

IMPACT STATEMENT

Legislation title: The City of Portland shall not enter into a Memorandum of Understanding with the Federal Bureau of Investigation (FBI) related to the work of the Joint Terrorism Task Force (JTTF) and shall repeal the Binding City Policy BCP-PSF-7.01 (Resolution)

Contact name: Deanna Wesson-Mitchell
Contact phone: 503-823-4277
Presenter name: Deanna Wesson-Mitchell, Mayor's Office
Dave Woboril, City Attorney's Office
US Attorney's Office
Citizen Crime Commission
American Civil Liberties Union
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 No. 36859 while at the same time making clear the result of not entering into a Memorandum of Understanding with the JTTF for full-time participation.

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

- The Commissioner-in-charge of the police will continue to participate in at least twice yearly briefing from the FBI related to our specific non-JTTF investigative partnerships and general international, national and regional trends in terrorist activity
- The Police Chief will seek clearance at the Secret level and participate in the JTTF Executive Committee with other local Chiefs of Police and Sheriffs.

The main items from Resolution No. 36859 which have been **removed**:

- Removal of the requirement to produce an annual report describing how we are not members of the JTTF.
- Removal of the requirement of the elected Commissioner-in-charge of police to request secret level clearance, which by policy, the FBI does not issue to elected officials who are non-law enforcement.
- Removal of the authority of the Police Chief to assign officers to the JTTF on an as-needed basis, because this has not been able to happen. However, if a JTTF investigation leads to knowledge of an immediate threat of harm to Portlanders, The JTTF will notify the Chief of Police and police will be able to respond under the PPB chain of command.
- This policy highlights the working partnerships which PPB has with the FBI and resolves to continue the current practice of not participating in JTTF investigations until there is an immediate threat to Portlanders.

Financial and budgetary impacts:

- There are no budgetary impacts.

Community impacts and community involvement:

There will be little concrete impact on the community by this new policy, as it is written to reflect the current standing of the City's relationship with the JTTF.

Support/Agreement:

- Community members from various walks of life who are concerned that JTTF activities do not reflect their values or perspectives related to constitutional rights will be pleased to have clarity that we do not participate in JTTF investigations, prior to knowledge of immediate threat of harm to Portlanders.
- There will likely be appreciation of Council's support of a non-involvement policy.

Objections/Concerns:

- Community members from various walks of life who would support the City being full participants in the JTTF may feel as though we are less protected from possible terrorist activity by not participating.
- There will be concern that the City will not have influence on investigations of possible terrorist threats locally and that law enforcement from other jurisdictions will be conducting JTTF investigations within the City of Portland.

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 will be no vote at this Council hearing. Council will receive public comment for consideration on this resolution and 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

Fritz amendment 2/5/2015
Novick 2nd
Roll: 4-4

~~BE IT FURTHER RESOLVED, the Police Chief will seek clearance at the Secret level and participate in the JTTF Executive Committee with other local Chiefs of Police and Sheriffs; and~~

~~BE IT FURTHER RESOLVED, that the Police Chief and Commissioner-in-Charge of PPB shall request regular briefings from the FBI SAC, at least twice yearly, regarding public safety concerns and activities of non-JTTF investigatory collaborative partnerships with PPB; including general information about national and regional trends in foreign and domestic terrorist threats to be better able to manage possible local public safety issues; and~~

~~BE IT FURTHER RESOLVED, that the City of Portland will continue its current practice of not participating in JTTF investigations until there is specific knowledge of an immediate threat of harm from criminal activity here in Portland, or at another local jurisdiction which may need support from our emergency responders; and~~

BE IT FURTHER RESOLVED, the provisions of this Resolution are binding city policy and no element can be changed without an open public hearing and ratification by City Council; and

BE IT FURTHER RESOLVED, that Resolution No. 36859 is hereby repealed.

+add+ BE IT FURTHER RESOLVED, that the City of Portland shall not participate in the JTTF; and

Adopted by the Council:

Commissioner Mayor Charlie Hales
Prepared by: Deanna Wesson-Mitchell
Date Prepared: 01/27/15

Mary Hull Caballero
Auditor of the City of Portland
By

Deputy

**REFERRED TO COMMISSIONER OF
FINANCE AND ADMINISTRATION**

RESOLUTION No.

The City of Portland shall not enter into a Memorandum of Understanding with the Federal Bureau of Investigation related to the work of the Joint Terrorism Task Force and shall repeal Binding City Policy BCP-PSF-7.01 (Resolution; repeal Resolution No. 36859)

PURPOSE

WHEREAS, whether domestic- or foreign-based, it is the responsibility of the Federal Bureau of Investigation (FBI) to prevent, investigate, and respond to terrorism in the United States; and

WHEREAS, Under federal criminal law, 18 USC 2331, "terrorism means activities that (A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; and (B) appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping;" and

WHEREAS, to assist it in its mission to prevent, investigate, and respond to terrorism, the FBI has established local Joint Terrorism Task Forces (JTTF) to share resources and coordinate among other federal, state, tribal and local governments; and

WHEREAS, the Portland Police Bureau (PPB) is responsible for protecting the lives, property, and rights of all people, through collaborative partnerships with the community and other agencies; and

WHEREAS, the PPB currently has multiple successful and on-going criminal investigatory collaborations with the FBI, including: Innocent Images, Child Exploitation Task Force, Regional Computer Forensic Lab, Bank Robbery Task Force, and Metro Gang Task Force; and

WHEREAS, the Council highly values the ability of the public to know that PPB members are only involved in investigations with a criminal nexus, with access to such information under the local control afforded within Oregon Law; and

WHEREAS, the FBI is committed to notifying the PPB when an FBI investigation has led to knowledge of an immediate threat of physical harm here in Portland; and

WHEREAS, the Council believes that involvement in an investigation prior to the determination of an immediate threat will not have substantial impact on the effective response of local emergency services; and

POLICY

BE IT RESOLVED, that it is the policy of the City simultaneously to help prevent and investigate criminal acts of terrorism, protect civil rights and civil liberties under United States and Oregon law, and promote Portland as an open and inclusive community; and

BE IT FURTHER RESOLVED, that the City of Portland shall not participate in the Joint Terrorism Task Force; and

BE IT FURTHER RESOLVED, the provisions of this Resolution are binding city policy and no element can be changed without an open public hearing and ratification by City Council; and

BE IT FURTHER RESOLVED, that Resolution No. 36859 is hereby repealed.

Adopted by the Council:

Commissioner Mayor Charlie Hales
Prepared by: Deanna Wesson-Mitchell
Date Prepared: 01/27/15

Mary Hull Caballero
Auditor of the City of Portland
By

Deputy

~~146~~ 196
Agenda No.
RESOLUTION NO.

Title

✓140

The City of Portland shall not enter into a Memorandum of Understanding with the Federal Bureau of Investigation (FBI) related to the work of the Joint Terrorism Task Force (JTTF) and shall repeal the Binding City Policy BCP-PSF-7.01 (Resolution); *repeal Resolution No. 36859*

<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Mayor Charlie Hales</p>	<p style="text-align: right;">CLERK USE: DATE FILED <u>JAN 30 2015</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales <i>[Signature]</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p>
<p style="text-align: center;">BUREAU APPROVAL</p> <p>Bureau: Mayor's Office Bureau Head: Mayor Hales</p>	<p>ACTION TAKEN:</p> <p>FEB 05 2015 CONTINUED TO FEB 19 2015 <i>2:15 pm</i> As Amended TIME CERTAIN</p>
<p>Prepared by: Deanna Wesson-Mitchell Date Prepared: 1/21/14</p>	<p>FEB 19 2015 REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION</p>
<p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	
<p>City Auditor Office Approval: required for Code Ordinances</p>	
<p>City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan <i>[Signature]</i></p>	
<p>Council Meeting Date 2/5/15</p>	

AGENDA

TIME CERTAIN
Start time: 5:00 pm

Total amount of time needed: 3 hours
(for presentation, testimony and discussion)

CONSENT

REGULAR
Total amount of time needed: _____
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz		
2. Fish	2. Fish		
3. Saltzman	3. Saltzman		
4. Novick	4. Novick		
Hales	Hales		