



SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



Procedure 619 – Consulate Notification and Diplomatic Immunity

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Forms Referenced in Procedure:	SAPD Form #CN-01 SAPD Form #CN-02 SAPD Form #103-NEN	Related Procedures:	708

.01 INTRODUCTION

- A. This procedure is designed as a guideline to help ensure that foreign governments can extend appropriate consular services to their citizens in the United States and to ensure the San Antonio Police Department complies with its legal obligations under the Vienna Convention on Consular Relations.
- B. International law requires that law enforcement authorities of the United States extend certain privileges and immunities to members of foreign diplomatic missions and consular posts. Most of these privileges and immunities are not absolute and law enforcement officers retain their fundamental responsibility to protect and police the orderly conduct of persons in the United States.

.02 CONSULATE NOTIFICATION OF ARRESTED OR DETAINED FOREIGN NATIONALS

- A. The United States is obligated under the Vienna Convention on Consular Relations, international treaties, and customary international law, to notify consular officials when foreign nationals are arrested or otherwise detained in the United States. The U.S. Department of State does not consider it necessary to follow consular notification procedures when a foreign national is detained only momentarily, e.g., during a traffic stop.
- B. After an officer arrests/detains a foreign national, the officer will determine the foreign national's country of origin. Normally, this information is found on the passport or other travel documentation that the foreign national is carrying.
- C. Officers will inform the foreign national of his/her right to request that their consulate be notified under the following circumstances.
 1. After the foreign national is arrested; and
 2. Before a detention that may last more than four hours.
- D. If the foreign national does not understand English, the officers will provide the foreign national with SAPD Form #CN-02, *Notice to Foreign National*, in his native language and have him circle whether he wants his consular official notified. The foreign national should also sign and date SAPD Form #CN-02. SAPD Form #CN-02 can be found in the SAPD forms library in several different languages.
 1. If a foreign national who is under arrest or who may be detained more than four hours asks that such notification be made to his consulate, the arresting officer will do so without delay by ensuring notification to the nearest consulate or embassy. Consular notification is accomplished by immediately faxing the notification notice, SAPD Form #CN-01, *Consular Notification*, to the nearest consulate or embassy of the foreign national's country. SAPD Form #CN-01 can be found in the SAPD forms library. The fax numbers to the nearest consulates and foreign embassies are listed in Part Six: "Foreign Embassies and Consulates in the United States" of the Consular Notification and Access Handbook. This handbook can be found in the report writing room of the magistrates' office or at the U.S. Department of State's website http://travel.state.gov/law/consular/consular_753.html.



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2. If a foreign national, who is under arrest or who may be detained more than four hours, is from a country with which the United States has a mandatory notice, treaty or convention, the arresting officer will, without delay, make notification to the nearest consulate or embassy, regardless of whether the foreign national requests such notification. This information on countries that require mandatory notification can be found in the Part One: “Basic Instruction” of the Consular Notification and Access Handbook, which is found in the magistrates’ office or at the U.S. Department of State’s website http://travel.state.gov/pdf/cna/CNA_Manual.3d_Edition.pdf.
- E. When booking a foreign national, officers will:
1. Make a notation on the booking slip indicating if the foreign national’s consulate was notified; and
 2. Immediately fax SAPD Form #CN-01 from the report writing room of the magistrates’ office.
- F. Prior to detaining a foreign national, either as a suspect or a witness, for more than four hours, officers will fax SAPD Form #CN-01 to the nearest consulate or embassy of the foreign national’s country. Officers may obtain the fax number either from the dispatcher’s office or from the magistrates’ report writing room.
- G. After faxing the completed SAPD Form #CN-01 to the nearest consulate or embassy, officers shall attach the following to his Offense/Incident Report:
1. The completed SAPD Form #CN-01;
 2. If used, the completed SAPD Form #CN-02; and
 3. The fax confirmation.
- H. The Communications Unit and the report writing room at the magistrates’ office will maintain a current list of fax numbers of foreign embassies and consulates. The Research and Planning Detail will be responsible for updating these lists every six (6) months. The updated list may be found at the following website: http://travel.state.gov/law/consular/consular_745.html.
- I. Officers shall detail in their reports the following information:
1. The date and time the foreign national was informed of the option of consular notification;
 2. Whether or not the foreign national requested that consular notification be made; and/or;
 3. If consular notification is mandatory or requested, the date and time that the consulate was notified.
- J. If a foreign national is from a country that requires mandatory notification, consular officials have the right to visit arrested or detained nationals from their country.
- K. If a foreign national is not from a country that requires mandatory notification, consular officials have the right to visit arrested or detained nationals from their country, unless the foreign national objects to the visit.

