



Local Law Enforcement and ICE: Understanding ORS 181.850

ORS 181.850 is a statute that limits the ways in which local law enforcement agents can investigate or inquire about a person's immigration status. **Under ORS 181.850, state and local police are not allowed to enforce federal immigration law if a person is not involved in criminal activity.** Police may contact ICE if they have detained a person suspected of committing a crime or if a person is the subject of a federal warrant for a criminal violation of immigration laws.

This law provides restrictions about what local law enforcement officers can do **BEFORE** the arrest and booking of an individual. The law **does not** seek to restrict the ways in which local law agencies communicate or collaborate with ICE **AFTER** arrest and booking. Oregon is the only state that has a law specifically limiting the extent to which state resources can be used to enforce federal immigration laws.¹

Under ORS 181.850, local and state police officers:

CANNOT Require a person who they come in contact with to “show their papers” to prove their immigration status. Local officers are prohibited from working to determine an individual's immigration status *independent* of any criminal activity. This protection also applies to crime victims and witnesses, who cannot be forced to declare their immigration status when reporting a crime.

CANNOT Participate in 287 (g) or other programs that “deputize” local law officers to detect or apprehend people with immigration violations.

CAN Arrest an individual who has a warrant out from ICE. Warrants may be issued by a federal judge for a person who has committed a *criminal* violation of federal immigration law². Although the majority of violations of federal immigration law are *civil*, there are violations under the Immigration and Nationality Act that are criminal. Because a judge issues the federal warrant, not directly by the ICE agency, under Oregon law an officer is obligated to recognize it.

CAN Share information with ICE about foreign-born arrestees after booking, although Oregon law does not require it. Participation in Secure Communities is not directly addressed, as the program was not in place when the law was written. Because Secure Communities is essentially an information-sharing program between two federal agencies, the FBI and DHS, this law cannot directly control or restrict its implementation.

CAN Request information from ICE about an individual's immigration status *after* booking, although Oregon law does not require it.

¹ Other states, such as Alaska and Montana have passed resolutions establishing immigration enforcement as a federal, not state, issue.

² These criminal violations include defying a removal order, unauthorized re-entry by persons previously deported, participation in the smuggling and or trafficking of undocumented immigrants, attempting to enter the US by presenting false information, and all others listed in the INA, as well as 18 U.S.C. 1015, 1422 to 1429 or 1505 as specified in ORS 181.850

