


City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

INTRODUCED BY VICE MAYOR CAMPBELL WASHINGTON, PRESIDENT PRO TEM
REID, COUNCILMEMBER GALLO AND COUNCILMEMBER GUILLEN

RESOLUTION DENOUNCING TACTICS USED TO INTIMIDATE IMMIGRANTS RESIDING IN OAKLAND AND RE-AFFIRMING THE CITY'S DECLARATION AS A CITY OF REFUGE

WHEREAS, since the presidential election, there has been a sense of uncertainty and fear among many immigrant communities in Oakland and across the nation; and

WHEREAS, the United States supported the United Nations adoption of the Universal Declaration of Human Rights which commits member countries to recognize and observe basic human rights; and

WHEREAS, the City of Oakland assures its residents that Oakland is and will remain a sanctuary city; and

WHEREAS, the Oakland City Council wishes to reaffirm the declaration that Oakland is a City of Refuge for immigrants from all countries; and

WHEREAS, it is the City Council's desire to ensure that its immigrant residents participate in civic life and daily activities without fear of being arrested or reported to the United States Immigration and Customs Enforcement (ICE) agency; and

WHEREAS, the City of Oakland has been on record since July 8, 1986 as a City of Refuge when it adopted Resolution No. 63950; and

WHEREAS, the City of Oakland has a strong tradition of embracing and valuing diversity and respecting the civil and human rights of all residents regardless of their immigration status; and

WHEREAS, the City of Oakland is made up of racially and ethnically diverse individuals, both native born and immigrants, whose collective cultures, backgrounds and viewpoints join to form a highly cosmopolitan community which prides itself on being a place which welcomes persons and families of all backgrounds and nationalities; and

WHEREAS, in the past the Oakland City Council has recognized the contributions of immigrant communities in the City and throughout California, noting that “California’s economy depends heavily on immigrant labor” and that “Oakland has a large immigrant community whose investments have contributed to the revitalization of the City’s neighborhoods”; and

WHEREAS, the Board of Education of the Oakland Unified School District believes that what unites us as Americans is our belief in shared values and in our country, not where one is born and from our nation’s inception, immigrant families have come to the United States for the promise of freedom and the opportunity to provide a better life for their children; and

WHEREAS, many children who are native to the United States or are undocumented immigrants have been separated from their families due to their parents’ or their personal immigration status by United States Immigration & Customs Enforcement Agency; and

WHEREAS, approximately 31% of all Alameda County residents are foreign born¹, hailing from communities from all over the world, and approximately 43% speak a language other than English at home², and approximately 53% of children in the County live in families where at least one parent was born outside the United States³; and

WHEREAS, the Board of Education of the Oakland Unified School District, by Resolution No. 0809-0050, adopted September 24, 2008, Resolution No. 0910-0182, adopted March 10, 2010, and Resolution number 1213-0126 adopted March 27, 2013, has taken the position that the State of California should protect its students, and many students of similar status, who are hardworking, came to the state as children of undocumented immigrants and graduate from high school, and that this is in the state’s own interest to insure that these students become contributing college educated members of society; and

WHEREAS, the Attorney General of the State of California, relying on the federal Ninth Circuit Court of Appeals decision in *Gonzales v. City of Peoria*, has concluded that the enforcement of the civil provisions of the immigrant law is within the exclusive jurisdiction of the federal government and that local and state officials “have no duty to report to the INS [Homeland Security] knowledge they might have” about a person’s immigration status, and further, that their failure to do so does not constitute any violation of law; and

WHEREAS, the enforcement of civil immigration laws by local police agencies raises many complex legal, logistical and resource issues for the City, including undermining the trust and cooperation with immigrant communities, increasing the risk of civil liability due to the complexity of civil immigration laws and the lack of training and

¹ U.S. Census available at www.census.gov

² Ibid

³ Kids Data available at www.kidsdata.org

expertise of local police on civil immigration enforcement and detracting from the core mission of the Oakland Police Department to create safe communities; and

WHEREAS, the City Council is greatly concerned about public safety in Oakland and the mission of the Oakland Police Department is to protect the safety of the public against crimes committed by persons who are native born or immigrants; and

