

File No. 190791

Committee Item No. 4

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: October 3, 2019

Board of Supervisors Meeting:

Date: _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- Mayor's Consolidated Response – September 16, 2019
- Police Commission Response – September 16, 2019
- Civil Grand Jury Report – July 17, 2019
- COB Letter – July 24, 2019
- Transmittal Letters
- _____

Prepared by: John Carroll

Date: Sept. 26, 2019

Prepared by: John Carroll

Date: _____

Carroll, John (BOS)

From: Carroll, John (BOS)
Sent: Wednesday, September 18, 2019 4:39 PM
To: BOS-Supervisors
Cc: BOS-Legislative Aides; 'Calvillo, Angela (angela.calvillo@sfgov.org)'; Somera, Alisa (BOS); Civil Grand Jury; Kittler, Sophia (MYR); Karunaratne, Kanishka (MYR); Power, Andres (MYR); Ma, Sally (MYR); Peacock, Rebecca (MYR); Rosenfield, Ben (CON); Rydstrom, Todd (CON); Stevenson, Peg (CON); Lediju, Tonia (CON); Newman, Debra; Campbell, Severin (BUD); Holober, Reuben (BUD); Millman Tell, Jennifer (BUD); Lori Campbell; Mchugh, Eileen (BOS); GIVNER, JON (CAT); Scott, William (POL); Carr, Rowena (POL); Steeves, Asja (POL); Hussey, Deirdre (POL); Hirsch, Bob (POL); Kilshaw, Rachael (POL); Kirkpatrick, Kelly (MYR); Groffenberger, Ashley (MYR); Johnson, Jillian (MYR); Ettore Leale (ettore.leale@sfcgj.org); Rasha Harvey; Vo, Helen (CON); delaRosa, Mark (CON); Hala Hijazi
Subject: FW: 2018-2019 Civil Grand Jury Report - Joint Terrorism Task Force: Balancing Public Safety with Civil Rights
Categories: 190791, 2019.10.03 - GAO

Supervisors:

The Office of the Clerk of the Board has received required responses to the 2018-2019 Civil Grand Jury report entitled "**Joint Terrorism Task Force: Balancing Public Safety with Civil Rights**," Please find the following link to an informational memo from the Clerk of the Board of Supervisors, and direct links to the responses.

[Clerk of the Board Memo - September 18, 2019](#)

[Mayor's Consolidated Response - September 16, 2019](#)

[Police Commission Response - September 16, 2019](#)


Please note that the Board of Supervisors is not required to respond by resolution to this Civil Grand Jury report. The Government Audit and Oversight Committee will consider the subject report, along with the responses, during hearing on October 3, 2019.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 190791](#)

Thank you,


John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415) 554-4445

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

DATE: September 18, 2019
TO: Members of the Board of Supervisors
FROM:  Angela Calvillo, Clerk of the Board
SUBJECT: Joint Terrorism Task Force: Balancing Public Safety with Civil Rights

We are in receipt of the following responses to the San Francisco Civil Grand Jury report released July 17, 2019, entitled: "Joint Terrorism Task Force: Balancing Public Safety with Civil Rights:

- Office of the Mayor:
Received September 16, 2019;
- Police Commission:
Received September 16, 2019;

These departmental responses are being provided for your information, as received, and may not conform to the parameters stated in California Penal Code, Sections 933.05 et seq. The Government Audit and Oversight Committee will consider the subject report, along with the responses, at a hearing on October 3, 2019.

c:
Honorable Garrett L. Wong, Presiding Judge
Sophia Kittler, Mayor's Office
Kanishka Karunaratne Cheng, Mayor's Office
Andres Power, Mayor's Office
Sally Ma, Mayor's Office
Rebecca Peacock, Mayor's Office
Kelly Kirkpatrick, Mayor's Office
Ashley Groffenberger, Mayor's Office
Jillian Johnson, Mayor's Office
Jon Givner, Office of the City Attorney
Ben Rosenfield, City Controller
Todd Rydstrom, Office of the Controller
Peg Stevenson, Office of the Controller
Tonia Lediju, Office of the Controller
Helen Vo, Office of the Controller
Alisa Somera, Office of the Clerk of the Board
Debra Newman, Office of the Budget and Legislative Analyst

Severin Campbell, Office of the Budget and Legislative Analyst
Reuben Holoher, Office of the Budget and Legislative Analyst
Jennifer Millman Tell, Office of the Budget and Legislative Analyst
Rasha Harvey, 2018-2019 Foreperson, San Francisco Civil Grand Jury
Ettore Leale, 2019-2020 Foreperson, San Francisco Civil Grand Jury
Lori Campbell, 2017-2018 Foreperson, San Francisco Civil Grand Jury
Chief William Scott, Police Department
Rowena Carr, Police Department
Asja Steeves, Police Department
Deirdre Hussey, Police Department
Robert Hirsch, Police Commission
Rachel Kilshaw, Police Commission



September 16, 2019

The Honorable Garrett L. Wong
Presiding Judge, Superior Court of California, County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102

Dear Judge Wong,

In accordance with Penal Code 933 and 933.05, the following is in response to the 2018-2019 Civil Grand Jury Report, *Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*. We would like to thank the members of the Civil Grand Jury for their interest in public safety and civil liberties, facilitating conversations on whether it is in San Francisco's best interest to rejoin the Joint Terrorism Task Force (JTTF).

The concept of JTTF is to create a partnership of local, state, and federal law enforcement agencies to effectively and efficiently communicate and collaborate as an integrated force to detect, investigate, prevent, or disrupt terrorist activities. The report finds that the suspension of the San Francisco Police Department's (SFPD's) participation in the JTTF two years ago resulted in a reduction of information sharing between federal and local public safety and City officials. Although the SFPD is no longer a part of this partnership, overall communication between the City and federal authorities remains efficient. The Jury's goal is to stimulate discussion and action for SFPD and City officials to decide whether it is in the best interest of the City to rejoin JTTF. We recognize the serious concerns expressed by advocacy groups and immigrant communities about this partnership. In making this critical decision, the SFPD will take a thoughtful and thorough approach that considers all relevant stakeholders in the conversation, including the public. We are dedicated to making a cautious decision that protects all people and communities of the City and County of San Francisco.

A detailed response from the Mayor's Office and Police Department to the Civil Grand Jury's findings and recommendations is attached.

Each signatory prepared its own responses and is able to respond to questions related to its respective parts of the report.

Thank you again for the opportunity to comment on this Civil Grand Jury report.

Sincerely,

Two handwritten signatures in blue ink. The first signature is "London N. Breed" and the second is "William Scott".

London N. Breed
Mayor

William Scott
Chief, Police Department

2018-2019 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Report Title [Publication Date]	F#	Finding (text may be duplicated due to spanning and multiple respondent effects)	Respondent Assigned by CGJ [Response Due Date]	Finding Response (Agree/Disagree)	Finding Response Text	R# [for F#]	Recommendation (text may be duplicated due to spanning and multiple respondent effects)	Respondent Assigned by CGJ [Response Due Date]	Recommendation Response (Implementation)	Recommendation Response Text
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F1	The 2007 MOU providing for JTTF participation expired by operation of the CCSF Charter. The Chief of Police agreed the MOU must be revised for it to be approved by the PC. The Chief acknowledged the concern of civil liberties groups to include oversight that is more transparent.	Mayor [September 15, 2019]	Agree with the finding		R1	The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by February 3, 2020.	Mayor [September 15, 2019]	Will be implemented	The decision to rejoin the JTTF would include not only the Mayor and Police Department, but also the Police Commission and the FBI. Given the extended timelines associated with policy development, public input, the potential creation of Working Groups and discussions with the FBI, the deadline associated with this recommendation is unreasonable. However, the department will explore rejoining the JTTF and if there is a decision to rejoin, the Mayor, SFPD and the Police Commission plan to take a thoughtful and thorough approach that considers the input of the SF community.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F1	The 2007 MOU providing for JTTF participation expired by operation of the CCSF Charter. The Chief of Police agreed the MOU must be revised for it to be approved by the PC. The Chief acknowledged the concern of civil liberties groups to include oversight that is more transparent.	Mayor [September 15, 2019]	Agree with the finding		R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	Mayor [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development and policy approval within the police department, the deadline associated with this recommendation is unreasonable. However the department will explore the potential of negotiating an MOU with the FBI and will submit to the Police Commission for review when it is appropriate to do so.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F2	Communication and coordination between SFPD and federal authorities is less efficient and more cumbersome than when SFPD was part of the JTTF.	Mayor [September 15, 2019]	Disagree, partially	Currently, the overall communication between SFPD and federal authorities is efficient, however when it comes to JTTF specific incidents there are delays in communication between federal authorities and SFPD. This may result in the delay of deploying SFPD officers to an incident that is possibly terrorist-related.	R1	The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by February 3, 2020.	Mayor [September 15, 2019]	Will be implemented	The decision to rejoin the JTTF would include not only the Mayor and Police Department, but also the Police Commission and the FBI. Given the extended timelines associated with policy development, public input, the potential creation of Working Groups and discussions with the FBI, the deadline associated with this recommendation is unreasonable. However, the department will explore rejoining the JTTF and if there is a decision to rejoin, the Mayor, SFPD and the Police Commission plan to take a thoughtful and thorough approach that considers the input of the SF community.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F2	Communication and coordination between SFPD and federal authorities is less efficient and more cumbersome than when SFPD was part of the JTTF.	Mayor [September 15, 2019]	Disagree, partially	Currently, the overall communication between SFPD and federal authorities is efficient, however when it comes to JTTF specific incidents there are delays in communication between federal authorities and SFPD. This may result in the delay of deploying SFPD officers to an incident that is possibly terrorist-related.	R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	Mayor [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development and policy approval within the police department, the deadline associated with this recommendation is unreasonable. However the department will explore the potential of negotiating an MOU with the FBI and will submit to the Police Commission for review when it is appropriate to do so.

2018-2019 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F5	The secrecy obligations of SFPD officers in the JTTF require officers not disclose the classified material to individuals without an appropriate level of clearance and a need to know. These secrecy obligations are necessary but allow or cause speculation and concern by parties without access to classified material.	Mayor [September 15, 2019]	Agree with the finding		R1	The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by February 3, 2020.	Mayor [September 15, 2019]	Will be implemented	The decision to rejoin the JTTF would include not only the Mayor and Police Department, but also the Police Commission and the FBI. Given the extended timelines associated with policy development, public input, the potential creation of Working Groups and discussions with the FBI, the deadline associated with this recommendation is unreasonable. However, the department will explore rejoining the JTTF and if there is a decision to rejoin, the Mayor, SFPD and the Police Commission plan to take a thoughtful and thorough approach that considers the input of the SF community.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F5	The secrecy obligations of SFPD officers in the JTTF require officers not disclose the classified material to individuals without an appropriate level of clearance and a need to know. These secrecy obligations are necessary but allow or cause speculation and concern by parties without access to classified material.	Mayor [September 15, 2019]	Agree with the finding		R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	Mayor [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development and policy approval within the police department, the deadline associated with this recommendation is unreasonable. However the department will explore the potential of negotiating an MOU with the FBI and will submit to the Police Commission for review when it is appropriate to do so.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F6	The PC is an essential party to SFPD's future participation in the JTTF. The PC has the authority to bring any proposed MOU and any related DGO up for discussion and public comment at an open meeting. In addition, the Chief of Police is required to provide them a public report every year with appropriate public information on the Police Department's work	Mayor [September 15, 2019]	Agree with the finding						
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F7	Presently, the PC does not have a representative for JTTF matters. It would be beneficial to have a designated commissioner as a point of contact for all parties interested in this issue.	Mayor [September 15, 2019]	Disagree, partially	The Police Commission does have an appointed representative for JTTF matters: President Hirsch. It is beneficial to have a designated commissioner as a point of contact for all parties interested in this issue					
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F1	The 2007 MOU providing for JTTF participation expired by operation of the CCSF Charter. The Chief of Police agreed the MOU must be revised for it to be approved by the PC. The Chief acknowledged the concern of civil liberties groups to include oversight that is more transparent.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding		R1	The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by February 3, 2020.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	The decision to rejoin the JTTF would include not only the Mayor and Police Department, but also the Police Commission and the FBI. Given the extended timelines associated with policy development, public input, the potential creation of Working Groups and discussions with the FBI, the deadline associated with this recommendation is unreasonable. However, the department will explore rejoining the JTTF and if there is a decision to rejoin, the Mayor, SFPD and the Police Commission plan to take a thoughtful and thorough approach that considers the input of the SF community.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F1	The 2007 MOU providing for JTTF participation expired by operation of the CCSF Charter. The Chief of Police agreed the MOU must be revised for it to be approved by the PC. The Chief acknowledged the concern of civil liberties groups to include oversight that is more transparent.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding		R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development and policy approval within the police department, the deadline associated with this recommendation is unreasonable. However the department will explore the potential of negotiating an MOU with the FBI and will submit to the Police Commission for review when it is appropriate to do so.

2018-2019 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F2	Communication and coordination between SFPD and federal authorities is less efficient and more cumbersome than when SFPD was part of the JTTF.	Chief, San Francisco Police Department [September 15, 2019]	Disagree, partially	Currently, the overall communication between SFPD and federal authorities is efficient, however when it comes to JTTF specific incidents there are delays in communication between federal authorities and SFPD. This may result in the delay of deploying SFPD officers to an incident that is possibly terrorist-related.	R1	The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by February 3, 2020.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	The decision to rejoin the JTTF would include not only the Mayor and Police Department, but also the Police Commission and the FBI. Given the extended timelines associated with policy development, public input, the potential creation of Working Groups and discussions with the FBI, the deadline associated with this recommendation is unreasonable. However, the department will explore rejoining the JTTF and if there is a decision to rejoin, the Mayor, SFPD and the Police Commission plan to take a thoughtful and thorough approach that considers the input of the SF community.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F2	Communication and coordination between SFPD and federal authorities is less efficient and more cumbersome than when SFPD was part of the JTTF.	Chief, San Francisco Police Department [September 15, 2019]	Disagree, partially	Currently, the overall communication between SFPD and federal authorities is efficient, however when it comes to JTTF specific incidents there are delays in communication between federal authorities and SFPD. This may result in the delay of deploying SFPD officers to an incident that is possibly terrorist-related.	R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development and policy approval within the police department, the deadline associated with this recommendation is unreasonable. However the department will explore the potential of negotiating an MOU with the FBI and will submit to the Police Commission for review when it is appropriate to do so.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F3	In the period of 2002-2017 SFPD participated on the JTTF, few formal complaints were made against officers conducting JTTF activities.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding		R1	The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by February 3, 2020.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	The decision to rejoin the JTTF would include not only the Mayor and Police Department, but also the Police Commission and the FBI. Given the extended timelines associated with policy development, public input, the potential creation of Working Groups and discussions with the FBI, the deadline associated with this recommendation is unreasonable. However, the department will explore rejoining the JTTF and if there is a decision to rejoin, the Mayor, SFPD and the Police Commission plan to take a thoughtful and thorough approach that considers the input of the SF community.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F3	In the period of 2002-2017 SFPD participated on the JTTF, few formal complaints were made against officers conducting JTTF activities.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding		R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development and policy approval within the police department, the deadline associated with this recommendation is unreasonable. However the department will explore the potential of negotiating an MOU with the FBI and will submit to the Police Commission for review when it is appropriate to do so.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F4	The Civil Grand Jury's investigation did not detect any instance of non-compliance with a DGO by SFPD officers that had been assigned to the JTTF. Likewise, this investigation did not find any evidence that SFPD officers assigned to the JTTF were engaged in any form of enforcement associated with federal immigration laws.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding	Based on data from SFPD Internal Affairs and the Department of Police Accountability, there are no sustained allegations related to non-compliance of DGO 8.10 or enforcement related to federal immigration laws by officers assigned to the JTTF.	R1	The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by February 3, 2020.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	The decision to rejoin the JTTF would include not only the Mayor and Police Department, but also the Police Commission and the FBI. Given the extended timelines associated with policy development, public input, the potential creation of Working Groups and discussions with the FBI, the deadline associated with this recommendation is unreasonable. However, the department will explore rejoining the JTTF and if there is a decision to rejoin, the Mayor, SFPD and the Police Commission plan to take a thoughtful and thorough approach that considers the input of the SF community.

2018-2019 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F4	The Civil Grand Jury's investigation did not detect any instance of non-compliance with a DGO by SFPD officers that had been assigned to the JTTF. Likewise, this investigation did not find any evidence that SFPD officers assigned to the JTTF were engaged in any form of enforcement associated with federal immigration laws.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding	Based on data from SFPD Internal Affairs and the Department of Police Accountability, there are no sustained allegations related to non-compliance of DGO 8.10 or enforcement related to federal immigration laws by officers assigned to the JTTF.	R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development and policy approval within the police department, the deadline associated with this recommendation is unreasonable. However the department will explore the potential of negotiating an MOU with the FBI and will submit to the Police Commission for review when it is appropriate to do so.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F5	The secrecy obligations of SFPD officers in the JTTF require officers not disclose the classified material to individuals without an appropriate level of clearance and a need to know. These secrecy obligations are necessary but allow or cause speculation and concern by parties without access to classified material.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding		R1	The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by February 3, 2020.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	The decision to rejoin the JTTF would include not only the Mayor and Police Department, but also the Police Commission and the FBI. Given the extended timelines associated with policy development, public input, the potential creation of Working Groups and discussions with the FBI, the deadline associated with this recommendation is unreasonable. However, the department will explore rejoining the JTTF and if there is a decision to rejoin, the Mayor, SFPD and the Police Commission plan to take a thoughtful and thorough approach that considers the input of the SF community.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F5	The secrecy obligations of SFPD officers in the JTTF require officers not disclose the classified material to individuals without an appropriate level of clearance and a need to know. These secrecy obligations are necessary but allow or cause speculation and concern by parties without access to classified material.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding		R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development and policy approval within the police department, the deadline associated with this recommendation is unreasonable. However the department will explore the potential of negotiating an MOU with the FBI and will submit to the Police Commission for review when it is appropriate to do so.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F6	The PC is an essential party to SFPD's future participation in the JTTF. The PC has the authority to bring any proposed MOU and any related DGO up for discussion and public comment at an open meeting. In addition, the Chief of Police is required to provide them a public report every year with appropriate public information on the Police Department's work	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding						
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F7	Presently, the PC does not have a representative for JTTF matters. It would be beneficial to have a designated commissioner as a point of contact for all parties interested in this issue.	Chief, San Francisco Police Department [September 15, 2019]	Disagree, partially	The Police Commission does have an appointed representative for JTTF matters: President Hirsch. The department agrees that it is beneficial to have a designated commissioner as a point of contact for all parties interested in this issue.					

2018-2019 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8	SFPD DGO 8.10 was described as confusing and ambiguous by several law enforcement witnesses. It does not contain clear and concise wording and references are inaccurate. In order for SFPD officers to comply with DGO 8.10, it needs to be revised and updated.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding		R4	The Chief of Police should instruct the WDU to expedite the revision process of DGO 8.10 immediately but no later than the first week of January 2020. The WDU in considering the revisions to DGO 8.10 should include a review of the R4a-f recommendations before submitting the revisions to the Chief of Police. The revised DGO should be forwarded to the PC for approval no later than July 1, 2020.	Chief, San Francisco Police Department [September 15, 2019]	Will not be implemented because it is not warranted or reasonable	The Police Commission has previously approved the schedule for updating department DGOs based on DOJ Collaborative Reform. DGO 8.10 is already scheduled for review and updates to begin in 2020. This recommendation would change the Police Commission schedule and change the typical process for DGO drafting and revisions. Written Directives facilitates the concurrence process but is not solely responsible for revisions to any DGO. It is within the Police Commission's purview to create a working group to review and suggest content changes. Given the extended timelines associated with policy development, public input and policy approval within the police department, the deadline and process associated with this recommendation is unreasonable.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-a	General Order 8.10 does not contain clear and concise wording. Within Section I, the Statement of Principles, A. General Policy 8.10 indicates the First Amendment rights are protected by the United States Constitution. However, in Section II, Definitions, references both United States and California Constitutions causing confusion.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding	The department agrees that the reference to the California Constitution and the United States Constitution in Section I and Section II could be delineated in a clearer manner.	R4-a	DGO 8.10 should be revised to eliminate the conflict that exists between the statement of principles only referencing the First Amendment rights guaranteed by the United States Constitution, but the term First Amendment Activity being defined as rights guaranteed by both the Constitution of the United States and the Constitution of the State of California. It is recommended that the statement of principal incorporate wording to be reflective of the protections provided to First Amendment activities by both the state and federal	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development within SFPD, the deadline associated with R4 and its sub-recommendations is unreasonable. The City Attorney's Office also indicated that there is a need to revise this section. The department agrees to review this recommendation during the DGO 8.10 update scheduled to begin in 2020.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-b	General Order 8.10 contains a factually incorrect legal reference. In Section II, A DEFINITION, the order incorrectly identifies the provision of the California Constitution that should be applicable to the rights associated with assembly and petitioning the government. The Order incorrectly associates "Article 3" of the California Constitution, which, is generally related to governmental processes and functions of the state. It is believed that General Order 8.10 suffers from a scribing error and that instead of "Article 3" it was intended for the definition to encompass First Amendment protections of the United States Constitution and the California Constitution Article I, Section 2 and Article I Section 3.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding		R4-b	General Order 8.10 should be revised to correct the error in referencing "Article 3" of the Constitution of California within the definition section to Article I, Section 3.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development within SFPD, the deadline associated with R4 and its sub-recommendations is unreasonable. The City Attorney's Office also indicated that there is a need to revise this section. The department agrees to review this recommendation during the DGO 8.10 update scheduled to begin in 2020.


