



CITY OF PORTLAND, OREGON



Bureau of Police

Ted Wheeler, Mayor

Danielle M. Outlaw, Chief of Police

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Directive 750.00, Bureau Cooperation with the Federal Bureau of Investigation's Joint Terrorism Task Force Executive Summary

Introduction

In accordance with City Council Resolution 37424, "Establish parameters of cooperation between Portland Police Bureau and the Federal Bureau of Investigation's Joint Terrorism Task Force," which the Portland City Council approved on April 30, 2019, the Portland Police Bureau (PPB) created Directive 750.00, Bureau Cooperation with the Federal Bureau of Investigation's Joint Terrorism Task Force. The directive describes how the PPB will manage the sharing of information pertaining to the entities' mutual efforts to combat terrorism and also establishes how the PPB should coordinate the assignment of its members to the task force.

Public Comments

The PPB received few comments over the course of both universal review and public comment periods. The comments primarily focused on the PPB's involvement in the Federal Bureau of Investigation's Joint Terrorism Task Force (JTTF). More specifically, responders urged the PPB to limit its involvement with the JTTF. Additionally, one commenter recommended that the PPB include policy guidance for members with regard to the receipt of JTTF-related training materials.

Portland Police Bureau Involvement with the Task Force

Nearly every commenter appealed to the PPB to restrict its participation in the JTTF. In addition to general skepticism about the scope of the task force's work, another primary concern appears to be the possibility of the PPB sharing immigration-related information with the Federal Bureau of Investigation (FBI).

The PPB recently updated Directive 810.10, Bureau Contact with Members of Immigrant Communities and Individuals with Diplomatic Immunity, which provides guidance to members with regard to their interactions with individuals from immigrant communities and expressly prohibits members from inquiring about an individual's immigration status. In an effort to reiterate its commitment to protecting and serving all members of the Portland community, the PPB directly referenced its immigration policy in Directive 750.00, Bureau Cooperation with the Federal Bureau of Investigation's Joint Terrorism Task Force.

Task Force Training Materials

The PPB received a comment regarding JTTF-related training materials, specifically recommending that the PPB provide any training materials offered by the FBI to the City Attorney's Office (CAO) for storage and maintenance. Furthermore, the commenter recommended that members report any training materials that exhibit bias or include discriminatory language against marginalized groups to the CAO. The commenter also suggested that any such information should warrant the PPB's withdrawal from the JTTF.

The section in the policy that references member training exclusively pertains to training provided by the CAO, as that is the required training for member participation in the JTTF. Pursuant to Human Resources Administrative Rule 2.02, Prohibition Against Workplace Harassment, Discrimination and Retaliation, members have an obligation to report any biased or discriminatory behavior. Accordingly, members who receive any information containing biased or discriminatory language or who witness such behavior must appropriately report the incident. With the city-wide rule in place, as well as relevant PPB directives (e.g., Directives 310.00, Professional Conduct and Courtesy, 310.20, Discrimination, Harassment, and Retaliation Prohibited, and 344.05, Bias-Based Policing/Profiling Prohibited), the PPB believes its members have sufficient guidance in this regard; therefore, it did not adopt the recommended language in policy.

We thank every individual who took the time to provide feedback on this directive. All comments received during both review periods are attached at the end of this document. We have removed all personal information to protect the privacy of commenters.

The Bureau's New Policy

The newly-created directive clarifies the role of the PPB when coordinating with the JTTF, institutes accountability measures (i.e., individuals member and PPB reporting requirements), and emphasizes the PPB's commitment to acting in accordance with relevant laws pertaining to the collection and maintenance of specific types of personal information (e.g., political affiliation, social views). The policy also comports with the City Council-approved resolution that clearly articulates the City's expectations of the PPB's involvement with the task force. Moreover, the guidance in the policy regarding member contact with immigrant and immigrant communities is consistent with the PPB's comprehensive policy that governs those interactions.

While the Bureau believes the newly-established policy provides clear guidance to its members, any suggestions to further improve this directive are welcome during its next review.

This directive will become effective on January 2, 2020.

