



Section 4/600 ♦ Processing Prisoners		
4 / 613	Foreign Nationals and Diplomats	5/19/04 Rev. 6/8/04
Accreditation Standards	1.1.4 / 1.2.5 / 61.1.3	

**4 / 613.05 GENERAL**

Any person who is not a US citizen is a foreign national, including illegal aliens. Puerto Ricans are American citizens, as Puerto Rico is part of the United States.

All officers should familiarize themselves with the booklet “Consular Notification and Access” by the US Department of State. It is available in the Squad Room reference library or on-line at [www.travel.state.gov](http://www.travel.state.gov), the State Department website. The United States has mutual agreements with other diplomatic nations that also apply to American citizens abroad. Generally, you should treat a foreign national as you would want an American citizen to be treated in similar circumstances in a foreign country. This means prompt, courteous notification to the foreign national of the possibility of consular assistance and prompt, courteous notification to the foreign national’s nearest consular officials if requested/required.

**4 / 613.10 REQUIRED NOTIFICATION**

When a foreign national is detained beyond the brief time necessary to issue a traffic citation or complete an FIR, or is arrested, the officer must advise them of their right to have their consulate notified.

The arresting/detaining officer must:

- 1) Determine the nationality of the individual. In absence of other information, assume this is the country on whose passport or travel documents the foreign national travels.
- 2) Consult the nationality checklist to determine whether notification is mandatory or optional. In some cases, the nearest consular officials *must* be notified of the arrest or detention of a foreign national, regardless of the detainee’s wishes. However, if the individual’s country of origin appears on the “notification optional list”, they can decline to have their consulate notified of their arrest/detention. These lists (optional/mandatory) appear in the reference booklet “Consular Notification and Access” by the US Department of State.
- 3) If notification is requested or mandatory, the arresting or detaining officer must telephone or fax the appropriate consulate, as soon as possible, relaying basic information. In cases of dual citizenship, both countries may have to be notified (excluding the US).

- 4) Processing or questioning need not be delayed while waiting for a reply from consular officials. Contacting the consulate does not substitute for Miranda warnings or calls to lawyers. If a person requests political asylum, do not advise the consulate of this. Consular officials will be allowed to speak to or visit the foreign national at a reasonable hour, subject to restrictions placed on any person visiting a prisoner. Consular officials cannot act as lawyers for the foreign national.
- 5) Document notifications in the narrative of the Incident or Arrest Report(s).

**4 / 613.15 DEATH NOTIFICATIONS**

In the event of the death of a foreign national, regardless of cause or manner of death, the appropriate consulate must be notified. Once notified, the consulate will make an official death record for their country, they can contact the decedent’s next of kin, cancel passports and other documents to prevent identity theft, and ensure the proper handling of estate issues.

**4 / 613.20 DIPLOMATIC IMMUNITY**

- Members of the diplomatic community may enjoy varying degrees of immunity from arrest or detention. Those with immunity should be carrying identification from the US Department of State or the United Nations, which describes the degree of immunity they hold. If they do not present this card, but still claim immunity, contact their consulate or the US State Department to determine their status.
- Persons with full immunity may not be arrested or detained once it is verified. Their cars may not be seized, searched or impounded, but may be moved or towed to a safe location if necessary.
- A person with full immunity may be restrained from continuing to commit a crime or from driving intoxicated. Minimal force may be used when necessary for the safety of the individual and others.
- They may be issued a traffic citation, but are not required to sign the citation.
- They may be requested, but not required to submit to a field sobriety test or breath test. See the Consular Access and Notification booklet or the US Department of State website for further details on the varying

degrees of immunity. Document all contacts with diplomatic personnel fully.

**4 / 613.25 UNUSUAL CIRCUMSTANCES**

In unusual circumstances, contact the US Department of State – Office of Consular Affairs at (202) 647-4415 or the State Department Operations Center (after hours) at (202) 647-1512.

**END OF ORDER**