

Portland Joint Terrorism Task Force Participation
Citizens Crime Commission Position Paper
December 2010

Issue: From 1997 until 2005 between one and seven members of the Portland Police Bureau actively served as members of the regional Joint Terrorism Task Force (JTTF). In 2005, the City of Portland withdrew the Portland Police Bureau participation from the Joint Terrorism Task Force. The Portland City Council and Mayor Sam Adams are currently assessing rejoining the JTTF. The Citizens Crime Commission has been asked by Mayor Adams to provide input and a recommendation about rejoining the JTTF.

As part of this recommendation Executive Director Suzanne Hayden and Board Member Kevin Tucker met with public safety executives locally and in other jurisdictions to get an accurate view of how the JTTF operates in practice. In person meetings were held with Portland Police command staff, FBI Special Agent in Charge for Oregon, Seattle JTTF including the Assistant Special Agent in Charge (ASAC), and the assigned Seattle Police Department officers. A meeting was held with the Boston ASAC, who was formerly the Los Angeles ASAC, and members of the Boston JTTF. In addition, meetings were held with a former senior public safety policy staff member with the City of Seattle as well as a senior staff member of US Customs and Border Protection. Phone conversations were conducted with the supervising agent of the Oregon JTTF and with OSP members of Oregon's domestic and international JTTF. This memo is designed to provide a base of knowledge for all Crime Commission members and a rationally based recommendation.

Discussion:

1. What is the JTTF?
 - a. Joint Terrorism Task Forces (JTTFs) are small groups of highly trained, locally based, investigators, analysts, linguists, SWAT experts, and other specialists from dozens of U.S. law enforcement and intelligence agencies. It is a multi-agency effort led by the Justice Department and FBI designed to combine and leverage the resources of federal, state, and local law enforcement in a joint mission to deter, defeat, and respond vigorously to all terrorist attacks on our territory and against our citizens or facilities. Local law enforcement involvement is a crucial part of the team as it brings local knowledge and expertise.

The National JTTF was established in July 2002 to serve as a coordinating mechanism with the FBI's partners. Some 40 agencies are now represented in the National JTTF, which has become a focal point for information sharing and the management of large-scale projects that involve multiple partners.¹
 - b. The JTTF is one element of Federal Law Enforcement in Oregon. Even without PPB direct participation in the JTTF, the FBI informs law enforcement and civil leadership of information about situations and cases that impact public safety. This information is passed when "Need to Know" requirements are met, and are within the legal

¹ <http://www.justice.gov/jttf/>

requirements for use of information in pending criminal cases. There are requirements to pass the information, and there are restrictions about control of information in a pending case.

- c. Portland's JTF involves the Oregon State Police, Port of Portland Police, United States Attorney, Washington County Sheriff, Internal Revenue Service, Defense Criminal Investigative Service, Department of Homeland Security, Immigration and Customs Enforcement, Federal Air Marshalls, US Secret Service, US Coast Guard Investigative Service, and Federal Protective Service.²
 - d. The FBI in Portland established six counter terrorism working groups around the state by region: Medford, Central Oregon, North East Oregon, Eugene, Salem, and Portland. These groups meet on a regular basis to exchange information and, when necessary, assign officers and deputies to terrorism investigations. Current participants in the Portland region include: Multnomah County Sheriff, The Dalles Police Department, and Oregon State Police.
 - e. The JTFs are based in 106 cities nationwide, including at least one in each of the 56 FBI field offices.³
2. What is required of Portland to belong to the JTF?
- a. A Memorandum of Understanding (MOU) between the FBI and the Portland Police Bureau is entered into and typically includes the following sections: Mission, Authority under Federal Law, Controlling Documents, Structure and Management of the Task Force, Security Clearances, Federal Deputation of non-federal members, Coordination Protocols, Staffing Commitment, Records, Funding, Travel, Vehicles and Equipment, Forfeiture, Sources, Medical and Training, as well as policies on use of Deadly Force, and Legal Liabilities. A copy of the MOU between the FBI and the Portland Police Bureau from 2000 is posted on Mayor Adams' Website.⁴
 - b. Generally, Portland would continue to be responsible for the salary and benefits of any JTF officers. All costs associated with the security clearances and background checks will be the responsibility of the FBI. Portland police maintain supervision over its participating officers for all personnel matters, including performance reviews. The officers remain subject to all the regulations, laws and policies applicable to all members of the Portland Police Bureau. The FBI provides a take home car and phone, office and any necessary equipment for that officer and the duties of the position. In addition, overtime costs typically are reimbursed by the FBI. The FBI provides extensive training, ongoing testing and oversight of the participating officer.
 - c. Members of the JTF as well as the appropriate supervisory personnel responsible for the officer must apply for and receive a "Top Secret/Sensitive Compartmented Information" (TS/SCI) Security Clearance. JTF members are strictly forbidden from disclosing any classified information to individuals who do not possess the appropriate security clearance and the "Need to Know".
3. Why did Portland withdraw from the JTF in 2005?

² <http://portland.fbi.gov/partners.htm>

³ http://www.fbi.gov/about-us/investigate/terrorism/terrorism_jtffs

⁴ <http://www.portlandonline.com/mayor/jtffreview/>

- a. ACLU Press Release, April 2005: "Citing the need for greater oversight over its own police officers, the Portland City Council voted 4-1 in support of Portland Mayor Tom Potter's revised resolution that will end Portland's participation in the local FBI Joint Terrorism Task Force (JTTF). Potter and FBI Special Agent-in-Charge Robert Jordan have said the two agencies would continue to cooperate in terrorism investigations and that the Mayor will be seeking secret clearance to allow him access to some classified information.

The vote came after weeks of negotiations between the City and the Justice Department which failed to resolve the City's concerns regarding police officer oversight. In a City of Portland proposed resolution, the mayor would have been given the necessary clearance to provide meaningful oversight of the officers who worked directly on the JTTF. At the U.S. Attorney and the Mayor's request, ACLU representatives took part in discussions of the resolution.

Of the negotiations that led up to the vote Oregon ACLU Legislative Director/Counsel Andrea Meyer said that the primary roadblock was the Justice Department's refusal to allow the Portland City Attorney to apply for a security clearance or to assure Mayor Potter that he and Police Chief Derrick Foxworth would have access to the same information as the Portland police officers on the Task Force."⁵

- b. Oregon Live news article, November 2010: "Former Portland Mayor Tom Potter made national headlines in April 2005 when he led a City Council vote to pull Portland out of the Joint Terrorism Task Force. The vote drew rare overflow crowds to City Hall and came after the FBI declined Potter's request for more civilian oversight.

'This is not a question of mistrust. It's a question of knowing what the police officers of this city are doing,' Potter said at the time. 'That's my job.'

Before the vote, Potter and Commissioner Randy Leonard wrote a resolution demanding more civilian oversight. They wanted the federal government to grant the mayor, the police chief and the city attorney the same security clearance as task force officers. And they wanted city leaders to have deeper and more frequent access to case files, rather than the 'need to know' briefings under the old arrangement, according to The Oregonian's coverage at the time."⁶

- c. NPR Interview, December 2010: "SIEGEL (NPR): Now, to be clear, you were not mayor five years ago, when the decision was made to not be part of the Joint Terrorism Task Force. But you were on the city council. You did vote to pull out of it. Why? What was the reasoning?

Mayor ADAMS: Well, a couple of reasons. One, I felt that the collection of federal policies and federal legislation, along with practice of the current - at that time - federal administration, that I could not, in good conscience, have Portland police officers involved, embedded in the FBI through the Joint Terrorism Task Force, and be able to protect Portlanders' right to due process.

You know, I believe passionately that we have to keep this city and this nation safe from terrorism and crime. But at the same time, I saw indications, and I saw policy, that

⁵ <http://www.aclu-or.org/content/city-portland-withdraws-jttf>

⁶ http://www.oregonlive.com/portland/index.ssf/2010/11/city_hall_a_look_back_on_mayor.html

risked wiretaps and in-depth investigations of American citizens without court oversight or sanction.

