

**Kathy Dockins**

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**From:** Greg Lineberry  
**Sent:** Friday, September 16, 2011 7:14 PM  
**To:** Kathy Dockins  
**Cc:** Laura VanSlyck  
**Subject:** RE: Virtra training policy, access policy, and juvenile secure waiting policy

Put the Virtra police after the existing two paragraphs in 18.13 of policy, "Training" No change to index for this one.

As you note 8.11 is fine, and no need for change to index.

I'm not sure I included the various Less Lethal policies and procedures in the previous e-mail. Here they are with all the changes and comments removed. These replace the policy and procedure sections they are listed under in total, and there is no need to change the index.

~~Remove the SWA log from page 20 of procedure. Forms shouldn't be in the text because they change. Do not add the new form to 10.17 or insert it here.~~

*Procedure Manual*

~~Bold this text on last paragraph on page 19 so it matches "Summoning Assistance" Access to restrooms, water and comfort breaks.~~

~~Once page 20 is removed, the next paragraph starts off "The Sector Lt. will ensure"... I would suggest putting a new heading above that paragraph that reads "SWA Logs, SWA Inspections"~~

The data collection form isn't new, but it has been revised. The file is named #12 individual data collection form. We refer to it as a Juvenile Data Collection Form. That form and the SWA log should both be found in our forms directory. The old forms should be removed and these new forms inserted, but using the same name as what we call them now.

That cover all of it?

Greg



Less Lethal Policy  
18 7 update...



Less Lethal Policy  
18 10 updat...



Procedure section  
12 update w ...

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**From:** Kathy Dockins  
**Sent:** Thursday, September 15, 2011 2:34 PM  
**To:** Greg Lineberry  
**Subject:** FW: Virtra training policy, access policy, and juvenile secure waiting policy

*updated & uploaded 10/11/11*

Greg,

Just checking in with you on this again. I've updated 8.11 as it was in the exact format I need for manual updates. If you could send all of the updates, including Table of Contents changes (if any), in the same format, that would be great. If you have any questions, or if I'm not adequately expressing what I need from you, please let me know.

Thanks,  
Kathy D

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**From:** Kathy Dockins  
**Sent:** Thursday, September 08, 2011 11:53 AM  
**To:** Greg Lineberry; Laura VanSlyck; Jerry Strieck  
**Cc:** Dan Templeman; Mike Campbell  
**Subject:** RE: Virtra training policy, access policy, and juvenile secure waiting policy

Hello Greg,

Could you clarify a few things for me?

- 1) Where should the VirTra policy go? Is it its own chapter? If it's under Less Lethal Force, does it go at the end? I need to know the chapter & section cites and whether the Table of Contents is to be changed as well.
- 2) The SWA log is currently in 2.02 of the Procedure Manual. Am I replacing it, or am I putting the new SWA in 10.17 and leaving the original in 2.02?
- 3) The data collection form looks new. Should I just put it at the end of 10.17 in the Procedure Manual?

Laura, as usual I'll let you know when everything's been updated & uploaded so you can send out the Training Bulletin.

Thanks!  
Kathy D

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**From:** Greg Lineberry  
**Sent:** Thursday, September 08, 2011 11:28 AM  
**To:** Laura VanSlyck; Kathy Dockins; Jerry Strieck  
**Cc:** Dan Templeman; Mike Campbell  
**Subject:** FW: Virtra training policy, access policy, and juvenile secure waiting policy

Laura, As noted below, the 5 day notice period has passed. These are all ready to be incorporated into your training bulletin update.

Kathy, These can be incorporated into the policy and procedure manuals now effective with Laura's training bulletin coming out.

Jerry, Go ahead and prepare to implement the new Juvenile forms effective with Laura's training bulletin coming out. Please make sure that all of our VirTra trainers are aware that starting next quarter they will be running everyone through whatever scenario Jim gets set up. Sergeants/supervisors in all units will need some sort of notice about the program, getting people through, etc. Jim should probably include a reminder on his weekly qualification note about the VirTra training. Ideally when we do know that a unit is going to be conducting training and there will be a trainer on site at a certain time, it would be nice to see that included on Jim's weekly notice so that anyone needing to get in for a make-up, or people that aren't in a unit that has a trainer assigned, will be aware of times that week that they will be able to stop by for a qualification. That is

going to require some pre-planning on the part of the VirTra trainers but I think it would be worth it to have them try to give Jim their schedule a week in advance if they can.

Greg

Greg –

The 5 days notification to the unions has passed with regards to the following policy updates:

ACCESS

Virtra

Less Lethal (18.7, 18.10 and Procedure 12)

You are free to work with Laura on the Training Bulletin and once that is ready to go you can have Kathy Dockins update the manuals. Thanks for all your work on these Greg.

**Dan Templeman**

Deputy Chief -- Operations Division

Everett Police Department

3002 Wetmore Ave.

Everett, WA 98201

(25) 257-8493

[dtempleman@ci.everett.wa.us](mailto:dtempleman@ci.everett.wa.us)

<< File: Secure Waiting Area Log1.pdf >> << File: Juv Data From TB 2011-XX w LVs.docx >> << File: ACCESS policy draft to Dept manual w LVS.docx >> << File: VirTra Training Policy w LVS.docx >> << File: # 12 - Individual Data Collection Updated 2010 Forms Version.docx >>

## 2.03 PRISONER HANDLING

When a crime is committed, officers are to initiate a prompt and thorough investigation and to make every reasonable effort to identify and arrest the suspect. The constitutional rights of the suspect must not be infringed upon during this process. ~~Impingement of constitutional rights can negatively impact the investigation and/or subsequent prosecution as well as trigger civil rights liability for the officer and City.~~

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~~Officers will ensure that all suspects are afforded their constitutional rights when interviewed.~~

Officers will ensure that all constitutional rights are afforded to suspects during custodial interrogations, to guarantee that any confessions or admissions are made freely and voluntarily and that all suspects are afforded access to defense council/counsel, upon request. If an officer has ANY question regarding custodial interrogations, for example questions regarding *Miranda* warnings or interrogation tactics, the officer will immediately obtain assistance from a supervisor, an online resource such as the Washington Association of Prosecuting Attorneys "Confessions, Search, Seizure, and Arrest Guide," or the department's legal advisor. The WAPA guide can be located at either website below:

- [www.waprosecutors.org](http://www.waprosecutors.org)
- [www.fortress.wa.gov/citc/www/led/ledpage.html](http://www.fortress.wa.gov/citc/www/led/ledpage.html)

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The Public Defender's Office on call number will be posted in the prisoner holding areas of both precincts. Access to defense council, via the telephone, will be afforded to all prisoners at their request, or as soon as reasonably possible. Officer will note any such requests in their reports, and will further note whether or not the suspect was able to speak with council as requested.

Officers must treat the arrested individual with reasonable respect. No officer will physically mistreat or verbally harass any individual in their custody. Medical care will be provided when necessary.

Officers will use only the force necessary to affect the arrest of an individual or to overcome the resistance offered by the individual.

In the event that force is used and an officer of this Department injures an individual, appropriate medical treatment will follow.

The appropriate Use of Force report will be made to outline the details of the incident resulting in the injury.

Officers are responsible for advising suspects of their constitutional rights in the proper manner. When an adult is arrested and/or taken into custody, that adult must be

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advised of their right to an attorney, whether there is questioning or not. (See **Washington State Court Rule CrR3.1**)

The language used in the admonishment of rights will be the same as on the card issued to each member. The language on the Constitutional Rights Waiver form is also acceptable. It may be necessary for members to testify to the precise language used to warn the suspect of their rights.

All persons arrested should be searched by the arresting officer at the incident scene. Whenever possible, a member of the same gender should conduct the search. This does not preclude opposite gender officers from conducting a search when it is consistent with officer safety and current law.

#### **Strip Searches,**

A strip search, by its very nature, is significantly invasive. A warrantless strip search of a prisoner cannot be justified under exigent circumstances or as a search incident to arrest State v. Audley, 77 Wn. App. 897 (1995).

A warrantless strip search should be conducted only after the suspect is booked and in custody at the Corrections Facility. Any request for a strip search should be made to jail personnel. If the request is appropriate under the guidelines set forth in RCW 10.79.130 and are within jail policy, a search will occur. If the jail refuses to do the strip search and an officer believes that one is necessary the officer should speak to their supervisor about obtaining a warrant.

Under no circumstances should an officer take the initiative to conduct a warrantless strip search.

Warrantless strip searches are permissible in this State under **RCW 10.79.130 and RCW 10.79.140**, once a person has been placed in custody. A strip search is defined as having a person remove or arrange some or all of his or her clothing so as to permit an inspection of the genitals, anus, or undergarments of the person, or breast of a female. **RCW 10.79.070(1)**

The person doing the strip search must make a written record of any strip search under **RCW 10.79**.

## 2.09 ARREST OF FOREIGN NATIONALS

Anytime a foreign national (someone who is not a citizen of the United States) is arrested, the Vienna Convention on Consular Relations is triggered. This treaty requires that foreign nationals be advised that their local consulate may be notified of their detention and that such office may provide them with assistance. Although in most cases the circumstances that trigger the Vienna Convention will be a custodial arrest, officers are required to follow this procedure anytime a subject is detained for longer than is typically necessary to cite and release.

