

LEGISLATIVE DIGEST

[Administrative Code – Establish Policy Regarding Participation in Federal Counterterrorism Activities]

Ordinance amending the San Francisco Administrative Code by adding Section 2A.84 to: 1) set City policy regarding participation in federal counterterrorism activities; and 2) set parameters for Police Department participation in the activities of the Federal Bureau of Investigation's Joint Terrorism Task Force and other counterterrorism activities; and urging the Chief of Police to amend or terminate the current agreement between the Police Department and the Federal Bureau of Investigation regarding the Joint Terrorism Task Force and urging the Police Commission to direct the Chief to amend or terminate that agreement.

Existing Law

Currently, the City Codes do not address participation by City departments, officers and employees in federal counterterrorism activities.

Amendments to Current Law

The proposed ordinance would establish a policy to assist federal agencies in preventing and investigating possible acts of terrorism and other criminal activity only in a manner that is fully consistent with the laws of the State of California and the laws and policies of the City and County of San Francisco. The proposed ordinance would prohibit City departments, officers and employees from entering into agreements or using City funds or resources in a manner inconsistent with that policy, and would prohibit City employees from being cross-designated or deputized as federal or state agents if the designation was inconsistent with the policy.

The proposed ordinance would require the San Francisco Police Department (“SFPD”) to obtain Police Commission approval for any (1) agreement with the Federal Bureau of Investigation (“FBI”) regarding SFPD participation in the FBI's Joint Terrorism Task Force or any successor task force or joint operation (collectively, “JTTF”) and (2) amendment to an existing SFPD agreement regarding JTTF participation. The proposed ordinance would also set minimum requirements for SFPD participation in JTTF investigative, assessment, intelligence, interviewing and information-gathering activities.

In addition, the proposed ordinance would (1) authorize the Police Commission and Chief of Police to establish or maintain policies and procedures regarding JTTF participation and activities as long as those policies and procedures at a minimum provide the protections set in the ordinance, (2) permit members of the SFPD, Police Commission and Office of Citizen Complaints to seek or retain federal security clearances and enter into or remain parties to federal non-disclosure agreements, and (3) set audit and reporting requirements.

Finally, the proposed ordinance would urge the Chief of Police to either amend the SFPD's existing agreement with the FBI regarding JTTF participation to ensure compliance with the ordinance or to terminate that agreement, and would urge the Police Commission to direct the Chief of Police to amend or terminate that agreement.

Background Information

The ordinance includes proposed findings of fact that describe the history of the SFPD's participation with the FBI's JTTF; applicable California, City and Police Commission laws and policies; and legislation passed by the City of Portland, Oregon, regarding Portland's participation on its local JTTF.