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REVISED

AGENDA REPORT

TO: Sabrina B. Landreth
 City Administrator

FROM: Anne E. Kirkpatrick
 Chief of Police

SUBJECT: OPD/HSI/ICE Raid Compliance

DATE: October 20, 2017

City Administrator
 Approval

Date

11/1/17

RECOMMENDATION

Staff Recommends That The City Council Receive This Report With Possible Action Regarding The HSI/ICE Raid In West Oakland on August 16, 2017. Said Report Shall Include 1.) A Chronological Timeline And Review Of The August 16, 2017 HSI/ICE Raid; 2.) The Date The OPD/ICE Memorandum Of Understanding Was Officially Terminated; 3.) Specifically Set Forth Any And All Oakland Police Department Involvement In, And Tasks, At The HSI/ICE West Oakland Raid On August 16, 2017; 4.) Number Of Officers And Associated Cost Of OPD Involvement; 5.) Respond To Each Question Raised In The Privacy Commission's Memo Dated October 5, 2017; And 6.) Recommendations for Improvement In Transparency, And Compliance With Council Approved Policy Regarding Involvement With ICE.

EXECUTIVE SUMMARY

~~This report responds to Councilmember Desley Brooks' and Councilmember Rebecca Kaplan's request that the Oakland Police Department (OPD) provide an Informational Report regarding an operation conducted by HSI (Homeland Security Investigations) on August 16, 2017. This report provides each of the following:~~

- A chronological timeline and review of the August 16, 2017 HSI West Oakland operation;
- The date the OPD/HSI Memorandum of Understanding was officially terminated;
- Information about OPD involvement in the August 16, 2017 HSI West Oakland operation (including tasks performed by OPD);
- The number of officers involved in the August 16, 2017 HSI West Oakland operation and the associated cost of OPD involvement;
- A response to each question in the memorandum authored by Privacy Advisory Commission Chair Brian Hofer and provided to other members of the Privacy Advisory Commission on October 5, 2017;
- Compliance with Council-approved policy regarding involvement with ICE; and

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- Recommendations for OPD providing greater transparency regarding involvement with ICE.

BACKGROUND AND LEGISLATIVE HISTORY

On April 26, 2016, OPD presented an agenda report and resolution to the Public Safety Committee with a recommendation to:

Adopt A Resolution Authorizing The City Administrator Or Designee To Enter Into A Memorandum Of Understanding (MOU) With The Department Of Homeland Security (DHS), Office Of Homeland Security Investigations (HSI) For The Purpose Of Allowing Particular Oakland Police Department (OPD) Officers To Be Designated As United States Customs Title 19 Task Force Officers (TFO), Without Additional Compensation, Until The Expiration Date Of The Agreement, Unless Revoked At An Earlier Date By Either OPD OR HSI

The agenda report also stated:

The MOU will allow OPD officers in the Criminal Investigation Division (CID) to be deputized as HSI Task Force Officers (TFOs), under Title 19, Section 1401, U.S. Code. TFOs will be able to partner with HSI special agents and work collaboratively to investigate gang and violent group crimes, drug and weapons smuggling, and human-trafficking crimes that have a nexus in Oakland and transcend City boundaries. This partnership will provide the City of Oakland and OPD with more resources to investigate these complex crimes. OPD officers deputized as TFOs under this MOU will have no authority to enforce immigration law, as stipulated by the accompanying documentation.

The resolution stated, in part:

WHEREAS, in accordance with 19 U.S.C. § 1589a, as Customs Officers, HSI Special Agents (SAs) and Title 19 TFOs are authorized to enforce the full range of federal offenses but HSI does not convey the authority to enforce administrative violations of immigration law.

On May 3, 2016, City Council adopted the Resolution No. 86156 C.M.S.. The original MOU authorized by the resolution was signed by former OPD Chief Sean Whent on June 8, 2016 and ICE/HSI Special Agent in Charge (SAC) Ryan Spradlin on June 15, 2016. An MOU pertaining to expenses and reimbursement was signed by OPD Assistant Chief David Downing on January 5, 2017 and ICE/HSI SAC Spradlin on January 8, 2017.

As provided in a letter from the Privacy Advisory Commission (PAC) to the City Council dated June 5, 2017 (**Attachment A**):

On June 1, 2017, the Privacy Advisory Commission ("PAC") voted unanimously to recommend to the City Council that the authorization granted by the Council allowing the

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Oakland Police Department to enter into an agreement with HSI for cross-designating task force officers ("TFO") to investigate and enforce customs laws, be rescinded.

On July 11, 2017, Councilmember Kaplan presented a memo to the Public Safety Committee and an accompanying resolution "directing the City Administrator to immediately terminate the agreement with 'ICE'" that was authorized under Resolution No. 86156 C.M.S. On July 18, 2017, City Council adopted the resolution (86860 C.M.S.).

In a letter dated August 25, 2017 (**Attachment B**), City Administrator Sabrina Landreth notified HSI that the City of Oakland was exercising its right to terminate the MOU with thirty days' notice.

On October 5, 2017, PAC Chair Brian Hofer presented a memo to the PAC at their regular monthly meeting (**Attachment C**). The subject of this memo is "August 16, 2017 ICE/OPD Raid in West Oakland."

ANALYSIS AND POLICY ALTERNATIVES

Timeline and Review of HSI West Oakland Operation

On the afternoon of August 15, 2017, OPD Chief Anne Kirkpatrick received a call from the San Francisco HSI SAC Ryan Spradlin ("SAC Spradlin"). SAC Spradlin informed Chief Kirkpatrick that HSI was going to be executing a Federal criminal search warrant in Oakland the next morning at 7:30 a.m. Chief Kirkpatrick specifically asked if the matter was related to deportation and Spradlin told her it was not. SAC Spradlin stated it was a human trafficking operation and the result of a long-standing criminal investigation involving the trafficking of juveniles who had become adults and were living in the West Oakland home. SAC Spradlin told Chief Kirkpatrick that HSI would be offering wraparound services for the victims of human trafficking. SAC Spradlin requested two marked OPD cars to provide traffic control for officer and public safety.

Chief Kirkpatrick agreed that traffic control was advisable to ensure both officer and public safety. Chief Kirkpatrick provided strict instructions that OPD personnel were not to engage in any other capacity. On the morning of August 16, 2017, OPD deployed one sergeant and two officers to the area of the HSI operation in West Oakland. The assigned OPD personnel were directed to provide traffic control only. OPD personnel were directed to take no part in the efforts undertaken by HSI.

Chief Kirkpatrick later stated in public forums that the involved OPD personnel were given strict instructions to only provide traffic control. As she has shared, Chief Kirkpatrick was concerned that the operation was taking place in a residential neighborhood and at a time of day that Oakland citizens would be going to work and school. Chief Kirkpatrick wanted the area around the operation locked down to reduce the risk of a friendly-fire event, and to ensure that residents and motorists did not get caught up in the operation. Friendly-fire events are fortunately rare, but they do happen, particularly when law enforcement officials are in plain clothes and are from different agencies. Chief Kirkpatrick was personally aware of a friendly-fire event in another jurisdiction, and OPD has itself experienced a friendly-fire tragedy. Accordingly, Chief

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Kirkpatrick authorized OPD officers to provide traffic control only to enhance public safety and reduce the risk of a friendly-fire event.

SAC Spradlin has since confirmed with Chief Kirkpatrick that the operation was, in fact, part of a criminal investigation and involved the execution of a search warrant.

An October 6, 2017 press release from the San Francisco Division of ICE (**Attachment D**), provided the following:

Chief Kirkpatrick has been truthful in her statements about the nature of the ongoing Homeland Security Investigation (HSI) investigation and OPD's involvement. The operation in question involved the execution of a search warrant on Aug. 16, in the 700 block of 27th Street, as part of an ongoing criminal investigation – not a civil immigration investigation. ... While we are unable to comment further at this time because this is an open investigation, HSI will provide relevant information to the public as circumstances permit.

Date of Termination for OPD/HSI Memorandum of Understanding

The MOU between OPD and HSI was terminated on September 25, 2017, as provided in **Attachment B**.

OPD Involvement in HSI West Oakland Operation of August 16, 2017

On August 16, 2017, OPD provided traffic control. No OPD officers participated or assisted in HSI's service of a search warrant or related operations. OPD personnel were stationed on the median of 27th Street offset from the residence and at the intersection of 27th Street and West Street, at the end of the block where the residence is located.

