

Canby Police Chief, Bret Smith, answers questions about federal immigration laws and why Oregon residents are required to provide legal proof of their legal status in order to obtain a driver's license.

What is the current relationship like between the Canby Police Department and the Latino community?

Members of Canby Police Department have spent much effort and time building a trusting relationship with our community members, including our Latino population. Our interaction with our community members at all levels is a work in progress.

Mutual trust and respect between the community and the police is essential to community policing. As a police department, our goal is to ensure people in our community are safe and they are not afraid to talk with any member of the department. It is important everyone report crime and they are willing witnesses.

As a department, our members will continue to make efforts on building a trusting relationship and work with organizations such as Bridging Cultures and Concilio. These Canby Latino organizations have a mission to strengthening our community by bridging cultures through mutually transformative relationships.

Members of Concilio most recently partnered with the Canby Police Department to give a presentation at the Problem-Oriented Policing Conference that was held at the Oregon Police Academy in 2016. One of the focuses of the conferences is to identify new approaches to policing issues. The Canby Police Department and representatives of Concilio presented information to law enforcement representatives on "Building a Positive Relationship" with the Latino community.

There have been many discussions that focus on the deportation of undocumented persons with regard to the recent presidential election, and the federal government's announcement to increase efforts to enforce federal immigration laws. Has this caused any confusion or fear about the role of Canby Police Officers?

There have been a few reports of people who are scared to go to work because they don't want to find federal immigration agents at the workplace attempting to identify and deport undocumented persons. There is some concern municipal police officers are connected to the federal government's efforts and might assist in some capacity.

However, the mission of the Canby Police Department is not to assist immigration agents in the identification and deportation of undocumented persons. ORS 181A.820 prohibits this action. The Canby Police Department is a local municipal law enforcement agency, with limited personnel and material resources. The department's primary focus is to protect life and property; enhance community safety and improve quality of life by reducing crime and the fear of crime and to perform in such a manner that promotes the public's trust and confidence, sense

of safety and security. Officers are not checking the immigration status of people they encounter nor are they participating in immigration raids.

What concerns might you have regarding the federal government's efforts to enforce federal immigration laws?

Certainly, I have concerns undocumented persons might refuse to call the police if they are witnesses or victims of crimes. I am also concerned that some, out of fear that local police officers will detain them if they lack proper documents to legally be in the country, may attempt to elude police when a police officer is attempting to perform a traffic stop.

It is essential everyone feels safe reporting crimes regardless of their citizenship status and they know Canby Police Officers are not checking the immigration status of the people they encounter.

Do you have any concerns in respect to the federal government withholding federal funding from sanctuary cities?

No. To begin with, Canby is not designated as a sanctuary city. Some cities and counties can enact local ordinances to further their support of the sanctuary designation, however most people don't realize it, but the State of Oregon is already designated as a sanctuary state. The state's designation should be enough to satisfy concerns people have regarding the role of the Canby Police Department and to promote Canby as a safe city.

Also, our police department already has policies in place that promote respect and equal treatment for everyone.

What does Oregon law say about immigration enforcement?

A 1987 Oregon State law prohibits local police from enforcing federal immigration law. Police officers are not supposed to ask about a person's immigration status or collaborate with Federal Customs and Immigration Enforcement. What this means is that when a police officer in the State of Oregon performs a traffic stop for the purpose of investigating a minor traffic violation, that should not prompt or generate a contact with immigration agents.

Oregon Revised Statue 181A.820 prohibits state and local police from enforcing federal civil immigration law if the person is not involved in criminal activity.

ORS 181A.820 states the following:

Enforcement of federal immigration laws

(1) No law enforcement agency of the State of Oregon or of any political subdivision of the state shall use agency money, equipment or personnel for the purpose of detecting or apprehending person whose only violation of law is that they are person of foreign citizenship present 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 person named in records of the United States Bureau of Immigration and Custom 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.
- (5) As used in this section, "warrant of arrest" has the meaning giving that term in ORS 131.005 (General definitions). [Formerly 181.850]

As a general rule, as defined in ORS 181A.820, unless it is relevant to a criminal offense or investigation, police officers are limited in their authority to verify the immigration status of a person. This is a significantly different role from the federal immigration agents who might detain and deport undocumented immigrants who have not been convicted of crimes.

