

<b>DENVER SHERIFF DEPARTMENT</b> <b>Operations Division</b>		<b>Procedure Manual</b> <b>5.21.1057</b>	
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<b>Related Standards:</b> N/A			
<b>Related (referenced) Department Orders:</b> <a href="#">1.00.3012</a>			
<b>Subject:</b> <p style="text-align: center;"><b>IMMIGRATION/FOREIGN NATIONALS</b></p>			
			
<p><b>Immigration/Foreign Nationals</b></p> <p><b><i>CONFIDENTIAL</i></b></p>			
<b>INTRODUCTION:</b>			
<p>The purpose of this procedure is to provide guidance and instructions to officers. Officers shall familiarize themselves with this procedure to perform the required duties in a proficient and professional manner. Officers should contact supervision when necessary for proper guidance and instructions as needed. In cases not covered by this procedure or current policies or post orders, and the absence of supervision, officers are to use discretion and good judgement and will follow the guidelines set forth in the General Post Order. Officers are required to review post orders and procedures at least annually, and should always read the Procedures when newly assigned to a post.</p>			
<p><b>This material is confidential and inmates shall not be allowed to read or have access to this manual of Post Order, or any other Procedure, or Departmental Order Manual.</b></p>			
<b>DOWNTOWN DETENTION CENTER</b>			

**IMMIGRATION/FOREIGN NATIONALS  
PROCEDURE MANUAL  
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**1. Immigration and Customs Enforcement (ICE)**

- A. DSD shall not detain any individual beyond the date and time when the inmate is eligible for release solely on the basis of a civil immigration detainer. A civil immigration detainer is a non-mandatory request issued by federal immigration enforcement authorities requesting that law enforcement officers maintain custody of an individual for a period not to exceed forty-eight (48) hours.
- B. DSD shall continue to detain any individual if the request from federal immigration authorities is accompanied by a criminal warrant issued by a federal judge or magistrate or federal court clerk, or if the inmate is only in DSD custody pursuant to a writ issued to a federal immigration detention facility
- C. Request for Notification (Form I-247A)
  - 1. When ICE submits a written request for notification of the release of an inmate pursuant to Form I-247A or any similar form issued by federal immigration authorities, DSD shall as soon as reasonably possible advise the inmate who is the subject of the notification request that federal immigration enforcement authorities have requested information concerning the date and time when the inmate will be released. DSD shall provide copies of the notification request to the inmate and place a copy of the notification request in the inmate's legal file in Records, and a copy in the JMS. The DSD shall give the inmate a written advisement in the inmate's language of choice, advising the following:
    - a. The inmate has the right to refuse to speak to federal immigration enforcement authorities and remain silent;
    - b. The inmate has the right to speak to an attorney before speaking to federal immigration enforcement authorities; and
    - c. Anything the individual says may be used against him or her in subsequent proceedings, including in federal immigration court.
  - 2. The signed ICE Notification Request Advisement of Rights form shall be maintained in the inmate's legal file in Records, and a copy in the JMS.
  - 3. DSD shall maintain a record of all notification requests received from ICE, which shall include the following information:
    - a. The date and time the notification request was received;
    - b. Whether DSD responded to the notification request, and if so, the date and time upon which the response was given;
    - c. The charges for which the inmate who was the subject of the notification request was being held by DSD;
    - d. Whether the inmate who was the subject of the notification request was detained or arrested by federal immigration authorities after being released from custody, if that information is known to DSD.
  - 4. When the DSD reviews an inmate's legal file in records and determines that the inmate is eligible for release and the inmate has a Form I-247A in their legal file and/or noted in JMS, the records officer shall fax ICE a stamped notification of the inmate's eligibility for release. The fax confirmation shall be placed in the inmate's legal file.
  - 5. DSD shall not transfer custody of an inmate to federal immigration authorities unless they have a warrant issued by a federal judge or magistrate or federal court clerk, or the inmate is in the custody of DSD pursuant to a writ issued to a federal immigration detention facility. Further, DSD shall not assist federal immigration authorities in the apprehension or detention of an individual solely on the basis of a civil immigration detainer or administrative warrant.
    - a. DSD may assist federal immigration authorities to the extent necessary to keep the peace, protect public safety, or enforce city, state, or federal criminal laws.
- D. ICE Interviews with Inmates
  - 1. ICE may not conduct phone interviews with pretrial detainees or inmates who are in DSD custody. ICE may conduct in-person interviews if the pretrial detainee/inmate consents; however, ICE shall not be granted access to the secure areas of any DSD or County Court facilities unless they are in possession of a warrant issued by a federal judge or magistrate or federal court clerk.
  - 2. No interviews with ICE shall be allowed until the following two requirements have been met:
    - a. The inmate has been advised of the following legal rights in writing in the inmate's language of choice:
      - i. An interview is being sought by federal immigration authorities;

- ii. The individual has the right to decline the interview and remain silent;
  - iii. The individual has the right to speak to an attorney before submitting to the interview; and
  - iv. Anything the individual says may be used against him or her in subsequent proceedings, including in federal immigration court, and
- b. The inmate has signed the ICE Interview Request Advisement of Rights consenting to be interviewed
3. The signed ICE Interview Request Advisement of Rights form shall be maintained in the inmate's Legal file in Records, and a copy in the JMS file.

## 2. Foreign National Inmates

### A. Consular Access

1. Inmates in the DSD's custody who are citizens of another country may request to contact a diplomatic representative or consular officer from their country of citizenship. There are 57 countries that require mandatory notification when a foreign national has been arrested or detained. These countries require mandatory notification from law enforcement agencies to the consular or embassy whether the foreign national requests the office to be notified or not. An optional notification exists when an inmate requests consular notification for a country that does not require mandatory notification. All notifications shall be provided as soon as reasonably possible.
2. During the booking process, the intake deputy shall inform the inmate of their right to consular notification if they are not a U.S. citizen. If the inmate indicates that they are either a U.S. citizen or otherwise declines consular notification, then no additional steps are required unless the inmate is a citizen of a mandatory notification country, as listed below. If the inmate indicates that he or she is not a U.S. citizen, then the deputy shall ask for the foreign national's country of citizenship. The inmate's citizenship shall not be logged in JMS. If the inmate is from a mandatory notification country, the deputy shall inform the inmate that his or her consulate will be notified of their detention. This notification must occur, regardless of whether the inmate wants the consulate notified. If the inmate is a citizen of a non-mandatory notification country, the deputy shall advise the inmate of his or her right for their consulate to be notified of their detention. If the inmate declines consulate notification, nothing further is required.
3. The following is a list of countries that require mandatory notification:
  - a. Albania
  - b. Algeria
  - c. Antigua and Barbuda
  - d. Armenia
  - e. Azerbaijan
  - f. Bahamas
  - g. Barbados
  - h. Belarus
  - i. Belize
  - j. Brunei
  - k. Bulgaria
  - l. China (including Macao and Hong Kong)
  - m. Costa Rica
  - n. Cyprus
  - o. Czech Republic
  - p. Dominica
  - q. Fiji
  - r. Gambia
  - s. Georgia
  - t. Ghana
  - u. Grenada
  - v. Guyana
  - w. Hungary
  - x. Jamaica
  - y. Kazakhstan
  - z. Kiribati
  - aa. Kuwait
  - ab. Kyrgyzstan
  - ac. Malaysia
  - ad. Malta
  - ae. Mauritius
  - af. Moldova
  - ag. Mongolia
  - ah. Nigeria
  - ai. Philippines
  - aj. Poland

- ak. Romania
- al. Russia
- am. Saint Kitts and Nevis
- an. Saint Lucia
- ao. Saint Vincent and the Grenadines
- ap. Seychelles
- aq. Sierra Leone
- ar. Singapore
- as. Slovakia
- at. Tajikistan
- au. Tanzania
- av. Tonga
- aw. Trinidad and Tobago
- ax. Tunisia
- ay. Turkmenistan
- az. Tuvalu
- ba. Ukraine
- bb. United Kingdom
- bc. Uzbekistan
- bd. Zambia
- be. Zimba

4. If the foreign national has requested consulate notification or if the foreign national is from one of the mandatory notification countries, the Intake Supervisor shall be responsible for notifying the consulate or embassy.
  - a. Consulate contact information can be found on the Department of State website at <https://travel.state.gov/content/travel/en/consularnotification.html>.
  - b. Call the consulate and inform them of the inmate's arrest and detention. The notification shall be recorded on the Denver Sheriff Department Foreign National Consulate Notification Log.
  - c. DSD shall not inform the consular officer if the foreign national has requested asylum. If the consular officer insists on information the foreign national does not want disclosed, contact the Consulate Notification & Access section of the Department of State at (202) 485-7703.

#### B. Visit Access

1. Consular officers and diplomats visiting a detained foreign national shall have the same access privileges as attorneys visiting a client. Consular officers and diplomats are required to adhere to the same visitation guidelines, rules, and regulations as attorneys.
2. Consular officers and diplomats must present identification issued by the Department of State. If you have reason to doubt the authenticity of an identification card, call the Department's Office of Protocol at (202) 647-1985 (or after hours at (571) 345-3146 or (866) 217-2089) to verify the identity and status of the individual.

#### 3. Serious Bodily Injury or Illness of a Foreign National

- A. In the event that a Foreign National sustains serious bodily injury or becomes seriously ill, please refer to [\*Department Order 1.00.3012 Suicide Prevention, Death, or Substantial Risk of Death in a Facility\*](#).
- B. The Watch Commander or his/her designee shall confer with the charge nurse to determine the extent of the injuries or illness. The Watch Commander shall notify the appropriate consulate. The Watch Commander shall document the notification in the incident report, and place a copy of the fax and the fax confirmation receipt in the inmate's file.

#### 4. Death of a Foreign National

- A. In the event that a foreign national inmate dies in our custody, please refer to [\*Department Order 1.00.3012 Suicide Prevention, Death, or Substantial Risk of Death in a Facility\*](#). A Records Officer shall forward all pertinent information regarding the inmate's country of citizenship to the Coroner and the Operations Major, and the Internal Affairs Bureau. The Operations Major will direct the appropriate staff to notify the appropriate consulate. Staff shall document the notification in the incident report, and place a copy of the fax and the fax confirmation receipt in the inmate's file.

#### 5. Effective Date

- A. This procedure will become effective on March 20<sup>th</sup>, 2018.

#### 6. Approval

- A. This document has been reviewed, approved, and electronically signed by the Sheriff of the City and County of Denver prior to its publication.