~~When foreign nationals are subjected to custodial arrest in the U.S., and the foreign country is a "Mandatory Notification Country," the arrestees should be advised of the right to seek assistance from their consulates. The consulate must be notified of the fact of the arrest regardless of the arrestee's wishes.~~

~~Article 36 of the Vienna Convention requires that foreign nationals subjected to custodial arrest by police of another country be advised by the arresting police that they may, in their discretion, obtain assistance from their consulate located in the country of arrest. Additional treaty obligations between the U.S. and certain countries mandate notification of consular representatives, regardless of the wishes of the arrestee.~~

### Definitions

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A "foreign national" is any person who is not a U.S. citizen; same as "alien." Aliens who are lawful permanent residents in the United States and who have a in the U. S. is anyone whether tourist, visitor, migrant worker with a temporary work permit, resident alien resident registration card ("green card") are foreign nationals. So are undocumented or; "illegal" aliens, asylum seeker, or person in transit who has (a) not renounced citizenship in his or her country of origin or (b) become a naturalized immigrant in the United States.

A "consular officer" or "consul" is a foreign official authorized by the State Department to provide assistance to the foreign government's citizens in the United States. Consuls are not authorized to practice law.

### Mandatory Consular Notification

Mandatory consular notification is triggered upon the arrest or detention of a foreign national from any of the 57 countries that have agreed to special rules with the United States. For such a foreign national, Police must notify the consular officer regardless of whether the foreign national requests or wants the notification. The "mandatory" list of these 57 countries is set forth below.

In addition, consular notification is also required when a foreign national dies, is seriously injured or becomes seriously ill or in instances of accidents involving ships or aircraft.

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**Sample Statement: Mandatory Consular Notification**

Because of your nationality, we are required to notify your country's consular officers here in the United States 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.

**~~When "Upon Request" Consular Notification is at the Option of the Foreign National:~~**

"Upon request" consular notification is triggered upon the arrest or detention of a foreign national from any country not on the "mandatory" list of 57 countries (set forth below). ~~When U. S. police make a custodial arrest of foreign nationals, "Upon request" consular notification requires the police are required that Police to advise the foreign nationals of the right to consular assistance.~~

**~~Suggested Sample Statement: When "Upon Request" Consular Notification is at the Foreign National's Option~~**

~~As a non-U.S. citizen who is being arrested or detained, you may request that we are entitled to have us notify your country's consular officers representatives here in the United States of your situation. You may also communicate with your consular officers. A consular official officer from your country may be able to help you obtain legal counsel representation, and may contact your family and visit you in detention, among other things. If you want us to notify your country's consular officials officers, 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 officers at this time?~~

**~~When Consular Notification is Mandatory~~**

~~In addition to the Vienna Convention, additional agreements between the U. S. and over 50 nations require that, regardless of the wishes of the arrestee, the police in the arresting country notify the consular representatives of the arrest (Mandatory Notification Countries are listed below).~~

~~In addition, consular notification is also required if investigating the death of a foreign national, or in instances of accidents involving ships or aircraft.~~

**~~Suggested statement: When Consular Notification is Mandatory~~**

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 be notifying your country's consular officials as soon as possible.

Albania	Dominica	Mauritius	Tajikistan
Algeria	Fiji	Moldova	Tanzania
Antigua and Barbuda	Gambia	MauritiusMongolia	SlovakiaTonga
Armenia	Georgia	MoldovaNigeria	TajikistanTrinidad and Tobago
Azerbaijan	Ghana	MongoliaPhilippines	TanzaniaTunisia
Bahamas, The	Grenada	NigeriaPoland <sup>1</sup>	TongaTurkmenistan
Barbados	Guyana	PhilippinesRomania	Trinidad & TobagoTuvalu
Belarus	Hong KongHungary	PolandRussia	TurkmenistanUkraine
Belize	HungaryJamaica	RomaniaSaint Kitts and Nevis	TuvaluUnited Kingdom <sup>2</sup>
Brunei	JamaicaKazakhstan	RussiaSaint Lucia	U.S.S.R.Uzbekistan
Bulgaria	KazakhstanKiribati	Saint Kitts and NevisSaint Vincent and the Grenadines	UkraineZambia
China (including Macao and Hong Kong) <sup>3</sup>	KiribatiKuwait	Saint LuciaSeychelles	United KingdomZimbabwe

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<sup>1</sup> Mandatory only for foreign nationals who are not lawful permanent residents in the U.S. (i.e., "green card" holders). Otherwise, on the national's request.

<sup>2</sup> The bilateral consular convention between the United States and the United Kingdom applies to British nationals from Great Britain (England, Wales and Scotland); Northern Ireland; the Crown Dependencies of Jersey, Guernsey, and the Isle of Man; and the British Overseas Territories, including Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat, and the Turks and Caicos Islands, along with other island territories. Residents of the Overseas Territories may be traveling on a passport issued by the territory with no indication that the territory is British. Nevertheless, for them and all others from a British possession listed above, consular notification and access should be provided to the nearest U.K. consulate. For advice on how to ascertain whether an arrested or detained person is a British national, see the question "What about British nationals" on page 24 of the Consular Notification and Access Manual, which can be accessed by going to [www.travel.state.gov/law](http://www.travel.state.gov/law) and clicking on "consular notification and access."

