

In the Matter of Establishing	)	CHIEF JUSTICE ORDER
Interim Procedures Addressing	)	No. 25-018
Immigration Enforcement Activities	)	
in the Oregon Courts	)	ORDER ESTABLISHING INTERIM
	)	PROCEDURES ADDRESSING
	)	IMMIGRATION ENFORCEMENT
	)	ACTIVITIES IN THE OREGON COURTS

I HEREBY FIND THAT:

1. Article VII (Amended) of the Constitution of the State of Oregon confers the judicial power of the state on the Supreme Court and the inferior courts of this state. Under Article III, section 1, of the Oregon Constitution, that power is separate and exclusive to the Oregon Judicial Branch, which has inherent authority to control conduct in the courts.
2. The operation of a functioning state judiciary is a fundamental exercise of state sovereignty. *See Atlantic C.L.R. v. Engineers*, 398 US 281, 285, 287, 90 S Ct 1739, 26 L Ed 2d 234 (1970) (explaining that States retained power to maintain judicial systems for decisions of legal controversies; referring to fundamental constitutional independence of States and their courts). A core function of the Oregon judiciary, acting through its courts, is to ensure the fair and orderly administration of justice by resolving matters in accordance with the rule of law, including through compelled appearances, regular procedures, and adherence to substantive law.
3. The Tenth Amendment to the United States Constitution reserves to the States the power to determine the extent to which a state will expend state resources in service of the activities of the federal government, including immigration enforcement activities. *See New York v. United States*, 505 US 144, 156–57, 112 S Ct 2408, 120 L Ed 120 (1992) (state’s reserved sovereign rights protected by Tenth Amendment cannot be overcome by Congress); *Printz v. United States*, 521 US 898, 925–29, 117 S Ct 2365, 138 L Ed 2d 914 (1997) (federal government may not “commandeer” state officials to enforce federal policy). Pursuant to the Tenth Amendment, the federal government may not commandeer state personnel, facilities, or other resources in service of federal law enforcement activities, including immigration enforcement activities. *Printz*, 521 US at 925–29; *United States v. California*, 921 F3d 865, 890–91 (9th Cir 2019), *cert den*, 141 S Ct 124, 207 L Ed 2d 1072 (2020).
4. ORS 1.002 provides that the Chief Justice of the Oregon Supreme Court is the administrative head of the judicial department of government in this state; shall exercise administrative authority and supervision over the courts of this state consistent with applicable provisions of law and the Oregon Rules of Civil Procedure; and, to facilitate exercise of that administrative authority and

supervision, may make rules and issue orders as appropriate or take any other action appropriate to perform the functions of the office of Chief Justice.

5. Starting in 1987 and as recently as 2021, the State of Oregon has enacted or amended statutes to implement the following statewide policy choices:
  - a. Civil arrests in or around court facilities without a judicial warrant or judicial order are prohibited, ORS 181A.828;
  - b. Public facilities and personnel are prohibited from being used for the purpose of investigating, detecting, apprehending, arresting, detaining, or holding individuals for immigration enforcement, ORS 181A.826(1);
  - c. Public personnel are prohibited from supporting or assisting a federal agency in immigration enforcement, including providing certain information about any person, ORS 181A.826(2)(b); *see also* ORS 180.805 (prohibiting Oregon public bodies from disclosing certain information, except as required by state and federal law); and
  - d. A public body must document any communication from, or request submitted by, a federal agency that relates to immigration enforcement, and submit that documentation to the Oregon Criminal Justice Commission, ORS 181A.826(3).
6. A 2020 Congressional report declared that immigration enforcement actions at or near sensitive locations—including courthouses—should generally be avoided, to ensure that anyone seeking to participate in activities or utilize services provided at such locations is free to do so without fear or hesitation. HR Rep No 116–180, 35 (2020).
7. Consistent with those policy concerns, the Secretary of the Department of Homeland Security (DHS) in 2021 issued guidance that directed federal immigration agencies to limit civil immigration enforcement actions in or near courthouses to certain limited instances, including the following: “(1) it involves a national security threat, or (2) there is an imminent risk of death, violence, or physical harm to any person, or (3) it involves hot pursuit of an individual who poses a threat to public safety, or (4) there is an imminent risk of destruction of evidence material to a criminal case.” U.S. Department of Homeland Security, *Memorandum for U.S. Immigrations and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP)*, 2, from Tae Johnson, Acting ICE Director, and Troy Miller, Acting CPB Commissioner (April 27, 2021).
8. Past experience in Oregon is consistent with the federal government actions described in paragraphs 6 and 7 of these findings: the fear of immigration enforcement activity in state court facilities deters participation in judicial proceedings by parties, jurors, victims, witnesses, and other community members who are seeking to enforce their legal rights, including those who are

lawfully present in the United States; and civil immigration arrests in public court facilities can disrupt court proceedings and create a traumatizing environment for court users and court staff. Such activity, as a result, impairs the fair and orderly administration of justice.