2018-2019 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-c	General Order 8.10 fails to define the term "Criminal Investigation." Failing to define this phrase, allows the readers of the document to apply their own meaning to the term. What might be considered a "criminal investigation" by a law enforcement officer might differ considerably from how a member of the public or an advocacy group would define that term.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding	A criminal investigation is triggered whenever there is a reasonable suspicion of a past, current or an impending offense committed as described in the Penal Code, Welfare and Institutions Code, Police Code, or in other local, state and federal laws. This definition is not currently included in DGO 8.10.	R4-c	General Order 8.10 should be revised to define the term "Criminal Investigation". The order should clearly define what is and what is not a criminal investigation.	Chief, San Francisco Police Department [September 15, 2019]	Will not be implemented because it is not warranted or reasonable	Given the extended timelines associated with policy development, the department cannot agree to forward an updated DGO 8.10 to the Police Commission for approval by July 3, 2020. The department agrees to review this recommendation during the DGO 8.10 update which is scheduled to begin in 2020. However, unlike the other R4 recommendations, this cannot be implemented unilaterally. The inclusion or acceptance of any revised language is dependent on internal review, DPA review, public input/working group input, city attorney's office review and Police Commission approval and adoption.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-d	General Order 8.10 contains obsolete agency information. The Office of Citizen Complaints (OCC) no longer exists. The OCC has been replaced by the Department of Police Accountability (DPA).	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding		R4-d	General Order 8.10 should be updated to incorporate changes that have occurred since 2008. Obsolete agency names and titles should be corrected. All references to the OCC should be changed to DPA and the Director of OCC should be corrected to the Executive Director of DPA.	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development, the department cannot agree to forward an updated DGO 8.10 to the Police Commission by July 3, 2020. The department will recommend updating all references to OCC by using the current department name and terminology.
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-e	The use of Department or Department's presently used in the DGO's could cause confusion because both the SFPD and the DPA contain those terms.	Chief, San Francisco Police Department [September 15, 2019]	Disagree, partially	The SFPD DGOs are SFPD documents laying out policy to its members. Because of this, SFPD members understand that the abbreviation for San Francisco Police Department is "Department" within the DGOs. However, a member of the public who is not familiar with the SFPD policy documents could potentially find the reference confusing.	R4-e	The use of 'department' should be specific to which one it is referencing (SFPD or DPA).	Chief, San Francisco Police Department [September 15, 2019]	Will be implemented	Given the extended timelines associated with policy development, the department cannot agree to forward an updated DGO 8.10 to the Police Commission by July 3, 2020. SFPD agrees that this update can be addressed by introducing the abbreviation in long and short form by revising Section IA of DGO 8.10 to: "It is the policy of the San Francisco Police Department ("the Department")..."
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-f	At present, DGO 8.10 contains extraneous material regarding duties required of other than SFPD officers.	Chief, San Francisco Police Department [September 15, 2019]	Agree with the finding		R4-f	DGO 8.10 should contain only material that is necessary and pertinent to the functions of SFPD. All material that is unrelated to the SFPD should be removed from DGO 8.10.	Chief, San Francisco Police Department [September 15, 2019]	Will not be implemented because it is not warranted or reasonable	Given the extended timelines associated with policy development, the department cannot agree to forward an updated DGO 8.10 to the Police Commission by July 3, 2020. The department agrees that each SFPD DGO should only contain directives that are necessary and pertinent to the functions of SFPD and its own members. However, unlike the other R4 recommendations, this cannot be implemented unilaterally. Removing material that may be unrelated to SFPD member's duties and responsibilities would require an action on the part of the Police Commission.

From: [Anatolia Lubos](#)
To: [Carroll, John \(BOS\)](#)
Subject: FW: SF Police Commission President Hirsch Response to 2018-2019 Civil Grand Jury "JTTF: Balancing Public Safety with Civil Rights"
Date: Monday, September 16, 2019 9:11:04 AM
Attachments: [Com Hirsch response to 2018-2019 Civil Grand Jury, JTTF.pdf](#)

From: Civil Grand Jury <CGrandJury@sftc.org>
Sent: Monday, September 16, 2019 8:57 AM
To: Anatolia Lubos <ALubos@sftc.org>
Subject: FW: SF Police Commission President Hirsch Response to 2018-2019 Civil Grand Jury "JTTF: Balancing Public Safety with Civil Rights"

From: SFPD, Commission (POL)
Sent: Monday, September 16, 2019 8:56:57 AM (UTC-08:00) Pacific Time (US & Canada)
To: Civil Grand Jury
Cc: Kilshaw, Rachael (POL)
Subject: SF Police Commission President Hirsch Response to 2018-2019 Civil Grand Jury "JTTF: Balancing Public Safety with Civil Rights"

 **WARNING: This email was generated from an external source. You should only open files from a trustworthy source.**

Dear Presiding Judge Wong,

Attached, please find Police Commission President Hirsch's response to the Grand Jury's inquiry re JTTF.

Thank you,
Risa Tom

San Francisco Police Commission
1245 Third Street, 6th Floor
San Francisco, CA 94158
(415) 837-7070



The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

ROBERT HIRSCH
President

September 13, 2019

The Honorable Garrett L. Wong
Presiding Judge
Superior Court of California,
County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102-4512

Sergeant Jayme Campbell
Secretary

RE: 2018-19 Civil Grand Jury, Joint Terrorism Task Force: Balancing Public Safety and Civil Rights

Dear Judge Wong:

I thank the San Francisco Civil Grand Jury for their commitment to the City and the work which has yielded this set of Findings and Recommendations in its report, *Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*. As the Grand Jury instructed the President of the San Francisco Police Commission to respond to the Findings and Recommendations, and as the Police Commission was operating on a shortened summer schedule, I do so on my own behalf and not on behalf of the full Police Commission.

The San Francisco Police Department (SFPD), in conjunction with the Department of Police Accountability (DPA), the Police Commission, and a variety of public interest groups and individuals has been engaged in a comprehensive reform effort for the past three years – designed to improve public safety, community trust, SFPD transparency, and accountability. Towards that goal, the Police Department is in the process of implementing 272 reform recommendations made by the United States Department of Justice in 2016.

This reform effort includes strong participation from community members, as collaboration is a keystone to establishing community trust and cooperation in law enforcement endeavors.

The SFPD has not participated as a member of the Joint Terrorism Task Force (JTTF) since January 2017 – but only after a working group of law enforcement professionals and community members spent many months attempting to craft an agreement by which the FBI and the SFPD could jointly operate through the JTTF to address potential terrorist threats to the City. Although that effort failed to culminate with a Memorandum

of Understanding by which the SFPD could participate in the JTTF, the Police Department and the FBI remain in regular contact around issues of public safety and have a strong, cooperative relationship. Moreover, the collaborative process remains critical to any effort by the City to reinvigorate its participation in the JTTF.

With these thoughts in mind, I turn to the Civil Grand Jury's Findings and Recommendations from the *Joint Terrorism Task Force: Balancing Public Safety and Civil Rights* report.

FINDINGS

Finding 1. The 2007 MOU providing for JTTF participation expired by operation of the CCSF Charter. The Chief of Police agreed the MOU had to be revised in order for it to be approved by the Police Commission. The Chief also acknowledged the concern of civil liberties groups to include more oversight that is transparent.

Partially Disagree. The Police Chief's discussions with the Civil Grand Jury were confidential, thus I am unable to comment on what was discussed or agreed to by the Chief. I am aware that members of the civil rights community have raised a number of concerns related to the SFPD's participation in the JTTF including officer training, compliance with Department General Order (DGO) 8.10, and racial profiling. Transparent oversight is but one concern.

Finding 2. Communication and coordination between SFPD and federal authorities is less efficient and more cumbersome than when SFPD was part of the JTTF.

Partially Disagree. The SFPD and FBI are in daily communication and I have not seen evidence that either communication or coordination are inefficient or cumbersome. The SFPD, for example, participates in NCRIC, a clearing house for public safety data and criminal activity in the region, and a recipient of JTTF intelligence and data.

Finding 3. In the period of 2002-2017 SFPD participated on the JTTF, few formal complaints were made against officers conducting JTTF activities.

Agree. I am not aware of a significant number of formal complaints between 2002 and 2017 against SFPD officers conducting JTTF activities.

Finding 4. This investigation did not detect any instance of non-compliance with a DGO by SFPD officers that had been assigned to the JTTF. Likewise, this investigation did not find any evidence that SFPD officers assigned to the JTTF were surreptitiously engaged in any form of enforcement associated with federal immigration laws.

Partially disagree. I cannot determine what the investigation of the Civil Grand Jury detected or uncovered. I am aware of a finding a few years ago by the DPA, then the Office of Citizen Complaints (OCC), in case #15-0168, that a training failure had occurred resulting in a violation of DGO 8.10.

Finding 5. The secrecy obligations of SFPD officers in the JTTF require the said officers not disclose the classified material to individuals without an appropriate level of clearance on a need-to-know basis. These secrecy obligations are necessary but allow or cause speculation and concern by parties without access.

Agree. I do note however, some work by participating law enforcement officers in the JTTF involves non-classified information which does not create a secrecy obligation.

Finding 6. The Police Commission is an essential party to SFPD's future participation in the JTTF. The Police Commission has the authority to bring any proposed MOU and any related DGO up for discussion and public comment at an open meeting. In addition, the Chief of Police is required to provide them a public report every year with appropriate public information on the Police Department's work with the JTTF.

Agree. I add that the Police Commission, in addition to having the "authority to bring proposed MOU and related DGO's up for discussion and public comment," also has the authority and responsibility to approve or disapprove such items.

Finding 7. Presently, the Police Commission does not have a representative for JTTF matters. It would be beneficial to have a designated commissioner as a point of contact for all parties interested in this issue.

Partially disagree. It is beneficial to have a designated Police Commissioner as a point of contact for interested parties. Civil Grand Jury Representatives were advised that the President had appointed himself as the "designated commissioner of contact" for matters related to the JTTF.

Finding 8. SFPD DGO 8.10 is considered confusing and ambiguous by many witnesses. It does not contain clear and concise wording and references are inaccurate. In order for JTTF officers to comply with DGO 8.10 it needs to be revised and updated.

Partially disagree. While some interviewees may have made statements to the contrary, I believe DGO 8.10 is neither confusing nor ambiguous. The document clearly establishes the requirement that SFPD officers, working with the JTTF, have reasonable suspicion of criminal activity if they are to participate in that investigation. There are corrections which need to be made as noted hereinafter, but the DGO remains clear and specific as to rules and procedures which must be followed where first amendment activities are implicated in a criminal investigation.

Finding 8-a. General Order 8.10 does not contain clear and concise wording. Within Section I, the Statement of Principles, A. General Policy 8.10 indicates the First Amendment rights are protected by the United States Constitution. However, in Section II, Definitions, references both United States and California Constitutions causing confusion.

Partially disagree. While the references to the California Constitution need to be clarified and corrected, I do not believe, DGO 8.10 fails to contain “clear and concise wording.” The DGO was the product of a lengthy collaborative effort between law enforcement professionals and members of the public, designed to encompass “best practices,” and clearly speaks to the roles and protocols for affected officers, the SFPD, the DPA, and the Police Commission.

Finding 8-b. General Order 8.10 contains a factually incorrect legal reference. In Section II, DEFINITIONS, the order incorrectly identifies the provision of the California Constitution that should be applicable to the rights associated with assembly and petitioning the government. The Order incorrectly associates “Article 3” of the California Constitution, which, is generally related to governmental processes and functions of the state. It is believed that General Order 8.10 suffers from a scribing error and that instead of “Article 3” it was intended for the definition to encompass First Amendment protections of the United States Constitution and the California Constitution Article I, Section 2 and Article I Section 3.

Agree. References to the California Constitution need to be corrected.

Finding 8-c. General Order 8.10 fails to define the term “Criminal Investigation.” Failing to define this phrase, allows the readers of the document to apply their own meaning to the term. What might be considered a “criminal investigation” by a law enforcement officer might differ considerably from how a member of the public or an advocacy group would define that term.

Partially disagree. The term criminal investigation is understood within the context of DGO 8.10 to mean an investigation of criminal activity based upon reasonable suspicion of a past, current or impending criminal act. I find no basis for confusion here and find nothing in the Civil Grand Jury’s report to help us understand what the real confusion is.

Finding 8-d. General Order 8.10 contains obsolete agency information. The OCC no longer exists. The OCC has been replaced by the DPA.

Agree.

Finding 8-e. The use of “department” or “departments” presently used in the DGO’s could cause confusion because both the SFPD and the DPA contain those terms.

Agree.

Finding 8-f. At present, DGO 8.10 contains extraneous material regarding duties required of other than SFPD officers.

Partially disagree. DGO 8.10 is designed to address protocols for the SFPD when a criminal investigation involves first amendment activities. The DGO also contains references to matters inextricably intertwined with the rules and procedures for criminal

investigations implicating first amendment activities. Whether the references are to the Police Commission's authority to review compliance with the guidelines, access to information by civilians, auditing by the DPA, or the collection and maintenance of records related to covered investigations, the provisions of DGO 8.10 are tied directly to the guidelines governing the duties of SFPD officers. All members of the SFPD should be aware of these provisions as they are unique to this General Order.

RECOMMENDATIONS

Recommendation 1. The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by Feb 3, 2020.

No response elicited from this respondent.

Recommendation 2. In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the Police Commission for discussion and public comment at an open meeting. This should be done no later than July 1, 2020

I will not seek to implement this Recommendation. Any revision to the MOU between the SFPD and the FBI should involve a working group composed of interested stakeholders, as was the case in 2016-2017. The SFPD Chief and FBI cannot merely negotiate a new agreement. The issues are serious, the public interest high, and the process arduous. Any revision of the expired MOU will take longer than the proposed July 2020 deadline allows.

Recommendation 3. The President of the Police Commission shall designate a commissioner as a point of contact for all JTTF interested parties. This appointment should be completed by April 3, 2020.

Recommendation has been implemented. The current President of the Commission is the designated point person for JTTF matters.

Recommendation 4. The Chief of Police should instruct the Written Directives Unit to expedite the revision process of DGO 8.10 immediately but no later than the first week of January 2020. The Written Directives Unit in considering the revisions to DGO 8.10 should include a review of the R4a-R4f recommendations before submitting the revisions to the Chief of Police. The revised DGO should be forwarded to the Police Commission for approval no later than July 3, 2020.

I will not seek to implement this Recommendation. The procedure outlined by the Civil Grand Jury is incorrect. Written Directives is not tasked with rewriting DGO 8.10. A working group composed of interested stakeholders must participate in any revision process relative to this DGO, as the issues are significant and divergent viewpoints and

ideas enhance any effort to recreate an MOU between the SFPD and FBI. The timeframe offered by the Civil Grand Jury for completing any revision effort is unrealistically aggressive. The Police Commission is developing a five-year schedule for reviewing and revising all SFPD's General Orders including DGO 8.10. That DGO is slated for review in 2020.

Recommendation 4-a. General Order 8.10 should be revised to eliminate the conflict that exists between the statement of principles only referencing the First Amendment rights guaranteed by the United States Constitution, but the term First Amendment Activity being defined as rights guaranteed by both the Constitution of the United States and the Constitution of the State of California. It is recommended that the statement of principal incorporate wording to be reflective of the protections provided to First Amendment activities by both the state and federal constitutions.

I will seek to implement this Recommendation so that the preamble of DGO 8.10 is consistent with the body of that document, which references the California Constitution as well as the U.S. Constitution. Changes to DGO 8.10 will be made in accordance with the Police Commission's schedule for reviewing DGOs.

Recommendation 4-b. General Order 8.10 should be revised to correct the error in referencing "Article 3" of the Constitution of California within the definition section to Article I, Section 3.

I will seek to implement this Recommendation. Changes to DGO 8.10 will be made in accordance with the Police Commission's schedule for reviewing DGOs.

Recommendation 4-c. General Order 8.10 should be revised to define the term "Criminal Investigation". The order should clearly define what is and what is not a criminal investigation.

I will not seek to implement this Recommendation. The term "criminal investigation" is understood by the law enforcement community and civilians alike. It is clear from DGO 8.10 that SFPD officers can participate in investigations of criminal activity where reasonable suspicion exists.

Recommendation 4-d. General Order 8.10 should be updated to incorporate changes that have occurred since 2008. Obsolete agency names and titles should be corrected. All references to the OCC should be changed to DPA and the Director of OCC should be corrected to the Executive Director of DPA.

I will seek to implement this Recommendation in accordance with the Police Commission's schedule of review for DGOs.

Recommendation 4-e. The use of "department" should be specific to which one it is referencing (SFPD or DPA).

I will seek to implement this Recommendation in accordance with the Police Commission's schedule of review for DGOs.

Recommendation 4-f. DGO 8.10 should contain only material that is necessary and pertinent to the functions of SFPD. All material that is unrelated to the SFPD should be removed from DGO 8.10

I will not seek to implement this Recommendation. DGO 8.10 contains references to matters inextricably intertwined with the rules and procedures for criminal investigations implicating first amendment activities. Whether the references are to the Police Commission's authority to review compliance with the guidelines, access to information by civilians, DPA audits, or the collection and maintenance of records related to covered investigations, the provisions of DGO 8.10 are tied directly to the guidelines governing the duties of SFPD officers. SFPD members need to understand the related matters addressed in the DGO as they are unique to this General Order.

I want to thank you for the opportunity to respond to the Civil Grand Jury's report, *Joint Terrorism Task Force: Balancing Public Safety and Civil Rights*, and thank the Civil Grand Jury again for their interest in the Department's participation in and its policies surrounding the Joint Terrorism Task Force.

Sincerely,



Robert Hirsch
President
San Francisco Police Commission

cc: VIA EMAIL
Honorable Mayor L. Breed
Honorable Board of Supervisors
Chief of Police W. Scott
Police Commission



**CITY AND COUNTY OF SAN FRANCISCO
2018-2019 CIVIL GRAND JURY**

**Joint Terrorism Task Force:
Balancing Public Safety with Civil Rights**



CITY AND COUNTY OF SAN FRANCISCO 2018-2019 CIVIL GRAND JURY

THE CIVIL GRAND JURY AND ITS OPERATIONS

California state law requires that all 58 counties impanel a Grand Jury to serve during each fiscal year. *California Penal Code Section 905; California Constitution, Article I, Section 23*

The Civil Grand Jury investigates and reports on one or more aspects of the County's departments, operations, or functions. *California Penal Code Sections 925, 933(a)*

Reports of the Civil Grand Jury do not identify individuals interviewed by name. *California Penal Code Section 929*

The Civil Grand Jury issues reports with findings and recommendations resulting from its investigations to the Presiding Judge of the Superior Court. *California Penal Code Section 933(a)*

Each published report includes a list of those elected officials or departments that are required to respond to the Presiding Judge of the Superior Court within 60 or 90 days as specified. *California Penal Code Section 933*

California Penal Code Section 933.05 is very specific with respect to the content of the required responses. Under Section 933.05(a), for each finding, the response must:

- 1) Agree with the finding, or
- 2) Disagree with it, wholly or partially, and explain why.

Similarly, under Penal Code Section 933.05(b), for each recommendation, the responding party must report that:

- 1) The recommendation has been implemented, with a summary of the implemented action; or
- 2) The recommendation has not been implemented but will be within a set timeframe; or
- 3) The recommendation requires further analysis, with an explanation of what additional study is needed, and the timeframe for conducting that additional study and the preparation of suitable material for discussion. This timeframe may not exceed six months from the date of publication of the Civil Grand Jury's report; or
- 4) The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

Any San Francisco resident who is a U.S. citizen and is interested in volunteering to serve on the Civil Grand Jury for the City and County of San Francisco is urged to apply. Additional information about the San Francisco Civil Grand Jury, including past reports, can be found online at <http://civilgrandjury.sfgov.org/index.html>.



CITY AND COUNTY OF SAN FRANCISCO 2018-2019 CIVIL GRAND JURY

MEMBERSHIP ROSTER

RASHA HARVEY (Foreperson)

JANET ANDREWS HOWES (Parliamentarian)

LINDA BADGER

ANDREW BENJAMIN

GORDON CRESPO

KRISTINE EQUIHUA (Technology Secretary)

STEPHEN GARBER

JONATHAN HILL

LEONARD KULLY (Correspondence Secretary)

WILLIAM LEE (Foreperson Pro Tem)

FRANK NETTLETON

NONA RUSSELL

RANDALL SMITH (Recording Secretary)

KAAREN STRAUCH BROWN

RUSH STURGES

MARTHA SUTHERLIN

JASON TAM

MICHAEL WIXTED

Executive Summary

The Joint Terrorism Task Force was pioneered in New York City in 1980. The concept was to create a partnership of local, state and federal law enforcement agencies that could more effectively and efficiently communicate and work on matters of common interest. The first JTTF was established in 1980 when 10 NYPD detectives and 10 FBI agents partnered to work on terrorism matters within the New York metropolitan area. There are now 175 JTTFs nationwide with at least one at each of the 56 FBI Field Offices.

San Francisco, with its iconic landmarks and its reputation as a bastion of civil liberties, is an appealing target to both domestic and international terrorists. The majority of witnesses interviewed agreed. Currently, San Francisco Police Department (SFPD) is not a participant in the Northern California Joint Terrorism Task Force (JTTF). Civil rights groups criticized the way SFPD participated in the JTTF. The Chief of Police suspended the Department's participation in the JTTF on February 1, 2017. This was a result of the expiration of the ten-year Memorandum of Understanding (MOU) between the SFPD and the Federal Bureau of Investigation (FBI) as well as the concern of the civil rights groups. The Chief of Police stated that as he was newly appointed, there had not been adequate time for a review of the JTTF matter before the MOU was set to expire.

The JTTF still is operational today but without the participation of SFPD officers. Their lack of participation results in a reduction of information sharing between federal and local public safety and city governing officials. SFPD is unaware of the daily activities and many of the investigations within the JTTF. The FBI does not have the benefit of SFPD officers on the task force with local contacts and knowledge.

More than two years after the suspension of SFPD's participation in the JTTF, no significant progress has been made toward addressing the issues that led to it and reaching a clear determination as to whether or not participation should be re-established. The San Francisco Civil Grand Jury (SFCGJ) prepared this report to stimulate discussion and action by those in charge.

