



OREGON ASSOCIATION CHIEFS OF POLICE
EXCELLENCE IN POLICING

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OREGON STATE SHERIFFS' ASSOCIATION
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TRAINING MEMORANDUM

TO: All Oregon Sheriffs, Police Chiefs and Sworn Personnel
FROM: Sheriff Mark Garton, OSSA President and Chief Mark Daniel, OACP President
DATE: January 8, 2025
RE: State Law Restrictions on Immigration Enforcement

There are a number of state statutes in ORS chapter 181A that severely restrict what law enforcement agencies and jails are allowed to do in regard to cooperating with or assisting federal Immigrations and Customs Enforcement or other federal agencies working on immigration issues. Generally, all staff should be aware that local law enforcement has effectively been prohibited from providing cooperation or assistance to ICE in most circumstances.

This is not legal advice. It is general educational material intended to help agencies understand how Oregon laws impact our interactions and cooperation with our federal law enforcement partners who focus on immigration issues. This memorandum has been reviewed by Sheriff Mark Garton, OSSA President, Chief Mark Daniel, OACP President, and OSSA General Counsel Elmer Dickens. Seek guidance from your legal advisor/County Counsel as you develop policy/procedure language and/or training regarding these issues.

An Oregon law enforcement agency can:

1. request information **from** ICE about a person named in ICE records for a local criminal investigation. ORS 181A.820
2. arrest a person wanted under certain federal **criminal** immigration statutes when there is a warrant signed by a federal judge (not signed by an ICE official). ORS 181A.820
3. provide information to ICE about a person in custody **if the information is available to the public or in response to a subpoena from a court** (not an ICE administrative subpoena). ORS 181A.823

An Oregon jail can:

1. provide information to ICE about a person in custody **if the information is available to the public or in response to a subpoena from a court** (not an ICE administrative subpoena). ORS 181A.823
2. ask a person about their country of origin or citizenship for consular notification, but **ONLY** after reading the person a notice telling them they don't have to answer the questions and if they do, they may be deported or suffer other immigration-related consequences.

An Oregon law enforcement agency or jail cannot:

1. use any public facilities, property, agency moneys, equipment, technology or personnel for the purpose of detecting or apprehending persons for the purpose of enforcing federal immigration laws – such as detecting, apprehending, arresting, detaining or holding a person for ICE. ORS 181A.820; ORS 181A.826(1)
2. allow ICE, HSI or other federal enforcement officials working on immigration issues (FBI, DEA) into any portion of the agency or jail that is not normally open to the public. 181A.826
3. provide information to ICE, HSI or other federal agency working on immigration issues, including contact information, country of birth, custody status, release date, parole, probation or post-prison supervision appointment dates or times, home or work addresses, except in response to a court subpoena or if the information is available to the public. 181A.826
4. investigate or question individuals for ICE. 181A.826
5. deny any privileges, benefits, services or opportunities to a person on parole, probation or in custody based on the person's known or suspected immigration status or the existence of an immigration detainer, hold or civil immigration warrant. ORS 181A.823
6. ask about a person's immigration or citizenship status or country of birth unless it is for a violation of state or local criminal law, is submitted to a court, is to determine whether the person is eligible for a benefit that they have applied for, or for Consular notification but only after providing required notice that the person does not have to provide any information and if they do, they could be deported. ORS 181A.823
7. provide any information about a person in custody to ICE for immigration enforcement, except pursuant to a court subpoena or if the information is otherwise available to the public. ORS 181A.823

8. make a civil arrest, absent a judicial warrant or judicial order, in a court or on the grounds adjacent to the court (including sidewalks, parking lots, grass or landscaped areas, court-related offices, and all entrances and exits), and from making a civil arrest of a person on their way to or returning from a court proceeding, absent a judicial warrant or judicial order. NOTE – Oregon LE rarely makes civil arrests other than contempt – these are almost exclusively made by immigration officials.

9. IF YOUR AGENCY GETS ANY REQUEST FROM ICE/HSI OR OTHER FEDERAL AGENCY REGARDING IMMIGRATION ENFORCEMENT, YOU MUST DENY THE REQUEST, DOCUMENT THE DENIAL AND SEND A COPY TO YOUR SHERIFF, CHIEF OR THEIR DESIGNEE. A report of all such requests must be sent to the Oregon Criminal Justice Commission by each agency on a monthly basis. 181A.826

The following recommendation is specific to RECORDS Units:

Agencies should consider adding the following question to the Public Records Request (PRR) forms: *“Is this request for the purpose of detecting or apprehending persons for the purpose of enforcing federal immigration laws?”*

Such language will help trigger the agency to review the PRR more carefully if marked “Yes”; and will help the agency with required tracking. Oregon law enforcement agencies have reported that federal authorities have submitted public records requests for arrest data and agree to pay the PRR fee to circumvent the ORS immigration prohibitions on cooperation with ICE/HSI. You should discuss with local counsel prior to implementing this.

Many of these statutes provide that any person can bring a lawsuit against an agency if the agency violates these statutes.

If you have any questions, seek input from your agency/county legal counsel, particularly as you develop policy language and/or training. Please reach out to OSSA / OACP with specific questions about this bulletin.

Please ensure that all affected personnel receive this information.