



# Gwinnett County Sheriff's Office

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Sheriff Keybo Taylor

Chief Cleophas Atwater

TYPE OF COMMUNICATION	DISSEMINATION	DESTINATION		NUMBER	PAGE	OF
Post Order	Sheriff's Office	Support Services Division GDM		PO34.00	1	3
TOPIC:	Suspected Illegal Foreign Nationals	EFFECTIVE DATE	SOURCE	APPROVED BY RW	<input type="checkbox"/> NEW <input checked="" type="checkbox"/> AMENDS 03/15/2023 <input type="checkbox"/> RESCINDS	

This policy will be used to establish procedures for processing known/suspected illegal foreign nationals to maintain in compliance with current Georgia law.

## PO34.1 POLICY

It shall be the policy of the Gwinnett County Sheriff's Office to strictly comply with O.C.G.A. § 42-4-14. This statute states the following:

- A. The jail must make a reasonable effort to determine the nationality of persons when such person is confined in the jail for any period of time.
- B. If the jail identifies the inmate as a foreign national, the Sheriff or his designee shall make a reasonable effort to determine if the inmate has been lawfully admitted into the United States, and if lawfully admitted, that such lawful status has not expired.
- C. If verification of lawful status cannot be made from documents in possession of the inmate, verification shall be made within 48 hours through a query to the Law Enforcement Support Center (LESC) of the United States Department of Homeland Security.
- D. If it is determined the inmate is in the United States illegally, the Sheriff or designee shall notify the United States Department of Homeland Security.
- E. No person shall be denied bond or the opportunity to be released from custody solely on the basis of this law. Unless the jail receives a valid notification of pending charges from the United States Department of Homeland Security or another agency, the inmate will be eligible for release from custody pursuant to the admissions and release policy of the Gwinnett County Sheriff's Office.

## PO34.2 PROCEDURES

- A. Foreign Nationals shall be admitted to the jail pursuant to the admission procedures. (This includes the person's name, DOB, SSN, nationality, medical, mental health, address, height, weight, emergency notification, etc.)
- B. If there is a language barrier between jail staff and the inmate, an interpreter must be contacted to assist with the booking and identification process.
- C. Jail staff shall determine the nationality of each arrestee received by the jail. If the jail staff suspects the inmate is a foreign national, they will ask the arrestee to provide documentation that they lawfully entered the United States and that such lawful status is still valid.

- D. If the inmate is unable to provide documentation indicating their lawful status, jail staff shall contact the U.S. Immigration and Customs Enforcement Law Enforcement Support Center to determine the inmate's lawful status in the United States.
  - 1. Queries to the LESC can be made through NLETS using a query code of 'IAQ'. These types of queries ask for the person's name, DOB, offense code, and place of birth (POB).
  - 2. If the POB is unknown, use 'XX'.
  - 3. Under offense code, use the UCR code for the offense, or use '399', which is a general immigration offense National Incident Based Reporting System (NIBRS) code.
  - 4. Typically, a response is received within 2 hours.
  - 5. If additional guidance for making such an inquiry is necessary, contact the LESC at (802) 872-6050.
- E. Possible LESC responses include the inmate may be here unlawfully, the inmate has been identified for deportation, or 'No Match' (which indicates the inmate may or may not be in the United States unlawfully). One type of response includes a message to contact the LESC for instructions on getting a detainer for the inmate.
- F. If the inmate is still in custody upon receiving this type of response, the inmate should not be released until after contacting the LESC at the number provided in the response for further directions from the LESC. If the inmate has already been released prior to such notification from LESC, advise LESC of this fact.
- G. Responses of illegal status are automatically forwarded to the local Immigration and Customs Enforcement Office by the LESC. During regular business hours, the local Department should contact the Gwinnett County Jail. After regular business hours, contact the Atlanta ICE Department at (404) 893-1369 to report the person as an illegal alien. The number is staffed by ICE 0600-2200 hours daily. Inmates who the jail suspects to be illegal aliens shall not be detained solely because the after hours number is not available.
- H. Inmates identified as illegal aliens should not be detained on the basis of being an illegal alien, unless the LESC or the local ICE Office specifically provides written instructions for detaining the Inmate as an illegal alien. The existence of an arrest warrant must be verified with ICE within 24 hours of the placement of the detainer.
- I. Inmates will be held no longer than 48 hours pursuant to an immigration detainer, or an immigration warrant, unless such warrant is signed by a federal judge or federal magistrate. Immigration warrants signed by an immigration official other than a federal judge or federal magistrate will be treated as a detainer. If an immigration warrant signed by federal judge or federal magistrate is not received within 48 hours, or ICE officials do not take custody of the inmate within 48 hours, the inmate will be eligible for release from the jail's custody pursuant to the release policy.
- J. This procedure does not relieve the jail of the requirement to notify the appropriate consulate of foreign nationals.
  - 1. When foreign born nationals (FBN) are detained, they must be advised of the right to have their consular officials notified. In some cases, the nearest consular officials must be notified of the arrest or detention of a foreign national regardless of the national's wishes. This notification will be made by personnel in accordance with the Vienna

Convention Consular Relations (VCCR). If there is any question, this web site may be checked for more information: <http://travel.state.gov/CNA>.

2. Countries and Jurisdictions that must be notified when a FBN is arrested or detained are:

Albania	Algeria	Antigua and Barbuda	Armenia
Azerbaijan	Bahamas	Barbados	Belarus
Belize	Brunei	Bulgaria	China1
Costa Rica	Cyprus	Czech Republic	Dominica
Fiji	Gambia	Georgia	Ghana
Grenada	Guyana	Hungary	Jamaica
Kazakhstan	Kiribati	Kuwait	Kyrgyzstan
Malaysia	Malta	Mauritius	Moldova
Mongolia	Nigeria	Philippines	Poland2
Romania	Russia	St. Kitts and Nevis	St. Lucia
St. Vincent and the Grenadines	Seychelles	Sierra Leone	Singapore
Slovakia	Tajikistan	Tanzania	Tonga
Trinidad and Tobago	Tunisia	Turkmenistan	Tuvalu
Ukraine	United Kingdom3	Uzbekistan	Zambia

Zimbabwe

1Includes Hong Kong and Macao. Does not include Republic of China (Taiwan).

2Mandatory only for non-permanent residents in the U.S. (i.e., those not holding a "green card"); for green card holders, notification is upon request.

3UK includes Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands. Residents' passports bear the name of their territory and may also bear the name "United Kingdom." Whether or not the passport bears the name "United Kingdom," consular services for these persons are provided by UK consulates.

- K. Maintain a record of all communication with ICE, including NLETS queries, letters, faxes, phone conversation, etc., in the inmate's file.