

Middlebury Police Department
General Order

Subject: Undocumented Foreign Nationals

Number: 2.48

Effective Date: 09-12-07

Approved & Ordered: _____
Chief of Police

I. Policy – Undocumented Foreign Nationals

The Middlebury Police Department exists to provide equality of service to all persons regardless of race, creed, nationality, sexual orientation, gender, or ethnic background. The Department operates within the scope of its jurisdiction and authority as granted by the State of Vermont and the charter of the Town of Middlebury.

The Department provides services consistent with its mission to all persons regardless of citizenship status, that is, the reduction of crime and disorder, improving highway safety, and assisting those in need.

It is essential to the mission of the Middlebury Police Department that victims report crimes and fully cooperate in investigations; that witnesses come forward and provide testimonial evidence; that persons report suspicious activity and other information to reduce crime and disorder; and that help is summoned when needed. These activities must be undertaken without hesitation and without fear that the victim, witness, or reporting person will be subject to prosecution or deportation for no reason other than immigration status.

Therefore, Department employees will act first and foremost in the best interests of our community and our mission when dealing with undocumented foreign nationals who come to the department for help or to make reports, giving full priority to public safety and justice concerns in preference over rigid enforcement of immigration regulations.

With respect to contact with undocumented foreign nationals, the department will act and refer undocumented foreign nationals to the respective Federal agency only when:

- A. The person is known to have committed a crime against the statutes of the State of Vermont or is sought for prosecution by another jurisdiction; or
- B. The person is suspected of conduct or conspiracy that is criminal in nature [other than that person's own immigration status] or which undermines homeland security; or

C. On incidental contact should the officer have reason to believe human trafficking or other criminal activity is afoot, or when the officer would otherwise have cause to seek identification and the person has no credible means of identification nor any U.S. citizen or consular official to provide identification, country of citizenship, residence, and purpose for their presence in the U.S.

II. Mexican Citizens

A. Matricula Consular de Alta Seguridad (Mexican Consular ID Card)

The government of Mexico provides a means of documenting, registering, and identifying Mexican nationals living and working outside of Mexico. The Middlebury Police Department accepts the validated Mexican Consular ID card, or “Matricula Card” as proof of identity and documentation.

III. Complaints / Information

A. Referral to Federal Agency

On receipt of a third-party complaint or information of undocumented foreign nationals, in the absence of any other criminal activity, log the information in the department dispatch records and refer the information to the Bureau of Immigration and Customs Enforcement.

B. Investigation

On receipt of a complaint or information of undocumented foreign national(s) suspected of criminal activity, assign an officer to investigate with a follow-up report to the Bureau of Immigration and Customs Enforcement or other applicable law enforcement agency.

IV. Consular Notification

The provisions of the U.S. Department of State publications “*Diplomatic and Consular Immunity*” and “*Consular Notification and Access*” are adopted by this department as procedures for managing foreign nationals.

A. Rights of Foreign Nationals

1. Whenever a foreign national is arrested or detained, advise the foreign national of the right to consular notification and access.

2. In some cases, consular notification is mandatory and the officer must make the notification. In other cases, once advised, the foreign national has the option as to whether or not to notify the consulate. This is dependent on the agreement between the US Government and the particular country. Refer to the list of mandatory notification countries found in the document “Consular Notification and Access” by the US Department of State.

a. Non-mandatory notification

- Offer, without delay, to notify the foreign national’s consular officials of the arrest/detention. Suggested statements and translations are found in Part 4 of “Consular Notification and Access”
- On request, notify the nearest consular officials of the foreign national’s country without delay. Part 6 of “Consular Notification and Access” contain consulate and embassy contact information.

b. Mandatory notification

- Notify the foreign national’s nearest consular officials, without delay, of the arrest/detention. Part 6 of “Consular Notification and Access” contains contact information. Sample FAX notification forms are in that document as well.
- Tell the foreign national you are making the notification.

3. Provide the foreign national with access to embassy or consular officials without delay when notification is mandatory or requested by either the foreign national or embassy/consular officials.

B. Documentation

Make a written record of the notification or offer of notification and actions taken. Include this record with the incident report.

V. Assist to Other Agencies

The Middlebury Police Department will provide mutual aid assistance, in a support role, on request to other law enforcement agencies in the investigation of immigration violations within the scope of department policies. In the absence of criminal activity or **homeland security concerns**, the department will not intercede without the active presence of the requesting law enforcement agency.

* undocumented immigrants considered “homeland security concerns”? and handled by local police?