ONLY OFFENSES ARE MINOR TRAFFIC** offenses or minor misdemeanors - all misdemeanors except those resulting in the person being booked into jail or involving theft or assault
4. **WHEN THE PERSON(S) ARE SEEKING** medical treatment

**D. USCIS / USCBP
NOTIFICATIONS**

Certain situations may require immediate action by police officers

1. **IF AN UNDOCUMENTED PERSON IS ARRESTED**, the officer may contact USCBP if either of the following occurs:
 - a. The offense is a misdemeanor involving theft or assault
 - b. The undocumented person is booked into jail on felony or misdemeanor charges
2. **REFER COMPLAINTS LISTED BELOW TO USCIS / USCBP**; however, if an officer is investigating other complaints or violations and determines either of the matters listed below is in existence, the officer may detain and release undocumented persons to USCIS / USCBP:
 - a. **Drop House** - A house or building being used as a transfer/holding facility for persons engaged in smuggling undocumented persons
 - b. **Load Vehicles** - Vehicles engaged in smuggling undocumented persons
3. **OFFICERS MAY DETAIN** and release undocumented persons to USCIS / USCBP when contacted regarding a drug house (house or building being used to facilitate narcotics trafficking).

**E. TASK FORCE
OPERATIONS**

1. **THE CHANDLER POLICE DEPARTMENT** may work jointly with USCIS / USCBP on task force operations dealing with serious/violent crime, e.g., Violent Gang Task Force, Organized Crime Drug Enforcement Task Force
2. **IN SUCH JOINT MATTERS**, the department's primary mission will be to combat serious/violent crime, not the identification and deportation of undocumented persons

F. JUVENILES

The immigration status of juveniles contacted, arrested, or detained for suspected criminal activity will not be considered when determining disposition. Juveniles will be released to their parents/guardian or detained at the Juvenile Court Center.

**G. COMMANDER
NOTIFICATION**

NOTIFY THE APPROPRIATE DIVISION COMMANDER regarding any request for assistance by USCIS / USCBP or any incident/situation that may become high profile. The commander will coordinate all other city, departmental, and/or community notifications as deemed necessary, including notification required under General Order E-16 Planned Special Events / Operations

**H. IMMUNITY FROM
ARREST**

See General Order [E-10.100E](#)

**I. MEXICAN NATIONALS
FELONY ARREST/DEATH**

Per Vienna Convention on Consular Relations Article 36, it is mandatory for the investigating agency to notify the Mexican Consulate in the case of felony arrest or death of a Mexican national. The investigating officer will:

1. **NOTIFY THE MEXICAN CONSULATE** during business hours
 - a. Refer to Communications for current phone numbers
 - b. Leave the name, DOB, address, and phone number of the individual
 - c. Leave investigating officer's name and badge number, a brief synopsis of what occurred, and the report number
2. **DOCUMENT** the above notification in his report

**J. REQUIRED NOTIFICATION TO
FOREIGN CONSULATES**

Per the Vienna Convention on Consular Relations, law enforcement officials will notify arrested foreign nationals of their right to contact their consulates, and that, if the **foreign national** requests that a consular official be notified, local officials notify the consulate of the arrest.

1. **OFFICERS MUST ADVISE** arrested or detained foreign nationals of the right to have their consular officials notified. This notification should be given in conjunction with Miranda.
2. **IN SOME CASES**, regardless of the national's wishes, the nearest consular officials **must** be notified on the arrest or detention
3. **CONSULAR OFFICIALS ARE ENTITLED** access to their nationals in detention and to provide consular assistance
4. **WHEN A GUARDIANSHIP OR TRUSTEESHIP** is being considered with respect to a minor or incompetent foreign national, officers must notify consular officials

**K. ARREST / DETENTION
PROCEDURES**

Determine the foreign national's country. In the absence of other information, assume this is the country on whose passport or other travel document the foreign national travels.

