



August 30, 2017

To the Members of the Oakland City Council: Abel Guillen (President Pro Tem), Dan Kalb., Lynette Gibson-McElhaney, Annie Campbell-Washington, Desley Brooks, Noel Gallo, Larry Reid, Rebecca Kaplan

CC: Libby Schaaf,, Mayor of Oakland

Re: August 16 Homeland Security Investigations (HSI) Operation in West Oakland

Dear Honorable City Council Members and Mayor Schaaf,

On July 18, the Oakland City Council voted unanimously to terminate an existing agreement with Homeland Security Investigations (HSI), one week after a similar unanimous vote in the Public Safety Committee. On August 16, HSI executed a warrant at a West Oakland Guatemalan household. HSI was accompanied by Oakland Police Department (OPD) officers.

The HSI operation has been reported on extensively by local media, with most reports quoting the statement issued by Chief Anne Kirkpatrick, wherein she discussed OPD's participation. Eyewitness reports of the incident, media coverage of the event, and a review of the provided explanation, have caused some concerns that we would like to briefly outline here.

We believe that Chief Kirkpatrick should provide additional information to the City Council at a public hearing, so that residents can better understand the nature of this incident, including what due diligence the Chief performed prior to providing City resources, if any, and whether OPD Immigration Policy Sections 415.4, 415.5, and the city's Sanctuary City Resolution were complied with.

Based on the facts known on August 16th, and subsequent information provided by the family to freelance reporter Dave Id (IndyBay) who originally broke the story, we have learned that two males were initially detained, with one being released the same day; the second male was sent to the immigration detention facility in Richmond; a bond hearing today set the second male's bond at only \$5,000, indicating he was held on a civil immigration matter, and the family is presently processing the paperwork to ensure his release today; no criminal charges against any family member have been reported, and the family is representing that none have been filed against them pursuant to the investigation. The family matriarch, who was stated to be the suspected trafficker by one of the agents during the raid, was never detained at all.

MISIDENTIFICATION OF WARRANT CHARGES TO MEDIA

When word of the HSI operation broke via an eyewitness report, the first few reports from television stations which went to the 27th street location contained a statement from OPD that the warrant obtained by HSI contained allegations of sexual trafficking of a minor. Both KGO-TV (ABC) and KPIX-TV (CBS) announced on the morning of August 16 that a warrant was being executed by ICE for the sexual trafficking of minors.¹

It was subsequently reported that the assertion regarding sexual trafficking was false. The Oakland Police Department has confirmed that the statement from the OPD information officer provided to these media outlets was erroneous. This is concerning because it creates an inference that Chief Kirkpatrick had incomplete or erroneous information about the nature of the investigation, when authorizing the use of City resources.

It is an issue of grave concern that information provided to the residents of Oakland about HSI activity in the City via mass media was not accurate, and it raises the question as to whether Chief Kirkpatrick performed any inquiry into the matter, before committing City resources to such an investigation. The City did not fulfill its responsibility to be accurate and transparent. That the inaccurate information was salacious served two destructive purposes. Firstly, it mischaracterized the nature of the HSI operation in an emotionally manipulative way because no one is in favor of the sexual trafficking of juveniles, whether committed by a Guatemalan family living on 27th Street or by OPD officers themselves. Secondly, by disseminating misinformation to the mass media, the City harmed the people living in the home, including those arrested and those not arrested, as their residential address was disclosed on camera by the media attention it generated, and then linked them wrongfully to a heinous crime.

ARRESTS MADE ON AUGUST 16 HAVE NOT YET RESULTED IN HUMAN TRAFFICKING CHARGES, OR ANY CRIMINAL CHARGES

During the Privacy Commission's investigation into the status of Oakland's federal agreements, the Oakland Police Department presented a revised internal policy regarding immigration enforcement.² In relevant part, it states that no OPD resources would be made available for immigration enforcement. Section 415.4 of the policy states that OPD "shall not...assist ICE in the enforcement of violations of civil immigration laws...use personnel or resources where the only objective is to discover whether an individual is in violation of a civil immigration law..." Chief Kirkpatrick's explanation to the City Council for OPD's cooperation with HSI on August 16 seems to imply that because this investigation was initiated by HSI and not the deportation arm of ICE, that OPD participation was appropriate. If this the Chief's position, she is painfully ignorant regarding ICE operations throughout California and beyond.

As the Mercury News reported in February, HSI made similar representations to the Santa Cruz Police Department that a planned raid pertained solely to a criminal investigation. It was subsequently learned that immigrants not suspected of criminal wrongdoing were detained during the HSI-Santa Cruz operation. In reliance upon the representations, Santa Cruz PD provided resources to HSI despite its Sanctuary City status. Of note, the Santa Cruz Sheriff's office refused to participate, stating that they "didn't receive adequate information regarding the full context of the operation and as such, did not feel comfortable devoting sheriff's office resources." Santa Cruz Police Chief Kevin Vogel and Assistant Chief Dan Flippo both later stated that federal officials lied to them about the nature of the investigation.³

1 <http://abc7news.com/society/ice-raid-in-west-oakland-related-to-sex-trafficking/2315669/>

2 <http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak065136.pdf>

3 <https://ww2.kqed.org/news/2017/02/24/santa-cruz-police-ice-lied-to-us-about-immigration-arrests/>

Major media has reported that two arrests were made at the home in West Oakland. It isn't clear whether the two individuals taken away, both undocumented males, were or were not the individuals named on the warrant.⁴

In the case of the released individual, it is odd that federal law enforcement would go to the trouble of requesting a warrant for the arrest of a person for human trafficking only to release them less than a day later with no charges, especially because the investigation had been going on “for quite some time”, according to Chief Kirkpatrick’s email to the City Council. Why was the intelligence so wrong?

Like the Santa Cruz operation, it seems that civil immigration enforcement occurs during HSI “criminal bureau” operations. This raises additional questions about the nature of the operation and what Chief Kirkpatrick knew when she authorized the use of City resources.

The facts of this incident suggest that compliance with Oakland's policy requires more than simply ascertaining whether a request for support comes from ICE's criminal or immigration divisions. It also seems clear that ICE operations may include civil immigration enforcement at any time and that such action could occur during an HSI operation. If true, then Oakland's current internal policy cannot be consistently complied with.

CONCLUSION

In short, the public was not provided with accurate and transparent information in a timely manner about what occurred during the HSI/ICE operation, despite the high level of public concern about this issue. It remains unclear whether the Oakland Police Department provided material assistance in the detention and potential deportation of an undocumented Oakland resident who may or may not have been named in a warrant and may not have committed any criminal wrongdoing.

For these reasons, Oakland Privacy encourages you to look deeply into the events of August 16 and consider whether they meet with the letter and the spirit of the City Council's deliberations regarding your ongoing relationship with HSI/ICE and the standards for public transparency that Oakland hopes to achieve. Furthermore, Chief Kirkpatrick should publicly present what information she relied upon when making her decision to participate. If a trafficker was removed from Oakland pursuant to a lawfully executed warrant, such facts are easily available and will assure the public that OPD can both investigate crimes and honor our Sanctuary City status at the same time.

Thank you for your time and consideration.

Tracy Rosenberg, Lou Katz and James P. Massar
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⁴https://www.indybay.org/newsitems/2017/08/18/18801820.php?show_comments=1