



Rhode Island State Police

General Order - 56A10

<i>Section</i>	Law Enforcement Operations – Field Operations
<i>Article</i>	56A – Traffic Enforcement
<i>Title</i>	Illegal Immigration Procedures & Consular Notification
<i>Special Instructions</i>	

I. PURPOSE

The purpose of this General Order is to provide sworn members, in the execution of their duties, with general guidance when encountering persons who are not legal citizens of the United States.

II. DEFINITIONS

UNITED STATES CITIZEN

1. Any person born in the United States or its possession (i.e. Puerto Rico, U.S., Virgin Islands and Guam).
2. Any person born outside of the United States who has been granted U.S. citizenship through the proper judicial channels.
3. Any person born outside of the United States who has derived U.S. citizenship through their parents.

ALIEN

1. Any person in the United States who is not a U.S. Citizen.
2. There are four (4) major classifications of Aliens in the United States:
 - a. Non-Immigrant: Persons admitted to the United States for a temporary period of time for a specific purpose. Examples of non-immigrants are visitors, foreign students, crewman and foreign diplomats.
 - b. Immigrant: Persons admitted to the United States for permanent residence. They may reside and work in the United States for an unlimited time. They must carry their Form I-551; Resident Alien Card or Permanent Resident Card, commonly referred to as a "Green Card."
 - c. Undocumented Alien: Includes all aliens who are in violation of the immigration laws. A few examples are persons who enter the United States without inspection along the Mexican and Canadian borders and non-immigrants who stay beyond their authorized time period.
 - d. Alien Absconders: Foreign nationals who entered the United States legally, but have since violated the conditions of their visa and who have had a removal, deportation, or exclusion hearing before an immigration judge and are under a final order of deportation and have not left the United States.

III. POLICY

Division personnel shall not engage in bias based law enforcement and, therefore, may not be motivated solely by an individual's actual or suspected immigration or citizenship status, race, ethnicity, national origin, gender, sexual orientation, religion, economic status, age, cultural group or other identifiable group in selecting which individuals to subject to law enforcement or investigatory activities, or in deciding upon the scope and substance of law enforcement or investigatory activity. No Division member shall request Form I-551 documentation, commonly referred to as a "green card," from any individual.

Nothing in this policy shall preclude consideration of race, ethnicity, national origin, gender, sexual orientation, religion, economic status, age, cultural group, or other identifiable group when it is part of a suspect's description or is otherwise validly related to a Division member's investigation of criminal activity.

IV. PROCEDURE

INVESTIGATIONS/CHARGES INVOLVING NON-CITIZENS

- A. Investigating and enforcing violations of federal civil immigration law is not the responsibility of the Rhode Island State Police.
- B. No Division member will question an individual about his/her immigration status, unless necessary to investigate criminal activity by that individual.
- C. Individuals in the custody of the Rhode Island State Police shall be subject to the same booking, processing, release and transfer procedures, policies and practices of the Division, regardless of actual or suspected citizenship or immigration status.
- D. The Rhode Island State Police shall not provide ICE with access to an individual in their custody or the use of agency facilities to question or interview such individual if ICE's sole purpose is enforcement of Federal Civil Immigration Law, unless a Federal Judicial Order require such access.
- E. IMMIGRATION DETAINER - REQUEST FOR VOLUNTARY ACTION (DHS Form I-247A) Requirements
 1. Division members are not authorized to stop, arrest and/or take an individual into custody based solely on an ICE detainer or on actual or suspected immigration status.
 2. When an Immigration Detainer (DHS Form I-247A) is received it will only be honored if the box indicating "a final order of removal against the subject" is checked. No detainers will be honored where any other box is checked. (See [Exhibit 1, Section 1.](#))
 3. The detainer must also be accompanied by a second attest document where the ICE Agent lodging the detainer attests that the ICE Detainer is based on

an order of deportation or removal by a United States District or Magistrate Court Judge, an Immigration Judge, or the Board of Immigration Appeals. This form will include the Alien Registration Number of the person ICE wishes to detain, the Immigration Officers Name, signature and date of the requesting Immigration Officer. (See [Exhibit 2](#))

