



**Testimony of Kimberly McCullough, Policy Director
Concerning Portland's Membership in the FBI's Joint Terrorism Task Force
City Council Item No. 1199 – November 8, 2017**

Mayor Wheeler and Council Members,

For many years now, the American Civil Liberties Union of Oregon¹ has testified to this body about our deep concerns about the relationship between the City of Portland and the FBI's Joint Terrorism Task Force (JTTF). Because of those concerns, which are shared by many local organizations and people in Portland, the City withdrew from the JTTF in 2005. And despite those concerns, this body made the troubling decision to rejoin the JTTF in 2015. (Please see the background information attached to this testimony for a more detailed history of the City's relationship with the JTTF.)

Today, we are here to request that you once again bring your attention to the problematic relationship between the City and the FBI, and that you take the steps necessary to withdraw Portland from the JTTF.

We are not alone in this request. Along with this testimony, **we are submitting a letter signed by 23 local advocacy** organizations and a prominent Portland area survivor of unwarranted spying calling on Portland City Council to withdraw the two full-time Portland Police Officers from the JTTF and cancel the Memorandum of Understanding with the FBI. We make this request because the JTTF entangles local officers in surveillance and police practices that violate numerous state laws that protect Oregonians from being targeted based on our political, religious, or social views, or based on our real or perceived immigration status.

Although its formal purpose is to prevent terrorist activities, **the JTTF has a long history of surveillance of lawful First Amendment activity and of other civil rights abuses.** What we know about the JTTF's policies and tactics is deeply troubling. We know they have spied on and interrogated peaceful political activists and protestors, justifying those actions by characterizing public protest as potential "domestic terrorism." We also know that the FBI has time and time again used invasive and unconstitutional surveillance tactics in the name of "counter-terrorism" and "national security." **These kinds of surveillance operations harm community trust, chill political speech, and do nothing to advance public safety.**

¹ The ACLU of Oregon is a nonpartisan, nonprofit organization dedicated to preservation and enhancement of civil liberties and civil rights, with more than 23,000 members in the City of Portland and over 44,000 members statewide.

Because it operates under a veil of secrecy with very little oversight, the true extent of rights violations committed by the JTTF is unclear. This **lack of transparency also makes it very difficult to know how and when rights violations involve Portland Police Bureau officers** who are deputized as JTTF officers and who operate under the authority of the FBI. These officers operate without adequate local oversight, as neither their supervisors, the city attorney, nor the mayor have the security clearance needed to adequately monitor their work.

Portland Police officers are subject to numerous state and local laws that are in direct conflict with the policies, activities and tactics of the JTTF, and that creates a serious risk that local officers who are deputized as JTTF agents will violate these state laws:

- **ORS 181A.250** (formerly ORS 181.575) **prohibits state and local law enforcement from collecting or maintaining records on the political, religious or social activities of individuals or organizations – unless there is evidence of criminal activity.** We know the FBI regularly engages in surveillance operations when there is no suspicion of criminal activity.
- **Anti-profiling legislation passed by the state legislature prohibits targeting of individuals based on their race, ethnicity, religion, and a variety of other characteristics.** We know that the FBI engages in profiling.
- **Sanctuary laws at state and local level prohibit local law enforcement from engaging in immigration enforcement.** ICE's participation in the JTTF, coupled with the secrecy of the JTTF and the Trump administration's warped view of undocumented immigrants as criminals and threats to public safety, creates a serious risk that our sanctuary laws could be violated by the Portland Police Bureau's collaboration with ICE through the JTTF.

We simply do not see how Portland Police officers can comply with these laws while also operating as deputized JTTF agents. We also lack confidence that this body, our Mayor, the Chief of Police, and the people of Oregon would ever know if these laws were being broken by our local officers, because that information is not available to any of us.

All of these concerns are now greatly intensified because of the Trump administration's utter disregard for civil rights and civil liberties. Our federal agencies are now operating under the direction of a president who has made it clear he will target people based on their religion, national origin, and political beliefs. He also embraces a disturbing view of how law enforcement should interact with our communities.

Our concerns are also intensified because of recent statements and actions by the FBI and ICE, the two biggest players in the JTTF. According to a recently leaked report from the FBI's counter-terrorism division, the FBI has now labeled peaceful political activists who are concerned about police violence and racial injustice as Black Identity Extremists and categorized them as a domestic terrorist threat. And as I am sure you have seen in recent news, we have been repeatedly appalled by the ICE activity that has been occurring in our communities, even in sensitive locations like courthouses.

If Portland is to live up to its values of fairness, justice, equality, and transparency, we need to disentangle ourselves from the troubling relationship the JTTF has formed between our great city and a federal administration and agencies who are so willing to disregard our rights.

The Constitution and the fundamental civil liberties of Americans should not be compromised in the name of national security. We cannot protect freedom by undermining freedom. The Constitution is not an obstacle to security; it is a road map to safety. Today, we implore you to follow that map, and to take the steps necessary to withdraw Portland from the JTTF.

Portland's Relationship with the JTTF

Background Information

All the way back in 2000, the ACLU, Copwatch and others began organizing to shed light on Portland's involvement in the FBI Joint Terrorism Task Force, which had been occurring for several years without public knowledge or debate. After 9/11, we warned that the FBI and other federal agencies were likely to step up the use of tactics that would be inconsistent with the U.S. and Oregon Constitutions, and we were right. Finally, in 2005, the Portland City Council heard our concerns and withdrew from formally participating in the JTTF.