It is the responsibility of the Mayor and Chief of Police to make the decision as to whether SFPD should re-join the JTTF. These officials should address whether the SFPD should re-join the JTTF immediately and make their decision by the date set forth in recommendations below. The SFCGJ is not making a recommendation on whether they should re-join the JTTF.

However, the Civil Grand Jury is recommending the following:

- The Mayor and the Chief of Police should decide whether it is in the best interest of the City to re-join the JTTF by Feb 3, 2020.
- If the decision is made to re-join the JTTF, the Chief of Police should negotiate a revised

MOU with the FBI and submit it to the Police Commission for a discussion and public comment at an open meeting by July 1, 2020.

- The Police Commission shall designate a Commissioner as a point of contact for all matters related to the JTTF by April 3, 2020.
- The Chief of Police should instruct the SFPD's Written Directives Unit (WDU) to expedite the revision of the Department General Order 8.10 presently in progress. In addition to completing the above revisions, the WDU should review and address recommendations R4a- R4f listed in Appendix A and incorporate into their report by July 1, 2020.

TABLE OF CONTENTS

Section	Page No.
Executive Summary	1
Table of Contents	3
Background and Problem Statement	4
Methodology	6
Discussion	
A. Evolution of the JTTF	8
B. JTTF and Immigration	8
C. JTTF and the Police Commission (PC)	11
D. Civil Liberty and Advocacy Groups	12
Conclusion	14
Findings	
A. JTTF Findings	15
B. PC Findings	15
C. DGO 8.10 Findings	15
Recommendations	17
Required Responses	18
Glossary	19
Appendices	20
Appendix A: Table of Findings and Recommendations	21
Appendix B: Table of Findings with Required Respondents	25
Appendix C: Table of Recommendations with Required Respondents	28
SFPD Department General Order 5.15	(enclosed)
SFPD Department General Order 8.10	(enclosed)
SFPD Department General Order 3.01	(enclosed)

BACKGROUND AND PROBLEM STATEMENT

Background

During its term, the 2018-2019 San Francisco Civil Grand Jury (SFCGJ) became aware the San Francisco Police Department (SFPD) no longer participated in the Joint Terrorism Task Force. Furthermore, the jury recognized the ordinary San Franciscan was unaware of the city's non-participation. Previously, the City had been a member acting under the terms of two successive Memorandums of Understanding (MOU).

A 2002 MOU with the FBI formalized the participation of SFPD members on the JTTF. In 2007, a superseding MOU was signed which by the SF Charter had a ten-year expiration.

SFPD officers selected to join the JTTF were required to undergo a federal background investigation and obtain an FBI top-secret security clearance. While participating on the JTTF, SFPD officers were allowed access to classified information along with federal databases and information systems. Being federally deputized allowed SFPD officers to perform activities throughout the Bay Area and if necessary, the entire United States.

After the 2007 MOU was signed, a number of civil rights advocates and organizations began to criticize the SFPD participation on the JTTF.¹ The primary concern was that SFPD members participating on the JTTF did not comply with all SFPD Department General Orders (DGOs), specifically DGO 8.10, and possibly engaged in immigration enforcement matters, which is a federal matter not local responsibility.

In 2012, the San Francisco Board of Supervisors responded to those concerns by passing Ordinance 83-12,² amending the San Francisco Administrative Code. The amendment added Section 2A.74,³ which is entitled Police Department Participation in Federal Counterterrorism Activities and is known as the Safe San Francisco Civil Rights Ordinance. The ordinance permits SFPD to participate in the JTTF, but 2A.74(c) requires that:

“Before the execution of any Memorandum of Understanding or other written agreement, contract or arrangement (collectively, “MOU”) between the San Francisco Police and the FBI regarding the JTTF, the Chief of Police shall submit

¹ The Bar Association of San Francisco, Letter of March 1, 2012 to the Board of Supervisors
<http://www.sfbare.org/forms/newsroom/basf-safe-sf-ordinance.pdf>

² Ordinance 83-12 (File No. 120351), App. BOS on 5/8/2012 and signed by Mayor Lee on 5/9/2012, Eff. 6/8/2012
<https://static1.squarespace.com/static/588295b1579fb38c0503cca7/t/588d46d2a5790aa54e5b85a8/1485654318197/Safe+SF+Civil+Rights+Ordinance.pdf>

³ Administrative Code Section 2A.74 – Police Department Participation in Federal Counterterrorism Activities, was added by Ordinance 83-12, File No. 120351, App. 5/9/2012, Eff. 6/8/2012 :
[http://library.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://library.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1)

the proposed MOU and any related Department General Orders or Bureau Orders for discussion and public comment at an open meeting of the Police Commission.” Further, 2A.74(d) requires: “By January 31 of each year, the Chief of Police shall provide the Police Commission a public report with appropriate public information on the Police Department’s work with the JTTF in the prior calendar year, including any issues related to compliance with this Section.”

On February 1, 2017, the Chief of Police announced the suspension of SFPD’s participation on the JTTF.⁴ The suspension was in anticipation of the approach of the mandated expiration of the MOU and the impossibility of fulfilling the public discussion and comment requirement of Ordinance 83-12 in the remaining short span of time. Since February of 2017, SFPD has not been a member of the JTTF and instead must rely upon the FBI and other law enforcement agencies to conduct JTTF activities within San Francisco. The task force continues its collaborative work and presently has other local law enforcement officers working in positions once filled by SFPD. A small number of SFPD members retain federal security clearances and in emergency instances may be authorized by the FBI to receive classified information, but they do not participate in JTTF matters.

Problem Statement

Every public safety and government official interviewed agreed that cooperation, coordination and communication between state, local and federal law enforcement was desirable. The Chief of Police has not proposed a new MOU regarding JTTF participation to the Police Commission, and therefore the Police Commission has not scheduled any hearing. Also, the proposed revision of DGO 8.10 has not been completed. It would be in the public’s best interest to have these matters addressed.

⁴ Press Release of SFPD, Media Relations Unit 02/01/2017

METHODOLOGY

The San Francisco Civil Grand Jury (SFCGJ) identified the agencies, organizations and individuals deemed to be involved or having substantial knowledge or involvement with the JTTF. Once identified, jurors requested information and/or documents and sought to arrange in-person meetings whenever possible.

In-person meetings were conducted as formal interviews by the SFCGJ, with either notes or an audio recording. In all instances where the interview was recorded, the SFCGJ advised parties of the recording device and obtained consent to the recording of the interview. Persons interviewed acknowledged and executed an admonition regarding confidentiality in civil grand jury proceedings. Interviews with federal officials took place in compliance with the applicable “Touhy” regulations⁵ and with the approval of the United States Attorney’s Office for the District of Northern California.

The SFCGJ interviewed relevant stakeholders, reviewed volumes of printed materials and consulted with senior officials within the City and County of San Francisco government (CCSF) and the federal government.

To be specific, the Civil Grand Jury interviewed government officials in senior management of the FBI’s San Francisco Field Office, the SFPD, the Northern California Regional Intelligence Center, and the Mayor’s Office. Interviews were also held with members of the SFPD previously assigned to the JTTF, a Commissioner of the San Francisco Police Commission and a former member of the Board of Supervisors.

The Civil Grand Jury also interviewed non-governmental affiliated persons who represented a wide range of entities interested in this matter. Interviews conducted include a community member very familiar with the Safe San Francisco Civil Rights Ordinance; a fellow with the Brennan Center for Justice; an attorney who works for a local civil rights advocacy group and a representative of the San Francisco Police Officers Association.

The Civil Grand Jury reviewed thousands of pages of written documents. These include the following:

- Ordinance 83-12 (Safe San Francisco Civil Rights Ordinance);
- San Francisco JTTF MOU (2002);
- San Francisco JTTF MOU (2007);

⁵ Subpart B of Part 16 of Title 28, Code of Federal Regulations, sometimes referred to as the Department’s Touhy regulations, named after *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951), provide that no present or former employee of the Department of Justice may testify or produce Departmental records in response to subpoenas or demands of courts or other authorities issued in any state or federal proceeding without obtaining prior approval by an appropriate Department official. <https://www.justice.gov/jm/jm-1-6000-doj-personnel-witnesses>

- United States Department of Justice - Office of Inspector General Reports;
- United States Department of Justice Attorney General Guidelines;
- SFPD Department General Orders;
- Testimony, complaints and correspondence of local organizations of the American Civil Liberties Union, Asian Law Caucus and the Council on American - Islamic Relations;
- Orders and Decisions of the United States Court of Appeals for the 9th Circuit;
- Numerous media articles and stories.

DISCUSSION

Evolution of the JTTF

In 1979, in response to an increase in bank robberies, New York Police Department (NYPD) formed investigative partnerships with a number of federal law enforcement agencies, including the FBI. By the 1990's, the concept that joint investigations were more efficient and effective lead to the formation of the NYPD - FBI Joint Terrorism⁶ Task Force (JTTF). NYPD's contribution was their expert knowledge of the City of New York and its residents. That combined with FBI's vast investigative resources and sophisticated analysis capabilities produced a group more proficient and effective than any other acting on its own.⁷

After the tragic bombing of the World Trade Center in 1993, the JTTF's investigation of the calamity led to the identification and arrest of the bombers within a month. Equally important, during this investigation, the JTTF discovered and disrupted plans for additional bombings in New York City resulting in fifteen additional arrests. After the disastrous events of September 11, 2001, it became clear that terrorism was not just limited to New York City. JTTFs were established in most metropolitan areas of the United States,⁸ including the SFPD officially joining in 2002.

San Francisco and the Bay Area are high priority targets of terroristic groups. The numerous iconic landmarks and the diverse culture and population of San Francisco represent high visibility targets for numerous hate groups. The majority of witnesses interviewed by the SFCGJ agreed San Francisco Bay Area is a potential target of terrorism.

JTTF and Immigration Enforcement

The JTTF concept pioneered in New York City intended to create a cooperative approach between local, state and federal officials to detect, investigate, and ideally prevent terrorism. The Federal Government Agencies possess superior intelligence gathering and international reach that local agencies do not have. State and City agencies possess an understanding of regional matters and people known to local authorities, but most importantly, they have contacts and relationships of local agencies needed in time of an important investigation or incident.

⁶ The U.S. Code of Federal Regulations defines terrorism as "the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives" 28 CFR 0.85(i).

https://www.ecfr.gov/cgi-bin/textidx?SID=ce2da141510b794b4383c9c7a6a4b435&mc=true&node=se28.1.0_185&rgn=div8

⁷ The Joint Terrorism Task Force: a concept that works, NYPD Deputy Inspector Robert A. Martin; The FBI Law Enforcement Bulletin; March 1, 1999

<https://www.thefreelibrary.com/The+Joint+Terrorism+Task+Force%3a+a+concept+that+works.-a054376710>

⁸ FBI.GOV/investigate/terrorism/joint-terrorism-taskforces:

<https://www.fbi.gov/investigate/terrorism/joint-terrorism-task-forces>

In San Francisco's FBI Field Office, the JTTF is comprised of a number of different squads working either domestic or international investigations. Assignments to the various squads are made by an FBI supervisor, based on the needs of the unit. SFPD Officers assigned to the JTTF in the past were expected to be experienced and skilled investigators. Past assigned officers had worked in homicide, narcotics undercover, etc. and were the rank of at least inspector or sergeant prior to their placement on the JTTF. On JTTF duty, the officers served on various squads with some working both international and domestic matters. Additionally, they assisted and coordinated security matters related to local events of significance such as the America's Cup and Super Bowl 50.

From 2002 to 2017, SFPD had on average two officers on the JTTF. Under the terms of the MOUs, the Police Department continued paying the officers regular salaries, while the FBI provided vehicles, office space, and reimbursed SFPD for overtime associated with JTTF activities.⁹

Every public safety and government official interviewed agreed that cooperation, coordination and communication between state, local and federal law enforcement was desirable. Civil liberties group representatives interviewed generally supported cooperation and communication between various public safety entities. However, they wanted this cooperation to be transparent with adequate oversight to ensure local officers continued to follow California law and local San Francisco ordinances and Department General Orders (DGO), specifically DGO 8.10.¹⁰ The civil liberties groups also had concerns about privacy issues related to SFPD officers cooperating in federal immigration matters.

Whereas terrorism related activities are shared responsibilities, the Government of the United States is solely responsible for immigration regulation. This is an area of contention between the federal government, the State of California and the CCSF. The federal government enforces immigration, nationality, and deportation laws and regulations for which California and San Francisco neither possesses nor exercises any enforcement powers. Instead, both California and San Francisco have enacted laws and ordinances¹¹ that generally define the limits of cooperation

⁹ Standard Memorandum of Understanding Between the Federal Bureau of Investigation and The San Francisco Police Department, 3/1/2007 and San Francisco Joint Terrorism Task Force Memorandum of Agreement, 12/5/2002, <https://sfgov.legistar.com/View.ashx?M=F&ID=4143125&GUID=575EF8B3-1EA4-444D-9E85-20C09351B4BF>, Memorandum of Understanding 2007, <https://sfgov.legistar.com/View.ashx?M=F&ID=4143124&GUID=C04B25AE-3531-487F-BF0A-97C897FB97C3>

¹⁰ San Francisco Police Department General Order 8.10, Rev. 10/01/08, Guidelines For First Amendment Activities <https://www.sanfranciscopolice.org/sites/default/files/2018-11/DGO8.10%20Guidelines%20for%20First%20Amendment%20Activities.pdf>

¹¹ Senate Bill 54 https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB54

with federal immigration authorities.¹² Additionally, SFPD members are restricted by DGO 5.15¹³ to provide only limited cooperation and assistance to federal authorities enforcing immigration laws.

The SFCGJ investigation did not identify any support of officers assigned to the JTTF engaging in immigration enforcement activities. Interviews with officers revealed they were aware of the DGO 5.15 and were emphatic they did not engage in any immigration enforcement activities while assigned to the JTTF. Senior FBI officials stressed in their interview that JTTF's mission did not involve immigration enforcement efforts. Additionally, FBI officials indicated they were aware of the prohibition against immigration enforcement and expected SFPD officers to adhere to the San Francisco rules and ordinances.

Representatives of advocacy groups interviewed also expressed concern SFPD officers might be violating the civil rights of persons engaged in First Amendment Activities while performing JTTF duties.¹⁴ JTTF members are required to act in accordance with the law. The 2007 MOU specifically noted,

“Liability for violations of federal constitutional law may rest with the individual federal agent or officer pursuant to Bivens v. Six Unknown Names of Agents of the Federal Bureau of Narcotics. . . . Federal, state, local, and tribal officers enjoy qualified immunity from suit for constitutional torts, insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”¹⁵

SFPD members are subject to DGO 8.10 - Guidelines for First Amendment Activities. JTTF officers indicated they were aware of these guidelines and perceived that no conflict had existed

¹² San Francisco Administrative Code Sections 12H.1, City and County of Refuge, (Ordinance 375-89 App. 10/24/89) and 12I.3, Restrictions on Law Enforcement Officials, (Ordinance 204-13 App. 10/8/13 and as Amended by Ordinance 96-16 App. 6/17/16) <https://sfgov.org/oceia/sites/default/files/Documents/SF%20Admin%20Code%2012H-12I.pdf>

¹³ San Francisco Police Department General Order 5.15, Rev 7/5/16, Enforcement of Immigration Laws https://www.sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/sfpd-DGO5.15%20Enforcement%20of%20Immigration%20Laws%20%28Rev.%2007-05-17%29_0.pdf

¹⁴ Joint Letter from Christina Sinha of the Asian Americans Advancing Justice – Asian Law Caucus; Brittney Rezaei of the Council on American – Islamic Relation of the San Francisco Bay Area; Alan Schlosser of the American Civil Liberties Union of Northern California dated 1/8/18 to The Honorable London Breed. <https://www.sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/Letter%20to%20Police%20Commission%20Regarding%20Joint%20Terrorism%20Task%20Force.pdf>

¹⁵ Standard Memorandum of Understanding Between the Federal Bureau of Investigation and the San Francisco Police Department, March 1, 2007 <https://sfgov.legistar.com/View.ashx?M=F&ID=4143124&GUID=C04B25AE-3531-487F-BF0A-97C897FB97C3>

between their duties and the DGO. SFPD officers are trained in all DGOs as part of their basic training and every officer is responsible for following the DGOs. SFPD members on the JTTF were administratively assigned to Special Investigative Division (SID) and received an additional briefing on DGO 8.10.

Several law enforcement witnesses interviewed stated DGO 8.10 as written was unclear. Civil Grand Jury's own review of DGO 8.10 presented the reader with a number of potentially confusing and conflicting provisions, undefined terms, and at least one legally incorrect citation.

After a thorough review of DGO 8.10, it was found to be vague and extremely broad that allowed conflicting interpretations. In addition, key terms were not adequately defined such as "criminal investigations."¹⁶

The DGO 8.10 was last revised in 2008. The Department plans to update General Order 8.10, Guidelines for First Amendment Activities, in the near future and will seek clarification from the Police Commission as to the application of General Order 8.10 to JTTF investigations.¹⁷ The Written Directive Unit¹⁸ (WDU) confirmed that the DGO 8.10 is currently under revision but at the time of this report a draft was not available. Once complete, the SFPD will need to submit the revised DGO 8.10 to the Police Commission for approval.

JTTF and the Police Commission

The civilian Police Commission (PC) consists of seven members, four appointed by the Mayor and three by the Board of Supervisors (BOS). SFPD operates at all times under the oversight of the PC and the Chief of Police reports to them. The PC has the authority to adopt and amend the Police Department's General Orders and the power to discipline members for violating them.¹⁹ With respect to the JTTF, Admin Code 2A.74 requires the Chief of Police to submit any

¹⁶ See Appendices B and C

¹⁷ Press Release of SFPD, Media Relations Unit 02/01/2017

¹⁸ San Francisco Police Department General Order 3.01 – Written Communication System, Rev. 2/7/2018 provides that the "Written Directives Unit shall manage the preparation and amendment of current General Orders."
<https://www.sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/police-commission-dgo-301-020718.pdf>

¹⁹ Under the Charter, Article IV: Executive Branch – Boards, Commissions and Departments, Section 4.109 Police Commission, seven members are authorized, four appointed by the Mayor of which, at least one shall be a retired judge or attorney with trial experience and three appointed by the Board of Supervisors
[http://library.amlegal.com/nxt/gateway.dll/California/charter_sf/articleivexecutivebranch-boardscommissio?f=templates\\$fn=altmain-nf.htm\\$q=%5bfield%20folio-destination-name:%274.135%27%5d\\$x=Advanced#JD_4.135](http://library.amlegal.com/nxt/gateway.dll/California/charter_sf/articleivexecutivebranch-boardscommissio?f=templates$fn=altmain-nf.htm$q=%5bfield%20folio-destination-name:%274.135%27%5d$x=Advanced#JD_4.135)

proposed MOU and any related DGO to the Police Commission for discussion and public comment at an open meeting. It also requires the Chief of Police to provide the PC a public report every year with appropriate public information on the Police Department's work with the JTTF. Under DGO 8.10, the Department of Police Accountability (DPA) is required to conduct an audit and submit an annual report to the PC regarding compliance to these guidelines, which includes the officers in the JTTF.

Civil Liberties and Advocacy Groups

A number of civil liberties group representatives interviewed believe local officers assigned to the JTTF operated under lower standards of civil rights or First Amendment protections. In their opinion, following federal standards is inconsistent with the California Constitution and/or San Francisco Ordinances and police policies. Some of those interviewed believe DGO 8.10 provided widespread protections preventing SFPD officers from making inquiries associated with a First Amendment Activity without first obtaining official approval as outlined in the order. Law enforcement officers believe that they may conduct a voluntary interview with a person at anytime whereas civil liberty groups believe these interviews are afforded the protection outlined in DGO 8.10.

The 2007 JTTF MOU specifically stated:

“Each JTTF member will be subject to the personnel rules, regulations, laws, and policies applicable to employees of his or her respective agency...”

At all times SFPD officers assigned to the JTTF had to obey and follow all DGOs, in addition to any applicable FBI or Department of Justice standards or guidance. All the officers interviewed stated this to be true. In fact, FBI supervisors expected them to stay in compliance with all State and City laws, ordinances and policies.

Interviews with some civil liberties representatives suggested that SFPD officers on the JTTF were engaged in abuse of SFPD DGOs and civil rights violations as part of their JTTF assignments. Civil Liberties Groups became concerned that SFPD participation on the JTTF might cause local law enforcement to become entangled with civil rights violations associated with the prosecution of the "war on terrorism".²⁰

²⁰ George Bush Use of the Term War on Terror; https://en.wikipedia.org/wiki/War_on_Terror; George Bush Address to Congress Sept, 20 2001: <https://www.theguardian.com/world/2001/sep/21/september11.usa13>

In 2011, local civil liberties groups organized as the Coalition for a Safe San Francisco (Coalition). This Coalition highlighted potential racial and religious profiling being used by law enforcement agencies outside of San Francisco and feared that SFPD participation on the JTTF could lead to similar problems within San Francisco.

In response to the concerns raised by the Coalition and by a 2010 San Francisco Human Rights Commission report, the BOS passed Resolution 160-11.²¹ Resolution 160-11 commended the Coalition and the Human Rights Commission for bringing the issue to the public forum and encouraged all parties to work together to address the expressed concerns. The BOS proposed, in File Number 120046,²² numerous changes that involved participation with federal counterterrorism activities. The legislation was passed by the BOS on a vote of 6 to 5 but was vetoed by former Mayor Edwin Lee. Subsequently, the BOS proposed amended legislation²³ known as the Safe San Francisco Civil Rights Ordinance. This ordinance was passed by the BOS in an 11 to 0 vote and was signed into law by former Mayor Edwin Lee on May 9, 2012.²⁴ The Safe San Francisco Civil Rights Ordinance amended the Administrative Code²⁵ and now governs SFPD participation in federal counterterrorism activities.

In an effort to learn more about possible violations by SFPD officers assigned to the JTTF, the SFCGJ requested documents from the SFPD Internal Affairs Division (IAD) and the DPA. IAD processed our request and found one formal complaint against a JTTF officer registered between 2002 and 2017 which was not sustained. DPA reported one complaint against JTTF officer from 2015-2017. DPA was unable to report an accurate number of complaints against JTTF officers from 2002-2015 without doing a physical paper review.

In an interview a SFPD member indicated they had been the subject of an un-sustained DPA complaint related to assignment on the JTTF. This is the only complaint this officer received while participating in the JTTF.

²¹ File No. 110255 App. 3/1/2011 – Unsigned by Mayor Lee, Eff. 4/15/11 by Section 3.103 of the Charter - <https://sfgov.legistar.com/LegislationDetail.aspx?ID=846706&GUID=CC34B41B-0AD5-41E9-88FB-894B48DDFC18&Options=ID|Text|&Search=110255>

²² File No. 120046 App. 4/3/2012 – Vetoed by Mayor Lee 4/10/2012, <https://sfgov.legistar.com/LegislationDetail.aspx?ID=1045933&GUID=C73F779D-57E5-48F3-B63A-05BCA281F50F&Options=ID|Text|&Search=120046>

²³ Board of Supervisors File No 120351 <https://sfgov.legistar.com/LegislationDetail.aspx?ID=1107458&GUID=CD92FD3C-5321-4BA2-ADEF-70F2FC7161EA&Options=ID|Text|&Search=120351>

²⁴ *Ibid.*

²⁵ Administrative Code Section 2A.74 – Police Department Participation in Federal Counterterrorism Activities, was added by Ordinance 83-12, File No. 120351, App. 5/9/2012, Eff. 6/8/2012 : [http://library.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?&templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://library.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?&templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1)

Public safety officials believe there is inefficient communications and coordination with federal law enforcement authorities since SFPD's withdrawal from JTTF. This is not to say that all communications and coordination have halted, but rather what previously had been effective is now described as being "clunky" and disjointed. Top Secret information that previously had been accessible to SFPD members assigned to the JTTF is no longer as easily available. In cases of emergency or urgent need, a small number of officers and managers within SFPD still hold federal security clearances and can be briefed by the FBI on imminent terroristic threats or when the immediate action is required by San Francisco authorities. However, those communications now take place in a less timely and efficient manner and only on an emergency basis.

Withdrawing from the JTTF means SFPD officers with local expertise and knowledge of the area no longer participate in the task force. In addition, SFPD has less immediate access, communication or knowledge of JTTF matters within its own city. While SFPD was participating on the JTTF, it was able to keep CCSF leaders, such as the Mayor, advised and informed of a wider array of potential public safety matters in a shorter time frame than today. Presently, the SFPD and the Mayor depend on learning of potential public safety issues related to terrorist activities when it is deemed appropriate, instead of at the earliest possible time.

Conclusion

Investigations of terrorist activities that need joint cooperation with local authorities may be more cumbersome or ineffective without a SFPD officer on the task force. It is not possible to state with any certainty that San Francisco was safer when participating on the JTTF, what can be said is the Mayor and SFPD now have access to less timely information about potential risks and dangers to San Francisco.

Since the suspension of SFPD participation in the JTTF as of February 1, 2017, little action has been undertaken to address the matter. The WDU has yet to submit a proposed revision of DGO 8.10 through the appropriate channels as required by DGO 3.01. The Chief of Police and the FBI have not publicly made known if progress is being made on an amended MOU. Finally, the PC has taken no action and has not put JTTF on its calendar for consideration or discussion.

FINDINGS

JTTF Findings

F1. The 2007 MOU providing for JTTF participation expired by operation of the CCSF Charter. The Chief of Police agreed the MOU must be revised for it to be approved by the PC. The Chief acknowledged the concern of civil liberties groups to include oversight that is more transparent.

F2. Communication and coordination between SFPD and federal authorities is less efficient and more cumbersome than when SFPD was part of the JTTF.

F3. In the period of 2002-2017 SFPD participated on the JTTF, few formal complaints were made against officers conducting JTTF activities.

F4. The Civil Grand Jury's investigation did not detect any instance of non-compliance with a DGO by SFPD officers that had been assigned to the JTTF. Likewise, this investigation did not find any evidence that SFPD officers assigned to the JTTF were engaged in any form of enforcement associated with federal immigration laws.

F5. The secrecy obligations of SFPD officers in the JTTF require officers not disclose the classified material to individuals without an appropriate level of clearance and a need to know. These secrecy obligations are necessary but allow or cause speculation and concern by parties without access to classified material.

Police Commission Findings

F6. The PC is an essential party to SFPD's future participation in the JTTF. The PC has the authority to bring any proposed MOU and any related DGO up for discussion and public comment at an open meeting. In addition, the Chief of Police is required to provide them a public report every year with appropriate public information on the Police Department's work with the JTTF.

F7. Presently, the PC does not have a representative for JTTF matters. It would be beneficial to have a designated commissioner as a point of contact for all parties interested in this issue.

DGO 8.10 Findings

F8. SFPD DGO 8.10 was described as confusing and ambiguous by several law enforcement witnesses. It does not contain clear and concise wording and references are inaccurate. In order for SFPD officers to comply with DGO 8.10, it needs to be revised and updated.

F8-a. General Order 8.10 does not contain clear and concise wording. Within Section I, the Statement of Principles, A. General Policy 8.10 indicates the First Amendment rights are

protected by the United States Constitution. However, in Section II, Definitions, references both United States and California Constitutions causing confusion.

F8-b. General Order 8.10 contains a factually incorrect legal reference. In Section II, A DEFINITION, the order incorrectly identifies the provision of the California Constitution that should be applicable to the rights associated with assembly and petitioning the government. The Order incorrectly associates “Article 3” of the California Constitution, which, is generally related to governmental processes and functions of the state. It is believed that General Order 8.10 suffers from a scribing error and that instead of “Article 3” it was intended for the definition to encompass First Amendment protections of the United States Constitution and the California Constitution Article I, Section 2 and Article I Section 3.

F8-c. General Order 8.10 fails to define the term “Criminal Investigation.” Failing to define this phrase, allows the readers of the document to apply their own meaning to the term. What might be considered a “criminal investigation” by a law enforcement officer might differ considerably from how a member of the public or an advocacy group would define that term.

F8-d. General Order 8.10 contains obsolete agency information. The Office of Citizen Complaints (OCC) no longer exists. The OCC has been replaced by the Department of Police Accountability (DPA).

F8-e. The use of Department or Department’s presently used in the DGO’s could cause confusion because both the SFPD and the DPA contain those terms.

F8-f. At present, DGO 8.10 contains extraneous material regarding duties required of other than SFPD officers.

RECOMMENDATIONS

R1. The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by February 3, 2020.

R2. In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.

R3. The President of the PC should designate a commissioner as a point of contact for all JTTF interested parties. This appointment should be completed by April 3, 2020

R4. The Chief of Police should instruct the WDU to expedite the revision process of DGO 8.10 immediately but no later than the first week of January 2020. The WDU in considering the revisions to DGO 8.10 should include a review of the R4a-f recommendations before submitting the revisions to the Chief of Police. The revised DGO should be forwarded to the PC for approval no later than July 1, 2020.

R4-a. DGO 8.10 should be revised to eliminate the conflict that exists between the statement of principles only referencing the First Amendment rights guaranteed by the United States Constitution, but the term First Amendment Activity being defined as rights guaranteed by both the Constitution of the United States and the Constitution of the State of California. It is recommended that the statement of principal incorporate wording to be reflective of the protections provided to First Amendment activities by both the state and federal constitutions.

R4-b. General Order 8.10 should be revised to correct the error in referencing “Article 3” of the Constitution of California within the definition section to Article I, Section 3.

R4-c. General Order 8.10 should be revised to define the term “Criminal Investigation”. The order should clearly define what is and what is not a criminal investigation.

R4-d. General Order 8.10 should be updated to incorporate changes that have occurred since 2008. Obsolete agency names and titles should be corrected. All references to the OCC should be changed to DPA and the Director of OCC should be corrected to the Executive Director of DPA.

R4-e. The use of ‘department’ should be specific to which one it is referencing (SFPD or DPA).

R4-f. DGO 8.10 should contain only material that is necessary and pertinent to the functions of SFPD. All material that is unrelated to the SFPD should be removed from DGO 8.10.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Civil Grand Jury requests responses as follows:

From the following City and County agencies and departments within 60 days:

- Office of the Mayor
 - Findings 1, 2, 5, 6, and 7
 - Recommendations 1 and 2
- Chief, San Francisco Police Department
 - Findings 1, 2, 3, 4, 5, 6, 7, 8, and 8a-8f
 - Recommendations 1, 2, 4, and 4a-4f
- President, San Francisco Police Commission
 - Findings 1, 2, 3, 4, 5, 6, 7, 8, and 8a-8f
 - Recommendations 2, 3, 4, and 4a-4f

GLOSSARY OF ACRONYMS

BOS	Board of Supervisors
CCSF	City and County of San Francisco
DGO	Department General Order of the San Francisco Police Department
DPA	Department of Police Accountability including the predecessor Office of Citizens Complaints
FBI	Federal Bureau of Investigation
IAD	San Francisco Police Department Internal Affairs Division
JTTF	Joint Terrorism Task Force
MOU	Memorandum of Understanding
NYPD	Police Department of the City of New York
PC	San Francisco Police Commission
SFCGJ	San Francisco Civil Grand Jury
SFPD	San Francisco Police Department
SID	Special Investigation Division of the San Francisco Police Department
WDU	San Francisco Police Department Written Directives Unit

APPENDICES

- A. Table of Findings and Recommendations
- B. Table of Findings with Required Responses
- C. Table of Recommendations with Required Responses
- D. SFPD Department of General Orders 5.15 Enforcement of Immigration Laws
- E. SFPD Department of General Orders 8.10 Guidelines for First Amendment Activities
- F. SFPD Department of General Orders 3.01 Written Communication System

APPENDIX A

TABLE OF FINDINGS AND RECOMMENDATIONS

Findings	Recommendations
<p>F1. The 2007 MOU providing for JTTF participation expired by operation of the CCSF Charter. The Chief of Police agreed the MOU had to be revised in order for it to be approved by the PC. The Chief also acknowledged the concern of civil liberties groups to include more oversight that is transparent.</p> <p>F2. Communication and coordination between SFPD and federal authorities is less efficient and more cumbersome than when SFPD was part of the JTTF.</p> <p>F3. In the period of 2002-2017 SFPD participated on the JTTF; few formal complaints were made against officers conducting JTTF activities.</p> <p>F4. This investigation did not detect any instance of non-compliance with a DGO by SFPD officers that had been assigned to the JTTF. Likewise, this investigation did not find any evidence that SFPD officers assigned to the JTTF were surreptitiously engaged in any form of enforcement associated with federal immigration laws.</p> <p>F5. The secrecy obligations of SFPD officers in the JTTF require the said officers not disclose the classified material to individuals without an appropriate level of clearance on a need to know basis. These secrecy obligations are necessary but allow or cause speculation and concern by parties without access.</p>	<p>R1. The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by Feb 3, 2020.</p> <p>R2. In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.</p>

<p>F6. The PC is an essential party to SFPD’s future participation in the JTTF. The PC has the authority to bring any proposed MOU and any related DGO up for discussion and public comment at an open meeting. In addition, the Chief of Police is required to provide them a public report every year with appropriate public information on the Police Department’s work with the JTTF.</p> <p>F7. Presently, the PC does not have a representative for JTTF matters. It would be beneficial to have a designated commissioner as a point of contact for all parties interested in this issue.</p>	<p>R3. The President of the PC shall designate a commissioner as a point of contact for all JTTF interested parties. This appointment should be completed by April 3, 2020.</p>
<p>F8. SFPD DGO 8.10 is considered confusing and ambiguous by many witnesses. It does not contain clear and concise wording and references are inaccurate. In order for JTTF officers to comply with DGO 8.10 it needs to be revised and updated.</p>	<p>R4. The Chief of Police should instruct the WDU to expedite the revision process of DGO 8.10 immediately but no later than the first week of January 2020. The WDU in considering the revisions to DGO 8.10 should include a review of the R4a-R4f recommendations before submitting the revisions to the Chief of Police. The revised DGO should be forwarded to the PC for approval no later than July 1, 2020.</p>
<p>F8-a. General Order 8.10 does not contain clear and concise wording. Within Section I, the Statement of Principles, A. General Policy 8.10 indicates the First Amendment rights are protected by the United States Constitution. However, in Section II, Definitions, references both United States and California Constitutions causing confusion.</p>	<p>R4-a. General Order 8.10 should be revised to eliminate the conflict that exists between the statement of principles only referencing the First Amendment rights guaranteed by the United States Constitution, but the term First Amendment Activity being defined as rights guaranteed by both the Constitution of the United States and the Constitution of the State of California. It is recommended that the statement of principal incorporate wording to be reflective of the protections provided to First Amendment activities by both the state and federal constitutions.</p>

<p>F8-b. General Order 8.10 contains a factually incorrect legal reference. In Section II, DEFINITIONS, the order incorrectly identifies the provision of the California Constitution that should be applicable to the rights associated with assembly and petitioning the government. The Order incorrectly associates “Article 3” of the California Constitution, which, is generally related to governmental processes and functions of the state. It is believed that General Order 8.10 suffers from a scribing error and that instead of “Article 3” it was intended for the definition to encompass First Amendment protections of the United States Constitution and the California Constitution Article I, Section 2 and Article I Section 3.</p>	<p>R4-b. General Order 8.10 should be revised to correct the error in referencing “Article 3” of the Constitution of California within the definition section to Article I, Section 3.</p>
<p>F8-c. General Order 8.10 fails to define the term “Criminal Investigation.” Failing to define this phrase, allows the readers of the document to apply their own meaning to the term. What might be considered a “criminal investigation” by a law enforcement officer might differ considerably from how a member of the public or an advocacy group would define that term.</p>	<p>R4-c. General Order 8.10 should be revised to define the term “Criminal Investigation”. The order should clearly define what is and what is not a criminal investigation.</p>
<p>F8-d. General Order 8.10 contains obsolete agency information. The Office of Citizen Complaints (OCC) no longer exists. The OCC has been replaced by the DPA.</p>	<p>R4-d. General Order 8.10 should be updated to incorporate changes that have occurred since 2008. Obsolete agency names and titles should be corrected. All references to the OCC should be changed to DPA and the Director of OCC should be corrected to the Executive Director of DPA.</p>
<p>F8-e. The use of “department” or “department’s” presently used in the DGO’s could cause confusion because both the SFPD and the DPA contain those terms.</p>	<p>R4-e. The use of ‘department’ should be specific to which one it is referencing (SFPD or DPA).</p>

<p>F8-f. At present, DGO 8.10 contains extraneous material regarding duties required of other than SFPD officers.</p>	<p>R4-f. DGO 8.10 should contain only material that is necessary and pertinent to the functions of SFPD. All material that is unrelated to the SFPD should be removed from DGO 8.10.</p>
---	--

APPENDIX B

TABLE OF FINDINGS WITH REQUIRED RESPONDENTS

Findings	Respondents
F1. The 2007 MOU providing for JTTF participation expired by operation of the CCSF Charter. The Chief of Police agreed the MOU had to be revised in order for it to be approved by the PC. The Chief also acknowledged the concern of civil liberties groups to include more oversight that is transparent.	<input type="checkbox"/> Office of the Mayor <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
F2. Communication and coordination between SFPD and federal authorities is less efficient and more cumbersome than when SFPD was part of the JTTF.	<input type="checkbox"/> Office of the Mayor <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
F3. In the period of 2002-2017 SFPD participated on the JTTF, few formal complaints were made against officers conducting JTTF activities.	<input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
F4. This investigation did not detect any instance of non-compliance with a DGO by SFPD officers that had been assigned to the JTTF. Likewise, this investigation did not find any evidence that SFPD officers assigned to the JTTF were surreptitiously engaged in any form of enforcement associated with federal immigration laws.	<input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
F5. The secrecy obligations of SFPD officers in the JTTF require the said officers not disclose the classified material to individuals without an appropriate level of clearance on a need-to-know basis. These secrecy obligations are necessary but allow or cause speculation and concern by parties without access.	<input type="checkbox"/> Office of the Mayor <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission

<p>F6. The PC is an essential party to SFPD’s future participation in the JTTF. The PC has the authority to bring any proposed MOU and any related DGO up for discussion and public comment at an open meeting. In addition, the Chief of Police is required to provide them a public report every year with appropriate public information on the Police Department’s work with the JTTF.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Office of the Mayor <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
<p>F7. Presently, the PC does not have a representative for JTTF matters. It would be beneficial to have a designated commissioner as a point of contact for all parties interested in this issue.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Office of the Mayor <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
<p>F8. SFPD DGO 8.10 is considered confusing and ambiguous by many witnesses. It does not contain clear and concise wording and references are inaccurate. In order for JTTF officers to comply with DGO 8.10 it needs to be revised and updated.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
<p>F8-a. General Order 8.10 does not contain clear and concise wording. Within Section I, the Statement of Principles, A. General Policy 8.10 indicates the First Amendment rights are protected by the United States Constitution. However, in Section II, Definitions, references both United States and California Constitutions causing confusion.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission

<p>F8-b. General Order 8.10 contains a factually incorrect legal reference. In Section II, DEFINITIONS, the order incorrectly identifies the provision of the California Constitution that should be applicable to the rights associated with assembly and petitioning the government. The Order incorrectly associates “Article 3” of the California Constitution, which, is generally related to governmental processes and functions of the state. It is believed that General Order 8.10 suffers from a scribing error and that instead of “Article 3” it was intended for the definition to encompass First Amendment protections of the United States Constitution and the California Constitution Article I, Section 2 and Article I Section 3.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
<p>F8-c. General Order 8.10 fails to define the term “Criminal Investigation.” Failing to define this phrase, allows the readers of the document to apply their own meaning to the term. What might be considered a “criminal investigation” by a law enforcement officer might differ considerably from how a member of the public or an advocacy group would define that term.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
<p>F8-d. General Order 8.10 contains obsolete agency information. The OCC no longer exists. The OCC has been replaced by the DPA.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
<p>F8-e. The use of “department” or “departments” presently used in the DGO’s could cause confusion because both the SFPD and the DPA contain those terms.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
<p>F8-f. At present, DGO 8.10 contains extraneous material regarding duties required of other than SFPD officers.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission

APPENDIX C

TABLE OF RECOMMENDATIONS WITH REQUIRED RESPONDENTS

Recommendations	Respondents
R1. The Mayor and the Chief of Police should decide if rejoining the JTTF is in the best interest of the residents of our City and make this publicly known by Feb 3, 2020.	<input type="checkbox"/> Office of the Mayor <input type="checkbox"/> Chief, San Francisco Police Department
R2. In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020	<input type="checkbox"/> Office of the Mayor <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
R3. The President of the PC shall designate a commissioner as a point of contact for all JTTF interested parties. This appointment should be completed by April 3, 2020.	<input type="checkbox"/> President, San Francisco Police Commission
R4. The Chief of Police should instruct the WDU to expedite the revision process of DGO 8.10 immediately but no later than the first week of January 2020. The WDU in considering the revisions to DGO 8.10 should include a review of the R4a-R4f recommendations before submitting the revisions to the Chief of Police. The revised DGO should be forwarded to the PC for approval no later than July 3, 2020.	<input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
R4-a. General Order 8.10 should be revised to eliminate the conflict that exists between the statement of principles only referencing the First Amendment rights guaranteed by the United States Constitution, but the term First Amendment Activity being defined as rights guaranteed by both	<input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission

<p>the Constitution of the United States and the Constitution of the State of California. It is recommended that the statement of principal incorporate wording to be reflective of the protections provided to First Amendment activities by both the state and federal constitutions.</p>	
<p>R4-b. General Order 8.10 should be revised to correct the error in referencing “Article 3” of the Constitution of California within the definition section to Article I, Section 3.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
<p>R4-c. General Order 8.10 should be revised to define the term “Criminal Investigation”. The order should clearly define what is and what is not a criminal investigation.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
<p>R4-d. General Order 8.10 should be updated to incorporate changes that have occurred since 2008. Obsolete agency names and titles should be corrected. All references to the OCC should be changed to DPA and the Director of OCC should be corrected to the Executive Director of DPA.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
<p>R4-e. The use of ‘department’ should be specific to which one it is referencing (SFPD or DPA).</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission
<p>R4-f. DGO 8.10 should contain only material that is necessary and pertinent to the functions of SFPD. All material that is unrelated to the SFPD should be removed from DGO 8.10.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Chief, San Francisco Police Department <input type="checkbox"/> President, San Francisco Police Commission

ENFORCEMENT OF IMMIGRATION LAWS

The purpose of this order is to establish policies regarding the San Francisco Police Department's role in the enforcement of immigration laws and cooperation with U.S. Immigration and Customs Enforcement ("ICE"), U.S. Customs and Border Protection ("CBP") or successor agencies whose role is to enforce immigration laws, in conformity with state and federal laws and San Francisco Administrative Code Chapters 12H and 12I.

I. POLICY.

It is the policy of the San Francisco Police Department to foster respect and trust between law enforcement and residents, to protect limited local resources, to encourage cooperation between residents, City officials, and law enforcement, and to ensure community security. It is also Department policy, consistent with its obligations under state and federal law, to adhere to San Francisco Administrative Code Chapters 12H and 12I. These Chapters generally prohibit the use of City resources to assist in the enforcement of federal immigration laws, except as required by federal or state law.

II. STATE AND LOCAL LAW.

In accordance with Chapter 12H and state law, members of the Department shall, in performing their official duties, adhere to all of the following:

- A. **DETENTION:** Members shall not stop, question, or detain any individual solely because of the individual's national origin, foreign appearance, inability to speak English, or immigration status (also see DGO 5.03, Investigative Detentions). Members shall not inquire into an individual's immigration status.
- B. **DOCUMENTS:** In the course and scope of their duties e.g., traffic enforcement, investigations, and taking reports, members shall not require individuals to produce any document to prove their immigration status.
- C. **ASSISTING ICE/CBP:** Members shall not cooperate with or assist ICE/CBP in any investigation, detention, or arrest procedures, public or clandestine, where in any such instance the purpose is enforcing federal immigration laws.

