

JOINT TERRORISM TASK FORCE (JTTF) RESOLUTIONIF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)	ADDRESS AND ZIP CODE	Email
✓ DAN MANDELMAN	PORTLAND COPWATCH	
✓ BRANDON MAYFIELD	SUBJECT OF PATRIOT ACT INVESTIGATION	
✓ HENRY SAKAMOTO	JAPANESE AMERICAN CITIZENS LEAGUE	
✓ JO ANN BOWMAN	ALBINA MINISTRIAL ALLIANCE COALITION FOR JUSTICE	
✓ TOM NELSON	ATTORNEY	
✓ MADELYN ELDER	CWA 7901	
✓ ELIZABETH PATT	LEAGUE OF WOMEN VOTERS	
✓ CHANIE GELWELER	SISTERS OF THE ROAD	
✓ ASHLEE ALBIE	NATIONAL LAWYERS GUILD	
✓ Greg Lafour		
✓ SABA AHMED	1000 SW 178th Place 97207 97207	Saba 1119@gmail.com

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✓ James Daraja	475 NW Glisan Portland 97209	jdaraja@yahoo.com
✓ Katherine Smith	mailing: 13500 S.W. Pacific Hwy Tigard, OR 97224	
✓ Benjamin Kerensa	10450 SW BARBOR BLVD	bkerensa@gmail.com
✓ Suzanne Hayden	Citizens Crime Comm - 200 Market St St 150	shaydena@pdx.ccc.org
✓ Greg Aedan	Galitan / PBA 200 Market St.	
✓ Joe Goodale	121 SW Salmon, Portland 97204	joe.goodale@pgn.com
✓ Stan Sittser	121 SW Salmon, Portland 97204	stan.sittser@pgn.com
✓ Gregory Fegel	Apt 203, 315 NE 20th Portland 97232	gregoryfegel@evernet.com
✓ Joe Walsh	7348 SE Division St Pdx	
No ✓ Dean Paul Vinton	1920 NW 26th ave 97210	whattime@line@sol.gov
✓ Marie Webster	97209	webster.m@hotmail.com

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NAME (print)	ADDRESS AND ZIP CODE	Email
✓ Felix Bordeaux	8415 NE Russell St 97220	SINIC25@yahoo.com
✓ Lisa Haynes	8415 NE Russell St	BOSS_lady_12@yahoo.com
✓ Herman M. Franke (MD)	3310 NW Savier St 97210	frankelh@comcast.net
NO Debra J Wood	17483 SE Stark St 97233	daffiam@hotmail.com
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✓ HARVEY THORSTAD	3047 SE 16th Ave, PORTLAND 97236	HARVEYTHORSTAD@YAHOO.COM
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✓ REBECCA LEWIS	1829 SE Stark St 97214	REBECCASART@GMAIL.COM
NO Malcolm Chaddock	17986 S Redland Rd Oregon City OR 97043	malmaal@gmail.com
✓ Mindy Stone	30270 BOX 132, PDX OR 97207	mindystone1@yahoo.com
✓ Cherie Lambert Hölenstein	6141 SE Steel 97206	phone 503-771-5675

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NS ✓ Michael Meo	3003 NE Weidler Pkwy 97232	meoforcongress@gmail.com
✓ Nancy Newell	3917 NE Skidmore St Pkwy 97211	Ogccc2@hotmail.com
✓ Shelley Fox-Loken	5103 N. Hayden Island Dr 97217	sfoxloken@gmail.com
✓ Mark Kramer	520 SW G th #1010 97214	mark@kramer-associates.co

JOINT TERRORISM TASK FORCE (JTTF) RESOLUTIONIF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

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NO/ LISA FAY		

5-19-11

6:30 PM Hearing

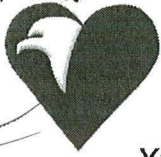
Heart of America Northwest

The Public's Voice for Hanford Cleanup

1314 NE 56th St Suite 100 - Seattle, Wa 98105

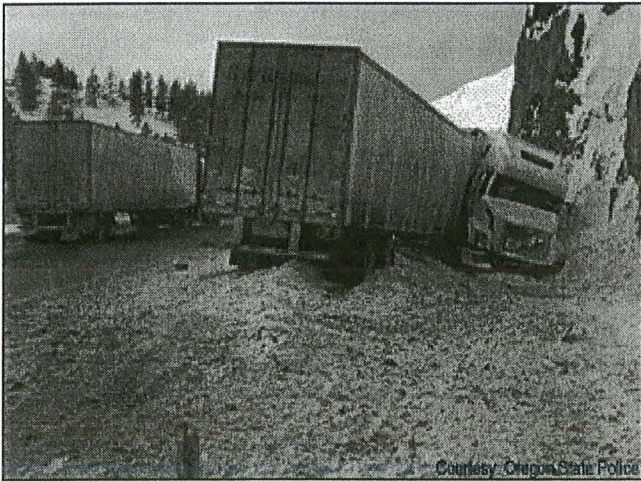
Voice: (206)382-1014 - Fax: (206)382-1148 - <http://www.hoanw.org>

Carla



Submitted by
Cherie Lambert
Holenstein
4-28-11

Protect the Northwest from Hanford Being Used (Again) as a 36859 National Radioactive Waste Dump — More Plans to Truck and Bury EXTREMELY Radioactive Waste (GTCC)



Courtesy: Oregon State Police

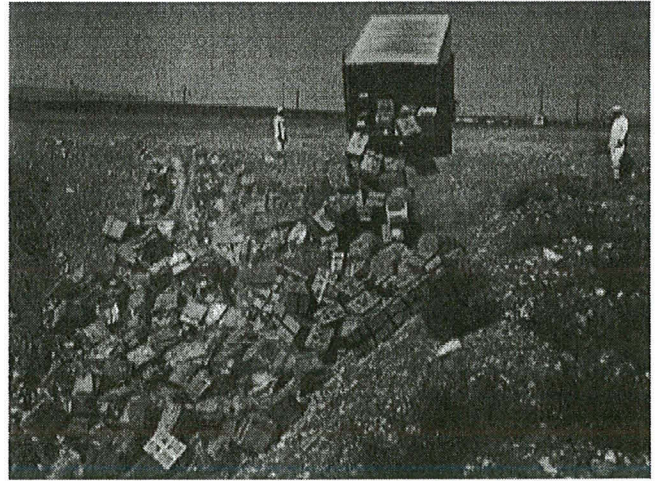
Radioactive Waste truck jackknifed on I-84 Blue Mts. Under USDOE's plan to start shipping radioactive wastes to Hanford after 2020, over 15,000 truckloads of radioactive waste would drive through Portland, the Gorge, Blue Mts and Spokane to Hanford.

The federal Energy Dept. (USDOE) estimated that radiation from trucks carrying High-Level Waste to Hanford would cause **over 800 fatal cancers in adults along truck routes** because the shipments emit radiation even though highly shielded (unlike this truck with very low-level waste). Although there would be far fewer shipments of extremely radioactive GTCC wastes, each truck would likely emit as much, or more, radiation than under USDOE's withdrawn proposal to ship High-Level Nuclear Waste.

Lessons for the Northwest from the Japanese Reactor meltdown crisis:

The consortium of public utilities that runs the region's only commercial nuclear reactor located at Hanford, Energy NW (formerly WPPSS), has been **secretly planning to use the same experimental Plutonium fuel** as Fukushima Reactor 3, with the gravest risks and releases.

As reported in the Seattle Times on P. 1 on 3-19, we are suing Energy NW for withholding public records on this plan which it sought to keep from the public. Documents admit that the offsite radiation dose would be higher from Plutonium fuel, and likelihood of an accident increased. The scheme would also set back Hanford cleanup by keeping open contaminated buildings in the 300 Area to fabricate the Pu fuel and make more waste, instead of cleaning up this area. Please donate to support our suit at: www.hoanw.org



Over 40 miles of unlined trenches like this one were used to dump radioactive and toxic chemical wastes at Hanford.

