

Disentanglement At Every Step: Community Conversations with Law Enforcement Agencies

Law enforcement agencies (LEA) are subject to two Oregon state laws that require them to limit their collaboration with Immigration and Customs Enforcement (ICE), ORS 181A.820 and ORS 180.805. Local resolutions and ordinances often provide additional restrictions; check your local welcoming city or disentanglement/sanctuary policy and any written policies your local law enforcement agencies have on ICE involvement.

ORS 181A.820 prohibits the use of law enforcement resources to detect or apprehend immigrants whose only violation of law is unlawful presence. There is an exception when a law enforcement agency seeks to **exchange information** with ICE to verify status upon on arrest, or to obtain criminal background information about a person. This exception is narrow and should not be a catch-all for a free flow of information to ICE about individuals suspected to be foreign-born. LEA often look to 8 USC 1373(a) as providing reason for contacting and collaborating with ICE, but that law has been repeatedly rejected by courts as constitutionally unsound under the anti-commandeering provisions of the 10th Amendment.

ORS 180.805 is Oregon's nondisclosure law. It prevents public bodies from disclosing information about a person to ICE. This included the dates of hearings and appearances that are not a matter of public record.

What follows is a meeting guide for communities who seek information about their local law enforcement agency's relationship with ICE.

Organizing the Meeting

- As you prepare to meet with your LEA, make sure that you have an assigned **note-taker** and more than one person who could serve as a future witness to the statements made.
- If you plan to **record the meeting**, make sure that you announce your intention to do so and advise all in the meeting that you will be recording on the recording itself.

Written Policies

- Before the meeting, find out if you can:
 - Does the law enforcement agency have any written policies, procedures or training that they provide to their agents?
 - If so, **obtain a copy** and bring your annotated copy to your LEA meeting.

Questions to Ask:

Implementing the Written Policy (if any)

- How often do they review the policy? How do they train people on it? Who wrote it?
- Examine the policy and ask detailed questions about how it is implemented – what tools do they use? Do they use email, phone, computers to contact ICE? What facilities is ICE allowed to use and why? Is there a definition section? How are the terms defined? What are the limits of the policy?

Field Encounters

- Do your officers ask immigration status questions when stopping individuals under suspicion?
- Do they ask where a person was born or whether they are an immigrant? If yes, why? What is the purpose of doing so? What do you do with that information?
- Do your officers offer cover for ICE operations? If yes, why? How often? Can you provide specifics?
- Do your officers work together with ICE on operations in another capacity? Provide specifics.
- Do you know the difference between an ICE administrative Warrant and a Judicial Warrant? Do you train your officers on the differences between those two warrants? What does that training look like?
- Do your officers execute ICE administrative warrants? Why? Why not?

Arrest

- Upon arrest or during booking process, do you ask where the person was born? Where do you record that information? What do you do with it? Why do you ask? Do you make consular calls available? How? What sort of visitation do you offer to them?
- If a person does not reveal their place of birth, what do you do if you suspect that they are foreign born?
- Do you send foreign born booking info to ICE? What does it look like? How do you send it? How often do you send it? What form is it on? Why do you do this?
- Have you received any advice as to why you should or should not do this? From whom?
- When you send this information to ICE, what do you get in exchange? Are you expecting information back? If so, what does it look like? How often do you get that information back? What purpose does it serve your law enforcement agency?

In the Jail, Pre-Release

- Do you allow ICE to come in to the jail to conduct interviews? Why? How often do they do it?
- What access point are they allowed in? Is it public or private? Do you have to have the inmate solicit the contact or is ICE allowed to initiate contact?
- Do you advise the inmates that they have a right not to speak with ICE?

From the Jail to Release

- When a person is scheduled to be released, how do you notify ICE? How often? All releases – what about when they post bail?
- How does the departure notice occur? Telephone, email? VINE? Other mechanisms? (list all) Why do you provide that notification? What are your law enforcement aims in providing notice to ICE of release? How does this notice serve your department? Is this information publicly available? How?
- Do you have a written copy of your notice policies?
- Do you allow ICE access to the jail to make arrests upon release that are not open to the public (e.g. Sallyport). If yes, why?
- Are you aware of the NORCOR ruling? How are you in compliance with that ruling or going to come into compliance with that ruling?
- Do you hold people for ICE (also called detainers)? Why do you do that? For how long? In what space? Who pays for that time? What is the legal authority to do so?
- Do you have a 298g agreement or any other written agreements with ICE to execute warrants or honor detainers? If so, please provide a copy.
- How many people has ICE arrested in your jail? What about in the lobby or just outside as they were leaving?

Probation Officers

- Do your POs provide notice to ICE of appointments? Why?
- Do they provide other information to ICE? Why? What is it? How do they send it?
- Do you provide ICE non-public access to PO meetings? Why?
- How many individuals have been arrested by ICE when meeting with their probation officer?

Courthouses

- How does ICE communicate with the LEA about their activities in the courthouse?
- Are they allowed to bring weapons in? Why?

- Does the LEA check warrants? What kinds of warrants are they? If they don't check warrants (or do), why? What is the purpose?
- Is ICE allowed nonpublic entrance and exit from the courthouse? If so, why?
- Does the LEA provide cover for ICE activities in the courthouse? If yes, how often has that happened? What were the events?
- How many ICE arrests have occurred in the courthouse?
- How do you feel about ICE in the courthouse? Do you think it is wrong or right? Do you think it is legal or serves justice? Explain.

Guidance

- Have you received any guidance about sound, legal policies with respect to ICE? Would you like more? On what topic?
- Would you like a guide or a model policy from the AG? Why or why not?
- Is there a legal issue or question that is not clear to you? Where will you go to seek resolution on that topic?

Values

- What are you doing to further the safety and protection of all members of this community, immigrant or not?
- How are you reaching out the immigrant community to ensure that they feel safe to seek your services and protection?
- How can we help you do that?
- What would you like immigrants and their families to know about your agency?

After the Meeting

After the meeting, it is good ideas to summarize what you learned in a letter to the LEA, offering them the chance for follow up meetings and/or to deliver on additional promises for information or documents. This also gives them an opportunity to either commit or correct the stated policies and procedures, as you understood them and summarize them in the letter. Set a deadline for their response and a time for a follow up meeting as needed.