D. INFORMATION GATHERING/DISSEMINATION FOR IMMIGRATION ENFORCEMENT PURPOSES:

- 1) **Release Status/Confidential Information for immigration enforcement purposes.** Members shall not request information about, or disseminate information, regarding the release status of any individual or any other confidential, identifying information such as home, work, or family or emergency contact information, except as required by federal or state law.
- 2) **Services.** The Department shall not include on any application, questionnaire, or interview form it uses in relation to benefits, services, or opportunities provided by the City and County of San Francisco, any questions regarding immigration status other than those required by federal or state law.

E. ICE/CBP DETAINERS/ADMINISTRATIVE (CIVIL) WARRANTS:

Members shall not arrest or detain an individual, or provide any individual's personal information to a federal immigration officer, solely on the basis of an administrative (civil) warrant, prior deportation order, or other civil immigration document that only addresses alleged violations of the civil provisions of immigration laws. Members shall not place an administrative (civil) immigration hold or detainer on an individual who is in custody. National Crime Information Center ("NCIC") or California Law Enforcement Telecommunication System ("CLETS") warrant responses currently make clear whether the warrant is administrative (civil) or criminal.

Members shall adhere to all of the following when reviewing or examining outstanding warrants in the NCIC or CLETS system. Members:

- 1) Shall contact the Sheriff's Central Warrant Bureau ("CWB") to confirm any warrant before taking action on the warrant.
- 2) Shall not enforce federal administrative (civil) warrants for arrest (currently Department Homeland Security ("DHS") Form I-200) or for removal/deportation (currently DHS Form I-205).
- 3) Shall not enforce Administrative Immigration Detainer-Notice of Action (currently DHS Form I-247A).
- 4) May enforce criminal warrants after consulting with CWB and confirming the criminal warrant.
- 5) Shall record the name of the individual from CWB staff who confirmed the criminal warrant in the incident report. (See DGO 6.18, Warrant Arrests.)

III. PROVIDING EMERGENCY ASSISTANCE TO ICE/CBP.

- A. ICE/CBP REQUESTS FOR EMERGENCY ASSISTANCE:** Members may provide emergency assistance to ICE/CBP to the same extent members would respond to emergency assistance to any other law enforcement agency. For example, members may provide emergency assistance when the member determines there is an emergency posing a significant and immediate danger to public safety or to the ICE/CBP agents.
- B. DUTIES OF MEMBERS:** Members providing emergency assistance to ICE/CBP shall immediately notify their supervisor and complete an incident report describing the reasons for their assistance.
- C. DUTIES OF SUPERVISORS:** When notified that a member is providing emergency assistance to ICE/CBP, supervisors shall immediately respond to the location and ensure that such assistance is warranted.
- D. TRANSPORTATION:** Members shall not assist ICE/CBP in transporting individuals suspected solely of violating federal immigration laws.
- E. ASSISTANCE:** Members shall not provide assistance to ICE/CBP agents for routine ICE/CBP operations, investigations, or raids. If ICE/CBP requests assistance that does not amount to an emergency as outlined in this section, members shall follow the protocols listed for Interagency Operations. (See DGO 5.14, Interagency Operations.)

IV. ASSISTING OTHER LAW ENFORCEMENT AGENCIES AND FOREIGN GOVERNMENT.

- A. INTERAGENCY OPERATIONS:** If ICE/CBP requests assistance with a planned, unplanned, or spontaneous operation, members must obtain approval from the member's Assistant Chief. (See DGO 5.14, Interagency Operations.)
- B. JOINT CRIMINAL OPERATIONS:** Members may continue to collaborate with other law enforcement agencies, with approval of the member's Assistant Chief, to protect public safety and participate in joint criminal investigations that are permitted under Department policy or applicable city or state law. When a member becomes aware that the criminal investigation involves the enforcement of immigration laws, the member shall:
 - 1) Notify a Supervisor; and
 - 2) Cease operations if doing so would not pose a risk to the officers or the public; and
 - 3) Suspend Interagency Operations.

DGO 5.15
Rev. 07/05/17

C. ASSISTING FOREIGN GOVERNMENT: Members shall not assist or cooperate with any investigation, surveillance, or gathering of information conducted by foreign governments, except for cooperation related to an alleged violation of City and County, State, or Federal criminal laws. (See DGO 8.10, Guidelines for First Amendment Activities.) Any assistance or cooperation with a foreign government must be approved by the member's Assistant Chief. (See DGO 5.14, Interagency Operations.) Members requesting approval of the Interagency Operation shall notify the Officer-In-Charge ("OIC") of the Special Investigations Division ("SID") who will evaluate whether the U.S. State Department should be notified of the assistance or cooperation.

V. DEPARTMENT BULLETINS. Department Bulletins describing current versions or relevant examples of DHS forms and the most current samples of NCIC or CLETS print-outs of both administrative (civil) and criminal warrants will be issued as necessary.

VI. COMPLIANCE WITH OTHER STATE OR LOCAL LAWS. Nothing in this General Order prohibits members from performing their duties in enforcing state and local laws.

References

DGO 5.03, Investigative Detentions
DGO 5.14, Interagency Operations
DGO 6.18, Warrant Arrests
DGO 8.10, Guidelines for First Amendment Activities

GUIDELINES FOR FIRST AMENDMENT ACTIVITIES

I. STATEMENT OF PRINCIPLES

- A. **GENERAL POLICY.** It is the policy of the San Francisco Police Department to ensure that the First Amendment rights guaranteed by the United States Constitution are protected for all individuals and to permit police involvement in the exercise of those rights only to the extent necessary to provide for the legitimate needs of law enforcement in investigating criminal activity.
- B. **WHEN A CRIMINAL INVESTIGATION THAT INVOLVES FIRST AMENDMENT ACTIVITIES IS PERMITTED.** The Department may conduct a criminal investigation that involves the First Amendment activities of persons, groups or organizations when there is an articulable and reasonable suspicion to believe that:
1. They are planning or are engaged in criminal activity
 - a. which could reasonably be expected to result in bodily injury and/or property damage in excess of \$2500
 - b. or which constitutes a felony or misdemeanor hate crime, and
 2. The First Amendment activities are relevant to the criminal investigation.

C. WHEN THESE GUIDELINES APPLY

1. The Department must follow these guidelines in every criminal investigation that involves the First Amendment activities of a person, group, or organization. These guidelines do not apply to criminal investigations that do not involve First Amendment activities.
2. These guidelines are intended to regulate the conduct of criminal investigations that involve First Amendment activities by requiring (1) written justification for the investigation and (2) written approval by the Commanding Officer of the Special Investigations Division, Deputy Chief of Investigations, and the Chief of Police.
3. These guidelines, however, are not intended to interfere with investigations into criminal activity. Investigations of criminal activities that involve First Amendment activities are permitted provided that the investigation is justified and documented as required by these guidelines.

II. DEFINITIONS

- A. First Amendment Activity: All speech, associations and/or conduct protected by the First Amendment and/or California Constitution Article I, section 2 (Freedom of Speech) and/or Article 3 (Right to Assemble and Petition the Government, including but not limited to expression, advocacy, association or participation in expressive conduct to further any political or social opinion or religious belief.)
 - 1. Examples. First Amendment activity includes speaking, meeting, writing, marching, picketing or other expressive conduct protected by the First Amendment.
- B. Articulate and Reasonable Suspicion: The standard of reasonable suspicion is lower than probable cause. This standard requires members to be able to articulate specific facts or circumstances indicating a past, current, or impending violation, and there must be an objective basis for initiating the investigation. A mere hunch is insufficient.
 - 1. Demonstrations. The Department shall not conduct an investigation in connection with a planned political demonstration, march, rally or other public event, including an act of civil disobedience, unless the prerequisites of Section I.B, supra, are met. Nothing shall preclude the Department, however, from openly contacting organizations or persons knowledgeable about a public event to facilitate traffic control, crowd management, or other safety measures at the event.
- C. Infiltrator: An undercover officer or civilian acting under the direction of the Department who attends a meeting, joins an organization, develops a relationship with an individual or organization or eavesdrops for the purpose of obtaining information about an individual or organization for transmittal to the San Francisco Police Department.
- D. Informant: A person who provides information to the San Francisco Police Department motivated by the expectation of receiving compensation or benefit, but is not acting under the direction of the Department.
- E. Source: A person who provides information to the San Francisco Police Department with no expectation of compensation or benefit and is not acting under the direction of the Department.

III. AUTHORIZATION REQUIRED FOR AN INVESTIGATION

- A. A member of the Department may undertake an investigation that comes within these guidelines only after receiving prior written authorization by the Commanding Officer of the Special Investigations Division (SID), the Deputy Chief of the Investigations Bureau, and the Chief of Police. However, neither the Commanding Officer of SID, the Deputy Chief of the Investigations Bureau, nor the Chief of Police is authorized to approve an investigation and/or the gathering or maintenance of information in violation of the terms of this General Order.

- B. To obtain written authorization, a member must submit a memorandum through their chain of command to the Commanding Officer of the SID containing the following:
 - 1. The identity of the subject of the proposed investigation, if known.
 - 2. The facts and circumstances that create an articulable and reasonable suspicion of criminal activity as defined in Section I. B.
 - 3. The relevance of the First Amendment activities to the investigation.
- C. When an investigation is authorized by the Commanding Officer of SID and after review by the Deputy Chief of the Investigations Bureau, a copy of the memorandum shall be sent to the Chief of Police, who shall indicate his/her approval or disapproval.
- D. Time limits. Written approval of an investigation is in effect for 120 days. If the Department continues an investigation past 120 days, a new memorandum and approval must be obtained. The new memorandum must describe the information already collected and demonstrate, based on that information, that an extension is reasonably necessary to pursue the investigation.
- E. Emergencies. If there is an immediate threat of criminal activity, an investigation may begin before a memorandum is prepared and approved, but verbal permission must be received from the Commanding Officer of SID or designee. The required memorandum must be written and approved by the Commanding Officer of SID, reviewed by the Deputy Chief of the Investigations Bureau and Chief of Police within five days of the occurrence of the emergency.
- F. Although it is expected that most investigations conducted under these guidelines will be initiated by the SID, if any member of the Department becomes aware of a criminal investigation that involves First Amendment activities as defined in these guidelines, the member shall refer the case to SID for a determination as to how the investigation should be conducted. These guidelines do not preclude investigations that impact on First Amendment activities by divisions other than SID, but those investigations must be conducted in consultation with SID and must be conducted pursuant to these guidelines.

IV. USE OF INVESTIGATIVE TECHNIQUES

- A. Principles. The investigative techniques used in a particular case shall be dictated by the gravity of the crime under investigation, the evidence of criminal activity and the need for a particular investigative technique.
- B. The Department shall use techniques such as numbers 1-5 listed below before employing the more intrusive techniques listed in Section C.

DGO 8.10
Rev. 10/01/08

1. Examination of public records and other sources of information available to the general public.
 2. Examination of San Francisco Police Department files and records.
 3. Examination of records and files of the government or law enforcement agencies.
 4. Interviews with persons connected with the complaint or subject of the investigation, including information received from sources.
 5. Physical surveillance from places open to the public.
- C. If the techniques listed in Section B are inadequate or obviously would be futile under the circumstances, the Department may use techniques such as the following:
1. Electronic surveillance such as the use of videotape, body wire, or audiotape.
 2. The use of undercover officers, infiltrators, informants, or mail covers.
- D. A member may undertake use of techniques listed in Section C only after submission of a memorandum setting forth the justification for the request and receiving prior written authorization by the Commanding Officer of SID, the Deputy Chief of the Investigations Bureau, and the Chief of Police. If there is an immediate threat of criminal activity, verbal approval by the Commanding Officer of SID or designee is sufficient until a written memorandum can be prepared and approved by the Commanding Officer of SID, the Deputy Chief of the Investigations Bureau, and the Chief of Police. The required memorandum must be written and approved within five days of the occurrence of the emergency.

V. RULES OF CONDUCT FOR INFILTRATORS, INFORMANTS AND UNDERCOVER OFFICERS

- A. The officer-in-charge shall specifically direct the undercover officer, infiltrator, or informant:
1. Not to participate in unlawful acts of violence.
 2. Not to use unlawful techniques to obtain information.
 3. Not to initiate, propose, or suggest a plan to commit criminal acts.
 4. Not to be present during criminal activity unless it has been determined to be necessary for the prosecution.
 5. Not to live with or engage in sexual relations with members of the organization (unless a civilian infiltrator was so involved before becoming an infiltrator).

6. Not to assume a leadership position or intentionally cause dissention within the organization.
 7. Not to attend meetings or engage in other activities for the purpose of obtaining legally-privileged information, such as confidential sources of reporters, attorney-client communications, or physician-patient communications.
 8. Not to record or maintain a record concerning an individual who is not a target unless the information is relevant for the investigation or the information would itself justify an investigation under these guidelines.
- B. The Commanding Officer of the SID shall monitor the compliance of undercover officers and infiltrators with these guidelines.
- C. The policies and procedures set forth in the memorandum on Informant Management and Control shall apply; except those exclusively applicable to narcotics informants.

VI. POLICE COMMISSION REVIEW

- A. The President of the Police Commission shall designate a member of the Commission to be responsible for monitoring compliance with these guidelines.
- B. Every month, the designated Police Commission member shall review the written requests and authorizations for the initiation or continuance of an investigation that is required by these guidelines.
- C. On an annual basis, the Director of the Office of Citizen Complaints or his/her designee shall conduct an audit of the Department's files, records and documents and shall prepare a report to the Commission regarding the Department's compliance with the guidelines. In addition, the Police Commission may conduct or direct the OCC to conduct such an audit unannounced at any time.
1. In conducting the yearly audit, the Office of Citizen Complaints shall review the following:
 - a. All current guidelines, regulations, rules and memoranda interpreting the guidelines;
 - b. All documents relating to investigations subject to Section III. and undercover techniques subject to Section IV.C. of these guidelines.
 - c. All Agency Assisted Forms or other documentation relating to the transmittal of documents to other criminal justice agencies as described in Section IX. B.
 2. The Office of Citizen Complaints shall prepare a written report to the Police Commission concerning its annual audit, which shall include but not be limited to:

DGO 8.10
Rev. 10/01/08

- a. The number of investigations authorized during the prior year.
- b. The number of authorizations sought, but denied.
- c. The number of times that undercover officers or infiltrators were approved.
- d. The number and types of unlawful activities investigated.
- e. The number and types of arrests and prosecutions that were the direct and proximate cause of investigations conducted under the guidelines.
- f. The number of requests by members of the public made expressly pursuant to these guidelines for access to records, including:
 - (i) The number of such requests where documents or information was produced,
 - (ii) The number of such requests where the documents or information did not exist,
 - (iii) The number of requests denied.
- g. The number of requests from outside agencies, as documented by an Agency Assist Form, for access to records of investigations conducted pursuant to these guidelines, including:
 - (i) The number of such requests granted and
 - (ii) The number of such requests denied.
- h. A complete description of violations of the guidelines, including information about:
 - (i) The nature and causes of the violation and the sections of the guidelines that were violated.
 - (ii) Actions taken as a result of discovery of the violations, including whether any officer has been disciplined as a result of the violation.
 - (iii) Recommendations of how to prevent recurrence of violations of the guidelines that were discovered during the prior year.
 - (iv) The report shall not contain data or information regarding investigations that are on-going at the time of the report's creation. The data and information, however, shall be included in the first report submitted after the completion of the investigation.

- i. A complete description of violations of the guidelines, including information about:
 - (i) The nature and causes of the violation and the sections of the guidelines that were violated.
 - (ii) Actions taken as a result of discovery of the violations, including whether any officer has been disciplined as a result of the violation.
 - (iii) Recommendations of how to prevent recurrence of violations of the guidelines that were discovered during the prior year.
 - (iv) The report shall not contain data or information regarding investigations that are on-going at the time of the report's creation. The data and information, however, shall be included in the first report submitted after the completion of the investigation.

- D. By the end of each calendar year, the Director of the Office of Citizen Complaints shall deliver to the Police Commission a report containing the information in Section C(2) (a) through (g).

VII. VIOLATIONS OF THE GUIDELINES

- A. If the Chief of Police, the designated Commission member or any member of the Department becomes aware of information that a possible violation of these guidelines has occurred, the Chief or designated member shall immediately inform the Police Commission and the member shall immediately inform his/her commanding officer who shall inform the Chief.

- B. If the Police Commission, determines that a possible violation of these guidelines has occurred, it shall:
 1. Commence an immediate investigation of the possible violation.
 2. Ensure that any activities in violation of these guidelines immediately cease.

- C. If the Police Commission determines that an actual violation of these guidelines and/or the First Amendment (as defined in Section IIA above) has occurred, the Commission shall:
 1. Notify the parties about whom information was gathered or maintained in violation of the guidelines pursuant to the following:
 - a. When information is released to individuals or organizations, the names and identifying information concerning private citizens other than the individual notified shall be excised to preserve their privacy.

DGO 8.10
Rev. 10/01/08

- b. There shall be no disclosure if the disclosure of the information is reasonably likely to endanger the life, property or physical safety of any particular person. However, unless the San Francisco Police Commission reasonably concludes that notice itself would be reasonably likely to endanger the life or physical safety of any particular person, the party about whom information was gathered in violation of these guidelines and/or First Amendment (as defined above) shall be notified that information regarding such person or their protected activities, expressions, associations and/or beliefs has been obtained in violation of these guidelines or First Amendment and that the information is not being disclosed because the Police Commission has concluded that such disclosure is reasonably likely to endanger the life or physical safety of a person. Furthermore, if the information may be segregated, such that a portion of the information can be disclosed without endangering the life or physical safety of one particular person, that portion of the information that the Police Commission concludes can be disclosed without endangering the life or physical safety of any particular person will be disclosed.
 - c. There shall be no disclosure if disclosure is prohibited by local, state, or federal law.
 - d. The Commission may deny disclosure if disclosure is exempt under San Francisco's Sunshine Ordinance, Chapter 67 Admin. Code, Section 67.24(d) (Law Enforcement Information), with the following exceptions:
 - (i) The Sunshine Ordinance Exemption for personal and otherwise private information shall not be applied unless that information would reveal the identity of an individual other than the requesting party.
 - (ii) The Sunshine Ordinance provision that exempts disclosure of "secret investigative techniques or procedures" shall not be applied to the fact that a particular procedure occurred, but only to a description of how that procedure was executed and shall apply only if the information would jeopardize future law enforcement efforts by a local, state, or federal agency.
 - e. No disclosure is required if an investigation is ongoing, but disclosure may be made during an ongoing investigation within the discretion of the Commission.
2. Refer the violation to the Chief of Police for a recommendation concerning discipline of the members involved.
- D. The Commanding Officer of SID shall ensure that all members of the Department assigned to SID attend a training session of these guidelines before beginning work at SID. All members assigned to SID and members engaged in investigations involving the First Amendment activities of persons (as defined above) shall sign an acknowledgement that they have received, read, understand and will maintain a copy of these guidelines.
- E. All members of the Department shall be advised that a willful or negligent violation of these guidelines shall subject the offending member to disciplinary action which may include suspension or termination.

VIII. ACCESS BY CIVILIANS

- A. All requests for information by civilians shall specifically request information created pursuant to these guidelines and shall be governed by the criteria set forth in Section VII.C(1)(a) through (e) above, unless state or local law require greater disclosure. Any denial of access to information shall specifically state the reasons for the denial.
- B. If access is denied, an appeal may be made to the designated Police Commissioner (c/o Police Commission, Hall of Justice, Room 505, 850 Bryant St., San Francisco, CA 94103) and shall include copies of all written correspondence relating to the request.
- C. No right to a hearing on denial of access to information is created by these rules.

IX. FILES AND RECORDS

A. Information Quality Control

- 1. The collection, maintenance, and use of information pursuant to an authorization shall be limited to the scope stated in that investigative memorandum and authorization.
- 2. The Department shall not collect or maintain information of a personal nature that does not relate to a criminal investigation. In the absence of a specific investigation authorized under these guidelines, the Department shall not collect or maintain information such as names for political petitions, mailing lists, organizational memberships or writings espousing a particular view which is protected by the First Amendment.
- 3. Information to be retained in a criminal intelligence file shall be evaluated for source reliability and content validity prior to filing. The file shall state whether reliability or accuracy have been corroborated.

B. File Dissemination

- 1. Dissemination of intelligence information is limited to criminal justice agencies with a specific need-to-know as well as right to know.
- 2. All requests for information shall be evaluated and approved prior to dissemination by the Commanding Officer or designee for the Special Investigations Division. The commanding officer or designee shall determine whether the requesting agency is reliable in treating the information with the requisite care and sensitivity and shall deny the request if the requesting agency is not considered sufficiently reliable.
- 3. All dissemination of information shall be done by written transmittal or recorded on an Agency Assist Form that describes the documents or information transmitted. A copy of the transmittal letter or Agency Assist Form shall be kept in the file from which the information was disseminated.

DGO 8.10
Rev. 10/01/08

4. The first page of any information document transmitted to a recipient agency shall contain a notice limiting dissemination to the specific purpose for which the document was transmitted.
5. A master list of all written transmittals and Agency Assist Forms recording the dissemination of records governed by these guidelines to outside agencies shall be maintained in a binder by SID.

C. File Purge

1. Records shall be purged according to the current San Francisco Police Department Records Retention and Destruction Schedule which calls for destruction of intelligence files every two years from the last date of entry with the following exceptions:
 - a. Information may be maintained if it is part of an ongoing investigation.
 - b. All written memoranda requesting authorization to commence an investigation and subsequent authorizations shall be maintained for not less than five years after termination of the investigation.
 - c. Records showing violation of these guidelines shall not be destroyed or recollected for the purpose of avoiding disclosure.
2. The chain of custody for destroyed files shall be established and documented to provide a record establishing that the files have been destroyed.