Number of Officers and Associated Cost

There was one sergeant and two officers providing traffic control on August 16, 2017, from 7:00 am until 12:00 noon. The associated cost of these OPD personnel was \$968.05.

Response to Questions in PAC Memorandum of October 5, 2017

There are two questions in the memorandum (**Attachment C**) provided by Privacy Advisory Commission Chair Brian Hofer on October 5, 2017. Both are at the top of third page. An answer has been provided for each question.

- *Why would ICE need OPD to provide security?*

OPD was not providing "security" for HSI, but traffic enforcement and a visual OPD presence in order to enhance public, officer, and HSI safety. HSI requests local law enforcement agencies to provide traffic control because they are

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uniquely situated to do so. As HSI stated in its October 6, 2017 press release related to this event (**Attachment D**):

Because safety is HSI's chief concern during operations, our special agents regularly request assistance from local law enforcement personnel to provide support for officer and public safety. Local law enforcement is best suited for this, as they have an established relationship with the community and knowledge regarding local traffic patterns and other logistical considerations. On the day of our operation, two OPD police officers assisted with traffic control and neighborhood safety.

- *What is the public safety threat that the Chief alluded to?*

Whenever guns are present, OPD has a public safety interest in keeping additional vehicle and pedestrian traffic out of the line of potential fire. This was of particular concern at 7:30 a.m. on a Wednesday morning when a large number of Oakland residents are out on the streets and sidewalks to go to work and school.

Police-on-police crossfire is also a rare event, but nonetheless a real possibility, especially when officers see guns or receive reports of guns and mistake officers in plainclothes for potentially violent criminals. Chief Kirkpatrick is personally aware of a prior such incident, and OPD itself suffered such a tragic incident in 2001.

Traffic control is generally the jurisdiction of the local public entity. Under Oakland's municipal code, "[n]o person other than an officer of the Police Department, or a person authorized by the Chief of Police or person authorized by law shall direct or attempt to direct traffic by voice, hand or other signal[.]" OMC 10.08.110. OPD officers receive training in traffic control and are familiar with local streets and traffic patterns.

Compliance with Council-Approved Policy

Concerning compliance with Council-approved policy regarding involvement with ICE, Councilmember Kaplan has provided that the special Council-approved policy referred to in the request for an informational report is twofold. First, Resolution 86860 C.M.S., as provided above, "Direct[ed] the City Administrator to immediately terminate the agreement with 'ICE.'" The second Council-approved policy referred to is that of "Oakland [being defined] as a sanctuary city in immigration actions."

Concerning the resolution that directed the City Administrator to immediately terminate the agreement with ICE, OPD has been in compliance with this resolution at all times. OPD never acted pursuant to the terms of the MOU, either before or after the Council's direction to terminate the MOU. As provided above, the authorizing resolution for the MOU specifically provided for OPD "to enter into an agreement with HSI for cross-designating task force officers ('TFO') to investigate and enforce customs laws." As provided in the letter dated June 5, 2017

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from Brian Hofer to the Public Safety Committee (**Attachment A**), the PAC found that under the HSI MOU, no TFOs were ever assigned and no reimbursements under the overtime agreement have been received. These statements are both still true. OPD has fully complied with Council-approved policy concerning participation in the HSI MOU. Moreover, OPD's provision of traffic safety during the August 16, 2017 was unrelated to the terms and provisions of the MOU, and (as explained below) was consistent with the Council's policy direction to OPD in resolutions adopting and defining the City's sanctuary city status.

There are four known Council resolutions concerning "Oakland [being defined] as a sanctuary city in immigration actions." They are 63950 C.M.S. (1986); 80584 C.M.S. (2007); 81310 C.M.S. (2008); and 86498 C.M.S. (2016). Relevant sections of each resolution are provided below.

Council resolution 63950 C.M.S. states, in part:

Resolved: That the Mayor and City Council instruct all departments and employees of the City of Oakland to refrain from assisting or cooperating in their official capacity with any INS investigation, detention (except that pursuant to the contract between the City and INS regarding aliens already arrested by INS) or arrest procedures, public or clandestine, relating to the alleged violations of the civil provisions of the immigration laws.

Council resolution 80584 C.M.S. states, in part:

Further Resolved: That, in accordance with state and federal laws, City employees 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 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.

City Council Resolution No. 81310 C.M.S. pertains to tactics employed by ICE. There appears to be no language concerning or directing OPD.

City Council Resolution No. 86498 C.M.S. states, in part:

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

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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 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.

OPD has fully complied with all City of Oakland resolutions concerning the status of Oakland as a sanctuary city in immigration actions. Two of the three relevant resolutions prohibit city departments and employees from assisting or cooperating with ICE (formerly INS, Immigration and Naturalization Service) in relation to civil provisions of immigration law. The two more recent relevant resolutions both specifically state that OPD "will continue to cooperate with federal immigration agencies in matters involving criminal activity and the protection of public safety."

As provided above, the request from SAC Stradlin in San Francisco on August 15, 2017 was for two marked units to provide traffic control for public and officer safety during HSI's execution of a criminal arrest warrant for two adults allegedly involved in the human trafficking of juveniles in Oakland. OPD provided only traffic control. OPD did not participate in the service of the arrest warrant and did not "assist" or "cooperate" with a "Federal Immigration investigation, detention or arrest procedure." Instead, OPD's provision of traffic control was consistent with the Council's direction that OPD continue to "cooperate with Federal immigration agencies in matters involving criminal activity and the protection of public safety." (80584 C.M.S. and 86498 C.M.S.)

Recommendations for Providing Greater Transparency with ICE

In order to provide greater transparency in operations with ICE, OPD will modify its immigration policy to include the following language:

As a follow up to all cooperation OPD provides to ICE in criminal investigations, the Department will publish an after-action report on its website within 15 days of the operation. The public report will include:

- *The date, time, and unit-block location of the operation*
- *The number and cost of OPD personnel involved*

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- *Any information about the operation that is not confidential or otherwise prohibited under federal, state, or local law or policy – such as the nature of the operation and number of arrests*

FISCAL IMPACT

There is no fiscal impact associated with this report. The Analysis and Policy Alternatives Section explains how much funding was used by OPD for assistance with public and traffic safety in the August 16, 2017 HSI operation. These funds were drawn from the City's General Purpose Fund.

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for this informational report beyond the standard City Council agenda noticing procedures.

COORDINATION

The Office of the City Attorney was consulted in the preparation of this report.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this report.

Environmental: There are no environmental opportunities associated with this report.

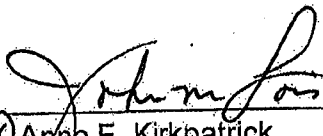
Social Equity: The public has broad interest in ensuring that OPD practices conform with City policy.

ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE

Staff Recommends That The City Council Receive This Informational Report And Possible Action Regarding The HSI/ICE Raid In West Oakland On August 16, 2017. Said Report Shall Include 1.) A Chronological Timeline And Review Of The August 16, 2017 HSI/ICE Raid; 2.) The Date The OPD/ICE Memorandum Of Understanding Was Officially Terminated; 3.) Specifically Set Forth Any And All Oakland Police Department Involvement In, And Tasks, At The HSI/ICE West Oakland Raid On August 16, 2017; 4.) Number Of Officers And Associated Cost Of OPD Involvement; 5.) Respond To Each Question Raised In The Privacy Commission's Memo Dated October 5, 2017; And 6.) Recommendations For Improvement In Transparency, And Compliance With Council Approved Policy Regarding Involvement With ICE.

For questions regarding this report, please contact Timothy Birch, Police Services Manager I, at (510) 238-6443.

