



OFFICE OF THE GOVERNOR

August 19, 2025

Hon. Pam Bondi
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Via U.S. Mail and Email

Dear Attorney General Bondi:

Thank you for your letter to Governor Newsom on August 13, 2025. I am pleased to respond on the Governor's behalf. The State of California has a long history of collaboration with the U.S. Department of Justice to advance shared goals around public safety, supporting victims of crime, and defending the rule of law. Although our offices currently do not see eye-to-eye on a number of issues, I hope we can partner when our offices' interests do align and maintain open and constructive lines of communication in all instances.

To that end, the fourth paragraph of your letter threatens criminal prosecutions against state and local officials who "us[e] their official position to obstruct federal immigration enforcement efforts and facilitat[e] and induc[e] illegal immigration." Your letter states that the U.S. Department of Justice determined that California "engages in sanctuary policies and practices that thwart federal immigration enforcement to the detriment of the interests of the United States," implying that compliance with state law may subject state and local officials to criminal prosecution.

This is not the first time that this President's administration has challenged California's policies on law enforcement cooperation with federal immigration enforcement activities. The last time around, the federal government sued—and lost. It is now settled law in the United States Court of Appeals for the Ninth Circuit that California law limiting law enforcement coordination with federal immigration enforcement activities "does not directly conflict with any obligations that the [Immigration and Nationality Act] or other federal statutes impose on state or local governments," *United States v. California*, 921 F.3d 865, 887 (9th Cir. 2019), and that "California has the right, pursuant to the [Tenth Amendment's] anticommandeering rule, to refrain from assisting with federal efforts," *id.* at 891. The court rejected the federal government's argument that such conduct "unlawfully obstructs the enforcement of federal immigration laws," *id.* at 886—the very argument your letter retreads. The Ninth Circuit subsequently reaffirmed and extended the former holding in *City and County of San Francisco v. Barr*, 965 F.3d 753, 757 (9th Cir. 2020) (holding that the U.S. Department of Justice's attempts to withhold a grant based on a similar theory were unlawful).



Those cases are binding legal precedent. The federal government may still disagree with these holdings, and your office is seeking to overturn them via further civil litigation, which is within your rights in our system of law. But pursuing, or threatening to pursue, prosecutions in California while they remain controlling authority would flout the rule of law, as well as likely constitute malicious prosecution.

California's Rules of Professional Conduct generally prohibit lawyers from bringing a claim or asserting a position in litigation without probable cause and for the purpose of harassing or injuring a person. *See* Cal. Rules of Prof'l Conduct, Rule 3.1. The Rules additionally prescribe special duties for prosecutors, including a prohibition on instituting or continuing a prosecution that they know not to be supported by probable cause. *See id.*, Rule 3.8; *see also id.*, Rule 3.8, cmt. 1 ("A prosecutor has the responsibility of a minister of justice and not simply that of an advocate."). Initiating a criminal prosecution related to conduct that binding appellate authority holds is lawful would, in my view, directly violate these ethical obligations. Any California attorney involved in threatening or initiating such a prosecution in California may therefore risk facing an ethics complaint to the California State Bar. *See id.*, Rule 8.3 (requiring members of the Bar to report unethical conduct to the State Bar).¹

By Tuesday, August 26, 2025, please submit a response to this letter that confirms that you have issued internal guidance clarifying that prosecuting or threatening prosecutions against state or local officials for complying with California law, or similar local policies, is improper because controlling case law forecloses any legal basis for such prosecutions. I also encourage you to advise U.S. Department of Justice attorneys that any member of the California State Bar who participates in threatening or bringing a prosecution in California against state and local officials who, consistent with state law, decline to assist with federal immigration enforcement for alleged "obstruction" of federal immigration enforcement may face an ethics complaint.

Please do not hesitate to reach out if you have any questions on this or any other matter.

Sincerely,



David Sapp
Legal Affairs Secretary
Office of Governor Gavin Newsom

¹ Rule 3.10 prohibits lawyers from threatening to bring administrative or disciplinary charges to obtain an advantage in a civil dispute. *See* Cal. Rules of Prof'l Conduct, Rule 3.10. This letter relates to threatened criminal prosecution, not a civil matter. Additionally, Comment 1 to Rule 3.10 clarifies that a lawyer who believes in good faith that conduct of another lawyer violates the law may communicate that the lawyer will report the misconduct without violating the Rule. *See id.*, Rule 3.10, cmt. 1.