D. File Security

1. A copy of the initiating memoranda and authorizations created pursuant to these guidelines shall be kept by the Commanding Officer of SID.
2. All documents created pursuant to these guidelines shall be locked and kept separate from other Department files. Access shall be limited to personnel working on an authorized investigation, command personnel, the Chief, the designated Commission member, and the OCC for the limited purpose of conducting the annual audit.
3. All files, whether kept in SID or another unit, shall be prominently marked with a notice that the material contained in the file is subject to these guidelines.

E. Use of Computers

The use of Department computers shall be governed by the San Francisco Police Department computer security policy.

X. FUNCTIONAL RESPONSIBILITY FOR EVENT PLANNING INVOLVING FIRST AMENDMENT ACTIVITIES

- A. Certain types of public gatherings require the Department to collect a limited amount of information in order to preserve the peace, assess the need to deploy members for crowd control purposes, facilitate traffic control, address public safety concerns at the event, and protect the rights of free expression and assembly. This information may only be collected openly and non-covertly as part of an Event Planning Inquiry.
- B. The responsibility for conducting Event Planning Inquiries shall rest solely with the Event Commander or his/her designee. The Permit Unit may collect information about public gatherings only to the extent legally required and necessary in processing permit applications designated by city ordinance.
- C. Unless invited, Departmental contacts with event organizers or participants should be made by telephone during normal business hours without officer(s) attending an organization's meetings. In the course of such contacts it should be made clear that communications are voluntary.
- D. See Field Operations Bureau General Order 91-01 for details.

XI. VIDEO OR PHOTOGRAPHIC RECORDING

- A. Authorization.

It is the policy of the Department to videotape and photograph in a manner that minimizes interference with people lawfully participating in First Amendment events. Video or photographic equipment shall not be brought or used without the written authorization of the Event Commander.

- B. Purpose

The Department shall videotape or photograph only for crowd control training or evidentiary purposes. Evidentiary purposes shall include only:

1. Evidence that is reasonably likely to be used in administrative, civil, or criminal proceeding or investigations.
2. Evidence related to allegations against members of the Department.

XII. GUIDELINES LIMITED TO PROMOTION OF GENERAL WELFARE

In undertaking the adoption and enforcement of these guidelines, the San Francisco Police Department is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on the City, Police Commission, Department officials, or employees, a duty or obligation to any person for equitable relief, money damages, or any other relief based on a claim that a breach will cause or has proximately caused injury.

WRITTEN COMMUNICATION SYSTEM

This General Order describes the written communication system and directives (general orders, manuals, bureau orders, unit orders, bulletins, notices) within the San Francisco Police Department. It describes the method these directives will be communicated to members, the roles, responsibilities and processes for initiating and/or amending Department directives.

Department General Orders are the Department's most authoritative and permanent directives, established, revised, and adopted by the Police Commission after a public hearing. General Orders remain in effect until amended, superseded or rescinded by the Police Commission. The Police Commission shall determine which General Order(s) will be required to undergo a public and/or stakeholder input process, and will outline the nature and scope of this process.

General Orders are initiated by the Police Commission or the Police Department.

3.01.01 DEPARTMENT GENERAL ORDERS

A. POLICE COMMISSION INITIATED

Police Commission initiated General Orders, pursuant to San Francisco City Charter Section 4.109, may be adopted after a public hearing. Prior to adoption, the following will be provided with an opportunity to review the proposed General Order and may provide comment to the Police Commission:

- 1) Chief of Police or designee
- 2) Assistant Chiefs and Deputy Chiefs
- 3) Police Department Directors and Deputy Directors
- 4) The Commanding Officer of any unit directly affected by the proposal
- 5) Department's legal staff and/or City Attorney
- 6) Department of Police Accountability
- 7) Any member of the Department
- 8) Members of the public and/or stakeholders

B. DEPARTMENT INITIATED

Department-initiated General Orders require review from the Chief of Police, each Assistant Chief and Deputy Chief and, as needed, department legal staff and/or the City Attorney prior to submission to the Police Commission for adoption.

C. INDEXING

General Orders are indexed by general subject category and numbered sequentially, e.g., 3.01. Each subsection of a General Order shall follow this numbering system. e.g., 3.01.01, 3.01.02, etc.

D. INITIATION OF A NEW GENERAL ORDER

The Written Directives Unit shall manage the initiation and concurrence process of new General Orders. A new General Order may be initiated under the following circumstances:

- 1) When the subject of a Department Bulletin creates the need for a new General Order.
- 2) When required based on changes in training, law, community expectation or law enforcement best practices.
- 3) When a member requests a new General Order and submits the recommendation on a memorandum to their Commanding Officer.
- 4) At the direction of the Police Commission.
- 5) At the direction of the Police Commission, based on a recommendation(s) of the Department of Police Accountability.
- 6) At the direction of the Chief of Police.

E. AMENDING A CURRENT GENERAL ORDER

The Written Directives Unit shall manage the preparation and amendment of current General Orders. Current General Orders may be amended under the following circumstances:

- 1) When incorporating the subject of a Department Bulletin into the relevant General Order as outlined in 3.01.06 (D).
- 2) Consistent with the review schedule (listed below) to ensure compliance with current laws, community expectations and law enforcement industry best practices.
- 3) When a member recognizes a directive requires amending based on changes in training, law, community expectation or law enforcement best practices. The member may request amendment of the General Order by submitting a memorandum to their Commanding Officer.
- 4) At the direction of the Police Commission.
- 5) At the direction of the Police Commission, based on a recommendation(s) of the Department of Police Accountability.
- 6) At the direction of the Chief of Police.

F. GENERAL ORDER DEVELOPMENT PROCESS

When a General Order requires initiation or amendment, the Written Directives Unit shall notify the Deputy Chief or Director of the bureau, division or unit most affected by the directive. The Deputy Chief or Director shall assign a member to review and amend the General Order. The assigned member shall, as appropriate:

- 1) Coordinate and provide the Written Directives Unit with the status update on proposed modifications to the General Order within 60 days of assignment and every 60 days thereafter until the review process is completed.
- 2) Solicit review by Commanding Officers, who shall seek input from their respective members, in units most affected by the proposed policy.
- 3) Integrate any relevant Bulletins into the General Order, if applicable.
- 4) Review stakeholder(s) recommendation(s) (e.g., Community, Police Commission, Firearm Discharge Review Board, Risk Management Office, City Attorney, Department of Police Accountability) on training, law, community expectation or law enforcement best practices.
- 5) Meet with a representative of the Department of Police Accountability to exchange views on the proposed order and attempt to resolve any differences, as outlined in Police Commission Resolution 27-06.
- 6) Submit the proposed General Order to the Written Directives Unit.

Upon receiving the proposed General Order revision, the Written Directives Unit shall submit the amended order through the concurrence process as outlined in 3.01.10.

G. GENERAL ORDER REVIEW

The Written Directives Unit shall be responsible for the ongoing review of all General Orders and maintain a General Order review matrix. A General Order assigned for review/amendment shall be submitted to the Police Commission for adoption no later than five years from the date listed on the General Order and every five years thereafter.

No proposed directive outlined in this order shall conflict with established approved policy unless the proposed directive is superseding or amending a directive and has been subjected to the approval process outlined in this General Order.

3.01.02 DEPARTMENT MANUALS

Manuals are publications containing policies, procedures and directives on a specific topic requiring approval of the Police Commission.

A. CONCURRENCE

The Written Directives Unit shall manage the concurrence process for Department Manuals, which shall be reviewed and approved by the Assistant Chief and the Deputy Chief of the bureau or unit affected.

B. RESPONSIBILITIES

The Written Directives Unit shall be responsible for publishing Manuals on the Intranet. The Deputy Chief of each bureau shall ensure members of his/her bureau comply with the directives contained in Manuals related to their bureau.

Manuals shall be subject to a mandatory (5) five year review from the date of issuance. The Written Directives Unit will manage a review matrix of all Manuals, assigning Manual reviews to the Deputy Chief of the appropriate bureau prior to the (5) five year review date.

3.01.03

DEPARTMENT OF POLICE ACCOUNTABILITY REVIEW

Upon approval by the Chief of Police, draft General Orders and Manuals will be forwarded to the Department of Police Accountability (DPA) for review. Prior to adoption by the Police Commission, the Department of Police Accountability will have (30) thirty calendar days to review a proposed General Order or Manual and submit recommendations to the Department. The Department will review any Department of Police Accountability recommendation to determine if they should be incorporated into the General Order or Manual. If no recommendations are received within (30) thirty days, the draft General Order or Manual will be submitted to the Police Commission for adoption.

When necessary, a meeting between the Police Department and the Department of Police Accountability will be held to exchange views on the proposed order and attempt to resolve any differences, as outlined in Police Commission Resolution 27-06.

In the event of an impasse between the Department and the Department of Police Accountability, the draft General Order or Manual along with Department of Police Accountability recommendations, will be submitted to the Police Commission for resolution.

3.01.04

BUREAU ORDERS

Bureau Orders contain directives issued by the Deputy Chief of the bureau affected. Bureau Orders are directives that apply to specific operations within their bureaus.

A. CONCURRENCE

The Written Directives Unit shall manage the concurrence process for Bureau Orders, which shall be reviewed and approved by the Assistant Chief and the Deputy Chief of the bureau affected.

B. RESPONSIBILITIES

The Written Directives Unit shall be responsible for publishing Bureau Orders on the department Intranet. The Deputy Chief of each bureau shall ensure members of his/her bureau comply with the provisions of all Bureau Orders.

Bureau Orders shall be reviewed annually by Written Directives. The Written Directives Unit will manage a review matrix of all Bureau Orders, assigning Bureau Order reviews to the Deputy Chief of the bureau prior to the review date.

**3.01.05
UNIT ORDERS**

Unit Orders contain directives issued by the Commanding Officer or Officer-in-Charge of the unit. Unit Orders are directives that apply to specific unit operations.

A. CONCURRENCE

The Written Directives Unit shall manage the concurrence process for Unit Orders, which shall be reviewed and approved by the Assistant Chief and the Deputy Chief of the unit affected.

B. RESPONSIBILITIES

The Written Directives Unit shall be responsible for publishing Unit Orders on the department Intranet. The Commanding Officer or Officer-in-Charge of each unit shall ensure members within the unit comply with the provision of the Unit Orders.

Unit Orders shall be reviewed annually by Written Directives. The Written Directives Unit will manage a review matrix of all Unit Orders, assigning Unit Order reviews to the Commanding Officer or Officer-in-Charge of the unit prior to the review date.

**3.01.06
DEPARTMENT BULLETINS & NOTICES**

Bulletins and Notices are issued by the Chief of Police. Bulletins and Notices shall be consistent with General Orders.

A. DEPARTMENT BULLETINS

Bulletins contain directives and legal updates and are issued Department wide. Bulletins may be submitted through the concurrence process as outlined in 3.01.10. Additional review may include the City Attorney or other stakeholders, at the direction of the Chief of Police. Bulletins must be approved by the Chief of Police.

B. DEPARTMENT NOTICES

Notices may include information on procedural changes, training, special events, deployments, general information, and messages from the Chief of Police. Notices must be approved by the Chief of Police.

C. INITIATING A NEW BULLETIN OR NOTICE

Any member may request the initiation of a Bulletin or Notice by submitting a memorandum through the chain of command to his/her Assistant Chief. Upon approval, the Assistant Chief shall submit the notice to Written Directives Unit for concurrence.

D. BULLETINS THAT AMEND A GENERAL ORDER

When a Bulletin substantially modifies a General Order, the Written Directives Unit will identify the specific section of the General Order that requires amendment. Within (15) fifteen calendar days, the Department will submit the amendment to the Police Commission through a General Order Change form (SFPD XXX) for concurrence, as outlined in 3.01.10, and final adoption. The General Order Change form will identify the specific section of the General Order the proposed Department Bulletin will amend. Before the Department calendars the amendment with the Police Commission, the Written Directives Unit will notify and provide the General Order Change form to the Department of Police Accountability. Draft bulletin(s) developed pursuant to this section shall not be issued by the Department until adopted by the Police Commission.

E. REVIEW/EXPIRATION SCHEDULE

The Written Directives Unit shall be responsible for the ongoing review of all bulletins and notices. Bulletins shall either expire after (2) two years or be incorporated into an existing or new General Order as outlined in 3.01.06(D).

- 1) Bulletins shall expire (2) two years after their date of issuance and will not be renewed.
- 2) Notices will be updated as needed.

F. INDEXING

Bulletins and Notices are indexed by the year of issuance and are sequentially numbered, e.g., DB 17-101, DN 17-201.

3.01.07

PERSONNEL ORDERS

Personnel Orders are issued by the Chief of Police to announce personnel changes (e.g., transfers, assignments, separations) in the Department.

3.01.08

DEPARTMENT MEMORANDA

A. NATURE OF MEMORANDA AND DISCLOSURE

- 1) Memoranda are internal written communication used to inform, inquire or direct.
- 2) The Legal Division is the Department's custodian of records and agent for the disclosure of the documents pursuant to criminal or civil discovery law and for the disclosure of documents under the California Public Records Act (Cal. Govt. Code § 6254, et seq.) and/or the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67, Section III). All requests for such documents shall be routed through the Legal Division.
- 3) Members shall not disclose Department Memoranda or notes, drafts or other source materials used to prepare Department Memoranda to members outside of their chain of command or to any person or organization outside of the Department unless authorized to do so.
- 4) Unauthorized disclosure of official Department information or information purported to be official Department information will subject any member involved in the disclosure to disciplinary action under this order and Department General Order 2.01.

B. MEMORANDUM ORDERS

Memoranda to subordinates written in directive terms have the effect of an order and shall be complied with as such.

C. FORMAT, APPROVAL AND ROUTING

Memoranda shall be submitted on form SFPD 68 and routed through the chain of command. Memoranda, except memorandum orders, shall be routed upward through the author's chain of command and shall be addressed to the Commanding Officer or Officer-in-Charge of the unit. Copies of Memoranda shall not be sent directly to members outside of the author's chain of command. The routing and forwarding of

Memoranda is a matter of command discretion. This section does not apply to Memoranda described in General Order 11.07.

3.01.09

DEPARTMENT LETTERHEAD STATIONARY

Department letterhead stationery is used for external communication. Only members authorized by the Chief of Police or their Assistant Chief shall correspond on Department letterhead stationery.

3.01.10

CONCURRENCE OF GENERAL ORDERS AND BULLETINS

The Written Directives Unit, upon receipt of a proposed General Order or Bulletin, shall process the draft and submit these for concurrence to the following:

- 1) Chief of Police
- 2) Assistant Chiefs and Deputy Chiefs
- 3) Affected Director(s)/Deputy Director(s)

The concurrence process is managed by the Written Directives Unit, using an electronic system that accounts for all edits and recommended changes. Members involved in the concurrence process shall utilize the designated electronic system for tracking and auditing purposes thereby maintaining accountability and integrity of the concurrence process.

Any proposed edits or recommended changes will be subject to final approval by the Chief of Police or his/her designee.

Members in the concurrence process have (30) thirty calendar days to review a proposed General Order. After (30) thirty calendar days, the draft will advance in the concurrence process.

Bulletins will advance in the concurrence process after (5) five calendar days.

During the concurrence process, if a substantive addition or amendment to the draft directive is recommended, the Commanding Officer of the Professional Standards and Principled Policing Bureau shall be notified. The Commanding Officer of Professional Standards and Principled Policing, shall review the proposed amendment, reconcile any changes with the initiating member and inform the Department of Police Accountability of any substantive addition or amendment. The Commanding Officer shall meet with the Department of Police Accountability to exchange views, as outlined in the Police Commission Resolution 27-06. Once discussions have occurred, the Commanding Officer shall advance the draft directive accordingly.

If consensus is not obtained, parties shall have an opportunity to discuss their recommendations with the Chief of Police and/or designee. Final approval for any changes shall be determined by the Chief of Police and/or designee.

3.01.11 PUBLISHING DIRECTIVES

The Written Directives Unit is responsible for electronically publishing and distributing directives on the Department network. The Department will provide members with electronic access to directives in a searchable database.

With exception of Law Enforcement sensitive materials, General Orders and Bulletins shall also be posted on the Department's website for public view upon adoption.

The Written Directives Unit will also notify the Department of Police Accountability of all published directives.

3.01.12 ACCOUNTABILITY

Members are expected to have a working knowledge of all directives as applicable through their respective assignment and comply with their provisions. Retention of paper copies of General Orders or any other directives (Manuals, Bureau Orders, Unit Orders, Bulletins, Notices) are no longer mandated.

- 1) Members shall utilize the Department's electronic system to acknowledge receipt and review of and electronically sign-off all directives within (30) thirty days of issuance.
- 2) The Commanding Officer or Officer-in-Charge (OIC) or designee of each unit shall conduct periodic audits to confirm that members of his/her unit reviews and acknowledges all directives by electronically signing for all directives within 30 days of the date of the directive.
- 3) No proposed policy (such as General Order, Bulletin, Unit Order, Bureau Order, Manual) or other directive outlined in this order shall conflict with approved established policy unless the proposed directive is superseding or amending an existing directive and the proposed policy will be subject to the approval process outlined in this General Order.
- 4) Commanding Officers of each unit shall ensure that new and amended General Orders and Bulletins that substantively amend a General Order are supplemented with appropriate training and supervision to ensure compliance with the new directive.

3.01.13

MEMORANDUM OF UNDERSTANDING (MOU's) AND OTHER AGENCY AGREEMENTS

Memorandum of Understanding is a formal agreement between two or more parties that outlines the terms and details.

A. FORMAT, APPROVAL AND ROUTING

Memorandums of Understanding shall be routed through the chain of command and reviewed by the Chief of Police, Assistant Chief and Deputy Chief who's unit or bureau is affected, and the City Attorney, at the direction of the Chief of Police or designee.

B. DISCLOSURE

The Legal Division is the Department's custodian of records and agent for the disclosure of the documents pursuant to criminal or civil discovery law and for the disclosure of documents under the California Public Records Act (Cal. Govt. Code § 6254, et seq.) and/or the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67, Section III). All requests for such documents shall be routed through the Legal Division.

3.01.14

ELECTRONIC COMMUNICATIONS

Members shall adhere to the guidelines set forth in General Order 10.08 regarding the use of email and other electronic communications.

References

SFPD Record Destruction Schedule
DGO 2.01, General Rules of Conduct California Government Code
DGO 10.08, Use of Computers and Peripheral Equipment
San Francisco Administrative Code



SAN FRANCISCO POLICE DEPARTMENT GENERAL ORDER CHANGE REQUEST

COMMISSION HEARING DATE:

DECEMBER 18, 2017

POLICE COMMISSION ACTION ITEM:

General Order Number: 3.01

Type of Order: - CHANGE

Proposed Effective Date of Order: Immediate

REMOVE FROM GENERAL ORDER

Section 3.01.01 (B)

Department-initiated General Orders require review from the Chief of Police, each Assistant Chief and Deputy Chief and, as needed, department legal staff and/or the City Attorney prior to submission to the Police Commission for adoption.

REPLACE GENERAL ORDER

Section 3.01.01 (B)

Department-initiated General Orders require review from the Chief of Police, each Assistant Chief and Deputy Chief and, as needed, department legal staff and/or the City Attorney prior to submission to the Police Commission for adoption.

RESCIND

Parts to be rescinded in accordance with the General Order Change



DEPARTMENT BULLETINS:

Department Bulletin 17-001 will need to be issued to modify this change pending Commission Approval.

NOTES:

Section for notes regarding this General Order Change

REVIEWED BY:

³⁵₁₇ Approved by SFPD Command Staff 12/18/17

³⁵₁₇ Reviewed by Department of Police Accountability 12/19/17

APPROVED BY:

DATE:

DATE:

William Scott, Chief of Police

L. Julius M. Turman, President Police Commission

Carroll, John (BOS)

From: Carroll, John (BOS)
Sent: Thursday, July 25, 2019 3:49 PM
To: BOS-Supervisors
Cc: BOS-Legislative Aides; 'Calvillo, Angela (angela.calvillo@sfgov.org)'; Somera, Alisa (BOS); Civil Grand Jury; Kittler, Sophia (MYR); Karunaratne, Kanishka (MYR); Power, Andres (MYR); Ma, Sally (MYR); Peacock, Rebecca (MYR); Rosenfield, Ben (CON); Rydstrom, Todd (CON); Stevenson, Peg (CON); Lediju, Tonia (CON); Newman, Debra; Campbell, Severin (BUD); Holober, Reuben (BUD); Millman Tell, Jennifer (BUD); Rasha Harvey; Lori Campbell; Mchugh, Eileen (BOS); GIVNER, JON (CAT); Scott, William (POL); Carr, Rowena (POL); Steeves, Asja (POL); Hussey, Deirdre (POL); Hirsch, Bob (POL); Kilshaw, Rachael (POL)
Subject: 2018-2019 Civil Grand Jury Report - Joint Terrorism Task Force: Balancing Public Safety with Civil Rights
Categories: 190791

Supervisors:

Please find linked below the 2018-2019 Civil Grand Jury report, entitled: **Joint Terrorism Task Force: Balancing Public Safety with Civil Rights**, as well as a press release memo from the Civil Grand Jury and an informational memo from the Clerk of the Board.

[Joint Terrorism Task Force: Balancing Public Safety with Civil Rights](#)

[Civil Grand Jury Press Release - July 17, 2019](#)

[Clerk of the Board Memo - July 24, 2019](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 190791](#)

Thank you,

John Carroll

Assistant Clerk

Board of Supervisors

San Francisco City Hall, Room 244

San Francisco, CA 94102

(415) 554-4445



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation and archived matters since August 1998.

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

Date: July 24, 2019
To: Honorable Members, Board of Supervisors
From: *ACE* Angela Calvillo, Clerk of the Board
Subject: 2018-2019 CIVIL GRAND JURY REPORT -
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights

On July 17, 2019, the 2018-2019 Civil Grand Jury issued a press release, publicly announcing issuance of their report, entitled:

Joint Terrorism Task Force: Balancing Public Safety with Civil Rights

This report does not require the Board of Supervisors' response, as the Board is not a requested respondent for the findings and recommendations of the Civil Grand Jury. However, the Government Audit and Oversight Committee must still hold a hearing to discuss the information contained in the report. This matter is anticipated for hearing in Government Audit and Oversight during a regular committee meeting in September 2019.

