



# THE DOCKET

The Newsletter of the Michigan Association of District Court Magistrates

Fall, 2015

## SUCCESSFUL ANNUAL CONFERENCE

While I was not able to attend, from all reports, another great conference was held in September. Education speakers included:

“Gadgets, Body Cams, Smart Cars”

Presented by Sgt. Aric Dowling (MSP)

“Fundamentals of Crash Data Retrieval”

Presented by Sgt. Jerry Hilborn (MSP)

LinkedIn – How to Navigate

Presented by Mag. Ashley Justice (86<sup>th</sup> DC)

“Search Warrants & Case Studies”

Presented by Kinga Gorzelewski & Kenneth Stecker (PAAM), Insp. David Greydanus (MSP)

“Homeland Security/ICE: The Process of Deportation and a Magistrate’s Obligations”

Presented by Jonathan Goulding (ICE)

The Association’s Distinguished Service Award was presented to Charity Mason, 96th District Court

### From SCAO

#### **Court Rules and Administrative Orders** *Adopted*

#### **MCR Cite: 7.300 – Appellate Rules for the Supreme Court**

ADM File No. 2013-36

Effective Date: September 1, 2015

Staff Comment: These new rules of the Michigan Supreme Court were designed to more closely follow the style of rules used in the Court of Appeals, thereby making practice and procedure more similar in the two courts.

#### ***Proposed***

#### **MCR Cite: 6.106 – Pretrial Release**

ADM File No.: 2014-02

*Comment Exp. Date:* June 1, 2015

Public Hearing: September 16, 2015

Staff Comment: The proposed amendment would clarify that a court would determine issues concerning defendant’s pretrial release, if any, at the time of defendant’s arraignment on the complaint and warrant.

**MCR Cite: 6.106 – Pretrial Release**

ADM File No. 2014-15

*Comment Exp. Date:* August 1, 2015

Public Hearing: September 16, 2015

Staff Comment: The proposed amendment to MCR 6.106(B) and (D) would provide clarification that courts are permitted to exercise their inherent power to order conditions that limit or prohibit a pretrial defendant's contact with any named person to be effective immediately, even while defendant remains in custody. These conditions are allowed in a custody order (pretrial release order) when the protective limitation or prohibition is necessary to maintain the integrity of the judicial proceedings.

**MCR Cite: 2.506 – Subpoena; Order to Attend**

ADM File No. 2014-40

*Comment Exp. Date:* August 1, 2015

Public Hearing: September 16, 2015

Staff Comment: The proposed revision of MCR 2.506(G)(3) would insert new language that would allow electronic or facsimile transmission of subpoenas to attend when the subpoenas are directed to specific identified departments or agencies and when there is a memorandum of understanding as described by the amendment between the parties; the revision also would require a confirmation to be received within 48 hours after email or facsimile transmission of the subpoena.

**MCR Cite: 3.101 – Garnishment After Judgment**

ADM File No. 2015-07

*Comment Exp. Date:* September 1, 2015

Public Hearing: September 16, 2015

Staff Comment: The proposed amendment of MCR 3.101 would eliminate subrule (B)(1)(a)(ii) and make other coordinating changes to reflect statutory revisions in 2015 PA 14 and 15.

**Legislation****Statute Cite: MCL 750.520m**

P.A. Number: 2014 PA 457, 458, 459

Effective Date: July 1, 2015

What it Does: Amends the DNA Identification Profiling System Act to require the collection of a DNA sample from anyone *arrested* for committing or attempting to commit a felony or an offense that would be a felony if committed by an adult. The bill would not require the DNA sample to be forwarded to MSP until after the individual was arraigned on the charge. Reinstates a \$60 assessment for DNA collection.

**Statute Cite: MCL 28.421 et seq.**

P.A. Number: 2015 PA 3

Effective Date: Multiple effective dates – December 1, 2015 (for most amendments)

What it Does: Amends the Handgun Licensing Law to (among other things):

- Abolish county concealed weapon licensing boards beginning December 1, 2015 and transfers the bulk of the duties to county clerks and the MSP, with some duties going to the courts and sheriffs.
- Require MSP to verify an applicant's eligibility for a CPL.
- Amended MCL 28.428(3) provides that if an individual with a CPL is charged with a felony or misdemeanor, the court has to order the county clerk in the county in which the CPL was issued to suspend the individual's license until the charge is disposed. The court has to notify the county clerk of each statutory provision with which the individual has been charged. Under the former version of the law, this responsibility as on law enforcement and prosecuting attorney.

**Statute Cite: MCL 600.4012**

P.A. Number: 2015 PA 14

Effective Date: April 14, 2015 (**applies to periodic garnishments issued after 9/30/15**)

What it Does: Amends the statute with respect to periodic garnishments to provide that a garnishment of periodic payments remains in effect until the balance of judgment is satisfied. It provides a different procedure to obtain a default and default judgment against the garnishee in the event the garnishee fails to file the disclosure. It increases the fee to the garnishee from \$6 to \$35

but does not increase the \$15 filing fee with the court.

**Statute Cite: MCL 408.477**

P.A. Number: 2015 PA 15

Effective Date: September 30, 2015

What it Does: Provides that if an employer pays any amount of the employee's debt under a default judgment entered under MCL 600.4012(9) or (10), the employer may deduct that amount from the employee's paycheck without consent, subject to a list of conditions in section (5)(A)-(D).

**Statute Cite: MCL 28.421 et seq.**

P.A. Number: 2015 PA 16

Effective Date: July 13, 2015

What it Does: Amends the handgun licensure law to exclude a retired Federal law enforcement officer who holds a concealed pistol license from provisions prohibiting a licensee from carrying a concealed pistol on certain premises. Currently "no carry zones" include sports arenas, taverns, hospitals, schools, day care centers, and houses of worship.

**Statute Cite: MCL 123.1101 et seq.**

P.A. Number: 2015 PA 29

Effective Date: August 10, 2015

What it Does: Amends the statute, which prohibits local units of government from taxing or regulating the ownership of pistols or other firearms to do the following:

- Extends the authority to include pneumatic guns (e.g. paintball gun).
- Allows a local government to require a minor be under parental supervision when using a pneumatic gun (unless the minor has permission to do so on private land);
- Allows a local government to prohibit brandishing a pneumatic gun;
- Allows a city or charter township to prohibit the discharge of a pneumatic gun in heavily populated areas.

**Statute Cite: MCL 762.11 – 762.13**

P.A. Number: 2015 PA 31, 32, and 33

Effective Date: August 18, 2015

What it Does: Amends the Holmes Youthful Trainee Act to:

- Allows court to grant HYTA status to persons 17-24 years of age.
- Requires the prosecutor's consent for persons 21 or older.
- Provides that if person committed the underlying crime after 21<sup>st</sup> but before 24<sup>th</sup> birthday, could be subject to electronic monitoring during probation.
- Allows the court to require a person assigned to HYTA to maintain employment or attend school.
- Requires the court to revoke HYTA if the person is convicted of certain specified crimes.
- Reduce the maximum prison term from 3 years to 2 years.
- Require a HYTA person under 21 to be committed to a facility designated for custodial supervision and training.
- Prohibit HYTA status for certain offense.
- Allow a HYTA person to be placed on probation following prison or jail.

**Statute Cite: MCL 600.5718**

P.A. Number: 2015 PA 36

Effective Date: August 19, 2015

What it Does: Amends the chapter on Summary Proceedings to Recover Possession of Premises to allow for a demand for payment or possession to be served electronically, if the person in possession of the property had specifically consented to electronic service. It would also prohibit a landlord from refusing to lease property because the prospective tenant declined to consent to electronic service.

**Statute Cite: MCL 28.273**

P.A. Number: 2015 PA 71

Effective Date: October 1, 2015

What it Does: Amends the fingerprinting law, to maintain the current fee that MSP charges for taking and processing fingerprints and processing name-based criminal history checks (ICHAT) until September 30, 2019. The current finger processing fee is \$30 and the ICHAT fee is \$10. It also eliminates the requirement that MSP annual submit a report to the legislature stating whether the

fingerprinting fee is sufficient to cover MSP's actual costs.

### Case Law

*People v Lyon*, \_\_\_ Mich App \_\_\_ (2015).