Respectfully submitted,



(for) Arne E. Kirkpatrick
Chief of Police
Oakland Police Department

Prepared by:
Timothy Birch,
OPD, Research and Planning

Attachments (4)

- A: Letter from the Privacy Advisory Commission (PAC) to City Council dated June 5, 2017
- B: Letter from City Administrator Sabrina Landreth to HSI dated August 25, 2017
- C: Memo from Brian Hofer to Privacy Advisory Commission (PAC) dated October 5, 2017
- D: Press release from San Francisco ICE Office dated October 6, 2017

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June 5, 2017

VIA SUPPLEMENTAL AGENDA PACKET

Hon. Desley Brooks (dbrooks@oaklandnet.com)
Hon. Noel Gallo (ngallo@oaklandnet.com)
Hon. Abel Guillen (aguillen@oaklandnet.com)
Hon. Larry Reid (lreid@oaklandnet.com)
Oakland City Council
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Re: Dept. of Homeland Security – Homeland Security Investigations (“HSI”) Agreement

Dear Chairperson Brooks and Members of the Public Safety Committee:

On June 1, 2017, the Privacy Advisory Commission (“PAC”) voted unanimously to recommend to the City Council that the authorization granted by the Council allowing the Oakland Police Department to enter into an agreement with HSI for cross-designating task force officers (“TFO”) to investigate and enforce customs laws, be rescinded. This letter is submitted on behalf of the PAC.

We understand that if the Council approves our request, a subsequent resolution will be needed to void or replace Resolution 86156. The agreement with HSI provides for termination of the agreement upon a 30-day written notice to HSI, and we request that this option be exercised immediately, in addition to bringing a subsequent resolution rescinding the overall authority to prohibit a future agreement.

Background

On March 28, 2016, staff submitted a report to the Public Safety Committee, seeking approval for OPD to enter a memorandum of understanding (“MOU”) with HSI, one of the two components of the Immigrations and Customs Enforcement (“ICE”) agency, the other being Enforcement and Removal Operations. Superior federal resources, and help combating violent crime, drugs and weapon smuggling, and human trafficking, were given as justification for entering the MOU. TFO’s would not have authority to enforce administrative violations of immigration law.

The requested authority was granted by the Council on May 3, 2016, by Resolution 86156. On June 8, 2016, former Chief Whent signed the HSI MOU on behalf of OPD. On January 5, 2017, Acting Chief Downing entered into an additional agreement with HSI regarding reimbursement of overtime expenses related to the task force.

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Beginning in March 2017, the PAC began a review of our outside entity data sharing agreements. OPD has participated at each of our subsequent monthly meetings, to provide information about these agreements, and about our past involvement with ICE-HSI.

Our continuing analysis of these data sharing agreements indicates that by participating in law enforcement sharing agreements such as ARIES (generally, east bay partners but expanding), and NCRIC (a federal-state fusion center located in San Francisco), OPD may be inadvertently placing data of Oaklander's at risk, as entities like ICE also participate in those sharing agreements, and in fact, do query those databases.

In response to Councilmember Guillen's request to OPD as to how Oakland currently aligns with the ACLU's Freedom Cities "Nine Model State and Local Law Enforcement Policies and Rules", OPD is providing to Public Safety a written report combining responses to both the PAC and Councilmember Guillen. Attached to that report is OPD's new policy on Immigration. These documents were provided to the PAC for our review at our June 1 meeting.

Reasons to Rescind Authorization

Having discussed with various command team officers regarding OPD's involvement with ICE at each of our monthly meetings since March, with the addition of the analysis provided by OPD's written report, and in researching the current legal status and political climate surrounding immigration under President Trump, the PAC found that the HSI agreement:

- Has provided Oakland with no demonstrated successes or benefits
- No TFO's were ever assigned, indicating a lack of need
- No reimbursements under the overtime agreement have been received, indicating a lack of participation
- The request for this agreement was external; it was not generated by OPD
- A previous partnership resulted in no demonstrated successes in the 2013-2015 annual crime reports
- President Trump and Attorney General Sessions are threatening loss of federal funding at the same time they are potentially imposing costs on us/diverting resources
- The presence of HSI-ICE in our community is causing trauma
- ICE-HSI has demonstrated that it is willing to lie to immigrant communities (while posing as local police officers)¹, and to their local law enforcement partners (e.g. Santa Cruz police department)²
- DHS Secretary Kelly has authorized an expansion of the controversial 287(g) program, which authorizes local law enforcement agents to enforce immigration law, and has eliminated exemptions to enforcement for certain categories (such as victims of trafficking)

¹ <https://lawestmedia.com/lawest/reports-sexual-assaults-domestic-violence-latino-community-plummet/>

² <http://kfta.com/2017/02/23/santa-cruz-police-chief-claims-ice-misled-agency-during-collaboration-in-recent-raids/>

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- Under President Trump, ICE's revised policies clearly conflict with Oakland's status as a Sanctuary City.

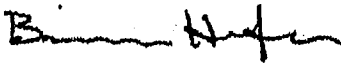
Stated simply, this is an agreement that provides no benefit to Oakland. In our three months of meetings on the issue, no one has come forth to justify maintaining the agreement. Although rescission may be of mostly symbolic value, the PAC believes rescission of this agreement will help OPD's relationship with certain communities, and how those communities perceive OPD and the City's dedication to our sanctuary city status.

Like Oakland, Houston and Los Angeles prohibit their officers from enforcing immigration laws. The presence of ICE in those cities, with large immigrant populations, is already leading to dramatic changes in crime reporting, as a chilling effect from President Trump's inflammatory rhetoric takes hold. Houston's Chief Acevedo is reporting that Hispanics reporting sexual assault have dropped 43% compared to last year; reported robberies and aggravated assaults are each down 12%.³ Los Angeles Chief Beck is reporting that sexual assault reports from the Hispanic population have dropped 25% compared to last year.⁴

Although the HSI agreement does not pertain to the enforcement of immigration law, it is clear throughout the country that a 'guilt by association' effect is present, is harmful, is inhibiting cooperation with local law enforcement and frustrating public safety goals.

Speaking solely for myself, I represent to you that I have received more calls and emails from concerned citizens about our ICE agreement than any other item before the PAC except for the controversial Stingray. This agreement is of concern to the community.

Sincerely,



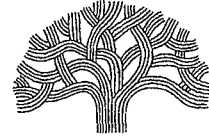
Brian Hofer
Chair, City of Oakland's Privacy Advisory Commission

cc: tburch@oaklandnet.com; jdevries@oaklandnet.com

³ <http://www.chron.com/news/houston-texas/houston/article/HPD-chief-announces-decrease-in-Hispanics-11053829.php>

⁴ <http://www.latimes.com/local/lanow/la-me-ln-immigrant-crime-reporting-drops-20170321-story.html>

CITY OF OAKLAND



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Office of the City Administrator

(510) 238-3301

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August 25, 2017

Ryan Spradlin, Special Agent in Charge
Jeff Snowden, Group Supervisor
David Magdycz, Acting Deputy Special Agent in Charge
U.S. Immigration and Customs Enforcement
Homeland Security Investigations
630 Sansome St.
San Francisco, CA 94111

Re: Termination of Memorandum of Understanding between US ICE/HSI and
Oakland Police Department

Dear Gentlemen:

Pursuant to Resolution 86860 passed by the Oakland City Council on July 18, 2017, I am writing to formally notify you of the City's intent to terminate the attached MOU between U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and the Oakland Police Department (OPD) which designated certain OPD officers as Customs Officers (Excepted). Based on the terms of the MOU, the City exercises its right to terminate thirty days from the date of this letter, or on September 25, 2017.

Thank you for your attention to this matter.