Pursuant to San Francisco Administrative Code, Section 2.10, in coordination with the Committee Chair, the Clerk will schedule a public hearing before the Government Audit and Oversight Committee to allow the Board the necessary time to review and formally respond to the findings and recommendations.

If you have any questions, please contact John Carroll, Assistant Clerk, at (415) 554 4445.

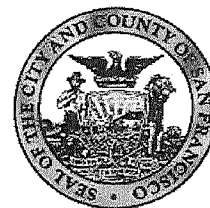
Attachments: July 17, 2019 Press Release; and
Report: Pedestrian Safety in the Era of Electric Mobility Devices

c:
Honorable Garrett L. Wong, Presiding Judge
Sophia Kittler, Mayor's Office
Kanishka Karunaratne Cheng, Mayor's Office
Andres Power, Mayor's Office
Sally Ma, Mayor's Office
Rebecca Peacock, Mayor's Office
Jon Givner, Office of the City Attorney
Ben Rosenfield, City Controller
Todd Rydstrom, Office of the Controller
Peg Stevenson, Office of the Controller
Tonia Lediju, Office of the Controller
Alisa Somera, Office of the Clerk of the Board
Debra Newman, Office of the Budget and
Legislative Analyst
Severin Campbell, Office of the Budget and
Legislative Analyst

Reuben Holober, Office of the Budget and
Legislative Analyst
Jennifer Millman Tell, Office of the Budget and
Legislative Analyst
Rasha Harvey, 2018-2019 Foreperson, San
Francisco Civil Grand Jury
Lori Campbell, 2017-2018 Foreperson, San
Francisco Civil Grand Jury
Chief William Scott, Police Department
Rowena Carr, Police Department
Asja Steeves, Police Department
Deirdre Hussey, Police Department
Robert Hirsch, Police Commission
Rachel Kilshaw, Police Commission

Continues on following page

CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY



FOR IMMEDIATE RELEASE

Contacts: Rasha Harvey, Foreperson, 415-716-8258
Janet Andrews Howes, Public Safety Committee Chairperson, 650-646-1010

*** PRESS RELEASE ***

THE JOINT TERRORISM TASK FORCE BALANCING SAFETY WITH CIVIL RIGHTS

San Francisco, CA, July 17, 2019 – There is little dispute that San Francisco is a target for terrorists, both domestic and international, for its iconic landmarks and its reputation as a bastion of civil liberties. The San Francisco Police Department (SFPD) was a member of the Joint Terrorism Task Force (JTTF) from 2002 to early 2017 operating under a 2002 Memorandum of Understanding (MOU) with the FBI. In 2007, a revised MOU was signed that had a ten year expiration date under the terms of the City Charter.

On February 1, 2017, the newly appointed Chief of Police suspended the SFPD's participation with the JTTF as a result of the anticipated expiration of the MOU and the concerns brought forth by civil rights groups. Since that time, SFPD officers have not been members of the JTTF, and no significant progress has been made toward addressing the issues that led to the suspension.

It is the responsibility of the Mayor and Chief of Police to make the decision as to whether it is in the best interest of the residents of the City to have SFPD re-join the JTTF collaboration. The San Francisco Civil Grand Jury (SFCGJ) is not making a recommendation on whether SFPD should rejoin the JTTF, but prepared this report to stimulate discussion and action by those in charge.

Civil Grand Jury reports may be viewed online at <http://civilgrandjury.sfgov.org/report.html>.

###

2017-2018 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Report Title [Publication Date]	F#	Finding (text may be duplicated due to spanning and multiple respondent effects)	Respondent Assigned by CGJ [Response Due Date]	Finding Response (Agree/Disagree)	Finding Response Text	R# [for F#]	Recommendation (text may be duplicated due to spanning and multiple respondent effects)	Respondent Assigned by CGJ [Response Due Date]	Recommendation Response (Implementation)	Recommendation Response Text
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F1	The 2007 MOU providing for JTTF participation expired by operation of the CCSF Charter. The Chief of Police agreed the MOU must be revised for it to be approved by the PC. The Chief acknowledged the concern of civil liberties groups to include oversight that is more	President, San Francisco Police Commission [September 15, 2019]			R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F2	Communication and coordination between SFPD and federal authorities is less efficient and more cumbersome than when SFPD was part of the JTTF.	President, San Francisco Police Commission [September 15, 2019]			R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F3	In the period of 2002-2017 SFPD participated on the JTTF, few formal complaints were made against officers conducting JTTF activities.	President, San Francisco Police Commission [September 15, 2019]			R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F4	The Civil Grand Jury's investigation did not detect any instance of non-compliance with a DGO by SFPD officers that had been assigned to the JTTF. Likewise, this investigation did not find any evidence that SFPD officers assigned to the JTTF were engaged in any form of enforcement associated with federal	President, San Francisco Police Commission [September 15, 2019]			R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F5	The secrecy obligations of SFPD officers in the JTTF require officers not disclose the classified material to individuals without an appropriate level of clearance and a need to know. These secrecy obligations are necessary but allow or cause speculation and concern by parties without access to classified material.	President, San Francisco Police Commission [September 15, 2019]			R2	In the event that the Mayor and Chief of Police decide to re-join the JTTF, the Chief of Police should negotiate a revised MOU with the FBI and submit this to the PC for discussion and public comment at an open meeting. This should be done no later than July 1, 2020.	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F6	The PC is an essential party to SFPD's future participation in the JTTF. The PC has the authority to bring any proposed MOU and any related DGO up for discussion and public comment at an open meeting. In addition, the Chief of Police is required to provide them a public report every year with appropriate public information on the Police Department's	President, San Francisco Police Commission [September 15, 2019]			R3	The President of the PC should designate a commissioner as a point of contact for all JTTF interested parties. This appointment should be completed by April 3, 2020.	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F7	Presently, the PC does not have a representative for JTTF matters. It would be beneficial to have a designated commissioner as a point of contact for all parties interested in this issue.	President, San Francisco Police Commission [September 15, 2019]			R3	The President of the PC should designate a commissioner as a point of contact for all JTTF interested parties. This appointment should be completed by April 3, 2020.	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8	SFPD DGO 8.10 was described as confusing and ambiguous by several law enforcement witnesses. It does not contain clear and concise wording and references are inaccurate. In order for SFPD officers to comply with DGO 8.10, it needs to be revised and updated.	President, San Francisco Police Commission [September 15, 2019]			R4	The Chief of Police should instruct the WDU to expedite the revision process of DGO 8.10 immediately but no later than the first week of January 2020. The WDU in considering the revisions to DGO 8.10 should include a review of the R4a-f recommendations before submitting the revisions to the Chief of Police. The revised DGO should be forwarded to the PC for approval no later than July 1, 2020.	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-a	General Order 8.10 does not contain clear and concise wording. Within Section I, the Statement of Principles, A. General Policy 8.10 indicates the First Amendment rights are protected by the United States Constitution. However, in Section II, Definitions, references both United States and California Constitutions causing confusion.	President, San Francisco Police Commission [September 15, 2019]			R4-a	DGO 8.10 should be revised to eliminate the conflict that exists between the statement of principles only referencing the First Amendment rights guaranteed by the United States Constitution, but the term First Amendment Activity being defined as rights guaranteed by both the Constitution of the United States and the Constitution of the State of California. It is recommended that the statement of principal incorporate wording to be reflective of the protections provided to First Amendment activities by both the state	President, San Francisco Police Commission [September 15, 2019]		

2017-2018 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-b	General Order 8.10 contains a factually incorrect legal reference. In Section II, A DEFINITION, the order incorrectly identifies the provision of the California Constitution that should be applicable to the rights associated with assembly and petitioning the government. The Order incorrectly associates "Article 3" of the California Constitution, which, is generally related to governmental processes and functions of the state. It is believed that General Order 8.10 suffers from a scribing error and that instead of "Article 3" it was intended for the definition to encompass First Amendment protections of the United States Constitution and the California Constitution Article I, Section 2 and Article I Section 3.	President, San Francisco Police Commission [September 15, 2019]			R4-b	General Order 8.10 should be revised to correct the error in referencing "Article 3" of the Constitution of California within the definition section to Article I, Section 3.	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-c	General Order 8.10 fails to define the term "Criminal Investigation." Failing to define this phrase, allows the readers of the document to apply their own meaning to the term. What might be considered a "criminal investigation" by a law enforcement officer might differ considerably from how a member of the public or an advocacy group would define that term.	President, San Francisco Police Commission [September 15, 2019]			R4-c	General Order 8.10 should be revised to define the term "Criminal Investigation". The order should clearly define what is and what is not a criminal investigation.	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-d	General Order 8.10 contains obsolete agency information. The Office of Citizen Complaints (OCC) no longer exists. The OCC has been replaced by the Department of Police Accountability (DPA).	President, San Francisco Police Commission [September 15, 2019]			R4-d	General Order 8.10 should be updated to incorporate changes that have occurred since 2008. Obsolete agency names and titles should be corrected. All references to the OCC should be changed to DPA and the Director of OCC should be corrected to the Executive Director of DPA.	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-e	The use of Department or Department's presently used in the DGO's could cause confusion because both the SFPD and the DPA contain those terms.	President, San Francisco Police Commission [September 15, 2019]			R4-e	The use of "department" should be specific to which one it is referencing (SFPD or DPA).	President, San Francisco Police Commission [September 15, 2019]		
Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F8-f	At present, DGO 8.10 contains extraneous material regarding duties required of other than SFPD officers.	President, San Francisco Police Commission [September 15, 2019]			R4-f	DGO 8.10 should contain only material that is necessary and pertinent to the functions of SFPD. All material that is unrelated to the SFPD should be removed from DGO 8.10.	President, San Francisco Police Commission [September 15, 2019]		

Carroll, John (BOS)

From: Board of Supervisors, (BOS)
Sent: Monday, September 9, 2019 9:17 AM
To: Carroll, John (BOS)
Subject: FW: Letter Detailing Concerns with the Civil Grand Jury's Report on San Francisco Police Department's Participation in the Joint Terrorism Task Force
Attachments: Letter to Mayor London Breed Regarding Civil Grand Jury's Report on the SFPD's Participation in the JTTF.pdf
Categories: 190791

From: Javeria Jamil <javeriaj@advancingjustice-alc.org>
Sent: Monday, September 9, 2019 9:01 AM
To: Breed, Mayor London (MYR) <mayorlondonbreed@sfgov.org>
Cc: SFPD, Chief (POL) <sfpdchief@sfgov.org>; Carr, Rowena (POL) <Rowena.Carr@sfgov.org>; Steeves, Asja (POL) <asja.steeves@sfgov.org>; Henderson, Paul (DPA) <paul.henderson@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Brown, Vallie (BOS) <vallie.brown@sfgov.org>; Fewer, Sandra (BOS) <sandra.fewer@sfgov.org>; Haney, Matt (BOS) <matt.haney@sfgov.org>; MandelmanStaff, [BOS] <mandelmanstaff@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Yee, Norman (BOS) <norman.yee@sfgov.org>; SFPD, Commission (POL) <SFPD.Commission@sfgov.org>; john@hamasakilaw.com; tmazzucco@mpbf.com; rmhirsch@gmail.com; Petradejesus@comcast.net; dtaylor@omm.com; CElias@dir.ca.gov; dionjaybrookter@gmail.com; Info, HRC (HRC) <hrc.info@sfgov.org>; John Crew <johnmikecrew@gmail.com>; Vasudha Talla <vtalla@aclunc.org>; Jeffrey Wang <jWang@cair.com>; Johnson, Jillian (MYR) <jillian.johnson@sfgov.org>; Groffenberger, Ashley (MYR) <ashley.groffenberger@sfgov.org>; Tugbenyoh, Mawuli (HRD) <mawuli.tugbenyoh@sfgov.org>; Power, Andres (MYR) <andres.power@sfgov.org>; kelly.kirkpatrick@sfgov.org <commissioner.hijazi@gmail.com>
Subject: Letter Detailing Concerns with the Civil Grand Jury's Report on San Francisco Police Department's Participation in the Joint Terrorism Task Force

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Mayor Breed,

In response to the Civil Grand Jury's report titled "Joint Terrorism Task Force: Balancing Public Safety and Civil Rights," please see the attached letter detailing our concerns with the report, and our request that you reject the findings and recommendations of the report as inaccurate and misleading.

As you know, the issue of the San Francisco Police Department's participation in the Joint Terrorism Task Force is one that is of utmost concern to the communities we serve. It is especially important to the Arab, Middle Eastern, Muslim, and South Asian communities of San Francisco, who for decades have been the target of discrimination and pervasive surveillance by the Federal Bureau of Investigation. Our organizations have worked collaboratively with the City of San Francisco in the past to protect these communities from the overreaches of the federal government, and we hope to continue this partnership now.

We look forward to your response.

Sincerely,

Javeria Jamil, Asian Americans Advancing Justice-Asian Law Caucus
Jeffrey Wang, Council on American Islamic Relations, San Francisco Bay Area
Vasudha Talla, American Civil Liberties Union of Northern California

--

Javeria Jamil
Staff Attorney
National Security & Civil Rights

Asian Americans Advancing Justice – Asian Law Caucus

T: (415) 848-7733

F: (415) 896-1702

javeriaj@advancingjustice-alc.org

www.advancingjustice-alc.org

This message is intended for designated recipients only. It may contain information protected by the attorney-client or work-product privilege. If you have received this email in error, please notify the sender immediately by replying to this email. Please do not disclose this message to anyone and delete the message and any attachments. Thank you.



Via Email and U.S. Mail

Honorable London Breed, Mayor
City Hall, Room 200
1 Dr Carlton B Goodlett Place
San Francisco, CA 94102
Email: MayorLondonBreed@sfgov.org
Fax: (415) 554-6160

September 09, 2019

RE: Civil Grand Jury Report on San Francisco Police Department's Participation in the FBI's Joint Terrorism Task Force

Dear Mayor Breed:

We are writing regarding the San Francisco Civil Grand Jury's July 17, 2019 report titled "Joint Terrorism Task Force: Balancing Public Safety and Civil Rights" ("the Report"). Riddled with errors, inaccuracies, and misleading information, the Report reframes the issue of the San Francisco Police Department's ("SFPD") participation in the Federal Bureau of Investigation's ("FBI") Joint Terrorism Task Force ("JTTF") in terms that prioritize the FBI's narrative and desires over local legal, policy, civil rights and community concerns. The Civil Grand Jury's adoption of the FBI's rhetoric is especially troubling in light of the fact that the FBI under Donald Trump increasingly reflects the political priorities of this administration – priorities that are in so many ways an anathema to most San Franciscans.

In the past, our groups have worked collaboratively with the City of San Francisco ("S.F.") to protect vulnerable San Franciscans from the overreaches of the federal government, especially S.F.'s Arab, Middle Eastern, Muslim, and South Asian ("AMEMSA") communities. In the spirit of that partnership, we wish to bring attention to the Report's incorrect assumptions and factual errors and briefly share with you the considerable history and context our organizations shared with the Civil Grand Jury in detail, but which the Civil Grand Jury omitted in its findings and recommendations. We also welcome the opportunity to discuss this issue with you in person.

THE IMPORTANCE OF THE ISSUE FOR AMEMSA COMMUNITIES

For more than 20 years, the SFPD's relationship with the JTTF and preceding task forces has been the subject of considerable public controversy. As far back as 1997, Mayor Brown rejected the FBI's proposal to have the SFPD assign officers to the JTTF with a waiver that would allow officers to ignore stronger local policies. Years later, after S.F. joined the JTTF, San Franciscans discovered that the SFPD had secretly signed a revised Memorandum of Understanding ("MOU") with the FBI that eliminated prior provisions that had explicitly applied state and local civil rights laws and policies to the conduct of SFPD officers assigned to the Task Force as deputized federal agents.

This issue was of particular concern to AMEMSA communities who have been subjected to pervasive discrimination, hate crimes, and surveillance. In response, 79 community and civil rights organizations formed the Coalition for a Safe San Francisco to address these issues. Years of work, including holding rallies and meetings with city officials, resulted in a historic hearing before the Human Rights Commission and the introduction of the Safe Civil Rights Ordinance ("the Ordinance"). The Ordinance required the SFPD to comply with local laws when working with the FBI and the JTTF. Mayor Lee signed the Ordinance after it passed with a unanimous vote by the Board of Supervisors.

For nearly five years after the Ordinance was enacted, our organizations worked diligently and collaboratively with the SFPD and the Police Commission — through public hearings, meetings, correspondence and an official complaint we were encouraged by officials to file with the Department of Police Accountability ("DPA") — to try to address the SFPD's failures to comply with the Ordinance and the absence of training on the key differences between FBI policies and practices and local standards. The long-standing concerns about the tactics used by the JTTF became more urgent with the FBI coming under the direction of President Trump. Immediately prior to the February 2017 Ordinance compliance hearing,¹ the SFPD announced that they were suspending their participation in the JTTF, and our discussions regarding compliance and training issues were put on hold.

THE REPORT PRESENTS A FALSE DISCHOTOMY BETWEEN CIVIL RIGHTS AND PUBLIC SAFETY

As an initial matter, the Report's title, "Balancing Public Safety with Civil Rights," sets up a false choice between public safety and civil rights. However, as San Franciscans well know, it is not a balance at all. Fully protecting civil rights is always a threshold requirement for achieving public safety. When communities are not assured that there are strong safeguards and standards in place for police accountability, oversight, and transparency, community trust and confidence in law enforcement suffers, and public safety becomes deeply compromised. This is especially true on issues where prior abuses by law enforcement have left deep scars that continue to threaten police-community relations. This is why, in 2012, Mayor Lee asserted the primacy of San Francisco values by signing into law the Ordinance, which permitted SFPD participation in federal

¹ Per the Ordinance, the Police Commission held annual public hearings on the SFPD's compliance with local laws and policies from 2013 to 2016.

task forces as long as stronger state and local policies and laws, reflecting San Francisco values rather than the federal government's, were not violated.

The Report shows a complete disregard for S.F. values and the City's legal obligations that reflect S.F.'s public safety priorities by recommending that you and Chief Scott decide within the next five months whether it is in the "best interests of the residents of the City" for the SFPD to rejoin the JTTF. However, it is difficult to see how a decision about the interests of San Franciscans can be made without first consulting with them. Thus, before you or Chief Scott make any decision to rejoin the JTTF, we urge you to first publicly address the current lack of transparency and unaddressed past violations of local law by the SFPD (detailed below).

The recommendation also presupposes that the FBI will offer a new MOU that unequivocally guarantees that SFPD officers participating in the JTTF will fully apply our state and local sanctuary laws, our stronger intelligence-gathering standards, our strict anti-profiling policies, and our ban on use of facial recognition technology. However, as long as the FBI chooses to needlessly keep its views about these issues secret and takes extraordinary steps to hide those views from the public (see below), San Francisco must assume they will take other steps to interfere with other state and local laws should the SFPD re-enter the JTTF. Thus, until the FBI proposes a new public MOU that meets S.F.'s values and strict legal needs, a decision from you or Chief Scott about what is or is not in the City's "best interests" is premature.

THE REPORT INACCURATELY REFLECTS CONTEXT AND PAST VIOLATIONS

Moreover, the findings and recommendations in the Report are deeply troubling because they obfuscate the history and key issues involved in the SFPD's past participation and violations of local law and policy, even after we shared this well-documented history with the Civil Grand Jury. Instead, the Report consistently adopts the FBI's narrative on this issue and often repeats the agency's false claims.

For instance, we provided voluminous written materials and in-person interviews with our longtime advisors and subject-matter experts on this issue, one of whom is Mike German,² a former FBI counterterrorism agent and the author of *Disrupt, Discredit and Divide – How the New FBI Damages Democracy*. Congresswoman Karen Bass, the chair of the Congressional Black Caucus, says "Mike German's critical insight into the initiatives taken up by the FBI in the aftermath of 9/11 is akin to none. His reputable expertise has time and again provided my office with insight not only as a witness testifying before Congress, but also from an advisory position on legislative matters." Yet, despite his considerable expertise on this issue, the Report refers to Mr. German only as a "fellow with the Brennan Center for Justice," and dismisses the concerns articulated by Mr. German and civil rights groups as mere "speculation" allegedly caused by a lack of public access to classified material.

The Report also fails to acknowledge that, upon request, the SFPD is currently able to assign officers to any JTTF investigation at any time as long as the SFPD officers comply with state and local laws and policies. To do that, they do not need to be embedded full-time in the

² Michael German, BRENNAN CENTER FOR JUSTICE, <https://www.brennancenter.org/expert/mike-german>. (last visited Sept. 8, 2019).

JTTF working under direct FBI supervision and a new MOU. In fact, the vast majority of local law enforcement agencies do not assign officers to work with the FBI in a JTTF under a MOU. Although Oakland still has one JTTF officer covered by a MOU, it recently publicly reported that its officer works only “minimally” — once or twice a month — with the JTTF. Portland recently removed its officers from the JTTF over concerns about its inability to apply state and local standards. Atlanta has removed its officers from all federal task forces because of the inability to comply with local policy standards on use of body cameras. None of this critical contextual information is included in the Report.

Furthermore, the Report ignores the role of the regional intelligence fusion center, Northern California Regional Intelligence Center (“NCRIC”), as the “FBI’s JTTF...intelligence and information sharing point of contact”³ and fails to acknowledge that the SFPD’s participation in NCRIC and Chief Scott’s membership on the NCRIC board are wholly unaffected by whether or not the SFPD assigns officers full-time to the JTTF. The report therefore exaggerates the impact of any perceived, highly vague concern over communication “clunkiness.” The reality is there is no reason the SFPD cannot be immediately notified about — and, indeed participate in the investigation of — any “imminent terroristic threats or when immediate action is required.” To suggest otherwise — especially without evidence — is gratuitously alarmist. As NCRIC documents we provided to the Grand Jury make clear, the JTTFs perform investigative and intelligence-gathering functions for the FBI rather than regular communications or information-sharing functions between the FBI and local agencies. NCRIC, not the JTTF, performs the latter function. The SFPD’s direct supervisor overseeing the officers assigned to the JTTF previously told the DPA that his supervision was limited to quarterly reviews of general synopses of matters the JTTF officers had been working on over the prior three months.⁴ If the SFPD and Mayor truly have “less timely information about potential risks and dangers to San Francisco” as the Grand Jury report claims, it’s not because the SFPD no longer assigns officers full-time to the JTTF — unless the FBI, NCRIC and/or Trump administration is retaliating against San Francisco for insisting on enforcing its civil rights laws.

