

AURORA POLICE DEPARTMENT

DIRECTIVE MANUAL

6.08 FOREIGN NATIONALS, DIPLOMATS, AND COLORADO STATE OFFICIALS

Approved By:	Todd Chamberlain, Chief of Police
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Associated Policy:	DM 06.01, DM 08.52
References:	C.R.S. § 16-1-104, 24-4.1-404, 24-74-102(1), 24-74-103, 24-74-104, 24-76.6-101, 24-76.6-102, 8 U.S.C. § 1325, 8 U.S.C. § 1326, U.S. Department of State – Consular Notification and Access
Review Authority:	Professional Standards and Training Division Chief and APD Legal Advisor(s)

6.8.01 PURPOSE

The purpose of this directive is to provide members of the Aurora Police Department (APD) guidance in contacting, detaining, and arresting foreign nationals, diplomats, and Colorado State Officials.

6.8.02 SCOPE

This directive applies to all members of APD.

6.8.03 DEFINITIONS

Civil Immigration Detainer: As described in CRS § 24-76.6-101, a civil immigration detainer is a written request issued by federal immigration enforcement authorities to law enforcement officers to maintain custody of an individual beyond the time when the individual is eligible for release from custody, including any request for law enforcement agency action, warrant for arrest of alien, order to detain or release alien, or warrant of removal/deportation on any form promulgated by federal immigration enforcement authorities.

Colorado State Officials: An individual holding a position of authority or responsibility within the state government of Colorado. These officials can be elected or appointed and typically serve in various roles, such as legislators, executives, or judges.

Criminal Offense: Any violation of a state statute for which a fine or imprisonment may be imposed, including petty offenses. A violation of an Aurora Municipal ordinance is considered a criminal offense if there is a counterpart state criminal statute or the ordinance carries a possible penalty of jail time. De-criminalized traffic offenses (infractions), both at the state and municipal levels, are not considered criminal offenses. The status of a person “not legally present in the United States” is not a criminal offense for the purposes of this directive.

Custodial Arrest: Refer to DM 08.52 - Constitutional Policing.

Foreign Diplomatic Counsel: Often referred to as a Consul, is a government official representing the interests of their home country in a foreign country, typically at a consulate. While diplomats such as ambassadors focus on broader political, economic, and diplomatic relations between countries, a consular officer’s primary responsibilities include assisting citizens of their home country who are living or traveling abroad, promoting trade and business interests, issuing visas, and protecting the legal rights of their nationals.

Foreign National: Any person in this country who is not a United States citizen or an official member of any foreign diplomatic consul.

Judicial Warrant: As defined in C.R.S. § 16-1-104, a written order issued by a judge of a court of record directed to any peace officer commanding the arrest of the person named or described in the order.

Non-Custodial Arrest: Refer to DM 08.52 - Constitutional Policing.

Personal Identifying Information (“PII”): PII refers to any data that can be used, alone or with other information, to identify a specific individual. This includes standard identifiers such as names, birth details, government-issued IDs, biometric data, contact information, financial records, medical history, and personal characteristics like race, gender identity, disability status, or religion. For a more detailed definition, see [C.R.S. § 24-74-102\(1\)](#).

6.8.04 APPLICABLE STATE AND FEDERAL LAWS

C.R.S. § 24-4.1-404: A certifying agency is prohibited from disclosing the personal identifying information or immigration status of a victim or person requesting the certification except to comply with federal or state law or process.

C.R.S. § 24-74-103: Limiting Political Subdivision Employees from Sharing Private Information for Immigration Enforcement. Political subdivision employees cannot share or make accessible (e.g., via databases) someone’s personal identifying information, if that information isn’t publicly available, for the purpose of aiding or carrying out federal immigration enforcement, including civil immigration law enforcement (like violations under 8 U.S.C. §§ 1325 or 1326).

C.R.S. § 24-74-104: Restricting the Collection of Immigration-Related Data by Political Subdivision Employees. Effective January 1, 2022, political subdivision employees are forbidden from asking about a person’s immigration status, unless it’s required by law or necessary to perform their official duties (for example, for student visa sponsorship or eligibility for government-funded housing or economic programs).

8 U.S.C. § 1325 - Improper Entry by Alien: This law makes it a federal misdemeanor for a non-citizen (alien) to enter the U.S. without authorization (i.e., not at a port of entry or without inspection), avoid inspection at a port of entry, or use fraud or false documents to gain entry or admission.

8 U.S.C. § 1326 - Reentry of Removed Aliens: This law makes it a federal felony for someone who was previously deported, removed, or excluded from the U.S., and then reenters, attempts to reenter, or is found in the U.S. without permission from the Attorney General or DHS.

6.8.05 POLICY

Under international treaties and customary international law, the United States is obligated to notify foreign authorities when foreign nationals are arrested or incarcerated (e.g., including but not limited to detoxification holds, mental health holds, etc.) in the United States. However, foreign nationals are not entitled to diplomatic or personal immunities.

Foreign diplomats are members of diplomatic consuls and are entitled to special immunities while in the United States.

Colorado state officials who are members of the general assembly are privileged from arrest under specific circumstances.

The APD is committed to upholding the rights and protections afforded to foreign nationals, foreign diplomats, and state officials in accordance with international, federal, and state law.

6.8.06 IDENTIFICATION OF FOREIGN NATIONALS AND DIPLOMATS

Sworn members may rely on various documents to lawfully establish the identity of suspects, witnesses, and victims involved in criminal investigations, including immigration documents. However, requests for personal identifying information for the sole purpose of determining someone's immigration status are not permitted. For any further information regarding the rights of witnesses refer to subsection 15 of [DM 08.52 - Constitutional Policing](#).

Sworn members may ask the subject of a custodial arrest if they are a foreign national and from which country to determine the correct foreign national reporting requirements; however, sworn members shall not inquire as to the immigration status of the subject for the purpose of immigration enforcement.

Sworn members who effect the arrest of a foreign national, custodial or non-custodial, will inquire about the person's diplomatic status.

Should a foreign national claim diplomatic immunity, members will verify the status using the person's official identification cards, such as diplomatic ID cards or visa stamps that indicate their immunity status. Law enforcement can ask to see these credentials to verify the information. For further guidance, law enforcement can refer to the Vienna Convention on Diplomatic Relations (1961) and the Vienna Convention on Consular Relations (1963), which outline the rules and procedures for diplomatic immunity as provided by the [US Department of State Website](#).

6.8.07 ARRESTING FOREIGN NATIONALS

When a sworn member effects a custodial arrest of a foreign national (other than a person entitled to diplomatic immunity), the following actions are required:

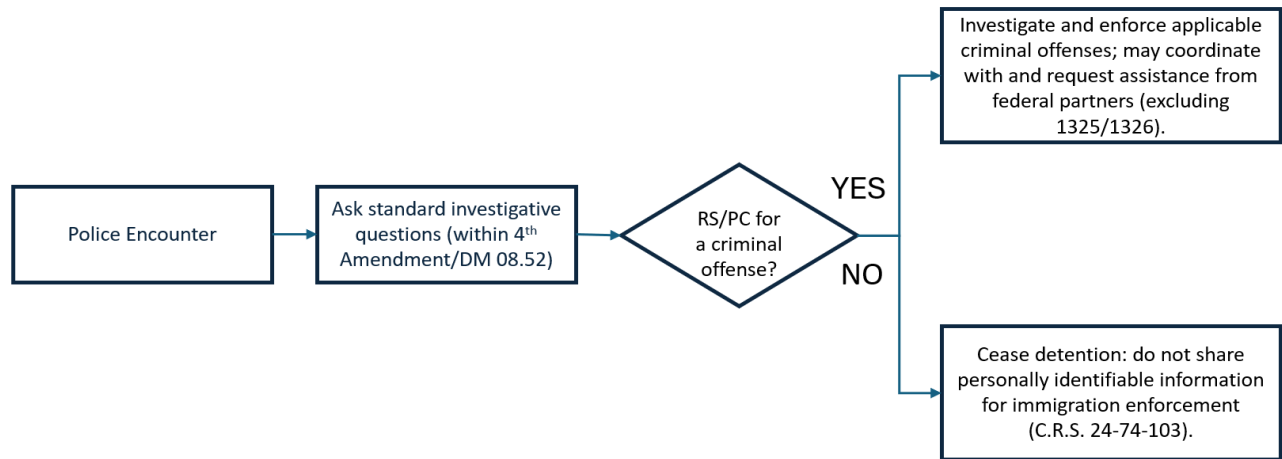
1. Notify the Aurora Detention staff, who will then follow their established protocols described in the Consular Notification/Foreign Nationals Directive.
2. If the foreign national asks for such notification to be made, the involved member should do so as quickly as possible. The member must notify a detention supervisor, who will consult the foreign embassies and consulates list in the detention lead office and will notify the appropriate consulate. In the arrest booking report, the member will document the steps taken to make the notification.

The Aurora Detention Center policy and procedures regulate visitation by foreign consular officials.

6.8.08 CRIMINAL INVESTIGATIONS OF FOREIGN NATIONALS

Members may investigate and enforce any criminal offense except for violations of federal immigration regulations. Members may also participate in coordinated law enforcement actions with federal law enforcement agencies in the enforcement of local, state, or federal criminal laws, except violations of [8 U.S.C. §§ 1325](#) and [1326](#).

Colorado law does not restrict APD members from asking standard investigative questions during encounters to determine if there is reasonable suspicion or probable cause for a criminal offense, provided all actions remain within Fourth Amendment boundaries, as outlined in [DM 8.52 – Constitutional Policing](#). However, once reasonable suspicion or probable cause for a criminal offense has been dispelled, members must cease their detention of the individual as outlined in [DM 8.52 – Constitutional Policing](#) and shall not share personally identifiable information with federal authorities for immigration enforcement purposes, under [C.R.S. § 24-74-103](#).



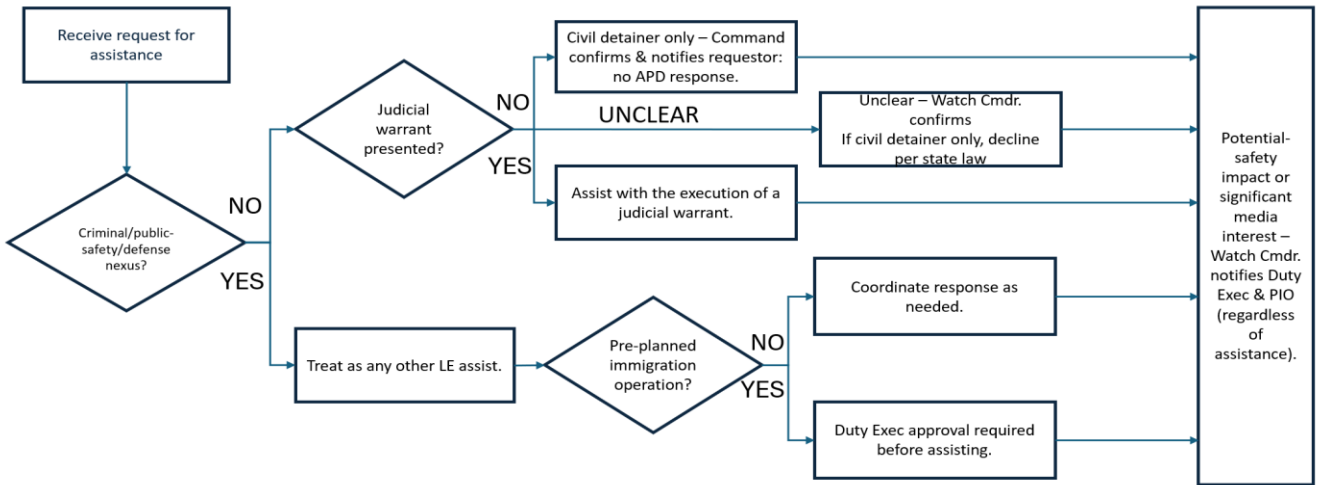
6.8.09 CIVIL AND CRIMINAL IMMIGRATION ENFORCEMENT

While APD may cooperate with various federal law enforcement agencies in investigations, in accordance with [C.R.S. § 24-76.6-102. - Civil immigration detainees](#), sworn members shall not arrest or detain an individual solely on the basis of a civil immigration detainer request. Enforcement of Federal Immigration Laws is the responsibility of Federal Law Enforcement Agencies.

6.8.10 REQUESTS FOR ASSISTANCE BY DHS/HSI

APD will utilize the following considerations when responding to requests for assistance by Federal Agencies tasked with immigration enforcement and removal operations:

1. Requests for assistance with criminal investigation, public safety concerns, or defense of others will be treated in the same manner and with the same priority as any other call for assistance by another law enforcement agency.
2. APD will not respond to assist in the arrest or detention of an individual solely on the basis of a civil immigration detainer request. In the event a request of this nature is received, a Watch Commander or other command-level officer will contact the requesting party to confirm that none of the circumstances from Section 1 (prior paragraph) exist. If the request is confirmed as strictly for the enforcement of civil immigration detainees, the command officer will notify the requestor that no response will be provided in accordance with state law.
3. APD may assist Federal Agencies with the execution of a judicial warrant. In the event that it is unclear whether the request is related to a judicial warrant, as opposed to a civil immigration detainer, the member will notify the Watch Commander or other command-level officer to confirm. If the request is found to be related to a civil immigration detainer, the command officer will notify the requestor that no assistance will be provided in accordance with state law.
4. In the event of a federal immigration operation that may impact public safety, or there is a possibility of significant media interest, the Watch Commander will notify the Duty Executive and PIO regardless of whether APD is assisting or not.
5. A request for assistance for a pre-planned federal operation involving immigration enforcement will require the approval of a Duty Executive, even if a criminal nexus or public safety concern exists.



