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| **From:** | Bruce Stoffmacher |
| **To:** | Libby Schaaf; Schaaf, Libby |
| **Subject:** | Re: FW: Mitsu"s Letter |
| **Date:** | Wednesday, February 19, 2014 12:11:22 AM |

pls review

**A Response to Mitsu Fisher's February 14, 2014 Open Letter Regarding Private Patrols in Oakland from Oakland District 4 Councilmember Libby Schaaf**

Dear Mitsu and District 4 Residents,

Thank you for reaching out to me with your questions. I hear in your letter a deep concern for public safety and social justice, and I value your dedication to civil discourse and public engagement.

You asked me to address your five questions, and as a courtesy to both you as well as your fellow residents, I offer my response.

1. Will there be an investigation by the Oakland Police Department or any other law enforcement agency, of this incident? If so, how do we get progress reports and a copy of the final report? If not, why not?

**Response:** Yes. Any time a shooting or violent crime occurs in the City, there is an investigation. The Alameda County Office of the District Attorney will be the agency which decides whether a criminal prosecution is warranted – for either the private patrol employee (alleged shooter) or shooting victim (alleged burglar). I commit to providing an update to the public when such information is available – I should likely have an update in the coming months.

2. If a person who is not a sworn law enforcement officer discharges a weapon in the city of Oakland, that results in the accidental death of a child riding his or her bicycle, who happens to be in the wrong place at the wrong time, or any person for that matter, are the people who hired and pay for the services of the shooter, legally responsible in any way?

**Response:** Your question could only be answered by a court of law, depending upon the actual circumstances of an actual event, based upon your proposed hypothetical situation. The facts of the event, and a court's decision regarding probable cause would dictate determinations of responsibility.

3. What governmental agencies, if any, are responsible for regulating the possession and use of firearms by private citizens who are not sworn law enforcement officers? Please provide contact details.

**Response:** Every level of government can potentially regulate firearms – but the higher level of government always takes precedence; the US Supremacy Clause dictates that US Federal Law is the highest law in the land, so City, County and State laws must follow US law in terms of gun laws and all laws. CA law allows for strict regulation of automatic weapons; and Oakland law bans the sale of all gun ammunition. I recently worked on State Assembly Bill AB180, which would have provided Oakland with a narrow exemption from State preemption around gun licensing and regulation, but this bill, after passing the CA Assembly and Senate, was vetoed by the Governor.

4. Since this shooting resulted in an injury that will require medical treatment, who pays for that? Because medical treatment can be quite costly, I want to know if the tax-paying citizens of Oakland pay for the treatment, assuming the victim does not have health insurance that covers being a shooting victim. Or, are the people who hired the shooter responsible for these costs?

**Response:** Neither the City, nor the group that contracted with the private security firm, must cover the costs of the shooting victim (who is also the alleged burglar) as a legal default. We have a democratic legal system, and everyone has a right to demand legal redress. The shooting victim may or may not choose to sue the group that organized the patrol and/or the City. I cannot make a legal opinion as to how such hypothetical lawsuits would evolve. We will have to wait and see what occurs.

5. As an elected official do you approve of your neighbors paying people to discharge firearms in your neighborhood? Does that seem like a good idea to you?

**Response:** As an elected official, I do not think that my role is to approve or disapprove of the actions of private citizens who choose to organize and collaborate

on strategies to improve public safety and/or exercise their constitutional right to bear arms. I have a duty to represent all residents and I realize that different residents hold very different views regarding private patrols and the 2nd Amendment of the US Constitution. Neighbors in the Dimond, Oakmore, and throughout the City have a right to contract with 3rd party private patrols, as long as such patrols follow the law. Regardless of whether neighbors choose to have armed patrols, or unarmed, or possess their own firearms, I will expect that gun safety rules be obeyed always. That said, I also recognize that gun violence plagues our City and that gun-related homicide, robbery, and burglaries occur far too often in this City, and I will always work towards solutions that make guns less available to would-be criminals.

Sincerely,

Libby Schaaf,

Councilmember, District 4

On Tue, Feb 18, 2014 at 5:04 PM, Stoffmacher, Bruce <BStoffmacher@oaklandnet.com> wrote:

> **From:** Libby Schaaf [mailto:libbyforoakland@gmail.com]
> **Sent:** Saturday, February 15, 2014 4:18 PM
> **To:** Stoffmacher, Bruce
> **Subject:** Fwd: Mitsu's Letter
>
> Bruce
>
> Please work on a response for my review. The initial copy of this letter was addressed to Orozco and Hoang, but I guess they want me to answer as well.
>
> ---------- Forwarded message ----------
> From: **Alice McHugh** <alicemchugh125@gmail.com>

Date: Sat, Feb 15, 2014 at 12:10 PM
Subject: Mitsu's Letter
To: Ann Nomura <aknomura@pacbell.net>
Cc: Libby <libbyforoakland@gmail.com>

Ann,

Mitsu's letter raises many issues the neighborhood and larger community want answered. If Libby Schaaf wants our votes, she needs to respect his concerns and respond to Mitsu directly as well as to the dimondlist. Have you heard anything from her yet?

Were you and Mitsu at the Thursday evening meeting at the Greek Orthodox Church? Libby was left to last in the program when she and Capt Orozoco should have been first and could have fielded some of your questions -- and many of those in the audience.

Alice

-----Original Message-----
From: dimond-bounces@lists.lmi.net
[mailto:dimond-bounces@lists.lmi.net] On Behalf Of Ann Nomura
Sent: Friday, February 14, 2014 9:41 PM
To: Dimond List
Subject: [Dimond] Shooting of Waterhouse

Dear Neighbors,

This letter is from my husband.

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Dear Councilmember Schaaf,

My wife and I own property, live and vote in District 4. We are raising two children and live on Forest Hill Avenue.

Yesterday, a person who is not a sworn law enforcement officer discharged a firearm in my neighborhood (see attached article).

I have a few questions for you as my representative:

First, will there be an investigation by the Oakland Police Department or any other law enforcement agency, of this incident? If so, how do we get progress reports and a copy of the final report? If not, why not?

Second, if a person who is not a sworn law enforcement officer discharges a weapon in the city of Oakland, that results in the accidental death of a child riding his or her bicycle, who happens to be in the wrong place at the wrong time, or any person for that matter, are the people who hired and pay for the services of the shooter, legally responsible in any way?

Third, what governmental agencies, if any, are responsible for regulating the possession and use of firearms by private citizens who are not sworn law enforcement officers? Please provide contact details.

Fourth, since this shooting resulted in an injury that will require medical treatment, who pays for that? Because medical treatment can be quite costly, I want to know if the tax-paying citizens of Oakland pay for the treatment, assuming the victim does not have health insurance that covers being a shooting victim. Or, are the people who hired the shooter responsible for these costs?

My fifth and final question is for you as an elected official.
Do you approve of your neighbors paying people to discharge firearms in your neighborhood? Does that seem like a good idea to you?

I look forward to a prompt written response from you, that addresses each of my five questions.

Sincerely,

Mitsu Fisher
[redacted]

Dimond@lists.lmi.net is supported by
the members of the Dimond Improvement Association.
More information about DIA at

http://www.dimondnews.org/dia
Manage your account at
http://lists.lmi.net/mailman/listinfo/dimond. Any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the DIA.

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Seize the Day!
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