Published on 12/3/19

750.00, Bureau Cooperation with the Federal Bureau of Investigation's Joint Terrorism Task Force

Refer:

- ORS 181A.250 Specific information not to be collected or maintained
- ORS 181A.820 Enforcement of federal immigration laws
- City of Portland Resolution No. 37415, Authorize Withdrawal of Portland Police Bureau Officers from the Federal Joint Terrorism Task Force and establish protocols for cooperating with the FBI on terrorism investigation on a case-by-case basis
- City of Portland Resolution No. 37424 as amended, Establish Parameters of Cooperation Between Portland Police Bureau and the Federal Bureau of Investigation's Joint Terrorism Task Force
- DIR 310.70, Dissemination of Information
- DIR 631.30, Cooperation with Other Agencies
- DIR 810.10, Bureau Contact with Members of Immigrant Communities and Individuals with Diplomatic Immunity

Definitions:

- Terrorism: Activities that A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; and B) appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.

Policy:

1. This directive establishes procedures for the Portland Police Bureau's cooperation with the Federal Bureau of Investigation's Joint Terrorism Task Force (JTTF).
2. In accordance with Oregon state law, the Bureau shall not collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.

Procedure:

1. Temporary Joint Terrorism Task Force Assignments.
 - 1.1. The Chief may, upon request of the Portland Federal Bureau of Investigation (FBI) Special Agent in Charge (SAC), temporarily assign Bureau members to work with the Portland FBI JTTF to assist in the investigation of any individual suspected cases of terrorism and/or threats to life, including hate crimes, in or having a direct nexus to the City of Portland where there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.
 - 1.2. Any Bureau member temporarily assigned to the JTTF shall seek legal advice from the City Attorney whenever the officer has a question about the application of City of Portland Resolution 37424 As Amended or the laws of the State of Oregon, including

Oregon Revised Statute (ORS) 181A.250 and ORS 181A.820, as related to their temporarily assigned work with the JTTF. Any consultation with the City Attorney shall be undertaken consistent with the requirements for the handling of classified information and with the other legal restrictions on the dissemination of information. In the event disclosure of classified information is necessary for the City Attorney to provide appropriate legal advice, the Chief of Police shall request the FBI SAC to authorize the City Attorney to receive such information pursuant to a non-disclosure agreement. If the City Attorney cannot obtain the necessary information to provide legal advice, the City Attorney shall notify the Chief of Police and the Commissioner-in-Charge of the Bureau, who may require the withdrawal of Bureau members from their temporary assignment(s).

2. Information Sharing Across Agencies.

- 2.1. The Chief of Police, while remaining in compliance with Oregon State law, shall request that the FBI JTTF share any and all information related to terrorism and/or threats to life, including hate crimes, pertinent to the health, safety and welfare of all people who reside, work, worship, attend school in, and/or recreate in the City of Portland.
- 2.2. The Chief of Police shall request that any such information that requires Bureau action be immediately shared with the Bureau's Criminal Intelligence Unit (CIU) for review and investigative action.
- 2.3. The Chief of Police shall direct members of CIU to immediately share any information regarding the threat of terrorism with the JTTF, in compliance with Oregon State law.
- 2.4. In accordance with Directive 810.10, Bureau Contact with Members of Immigrant Communities and Individuals with Diplomatic Immunity, Bureau members shall not provide any information for the purpose of federal immigration law enforcement.
- 2.5. The sharing of information or follow up information by CIU officers shall not constitute a temporary assignment to the Portland FBI JTTF.

3. Joint Terrorism Task Force Coordination.

- 3.1. The Chief or Deputy Chief shall serve as the liaison to the FBI JTTF.

4. Member Training.

- 4.1. Bureau members temporarily assigned to work with the JTTF shall attend annual training conducted by the City Attorney's Office to ensure compliance with applicable state and federal laws.

5. Reporting.

- 5.1. Bureau members receiving information about terrorism shall document the information and provide it to CIU for review, investigation, and sharing with the FBI JTTF.
- 5.2. The Bureau shall report to City Council on an annual basis, by the end of January, with information detailing the frequency with which the FBI's SAC requested the assignment of PPB CIU officers for an investigation; the number of cases that were referred to the

PPB by the FBI; the number of cases that were referred to the FBI by the PPB; the nature of closed cases referred to the PPB by the FBI, including the demographics of persons involved; and the disposition of those cases.

History:

- Originating Directive Date: 12/03/19
- Last Revision Signed: 12/03/19
 - Effective Date: 01/02/20
- Next Review: 01/02/21

#1

1st Universal Review: 7/15/19-8/14/19

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, July 15, 2019 4:26:11 PM
Last Modified: Monday, July 15, 2019 4:27:31 PM
Time Spent: 00:01:19
IP Address:

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Q1 Please provide feedback for this directive

Portland should minimize its participation with the JTTF and FBI generally. We've seen a rise in the FBI using informants and agents to convince individuals to participate in faux terrorist plots concocted by the FBI. This is a dangerous and entrapment like behavior that Portland needs to avoid.

Q2 Contact Information (optional)

Respondent skipped this question

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, August 12, 2019 4:34:01 PM
Last Modified: Monday, August 12, 2019 4:37:14 PM
Time Spent: 00:03:13
IP Address:

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Q1 Please provide feedback for this directive

To Chief Outlaw, the PPB Directives Team, Mayor Wheeler and Commissioners Eudaly, Fish, Fritz and Hardesty:

We were among the many organizations who worked diligently to ask the Portland Police to remove its two part-time officers from the FBI's Joint Terrorism Task Force (JTTF). After Council voted to get those officers out of the Task Force, a second resolution passed on May 8 described the ways in which the PPB will interact with the JTTF moving forward.

One provision of that second resolution was for the Bureau to draw up a policy (Directive) describing that relationship. A draft policy (750.00) has been posted to the Bureau's website at <https://www.portlandoregon.gov/police/article/737115>.

Having examined the draft Directive carefully, the only major difference between the language in the policy and the language of the Council resolution can be found in Section 2.3, which has the Chief direct Criminal Intelligence Unit officers sharing information about the threat of terrorism with the JTTF. The resolution's version of this item included the important phrase "in compliance with Oregon State law." We strongly urge that phrase be added to the Directive as well.

We also suggest adding the following two sections to further assure that the reasons for withdrawing officers are safeguarded by this policy:

4.2 Any training material the FBI provides to PPB task force members will also be provided to and maintained by the city attorneys office (in accordance with the provisions of section 1.2).

4.3 Any training that is discriminatory and biased against any minority group shall be immediately reported to the city attorney and will be a basis for not participating in the JTTF (in accordance with the provisions of section 1.2).

We cannot let it go without saying, however, that the language reflected in Section 1.2 is based on an unacceptably broad policy set by Council in the Resolution. This is language we warned the Council could allow the PPB to work with the FBI's task force dozens or maybe hundreds of times per year if there are cases in which anyone's life is threatened or a hate crime is committed, as opposed to the handful of cases the PPB works on with the FBI now.

That language says the Chief can:

assign PPB officers to work with the Portland FBI JTTF to assist in the investigation of any individual suspected cases of terrorism and/or threats to life, including hate crimes, in or having a direct nexus to the City of Portland where there is reasonable grounds to suspect

Directive 750.00 Feedback

the subject of the information is or may be involved in criminal conduct.

It is still not clear why a Terrorism Task Force would be interested in any threat to life absent the qualities which would make that threat a form of terrorism, or how hate crimes by themselves automatically come under the rubric of terrorism. We urge the Chief, who now has the discretion to accept or reject in any case the FBI asks for assistance (Sections 1.1 and 3.1), to err on the side of caution. The many organizations who objected to the PPB working with the FBI raised recent and long-term concerns about how the secretive federal agency tends to target immigrants, communities of color, political activists and other vulnerable populations.

Finally, it has recently come to light that at least one PPB officer (Andrew Hearst) and the JTTF have been supporting the South Western Oregon Joint Task Force, which the Guardian newspaper reports is keeping tabs on environmental activists, but not necessarily based on reasonable suspicion of criminal activity.* We hope the Chief and Mayor recognize that the limitations set forth in the JTTF Resolution and Directive apply to all activities of Portland Police.

Thank you for your consideration

*-<https://www.theguardian.com/us-news/2019/aug/08/fbi-oregon-anti-pipeline-jordan-cove-activists>

Q2 Contact Information (optional)

Name	Peace and Justice Works/Portland Copwatch
Email Address	copwatch@portlandcopwatch.org

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, August 14, 2019 3:09:49 PM
Last Modified: Wednesday, August 14, 2019 4:27:35 PM
Time Spent: 01:17:45
IP Address:

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Q1 Please provide feedback for this directive

I am writing to let you know that the ACLU of Oregon endorses the comments submitted on August 12th by members of Peace and Justice Works/Portland Copwatch. We agree with the analysis and sentiments set out in those comments. Thank you for your consideration of our collective suggestions and concerns.

Q2 Contact Information (optional)

Name
Email Address
Phone Number
