STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

INVESTIGATIVE REPORT By KRIS MAYES ATTORNEY GENERAL May 5, 2026	No. 26-003 Re: Whether Pima County Resolution No. 2026-10 violates A.R.S. § 11-1051 or Arizona Constitution art. 2, § 3(A)?

To: The Honorable Katie Hobbs, Governor
The Honorable Adrian Fontes, Secretary of State
The Honorable Warren Petersen, President of the Arizona State Senate
The Honorable Steve Montenegro, Speaker of the Arizona House of Representatives
The Honorable T.J. Shope, President Pro Tem, Arizona State Senate
The Honorable John Kavanaugh, Majority Leader, Arizona State Senate

I. Summary

Pursuant to A.R.S. § 41-194.01, the Attorney General's Office (the "Office") has investigated whether Pima County Resolution No. 2026-10 ("Resolution") violates A.R.S. § 11-1051(A), which prohibits state agencies and political subdivisions from "limit[ing] or restrict[ing] the enforcement of federal immigration laws to less than the full extent permitted by federal law." Because the Resolution conforms to—and does not "limit or restrict" the enforcement of—federal immigration law, the Office concludes that the Resolution does not violate § 11-1051(A) or the Arizona Constitution.

II. The Office's Investigation

Arizona law provides that "[a]t the request of one or more members of the legislature, the attorney general shall investigate any ordinance . . . or other official action adopted or taken by the governing body of a . . . city . . . that the member alleges violates state law or the Constitution of Arizona." A.R.S. § 41-194.01(A). Upon completing its investigation, the Office must "make a written report of findings and conclusions" determining that the challenged ordinance "[v]iolates" state law or the Arizona Constitution, "[m]ay violate" state law or the Constitution, or "[d]oes not violate" state law or the Constitution. *Id*. at § 41-194.01(B).

On April 6, 2026, Senators Petersen, Shope, and Kavanaugh jointly requested that the Office investigate whether the Resolution violates A.R.S. § 11-1051(A) or "Arizona Constitution, Article II, Section 3(A), which incorporates the Supremacy Clause of the United States Constitution." (the "Request").[1] Specifically, the Senators alleged that the Resolution is unlawful because it "construct[s] a county-wide, discriminatory barrier to federal civil immigration enforcement" and therefore impermissibly "limits and restricts [Immigration and Customs Enforcement ("ICE's")] ability to comply with [its] congressional mandate." Request, 2. The Office asked the County for a voluntary response to the Request, and the County provided a letter on April 16, 2026 ("Response").[2] In accordance with its statutory duty, the Office then undertook an investigation in which it analyzed the Resolution, the County's response to the Office's request for information, and A.R.S. § 11-1051(A) and other applicable state and federal law.

[1] The Senators' Request is available at https://www.azag.gov/sites/default/files/2026-04/2026-04-06%20Request%20for%20SB1487%20Investigation%20-%20Pima%20County%20Board%20of%20Supervisors.pdf.
[2] The County's Response is available at https://www.azag.gov/sites/default/files/2026-04/2026-04-16%20SB26-003%20Pima%20County%20Response.pdf.

III. Background

A. The County adopts the Resolution.

On February 17, 2026, the Pima County Board of Supervisors adopted the Resolution entitled "Prohibiting the Use of County Property and Resources for Civil Immigration Enforcement Operations." The Resolution has three primary prohibitions.

First, County employees cannot "give consent for federal officials to access or use any Pima County-owned, leased, or operated building, facility, or property for purposes of civil immigration enforcement" without a valid judicial warrant or "other signed writ or order from a federal or state judicial officer authorizing such access." Resolution, § 2(A). Second, County employees "shall not voluntarily assist, facilitate, or cooperate with civil immigration enforcement activities . . . except where such assistance is required by law." *Id*., § 2(B). Third, "[n]o County-owned and controlled property. . . shall be used as a staging area, processing location, or operations base for civil immigration enforcement." *Id*., § 3(A).

The Resolution further instructs that, "wherever appropriate," County departments and agencies must deploy "physical barriers. . . to limit access to County-owned and controlled parking lots, vacant lots, [and] garages." Resolution, § 4(C). The Resolution also has a savings clause which instructs, among other provisos, that nothing in the Resolution shall be construed as "limiting or restricting the enforcement of federal immigration laws to less than the full extent permitted by federal law." *Id*., § 6(A).

