

	STANDARD OPERATING PROCEDURE	Reference Number MCSO-012
	Subject Immigration and Citizenship Status	
	Special Instructions Replaces MCSO-012 dated August 1, 2023	Effective Date June 29, 2024

I. PURPOSE

Establish guidelines for Department personnel related to immigration and/or citizenship status of suspects, offenders, witness(es), victims, or other parties contacting the Department.

II. POLICY

Immigration and citizenship status is primarily an issue of federal law and enforced by federal authorities. It is the policy of this Department to treat all individuals fairly and equally, during law enforcement encounters, regardless of their immigration or citizenship status. Further, it is the policy of this Department to not engage in enforcement of immigration or citizenship status unless required to do so by law. MCSO shall not enter into any agreement, including the 287(g) program, with the Department of Homeland Security – Immigration and Customs Enforcement (ICE) for enforcement of immigration or citizenship violations.

III. DEFINITIONS

A. NON-CITIZEN – this term shall be used to describe individuals that do not have a legal right (proper immigration or citizenship status) to remain within the United States.

IV. PROCEDURE

A. Employees of the Department will not request or attempt to ascertain (i.e. run) immigration or citizenship status of an individual that they encounter related to their official duties for the Department, unless required to do so in the execution of their official duties. For instance, status can be determined for the purpose of Firearms Licensing.

B. Employees shall not detain or arrest any individual solely based on their immigration or citizenship status.

C. In accordance with the requirements and provisions of Indiana Code 5-2-18.2-3, members of the MCSO will not prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual:

1. Communicating or cooperating with federal officials.
2. Sending to or receiving information from the United States Department of Homeland Security.
3. Maintaining information.
4. Exchanging information with another federal, state, or local government entity.

Notwithstanding the above provisions, it is generally not the responsibility of the MCSO or its employees to notify federal immigration officials when a non-citizen is taken into custody. If

there is an active criminal arrest warrant for the individual, an employee shall notify the jurisdiction issuing the warrant of the detainment, regardless of immigration status.

D. Employees shall not make any threats of immigration actions or consequences to a non-citizen or suspected non-citizen, as a result of any interaction, including in the context of criminal investigations.

E. ICE Detainers

1. MCSO may receive an ICE Detainer if a non-citizen is in-custody. This is automatic when fingerprints are taken during arrestee processing. It is generally not the responsibility of the MCSO or its employees to notify federal immigration officials of the detention or to solicit ICE to send a detainer for a non-citizen in-custody of the Department.

2. MCSO employees shall not detain individual(s) solely based on a non-criminal/administrative ICE detainer.

3. MCSO employees shall not hold an individual(s) beyond their scheduled release date based on a non-criminal/administrative ICE detainer.

F. U Visas or T Visas

1. Under certain circumstances, federal law allows victims and witnesses of certain qualifying crimes to obtain temporary Immigration Status from the U.S. Citizenship and Immigration Services (USCIS) (See 8 U.S.C. § 1101(a) (15) (U), 8 U.S.C. § 1101(a) (15) (T)).

2. Upon the request of a victim or witness for the completion of a certification for a U Visa or T Visa, the certification (Supplements B for I-918 or I-914) shall be referred to Commander of the Detectives Division or designee.

3. The officer or Commander shall review the case report involving the individual and confer with the prosecutor's office regarding the request for certification.

4. If the individual meets the requirements for certification, the Commander of the Detectives Division, or designee, may complete the certification, or request the prosecutor to complete the certification.

5. The certification must include information detailing how the person has been, is being, or is likely to be helpful in a criminal investigation or prosecution.

G. This procedure shall be used in conjunction with all relevant Department regulations, rules, policies and procedures.