

	Title ALIENS / DIGNITARIES	General Order WD 9010.04
	Revision Date 04/13/2018	Effective Date 04/13/2018
	Original Approval Date February 9, 2010	Certification Standard Number

I. Objectives

To ensure that foreign nationals and foreign employees are treated in the manner provided for under international law and treaty when detained.

To ensure that proper notification is made to the appropriate diplomatic and consular officials in the United States and each affected foreign national's country of origin

To strictly comply with O.C.G.A. 42-4-14

II. Policy

Citizens of other nations who reside in or are visiting Georgia (herein described as foreign nationals) are subject to Georgia law and, except as indicated in this directive, shall be treated in the same manner as citizens of the United States. Employees of a foreign government, members of their staff, officials of international organizations such as the United Nations, and family members of such officers shall be accorded their respective privileges, rights, and immunities as provided by the treaties and laws of the United States. Staff shall make prompt notification as provided for in this directive to the Appropriate United States agency and/or foreign consulate whenever a foreign national is taken into custody. The General Counsel's Office of the Prosecuting Attorneys' Council of Georgia is available during business hours (404-969-4001) to assist in answering questions regarding the detention of foreign nationals.

III. Definitions

A. Asylum: The protection and immunity from extradition granted by a host

government to a political refugee from another country.

- B. Consul: An official appointed by a foreign government and accredited by the United States Department of State to assist that government's citizens who are in the United States and to represent the commercial interests of citizens of the foreign government and its citizens. This includes two (2) types:
 - 1. Career Consuls: Full-time employees of the foreign government; including, but not limited to, the following titles:
 - a) Consul-General
 - b) Deputy Consul-General
 - c) Consul
 - d) Vice Consul
 - e) Consular Officers or Agents
 - f) Officials of the Atlanta Office of the Coordination Council for North American Affairs of the Republic of China (Taiwan)
 - 2. Honorary Consuls: Citizens of the United States or a foreign government who have permanent residency in the United States and accredited by the United States Department of State.
- C. Defect: The act of a citizen disowning his/her allegiance to his/her country and taking residence in another.
- D. Diplomat: Member of an Embassy or mission of a government to a foreign government or to the United Nations Headquarters in New York, including the ambassador, members of the diplomatic, administrative, and technical staff of the Embassy or mission (except citizens of the host country), and members of their family household.
- E. Diplomatic/Consular Pouch: A container of any size used to transport official communications (including equipment needed for communication) and clearly marked as such.
- F. Foreign National: A citizen and/or subject of a nation other than the United States of America and its territories.
- G. Illegal Alien: A foreign national in the United States of America without legal authorization.

IV. Procedures

- A. Identification of Foreign Nationals During the admission, booking, or classification process, or at any time during an arrestee/inmate's

incarceration, if the arrestee/inmate identifies himself/herself as a foreign national, states or replies that he/she was born in a foreign country, or has in his/her possession a driver's license, passport, or other document issued by a foreign country, the deputy receiving such information shall:

1. Ask the arrestee/inmate if he/she is a citizen of the United States.
2. If the arrestee/inmate indicates that he/she is not a citizen of the United States, ask the arrestee/inmate what country he/she is a citizen.
3. Make a copy of all of the foreign credentials listed above and forward with a copy of the booking documents to the proper court.

B. Communication with Foreign Nationals: If a foreign national does not speak English clearly, jail staff shall notify a supervisor on duty at the jail to arrange for contacting the Language Line subscription translator service available 24 hours a day, 7 days a week), as follows:

1. The supervisor shall then dial Language Line at 9-1-800-367-9559; at the voice prompt, press 1 for Spanish and 2 for all other languages.
2. The supervisor shall then input the Sheriff's Office Client ID (513090) and the supervisor's individual access code number (the supervisor's badge/radio number).

C. Consular Notification:

The following procedure is applicable to all foreign nationals (including those identified as illegal aliens in subsection IV, G in this directive):

1. If the foreign national is from a Mandatory Notification Country (see Appendix B):
 - a) Complete a Consular Notification Form.
 - b) Advise the foreign national that his/her consulate is being notified of his/her arrest/detention.

NOTE: If the foreign national indicates that he/she fears for his/her own safety or that of his/her family living in the United States, requests asylum, or wishes to defect, contact the United States State Department at the below listed numbers before faxing or otherwise disseminating the Consular Notification Form: U.S. Department of State - (202)647-4000

- c) Fax the completed form to the foreign national's consulate (see Appendix D).
 - d) Place the completed form and the fax report in the foreign national's jail file.
2. If the foreign national is not from a Mandatory Notification Country, ask

- the foreign national if he/she wants to have his/her consulate notified.
- a) If the foreign national indicates he/she wants to have his/her consulate notified, follow the steps in subsection IV.C.a-d, above.
 - b) If the foreign national indicates he/she does not want to have his/her consulate notified, complete the section on the back/page 2 of the Consular Notification Form (see Appendix C) and place the form in the foreign national's jail file.