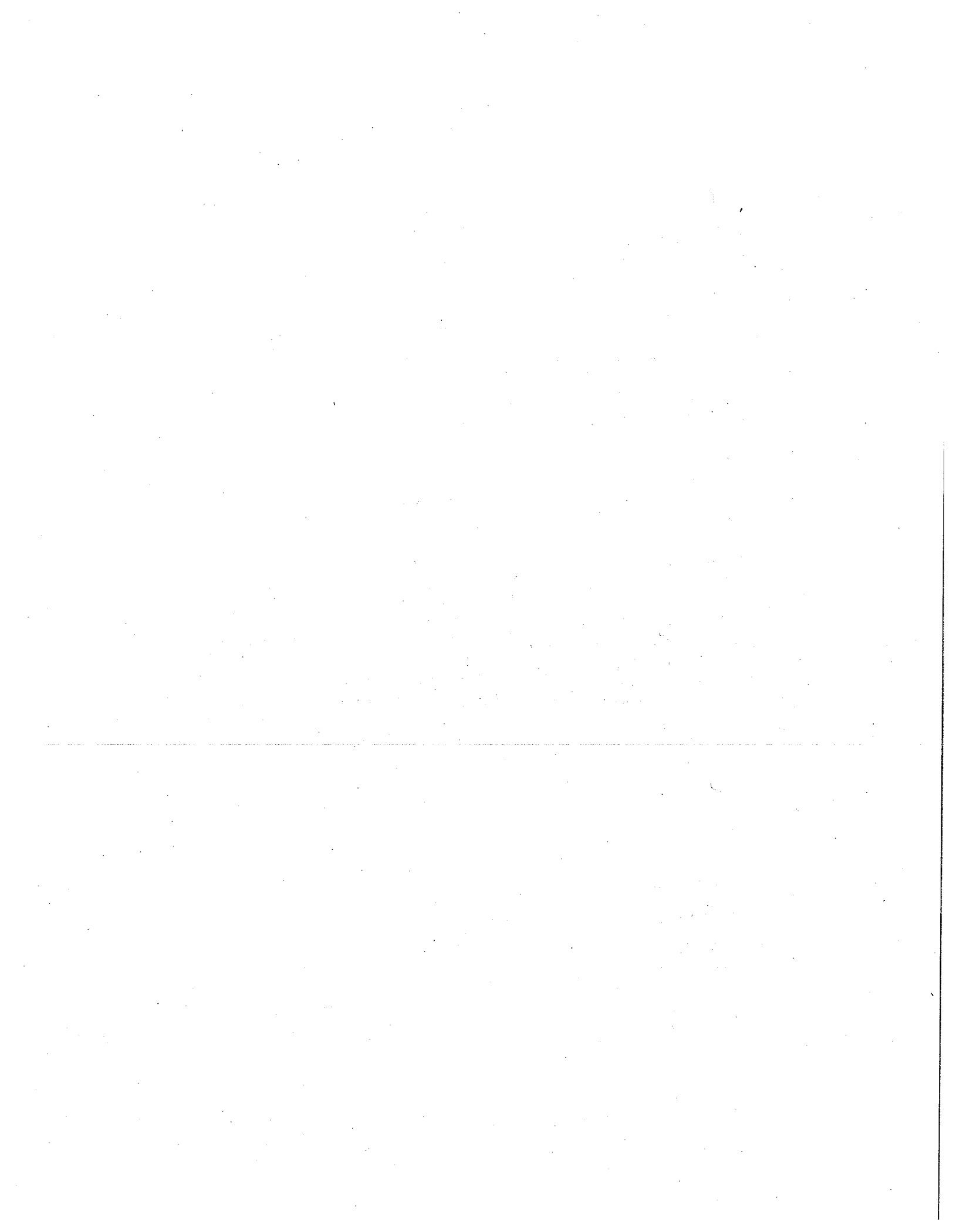
Sincerely,

A handwritten signature in black ink, appearing to be 'S. Landreth', written over a horizontal line.

Sabrina B. Landreth
City Administrator

Enclosure: MOU

Cc: Chief Kirkpatrick
Kimberly Bliss, OPD Departmental Counsel



FILED
OFFICE OF THE CITY CLERK
OAKLAND

October 5, 2017

NOV 15 AM 10:50

TO: Privacy Advisory Commissioners

FROM: Brian Hofer, Chair

RE: August 16, 2017 ICE/OPD Raid in West Oakland

Summary of Incident

On the morning of August 16, agents from ICE and OPD raided a West Oakland family from Guatemala, on the 700 block of 27th Street. The family was interrogated for approximately four hours, had property confiscated, and two adult brothers named Santos and Darwin were removed from the home. Santos was arrested, and Darwin was questioned. ICE and OPD have maintained that a criminal search warrant pertaining to trafficking was the cause of the raid.

Pertaining to the raid, OPD Chief Anne Kirkpatrick caused two press releases to be issued, wrote at least one email to the council to inform them of the raid on the same day, and participated in a town hall on September 6 with CM Guillen and DA O'Malley, where she made further representations to the public about the raid that are captured on video.

Of the nine most relevant or material representations made by the Chief, my research supports that six are false, and one more is likely false. Since the Chief is not here to confirm or deny, and the knowledge of the remaining two statements is within her first-hand knowledge, as to whether ICE called her on August 15 pertinent to a criminal investigation into two adults accused of trafficking, and requested OPD help, I'll assume these remaining two statements are true for my purposes here.

All evidence in my possession and presently known to me supports that OPD participated in a raid on August 16 that led only to a civil immigration arrest, in violation of our Sanctuary City policy and OPD Immigration Policy No. 415. I am not stating that no future criminal charges are possible, nor attesting to the veracity or character of the family subject to the raid. I am stating that for reasons unknown to me, the Chief has repeatedly supplied the public with false information pertaining to this raid, and thus further investigation by the City Council is required.

I will address the Chief's statements below, and provide evidence demonstrating why I believe those statements to be false, or recklessly made without regard for the truth, and why we need the City Council since the PAC is only an advisory body and has no subpoena, disciplinary or other authority. At the end of this discussion, I will move this commission to recommend that the City Council demand the Chief present a report on this raid to the Council at a public hearing, and I request that my fellow Commissioners support my motion based on the following facts and exhibits.

Facts and Exhibits

1. AUGUST 16 FIRST PRESS RELEASE (Exhibit A)

- a. "human sex trafficking of juveniles in our city...this branch (HSI) focuses on Transnational Gangs, Human Trafficking, Human Smuggling, Child Exploitation, and Narcotic Enforcement."
- b. On Sep 22, the Chief admitted to the Latino Task Force that she gave the wrong information to the Public Information Officers; the erroneous tweet and Facebook post were soon deleted, but not before local TV stations notice.
- c. The salacious nature of this false information caused local TV networks to go to the home, where ABC, CBS, NBC, and KRON, all showed the family's home address on screen. To my knowledge, no apology by the Chief or OPD has been made to the family for this false accusation.
- d. Although HSI does focus on the suggested categories, it is not limited to them, and does in fact enforce civil immigration law, as occurred here. Our PAC letter supporting the CM Kaplan Resolution in July also highlighted this and ICE's willingness to lie to its local partners, as HSI represented to Santa Cruz PD that only a criminal operation would be conducted, when in fact, HSI arrested folks for civil immigration violations.
- e. HSI's close interaction with the deportation arm is not unknown to the public. (see Exhibit B)

2. AUGUST 16 SECOND PRESS RELEASE (Exhibit C)

- a. deletes the reference to "sex", and amends the notice to state the warrant pertains to human trafficking of juveniles in our city.
- b. The release states the same incomplete portrait of HSI operations.
- c. The release states "OPD no longer has a contract (MOU) to actively participate in investigations with HSI...", which the Chief knew to be false at the time she made that statement. Notice to terminate had not even been generated. The letter providing the required written notice is dated August 25; the effective date is September 25. (see Exhibit D) The City Council voted on July 18, and directed the administration to "immediately" provide the required written notice. This is a serious breach of the balance of powers in our city government, and the administration must be held accountable.
- d. The release goes on to state that "the Department may assist our local, state, and federal agencies when requested as it pertains to traffic control, community safety and officer safety." The Chief needs to provide authority for this statement to the City Council, which I find to be false when it's made with no qualification as to the nature of the act, and it likely misled the Council. Immigration Policy Section 415.4, drafted by OPD, states in relevant part that "Members of OPD shall not...use personnel or resources..." (emphasis in original) in the enforcement of violations of civil immigration laws, which is what occurred here, and our participation was authorized by the Chief per her own admission. (see Exhibit E) I expect that the Chief will say she acted in reliance upon representations made to her by ICE, an entity known to lie to its local partners. I had hoped to discuss with her tonight what due diligence, if any, she performed prior to agreeing to participate in the raid. I will discuss our Sanctuary City policy below.

- e. As to the Chief's statement that OPD participation was necessary for public and officer safety, 25 ICE agents with side arms and automatic weapons were present, and no hint or allegations of violence by the family. (see Exhibit F) Why would ICE need OPD to provide security? What is the public safety threat that the Chief alluded to?