B. The Senators allege that the Resolution violates Arizona law.

The Senators' primary concern is that the Resolution's directive prohibiting County employees from giving consent for federal immigration officials to access "any" County property violates § 11-1051(A) because it necessarily prevents federal immigration officials from accessing

correctional facilities and courthouses, and therefore "limits and restricts ICE's ability to comply with" its congressional mandates. Request, 2. The Senators believe that the Resolution impermissibly "limits" federal law by banning federal officials from enforcing immigration laws on public property, thereby "narrowing ICE's operational footprint" and "materially impair[ing] ICE's enforcement effectiveness." Request, 3 (citing *United States v. King County, Washington*, 122 F. 4th 740, 758 (9th Cir. 2024)). The Senators express concern that the County's implementation of the Resolution will "effectively prevent ICE access to detainees for interviewing, which Congress has explicitly authorized." Request, 3 (citing 8 U.S.C. § 1357(a)(1)). On this point, the Senators contend that the Resolution's judicial warrant requirement conflicts with federal immigration law, which, they say, "authorize[s] enforcement through administrative warrants[.]" Request, 4. The Senators also argue that the Resolution's directive that County agencies post signs and utilize physical barriers to limit access to certain County property (*see* Resolution, § 4(B)-(C)) "actively restrict[s]" and "obstruct[s]" federal law enforcement. Request, 4.

Alternatively, the Senators seem to assert that the County lacks authority to adopt the Resolution at all, reasoning that the County's authority is limited to that which the Legislature has granted it. Here, they argue, the County's general property-management authority must yield to § 11-1051(A), which they believe is a more "specific state prohibition on restricting immigration enforcement." Request, 5.

Finally, the Senators contend that the Resolution violates the Arizona Constitution, specifically the provision which incorporates the Supremacy Clause. Ariz. Const. art. 2, § 3. The Senators believe that the Resolution intentionally discriminates against "ICE" and obstructs federal immigration officers by "reject[ing] congressionally authorized means of enforcing federal

immigration law, including detainers, administrative warrants, and access to detainees for interviewing." Request, 6.

C. The County contends that the Resolution is lawful.

The County contends that the Resolution is lawful because it does not limit or restrict federal immigration enforcement to "less than the full extent permitted by federal law." Response, 3. The County describes its Resolution as one that establishes a County policy dictating whether and how County employees may cooperate with federal immigration enforcement. Response, 4. That is, the Resolution does not necessarily prohibit all cooperation but rather instructs County employees that they should not (1) give consent for federal officials to access County property "without a valid arrest warrant" or "other signed writ or order" from a judicial officer or (2) "voluntarily assist, facilitate, or cooperate with civil immigration enforcement activities . . . except where such assistance is required by law." Resolution, § 2(A), (B).

According to the County, this is permissible under § 11-1051(A) because it requires County employees to assist with civil immigration enforcement when that assistance is required by law, and, in that way "expressly enshrines the spirit and wording of § 11-1051(A)." Response, 1-2. With regard to administrative warrants in particular, the County explains that neither form of administrative warrant available to ICE authorizes agents "to enter non-public areas of a business without consent." Response, 3. Instead, the County contends, 8 C.F.R. § 287.8(f)(2) requires either a judicial warrant or voluntary consent for non-public area entry. *Id*. Thus, it is the County's position that federal law authorizes property owners to refuse federal agents' entry requested via an administrative warrant, and therefore a County policy instructing employees to deny consent in those circumstances is entirely consistent with federal law.

Regarding the constitutionality of the Resolution, the County argues that nothing in the Supremacy Clause imposes an obligation on state or local governments to enforce federal

immigration laws, and "to hold otherwise would violate the Tenth Amendment." Response, 4 (citing *United States v. California*, 921 F.3d 865, 890-91 (9th Cir. 2019). The County further contends that the Resolution is not discriminatory because there are no actors who are (1) "similarly situated" to federal immigration officials and (2) receive "more favorable treatment under the Resolution." *Id*.

IV. Legal Analysis[3]

A. Section 11-1051(A) does not impose any affirmative obligations beyond non-restriction of federal immigration enforcement.

A.R.S. § 11-1051(A) prohibits political subdivisions from "limit[ing] or restrict[ing] the enforcement of federal immigration laws to less than the full extent permitted by federal law." When it enacted S.B. 1070—including those provisions that became § 11-1051—the legislature declared "that there is a compelling interest in the cooperative enforcement of federal immigration laws throughout all of Arizona." 2010 Ariz. Legis. Serv. Ch. 113, § 1 (2d Reg. Sess. 2010). But section 1 of SB 1070 is not part of the enacted text. *See Cronin v. Sheldon*, 195 Ariz. 531, 538 ¶¶ 29-30 (1999) (a "preamble is not statutory text" and is therefore "devoid of operative effect"). The enacted text of § 11-1051(A) generally prohibits conduct, it does not require it. A.R.S. § 11-1051(A) ("No . . . political subdivision of this state may. . .").

We therefore understand § 11-1051(A) to do only that which its plain text states—it prohibits Arizona political subdivisions from adopting policies that "limit or restrict" federal

[3] On April 29, 2026, this Office issued an Investigative Report resolving a § 41-194.01 request challenging a City of Phoenix regulation addressing civil law enforcement activities on city property. *See* Ariz. Att'y Gen. Investigative Report No. SB26-002 (Apr. 29, 2026), *available at* https://www.azag.gov/complaints/sb1487-investigations. ("Phoenix Investigation"). There, as here, the requesting legislator alleged that Phoenix's administrative regulation violated the prohibitions in A.R.S. § 11-1051(A). Because the underlying legal principals are identical, we incorporate the same analysis in Sections IV(A) and (B), *infra*.

immigration enforcement to less than what federal law permits, but does not mandate that political subdivisions do more than what federal law requires.

B. Federal law tolerates non-cooperation in immigration enforcement, but prohibits direct regulation of and discrimination against the federal government.

Because A.R.S. § 11-1051(A) forbids cities from "limit[ing] or restrict[ing] the enforcement of federal immigration laws to less than the full extent permitted by federal law," we must consider what it is that federal law permits immigration officials to do.

1. Federal law does not require local cooperation with federal immigration enforcement.

As a general matter, whether to use state resources to implement the federal immigration scheme is reserved to the states according to the Tenth Amendment. *See Printz v. United States*, 521 U.S. 898, 925 (1997). Federal law permits the federal government to contract with state and local governments to further federal immigration enforcement, *see* 8 U.S.C. §§ 1357(g), 1103(a)(11)(b), but does not *require* it. *California*, 921 F.3d at 891 (federal government cannot require state cooperation "without running afoul of the Tenth Amendment"). Thus, as a matter of federal law, localities like cities and counties can refuse cooperation with federal immigration enforcement efforts, unless a specific statute lawfully compels their assistance. *See, e.g.*, 8 U.S.C. § 1373(a) (purporting to require localities to share citizenship and immigration information by prohibiting state and local governments from restricting the practice). As the Ninth Circuit explained in *California*, "refusing to help is not the same as impeding." 921 F.3d at 888.

District courts have routinely upheld states' authority to refuse cooperation with federal immigration enforcement on Tenth Amendment grounds, "even if those policies frustrate the federal government's civil immigration enforcement efforts." *See United States v. Illinois*, 796 F. Supp. 3d 494, 532 (N.D. Ill. 2025) (concluding that state and local regulations prohibiting those

governmental units from taking any action in response to administrative warrants or immigration detainers did not impermissibly disrupt or conflict with federal requirements because the Immigration and Nationality Act permits inaction); *see also United States v. New York*, 810 F. Supp. 3d 329, 355 (N.D.N.Y. 2025) (holding that state executive order requiring judicial warrant to execute civil immigration arrests within state facilities reflected the state's "decision to not participate in enforcing civil immigration law – a decision protected by the Tenth Amendment" and that "[f]inding that these same provisions constitute discrimination or impermissible regulation would provide an end-run around the Tenth Amendment") .

With limited exceptions, federal law does not purport to compel the states' participation in immigration enforcement, and therefore generally permits localities to refuse cooperation with immigration enforcement activities. Thus, the only way that § 11-1051(A) could be read to require cooperation beyond what federal law requires would be via express statutory language so directing Arizona's political subdivisions. But § 11-1051(A) contains no such language and, instead, only prohibits measures which restrict immigration enforcement "to less than the full extent permitted by federal law."

2. Immigration officials must obtain a judicial warrant or consent to demand access to non-public areas.

Federal agents may issue administrative or "arrest" warrants for civil immigration enforcement. *See* 8 U.S.C. § 1226(a) ("On a warrant issued by the Attorney General, an alien may be arrested and detained. . . "). As the name indicates, administrative warrants—Form I-200 (Warrant for Arrest of Alien) or Form I-205 (Warrant of Removal/Deportation)—are executed by the executive agency, not a judge. *See* U.S. Immigr. & Customs Enf't, Policy No. 10074.2, Issuance of Immigration Detainers by ICE Immigration Officers, § 2.4 (Mar. 24, 2017). Thus, an

administrative warrant issued by federal authorities does not "compel[] any action by a state or local official." *California*, 921 F.3d at 887.

Like other law enforcement, federal immigration officials are bound by general Fourth Amendment principles. *Gonzalez v. United States Immigr. & Customs Enf't*, 975 F.3d 788, 824 (9th Cir. 2020). This means that, absent exigent circumstances, immigration enforcement agents must obtain either a judicial warrant or voluntary consent for entry into a non-public area. *Katz v. United States*, 389 U.S. 347, 357 (1967) (executive-issued administrative warrants do not "adhere[ ] to judicial processes" and cannot thereby authorize officers' entry where there is a reasonable expectation of privacy); *see also* 8 C.F.R. § 287.8(f)(2) (except as provided in 8 U.S.C. § 1357(a)(3), immigration officers cannot enter into non-public areas without "a warrant or the consent of the owner or other person in control of the site to be inspected") and *Kidd v. Mayorkas*, 734 F. Supp. 3d 967, 984 (C.D. Cal. 2024) (government's "systematic conduct of entering persons' curtilage without a judicial warrant with the intent to arrest the occupant violates 8 C.F.R. § 287.8(f)(2)").

Conversely, an immigration official does not need a judicial warrant or consent to enter into a public area, *i.e.*, an area where there is not a reasonable expectation of privacy. *Katz*, 389 U.S. at 351 ("What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection."); *see also* 8 C.F.R. § 287.8(f)(4) ("Nothing in this section prohibits an immigration officer from entering into any area of a business or other activity to which the general public has access or onto open fields that are not farms or other outdoor agricultural operations without a warrant, consent, or any particularized suspicion in order to

question any person whom the officer believes to be an alien concerning his or her right to be or remain in the United States.").

3. Localities can restrict the federal government's access to property in accordance with the Supremacy Clause.

The Senators also challenge the Resolution on constitutional grounds. Request, 5-6. Specifically, the Senators contend that the Resolution "conflicts with" and therefore violates the Supremacy Clause of the Supremacy Clause, U.S. Const. art. VI, cl. 2, and provisions of the Arizona Constitution incorporating the same. *See* Ariz. Const. art 2, § 3(A) ("The Constitution of the United States is the supreme law of the land to which all government, state and federal, is subject."). Modern Supremacy Clause cases discuss two separate doctrines: intergovernmental immunity and preemption. *See California*, 921 F.3d at 878–79. Neither doctrine prohibits all local regulation of federal activities.

a) Intergovernmental Immunity

"The Constitution's Supremacy Clause generally immunizes the Federal Government from state laws that [1] directly regulate or [2] discriminate against it." *United States v. Washington*, 596 U.S. 832, 835 (2022) (bracketed numbers added).

Direct regulation can take many forms, including taxing the federal government or prohibiting the federal government from taking a particular action. "[T]he key question is whether state law seeks to improperly 'control' the employee's federal duties, or whether the law only 'might affect incidentally the mode of carrying out the employment — as, for instance, a statute or ordinance regulating the mode of turning at the corners of streets.'" *Texas v. U.S. Dep't of Homeland Sec.*, 123 F.4th 186, 206 (5th Cir. 2024) (quoting *Johnson v. Maryland*, 254 U.S. 51, 56-57 (1920)). When a locality acts "as a proprietor" to adopt otherwise generally applicable regulations governing what activities are permissible in its own facilities, there is no impermissible

"regulation" of the federal government, even if the regulation might "incidentally" affect how federal officials do their jobs. *Id.*; *see also New York*, 810 F. Supp. 3d at 352-53 ("New York 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.").

Local laws also may not discriminate against the federal government by setting it apart for less favorable treatment based on its federal governmental status. *Washington*, 596 U.S. at 838. "A state law or regulation discriminates against the federal government if it treats comparable classes of federal and state employees differently, advantaging the state employees," *Nwauzor v. GEO Grp., Inc.,* 127 F.4th 750, 763 (9th Cir. 2025) (citing *Dawson v. Steager*, 586 U.S. 171, 175-76 (2019)), and "no 'significant differences between the two classes' justify the differential treatment." *Dawson*, 586 U.S. at 175 (quotation and other citation omitted). But "[t]he mere fact that the [local law] touches on an exclusively federal sphere is not enough to establish discrimination." *McHenry Cnty. v. Kwame Raoul*, 44 F.4th 581, 594 (7th Cir. 2022) (citing *California*, 921 F.3d at 881). If there are no "similarly situated" actors who receive better treatment, the local law is not discriminatory, even if it necessarily applies only to the federal government.

b) Federal Preemption

The Senators also contend that the Resolution is "invalid" because it "rejects congressionally authorized means of enforcing federal immigration law." Request, 6. We understand these arguments to assert that federal law preempts the Resolution.