Defendant was charged with OWI 3<sup>rd</sup> offense for driving his personal electric (4-wheeled) scooter on a public highway and for possessing an open container of alcohol. The Officers effectuated a traffic stop when defendant was weaving in and out of a traffic lane causing a back-up while holding a can of beer. The circuit court dismissed the charges, rejecting the proposition that the scooter was a "vehicle" under the Michigan Vehicle Code. The Court of Appeals held that **by placing his scooter in the roadway, defendant undertook the duties of a vehicle driver, which include refraining from driving while intoxicated or with an open container.**

*People v Mazur*, \_\_\_ Mich \_\_\_, (2015). Defendant Cynthia Mazur is the wife of David Mazur who was a medical marijuana patient and caregiver. He grew marijuana in the marital home. Defendant claimed that her only participation with her husband's marijuana operation was limited to her writing the date of harvest for the marijuana plants on several sticky notes. The couple was both charged with possession with intent to deliver and manufacturing. Defendant moved to dismiss the charges citing the immunity provisions of the MMMA that would allow her to provide marijuana paraphernalia to David for the purpose of his medical use of marijuana and to assist him with using or administering marijuana. The trial court concluded that the immunity provisions did not apply because there was no evidence that Cynthia provided marijuana paraphernalia to David and David's use of medical marijuana was not in compliance with the MMMA. The Court of Appeals affirmed. The Supreme Court reversed the judgment of the Court of Appeals and remanded the case to the circuit court for further proceedings. The Supreme Court held as follows:

**MCL 333.26424(g).** "[M]arihuana paraphernalia,' as that phrase is used in MCL 333.26424(g), includes items that are [either]

specifically designed or actually employed for the medical use of marijuana." The Court held that where "[the] defendant provided her husband, who was both a qualifying patient and a registered caregiver, with sticky notes for the purpose of detailing the harvest dates of his plants[, t]his activity constitute[d] the provision of 'marihuana paraphernalia' because the objects were actually used in the cultivation or manufacture of marijuana["]" (citing former MCL 333.26423(e)). "The prosecution is therefore prohibited from introducing or otherwise relying on the evidence relating to defendant's provision of marihuana paraphernalia – i.e., the sticky notes – as a basis for the criminal charges against defendant."

**MCL 333.26424(i).** "[A] defendant claiming that he or she is solely in the presence or vicinity of the medical use of marijuana is not entitled to immunity under MCL 333.26424(i) when the medical use of marijuana was not in accordance with the [MMMA]." "Nor is a defendant entitled to immunity under MCL 333.26424(i) when the defendant's conduct goes beyond assisting with the use or administration of marijuana." The Court held that the defendant **was not entitled to immunity under MCL 333.26424(i) where she did not "merely assist[] her husband with conduct involving the actual ingestion of marijuana[, but] instead[] assisted him with the cultivation of marijuana["]**".

*People v Humphrey*, \_\_\_ Mich App \_\_\_ (2015).

Defendant was detained by police and pistol was found in defendant's pants during a search. Defendant did not possess a valid concealed pistol license. The trial court subsequently ordered a ballistics test of the weapon. The MSP report indicated that the "submitted firearm did not function in the condition it was received, due to a missing firing pin." Defendant subsequently motioned to dismiss the CCW charge. Defendant cited the MSP report regarding the missing firing pin and inoperability of the pistol as basis for insufficient evidence of the CCW. Circuit found in favor of defendant and dismissed the case. The Court of Appeals held the **inoperability of a pistol is NOT an affirmative defense to a CCW**

**charge.** The case of *People v Peals*, 476 Mich 636 (2006) overruled *People v Gardner*, 194 Mich App 652 (1992), which previously allowed defendants to use inoperability to assert an affirmative defense to CCW.

*People v Feeley*, \_\_\_ Mich App \_\_\_ (2015). Defendant was arrested and charged with R/O for failing to comply with a command of a Brighton reserve police officer. District court denied bindover on grounds that reserve police officer was not within the scope of the R/O statute. Circuit court affirmed. Prosecutor appealed to COA arguing that it is implied that reserve police officer falls within the meaning of person under the statute. The COA looked at plain language of the statute and noted that the legislature did not intend police officer to be a broad term because other such individuals “university police officers, sheriff’s deputies etc.” were specifically mentioned. Thus, COA indicated legislature’s omission was intentional and held **a reserve police officer is not a “person” for purposes of the resisting and obstructing statute 750.81d.**

*People v Al-Shara*, \_\_\_ Mich App \_\_\_ (2015). Defendant was charged with one count of domestic violence in district court. Defendant entered into a plea agreement with prosecution to plea no-contest in exchange for a sentence agreement. Defendant signed a form indicating that he accepted the agreement and acknowledged waiver of certain rights, including his *Jaworski* rights (e.g. right to a trial, right to confront witnesses, and right to remain silent). Upon the taking of the plea, the court did not acknowledge the fact that defendant signed the form, and engaged in a short exchange regarding defendant’s rights. Of the three *Jaworsk* rights, the court only confirmed the defendant understood he was giving up his right to a trial before accepting the no contest plea and immediately sentencing the defendant. Three months after sentencing the defendant filed a timely motion to withdraw his plea. The district court denied defendant’s motion. Defendant successfully appealed to the circuit court and entitled to withdraw his plea. Prosecutor appealed

the circuit court decision arguing the district court substantially complied with the court rule regarding plea taking. COA affirmed the circuit court and allowed defendant to set aside his plea. The Court of Appeals indicated that the court has an obligation to determine a defendant’s plea is understanding, voluntary, and accurate. While the defendant has several rights that they must be informed of, *Jaworski* rights have been given increased importance. The court rules require the district court to inform a defendant of the *Jaworski* right they are waiving, this can be done in writing or orally.

**A defendant is entitled to set aside their plea where the court does not inform the defendant of their *Jaworski* rights at plea proceedings. This may be done via the court enumerating the rights, or referencing the advice of rights form and ensuring the defendant read and understood those rights.**

## Reserve These Dates!

2016 MADCM Annual Training Conference will be September 28, 29 & 30.

## 2016 Officers and Directors

### President

Jessica L. Testolin-Reinke  
73B District Court  
250 E Huron Ave, Ste 105  
Bad Axe, MI 48413  
TX: (989) 269-7201  
E-Mail: [testolij@co.huron.mi.us](mailto:testolij@co.huron.mi.us)  
**Term Expires: 2016**

### Vice President

Yvonna C. Abraham  
20<sup>th</sup> District Court  
25637 Michigan Ave  
Dearborn Heights, MI 48125  
TX: (313) 277-7137  
E-Mail: [yabraham@ci.dearborn-heights.mi.us](mailto:yabraham@ci.dearborn-heights.mi.us)  
**Term Expires: 2016**

**Secretary**

Millicent Sherman  
36th District Court  
421 Madison Ave  
Detroit, MI 48226  
TX: (313) 965-8744  
FAX: (313) 967-7572  
E-mail: [millicent.sherman@36thdistrictcourt.org](mailto:millicent.sherman@36thdistrictcourt.org)

**Term Expires: 2016**

**Treasurer**

James Patrick Brennan  
43<sup>rd</sup> District Court  
430 E. Meyers Ave  
Hazel Park, MI 48030  
TX: (586) 549-9002 Cell  
FAX: (248) 677-3835  
E-mail: [jbrennan@ferndalecourt.com](mailto:jbrennan@ferndalecourt.com)

**Term Expires: 2016**

**Immediate Past President**

Kevin McKay  
63rd District Court  
1950 East Beltline NE  
Grand Rapids, MI 49525  
TX: (616) 632-7795  
E-Mail: [kevin.mckay@kentcountymi.gov](mailto:kevin.mckay@kentcountymi.gov)

**Board of Directors**

(Two year terms)

Dena Altheide  
Director of Court Operations  
630 S. Saginaw  
Flint, MI 48502  
TX: (810) 257-3181

E-Mail: [daltheide@co.geneseemichigan.us](mailto:daltheide@co.geneseemichigan.us)

**Term Expires: 2016**

Robert Clark  
Berrien County Trial Court (5th District)  
811 Port St.  
St. Joseph, Mi., 49085.  
TX: (269) 983-7111 x6265  
E-Mail: [rclark@berriencounty.org](mailto:rclark@berriencounty.org)

**Term Expires: 2016**

Colleen Currie  
15th District Court  
301 E Huron St, POB 8650  
Ann Arbor, MI 48107  
TX: (734) 794-6769  
Email: [ccurrie@a2gov.org](mailto:ccurrie@a2gov.org)

**Term Expires: 2016**

VACANCY

**Term Expires: 2016**

Norene Kastys  
86th District Court  
8527 E Government Center Dr, Ste 201  
Suttons Bay, MI 49682  
TX: (231) 256-8221

E-mail: [nkastys@co.leelanau.mi.us](mailto:nkastys@co.leelanau.mi.us)

**Term Expires: 2017**

Jessica Yakel  
53<sup>rd</sup> District Court  
224 N. 1<sup>st</sup> Street  
Brighton, MI 48116  
TX: (517) 540-8915  
E-Mail: [jyakel@livgov.com](mailto:jyakel@livgov.com)

**Term Expires: 2017**

Ashley Justice  
86<sup>th</sup> District Court  
P.O. Box 597  
Bellaire, Michigan 49615  
TX: (810) 360-5964  
E-Mail: [ashley.justice8@gmail.com](mailto:ashley.justice8@gmail.com)

**Term Expires: 2017**

Susan Wilson  
96<sup>th</sup> District Court  
234 W Baraga Ave  
Marquette, MI 49855  
TX (906) 225-8241  
E-mail: [swilson@mqtco.org](mailto:swilson@mqtco.org)

**Term Expires: 2017**

**Editor of The Docket**

James Pahl (Retired 55<sup>th</sup> District Court)  
445 W. Maple Street  
Mason, MI 48854  
TX: (517) 402-3304  
E-mail: [jbpahl0824@gmail.com](mailto:jbpahl0824@gmail.com)

**State Liaisons**

**Secretary of State**

[www.michigan.gov/sos](http://www.michigan.gov/sos)

Lee Ann Gaspar (Eastern Lower Liaison)  
5512 Fenton Rd  
Flint, MI 48507  
TX: (810) 762-0764  
FAX: (810) 760-2028  
E-mail: [gasparl@michigan.gov](mailto:gasparl@michigan.gov)

David Handsor (Western Lower Liaison)  
7064 Crowner Drive  
Lansing, MI 48918  
TX: (517) 636-0129  
Fax: (517) 322-5458  
E-Mail: [handsord@michigan.gov](mailto:handsord@michigan.gov)

Kari Ferri (Upper Peninsula Liaison)  
7064 Crowner Drive  
Lansing, MI 48918  
TX: (517) 636-0962  
Fax: (517) 322-6570  
E-Mail: [ferrik@michigan.gov](mailto:ferrik@michigan.gov)

**State Court Administrative Office**

<http://courts.michigan.gov/scao/>

Julia Norton, Management Analyst  
State Court Administrative Office  
P.O. Box 30048  
Lansing, MI 48909  
TX: (517) 373-3756  
FAX: (517) 373-0974  
E-mail: [nortonj@courts.mi.gov](mailto:nortonj@courts.mi.gov)

Bobbi J. Morrow, Management Analyst  
State Court Administrative Office  
P.O. Box 30048  
Lansing, MI 48909  
TX: (517) 373-2173  
FAX: (517) 373-0974  
E-mail: [morrowb@courts.mi.gov](mailto:morrowb@courts.mi.gov)

**Michigan Judicial Institute**

<http://courts.michigan.gov/mji/>

Peter Stathakis  
Program Manager  
Michigan Judicial Institute  
P.O. Box 30205  
Lansing, MI 48909  
TX: (517) 373-7607  
FAX: (517) 373-7615  
E-Mail: [stathakisp@courts.mi.gov](mailto:stathakisp@courts.mi.gov)

**Legislative and Legal Resources Section  
Michigan State Police**

Steven G. Beatty  
Legislative and Legal Resources Section  
Office of the Director  
Michigan State Police  
333 S. Grand Avenue  
P. O. Box 30634  
Lansing, MI 48909  
TX: 517-241-0922  
FAX: 517-241-0991  
E-Mail: [beattys@michigan.gov](mailto:beattys@michigan.gov)

**Office of Highway Safety Planning  
Michigan State Police**

[www.michigan.gov/ohsp](http://www.michigan.gov/ohsp)

Dianne Perukel  
Alcohol Program Coordinator  
MSP - Office of Highway Safety Planning  
333 S Grand Ave  
PO Box 30634  
Lansing, MI 48913  
TX: (517) 241-2565  
FAX: (517) 241-2501  
E-mail: [perukeld@michigan.gov](mailto:perukeld@michigan.gov)

**MJI Magistrate Specialty  
Seminar**

*By James Pahl, Editor*

Save the date – Thursday, July 28, 2016

## New Magistrate School

By James Pahl, Editor

The New Magistrate School is currently scheduled for March 22,23 & 24, 2016.