Groundwater flowing into the Columbia River will be contaminated over and over again at levels causing high cancer rates for ten thousand years if USDOE's proposals to "cover up" the trenches and tanks with dirt, instead of cleaning up by retrieving wastes, are adopted - according to USDOE's own 2010 TCWMEIS. WA State operates a commercial radioactive waste dump with leaking unlined trenches, which it plans to cover up, instead of cleaning up.

***Using Hanford as a National Radioactive Waste Dump increases the cancer risk tenfold - before adding the extremely radioactive waste, called GTCC waste.

Your voice is needed at the hearing on USDOE's proposal to truck and bury extremely radioactive GTCC waste at Hanford:

**Portland Doubletree Hotel – Lloyd Center
Thursday May 19th 6:30 PM**

Send in your comment by June 27 & get info at:
<http://www.gtcceis.anl.gov/involve/index.cfm>
and stay up to date at: www.hoanw.org



Thursday, 28 April, 2011

Good Afternoon Mr. Mayor and members of the Council. I come before you today representing the Oregon Progressive Party to ask that you postpone or vote no concerning the pending vote of the City Council on the make up of the Joint Terrorist Task Force, (JTTF). We have notified you of our opposition to the vote and come here today to say that as a political party representing citizens in Oregon we remain unconvinced that the Federal Bureau of Investigation, (FBI) can be trusted to fulfill what they promise. There remains questions about how our city will insure that our citizens are not harassed by profiling where there is little or no evidence of illegal activity. Mayor Adams, you seem to not understand that we as an organization do not trust the FBI, and nothing that they say or promise you and the council will change our opinion. The FBI must show that they will respect our laws and not just tell us how they have changed their ways. They must prove themselves by their actions. I will read the last two paragraphs of our letter to the council dated April 26, 2011.

"A vote Thursday, April 28, on any resolution would be an insult to the concerned citizens and community groups and the legitimate issues that they raise.

We urge City Council to use the Public Hearing as an opportunity to hear public feedback on the resolutions presented and to not call a vote prematurely. If you choose to vote then we call on you to honor your office and the constituents that you represent and vote NO on the JTTF."

Sincerely,

Oregon Progressive Party

~~JTTF 43 Minutes~~

I'm Stan Sittser, Vice Chair of the Citizens' Crime Commission.

Today, it's time to decide.

The City of Portland has conducted a very thorough, transparent and public process, evaluating --- whether or not --- the City of Portland --- should or should not --- participate in the Joint Terrorism Task Force.

You've listened. So thank you for listening to all sides with respect.

You've drafted a variety of possible options for consideration. So thank you for looking at the issue from a number of different angles.

You've made adjustments based on what you've heard. So thank you for being flexible.

The simple fact is this: you have a resolution before you that deserves to be approved.

Not just because it makes good common sense, but also because it was crafted using the full-up, full-on Portland process: a process that was thorough, transparent and public.

Each of us who serve on the Citizens' Crime Commission urge *each of you* to vote and adopt the "final draft resolution," released Tuesday, May 26, to participate in the Joint Terrorism Task Force.

April 26

Today, it...is...time to decide.

Thank you!

**CITIZENS
CRIME
COMMISSION**

Testimony before the Portland City Council
Thursday, April 28, 2011 2:00 p.m. City Council Chambers
Suzanne Hayden, Executive Director of the Citizens Crime Commission

Good afternoon Mayor Adams, and Commissioners. I am Suzanne Hayden, Executive Director of the Citizens Crime Commission. Thank you for this opportunity to share our view regarding the responsibility the City should take in combating terrorism. We support the City having officers assigned to the local Joint Terrorism Task Force.

Acts of terrorism threaten our security and our liberty. As we are aware, Oregon and Portland are not immune to the threat terrorism poses. The Citizens Crime Commission believes the safety and security of our community is of critical importance for the City Council to consider when deciding how to be most effective in preventing terrorist attacks against our city.

Sharing good intelligence and true collaboration is critical to prevent an act of terrorism. Joint Terrorism Task Forces are part of our nation's security strategy at all levels. Local, state, and federal law enforcement officers and agencies share information, leverage their relationships and coordinate efforts on the focused goal of preventing, interrupting, responding to and investigating terrorist threats. There are 106 JTTFs based in cities nationwide, and at least one in each of the 56 FBI field offices. We have a field office in our city, and a Joint Terrorism Task Force made up of local, state and federal partners, but since 2005 the Portland Police Bureau has not been a member. It is crucial to have Portland police influence at the JTTF daily briefing discussing intelligence leads about potential threats. We must have Portland police officers participating in those criminal investigations. We are the only city of our size not at the table as part of the national security effort. Sitting out is an ineffective and potentially dangerous strategy. Sitting out results in lost opportunities for local oversight and local influence.

Based upon our review of Department of Justice and FBI protocols, the draft City resolution released Tuesday, and discussions with law enforcement members, we believe the community can rely on the procedures in place to provide the necessary oversight. Thank you for your leadership in striving for a balance of community safety and protection of civil liberties. We believe the draft resolution is workable to achieve that balance.

Thank you.

Statement to Portland City Council on Resolution Regarding Cooperation with the FBI from the Portland Chapter of the National Lawyers Guild

April 28, 2011

Thank you Council, for your attention to this issue. I am co-chair of the Portland chapter of the National Lawyers Guild, a progressive legal organization whose members work for social justice and human rights. I am also part of the legal team challenging the federal government's NSA warrantless wiretapping program, in which the FBI and its director were named defendants. That program was declared to have violated the law by a federal judge in California.

We welcome that PPB officers remain in the chain of command of the Police Chief and Commissioner and the annual public report. We request you ensure the report is accurate and over inclusive, rather than overly secretive.

We do, however, have serious concerns about the FBI using local police to gather intelligence on lawful and legitimate political activity. The FBI has a long history of violating civil rights in the course of its investigations. It would be a huge mistake, naive even, to presume that this is a thing of the past, ending with the Bush Administration, or that the US Attorney in Oregon ultimately would have any influence over the national practices of the FBI. The OIG report Ms. Meyer referenced refers to recent civil rights violations, and reflects a culture within the FBI that such violations are acceptable. These violations occurred during low level assessments, or preliminary investigations- which our police may be allowed to participate in. Our case challenging the wiretap program was a Bush Era program, but staunchly defended by an administration that prior to taking office, condemned that same program as illegal.

In southern California, Muslim organizations and individuals brought a FOIA suit, seeking information from the FBI regarding its surveillance of them. Just yesterday, a federal judge in that case found the government, the FBI, had lied to the court about the documents in its possession. The government argued it had to mislead the court to avoid compromising national security. The judge wrote "It is impossible for the Court to determine compliance with the law and to protect the public from Government misconduct if the Government misleads the Court. The Court simply cannot perform its constitutional function if the Government does not tell the truth." If the FBI and Dept of Justice are willing to lie to a Court of law, we have no reason to believe they will not do the same with this City. See Islamic Shura Council of Southern California, et al. v. FBI, et al., Case No. SACV07-1088-CJC (C.D. Ca).

We can't support allowing members of our police department to snoop for the FBI based on the vague and undefined term "criminal nexus" - there's a high potential for violations of Oregon law, which requires "reasonable suspicion" to investigate crime, not a "criminal nexus." Allowing the FBI to use PPB members as vehicles for gathering intelligence on our community would undermine the strong protections of ORS 181.575. That law has a clear message: we won't tolerate investigation and monitoring anything other than criminal activity; we won't tolerate monitoring of political and religious activity. The FBI has no such restrictions, its guidelines are broader and vaguer than any protections we have here. They were expanded under President Bush, and remain expanded under President Obama. The FBI has consistently monitored and investigated political and religious activity unrelated to criminal activity. This

resolution allows that FBI to direct the actions of our police officers.

We have concerns that the City Attorney does not have a security clearance; if a PPB member has concerns with actions he or she is directed to perform by the FBI, the bureau member will not be able to communicate clearly with the City Attorney to get advice on whether those actions are consistent with Oregon law. The City Attorneys' access on any such issue is subject solely to the discretion of the FBI- this "trust us" approach is untenable and unsupported by the FBI's history and current practices.

There is little incentive to report concerns: it could slow an investigation; and any member could not get a discreet opinion from the City Attorney. If the City Attorney is denied access to information necessary to determine whether Oregon law has been violated, the only recourse is to inform the Chief and the Commissioner. We cannot predict how that decision would be made or whether it would be in the annual public report. If the City Attorney can't agree that the action is within Oregon law, the Officer should be barred from participating.

This resolution was drafted largely behind closed doors with little to no input from the community and the resolution was released less than 48 hours before this vote. This lack of transparency is not how major decisions like this should be made, and is contrary to the concept of participatory democracy.

Thank you for your time.

36859

SmartZone Communications Center

~~dan.saltzman@portlandoregon.gov~~

± Font size -

FW: SUBSTITUTE RESOLUTION

From : Brendan Finn <Brendan.Finn@portlandoregon.gov>
Subject : FW: SUBSTITUTE RESOLUTION
To : 'Dansaltzman' (~~dan.saltzman@portlandoregon.gov~~)

Wed Apr 27 2011 5:00:03 PM

1 attachment

From: Osoinach, Ellen
Sent: Wednesday, April 27, 2011 2:01 PM
To: Finn, Brendan
Subject: RE: SUBSTITUTE RESOLUTION

Hey, Brendan. The criminal nexus language is intended to indicate that the work PPB officers do with the JTTF must be related to crime. So, for instance, they couldn't collect intelligence solely on the basis of a person's First Amendment activities. The intelligence must be related to a criminal investigatory purpose.

I can say unequivocally that this language does not prohibit officers from working on pre-investigative activity such as assessments or preliminary investigations. I'm be happy to talk in person if you'd like.

~Ellen

From: Finn, Brendan
Sent: Wednesday, April 27, 2011 1:32 PM
To: Osoinach, Ellen
Subject: RE: SUBSTITUTE RESOLUTION

Hi Ellen-

Got a question and I apologize if you explained this on Monday. Still struggling to explain to Dan the definition to "criminal nexus." What he would like clarity on is if this definition of "criminal nexus" would preclude PPB officers at any point from working on JTTF investigations in pre-investigative activity (or assessments), preliminary investigations or full investigations when in accordance with Oregon statutes or common law?

Thanks

Brendan

Brendan Finn / Chief of Staff
Office of Commissioner Dan Saltzman
Ph. 503-823-3110
brendan.finn@portlandoregon.gov
<http://www.portlandonline.com/saltzman/>

From: Osoinach, Ellen
Sent: Tuesday, April 26, 2011 5:43 PM
To: Adams, Sam; Saltzman, Dan; Leonard, Randy; Fish, Nick; Fritz, Amanda
Cc: Jimenez, Warren; Yocom, Jennifer; Finn, Brendan; Kovatch, Ty; Blackwood, Jim; Bizeau, Tom
Subject: SUBSTITUTE RESOLUTION

<< File: Substitute JTTF Resolution 4-26-11 530pm.pdf >> << File: Comparison between Substitute and 4-18-11 Draft.pdf >>
Commissioners:

Attached please find a Substitute Resolution which will be presented to Council this Thursday. I have also attached a document that tracks the changes from the version submitted for public comment on 4/18/11. I'm happy to answer any questions.

Statement to Portland City Council on Resolution Regarding Cooperation with the FBI from the Portland Chapter of the National Lawyers Guild

April 28, 2011

Thank you Council, for your attention to this issue. I am co-chair of the Portland chapter of the National Lawyers Guild, a progressive legal organization whose members work for social justice and human rights. I am also part of the legal team challenging the federal government's NSA warrantless wiretapping program, in which the FBI and its director were named defendants. That program was declared to have violated the law by a federal judge in California.

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This resolution was drafted largely behind closed doors with little to no input from the community and the resolution was released less than 48 hours before this vote. This lack of transparency is not how major decisions like this should be made, and is contrary to the concept of participatory democracy.

Thank you for your time.

Good Afternoon Commissioners,

My name is Chani Geigle-Teller and I'm here with Sisters Of The Road. At Sisters we are committed to creating a culture of safety & respect for all. We know that to work for nonviolence, we must also work to end the oppression that keeps members of our community struggling for dignity & safety. For that reason, we oppose any increased contract with the JTTF.

History shows us that the federal government has created many systems that allow the FBI to work with local police to spy on and harm individuals and groups working for justice. They have broken up families and communities, and even murdered activists who were considered politically threatening to state power. The most violent treatment has been inflicted upon communities of people of color.

In the 1960's, the FBI counterintelligence program infiltrated organizations such as Students for a Democratic Society, those who supported the peace movement, the American Indian Movement, the NAACP and the Black Panther Party for Self Defense. Even Dr. King was heavily followed by the FBI, who spread false information about him and his family to undermine his leadership.

In 2002, The Tribune published an article detailing that city funds have been used for spying on citizens until at least the early 80's. Thousands of engaged Portlanders were monitored, followed and spied on for doing honorable, nonviolent, civic work. The list of groups that were monitored includes People's Food Coop, the Bicycle Repair Collective and *even Sisters Of The Road*. During the 1990's, police records show that officers infiltrated and monitored activists from Peace & Justice Works and Portland Copwatch.

The FBI programs that allowed for these attacks on our communities are continued today through policies such as the PATRIOT Act and HOMELAND SECURITY. Last September, the FBI raided the homes of 5 anti-war activists in Minnesota. In December, under the direction of U.S. Attorney Patrick Fitzgerald, the FBI delivered nine new subpoenas in Chicago to anti-war activists. These activists and their communities are experiencing this **now**. They are being threatened with imprisonment for refusing to appear before the court.

These high profile cases are **not exceptions**. We know that **every day** people of color, Muslims, immigrants, peace activists, and labor organizers are being monitored, targeted, imprisoned and tortured by our government. Locally, we have also seen the severe injustices, **harm and deaths** inflicted on our communities by the Portland Police. We have worked hard with other community organizations to create more transparency and accountability of local law enforcement. **Working with the JTTF is a huge landslide backwards from all that we have gained**, even while we still have so far to go.

Our communities carry the burden of the history laid out here. Still, we work together to organize a society where our most basic needs are met and our civil rights are respected. We understand that because we are actively resisting the status quo, we will be targeted at local and federal levels. But we also **expect** our local leaders to work on our behalf and make it a challenge for the FBI and other oppressive enforcement systems. **No police at daily briefings! No FBI monitoring our movements! No JTTF in Portland!!**

LAW OFFICES OF
THOMAS H. NELSON & ASSOCIATES

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Admitted in:
Oregon, Washington, and
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***Via Electronic Mail: Samadams@portlandoregon.gov,
amanda@portlandoregon.gov, Nick@portlandoregon.gov,
randy@portlandoregon.gov, dan@portlandoregon.gov***

April 28, 2011

COPY

Sam Adams, Mayor, Commissioner of Finance and Administration
Amanda Fritz, Commissioner of Public Utilities, Position Number 1
Nick Fish, Commissioner of Public Works, Position Number 2
Randy Leonard, Commissioner of Public Safety, Position Number 4
Dan Saltzman, Commissioner of Public Affairs, Position Number 3

Re: City of Portland's Participation in Joint Terrorism Task Force

Dear Commissioners:

I am writing to oppose the City of Portland Police Bureau's participation in the federal Joint Terrorism Task Force. If the City decides to do so I believe that it will unnecessarily put Muslims in the City at risk by reducing the cooperation between the Police Bureau and the Muslim Community. Now more than ever the Muslim community of greater Portland needs the protection of the first responders of the Bureau; by the City's aligning itself with the Department of Justice through cooperation with the JTTF that needed cooperation and consequent protection will suffer.

As suggested above, I have been involved as an attorney in the civil-rights consequences of Islamophobia in Oregon. It has been my experience that, since September 11, 2001, the civil and human rights of Oregon Muslims have come under threat, and that the threat is actually increasing as the events of September 11 recede into history. In my opinion, the increasing threat is caused in large part by the policies and practices of the United States Department of Justice which, of course, is the federal part of the JTTF which have heightened Islamophobia nationally and in Portland. Specifically, it is my experience over years of practice since 9/11 that the Department of Justice itself has been responsible for a major portion of the Islamophobia which is driving the increase in threats to Muslims' civil rights. I would like to cite several examples of past and current Department of Justice conduct that may help explain why the Muslim community in Oregon perceives itself to be under increasing attack. I am personally familiar with each of the cases described below.

