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April 16, 2026

Mary Curtin
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Office of the Arizona Attorney General
Solicitor General's Office
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Via Email Only

Re: Response to SB1487 Request for Investigation No. 26-003

Dear Ms. Curtin,

We are in receipt of your letter from our Honorable State Senators dated April 6, 2026, containing the SB1487 request (Request) on two questions related to Pima County Resolution 2026-10 (Resolution):

(1) whether the Resolution violates A.R.S. § 11-1051(A), which provides that no official or agency of a county or other political subdivision of this state may limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law; and

(2) whether the Resolution violates Arizona Constitution, Article II, Section 3(A), which incorporates the Supremacy Clause of the United States Constitution.

For the following reasons, the Resolution does not violate § 11-1051(A) or the Arizona Constitution.

A. The Resolution Does Not Limit or Restrict Federal Immigration Enforcement "…to Less Than the Full Extent Permitted by Federal Law."

1. <u>The Resolution Expressly Enshrines the Spirit and Wording of § 11-1051(A).</u>

A.R.S. § 11-1051(A) prohibits acts that limit or restrict federal immigration enforcement "*to less than the full extent permitted by federal law.*" Resolution Section 6, section A directly addresses § 11-1051(A)'s prohibition: "***A. Nothing in this Resolution shall be construed*** *...* ***as limiting or restricting the enforcement of federal immigration laws to less than the full extent permitted by federal law."*** The Resolution describes locally directed purposes which in no way seek to regulate the federal government:

- "upholding the County's mission of ensuring public health and safety…"
- "preserv[ing] the property under its control for the use to which it is lawfully dedicated"
- ensuring residents can engage with "essential services," "public processes," and "County programs"
- protecting "relationships…essential to ensuring public safety and effective community policing"

Moreover, A.R.S. § 11-1051(A) limits enforcement "to less than the full extent permitted by federal law," but does not override a county's authority to manage its own property. The Resolution simply regulates the use of county resources; it does not conflict with A.R.S. § 11-1051(A).

2. Under Arizona Law, Pima County has a right to control its property.

"[T]he government, like a private owner of property, 'has power to preserve the property under its control for the use to which it is lawfully dedicated…'"[1] Arizona law expressly grants counties the power to, "[m]ake such orders for the disposition or use of its property as the interests of the inhabitants of the county require." A.R.S. § 11-201(4). Requestors cite *State ex rel. Brnovich v. City of Tucson*[2] and *Neil B. McGinnis Equip. Co. v. Riggs*[3] to claim that Pima County has zero power over the use of its own property because, they assert, the Legislature has made a specific prohibition which supersedes the County's general property authority. We disagree.

In *Brnovich,* the Supreme Court compared the broad power over disposal of city property against the specific prohibition against the destruction of firearms. Likewise, in *Riggs,* the Court of Appeals compared a county's broad property power in Section 11-201(4) against specific prohibitions related to county property in A.R.S.§ 11-251(9). Here, requestors turn the rule on its head: suggesting a broad statutory prohibition can limit the County's broad property power. While a specific prohibition may supersede general authority, it does not follow that a broad prohibition supersedes general authority.

A.R.S. § 11-1051(A) provides a broad prohibition, "[n]o official or agency of this state or a county, city, town or other political subdivision of this state may limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law." The statute itself reveals its broad nature. A.R.S. § 11-1051(B) provides specific prohibitions related to lawful stops, detentions, and arrests within the context of immigration enforcement. A.R.S. § 11-1051(B) is therefore a prime example of specific prohibitions in the context of immigration enforcement that would supersede a county's general authority with respect to lawful stops, detentions, and arrests. Juxtaposed against the specific language in subsection B, subsection A can by no means be deemed a "specific prohibition" the likes of which Arizona law recognizes should supersede a county's general authority over its own property. Unlike in *Brnovich* where the specific statute explicitly addressed property management (i.e. the destruction of firearms), § 11-1051(A) does not specifically address a county's property management.

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[1] *Korwin v. Cotton*, 234 Ariz. 549, 555 (App. 2014), citing *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45 (1983).
[2] 242 Ariz. 588, 591 (2017).
[3] 4 Ariz. App. 556, 557- 58 (1967).

3. Administrative Warrants Unlike Judicial Warrants Require Consent

The Resolution appropriately prohibits employees from granting consent for civil immigration enforcement activities in county facilities either "without a valid arrest warrant," or "except where such assistance is required by law." Both prohibitions are consistent with § 1051(A).

