

Policy Statement Regarding  
The  
City Attorney's Office Prosecution Unit

The purpose of this policy statement is to reinforce that the filing of criminal charges, and the prosecution of these charges, by the Alameda City Attorney's Office is an independent action of the Office of the City Attorney that is not influenced by any other department or branch of the City of Alameda.

The filing and prosecution of misdemeanor charges by the Prosecution Unit of the Alameda City Attorney's Office is done in the name of the People of the State of California by City prosecutors acting by and through authority of the City Attorney. These prosecutorial activities are authorized by Alameda Charter Section 8-2 and by California Government Code Sections 100 and 72193. Consistent with prosecutorial functions throughout California, City Prosecutors are guided by well-established professional rules of conduct, such as the California State Bar's Rules of Professional Conduct, and guidance contained in the California District Attorneys Association's Uniform Crime Charging Standards.

While the City Attorney is appointed by and serves at the pleasure of the City Council, well settled law holds that prosecutions by the City Attorney Office are not subject to the input, review or oversight of the City Council. As stated by the California Supreme Court, "The prosecution of criminal offenses on behalf of the People is the sole responsibility of the public prosecutor . . . (who) ordinarily has the sole discretion to determine whom to charge, what charges to file and pursue and what punishment to seek." *People v. Eubanks* (1996) 14 Cal.4th 590. Courts also have ruled that a public appointing body, such as the City Council, has no authority to influence prosecutorial discretion. *See Pitts v. County of Kern* (1998) 70 Cal.Rptr. 2nd 823. Instead, the City's local prosecutorial functions are subject to supervision by the California Attorney General, as with every District Attorney's Office and City Prosecutor's Office in the State of California. *See id.*; *see also*, California Constitution Art. 5, Section 13.

Accordingly, when a prosecutor acting with the authority of the City Attorney makes a decision to pursue (or not pursue) criminal charges, the prosecutor and the City Attorney do not seek or take input from the City's decision makers such as the City Council or City Manager. Further, to maintain the independence of the prosecutorial function, the City Attorney's Prosecution Unit maintains an ethical wall of separation from the rest of the Office. Decisions to file or not file criminal charges are not discussed with attorneys outside of the Unit or with any other branches of the City.