Muhammad Kariye. In September 2002 the leader of the predominant mosque in Portland, Masjid As-Saber, was arrested at the Portland airport while he was leaving with his family to Dubai; the alleged crimes were unlawful use of a Social Security number and using an incorrect birth date in an asylum application. Taking what at most would be allegations of garden-variety fraud, the U.S. Attorney's office then reached for the headlines: The Assistant U.S. Attorney involved in the case announced that "explosive residue" had been found inside two pieces of luggage belonging to Kariye and his family, intimated that Mr. Kariye may have been involved in funding a charity set up by an aide to Osama bin Laden, and urged that Mr. Kariye be kept in prison pending trial because he had "several thousand dollars in cash" when arrested, and that such made him a "flight risk." These spectacular allegations incited immediate anti-Islamic responses in the Portland community; later, however, when the initial hysteria cooled, the FBI admitted that the allegation about explosive residue was incorrect (this was not the last case of botched federal forensics used to incite Islamophobia; see Mr. Mayfield's case, below). I have personally attended sermons delivered by Mr. Kariye in the years since in which he urged that his congregants be moderate and report any suspected antisocial activities to authorities. As you probably know, although Mr. Kariye was prosecuted for only the regulatory infractions, the cloud over the Muslim community at the As-Saber Mosque remains.

Brandon Mayfield. In May 2004 a local Muslim attorney, Brandon Mayfield, was arrested as a material witness in the matter of the Madrid train bombing that occurred in March of that year. The Department of Justice's application for a search warrant in that case recited a number of factors designed to incite, e.g., that he had represented in a child custody matter a person who had been charged with terrorism, Mr. Mayfield's attendance at a local mosque, and his having advertised his legal services on a Muslim Web page directory service. The fundamental basis for Mr. Mayfield's arrest was that the FBI asserted that a fingerprint on one of the plastic bags used to carry explosives in the Madrid bombing matched Mr. Mayfield's fingerprints on file. At the inception of the legal proceedings – when I was representing Mr. Mayfield – Judge Robert Jones of the Federal District Court of Oregon imposed a strict "gag order" on the participants, including the Department of Justice; I was specifically prohibited from discussing the contents of the affidavit in support of the warrant, and the government was likewise cautioned about commenting publicly on the case. Notwithstanding this gag order, anonymous sources within the Department of Justice provided leaks to the news media to the effect that the fingerprint on the bag was in fact Mr. Mayfield's; specifically, according to the New York times a source, the partial print on a plastic bag used in the bombing was an "absolutely incontrovertible match" to Mr. Mayfield's prints on file.¹ A second leak to the Los Angeles Times referred to the alleged match as a "bingo match."² These and other leaks by the Department of Justice, which were obvious violations Judge Robert Jones' gag order, created strong public sentiment against Mr. Mayfield and fanned the fires of Islamophobia in the local community. Again, as in the case of Mr. Kariye, the FBI had to admit that its experts had botched the forensics and

1 See http://www.cs.odu.edu/~apalmer/collection/en.wikipedia.org/wiki/Fingerprint.html#Brandon_Mayfield_and_Madrid_bombing.

2 See <http://articles.latimes.com/2004/may/08/nation/na-terror8>.

that there was no match - which incidentally was a position firmly held by the Spanish authorities from the beginning of the affair. By this time, of course, the harm had been done, and the cloud over Oregon Muslims remained for some time; indeed, part of it remains today.

The November 2010 "Christmas Tree Bombing" in Portland, Oregon. The third example is much more recent, having occurred in Portland in November of last year. In this case the FBI acknowledged that it had worked with a disturbed young man to the point where he allegedly agreed to ignite explosives at the lighting of Portland's Christmas Tree in Pioneer Courthouse Square last November. In its press release the FBI admitted it controlled the operation from the beginning and firmly stated that at no time was there a danger to the public. But the FBI went further; instead of quietly arresting the defendant, it made a theatrical spectacle by apprehending the defendant just after he had attempted to ignite the "bomb" that the FBI itself had helped prepare and then issuing a press release claiming that the FBI had saved innocent lives by apprehending the alleged planner. This unnecessary public spectacle created very severe and immediate danger to local Muslims, and the backlash against the Muslim community was also immediate and severe. Specifically, there was an arson fire at a Corvallis, Oregon, mosque which the alleged bomber had attended (still no arrests), a Muslim prisoner incarcerated in a Portland jail was severely beaten, there was a bomb threat at Mr. Kariye's mosque in Portland, and other criminal products of Islamophobia have occurred. Had the FBI and Department of Justice put the protection of local Muslims on an even footing with informing (if not inciting) the public I believe that all of these consequences could have been avoided.

The 2010 Trial of Pete Seda in Eugene, Oregon. Pete Seda, a naturalized American citizen of Iranian descent who now lives in Portland, was arrested on charges relating to the filing a false federal tax report in 2000. Mr. Seda, who for years was a Muslim peace activist in Ashland, Oregon, was brought to trial in Eugene, Oregon, on the eve of the anniversary of September 11. I attended every day of that trial and witnessed first-hand the Islamophobia that was at the core of the Department of Justice's case. For example, from the beginning of the trial the Department of Justice displayed to the jury a poster containing pictures of several individuals including Mr. Seda along and a known terrorist whom Mr. Seda had never met or communicated. In addition, during the prosecution's closing argument one of the prosecutors picked up a Qur'an containing a controversial appendix and threw it on a table in front of the jury while referring to it as "junk" - an action that inflamed the feelings of at least the many Muslims in the courtroom.

Perhaps the most glaring shortcoming during Mr. Seda's trial involved the testimony of one witness, Barbara Cabral. Ms. Cabral was the only witness who testified to Mr. Seda's desire to support Islamic fighters ("mujahedeen") who were opposing the Russian occupation of Chechnya during the Second Chechen War. Specifically, Ms. Cabral, who had performed an Islamic pilgrimage ("hajj") to Mecca in the spring of 1999, testified that at the conclusion of the pilgrimage Mr. Seda suggested that she and her husband who accompanied her donate unused travel funds to support

the mujahedeen in Chechnya. Again, Ms. Cabral's testimony was the *only* testimony during the trial that purported to link Mr. Seda with radical Islamic causes. It was only after the trial and Mr. Seda's conviction that the Department of Justice admitted for the first time that it had authorized the payment of \$14,500 to Ms. Cabral for her testimony and that it had anticipated paying her additional funds after the verdict was returned.

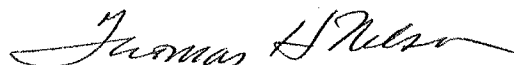
The disclosure of the payments to Ms. Cabral has resulted in a motion for new trial, which is currently pending. But the story does not end there. During a recent trip to Saudi Arabia I was able to obtain and inspect some of the unused travel vouchers that were the source of the purported payment to the mujahedeen; I have personally confirmed their amounts and that they are dated March 1999. During that trip I also learned of other facts that cast serious doubt on the veracity of Ms. Cabral's testimony; those facts have been turned over to the Department of Justice for possible further action. Whether it was merely prosecutorial negligence or something deeper that led the Department of Justice to sponsor Ms. Cabral's false and highly inflammatory testimony is open to speculation; there can be no doubt, however, of the effect of her testimony on the jury, the press, and the public who were following the trial.

These are not the only examples, but time limits further discussion. The point is that I have witnessed first-hand Department of Justice's going to unusual steps to create and inflame Islamophobia in Portland, which, of course, is the main cause of the threats to Muslims' safety, not to mention their civil rights. Today, of course, the Portland Police Bureau is untainted by the Department of Justice's actions, and as a result there has been strong and significant cooperation between the Muslim community and the Bureau in recent years. Portland's joining the JTTF will, in my opinion, lessen if not eliminate that cooperation: Muslims simply will not feel secure or comfortable in calling Bureau personnel when an emergency arises because they will not know whether the first responders are there "to serve and protect" or to spy. Ultimately I believe the Muslim community will come to realize that it cannot look to the Bureau for protection, which raises the uncomfortable question of how such necessary protection might be provided.

