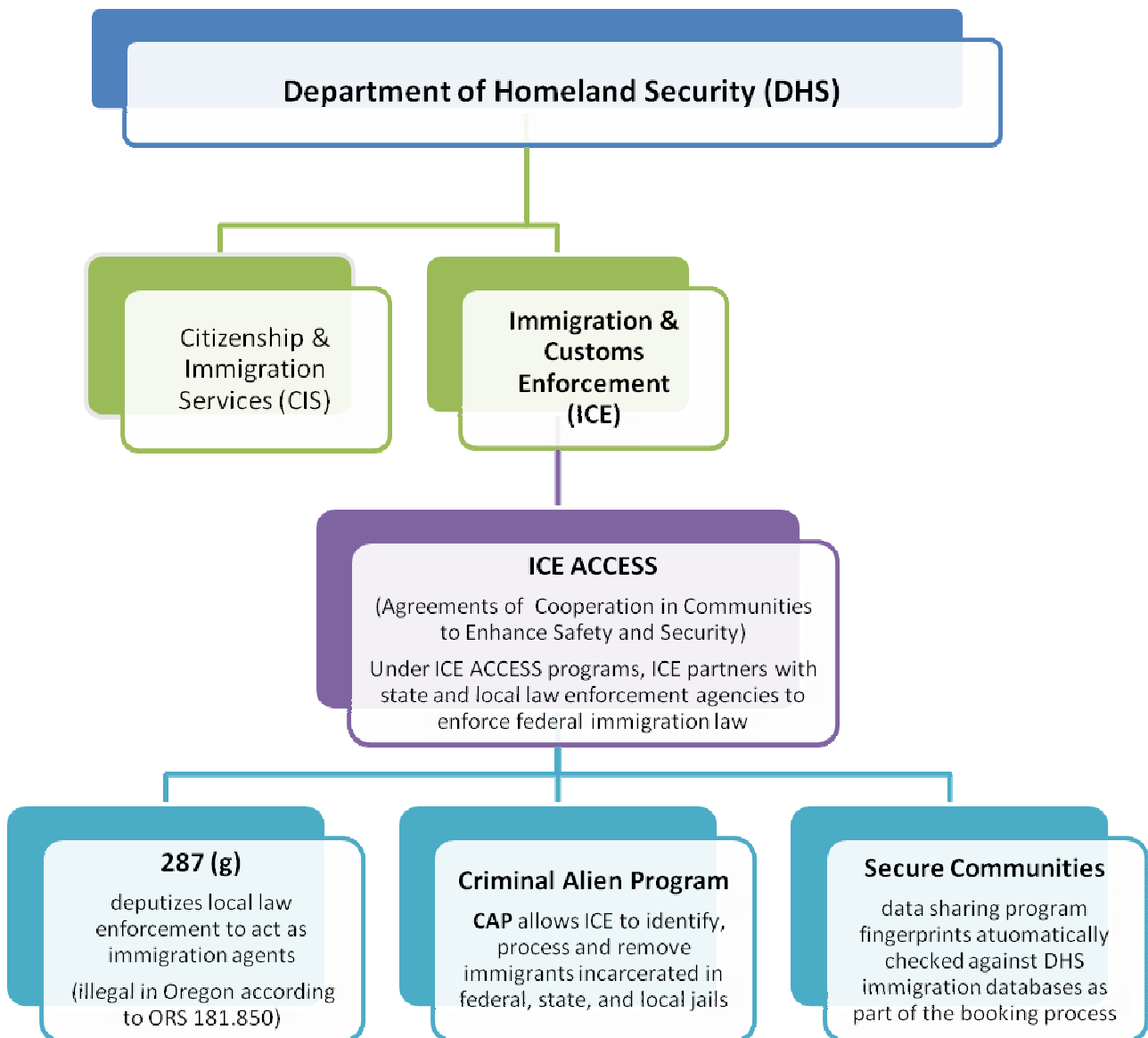


Immigration and Customs Enforcement (ICE) collaboration with local law enforcement agencies



1. Department of Homeland Security

In the wake of the September 11th attack and the rising fear and rhetoric surrounding terrorism, the US created the Department of Homeland Security (DHS) with the goal to “prepare for, prevent, and respond to domestic emergencies, particularly terrorism.”

