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David Rogers

What the ACLU of Oregon is doing to defend immigrants against Trump's executive orders

BY EMILY GREEN
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As President Donald Trump's executive orders fly out of the White House at an exhausting rate, many are looking to the American Civil Liberties Union as the most obvious line of defense.

The organization has received unprecedented donations since the election, with \$24 million pouring in online over this past weekend – and it's already begun filing lawsuits against the Trump administration.

Street Roots wanted to know how the national ACLU was working with its state affiliates, if Oregon's elected leaders could be doing more to protect immigrants, and what role our state affiliate was going to be playing in the coming months.

Here are the questions we asked ACLU of Oregon Executive Director David Rogers along with his written responses.

Emily Green: *Standing in solidarity with immigrants and refugees while condemning Trump's policies is a nice gesture, but it seems largely symbolic. What actions could Oregon's state officials and elected leaders be taking that would provide some real concrete protection for non-citizens living in Oregon?*

David Rogers: This is an important question. We have been concerned about

whether the "sanctuary ordinances" being passed in cities and counties around Oregon will make a meaningful difference. We need a range of responses to the hateful policy attacks coming from the Trump administration on immigrants and refugees. There is definitely room for purely symbolic actions. We need to show visible signs of resistance and demonstrate that we have a fundamentally different set of values in Oregon. We are part of the global community and our diversity gives us strength. We won't thrive as a state without being inclusive and welcoming.

That said, we also don't want to provide an unrealistic sense of protection to people and families who are actually in harm's way. It is important for us to be clear about what actions are symbolic and which provide practical and tangible protections.

We are at an interesting moment in time in that it is too early to tell to what degree sanctuary ordinances have a practical and useful impact. Things are happening so quickly and we have yet to put them to the test. The recent reports about ICE activity and arrests in our county courthouses may present our first tangible opportunity to see if county leaders are willing to step in with real interventions.

Advocates have been helping to craft an intriguing ordinance in the city of Eugene. The city has yet to vote on it, but what it

does is expand on our state law that prohibits state and local law enforcement from using personnel and resources to enforce federal immigration laws. The concept being floated in Eugene is to extend a local commitment of non-entanglement with ICE and immigration enforcement to not just law enforcement but to all city employees. That seems like a step in the right direction. There is hope that the governor will sign an executive order to make a similar extension of non-entanglement to all state employees. We hope that happens.

But we need to acknowledge that these laws have not yet been put to the test. Things are moving quickly. Local and state government will need to be honest about the limitations and effectiveness of a range of efforts, and be willing to push our current thinking and practice.

E.G.: *What advice can the ACLU of Oregon offer to non-citizens and Muslims living in the Oregon at this time? Are there ways they can be protecting themselves?*

D.R.: First of all let me say, if you or someone you know has a family member who will be arriving soon from Iraq, Syria, Iran, Libya, Somalia, Sudan or Yemen at Portland International Airport, or who was detained already by Customs pursuant to President Trump's Executive Order, please call the ACLU of Oregon at 971-412-2258 or email us at info@aclu-or.org.

We have a Know Your Rights resource specifically to address discrimination against Muslims living in America and those perceived to be Muslim. This isn't intended to be legal advice but it has very practical, helpful information. You can find it online. It's called Know Your Rights: What to do when faced with anti-Muslim discrimination.

E.G.: *What can Multnomah County officials do to protect non-citizen immigrants who utilize their programs, including those who are currently under the supervision of the Department of Community Justice?*

D.R.: This is a big question and we are trying to outline a number of strategies that county officials can take. We are working with groups like Oregon Justice Resource Center, Metropolitan Public Defender and others, who are rolling up their sleeves to figure this out.

There will be a range of ideas and proposals to highlight soon. But as an example, law enforcement officials – like police chiefs and our district attorney – should be seriously looking at how they handle low-level offenses. They need to identify what offenses can be handled with simple citations rather than arrests and criminal court. Putting people in contact with the criminal justice system for low-level offenses increases the likelihood those people will be taken by ICE.

We also need to have our law enforcement officials provide more thorough communication with their staff about what their expectations are around non-engagement with ICE. There have been reports that a sheriff deputy reached out to ICE in January in a way that led to one ICE arrest. If that happened, it conflicts with Oregon law and directly contradicts the message that Sheriff (Mike) Reese has expressed to the public about how his office

and staff will engage. I know Sheriff Reese has launched an investigation. We appreciate that. We need law enforcement officials to engage in the hard work of ensuring their message is delivered to their staff. It will be the actions of law enforcement staff who are working in our communities on a daily basis that will make all the difference, for better or for worse.

And let me be clear about the problem with ICE profiling people in the courthouse and making arrests of people with citizenship documentation. If people are afraid to go to the courthouse, we no longer have a functioning public safety system. If defendants who have not been convicted of a crime, witnesses, or victims no longer see the courthouse as safe, then they will stay away. This means victims may continue to be in danger, defendants could be doubly punished for not showing up at court, and people will be less likely to engage law enforcement when there is a problem. There is a trust in our system that needs to be in place for a society to work and for everyone to be safe. Trump is trying to destroy that and we can't allow it to happen.

E.G.: *Could county officials legally stop ICE from entering the jails and courthouse completely if they wanted to?*

D.R.: We don't think ICE can be barred from those locations. Courthouses are public buildings. But we certainly think more can be done. The King County Courthouse in Washington has a policy against ICE making arrests in courthouse buildings. We would like to see Multnomah County build on that example. It is possible that ICE staff could be required to sign in and make themselves visible rather than being undercover. We need a sense of urgency and initiative right now.

E.G.: *Is there any legal precedent for a state to refuse to follow the federal government's orders?*

D.R.: The history of the United States is full of examples of states refusing to follow federal government orders. In many ways, our country was set up so that states could flex their independence from federal authority. And these conflicts are often resolved in the courts.

E.G.: *We've heard a lot in recent days about the legal work the National ACLU is focused on, in terms of challenging White House policies. How is the National ACLU coordinating with its state chapters at this time? And what role will the ACLU of Oregon be playing in the coming weeks and months?*

D.R.: There are high levels of communication between ACLU nationally and state ACLU affiliates. We are sharing strategies, information, legal templates and resources. There is an incredible amount of collective wisdom and we can replicate and further evolve needed responses.

For example, we are building on legal work regarding Trump's Muslim ban. We have been working in partnership with the Immigrant Rights Law Group to file a suit here in Oregon against President Trump on behalf of Unite Oregon. United Oregon's membership base is largely made up of

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