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# Immigration Policy

## 413.1 DEFINITIONS

- **"Civil immigration warrant"** means 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), Form I-205 (ICE Administrative Warrant), or prior or subsequent versions of those forms, which are not court orders.
- **"Court order" and "judicial warrant"** mean a directive issued by a judge or magistrate under the authority of Article III of the United States Constitution or Article IV of the Washington Constitution. A "court order" includes, but is not limited to, judicially authorized warrants and judicially enforced subpoenas. Such orders and warrants do not include civil immigration warrants, or other administrative orders, warrants or subpoenas that are not signed or enforced by a judge or magistrate as defined in this section.
- **"De-identified"** means information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.
- **"Federal immigration authority"** means 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.
- **"Hold request" or "immigration detainer request"** means a request from a federal immigration authority, without a court order, that a state or local law enforcement agency maintain custody of an individual beyond the time the individual would otherwise be eligible for release in order to facilitate transfer to a federal immigration authority. A "hold request" or "immigration detainer request" includes, but is not limited to, DHS Form I-247A (Immigration Detainer–Notice of Action) or prior or subsequent versions of form I-247.15 Detainers issued on ICE Form I-247 are not court orders.
- **"Immigration or citizenship status"** means such status as has been established to such individual under the Immigration and Nationality Act.
- **"Language services"** includes but is not limited to translation, interpretation, training, or classes. "Translation" means written communication from one language to another while preserving the intent and essential meaning of the original text. "Interpretation" means transfer of an oral communication from one language to another

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- **"Law enforcement agency" or "LEA"** means any agency of the state of Washington (state) or any agency of a city, county, special district, or other political subdivision of the state (local) that is a "general authority Washington law enforcement agency," as defined by RCW 10.93.020, or that is authorized to operate jails or maintain custody of individuals in jails; or to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities; or to monitor compliance with probation or parole conditions.
- **"Local government"** means any governmental entity other than the state, federal agencies, or an operating system established under chapter 43.52 RCW. It includes, but is not limited to, cities, counties, school districts, and special purpose districts. It does not include sovereign tribal governments.
- **"Notification request"** means a federal immigration authority's request for affirmative notification from a state or local law enforcement agency of an individual's release from the LEA's custody. "Notification request" includes, but is not limited to, oral or written requests, including DHS Form I-247A, Form I-247N, or prior or subsequent versions of those forms.
- **"Personal information"** means names, date of birth, addresses, GPS [global positioning system] coordinates or location, telephone numbers, email addresses, social media handles or screen names, social security numbers, driver's license numbers, parents' or affiliates' names, biometric data, or other personally identifiable information. "Personal information" does not include immigration or citizenship status.
- **"T visa"** is a temporary immigration benefit under 8 U.S.C. § 1101 (a)(15)(T), as further defined in RCW 7.98.010(1), that enables victims of a severe form of human trafficking and certain qualifying family members to remain in the United States for four years or longer if they have assisted law enforcement in an investigation or prosecution of human trafficking.
- **"U visa"** is a temporary immigration benefit under 8 U.S.C. § 1101 (a)(15)(U), as further defined in RCW 7.98.010(1), that enables victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity, and certain qualifying family members, to remain in the United States for four years or longer.

WA AGO Model Policy ([KWW LEA Model Guidance.pdf](#))

#### **413.2 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines to all members of the Renton Police Department relating to immigration laws and interacting with federal immigration officials (RCW 43.10.315).

#### **413.3 POLICY**

It is the policy of the Renton Police Department (RPD) that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status. Policy is considered consistent with WA AGO Model Policy.

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#### **413.4 ENFORCEMENT OF FEDERAL IMMIGRATION LAW AND POLICIES PROHIBITED**

1. The federal government, not the Renton Police Department (RPD), has primary jurisdiction over the enforcement of federal immigration law. RPD recognizes that removal from the United States, including investigations and arrests made as part of that process, is a civil matter overseen by federal immigration authorities. RPD recognizes that unauthorized presence in the United States, standing alone, is not a violation of state or local law. The immigration or citizenship status of an individual or an individual's presence in, entry or reentry to, or employment in the United States alone is not subject to enforcement by RPD or its personnel. RPD shall presume any federal immigration authority acting on official duty to be engaged in immigration enforcement.

a. RPD personnel shall not engage or assist in civil immigration enforcement.

b. RPD resources, including any individuals' personal information ascertained by RPD or its officers, shall not be used or shared to assist in civil immigration enforcement.

c. RPD shall review all methods and forms used to communicate with persons engaged, or intending to engage, in immigration enforcement, including federal immigration authorities, or data fields for immigration or citizenship status existing prior to May 21, 2020, and modify them as necessary to be consistent with these policies.

d. All RPD personnel shall complete RPD's mandatory training regarding immigration enforcement policies and procedures and compliance with all other requirements of RCW 10.93.160. (Training may include annual review and acknowledgment of RPD's immigration policy/procedure).

2. RPD personnel shall not initiate or participate in any law enforcement action based solely on an individual's immigration or citizenship status, or place of birth, or in any other way attempt to enforce or assist in the enforcement of federal civil immigration laws or policies.

3. RPD personnel shall not inquire about any person's immigration or citizenship status, or place of birth, unless the information is directly connected to a RPD investigation into a violation of state or local law.

4. RPD personnel shall not conduct investigations, interviews, questioning, take statements, or otherwise engage in similar contact with any individual in the presence, including within hearing distance, of any person engaged, or intending to engage, in civil immigration enforcement, including a known federal immigration authority, unless the person's presence is directly connected to the RPD's investigation into a violation of state or local criminal law and necessary to perform the RPD Officer's duties.

5. RPD personnel shall not arrest, detain, take into custody, or otherwise hold any person solely to determine their citizenship or immigration status unless the information is directly connected to the RPD's investigation into a violation of state or local law.

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6. Civil immigration warrants, hold requests, and immigration detainer requests do not establish probable cause and shall not be the basis for any RPD Officer to arrest, detain, or otherwise hold any person in custody.

7. RPD Officers shall not transfer custody of any person held, detained, or otherwise in the custody of RPD to any person engaged, or intending to engage, in civil immigration enforcement, including a federal immigration authority, without court order or judicial warrant. If presented with such an order by a person engaged, or intending to engage, in civil immigration enforcement, including by a federal immigration authority, to take custody of a person in RPD custody, RPD Officers shall immediately contact an RPD Supervisor to determine an appropriate course of action.

a. Before authorizing any transfer of custody, the RPD supervisor shall confirm that the court order is issued and signed by a U.S. District Court Judge or Magistrate Judge and authorizes the holding or detention of the individual by:

- i. Obtaining a copy of the court order;
- ii. Confirming that a U.S. District Court Judge or Magistrate signed the court order;
- iii. Confirming that the court order identifies the individual for whom the transfer of custody is sought by name; and
- iv. Verifying that the court order has a valid date or is not otherwise expired or previously executed.

b. RPD supervisor(s) shall not disclose the location of the individual to any person engaged in, or intending to engage in, civil immigration enforcement, including federal immigration authorities, before or during the process of confirming the court order.

8. All requests for assistance by any person engaged, or intending to engage, in immigration enforcement, including federal immigration authority, whether oral or written, shall be directed to an on-duty RPD Patrol Operations supervisor to determine an appropriate course of action.

9. RPD personnel shall not assist or participate in any joint operations, task forces, or any other activities that support civil immigration enforcement with any person or agency engaged, or intending to engage, in civil immigration enforcement only, including with federal immigration authorities, without supervisor approval. The RPD may assist if there are criminal violations occurring or threats of violence to the safety of the public.

#### **413.5 DATA COLLECTION PROHIBITED**

1. RPD personnel shall not inquire about or request any documents or information from a person for the purpose of determining the person's immigration or citizenship status, or place of birth, unless the information is directly connected to the RPD's investigation into a violation of state or local law.

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2. RPD personnel processing fingerprint card or Automated Biometric Identification System (ABIS) submissions shall enter "Unknown" for these fields addressing immigration or citizenship status unless the information is otherwise known.

3. RPD personnel shall not take enforcement action or otherwise use immigration or citizenship status, or place of birth information, against crime victims or witnesses.

4. RPD personnel shall use the Valley Communications dispatch center's "Language Line" or other approved resources for any language services necessary to perform duties for RPD. RPD personnel shall not utilize or accept language services from any person engaged in, or intending to engage, in civil immigration enforcement, including federal immigration authorities. RPD personnel shall presume that federal immigration authorities are engaged in immigration enforcement until otherwise informed.

#### **413.6 CONSULAR NOTIFICATION**

Please also refer to, Foreign Diplomatic and Consular Reporting Policy 411.

##### **413.6.1 FACILITATING CONSULAR COMMUNICATION**

If any RPD personnel becomes aware that a person in custody is a foreign national, the RPD Officer shall immediately contact their RPD supervisor to determine the appropriate course of action.

a. If the person's country is a signatory to the Vienna Convention on Consular Relations or other bilateral agreement regarding consular notifications, The RPD Officer shall provide the person the appropriate consular notification advisement recommended by the U.S. State Department—that the person has the right to request that their foreign consul be notified of their detention and to communication with their foreign consul, or that the LEA is required to notify the person's consular officers, if they are a member of a mandatory notification country.

b. The RPD Officer shall notify the person's foreign consul of their detention without delay if the person is a national of one of the 56 mandatory notification countries or if the person requests their foreign consul be notified.

c. The RPD Officer shall permit the foreign consul access to the person and forward any communication from the foreign national to the person's consular officers without delay.

#### **413.7 VICTIMS AND WITNESSES**

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or Washington constitutions.

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#### **413.8 FEDERAL REQUESTS FOR ASSISTANCE**

Requests by federal immigration officials for assistance from this department should be directed to a supervisor. The Department may provide available support services, such as traffic control or peacekeeping efforts.

##### **413.8.1 RESPONDING TO REQUESTS FOR INFORMATION**

1. RPD personnel shall not share, provide, or disclose personal information about any person to anyone engaged, or intending to engage, in civil immigration enforcement, including federal immigration authorities, without a court order or judicial warrant requiring the information's disclosure, except that RPD shall provide all records as required under the Public Records Act, chapter 42.56 RCW. Public records requests shall be processed pursuant to RPD procedures by the RPD Records Manager. Any RPD personnel receiving a public records request shall forward the request to the RPD Records Manager and notify their supervisor.

2. RPD personnel shall not provide or disclose information in response to any notification request or other civil immigration enforcement related request for information regarding a person's release date from custody without a court order or judicial warrant, except that RPD shall provide all records as required by the Public Records Act, chapter 42.56 RCW, in response to any qualifying request.

3. If RPD personnel receive a court order or judicial warrant that mandates the sharing of information regarding a person's immigration or citizenship status, RPD personnel shall provide the information as required by the court order or judicial warrant. Any RPD personnel who shares or discloses a person's immigration or citizenship status to any person engaged, or intending to engage, in immigration enforcement, including a federal immigration authority, shall immediately notify a RPD supervisor of the information provided, reason for sharing said information, and identity of the person and agency to whom the information was shared.

a. RPD Officers shall log all instances of sharing any person's immigration or citizenship status with a person engaged, or intending to engage, in civil immigration enforcement, including federal immigration authorities, with the basis for sharing the information. The log shall be a public record and shall be made publicly available except that information may be redacted or withheld as permitted by the Public Records Act.

- Immigration Disclosure Form - located on the RPD SharePoint page, use for any federal immigration requests for information.
- Disclosure form will be used to track federal immigration requests for information in an RPD annual report.

#### **413.9 U VISA AND T VISA NONIMMIGRANT STATUS**

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

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Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigations Division supervisor assigned to oversee the handling of any related case. The Investigations Division supervisor should:

- Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- Address the request and complete the certification or declaration, if appropriate, in a timely manner (RCW 7.98.020).
  1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
- Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

1. RPD shall forward U and T Visa certification requests under the Washington Safety and Access for Immigrant Victims Act, RCW 7.98.020, without delay to the RPD Investigations Commander.

a. The fact of any request for U or T Visa certification and any personal information submitted with such request shall not be disclosed or shared outside of RPD, City Attorney's office, or the County Prosecuting Attorney without a court order or judicial warrant, or approval by the Chief of Police unless expressly authorized, in writing, by the subject of the request or the subject's guardian, or as otherwise required by law.

b. The RPD Investigations Commander or designee shall review any U or T Visa certification request submitted to RPD in full and verify all information submitted in support of the certification request using existing RPD records, personal knowledge, or other available evidence. The Investigations Commander or designee may confer with the City Attorney's office and/or the County Prosecuting Attorney to determine whether certification by RPD is proper.

c. RPD Officers shall not leverage U or T Visa certifications as a means to compel any victim or witness to cooperate with their investigations.

2. The RPD Investigations Commander or designee shall process U and T Visa certification requests within 90 days of receipt by RPD, except under circumstances requiring a shorter timeframe.

a. Any U or T Visa certification request for a person in federal removal proceedings shall be immediately processed by the RPD Investigations Commander or designee such that the certification, if approved, is executed within 14 days of RPD receiving the request.

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b. U or T Visa certifications shall be expedited upon request for any person who will, or whose child(ren) will, reach age 21 before the 90-day processing deadline date and thus will otherwise lose their benefits. In any such instance, the RPD Investigations Commander or designee shall execute the certification, if approved, no later than 14 days before the person or child turns 21 years old.

3. RPD Officers directly working with U and T Visa certifications shall complete required training on U and T Visa certifications and review the full instructions for completing U and T Visa certification forms on the Washington State Department of Commerce, Safety and Access for Immigrant Victims Program website.

#### 413.9.1 TIME FRAME FOR COMPLETION

The Investigations Division supervisor should ensure that the certification for the U visa or T visa is processed within 90 days of the request, unless the victim is in federal immigration removal proceedings, in which case the certification shall be executed within 14 days after the request is received. The certification may be withdrawn only if the victim unreasonably refuses to provide information and assistance related to the investigation or prosecution of the associated criminal activity when reasonably requested by the Department (RCW 7.98.020).

#### 413.9.2 U VISA AND T VISA DOCUMENTATION AND REPORTING

The Investigations Division supervisor shall keep written documentation regarding the number of certification forms that are (RCW 7.98.020):

- (a) Requested by a victim.
- (b) Signed.
- (c) Denied.
- (d) Withdrawn.

The Investigations Division supervisor or the authorized designee should ensure that the information collected regarding certification forms is reported annually to the Office of Crime Victims Advocacy (RCW 7.98.020).

#### 413.9.3 RELEASE OF INFORMATION

Personal identifying information or information regarding the citizenship or immigration status of any victim of criminal activity or trafficking who is requesting a certification shall not be disclosed except when allowed by law (RCW 7.98.020). See also the Records Maintenance and Release Policy.

#### 413.9.4 ANNUAL REVIEW

The Investigations Division Commander will be responsible for conducting an annual review of the Renton Police Department's U Visa and T Visa program. This review will be in memorandum form and include:

- Review of program to confirm compliance with department policy and state law,

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- Include any recommendations for process improvement or policy updates,
- Report any challenges or non-compliance identified during the review period.

The review will be forwarded to the Chief of Police for review on an annual basis.

### **413.10 ACCESS TO PERSONS DETAINED OR IN CUSTODY**

1. RPD personnel shall not permit anyone engaged, or intending to engage, in civil immigration enforcement, including federal immigration authorities, to access any person held, detained, or in RPD custody without obtaining the person's prior consent in writing, unless a court order or judicial warrant requiring such access is presented.

a. To obtain written consent from a person held, detained, or in custody, prior to being interviewed by anyone engaged, or intending to engage, in civil immigration enforcement, including a federal immigration authority, the RPD Officer shall provide the person with an oral explanation and a written consent form that explains:

- i. The purpose of the interview;
- ii. That the interview is voluntary;
- iii. That the person may decline to be interviewed and will not be punished or suffer retaliation for doing so; and
- iv. That the person may choose to be interviewed only with the person's attorney present.

b. RPD shall provide the oral explanation and consent form in a language understood by the person or by using an approved language service if the person is unable to read the form or if the form is not available in a language the person understands. RPD shall maintain copies of the consent form in English, Spanish, and any other language that RPD deems appropriate.

c. If a person chooses to be interviewed with an attorney present, an attorney must be present for an interview to continue.

### **413.11 EQUAL TREATMENT TO PERSONS HELD, DETAINED, OR IN CUSTODY**

1. Persons held, detained, or otherwise in the custody of RPD are entitled to, and shall be provided, the same services, benefits, privileges, rights, opportunities, and resources regardless of their nationality, or immigration or citizenship status.

2. RPD personnel shall not deny or otherwise limit any person held, detained, or otherwise in RPD custody such services, benefits, privileges, rights, opportunities, or resources based on any civil immigration warrant, hold request, immigration detainer request, notification request, administrative subpoena or similar request by a person engaged, or intending to engage, in immigration enforcement, including a federal immigration authority, or indication of the person's nationality, immigration or citizenship status.

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3. RPD Officers shall not transfer custody of any person held, detained, or otherwise in the custody of RPD to any person engaged, or intending to engage, in civil immigration enforcement, including a federal immigration authority, without court order or judicial warrant. If presented with such an order by a person engaged, or intending to engage, in civil immigration enforcement, including by a federal immigration authority, to take custody of a person in RPD custody, RPD Officers shall immediately contact an RPD Supervisor to determine an appropriate course of action.

a. Before authorizing any transfer of custody, the RPD supervisor shall confirm that the court order is issued and signed by a U.S. District Court Judge or Magistrate Judge and authorizes the holding or detention of the individual by:

- i. Obtaining a copy of the court order;
- ii. Confirming that a U.S. District Court Judge or Magistrate signed the court order;
- iii. Confirming that the court order identifies the individual for whom the transfer of custody is sought by name; and
- iv. Verifying that the court order has a valid date or is not otherwise expired or previously executed.

b. RPD supervisor(s) shall not disclose the location of the individual to any person engaged in, or intending to engage in, civil immigration enforcement, including federal immigration authorities, before or during the process of confirming the court order.

4. RPD shall not deny or otherwise limit any person's social visitation solely on the basis of the person's inability to effectively communicate through video-visitation technology. RPD shall not collect immigration or citizenship status information of persons visiting an individual in RPD custody and shall minimize collection of visitors' personal information to the extent necessary to perform duties of RPD. RPD personnel shall not disclose or otherwise share visitors' personal information with any person engaged, or intending to engage, in civil immigration enforcement, including federal immigration authorities, absent a court order or judicial warrant for the information or approval by a RPD supervisor.

#### **413.12 CONTRACTS INVOLVING IMMIGRATION ENFORCEMENT**

All RPD personnel shall comply with all applicable state laws and department policies when participating in any federal task force, multi-jurisdictional joint operation, or when otherwise working with or providing assistance to federal authorities. Such participation shall be limited to lawful criminal enforcement activities and shall not conflict with the rights, duties, or obligations established under Washington State law.

Consistent with state law and department policy, RPD personnel shall not engage in, share data, or provide assistance with civil immigration enforcement.

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#### **413.13 TRAINING**

The Administrative Services Division Commander should ensure that officers receive training on this policy.

Training will include an annual review and acknowledgement of policy 413. This policy will be automatically distributed through the Lexipol policy manual to all department members for review and acknowledgement on an annual basis each February 1st.

Other training specific to immigration legal updates should occur through legal update training when necessary.

Each assigned School Resource Officer (SRO) shall be trained on their role within Renton School District (RSD) policies and procedures pertaining to the presence of federal immigration authorities at a school within RSD. This training should occur when assigned to the role of SRO or as necessary when there are RSD policy updates.

SRO's must receive training on bias-free policing and cultural competency, including best practices for interacting with students for interacting with students with different backgrounds, including English learners and immigrants. RCW 28A. 310.515; see Policy 203.4.1 Government-Mandated Training.

#### **413.14 WASHINGTON STATE IMMIGRATION RESTRICTIONS**

Members shall not (RCW 10.93.160):

- (a) Inquire into or collect information about an individual's immigration or citizenship status, or place of birth unless there is a connection between such information and an investigation into a violation of state or local criminal law.
- (b) Provide information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement, except as required by law.
- (c) Provide nonpublicly available personal information about an individual to federal immigration authorities in a noncriminal matter, except as required by state or federal law.
- (d) Give federal immigration authorities access to interview individuals about a noncriminal matter while they are in custody, except as required by state or federal law, a court order, or written consent of the individual.
- (e) Allow a federal immigration authority to conduct an interview regarding federal immigration violations with a person who is in custody if the person has not consented in writing to be interviewed. In order to obtain consent, the person shall be provided with an oral explanation and a written consent form that explains the purpose of the interview, that the interview is voluntary, and that the person may decline to be interviewed or may choose to be interviewed only with the person's attorney present.
- (f) Detain individuals solely for the purpose of determining their immigration status.
- (g) Take a person into custody or hold a person in custody:

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1. Solely for the purposes of determining immigration status
2. Based solely on a civil immigration warrant issued by a federal immigration authority
3. On an immigration hold request

#### 413.14.1 SCHOOL RESOURCE OFFICERS

Members who are school resource officers shall not (RCW 10.93.160):

- (a) Inquire or collect information about an individual's immigration or citizenship status, or place of birth.
- (b) Provide information pursuant to notification requests from federal immigration officials for the purposes of civil immigration enforcement, except as required by law.

When appointed to the position or when the Renton School District requests, RSD will be asked to provide RPD SRO's with training that covers the RSD policy procedure regarding civil immigration authorities on RSD property.

#### **413.15 ANNUAL REPORT - COMPLIANCE MONITORING & PUBLIC COMMUNICATION**

RPD personnel shall fully comply with the requirements of RCW 10.93.160 regarding the collection, use, and disclosure of information related to an individual's immigration or citizenship status. Personnel shall ensure that any request for such information, is documented as required by law using the RPD Immigration Disclosure Form located on the PD's SharePoint page.

- Requests for civil immigration and citizenship information; or
- Requests for assistance with civil immigration enforcement; or
- Requests from federal immigration authorities for access to individuals in agency custody.

Any disclosures (RPD Immigration Disclosure Form (SharePoint)) will be included in RPD's annual report.