3. AUGUST 16 EMAIL TO CITY COUNCIL (Exhibit G)

- a. Restates press release that she got a call from HSI the afternoon of the 15th, that they would be arresting 2 adults for a case of human trafficking of juveniles pursuant to a lengthy investigation, re-states the incomplete and misleading portrait of HSI authority and operations, and states the following: "I stayed within the constructs of the council's policy." I am not aware of a relevant council created policy, unless the Chief is referring to our Sanctuary City resolution, the most recent and operative version being the November 22, 2016 Resolution 86498 (see Exhibit H)
- b. Skimming thru the Resolution very quickly in relevant part: Whereas "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...", Whereas "City Council opposes immigration raids and calls upon the federal government to impose a moratorium...", Further Resolved, "City Council reaffirms the declaration that Oakland is a City of Refuge for immigrants from all countries...", Further Resolved "City Council instructs all City departments and employees to refrain from assisting or cooperating in their official capacity with any federal immigration investigation, detention or arrest procedures, relating to alleged violations of the civil provisions of the immigration laws...", Further Resolved "City Council urges Gov. Brown to act with urgency to make the entire state of California into a sanctuary for immigrants...and to use our state's economic leverage to protect our cities..."; Further Resolved "members of the Oakland Police Department... 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 finally the only provision I can find that the Chief might be relying on, erroneously, is the second to last Further Resolved "in accordance with State and Federal Laws, OPD will continue to cooperate with Federal immigration agencies in matters involving criminal activity and the protection of public safety..." No such state or federal law requires our cooperation here, so this provision is inapplicable even if the ICE intelligence was correct. Courts have consistently ruled that we have no duty to do the feds dirty work for them.

4. SEPTEMBER 6 TOWN HALL VIDEO (Crime, Deportation)

- a. "Only one person has been charged with a crime" is stated in the past tense. This statement by the Chief was false on September 6, and remains false today. On Sep 22, the Chief stated to the Latino Task Force that ICE represented to her that criminal charges could occur in the future. In addition to the false accusation of sex trafficking of children, the Chief has again harmed this family by falsely claiming that one member was criminally charged. Not even ICE has stated that anyone was charged with a crime.

- b. "There is not a deportation matter in this case." This statement by the Chief was false on September 6, and remains false today. I represent to you that I checked the status after hearing the Chief's statements on Sep 6. As the documents I am about to share with you reveal, deportation has always been on the table, has been pending since the arrest, and the Chief had no basis by any stretch of the imagination favorable to her for her statement. It was made without regard for the truth.
- i. "The Executive Office for Immigration Review (EOIR)... Users can dial... 1-800-898-7180 (toll-free) to obtain case status information 24 hours a day, 7 days a week." I represent to you that I have access to un-redacted information not publicly reported, and that I called this number on September 6, and continue to call it periodically to check as to status. My last call was one hour ago, and it indicates that the matter is still pending.

5. RECORD OF DEPORTABLE/ADMISSABLE ALIEN (Exhibit I)

- a. "Santos is not believed to be a victim and there is no evidence yet that he was a perpetrator, conspirator or accomplice of the alleged crimes described on the search warrant... Subject has no prior criminal history in the United States... TFO H. Carrasquillo asked Subject if he had any legal status to reside in the United States. Subject answered no, and was then advised of his arrest. TFO H. Carrasquillo further explained to subject that the Officers are with the U.S. Immigration and Custom Enforcement. TFO H. Carrasquillo arrested subject... Subject was then transported to the San Francisco ERO (Enforcement Removal Operations, the deporting arm) office at 630 Sansome Street, San Francisco.
- b. Under Previous Criminal History – there was no arrest of anyone subject to the raid on August 10, 2017 for any type of trafficking; we can find no evidence of any trafficking charges on this date in Oakland, and the narrative I just read you contradicts this erroneous stray comment. Santos had no previous criminal history.

6. WARRANT FOR ARREST OF ALIEN (Exhibit J)

- a. "I have determined that there is probable cause to believe that Santos is removable from the United States. This determination is based upon the failure to establish admissibility subsequent to deferred inspection, biometric confirmation of the subject's identity and records check of federal databases that affirmatively indicate... that the subject either lacks immigration status or notwithstanding such status is removable under US Immigration law, and statements made voluntarily by the subject to an immigration officer..." The warrant is not based on allegations of criminal wrongdoing.

7. NOTICE OF CUSTODY DETERMINATION (Exhibit K)

- a. "Pursuant to the authority contained in section 236 of the Immigration and Nationality Act... I have determined that, pending a final administrative determination in your case, you will be Detained by the Department of Homeland Security." Office location is listed as ICE ERO San Francisco.

8. NOTICE TO APPEAR (Exhibit L)

- a. "In removal proceedings under section 240 of the Immigration and Nationality Act" Santos "You are an alien present in the United States who has not been admitted or paroled." DHS alleges that you: are not a citizen or national of the United States; are a native of Guatemala and a citizen of Guatemala; arrived in the United States at or near Unknown, on or about Unknown date; were not then admitted or paroled after inspection by an Immigration Officer... On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provisions of law: 212(a)(6)(A)(i), in that you are an alien present in the United States without being admitted... You are ordered to appear before an immigration judge of the US DOJ at Time and Date to be set."
- b. Santos was forced to spend two weeks in the Richmond Detention Facility, which contracts with ICE ERO. He was released on a \$5K bond on August 30th, which is below average even for civil immigration matters, further demonstrating the lack of support for trafficking allegations or any violent wrongdoing.

9. SEPTEMBER 6 TOWN HALL VIDEO (Services)

- a. "They went and received services, and then left."
- b. There is no "they". Two people (Santos and Darwin) were removed from the home, and one was arrested for a civil immigration violation as discussed above. Separately, the younger brother was taken to a family immigration office, asked a few questions including about his existing petition for residency, and when asked where he wanted to stay, he said his home. ICE took him back, indicating that both the younger brother and ICE had no reason to fear for his safety or that he was being trafficked. The younger brother continues to work in the family's janitorial business.

Hofer Motion: The Privacy Advisory Commission recommends that the City Council exercise its authority to demand that Chief Kirkpatrick immediately provide the Council with a report pertaining to the August 16 raid at a public hearing, and that the Chief respond to the issues raised in this memo.

Exhibit A

[Log In](#) or [Sign Up](#)

Full Notification

Entered By: [Oakland Police Department CA](#)

Entered On: Wednesday August 16th, 2017 :: 12:01 p.m. PDT

Forward



Like Comment

[Write a comment](#)

Community:

700-27th Street Police Activity

Today, August 16, 2017, at approximately 6:30 a.m., Homeland Security Investigations (HSI) served a federal criminal search warrant in connection with human sex trafficking of juveniles in our city (700 block of 27th Street).

HSI is conducting a criminal investigation, not a civil immigration or deportation action. This branch focuses on Transnational Gangs, Human Trafficking, Human Smuggling, Child Exploitation and Narcotic Enforcement.

OPD Facebook post (and deleted tweet): "served a federal criminal search warrant in connection with human sex trafficking of juveniles in our city..." (see post)

ABC 7 Aug 16 video (2:28) – "related to sex trafficking involving minors." Reveals home address on camera. Tweet from ABC 7's Laura Anthony states that per OPD, investigation involves "child sex trafficking, not immigration." In article: PIO Johnna Watson said the department may still "assist our local, state and federal agency agencies when requested as it pertains to traffic control, community safety, and officer safety." Video shows OPD officers in front of house, not directing traffic on camera.

CBS 5 Aug 16 video (2:24) "served a warrant in connection with an investigation of sex trafficking of juveniles." Reveals home address on camera. The same statement by Watson as to assistance is reported here. Video shows OPD officers in front of house, not directing traffic on camera.

NBC Aug 16 video (2:16) "served a warrant in connection with human trafficking of juveniles." Reveals home address on camera. Repeats Watson statement. Video shows OPD officers in front of house.

KRON 4 Aug 16 video (1:40) "served a warrant in connection with human trafficking of juveniles." Reveals home address on camera. Video shows OPD officers in front of house, not directing traffic on camera (officer sitting in car).