Under the doctrine of obstacle preemption, a state law is preempted if it "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Arizona v. United States*, 567 U.S. 387, 399 (2012); *see also* Request, 5 (quoting *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941)). A presumption against preemption applies "when a state regulates in an area of historic state power." *Knox v. Brnovich*, 907 F.3d 1167, 1174 (9th Cir. 2018) (citation omitted).

Once triggered, the presumption against preemption applies "even if the law 'touch[es] on' an area of significant federal presence." *Id.* The presumption applies to state laws that affect areas of exclusive federal regulation, such as immigration enforcement, even if those state laws have "incidental effects in an area of federal interest." *DeCanas v. Bica*, 424 U.S. 351, 355 (1976) ("[T]he Court has never held that every state enactment which in any way deals with [noncitizens] is a regulation of immigration and thus per se pre-empted by this constitutional power."); *Puente Ariz. v. Arpaio*, 821 F.3d 1098, 1104 (9th Cir. 2016) ("[W]hile the [challenged] laws certainly have effects in the area of immigration, the text of the laws regulate for the health and safety of the people of Arizona.").

The Ninth Circuit has held that a state statute prohibiting operation of private detention facilities within the state was preempted by federal immigration law. *Geo Grp., Inc. v. Newsom*, 50 F.4th 745, 763 (9th Cir. 2022). In *Newsom*, the court found that (1) "Congress sought to delegate to the DHS Secretary the responsibility to 'arrange for appropriate places of detention'" and (2) the California statute banned private detention facilities altogether, thereby creating a

conflict between state law and Congress's direction that DHS Secretary decide where and how to house immigration detainees. *Id*. at 762.

But more recently, the Ninth Circuit considered whether federal law preempted Washington's Minimum Wage Act such that a federal contractor could continue to pay civil immigration detainees $1 per day for worked performed operating their own detention facility. *Nwauzor*, 127 F.4th at 757. The Court concluded that (1) Washington's Minimum Wage Act was entitled to a presumption against preemption because it fell "squarely within the states' historic police powers to establish and require payment of a minimum wage" and (2) the government failed to identify any federal law demonstrating that Congress intended to "preempt the application of the [Minimum Wage Act] to civil detainees held in private for-profit detention centers." *Id*. at 768.

C. The Resolution is lawful.

Having established the relevant legal framework, we now address each of the Senators' three arguments, beginning with their claims regarding state preemption.

1. A.R.S. § 11-1051(A) does not preempt the County's general authority to govern its employees and property.

The Senators argue that the County was without authority to adopt the Resolution because the County's "general property-management authority under [§ 11-201(A)(4)] may not circumvent a specific state prohibition on restricting immigration enforcement." Request, 5. As support, the Senators cite a Court of Appeals case which concluded that Maricopa County's general authority under § 11-201(A)(4) did not permit it to sell property however it liked, because the legislature had set forth a specific process for the sale of county property in § 11-251(9) and the County's chosen method of sale conflicted with that directive. *Neil B. McGinnis Equip. Co. v. Riggs*, 4 Ariz. App. 556, 558 (1967).

But this matter is not like *Riggs*, because § 11-1051(A) cannot reasonably be construed as one that specifically restricts the County's authority to regulate its property. Section 11-1051(A) does not itself require Arizona counties' affirmative cooperation with federal immigration enforcement or otherwise require counties to consent to federal immigration enforcement activities on their property. Indeed, it says nothing about property at all.

Even if we were to construe § 11-1051(A) as a more specific statute, though, there is no basis to conclude that the Resolution has "circumvent[ed]" the legislature's directives. As we discuss below, the Resolution works in concert—not conflict—with § 11-1051(A).

2. The Resolution adopts a policy of non-cooperation that federal law permits.

While § 11-1051(A) does not, itself, require political subdivisions to affirmatively "cooperate" with federal immigration officials, it prohibits a political subdivision from adopting a policy of non-cooperation that federal law forbids. *See* A.R.S. § 11-1051(H) (identifying 8 U.S.C. §§ 1373 and 1644 as examples of laws that Arizona localities cannot "limit[] or restrict[]"); *see also* 8 U.S.C. § 1373(a) (purporting to prohibit state and local governments from restricting communication with federal immigration authorities regarding an individual's citizenship or immigration status). Because the Resolution expressly accommodates the limits of federal law, we find that it does not violate § 11-1051.

The Resolution prohibits County employees from giving consent to federal officials seeking access to "any Pima County-owned, leased, or operated building, facility, or property" without a judicial warrant or comparable court order "authorizing such access." Resolution, § 2(A) ("No Consent Provision"). As discussed above, the County is generally correct that "administrative warrants do not grant unfettered access into dwellings and non-public government spaces." Response, 3. However, the Resolution itself does not make any distinction between the

County's public and non-public property. Said differently, County property necessarily contains some public areas, e.g., the filing counter at the County Recorder's Office, where it does not have a reasonable expectation of privacy. *See Katz*, 389 U.S. at 351 ("What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection."). As such, federal law would not require individuals to obtain consent before making entry into those areas.

But we must also construe the No Consent Provision alongside the rest of the Resolution, including the direction that the Resolution shall not be construed "as restricting or interfering with the execution of court orders or lawful judicial warrants" or "with the rights of any person or entity under state or federal law." Resolution, § 6(A). Construing, as the Resolution instructs, the No Consent Provision to avoid conflict with federal law, we conclude the following: when consent is required for a federal agent to enter some space within the County's property (*i.e.*, the area is non-public, there are no exigent circumstances, and the agent does not present a valid judicial warrant), the No Consent Provision directs that County employees must refuse access. Conversely, if consent would not otherwise be required, the No Consent Provision does not apply. So construed, the No Consent Provision does not "limit or restrict" federal officials' ability to access County property to "less than the full extent permitted by federal law." A.R.S. § 11-1051(A).

Second, the Resolution provides that County employees "shall not voluntarily assist, facilitate, or cooperate with civil immigration enforcement activities. . . except where such assistance is required by law." Resolution, § 2(B) ("No Cooperation Provision"). The No Cooperation Provision also comports with federal law, which does not require states or localities to cooperate with federal immigration enforcement except in very limited circumstances. *See* 8 U.S.C. § 1373 (purporting to prohibit state and local governments from restricting communication

with federal immigration authorities regarding an individual's citizenship or immigration status). By expressly acknowledging that federal law sometimes requires assistance and instructing County employees to act in accordance, the No Cooperation Provision complies with federal law. *See* A.R.S. § 11-1051(H) (expressly identifying 8 U.S.C. § 1373 as one example of a "federal immigration law[]" that a political subdivision could not "limit or restrict").

Third, the Resolution prohibits (without exception) County property from being used "as a staging area, processing location, or operations base for civil immigration enforcement." Resolution, § 3(A). The Resolution also instructs County officials to post signs to identify areas that are not available for civil immigration enforcement purposes and, more generally, to utilize "physical barriers" to limit access to County "parking lots, vacant lots, or garages." Resolution, § 4(B), (C). But federal law does not affirmatively grant federal immigration officials access to state or local property, so it is not a "limitation" or "restriction" of federal law for the County to deny access for particular uses, so long as the policy does not otherwise violate the Supremacy Clause. *See* A.R.S. § 11-201(4) (delegating to the county boards of supervisors the power to "make such orders for the disposition *or use* of its property as the interest of the inhabitants of the court require") (emphasis added). When the County acts as a "proprietor" to prohibit certain activities on its own property, it does not violate federal law. *See New York*, 810 F. Supp. 3d at 352-53 (when a state acts "as a proprietor" to define what activities are permissible in state-owned facilities, this is not a regulation of federal agents and "[s]uch conduct does not run afoul of the intergovernmental immunity doctrine") (quoting *Texas*, 123 F.4th at 205).

We conclude that the Resolution does not unlawfully "limit or restrict the enforcement of federal immigration laws" in violation of A.R.S. § 11-1051(A).

3. The evidence presented does not establish that the Resolution violates the Supremacy Clause.

In addition to their § 11-1051(A) allegations, the Senators contend that the Resolution violates the Supremacy Clause (and, by extension, art. 2, § 3 of the Arizona Constitution) in three ways: by directly regulating the federal government, by discriminating against federal immigration officials, and by imposing an "obstacle" to federal immigration officers' lawful implementation of their duties. We address each sub-argument in turn.

Direct Regulation

The Senators contend that the Resolution "obstruct[s]" and "improperly regulat[es]" federal immigration officials, and point to a recent Ninth Circuit decision, *United States v. King County*, 122 F.4th 740 (9th Cir. 2024). Request, 6. At issue in that case was an executive order of King County, Washington which barred private servicing of charter flights used for deportations at a county-owned airport. *Id.* at 755–59. The Court concluded that the King County executive order targeted specific kinds of flights, effectively preventing the federal government from using private charters for deportations at the local airport (improper direct regulation) and applied only to private companies contracting with the federal government (improper discrimination). *Id*.

But *King County* is not really a case about access to county-owned property. Instead, *King County* builds on a line of cases that address state interference with federal contracting decisions. In *Geo Grp., Inc. v. Newsom*, 50 F.4th 745 (9th Cir. 2022), for example, the Ninth Circuit sitting *en banc* considered whether a California statute banning private detention facilities violated the Supremacy Clause. As to direct regulation in particular, the Court held that the statute "implicate[s] intergovernmental immunity" because it "prohibits ICE from exercising its discretion to arrange for immigration detention in the privately-run facilities it has deemed

appropriate." *Id*. at 761. In this way, the Court explained, the state statute had the effect of "controlling federal operations by interfering . . . with ICE's contracting decisions." *Id*.

Last year, the Ninth Circuit considered whether its holding in *King County* was dispositive of a case challenging a Washington law which required an ICE contractor to implement certain health and safety requirements at its private immigration detention facility. *Geo Grp., Inc. v. Inslee*, 151 F.4th 1107, 1112 (9th Cir. 2025). There, the Court found that the state statute sought "only to change the way [the contractor] treats its detainees." *Id*. at 1118. Because the statute did not "require ICE to entirely transform its approach to detention in the state or else abandon its Washington facilities," the Ninth Circuit concluded that the statute did not directly regulate the federal government. *Id*. (quoting *Newsom*, 50 F.4th at 750) (cleaned up); *Cf*. *United States v. California*, No. 26-926, 2026 WL 1088674, at *5 (9th Cir. Apr. 22, 2026) (government likely to succeed on the merits of a challenge to California statute requiring non-uniformed federal law enforcement occurs to display identification because the statute "purports to override the federal government's power to determine whether, how, and when to publicly identify its officers" and, "in so doing, it aims to regulate the manner and conditions under which federal agents can enforce federal law").

For similar reasons, we conclude that the Resolution does not directly regulate the federal government in violation of the Supremacy Clause. The Resolution does not require ICE to "transform its approach" to detention and removal within the County, nor does it require ICE to "abandon" its enforcement efforts in the County. *Inslee*, 151 F. 4th at 1118. If ICE needs a parking lot to stage a civil immigration enforcement operation, it can simply choose a parking lot that does not belong to the County. Indeed, the Resolution places no affirmative restrictions on the federal government at all. The Resolution, instead, dictates how *County* employees must respond to civil

immigration enforcement activities on *County* property. "Such conduct does not run afoul of the intergovernmental immunity doctrine." *New York*, 810 F. Supp. 3d at 352-53 (quoting *Texas*, 123 F.4th at 205).

Federal Discrimination

The intergovernmental immunity doctrine also forbids local governments from adopting policies that discriminate against the federal government. *Washington*, 596 U.S. at 838.

The Senators argue that the Resolution is discriminatory because it impermissibly "singl[es] out the federal government . . . for unfavorable treatment." Request, 6 (quoting *King County,* 122 F.4th at 757. True, the County's Resolution applies to only "civil immigration enforcement operations" and prohibits County employees from giving consent to "federal officials" to access County property. Resolution, § 2(A); *see also* § 2(B) (prohibiting employees from "voluntarily assist[ing]" civil immigration enforcement activities by "giving federal immigration agents access to" individuals or County facilities). But "singles out" is not the test. As the Ninth Circuit has explained:

> Since the advent of the doctrine, intergovernmental immunity has attached where a state's discrimination negatively affected federal activities in some way. It is not implicated when a state merely references or even singles out federal activities in an otherwise innocuous enactment. The Supreme Court has clarified that a state "does not discriminate against the Federal Government and those with whom it deals unless it treats someone else better than it treats them."

California, 921 F.3d at 881 (quoting *Washington v. United States*, 460 U.S. 536, 544-45 (1983)). This means that a law that expressly applies only to the federal government is not discriminatory unless there is a "comparator" who the law treats more favorably. In addition, the comparator must be an appropriate comparator, i.e., it must be "similarly situated" to the federal government in material respect. *McHenry County*, 44 F. 4th at 594, citing *Washington*, 460 U.S. at 544-45 (

("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.") and *North Dakota v. United States*, 495 U.S. 423 (1990) (plurality) (framing discrimination inquiry as whether burden is "imposed equally on other similarly situated constituents").

Here, as the County notes (Response, 5), the Senators have not identified any other class that is treated more favorably than the "federal officials" or "federal immigration agents" to whom the Resolution applies. In a litigation context, the failure to identify an appropriate comparator would be fatal. *See McHenry County*, 44 F. 4th at 594 (faulting plaintiff counties for failing to "identify any actors 'similarly situated' to the federal government that receive more favorable treatment under the Act."); *Illinois*, 796 F. Supp. 3d at 534 ("[T]he fact that a law affects an exclusively federal domain is not evidence of discrimination, and failure to identify a comparator ends the inquiry."); *New York*, 810 F. Supp. 3d at 353 (dismissing the government's discrimination claim and explain that while "[t]he challenged policies certainly affect the federal government as the primary enforcer of civil immigration law[,] . . . [t]he United States does not identify any state or local government entity that might be entitled to the information it is prevented from obtaining because of the [policies]").

To their credit, the Senators do not completely ignore the comparative aspect of the federal discrimination analysis. For example, they hypothesize that, under the Resolution, "any member of the public can walk into a county building and ask for directions or use a parking lot while a federal immigration officer cannot." Request, 2. In our view, this hypothetical overstates the impact of the Resolution. The Resolution does not prohibit federal immigration officers from parking in County parking lots; it only prohibits County parking lots, among other property, from being "used as a staging area, processing location, or operations base for civil immigration

enforcement." Resolution § 3(A). Nor does the Resolution forbid federal immigration officers from entering the public area of a County building to ask for directions. *See*, *supra*, section IV(C)(2) (discussing the Resolution's No Consent Provision). But even accepting the Senators' characterization of the Resolution, the Senators offer no explanation as to why "any member of the public" is an appropriate comparator for "a federal immigration officer" in this context. Moreover, the case law does not permit us to presume that, for example, local law enforcement is always the correct comparator by which to evaluate a policy that affects federal law enforcement.

In *Inslee*, the Ninth Circuit wrestled with precisely this question when deciding who was the appropriate comparator to a singular private immigration detention facility. 151 F.4th at 1118-22. There, the district court held that the statutes "impermissibly discriminate[] against the federal government" by imposing "various burdens on the [private immigration facility] that do not apply to any similarly situated facility in the State." 720 F. Supp. 3d 1029, 1038 (W.D. Wash. 2024). In so holding, the district court concluded that the "similarly situated" comparators are Washington's state owned and operated prisons. *Id*. at 1056. Because the conditions of confinement at the private facilities are not "part of a penal regime," the Ninth Circuit reversed, concluding that civil immigration facilities are more similar to civil detention facilities like residential treatment facilities or civil commitment centers, *i.e*., facilities where individuals are held in involuntary confinement, but not for punitive purposes. 151 F.4th at 1120. Having clarified the correct comparator, Ninth Circuit found that the conditions of confinement imposed by the statutes on immigration facility are "almost identical" to those that other statutory schemes impose on those other civil detention facilities. *Id*. at 1121.

Absent any allegation or supporting evidence to demonstrate differential treatment among the federal government and anyone else, we lack sufficient evidence to undertake the fact-specific

endeavor that is identifying the appropriate comparator to the "federal officials" or "federal immigration agents" described in the Resolution. Without a comparator to consider, we cannot conclude that the Resolution treats the federal government in a discriminatory way that the Supremacy Clause forbids. *Washington*, 460 U.S. at 544-45 ("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.").

Obstacle Preemption

We conclude that federal immigration law does not preempt the Resolution, for two reasons. First, the Resolution derives from the County's "historic power" to regulate its own property. *Knox*, 907 F.3d at 1174; *see also* A.R.S. § 11-201(4) (delegating to the county boards of supervisors the power to "make such orders for the disposition or use of its property as the interests of the inhabitants of the county require").

Second, federal law governing immigration enforcement does not indicate any Congressional intent to preempt the County's authority to regulate access to its own property via the Resolution. *Nwauzor*, 127 F.4th at 768. To the contrary, the regulatory scheme contemplates that ICE administrative warrants would yield to private property rights. *See* 8 C.F.R. § 287.8(f)(2) (immigration officers cannot enter non-public areas to search without a judicial warrant or consent).

Whether the local regulation "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress," *Arizona*, 567 U.S. at 399, is essentially the same question as deciding whether the local regulation imposes a "limit" or "restrict[ion]" on federal immigration laws. A.R.S. § 11-1051(A); *see also Illinois*, 796 F. Supp. 3d at 527 (state inaction is not a frustration of purpose because the INA permits inaction). And, in this way, both inquiries are resolved by the ample case law which concludes that (1) the federal immigration scheme does

not require localities' affirmative cooperation and (2) localities can deny access to federal agents, so long as they do so in accordance with the Supremacy Clause.

V. Conclusion

Pima County Resolution No. 2026-10 does not violate A.R.S. § 11-1051(A) or the Arizona Constitution.

Kris Mayes
Attorney General