

HUMBOLDT COUNTY CORRECTIONAL FACILITY
POLICIES AND PROCEDURES

SUBJECT: FOREIGN NATIONALS (ALIENS)
APPROVED BY: Captain Ed Wilkinson, Facility Manager
DATE: August 1, 2004
REVISED: May 13, 2015

No. B-011

REFERENCES:

AB4 California Trust Act
AB4 California Trust Act Qualifications (B-011 APX)
Article VI, clause 2 Constitution of the United States
Consular Notification and Access 3rd Edition
Consular Notification and Access Reference Card
G.O. A-016
Government Code 7282
Government Code 7282.5
PC 834c(c)
United States Title 8 Sec 1325 & 1326
Vienna Convention on Consular Relations

POLICY:

The purpose of this procedure is to provide Humboldt County Correctional Facility personnel with the legal requirements pursuant to Article 30 of the Vienna Convention on Consular Relations, which sets forth certain rights of foreign nationals from member countries when arrested, detained or imprisoned by law enforcement officials in this country and to comply with the AB4 California Trust Act (Government Code §7282, *et. seq.*).

DEFINITIONS:

Consular Officers – Is a citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government’s citizens in a foreign country.

Foreign National – Anyone who is not a citizen of the United States. A person with dual-citizenship, U.S. and foreign, is not a foreign national. The term Alien can be used interchangeably with foreign national.

Secure Communities – A verification process that occurs when an individual is fingerprinted to determine their citizenship.

GENERAL INFORMATION:

1. All foreign nationals are entitled to consular notification and access, regardless of their visa or immigration status in the United States.
2. All foreign nationals when arrested or detained must be advised of the right to have their consular officials notified. This notification is to be done by the arresting officer prior to booking. In some cases, consular officials must be notified of the arrest or detention of a foreign national, regardless of the national's wishes. If this is deemed necessary the notification will be completed by jail staff.
3. The list of mandatory notification countries and jurisdictions is listed in the Consular Notification and Access booklet. This booklet is located on the Supervisor's desk in Processing.
4. Suggested statements to arrested or detained foreign nationals are in the Consular Notification and Access booklet. Translations of the statement into selected foreign languages are also available in the booklet.
5. The HCCF will honor federal arrest warrants or court orders signed by a magistrate or judge and not just an administrative detainer from ICE.

PROCEDURE: Consular Notification and Access

1. Correctional Staff will determine the foreign national's country. In the absence of other information, assume this is the country on the passport or other travel documents carried by the arrestee. **(The Consular Notification and Access Reference Card shall be available in the booking area for reference)**
2. If the foreign national's country is not on the mandatory notification list, Correctional Staff shall:
 - a. Offer, without delay, to notify the foreign national's consular officials of the arrest / detention.
 - b. If the foreign national asks that consular notification be given, notify the nearest consular officials of the foreign national's country without delay.
3. If the foreign national's country is on the list of mandatory notifications, Correctional Staff shall:

- a. Notify that country's nearest consular officials, without delay, of the arrest/detention.
 - b. Tell the foreign national that you are making this notification.
4. Notifications made in procedure 2 and 3 shall be done by FAX. Fax numbers to foreign embassies and consulates in the United States are listed in the booklet. When notification is made, the FAX will be placed in the foreign national's booking file.

PROCEDURE: Notification to the Department of Homeland Security / Bureau of Immigration Customs Enforcement

1. The Bureau of Immigration and Custom Enforcement routinely places Detainers on arrestees who are Visa holders (Green Card or have a Temporary Residence Card) meeting the below criteria:
 - a. All felony arrests
 - b. All felony convictions
 - c. Misdemeanor arrests involving domestic violence
 - d. Felony drug convictions reduced to misdemeanors
 - e. Multiple DUI convictions
2. The Bureau of Immigration and Custom Enforcement routinely places Detainers on arrestees who are Foreign National without documentation meeting the below criteria:
 - a. All felony arrests and convictions
 - b. All misdemeanor arrests involving domestic violence
 - c. All misdemeanor convictions involving drugs (Exception: HS 11357(b))
 - d. All times when Rap Sheets/FBI Cover Sheet/Parole Records/Wants and Warrants Sheets and results from LIVE SCAN showing a history of previous deportation or Illegal Criminal Alien Status.
3. All Foreign Nationals shall be fingerprinted to ensure verification through Secure Communities and the Live Scan response shall be maintained in the booking file. Those Secure Communities response are automatically routed to DHS/ICE.
4. Once a valid federal arrest warrant or court order that has been signed by a magistrate or judge is received, the individual is qualified for deportation under Government Code Section 7282.5 (a)(6) of the California Trust Act. (AB4 California Trust Act Qualifications B-011 APX)

5. A copy of the Warrant shall be made for the Transportation Officers and the original shall be stapled on the left side of the booking folder. In addition, an ICE hold alert will be entered into the JMS.
6. Once the Foreign National is clear of local charges, the Shift Supervisor or designee shall book the Foreign National on the Title 8 Sec 1325 or 1326 Warrant and notify our Transportation Officers who will then coordinate the Foreign Nationals transport with DHS/ICE.
7. In the event that DHS/ICE identifies an individual as being eligible for deportation, but does not provide a federal arrest warrant or court order, every attempt shall be made to inform DHS/ICE of the individuals expected release date if requested by DHS/ICE.
8. DHS/ICE will be allowed to pick up those individuals who are subject to deportation and meet the qualification of AB4 California Trust Act who do not have a federal arrest warrant or court order on their day of release.
9. Under no circumstance shall an individual subject to deportation, absent a federal arrest warrant, be held past their release date or prevented from posting bail.

Approved by: Ed Wilkinson
Facility Manager

Signature: 

Date: 