.03 DIPLOMATIC/CONSULAR IMMUNITY

- A. Foreign diplomats and consular officials have varying degrees of immunity from arrest. Foreign diplomats and consular officials should carry an identification card issued by the U.S. Department of State or the U.S. Mission to the United Nations. The Diplomatic and Consular Immunity Guide for Law Enforcement and Judicial Authorities can be accessed on the State Department Website: <http://www.state.gov/documents/organization/150546.pdf>.
1. A diplomatic passport does not automatically grant its holder diplomatic immunity.
 2. Consular ID does not automatically grant its holder diplomatic immunity.



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- B. When an officer is investigating an incident in which a suspect claims diplomatic or consular immunity, the officer shall verify the status of the suspect and immediately notify his supervisor.
- C. The status of a suspect claiming diplomatic or consular immunity is verified by calling either the U.S. Department of State or the U.S. Mission to the United Nations depending on which entity issued the identification card.
 - 1. If the U.S. Department of State issued the identification card, the officer shall verify the status by having the dispatcher call the Protocol Office at (202) 647-1985 (daytime), after hours contact the State Department Operations Center at (202) 647-1512, that is staffed 24-hours a day.
 - 2. If the identification card was issued by the U.S. Mission to the United Nations, the officer shall verify the status by having the dispatcher call (212) 415-4444, that is also staffed 24-hours a day.
 - 3. Should you encounter any problems or need further assistance, you may call the Diplomatic Security Command Center at (571) 345-3146, or toll free 1-866-217-2089
- D. After the official status has been verified and if the suspect has full immunity and inviolability, he may only be handcuffed when he poses an immediate threat to anyone's safety or it is apparent that a serious crime may be otherwise committed.
 - 1. The detained person may be issued a traffic citation, but he or she cannot be arrested for refusing to sign it.
 - 2. Persons having full immunity and inviolability must be released after all pertinent information is obtained.
 - 3. Persons who have full immunity and inviolability may not be arrested.
- E. After the official status has been verified and if the suspect has less than full immunity and inviolability, the suspect may be arrested and will be handled in accordance with Departmental procedures.
 - 1. Officials from the U.S. Department of State or officials from the U.S. Mission to the United Nations will assist the officer in making this determination.
 - 2. Follow-up units/Night CID Unit will also assist the officer in making this determination, in accordance with GM Procedure 708, *Follow-up Units*.
- F. After the incident has been resolved, the handling officer will:
 - 1. Fax a copy of his report and/or traffic citation to the U.S. Department of State in Washington, D.C., (202) 895-3613, or to the U.S. Mission to the United Nations in New York, (212) 415-4162, depending on which entity issued the person's identification card; and
 - 2. Route a copy of his report, through his chain of command, to the Office of the Chief.
- G. Supervisors having been informed of a suspect claiming diplomatic or consular immunity will:
 - 1. Make the scene of the incident, if possible;
 - 2. Prepare and distribute SAPD Form #103-NEN, *Newsworthy Event Notification*; and
 - 3. Ensure a copy of the officer's report and/or traffic citation is faxed to the U.S. Department of State or the U.S. Mission to the United Nations.



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.04 TRAINING

All Officers are to receive training regarding notification and access requirements in accordance with international treaties for foreign nationals.

.05 RESPONDING TO CONSULATE

- A. The only official consulate within San Antonio is the Consulate of Mexico (127 Navarro St, 78205).
- B. An official consulate is not so much foreign soil as it is like private property and as such, peace officers must be invited in.
- C. All other consulates within San Antonio are honorary (which bestows no special considerations).