2. Immigration and Customs Enforcement

In early 2003, DHS took over what used to be the INS (Immigration and Naturalization Service) and divided enforcement and services functions into two separate and new agencies. Immigration and Customs Enforcement (ICE) and Citizenship and Immigration Services (CIS). ICE’s primary goal, as stated in its 2003-2012 strategic plan entitled “Operation Endgame,” is to detain and deport all undocumented immigrants and “suspected terrorists” currently living in the United States by 2012.

3. ICE ACCESS

Critical to achieving this goal is ICE's increased reliance on and collaboration with local police and sheriffs, in order to find and deport more immigrants. To that end, ICE has developed ICE ACCESS (Agreements of Cooperation in Communities to Enhance Safety and Security)—an umbrella term to describe over a dozen different programs designed to increase collaboration and exchange between ICE and local law enforcement agencies.

4. 287(g) Program

Three ICE ACCESS programs are particularly widespread and well-known: 287(g) agreements, the Criminal Alien Program (CAP), and Secure Communities. According to ICE, the 287(g) program “allows a state and local law enforcement entity to enter into a partnership with ICE, under a joint Memorandum of Agreement (MOA), in order to receive delegated authority for immigration enforcement within their jurisdictions.” In other words, it deputizes local police and sheriffs to act as immigration agents.

5. Oregon Revised Statute 181.850

287(g) agreements are actually prohibited under Oregon law because of ORS 181.850. This Oregon statute prohibits law enforcement agencies in Oregon from using agency resources to detect or apprehend people whose only violation of law is that they are present in the US in violation of immigration laws. But the statute does allow police to contact federal immigration authorities if they detain 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. Thus, it can be argued that the following two ICE ACCESS programs are legal under Oregon law.

6. Criminal Alien Program (CAP)

A second ICE ACCESS program is the Criminal Alien Program (CAP). According to ICE, CAP “is responsible for identifying, processing and removing criminal aliens incarcerated in federal, state and local prisons and jails.” Though there is a lack of transparency regarding how CAP works in different jurisdictions, in general “law enforcement agencies notify ICE of foreign-born detainees in their custody based on information obtained from the booking process. [ICE] officers then interview selected inmates flagged by the local officers to determine whether to lodge a detainer (or immigration hold) against the individual.” Interviews can happen over the telephone or in-person inside the jail. Some jails (including Multnomah, Washington, and Clackamas county jails and the NORCOR facility in Wasco County) actually have ICE agents permanently stationed inside their facilities.

7. ICE Detainers

ICE detainers “notify the jail or prison that ICE (1) intends to take custody of the noncitizen upon release and (2) requests that ICE be notified before such release... After a detainer is placed, the local jail or prison may then hold the individual for an additional time period, not to exceed 48 hours (per federal regulation), until such time as ICE can assume custody.”¹

8. Secure Communities

The Secure Communities program, newly introduced into three Oregon county jails (Clackamas, Marion, and Multnomah), is a data sharing program. In places where Secure Communities is operational, local law enforcement officials check the fingerprints of an individual they are booking into a jail against DHS immigration databases, rather than just against FBI criminal databases. ICE is automatically and instantaneously notified if the fingerprints match fingerprints in the DHS system. Usually, when there is a “hit” in the database, ICE will lodge a detainer on the individual.

¹ Keaney, Melissa and Joan Friedland, “Overview of the Key ICE ACCESS Programs: 287(g), the Criminal Alien Program, and Secure Communities”, National Immigration Law Center, November 2009. Available at www.nilc.org.