Operating under the principle that no civil liberties victory ever stays won, at the end of 2010 the Portland City Council decided to revisit the City's 2005 decision to withdraw from the JTTF. We and many other organizations opposed this move, but it became clear that city council would approve case-by-case collaboration with the JTTF, regardless of our valid concerns.

Understanding this, we attempted to lessen the danger posed by Portland's collaboration with the JTTF by suggesting a variety of provisions to an agreement between the City and the FBI that were intended to provide at least some safeguards for the people of Portland. These protections included a requirement that Portland Police Bureau (PPB) officers have the necessary ongoing training on the differences between Oregon law and the very different guidelines followed by the FBI and other federal agencies, access to the City Attorney to ask questions if any work might be inconsistent with Oregon law, and a requirement to notify the Chief of Police and Commissioner-in-Charge of such violations, along with a public annual report on PPB's work with the JTTF.

In 2012, the FBI's first required report to the City was grossly inadequate. Although a modified report was later submitted after advocacy organizations complained, the report still lacked data that would permit the public to independently confirm that Oregon law and the Constitution are being honored by the City. Again in 2013, the yearly report was again inadequate, not containing enough detail to truly inform the public of the nature of PPB's participation on the JTTF.

And then, in 2015, Portland rejoined the JTTF, despite the failure of prior agreements to provide adequate oversight and transparency, and despite the fact that the people of Portland's civil liberties were put at great risk even by the current state of affairs, and despite opposition from a wide variety of advocacy organizations.

More information about the history of Portland's involvement with the JTTF can be found on our website at <https://aclu-or.org/en/legislation/portland-and-fbis-joint-terrorism-task-force>

END COOPERATION WITH THE FBI'S TERRORISM TASK FORCE

We, the undersigned, call on Portland City Council to withdraw the two full-time Portland Police Officers from the Joint Terrorism Task Force (JTTF) and cancel the Memorandum of Agreement with the FBI.

--Portland was not part of the Task Force from 2005-2011 based on the inability of the Police Chief and Police Commissioner to have the same "Top Secret" clearance as the officers they oversee. That issue has not changed.

--After Portland re-joined the JTTF fully in 2015, the public stopped receiving annual reports, so there has been no indication whether PPB officers have reported violations of provisions of ORS 181A.250 prohibiting law enforcement from collecting or maintaining information on people's "political, religious or social" affiliations without reasonable suspicion of criminal conduct.

--President Trump has made it clear he plans to target people based on their religion (Muslims), national origin (immigrants), and political beliefs (protestors), not to mention the media and others. Any JTTF activity along these lines would violate not only ORS 181A.250 but would also be in apparent violation of HB 2002's restrictions against profiling-- police targeting people solely based on race, national origin or a host of other characteristics.*

--Immigration and Customs Enforcement (ICE) is a member of the JTTF, meaning Portland's pledge to be a Sanctuary City is threatened by PPB officers participating in the Task Force.

--San Francisco pulled out of its Joint Terrorism Task Force on February 1, acknowledging that working with the FBI in its current form would lead to violations of state and local laws and policies.

As was the case from 2005-2015 when Portland formally re-joined, this would not restrict Portland Police from working on legitimate law enforcement investigations when actual criminal activity is suspected and detected on a case-by-case basis.

The time is ripe for Portland to be part of a national movement to protect residents and citizens from further potential civil liberties abuses.

Signed

ACLU of Oregon

Unite Oregon

Portland Japanese American Citizens League

Albina Ministerial Alliance Coalition for Justice and Police Reform

Peace and Justice Works/Portland Copwatch

Brandon Mayfield

League of Women Voters of Portland

Oregon Physicians for Social Responsibility

Asian Pacific American Network of Oregon (APANO)

Iraq Veterans Against the War

Veterans For Peace Chapter 72

Council on American-Islamic Relations of Oregon

Islamic Society of Greater Portland

Jewish Voice for Peace-Portland

Portland Immigrant Rights Coalition

Enlace (Portland)

Portland National Lawyers Guild

Portland Jobs with Justice

Sisters Of The Road

Oregon Progressive Party

International Socialist Organization (Portland)

Individuals for Justice

Network Against Racism and Islamophobia

350 PDX

For more information or to add your organization's signature to this letter contact Portland Copwatch at 503-236-3065 or [<copwatch@portlandcopwatch.org>](mailto:copwatch@portlandcopwatch.org).

*-HB 2002 (2015), now ORS 131.920

Last updated November 7, 2017

Moore-Love, Karla

From: Kimberly McCullough <KMcCullough@aclu-or.org>
Sent: Friday, September 01, 2017 12:14 PM
To: Council Clerk – Testimony
Subject: [Approved Sender] Request for time to address City Council

Karla,

Per our phone conversation, here is the information related to my request to address City Council on November 8th:

Name: Kimberly McCullough
Address: P.O. Box 40585, Portland, OR 97240
Phone number: 503.810.6939
Date: November 8th
Topic: Portland Police and FBI cooperation

Kimberly McCullough

(she/her/hers and they/them/their)

Policy Director

ACLU of Oregon

P.O. Box 40585, Portland, OR 97240

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■ kmccullough@aclu-or.org

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Request of Kimberly McCullough to address Council regarding
Portland Police and FBI cooperation (Communication)

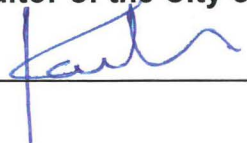
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OCT 31 2017

Filed _____

MARY HULL CABALLERO
Auditor of the City of Portland

By  Deputy

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
1. Fritz		
2. Fish		
3. Saltzman		
4. Eudaly		
Wheeler		