The City of Portland has put too much effort to build trust with the Muslim community to destroy that trust by joining the JTTF. No one doubts that the FBI has a legitimate role to serve, but that role - in contradistinction to the role of the Portland Police Bureau - is not as a first responder charged with immediate protection of Portland's Muslim citizens. In my opinion, the FBI and the Department of Justice have so abused Muslims in Oregon since 9/11 as exemplified by the four examples above that there is no hope of any real cooperation between the Muslim community and federal authorities. By aligning itself with the federal authorities, the Police Bureau will become every bit as suspect - to the detriment of the overall Portland community, not to mention the Muslim community.

Thank you for your attention and patience in reading this. If you have any questions or desire further information or elaboration please let me know.

Very truly yours,

A handwritten signature in cursive script, reading "Thomas H. Nelson". The signature is fluid and elegant, with a long, sweeping underline that extends to the right.

Thomas H. Nelson

LOCAL 7901

MADELYN ELDER
PRESIDENT



Workers of America

AFFILIATED WITH AFL-CIO

10011 S.E. DIVISION ST., SUITE 302
PORTLAND, OREGON 97266
Phone (503) 238-6666
Fax (503) 238-6965

April 28, 2011

Testimony against the City of Portland's joining the FBI's Joint Terrorism Task Force Program.

Good Afternoon and thank you for listening to my comments.

My name is Madelyn Elder, and I am President of CWA Local 7901 at 10011 SE Division Street, suite 302 in Portland, OR 97266.

At our March 24, 2011, Membership meeting, CWA Local 7901 passed the following resolution:

Move to oppose the City of Portland's efforts to rejoin the Joint Terrorism Task Force.

In our discussion of the resolution, many points stand out, but our position was reached because the labor movement is all about the freedom to gather in meetings or peaceful picket lines without the FBI or any other agency turning it into a potential terrorist plot. We have a legal right to assembly, and even more under the National Labor Relations Act. We should not be subject to the FBI's method of collecting information on anyone who participates in our activities. It would have a chilling effect on our right to organize, negotiate good contracts and otherwise defend our rights under the NLRA.

In addition, we truly believe that "an injury to one is an injury to all." The current resolution does not address our issues sufficiently and we respectfully request that the City of Portland does not join the JTTF of the FBI.

###



The League of Women Voters of Portland

310 SW 4th Avenue, Suite 520
Portland, OR 97204

36859

(503) 228-1675
info@lwvpdx.org

Joint Terrorism Task Force City Council Testimony April 28, 2011

We would like to thank Council for incorporating a number of safeguards into the JTTF resolution. Annual reports to the Council and public, City Attorney-provided training for bureau members, regularly scheduled meetings among key leaders and when personnel changes take place, and a requirement that change to the resolution be made in an open public hearing will add transparency and accountability. We do have concerns and suggestions to share with you.

The 2008 Attorney General's Guidelines give the FBI the authority to conduct "assessments" without any factual predicate and "preliminary investigations" based solely on the possibility of criminal activity. The Department of Justice Office of Inspector General stated that this "possibility of criminal activity standard" is "easily attainable and speculative." For these reasons, the League supports limiting our officers to participation in investigations in which there is a reasonable suspicion of criminal conduct, as required by Oregon law.

The 2008 guidelines also loosened the limitations on the retention of information related to attendance at public events, clearly a first amendment activity. Oregon law prohibits retention of these types of files. By restricting our officers to investigations with a criminal nexus the city will achieve a degree of assurance that our officers will not violate Oregon law.

The League encourages additional oversight of our officers' JTTF activities. The current draft relies on bureau members to report potential violations of Oregon law. Asking our officers to monitor their own actions lacks suitable mechanisms for accountability. Accordingly, the League recommends requiring the City Attorney and IPR Director to regularly review all JTTF files created with Portland police officers' participation. Any files collected in violation of Oregon law should be purged.

Some have asked why Portland has engaged in repeated public debate about the city's participation in the JTTF. In our view, it is due to the fact that Council is responsible for both legislative and administrative functions and city contracts appear on the weekly council agendas. This provides a level of transparency not available in other communities, but highly valued by Portlanders.

Finally, we found it helpful to receive the most recent draft resolution Tuesday evening. It was discouraging, however, to have submitted comments before the stated deadline knowing that they were not taken into account.

"To promote political responsibility through informed and active participation in government."

To Mayor Adams and members of City Council:

36859

We at Portland Copwatch appreciate the efforts by the Mayor and Council to clarify the City's relationship with the FBI's Joint Terrorism Task Force (PJTTF), though we think **the current resolution is too vague** about how often the police will be working with the FBI and **needs to strengthen oversight provisions**. While the 2005 resolution called attention to the concerns of the City (lack of Security Clearance and oversight), it left open the possibility of Portland Police working with the FBI on a case by case basis. So far as we know, not only did that not happen, but by the time we'd changed Chiefs twice (to Rosie Sizer in 2006 and Mike Reese in 2010), the FBI and maybe even the Chief didn't know the terms of the 2005 resolution.

Therefore, we are encouraged by some of the provisions in the new resolution, namely:

- * That **the Chief will be required to have "Top Secret" clearance**, the same as the officers working on individual PJTTF cases;
- * That **the City Attorney will be able to review PJTTF documents** for compliance with state law;
- * That there will be **annual reports on any joint PPB/PJTTF activities**; and
- * That the Police Commissioner will be tasked with **making sure new Chiefs, FBI Special Agents, and other parties know about the terms of the resolution**.

However, we remain concerned:

- * That the **Police Commissioner—an elected official— will not have the same clearance as the Chief** and other officers under his command;
- * That the **City Attorney will have to sign security waivers** to review **only those cases which the PPB officers bring to her attention**;
- * That there is **no provision for the Independent Police Review Division**, which previously checked the Criminal Intelligence Unit files for compliance with ORS 181.575, to **oversee the activities of the PJTTF**; and
- * That the resolution **allows the FBI to decide when a threat is imminent**, thus bypassing the safeguards against possible violations of ORS 181.575.

We strongly supported the City's original plan to otherwise **only work on cases that reach the "full investigation" stage** rather than being roped into the speculative realm of "assessments" and "preliminary investigations." It's very discouraging that **US Attorney Dwight Holton** stated Portland's attitude on this matter was a "deal breaker" since he and **FBI Agent Balizan** told the Human Rights Commission in January that **Portland could write any kind of agreement they want so long as they agree in some way to work with the PJTTF**.

Even more discouraging is that **Council backed down to this bullying tactic** and changed the language to allow investigations when there is a **"criminal nexus."** We're not lawyers, but we understand "reasonable suspicion" and "probable cause" standards. We don't know what a "criminal nexus" means, and fear that **it could be used to investigate people who come in contact with individuals who are suspected or convicted of crimes...** in other words, a basis for **guilt by association**.

Other concerns about the new draft include:

- *The paragraph asking PPB officers to report potential violations of law **no longer requires them to inform the City Attorney**;
- *The **definitions of assessments, preliminary and full investigations are gone**; and,
- *The paragraph **requiring the FBI to notify the Police Commissioner about substantial terrorist threats is gone**.

We are confused by the Mayor's statement that three to five Portland officers will be applying for Security Clearance so that they can participate in FBI briefings.

[<http://www.portlandonline.com/mayor/index.cfm?c=52750&a=346024>] The US Attorney indicates this means **they will be attending meetings with the FBI daily**, which seems to **fly in the face of the intent of the resolution to only cooperate on a case by case basis**. Similarly, while we support the provision that the Chief has to consult with the Police Commissioner before assigning officers to the PJTTF, **if that provision allows the Chief to assign the officers on an ongoing basis, it also conflicts with the intent**.

We also strongly supported the idea that the Bureau would have to **bring its Standard Operating Procedure on this matter back to Council before changing it**. It is disappointing this was changed to **apply only to the resolution**, though that is a welcome provision. Too often, police policies that are harmful to the community are made with no input from our elected officials and no opportunity for public comment. **Just because the SOP will be "publicly available" doesn't mean they will seek public input before they adopt or modify it.**

We can't discuss this issue without pointing out the **inherent danger of working with the FBI**, whose history you know includes provocation, spying, and intentional harm to people working for non-violent social change, immigrants, Muslims and people of color. In recent months, **JTTFs in the Midwest have raided the homes of solidarity activists** and called them before grand juries, so this is not some past history under another President that we're concerned about. Particularly, the people of Corvallis would be justified in **wondering whether the FBI could be called a terrorist organization**, for if FBI agents had not given a Muslim teenager everything but the gunpowder he needed to set off an attack in Pioneer Square, their **community mosque would probably not have been set on fire by bigoted vigilantes who associated Islam with terrorism.**

Over the years and since this issue resurfaced in November, and to some extent today, both we at Portland Copwatch and you at Council **have heard and will hear from people in civil liberties, labor, faith, immigrant, environmental and peace groups** among others, which kind of sounds like the list of people the FBI has a history of surveilling.

I think it is well known that **our organization was spied on at least twice by the Police Bureau's Criminal Intelligence Unit** during First Amendment protected activities; during a protest about the US bombing Iraq in 1998 and in 1992 at a meeting where we discussed strengthening the police review board. This led Judge Michael Marcus, in the **Squirrel v. City of Portland (aka Squirrel v. Moose) case** to exclaim, "what possible criminal activity could there be in advocating for a police review board?" The result of that case was **the City Attorney, and later the IPR Director, reviewing the CIU's files on a regular basis to ensure compliance with Oregon law**. Since **we can't seem to trust the police to stay within the law when not working with the FBI**, it's doubly important that this oversight exist if they work with the JTTF.

I also want to reiterate that **I was in Pioneer Square on November 26**. When I found out later why there were police darting in and out of traffic to open and close the block across the street I was upset—not because I feared for my life, but because they helped someone get a really good parking place and I had to walk several blocks to get there. And that **they participated in the FBI's publicity-driven sting operation**. I was marching with a group that has been protesting the US wars in Iraq and Afghanistan every Friday since late 2001. I was holding a sign that said "Stop the War on Afghanistan." The fact is, if anyone did their homework they would know the **City Council passed resolutions to bring the Troops home from Iraq in November 2006, and against the PATRIOT act in October, 2003**. Such a City would not make a logical target for people wanting to violently oppose American policies toward Muslims and the Middle East.

While we do understand **the need for law enforcement agencies to work together when a true threat of violent criminal activity exists**, we hope the **Council stands firm in making that contact as limited as possible**, and truly scrutinizes the information and tactics being proposed before participating in another sting operation or other ill-conceived plot.

Thank you

Dan Handelman
—Portland Copwatch

JOHN KROGER
Attorney General



MARY H. WILLIAMS
Deputy Attorney General

DEPARTMENT OF JUSTICE OFFICE OF THE ATTORNEY GENERAL

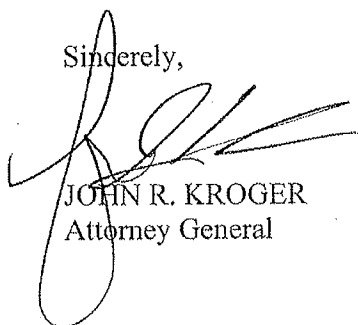
I write to offer my support to the effort to recommit Portland Police Bureau officers to the work of the Portland Joint Terrorism Task Force.

The Joint Terrorism Task Force is our primary tool to uncover and prevent local terrorist attacks. I believe there is an urgent need for the insight and sensibilities of local officers in the work of the JTTF. This is because local law enforcement officers often have deeper understanding of their communities than their federal counterparts. That knowledge can be critical to the proper evaluation and investigation of potential threats.

This resolution will ensure that PPB officers are available to work on cases at any time they are needed. The resolution also puts PPB officers at the JTTF regular briefings. These briefings are a key forum for sharing information. Participation by the PPB will insure that vital information is shared and evaluated in the most efficient and effective manner -- a primary recommendation of the 9/11 Commission.

I urge the Council to adopt this resolution so PPB officers can get back to the vital work of the Joint Terrorism Task Force and help keep our community safe.

Sincerely,



JOHN R. KROGER
Attorney General

36859

Moore-Love, Karla

From: frankelh@comcast.net
Sent: Thursday, April 28, 2011 11:31 AM
To: Moore-Love, Karla
Subject: Attached written testimony for 04/28/11 Portland City Council meeting
Attachments: jtff121.pdf

04/28/11 11:30am PDT

From: Herman M. Frankel, M.D. (frankelh@comcast.net)
To: Karla Moore-Love, Portland City Council Clerk (karla.moore-love@portlandoregon.gov)
Attachment: <jtff121.pdf>

Subject: Attached written testimony for 04/28/11 Portland City Council meeting

Dear Ms. Moore-Love:

Please accept the attached digital file, which I'm submitting for the public record.

I've already sent a copy of this to Mayor Adams and to each of the other members of the Portland City Council, and I

I plan to give a print copy to you and to each of them before giving oral testimony at today's meeting.

Thanks for all that you do for all of us. Let's keep working together to make our world a better place, one interaction at a time!

Warmly,

Herman

Herman M. Frankel, M.D., Portland Health Institute, 503-227-1860
Member, Multnomah County Family Violence Coordinating Council, and Communities of Color Task Force of the Oregon Coalition Against Domestic and Sexual Violence

4/28/2011

Why Top Secret Security Clearance for PPB Commissioner-in-Charge and City Attorney Must Be a Precondition for any Discussion about Portland Participation in any FBI JTTF

Written testimony prepared for submission to Portland City Council
Herman M. Frankel, M.D., Portland, OR (04/27/11)

Mayor Sam Adams, and Commissioners Randy Leonard, Amanda Fritz, Dan Saltzman, and Nick Fish:

Why must top secret security clearance for Portland Police Bureau (PPB) Commissioner-in-Charge and Portland City Attorney be a precondition for any discussion about Portland participation in any FBI Joint Terrorism Task Force?

Because Oregon law – unlike federal law – specifies this:

“No law enforcement agency . . . may 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.” (ORS181.575)¹

Our City Attorney and Police Commissioner must have top secret security clearance if they are to be able to provide legal guidance to our law enforcement professionals working with such clearance in a federal task force, and to maintain civilian oversight over their activities. Only in this way can we be protected from the actions of federal law enforcement and criminal investigation agencies, and the mistakes of their personnel.

The 04/19/11 Draft JTTF Resolution, and update

<http://www.portlandonline.com/shared/cfm/image.cfm?id=346016>

<http://www.portlandonline.com/shared/cfm/image.cfm?id=346720>

The 04/19/11 draft City of Portland JTTF Resolution includes the following paragraphs:

Page 2, paragraph 5:

BE IT FURTHER RESOLVED, to ensure access to information necessary to manage and supervise PPB officers, the Police Chief will seek clearance at the Top Secret/ Secure Compartmentalized Information level, and the Commission-in-Charge of PPB will seek clearance at the Secret level; and,

Page 3, paragraph 1:

BE IT FURTHER RESOLVED, the PPB officers who work with the JTTF shall notify the Portland FBI SAC and report to the Police Chief and the City Attorney, whenever there is a violation or any question as to whether work the PPB officers are asked to do complies with Oregon law including but not limited to ORS 181.575 and 181.850, City policies and SOPs. The Police Chief immediately shall notify the Commissioner-in-Charge of PPB of actual violations; and,

¹ On 04/12/11, Herman M. Frankel, M.D., retired pediatrician and Portland resident since 1965, prepared this written testimony for submission to the Portland City Council. (Last update: 04/27/11) <jttf121.docx> Page 1 of 9

In part because the Resolution is silent about the clearance that will be sought by (or granted to) PPB officers working with the JTTF, and is silent about the clearance that will be sought by (or granted to) the City Attorney, these questions call for attention:

1. What clearance will be sought by (or granted to) PPB officers working with the JTTF, in view of the fact that the draft Resolution is silent about this matter?
2. What clearance will be sought by (or granted to) the City Attorney, in view of the fact that the draft Resolution is silent about this matter?
3. If, in accordance with the draft Resolution, the Police Chief seeks clearance at the Top Secret/Secure Compartmentalized Information level, will that clearance be granted?
4. If, in accordance with the draft Resolution, the Commissioner-in-Charge of PPB seeks clearance at the Secret level, will that clearance be granted?
5. If, in accordance with the draft Resolution, the Commissioner-in-Charge of PPB is granted security only at the Secret level and the Police Chief (and, presumably, PPB officers working with the JTTF) are granted clearance at the Top Secret/Secure Compartmentalized Information level, how will the former be able to exercise responsible civilian oversight over the latter?
6. If the City Attorney does not seek (and is not granted) security clearance at the same level as the Police Chief (and, presumably, PPB officers working with the JTTF), how can the City Attorney deal responsibly with any question as to whether the work that the PPB officers are asked to do complies with Oregon law?