WHEREAS, most immigrants in the City are law abiding citizens and are themselves the victims of crime, and the City wishes to foster the trust and cooperation with its immigrant communities and wishes to encourage immigrants to report crime and speak to the police without fear of being arrested or reported to the United States Immigration and Customs Enforcement agency; and

WHEREAS, current Alameda County Sheriff's Office (ACSO) policy allows deputies to respond to ICE Requests for Notification, which are voluntary in nature, and also permits deputies in Alameda County jails to affirmatively inform Immigration and Customs Enforcement agency about the immigration status of particular individuals and the scheduled release time of those individuals so that ICE can detain them upon their release from ACSO custody⁴; and

WHEREAS, the Oakland City Council opposes any Alameda County law enforcement department, agency or office to investigate, question, apprehend, or arrest an individual for an actual or suspected civil violation of federal immigration law; and

WHEREAS, consistent with the law and with Council policy, the Oakland Police Department does not enforce federal civil immigration laws, does not conduct immigration raids, and does not question, detain or arrest individuals solely on the basis that they might be in this country in violation of federal civil immigration laws; now therefore be it

RESOLVED: That the Oakland City Council opposes immigration raids and calls upon the federal government to impose a moratorium in order to protect the civil rights of immigrant communities until such time as the U.S. Congress implements comprehensive immigration reforms that are fair and humane and which recognize the economic and cultural contributions of immigrants and support efforts for universal representation of immigrants in deportation hearings; and be it

FURTHER RESOLVED: That the Oakland City Council reaffirms the declaration that Oakland is a City of Refuge for immigrants from all countries; and be it

FURTHER RESOLVED: That the City of Oakland shall not disclose the identifications or contact information for any cardholders and participants in the City of Oakland's Municipal ID program or any other City program or service that has access to the personal information of Oakland residents; and be it

⁴ General Order 1.24, revised July 6, 2015 Sec. IV(E)(2) and (3).

FURTHER RESOLVED: That the Oakland City Council instructs the City Administrator that she, and all City departments and employees of the City of Oakland subject to her jurisdiction, shall refrain from assisting or cooperating in their official capacity with any Federal immigration investigation, detention or arrest procedures, public or clandestine, relating to alleged violations of the civil provisions of the immigration laws; and

FURTHER RESOLVED: That the Oakland City Council directs the City Administrator to develop and implement plans to protect the personal immigration information of Oakland residents and directs that the City Administrator and City employees and departments subject to her jurisdiction, shall not, to the extent legally permissible, request information about or disseminate information regarding the immigration status of any individual, or condition the provision of City of Oakland services or benefits upon immigration status unless required to do so by statute, federal regulation or court decision; and be it

FURTHER RESOLVED: That the Oakland City Council re-affirms that all applications, questionnaires and interview forms used in relation to City of Oakland benefits, opportunities or services shall be reviewed and any question regarding citizenship status, other than those required by statute, federal regulation or court decision, should be deleted; and be it

FURTHER RESOLVED: That the Oakland City Council urges Governor Brown and all state representatives to act with urgency to make the entire state of California into a sanctuary for immigrants or "State of Refuge" and to use our state's economic leverage to protect our cities from sanctions while protecting families from gross violations of civil rights; and be it

FURTHER RESOLVED: That in accordance with State and Federal laws, the City Administrator and employees subject to her jurisdiction, including members of the Oakland Police Department, shall not enforce Federal civil immigration laws and shall not use city monies, resources or personnel to investigate, question, detect or apprehend persons whose only violation is or may be a civil violation of immigration law; and be it

FURTHER RESOLVED: That in accordance with State and Federal laws the Oakland Police Department will continue to cooperate with Federal immigration agencies in matters involving criminal activity and the protection of public safety; and be it

FURTHER RESOLVED: That nothing in this resolution shall be construed to prohibit the City Administrator or City employees and Oakland police officers from cooperating with Federal immigration agencies when they are required to do so by statute, Federal regulation, court decision or a legally binding agreement.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN,
REID AND PRESIDENT GIBSON MCELHANEY

NOES -
ABSENT -
ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of the City
of Oakland, California