

Nonprofit suing Oakland claims Schaaf documents are insufficient

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Oakland released records in response to a California Public Records Act request by the plaintiff -- the nonprofit Federation for American Immigration Reform -- on Monday, the same day the group sued Schaaf for not handing over the records.

"Their response is not responsive to our request -- period," said Christopher Hajec, director of litigation for the Washington, D.C.-based Immigration Reform Law Institute, which is representing the plaintiff. He said the lawsuit would go forward.

Some records had already been released in response to a separate California Public Records Act request in April, according to a spokesperson for the city.

Plaintiff's attorneys from IRLI argued in court papers that Oakland was still withholding documents and had violated state law by waiting to release information. *Federation for American Immigration Reform v. Schaaf*, RG18904831 (Alameda Super. Ct., filed May 14, 2018).

Schaaf warned Oakland residents in February that U.S. Immigration and Customs Enforcement agents planned to conduct raids in Northern California. Roughly 800 people in the U.S. illegally with criminal records escaped arrest as a result, according to ICE Deputy Director Thomas Homan, who said the operation netted 150 arrests.

In their lawsuit and original request from March, the plaintiffs wrote they were seeking communications relating to ICE from Feb. 23 through Feb. 24 between Schaaf, her Chief of Staff Shereda Nosakhare; Oakland Director of Public Safety Venus D. Johnson; Oakland Director of Communications Justin Berton; and Police Chief Anne E. Kirkpatrick.

The suit asks for the same information regarding ICE operations in the Bay Area during the same period.

Oakland released six pages of communications on Monday between Schaaf and the Oakland-based immigration nonprofit Centro Legal De La Raza in response to the plaintiff's request. It was not clear if the documents were released in response to the lawsuit.

The documents the city released in April included internal emails and documents that were in response to a request seeking communications between Schaaf and any city employees she relied on in her announcement about the raids.

That request sought to learn more about the anonymous sources Schaaf said told her about the upcoming ICE operations.

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Oakland directed the plaintiffs to the April documents, according to Berton. They could modify their request if they were unsatisfied, he said.

The plaintiffs wanted to inform Schaaf's constituents about her decision-making process via the lawsuit, Hajec said. He said he was unaware that Oakland had responded until he was contacted by the Daily Journal.

The plaintiffs were likely to succeed in getting additional records in light of a recent California Supreme Court decision holding that a city employee's writings about public business are not excluded from California Public Records Act requests simply because they have been sent, received, or stored in a personal account, according to Robert P. Silverstein, a Pasadena attorney specializing in land use and environmental and Public Records Act litigation. *San Jose v. Superior Court, S218066 (Cal. 2017).*

"Key documents often are not produced without a fight -- either because they are politically embarrassing or they otherwise disclose communications that the city wants to suppress," Silverstein wrote in an email. "If the city is claiming exemptions or privileges, then those need to be tested. Frequently exemptions are indiscriminately asserted, and they fall apart once challenged."

The administration of President Donald J. Trump has repeatedly criticized Schaaf over her announcement. Homan compared her to a "gang lookout" during a February interview with Fox News.

#347591

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