

# CITY OF OAKLAND



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October 16, 2025

**HONORABLE CITY COUNCIL**  
Oakland, California

**Re: Resolution Delegating Authority To The City Attorney Or Their Designee To Facilitate And Authorize The Legal Defense Of City Officers And Employees In Criminal Proceedings For Acts Or Omissions Within The Scope Of Their Official Duties Upon Making The Findings Required By Government Code Section 995.8 And Subject To Ratification By The City Council As Soon As Practicable**

Dear Mayor Lee, Council President Jenkins and Members of the City Council:

The Office of the City Attorney has submitted the above-listed resolution for your consideration and approval. The resolution asks the Council to delegate authority to the City Attorney or their designee to facilitate and authorize the legal defense of City officers and employees in criminal proceedings for acts or omissions within the scope of their official duties upon making the findings required by Government Code Section 995.8 and subject to ratification by the City Council as soon as practicable. Other jurisdictions such as the City of San Jose, Santa Clara County and the City of West Hollywood have taken similar actions to delegate authority under Government Code section 995.8.

While a public entity is generally required to defend its employees in civil actions, a public entity is not required to defend a city employee against criminal actions. Government Code section 995.8 allows a public entity to provide a legal defense in a criminal action if:

- (a) The criminal action or proceeding is brought on account of an act or omission in the scope of his employment as an employee of the public entity; and
- (b) The public entity determines that such defense would be in the best interests of the public entity and that the employee or former employee acted, or failed to act, in good faith, without actual malice and in the apparent interests of the public entity.

SB 54, the California Values Act, restricts state and local law enforcement and limits cooperation with federal immigration authorities for immigration enforcement purposes.

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Likewise, under local law, the City does not provide law enforcement assistance to Department of Immigration and Customs Enforcement (ICE) operations unrelated to public safety emergencies and, subject to certain exceptions for which a waiver would be required, does not contract with vendors that have contracts with ICE. These laws are set forth in the City's Sanctuary City Ordinance, [13515 C.M.S.](#) and Sanctuary City Contracting and Investment Ordinance, Oakland Municipal Code [Chapter 2.23](#).

Given the threat of prosecution against City officials for merely complying with applicable state and local law, it may be in the best interests of the City to provide a defense for those officers and employees of the City who are acting in good faith to perform their official duties in compliance with state and local law and other City policies.

Furthermore, it may be in the best interests of the City to begin providing such a defense quickly, without having to wait to bring the authorization to a City Council meeting. Circumstances resulting in the need for criminal defense can arise quickly and unexpectedly and, in such circumstances, time may be of the essence. Delaying the provision of a criminal defense until the City Council can meet to authorize such a defense might be prejudicial to the City official or employee facing criminal charges, might hinder them in continuing to perform their official duties, and could have a chilling effect on other City officials and employees in the performance of their own official duties.

By this resolution, the City Attorney could act immediately to determine that the defense of a criminal proceeding is appropriate and could assign qualified criminal defense counsel in a timely manner. The City Attorney would seek the Council's ratification of the assignment as soon as practicable. The authority to provide a legal defense would include, but would not be limited to, matters related to immigration enforcement.

Respectfully submitted,

  
RYAN RICHARDSON  
City Attorney

cc: Jestin D. Johnson, City Administrator  
Maria Bee, Assistant City Attorney - Litigation  
Amber Macaulay, Assistant City Attorney - Advisory  
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