## Where We Work

By James Pahl, Editor

This is the Eaton County courthouse, the home of Ken Knowlton, Magistrate, 56A District Court.



## Are you a United States Citizen?

By Sheldon G. Larkey, Magistrate  
52-4 District Court

Unless you are absolutely positive the question was asked of a criminal defendant before her or his arraignment in front of you, you are obligated by an international treaty to inquire into a foreign national's right to notify its consulate.

For over thirty years, the United States has been a signatory of the 1963 Vienna Convention on Consular Relations (VCCR). It is one of more

than 170 countries which are involved in the VCCR treaty. Because it is a treaty, it is the supreme law of the land as stated in Article VI, clause 2 of the United States Constitution.

Under the VCCR, foreign governments are entitled to assist their nationals who live and travel abroad, regardless of their legal status. Article 36 of the VCCR provides, in part:

“1. With a view to facilitating the exercise of consular functions relating to nationals of the sending state: .....

(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerning without delay of his rights under this subparagraph.”

Note the last sentence mandates giving information of a foreign national's right to consular notification. In order to comply with the provision, you need to do the following:

1. So the record is clear, and there is no claims of discrimination, every time you arraign a criminal defendant, ask if she or he is a United States citizen. As long as every defendant is asked the same question, there cannot be a chargeable claim of bias or discrimination.
2. If the answer is “no”, the United States Department of State suggests the following be said to the defendant:



“As a non-U.S. citizen who is being arrested or detained, you may request that the court 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 the court to notify your consular officers at this time?”

3. If the defendant says she or he does not want the consulate to be notified, you need not do anything further unless she or he is a national of a country listed in 5 below.

The U.S. Department of State, however, suggests getting writing from the defendant stating the notification and declination. In its 121-page instruction publication entitled *Consular Notification and Access*, the State Department provides statement sheets in Arabic, Cambodian, Chinese, Creole, English, Farsi, French, German, Greek, Hindi, Italian, Japanese, Korean, Lao, Polish, Portuguese, Russian, Spanish, Tagalog, Thai and Vietnamese.

4. If the defendant indicates she or he wants the consulate to be notified, then you must obtain the defendant’s nationality and have the court state prepare and send a transmittal sheet to the appropriate consulate. Below is a suggested consular notification facsimile sheet. Contact information for consulates is at <http://travel.state.gov/CNA>. (A listing can also be found in the Michigan Bar Journal directory issue – editor note)

5. There are 57 countries where a consulate must be notified of one its nationals’ arrest or detention even if the defendant does not wish to have the country being notified.

Those countries include Albania, Algeria,

Antigua and Barbuda, Armenia, Azerbaijan, Bahamas, Barbados, Belarus, Belize, Brunei, Bulgaria, China (including Macao and Hong Kong), 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, Poland, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Singapore, Slovakia, Tajikistan, Tanzania, Tonga, Trinidad and Tobago, Tunisia, Turkmenistan, Tuvalu, Ukraine, United Kingdom, Uzbekistan, Zambia and Zimbabwe.

The State Department says the notification instruction and procedures must be followed by all federal, state and local government officials, whether law enforcement, judicial or other, insofar as they pertain to foreign nationals subject to the official’s authority or to matters within the official’ competence. Compliance with also help ensure respect to U.S. nationals abroad, and will help prevent both international and domestic litigation.

The complete text of the Consular Notification and Access publication, which is updated periodically, can be accessed at <http://travel.state.gov/CNA>.

ENGLISH

Statement 1: 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?

YES NO

Printed Name: Witness:

Signature: Date:

Statement 2: For Foreign Nationals from "Mandatory Notification" Countries

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. Please sign to show that you have received this information.

Printed Name: Witness:

Signature: Date:

FAX SHEET - CONSULAR NOTIFICATION

SUBJECT: NOTIFICATION OF ARREST OR DETENTION OF A NATIONAL OF YOUR COUNTRY

DATE/TIME:

TO: Embassy/Consulate of in (COUNTRY) (CITY) (STATE)

FROM: Name/Office Address City State Zip Code Telephone Fax

We arrested/detained the following foreign national, who we understand is a national of your country, on (DATE)

Name: Date of Birth/Place of Birth: Nationality/Country: Passport Issuing Nation: Passport Number:

This person has been or may be charged with the following offense(s):

For more information, please call between the hours of

Please refer to case number when you call.

ADDITIONAL INFORMATION: