

FOREIGN NATIONALS

CHAPTER 01.12

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The purpose of this general order is to set policy on the issue of foreign nationals and undocumented foreign nationals.

[01.12.020 DEFINITIONS](#)

A. **DIPLOMATIC AGENT:**

Ambassadors and the other diplomatic officers who generally have the function of dealing directly with the host country officials.

B. **ADMINISTRATIVE AND TECHNICAL STAFF:**

Those persons who perform sophisticated and often sensitive duties but serve primarily in support of the activities of diplomatic agents. This category includes secretaries, certain clerical personnel, office managers, and certain professional security personnel.

C. **SERVICE STAFF:**

Members who perform more menial tasks such as driving, cleaning, building and grounds maintenance.

D. **CONSULAR OFFICERS:**

Members of consular posts who are recognized by both the sending and the host country as fully authorized to perform the broad array of formal consular functions.

E. HONORARY CONSULS:

These individuals are generally part-time employees of the sending country who provide a degree of consular representation in places not covered by career consular officers.

F. UNDOCUMENTED FOREIGN NATIONALS:

Individuals who are not citizens of the United States and have entered or remained unlawfully in United States.

G. FOREIGN NATIONALS:

Individuals who are citizens of another nation.

H. FAMILY:

Members of the immediate family consisting of the spouse, children under twenty-one (21) years of age (or twenty-three (23) if they are full-time students at an institution of higher learning), and such other such persons expressly agreed to by the Department in extraordinary circumstances.

I. CIVIL IMMIGRATION WARRANT:

Any warrant for a violation of federal civil immigration law issued by a federal immigration authority. A “civil immigration warrant” includes, but is not limited to, administrative warrants entered in the national crime information center database, warrants issued on ICE Form I-200 (Warrant for Arrest of Alien),¹³ Form I-205 (ICE Administrative Warrant), or prior or subsequent versions of those forms, which are not court orders.

J. FEDERAL IMMIGRATION AUTHORITY:

Any on-duty officer, employee, or person otherwise paid by or acting as an agent of the United States (U.S.) Department of Homeland Security (DHS) including, but not limited to, its sub-agencies, Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), U.S. Citizenship and Immigration Services (USCIS), and any present or future divisions thereof charged with immigration enforcement. “Federal immigration authority” includes, but is not limited to, the Enforcement & Removal Operations (ERO) and Homeland Security Investigations (HSI) of ICE, or any person or class of persons authorized to perform the functions of an immigration officer as defined in the Immigration and Nationality Act.

K. IMMIGRATION and CITIZENSHIP STATUS:

As such status has been established to an individual under the Immigration and Nationality Act. Must not categorize “speculative information” about someone’s status as “immigration and Citizenship Status”.

L. PERSONAL INFORMATION:

Definition includes but is not limited to:

- Names
- Dates of Birth
- Addresses
- GPS Locations
- Telephone Numbers
- Email Addresses
- Social Media Handles
- Social Security Numbers
- Driver’s License Numbers
- Parents’ or Affiliates’ Names

- Biometric Data
- Other Personally Identifiable Information.

Note: Definition must not include immigration or citizenship status as personal information.

01.12.030 UNDOCUMENTED FOREIGN NATIONALS - GENERAL PROCEDURES

Only federal officers may enforce federal immigration laws. Members of the Clark County Sheriff's Office have no lawful authority under federal or state law to enforce immigration laws; and should not stop, detain, question or arrest anyone suspected of being an undocumented foreign national solely on the grounds that the individual may be an undocumented foreign national.

Employees should not ask about a person's immigration status unless their immigration status is relevant to an ongoing investigation into a violation of state or local criminal law or is otherwise required by state law.

Regardless of citizenship status, all people shall be afforded all rights and protections provided by the Washington State Constitution, the United States Constitution, and local, state, and federal law. No person shall be treated differently due to perceived citizenship status.

01.12.035 UNDOCUMENTED FOREIGN NATIONALS – SPECIAL CONSIDERATIONS

The Clark County Sheriff's Office recognizes that undocumented foreign nationals in the United States often have unique fears due to their immigration status. Many undocumented foreign nationals establish significant connections to our community including employment, raising families, enrolling children in school, participating in religious activities, and engaging in local government affairs. Fear of deportation, which may include the separation from spouses, children, or other family members, may prevent undocumented foreign nationals from reporting crimes, emergencies, or otherwise interacting with law enforcement officers. Employees of the Clark County Sheriff's Office should be mindful of these unique fears and concerns when interacting with undocumented foreign nationals and avoid actions or statements which unnecessarily heighten these fears.

01.12.040 IMMIGRATION AND CUSTOMS ENFORCEMENT

Employees of the Clark County Sheriff's Office may contact federal immigration authorities, including Immigration and Customs Enforcement (ICE) as needed in the performance of their official duties and may work cooperatively with such officials as part of any official criminal investigation only when immigration status is relevant to the criminal investigation. Employees of the Clark County Sheriff's Office will not participate in ICE (or other federal agency) investigations or operations which solely involve the investigation of a person's immigration status, or the apprehension of a person solely based on their immigration status. Additionally, agency personnel shall not assist or participate in any operations with any person or agency engaged in criminal immigration enforcement without prior written approval from the Sheriff or his designee. If questions arise in such matters, personnel should contact a commander or higher rank. All employees of the Clark County Sheriff's Office should be mindful of RCW 10.93.160 and its agency restrictions. Our Legislature has found that "the immigration status of an individual or an individual's presence in, entry, or reentry to, or employment in the United States alone, is not a matter for police action. RCW 10.93.160(2)

01.12.045 INFORMATION SHARING

In accordance with RCW 10.93.160, employees of the Clark County Sheriff's Office will not share any inmate information with federal immigration authorities, including Immigration and Customs Enforcement (ICE) beyond what is publicly available on the Clark County Jail Roster. Employees will not share any nonpublic information otherwise with federal immigration authorities in a non-criminal matter, except as required by state or federal law. ICE agents may be directed to the Case Management Sergeant if they have questions related to criminal investigations. WA State law prohibits responding to a request for information from federal immigration authorities for the purpose of enforcing federal immigration law. Federal immigration authorities shall be referred to the public disclosure process when seeking police reports or other records.

Agency personnel shall not investigate, interview, or similar within the presence or hearing distance of federal immigration authorities who are not directly connected to an agency investigation into the violation of state or local criminal law and necessary to perform the officer's duties.

01.12.060 STATE DEPARTMENT ASSISTANCE

Deputies with questions or specific problems relating to the notification of foreign government may contact the U.S. State Department at (202) 647-4415.

01.12.070 FOREIGN NATIONALS

Legally, foreign nationals who are not members of the diplomatic community have no special privileges. However, language and their ignorance of local customs and the legal system may be a factor in determining the correct action to be taken in minor rule violations. If arrest and detention is warranted, a foreign national is to be treated no differently with the exception of notifying the detainee's government.

Differences in language may be a problem. Deputies are encouraged to utilize the Language Resource List for interpretation assistance.

01.12.071 DIPLOMATIC STAFF OVERVIEW

Deputies should remember that diplomats or their staff are representatives of foreign governments. If deputies are confronted by a person claiming diplomatic immunity, official Department of State identification should immediately be requested so as to verify the claim. If no identification is available and detention is warranted, deputies should inform the person that they will be detained until their identity is confirmed. Confirmation can be made by contacting the Department of State. In all cases, deputies should record all pertinent details and forward a report of the contact to the Sheriff.

While diplomats have immunity, deputies retain the right to prevent the commission of a crime. In circumstances where public safety is in potential danger or it is apparent that a serious crime may otherwise be committed, deputies should intervene to the extent necessary to halt such activities and should defend themselves from personal harm.

The issuance of a traffic citation does not constitute an arrest and may be issued. Diplomatic personnel who are suspected of driving under the influence generally should not be arrested, but should be prevented from driving.

01.12.072 FOREIGN NATIONAL - DIPLOMATS

Foreign government employees who are categorized as diplomatic agents enjoy complete personal inviolability and as such cannot be arrested or prosecuted no matter how serious the offense. They may be detained only to the extent necessary to identify themselves. Diplomats may not be searched nor have their property or residences searched. They may not be required to provide evidence or testify in legal proceedings. Families of the diplomat enjoy the same privileges.

01.12.073 ADMINISTRATIVE AND TECHNICAL DIPLOMATIC STAFF

Foreign government employees who are categorized as an administrative or technical diplomatic staff member enjoy the same immunities to searches, seizures, and immunities to criminal prosecution as do diplomatic agents. These privileges also apply to spouses and children.

01.12.074 DIPLOMATIC SERVICE STAFF

Members of a diplomatic service staff who perform menial support tasks enjoy immunity from searches and seizures only while involved in official acts. Their families enjoy no special diplomatic privileges.

01.12.075 CONSULAR OFFICIALS

Members of foreign consulates are assigned one of several designations with varying degrees of diplomatic protection. Consular Officers have immunity from searches and seizures only from official acts. Consular Officers may be arrested for felony crimes pursuant to a warrant of arrest. The family of Consular Officers enjoys no special immunities.

Honorary consuls have immunity from searches and seizure only in connection with official acts. Honorary consuls may be arrested for either misdemeanors or felonies and do not require a warrant. Their families do not enjoy any special immunities from searches, arrest, or prosecutions.

01.12.080 U VISA CERTIFICATION FORM (Form I-918B)

United States Citizenship and Immigration Services (USCIS) Form I-918, Supplement B, is the U visa certification document that a law enforcement agency can complete for a victim who is petitioning USCIS for a U visa. Form I-918B is a required piece of evidence to confirm to USCIS that a qualifying crime has occurred and that the victim was helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of criminal activity. Agency personnel shall not use U Visa certifications to compel cooperation.

All U visa certification forms submitted to the sheriff's office will be forwarded to the sheriff's administrative assistant. The forms and accompanying supporting documents will be logged by date received. The sheriff, or the sheriff's designee, will review the certification form and any supporting documents to determine that:

- The petitioner was a victim of a qualifying crime;
- The petitioner has specific knowledge and details of the crime; and
- The petitioner has been, is being, or is likely to be helpful to law enforcement in the detection, investigation, or prosecution of the qualifying crime.

The U visa certification form and supporting documents will be returned to the petitioner, or the petitioner's agent or attorney, after the certification decision has been made. The date and manner by which the certification form and supporting documents are returned will be notated in

the log. A copy of the certification form and supporting documents will be retained pursuant to current retention schedules.

Guidance on processing U Visa Certification Form I-918B may be found in the Department of Homeland Security document titled, U Visa Law Enforcement Certification Resource Guide. Certifications will be processed consistent with State law, which requires certifying agencies to process certification requests within 90 days of receipt, and within 14 days if the petitioner is in federal immigration removal proceedings.

01.12.090 T VISA DECLARATION OF LAW ENFORCEMENT OFFICER FOR VICTIM OF TRAFFICKING IN PERSONS (Form I-914B)

The T Nonimmigrant Status (T visa) is set aside for those who are or have been victims of human trafficking, protects victims of human trafficking and allows victims to remain in the United States to assist in an investigation or prosecution of human trafficking. Agency personnel shall not use T Visa certifications to compel cooperation.

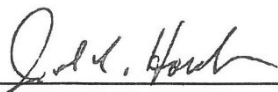
All T visa I-914B forms submitted to the sheriff's office will be forwarded to the sheriff's administrative assistant. The forms and accompanying supporting documents will be logged by date received. The sheriff, or the sheriff's designee, will review the form and any supporting documents, and will complete the I-914B per the instructions for Form I-914, Supplement B which can be found on the U.S. Citizenship and Immigration Services (USCIS) website.

The T visa Form I-914B and supporting documents will be returned to the petitioner, or the petitioner's agent or attorney, after the form has been completed and signed by the sheriff or the sheriff's designee. The date and manner by which the certification form and supporting documents are returned will be notated in the log. A copy of the certification form and supporting documents will be retained pursuant to current retention schedules.

01.12.095 TRAINING

All employees will receive basic training on these policies during their new-hire orientation, with refresher training annually thereafter. Subsequent training specific to assigned duties will take place upon entry into the assigned position. Basic, refresher and duty specific training shall be comprised of agency procedures, model policies published by the Washington State Attorney General's Office, and other laws governing local law enforcement agencies. Any changes made to our Keep Washington Working policies will be shared with the Washington State Attorney General's Office.

Personnel processing certifications will complete the U and T visa training program offered by the Washington State Department of Commerce. *See* Washington State Department of Commerce, *Safety and Access for Immigrant Victims*, <https://www.commerce.wa.gov/ocvupdates/safety-and-access-for-immigrant-victims/>



JOHN HORCH, SHERIFF

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February 17, 2010
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February 17, 2021
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