



# BRIEFING PAPER

American Civil Liberties Union of Oregon

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## Oregon Public Safety Law: ORS 181.850 Explained

ORS 181.850 prohibits state and local police from enforcing federal civil immigration law if a person is not involved in criminal activity. This law allows law enforcement to contact federal immigration authorities if law enforcement detains a person suspected of committing a crime or if there is a federal warrant charging the person with a criminal violation of federal immigration laws. **ORS 181.850 provides important safeguards for all Oregonians by ensuring that witnesses and victims of crime may report what they know without fear of government reprisal.** That's why Oregon law enforcement officials recognize the importance of Oregon's law.

*"Public safety is necessary for everyone, regardless of immigration status – that's simply not our job or function. The more we marginalize undocumented people, the more they will become victims of crimes themselves and the more difficult it will be for public safety to help them (because of fear). The closer the police are to their respective communities, the more effective they will be for crime detection and crime prevention; and, the more effective they will be for homeland security."*

– Retired Hillsboro Chief of Police Ron Louie (2/20/07)

### What does ORS 181.850 do?

ORS 181.850 prevents state and local law enforcement agencies from targeting people based on their race or ethnic origin when those individuals are not suspected of any criminal activity. It means Oregon may not require all of us to "show our papers" when we talk to state and local law enforcement.

The law *does* allow state and local law enforcement to contact the Immigration and Customs Enforcement Agency (ICE) after they have arrested someone in order to verify the person's immigration status. The law also permits state and local police to request information from the ICE that may help solve a criminal case.

In 2003, the Oregon Legislature clarified that local law enforcement can detain someone if there is a federal criminal immigration warrant issued by a federal magistrate.

### ORS 181.850 is important for all Oregonians

Oregonians rely on state and local law enforcement agencies to protect our safety. If our local police are doing the job of federal agencies, they'll have less time to focus their work on investigating and solving crime.

In addition, a local police department will lose the trust of the

residents it is supposed to protect if police officers force residents who look or sound foreign to prove their immigration status.

**In communities where people are afraid to talk to local police, more crimes go unreported, fewer witnesses come forward, and people are less likely to report suspicious activity.**

Many immigrants come from countries where people are afraid of the police, and many Oregon police agencies have spent years trying to build trust that would be undermined by asking local police to do the job of the ICE.

Federal immigration law is a complicated body of law that changes frequently and requires extensive training and expertise to properly enforce.

There are many different ways for people to lawfully be in the United States, and ICE issues many different types of documents that entitle someone to be in the United States legally. Local law enforcement officials do not have the training and expertise to determine who is lawfully in the United States and who is not.

State and local law enforcement agencies don't have the financial resources to spend time doing the work of the federal government. That work is better left to the federal agencies with much larger budgets.

State and local police should spend their limited resources addressing the criminal activity in our cities and neighborhoods that federal agencies don't handle.

### Text of ORS 181.850

(1) 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 residing in the United States in violation of federal immigration laws.

(2) Notwithstanding subsection (1) of this section, a law enforcement agency may exchange information with the United States Bureau of Immigration and Customs Enforcement, the United States Bureau of Citizenship and Immigration Services and the United States Bureau of Customs and Border Protection in order to: (a) Verify the immigration status of a person if the person is arrested for any criminal offense; or (b) Request criminal investigation information with reference to persons named in records of the United States Bureau of Immigration and Customs Enforcement, the United States Bureau of Citizenship and Immigration Services or the United States Bureau of Customs and Border Protection.

(3) Notwithstanding subsection (1) of this section, a law enforcement agency may arrest any person who: (a) Is charged by the United States with a criminal violation of federal immigration laws under Title II of the Immigration and Nationality Act or 18 U.S.C. 1015, 1422 to 1429 or 1505; and (b) Is subject to arrest for the crime pursuant to a warrant of arrest issued by a federal magistrate.

(4) For purposes of subsection (1) of this section, the Bureau of Labor and Industries is not a law enforcement agency. (1987; 2003)