6.8.11 REQUESTS FOR INFORMATION BY DHS/HSI

APD will utilize the following considerations when responding to requests for information by Federal Agencies tasked with immigration enforcement and removal operations:

1. Pursuant to C.R.S. 24-74-103, APD shall not disclose or make accessible, including through a database or automated network, PII that is not publicly available information for the purpose of investigating for, participating in, cooperating with, or assisting in federal immigration enforcement, including enforcement of civil immigration laws and [8 U.S.C. §§ 1325](#) or [1326](#), except as required by federal or state law, or as required to comply with a court-issued subpoena, warrant, or order.
2. Chain of Command review consideration. If a member is asked to assist or provide information and determines that the request lacks an articulable connection to a criminal case or raises doubt regarding its connection to an active criminal investigation, the member shall elevate the matter to a command-level supervisor for review.

6.8.12 DIPLOMATIC IMMUNITY

On rare occasions, persons entitled to privileges and immunities in the United States become involved in criminal or traffic law violations. When proper identification is available, the individual's immunity shall be fully respected to the degree to which the particular individual is entitled, as detailed in [DM 6.08 – Diplomatic Immunities Chart](#).

6.8.13 VERIFYING DIPLOMATIC IMMUNITY

When a member is confronted with a person claiming immunity, official Department of State identification should be immediately requested to verify the person's status and immunity. If the individual cannot produce satisfactory identification, and the situation normally warrants arrest or detention, the member shall inform them that they will be detained until proper identity can be confirmed.

6.8.14 IMMUNITIES FOR CONSULAR OFFICIALS

Under prevailing international law and agreement, e.g., The 1961 Vienna Convention on Consular Relations, a foreign career consular officer is not liable to arrest or detention pending trial except for a grave crime (a felony offense that would endanger the public safety) and pursuant to a decision by the competent judicial authority. Immunity from criminal jurisdiction is limited to acts performed in the exercise of consular functions

and is subject to court determination. Members shall reference the Watch Commander Notification Matrix and make the appropriate notifications when encountering these situations.

Family members of a Consular Officer cannot claim immunity.

6.8.15 HONORARY CONSULS

These individuals are not immune from arrest or detention. They are not entitled to personal immunity from the civil and criminal jurisdiction of the receiving state except as to official acts performed in the exercise of their consular functions.

6.8.16 TRAFFIC VIOLATIONS

Stopping a diplomatic or consular officer and issuing a traffic summons does not constitute an arrest or detention and is permissible even if immunity bars any further action at the scene. Members may stop diplomats or consuls committing moving violations and issue a summons if appropriate. The diplomat or consul will not be required to sign the summons.

The primary consideration in Driving Under the Influence is to see that the official is not a danger to themselves or the public.

Based upon a determination of the circumstances, the following options are suggested:

1. Call a relative or a friend to respond.
2. Arrange for transportation to their home or office.
3. They may be voluntarily transported to the station or other location to recover sufficiently to enable them to proceed safely.

6.8.17 REPORTING REQUIREMENTS

Information that may relate to the person's citizenship, including, among other information, place of birth, will be recorded on the Arrest / Booking form as an effort to properly identify a person. Information related to an arrested person's diplomatic status (verified diplomat or not a diplomat) will be recorded in the narrative portion of the member's report. The member will include all information related to the verification process. Requests for specific documents for the sole purpose of determining someone's immigration status are not permitted. However, if offered by the person and not specifically at the member's request, it is permissible to rely on immigration documents to establish someone's identity in response to a general request for identification.

6.8.18 IMMUNITY TO COLORADO STATE OFFICIALS

F Article V, Section 16 of the Colorado Constitution states in part:

"The members of the general assembly shall, in all cases except treason or felony, be privileged from arrest during their attendance at the sessions of their respective houses, or any committee thereof, and in going to and returning from same..."

Unless the conduct of a member of the general assembly is directly related to their duty as a legislator, enforcing traffic laws, including DUI laws, is permitted. Members of the general assembly can be arrested if

probable cause exists for a felony charge. Summonses can be issued for minor traffic violations. However, the legislator will not be arrested or detained for an undue amount of time.

Immunities are not given to other Colorado State Officials.