IndyBay Aug 16 video (15:43) photos show OPD officer directly in front of the house; another officer at the end of the block, blocking traffic; two OPD officers interacting with ICE agents. IndyBay estimates that 25 ICE agents participated in the raid (see pic)

Total video time: ~25 minutes

Exhibit B

Routine Use(s): Your information and the information you provide in your tip regarding suspicious or suspected criminal activity and/or violation of law may be shared internally within to the Department of Homeland Security (DHS) for any appropriate law enforcement action. The information you provide may also be shared with other federal, state, local, tribal or foreign agencies in order to refer reports of suspicious activity, tips, potential violations of law and other relevant information to those agencies with appropriate jurisdiction, authorities, and/or need-to-know concerning the matter(s) you report.

<https://www.ice.gov/webform/hsi-tip-form#wcm-survey-target-id>

- **Office of Intelligence** conducts broad intelligence operations. It also develops data for use by ICE, the Department of Homeland Security and other law enforcement partners (read more).

<https://www.ice.gov/hsi>

Joint Intelligence Operations Center

The Joint Intelligence Operations Center (JIOC) synchronizes operations and intelligence capabilities across all components at ICE, streamlines situational awareness and facilitates rapid and responsible information sharing at all echelons and locations - across all classification levels - in support of ICE and Department missions. The JIOC meets fluctuating information sharing challenges more rapidly by providing a single point of service for senior leadership and operational components on a 24/7 basis.

The JIOC also has secure voice and secure video teleconference capabilities and processes classified information enabling seamless communication in real-time with the White House Situation Room, DHS National Operations Center, CIA, NSA, FBI and other intelligence community, federal, state and local law enforcement agencies who regularly partner with ICE to vigilantly enforce the nation's immigration and customs laws.

HSI Tip Line Unit

The HSI Tip Line Unit (TLU) serves as a conduit for the public to report suspected criminal activity on more than 400 crimes enforced by ICE as well as related activity under the jurisdiction of other agencies, and other information that could have a negative impact on the national security of the United States. The TLU operates 24/7 and receives more than 100,000 leads annually that are analyzed and disseminated to HSI special agents and intelligence officers in more than 200 cities nationally, and 47 countries around the world.

The TLU started in 2003 as a means to report foreign national sex offenders present in the U.S. It has become the primary means for reporting all crimes enforced by ICE.

<https://www.ice.gov/intelligence>

ICE removes aliens from the U.S. who are subject to a final order of removal issued by an immigration court or following an administrative removability review. ERO facilitates the processing of illegal aliens through the immigration court system and coordinates their departure from the U.S. ERO's robust removal program reduces the number of illegal alien absconders in the U.S. Removal management involves planning and coordinating removals across the country and developing and implementing strategies to support the return of all removable aliens to their country of origin.

ERO removal operations require complex coordination, management, and facilitation efforts to successfully remove/return aliens from the United States. ERO accomplishes this mission through contract/chartered flights and commercial airlines for escorted and unescorted removals. In collaboration with the ICE HSI Office of International Operations and the Department of State, ERO also works with international partners to successfully execute removal operations.

<https://www.ice.gov/removal>

Exhibit C

"Today, August 16, 2017, at approximately 6:30 a.m., Homeland Security Investigations (HSI) served a federal criminal search warrant in connection with human trafficking of juveniles in our city (700 block of 27th Street).

HSI is conducting a criminal investigation, not a civil immigration or deportation action. This branch focuses on Transnational Gangs, Human Trafficking, Human Smuggling, Child Exploitation and Narcotic Enforcement.

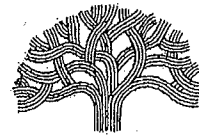
Yesterday, HSI headquarters in San Francisco contacted Oakland Police Chief Anne E. Kirkpatrick and requested two police officers to assist with traffic control. Chief Kirkpatrick gave strict instructions to the commander and officers that they may not assist HSI with any enforcement efforts. The officers' only role was that of traffic control and neighborhood safety.

Although the Oakland Police Department no longer has a contract (MOU) to actively participate in investigations with HSI, the Department may assist our local, state, and federal agencies when requested as it pertains to traffic control, community safety and officer safety.

HSI is the primary investigating agency."

Exhibit D

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator

(510) 238-3301
FAX (510) 238-2223
TDD (510) 238-2007

August 25, 2017

Ryan Spradlin, Special Agent in Charge
Jeff Snowden, Group Supervisor
David Magdycz, Acting Deputy Special Agent in Charge
U.S. Immigration and Customs Enforcement
Homeland Security Investigations
630 Sansome St.
San Francisco, CA 94111

Re: Termination of Memorandum of Understanding between US ICE/HSI and
Oakland Police Department

Dear Gentlemen:

Pursuant to Resolution 86860 passed by the Oakland City Council on July 18, 2017, I am writing to formally notify you of the City's intent to terminate the attached MOU between U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and the Oakland Police Department (OPD) which designated certain OPD officers as Customs Officers (Excepted). Based on the terms of the MOU, the City exercises its right to terminate thirty days from the date of this letter, or on September 25, 2017.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'S. Landreth', written over a horizontal line.

Sabrina B. Landreth
City Administrator

Enclosure: MOU

Cc: Chief Kirkpatrick
Kimberly Bliss, OPD Departmental Counsel

Exhibit E

Policy
415

Oakland Police Department
Policy Manual

Immigration

415.1 PURPOSE AND SCOPE

The purpose of this immigration policy is to provide guidance and direction to the members of the Oakland Police Department (OPD) on Federal, State, and local immigration laws.

The responsibility for enforcement of immigration laws rests solely with the U.S. Immigration and Customs Enforcement agency (ICE) under the direction of the United States Department of Homeland Security (DHS); and not with local or state law enforcement agencies. OPD is committed to equal enforcement of the law and equal service to the public regardless of a person's immigration status. This commitment increases our effectiveness in protecting and serving the entire community.

415.2 DUE PROCESS RIGHTS OF ALL PERSONS

OPD shall not provide federal immigration agencies access to individuals solely for the purpose of immigration enforcement.

If OPD receives a federal immigration detainer request for an individual in OPD custody, Officers shall provide the individual with a copy of the request.

Officers shall not inquire or request proof of immigration status or citizenship when providing services or benefits except where the receipt of such benefits or services is contingent upon one's immigration status, such as in the processing of a U visa or T visa.

Individuals with limited English proficiency must be given access to translation or interpretation and must receive documents in their native language if available.

415.3 FEDERAL LAW

The responsibility for enforcement of immigration laws rests solely with ICE, under the direction of DHS.

Immigration detainers or requests, sometime called "ICE holds," are not compulsory. Instead, they are merely requests enforceable at the discretion of the agency holding the arrestee. Federal regulations define immigration detainers as "requests" rather than commands.¹ Courts have also held that ICE detainers are voluntary requests that "do not and cannot compel a state or local law enforcement agency to detain suspected aliens subject to removal."² Thus, local agencies are "free to disregard [an] ICE detainer."³

¹ 8 C.F.R. § 287.7(a).

² *Galarza v. Szalczyk*, 745 F.3d 634 (3rd Cir. 2014); see also *Flores v. City of Baldwin Park*, No. CV 14-9290-MWF, 2015 WL 756877, at *4 (C.D. Cal. Feb. 23, 2015) ("federal law leaves compliance with immigration holds wholly within the discretion of states and localities").

³ *Galarza*, 745 F.3d at 645.

Immigration

The mere fact that an individual is unlawfully in the United States is not a criminal offense.⁴ Thus, unlawful presence in the United States, by itself, does not justify continued detention beyond that of an individual's normal release date. This applies even where ICE or United States Customs and Border Protection (CBP) provide an OPD officer with administrative forms that use the terms "probable cause" or "warrant." A lawful detention under the Fourth Amendment must be supported by probable cause that a person has committed a crime.⁵

415.4 CITY POLICY

Members of OPD shall not:

- Enforce or assist ICE in the enforcement of violations of civil immigration laws.
- Initiate investigations or use personnel or resources where the only objective is to discover whether an individual is in violation of a civil immigration law
- Detain individuals for a violation of civil immigration law⁶

415.5 REQUESTS FOR ASSISTANCE FROM DHS OR ICE

Unless the circumstances present an imminent danger to officer or public safety, requests by DHS or ICE for any operational assistance from OPD (including but not limited to ICE detainer requests), shall immediately be directed to the watch commander on duty for approval, who in turn shall immediately notify the Chief of Police, or the Chief's designee.