Brandon Mayfield

Exactly what mistakes led to the devastating arrest and imprisonment of innocent 37-year-old Portland-area attorney and Muslim convert Brandon Mayfield on the basis of the FBI misidentification of his fingerprint? How could these mistakes have been prevented or detected early?

I was astonished and terrified by what I learned when I examined the 331-page document titled, "A Review of the FBI's Handling of the Brandon Mayfield Case," released in March 2006 by US Department of Justice Office of the Inspector General (OIG)¹. (Link: documents.theblackvault.com/documents/terrorism/MayfieldFBI_OIG.pdf.)

The mistakes could have been prevented or detected early by making sure that responsible, caring, and independent observers with access to all the facts were overseeing the process.

Here is some of what I learned:

THE OIG FOUND THAT THE FBI MADE A LARGE NUMBER OF SERIOUS TECHNICAL ERRORS IN FINGERPRINT IDENTIFICATION, DOCUMENTED IN 52 PAGES OF THE OIG REVIEW. (OIG Review, pages 127-79).

Further, THE OIG FOUND THAT THE FBI SIMPLY DID NOT FOLLOW THE PROCEDURE MANDATED IN ITS OWN QUALITY ASSURANCE MANUAL "TO ENSURE THAT APPROPRIATE EXAMINATIONS HAD BEEN PERFORMED AND THAT ANY IDENTIFICATIONS HAD BEEN VERIFIED AND DOCUMENTED." (OIG Review, page 175)

Details:

On March 19, 2004, the FBI Latent Print Unit (LPU) identified Mr. Mayfield as the source of a fingerprint recovered by the Spanish National Police, and the FBI opened an investigation of Mr. Mayfield, including 24-hour surveillance (Review page 28); BUT: Although the LPU Quality Assurance Manual requires that a Peer Review be conducted before a Report of Examination is issued to ensure "that appropriate examinations had been performed and that any identifications had been verified and documented" and that "conclusions are supported in the examination documentation and are within the limitations of the discipline," in this case, "the LPU examiners interviewed by the OIG confirmed, however, that in practice the Peer Review did not involve a substantive review of the basis of the examiner's conclusion and did not constitute a separate examination of the relevant fingerprints. In the absence of any requirement that the basis of the examiner's conclusions be described or recorded in the Report of Examination, in practice the Peer Review (in this case) could not actually involve a determination of whether an identification was "within the limitations of the discipline." (Review pages 122-3). The verifier "declined to be interviewed for this investigation," and "he created no documentation reflecting the mental processes that led to his conclusion of individualization (*i.e., identification*) (OIG Review, page 175).

Further, THE OIG CONCLUDED THAT HAVING RECEIVED THE SPANISH NATIONAL POLICE REPORT CONCLUDING THAT ITS COMPARISON OF MAYFIELD'S PRINTS WAS "NEGATIVE" (OIG Review, pages 51-52), THE FBI LABORATORY FAILED TO ADEQUATELY EXPLORE THE POSSIBILITY THAT IT HAD ERRED IN IDENTIFYING MAYFIELD. (OIG Review, page 172)

Details:

The April 13 Negativo Report provided an early warning to the FBI Laboratory that it had erred in identifying Mayfield and a corresponding opportunity to take a fresh look at the Mayfield identification. Although the meaning of the term "negativo" in the report was unclear to the FBI Laboratory, it was clear that the SNP Forensic Laboratory had at least preliminarily disagreed with the FBI's conclusions. The OIG found no evidence, however,

that the FBI Laboratory adequately explored the possibility that it had erred in identifying Mayfield. Although (*one of the examiners and the Unit Chief in this case*) stated they took another look at the identification, they did not attempt to find out the basis of the SNP's doubts before reiterating their conclusions. Instead, Laboratory personnel told the Counterterrorism Division (CTD) on April 15 that they were "absolutely confident" in the identification. . . (*The Unit Chief*) told the OIG that his purpose in making the trip to Madrid was to explain the FBI's position, and he did not expect the SNP to make its own presentation. If so, it appears that (*the Unit Chief*) did not view the meeting as an opportunity to learn more about the SNP's position in order to inform the Laboratory's own reconsideration of the identification. The OIG believes that the Laboratory's overconfidence in the skill and superiority of its examiners prevented it from taking the April 13 Negative Report as seriously as it should have. A better response to a conflicting determination by another forensic laboratory would have been, first, to determine the complete basis for the other laboratory's disagreement *before* committing anew to the validity of the original determination and, second, to arrange for a fresh examination of the relevant prints by a new examiner who had not previously committed himself to a particular conclusion. The FBI failed to take both these steps. (OIG Review, page 172)

Further, THE OIG CONCLUDED THAT MR. MAYFIELD'S MUSLIM RELIGION, ACTIVITIES, AND ACQUAINTANCES "LIKELY CONTRIBUTED TO THE EXAMINERS' FAILURE TO SUFFICIENTLY RECONSIDER THE IDENTIFICATION AFTER LEGITIMATE QUESTIONS ABOUT IT WERE RAISED." (OIG Review, pages 178-9)

Details:

Here are the final sentences of the OIG assessment of the likely effect of Mr. Mayfield's Muslim religion, activities, and acquaintances on the actions of the FBI LPU:

(The Chief of the FBI Latent Print Unit in this case) candidly admitted that if the person identified had been someone without these circumstances, like the "Maytag Repairman," the Laboratory might have revisited the identification with more skepticism and caught the error.

The OIG concluded that Mayfield's religion was not the sole or primary cause of the FBI's failure to question the original misidentification and catch its error. We concluded that the primary factors in the FBI's failure to revisit the identification before the SNP identified Daoud were the unusual similarity between LFP 17 and Mayfield's prints and the FBI Laboratory's faith in the expertise and infallibility of its examiners and methods. However, we believe that Mayfield's representation of a convicted terrorist and other facts developed during the field investigation, including his Muslim religion, also likely contributed to the examiners' failure to sufficiently reconsider the identification

after legitimate questions about it were raised. (OIG Review, pages 178-9)

Mohamed Osman Mohamud

The FBI has been involved more recently in the life of another Oregonian and US citizen, Mohamed Osman Mohamud, who at age 19 was arrested at the November 26, 2010 Christmas tree-lighting ceremony in Portland Pioneer Courthouse Square on an accusation of attempting to ignite what he thought was a bomb.

"The device was in fact inert, and the public was never in danger," according to a news release from the U.S. Attorney's office. According the FBI affidavit that had been used to support the criminal complaint signed by U.S. Magistrate Judge John V. Acosta, an FBI undercover operative had contacted Mr. Mohamud by e-mail in June 2010 under the guise of being an associate of someone overseas with whom Mr. Mohamud had been in e-mail contact and who was believed to be involved in terrorist activities. Also according the FBI affidavit, during the ensuing months one or more FBI operatives talked repeatedly with Mr. Mohamud in person; met with him November 4 "at a remote spot in Lincoln County, where they detonated a bomb concealed in a backpack as a trial run for the upcoming attack"; assembled the device to be used November 6; and transported him to Portland for the November 6 event.^{3,4}

In summary, FBI personnel provided Mr. Mohamud with what he allegedly thought was an explosive device but was not, helped him prepare to use it, filed an affidavit alleging that he was planning to use it, and transported him to Portland in preparation for its use. Then he was arrested on an accusation of attempting to use a weapon of mass destruction, a felony charge that carries a maximum sentence of life in prison and a \$250,000 fine.

Two subsequent revelations regarding involvement of the FBI in the life of Mohamed Osman Mohamud are as troubling as the facts summarized above. They echo the sequence of appalling mistakes, and violations of rights and of professional protocol, that characterize FBI's assaults on the life of Brandon Mayfield.

1. Violation of the 2005 agreement⁵

In violation of the 2005 agreement between the FBI and the City of Portland that calls for the FBI to notify the mayor when it investigates a terrorist threat here, the FBI provided Mayor Sam Adams with no such notification until after Mr. Mohamud's arrest. When this violation came to light during a City Council hearing on February 15, 2011, City Commissioner Randy Leonard characterized it as a an "incomprehensible failure."

Arthur Balizan, Portland's FBI special agent in charge since 2009, revealed that when he became convinced on September 29, 2010 that Portland was becoming a viable target for a plot to bomb the holiday tree lighting, he informed Police Chief Mike Reese and required him to sign a non-disclosure agreement so that Portland police involvement could be secured. When US Attorney Dwight Holton said that he did not think it necessary to inform the mayor of an undercover operation involving a fake bomb, Commissioner Leonard replied, "You're trying to say that it's not dangerous enough to

let the mayor know . . . a van's sitting over there by itself that a terrorist thinks is going to have a bomb in it to kill 10,000 people? That just doesn't hit me as plausible."

Mr. Balizan said that he had not known about the 2005 agreement.

2. Violation of the standard practice of recording a suspect's first words about criminal intent⁶

"The FBI's attempt to record Mohamed Mohamud's first words about taking part in a bombing failed because a recorder ran out of juice, government prosecutors revealed in court papers Thursday (04/07/11)."

" 'Put simply,' they wrote, 'it was human error: the device was accidentally turned on hours before the meeting time and therefore ran out of power before the meeting began.'"

"Mohamud's lawyers appear to be mounting an illegal entrapment defense, suggesting the FBI steered their client into a plot to bomb thousands of Christmas revelers at Portland's annual tree-lighting ceremony last Nov. 16.

"Legal scholars have said the FBI's botched recording will make for interesting arguments in court because first utterance of criminal intentions are pivotal in entrapment cases."

Documented violations of local safeguards by local FBI Joint Terrorism Task Forces in San Francisco, Oakland, and Orange County

Alan Schlosser and Veena Dubal. Terrorism, transparency and Oregon law: Paying too high a price to rejoin a terror task force⁷

Portland has received repeated assurances recently from federal officials that by assigning police officers to the FBI's local Joint Terrorism Task Force, the city can meet all of its goals of combating terrorism, protecting individual rights and maintaining an open and inclusive community. But the recent task force experience of San Francisco and Oakland tells a different story.

California, like Oregon, has strong legal protections against law enforcement using intrusive tactics to gather intelligence on groups or individuals who are suspected of no wrong-doing. But in the Bay Area, we've seen how these clearly defined local safeguards get obscured and ignored when local law enforcement joins a Joint Terrorism Task Force.

In San Francisco, the FBI first proposed that the San Francisco Police Department join the agency's regional counter-terrorism task force in 1996, but only if police personnel were exempted from the strong local intelligence policy with its supervisory and civilian oversight protections. Robust opposition from the mayor and public quickly crushed the

proposition. In 2002, the SFPD authorized local officers to participate in the joint task force, but only under an agreement that specifically required local officers abide by the local policy at all times. A few years later, SFPD command staff were still promising the city's police commission that officers participating in the joint task force were strictly following local policy and avoiding widely criticized FBI tactics.

The SFPD has since changed its tune. It now refuses to even say how many officers are currently working with the Joint Terrorism Task Force, whether they are following local policy or FBI guidelines, and whether the prior agreement providing local control is still in effect. For two months now, the SFPD has been claiming the FBI won't let it discuss these issues -- all involving basic, local policy choices that were openly debated in the past -- without the FBI's consent.

In Oakland, our organizations received several reports last year of an Oakland Police Department officer assigned to the Joint Terrorism Task Force approaching Muslim Americans to question them about their beliefs and associations, apparently as part of FBI intelligence "assessments" that allow this tactic in the absence of any suspicion of criminality. We formally requested a copy of the current agreement between the Oakland Police Department and the FBI governing the task force relationship -- a document that had been routinely released in the past. We were stunned by Oakland's official reply in late January acknowledging that an agreement was in effect but that the FBI would not provide a copy of it -- even to the city's police department.

Meanwhile, we've also learned of a First Amendment lawsuit filed by our colleagues in southern California against an FBI Joint Terrorism Task Force operation in Orange County. The FBI had recruited an informant to infiltrate mainstream mosques and spy on hundreds of innocent Muslim Americans, collecting names, emails and phone numbers disconnected from any suspicion of wrong-doing. While FBI guidelines enacted in the last month of the Bush administration authorize intelligence gathering without any reasonable suspicion, these kinds of surveillance operations violate California -- and Oregon -- law, and the task force partnership greatly heightens the chances that the local partners will become involved in these operations. The walls of secrecy in Oakland and San Francisco make us concerned that this is exactly what's taking place. And the consequences, including a growing distrust between Muslim-American communities and local law enforcement, do not make us any safer.

Portland is facing a choice in the weeks ahead. While federal officials may provide assurance that state law and local values will be respected, our experience in the Bay Area is that loss of control of local law enforcement, diminished trust of local law enforcement and lack of transparency are the price of task force participation.

That price is too high.

Alan Schlosser is legal director for the ACLU Foundation of Northern California. Veena Dubal is an attorney with the Asian Law Caucus.

Reaffirmation of commitment to democracy

In 1789, before agreeing to sign the Constitution, the representatives of our thirteen colonies created our Bill of Rights, to protect the rights of the people from assault by a powerful central government.

This stands at the heart of our democracy.

On October 29, 2003, the Portland City Council unanimously passed Resolution 36179 **"Expressing concern about the USA P.A.T.R.I.O.T. Act."** On December 9, 2004, the Multnomah County Board of Commissioners passed a similar resolution, expressing explicit **commitment to protect civil rights in the era of the USA PATRIOT Act.**

Portland: www.portlandonline.com/shared/cfm/image.cfm?id=329925

Multnomah: <http://www2.co.multnomah.or.us/cfm/boardclerk/uploadedfiles/04-1831.pdf>

Also, re Multnomah: Google > [PDF] SPEAKING OUT: Report from the Public Hearing

If we, our civil rights, and our Constitution are to be protected from the actions of federal law enforcement and criminal investigation agencies, and the mistakes of their personnel, our Police Commissioner and City Attorney must maintain civilian oversight – with Top Secret security clearance – over the activities of all city employees, including our law enforcement professionals. This is a matter of priority and principle, not a matter of yielding to threats of punishment or expectations of gain.

Have we forgotten the words of Pastor Martin Niemoeller, German anti-Nazi theologian and Lutheran pastor, imprisoned in Sachsenhausen and Dachau concentration camps from 1937 to 1945?

*"First they came for the Communists, but I was not a Communist so I did not speak out. Then they came for the Socialists and the Trade Unionists, but I was neither, so I did not speak out. Then they came for the Jews, but I was not a Jew so I did not speak out. And when they came for me, there was no one left to speak out for me."*⁸

I hope that all of us will commit ourselves to remembering the names of **Brandon Mayfield** and **Mohamed Osman Mohamud**, and the words written by James Baldwin in 1971 to Angela Davis: *"... If they take you in the morning, they will be coming for us that night."*⁹

I'm grateful to you, our Mayor and City Commissioners, for repeatedly appealing for active public participation – in this case, input and testimony – in the making of decisions that affect the lives of all of us who live, work, study, travel, and worship here.

Thank you.

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7. Alan Schlosser and Veena Dubal. Terrorism, transparency and Oregon law: Paying too high a price to rejoin a terror task force. The Oregonian 04/05/11 Page B5, Col. 1-4; also published 04/05/11 and updated 04/06/11 at
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http://en.wikipedia.org/wiki/Martin_Niem%C3%B6ller
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