4. An ICE Detainer will only be honored if both documents are received.
 5. A copy of the ICE Detainer must be served to the person ICE has requested to be detained.
 6. The Department of Corrections will not accept any prisoners based solely on an ICE Detainer unless the criteria of this section are met and supported by the aforementioned documents that must be presented to ACI Intake personnel.
- F. No Division member shall contact ICE without prior authorization from a Division supervisor or Officer-In-Charge (OIC).
- G. VICTIMS/WITNESSES: Complainants, witnesses and victims are encouraged to communicate with State Police officers without fear of inquiry regarding their immigration or alien status. Being an undocumented person in this country, barring any criminal activity, is a federal civil violation not enforced by the Rhode Island State Police. A person's immigration or citizenship status shall not be a reason to not pursue a complaint or complete an investigation.
- H. CONSULAR NOTIFICATION: When a foreign national is arrested or detained, sworn members shall inquire as to their country of origin to determine whether consulate notification is mandatory. Detained foreign nationals are entitled to communicate with their consular officers. Foreign consular officers must be given access to their nationals and permitted to communicate with them. Such officers have the right to visit their nationals, to converse and correspond with them, and to arrange for their legal representation; however, consular officers may not act as attorneys for their nationals.
1. Mandatory Notification: If a detainee or arrestee is a foreign national of a mandatory notification country (See [Exhibit 3](#)), the Division Patrol Commander or Unit Commander shall notify, as soon as practicable, the nearest consular official of the arrest/detention. Division members must inform the foreign national of this notification. Division members must document or record their actions taken and the details of the notification.
 - a. Division members must inform the arrestee or detainee that notification is being made as follows: "Because of your nationality, we are required to notify your country's consular representatives here in the United States that you have been arrested or detained. After your consular officials are notified, they may call or visit you. You are not required to accept their assistance, but they may be able to help you obtain legal counsel and may

contact your family and visit you in detention, among other things. We will notify your country's consular officials as soon as possible."

- b. Privacy concerns or the possibility that a foreign national may have a legitimate fear of persecution or other mistreatment by his/her government may exist. The notification requirement should still be honored, but it is possible to take precautions regarding the disclosure of information. For example, it may not be necessary to disclose information about why a foreign national is detained. Moreover, *under no circumstances should any information indicating that a foreign national may have applied for asylum in the United States or elsewhere be disclosed to that person's government.* The Department of State can provide more specific guidance in particular cases if necessary.
2. Non-Mandatory Notification: If a detainee or arrestee is a foreign national from a country that is not listed as a mandatory notification country (See Exhibit 1), Division members shall, without delay, offer to notify the foreign national's consular official of their arrest or detention. If the foreign national requests notification, the Division Patrol Commander or Unit Commander shall notify the nearest consular official of the foreign national's country within a reasonable amount of time.
 - a. The right to consulate notification must be read as follows: "As a non-U.S. citizen who is being arrested or detained, you are entitled to have us notify your country's consular representatives here in the United States. A consular official from your country may be able to help you obtain legal counsel and may contact your family and visit you in detention, among other things. If you want us to notify your country's consular officials, you can request this notification now, or at any time in the future. After your consular officials are notified, they may call or visit you. Do you want us to notify your country's consular officials?"
 - b. If the arrestee or detainee refuses consulate notification, the Division member will indicate such refusal upon the appropriate form or Division paperwork.
 - c. If an arrestee or detainee requests notification, the Division Patrol Commander or Unit Commander shall fax a Consular Notification Form to the appropriate consulate, without delay in order to satisfy the notification requirement. When available, a fax sent receipt should be maintained with any arrest package or Division paperwork.
 3. The Division Patrol Commander/Unit Commander shall enter all notification information into the "Consular Notification Log", located in the Supervisor Central Files (W:) Drive, which shall be maintained and reviewed by the Detective Commander/Rhode Island Liaison for the Consular Notification Program.

4. For more guidance, questions regarding Consular Notification should be directed to the Detective Commander/Rhode Island Liaison for the Consular Notification Program.

VI. CONSULATE CONTACT NUMBERS

- A. Assistant Legal Advisor for Consular Affairs L/CA, Room 5527A, U.S. Department of State, Washington, D.C. 20520 – **Telephone: 202-647-4415, Facsimile: 202-736-7559.**
- B. Urgent “After Hours” inquiries may be directed to: **202-647-1512** (State Department Operations Center).

VII. PROVISIONS

- A. Each Barracks/Unit will be provided with Consular Notification and Access Reference Cards: Instructions for Arrests/Detentions of Foreign Nationals.
- B. Each Barracks/Unit shall maintain readily available to members a list of Mandatory Notification Countries (See [Exhibit 3](#)). Members can also access said information by going to www.travel.state.gov; click on the “Law and Policy” tab, click on “Consular Notification and Access,” then click on “Mandatory Notification Countries and Jurisdictions” for a list of mandatory countries.
- C. Members can access Consular Office/Embassy phone number list by going to: www.travel.state.gov; click on the “Law and Policy” tab, then click on “Consular Notification and Access,” scroll down to and click on “Contact Information for Foreign Consular Officers in the U.S.” for the appropriate/most currently available contact number(s).
- D. Members shall adhere to the procedures set forth in General Order 55D “*Managing Communication Barriers*” in their communications and/or interactions with Limited English Proficient (LEP) individuals when a language barrier exists.
- E. For the purposes of this General Order, nothing shall be construed to supersede, contravene or conflict with any federal or state law or regulation or deny a person’s rights under the Rhode Island or United States Constitution and to these extent members may act independently of this General Order to avoid such conflict or violation. Nothing in this policy prohibits or restricts any official from sending to, or receiving from federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.
- F. This policy shall be construed in accordance with the “Comprehensive Community-Police Relationship Act of 2015” of the Rhode Island General Laws, Title 31, Chapter 21.2, which prohibits Division members from engaging in “racial profiling,” being defined as “*the detention, interdiction or other disparate*

treatment of an individual on the basis, in whole or in part, of the racial or ethnic status of such individual, except when such status is used in combination with other identifying factors seeking to apprehend a specific suspect whose racial or ethnic status is part of the description of the suspect, which description is timely and reliable.” (31-21.2-3).



By Order of Colonel Assumpico

A handwritten signature in cursive script that reads "Ann C. Assumpico".

Ann C. Assumpico
Colonel
Superintendent

EXHIBIT 1

Immigration Detainer – Request for Voluntary Action

DEPARTMENT OF HOMELAND SECURITY
IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID: Event #:	File No: Date:
TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)	FROM: (Department of Homeland Security Office Address)

Name of Alien: _____

Date of Birth: _____ Citizenship: _____ Sex: _____

1. DHS HAS DETERMINED THAT PROBABLE CAUSE EXISTS THAT THE SUBJECT IS A REMOVABLE ALIEN. THIS DETERMINATION IS BASED ON (complete box 1 or 2).

- A final order of removal against the alien;
- The pendency of ongoing removal proceedings against the alien;
- Biometric confirmation of the alien's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- Statements made by the alien to an immigration officer and/or other reliable evidence that affirmatively indicate the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

2. DHS TRANSFERRED THE ALIEN TO YOUR CUSTODY FOR A PROCEEDING OR INVESTIGATION (complete box 1 or 2).

- Upon completion of the proceeding or investigation for which the alien was transferred to your custody, DHS intends to resume custody of the alien to complete processing and/or make an admissibility determination.

IT IS THEREFORE REQUESTED THAT YOU:

- **Notify DHS** as early as practicable (at least 48 hours, if possible) before the alien is released from your custody. Please notify DHS by calling U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP) at _____. If you cannot reach an official at the number(s) provided, please contact the Law Enforcement Support Center at: (802) 872-8020.
 - **Maintain custody** of the alien for a period **NOT TO EXCEED 48 HOURS** beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody. The alien **must be served with a copy of this form** for the detainer to take effect. This detainer arises from DHS authorities and should not impact decisions about the alien's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters
 - Relay this detainer to any other law enforcement agency to which you transfer custody of the alien.
 - Notify this office in the event of the alien's death, hospitalization or transfer to another institution.
- If checked: please cancel the detainer related to this alien previously submitted to you on _____ (date).

(Name and title of Immigration Officer) (Signature of Immigration Officer) (Sign in ink)

Notice: If the alien may be the victim of a crime or you want the alien to remain in the United States for a law enforcement purpose, notify the ICE Law Enforcement Support Center at (802) 872-8020. You may also call this number if you have any other questions or concerns about this matter.

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE ALIEN WHO IS THE SUBJECT OF THIS NOTICE:

Please provide the information below, sign, and return to DHS by mailing, emailing or faxing a copy to _____.

Local Booking/Inmate #: _____ Estimated release date/time: _____

Date of latest criminal charge/conviction: _____ Last offense charged/conviction: _____

This form was served upon the alien on _____, in the following manner:

- in person by inmate mail delivery other (please specify): _____

(Name and title of Officer) (Signature of Officer) (Sign in ink)

EXHIBIT 2 Attest Document



U.S. Immigration and Customs Enforcement

Enforcement and Removal Operations

I, the undersigned, attest that the attached Immigration Detainer (DHS Form I-247) is based upon an order of deportation or removal issued by a United States District or Magistrate Court Judge, an Immigration Judge, or the Board of Immigration Appeals.

Alien Registration Number: _____

Immigration Officer Name: _____

Immigration Officer Signature/Date: _____

EXHIBIT 3

Mandatory Notification Countries

Algeria	Malta
Antigua & Barbuda	Mauritius
Armenia	Moldova
Azerbaijan	Mongolia
Bahamas, The	Nigeria
Barbados	Philippines
Belarus	Poland (non-permanent residents only)
Belize	Romania
Brunei	Russia
Bulgaria	Saint Kitts and Nevis
China ¹	Saint Lucia
Costa Rica	Saint Vincent/Grenadines
Cyprus	Seychelles
Czech Republic	Sierra Leone
Dominica	Signapore
Fiji	Slovakia
Gambia, The	Tajikistan
Georgia	Tanzania
Ghana	Tonga
Grenada	Trinidad and Tobago
Guyana	Tunisia
Hong Kong ²	Turkmenistan
Hungary	Tuvalu
Jamaica	Ukraine
Kazakhstan	United Kingdom ³
Kiribat	U.S.S.R. ⁴
Kuwait	Uzbekistan
Kyrgyzstan	Zambia
Malaysia	Zimbabwe

¹Notification is not mandatory in the case of persons who carry “Republic of China” passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office (“TECRO”), the unofficial entity representing Taiwan’s interests in the United States, can be notified at their request

²Hong Kong reverted to Chinese sovereignty on July 1, 1997, and is now officially referred to as the Hong Kong Special Administrative Region, or quot; "SAR". Under paragraph 3(f) (2) of the March 25, 1997, U.S. - China Agreement o the Maintenance of the U.S. Consulate General in Hong Kong Special Administrative Region, U.S. officials are required to notify Chinese officials of the arrest or detention of bearers of Hong Kong passports in the same manner as is required for bearers of Chinese passports - - i.e. immediately, and in any event within four days of the arrest or detention.

³United Kingdom includes England, Scotland, Wales, Northern Ireland and Islands and the British dependencies of Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands. Their residents carry British passports.

⁴Although the U.S.S.R. no longer exists; some nationals of its successor states may still be traveling on its passports. Mandatory notification should be given to consular offices for all nationals of such states, including those traveling on old U.S.S.R. passports. The successor states are listed separately above.