NOTE: If the foreign national decides at a later date/time he/she wants to have his/her consulate notified, the responding deputy shall retrieve the Consular Notification Form from the foreign national's jail file and follow the steps in subsection IV. C. a-d, above.

D. Diplomatic and Consular Immunity

Under Federal law, Diplomats as defined in this directive are not liable to any form of arrest or detention, unless the Diplomat's government waives such immunity. This immunity does not extend to United States citizens employed by an Embassy or mission. Career consuls are not liable to arrest or detention pending trial, unless arrested for a felony offense for which a warrant has been issued prior to the arrest.

NOTE: Under no circumstance whatsoever is any properly marked diplomatic or consular pouch to be opened. If a member has probable cause to believe that a diplomatic or consular pouch is being used in the furtherance of a crime or contains hazardous material, the member shall secure the pouch in a safe location and notify his/her supervisor immediately, who shall contact the United States State Department Bureau of Diplomatic Security, at the telephone numbers given above.

1. If a foreign national claims to be or possesses credentials (see Appendix A) indicating that he/she is a Diplomat as defined in this directive, the responding deputy shall immediately:
 - a) notify his/her immediate supervisor, who shall contact the United States Department of State, as follows: (202) 647-4000
 - b) Pending verification by the State Department, the foreign national shall remain in the intake area.
 - c) Upon verification of diplomatic immunity by the State Department, release the foreign national without further delay or administrative procedure, or otherwise directed by State Department officials.
2. If a foreign national claims to be or possesses credentials (see Appendix A) indicating that if he/she is a Consul as defined in this directive and the foreign national has not been charged with a felony offense under a warrant issued prior to his/her arrest, the responding deputy shall immediately:

- a) notify his/her immediate supervisor, who shall contact the United States Department of State, as follows: (202) 647-4000
 - b) Pending verification by the State Department, the foreign national shall remain in the intake area.
 - c) Upon verification of consular immunity by the State Department, release the foreign national without further delay or administrative procedure, or as otherwise directed by State Department officials.
3. All claims of diplomatic or consular immunity and the response of the State Department shall be documented and placed in the inmate file.
- a) Any and all charges filed against the foreign national who the State Department verifies is entitled to diplomatic or consular immunity shall be forwarded to the proper court and notify the arresting officer/agency and the district attorney or solicitor-general.
 - b) If the State Department reports that the foreign national claiming immunity is not entitled to immunity, any documents that the foreign national possesses that indicate diplomatic or consular immunity shall be seized and placed in evidence. (see Sheriff's Office Property and Evidence Control Policy). The supervisor on duty shall ensure that additional warrants charging the foreign national with making false statements (OCGA § 16-10-20) and possession, display, or use of false, fictitious, fraudulent or altered identification document(s) (OCGA § 16-9-4[a]) are sought.
 - c) If the State Department requests a copy of any incident report(s), the supervisor on duty shall be responsible for sending the requested copy(ies) after approval by the Jail Commander.

E. Protective Detention (Defection/Asylum)

Defections and requests for asylum by foreign nationals are highly sensitive and may affect the relations between a foreign government and the United States, as well as the treatment of U.S. citizens who travel abroad

- 1. If a law enforcement officer brings a foreign national taken into protective custody pursuant to request for asylum or intention to defect to the jail, the receiving deputy shall
 - a) Notify his/her supervisor, who shall immediately contact the United States Immigration and Customs Enforcement Bureau, as follows: ICE Law Enforcement Center - (877)999-5372
 - b) Hold the foreign national in a separate holding cell from any and all other arrestees/inmates.

NOTE: Under no circumstance shall any member enter any information into any computer about foreign national taken into protective custody pursuant to request for asylum or intention to defect, or release any information about the foreign national to anyone without written authorization from the United States

Immigration and Customs Enforcement (ICE) agency.

2. Foreign nationals detained in the jail pursuant to request for asylum or intention to defect shall be released only to the United States Immigration and Customs Enforcement Bureau, the Department of State, or the Federal Bureau of Investigation, or their designated agencies.

F. Consular Access

Consuls have the right to communicate with foreign nationals in jail, under the following circumstances:

1. Mail written to/from a foreign national and his/her consulate shall be treated as privileged mail and not subject to being read by jail staff. Staff shall open such mail in the presence of the foreign national and inspect its contents for contraband before sending/delivering the mail.
2. Telephone calls from a foreign national to his/her consulate shall be toll-free and not subject to monitoring or recording. Staff shall assist foreign nationals in obtaining the telephone number(s) for the nearest consulate (see Appendix D).
3. Visits between a foreign national and his/her country's diplomat(s) or consul(s) may occur at any time, excepting meal and count periods, under the following restrictions:
 - a) Proper diplomatic or consular photo identification must be provided by the visitor. Staff shall verify diplomatic/consular identification by contacting the United States Department of State at the number indicated above.
 - b) Once the diplomatic/consular status has been verified, the diplomat(s) or consul(s) shall be escorted to an attorney visiting area.

NOTE: A verified diplomat or consul visiting a foreign national shall not be subjected to any type of search unless consul is in possession of a device or substance that presents an immediate and serious threat to the security of the facility or the safety of persons within the facility and the search is approved and witnessed by a supervisor on duty. Under no circumstance whatsoever is any properly marked diplomatic or consular pouch to be opened. If a member has probable cause to believe that a diplomatic or consular pouch is being used in the furtherance of a crime or contains hazardous material, the member shall, after first securing the pouch in a safe location, notify his/her supervisor immediately, who shall contact the United States State Department Bureau of Diplomatic Security, at the telephone numbers given above.

- c) Diplomatic/Consular visits although not limited in length or frequency (excepting interruptions for meals and counts) shall be

limited to only those possessing verifiable diplomatic or consular status. Family or friends of the foreign national may visit during the general visitation schedule.

G. Undocumented Arrestee/Inmate

If verification of lawful status cannot be made from documents in possession of the arrestee/inmate, verification processes shall be initiated immediately through a query to the Law Enforcement Support Center (LESC) of the United States Department of Homeland Security. If an arrestee/inmate does not possess valid photographic identification issued by a United States government agency or unit (i.e., driver's license, state identification card, military identification, passport, visa, permanent resident alien card ["green card"], etc.) and identifies as being of international origin, the responding deputy clerk shall take the following action:

1. If the arrestee/inmate does not speak English clearly and the communication process is thereby hindered, jail staff may attempt communication using Language Line as described in Section IV. B, above.
2. From the NCIC/GCIC terminal screen, initiate an Immigrant Alien Query (IAQ) to the Law Enforcement Support Center (LESC) of the United States Immigration and Customs Enforcement (ICE) agency according to the steps specified in the Intake Post Order:
3. If the IAQ response indicates that the arrestee/inmate is a foreign national, the consular notification procedure described in subsection IV. C shall also apply.
4. If the IAQ response indicates that the arrestee/inmate is an undocumented alien, the LESC of the United States ICE agency shall notify or assist the responding deputy/clerk in notifying the local ICE official who shall make the final decision as to whether ICE shall request custody of the undocumented alien. Any correspondence with ICE officials pertaining to a DHS IMMIGRATION DETAINER (hereinafter "ICE detainer") or ICE custody shall be provided to the Assistant Jail Commander via email CC at the time that it is sent or received.
5. Prisoners identified as undocumented aliens should not be detained solely on the basis of being an undocumented alien. If an ICE detainer is issued and the detainer indicates DHS has obtained a federal arrest warrant or court order, signed by a federal magistrate or federal judge, and a copy of the warrant or court order is attached, then the arrestee/inmate shall be detained.
6. If an ICE detainer meets the criteria specified in (5) above, the deputy shall record appropriate information in the JMS and place a copy in the inmate's older per Policy 9010.05. ICE shall be notified of the anticipated release time of the arrestee/inmate, if applicable. A copy of

the detainer and any communication with ICE shall be forwarded immediately to the Assistant Jail Commander via email.

7. Individuals for whom a detainer is issued but is not accompanied by a federal warrant or court order signed by a federal magistrate or federal judge, shall not be held solely on the ICE detainer. Individuals for whom a detainer is issued and accompanied by a federal warrant or court order signed by a federal magistrate or federal judge, shall be held for a maximum of 48 hours* from the completion of their judicial obligations with Clarke County Jail. If ICE has not taken custody of the individual within the 48 hour deadline, the individual shall be released immediately. ICE shall be notified that the individual has been released. **48 hours is not extended by weekends or holidays. 48 hours is counted as actual 48 hours.
8. Pending deportation or other authorized release or transfer, a foreign national suspected of being an undocumented alien shall be admitted, booked, classified, and housed in the same manner as other arrestees/inmates.

Note: No person shall be denied bond or the opportunity to be released from custody solely on the basis of this procedure. Unless the jail receives valid documentation of a federal arrest warrant or court order for removal or deportation signed by a federal magistrate or federal judge, the arrestee/inmate shall be eligible for release from custody pursuant to the admissions and release policies of the Clarke County Sheriff's Office and the law.