

Oregon was first sanctuary community to respond to ICE subpoenas

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PORTLAND — The U.S. Attorney for Oregon, Billy Williams, convened a group of Oregon sheriffs and federal law enforcement officials in Salem on Feb. 11. The topic was immigration. “Which was fortuitous timing, really,” Williams said during an interview in his office. Acting ICE Director Matt Albence came to the meeting, where he had the opportunity to speak with about half of the sheriffs in the state. The group talked about ICE trying a new tactic in its push for stricter immigration enforcement: issuing subpoenas to law enforcement agencies in sanctuary jurisdictions that don’t cooperate with ICE. Weeks earlier, ICE subpoenaed law enforcement agencies in Colorado and New York for information about people the agency wants to deport. “The discussion was that these had been served,” Williams said, “and that there was a possibility of those being served in Oregon.” One week after the meeting, the documents arrived in Oregon. ICE subpoenaed the



OPB Photo/Conrad Wilson

U.S. Attorney for Oregon Billy Williams said sheriffs in Oregon are caught between the state’s sanctuary law and federal law.

Washington County Sheriff’s Office for details about two Mexican nationals, one convicted of sex abuse years ago and another arrested recently for drunken driving. They asked for things like identifying documents and last known addresses. The same day ICE issued the subpoenas, Washington County Sheriff Pat Garrett said he would comply — making his office the first in the country to do so. Garrett declined multiple interviews

requests by OPB. “It’s a new use of subpoenas to use them with law enforcement agencies. We’ve historically not needed to use them,” said Bryan Wilcox, deputy field director for ICE’s Seattle Office. So far this year, ICE has also sent similar subpoenas to law enforcement in California and Connecticut. “They’re more necessary in sanctuary jurisdictions than they are in other places

where we have better cooperation,” Wilcox said. Oregon is a sanctuary state. The law dates back more than 30 years and has served as a model for others. In 2014, the relationship between ICE and many local law enforcement agencies across the country changed after a federal court ruling in Oregon. That ruling found ICE detainees — a request the agency sends to jails to hold people it wants to

deport — were unconstitutional because they’re issued by ICE and not signed by a judge. Detainers were a critical tool for ICE, but after the ruling many jails stopped honoring them. Now, ICE is turning to subpoenas. “It’s very concerning,” said Ricardo Lujan Valerio, advocacy director for the Latino Action Network. He said subpoenas are administrative and not signed by a judge. “It’s one of those aspects where you have a tactic similar to what we saw with detainers, having an administrative nonjudicial process that is very misconstrued to install confusion, both on the government level and fear on the community,” Lujan Valerio said. Juliet Stumpf, an immigration law professor at Lewis and Clark Law School in Portland, said the subpoenas are a way for the Trump administration to “go after sanctuary cities.” Stumpf researches sanctuary laws across the country and is supportive of them. She said ICE’s use of subpoenas could run into constitutional issues around the 10th Amendment, which says the federal government can’t commandeer local law enforcement. “If ICE is not permit-

ted to tell state or local law enforcement officers to do their bidding, then the state or local law enforcement officers at that point have a choice about whether to comply or not with the subpoena,” Stumpf said. She said at that point sanctuary laws may prevent sheriffs from honoring ICE’s subpoenas. In early January, the city of Denver was the first in the country to get a subpoena from ICE. “After doing our analysis, we responded and said, ‘We’re going to need an order from a judge,’” said Chad Sublet, senior counsel to the city’s Department of Safety. The U.S. Attorney’s Office in Colorado has taken the issue to federal court, where a judge could soon decide whether the city has to comply. A spokesperson for the office didn’t return a call for comment. “We’re just asking ICE to go through the process that’s established in the federal statute,” Sublet said. Some agencies, like Washington County Sheriff’s Office in Oregon and San Diego County Sheriff’s Office in California, have said that they plan to comply with the subpoenas. Others say they’re still weighing their legal options.

Forecast for Pendleton Area

