


| | | | |
|---|-------------------|------------------------------------|----------------|
|  | SECTION: | OPERATIONS | OPR-219 |
| | CHAPTER: | ARREST – SEARCH AND SEIZURE | |
| | DIRECTIVE: | FOREIGN NATIONALS | |
| | | | |

219.01 SUMMARY

This Directive describes procedures on dealing with foreign nationals who defect or request political asylum. Foreign nationals, or non-U.S. citizens, are subject to Colorado law when they are in the state, whether they reside here or are here temporarily. Employee should treat foreign nationals the same way as U.S. citizens, although additional notification or language assistance may apply. (Also see the “**Diplomatic and Consular Immunity**” (OPR-218) directive)

219.02 DEFINITIONS

EMBASSY – The official representation of a foreign government to the United States, located in Washington, D.C.

CONSULATE – A consular office, usually in large U.S. cities, that provides services to a foreign government’s nationals located in the U.S. or to provide commercial, tourist, or other services to U.S. citizens.

219.03 ARREST OF FOREIGN NATIONAL

DOCUMENTATION – If the foreign national possesses a passport, visa, border crossing card, resident alien card, or alien registration card, the arresting Officer will make a photocopy of the document(s) and attach them to the arrest/booking report.

FOREIGN GOVERNMENT NOTIFICATION – In accordance with U.S. law, if a citizen of any foreign country is arrested, the Supervisor, or designee, will notify the nearest consulate or the embassy of the arrested person’s nation at the time the arrested person is booked. The arrested person must be informed that the embassy or consulate has been contacted.

- Always allow a citizen/arrestee from other countries to contact the relevant embassy or the nearest consulate. Inform the arrested person of this right at the time of arrest but no later than during booking at the jail.
- If you contact an embassy or consulate on behalf of an arrested person, note the date, time, and the name of the person who received the call at the embassy or consulate in a supplemental report and place it in the case file.

ARREST OF FOREIGN NATIONAL (con't)

FELONY ARREST – If a foreign national is arrested for a felony, notify the Immigration and Naturalization Service (INS) with the name of the arrested person and the nature of the charges. Federal law requires the INS to notify the appropriate consulate or embassy if the INS takes a foreign national into custody. Contact the INS at:

U.S. Immigration and Naturalization Service
4730 Paris Street
Denver, CO 80239
(303) 371-3041

JUVENILES – If the arrested person is a juvenile not accompanied by a parent or legal guardian, notify the INS at the same time as the juvenile detention facility. The INS has the responsibility to contact the embassy of the arrested juvenile's nation.

ENGLISH TRANSLATION – If the arrested person cannot communicate in English, contact a Supervisor, who should make every effort to obtain a translator. Miranda warnings must be translated before questioning can begin. The investigating Officer should include the name, address, telephone number, and relationship, if any, of the translator to the victim or witness in the Incident Report or a supplemental report.

MAJOR INTERNATIONAL EVENTS – If, during a major international event, such as the Olympics, international sporting events, or international conferences, a foreign national officially connected with the event is arrested, contact the District Attorney, or designee, by telephone and provide an oral summary of the incident. If the foreign national is an Official Guest of the U.S., see the “**Diplomatic and Consular Immunity**” (OPR-218) directive.

219.04 FOREIGN NATIONAL CRIME VICTIM OR WITNESS

TEMPORARILY IN COLORADO – The investigating Officer will determine if the foreign national anticipates traveling out of the State of Colorado within the next six months. If the foreign national anticipates traveling out of Colorado or the Officer believes that the foreign national may depart the State, notify the District Attorney's office immediately in order to take the testimony of the foreign national by videotape.

ENGLISH TRANSLATION – If the foreign national cannot communicate in English, contact a Supervisor, who should make every effort to obtain a translator. The investigating Officer includes the name, address, telephone number, and relationship, if any, of the translator to the victim or witness in the Incident Report or a supplemental report.

**219.05 DEFECTION AND
REQUESTS FOR
ASYLUM**

Defections and request for asylum are highly sensitive and may affect relations between the U.S. and a foreign government and the treatment of U.S. citizens abroad.

OFFICER – If a foreign national approaches you and requests asylum or indicates a desire to defect to the U.S.:

1. Contact your immediate Supervisor and request the Supervisor comes to the scene immediately. If you must communicate by non-secure means (for example, by radio), do not indicate the reason.
2. Take the person into protective custody and permit no one to interfere. It is important that you protect the person from harassment or forced repatriation.
3. Release the person only to the Supervisor or a representative of a Federal agency approved by the Supervisor.
4. Prepare a written report on the incident.

SUPERVISOR – If you learn that a foreign national has approached an Officer who requests asylum or indicates a desire to defect to the U.S.:

1. Immediately contact the INS by secure means (NOT by radio):

U.S. Immigration and Naturalization Service
4730 Paris Street
Denver, CO 80239
(303) 371-3041

2. Take the person into protective custody and transport the person to a secure location designated by INS or to the Department.
3. Prepare a written report on the incident.