In those infrequent circumstances, a request by a local police department could be made to federal immigration authorities requesting information for the purpose of continuing the criminal investigation or when a federal criminal immigration warrant has been issued. Even though local law enforcement is not participating in any actual immigration mission, there could be limited circumstances where they could be asked to assist in some peacekeeping effort.

Additionally, a 2015 state statute explicitly bars any law enforcement officer in Oregon from "targeting" an individual "for suspicion of violating a provision of law based solely on the real or perceived factor of the individual's age, race, ethnicity, color, national origin, language ..." unless that officer is looking for a suspect matching those descriptions.

What this means is that police officers cannot target someone for the enforcement of a crime if it is only because they appear to be associated with a particular racial or ethnic group.

Why must Oregon residents provide legal proof of their legal status in order to obtain a driver's license?

I have been asked by some community members this question and I think it is important to understand what Oregon law says about this issue and how it came about.

In 2005, the Federal Real ID Act required states to restrict driver's licenses only to those persons who could prove they were legally in the United States.

In November 2007, Governor Ted Kulongoski issued an executive order requesting state legislators support the requirement for Oregon residents to prove their legal immigration status in order to obtain or renew a driver's license. In 2008, the Oregon legislature convened and voted to restrict driver's licenses.

In November 2014, Measure 88 was introduced by Oregonians for Immigration Reform. If passed, this legislation would require individuals to provide legal proof of one's legal status in order to obtain a driver's license. The residents of Oregon overwhelmingly voted in support of requiring proof of legal status before a person could obtain a driver's license.

How is this law applied by the Canby Police Department?

When a Canby Police Officer performs a traffic stop it does not automatically generate contact with federal immigration agents. After a traffic stop has been initiated and it is learned the driver doesn't have a valid driver's license or auto insurance, the person is cited for the appropriate charges and depending on the circumstances, the vehicle may be towed.

However, it is important to understand when persons are stopped by the police during a traffic stop that they provide truthful information about their identity. Giving false information to a police officer is a criminal offense that is classified as a Class A misdemeanor. Oregon Revised Statute (ORS) 807.620 states a person commits the offense of giving false information to a police officer if the person knowingly uses or gives a false or fictitious name, address or date of birth to any police officer who is enforcing motor vehicle laws. A person who provides false information about their identity to a police officer can be arrested.

Additionally, a person driving any motor vehicle upon a highway in this state is required to carry a driver's license and the person is required to present it to a police officer when requested to do so during the course of a traffic stop. Oregon Revised Statute (ORS) 807.570 states a person who fails to provide and present a driver's license commits a criminal offense that is classified as a Class C misdemeanor. This law gives a police officer the authority to detain a person that is arrested or cited for this offense only for such a time as reasonably necessary to investigate and verify the person's identity.

A violation of either ORS 807.620 or ORS 807.570 could result in the driver being transported to jail for the purpose of verifying their true identity.

How do people without a driver's license navigate or travel to and from work?

Not having a driver's license may require people to carpool or get a ride from family members and friends who have a valid driver's license, take public transportation, ride a bike or walk. For others, depending on their circumstances and financial resources, it could mean that they pay for transportation. For some people who are unable to legally obtain an Oregon driver's license, it may mean they will be required to move, changing their legal address, and applying with another state where they can meet the state's legal requirement.

At this time, there is a lot of discussion about immigration reform and Oregon's requirements to obtain a driver's license. However, with that said, Oregon law requires residents to provide legal proof of their legal status in order to obtain a driver's license. Traffic enforcement and responding to traffic related complaints continue to be one of our community's largest priorities. The Canby Police Department will continue to follow and enforce the current law until legislation is enacted that changes the law.

In 2015, Canby Police Officers conducted approximately 8,373 self-initiated traffic stops and in 2016, conducted approximately 8,536 self-initiated traffic stops. These traffic stops include all motorist driving in the immediate area of Canby. Due to the pro-active position the department has taken on traffic enforcement, this should be a message for all individuals who choose to drive illegally, they risk being stopped and charged with a traffic violation.

What is the Canby Police Department doing to inform its citizens in regard to their law enforcement role?

The Canby Police Department and other Oregon law enforcement agencies are making attempts to connect with Latino community members to address the possibility of any apprehension or fear associated with the federal government's announcement to increase efforts to enforce federal immigration laws. As a police department, our members will continue to reach out and participate with our local Latino organizations such as Bridging Cultures and Concilio and continue to seek out and look for opportunities to meet with and discuss the concerns of our community members.

As I mentioned earlier, our interaction with our community members at all levels is a work in progress.