1. **IF THE FOREIGN NATIONAL'S COUNTRY IS NOT** on the mandatory notification list:

- a. Advise of rights using the following statement:

“As a non-US citizen who is being arrested or detained, you are entitled to have us notify your country’s consular representatives here in the United States. A consular official from your country may be able to help obtain counsel and may contact your family and visit you in detention, among other things. If you want us to notify your country’s consular officials, you can request this notification now, or at any time in the future. After your consular officials are notified, they may call or visit you. Do you want us to notify your country’s consular officials?”

- b. Offer, without delay, to notify the foreign national’s consular officials of the arrest/detention. If the foreign national asks that consular notification be given, notify the nearest consular official of the foreign national’s country without delay using the fax form, “Notification of Consular Office of Arrest or Detention.”
- c. Record notification and actions taken in your report
- d. Photographs and fingerprints will be taken if part of the normal booking and investigation process

New

2. **IF THE FOREIGN NATIONAL’S COUNTRY IS** on the list of mandatory notification countries below:

- a. Advise person arrested or detained of the following:

“Because of your nationality, we are required to notify your country’s consular representatives here in the United States that you have been arrested or detained. After your consular officials are notified, they may call or visit you. You are not required to accept their assistance, but they may be able to help you obtain legal counsel and may contact your family and visit you in detention, among other things. We will be notifying your country’s consular officials as soon as possible.”

- b. Notify that country’s nearest consular officials within 24 hours of the arrest/detention. This does not mean the investigation must be delayed. Tell the foreign national that you are making this notification.
- c. Record notification and actions taken in your report.
- d. Photographs and fingerprints will be taken if part of the normal booking and investigation process

New

3. **CONTACT INFORMATION**

- a. **Normal Business Hours:** Contact the assistant legal advisor for consulate affairs at the Department of State.
- b. **After Normal Business Hours:** Contact the Command center of the Bureau of Diplomatic Security, Department of State
- c. **Contact Communications** for current phone numbers

4. MANDATORY NOTIFICATION COUNTRIES AND JURISDICTIONS

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

FOOTNOTES:

- ¹ Does not include Republic of China (Taiwan) passport holders.
- ² Mandatory for nonpermanent residents only.
- ³ Passports may still be in use.

5. **CONSULAR OFFICIALS ARE ENTITLED** access to their nationals in detention, and are entitled to provide consular assistance. When guardianship or trusteeship is being considered with respect to a foreign national who is a minor or incompetent, consular officials must be notified.

L. FOREIGN AIRCRAFT WRECKS OR CRASHES

NOTIFY CONSULAR OFFICIALS when a foreign aircraft wrecks or crashes within the department's jurisdiction

M. DEATH OR SERIOUS INJURY

1. **MEXICO:** See Paragraph I. above
2. **THE INVESTIGATING OFFICER** will notify a foreign consulate whenever a foreign national dies or is seriously injured, regardless of the cause (i.e., traffic accident, homicide, suicide, natural, etc.) within the department's jurisdiction

N. INSTRUCTION MANUAL AND FORMS LOCATION

A copy of the "Consular Notification and Access" instruction manual and notification forms are located in the booking work area in Temporary Detention and by the fax machine in Records. The legal advisors will provide any clarification required.





NOTIFICATION TO CONSULAR OFFICERS OF ARRESTS OR DETENTIONS



Date: _____

Time: _____

TO: Embassy of _____, Washington, D.C.
or

Consulate of _____, _____, _____
Country City State

FROM: Name: _____
Office: _____
Street Address: _____
City: _____
State: _____
ZIP Code: _____
Telephone: (602) _____
Fax: (602) _____

SUBJECT: NOTIFICATION OF ARREST/DETENTION OF A NATIONAL OF YOUR COUNTRY

We arrested/detained the following foreign national, whom we understand to be a national of your country, on _____.
Date

Mr./Ms _____
Date of Birth: _____
Place of Birth: _____
Passport Number: _____
Date of Passport Issuance: _____
Place of Passport Issuance: _____

This national has been arrested/detained for the following crime(s):

To arrange for consular access, please call _____ between the hours of _____ and _____. Please refer to case number _____ when you call.

Comments: