

Administrative Power Without Judicial Constraint

Why ICE's Interior Enforcement Model Is Colliding With Constitutional Policing



Based on the legal analysis "Administrative Power Without Judicial Constraint" by Eric Sanders, The Sanders Firm, P.C. (January 11, 2026).

This Is Not a Border Dispute. It Is a Crisis of Interior Police Power.

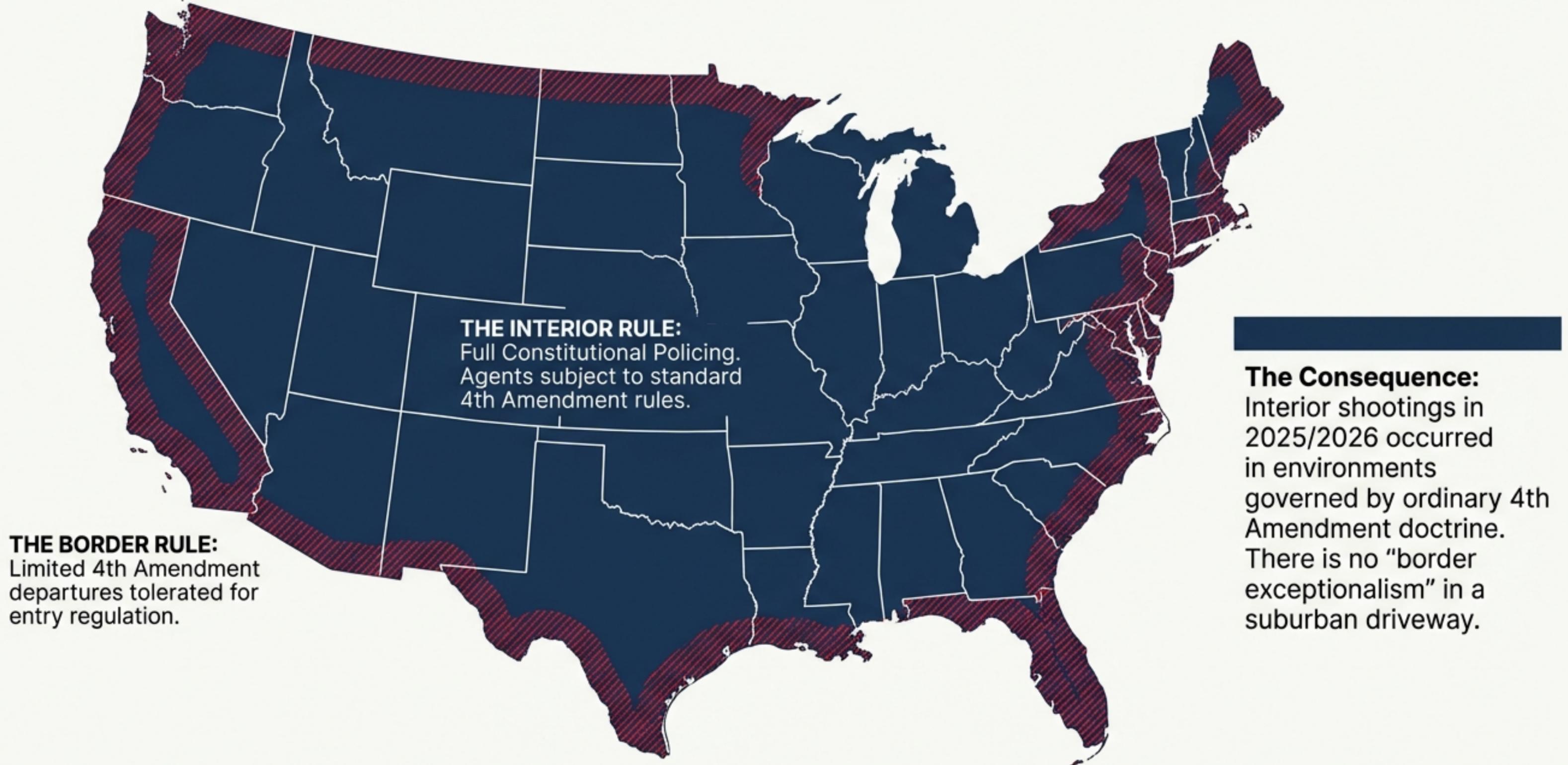
The current confrontation is being dangerously misframed. Recent shootings involving ICE agents are not occurring at checkpoints; they are occurring in cities, residential neighborhoods, and parking lots thousands of miles from the border.

The Central Question: Can executive agencies exercise domestic police power inside the interior of the United States **without judges, without transparent identification, and without accountability** to state criminal law?

Key Insight: Congress's immigration power has never been a "roving license" for interior policing. Outside the border context, federal agents are not exempt from the Fourth Amendment.



Geography is Destiny: Border Exceptions Do Not Travel



Supremacy Clause Immunity Is Conditional, Not Absolute

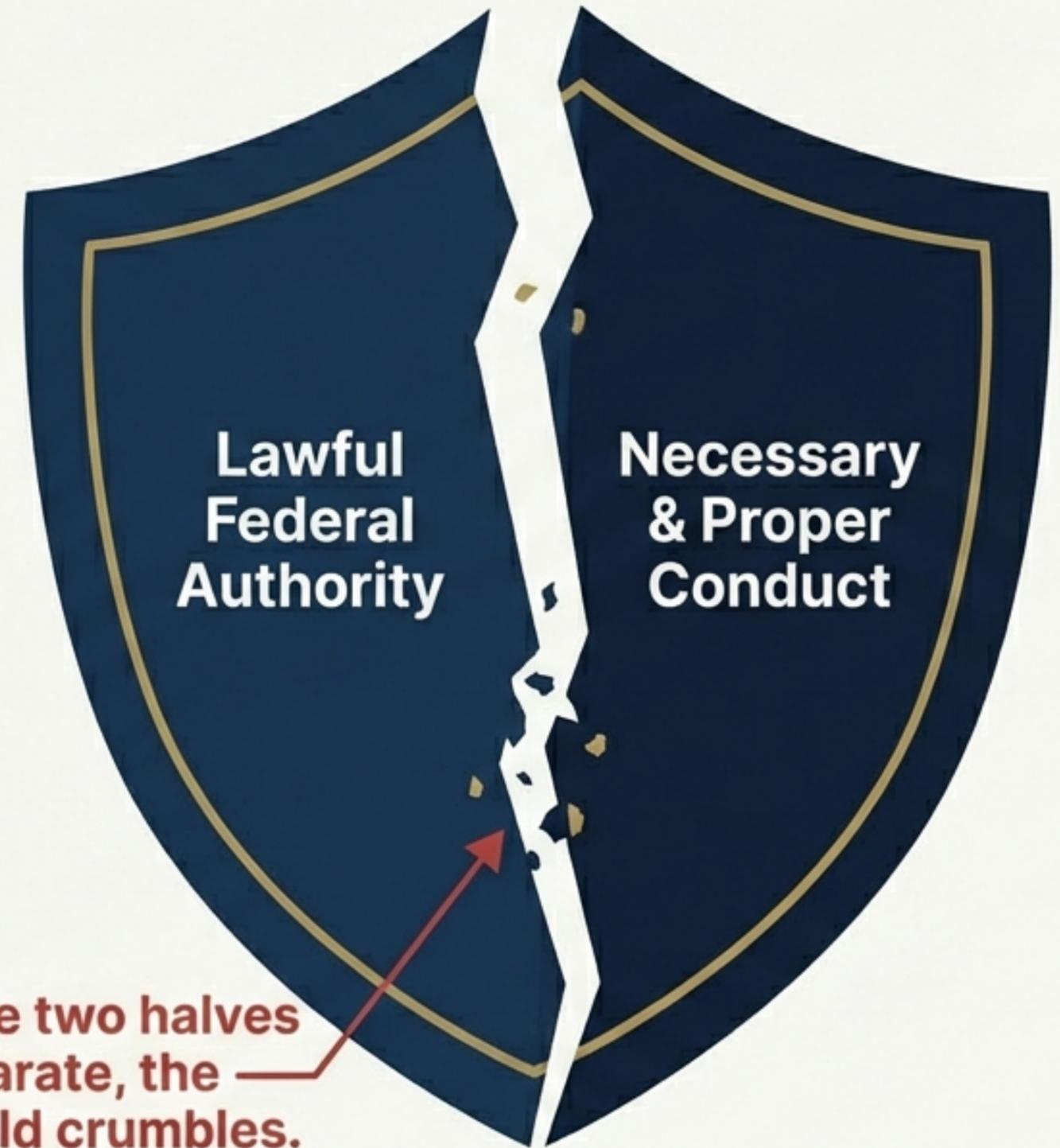
The Immunity Test:

A federal officer is immune from state prosecution ONLY when:

1. Acting within the scope of lawful federal authority.
2. Doing no more than what is "necessary and proper" to carry out that authority.

“Supremacy Clause immunity has never been a blank check.”

In re Neagle (135 U.S. 1) & Clifton v. Cox



The Warrant Divide: Replacing the Bill of Rights with an Agency Memo

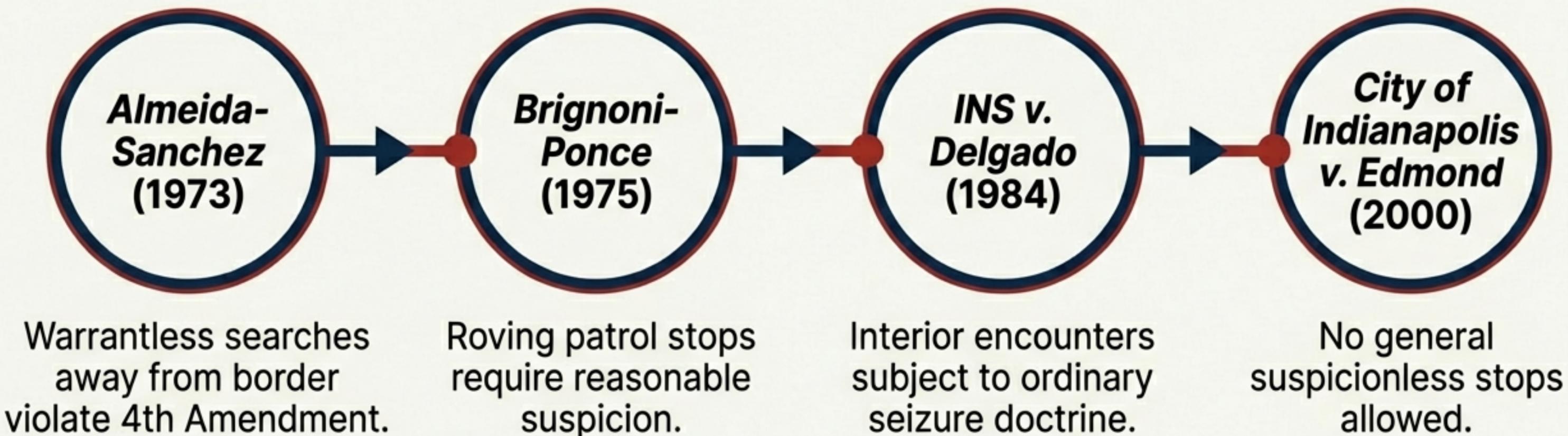
The Category Error in Interior Enforcement

Administrative Warrant (Civil)	Judicial Warrant (Criminal)
 <ul style="list-style-type: none">• Issued by: Agency Official• Basis: Administrative request• Review: No judicial oversight• Authority: Civil custody only	 <ul style="list-style-type: none">• Issued by: Neutral Magistrate• Basis: Probable cause of a crime• Review: Article III Power• Authority: Seizure under 4th Amendment

Constitutional Defect: Treating an administrative warrant as a judicial one replaces the Fourth Amendment with an internal memo.

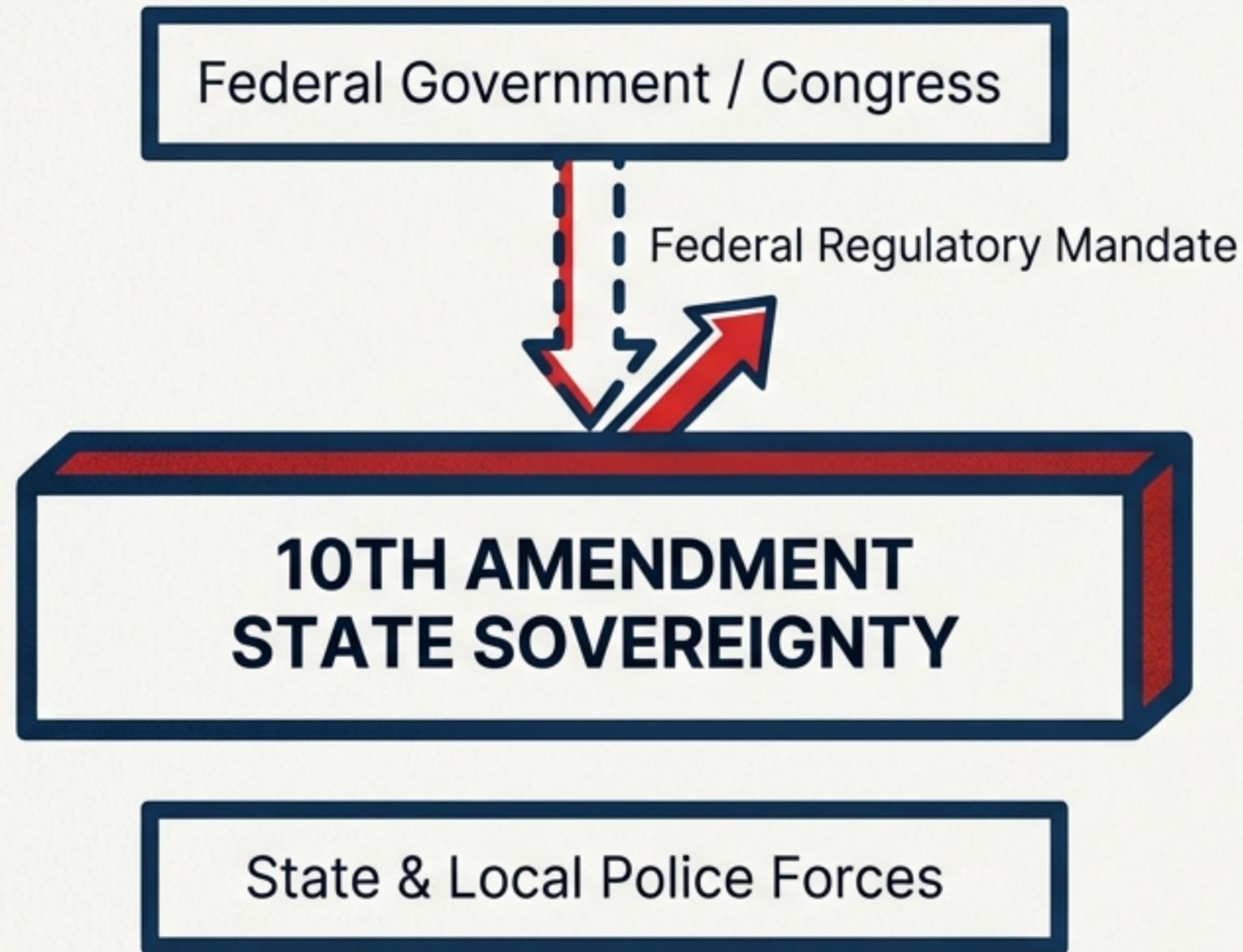
The 'Roving Patrol' Myth: Interior Stops Require Suspicion

Relabeling a police stop as an "administrative encounter" does not evade the Constitution.



The Takeaway: If an agent stops a vehicle in the interior, they need individualized suspicion, just like any other cop.

Reframing “Sanctuary”: The Anti-Commandeering Doctrine



It is not about protecting criminals. It is about protecting Sovereignty.

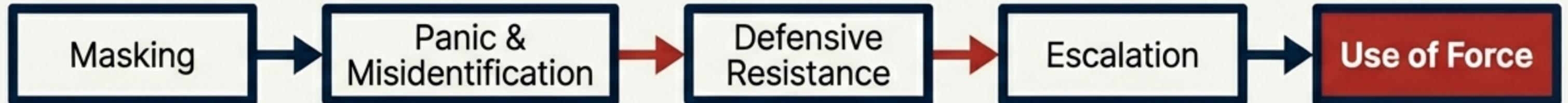
The Legal Basis: Under *Printz v. United States*, the Federal government cannot “commandeer” state officers to execute federal laws. Refusal to honor administrative detainers is not nullification—it is constitutional compliance.

Risk: Assisting civil arrests creates liability for state officers (*Morales v. Chadbourne*).

Anonymity vs. Accountability: The Danger of Masked Enforcement



The Foreseeability Chain



When tactics create foreseeable violence, the resulting use of force is harder to justify as “necessary” or “reasonable” under *Graham v. Connor*.

The Breaking Point: Why Interior Immunity Claims Collapse

The Immunity Test Applied to Administrative Enforcement

- | | | |
|--|---------------|--|
| 1. Was action authorized by Congress <i>in that location</i> ? | ✗ FAIL | NO. Administrative warrants are civil, not criminal. |
| 2. Was the stop supported by judicial warrant or suspicion? | ✗ FAIL | NO. Often lacking in generalized enforcement. |
| 3. Was the framework civil or criminal? | ✗ FAIL | CIVIL. Civil authority does not justify criminal-level force. |
| 4. Was force necessary/proportionate? | ✗ FAIL | NO. Foreseeable escalation undermines necessity. |

Interior shootings based on administrative authority alone sit beyond Supremacy Clause protection.

Forewarned is Forearmed: The PERF Report Evidence

2013 Review of Use of Force by U.S. Customs and Border Protection

- Agents repeatedly **placed themselves** in **avoidable danger** (e.g., stepping in front of vehicles).
- Agents **failed to disengage** when safer alternatives existed.
- Agents relied on **self-created risks** to justify lethal force.

Police Executive Research Forum

When safer alternatives exist and are ignored, deadly force is not “necessary.” You cannot claim immunity for a crisis you created.

The Judicial Check: *United States v. State of New York* (POCA)



The Ruling: The court rejected the attempt to convert statutory silence into executive supremacy.

Key Principle: Authority must flow from Congress, not from agency practice, operational convenience, or enforcement preference.

Significance: POCA confirms that states retain sovereignty over policing norms and judicial access. Ordinary constitutional constraints apply in the interior.

The Cost of “Absolute Authority” Rhetoric

DHS/ICE rhetoric suggesting agents are above state law **encourages boundary-pushing** and **undermines legitimacy**.

Encourages boundary-pushing by line agents.

Signals that statutory limits are flexible.

Undermines the legitimacy of federal authority.

“Institutional restraint is not weakness. It is preservation.”

Conclusion: Efficiency Cannot Replace Legality



- Administrative warrants cannot replace judges.
- Masks cannot replace identification.
- Rhetoric cannot replace statutory authority.

This is a test of whether constitutional policing governs the use of force inside the US. The line must be drawn by the courts if agencies won't draw it themselves.

Key Legal Authorities & Sources

Analysis based on “Administrative Power Without Judicial Constraint”
by Eric Sanders, The Sanders Firm, P.C.

In re Neagle
(Immunity limits)

Printz v. United States
(Anti-commandeering)

*United States v.
State of New York*
(POCA / State Sovereignty)

*Almeida-Sanchez v. United
States* (Border search limits)

*Tennessee v. Garner &
Graham v. Connor*
(Use of Force)

Johnson v. United States
(Warrant requirement)