Requestors assert, and Pima County agrees, that the "Supreme Court has recognized that ICE uses administrative warrants." Requestors, however, do not and cannot point to *any federal law* requiring a county to grant federal agents unfettered access to county property upon a showing of an administrative warrant. It does not follow that simply because the Supreme Court recognized that ICE uses administrative warrants, that the Resolution's requirement to verify a valid arrest warrant operates to limit or restrict civil immigration enforcement to less than the full extent permitted by federal law. The question here is whether federal law grants to immigration officers unfettered access to county property upon a showing of an administrative order. It does not.

Administrative warrants do not grant unfettered access into dwellings and non-public government spaces for the purpose of civil immigration enforcement. An ICE administrative warrant—whether a Warrant for Arrest of Alien (Form I-200) or a Warrant of Removal/Deportation (Form I-205)—does not authorize ICE agents to enter non-public areas of a business without consent.[4] Under § 11-1051(A), Pima County officials may restrict or limit immigration officials to the extent that federal law itself restricts said officials. Because federal law (through 8 C.F.R. § 287.8(f)(2)) requires either a judicial warrant or voluntary consent for non-public area entry, § 11-1051(A) cannot be read to require state officials to admit ICE officers into non-public government spaces armed only with an administrative warrant.[5]

Contrary to the law, Requestors suggest that federal immigration officers no longer require a judicial warrant to enter Pima County property. The U.S. Supreme Court "has long treated government-authorized physical invasions as takings requiring just compensation." *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 150 (2021). "[A] physical appropriation is a taking whether it is permanent or temporary," and "the government can commit a physical taking . . . by simply entering into physical possession of property without authority of a court order." *Id.* (citation omitted). Even operating to the full extent of federal law, federal civil immigration authorities have no right to enter County property for their own purposes without consent or without a judicial warrant. Under the Resolution, federal authorities with a valid judicial warrant can access or use County-owned buildings for civil immigration enforcement.

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[4] See *Kidd v. Mayorkas*, 734 F. Supp. 3d 967, 979–80 (C.D. Cal. 2024)(finding that ICE training materials "affirm 'that administrative warrants do not authorize entry into a dwelling without consent,'" and "that an administrative warrant is insufficient to enter the constitutionally protected areas of a home…"); *and see* 8 C.F.R. § 287.8(f)(2) which expressly states ICE officers may not enter non-public areas of a business or residence without a warrant or without consent of the owner/person in control of the space. The regulation further requires that when consent is given, the officer must document it in the officer's report. If access is denied, the regulation instructs that "a warrant may be obtained"—implying that a warrant must be sought rather than deemed already present in the form of an I-200 or I-205.

[5] *See United States v. State of Colorado, et. al.*, No. 25-CV-01391-GPG-KAS, 2026 WL 878882, at *4 (D. Colo. Mar. 31, 2026)(finding "administrative warrants are issued by a federal agency rather than a judge, which multiple courts have held to mean that state and local cooperation is voluntary. See *Galarza v. Szalcyzk*, 745 F.3d 634, 645 (3d Cir. 2014); *United States v. California*, 921 f.3d 865, 887 (9th Cir. 2019)").

B. The Resolution Does Not Violate the Arizona or U.S. Constitutions.

1. The Tenth Amendment Bars the United States from Compelling Local Governments to Assist with Immigration Enforcement

Nothing in the Resolution operates to reject "congressionally authorized means of enforcing federal immigration law, including detainers, administrative warrants, and access to detainees for interviewing," to the full extent of federal law.

The Ninth Circuit has held that nothing in the Supremacy Clause or in any federal statute imposes an obligation on state or local governments to enforce federal immigration laws, and that to hold otherwise would violate the Tenth Amendment.[6] Neither federal nor Arizona law requires Pima County employees to affirmatively cooperate with federal immigration enforcement.

"Federal law provides states and localities the *option*, not the *requirement*, of assisting federal immigration authorities."[7] "A state's ability to control its officers and employees lies at the heart of state sovereignty."[8] "If elected officials cannot translate voter preferences into policy, some of federalism's most celebrated features also suffer: 'citizen involvement in democratic processes' and 'innovation and experimentation in government.'"[9]

The U.S. District Court of Arizona, almost eight years ago, found that "the Arizona legislature has stated a *preference* for such cooperation in S.B. 1070… ." *Tenorio-Serrano v. Driscoll*, 324 F. Supp. 3d 1053, 1062 (D. Ariz. 2018)(emphasis added, S.B. 1070 is the bill that became § 11-1051). A preference for cooperation is not a requirement to cooperate.

The statutory language of A.R.S. § 11-1051(A) does not create mandatory compliance requirements beyond what federal law specifically demands. The court in *Tenorio-Serrano* distinguished between policy preferences and binding mandates, noting that the statute "does not appear to supply the express authorization" necessary for mandatory compliance. This preserves county discretion in implementing voluntary cooperation measures while ensuring full compliance with legally required assistance. The Resolution's approach of requiring assistance "when legally required," but not mandating voluntary cooperation beyond federal requirements, aligns with this statutory interpretation.

Even were cooperation required, however, the Resolution does not prohibit cooperation, rather it provides county employees guidance on *how the County authorizes them* to cooperate. Section 2(B) *requires* county employees to voluntarily assist with civil immigration enforcement when that assistance is required by law:

> *"B. County employees and officers acting in the course of their employment or official duties shall not voluntarily assist, facilitate, or cooperate with civil immigration enforcement activities, including by giving federal immigration agents access to individuals or allowing them to use County facilities for*

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[6] *See United States v. California*, 921 F.3d at 890–91 (involving a challenge to SB 54, a California law that limits cooperation with immigration enforcement).
[7] *United States v. California*, 921 F.3d 865, 889 (9th Cir. 2019) (Emphasis in original).
[8] *United States v. Illinois*, 796 F. Supp. 3d 494, 523 (N.D. Ill. 2025), citing *City of Chicago v. Sessions*, 321 F. Supp. 3d 855, 869 (N.D. Ill. 2018). See also *Printz v. United States*, 521 U.S. 898, 935 (1997) (holding that anticommandeering applies to state employees).
[9] *United States v. Illinois*, 796 F. Supp. 3d 494, 523 (N.D. Ill. 2025), citing *Gregory v. Ashcroft*, 501 U.S. 452, 458 (1991).

investigative interviews or other purposes, ***except where such assistance is required by law.****"*

Instructing County employees to provide all "assistance [as] required by law," is not analogous with "contruct[ing] a county-wide, discriminatory barrier to federal civil immigration enforcement." The Resolution does not prevent immigration officials from carrying out their duties, including obtaining from County employees "assistance" where such "is required by law."

2. The Resolution Does Not Discriminate Against the Federal Government.

Requestors allege that the Resolution singles out the federal government for "unfavorable treatment" and regulates them "on some basis related to their governmental status." It does not.[10] Requestors do not identify any actors "similarly situated" to the federal government who receive more favorable treatment under the Resolution. The fact that the Resolution "touches on an exclusively federal sphere is not enough to establish discrimination"; proof of "'[d]ifferential treatment' is necessary."[11]

Additionally, when Pima County establishes terms of access for county-owned property, it "is acting as a proprietor, not a regulator."[12]

C. Conclusion

Under Arizona law, Pima County officials may restrict or limit immigration officials to the extent that federal law itself restricts said officials. For the above-stated reasons, we respectfully request you find that Pima County's Resolution does not violate A.R.S. § 11-1051(A) and does not violate the Arizona Constitution.

Sincerely,

Pima County Attorney Laura Conover

/s/ *Samuel E. Brown*
Samuel E. Brown
Chief Civil Deputy, Pima County Attorney's Office

[10] *See Washington v. United States*, 460 U.S. 536 at 544–45 (1983). ("The State does not discriminate against the Federal Government and those with whom it deals unless it treats someone else better than it treats them.").
[11] *McHenry Cnty. v. Kwame Raoul*, 44 F.4th 581, 594 (7th Cir. 2022) (citing Washington, 460 U.S. at 544-45).
[12] *Texas v. United States Dep't of Homeland Sec.*, 123 F.4th 186, 205 (5th Cir. 2024). *See also* United States v. New York, 810 F. Supp. 3d 329, 352–53 (N.D.N.Y. 2025) (finding that intergovernmental immunity is not implicated when a state "is not attempting to regulate federal agents and it is not prohibiting the federal government from enforcing immigration law . . . Rather, it is simply defining, as a proprietor, what activities are not permissible in state-owned facilities."). "Such conduct does not run afoul of the intergovernmental immunity doctrine." *Id*.