In a remarkably inaccurate finding, the Report states that the Civil Grand Jury’s “investigation did not detect any instances of non-compliance” with local policies by SFPD officers who had previously participated in the JTTF. However, this finding directly contradicts the extensive materials our organizations provided to the Civil Grand Jury on the SFPD’s past violations of local laws and policies. The DPA’s August 12, 2016 finding in case #168-15 is an example of one such contradiction.⁵ The DPA’s finding was the culmination of a complaint our organizations filed when in 2014 a SFPD officer assigned to the JTTF went to Google’s offices in San Francisco to question a Google employee about First Amendment protected activity and did so without the required documented “reasonable suspicion” of criminal activity mandated by local

³ See *NCHIDTA & NCRIC Executive Board*, NORTHERN CALIFORNIA REGIONAL INTELLIGENCE CENTER (NCRIC), <https://ncric.ca.gov/default.aspx?MenuItemID=122&MenuGroup=NCRIC+Public+Home>.

⁴ Office of Citizen Complaints, OCC Complaint Summary Report, #168-15, March 25, 2016.

⁵ See Office of Citizen Complaints, *Report to Police Commission Regarding “2016 First Amendment Compliance Audit of SFPD Records Pursuant to Department General Order 8.10”*, Feb. 1, 2017, <https://www.sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/PoliceCommission020117-DPA2016FirstAmendmentComplianceAuditDGO810.pdf>.

S.F. policies. The DPA concluded that the officer had failed to comply with local policy due to inadequate training on the SFPD's policies and procedures, specifically Department General Order 8.10. Despite the DPA's conclusion, the Civil Grand Jury Report repeats the same patently untrue claim the FBI has made to you and other public officials — that SFPD officers fully abided by the SFPD's general orders while participating in the JTTF.⁶

ATTEMPTS TO GUT LOCAL CIVIL RIGHTS PROTECTIONS

Alarming, the Report's findings and recommendations aimed at revising Department General Order ("DGO") 8.10 would gut key civil rights protections and civilian oversight over the SFPD. The recommended revisions would also remove provisions in DGO 8.10 that the FBI has objected to in the past.

Once again, the Report overlooks the SFPD's past violations of local law and policy and the resulting DPA findings and audit, and instead recommends that DGO 8.10 be revised for clarity. However, when the DPA publicly presented its compliance audit of SFPD records pursuant to DGO 8.10 in 2017 and discussed its findings in the aforementioned JTTF complaint, the DPA did not conclude that DGO 8.10 was ambiguous or confusing. Instead, after lengthy investigation, the DPA found that there was a training failure on the SFPD's part. The DPA recommended that the SFPD "immediately update its DGO 8.10 training to address the standards for conducting an investigation that involves First Amendment activities, including the range of activities protected by the First Amendment, the reasonable suspicion standard, written documentation and supervisory approvals and numerous scenarios in which officers have an opportunity to test their understanding of DGO 8.10 application and requirements."⁷

The Report also states that SFPD officers told the Civil Grand Jury that the officers believed they could collect First Amendment information for the FBI JTTF databases as long as information was provided voluntarily. These inaccurate claims track federal policies that allow the FBI to collect intelligence information in ostensibly "voluntary" but often very coercive and intimidating "interviews" without any suspicion of criminality under a category of activity the FBI calls "assessments" rather than "investigations". However, they do not reflect S.F.'s stronger local policies that require a documented "reasonable suspicion" of criminal activity.

Finally, the Report ignores the materials showing discussions were underway in late 2016 and early 2017 for the SFPD to implement the DPA's DGO 8.10 training recommendations. Instead, the Report recommends that DGO 8.10 be changed in ways that would legalize the SFPD's prior unauthorized activities and address the FBI's previously expressed objections about the application of local standards in the JTTF. DGO 8.10 covers the law enforcement activity — the collection of sensitive First Amendment information — regardless of the label attached to it ("assessment" or "investigation"). The Grand Jury recommends narrowing the policy by applying it only to a newly defined category of "criminal investigations" and thereby permitting local participation in federal national security intelligence gathering during FBI JTTF "assessments" when there is no suspicion or threat of criminal activity at all. The Grand Jury further recommends

⁶ Letter from John F. Bennett, Federal Bureau of Investigation Special Agent in Charge, to Mayor London Breed, Jan. 29, 2019.

⁷ Office of Citizen Complaints Report, *supra* note 5.

that all the critical provisions requiring local DPA audits and Police Commission oversight of the DGO 8.10 standards be eliminated as allegedly “extraneous.” These are provisions that the FBI has objected to in the past.

THE REPORT MISREPRESENTS S.F.’S SANCTUARY OBLIGATIONS

The Report erroneously reframes the sanctuary concerns raised by our organizations as though they are limited only to matters where the SFPD became entangled in direct immigration enforcement. By doing so, it ignores the evidence we provided based on an internal FBI document that shows that as a matter of routine, local officers who participate in the FBI JTTF are expected to determine whether any subject of a JTTF assessment or investigation is an undocumented non-U.S. person. That information is then entered into federal databases that can be accessed and used by Immigration and Customs Enforcement (“ICE”) and the Department of Homeland Security (“DHS”) for immigration enforcement at any time. Conducting the U.S. person status checks in that manner and with that effect violates S.F.’s sanctuary law and policy. Furthermore, in a public briefing before the Portland city council, the local FBI Special Agent in Charge admitted that while the role of the FBI and its JTTF is not to enforce immigration laws, they sometimes use immigration violations in the absence of other options.

ICE and DHS are active members of the JTTFs. The SFPD cannot become entangled with their activities, enforcement or otherwise, especially not under the current presidential administration whose dangerous policies and actions were not even acknowledged in the Report. The Civil Grand Jury downplays what they call an “area of contention between the federal government, the state of California, and CCSF” with the claim that the FBI understands state and local restrictions and expects SFPD officers to follow them. Yet, in the first year of mandatory reporting under the California Values Act, SB 54, the state and local members of the S.F.-based JTTF did not comply with their new duty to provide the State Attorney General with a list of their fellow agencies involved in the JTTF.⁸

THE FBI’S ATTEMPTS TO BLOCK A COMPLETE AND FULLY TRANSPARENT DISCUSSION

Finally, the Report fails to mention the FBI’s on-going role in preventing public access to highly relevant information they have shared with the SFPD about their positions on the very same important public policy issues covered by the Report.

As the Grand Jury was informed but did not report, Chief Scott met with the FBI in mid-2017 to discuss SFPD’s prior participation in the JTTF and “the interaction between the Joint Terrorism Task Force’s work and various San Francisco laws and policies, including SFPD General Order 8.10” and the Ordinance.⁹ Shortly after that meeting, the FBI provided Chief Scott with an FBI “white paper” they had referred to during the meeting that discussed those same topics

⁸ Values Act: Task Force Participation” forms submitted to and released by the California Department of Justice for “Reporting Year: 2018.”

⁹ Declaration of Chief Scott in *Asian Americans Advancing Justice – Asian Law Caucus v. City and County of San Francisco (AAAJ-ALC v. City and County of San Francisco)*, San Francisco Superior Court Case No. CPF-19-516706 at 2, Aug. 6, 2019.

as well as the MOU. In October of last year, we learned of this meeting and the existence of this written document on the very same subjects covered by the Report as a result of a general public records request we filed with the SFPD to get information on any JTTF developments.

At the insistence of the FBI, the SFPD declined to provide this white paper. In January 2019, we wrote to the SFPD, trying to convince them to, as they had in the past, choose to be transparent about their interactions with the FBI on these subjects. We shared this letter with the Civil Grand Jury as well, emphasizing to them the need for full transparency.¹⁰ However, the SFPD persisted in withholding the white paper. We then filed a complaint with the Sunshine Ordinance Task Force. At the initial Task Force hearing, the SFPD indicated that even if ordered to do so by a ruling of the Task Force, it would follow the request of the FBI to keep its views secret rather than comply with an order of the local body established by local law to enforce local legal rights of access to public information.¹¹ Consequently, we filed a lawsuit seeking access to the white paper. With the lawsuit pending and the Civil Grand Jury having issued its public recommendations, on August 6th the FBI claimed an “ownership” interest in the document they sent to Chief Scott more than two years ago, for the sole purpose of preventing it from being publicly disclosed and considered by local public officials they actively misled on these issues earlier this year.¹² Now, the FBI is asking for the return of this document upon the conclusion of the litigation. In the meantime, because of the position taken by the FBI and to our great surprise, Chief Scott has refused to meet with us to discuss the Grand Jury recommendations as long as we are seeking access to the FBI white paper under state and local open records laws.¹³

The SFPD’s sudden lack of transparency is a stark reversal from the Department’s well-established past practices. In the past, they have always been willing to meet and collaborate with us about these issues. On at least two prior occasions, the FBI initially claimed “ownership” over non-classified JTTF-related FBI documents in the SFPD’s possession with implications for SFPD policies and activities that the FBI preferred to keep confidential. On both occasions, the SFPD simply produced the records pursuant to state and local open records laws without the need for litigation.

Simultaneously, the current federal administration has taken a remarkably extreme and extraordinary position just weeks after the release of the Report, which specifically calls for discussion and decision-making about possible SFPD participation in the JTTF. The federal government filed in San Francisco Superior Court for “real party in interest” status in the local public records litigation and made some truly sweeping legal arguments to a local judge in an August 27 hearing on our case. They acknowledged the white paper was not classified, yet declined to describe its contents at all beyond the fact that it had been labelled a document about the Safe San Francisco Civil Rights Ordinance, the JTTF MOU and SFPD policies, all of which

¹⁰ Email from John Crew to San Francisco Civil Grand Jury, Jan. 31, 2019.

¹¹ On July 16, 2019, the Task Force ruled that SFPD had violated the Sunshine Ordinance and ordered SFPD to release the white paper. As they previously indicated, they did not do so.

¹² FBI Letter, *supra* note 6.

¹³ Email from Asja Steeves, Special Assistant to the Chief of Police, William Scott, to *AAAJ-AJC v. City and County of San Francisco* petitioners, stating, “Chief Scott declines to discuss the subject of a pending lawsuit your organization has brought against the Department.”

are public documents. Most incredulously, however, the current U.S. Department of Justice (“DOJ”) claimed that a federal law that allows the federal government to reclaim possession of criminal history, rap sheet and specific criminal investigative records they share with local agencies applied to this FBI document about Trump-era FBI views on San Francisco laws and policies. Furthermore, the DOJ attorney argued that even if that law did not apply, *no* written communication to local officials labelled “federal property” seeking to exert federal influence over local policy and legislative decisions could *ever* be disclosed under state and local open records laws without federal consent.¹⁴ In other words, while written submissions from literally anyone else lobbying local officials about local issues would be subject to state and local transparency laws, the federal government is claiming a different set of standards for itself: the right to force the public to use the far more restrictive and far more time-consuming federal FOIA to try to learn how the federal government is lobbying local officials.

The FBI is insisting that the degree of transparency expected and legally required of everyone else involved in or who tries to influence the decision-making process regarding the JTTF recommendations does not apply to them. They claim they can and will block the public disclosure of written materials they used to lobby the SFPD on these issues. However, as the 2012 Ordinance made clear, decisions to join the JTTF under an MOU can no longer be secret, private agreements between just the SFPD and the FBI. The public, public bodies and non-SFPD public officials have roles to play in evaluating the potential risks and rewards of any new formal partnership between the SFPD and the FBI. But, when the current federal administration is actively thwarting public access to critical information that would inform that decision it is, in effect, interfering with the public decision-making mandated by the Ordinance after the 2007 secret MOU was finally exposed. A potential partner who refuses to be fully transparent — especially after maximum transparency has been legally mandated — is a partner than cannot be trusted to fully respect and honor other local legal and policy mandates based on local values and local civil rights priorities.

Confronted with the federal government’s argument that he lacked the legal authority to order the document’s production to the court for independent review of the claims being made about it, the judge ruled against us at this hearing. However, while the courts will eventually resolve yet another new and novel legal argument from a federal government that now seems determined on interfering with the application of S.F. and California laws they do not like, the point is that the federal government is *choosing* to take these extraordinary steps to try to keep this document from being seen. The federal government’s argument would preclude the document from being reviewed by the public or by public officials with policy, legislative and oversight authority over the SFPD and who will all play roles in deciding how to react to the Grand Jury’s recommendations. As long as the current administration continues to pursue that choice rather than to be fully transparent with its would-be local partners, this lack of basic transparency must inform San Francisco’s decisions about how to proceed.

The FBI’s highly aggressive posture in seeking to block public access to the white paper is extremely suspect. Their lack of transparency has already created a barrier to continuing the open discussion and collaboration between the SFPD and our organizations that has always been sought

¹⁴ Transcript of Record at 22-24, *AAAJ-ALC v. City and County of San Francisco*, San Francisco Superior Court Case No. CPF-19-516706 (Aug. 27, 2019).

and actively pursued by all concerned over many years — through multiple local mayoral and SFPD administrations. We do not know if this new posture from the FBI is attributable to changes in the White House and U.S. Department of Justice in recent years. We do not know if the FBI is trying to preserve its ability to say one thing to you, to the Civil Grand Jury and to the press, and another thing entirely to the SFPD. We *do* know that immediately after the Report was released, the FBI began taking extraordinary steps to keep from the public information about the FBI's views and positions about the very same subject matters covered by the Report — how S.F.'s civil rights protections should apply to any SFPD activities within the JTTF.

CLOSING

The FBI claimed in their letter to you earlier this year that “it is essential you have an accurate and complete understanding of how the FBI and the JTTF work to protect the citizens of the City and County of San Francisco,” and that “it is essential the FBI maintains a robust relationship with our local partners, both inside and outside of law enforcement, based on a common and accurate understanding of what we do and how we do it.”

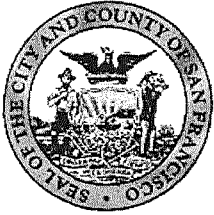
We agree. Unfortunately, the Civil Grand Jury's Report is neither accurate nor complete. Moreover, the SFPD and the FBI are currently trying to withhold from the public information that would provide an accurate and complete understanding that is necessary to productively discuss commonly recognized facts about possible SFPD participation in the JTTF and motivations for public changes to SFPD policies.

We therefore ask that you reject the findings and recommendations in the Report as inaccurate, incomplete and highly misleading. We are of course happy to meet with you, Chief Scott, and members of the Police Commission to discuss these matters more fully or provide additional information. We ask only that any discussions on this issue pick up from where things left on in 2017 when the SFPD withdrew from the JTTF.

Sincerely,

Javeria Jamil, Asian Americans Advancing Justice – Asian Law Caucus
Jeffrey Wang, Council on American-Islamic Relations of the San Francisco Bay Area
Vasudha Talla, American Civil Liberties Union of Northern California

Cc: Police Chief William Scott
Members, San Francisco Board of Supervisors
Members, San Francisco Police Commission
Director Paul Henderson, Department of Police Accountability
Members, Human Rights Commission
Commissioner Hala Hijazi, Human Rights Commission



CITY AND COUNTY OF SAN FRANCISCO
2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Angela Calvillo
Clerk
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Ms. Calvillo,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

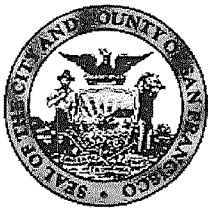
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

Rasha Harvey, Foreperson

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2019 JUL 15 PM 1:09
BY [Signature]



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Sandra Lee Fewer
Supervisor
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Fewer,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

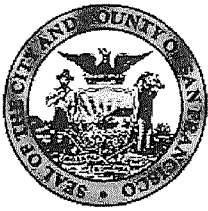
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

A handwritten signature in black ink that reads "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Catherine Stefani
Supervisor
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Stefani,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

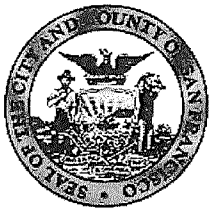
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

A handwritten signature in black ink that reads "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Aaron Peskin
Supervisor
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Peskin,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

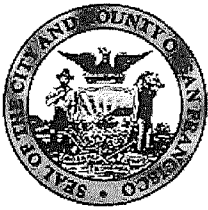
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

A handwritten signature in black ink, appearing to read "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Gordon Mar
Supervisor
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Mar,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

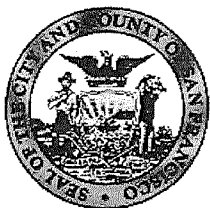
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

A handwritten signature in black ink, appearing to read "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Vallie Brown
Supervisor
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Brown,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

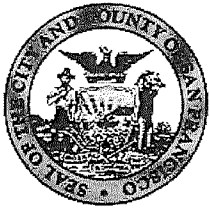
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

A handwritten signature in black ink, appearing to read "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Matt Haney
Supervisor
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Haney,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

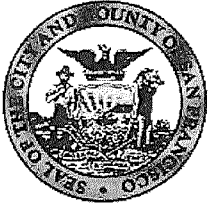
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

A handwritten signature in black ink, appearing to read "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019.

Norman Yee
President
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear President Yee,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

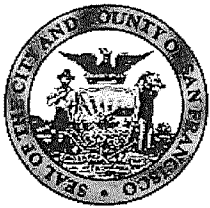
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

A handwritten signature in black ink that reads "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Rafael Mandelman
Supervisor
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Mandelman,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

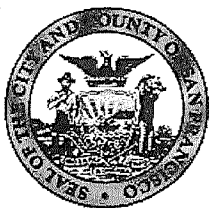
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

A handwritten signature in black ink that reads "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Hillary Ronen
Supervisor
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Ronen,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

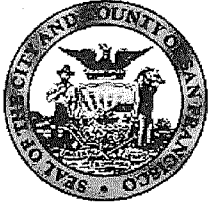
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

A handwritten signature in black ink that reads "Rasha Harvey". The signature is stylized and cursive.

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Shamann Walton
Supervisor
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Walton,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

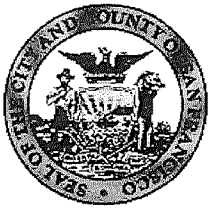
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

A handwritten signature in black ink that reads "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Ahsha Safai
Supervisor
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Safai,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than 90 days.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

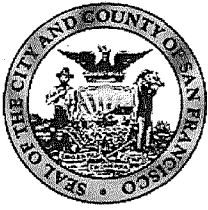
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

You are not a respondent to this report.

Respectfully,

A handwritten signature in black ink, appearing to read "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

The Honorable London Breed
Mayor of San Francisco
City Hall, Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Mayor Breed,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than September 15, 2019.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

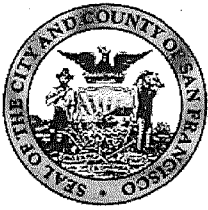
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

Please e-mail your response to Presiding Judge Wong at CGrandJury@sftc.org or mail to 400 McAllister Street, Room 008, San Francisco, CA 94102-4512.

Respectfully,

A handwritten signature in black ink, appearing to read "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

William Scott
Chief of Police
San Francisco Police Department
1245 3rd Street
San Francisco, CA 94158

Dear Chief Scott,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than September 15, 2019.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

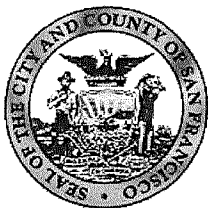
1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

Please e-mail your response to Presiding Judge Wong at CGrandJury@sftc.org or mail to 400 McAllister Street, Room 008, San Francisco, CA 94102-4512.

Respectfully,

A handwritten signature in black ink, appearing to read "Rasha Harvey".

Rasha Harvey, Foreperson



CITY AND COUNTY OF SAN FRANCISCO 2018 - 2019 CIVIL GRAND JURY

July 15, 2019

Robert Hirsch
President
San Francisco Police Commission
1245 3rd Street
San Francisco, CA 94158

Dear President Hirsch,

The 2018-2019 Civil Grand Jury will release a report entitled, "*Joint Terrorism Task Force: Balancing Public Safety with Civil Rights*" to the public on Wednesday, July 17, 2019. Enclosed is an advanced copy. By order of the Presiding Judge of the Superior Court, Hon. Garrett L. Wong, this report is to be kept confidential until the date of release.

California Penal Code §933(c) requires a response to be submitted to the Presiding Judge no later than September 15, 2019.

California Penal Code §933.05 states that as to each finding, the response must indicate one of the following:

1. The respondent agrees with the finding; or
2. The respondent disagrees with the finding, wholly or partially, with an explanation.

As to each recommendation, the response must indicate one of the following:

1. The recommendation has been implemented, with a summary of the implementation;
2. The recommendation has not yet been, but will be implemented in the future, with a timeframe for implementation;
3. The recommendation requires further analysis, with an explanation, scope, and parameters of that analysis, and a timeframe for discussion not more than six months from the publication of the grand jury report; or
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation.

Please e-mail your response to Presiding Judge Wong at CGrandJury@sftc.org or mail to 400 McAllister Street, Room 008, San Francisco, CA 94102-4512.

Respectfully,

A handwritten signature in black ink that reads "Rasha Harvey".

Rasha Harvey, Foreperson

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date _____

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Clerk of the Board

Subject:

Hearing - Civil Grand Jury Report - Joint Terrorism Task Force: Balancing Public Safety with Civil Rights

The text is listed below or attached:

Hearing on the recently-published 2018-2019 Civil Grand Jury Report, entitled "Joint Terrorism Task Force: Balancing Public Safety with Civil Rights."

Signature of Sponsoring Supervisor: *Olivia Gomez*
f

For Clerk's Use Only:

190791