<sup>3</sup> Notification 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. TECRO's offices are listed on pages 126-127 in the Consular Notification and Access Manual, which can be accessed by going to [www.travel.state.gov/law](http://www.travel.state.gov/law) and clicking on "consular notification and access."



Costa Rica	KuwaitKyrgyzstan	Saint Vincent/Grenadines Sierra Leone	Uzbekistan
Cyprus	KyrgyzstanMalaysia	Seychelles DominicaSingapore	Zambia
Czech Republic	MalaysiaMalta	Sierra LeoneSlovakia	Zimbabwe
Fiji	Malta	Singapore	Algeria
Tunisia			

### Consular Notification Procedures

1. If the notification requirements are triggered due to booking a foreign national, the notification process will begin at the time the arrested foreign national is booked. The officer who books the foreign national is responsible for implementing the notification process.
2. The first step is to determine the foreign national's country. In the absence of other information, assume this is the country on whose passport the foreign national travels. Absent citizenship documentation or other evidence to the contrary, accept the foreign national's own statement as to his or her nationality.
3. Determine whether or not this country is a mandatory notification country. If the foreign national's country is not on the list of "mandatory notification" countries, he or she is from an "upon request" country.
  - a. For foreign nationals from mandatory notification countries:
    - i. Notify the nearest consulate of the foreign national's country via fax immediately or as soon as reasonably possible, and in no case longer than the end of the booking process. Notify the consulate even if the foreign national does not want notification. Contact information for consulates can be found by going to [www.travel.state.gov/law](http://www.travel.state.gov/law) and clicking on "consular notification and access."
    - ii. Never tell the consular officer that the foreign national has requested asylum. If the consular officer insists on information the foreign national does not want disclosed, contact your supervisor or the EPD legal advisor for follow-up with the State Department (202-647-4415).
    - iii. Inform the foreign national that you notified his or her consulate, using the sample statement, above. Links to translations of the statement (along with sample fax sheets and other information) are available by going to [www.travel.state.gov/law](http://www.travel.state.gov/law) and clicking on "consular notification and access."
    - iv. Make a note of the completed notification in your incident report and include the fax and fax confirmation sheet with your incident report when filing it with records.
  - b. For foreign nationals from "upon request notification" countries:

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- i. As soon as reasonably possible, and in no case later than the end of the booking process, inform the foreign national that he or she may have his or her consular officers notified of the arrest or detention, using the sample statement above. Links to translations of this statement can be accessed by going to [www.travel.state.gov/law](http://www.travel.state.gov/law) and clicking on "consular notification and access".
- ii. Make a note in your incident report that you made the notification and of the foreign national's decision.
- iii. If the foreign national requests notification, notify the nearest consulate of the foreign national's country. Contact information for consulates can be found by going to [www.travel.state.gov/law](http://www.travel.state.gov/law) and clicking on "consular notification and access."
- iv. Never tell the consular officer that the foreign national has requested asylum. If the consular officer insists on information the foreign national does not want disclosed, contact your supervisor or the EPD legal advisor for follow-up with the State Department (202-647-4415).
- v. Make a note of a completed notification in your incident report and include the fax and fax confirmation sheet with your incident report when filing it with records.

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#### Contact Information

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### CONSULAR NOTIFICATION AND ACCESS

<http://www.travel.state.gov/law>

Assistant Legal Advisor for Consular Affairs  
LCA, Room 5527A  
U. S. Department of State  
Washington D.C. 20520  
Telephone 202-647-4415  
Fax 202-736-7559

Urgent after hours inquiries may be directed to: 202-647-1512  
(State Department Operations Center)

~~Normally the foreign national's country is the country on whose passport or other travel document the foreign national travels.~~

#### Use of Interpreters

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When it has been established that a person in your custody should be advised of their rights but this person does not speak English, you may call an interpreter. See **Use of Foreign Translators/Interpreters** in this procedures manual. The interpreter may then read the consular notification to the arrestee-foreign national from the Consular

~~Notification book, which is located in the watch commander's office. The notification is written in the book in several different languages. The "Consular Notification Manual," includes:~~

- ~~—— Summary of Requirements Pertaining to Foreign nationals~~
- ~~—— Steps to Follow When a Foreign national is Arrested or Detained~~
- ~~Translations of Suggested Statements To Be Made to Foreign national To Be Arrested or Detained~~
- ~~—— Mandatory Notification Provisions~~
- ~~Suggested Fax Sheet for Notifying Consular Officers of Arrests or Detentions~~
- ~~—— And much more helpful information is in the sector lieutenant's office.~~