



KRIS MAYES
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
STATE OF ARIZONA

Via Email and Regular Mail

August 8, 2025

Brad Miller
Pinal County Attorney
971 Jason Lopez Circle
Florence, AZ 85132

Re: Authority for Special Prosecutor Appointment

Dear Mr. Miller:

On August 7, 2025, I Heart Radio's Garrett Lewis aired an interview with you in which you indicated a desire to prosecute Senator Analise Ortiz for her social media post about ICE presence in her neighborhood, saying "if our Arizona State legislators would like an investigation into it, into this particular matter, let them know that I'm free. I be happy to be a special prosecutor and investigate this particular matter if they need a legal opinion." You went on to invite legislators to contact you to appoint you as a special prosecutor.

As Attorney General, I am the "chief legal officer of the state." A.R.S. § 41-193(A). In that role, I am responsible for protecting the Arizona's criminal justice system, and in particular, have "supervisory powers over county attorneys of the several counties in matters pertaining to that office." A.R.S. § 41-193(A)(4). I find it concerning that you expressed a willingness to use your office to prosecute an elected Arizona State Senator in what appears to be in excess of your constitutional and statutory authority. Therefore, pursuant to A.R.S. § 41-193(A)(4), I demand that you provide a report to my office by **August 15, 2025**, answering the following questions related to your interest in prosecuting Arizona Senator Analise Ortiz, your belief that laws have been violated, and your self-advertised offer to serve as a special prosecutor.

- Under the Arizona Constitution, your authority "shall be as prescribed by law." Ariz. Const. art. 12, § 4. As the elected County Attorney for Pinal County, your jurisdiction covers your county and ends at its borders. Statute designates you the "public prosecutor of the county" and gives you authority to "attend the superior and other courts within the county. . . ." A.R.S. § 11-532. Notably absent from the list of your authority is the ability to act as a "special prosecutor" for the State legislature. What is your constitutional or statutory authority to investigate crimes

occurring in Maricopa County or serve as a special prosecutor for the State legislature?

- There is no statutory authority by which the legislature could appoint a special prosecutor. As you know, the authority to prosecute belongs to the executive branch, and selection of a prosecutor by another branch of government is a violation of separation of powers. *See Villalpando v. Reagan*, 211 Ariz. 305, 311 (Ct. App., 2005) (“We further conclude that to establish by this court’s fiat a system of judicial oversight, such as the one suggested by Villalpando [wherein the court would appoint a special prosecutor], would constitute an inappropriate interference by the judicial branch with the broad discretion entrusted to the executive branch.”) Reviewing charges and bringing a case for prosecution are executive branch powers that cannot be subsumed by the legislature. I am demanding that you provide any referrals or proposals for a referral to act as a special prosecutor by any member of the legislature, their staff, or representatives, including the content of any communications you have received. Further, I am demanding that you explain why you believe the legislature can appoint you as a special prosecutor.
- In your radio interview you specifically stated that you believe that Senator Ortiz should be investigated for “the unlawful transportation or harboring of unlawful aliens” pursuant to A.R.S. § 13-2929. You appear unaware that A.R.S. § 13-2929 has been permanently enjoined by Federal District Court for the District of Arizona. *United States v. Arizona*, No. 2:10-cv-01413-SRB (D. Ariz. June 9, 2014) (“**IT IS FURTHER ORDERED** that the portion of Section 5 of S.B. 1070 that is codified at A.R.S. § 13-2929 (as amended by H.B. 2162), is hereby permanently enjoined.”). I am demanding that you explain what authority you believe you have to pursue a case in violation of an Arizona District Court order permanently enjoining the statute.
- In your interview, you also stated that Senator Ortiz was obstructing justice. Arizona does not have a criminal offense of obstruction of justice. Its Obstruction of Public Administration offenses require elements such as “threatening to use violence or physical force” or obtaining a “pecuniary benefit.” A.R.S. Title 13, Chapter 24. On what basis did you conclude that Senator Ortiz obstructed justice?
- Finally, in your radio interview you stated that if this activity had taken place in Pinal County, “we would absolutely investigate this. We certainly would bring this to a grand jury and have that determination done.” You argued repeatedly that “the First Amendment does not protect that type of speech.” When you ran for Pinal

County Attorney, your campaign platform included fighting “extreme leftist ideologies” <https://kelliward.com/articles/conservative-candidate-brad-miller-running-against-election-fraud-denying-pinal-county-attorney-kent-volkner>. But now that you are the elected official you have a duty to execute your authority fairly and impartially. Why under A.R.S. § 12-751, would it not be an anti-SLAPP violation for you to initiate the investigation of a Democratic legislator given your campaign statements and current zealous interest to deter, prevent, or retaliate against Senator Ortiz from exercising her First Amendment Rights?

Respectfully,

A handwritten signature in blue ink, appearing to read "K Mayes", with a stylized flourish at the end.

Kris Mayes
Arizona Attorney General