9. Despite those threats, the DHS Acting Director in May 2025 issued new guidance governing civil immigration enforcement actions or near courthouses, conducted by U.S. Immigration and Customs Enforcement (ICE). The Memorandum announced DHS's intention to engage in such activity, stating that individuals entering courthouses are typically screened by law enforcement personnel to search for weapons and other contraband, such that, when ICE engages in civil immigration enforcement actions in or near courthouses, it can reduce safety risk to the public, targeted persons, and ICE officers and agents; and stating that such activity is often required when jurisdictions refuse to cooperate with ICE, including refusing to honor immigration detainers and transfer persons directly to ICE custody. *Memorandum for All ICE Employees*, from Todd Lyons, Acting ICE Director (May 27, 2025). This change in DHS policy and protocol poses a significant threat to the fair and orderly administration of justice in Oregon courts.
10. Until such time as a court order or agency commitment again protects the administration of justice in state courts, this interim order serves to establish court procedures that:
  - a. Ensure that the Oregon Judicial Branch is able to carry out its constitutional charge to administer justice;
  - b. Preserve the ability of the Oregon Judicial Branch to address any concerns regarding use of state resources in light of the United States Supreme Court's analysis of states' rights under the Tenth Amendment; and
  - c. Ensure that only designated judicial officers resolve decisions that involve potential conflicts between what judicial branch policy and state and federal law may demand of court personnel.

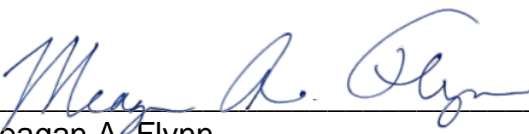
I HEREBY ORDER THAT:

1. Each Oregon circuit court, the Oregon Tax Court, and the Oregon appellate courts shall:
  - a. Designate:
    - (1) An administrative contact, to serve as the court's internal contact relating to immigration enforcement and to ensure that the court complies with reporting requirements as described in this order; and

- (2) Either the Presiding Judge, the Judge of the Tax Court, the Chief Judge of the Court of Appeals, or the Chief Justice of the Supreme Court, as applicable, or that judge's judicial designee, to serve as the court's judicial officer for purposes of responding to requests as described in this order.
  - b. Direct that court staff follow the guidance set forth below:
    - (1) If they observe or are contacted by a person whom they believe to be an immigration enforcement agent, they shall not interfere with the person, but must promptly report the observation or contact to their court's designated administrative contact; and
    - (2) If such a person requests information or assistance, or seeks access to an area of the court facility that is not open to the public, regardless of the manner in which the request was received, staff shall not interfere with the person, but must refer the person to the court's administrative contact, for referral to the court's designated judicial officer, and may advise the person that they lack the authority to grant or deny the request.
  - c. Establish a process that ensures that any approval or denial of a request described in paragraph 1.b.(2) of this order is issued expeditiously by only the court's designated judicial officer. The designated judicial officer of any court other than the Supreme Court alternatively may refer any request to the Chief Justice, who will expeditiously address the request.
  - d. Ensure compliance with the business process for reporting described in subparagraph 2.d. of this order.
  - e. Post at courthouse entrances and on the court's website either a copy of this order or a notice explaining the court's process as required under this order.
2. The State Court Administrator (SCA) shall:
- a. Take the same actions described in subparagraphs 1.a. and b., as those actions are applicable to the Office of the State Court Administrator (OSCA).
  - b. Establish a process that ensures that any approval or denial of any request for information, assistance, or facility access directed to OSCA is issued expeditiously by only the Chief Justice or the Chief Justice's designated judicial officer.
  - c. Post a copy of this order on the Oregon State Courts website.

- d. Maintain, review, and update as necessary a statewide business process for reporting observation or contact with immigration enforcement authorities in court or OSCA facilities; notify all courts and OSCA about any changes to that process; and ensure that OSCA staff comply with that process.
- 3. This order is not intended to either:
  - a. Modify the authority of any judge to control proceedings within their courtroom in a manner consistent with sound judicial discretion; or
  - b. Modify any current court practice intended to ensure a safe and secure courthouse or facility.
- 4. Chief Justice Order 25-013 (Order Regarding Possession of Weapons in the Oregon Supreme Court Building and Certain Other Court Facilities; Superseding Chief Justice Order 19-051) (June 24, 2025), issued pursuant to ORS 166.373(3), and any Presiding Judge Order issued pursuant to that same statute, which authorizes the identified judicial officer to establish procedures regulating the possession of a weapon in a court facility by a federal officer, remain in full force and effect. *See generally* ORS 166.370(3)(c); ORS 133.005(2) (collectively defining a “federal officer” who may possess a firearm in a courthouse, so long as acting within the scope of employment, as a special agent or law enforcement officer employed by a federal agency who is empowered to effect an arrest with or without a warrant for violations of the United States Code and who is authorized to carry firearms in the performance of duty).
- 5. This order is effective July 1, 2025.

Dated this 30th day of June, 2025.

  
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Meagan A. Flynn  
Chief Justice