And I was concerned, and that's why we went a different route. We pulled out of our membership status in JTTF." ⁷

4. Costs and Impacts to Portland for JTTF Participation

- a. The PPB must assign at least one officer to the JTTF, generally for a period of not less than two years. This officer will be under the operational control of the FBI, as part of the JTTF.
- b. The assigned officer must retain all pay and benefits from the PPB.
- c. The assigned officer will receive necessary expenses from the JTTF. These typically include a vehicle, communication equipment, overtime and training.
- d. The assigned officer, and appropriate leadership in the PPB, must receive a TS/SCI clearance. The cost of this is borne by the FBI. Completion of the clearance background check takes several months, and involves a detailed background check as well as polygraph investigation.

5. Benefits to Portland for JTTF Participation

- a. The JTTF is a national network with access to detailed intelligence about potential terrorist threats to the US. The exchange of relevant information will be maximized. PPB will have earlier access to the information relevant to Portland. Portland will benefit from the relationships built amongst the federal partners. Conversely, the task force will benefit from access to locally developed sources, informants and networks.
- b. The assigned PPB officer to the JTTF would be utilized primarily to handle investigation tasks which are relevant to the City of Portland and/or utilize the liaison capability of the officer to PPB. Their daily tasks would be associated with Portland issues, although the officer would be given assignments by the FBI. The officer would be responsible to appropriate supervisory personnel who have the requisite clearance. In essence there would be two levels of officer supervision; the FBI supervisory personnel and the officer's agency.
- c. Recent case example described by former Los Angeles Assistant SAC and JTTF lead describes how cases get assigned to local JTTF officers: The LA JTTF included personnel from all local law enforcement organizations. A terrorism suspect was identified through federal intelligence and was believed to be in the Anaheim area. The LA JTTF assigned lead responsibility to the Anaheim PD officer assigned to the JTTF. The intelligence leads were verified and the person was placed under surveillance. The person's vehicle was registered in Oregon, with residence in Portland, and they left the LA area. The LA JTTF transferred the lead to the Oregon JTTF. Had the PPB been a member of the Oregon JTTF, it is reasonable that the PPB officer would have been assigned this case due to its relevance to Portland and the officer's knowledge of Portland and law enforcement resources. Instead, this case was managed by the FBI until it possibly reached a status where the PPB had to be involved due to identification of a threat.

⁷ <http://www.npr.org/2010/11/30/131704364/should-portland-rejoin-terrorism-task-force>

- d. Recent case example described by Seattle Assistant SAC and Seattle PD JTTF agent illustrates the flexibility and force multiplier of the JTTF relationship: The Seattle PD JTTF agent was called back to his agency when a police station was bombed and a police officer killed. The officer was placed as lead investigator of the crime scene due to his expertise and called in federal reinforcements to act as evidence custodians, allowing police resources to remain on patrol to respond to crime city wide during the major crime scene investigation. The participation in the JTTF and the relationships built during that time allowed the Seattle Police Department to maximize its resources during a time of crisis with the assistance of federal partners.
 - e. Seattle PD JTTF officers gave examples of how their immediate access to specialized expertise in the FBI has assisted their agency in criminal investigations including bringing in FBI profilers when they had a criminal investigation involving a serial rapist.
 - f. All of our contacts indicated participation with the JTTF has increased local ability to protect their citizens and municipalities through the sharing, vetting and investigation of intelligence information.
 - g. The JTTF provides the assigned officer with annual state of the art training and equipment, extensive experience and networking capabilities with federal and other law enforcement agencies. These training opportunities and networks are benefits beyond the financial resources of the Portland Police Bureau to provide. That highly trained officer remains a part of the Portland Police Force, and shares that experience with other officers.
 - h. Portland is a participant in other successful federal collaborative investigative task forces, and reaps the benefits of those relationships. Examples of task forces involving Portland Police Bureau and federal law enforcement agencies are: Regional Organized Crime and Narcotics Task Force (ROCN) and, the Metro Gang Task Force, which is part of the Safe Streets Task Force.
6. Mitigation of Portland concerns from 2005.
- a. Access to case files and information, versus “Need to Know” constraints.
 - i. Officers assigned to the JTTF must successfully complete a TS/SCI investigation. This is an extremely thorough clearance process, required for handling critical intelligence information. The JTTF is also trained in the requirements for handling sensitive and compartmented information
 - ii. In addition to the members of the JTTF, the appropriate supervisory personnel from the member’s original agency must apply for and receive a TS/SCI Security Clearance. In the case of the OSP detectives assigned, their OSP Sergeant, Lieutenant, and the Superintendent all have the requisite clearance. Some municipalities, such as Portland, have a Police Commissioner as part of the direct chain of command structure. In those cases clearances may be obtained for the police commissioner. The New York Police Department also has this form of command structure.
 - iii. City officials are notified of threats and situations which may have an impact on their responsibilities. This is done regardless of JTTF participation or their specific clearance. Having an officer assigned to the JTTF ensures a representative of the city is involved from the beginning of any investigation.

- iv. Persons without “Need to Know” will not be provided sensitive information until statutorily required and allowed. Participation, or non participation, in the JTTF will not affect this. Participation in the JTTF, with an assigned officer, ensures a liaison between the local police and federal law enforcement.
- b. Portland concern about federal law enforcement policies.
- i. The conduct of the FBI, and other federal law enforcement agencies participating in the JTTF, is governed by the Domestic Investigations and Operations Guide (DIOG). A redacted and revised version of this document was released to the public in December 2008.⁸ This document defines and guides the conditions under which assessments and investigations can occur, and all aspects of agents’ actions during those investigations, as measured against civil liberties of citizens. Agents are trained and tested rigorously on these principles. Audits and inspections of investigations and evidence are conducted by FBI attorneys and the Department of Justice.
 - ii. There is a significant level of scrutiny and oversight built into the criminal investigations conducted by the JTTF. In addition to the regular oversight briefings of participating officers and their supervisors on the particular cases, most arrests are obtained pursuant to a warrant which has been reviewed and approved by a US Attorney and a Federal Judge.
 - iii. The JTTF structure has proven successful in numerous US cities. The increase in quantity and severity of terrorism acts requires a coordinated response from federal, state, and local law enforcement. Any increases in authority given to law enforcement have been checked against protection of civil liberties. At this time, there is an effective balance.

Recommendation: In 2002, The Citizens Crime Commission conducted extensive interviews and research to become educated in the threat terrorism posed to our community. The Commission identified ways the private sector could better prepare for and prevent a catastrophic terrorist event. The report also provided community leaders with specific recommendations for an emergency preparedness strategy. A key recommendation was the “gathering and sharing of good intelligence” to prevent terrorist acts.⁹ Being a member of the JTTF is a force multiplier in many regards. It brings with it access to information, resources and capabilities that will enhance Portland Police Bureau’s ability to detect, deter, defeat and respond vigorously to terrorist attacks on our citizens and infrastructure. It also brings a level of oversight and scrutiny of individual officer investigations that is more substantial than the Portland Police Bureau can provide alone. In addition, the relationships, training and networks developed as a result of membership in the JTTF will help Portland Police Bureau to leverage their resources in the investigation of criminal conduct. The Portland City Council should vote to rejoin the Joint Terrorism Task Force, in accordance with the approved Memorandum of Understanding between the FBI and the Portland Police Bureau. The Portland Police Bureau should assign personnel at the discretion of the Police Chief as investigative members of the Task Force, to maximize Portland’s participation and influence in any investigations that occur within the City.

⁸ <http://documents.nytimes.com/the-new-operations-manual-from-the-f-b-i>

⁹ Citizens Crime Commission Counter-Terrorism Task Force Report www.cccpdx.org