In the event a determination needs to be made about whether an ICE detainer request should be fulfilled, the Chief of Police, or the Chief's designee, shall consider the merits of each request carefully. In making this determination, the Chief, or Chief's designee, shall comply with the California TRUST Act,⁷ assess whether the individual poses a risk to public or officer safety, and consider the availability of OPD personnel and resources necessary to comply with the request.

415.6 INFORMATION SHARING

OPD does not collect or maintain any information regarding a person's immigration status, unless the information is gathered specifically for the purposes of completing U visa or T visa documents.

Officers shall not share non-public information about an individual's address, upcoming court date, or release date with ICE or CBP. Officers shall respond to an ICE or CBP request for non-public information only when a judicial warrant accompanies the request.

⁴ *Arizona v. United States*, 567 U.S. 387, 132 S. Ct. 2492, 2505 (2012); *Melendres v. Arpaio*, 695 F.3d 990, 998, 1000 (9th Cir. 2012).

⁵ *Gerstein v. Pugh*, 420 U.S. 103, 120 (1975).

⁶ See November 29, 2016, Oakland City Council "Resolution Denouncing Tactics Used to Intimidate Immigrants Residing in Oakland and Re-affirming the City's Declaration as a City of Refuge" (Resolution No. 86498).

⁷ See Gov't Code, §§ 7282, 7282.5. The TRUST Act limits the discretion of law enforcement officials to detain an individual pursuant to a federal immigration detainer request, should an agency choose to do so, unless two conditions are met. First, the continued detention must "not violate any federal, state, or local law, or any local policy," and second, the detainee must have a qualifying criminal history as enumerated in Government Code section 7282.5(a) or be the subject of an outstanding federal felony arrest warrant.

Immigration

415.7 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes. Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking.

Any request for assistance in applying for a U visa or T visa should be forwarded in a timely manner to the Special Victims Section (SVS) Lieutenant for review and endorsement. The SVS Lieutenant may consult with the assigned investigator to confirm the applicant is cooperative with the investigation.

The SVS Lieutenant or their designee shall approve or deny the request and complete the certification or declaration, if appropriate, within the time frame required under Penal Code § 679.10(h).⁸ The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website and under Penal Code § 679.10.

The OPD website has information regarding the U visa or T visa application process as well as a non-profit organization that can assist with the application process.

⁸ "A certifying entity shall process an I-918 Supplement B certification within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification shall be processed within 14 days of request." Penal Code § 697.10(h).

Exhibit F

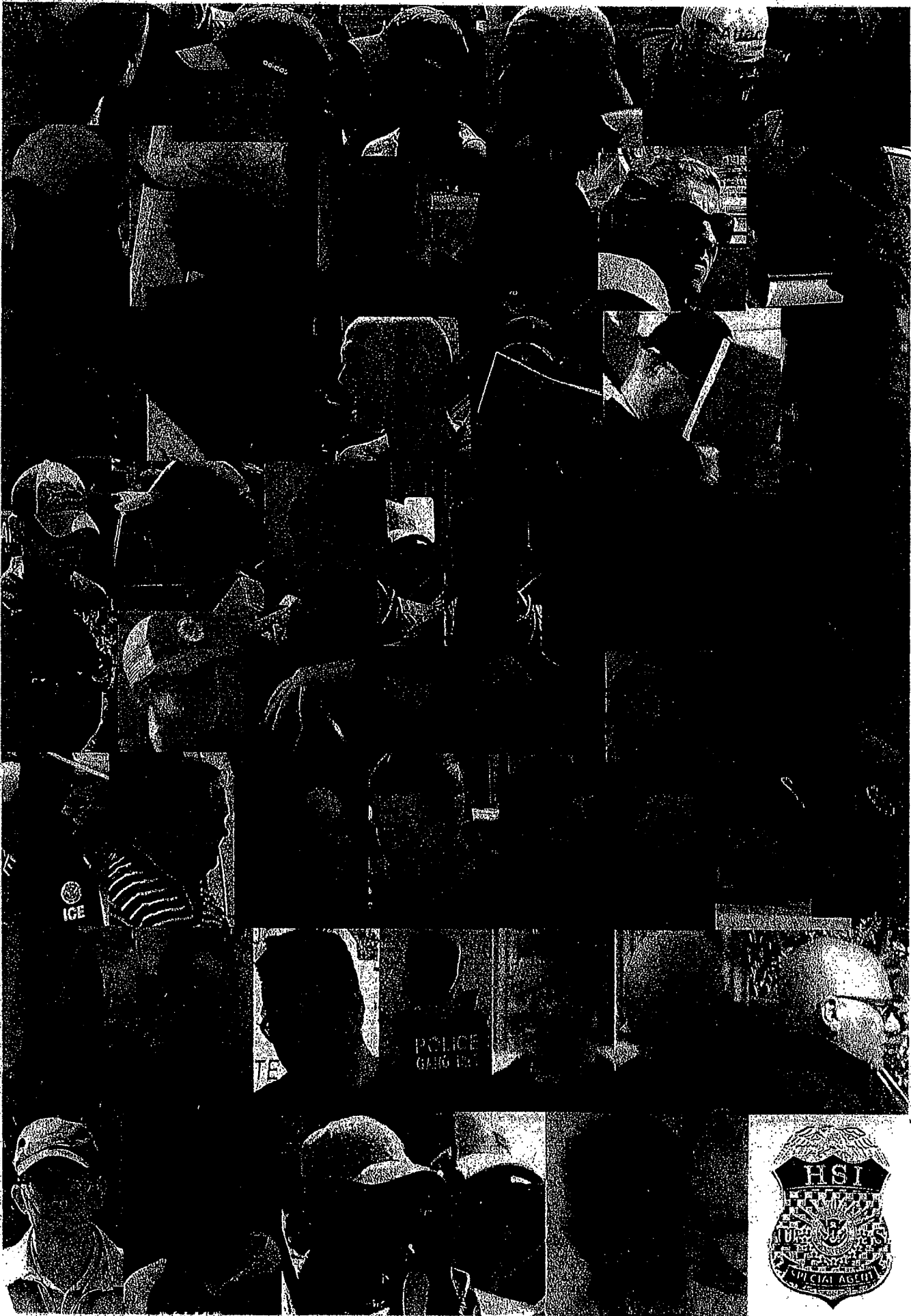


Exhibit G

From: "Kirkpatrick, Anne" <AKirkpatrick@oaklandnet.com>

Attachment C

Date: August 16, 2017 at 1:04:42 PM EDT

To: R Kaplan <kaplanforoakland@gmail.com>, "Kalb, Dan" <DKalb@oaklandnet.com>, "Guillen, Abel" <AGuillen@oaklandnet.com>, "Campbell Washington, Annie" <ACampbellWashington@oaklandnet.com>, "Reid, Larry" <LReid@oaklandnet.com>, "McElhane, Lynette" <lmcelhane@oaklandnet.com>, "Brooks, Desley" <DBrooks@oaklandnet.com>, "Gallo, Noel" <NGallo@oaklandnet.com>, "Schaaf, Libby" <libbyforoakland@gmail.com>, "Landreth, Sabrina" <SLandreth@oaklandnet.com>

Cc: "Johnson, Venus" <VJohnson3@oaklandnet.com>, "Lois, John" <JLois@oaklandnet.com>

Subject: This morning's HSI operation in our City

All, I am writing so that everyone gets the same information at the same time although you are welcome to call me for further discussion. Yesterday afternoon, I received a call from HSI headquarters in San Francisco who informed me that they were going to be in our City to arrest 2 adults for a case of Human Trafficking of juveniles in our city. Their investigation has been going on for quite some time. This branch of HIS is the criminal investigation division of Homeland Security and NOT the deportation branch. This branch of HIS enforces Transnational Gangs, Human Trafficking, Human Smuggling, Child Exploitation and Narcotic Enforcement. They asked for two marked units to control traffic and officer safety not only for them but the safety of those on the scene. I approved our serving in that capacity ALONE. The officers and Commander were given strict instructions that they may not engage in any capacity in their enforcement efforts and their only role was that of traffic control and safety. They abided by that role and I stayed within the constructs of the council's policy. Chief

Anne E. Kirkpatrick

Chief of Police

Oakland Police Department

Exhibit H

16 NOV 22 PM 4: 20

Approved as to Form and Legality
[Signature]
City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. 80488 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.

