

IMPACT STATEMENT

Legislation title: The City of Portland shall enter into a Memorandum of Understanding to become a member of the local Joint Terrorism Task Force (JTTF) in conjunction with the Federal Bureau of Investigation (FBI) and shall repeal Binding City Policy BCP-PSF-7.01 (Resolution)

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US Attorney's Office
Citizen Crime Commission
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Center Intercultural Organizing

Purpose of proposed legislation and background information:

The City of Portland entered into a Binding City Policy (Resolution No. 36859) in 2011 with the goal of allowing Portland Police Bureau officers to maintain a partial membership in the Federal Bureau of Investigation's (FBI) local Joint Terrorism Task Force (JTTF). A significant amount of collaborative effort went into developing this compromise city policy by community and government officials on both sides of this issue. The issues raised during this process are all very well-documented in public documents and media archives. Some of the major concerns included:

- Commissioner-in-Charge of PPB, the Police Chief, and officers would only have access to detailed information regarding possible terrorist threats and investigations by participating in the local JTTF.
- Increasing the capacity of the JTTF to conduct investigations through providing expertise of local officers.
- Investigative procedures and policies of JTTF are under federal laws and policies, which may differ in specifics from portions of the Oregon Constitution, laws, City or Police Bureau policies.
- Participating in the JTTF would place PPB officers outside of the police bureau's standard chain of command and discipline process on day-to-day operational matters.
- Level of information sharing regarding activity of these assigned PPB officers.
- Differences in the interpretation specifically of ORS 181.575 and ORS 181.850.

This issue is before City Council because implementing a partial membership relationship with the JTTF has not proved possible within the structure and workings of the JTTF system. The result has been misunderstanding in the community at-large about multiple topics including whether or not we are in some way members of the JTTF. One key goal of this resolution is to clarify this relationship for the public. Another is to ensure that binding city policy reflects the

reality of government actions and the desires of the City Council as elected representatives of the people.

Current status of City's relationship with JTTF:

- The City of Portland is not a member of the JTTF part-time or otherwise.
- If a JTTF investigation determines an immediate threat of harm to Portlanders, the FBI will notify Portland Police Bureau and the Commissioner-in-charge of PPB to enable them to participate in the necessary response to protect our community at that time.
- We do not gain any benefit afforded to members of the JTTF, as we are not currently a member.
- The JTTF does not gain any benefits of PPB member knowledge and expertise related to the City, its geography, history and people in conducting investigations of terrorism.

This resolution seeks to honor the collaborative input which developed the 2011 Resolution, gain the desired increased public safety benefits, and address issues related to oversight and the ability to effectively manage the work of the two Portland police officers who are to be assigned to the JTTF full-time.

The main items from the 2011 Resolution No. 36859 which are **included or expanded** in this resolution:

1. The Commissioner-in-charge of PPB will have a Non-Disclosure Agreement (NDA) allowing participation in quarterly, or as needed, classified briefings by the FBI SAC. Briefings will cover progress of investigations and activities of the PPB officers assigned to the JTTF. (Expanded)
2. The Police Chief will have clearance at the Top Secret/ Secure Compartmentalized Information level and participate in the JTTF Executive Committee
3. PPB officers assigned to the JTTF shall notify the FBI SAC and Police Chief if work would be a violation of ORS 181 .575 or ORS 181.850 and the Police Chief shall immediately report any actual violation to the Commissioner-in-Charge of the PPB; and
4. PPB officers shall seek legal advice from the City Attorney whenever the officer has any question about the application of Oregon law or this resolution
5. The office of the City Attorney will annually confer with the office of the Oregon Attorney General to determine if there has been any change in law that would impact PPB participation in JTTF
6. PPB officers assigned to the JTTF shall attend annual training, to be conducted by the Office of the City Attorney, to ensure compliance with applicable state and federal law

7. PPB shall adopt publicly available administrative policies and procedures consistent with this Resolution

The key items from Resolution No. 36859 which have been **removed or changed**:

1. There will no longer be a required annual public report describing activities of the PPB officers assigned to JTTF.
2. The Commissioner-in-charge of PPB will not request secret level clearance, which by policy, the FBI does not issue to elected officials who are non-law enforcement. Instead there will be a Non-Disclosure Agreement allowing for classified briefings for the Commissioner-in-charge of PPB by the FBI Special Agent in Charge.
3. PPB officers who work with the JTTF will be in the FBI operational chain-of-command and day-to-day supervision of their JTTF Supervisor, however they will still be required to abide by all laws, regulations, personnel rules, and policies applicable as a Portland police officer.

Financial and budgetary impacts:

- This policy will not require any budget changes.

Community impacts and community involvement:

There are vastly divergent beliefs in the community regarding the positives and negatives of a The Portland Police Bureau becoming a member of the JTTF.

Objections/Concerns:

- Community members from various backgrounds are sincerely concerned that, generally or specifically, JTTF activities do not reflect their values or perspectives related to protecting individual constitutional rights.
- Community members are also concerned about how to effectively establish a level of transparency to ensure these constitutional rights are protected.
- Among the organizations who expressed these concerns during the extensive 2011 community engagement process and maintain this point of view are: Oregon Progressive Party, American Civil Liberties Union, National Lawyers Guild, Sisters of the Road.

Support/Agreement:

- There are also community members from various walks of life who support the City being full participants in the JTTF will provide and increased level of security by effectively detecting and addressing possible terrorist activity.
- Community members believe that having assigned Portland officers will assist the JTTF in more quickly and effectively responding to an actual incident of terrorist activity.
- Among the organizations who have expressed support for this point of view are: Citizens Crime Commission, Department of Justice-Office of the Attorney General, other law enforcement agencies, mayors of cities who are members of the JTTF.

An introduction will be provided by the Mayor's and the City Attorney's Offices highlighting the situation which has prompted this hearing. Organizations supporting both sides of the issue have been invited to participate in the official presentation at Council. Then receive public comment. The hearing is scheduled 5pm to 8 pm.

There is no intention to take a vote on this date. Council will receive public comment for consideration on the resolutions and actually vote on a later date.

Budgetary Impact Worksheet

Does this action change appropriations?

- ☐ **YES:** Please complete the information below.
☒ **NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount