

Joint Terrorism Task Force Review

Sam Adams' Notes: Issues to address; questions to answer

December 22, 2010

Level of Threat

- 1) An email stated, "History shows us the likelihood that Portland would experience a large-scale terrorist attack is minimal..." A commenter stated, "Portlanders are in far greater danger from cars running red lights at 39th/Powell than from jihadists." *What is Portland's current terrorism threat assessment?*

Federal Partnerships

- 2) A commenter stated, "It's also wild to me that the feds don't even attempt to work with local authorities on these kinds of issues. I hope, at least, that the city review can pressure them to change that policy. The leave-Portland-in-the-dark policy undermines my confidence in the ability of federal authorities to make decisions that fit with our values." *What law enforcement work/partnerships does Portland currently have with federal, state and local agencies?*

JTTF Purpose

- 3) *What is a JTTF? a) What is the scope of a JTTF's work? a) Are there locales without JTTFs? b) How do law enforcement professionals rate JTTFs at preventing and enforcing acts of terrorism effectively? c) Is there state or local law related to terrorism?*

PPB Investigatory Rules and Practices

- 4) A commenter stated, "...the Portland Police's Intelligence Division waged a decades long surveillance operation on the political activities of Portlanders. When finally unearthed, the secret files numbered some 37 boxes containing over 800 manila file folders. These folders contained intelligence on over 3,000 people and hundreds of organizations." *How have federal, state and local laws and PPB policies and practices changed over the years regarding how law enforcement agencies can initiate and pursue investigations?*
- 5) A blogger wrote, "Does the Portland Police Bureau interpret ORS 181.575 with sufficient attention to the civil rights and liberties of Portland citizens and residents, or does it interpret the statute so as to maximize its investigatory powers and activities at the expense of civil rights and liberties? What should the city policy be in directing the PPB as to how to interpret that statute? Is it vigorous enough in defense of citizen and resident civil rights and liberties?"

What is PPB policy and practice regarding this law?

JTTF Membership Status

- 6) A caller to the Mayor's office said, "I am calling because I am outraged that we're the only city in the United States that is not working with the FBI. I was down there with my grandchildren at the holiday tree lighting." *Is this statement true?*
- 7) A newspaper reported that, "Reese said FBI Special Agent in Charge Arthur Balizan alerted him in September of the inquiry that began in August 2009. The chief assigned command staff and criminal intelligence officers to assist. He said his officers' role was limited to logistic planning and support for the sting operation and arrest." And that, "Leonard also said the resolution the council passed in 2005 allows for case-by-case police involvement with the task force. It also sets clear parameters allowing the chief to sit on the task force's executive group and brief the mayor, and for the FBI to brief the mayor and chief on terrorist threats." *What is the City's current JTTF agreement? a) How does it compare to earlier City/JTTF agreements? b) Is there a difference between it and a typical agreement with other locales? c) What are its benefits and costs to the City? d) Has the PPB complied with the current City Council JTTF-related policies?*
- 8) A local newspaper reported that, "...what would have been different if the city had been a task force participant. Federal officials say the short answer is: Portland police would have been involved earlier, with a deeper role in the inquiry and would be working side-by-side with task force investigators." *Can we better define "deeper role" and "side-by-side"?*
- 9) It was reported that the following agencies are part of the local JTTF: "Oregon State Police; Port of Portland Police; Washington County Sheriff's Office; Internal Revenue Service; Defense Criminal Investigative Service; Department of Homeland Security; Immigration and Customs Enforcement; Federal Air Marshal Service; U.S. Secret Service; U.S. Coast Guard Investigative Service; U.S. Department of Justice; U.S. Attorney's Office; U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives; U.S. Marshals Service; U.S. Department of State Diplomatic Security Service; U.S. Department of Agriculture; and, U.S. Forest Service" *Is this list accurate and complete?*
- 10) A local blogger wrote, "It is my understanding that the Federal government seeks to set up JTTFs both within major metropolitan areas and within the jurisdiction of U.S. attorneys, and that Portland withdrew from participation or full participation in the JTTF relevant to the Portland metro area. I am not sure where the city has stood in relation to the state JTTF organized under the auspices of the U.S. attorney for the State of Oregon" *What is the status of the State's JTTF?*

- 11) An email asked, "How many times Portland officers (particularly the Criminal Intelligence Unit [CIU]) have been asked to work with the FBI under the agreement since 2005[?]"
- 12) An email asked, "For at least 10 years after the 1996 judgment in Squirrel v City of Portland (aka Squirrel v. Moose), the City Attorney and, later, the director of the Independent Police Review Division (IPR) reviewed the files at CIU to ensure compliance with state law. Is there any such review going on now? Did those reviews include the CIU's work on the PJTTF?"

JTTF Changes Since 2005

- 13) A blogger wrote that under Bush, "Since 9/11, the number of such outfits across the country has tripled. With more than 2,000 FBI agents now assigned to 102 task forces, the JTTFs have effectively become a vast, quasi-secret arm of the federal government, granted sweeping new powers that outstrip those of any other law-enforcement agency. The JTTFs consist not only of local police, FBI special agents and federal investigators from Immigration and the IRS, but covert operatives from the CIA. The task forces have thus effectively destroyed the "wall" that historically existed between law enforcement and intelligence-gathering." *Is this statement true?*
- 14) Quoting another source, a local newspaper wrote that, "new FBI rules issued in late 2008—and so far unchallenged by the Obama administration—now permit "limitless surveillance of people based on their political, religious, and social activities," even without "evidence of wrongdoing." *Since 2005, pertinent to the scope of JTTF's work, what federal protocols, laws or policies have changed? Why and how have they changed?*
- 15) A commenter stated, "...JTTF investigated and disrupted purely political groups who were targeted for being opposed to several federal government policies. These groups posed no threat of violence against any citizen of Portland, the State of Oregon, or the Nation." *What is the evidence of this claim?*

Oregon vs. Federal Rules

- 16) A newspaper wrote that, "The ACLU argues the bureau would lose the ability to ensure its city officers are adhering to state law, which is unique in that it prohibits police from collecting and maintaining information on someone's religious beliefs." *What Is ORS 181.575? a) Are its provisions unique among state laws? a) If no, how do other locales with JTTFs manage potential conflict?*
- 17) *What are the federal, state and local laws and policies regarding how law*

enforcement investigations are initiated? a) Under what circumstances can a law enforcement investigation be initiated? b) What permissions are required and when are they required to pursue beyond an initial investigation?

- 18) A commenter stated that in 2005, "Oregon State Attorney General Hardy Meyers and Multnomah County District Attorney Mike Schrunk found that the ORS does not restrict police questioning." *Is this true? If yes, is this still true?*
- 19) A local blogger wrote, "If the PPB participants were so required to act, would they be permitted to make that fact public? Would they be permitted to make that fact known to their Portland police and civilian supervisors, without being subject to prosecution for Federal secrecy violations?" *Can PPB officers assigned to a JTTF refuse to do work requested of them by federal agencies when it violates state or local laws? a) Can PPB officers report JTTF violations of federal, state and local laws? b) If yes, how are violations reported? c) Can local police officers assigned to the JTTF and who engage in conduct that violates state or federal law be disciplined and/or prosecuted for such violations?*
- 20) *Are PPB police officers assigned to JTTF "federalized" and no longer supervised by PPB? a) Who can issue them orders and work assignments? b) Who must they keep informed of their activities? c) Who evaluates their work performance?*
- 21) An email asked, "After all, the FBI involved local law enforcement in the wrongful arrest of Brandon Mayfield, who was suspected in the Madrid train bombing and spent time in jail because the FBI botched a fingerprint match, using his attendance at a mosque as one reason to investigate him. If the Portland Police were involved and had collected information on Mayfield, then sent it to the FBI, that information would have been distributed nationally and internationally and Portland would have no control over it. If properly monitored, files created by the PPB would be destroyed so as not to be maintained in the absence of criminal conduct (per 181.575)." *What is the JTTF records retention policy?*

Security Clearances

- 22) *In regards to a JTTF, what are the pertinent federal security classifications required? a) What are the distinctions between the classifications? b) Which US mayors have which federal security classifications?*
- 23) A newspaper reported that, "...Adams, who serves as police commissioner, [if the city was a full member of JTTF] likely would have been briefed on non-classified information. At the least, he would have known the Police Bureau was involved in a national security investigation. Specifics on whose e-mails were being intercepted or other details would not have been shared because

the mayor lacks secret clearance for classified information...had it involved an actual bomb, Reese said he would have informed the mayor." *Under federal, state and local laws, what is the role and access to information of Portland's police commissioner in all types of criminal or terrorist investigations?*

- 24) An email asked, "Has there been any change to the FBI's stance that the Chief, the Police Commissioner and the City Attorney will not get the same clearance as the officers in the CIU/PJTTF, thus rendering them unable to know whether their own employees are following state law?"

Process

- 25) An email stated, "One public forum on this issue is completely inadequate. Public forums should be prioritized and widely publicized throughout the city on multiple dates and times to get the best amount of citizen input possible. The Council should make it a priority to be in attendance during all of these forums."
- 26) An email stated, "Since Work Sessions are open to the public but not public testimony, we think the pool should be opened up to some other folks whose testimony should be entered into the public record from the 2000, 2001, 2002, 2003 and 2005 hearings on the PJTTF agreements."
- 27) An email stated, "The draft work plan tries to lead us to believe that this is a task that the Council "should" do. This demand is not coming from the people. It makes us question Council's motives for reassessing our relationship with the JTTF."
- 28) An email asked, "How does the city attorney's office intend on keeping this process transparent and accountable?"
- 29) An email asked, "How much money will be spent on this process, including staff salaries and equipment? Where is the money coming from? Which budget? Has this process been deemed relevant and important enough to take these coveted resources?"
- 30) An email stated, "...the three criteria laid out by the City must be prioritized this way: 1) Keeping Portland an open and inclusive community. 2) Protecting of individuals' rights under United States and Oregon law. 3) Effectively preventing and investigating criminal acts of terrorism."
- 31) An email state, "One public forum on this issue is completely inadequate."
- 32) An email stated, "During the Informational Session with the ACLU, we recommend inviting other local experts to speak to the issue, Portland Copwatch, the Portland National Lawyers Guild and organizations from

communities of people of color.”

- 33) A commenter stated, “Going to gather the “original source materials” will be a difficult process since these grassroots groups do not possess the political, financial, or legal clout to produce such...in following this Draft’s outline, the council will be getting the wrong data from the wrong people and getting the wrong answers.” We need to ask for input from stakeholders representing the full spectrum of views on this issue.