

February 1, 2019

Sent Via First Class U.S. Mail and Email

Re: Lane County Sheriff's Department Assistance to ICE

Byron M. Trapp
Lane County Sheriff's Office
125 E. 8th Avenue, Room 140
Eugene, OR 97401
byron.trapp@co.lane.or.us

Dear Sheriff Trapp,

We the undersigned organizations write to express our concern regarding your Department's policy of collaborating with Immigration and Customs Enforcement ("ICE") in order to detect and apprehend members of our community. We understand that when ICE asks for your cooperation in targeting an individual, deputies call ICE when that person has posted bail, or is otherwise scheduled for release by order of the court. We have also learned that ICE is allowed special access to the back entrance, so that ICE agents can more easily make immigration arrests at the Lane County jail.

These practices are prohibited under Oregon law, damage community trust, and increase costs and instability in our criminal justice system. We ask that you immediately cease these practices, confirm that you have done so, and provide us with revised instructions, policies or guidelines that you will issue to your staff.

Oregon's immigration disentanglement or "sanctuary" statute is the first of many efforts by Oregon's elected officials to curb the practices your department is presently engaged in. ORS 181A.820, overwhelmingly reaffirmed by voters in last November's election, specifically prohibits the kind of assistance your policy promotes. It reads:

No law enforcement agency of the State of Oregon or of any political subdivision of the state shall use agency moneys, equipment or personnel for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship present in the United States in violation of federal immigration laws.¹

The inquiry is not whether Lane County Sheriff's Department itself is "apprehending" or "detecting" individuals for immigration enforcement. Rather, the law asks whether your Department's resources are spent for the purpose of immigration enforcement. There can be no other purpose for calling ICE when someone is leaving the jail, other than to assist in detecting or apprehending people for deportation. Moreover, a person

¹ ORS 181A.820(1).

being released under order of the court is not a person who is presently violating state law and this cooperation serves no legitimate, authorized state law enforcement function. Accordingly, the Department's practices are not within the scope of the information-exchange exceptions of the statute.²

The legislative history and background of ORS 181A.820 are instructive as to why your Department's practices are constitutionally perilous and damaging. The drafters of the bill testified that a motivating factor in passing the law was the inevitable civil rights violations that occur when local law enforcement strays from its area of expertise.³ The widely publicized incidents of Mr. Delmiro Trevino and Mr. Isidro Andrade-Tafolla illustrate the dangers of civil immigration enforcement based upon a perception of immigration status, which is routinely incorrect and motivated by racial bias.⁴ Both were long-time residents of Oregon and U.S. citizens, targeted and detained in public in violation of law, albeit decades apart. The Lane County Sheriff's Department risks liability when it uses its resources to assist with federal immigration enforcement, especially when Sheriff's personnel base their cooperation solely on the purported national origin of individuals being released, or on unsubstantiated requests from ICE.

Since the passage of ORS 181A.820 in 1987, Oregon has taken additional steps to affirm that immigrants, and those who may be perceived as immigrants, will not be confronted with heightened scrutiny and harassment for having encounters with state government. In 2017, Governor Kate Brown expanded the prohibition against the use of state resources for the purposes of immigration enforcement when signing Executive Order 17-04. Oregon's Legislature then passed HB 3464, now ORS 180.805. That law prohibits any state agency from revealing personal information of an individual for federal immigration enforcement. This includes "the date, time or location of the person's hearings, proceedings or appointments with the public body that are not matters of public record." The specific notices your office provides to ICE, together with making special arrangements for the release of individuals to their custody, run counter to both ORS 180.805 and Executive Order 17-04.

Using local resources to help ICE makes our community less safe. This week alone, Lane County Circuit Court had to cancel trial for a defendant whose family had

² ORS 181A.820(2).

³ Testimony of Rep. Rocky Barilla to Oregon Senate Judiciary Committee on HB 2314 Local Enforcement of Immigration Laws (May 20, 1987) ("There are problems when local police try to enforce federal immigration laws, to mention a few: 1. An increased fiscal impact on cities and counties in terms of higher costs of enforcement. 2. There are increased litigation and insurance costs against cities and counties for false arrests by local police. 3. This also exacerbates the jail overcrowding problem. 4. **There are also questions of infringements upon civil rights.**") (emphasis added).

⁴ Tess Hellgren, Rebekkah Friesen & Stephen Manning, *Belong: Strengthening Oregon's Disentanglement Statute to Enhance Public Safety, Protect Fundamental Rights, and Promote Collective Prosperity*, Innovation Law Lab (2018), <https://innovationlawlab.org/belong-report-inclusion-2018/> (pages 5-7); Mat dos Santos, *Federal Immigration Agents Caught on Video Racially Profiling Hillsboro Man* (2017), <https://www.aclu-or.org/en/news/federal-immigration-agents-caught-video-racially-profiling-hillsboro-man>

previously posted bail at the Lane County jail, and was then immediately taken into custody by ICE because your Department notified them. ICE also detained someone who was trying to sign up for alcohol treatment by a Court order. When ICE interferes with the local court's ability to order necessary substance abuse treatment, or bring cases to trial for defendants who are presumed to be innocent of any wrongdoing, local cooperation to facilitate said interference undermines public safety interests.

Lane County's practice of assisting ICE in apprehending individuals released from the jail should cease immediately. It is illegal and harmful to our justice system and drives a wedge between the immigrant community and law enforcement.

Our organizations appreciate that your primary duty is to uphold the law in service to the community. To that end, we would be grateful for the opportunity to discuss how the immigrant community could be better served, and better involved, in the prevention of crime and furtherance of community safety in Lane County. We look forward to hearing from you.

Thank you.

Signed,

Andrea Williams
Executive Director
Causa Oregon

Joel Iboa
Chair
Eugene Human Rights Commission

David Saez
Executive Director
Centro Latino Americano

Eric Richardson
President
Eugene/Springfield NAACP

Phil Carrasco
Executive Director
Grupo Latino de Acción Directa of Lane County (GLAD)

Carter McKenzie
Erica Barry
Showing Up For Racial Justice (SURJ) of Eugene-Springfield

Brook Reinhard
Executive Director
Public Defender Services of Lane County

Jay Moseley
Chair
Community Alliance of Lane County

Bob Bussel
Convenor
Integration Network for Immigrants in Lane County (IN)

Chris Wig
Chair
Democratic Party of Lane County

Judy Boles
Steering Committee Member
Sanctuary Temple Beth Israel

Ginny Osteen
Organizer
ACLU People Power of Eugene-Springfield

Mat dos Santos
Legal Director
ACLU of Oregon

Erin M. Pettigrew
Rights Attorney
Innovation Law Lab