KANSAS CITY, KANSAS POLICE
GENERAL ORDER

ORDER NUMBER: **40.18**
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SUBJECT: Undocumented Persons/Foreign Nationals/ Consular Notifications

REFERENCE:

CROSS REFERENCE:

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I. PURPOSE

A. To establish Department guidelines for contact with undocumented criminal suspects.

II. GENERAL INFORMATION

A. United States citizens are not required to carry evidence of citizenship such as birth or naturalization certificates.

B. All aliens (resident and nonresident) present in the United States are required to carry valid immigration documents on their person at all times. Those documents are issued by the Department of Homeland Security (DHS) showing legal presence and admittance. This could be in the form of a permanent resident card in the case of an immigrant or a passport/visa (together) and permit allowing a student or visitor to be present in the United States. Most of these documents will have expiration dates and valid time periods of admission written on them.

C. Nonresident cards also give the last date the alien may legally remain in this country.

III. CONTACT WITH UNDOCUMENTED PERSONS

A. Officers of this Department have no lawful authority to enforce immigration laws.

B. The involvement with undocumented persons by an officer of this Department is limited to situations independent of immigration enforcement, which is the responsibility of DHS.

1. A violation of a state statute or local ordinance by the suspected undocumented person must have occurred.

2. Lawful arrest for a violation of state statute or municipal ordinances is permissible.

3. Contact made during an official police investigation is permissible.

C. Whenever an officer comes into contact with a suspected undocumented person as a result of a criminal investigation of a violation of a state statute or municipal ordinance, the suspected person shall be treated as any other criminal suspect or interviewee. This includes advising the suspected unauthorized alien of his or her rights pursuant to the Miranda Decision. If the officer is unable to communicate with the suspect, translation services will be utilized.

IV. CONSULAR NOTIFICATION OF FOREIGN NATIONALS

A. If an officer has reason to believe the arrestee is not a United States citizen, it must be documented in the arrest report narrative section that the officer asked the subject whether or not he / she is a U. S. citizen and the subject's reply.

B. If an officer learns that a foreign national has been killed or has a life threatening injury notification of the death or life threatening injury must be made immediately to the nearest consulate of the foreign national's country of citizenship. The consular notification will be documented in the report documenting the death or life-threatening injury of the involved foreign national.

C. In order to comply with all United States Government treaty obligations regarding the arrest and detention of foreign nationals, it is required that when a foreign national (including undocumented persons) is arrested or detained, they must be advised of the right to have their consulate notified. A foreign national is any person who is not a United States citizen, including undocumented persons.

1. In some cases, the consular officials must be notified of the arrest or detention of a foreign national, regardless of the foreign national's wishes. These are considered Mandatory Notification "List" Countries.

2. When a foreign national requests consular notification, a supervisor must be notified, who will then make the necessary consular notifications.

3. Supervisors will refer to the State Department webpage: travel.state.gov/CAN for procedures regarding Consular Notifications or may access the Consular Notification and Access Manual on Power DMS.

4. The faxed documents and the fax confirmation will have the complaint number from the arrest placed in the upper right-hand corner. The reports will then be forwarded as all other Departmental reports.

5. During normal business hours, The Department of State may be contacted by telephone at (202) 485-7703 or by email at consnot@state.gov . Officers may also access information from the website, travel.state.gov/CAN . If an officer needs to contact the State Department outside of normal hours, they may call The Department of State Operations Center at (202) 647-1512. The Diplomatic Security Afterhours phone number is (571) 345-3146 and the afterhours contact email is: consnot@state.gov.

    a. Statement for all foreign nationals except those from "mandatory notification" countries: "As a non-U.S. citizen who is being arrested or detained, you may request that we notify your country's consular officers here in the United States of your situation. You may also communicate with your consular officers. A consular officer may be able to help you obtain legal representation, and may contact your family and visit you in detention, among other things. If you want us to notify your consular officers, you can request this notification now, or at any time in the future. Do you want us to notify your consular officers at this time?"

    b. Statement for foreign national from "Mandatory Notification" Countries: "Because of your nationality, we are required to notify your country's consular officers here in the United State that you have been arrested or detained. We will do this as soon as possible. In addition, you may communicate with your consular officers. You are not required to accept their assistance, but your consular officers may be able to help you obtain legal representation, and may contact your family and visit you in detention, among other things. Please acknowledge you have received this information.

    c. Officers should be mindful that 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.

V. NOTIFICATION OF ICE

A. When officers take a suspected undocumented person into custody for a violation of any state statute or a Unified Government ordinance violation, the arresting officer may advise Wyandotte County Detention personnel.

1. The undocumented person shall be treated as any other prisoner during the arrest process, having the same rights and privileges as any other prisoner.

B. Immigration authorities may be contacted in cases dealing with the smuggling or suspected smuggling of undocumented persons, along with any other unusual circumstances that would involve unauthorized aliens.

VI. COUNTERFEIT IMMIGRANT REGISTRATION CARDS

A. Officers who encounter Alien Registration Receipt Cards (I-151, I-551, also called a "green card") shall seize such cards and place the cards in property when there is probable cause that such cards are counterfeited.

B. Officers will complete an incident supplement detailing the circumstances of how they came into contact with the false identification and who the counterfeited card was seized from, and any other pertinent, useful information. Officers will write "forward to Immigration and Customs Enforcement" on the top of the investigative.