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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair  
2025 - 2026 Regular

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**Author:** Gabriel  
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**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** AB

**Subject:** *Department of Justice*

## HISTORY

**Source:** Author

**Prior Legislation:** AB 807 (McCarty), held in Assembly Appropriations, 2023  
SB 715 (Portantino), Ch. 250, Stats. of 2021  
AB 1506 (McCarty), Ch. 326, Stats. of 2020  
AB 392 (Weber), Ch. 170, Stats. of 2019  
SB 230 (Caballero), Ch. 285, Stats. of 2019  
AB 86 (McCarty), held in Assembly Appropriations, 2015

**Support:** California Faculty Association; California Immigrant Policy Center; Drug Policy Alliance; Ella Baker Center for Human Rights; Indivisible Alta-Pasadena; Justice2jobs Coalition; LA Defensa; Sacramento Mayor Kevin McCarty; SEIU California

**Opposition:** None known

**Assembly Floor Vote:** 59 - 20

## PURPOSE

*The purpose of this bill is to require a state prosecutor to investigate and potentially prosecute incidents of a federal immigration enforcement officer-involved shooting resulting in the death of a civilian, as specified.*

*Existing federal law* provides that a civil or criminal prosecution that is commenced in a state court and that is against or directed to any of the following, among others, may be removed by them to the district court of the United States, as specified:

- The United States or any agency or officer thereof, or any officer of any agency thereof, in an official or individual capacity, for or relating to any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue. (28 U.S.C. § 1442, subd. (a)(1).)

*Existing federal law* provides that for the purposes of removal pursuant to the above, a law enforcement officer who is the defendant in a criminal prosecution, shall be deemed to have been acting under the color of his office if the officer did any of the following:

- Protected an individual in the presence of the officer from a crime of violence;
- Provided immediate assistance to an individual who suffered, or who was threatened with, bodily harm; or
- Prevented the escape of any individual who the officer reasonably believed to have committed, or was about to commit, in the presence of the officer, a crime of violence that resulted in, or was likely to result in, death or serious bodily injury. (28 U.S.C. § 1442, subd. (c).)

*Existing California law* specifies that, subject to the powers and duties of the Governor, the Attorney General (AG) shall be the chief law officer of the State. (Cal. Const., art. 5, § 13.)

*Existing law* states that it shall be the duty of the AG to see that the laws of the State are uniformly and adequately enforced. (Cal. Const., art. 5, § 13.)

*Existing law* provides that the AG shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make reports concerning the investigation, detection, prosecution, and punishment of crime in their perspective jurisdictions as to the AG may seem advisable. (Cal. Const., art. 5, § 13.)

*Existing law* specifies, whenever in the opinion of the AG any law of the State is not being adequately enforced in any county, it shall be the duty of the AG to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases the AG shall have all the powers of a district attorney. (Cal. Const., art. 5, § 13.)

*Existing law* provides that United States Immigration and Customs Enforcement (ICE) officers and United States Customs and Border Protection (CBP) officers are not California peace officers. (Pen. Code, § 830.85)

*Existing law* specifies that when the AG deems it advisable or necessary in the public interest, or when directed to do so by the Governor, the AG shall assist any district attorney in the discharge of the district attorney's duties, and may, if deemed necessary, take full charge of any investigation or prosecution of violations of law of which the superior court has jurisdiction, and that in this respect the AG has all the powers of a district attorney, including the power to issue or cause to be issued subpoenas or other process. (Gov. Code, § 12550.)

*Existing law* provides that the AG has direct supervision over the sheriffs of the several counties of the state, and may require of them written reports concerning the investigation, detection, and punishment of crime in their respective jurisdictions, and provides, whenever the AG deems it necessary in the public interest the AG shall direct the activities of any sheriff relative to the investigation or detection of crime within the jurisdiction of the sheriff, and may direct the service of subpoenas, warrants of arrest, or other processes of court in connection therewith. (Gov. Code, § 12560.)

*Existing law* requires a state prosecutor to investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian and specifies that the AG is the state prosecutor unless otherwise specified or named. (Gov. Code, § 12525.3, subd. (b)(1).)

*Existing law* authorizes the state prosecutor to do all of the following:

- Investigate and gather facts in an incident involving a shooting by a peace officer that results in the death of a civilian if the civilian was unarmed or if there is a reasonable dispute as to whether the civilian was armed.
- For all investigations conducted, prepare and submit a written report, which shall include, at a minimum, a statement of the facts, a detailed analysis and conclusion for each investigatory issue, and recommendations to modify the policies and practices of the law enforcement agency, as applicable.
- If criminal charges against the involved officer are found to be warranted, initiate and prosecute a criminal action against the officer. (Gov. Code, § 12525.3, subd. (b)(2).)

*Existing law* requires the state prosecutor to post and maintain on a public internet website each written report prepared by the state prosecutor, as specified, appropriately redacting any information in the report that is required by law to be kept confidential. (Gov. Code, § 12525.3, subd. (b)(3).)

*Existing law* requires the AG to operate a Police Practices Division within the DOJ to, upon request of a local law enforcement agency, review the use of deadly force policies of that law enforcement agency. (Gov. Code, § 12525.3, subd. (c)(1).)

*Existing law* requires the Police Practices Division to make specific and customized recommendations to any law enforcement agency that requests a review, based on those policies identified as recommended best practices. (Gov. Code, § 12525.3, subd. (c)(2).)

*Existing law* requires each law enforcement agency to monthly furnish to the DOJ, in a manner defined and prescribed by the AG, a report of all instances when a peace officer employed by that agency is involved in any of the following:

- An incident involving the shooting of a civilian by a peace officer.
- An incident involving the shooting of a peace officer by a civilian.
- An incident in which the use of force by a peace officer against a civilian results in serious bodily injury or death.
- An incident in which the use of force by a civilian against a peace officer results in serious bodily injury or death. (Gov. Code, § 12525.2, subd. (a).)

*Existing law* requires, for each incident described above, the information reported to the DOJ to include specified information including the gender, race, and age of each individual who was shot, injured, or killed, the date, time, and location of the incident, the type of force used against the officer, the civilian, or both, the reason for using force, the injuries sustained, and if any medical aid was rendered, among other categories of information. (Gov. Code, § 12525.2, subd. (b).)

*This bill* requires a state prosecutor to conduct an independent, transparent, and thorough investigation into incidents of a federal immigration enforcement officer-involved shooting resulting in the death of a civilian.

*This bill* specifies that the Attorney General is the state prosecutor unless otherwise specified or named.

*This bill* requires the state prosecutor to do the following:

- Investigate and gather facts in an incident involving a shooting resulting in the death of a civilian by a federal immigration enforcement officer.
- For all investigations conducted, prepare and submit a written report. The written report shall include, at a minimum, both a statement of facts and a detailed analysis and conclusion for each investigatory issue.

*This bill* provides that if criminal charges against the involved officer are found to be warranted, the state prosecutor shall initiate and prosecute a criminal action against the officer.

*This bill* requires the state prosecutor to post and maintain on a public internet website each written report prepared by the state prosecutor pursuant to this bill, appropriately redacting any information in the report that is required by law to be kept confidential.

*This bill* specifies that it does not limit the Attorney General's authority under the California Constitution or any applicable state law.

## COMMENTS

### 1. Need for This Bill

According to the author:

California must take decisive action to ensure accountability when federal immigration agents use deadly force against civilians. AB 1806 would grant the California Attorney General clear authority to investigate any fatal shooting incidents involving federal immigration agents and members of the public. The state has both a moral and legal obligation to protect its residents and uphold the rule of law.

### 2. Recent Federal Immigration Enforcement Actions

From the outset of President Trump's second term, his Administration has expanded immigration enforcement and altered the immigration system at an unprecedented scale. Through various executive actions, President Trump has declared a national emergency at the southern border to limit lawful entries, halted refugee admission, expanded who immigration enforcement officers can prioritize for deportation, expanded expedited removal, increased the hiring of immigration officers, expanded immigration detention, and attempted to significantly curtail the availability of various immigration visas and statuses.<sup>1</sup> On January 25, 2025, ICE field offices were told that

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<sup>1</sup> Proclamation 10888. 20 January 2025. 90 Fed. Register 8333-8336; U.S. Const. Art. IV, Section 4.

each office must detain at least 75 noncitizens every day, or more than 1,800 per day nationwide.<sup>2</sup> To hold more detainees, the Trump Administration opened Guantanamo Bay and sent detained individuals there in February, and has also started sending detained individuals to a mega-prison in El Salvador, in many cases before their due process rights can be vindicated.<sup>3</sup> On July 4, 2025, President Trump signed the One Big Beautiful (OBB) Act, a gargantuan domestic policy bill that, among other provisions, allocates more than \$170 billion for immigration enforcement through 2029. The OBB Act increases the annual budget of Immigration and Customs Enforcement (ICE) from \$8.7 billion to approximately \$27.7 billion, with \$75 billion appropriated to the agency over the next four years. With this unprecedented budget increase, ICE is slated to have a higher annual budget than the militaries of Italy, Brazil, Israel, and nearly 20 other countries in the top 40 of military spenders.<sup>4</sup> This funding will go almost exclusively toward immigration enforcement, detention and deportation operations.<sup>5</sup> On June 10, 2026, President Trump signed a bill authorizing another \$70 billion in funding for immigration enforcement.<sup>6</sup>

The Trump Administration's ramp-up of immigration enforcement has been accompanied by aggressive recruitment efforts, including attempts by federal immigration agencies to lure state peace officers.<sup>7</sup> ICE has taken steps to significantly expand hiring, such as giving out \$50,000 signing bonuses, offering student loan forgiveness, lowering the age limit for recruits from 21 to 18, and waiving the 37-year-old hiring cap, among others.<sup>8</sup> But amid this hiring surge, evidence has surfaced that ICE had misrepresented the rigor of its training for new officers, including legal training over whether they are permitted to use deadly force. According to a recent whistleblower account, training for new officers has been pared down to the point where it is "deficient, defective and broken."<sup>9</sup> Moreover, a recent review by the Associated Press found that at least two dozen ICE employees and contractors have been charged with crimes since 2020, including 9 such instances in 2025 alone.<sup>10</sup> According to the report, while most cases happened

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Executive Order 14159. 20 January 2025. 90 Fed. Register 8443. <https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/>

<sup>2</sup> Washington Post, *Trump Officials Issue Quotas to ICE Officers to Ramp up Arrests*, January 26, 2025, <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota>

<sup>3</sup> M. Lee, AP News, *Immigration Officials Defend Authority to Hold Migrants at Guantanamo Bay*, March 10, 2025, <https://apnews.com/article/us-immigration-detention-guantanamo-bay-d4fe8f0d051e0cd7e3f04ce02c8e7564>; M.

Aleman, AP News, *Venezuelan Migrants Deported by the US Ended up in a Salvadoran Prison. This is Their Legal Status*, March 25, 2025, <https://apnews.com/article/el-salvador-trump-tren-de-aragua-venezuela-dde4259e5dcd502101b7b8fbd3c03659>

<sup>4</sup> "ICE Budget Now Bigger Than Most of the World's Militaries." *Newsweek*. 2 July 2025. <https://www.newsweek.com/immigration-ice-bill-trump-2093456>

<sup>5</sup> "Explainer: One Big Beautiful Bill Act: Immigration Provisions." *Immigration Forum*. 7 July 2025. <https://forumtogether.org/article/one-big-beautiful-bill-act-immigration-provisions/>

<sup>6</sup> "Trump signs bill giving nearly \$70B to his immigration enforcement agenda through end of his term." 10 June 2026. *Associated Press*. <https://apnews.com/article/trump-immigration-enforcement-dhs-ice-deportation-9eef2e24fede3e4d593be462cbcf31f2>

<sup>7</sup> "ICE offers big bucks – but California police officers prove tough to poach." *Los Angeles Times* 22 September 2025, available at: <https://www.latimes.com/california/story/2025-09-22/ice-poaching-cops>

<sup>8</sup> Ray and Sanchez, "ICE expansion has outpaced accountability. What are the remedies?" *Brookings* 26 January 2026. Available at: <https://www.brookings.edu/articles/ice-expansion-has-outpaced-accountability-what-are-the-remedies/>

<sup>9</sup> "ICE whistleblower accuses agency of 'deficient, defective and broken' training amid hiring surge." *The Hill*. 23 February 2026. <https://thehill.com/homenews/administration/5751455-ice-officer-training-whistleblower/>

<sup>10</sup> "Takeaways from AP's review of recent criminal cases against ICE employees and contractors." *Associated Press*. 10 February 2026. <https://apnews.com/article/ice-agents-arrested-misconduct-abuse-corruption-charged-d3aeb8c20191fa357f87078fc169cc17>

before the passage of the OBB Act, “experts say such crimes could accelerate given the volume of new employees and their empowerment to use aggressive tactics to deport people.”<sup>11</sup>

Aggressive tactics have been one of the hallmarks of federal immigration enforcement during President Trump’s second term, and were on full display during Operation Metro Surge, a joint operation of ICE and CBP that took place throughout Minnesota (though primarily in the Twin Cities area) beginning in December 2025 and concluding early February 2026. During this operation, federal immigration officials employed harsh, confrontational, and arguably illegal tactics to make arrests, serve warrants, conduct raids and contain protesters.<sup>12</sup> Operation Metro Surge also resulted in the shooting of three civilians by federal immigration agents, two of which were fatal. On January 7, 2026, ICE agent Jonathan Ross fired three shots into the vehicle of Renee Good, killing her, and on January 24, 2026, CBP agents shot and killed Alex Pretti, who was filming immigration agents and standing between agents and a woman they had pushed to the ground.<sup>13</sup> Minnesota state investigators were blocked from participating in the investigation into both of these shootings. The third shooting occurred on January 14, 2026, when Julio Cesar Sosa-Celis was shot in the leg by an ICE agent after a vehicle chase and struggle outside his residence. After multiple conflicting accounts of the incident were advanced by the government, which were themselves contested by accounts provided by Sosa-Celis’ family who were inside the residence, federal prosecutors dismissed criminal charges against Sosa-Celis, and the ICE agents involved were suspended pending a criminal probe into whether they lied to a grand jury.<sup>14</sup> After an investigation into the shooting, on May 18, 2026, prosecutors in Hennepin County, MN charged the agent, Christian Castro, with assault and falsely reporting a crime, and on May 29, Castro was taken into custody in Texas.<sup>15</sup>

### 3. California Use of Force Standards and Officer-Involved Shooting (OIS) Investigations

In 1989, the U.S. Supreme Court set the standard for reasonable use of force in law enforcement. The general rule for how much force a law enforcement officer can use in response to a given situation is determined by a reasonableness test, requiring the careful balancing of the force against the countervailing government interest at stake.<sup>16</sup> In 2019, California refined its use of force statutes in order to provide clearer guidance to law enforcement and the public, specifically regarding the when the use of deadly force is appropriate. Namely, AB 392 (Weber), Chapter 170, Statutes of 2019, specified the circumstances in which deadly force is and is not appropriate, and SB 230 (Caballero), Chapter 285, Statutes of 2019, required law enforcement agencies to update their training and policies with specific requirements regarding use of force, including a requirement that an officer may only use a level of force that they reasonably believe

<sup>11</sup> *Ibid.*

<sup>12</sup> For instance, see <https://www.ilrc.org/immigration-enforcement/federal-tracking/large-scale-raids/minneapolis-mn-operation-metro-surge> and <https://www.jurist.org/news/2026/01/judge-partially-blocks-operation-metro-surge-tactics-against-protesters-in-minnesota/>

<sup>13</sup> “Minneapolis ICE shooting: A minute-by-minute timeline of how Renee Nicole Good died.” *ABC News*. 9 January 2026 <https://abcnews.com/US/minneapolis-ice-shooting-minute-minute-timeline-renee-nicole/story?id=129021809> ; “A minute-by-minute timeline of the fatal shooting of Alex Pretti involving federal agents.” *ABC News* 26 January 2026, <https://abcnews.com/Politics/minute-minute-timeline-fatal-shooting-alex-pretti-federal/story?id=129547199>

<sup>14</sup> “ICE Tried to Justify a Minneapolis Shooting. Its Story Unraveled.” *New York Times*. 14 February 2026. <https://www.nytimes.com/2026/02/14/us/julio-sosa-celis-ice-minneapolis-shooting.html>

<sup>15</sup> “ICE officer wanted in the shooting of a man during the Minneapolis crackdown is arrested in Texas.” *Associated Press*. 29 May 2026. <https://apnews.com/article/minneapolis-immigration-crackdown-arrest-sosacelis-811eca576b7b7088694cc3a646999d51>

<sup>16</sup> *Graham v. Connor* (1989) 490 U.S. 386, 396.

is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.<sup>17</sup>

The following year, after the murder of George Floyd sparked nationwide protests against police brutality, the Legislature passed AB 1506 (McCarty) Chapter 326, Statutes of 2020, which required the AG operate a Police Practices Division to review a local law enforcement agency's use of deadly force policy upon request, and to investigate incidents of an OIS resulting in the death of an unarmed civilian. Pursuant to AB 1506, the AG is authorized to investigate and gather facts in an incident involving a shooting by a peace officer that results in the death of a civilian if the civilian was unarmed or if there is a reasonable dispute as to whether the civilian was armed, and to submit a written report, which must include specified information. Moreover, AB 1506 authorizes the AG to initiate and prosecute a criminal action against the officer, if criminal charges are found to be warranted.<sup>18</sup> As of June 11, 2026, the Attorney General has issued 41 reports pursuant to AB 1506.<sup>19</sup>

This bill adapts the statutory language enacted by AB 1506 into a separate statute that applies to incidents of a federal immigration enforcement OIS resulting in the death of a civilian. Specifically, under this bill, the AG is required to investigate and gather facts in an incident involving a shooting resulting in the death of a civilian by a federal immigration enforcement officer and prepare and submit a written report.<sup>20</sup> The report, like the one issued under AB 1506, must include a statement of facts and a detailed analysis and conclusion for each investigatory issue. The bill also authorizes the AG to initiate and prosecute a criminal action against the officer if criminal charges are found to be warranted. In addition, the AG must post on its website each written report prepared pursuant to the above provisions.

According to materials submitted by the author, this bill is at least in part motivated by recent civilian shootings by federal immigration officers in California, most notably the killing of Keith Porter Jr. by an off-duty immigration agent in Northridge on December 31, 2025, and the shooting of Carlos Hernandez in Patterson on April 7, 2026. While the AG has not launched an independent probe into either of these shootings, he did issue guidance to California district attorneys and law enforcement agencies in January 2026 regarding investigations of potential state law violations by federal agents or officers, specifically stating:

Where potential criminal conduct occurs while a federal agent or officer is carrying out federal duties, joint investigations and information sharing agreements continue to be best practices if feasible for investigating such instances. However, in light of the federal government's recent actions, it is important to recognize that the interests of the state are not subordinate to federal interests when it comes to regulating local crime. **State and local law enforcement agencies maintain independent authority to investigate all potential violations of California state law even in instances where federal authorities may decline to cooperate** [bold in original]. [...] California law enforcement agencies are not obligated to defer to federal law enforcement in any incident involving conduct by federal agents that may implicate state criminal

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<sup>17</sup> Gov. Code, § 7286, subd. (b).

<sup>18</sup> AB 1506 is codified at Gov. Code, § 12525.3.

<sup>19</sup> "AB 1506 Case Archive." *Department of Justice*. <https://oag.ca.gov/ois-incidents/case-archive>

<sup>20</sup> Recall that under AB 1506, the AG is only "authorized" to conduct this investigation and such investigations may only be conducted of OIS involving "unarmed civilians."

law. However, conflict should be minimized, and communication and de-escalation should be of paramount importance in any interaction.<sup>21</sup>

#### 4. State Prosecution of a Federal Officer – Federal Law and Constitutional Considerations

The prosecution of a federal officer by the Attorney General, while technically permissible under the law, is likely to face several legal hurdles. The first is procedural – under federal law, any state criminal prosecution of a federal officer, for any act under color of such office, or on account of any right, title or authority claimed under federal law, may be “removed” to a United States district court from a state court in which the prosecution is initiated.<sup>22</sup> Under this law, the defendant federal officer in such a case is deemed to have been acting under the color of their office if they 1) protected an individual in the presence of the officer from a crime of violence, 2) provided immediate assistance to an individual who suffered, or who was threatened with, bodily harm, or 3) prevented the escape of any individual who the officer reasonably believed to have committed, or was about to commit, in the presence of the officer, a crime of violence that resulted in, or was likely to result in, death or serious bodily injury.<sup>23</sup> Practically, this means that it is not enough that the defendant is a federal officer; for the case to be removed to federal court, the defendant must also offer some rational defense based in federal law and tethered to the specific facts of the case.

California’s authority to prosecute crime generally is rooted in the Tenth Amendment to the United States Constitution, which provides that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”<sup>24</sup> Among these powers reserved to the states is the “police power,” which traditionally has been defined as the authority to define the criminal law and to provide for the public health, safety, morals and welfare.<sup>25</sup> It is well-established that the “states are independent sovereigns possessing inherent police power to criminally punish conduct inimical to the public welfare, even when that same conduct is also prohibited under federal law,” and that “foremost among the prerogatives of sovereignty is the power to create and enforce a criminal law.”<sup>26</sup>

However, when the state seeks to prosecute a federal officer, that authority is circumscribed by the Supremacy Clause (discussed further below), and in particular, a doctrine of that constitutional provision called “Supremacy Clause immunity” This doctrine traces its roots back to a Supreme Court case from 1890 called *In Re Neagle* (1890) 135 U.S. 1, in which the sheriff of San Joaquin County arrested a federal agent that had killed a former California Supreme Court justice who the agent believed was attacking a third party he was assigned to protect.<sup>27</sup> The Court ultimately held that “if the prisoner is held in the state court to answer for an act which he was authorized to do by the law of the United States, which it was his duty to do as marshal of the United States, and if, in doing that act, he did no more than what was necessary and proper for him to do, he *cannot* be guilty of a crime under the law of the state of California.”<sup>28</sup> More

<sup>21</sup> “Investigations of Potential State Law Violations By Federal Agents or Officers.” Law Enforcement Guidance Statement. *Rob Bonta, Attorney General*. Issued 27 January 2026. <https://oag.ca.gov/system/files/media/2026-dle-07.pdf>

<sup>22</sup> 28 U.S.C § 1442, subd. (a).

<sup>23</sup> 28 U.S.C § 1442, subd. (c).

<sup>24</sup> U.S. Const., 10th Amend.

<sup>25</sup> *Berman v. Parker* (1954) 348 U.S. 26, 28; *Gonzales v. Raich* (2005) 545 U.S. 1, 29-30.

<sup>26</sup> *In re Jose C.* (2009) 45 Cal.4th 534, 544; *Heath v. Alabama* (1985) 474 U.S. 82, 93.

<sup>27</sup> *Id.* at 52-53

<sup>28</sup> *Id.* at 75.

recently, that holding as been rearticulated as protecting a federal officer from state prosecution if the acts are both authorized by the laws of the United States and necessary and proper to the execution of his responsibilities.<sup>29</sup> This necessary and proper standard requires a showing that the defendant “had an honest and reasonable belief that what he did was necessary in the performance of his duty.”<sup>30</sup> As referenced at the beginning of comment 3, the touchstone in state prosecutions of federal officers, as is the case with most use of force cases, will be reasonableness, which is generally thought to be a relatively easy standard to meet.<sup>31</sup> The Committee should consider this immunity doctrine and its impact on the likelihood (or unlikelihood, as the case may be) of successful prosecutions of federal officers under the bill.

### *Intergovernmental Immunity*

Because this bill explicitly applies to federal immigration officer involved shootings, it likely implicates the Supremacy Clause of the United States Constitution, which provides that federal law “shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”<sup>32</sup> The doctrine of intergovernmental immunity is derived from the Supremacy Clause of the Constitution, and demands that “the activities of the Federal Government are free from regulation by any state.”<sup>33</sup> This makes a state regulation invalid if it “regulates the United States directly or discriminates against the Federal Government or those with whom it deals.”<sup>34</sup> Whether a state law “directly regulates” the federal government demands a functional inquiry into whether the regulations at issue “interfere with or control the operations of the federal government.”<sup>35</sup> Moreover, “a state or local law discriminates against the federal government if it treats a state entity more favorably than it treats a comparable federal entity.”<sup>36</sup> Critically, there is no de minimis exception to a discriminatory burden – *any* such burden is impermissible.<sup>37</sup> Nevertheless, it is well settled that generally applicable state laws can apply to federal entities.<sup>38</sup> It should be noted that “the scope of a federal contractor’s protection from state law under the Supremacy Clause is substantially narrower than that of a federal employee or other federal instrumentality.”<sup>39</sup>

While it is less likely that a court would scrutinize this bill as a “direct regulation” of the federal government, given that the bill does not impose any affirmative requirements on the federal government or clearly interfere with federal operations, certain differences between this bill and AB 1506 support an argument that this bill discriminates against the federal government under the standard articulated in the preceding paragraph. As noted previously, whereas AB 1506 *authorizes* the DOJ to investigate and report on OIS resulting in the death of an *unarmed* civilian, this bill *requires* the DOJ to investigate and report on OIS resulting in the death of *any* civilian. Additionally, though a distinction of lesser importance, AB 1806 requires the AG to conduct an “independent, transparent and thorough” investigation, while existing law includes

<sup>29</sup> *Morgan v. California* (9th Cir. 1984) 743 F.2d 728, 731

<sup>30</sup> *Clifton v. Cox* (9th Cir. 1977) 549 F.2d 722, 728-729.

<sup>31</sup> “Raising the Standard for Using Force.” *Stanford Center for Racial Justice, Stanford Law School*. Policy Brief. February 2026. <https://law.stanford.edu/wp-content/uploads/2026/02/Raising-the-Standard-for-Using-Force.pdf>

<sup>32</sup> U.S. Const., art. VI, Cl 2.

<sup>33</sup> *United States v. California* (9th Cir. 2019) 921 F.3d 865, 879.

<sup>34</sup> *N.D. v. United States* (1990) 495 U.S. 423, 435; *Boeing Co. v. Movassaghi* (9th Cir. 2014) 768 F.3d 832, 839.

<sup>35</sup> *United States v. Washington*, (2022) 596 U.S. 832, 838.

<sup>36</sup> *Boeing, supra*, 768 F.3d at p. 842, quoting *United States v. City of Arcata* (9th Cir. 2010) 629 F.3d 986, 991.

<sup>37</sup> *United States v. California, supra*, 921 F.3d at 880.

<sup>38</sup> See *United States ex rel. Drury v. Lewis*, 200 U.S. 1, 7-8 (1906); *Johnson v. Maryland*, 254 U.S. 51, 56 (1920).

<sup>39</sup> *Geo Grp., Inc. v. Newsom* (2022) 50 F.4th 745, 755.

none of this descriptive language. Because the AB 1506 statute makes a reference to “peace officers,” which is generally how California law enforcement officers are described in existing law, it arguably does not apply to federal law enforcement officers. However, because “peace officer” is not defined in the statute, an argument may be made that it does in fact give the AG authority to investigate federal OIS. To make this especially clear, instead of creating a standalone section related to federal immigration-related OIS the author and Committee may wish to consider amending the bill to instead define “peace officer” for the purposes of the existing OIS investigation statute to include federal, state, and local law enforcement officers. Such an amendment would eliminate the distinctions outlined above that make the current bill susceptible to an argument under the Supremacy Clause that it discriminates against the federal government, arguably making the bill more constitutionally durable.

## 5. Argument in Support

According to La Defensa:

The 2025 immigration enforcement surge has led to an unprecedented increase in civilian shootings by immigration agents. An investigative report by the Wall Street Journal identified 13 instances of immigration agents firing at or into civilian vehicles across the country since July 2025. These incidents resulted in four deaths and at least five of those shot were U.S. Citizens.

Two of the most high-profile cases involve the deaths of two American citizens in Minneapolis, Minnesota. Renee Nicole Good, a 37-year-old mother of three was fatally shot by an Immigration and Customs Enforcement (ICE) agent on January 7th and Alex Pretti, an ICU nurse was fatally shot by a Customs and Border Patrol (CBP) officer on January 24th. The U.S. Department of Justice declined to open an investigation into the agent that killed Renee Good and state officials reported being barred from receiving any evidence from the FBI. Similarly in Alex Pretti’s case state authorities were blocked from accessing the crime scene by Homeland Security officials.

In both the Good and Pretti cases, the federal government defended the shootings, characterizing the victims as violent agitators. These claims were publicly disputed by video evidence, local law enforcement, and independent analyses. The Trump administration has signaled to agents that they have “federal immunity” creating a culture of few checks on the use of deadly force during enforcement operations. California has already established a framework for independent investigation of officer-involved shootings. AB 1806 extends that same proven framework to fatal shootings by federal immigration agents operating in California.

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