NOV 29 2016

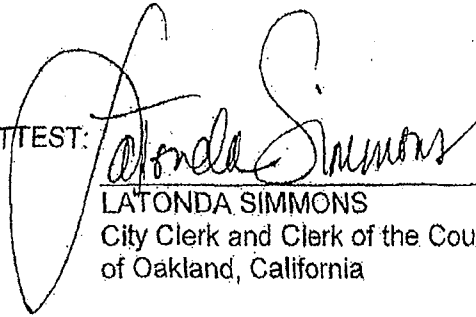
IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN,
REID AND PRESIDENT GIBSON MCELHANEY - 8

NOES - ϕ
ABSENT - ϕ
ABSTENTION - ϕ

ATTEST:



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

Exhibit I

Alien's Name [REDACTED], SANTOS ALBERTO	File Number [REDACTED]	Date 08/16/2017
Event No: [REDACTED]		

Previous Criminal History

On 08/10/2017, the subject was arrested for the crime of "Human Slavery or Trafficking" which is still pending.

Records Checked

At/Near

OAKLAND, CA

Record of Deportable/Excludable Alien:

On August 16, 2017, HSI Human Trafficking Group conducted a Search Warrant at 715 27th Street, Oakland Ca 94612. All officers were wearing tactical attires with "Police" patches and "HSI" badges clearly visible on the most outer garments.

[REDACTED], Santos Alberto, (Subject) an adult male citizen of Guatemala, was found at the residence searched where several victims of Human Trafficking were rescued. But Subject [REDACTED], Santos Alberto, is not believed to be a victim and there is no evidence yet that he was a perpetrator, conspirator or accomplice of the alleged crimes described on the search warrant/ complaint.

Subject has no prior criminal history in the United States.

At approximately 0730hrs (TFO) Carrasquillo made contact with a male individual with the name (subject) [REDACTED], Santos Alberto, who presented a consular Id from Guatemala and a passport from Guatemala. TFO H. Carrasquillo asked Subject if he had any legal status to reside in the United States. Subject answered no, and was then advised of his arrest. TFO H. Carrasquillo further explained to Subject that the Officers are with the U.S. Immigration and Custom Enforcement. TFO H. Carrasquillo arrested Subject by applying restraints in the backward position, and checked the handcuff for proper tightness and double-locked the handcuff for safety. TFO H. Carrasquillo escorted a government vehicle without incident. Subject claimed no medical problems Subject also claimed to have no minor children in the United States.

At a safer location, Subject restraints were reapplied to the front and straight position for safety and comfort during transportation Subject was then transported to the San Francisco ERO office at 630 Sansome Street, San Francisco, CA without any incident.

Except for what is mentioned above, Subject disclaims any other equities, ties, or petitions pending before the U.S. Department of Homeland Security or the U.S. Citizenship and Immigration Service on his behalf.

Disposition:

Signature H 7560 CARRASQUILLO	Title DO
----------------------------------	-------------

Alien's Name [REDACTED], SANTOS ALBERTO	File Number [REDACTED]	Date 08/16/2017
Event No: [REDACTED]		

Subject did not claim to have any medical problems or under any medications.
 Subject did not claim any other pending applications or petitions before Department of Homeland Security.

Subject did not claim fear of persecution or torture upon his return to Guatemala.
 Subject claimed to have no minor children in the United States.

Subject will be processed as Notice to Appear.

Other Identifying Numbers

ALIEN-[REDACTED]
 Driver's License (State and Country) (CALIFORNIA UNITED STATES)

Signature

H 7560 CARRASQUILLO

Title

DO

Exhibit J

U.S. DEPARTMENT OF HOMELAND SECURITY

Warrant for Arrest of Alien

File No. [REDACTED]

Date: 08/16/2017

To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that [REDACTED], SANTOS is removable from the United States. This determination is based upon:

- the execution of a charging document to initiate removal proceedings against the subject;
- the pendency of ongoing removal proceedings against the subject;
- the failure to establish admissibility subsequent to deferred inspection;
- biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

~~YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.~~

[Signature]
 (Signature of Authorized Immigration Officer)

Matthew Loggins GS/HSE
 (Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at SAN FRANCISCO, CA.
 (Location)

on [REDACTED], SANTOS on August 16, 2017, and the contents of this
 (Name of Alien) (Date of Service)

notice were read to him or her in the SPANISH language.
 (Language)

H 7560 CARRASQUILLO
 DO *[Signature]*
 Name and Signature of Officer

Name or Number of Interpreter (if applicable)

Exhibit K

DEPARTMENT OF HOMELAND SECURITY
NOTICE OF CUSTODY DETERMINATION

Alien's Name: [REDACTED] SANTOS ALBERTO

A-File Number: [REDACTED]

Date: 08/16/2017

Event ID: [REDACTED]

Subject ID: [REDACTED]

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that, pending a final administrative determination in your case, you will be:

- Detained by the Department of Homeland Security.
- Released (check all that apply):
 - Under bond in the amount of \$ _____
 - On your own recognizance.
 - Under other conditions. (Additional document(s) will be provided.)

4 [Signature]
 Name and Signature of Authorized Officer
CSI/HSI
 Title

08/16/2017 09:23 AM
 Date and Time of Custody Determination
 ICE ERO San Francisco Field Office 630 Sansome Street 5th Floor
 SAN FRANCISCO, CA US 94111
 Office Location/Address

You may request a review of this custody determination by an immigration judge.

- I acknowledge receipt of this notification, and
 - I do request an Immigration judge review of this custody determination.
 - I do not request an Immigration judge review of this custody determination.

Santos de Leon
 Signature of Alien

8/16/17
 Date

The contents of this notice were read to See I-631 in the SPANISH language.
 (Name of Alien) (Name of Language)

CARRASQUILLO, B 7560
 Name and Signature of Officer
 DO
 Title

 Name or Number of Interpreter (if applicable)

Exhibit L

U.S. Department of Homeland Security

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

FINS: [REDACTED]

File No: [REDACTED]

DOB: [REDACTED]

Event No: [REDACTED]

In the Matter of:

Respondent: SANTOS ALBERTO [REDACTED]

currently residing at:

IN ICE CUSTODY

(Number, street, city and ZIP code)

(Area code and phone number)

- 1. You are an arriving alien.
- 2. You are an alien present in the United States who has not been admitted or paroled.
- 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of GUATEMALA and a citizen of GUATEMALA;
3. You arrived in the United States at or near UNKNOWN, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212 (a) (6) (A) (i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30(f)(2) 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

Time and date to be set.

(Complete Address of Immigration Court, including Room Number, if any)

on To be set. at To be set. to show why you should not be removed from the United States based on the charge(s) set forth above.

charge(s) set forth above.

[Signature]
(Signature and Title of Issuing Officer)

Date: August 16, 2017

SAN FRANCISCO, CA

(City and State)

See reverse for important information

FILED
OFFICE OF THE CITY CLERK
Schwab, James
From: Schwab, James
Subject: San Francisco Homeland Security Investigations (HSI) Special Agent In Charge Statement on Oakland Police Chief
Date: Friday, October 06, 2017 12:26:04 PM
2017 NOV 15 AM 10:50

Statement by HSI Special Agent in Charge Ryan L. Spradlin:

"Chief Kirkpatrick has been truthful in her statements about the nature of the ongoing Homeland Security Investigation (HSI) investigation and OPD's involvement. The operation in question involved the execution of a search warrant on Aug. 16, in the 700 block of 27th Street, as part of an ongoing criminal investigation – not a civil immigration investigation. Furthermore, as the largest investigative arm of the Department of Homeland Security, HSI does not conduct 'raids.'

"Because safety is HSI's chief concern during operations, our special agents regularly request assistance from local law enforcement personnel to provide support for officer and public safety. Local law enforcement is best suited for this, as they have an established relationship with the community and knowledge regarding local traffic patterns and other logistical considerations. On the day of our operation, two OPD police officers assisted with traffic control and neighborhood safety. We appreciate Chief Kirkpatrick's assistance on that day and to public safety during our operation.

"While we are unable to comment further at this time because this is an open investigation, HSI will provide relevant information to the public as circumstances permit."

James Schwab
Public Affairs Officer/Spokesman - San Francisco
U.S. Immigration and Customs Enforcement
Office: 415-844-5059
Cell: 415-305-1833